State of Corruption

The top-level conspiracy behind the global trade in Myanmar’s stolen teak

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ABOUT EIA

We investigate and campaign against environmental crime and abuse.

Our undercover investigations expose transnational wildlife crime, with a focus on elephants, pangolins and tigers, and forest crimes such as illegal logging and deforestation for cash crops like palm oil. We work to safeguard global marine ecosystems by addressing the threats posed by plastic pollution, bycatch and commercial exploitation of whales, dolphins and porpoises. Finally, we reduce the impact of climate change by campaigning to eliminate powerful refrigerant greenhouse gases, exposing related illicit trade and improving energy efficiency in the cooling sector.

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CONTENTS

Introduction 4
Myanmar’s Forests 5
Myanmar’s Forest Governance Failures 8
Case Study: The Shadow President – King of Burma Teak 14
Ongoing Smuggling into China 30
Stemming the Tide 37
Recommendations 42

Above: Forests in Myanmar
Front cover: Logs rotting in an MTE logyard in East Dagon, Yangon, March 2013

Environmental Investigation Agency
**Myanmar’s Forests**

**GLOBALLY SIGNIFICANT**

Diverse and extensive, Myanmar’s forests form part of the ‘Indo-Burma Hotspot’, one of the world’s most important biodiversity areas, featuring a huge range of endemic flora and fauna. More than 200 globally threatened species live in Myanmar’s forests, including elephants, tigers, sun bears and the Myanmar snub-nosed monkey.

Large forests stretch across the northern states of Sagaing, Kachin and Shan, through the southern region of Tanintharyi. These forests range from coastal mangroves near the Bay of Bengal to subtropical hardwood forests in the mountain regions bordering China and Thailand.

These forests are an important source of food and fuel for Myanmar’s people, 70 per cent of whom live in rural areas where forests underpin basic livelihoods. Forests remain important to the cultural identity of Myanmar’s many ethnic groups, whose ancestral beliefs sustain indigenous systems that have prevailed for centuries.

**UNDER THREAT**

In recent decades Myanmar has suffered a deforestation crisis. In the 1990s, the country lost 4.3 million hectares of forest and a further two million hectares between 2002-14. The country’s forests, in part, contributed 546,000 hectares of forest loss between 2010-15, the third highest rate worldwide. Combined, since 1990 Myanmar has lost about 20 per cent of its forests; reducing forest cover to around 290,000 sq km, or 45 per cent of its land mass.

Although the northern states of Sagaing, Kachin and Shan have hosted Myanmar’s largest forests, they have also experienced the most serious forest loss, with Shan state estimated to have lost more than 600,000 ha from 2002-14.

Deforestation has been accompanied by widespread forest degradation, with just a third of Myanmar’s forests remaining intact. Timber extraction is considered the main driver of forest degradation inside the country’s forest reserve areas. Overharvesting has been ‘long term and systematic, persisting until forests are exhausted’. Nominally legal forestry operations by MTE and its subcontractors— which prioritised revenue generation— have not allowed forests to recover between cycles of harvesting. Illegal logging is also a major contributor to forest loss in Myanmar, with EIA investigations in 2014/15 revealing how Myanmar’s military and ethnic armed organisations both profit from the massive illegal timber trade.

### Introduction

The forests of Myanmar are defined by their monetary value and have been part of the military and economic elites’ profits and, in some cases, survival for decades. The entire legal state forestry and timber trade sectors have been systematically riddled with fraud, bribery, corruption and other forms of irregularity for at least two decades, undermining any governance reform.

Current laws seem to seek the criminalisation of local people and through all its policies on resource extraction, including timber, the Government is undermining communities’ reliance on resources while at the same time introducing a centralised system of management they are unable to implement, creating even more conflict.

From 1989 to the present day, Myanmar’s past military regimes and its current Government have presented the teak trade regulated by the forestry department and implemented by the state-run Myanmar Timber Enterprise (MTE) as being wholly legal and sustainable, conducted in compliance with the rule of law. This is simply not the case.

A two-year undercover investigation by the Environmental Investigation Agency (EIA) into the ‘Burmese teak kingpin’ who conspired with and bribed the Environmental Investigation Agency (EIA) into a near-mythic ‘Burmese teak mafia’ was able to establish a secret off-the-books timber market.

EIA’s findings illustrate how Myanmar teak sold through formal channels is as corrupt and illegal as anyplainly smuggled across the border into China.

In light of this, and with corruption still greasing the wheel of the illegal border trade into China, Myanmar’s people remain reliant on the goodwill of international trade partners in helping enforce forestry and timber trade provisions.

Of all the irregularities encountered in Myanmar’s formal teak sector, EIA’s findings illustrate how Myanmar teak sold through formal channels is as corrupt and illegal as any blatantly smuggled across the border into China.

Myanmar cannot reform this multi-layered, complex but highly organised international timber trade by itself and it is crucial that the past years of gross corruption and deceit are acknowledged and addressed.

Our investigations also took us to the Myanmar-China border where, other than the state of Myanmar itself, China has played the biggest role of any nation in the illegal expropriation of Myanmar teak and other hardwoods.

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MYANMAR TEAK – “KING OF WOODS”

“True teak” or “genuine teak” refers to wood harvested from the species *Tectona grandis*; a large hardwood tree of the Lamiaceae family, naturally occurring in mixed hardwood forests across its range of India, Sri Lanka, Indonesia, Myanmar, north Thailand and north-west Laos.13

Teak’s combination of properties – a range of beautiful golden-to-red hues on tight, straight grains, Category 1 durability and weathering properties – have earned it the moniker of ‘King of Woods’.

Its consequent popularity has led to teak being artificially propagated in plantations worldwide – often because of overharvesting of natural stands – including in Myanmar.

‘Myanmar teak’ or ‘Burma teak’ refers only to wood from *Tectona grandis* trees growing naturally in Myanmar. Myanmar teak is considered the best true teak available on the planet and has been particularly heavily targeted, contributing a quarter of the teak logs harvested globally in recent years.14

Teak forests originally grew across much of Myanmar, with the most significant remaining stands now in the northern regions of Sagaing, Kachin and Shan states.

Classified as a ‘reserved species’ in Myanmar (all teak is owned by the State), specific areas within Myanmar’s teak forests are considered to hold the best natural true Myanmar teak, displaying the finest qualities with the least defects. Teak harvesting has contributed significantly to Myanmar’s forest loss and degradation; forest inventories indicate significantly to Myanmar’s forest loss and degradation; forest inventories indicate

Major Uses

Teak is widely used for decorative veneers, furniture, flooring, outdoor decking, architectural millwork and extensively in marine and boat-building applications such as marine-grade plywood, as lumber for boat-building and as yacht and superyacht decking.

Demand for Myanmar teak in Western markets is largely driven by the furniture and boat-building sectors, particularly the yacht and superyacht decking market which seek the highest grades of Myanmar teak. Yacht makers display an almost ideological obsession with the questionable narrative that only Myanmar teak will suffice.

Major Markets

The biggest direct markets for Myanmar teak are China, India and Thailand, which between them imported a staggering 4.04 million m³ of teak logs and sawn timber direct from Myanmar between 2007-17, worth $2.79 billion. Malaysia, Singapore and Taiwan have also historically imported large volumes of Myanmar teak.

Compiling Myanmar teak-specific trade statistics for other world markets is challenging and only a partial picture can be discerned.15

While Western markets import substantially less teak direct from Myanmar and consume less than Asian markets, many European and American importers have relied on supplies available from Myanmar’s principle Asian markets, particularly India, Malaysia and Taiwan.

From June 2007 to June 2017, US imports of sawn teak direct from Myanmar amounted to merely 5,520 m³ worth $25.8 million. However, for most of that period direct shipments from Myanmar and MTE were prohibited under US sanctions and considerably more Myanmar teak is known to have been imported from countries other than Myanmar.

For example, from July 2007 to July 2017, just one US merchant – East Teak Fine Hardwoods – single-handedly imported nearly 9,000 tonnes of Myanmar teak, roughly 13,500 m³, in hundreds of shipments from just a handful of companies in Malaysia and Taiwan alone. Total imports of Myanmar teak by all US companies from all companies in all countries outside Myanmar was likely considerably higher than the approximate 20,000 m³ of imports known to have occurred during the past decade.

Quantifying the European Union’s imports of Myanmar teak is harder still. Trade data indicates that from 2014-17, EU imports of “non-coniferous tropical logs and sawn timber” direct from Myanmar totalled 21,270 m³ worth £80.39 million, although not all of this can be assumed to be teak.16 Other estimates have been reported as an aggregated “Wood-Furniture-Paper macrosystem”, valuing EU direct imports at €22.5 million in 2015. The biggest importers by value were Italy (€6.86 m), Germany (€5.92 m), Denmark (£2.25m), France (€1.91m) and Belgium (£1.56 m) although, again, it is not clear which species are included.17

Other sources suggest a 46 per cent increase in EU imports of sawn hardwood direct from Myanmar during the first five months of 2018, but without indicating the volume, value or species involved.18 As with the US, EU importers have also relied on India, Malaysia, Taiwan and other re-exporters of Myanmar teak for many years, suggesting direct trade represents a fraction of actual imports of Myanmar teak.

Teak logs and sawn timber imports from Myanmar into India, China and Thailand – 2007-17 (Source: Global Trade Atlas)

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17. Most countries do not use teak-specific customs codes for most product types traded, and teak is generally aggregated with other species, making estimates of teak trade difficult or impossible. Shipments of Myanmar teak via third countries – one consequence of EU sanctions – are also difficult to confirm as trade statistics.
**Myanmar’s Forest Governance Failures**

Since the mid-1800s, Myanmar has suffered repeated cycles of excessive and illegal harvesting and timber trade underpinned by corruption, cronyism and conflict.

These cycles of criminality have underpinned not only a massive illegal timber trade with neighbouring China (and at times India and Thailand) but have also tainted the entire nominally legal forestry and timber trade operations administered by the State itself.

Weak governance, selective law enforcement and conflict allow for illegal logging and the associated trade to flourish in Myanmar. Poor governance systems have been manipulated by Burmese military commanders, ethnic armed organisation leaders and Government departments, allowing for an illicit trade often involving criminal networks and organised crime.

Corruption is the key component enabling many of the crimes underpinning the illicit trade of timber within and from the country.

### MYANMAR’S LEGAL TIMBER SECTOR

#### The Myanmar Selection System (MSS)

Under British colonial rule, forestry was initially characterised by rampant teak extraction that severely reduced forest cover and density.

From the 1850s, however, the British began to implement “scientific forestry” to maximise teak harvests for revenue generation while maintaining the resource base. This resulted in the Brandis Method, or the Brandis Selection System – a system limiting harvesting to trees over specified girths selected during detailed inventories of “annual coupes” – set within larger defined forest divisions which would be harvested on a 30-year rotation.

Each annual coup was allocated an Annual Allowable Cut (AAC), with these collated to establish a national AAC. In 1920, this system was renamed the Burma selection system.

#### Myanmar’s Timber Sector

**1989**

35 Thai logging firms awarded 47 logging concessions

**1993**

all Thai logging companies expelled except for five favoured companies

**1997-2011**

new level of destructive exploitation of Myanmar’s teak forests under SPDC

**1800s**

rampant teak extraction under British Colonial rule

**1850s**

British implement "scientific forestry" to maximise teak harvests for revenue

**1920**

Brandis Selection System and Annual Allowable Cut (AAC) renamed the Burma selection system

**1948**

State Timber Board (STB) was formed

**1962**

all logging and hardwood marketing nationalised

**1978**

the STB renamed the Timber Corporation and Myanmar Selection System (MSS) formalised

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#### Revenues for the Regime

The maladministration of Myanmar’s military rulers, from Ne Win to the quasi-civilian government elected in 2011, created and entrenched a patronage and clientelist governance culture fundamentally reliant on rampant corruption and collusion which in turn structurally undermined the application of the rule of law in all sectors of the economy.

The de facto abandonment of the MSS and AAC within forestry – while maintaining the pretence of their ongoing application – was just another aspect of the wider collateral damage the country suffered in lieu of overwhelmingly illegitimate and corrupt regimes.

Ne Win’s military coup in 1962 and Myanmar’s subsequent international isolation resulted in all logging and hardwood marketing being nationalised as a source of revenue for the military regime.

The use of Myanmar’s forests as a cash cow for the military significantly intensified following the brutal suppression of the 1988 uprising and the coup d’état of the State Law and Order Restoration Council (SLORC), headed by General Saw Maung, who remained Burma as the Union of Myanmar.

In 1989, following a December 1988 diplomatic visit by the head of Thailand’s Military, General Chavalit Yongchaiyuth, and a range of Thai business interests, 35 Thai logging firms were awarded 47 logging concessions – the first in Myanmar’s history – strung along the country’s sprawling border with Thailand. That same year, the Timber Corporation was restructured and renamed Myanmar Timber Enterprise (MTE), an entity which has overseen all logging and timber trade in the country to the present day.

The concessions were largely located in areas of Shan State and Karen State, which were controlled by ethnic armed groups in conflict with the military regime.

The logging concessions functioned for SLORC as both a source of cash and a means to dominate land not controlled by the regime while at the same time maintaining diplomatic relations with a powerful neighbour, Thailand. The MSS was effectively abandoned in these areas and wholesale destruction ensued.

In 1992, Senior General Than Shwe took control of SLORC and the country and in 1997 he abolished what was supposed to be a council leading by decree and reconstituted it as the State Peace and Development Council (SPDC) with Than Shwe remaining in power until 2011, ushering in a new level of destructive exploitation of Myanmar’s teak forests.

In 1993, Than Shwe’s SLORC expelled the Thai logging companies except for the five favoured companies, some of which, including Thai Sawat, have maintained their influence in Myanmar’s teak sector until today (see next section).

The commercial concession system was abandoned and MTE, contained within the Forestry Department, was once again charged with all logging and timber trade in the country, nominally in line with the MSS.

But the increased reliance on timber for foreign currency with which to prop up Than Shwe’s regime resulted in the imposition of revenue targets on MTE, that led to the de facto abandonment of the MSS.

**MYANMAR’S FUTURE**

“Scientific forestry” in the 1920s was intended to maximise teak harvests for revenue. That was the rule. It was not a license to plunder.

Today, the rule of law is more or less dead in Myanmar. In place of the rule of law is a system of selective enforcement where corruption and clientelism reign. It is the modern equivalent of scientific forestry, where the only constraint is how much can be legally plundered.
Subcontracting and Timber Sharing Agreements

While the Forestry Department and MTE maintained a huge workforce, neither had the capital to invest in machinery or infrastructure and the State could not operate in areas outside of control by the military (aka Tatmadaw), resulting in timber production being lower than revenue targets demanded.

This prompted MTE’s increased use of timber harvesting subcontractors, which dramatically increased revenues from forestry. Subcontractors brought capital, machinery and business efficiencies MTE did not possess and significantly increased the volumes of merchantable timber the state could call its own.

The selection of subcontractors provided avenues for leveraging financial, political and security benefits for the regime and senior officials.

The allocation of MTE logging subcontracts also provided multiple opportunities for significant kickbacks and other forms of corruption for the officials involved.

A coterie of domestic Myanmar companies seized control of a large portion of timber subcontracting opportunities – often in the context of other business dealings in all parts of Myanmar’s opaque economy, in a clientelist pattern which earned them the title of “regime cronies”. However, companies from China, India, Thailand and other countries also managed to secure significant stakes.

Logging subcontracting was formalised under “timber sharing agreements” peculiar to Myanmar, under which the MTE issued annual logging quotas within its overall targets and areas, with no long-term contract being securely in place.

Rather than pay a stumpage fee on timber harvests which companies then legally own, in Myanmar’s timber-sharing agreements, companies pay for the harvesting (including infrastructure development costs) but the MTE retains ownership of the harvested wood. Companies then have to return or relinquish – for no cost – a significant portion of the wood to MTE but have the right to sell the remainder privately after paying a reduced rate for it.

All of these agreements involve MTE being given all Grade A and SGI-4 teak logs free of charge – to be sold by MTE at auction – and usually about 40-60 per cent of all other hardwood species harvested. Subcontractors then pay the MTE below-market prices to retain the remainder of their SGS-9 teak logs and the other harvested hardwoods, which they can sell themselves (see graphic, page 14).

Modified Procedures

Many logging sub-contracts authorised favoured contractors to operate in conflict areas not controlled by the state or military, particularly in Shan, Kachin and Karen states where ethnic armed groups held territory. In such cases, companies operated under a so-called “modified procedure” under which the MSS administered by MTE and the Forest Department was abandoned and subcontractors harvested anything above a given girth, inspecting their own compliance with forestry prescriptions.23

To enable companies to actually operate under Government administration in contested territory, the modified procedure effectively required subcontractors to negotiate separate side-deals with the very “insurgent groups” with which the Government was in conflict.24

In practice, side-deals negotiated under the auspices of the modified procedure were characterised by harvesting in excess of the AAC in areas not planned for under a properly applied MSS or pre-harvest selection system, the liberal under-declaration of teak grades and the laundering of completely illegal teak logs cut from outside of the system altogether.25

While timber revenue targets, subcontracting and the modified procedure were variously phased out in 2014, 2015 and 2016 respectively, their legacy is damning.

The reality is that for decades all the talk of legality and sustainability has been, and remains, a fundamental deceit.

Of all the irregularities encountered in Myanmar’s formal teak sector, EIA’s investigation into “the Shadow President” (see next section) is illustrative of how Myanmar teak sold through formal channels is as corrupt and illegal as any which is blatantly smuggled across the border into China.

Yet despite these realities, from 1989 to the present day, Myanmar’s military regimes – and its current quasi-civilian Government – have presented the teak trade regulated by the Forestry Department and implemented by the MTE as being wholly legal and sustainable, produced in compliance with MSS.26

The formal channels of this supposedly ‘legal and sustainable’ timber are proclaimed to include all teak sold by MTE at monthly auctions and all teak sold by companies under MTE subcontracting and timber-sharing agreements. Formal channels for international trade have similarly been characterised as including all teak exported via Yangon ports by MTE itself or by companies under MTE authorisation, including MTE logging subcontractors, private traders and wood products manufacturers.

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17. Sharing Agreements

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Below: MTE logged in Yangon, 2013

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Table: 2014-16 timber revenue targets, subcontracting and the modified procedure phased out

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014-16</td>
<td>Total logging ban implemented for one year</td>
</tr>
<tr>
<td>2016-17</td>
<td>10-year ban on teak logging in forests of Bago-Yoma</td>
</tr>
<tr>
<td>2017-18</td>
<td>Quotas significantly reduced due to the absence of viable standing stock</td>
</tr>
</tbody>
</table>
MTE's grading system

Saw Grade (SG)

<table>
<thead>
<tr>
<th>Grade</th>
<th>Description</th>
<th>Price Range</th>
</tr>
</thead>
<tbody>
<tr>
<td>SG1</td>
<td>Highest grade for non-veneer applications in furniture, flooring, exterior decking and yacht decking.</td>
<td>As much as $5,500 per ton</td>
</tr>
<tr>
<td>SG2</td>
<td>One star</td>
<td></td>
</tr>
<tr>
<td>SG3</td>
<td>Two star</td>
<td></td>
</tr>
<tr>
<td>SG4</td>
<td>Three star</td>
<td></td>
</tr>
<tr>
<td>SG5</td>
<td>Four star</td>
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<td>SG6</td>
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<td>SG7</td>
<td>Six star</td>
<td></td>
</tr>
<tr>
<td>SG8</td>
<td>Seven star</td>
<td></td>
</tr>
<tr>
<td>SG9</td>
<td>Eight star</td>
<td></td>
</tr>
</tbody>
</table>

Above: MTE hammer marks indicating grade and region of harvest on teak log

Top: Teak decking on luxury yacht

TEAK GRADING IN MYANMAR

Myanmar teak’s array of qualities means high grades are significantly more expensive than lower grades.

Under MTE’s grading system, the highest quality logs – for decorative veneers – are Grade A, with sub-grades including Special (five star), First (four star), Second (three star), Third (two star) and Fourth (one star).

Teak logs used for non-veneer applications in furniture, flooring, exterior decking and yacht decking are classified as Saw Grade (SG), with SG1 being the best and SG9 being the lowest grades.

MTE’s timber sharing contracts require all logging subcontractors to give MTE all SG1-SG4 teak logs harvested free of charge, to be subsequently sold through MTE auctions. Teak logs of SG5-SG9 can be retained by subcontractors, who pay MTE below-market rates for them and profit by selling at true market prices.

Despite being illegal, and impossible without collusion from MTE or Forest Department staff who grade the logs, misdeclaring SG1-SG4 logs as SG5 or lower has been a common method for subcontractors to increase profits for decades. The profits from doing so can be considerable – SG1 logs sell at auctions for as much as $5,500 per ton, while SG5 or below may fetch merely $2,000 or lower, with lower prices still paid by subcontractors under MTE’s timber sharing arrangements.

In 2013, representatives from both the Burmese firm IGE and the Indian/Singaporean firm Alkemal – both major subcontractors – admitted to EIA investigators they mis-declared “SG4 and up” logs harvested as being SG5 or SG6 in order to increase profitability. Such fraud was reportedly central to the business model of the so-called “Shadow King of Burma Teak”.

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In early 2006, Myanmar’s Government publicly admitted the extent of the illicit timber and revenue flows and that same year Chinese authorities took action to stem the flow of stolen wood. In March, Yunnan’s provincial government announced a suspension of timber imports across the border and banned Chinese nationals from crossing the border to conduct logging. In May, Yunnan issued a regulation to formalise the trade by requiring advance approval for timber “cooperation projects”.

By late 2006, some parts of the border had reopened for timber trade under a quota system for selected Chinese companies. Chinese customs data indicates that the measures suppressed the trade for a few years, with only 270,000 m³ of logs crossing the border in 2008.

But this reduction did not last. By 2013, trade in timber products between Myanmar and China reached a new record level of 1.7 million m³ worth $521 million.

EIA investigations in 2015 uncovered the central role of a powerful cartel in ensuring wood illegally logged or purchased in Myanmar by Chinese interests can pass freely through the numerous checkpoints in territory variously controlled by the KIO and Myanmar’s Government and military. Known locally as the Dazu – or “big group” – and referred to as “BDYA” after the names of its four principle members, this cartel used close connections to senior Myanmar military officials, including at least two of Myanmar’s Northern Commanders.

While another crackdown occurred in 2015 – following the arrest of 155 Chinese loggers in Kachin and more appeals from Myanmar – and illegal exports to China significantly reduced again from late that year, the trade was never entirely eliminated.

EIA investigations during 2017 and 2018 (next section) reveal how the illegal trade into China persists due to ongoing corruption of officials in both Myanmar and China.

MYANMAR’S ILLEGAL TIMBER TRADE

During the past three decades, timber trade has provided foreign currency not just for Myanmar’s military regime but also many of the various armed ethnic groups in conflict with the regime, which have issued logging rights and taxed timber exports to fund weapons purchases and other costs.

Seeking to cut off timber revenues for armed groups, Myanmar’s ruling regime prohibited all timber exports over its land borders, including those with China and Thailand, restricting “legal” exports to those authorised by MTE through ports in Yangon.

Yet a massive illegal flow of timber across the border into China persisted during the past 25 years, with the nexus of the trade being Kachin State in Myanmar and the three prefectures in China’s Yunnan province shuttling the border: Nuijiang, Baoshan and Dekang.

From the late 1980s a series of bilateral agreements between the governments of China and Myanmar and ceasefire deals with ethnic armed groups gradually opened what was formerly a closed hinterland. In 1988, the two governments signed a cross-border trade agreement, followed by a series of deals between Myanmar and the Yunnan provincial government in 1989, including one on forestry. The same year, the New Democratic Army of Kachin (NDAK) signed a ceasefire, opening up a large area of northern Kachin to intensive logging.

Cross-border timber smuggling then escalated rapidly from the late 1990s to 2006. A 1994 ceasefire between the Kachin Independence Organisation (KIO) and Myanmar military government opened up large swathes of forests to logging, a factor subsequently exacerbated by new Chinese demand for Kachin timber following a logging ban in Yunnan in 1996 and a national ban in China in 1998. In 1997, the total volume of forest products traded between Myanmar and China was 300,000 m³; by 2005, it had reached 1.6 million m³, with over one million m³ of that being logs.

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In early 2006, Myanmar’s Government publicly admitted the extent of the illicit timber and revenue flows and that same year Chinese authorities took action to stem the flow of stolen wood. In March, Yunnan’s provincial government announced a suspension of timber imports across the border and banned Chinese nationals from crossing the border to conduct logging. In May, Yunnan issued a regulation to formalise the trade by requiring advance approval for timber “cooperation projects”.

By late 2006, some parts of the border had reopened for timber trade under a quota system for selected Chinese companies. Chinese customs data indicates that the measures suppressed the trade for a few years, with only 270,000 m³ of logs crossing the border in 2008.

But this reduction did not last. By 2013, trade in timber products between Myanmar and China reached a new record level of 1.7 million m³ worth $521 million.

EIA investigations in 2015 uncovered the central role of a powerful cartel in ensuring wood illegally logged or purchased in Myanmar by Chinese interests can pass freely through the numerous checkpoints in territory variously controlled by the KIO and Myanmar’s Government and military. Known locally as the Dazu – or “big group” – and referred to as “BDYA” after the names of its four principle members, this cartel used close connections to senior Myanmar military officials, including at least two of Myanmar’s Northern Commanders.

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The Shadow President - King of Burma Teak

A Rumoured Kingpin

In 2016, well-placed sources alluded to the existence of a teak kingpin, an untouchable and unknowable “ghost” behind Myanmar’s State-administered teak trade, said to have captured the highest-grade logs and thus controlled much of the international trade in nominally legal timber shipped from the capital city, Yangon.

EIA’s sources suggested his name was “something like” PC Cheng, PC Chang or PC Chun, but could not identify him.

Initial research identified highly relevant albeit limited and inconclusive information of a person of a similar name linked to companies in Myanmar and Thailand called Thai Sawat.

While Thai Sawat was formally controlled by a Mr Chetta Apiapntana, this name was at times referred to alongside a Mr Cheng or PC Cheng in relation to Thai Sawat.32

EIA knew Thai Sawat had been a key player in opening up Myanmar to commercial logging in the late 1980s-90s and it seemed feasible that Thai Sawat could be the vehicle for the teak kingpin.33

However, EIA researchers could not initially identify or confirm a full Chinese or English name for any legal person for PC Cheng or Cheung Hing, or the owner of Kui Jay Corporation, or Kay You (興隆木材有限公司) in Taiwanese.

A wizened sawmilling master, A-Fu was keen to sell EIA his last 1,000 tonnes of Myanmar teak logs – stored in Taichung port – for just over $4 million, the remnants of 10,000 tonnes he had imported in “three ships of logs” in 2013 alone, prior to Myanmar’s log export ban in April 2014.

Perhaps in anticipation of his retirement, over three days of meetings with investigators A-Fu at times wistfully reminisced about his days in the trade and about his legendary supplier.

The “Shadow President”

In September 2017, in Taiwan, EIA investigators met with Mr A-Fu re-emphasised the status of this individual in the teak business, saying: “In this world, he’s the biggest trader, Cheng Pui Chee.”

A-Fu re-emphasised the status of this individual in the teak business, saying: “In this world, he’s the biggest trader, Cheng Pui Chee.”

Initially referring to Cheng Pui Chee in deference as his “President”, (saying “my original logs are all from him, that’s why I called him president”), A-Fu referred to Cheng as “the Shadow President” and proceeded to explain the nature of the special arrangement with top Myanmar officials that so enriched him.

Cheng Pui Chee sounded exactly like the rumoured teak kingpin PC Cheng

Grades of Grey

A-Fu explained how Cheng Pui Chee’s success essentially hinged on a guarantee of impunity for defrauding the state through the systematic under-declaration of the grades of teak logs harvested by his operations or those of other subcontractors he purchased from.

Critically, grading fraud prevented the finest quality teak logs from being automatically drawn into MTE’s auction system. Cheng retained the highest-grade logs he should have given over to MTE for nothing (itself a business advantage), paying artificially low prices to MTE while selling at top prices internationally (see Teak Grading in Myanmar).

A-Fu explained how Cheng used to buy from MTE auctions but struck deals with senior officials to bypass them while still accessing the best teak.

A-Fu: “Each time, they [Cheng] will bring 40-50 million [dollars] and then he will take the timber over time … they will send their people up to the mountains to select the logs. The best logs will be transported down from the mountains, consigned right away or loosely loaded onto the vessel … without having to be moved first to the log yards.”

EIA: “Were those teak marked with grades?”

A-Fu: “Yes. Those teak were marked at grades Five or Six but the actual quality were Grades One or Two … Grades One or Two quality. When they buy it up in the mountains, if it’s marked as Grade Five, they will pay a good price… then, when they sell it here, they will sell it as Grade One. Why did he do so much money (to the Government)… it’s because there is a huge profit margin… That was how he was making all that money.”

This is theft. While Cheng paid MTE for the wood, he should have paid substantially more at auction than the low prices offered under timber-sharing agreements for lower grade wood.

The net result was that Cheng illegitimately accumulated huge volumes of the world’s best teak at knock-down prices, giving him market dominance.

A-Fu laughed when recounting how Cheng would at times still attend MTE auctions and buy up most of the teak logs on offer at high prices – not to access the wood but rather to boost the price of teak in the international market, a price largely set at MTE auctions.

Personal accounts

Why would the Government allow this special arrangement whereby top-grade timber is sold by the State at rock bottom prices through pre-agreed grading fraud?

A-Fu repeatedly reiterated the function of cash payments, stating that tens of millions of dollars of the money Cheng advanced to the Government was for the personal enrichment of top regime officials, paid into their personal bank accounts in Hong Kong and Singapore.

When EIA sought clarity on whether bank transfers made by Cheng to MTE and the Government for access to the wood included payments into officials’ personal bank accounts, A-Fu said: “Yes, to the Prime minister and the lot…”

EIA: “All to Myanmar Prime Minister and the lot during that time”

A-FU: “The Prime Minister in Yangon … the Chairman … the Fathers of the country would become jealous. Of the 60 million, 40 million would go straight into their pockets. They all have five houses…”

EIA: “So, it goes straight into their personal accounts, right?”

A-FU: “Yes.”

Huge cash payments to top officials and generals have been rumoured in the trade for decades, but seldom do seasoned traders explain how it was actually done and by whom.
New Degrees of Corruption

The cash kickbacks were not the entire story – Cheng's operation is a veritable education in corruption.

A-Fu said Cheng Pui Chee was a "legend" because of his strategy to also pay for the senior officials he bought in Myanmar to have the children of senior officials put in place in the EU, in which the owner of Cheng Hing is stated to be PC Cheng. That Tay Zar in particular had commercial interests in Cheung Hing suggests Cheng had clearly positioned himself just one step removed from Senior General Than Shwe.

IEG

Cheung Hing is also linked to the International Group of Entrepreneurs (IGE), a major player in Myanmar's timber sector during the Than Shwe era. Between August 2009 and August 2012, Hong Kong IGE Private Ltd and Cheung Hing both reportedly facilitated tax avoidance by another Hong Kong timber importer (He Biying, of Xinlin Company) by providing fraudulent tax receipts and contracts understating the value of 26,000 tonnes of teak logs they supplied. 35

IEG was established by the family of Aung Thaung, Myanmar's Minister of Industry from 1997 to 2011. 36 Aung Thaung's son, Pyi Aung, is married to the daughter of Senior General Maung Aye, and IGE companies (including Myanmar Rice Trading and the Aung Yee Phyo Company – major teak logging subcontractors) are considered to have significantly benefited from very close relationships to both Maung Aye and Senior General Than Shwe.

CONFIRMING THE SHADOW'S IDENTITY

Following the meeting with A-Fu, EIA sought to confirm "Cheng Pui Chee's" full identity and corroborate the story we had heard.

Hong Kong Roots

Cheng reportedly began his career under his father, importing teak into Hong Kong from Myanmar and Indonesia through his company Cheung Hing (Xiaoxin / 祥興 / Xiangxin) but had at some point married a wealthy Thai woman of Chinese descent and moved to base himself in Bangkok, Thailand.

Hong Kong records for Cheung Hing confirmed Cheng's official Chinese written name (駱志) and his role as director – along with a family member – in various companies incorporating the name. 36 These Cheung Hing companies in Hong Kong appear to have been the key commercial vehicles to transact most of Cheng's major multi-million-dollar teak deals.

Publicly available sources about Cheung Hing give tantalising hints at connections between Cheng and influential timber brokers close to senior regime officials in Myanmar.

Tay Zar

A leaked cable from the US Embassy in Yangon reveals how two key cronies of the Than Shwe regime – the infamous Tay Zar, of the Htoo Group, and his Chinese speaking advisor and Xker Lu Lu (aka Kwan Lu Chan, Chan Kwan Lu) both had minority stakes in Cheung Hing Corporation Ltd and Cheung Hing Timber Corporation in Hong Kong – Cheng Pui Chee's companies. 37

The cable advised economic sanctions be imposed on Cheung Hing and other Lu Lu-connected companies, which were duly put in place in the EU, in which the owner of Cheung Hing is stated to be PC Cheng. 38 That Tay Zar in particular had commercial interests in Cheung Hing suggests Cheng had clearly positioned himself just one step removed from Senior General Than Shwe.

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The Koh Connection

A-Fu had also talked repeatedly about a “Mr Xu,” reportedly a well-connected Singaporean of Hong Kong origin operating out of Malaysia and said to be Cheng Pui Chee’s principle, albeit junior, business partner and long-term collaborator. Xu reportedly helped Cheng Pui Chee market his teak beyond China and Thailand, particularly in Malaysian, Singaporean and Western markets. A range of Western buyers were said to have accessed both A-Fu and Cheng Pui Chee through Mr Xu (see Cheng’s Western markets). While not naming Mr Xu’s companies, A-Fu mentioned an historical connection to a Malaysian entity called “Thai Pong.” EIA knew that a Malaysian teak sawmill previously called Thaipong Industries had become SCK Wooden Industries – part of the Timberlux, Northwood and Wood & Wood network of companies linked to Gary Koh, whom EIA had met in Singapore in 2013.

Because of this, and the fact that “Koh” is the Chinese Minnan dialect’s version of “Xu,” it became obvious that “Mr Xu” was likely to actually be “Mr Koh” – “Koh Seow Bean” – the father of Gary Koh.

Gary Koh had told EIA of his Timberlux network’s connection to Thai Sawat, a firm EIA always suspected as being one vehicle of the alleged teak kingpin (see Gary Koh’s corroboration). Company records confirmed the connection.

Thai Sawat & Chetta Apipatana

On the suspicion that Cheng’s partner Mr Xu was actually Mr Koh of the Timberlux network, EIA sought confirmation in the official records of numerous companies including Northwood, Thai Sawat, Wood & Wood and Deesawat in Singapore; Northwood, SCK Wooden Industries and Timberlux in Malaysia; Northwood, Thai Sawat and Pacific Timber in Yangon; and Thai Sawat, Deesawat and other companies in Thailand.

None of the records for these companies in Malaysia or Singapore named Cheng Pui Chee, referring instead to Chetta Apipatana or other Apipatana family members, along with the Koh (Xu) family members EIA had anticipated. However, when EIA acquired records for Thai Sawat Import Export Ltd in Thailand, the pieces of the puzzle finally fell into place.

Thai Sawat Import Export Ltd was incorporated in Thailand as early as 25 September 1963 by six founders of Chinese nationality and one Thai national, but a certificate dated 16 November 1963 included Chetta Apipatana and his brother Marut Apipatana as directors.

Importantly, a shareholder registration document from 25 April 1975 adds Chinese citizen “Cheng Pui Chee” (written in English, but also in Thai – transliterated “Seng Phu Si”) as a voting shareholder of Thai Sawat Import Export Company Ltd. On the second page of the same document, the name Mr Seng Bhui Chi (typed in Thai) is crossed out and handwritten below in Thai is “Chetta Apipatana.”

A further document submitted by Thai Sawat Import Export Company Ltd to detail changes in the registration of the company on 26 October 1994 also notes “Seng Phu Si” had changed his name to “Chetta Apipatana.”

The documents confirm that A-Fu’s “Shadow President” Cheng Pui Chee had changed his name in Thailand to Chetta Apipatana in the early 1960s and he and his father Soothie Apipatana (also spelt Suhee) and brother Marut Apipatana began working as directors in Thai Sawat, by 1975, they had taken control of the company.

EIA also managed to acquire details from the formal Thai ID card for Cheng’s adopted name Chetta Apipatana, which included a photograph of Chetta that matches the only other image of Cheng Pui Chee identified by EIA.

Thai Sawat was one of 35 Thai logging firms awarded 47 logging concessions in Myanmar following a diplomatic visit to Myanmar in December 1988 by General Chavalit Yongchaiyudh, then Commander in Chief of the Thai armed forces (later Prime Minister of Thailand) – the first senior foreign dignitary to have visited the country since the brutal suppression of the 1988 Uprising.

Then, in December 1993, Thai Sawat was one of only five Thai firms which maintained logging rights in Myanmar after the then-SLORC Government expelled all Thai logging companies earlier that year. Thai Sawat was awarded a 30,000 tonne quota at Mong Pungkahyuen 2 in Shan State in the early 1990s and, in lieu of that, Thai authorities granted it a timber transit point at Ban Arunothai in Chiang Dao District, Chiang Mai Province – a combination thought to have earned the firm up to $15 million at the time.

During the same period, Thai Sawat won contracts for logging and road construction from the politically well-connected Thai company MDX, which held an agreement with the Myanmar Government to develop the Tasang Dam in Shan State.

41. A photograph of Cheng Pui Chee is included in images of his funeral in Bangkok, which were posted to Facebook by attendees in April 2018. The man in this photograph is the same man as the deceased in Chetta Apipatana’s ID Card.
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46. “Koh Seow Bean,” reportedly a well-connected Singaporean of Hong Kong origin operating out of Malaysia and said to be Cheng Pui Chee’s principle, albeit junior, business partner and long-term collaborator.

Above left: aerial photograph of logging companies allocated to Thai Sawat Import-Export Company Limited, 26 October 1994 indicated Cheng Pui Chee changed his name to Chetta Apipatana.
Gary Koh's Corroboration

In 2013, investigators had met Gary Koh, a Singaporean running Wood & Wood, a teak flooring and interiors firm he grew out of his family's Myanmar teak business centred around SCK Wooden Industries Sdn Bhd and Timberlux Sdn Bhd.

In light of the links between Cheng Pui Chee and the Koh family, A-Fu's testimony about Cheng Pui Chee's bribery appears to significantly expand on Gary Koh's testimony in 2019 of similar inducements, which in turn corroborates A-Fu's testimony about Cheng Pui Chee's 'special arrangements'.

Gary Koh said the network included Northwood in Myanmar and worked in partnership with Thai companies, including Thai Sawat and Deesawat. EIA had met representatives of Deesawat in 2010, who acknowledged historical links to Thai Sawat. Gary Koh also mentioned that they had worked with a firm called "*" in Taiwan to process their teak, a reference to A-Fu's Kui Jay Corporation.

He said the companies had excellent access to teak in Myanmar as a result of bribes and inducements. He said: "We are close to MTE. We are very, very close to Singapore. What we have been doing in Myanmar, the Ministry of Forestry as well. So we are close to MTE. We are very, very close."

Gary Koh also said Northwood had gifted the Ministry of Forestry two giraffes, four zebras and several penguins for the zoo at Naypyidaw, Myanmar's new capital city.

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"Never in my life did I think I would get to buy four zebras and two giraffes."

Gary Koh also said Northwood had gifted the Ministry of Forestry two giraffes, four zebras and several penguins for the zoo at Naypyidaw, Myanmar's new capital city.

Corroborating this story, Myanmar newspapers reported in December 2009 that a "Mr Cheng" of Thai Sawat Import Export had donated penguins to Myanmar's Forestry Department for the Naypyidaw zoo. The Thai military attaché stood by in a photo of the symbolic presentation. Giraffes were similarly reportedly donated by the same "Mr Cheng" of Thai Sawat in 2011.

Asked if he felt the payments made for the network's teak went into the personal pockets of generals running the Government and MTE, Gary Koh smiled and then laughed, saying: "Ah, you could say its, aah, yes actually. A good portion, a good portion."

Cheng's Web of Interests and Alliances

With the confirmation that Cheng Pui Chee is Chetta Apipatana, company documents clarify how, using his Thai name of the Thai names of his children and brother, Cheng Pui Chee registered shareholdings and/or directorships in a network of multiple Thai Sawat, Northwood and Timberlux companies to enable his teak empire to function across Malaysia, Myanmar, Singapore and Thailand. Cheng retained his Chinese name in his Cheng Hing operations in Hong Kong.

Multiple connections between the Apipatana and the Koh family are evident, cementing the business partnership of Cheng Pui Chee and Koh Seow Bean, and bestowing assets in the names of their sons, Thanit Apipatana (also spelt Thanet) and Gary Koh (Koh Tek Kwan Gary).

In Singapore, Koh Seow Bean and Chetta Apipatana are both directors in Northwood Co Pte Ltd, although only Chetta is a shareholder. Similarly, Gary Koh is a director with Chetta and Thanit Apipatana of Thai Sawat Development Co Pte Ltd and Thai Sawat Investment Co Pte Ltd, while only Chetta and Thanit are shareholders.

A critical link cementing the relationship between the Koh and Apipatana families is Timberlux Sdn Bhd in Malaysia, in which Koh Seow Bean's son Gary Koh is a director and which he also co-owns with Chetta's son Thanit Apipatana.

While only the Koh family appears to own and direct Wood & Wood Pte Ltd and Wood & Wood Flooring Co Pte Ltd in Singapore (Gary Koh's companies) and SCK Wooden Industries Co Ltd) is also a Vice President, while Mr. Sultee Apipatana (Chetta's father) is listed among the Honorary Presidents of the Association.

EIA research indicates that the two families are actually extended family, likely cousins. Facebook posts also evidence how Cheng Pui Chee's (Chetta Apipatana's) brother Marut, his son Thanit and his wife meet up with Jirachai and other Tangkijngamwong family members for Chinese New Year in Bangkok annually.

Diversification

Company records also indicate Chetta had diversified some of his corruptly earned teak profits into real estate, including the luxury Summit Park View Hotel, in central Yangon.

Thailand's Timber Association reflects the status of the two families in Thailand. Jirawat Tangkijngamwong (of Dee Sawat Industries Company Ltd) is the Head of the Thai Timber Association, while Ekchai is a Vice President. Marut Apipatana (Cheng's brother, also of Thai Sawat Import Export Co Ltd) is also a Vice President, while Mr. Sultee Apipatana (Chetta's father) is listed among the Honorary Presidents of the Association.

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Connections are also evident between the Apipatana family and that of the Tangkijngamwong family in Bangkok, which controls Deesawat – a major Thai brand that designs, manufactures and retails furniture largely made with Myanmar teak.
YANGON INVESTIGATION

Research confirmed that Cheng Pui Chee, aka Chetta Apipatana, appeared to be the “ghost kingpin” behind Myanmar’s teak trade, running his empire through a network of companies centred on Northwood and Thai Sawat in Myanmar, Thai Sawat in Thailand and Cheung Hing in Hong Kong, and in partnership with the Koh family through Timberlux/SCK Wooden Industries and Northwood in Malaysia and Singapore.

EIA then sought to meet the Shadow President himself and began planning a trip to Yangon.

A Dead End?
However, in May 2018 EIA learnt that the Shadow President had died suddenly the previous month.

While Cheng’s death could have ended the investigation, EIA heard a huge stockpile of 100,000-200,000 tonnes of his purportedly acquired teak logs were being processed for export in several Yangon sawmills rented from MTE.

EIA wanted a meeting with Koh Seow Bean – Cheng Pui Chee’s principle business partner through SCK/Timberlux and Northwood – and hoped to meet Cheng Pui Chee’s son Thanit Apipatana, said to be managing his father’s teak business after his death.

EIA also hoped to meet a Myanmar citizen named Han Zaw Lin, suspected to be Cheng Pui Chee’s right-hand man in Myanmar at Northwood, Thai Sawat and Pacific Timber Enterprise Ltd – the latter a firm identified by EIA research to be part of Cheng’s teak operations in Myanmar.

Experienced sources in the teak trade advised that it was almost impossible to meet these discreet high-level people without introductions from long-term collaborators. However, in October 2018 EIA investigators flew into Yangon to try to meet the inheritors of the so-called king of teak.

The “Second Forest Minister”
In seeking meetings with Cheng Pui Chee’s people in Yangon, investigators were introduced to various industry operators who confirmed Cheng had been a major player.

One seasoned trader corroborated the status bestowed by A-Fu, of Kui Jay in Taiwan, saying Cheng Pui Chee “operated at a really big scale” and that “everyone referred to him as Burma’s Forest Minister … the second Forest Minister or the Second Forest Minister.” Cheng was said to hoard teak, as A-Fu had said.

Investigators were also introduced to an MTE official claiming to be a manager of timber export documentation, who referred to Cheng’s operation in Myanmar as “CHC” (short for “Cheung Hing & Company”) which he said had been “operating at a massive scale in Myanmar” in terms of teak log exports.

The official also confirmed that since the log export ban, CHC had been renting four mills from MTE, including MTE mills number three and six (in Yangon’s Watsayar wood-based industrial area) and MTE mill 10 (in Thanlyin).

Documents posted by MTE in March 2018 confirmed at least two companies controlled by Cheng Pui Chee are “MTE cooperating mills”, including Thai Sawat Import Export Co Ltd (MTE mill eight) and Pacific Timber Enterprise Ltd (MTE mill 10).

“CHC” – Cheng’s Myanmar Operations
On 31 October 2018, EIA finally secured a meeting with Han Zaw Lin, Cheng Pui Chee’s key lieutenant in Myanmar, at the offices of his CHC group near Yangon’s Wittoria hospital. A sign above the entrance announced Thai Sawat Imp-Exp Co., Ltd and Cheung Hing & Company – Yangon Office.

Han Zaw Lin – who had been a pallbearer at Cheng’s funeral in April – gave EIA his business card bearing the name Timberlux Sdn Bhd and described Timberlux as the Malaysian arm of the Burmese operations of CHC, which was itself owned by a Hong Kong “boss” whom he confirmed to be Cheng Pui Chee.

He said that following Cheng Pui Chee’s death, the company was being run by himself as General Manager and by Koh Seow Bean in Malaysia and Singapore. He also confirmed Cheng’s network had known A-Fu, of Kui Jay in Taiwan, well for years.

Han Zaw Lin confirmed CHC operated five factories in Yangon, one of them flooring manufacturer MTE mill 10, run by Pacific Timber Enterprise Ltd, which investigators were later taken to visit. He suggested the CHC/Timberlux network currently held 14,000 tonnes of teak, including 9,000 tonnes of logs and 1,000 tonnes of sawn teak in stock in Myanmar and a further 4,000 tonnes of sawn teak in Malaysia.

While Han Zaw Lin at no point bragged about Cheng Pui Chee’s bribery and teak grading fraud or the tens of millions of dollars in payments to offshore accounts of Government officials, he did confirm key aspects of the story EIA had learnt from A-Fu and information pertaining to Cheng Pui Chee’s role in supplying the EU market.

Photographs: EIA

©EIAimage

Left: Pacific Timber Enterprise Mill sign, Yangon, October 2018
Below: Teak sawn wood and flooring materials at Pacific Timber Enterprise, Yangon, October 2018

Above: CHC’s office in Yangon, October 2018
Right: Teak flooring stored in the sawmill of Pacific Timber Enterprise Ltd, a company controlled by Cheng Pui Chee’s CHC group of companies in Yangon, October 2018

Special Sources:
On enquiring about the source of teak, Han Zaw Lin hinted at special sources from only available to them through Cheng Pui Chee’s contacts.
EIA: “Government to government, you must have good contact right?”
HZL: “Sure!” (nods and laughs)
EIA: “So Mr Cheng…?”
HZL: “Yeah, yeah, yeah.”
EIA understands G-G contracts referred to the lucrative logging rights secured in Myanmar by Chetta Appatan’s Thai Sawat Import Export Ltd in the late 1980s and early 1990s in deals reportedly brokered between senior Thai and Burmese generals.

Subcontracted logging rights held by CHC-linked firms Thai Sawat, Northwood Industries Ltd and Pacific Timber (understood to have continued even until the last logging season open to subcontractors in 2015) provided the basis for Cheng Pui Chee to operate the teak log mis-grading fraud that made him the “biggest supplier of Myanmar teak to the US.”

Koh Seow Bean
The following day, investigators finally met Koh Seow Bean (aka Mr Xu) of SCK/Timberlux/Northwood, Cheng Pui Chee’s principle business partner for international sales to Western markets and Gary Koh’s father.

Koh added to the multiple similar assertions regarding Cheng’s status, stating: “In teak business in the world, he is the biggest,” saying he and Cheng Pui Chee had used multiple similar introductions from Koh (Mr Xu).

Koh Seow Bean
Timberlux and Cheng’s other companies as a means to be the largest teak suppliers in the world.

He said the operation had sold over 400,000 tonnes of logs to China, regularly sending shipments of 3,000-5,000 tonnes valued between $3-5 million, making Cheng’s company Cheng Hing the biggest importer in Hong Kong.

He also confirmed the relationship with A-Fu in Taiwan, claiming “from 2005 to 2015, we were the biggest player in Taiwan. You can ask anyone in the teak business in Taiwan, they will know our name,” adding that “each teak log you saw in Taichung port was from us.”

Despite being the dominant players in Myanmar’s teak trade, Koh indicated Cheng and he preferred to operate behind the scenes, stating: “Mr Cheng and I are very few individuals, even among the locals, and very, very few people know who we are.”

CHENG’S WESTERN MARKETS
Large volumes of Cheng Pui Chee’s corrupt teak enter EU and US supply chains, principally for yachts.

In Taiwan, A-Fu revealed he had serviced many European and American teak buyers with Cheng’s wood for years, following introductions from Koh (Mr Xu).

Koh Seow Bean claimed their operation had dominated not just in China but also in Western countries, saying “for over 10 years, we have had logging rights in Myanmar, exporting timber to Europe and the US” and “we have been the biggest exporter to the US and European market.”

Lucrative luxury yacht manufacturers made up most of their Western customers, with Koh boasting, “in the yacht industry, we’re the biggest exporter to the yacht companies in the world.”

Han Zaw Lin claimed their operation had shipped as many as 2,000 individual 40ft containers in the past year alone, amounting to up to 80,000 m3, mostly to customers in Europe. He also indicated the bulk of it was for yachts.

Koh explained how the strategic positioning of their Malaysian Timberlux/SCK operation helped. By hoarding high grade teak outside of Myanmar, Western customers avoided long lead-in times for processing and shipping out of Myanmar. From 1996 to 2014, shipping from Malaysia also automatically avoided US and EU sanctions against timber shipments direct from Myanmar.

The actors involved are some of the biggest suppliers of Myanmar teak to Western markets.

THE US
East Teak Fine Hardwoods (ETTFH) is the US’s biggest Myanmar teak importer and buys from multiple companies in the Shadow President’s network.

A-Fu said ETTFH had been a long-term client. Trade records confirm at least 131 shipments from Kui Jay Corporation during the past decade, including four in 2018, making A-Fu ETTFH’s second biggest supplier worldwide, providing 13 per cent of the weight of ETTFH’s global imports.

Timberlux Sdn Bhd is ETTFH’s next biggest supplier, sending 143 shipments constituting 9.5 per cent of ETTFH imports over the same period. ETTFH has also imported 17 shipments (one per cent of its supply) from Pacific Timber Enterprise Ltd in Myanmar, a “CHC group” sawmill visited by EIA. ETTFH imported a further two shipments from Northwood Industries Ltd in Myanmar, also part of Cheng’s CHC grouping.

Combined, these four purveyors of Cheng Pui Chee’s teak – three directly controlled by Cheng himself – have provided nearly a quarter of the total imports of the US’s biggest Myanmar teak importer during the past decade.

US trade records for Timberlux Sdn Bhd also detail 17 shipments to J Gibson McIlvain (the second biggest US importer of Myanmar teak, which has also been supplied by Cheng’s Pacific Timber Enterprise Ltd) and 13 to TeakDecking Systems (TDS), the biggest pre-fabricated yacht decking manufacturer in the world.

The US yacht market is clearly full of Cheng Pui Chee’s corrupt teak, all of which is understood to be imported into and sold within the US in violation of the US Lacry Act.

Thai firm Deesawat, owned by Cheng Pui Chee’s extended family the Tangkijnamwongs, has also sent 236 shipments of teak furniture to the US over the past decade, much of which is thought to have been supplied by Cheng Pui Chee.

Left: Teak logs stored at Timberlux Sdn Bhd in Peninsular Malaysia, October 2014

Above: Screen grabs of the websites of East Teak Fine Hardwoods (top), Gibson McIlvain (middle) and TeakDecking Systems (bottom)

94. Pacific Timber is reported to have had logging quotas in the 2015/16 season in unregulated industry reports seen by EIA.
96. All US trade records for East Teak, Gibson McIlvain and TDS acquired from Panjiva: https://panjiva.com.
Alfred Neumann GmbH is a major German supplier of Myanmar teak to the EU yacht industry and recently supplied the wood to the flagship German Navy training vessel the Gorch Fock.

A-Fu produced the business card of Alfred Neumann's principle teak buyer, Peter Eck, but when asked if he was still a customer said, “He knows the Shadow President. Peter was introduced by Mr Xu.”

He said Peter Eck had purchased a few thousand tonnes of teak logs directly from Cheng Pui Chee in 2013, making a lot of money in the process.

In July 2018, EIA investigators saw a consignment of teak smuggled from Myanmar to China at Yuli Wood, which Yuli’s staff said would be sent from China to Koh’s firm in Malaysia (SCK Wooden Industries, affiliated with Timberlux Sdn Bhd) before Koh sent it on to Peter Eck in Germany.

Luca Rossi and Timberlux Srl

A-Fu also mentioned Koh had introduced an Italian buyer called Luca, whom EIA understood to be Luca Rossi, of the Rossi family, in Trieste, Italy.

Luca Rossi and family members have run various companies, including Antonini Legnami, Adriatic Timber and, since 2015, Timberlux Srl, importing Myanmar teak into Europe from Cheng-linked operators for many years.

In 2016, Luca Rossi supplied EIA with documents detailing Pacific Timber Enterprise Ltd as Antonini Legnami’s teak source and in 2016 and 2017 EIA filed information with EU member state enforcement officials detailing violations of the EU Timber Regulation (EUTR) by both Antonini Legnami and Timberlux Srl.

In October 2018, Han Zaw Lin and Koh Seow Bean confirmed that the Rossi family’s Timberlux Srl functioned as CHC’s ‘agent’ in Italy and referred to Luca Rossi as their “trustee”. Rossi was in Yangon selecting teak for clients at the time.

Ironically, the use of Rossi’s Timberlux Srl in Italy has increased in recent months and years, following enforcement of the EUTR.

Both Koh and Han Zaw Lin said Timberlux and CHC’s Myanmar and Malaysia operations used to ship directly to clients in Belgium, Denmark and Germany but strengthened enforcement of the EUTR increasingly meant the only countries they could use to get their teak into Europe were Italy, or perhaps Greece and Spain.

Since mid-2018, they said, these EU customers had asked them to ship everything to Timberlux Srl in the Rossi family’s home town of Trieste, from where Luca Rossi trucks them to the actual customers in Belgium, Germany or elsewhere in Europe.

Luca Rossi and his brother Matteo are apparently able to persuade the Italian EUTR competent authority that their teak complies with the EUTR, despite officials in other European countries determining otherwise.

EIA is unaware how this occurs because all EUTR enforcement officials, including Italy’s, have repeatedly stated on the record that they have never seen a shipment of Myanmar teak that has complied with due diligence provisions of the EUTR* (see Stemming the tide).

It is clear Timberlux makes its EUTR avoidance capabilities in Italy available to other operators in Myanmar and Europe.

In October 2018, EIA alerted EUTR enforcement officials to a shipment of about five containers sent to Timberlux Srl in Trieste on behalf of one of Europe’s biggest importers, in turn on order for UK clients (see “The Italian job”, below). The demand for such EUTR circumvention services is obvious.

Also in October 2018, EIA heard from another exporter in Yangon – Concord Industries, a subsidiary of the Olam Group – that, following EUTR enforcement elsewhere in Europe, they too had begun shipping all teak for EU customers via Italy, where they said “that guy can do it”, likely referring to Luca Rossi. Olam’s Singapore HQ has reportedly issued instructions to hide Olam’s name in all paperwork for such shipments.

Despite restrictions on trade information in Europe hampering a full understanding, it is clear Cheng Pui Chee’s illegal timber also floods into Europe through Luca Rossi’s Timberlux Srl and via companies such as Alfred Neumann GmbH.

All of it violates the EUTR (See “Stemming the tide”)

These companies in turn sell the wood on to decking manufacturers supplying some of the biggest and most prestigious yacht manufacturers in the world.

The Italian Job

Despite initially stating he could “easily” get teak into Italy, not long into the meeting Koh Seow Bean told EIA, “I have bad news for you. We export a lot of teak to Europe and it’s sensitive for us. On October 20th there came a new law.”

He explained that the previous night they had learnt of more stringent EU Timber Regulation due diligence requirements being applied in Italy. “We can’t do Italy for now as the new rule requires us to send more documents for import to Italy and our original logs stocks were mostly sent out (of Burma) from 2010 to 2016.”

Koh and Han Zaw Lin said they had already dispatched Luca Rossi back to Milan to try to resolve the situation. Koh bemoaned that “the new rule of October 20th has stopped our routine route and it came out only 11 days ago.”

What neither Koh nor Han Zaw Lin knew was that only 17 days previously, on 15 October, EIA had alerted the EUTR enforcement community – including relevant officials in Italy – to a large shipment of teak for Timberlux Srl through Trieste port, which EIA understood would be transported onwards on order to buyers in the UK market.

In a surreal moment, despite receiving no feedback from the official Italian EUTR enforcement agency, investigators learnt from the very targets of EIA’s alert that action was being taken against their consignments in Italy.

It remains to be seen whether Cheng’s corrupt wood, or similarly questionable supplies from other companies operating within the same governance parameters, will continue entering EU and US markets in violation of the EUTR or US Lacey Act.
Ongoing Smuggling into China

For many years, the focus on Myanmar illegal logging and the associated illicit trade in timber has largely been on the role of ethnic armed organisations and their relationship to traders in China, Thailand and India. Although actual crossings are situated in remote areas along the border, the whole supply chain from forest to factory extends deep into both Myanmar and China.

While there is ethnic armed group involvement and huge profits have been made by them during the past two decades, the participation of the State and Myanmar military is an alarming indicator of how deep corruption enables everyone to take a piece of the pie.

As valuable timber has been largely logged out in Kachin State, logs and rough sawn timber have been increasingly sourced from locations in neighbouring Shan State and Sagaing Division, including from forests in areas controlled by Myanmar’s Government.

Once in Yunnan, the timber, some of which is part-processed near the border, is transported to manufacturing hubs in China’s southern province of Guangdong and as far away as Zhejiang Province on the country’s eastern seaboard. Although most of the illegal timber is consumed in China, some of it enters international supply chains.

As the depletion of forests continues, timber traders are pushing even deeper into Myanmar to secure supplies, undermining the rule of law with high-level complicity.

The nexus of the trade is the frontier between Kachin State in Myanmar and Yunnan Province in neighbouring China. Here an intricate web of criminal syndicates conspire with ethnic armed groups such as the Kachin Independence Army (KIA), the New Democratic Army – Kachin (NDAK) and the Myanmar military to smuggle valuable timber through a series of crossing points, with fees being levied at multiple checkpoints along the route.

Under Myanmar Government regulations, all exports of logs and sawn timber must take place through Yangon sea ports, rendering the overland trade illegal. Yet by 2005, more than one million m³ of logs flowed across the border in a single year, a consequence of strict logging controls introduced in China in the late 1990s triggering a rapid increase in imports. After adverse publicity, the Myanmar authorities realised there was a substantial loss of revenue from the illegal overland trade and called on China to curb imports, leading to a steep decline.

Yet trade was booming again by 2013, with large quantities of teak logs and slabs of rosewood (also known as tamalan) smuggled via border crossings in Kachin.

EIA undercover investigations visited key locations where the smuggled timber was stored and traded to buyers from southern and eastern China, including the rural town of Nongdao, part of a wider national escalation in demand for traditional rosewood furniture. In 2012, a nationwide anti-corruption drive led by Chinese President Xi Jinping effectively wiped out consumer demand for rosewood furniture and led to an over-supply, which in turn caused a fall in price leading to substantial unsold stockpiles, especially in Nongdao.

Conversely, demand for teak logs remained high; a single trader in the town received several thousand cubic metres of fresh teak logs during EIA’s trip. Conversations with traders revealed that imports of teak logs through formal crossings controlled by the Myanmar Army were taxed by Chinese Customs at a rate of RMB800 per tonne.

This trade not only contravened the Myanmar regulation limiting wood exports to Yangon port, it was also a flagrant violation of the country’s log export ban which came into effect in April 2014. The dominance of Yunnan-based companies in importing Burmese teak into China is illustrated by official customs data. In 2014, China imported 133,000 tonnes of teak logs from Myanmar. Of the 10 largest importers by volume, eight were based in Yunnan and collectively imported 72,000 tonnes over the land border. This figure only includes trade through official border posts and not that smuggled via unofficial crossings.

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EIA also uncovered the role of Ruili as a hub for the rudimentary processing of teak logs into semi-finished products such as flooring blanks. On a subsequent investigation later in 2015, undercover investigators met with three major teak flooring suppliers based in Guangdong Province. All were selling to the domestic market and admitted that their teak had come overland and been supplied by factories in Ruili.

While in the border area, EIA learnt of the existence of a major cartel which had created a monopoly over important log smuggling routes and a secretive border crossing point at Nbapa-Ban Ling, north of Ruili. The group was called “BDYA” after the names of the four members – Brang Nu, Dung Hpaung Gun, Lee Maw Yung and Ali Jie. Between them, the syndicate members had high-level contacts on both sides in the ongoing conflict in Kachin, the Burmese military and KIA. Through these connections the group were able to ensure that transportation of wood along key routes continued impeded, even during times of conflict, and charged taxes to timber traders and transporters using the routes.

Meanwhile, during 2015, in the Chinese prefecture of Baoshan, immediately north of Dehong, a major international incident occurred when the Burmese army raided an active logging site in neighbouring Kachin, arresting over 150 Chinese loggers and truck drivers. Initially sentenced to life in prison by the Burmese court, they were subsequently granted a presidential pardon and allowed to return home across the border. This incident shone a spotlight on the murky illegal logging and wood smuggling business in the region.

Persistent Offenders
Predictably, the hiatus in cross-border smuggling did not last long. During the first three months of 2016, monitoring of key crossings revealed a dramatic fall in the number of trucks ferrying wood across the border and previously busy routes such as Nbapa-Ban Ling crossing were quiet. Instead motorcycles and cars were being used to carry short teak flitches via rough backroads, but the overall volume was a fraction compared with previous years.

By mid-2016, trucks were once again being used to transport illegal teak flitches and sawn timber at several crossings and smuggling continued to rise throughout the rest of year. Teak was by far the main species being trafficked into China, with a noticeable switch to rough sawn teak rather than round logs as the trade became more clandestine, with the cargo hidden by tarpaulins or under other goods such as fruit and vegetables.

The high demand for teak was also driving the creation of new and longer supply routes linking border crossings around Ruili to the teak forests of Shan State, located to the south of Kachin. Unsurprisingly, members of the BDYA syndicate were heavily involved in creating and taxing new smuggling routes. EIA investigators uncovered a new route of unpaved dirt roads running further south than previously believed and linking Inggyi in Shan State, to Nongdao in Yunnan, via the Namhkam crossing point on the Myanmar side of the border.
EIA discovered that each truck carrying teak along the route had to pay the equivalent of $4,600 in Chinese and Myanmar currencies in bribes at checkpoints and "taxes" to the BDYA group. Of this total, $190 was levied by the KIA, $2,325 by Myanmar authorities (including the military) and the remainder went to BDYA.

Local media sources reported that the border checkpoint for timber crossing from Namhkam to Nongdao was controlled by the Myanmar Army Regiment 483 and Battalion 21. In November 2016, about 100 timber traders from China and local Burmese agents were observed arriving at Namhkam to arrange purchase of teak wood.

A second new timber transport route was opened, connecting Manton in Shan State to Nongdao. The expansion of new trafficking routes deep into Shan State reflects the dominance of teak as the major species smuggled into China following the 2014 crash in rosewood prices. The main illegal teak logging sites identified by EIA include Mabo, Molo and Mongmit, territories controlled by the Myanmar Government and military. In late 2018, the local price for teak logs in these areas was approximately $500 (MMK700,000) per tonne.

The fact that teak illegally cut in Shan State was being transported ever-longer distances along rough roads through multiple checkpoints and into Kachin demonstrates the importance of these syndicates such as BDYA attach to their connections on both sides of the conflict. This is to ensure the wood can pass and to control of key crossings around Ruili and Nongdao on the China side of the border. High demand in China for teak logged in Shan State is also a contributing factor in outbreaks of conflict between Shan ethnic groups and the Myanmar military, as both sides seek to profit from the teak trade.

Official Chinese customs data shows that in 2016 the country imported 45,000 tonnes of teak containing about 400 tonnes of long teak planks or flitches for onward transport into China, reflecting the switch in demand for sawn timber and the need to conceal the contraband during transport.

Apart from breaks when bad weather and sporadic local clampdowns and conflicts rendered the trafficking routes impassable, the teak smuggling business continued in 2017 and 2018. During this period, rudimentary sawmills sprang up in areas of Kachin near the border to cut the logs into planks or flitches for onward transport into China, reflecting the switch in demand for sawn timber and the need to conceal the contraband during transport.

The BDYA syndicate remained active as a vital force in the illicit business, although Ali Je (the "A" in "BDYA") reportedly left in late 2016 after her bank accounts in China were temporarily frozen for financial offences. Lee Maw Yung was still involved in constructing the new smuggling routes from Shan State, as was Dung Hpaung Gun. In 2017, he set up a new route and log storage area in Yitzang, Kachin, after fighting between Myanmar and KIA blocked the previous route. In June 2018, EIA investigators witnessed more than 200 trucks in this area, laden with timber and waiting to cross into Nongdao.

Yet despite the ability of the syndicate members to pay off both sides in Kachin to ensure the wood continued to flow and make a fortune through taxing the traders using their routes, in September 2018 EIA learnt that both Lee and Dung were reportedly arrested by central Government authorities in China for financial crimes.

In mid-2018, an EIA investigative team travelled to China to identify the main players involved in the ongoing teak smuggling racket in Yunnan and to track the illicit timber to processing hubs in southern China's Guangdong Province.

The team initially visited the town of Nongdao, near Ruili, where timber smuggled across the border is stored prior to sale. On a previous visit in 2015, the town's key role as a wood trading hub was evident, with large amounts of freshly cut teak logs and stockpiled rosewood flitches in roadside storage areas. This time the business was more secretive, with high walls topped with barbed wire and closed-circuit television surrounding the timber storage areas. Nevertheless, trade in teak continued, with the timber hidden in locked warehouses on the outskirts of town and in nearby villages. One trader took EIA investigators to a padlocked warehouse containing about 400 tonnes of long teak flitches and rough sawn planks, all of which had been brought across the border that year. Another group of traders from the same family claimed to have brought over 1,000 tonnes of teak logs and sawn wood so far that year, with another 1,050 tonnes stored on the Myanmar side of the border.

The traders had become more cautious following the crackdown in late 2018 and complained about the levels of bribes they had to pay to several different Chinese enforcement agencies, reducing their profit margins to about RMB1,000 per tonne. It was confirmed that once the teak had safely arrived in Nongdao it was easy to sell to buyers from factories in Guangdong, especially from the city of Dongguan. The traders admitted using old paperwork showing the wood to be from stockpiles rather than recently brought across the border to ensure onward transport without intervention from the authorities.

EIA investigators also spent several days with Yi Puxiang, owner of Yingjiang Neisheng Timber, who specialised in trading and processing Burmese teak. During a visit to his factory in Yangjiang, north of Ruili, EIA witnessed a pile of teak logs and short flitches of the type transported by motorbike from the Burmese side of the border. Yi's main business was supplying material for teak flooring sold on the Chinese market and exported to Taiwan; he said he had 600 tonnes of teak logs and flitches in stock and a similar amount stored over the border. He said he had been involved in the cross-border teak business for 20 years, explaining that the raw material was coming from deeper inside Myanmar as supplies dwindled, estimating that Burmese teak will be commercially depleted within 10 years.

The following day, Yi was joined by his son-in-law Li Xixiang and a Burmese-Chinese fixer called Li Fang, also known by his Burmese name "Du Sa", who oversaw sourcing operations inside Kachin. They revealed they operated a rudimentary sawmill and wood storage site in an area of Kachin controlled by the KIA and ran a team of 300 motorbike drivers each capable of transporting up to two tonnes of short teak flitches a day. They added that the main teak source was a mountainous region near the Shan State capital of Taunggyi, an area controlled by...
Yi’s employees who then arranged a trip to the border to prove their capabilities and connections. After a 90-minute journey, the vehicle arrived at the small town of H’ong Beng He, overlooking a river which forms the border between China and Myanmar. Li said this unofficial crossing was used to bring sawn teak across in trucks and that the route on the Kachin side was safe due to close connections with the KIA and the payment of “taxes” for crossing through Kachin territory. The Chinese side of the route was managed by Yi, who arranges bribes to different Government agencies. At the time of EIA’s visit, Yi was expecting a truckload of teak to cross the border in the evening, having made the usual payments. He claimed to have brought at least 200 trucks laden with teak across the border every year and imported about 30,000 tonnes annually. 

After gaining first-hand insights into the criminality and corruption embedded in the cross-border teak trade, EIA’s investigators transferred to Guangdong to follow the supply chain into the processing sector and end markets. 

In the city of Dongguan, EIA investigators met with representatives of Yuli Wood Industry, which deals exclusively in Burmese teak. At the time of the visit, the company’s factory had substantial stocks of Burmese teak logs, all of which had been smuggled across the land border apart from one batch which had been shipped from Yangon port prior to Myanmar’s log export ban. Peng Yan, general manager of the company and wife of the owner, explained how Yuli previously obtained all its teak logs through the MTE system but had switched to the illegal overland route after the log export ban. 

She explained that logs obtained by this means were about RMB2,000 per cubic metre cheaper than those purchased through the MTE system, with the wood coming from forests in Shan State close to the border with Thailand, and that her husband often travelled there to select logs. 

Peng said the company’s main market was solid teak flooring in China, but it also exported high-end teak as strips for use in luxury yachts in Europe and the US. Conversations with Taiwanese employees revealed that Yuli does not supply these markets directly but first sends the materials to a Malaysian company for final processing and despatch. At the time of EIA’s visit, the company had two batches of semi-processed yacht decking for buyers in Germany and the US. The German buyer was referred to as “Peter” and EIA confirmed his identity as Peter Eick, of Alfred Neumann. Peng also sent a redacted Bill of Lading for one of her exports, revealing the middleman in Malaysia to be the company SCX Wooden Industries, a central player in the notorious PC Cheng network (see The Shadow President - King of Burma Teak). This confirmed that a portion of the illegal teak smuggled across the Myanmar-China border ends up on the international market, including in the high-end yacht sector. 

However, conversations with a range of Chinese traders and manufacturers confirmed that the vast majority of teak smuggled into the country is destined for the domestic market, principally solid teak flooring, decking, doors and stairs. The market has grown rapidly in recent years, especially in prosperous cities in southern and eastern China, due to a growing fashion for lighter-coloured woods and the prestige associated with Burmese teak – the “king of woods”. 

Stemming the Tide

The theft of Myanmar’s teak stocks – whether by Myanmar’s military rulers and henchmen such as Cheng Pui Chee or by armed ethnic groups and predatory cross-border timber smugglers such as Yi Fuxiang and Yuli Wood – has been conducted with impunity for too long. 

INSUFFICIENT DOMESTIC PROTECTIONS

Myanmar’s domestic forestry and timber trade protections have been unable to stem the tide of crime and corruption in the teak sector, indeed, elements of the State at the highest levels have been complicit in their normalisation. 

Some important reforms have occurred since 2013, including a 2014 log export ban, significant reductions in harvest volumes, a year-long nationwide logging ban in 2016-17 (extended to 10 years on teak harvests in Bago-Yoma) and the phasing out of subcontracting. 

However, while teak trade has correspondingly reduced, most Myanmar teak in international trade was produced under the pre-2016 reforms – during the height of corrupt overharvesting – or acquired illegally since. 

And while some seizures of teak and other hardwoods have occurred in Yangon ports, the Government still promotes MTE-authorised trade in timber stockpiled prior to the logging ban as legal, ignoring the decades of corruption and overharvesting that produced it.

In light of this, and with corruption still greasing the wheel of illegal border trade into China, Myanmar’s people remain reliant on the goodwill of international trade partners in helping the country enforce its forestry and timber trade provisions – goodwill of variable reliability.
CHINA’S COMPLICITY

China’s Yunnan Province has for years been a conduit for millions of cubic meters of blatantly illegal Myanmar timber, including considerable volumes of illegal Burmese teak. China has no centralised prohibition on the import of illegal wood and, despite years of international appeals to act, has shown limited will or intent to address its role in driving illegal logging worldwide. The absence of a national policy or legal base is reflected in Yunnan.

While the tide of illegal Myanmar wood flowing into China has been temporarily stemmed following interventions in 2006 and again in 2013, these have been temporary and seemingly ad-hoc measures and traders have repeatedly found ways around them, often involving the issuance of new types of permits, usually in lieu of local corruption.

Other than the State of Myanmar itself, China has played the biggest role of any nation in the illegal expropriation of Myanmar teak and other hardwoods and its responsibility to take legislative action is both clear and long overdue.

EUROPE AND FLEGT

Europe’s flagship international forest policy, the Forest Law Enforcement Governance & Trade (FLEGT) Action Plan, and its key planks of the EU Timber Regulation (EUTR) and Voluntary Partnership Agreements (VPAs) is well placed to assist in stemming the tide of illegal Myanmar teak.

The EU Timber Regulation (EUTR): The EUTR, which came into force in March 2013, prohibits the first placement of illegally logged or illegally traded timber and wood products on the EU market. It also obliges EU operators to conduct due diligence on supply chains to identify and mitigate any risks of illegality.

Where risk cannot be mitigated to a negligible level, the timber cannot legally be placed on the market and, when it is placed, a due diligence violation occurs.65

The application of the EUTR for Myanmar teak began poorly, with many member state Competent Authorities (CAs) mistakenly accepting Myanmar teak as EUTR-compliant, despite EIA’s 2013 warnings that it was not.66

However, since October 2016, EIA has submitted Substantiated Concerns (complaints) regarding 15 companies placing Myanmar teak on the EU market across seven member states, including in Belgium, Denmark, Germany, Italy, the Netherlands, Spain and the UK.

EIA’s interventions successfully prompted a significant improvement in enforcement of EUTR due diligence provisions for Myanmar teak in most member states. Every one of EIA’s Myanmar teak cases credibly concluded thus far has found those operators identified to have violated EUTR due diligence provisions, including in Belgium, Denmark, the Netherlands, Spain and the UK. At least 22 companies are understood to have been issued with warnings or injunctions since 2016.

The EUTR/FLEGT Group of Experts, a body comprising every EUTR Competent Authority and the European Commission, has repeatedly concluded in its meetings that no due diligence system to date assessed for the placement of Myanmar teak has met the requirements of the EUTR.

A clear consensus exists within the EUTR enforcement community that EUTR compliance is currently not possible for Myanmar teak.

The minutes of a recent meeting of the FLEGT expert group, on 27 September 2018, sum up consensus reached within Europe since 2017: “The Export Group upheld its opinion regarding teak imports from Myanmar harvested before 2017: it is not possible for operators to mitigate to negligible the risk of illegal harvest. None of the assurances that the Member State Competent Authorities have received can be relied upon as sufficient for demonstration of compliance with the EUTR due diligence operations.”67

The same position was maintained at the most recent meeting of the group on 7 December 2018.68

Officially, therefore, no Myanmar teak placed on the EU market since March 2013 could have or is thought to have complied with the EUTR, yet high-risk and illegal Myanmar teak continues to enter the EU market as operators (and traders downstream of them in the supply chain) refuse to accept this reality and continually test the will and resources of EUTR enforcement bodies with more shipments.

While the trade records available make it impossible to accurately state the precise volume or value of Myanmar teak imported into the EU, imports are understood to have risen every year since the EUTR came into force – a clear contradiction.

EU Member States competent authorities are responding to this ongoing assault by errant traders in a variety of ways, including through the imposition of injunctions prohibiting future non-compliant shipments and, in some cases, by forcing importers to return shipments to source countries prior to placement on the market. In the Netherlands, companies reported by EIA face fines of up to €20,000 per cubic metre if they place further non-compliant Myanmar teak. EIA is aware that German authorities have required teak to be returned to source countries in recent months.

EUTR Weaknesses

Weaknesses in the EUTR include the lack of seizure powers for due diligence offences, limits on the product types covered and restrictions of the core provisions to entities that first place the timber on the market (“operators” in EUTR parlance). Combined, these have resulted in Myanmar teak being placed on the market in violation of the due diligence provisions sold onward to traders downstream of the regulated operators and limited demand for EUTR-compliant wood from those downstream traders who are not regulated by it.

A January 2018 EIA report, A Tale of Two Laws, detailed how this resulted in the EU market acting as a de-facto hub for timber trade conducted in structural violation of the US Lacey Act and how this meant EU-manufactured luxury yachts and superyachts built using Myanmar teak are legally contraband under US law (see US Lacey Act).
Italy – EUTR Weak Link
One key problem in using the EUTR for Myanmar teak over the past two years of improved action has been variable enforcement across different member states, with Italy – the biggest importer of Myanmar teak – regularly cited as a weak link in the EUTR chain, a factor confirmed by EIA’s research.

EIA is unaware of the outcome of any of the four EUTR Substantiated Concerns submitted to Italian authorities regarding Myanmar teak since October 2016. The results of an investigation into a complaint EIA filed against Italy under the Treaty of the Functioning of the European Union remains unknown to EIA.

During investigations in Taiwan in 2017, teak traders described how EUTR enforcement in Italy and other southern European member states was weaker than in northern Europe, with Italy said to be a route in. In Yangon in October 2008, Olam’s timber company in Myanmar claimed it now routed all teak shipments to its EU buyers via Italy to get around EUTR enforcement. Further, the network trading the corruptly acquired teak of Cheng Pui Chee explained to EIA how it uses Italy as a gateway to Europe and how customers in Denmark, Germany and The Netherlands had, since mid-2008, asked it to route all teak through Italy.

Voluntary Partnership Agreements (VPAs)
While Myanmar and the EU have been exploring a possible VPA negotiation since 2015, to date no formal negotiations have begun and the EU is understood to still be awaiting developments in Myanmar that might demonstrate the country’s preparedness for entry into VPA negotiations. Even if a VPA were to be signed and implemented, it could not provide for the legalisation of teak harvested prior to the 2016/17 logging ban.

However, in October 2018 EIA submitted an Alert on Timberlux Srl teak shipments which finally appears to have prompted some action against imports through Trieste port (See The Italian Job).

In early February 2019, Italy’s Carabinieri overseeing CITES, Trieste Customs and the Trieste Public Prosecutor found Timberlux Srl had imported between 10 and 20 per cent more than the 360 tonnes of teak (worth 64-6 million) declared on Myanmar export documents for the containers concerned, in violation of the prohibition element of the EUTR – a first case for Italy. However, only the undeclared wood appears to have been seized, with the remainder being returned to be traded on despite it reportedly being illegally imported in violation of the EUTR due diligence provisions.

THE US LACEY ACT
Amendments in 2008 to the US Lacey Act make it an offence to import into the US or sell in intra-state trade any timber and wood products harvested or traded in violation of any domestic US or foreign laws protecting plants.

EIA research shows that up to 25 per cent of the imports of the US’s biggest teak importer – East Teak Fine Hardwoods – is wood traded by Cheng Pui Chee, a focus of this report.

While the Lacey Act applies to all products at all stages in trade and has been brought to bear in high-profile cases in other species and countries, it has to date not been applied to shipments of Myanmar teak.

Part of the reason for this is that the Lacey Act does not include a prescriptive due diligence provision and the burden of proof for its prohibition on violations of “a foreign law” can be difficult to meet – if 90 per cent of a harvest is deemed illegal, one has to prove that the US importer’s shipment is from that 90 per cent. In Myanmar’s case, for example, the detailed evidence of forestry crimes such as systemic overharvesting and the corruption underwriting it are often in the Myanmar Government’s hands alone.

EIA is, however, hopeful of increased scrutiny on Myanmar teak imports into the US in the coming months and years as a result of this and other recent reports.

In 2017, EIA submitted information to the US Government regarding proven violations of the Lacey Act by US importers and distributors of hundreds of luxury yachts and superyachts built in the UK and using Myanmar teak traded in violation of the EUTR.

EIA argued that the EUTR constitutes a “foreign law that protects plants” as required under the Lacey Act and that weaknesses in enforcement have created a de-facto illegal timber flow between the EU and the US. These legal arguments were further explored in EIA’s January 2018 report A Tale of Two Laws, which revealed that the companies concerned included Princess Yachts and Sunseeker Yachts – two of the world’s biggest luxury yacht firms.

The US Department of Justice has since confirmed that EIA’s legal analysis is correct, stating in October 2018 that “Violations of the EUTR can be the underlying law violation for a Lacey Act charge.”

EIA looks forward to increased action under the US Lacey Act against teak imported directly from Myanmar – regardless of whether additional EUTR violations can be evidenced – and particularly for teak purveyed by corrupt actors such as Cheng Pui Chee/Chetta Apipatana.
Recommendations

**THE GOVERNMENT OF MYANMAR SHOULD:**

- Investigate and prosecute high-level corruption in the timber trade in Myanmar, including by military and Government officials as well as private sector actors.
- Reduce logging operations countrywide pending a full assessment of current forest conditions that include indigenous communities and people reliant on Myanmar’s forests.
- Develop a mechanism for inclusive dialogue in conflict areas that includes natural resources.
- In the absence of real reform, abolish the role of the Myanmar Timber Enterprise in implementing logging and timber trade and establish a new multi-stakeholder management body that delivers greater transparency and accountability for all stakeholders.
- Build on the current multi-stakeholder process, including representatives from forest-based communities, to continue preparing Myanmar for possible Forest Law Enforcement Governance and Trade (FLEGT) discussions with the European Union.
- Ensure that all existing and future bilateral agreements with foreign governments on illegal logging, illegal timber trade and forestry investment such as Memoranda of Understanding (MOU) are made public.
- Establish a task force that includes inter-agency cooperation to address cross-border smuggling and illicit timber trade through Yangon port.

**THE INTERNATIONAL COMMUNITY SHOULD:**

- Support mechanisms in Myanmar providing for inclusive dialogue on natural resources in conflict areas.
- Support the improvement of forest and natural resource governance within ethnic administrations and ethnic civil society’s ability to manage and protect forests.
- Encourage laws prohibiting imports of illegal timber where currently absent (e.g. China, India and Thailand) and make resources available to implement and enforce existing laws on illegal timber trade (e.g. Australia, the EU and US).

**CHINA SHOULD:**

- Support and respect Myanmar’s log export ban by putting in place reciprocal measures in China.
- Institute a clear legal prohibition on all imports of illegally sourced timber.
- Eliminate the role of State-owned enterprises in procuring imports of illegal timber in China.
- Place responsibility for eradicating China’s illegal timber trade in the hands of a formal coordinating body headed by senior officials from the Commerce and Foreign Ministries.
- Ensure that any bilateral agreements on illegal logging, such as MOUs, are made public.