



ENVIRONMENTAL
INVESTIGATION
AGENCY

State of Corruption

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

February 2019



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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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Above: Forests in Myanmar

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

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Above: Teak log being sawn at
Kui Jay Corporation, Taiwan,
September 2017

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 illegality 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 a near-mythic 'Burmese teak kingpin' who conspired with and bribed the most senior military and Government officials in Myanmar has revealed how he was able to establish a secret off-the-books system of fraudulent trade in the cream of the country's teak logs. This was run in parallel to, and within, the official legal trade administered by MTE.

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.

As the depletion of the forest continues, timber traders are pushing deeper into Myanmar to secure supplies, undermining the rule of law with high-level complicity. Our attention to the international markets for teak in both the European Union and the United States shows that even with regulations in place to prevent illegally sourced timber from entering those markets, traders continue to find ways to get Myanmar teak to multi-millionaire owners of yachts whose manufacturers display an almost ideological obsession with Myanmar teak.

The Government still promotes as legal MTE-authorised trade in timber which is part of a large stockpile that has been held prior to the logging ban, ignoring the decades of corruption and overharvesting that produced it.

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.

For a natural resource so beloved and culturally important to Myanmar and its people as teak, allowing its near-extinction would be the biggest crime of all.

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.¹ More than 200 globally threatened species live in Myanmar's forests, including elephants, tigers, sun bears² and the Myanmar snub-nosed monkey.³

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.⁴ 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 forest⁵ and a further two million hectares between 2002-14.⁶ The country reported 546,000 hectares of forest loss between 2010-15, the third highest rate worldwide.⁷ Combined, since 1990 Myanmar has lost about 20 per cent of its forests,⁸ reducing forest cover to around 290,000 sq km, or 45 per cent of its land mass.⁹

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 2002-14.¹⁰

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".¹¹ Nominally legal forestry operations by MTE and its subcontractors – which prioritised revenue generation – have not allowed forests to recover between cycles of harvesting.¹² 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.¹²

Left: Snub-nosed monkey

1. International Union for the Conservation of Nature, On the verge of extinction: A look at endangered species in the Indo-Burma Hotspot, 2015.
2. BBC, Viewpoint: Why Burma's forests must be preserved, 2013.
3. <https://www.fauna-flora.org/species/myanmar-snub-nosed-monkey>
4. Khin Htun, Myanmar Forestry Outlook Study, UNFAO Working Paper No. APFSOS II/WP/2009/07, 2009.
5. United Nations Office on Drugs and Crime, Criminal justice response to wildlife and forest crime in Myanmar: A Rapid Assessment, 2015.
6. Bhagwat et al, Losing a Jewel – Rapid Declines in Myanmar's intact forests from 2002-2014, 2017.
7. Food and Agriculture Organization of the United Nations, Global Forest Resources Assessment 2015, 2016.
8. Food and Agriculture Organization of the United Nations, Global Forest Resources Assessment 2010: Country Report Myanmar, 2010 and Food and Agriculture Organization of the United Nations, Global Forest Resources Assessment 2015: Country Report Myanmar, 2015.
9. Food and Agriculture Organization of the United Nations, Global Forest Resources Assessment 2015: Country Report Myanmar, 2015.
10. Bhagwat et al, Losing a Jewel – Rapid Declines in Myanmar's intact forests from 2002-2014, 2017.
11. Thorsten Treue, Oliver Springate-Baginski and Kyaw Htun, Legally and Illegally Logged Out: Extent and Drivers of Deforestation & Forest Degradation in Myanmar, 2016.
12. EIA, Organised Chaos, 2015.

MYANMAR TEAK – “KING OF WOODS”

“True teak” or “genuine teak” refers to wood harvested from the species *Tectona grandis*,¹³ 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.¹⁴

Teak’s combination of properties – a range of beautiful golden-to-red hues on tight, straight grains, Category 1 durability classification, termite, water and insect resistance and its excellent machinability 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.¹⁵

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 massive declines in tropical hardwoods in Myanmar since 1996, with teak one of the worst affected species.¹⁶



Above: Myanmar teak on yachts at the London Boat Show, January 2018

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.¹⁷

13. <http://www.wflooring.com/TechnicalInfo/SpeciesDetail.aspx?SpeciesID=1008>.

14. Tangmitcharoen, S. and J. N. Owens. 1996. *Floral biology, pollination, pistil receptivity, and pollen tube growth of teak (Tectona grandis Linn f.)*. Annals of Botany, 79(3): 227-241. doi:10.1006/anbo.1996.0317, & Minn et al, Genetic Resources and Crop Evolution, Genetic diversity and structure of teak (*Tectona grandis* L. f.) and dahat (*Tectona hamiltoniana* Wall.) based on chloroplast microsatellites and Amplified Fragment Length Polymorphism markers, 2015. 10.1007/s10722-015-0293-8.

15. Food and Agriculture Organization of the United Nation, Global Teak Trade in the Aftermath of Myanmar’s Log Export Ban, Working Paper FP/49/E.

16. Thorsten Treue, Oliver Springate-Baginski and Kyaw Htun, Legally and Illegally Logged Out: Extent and Drivers of Deforestation & Forest Degradation in Myanmar, 2016.

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 and US sanctions – are also difficult to confirm in trade statistics.



Above: Teak staircase and flooring in Asian project

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.

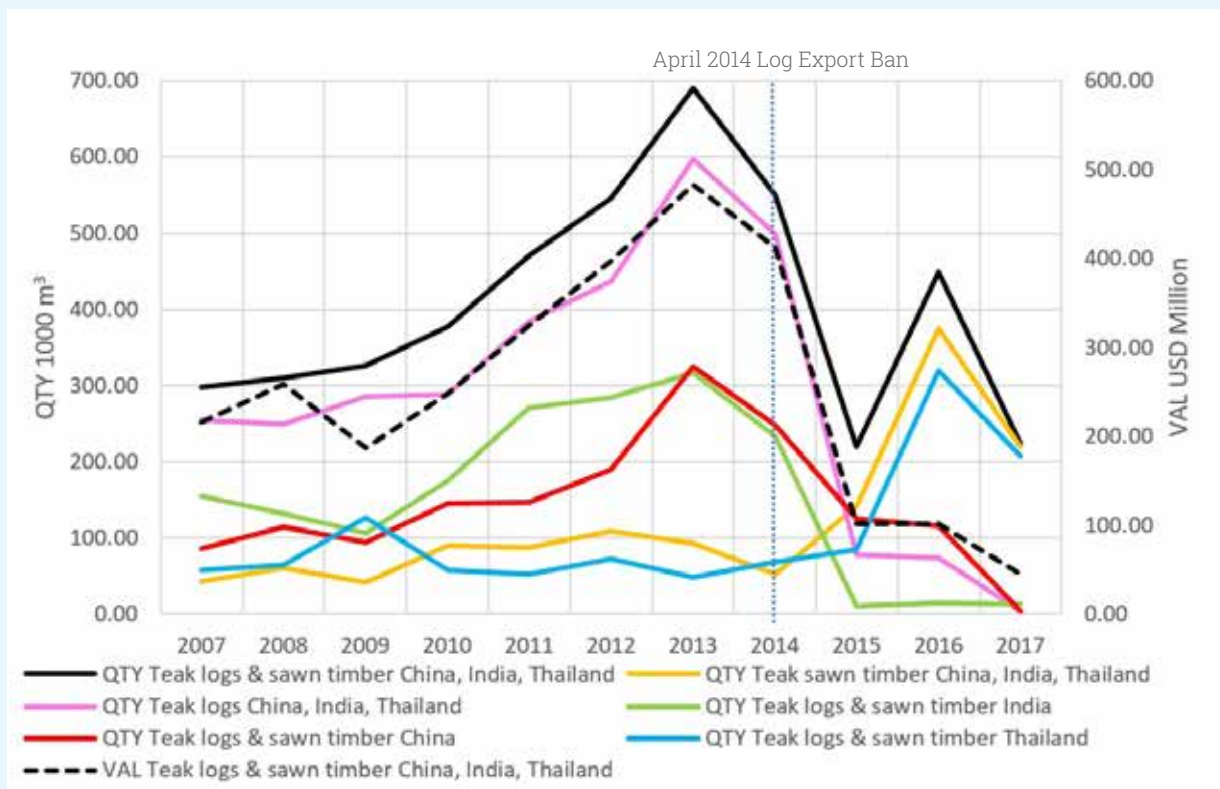
From June 2007 to June 2017, US imports of sawn teak direct from Myanmar amounted to merely 5,520 m³ worth \$25.8 million. However, for most of that period direct shipments from Myanmar and MTE were prohibited under US sanctions and considerably more Myanmar teak is known to have been imported from countries 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.¹⁸ 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 (€2.02m), France (€1.91m) and Belgium (€1.56 m) although, again, it is not clear which species are included.¹⁹

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.²⁰ 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)



18. <http://www.flegtactionplan.eu/monthlyeuimports.htm>

19. <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetailDoc&id=31830&no=13>

20. https://lemn.fordaq.com/news/EU_imports_Myanmar_teak_59061.html

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 System²¹ – a system limiting harvests 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.

After independence in 1948, the State Timber Board (STB) was formed (renamed the Timber Corporation in 1978) and this system become formalised as the Myanmar Selection System (MSS).

However, this system has never really been fully implemented nor properly maintained.

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



Far left and left: Logs at MTE's logyard at East Dagon, Yangon, March 2013

21. Named after Dietrich Brandis, the Forest Superintendent from 1855.

1962

all logging and
hardwood marketing
nationalised

1978

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

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

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 Senior General Saw Maung, who renamed Burma as the Union of Myanmar.

In 1989, following a December 1988 diplomatic visit by the head of Thailand's Military, General Chavalit Yongchaiyudh, 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.²²

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.

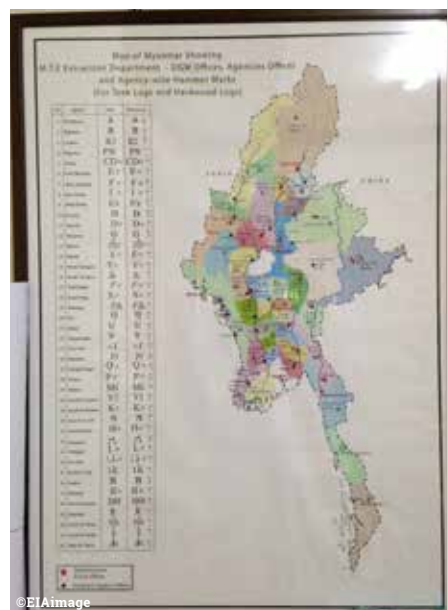
In 1993, Than Shwe's SLORC expelled the Thai logging companies except for five favoured companies, some of which, including Thai Sawat, have maintained their influence in Myanmar's teak sector until today (see next section).

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.



Below: MTE's Extraction
Department Forest Agencies
Hammer Marks map



22. <http://www.myanmarintimber.com.mm/index.php/en/extraction-department/operation/157-log-extraction-in-myanmar>

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 SG1-4 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 SG5-9 teak logs and the other harvested hardwoods, which they can sell themselves (see graphic on page 12).

Below: MTE logyard in Yangon, 2013



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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 authorisation 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 entire nominally legal State-supervised forestry and timber trade sectors have been systematically riddled with fraud, bribery, corruption and other forms of illegality for at least two decades.

The rampant over-harvesting that occurred under this system resulted in the decimation of the country’s teak resources, leading to the imposition of a total logging ban for one year in 2016/17 and a 10-year ban on teak logging in the forests of Bago-Yoma. Quotas for 2017/18 onwards are significantly reduced due to the absence of a viable standing stock.

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.

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.

2014-16

timber revenue targets, subcontracting and the modified procedure phased out

2016/17

total logging ban implemented for one year

2016/17

10-year ban on teak logging in forests of Bago-Yoma

2017/18

quotas significantly reduced due to the absence of viable standing stock

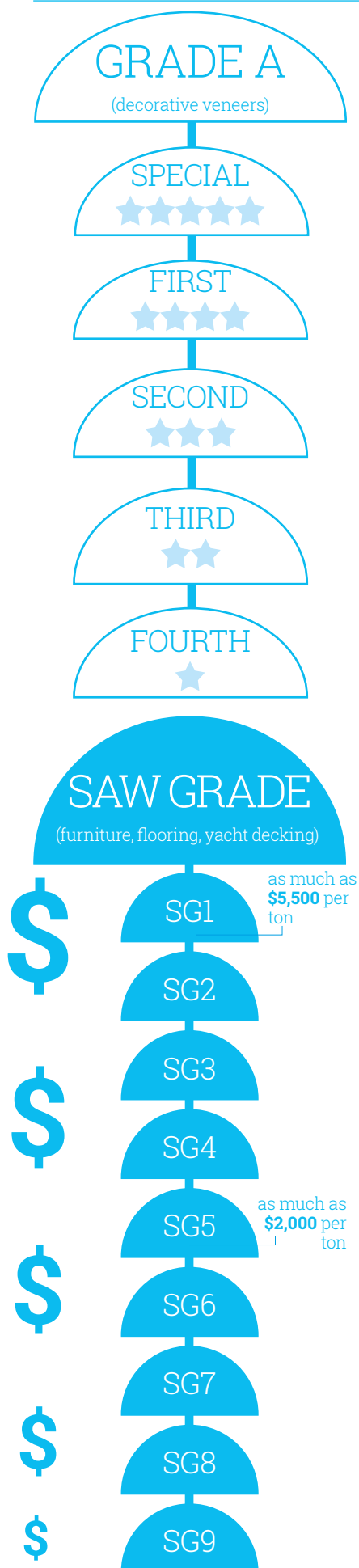
23. WWF, Framework for Assessing Legality of Forestry Operations; Timber Processing and Trade Annex, Myanmar. November 2013, accessed at: http://awsassets.panda.org/downloads/national_legality_framework_myanmar.pdf & Aung Aung Myint, “Analysis of drivers of deforestation and forest degradation in Shan State and strategic options to address those,” undated, accessed from: <https://www.forestdepartment.gov.mm/sites/default/files/Documents/Drivers%20of%20deforestation%20and%20forest%20degradation.pdf>.

24. Global Witness, A Conflict of Interests, Part 2, Logging in Burma: The Thai-Burma Border, October 2003.

25. Springate-Baginski et al, Legally and illegally logged out; The status of Myanmar’s timber sector and options for reform, March 2016.

26. For example: Log Extraction in Myanmar, MTE, (accessed January 2019) <http://www.myanmar-timber.com.mm/index.php/en/extraction-department/operation/157-log-extraction-in-myanmar>.

MTE's grading system



TEAK GRADING IN MYANMAR

Myanmar teak's array of qualities mean 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 including furniture, flooring, exterior decking and yacht decking are classified as **Saw Grade (SG)**, with SG1 being the best and SG9 being the lowest grades.²⁷

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 Alkema – 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.²⁸ Such fraud was reportedly central to the business model of the so-called "Shadow King of Burma Teak".

²⁷ <http://www.myanmar-timber.com.mm/index.php/en/export-marketing-milling-department/export-department-faq>.

²⁸ EIA undercover meetings with IGE and Alkema in Yangon, 2013.



Top: Teak decking on luxury yacht



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

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 abutting the border: Nujiang, Baoshan and Dehong.

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.

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 \$621 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,²⁹ this cartel used close connections to senior Myanmar military officials, including at least two of Myanmar's Northern Commanders.³⁰

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.



Above: Illegal timber stocks and transports in Myanmar

29. Members of the BDYA Dazu in 2015 included: Brang Nu, Dung Hpaung, Lee Maw Yung, and Alie Jie.
30. EIA, Organised Chaos: The Illicit Overland Timber Trade Between Myanmar and China, 2015.

The Shadow President - King of Burma Teak

A Rumoured Kingpin

In 2016, well-placed sources alluded to the existence of a teak kingpin, allegedly 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 Apipatana, this name was at times referred to alongside a Mr Cheng or PC Cheng in relation to Thai Sawat.³¹

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.³²

However, EIA researchers could not initially identify or confirm a full Chinese or English name for any legal person for PC Cheng or its variants, whether linked to Thai Sawat or otherwise. Whether hiding in plain sight or not, the so-called teak kingpin was proving hard to pin down.

Then, in late 2017, EIA undercover investigators travelled to Taiwan – a centre of world-renowned teak saw millers – and the truth began to emerge.

The “Shadow President”

In September 2017, in Tainan in southern Taiwan, EIA investigators met with Mr Zheng Kun Fu (鄭坤富) (aka, Cheng Kun Fu), referred to by acquaintances as “A-Fu”, the owner of Kui Jay Corporation, or Kay Yeu (凱越股份有限公司) 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.

He said he bought all his logs from a Hong Kong company called Xiangxin (祥興 / 祥興) / Cheung Hing), said to be headed by a major player, whom he named as “*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 – he is my big boss*”), A-Fu thereafter referred to Cheng Pui Chee 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.

31. A Mr. P. C. Cheng, of Thai Sawat, Thailand attended the 1995 “Teak for the future. Proceedings of the second regional seminar on teak” <http://www.fao.org/3/a-ac773e/ac773e0k.htm>. A “Mr. Chetta P.C. Cheng” is listed as a paid-up member of “The Siam Society” in 1983 http://www.siamese-heritage.org/jsspdf/1981/JSS_071_0p_AnnualReportListOfMembers.pdf.

32. BurmaNet News, Update on the Salween Dam project in Shan State, January 1999, accessed at: <http://www.ibiblio.org/obl/docs/SW01.html>. See map 3 on page 11 of Environmental Research Division, Manila Observatory, A Report on the Forestry Activities of Burma (Myanmar) and the Stability of the Moulmein watershed and Tenasserim Uplands, November 1990, accessed at: <http://essc.org.ph/content/wp-content/uploads/2014/10/A-Report-on-the-Forestry-Activities-of-Burma-Myanmar-and-the-Stability-of-the-Moulmein-Watershed-and-tenasserim-Uplands-ERD-1990.pdf>.

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 then extract 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, containerised 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 Grade Five prices ... then when they sell it here, they will sell it as Grade One. Why did he paid 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, 10 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.



Zheng Kun Fu
aka "A-Fu"

Below: 1,000 tons of Myanmar teak logs offered to EIA by A-Fu in September 2017, supplied by "shadow President" Cheng Pui Chee



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 private education outside of Myanmar of the children of top officials, effectively buying long-term favour with the regime over two generations.

A-Fu: *"He is legend, a legend. Let's keep it between ourselves. For example, the first and second secretaries of the Prime Minister ... he will send their children for studies in Singapore up to high school, after which he will send them to US and Europe for further studies ... he [Cheng] will pay for everything."*

A-Fu said Cheng Pui Chee's efforts to buy the next generation of Myanmar's political and military rulers before they even graduated was *"genius"* because *"When the kids return [to Myanmar] in future, they will take over the positions, that's how it is in Communist countries. How could they forget the gratitude?"*

His claims were corroborated in July 2018 by teak traders working at Yuli Wood, in mainland China, who were acquainted with Cheng Pui Chee, including Mr Zheng Tianren, who similarly stated Cheng had paid for the children of senior officials to study in Singapore and Thailand. Cheng, to whom these traders referred as *"the CEO"*, reportedly calculated that *"after they graduated and returned to Burma to work ... out of 10 of them, three would have to 'listen to Yangon'"* (see - [Ongoing Smuggling to China](#)).

The same trader also corroborated claims of Cheng Pui Chee's cash payments to senior officials.

Zheng: *"He dared to gamble. Before, when the Burmese Government didn't have money, they got it from him. First, they received 20 [million] then 40 [million] ... then even when they wanted to buy an Air Force One they also asked him for money."*

Zheng: *"After he gave, then they said to him, the timber from here and here and here ... the mountains ... that's all for you!"*

Zheng added: *"Things that are sold for 3,000, he gave them 600."*

Conspiracy in Kleptocracy

Cheng's corruption reportedly went to the very top of Myanmar's military.

A-Fu: *"The Shadow President was connected to the top level of the Government."*

EIA: *"You mean the president of Burma?"*

A-Fu: *"Yes."*

While Myanmar did not have a President during the period concerned,³³ A-Fu can only have been referring to the de-facto leader of the country. During the period this corruption allegedly occurred (from the early 1990s to 2014), this can only have been Senior General Than Shwe, the head of the State Law and Order Restoration Council (SLORC) and State Peace Development Council (SPDC) Commander In Chief of the Myanmar Armed Forces from 1992 to 2011.

A-Fu's testimony indicates that Cheng Pui Chee bribed and conspired with the most senior military and Government officials in Myanmar to establish a secret off-the-books system of fraudulent trade in the cream of the country's teak logs, run both in parallel to and within the official 'legal' trade administered by MTE.

These crimes involved the wholesale expropriation of Myanmar's timber resources by both the individual State officials concerned and by Cheng Pui Chee and his network in what constituted serious organised international crime.

For Myanmar's ruling generals and officials – themselves operating as a cartel – and for other crony logging subcontractors with whom the regime conspired, Cheng Pui Chee proved to be an ideal co-conspirator, fulfilling their desire to corruptly enrich themselves from kickbacks from timber while generating just enough revenue to prop up the regime.

Through these completely illegal arrangements, Cheng became perhaps the world's largest teak trader working within the official 'legal' system of trade administered by MTE.



Zheng Tianren

33. Between 1962 and 1974 and between 1988 and 2011 Myanmar was run by military regimes and did not have a President. The Office of the President was re-established in 2011. https://en.wikipedia.org/wiki/President_of_Myanmar.

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 (Xiangxin (祥兴 / 祥興) 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 (鄭培志) and his role as director – along with a family member – in various companies incorporating the name.³⁴ 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 cronies 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 fixer 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.³⁵

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.³⁶

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.

IGE

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.³⁷

IGE was established by the family of Aung Thaung, Myanmar's Minister of Industry from 1997 to 2011.³⁸ 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.



Tay Zar



Than Shwe

34. Hong Kong Company records link Cheng Pui Chee to Cheung Hing Timber Company Limited (祥興木材有限公司), Cheung Hing Corporation Limited, Cheung Hing Import and Export Company Limited, and Cheung Hing Resources Company Limited.

35. https://wikileaks.org/plusd/cables/09RANGOON386_a.html

36. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32010D0232>

37. <http://www.hnhxsbh.com/zousifanzui/98.html>

38. <https://www.irrawaddy.com/news/burma/what-does-the-future-hold-for-aung-thaung-sons.html> & https://en.wikipedia.org/wiki/Aung_Thaung

Below: Hong Kong





Gary Koh

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 co-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 he 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.³⁹

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 “นายเชษฐา อภีพัฒนา” – “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”.

Below: website of SCK Wooden Industries reveals affiliations with Timberlux and Wood & Wood



39. Records from the Department of Business Development, Ministry of Commerce, Kingdom of Thailand, accessed in June 2018.

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 Suthee) 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,⁴⁰ which included a photograph of Chetta that matches the only other image of Cheng Pui Chee identified by EIA.⁴¹

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.⁴²

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.⁴³ Thai Sawat was awarded a 30,000 tonne quota at Mong Pungpahkyen 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.⁴⁴

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.⁴⁵



Chetta Apipatana
aka "Cheng Pui Chee"



©Kramer, T (1994) "Thai Foreign Policy towards Burma 1987-1993"



Above and left: Map of logging concessions allocated in Myanmar in 1988, with concession No.2 being allocated to Thai Sawat Import-Export



Above and left: Revised company registration documents for Thai Sawat Import Export Company Limited, on 26 October 1994 indicated Cheng Pui Chee changed his name to Chetta Apipatana

40. National ID No. 8-1004-00001-47-5.

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 that depicted in Chetta Apipatana's Thai ID Card.

42. Global Witness, A Conflict of Interests, Part 2, Logging in Burma: The Thai-Burma Border, October 2003.

43. Burma Issues (Vol.3, No.12), Thai Logging Companies, December 1993, available at: [http://www.burmalibrary.org/KN/BJI1993-12-\(V03-12\)-red.pdf](http://www.burmalibrary.org/KN/BJI1993-12-(V03-12)-red.pdf).

44. Siam Rat Sapta Wichan, Major Thai Business Activities (p. 8-14, Translated from Thai), 27 October 1991, reproduced in: Foreign Broadcast Information Service, JPRS Report, South East Asia, (JPRS-SEA-92-001), 14 January 1992, available at: <https://apps.dtic.mil/dtic/tr/fulltext/u2/a334124.pdf>.

45. <https://epdf.tips/environment-and-citizenship-integrating-justice-responsibility-and-civic-engagem.html>.

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 2013 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 **"Kai Yeu"** 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 the Ministry of Forestry as well. So it has been a working relationship that ... Northwood has built up for the last 30 years."*

GK: *"Say there are officials from Burma, from the Ministry of Forestry, they are sick, they are not well, they come to Singapore. What we have been doing is that we have been arranging for accommodation, we have been paying*

for accommodation, when they go to the doctors we have been paying for their bills, so a lot of entertainment, a lot of side-line incentives that you have to give them as well." [smiles]

EIA: *"You mean like the military people?"*

GK: *"Yeah, yeah, yeah."*

EIA: *"Oh, you still have to do that do you?"*

GK: *"But I think its gonna change. And I hope it will change, because right now it is a bit iffy as well".* [shakes hand]

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.

GK: *"Never in my life did I think I would get to buy four zebras and two giraffes."* [laughs]

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.⁴⁶ Giraffes were similarly reportedly donated by the same "Mr Cheng" of Thai Sawat in 2011.⁴⁷

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, aaah, yes actually. A good portion, a good portion."*



Gary Koh



Above: Giraffe donated to the Ministry of Forestry by Cheng Pui Chee (Chetta Apipatana) of Thai Sawat, pictured in 2013



Left: Thai officials present penguins gifted by Cheng Pui Chee (Chetta Apipatana) of Thai Sawat to Myanmar's Forestry Department in December 2009

46. New Light of Myanmar, "ZPO Presents two pairs of Penguins to Zoological Garden (Nay Pyi Taw)", December 6, 2009, available at: <http://www.burmalibrary.org/docs08/NLM2009-12-06.pdf>.

47. <https://myanmar.mmtimes.com/national-news/nay-pyi-taw/7615-2013-10-23-04-50-39.html> & 7 Daily News, "Safari Nay Pyi Taw Zoo Garden A Baby Giraffe was born", Nov 11 2015, reproduced at http://www.shwemyanmar.info/news_detail_m.php?id=3254&type=3.

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 or 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 Cheung Hing operations in Hong Kong.

Multiple connections between the Apipatanas 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 in Malaysia (Koh Seow Bean's firm), in meetings with the Kohs and online both companies are described as "affiliates" of Timberlux in Malaysia.⁴⁸

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.

Thai Sawat Wood Industries Corporation Co Ltd in Thailand, owned by Chetta Apipatana, is or has been directed by Tangkijngamwong family members.

Vanida, Jirawat and Jirachai Tangkijngamwong are all directors of Dee Sawat Industries Company Ltd (Deesawat), while Ekachai Tangkijngamwong is also a member of the board of Wood Decorate Holding Co Ltd, another big Thai timber outfit.

The Thai 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,⁴⁹ while Mr. Suthee Apipatana (Chetta's father) is listed among the Honorary Presidents of the Association.⁵⁰

EIA research indicates that the two families are actually extended family, likely cousins.⁵¹ 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.⁵²

48. <http://sck.com.my/index.html>.

49. Retrieved from http://www.thaitimber.org/board/board_thaitimber_01.html.

50. Retrieved from http://www.thaitimber.org/board/board_thaitimber_02.html.

51. In October 2018 staff at Deesawat told EIA researchers that the Apipatana and Tangkijngamwong families were "ญาติ", indicating an extended family relationship such as cousins.

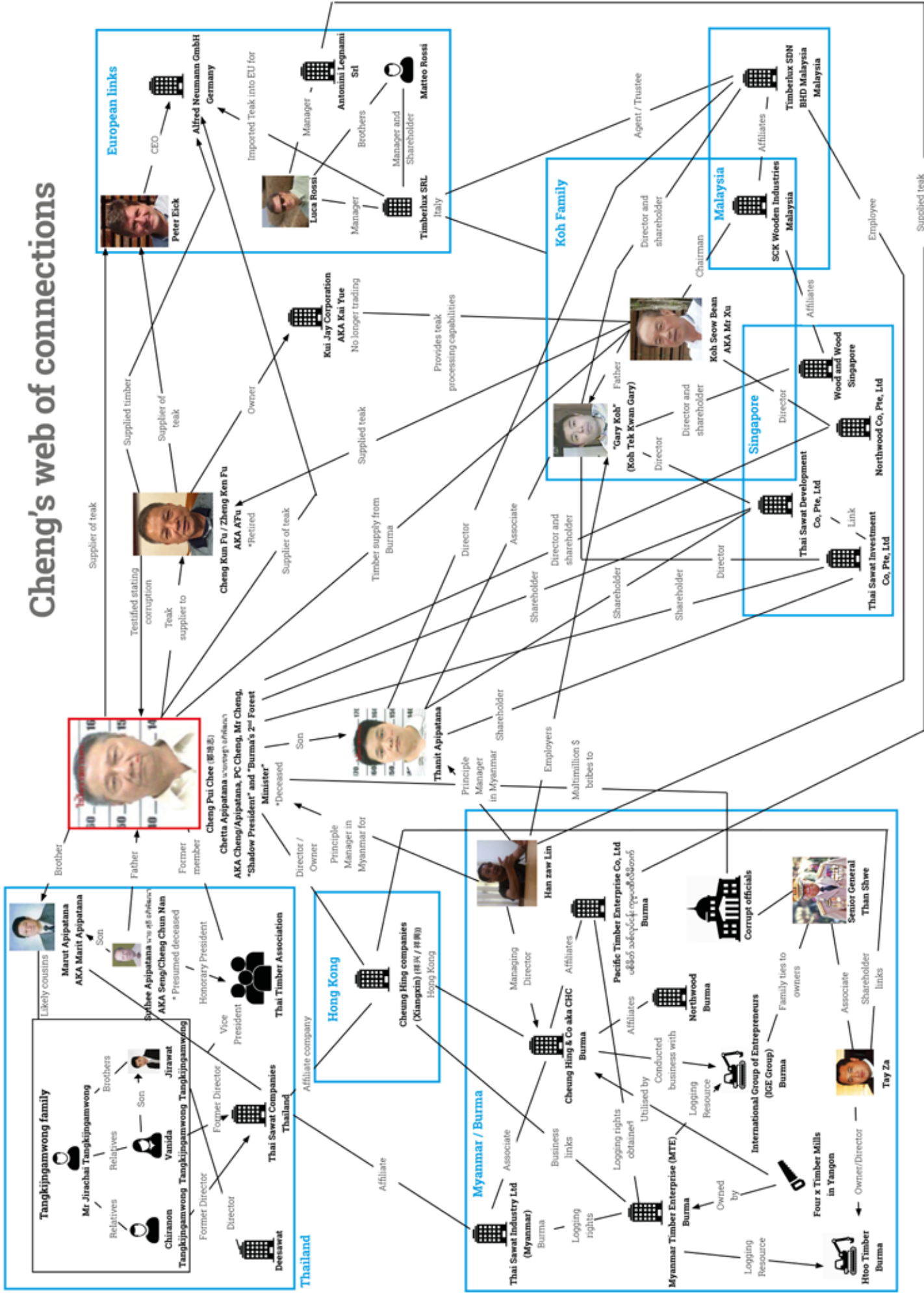
52. Singapore company records show that as of early 2018 Chetta Apipatana was listed a director and shareholder of Regional Properties Pte. Ltd., a Singaporean firm acting as the sole shareholder of Regional Hotel Pte Ltd., which owns 100% of System Bilt (Myanmar) Ltd, a company in which Chetta is a director, and which in turn owns the Summit Park View Hotel in Yangon.

Cheng's web of connections

The diagram illustrates the extensive network of connections centered around Cheng Pui Chee, a prominent figure in Myanmar's political and business spheres. The connections are organized into several key regions and entities:

- Thailand:** Cheng Pui Chee is linked to Chetta Apipatana (PC Cheng, Mr. Cheng, "Shadow President" and "Burma's 2nd Forest Minister"), who is the son of Marut Apipatana (AKA Marit Apipatana). Chetta Apipatana is also linked to the Thai Timber Association and Thai Sawat Companies. Other individuals in this region include Sirbee Apipatana (AKA Seng/Cheng Chun Nan, "Presumed deceased"), Jirawat, Vanida, Chiranan, and Deesawat.
- Hong Kong:** Cheung Hing companies (Xiangpin) (H.K. / 祥麟) are linked to Han zaw Lin, who is the Managing Director of Pacific Timber Enterprise Co., Ltd. (Burma). Han zaw Lin is also linked to Cheung Hing & Co. aka CHC (Burma) and Pacific Timber Enterprise Co., Ltd. (Burma).
- Myanmar / Burma:** The diagram shows the flow of timber and teak from Myanmar/Burma through various intermediaries. Key entities include Thai Sawat Industry Ltd (Myanmar), Myanmar Timber Enterprise (MTE), and Htoo Timber (Burma). The diagram also shows the flow of timber and teak from Myanmar/Burma through various intermediaries to other regions and finally to the European market.
- Malaysia:** The diagram shows the flow of timber and teak from Myanmar/Burma through various intermediaries to other regions and finally to the European market. Key entities include SCK Wooden Industries Malaysia, Timberlux SDN BHD Malaysia, and Timberlux SRL Italy.
- Singapore:** The diagram shows the flow of timber and teak from Myanmar/Burma through various intermediaries to other regions and finally to the European market. Key entities include Thai Sawat Development Co., Pte, Ltd, Northwood Co, Pte, Ltd, and Thai Sawat Investment Co, Pte, Ltd.
- European links:** The diagram shows the flow of timber and teak from Myanmar/Burma through various intermediaries to other regions and finally to the European market. Key entities include Alfred Neumann GmbH Germany, Peter Eick, and Luca Rossi.

The diagram also highlights the flow of timber and teak from Myanmar/Burma through various intermediaries to other regions and finally to the European market. Key entities include Alfred Neumann GmbH Germany, Peter Eick, and Luca Rossi.



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 corruptly 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.



Han Zaw Lin

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.

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

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 secondary 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 *“the biggest company 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 Watayar 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).⁵³



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53. <http://monrec.gov.mm/?q=know/51>.

"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.

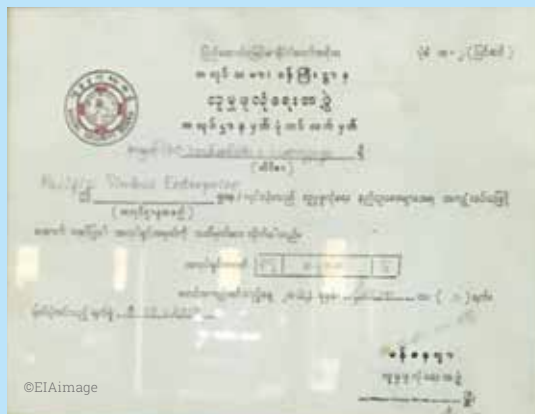
While Han Zaw Lin at no point bragged about Cheng Pui Chee's bribery and teak grading fraud or the tens of millions of dollars in payments to offshore accounts of Government officials, he did confirm key aspects of the story EIA had learnt from A-Fu and information pertaining to Cheng Pui Chee's role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



Above: CHC's office in Yangon, October 2018

Left: Pacific Timber Enterprise Mill sign, Yangon, October 2018

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



Special Sources:

On enquiring about the source of teak, Han Zaw Lin hinted at special sources from *"G-G contracts"* 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 Apipatana'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 2015⁵⁴) provided the basis for Cheng Pui Chee to operate the teak log mis-grading fraud that made him the *"king of teak"*.

"In teak business in the world, he is the biggest"

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 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 Cheung 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 low profile here, even among the locals, and very, very few people know who we are."*

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



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

54. Pacific Timber is reported to have had logging quotas in the 2015/16 season in unpublished industry reports seen by EIA.

CHENG'S WESTERN MARKETS

Large volumes of Cheng Pui Chee's corrupt teak enters 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, even up to today, we are the biggest exporter to the US and European market."* Lucrative luxury yacht manufacturers made up most of their Western customers, with Koh boasting: *"As for 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.⁵⁵

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

THE US

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

A-Fu said ETFH had been a long-term client. Trade records confirm at least 151 shipments from Kui Jay Corporation during the past decade, including four in 2018, making A-Fu ETFH's second biggest supplier worldwide, providing 13 per cent of the weight of ETFH's global imports.

Timberlux Snd Bhd is ETFH's next biggest supplier, sending 143 shipments constituting 9.3 per cent of ETFH imports over the same period. ETFH 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. ETFH 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.⁵⁶

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 Lacey Act.

Thai firm Deesawat, owned by Cheng Pui Chee's extended family the Tangkijngamwongs, 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.

EAST TEAK
FINE HARDWOODS, INC.



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

55. EU Targeted Sanctions on Myanmar included sanctions on direct imports of timber from Myanmar Timber Enterprise (MTE) from 1996-2013, and US sanctions on MTE were similarly in place from 2003-14.

56. All US trade records for East Teak, Gibson McIlvain and TDS acquired from Panjiva. <https://panjiva.com>.

EUROPE



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.⁵⁷

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



Peter Eick

He said Peter Eick 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 Snd Bhd) before Koh sent it on to Peter Eick 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 investigators 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 EUTR⁵⁸ (see *Stemming the tide*).

It is clear Timberlux make 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.

Top: A-Fu – aka Zheng Kun Fu presenting the business card of client Peter Eick of Alfred Neumann GmbH, September 2017

Above: Alfred Neumann's website features teak decking being selected by Felix Leong, aka "A-Liang" – an employee of Timberlux and SCK Wooden Industries in Malaysia – controlled by Cheng Pui Chee and Koh Seow Bean and their children

57. <http://dipbt.bundestag.de/doc/btd/19/056/1905681.pdf>.

58. Minutes of the Commission Expert Group on EU Timber Regulation and the Forest Law Enforcement, Governance and Trade (FLEGT) Regulation (E03282), including those of 27 September 2018, available at: <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupMeetingDoc&docid=21685> all meeting minutes available at: <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=3282>.

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 2015.”*

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.

Right: Port of Trieste, Italy, November 2018



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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 even 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.⁵⁹ 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 Chinese customs data recording trade of 938,000 m³ of logs worth half-a-billion dollars from Myanmar, with 94 per cent transported overland.⁶⁰

The scale and extent of the illicit trade was confirmed during an undercover meeting between EIA investigators and representatives of the Guangzhou Munian Wood Company in 2012. The owner of the company, Wen Shuinian, claimed to be the biggest manufacturer of Burmese teak flooring in China and had sewn up 30 per cent of the raw material stock. All his teak was imported illegally across the border, with the main source mentioned

59. Global Witness, *A Choice for China*, 2005.

60. Environmental Investigation Agency *Organised Chaos*, 2015.



including the main international border gate at Muse-Ruili.

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.⁶² This figure only includes trade through official border posts and not that smuggled via unofficial crossings.

EIA undercover investigators visited key locations where the smuggled timber was stored and traded to buyers from southern and eastern China, including the rural town of Nongdao favoured for its status as a free trade zone where import taxes are only paid once the wood is sold for onward transport. The overwhelming majority of recently arrived logs and flitches (square logs) were Burmese teak.

Traders explained how a few years earlier there was a surge in smuggling lucrative rosewood species, notably tamalan and padauk from Myanmar, as 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.

as Mongmit, an area in northern Shan State under the control of the Myanmar Government.⁶¹

In mid-2015, EIA conducted a major field investigation into the burgeoning cross-border wood trade, focusing on Dehong Prefecture in southern Yunnan, the main gateway for valuable teak and Burmese rosewood (also known as tamalan) smuggled via border crossings in Kachin.

EIA investigators uncovered a complex web of actors, including members of the Myanmar military, ethnic armed groups, corrupt officials and a powerful crime syndicate, conspiring to smuggle large quantities of teak logs and slabs of tamalan wood via a number of crossings,

61. EIA, *Appetite for Destruction*, 2012.

62. China Trade Information (CTI) data for 2014.

Top and middle: Log trucks line up in Myanmar's Kachin State to smuggle logs to China's Yunnan Province, April 2018

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 and led to a crackdown on the trade, with Chinese authorities barring their nationals from entering Kachin for logging and a suspension of the wood trade across its border with Myanmar. By March 2016, the trade of stolen wood had declined dramatically.

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 motorbikes 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.

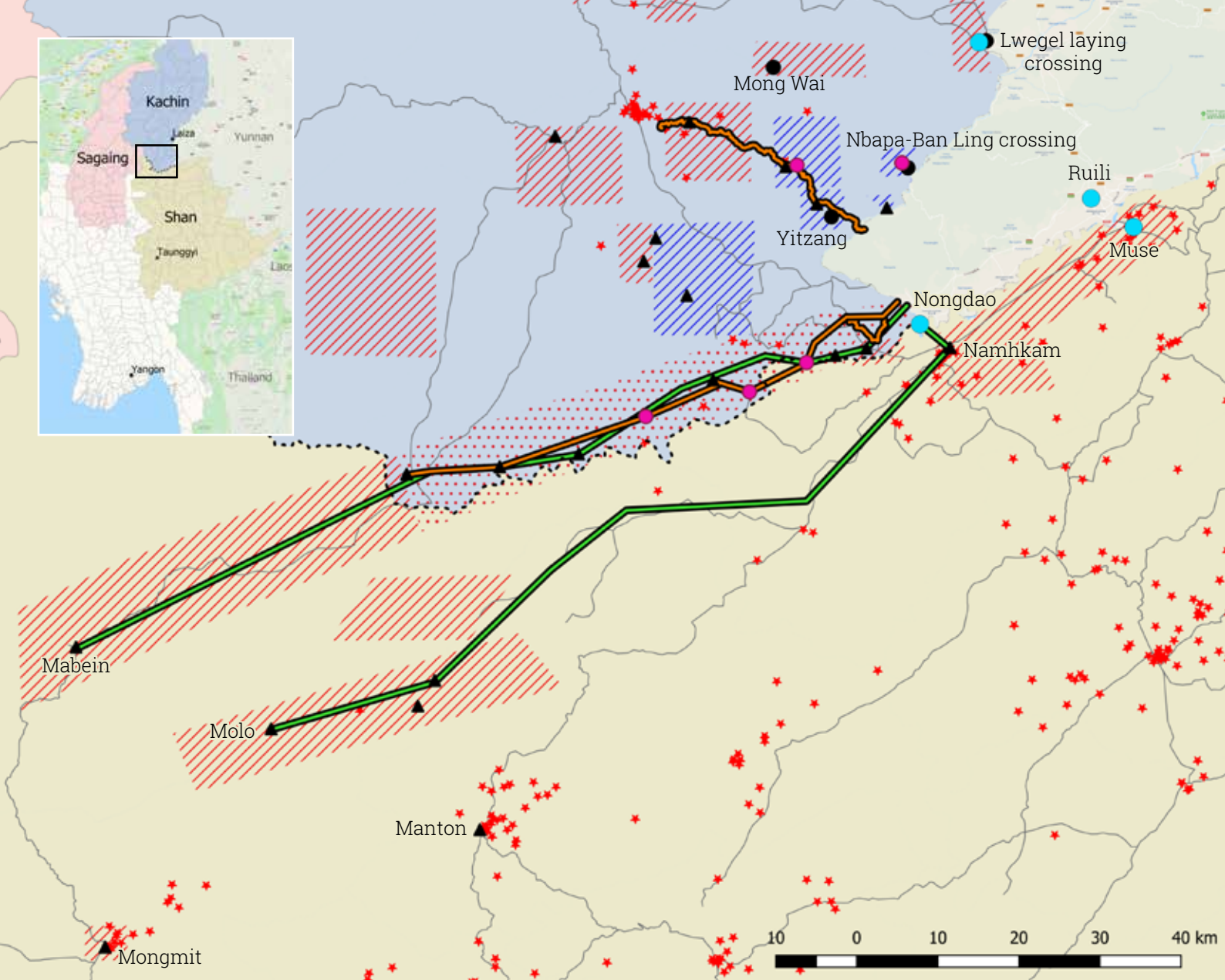
The high demand for teak was also driving the creation of new and longer supply routes linking border crossings around Ruili to the teak forests of Shan State, located to the south of Kachin. Unsurprisingly, members of the BDYA syndicate were heavily involved in creating and taxing new smuggling routes. EIA investigators uncovered a new route of unpaved dirt roads running further south than previously believed and linking Ingyi in Shan State, to Nongdao in Yunnan, via the Namhkam crossing point on the Myanmar side of the border.



Above: Log transport, Kachin State, Myanmar, April 2018

Bottom left: Log collection site, Kachin State, Myanmar, May 2018





MAP SHOWING THE MAJOR LOGGING ROUTES USED TO SMUGGLE TIMBER OUT OF MYANMAR.

Conflict points are directly sourced from the Myanmar Peace Monitor, spanning the period between 1 January 2015 until 16 January 2019 and available at <http://www.mmpeacemonitor.org/mpm/>. All other information was compiled through EIA investigations and the media

KEY

- ▲ Villages and towns
- Border towns
- Kachin-Shan state border
- Kachin state
- Shan state
- Roads
- Conflict points 2015-2019**
 - * Myanmar Army vs Ethnic group(s)
 - logging routes 2017-2018
 - logging routes 2016-2017
 - Dazu checkpoints
- Ethnic controlled areas**
 - /// Kachin Independence Army
 - /// Myanmar Army (MA)
 - ... MA since 2018-2019

Left: Log collection site, Kachin State, May 2018

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 21⁶³. 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 Mabein, Molo and Mongmit, territories controlled by the Myanmar Government and military. In late 2016, 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 that 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 armed 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 logs from Myanmar, valued at \$30 million, with 95 per cent of the wood entering over the land border. The figures also confirm the switch to increased trade in sawn teak wood, with 35,000 tonnes



©EIAimage

imported across the border in the final three months of 2016.⁶⁴ The data shows that China's clampdown on the illicit wood trade in the wake of the 2015 arrest of 155 loggers in Kachin was only a temporary measure.

Above: Illegal teak logs at Yingjiang Neisheng Timber, owned by Yi Fuxiang, in Yangjiang, north of Ruili, Yunnan Province, China, June 2018

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 Jie (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

63. <http://panglongburmese.blogspot.co.uk>.

64. China Trade Information 2016.



Above: Trucks organised by Li Xixiang smuggle teak from Kachin to China's Yunnan Province, to supply his father-in-law Yi Fuxiang of Yingjian Neisheng Timber, June 2018

©Li Xixiang

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.

CHINA'S APPETITE FOR ILLEGAL BURMESE TEAK

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 1,000 tonnes stored on the Myanmar side of the border.

The traders had become more cautious following the crackdown in late 2015 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 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 Fuxiang, owner of Yingjian 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 her 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 the Myanmar Government, and it took up to one month to move the teak from there to the storage area in Kachin.

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 Hong 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 SCK 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".

Top: Sawmill at Yuli Wood Industry, Dongguan, Guangdong, China, June 2018

Bottom left and right: Illegal teak logs at Yuli Wood Industry, Dongguan, Guangdong, China, June 2018



Above: Logs at
MTE logyard, 2013

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 2015, 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.

Below: Myanmar teak decking on Sunseeker yacht at London Boatshow, January 2018



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

⁶⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32010R0995>

⁶⁶ EIA, EIA ALERT: European Union Timber Regulation - Non-compliant Myanmar/Burma timber shipments, December 2013, available at: <https://eia-international.org/eia-alert-timber-shipments-from-burma-to-the-eu/>

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.

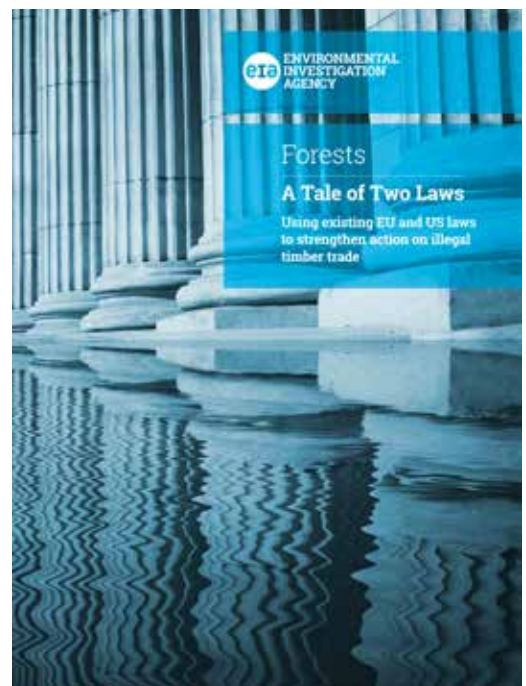
EU Member States competent authorities are responding to this ongoing assault by errant traders in a variety of ways, including through the imposition of injunctions prohibiting future non-compliant shipments and, in some cases, by forcing importers to return shipments to source countries prior to placement 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).



67. Commission Expert Group on EU Timber Regulation and the Forest Law Enforcement, Governance and Trade (FLEGT) Regulation (main group) meeting minutes are available here: <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=3282>.

68. <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupMeetingDoc&docid=26505>.

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 shipments via its agent in Italy, Luca Rossi and Timberlux Srl.

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 €4-6 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.⁶⁹

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 VPA negotiations were to begin, or 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.

Below: Italian Carabinieri
Forestral unload illegal
teak held at Trieste port by
Timberlux Srl, November
2018

69. Teak birmano illegale a Trieste, sequestrate 380 tonnellate
<http://www.carabinieri.it/cittadino/informazioni/news/2019/02/01/new0-20190201074100-918684>



THE US LACEY ACT

Amendments in 2008 to the US Lacey Act make it an offence to import into the US or sell in inter-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 proscriptive 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.⁷⁰

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".⁷¹

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.

Below: Princess yachts with Myanmar teak on display at London Boatshow, January 2018



70. EIA, *A Tale of Two Laws*, January 2018.

71. Elinor Colbourn, Environmental Crimes Section, U.S. Department of Justice, in a presentation at the "Timber trade and the conservation of forests" event hosted by Germany's Thünen Centre of Competence on the Origin of Timber, October 8 – 9 2018. Available at: https://www.thuenen.de/media/ti/Infrastruktur/Thuenen-Kompetenzzentrum_Holzherkuenfte/fuenf_Jahre_EUTR/Vortragsfolien/09_08_03_Colbourn_USDJ.pdf.

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.

