



MYANMAR

COUNTRY OVERVIEW TO AID IMPLEMENTATION OF THE EUTR



| | |
|--------------------------|---|
| LAND AREA: | 65.3 million hectares ¹ |
| FORESTED AREA: | 29 million hectares ² 44% of total land area ² |
| FOREST TYPE: | 11% primary ² 86% regenerated ² |
| FOREST OWNERSHIP: | >99% state owned ³ <1% designated for local communities ³ |
| PROTECTED AREAS: | 4.8 million hectares ⁴ 15% of forests found in Protected Areas ² |
| VPA STATUS: | No VPA currently ⁵ Preparing negotiations |

ECONOMIC VALUE OF FOREST SECTOR:

USD 254.4 million in 2011⁶
0.5% of GDP in 2011⁶
11th largest global timber exporter in 2014 among ITTO members⁷

ANNUAL DEFORESTATION RATE:

340 thousand hectares of tree cover loss in 2017⁶
Average of 315 thousand hectares per year 2013 – 2017⁶
Globally 3rd largest net loss of forest area 2010-2015⁸

CERTIFIED FORESTS:

FSC certification: 0 hectares (2018)⁹
PEFC certification: 0 hectares (2017)¹⁰
National certification: 0 hectares (2014)²

CHAIN OF CUSTODY CERTIFICATION:

FSC certification: 1 CoC certificate (2018)⁹
PEFC certification: 0 (2017)¹⁰

MAIN TIMBER SPECIES IN TRADE:

Native species: hnaw (*Adina cordifolia*), in/kanyin (*Dipterocarpus tuberculatus*), kanyin (*Dipterocarpus turbinatus*), candahar (*Gmelina arborea*), thingan (*Hopea odorata*), Sagawa (*Magnolia champaca*), thadi (*Protium serratum*), Burma padauk (*Pterocarpus macrocarpus*), thitya (*Shorea oblongifolia*), ingyin (*Shorea siamensis*), teak (*Tectona grandis*), terminalia (*Terminalis tomentosa*), Burmese ironwood (*Xylia dolabriformis*), daeng (*X. kerri*)^{11,12,13,14,15}

Plantation species: rubberwood (*Hevea brasiliensis*)¹¹

CITES-LISTED TIMBER SPECIES:

29 species: *Aquilaria malaccensis*, *Dalbergia assamica*, *D. burmanica*, *D. cana*, *D. candenatensis*, *D. cultrata*, *D. fusca*, *D. kingiana*, *D. lacei*, *D. lanceolaria*, *D. millettii*, *D. obtusifolia*, *D. oliveri*, *D. ovata*, *D. parviflora*, *D. penguensis*, *D. pinnata*, *D. prainii*, *D. pseudo-ovata*, *D. reniformis*, *D. rimosa*, *D. sericea*, *D. sissoo*, *D. spinosa*, *D. stipulacea*, *D. velutina*, *Diospyros ferrea*, *Taxus wallichiana* (all Appendix II), *Tetracentron sinense* (Appendix III)¹⁶

RANKINGS IN GLOBAL FREEDOM AND STABILITY INDICES:

| | | | |
|---|--|---|--|
| Rule of law index¹⁷ 4 th quarter 100/113 in 2017 | Corruption perceptions index¹⁸ 3 rd quarter (score: 30) 130/180 in 2017 | Fragile states index¹⁹ 4 th quarter 22/178 in 2018 (Inverse scoring system) | Freedom in the world index²⁰ 4 th quarter 61/83 in 2018 |
|---|--|---|--|

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LEGAL TRADE FLOWS

In 2015, Myanmar's export of EUTR-regulated products totalled 684.2 million kg, of which 0.63% was exported to the EU-28. Exports of EUTR products mainly consisted of rough wood (HS4403*) by both weight and value (Figures 1b and 1c); Myanmar imported very little timber and consumed over half of its roundwood production (Table 1). China and India were the main importers of Myanmar's EUTR-regulated products in 2015 (Figure 1a); the EU imported less than 1% of all EUTR-regulated products exported from Myanmar by weight. However, due to the relatively high value of sawn wood, the EU imported 4% of the value of Myanmar's EUTR product exports in 2015 (approx. USD 19.8 million of a total value of approx. USD 481.2 million). The majority of EUTR-regulated products imported into the EU from Myanmar in 2015 were imported by Denmark, France, Germany, and Italy (Figures 2 and 3). For further information, see Annex 1.

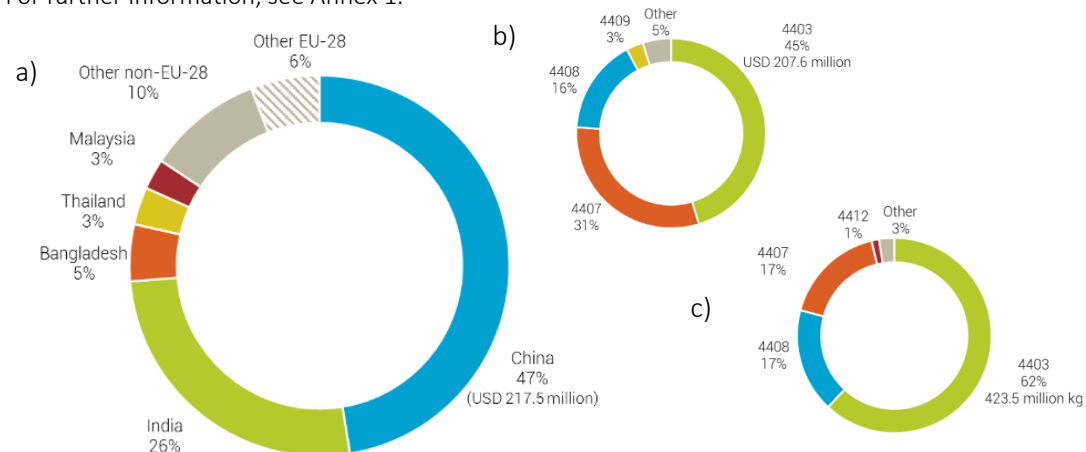


Figure 1: a) Main global markets for EUTR products from Myanmar in 2015 in USD; b) main EUTR products by HS code exported from Myanmar by value in USD in 2015; and c) main EUTR products by HS code exported from Myanmar by weight (kg) in 2015. Produced using trading partner reported data from UNCOMTRADE (Myanmar reported export data was not available at the time of writing)²².

Table 1: Production and trade flows of main timber products in Myanmar in 2015²³.

| | Production (m ³) | Imports (m ³) | Domestic consumption (m ³) | Exports (m ³) |
|-----------------------------|------------------------------|---------------------------|--|---------------------------|
| Logs (industrial roundwood) | 5 954 000 | 0 | 3 670 000 | 2 285 000 |
| Sawnwood | 1 610 000 | 0 | 1 396 000 | 214 000 |
| Veneer | 44 000 | 0 | 8 000 | 37 000 |
| Plywood | 116 000 | 5 000 | 108 000 | 13 000 |

***Key to HS code:** 4403 = rough wood; 4407 = sawn wood; 4408 = veneer sheets; 4409 = continuously shaped wood; 4412 = plywood and veneered panels; 4418: joinery and carpentry wood; 940360 = other wooden furniture

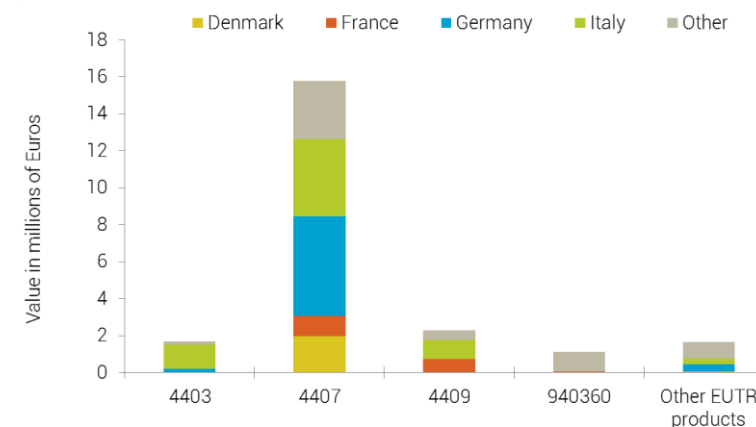


Figure 2: Value of EU imports of EUTR products from Myanmar to the EU in 2015 by HS code. Produced using data from EUROSTAT²¹.

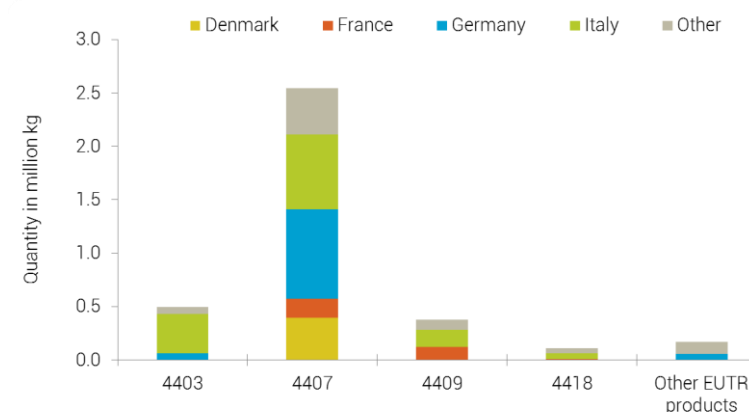


Figure 3: Quantity of EU imports of EUTR products from Myanmar to the EU in 2015 by HS code. Produced using data from EUROSTAT²¹.

KEY RISKS FOR ILLEGALITY

COMPLIANCE WITH LEGISLATION:

Potential issues with compliance with the Myanmar Selection System (Myanmar's forest management system) by the Myanmar Timber Enterprise²⁴.

BRIBERY INCIDENCE:

42.9% of firms experiencing at least one bribe payment request in 2014²⁵
Based on data collected on behalf of the World Bank across a range of sectors

ILLEGAL HARVESTING OF SPECIFIC TREE SPECIES:

Burmese teak (*Tectona grandis*) and other hardwoods¹⁴

PREVALENCE OF ILLEGAL HARVESTING OF TIMBER:

Reportedly widespread^{14,26,27}, especially along inland national borders^{24,28,29}

RESTRICTIONS ON TIMBER TRADE

Myanmar banned exports of raw logs (HS4403) from 1 April 2014¹⁴; there is currently no indication of when this ban will be lifted⁴³. All logging activity was temporarily banned in 2016, with the ban lifted 1st April 2017³⁰. Logging of teak in the Bago-Yoma Range was banned for 10 years from 2016³¹. Export of products based on confiscated timber are prohibited from April 2017³². No EU³³ or UN³⁴ sanctions on timber exports or imports.

COMPLEXITY OF THE SUPPLY CHAIN

Forests are largely owned and managed by the Forest Department, an agency under the Ministry of Natural Resources and Environmental Conservation (MONREC); the Forest Department sets the annual allowable cut (AAC) of timber for the country³¹. The Myanmar Timber Enterprise (MTE), also under MONREC, is authorised to log forests by the Forestry Department; MTE then transports logs to depots and sells to private companies, which can only purchase logs from the State³¹. Exports are supposed to be approved by the MTE, and exported through ports in Yangon²⁴, with the Forest Department approving private sector exports. However, cross-border trade in illegally harvested timber to neighbouring countries such as China, India and Thailand is significant^{14,29}. The process applies to managed natural forests and conversion forests³¹. Currently, most timber is harvested from natural forests³⁵. Timber from different sources is usually combined for export²⁴.

Illegal trade

Logging in Myanmar has historically suffered issues of corruption, weak forest governance and law enforcement^{29,36,37} and a pressure to generate revenue leading to sub-contracting of logging and compromised traceability^{29,38}. This has led to systematic over-exploitation^{29,39} as well as issues such as illegal harvesting in conflict areas (most notably in Kachin state)³⁶, irregularities in the conversion of gazetted forest⁴⁰, mixing of unaccounted and accounted timber^{29,38}, and illicit cross-border trade to China and elsewhere^{29,14}. Logging quotas have historically often been set in excess of the annual allowable cut, resulting in over-harvesting²⁶, and a 2014 report by Forest Trends found that corruption was considered "normal" business practice among interviewees²⁸.

More recently, as part of its transition towards a democratic system, Myanmar has made efforts to address issues with its forest management and timber trade, with a ban placed on the export of raw logs and a specialised Forestry Police established in 2014¹⁴. Further information on recent government efforts to reform the sector are provided in the next section. However, illegal logging and export of timber is still documented as an issue in the country^{14,39,38}. In a 2017 risk assessment of timber legality in Myanmar, NEPCo identified a wide range of key risks including: illegal assignment of harvest permits; illegal conversion of forest areas to agriculture; avoidance of paying royalties, harvesting fees and taxes; violation of forest management laws, regulations and rules; conflicts over land resources and involving indigenous peoples; and the falsification of documents³⁸. The majority of illegal timber has been exported via overland borders with China, India and Thailand^{14,29}. The risk of timber illegally harvested in Myanmar being re-exported to the EU or other markets from its neighbouring countries is therefore high. Shipments are also smuggled out via the main port in Yangon, such as the 571 tonne shipment seized there in January 2017⁴¹. The value of illegal timber seizures has also reportedly grown over the past five years, with a reported rise from 105 600 EUR in 2013 to 9.5 million EUR in 2016, according to media reports referencing Myanmar government data²¹. This shows increased attention on law enforcement by the Government of Myanmar.

Verifying the legality of timber from land conversion areas is challenging, due to issues such as the lack of legal documentation for the process of de-gazetting Permanent Forest Estates⁴⁰. It is also not possible to verify the legality

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of timber sourced from non-state-controlled sources in contested areas; this timber is often illegally exported across land borders and may eventually reach EU markets^{29,31}. The “Green Folder”, produced by Myanmar Forest Products Merchants’ Federation (MFPMF) and used to demonstrate that timber purchases are compliant with Myanmar forest law, was ruled to be insufficient to prove a negligible risk of illegality by the Swedish courts in November 2016, as the documents do not provide, *inter alia*, sufficient information on the origin of logs, logging companies involved and compliance with Myanmar’s forest legislation – all necessary to determine whether any product is legal^{42,43,44}.

The import of Burmese teak to the EU is a particular source of concern. A 2016 EIA investigation found that MTE prevents companies from acquiring or verifying necessary documentation, with companies therefore unable to comply with EUTR due diligence and to adequately mitigate the risks of importing timber from Myanmar³⁹. In October 2016, EIA submitted “substantiated concerns” to Competent Authorities in Italy, the Netherlands, Belgium, Denmark and Germany for violations of EUTR involving nine companies importing Burmese teak from Myanmar³⁹. A number of European companies have been taken to court over breaches of EUTR resulting from trade in timber imported from Myanmar^{45,46,47}.

The Ministry of Natural Resources and Environmental Conservation (MONREC) has acknowledged the concerns of importing countries and stated that they are committed to streamlining their system to enable EUTR due diligence to be met⁴⁸. In June 2017, the EUTR/FLEGT Expert Group (consisting of the European Commission and EUTR Competent Authorities) concluded that assurances (such as those provided by Double Helix) that Competent Authorities have received regarding sourcing of timber from Myanmar are not supported by appropriate evidence covering the whole supply chain and therefore cannot demonstrate full compliance with EUTR⁴⁹. This also applies to the “Form D” which was seen accompanying shipments⁴⁹. This assessment was reconfirmed in November 2017 where it was concluded that “there is insufficient information for operators to demonstrate the actual origin of the timber which would enable them to carry out a full risk assessment or mitigation in the exercise of due diligence”⁵⁰.

Forestry management and legislation

In light of these issues and recent substantiated concerns submitted regarding alleged insufficient due diligence processes by operators importing Myanmar timber products³⁹, the government has enacted various measures to improve the status of timber harvesting in Myanmar, including various logging bans (see box above), ceasing the use of contractors to carry out logging, end to the ‘modified procedure’ [which was used in conflict areas] and reducing annual allowable cut levels to less than half of those in effect prior to the 2016 moratorium^{31,51}. Export of products based on confiscated timber were prohibited from April 2017 and a new 10% export tax was imposed on wood log and wood cuttings from the same time³². MONREC has developed a new ‘Chain of Custody dossier’ to assist operators in their due diligence⁵². It contains copies of all relevant documents produced at each control point, from the Annual Allowable Cut declaration to the point of product export, facilitating traceability⁵². MONREC also confirmed that the export of conversion timber from land use change was prohibited in 2017⁵².

The Myanmar Forest Certification Committee (MFCC) is also in the process of strengthening the existing Myanmar timber legality assurance system (MTLAS), with control procedures that will be subject to an independent monitoring process by third-party monitors³⁵. This process is expected to address the findings of a gap analysis of the MTLAS which indicated that there are significant gaps, particularly as regards a) scope of legality in the forest, b) mechanisms for supply chain control, and c) independent assurance, oversight and monitoring⁵³. The government has also stated that while it will be possible to provide documentation for stockpiled timber harvested in the 2015-2016 season, it may not be possible to do the same for older stockpiled logs³¹. In mid-2017, MTE announced that they had engaged private sector service providers to support MTE if they face insufficient capacity or facilities during the 2017-2018 logging season⁵⁴. MTE reported in an International Tropical Timber Organisation newsletter that potential contractors are allocated contracts after submitting proposals to regional MTE officials, who then consult with MTE headquarters⁵⁴. EIA expressed concern that the allocation of harvesting rights during the logging season is at high risk of corruption and bribery³⁹.

In September 2017, the EUTR/FLEGT Expert Group concluded that the lack of sufficient information on harvesting volumes authorised for cutting, sufficient data for clear attribution of origin within the country to exclude conflict timber, and the high risk of mixing legally harvested with illegally harvested logs in the saw mills often owned by MTE,

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combined with the high corruption index, make it impossible for any verification service to mitigate risk to a negligible level that timber from Myanmar was illegally harvested⁵⁵. The Expert Group reiterated this finding in November 2017, in particular with regard to the information provided to determine the origin of timber⁵⁰.

The Singapore based company DoubleHelix is establishing DNA reference data for populations of Myanmar teak, with a DNA-based verification system expected to be in place by 2018⁵⁶. In 2018, MONREC reported that it has given the MFCC a mandate to create a third party verification system, with initial selection of 3 national and one international body⁵².

RELEVANT LEGISLATION AND POLICY¹

For further details on Myanmar's legislation relevant to EUTR, see the [Myanmar country page on FAOLEX](#) and NEPCo (2017) '[Timber legality risk assessment](#)'.

- **Forest Law, 1992:** *Some amendments to this law are currently being considered*^{57,43}.
- **Myanmar Forest Policy, 1995**
- **Forest Rules, 1995**
- **Community Forestry Instructions, 1995:** *2016 amendments are pending, awaiting the amendments to the Forest Law*³¹
- **Protection of wildlife and wild plants and conservation of natural areas law, 1994**
- **Environmental Conservation Law, 2012:** *A new policy is currently under development*³¹
- **National Code of Forest Harvesting, 2000**
- **Myanmar Timber Enterprise Extraction Manual, 1936**
- **Natural Areas Law, 1994**
- **The State Timber Board Act, 1950**
- **Fallow Land, Vacant Land and Wild Land Law, 2012:** for further details see Annex 6.
- **Occupational Health and Safety Act**
- **Workmen's Compensation Act, 1923 (amended 2005)**
- **Myanmar Customs Act, 1992**
- **Control of Export and Import Acts, 1992**
- **Myanmar Companies Act, 1914**
- **Myanmar Citizens Investment Law, 1994**
- **Foreign Investment Law, 2012**
- **Foreign Investment Rule, 2013**
- **The Commercial Tax Law, 1990**

¹ The following list may not be exhaustive and is intended as a guide only on relevant legislation.

DOCUMENTS RELEVANT TO THE DUE DILIGENCE REQUIREMENT²

See NEPCo (2017) '[Timber legality risk assessment](#)' for a further list of legally required documents.

- Permit to enter the forest and harvest timber approved by Forest Department
- Schedule (II) of area and number of trees to be worked
- Document detailing return of coupes after logging
- Form for inspecting stumps in logged coupes
- Report on the inspection of harvest by legal harvesters during a specified period
- Registration for hammers
- MTE hammer marking and timber extraction control form
- Harvesting plan
- Marking book with standing tree number and map
- Records of joint measurement by the Forest Department and MTE
- Buyer's receipt letter of logs in the log yard
- Logs delivery order: transfer of property from MTE to buyer
- Log specification issued by MTE
- Sales contract between MTE and private factory
- Material transfer note to factory issued by MTE
- Mill licence
- Cutting permit (in sawmill)
- Yield calculation lot by lot (sawmills)
- Out-turn percentage (in sawmill) approved by Forest Department
- Out-turn percentage approved by Forest Department
- Packing list approved by Forest Department
- Inspection by Forest Department at sawmill
- Export licence
- Export declaration
- Bill of landing
- Packing list
- Certificate of origin
- Receipt from MTE export for commercial tax payment
- Commercial invoice
- Documents not relevant since the government stopped the use of contractors in 2016: Legal certificate of incorporation of harvesting company (contractor), Official permission to work in timber extraction (contractor), Harvesting contract with MTE, Letter for harvesting company (contractor) to transport logs from forest

² The following list may not be exhaustive and is intended as a guide only on required documents.

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