



HOW HAS THE EU ENFORCED THE COMMON POSITION ON TEAK IMPORTS FROM MYANMAR?

By **Marigold Norman**

EU imports of Burmese timber continue despite European enforcement authorities and the European Commission concluding that such imports do not comply with the EU Timber Regulation. Imports are shifting away from countries with high enforcement effectiveness, but are still entering into the EU.

INTRODUCTION

In September 2017,¹ European enforcement authorities and the European Commission (EC) first started developing a joint position on Myanmar teak, concluding in 2018 that such imports could not comply with the requirements of the European Union Timber Regulation (EUTR). This position has been upheld ever since.²

As long as the enforcement position stands, importers should refrain from placing teak from Myanmar on the European market.

The common position was designed to encourage a clear and consistent approach to enforcement across European Member States to prevent illegal timber entering the EU.

Two years on, how is enforcement of the common position working and what impact is it having? Forest Trends reviewed official trade data to understand the relationship between enforcement and market shifts.



FINDINGS

1

EU 2019 timber imports from Myanmar remained the same by volume as in 2017 when the common enforcement position was first developed. The value of these imports has increased 40%.

More than 17 million kilograms (kg) of timber from Myanmar, worth €95.8 million has been imported into the EU since September 2017.

Imports surged in 2018, reaching an all-time high of 9 million kg but have since dropped to 2017 levels in 2019.

FIGURE 1 Before and after the common position was first developed: European imports of Myanmar timber products by volume (kg) and value (Euros)



Source: Eurostat Comext, 2020



2

After the common enforcement position was first developed, entry points into the EU have shifted dramatically.

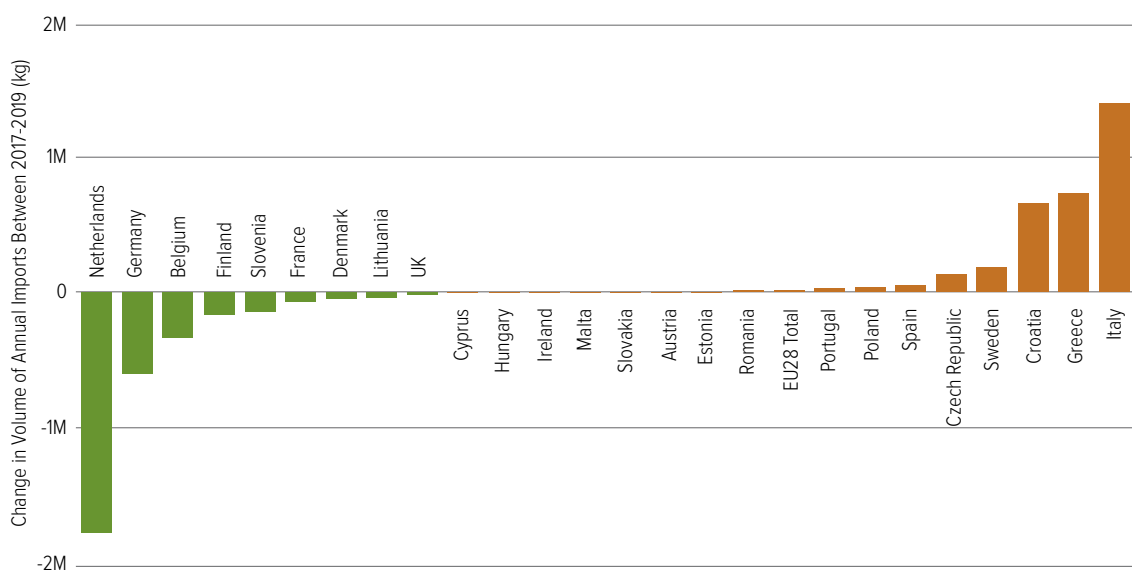
By 2019, the Netherlands, Germany, Belgium, Finland, Slovenia, France, Denmark and the UK all reduced their annual volumes of timber imported from Myanmar.

However, five EU Member States significantly increased imports during that time: Sweden, the Czech Republic, Italy, Croatia and Greece. In fact, imports into Greece, Croatia and the Czech Republic increased by more than 500% over the period.

The increases by these countries directly offset the reductions in the Netherlands, Germany, Belgium, Finland and Slovenia, leaving total amounts imported into the EU common market virtually the same.

Inconsistent implementation of EU law is not unique to the EUTR and is a longstanding challenge for the Commission. The emerging findings on enforcement of the common position mirror broader regulatory inconsistencies as evidenced by the Commission’s annual Single Market Scoreboard which evaluates how EU countries implement EU rules. The most recent Scoreboard (for 2018)³ reported Spain, Italy, Greece and Luxembourg as lowest performing.

FIGURE 2 Change in the volume of annual timber imports by EU Member State between 2017 and 2019



Source: Eurostat Comext, 2020

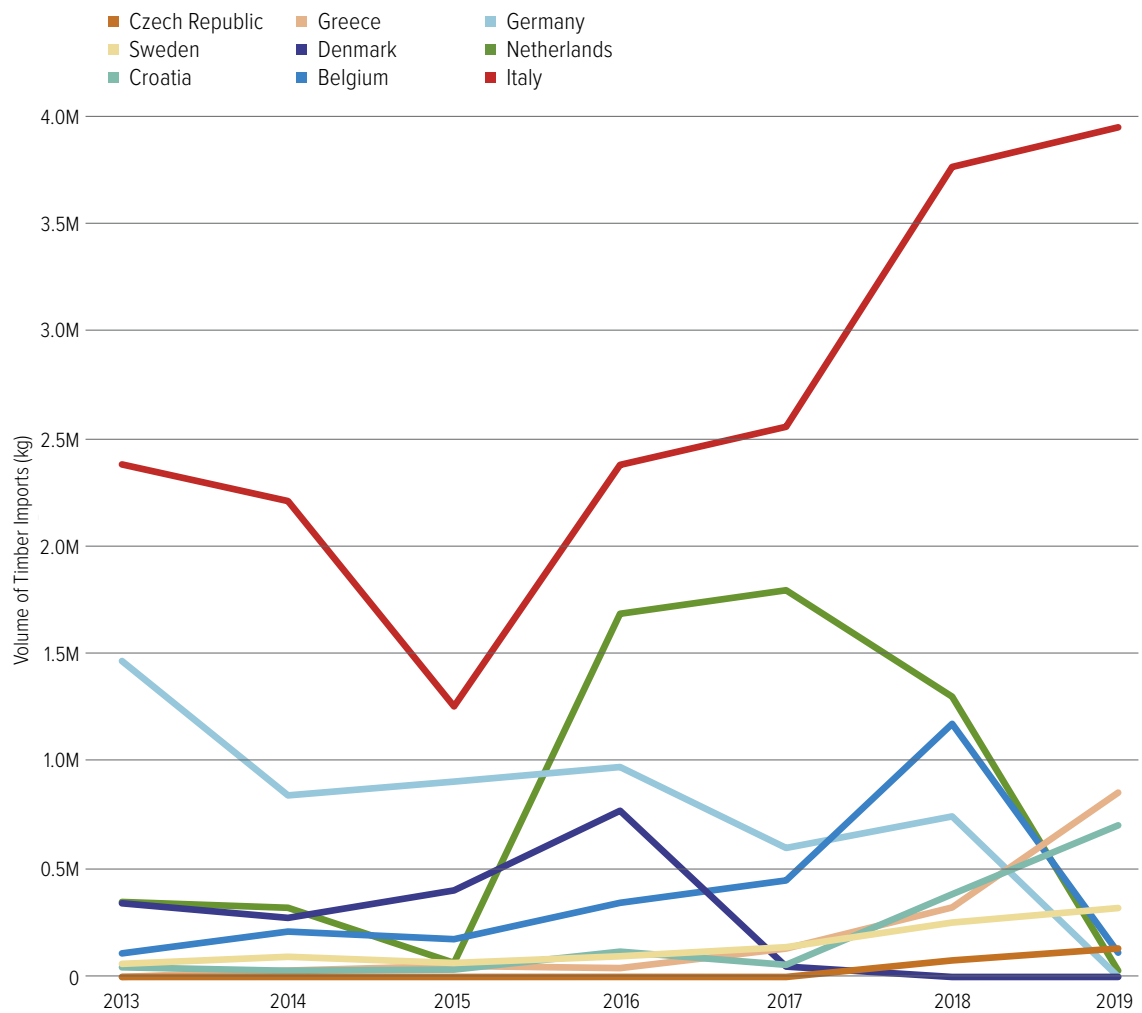


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Half of the timber imported from Myanmar entered the EU through Italy after the common position was first developed.

Italian imports have increased annually since 2015. Italy's 2019 imports reached a new high of 4 million kg worth €25.1 million, accounting for 60% of all European 2019 imports by volume.

FIGURE 3 European imports of Myanmar timber between 2013 and 2019 (kg)



Source: Eurostat Comext, 2020



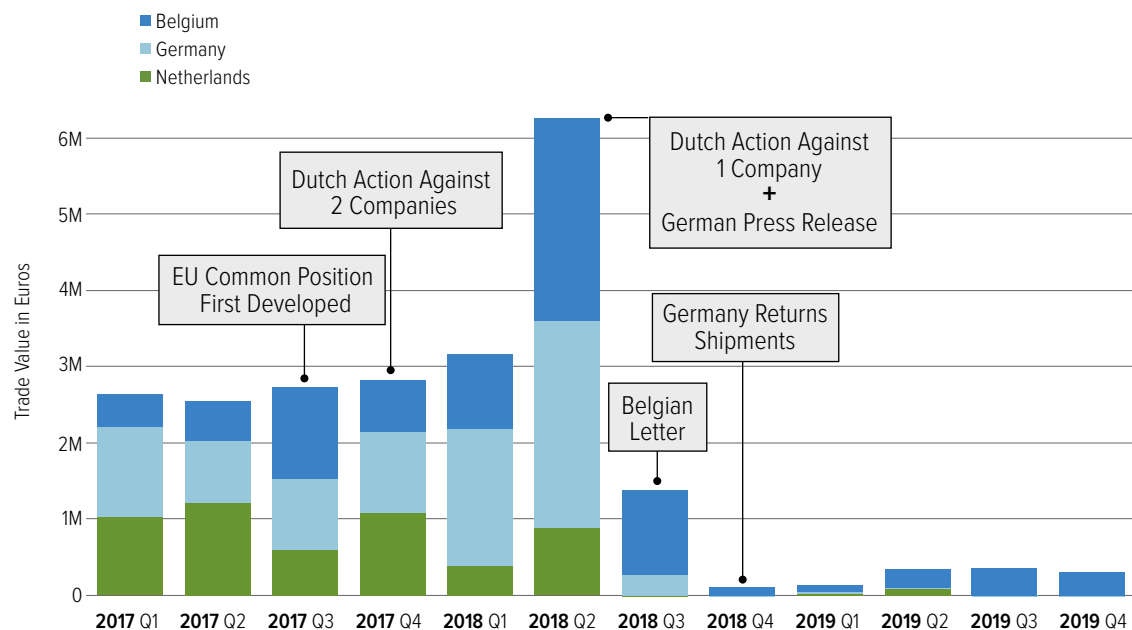
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German, Belgian and Dutch imports dropped dramatically after strong enforcement activity in the Summer of 2018.

Enforcement checks to verify compliance of the EUTR were completed on all companies importing from Myanmar in 2017 and 2018 with notices of remedial action issued. Following initial development of the common enforcement position in September 2017,⁴ Dutch authorities issued preventative measures against two companies in October 2017⁵ and against an additional company in May 2018⁶ which imposed a penalty of €20,000 for every cubic meter of teak and/or teak wood products that they continued to place on the European market.

In 2018, German and Belgian authorities stepped up action on their operators continuing to import teak from Myanmar, issuing letters⁷ and a press release⁸ to clearly communicate the common enforcement position and the consequences of non-compliance. To prevent illegal timber being placed on the common market, both Belgian and German authorities have declared that any teak imported from Myanmar will be temporarily seized and returned at the importers expense if legality cannot be verified within one month of seizure.

FIGURE 4 Effective enforcement actions in the Netherlands, Germany and Belgium caused significant market shifts by mid-2018



Source: Eurostat Comext, 2020



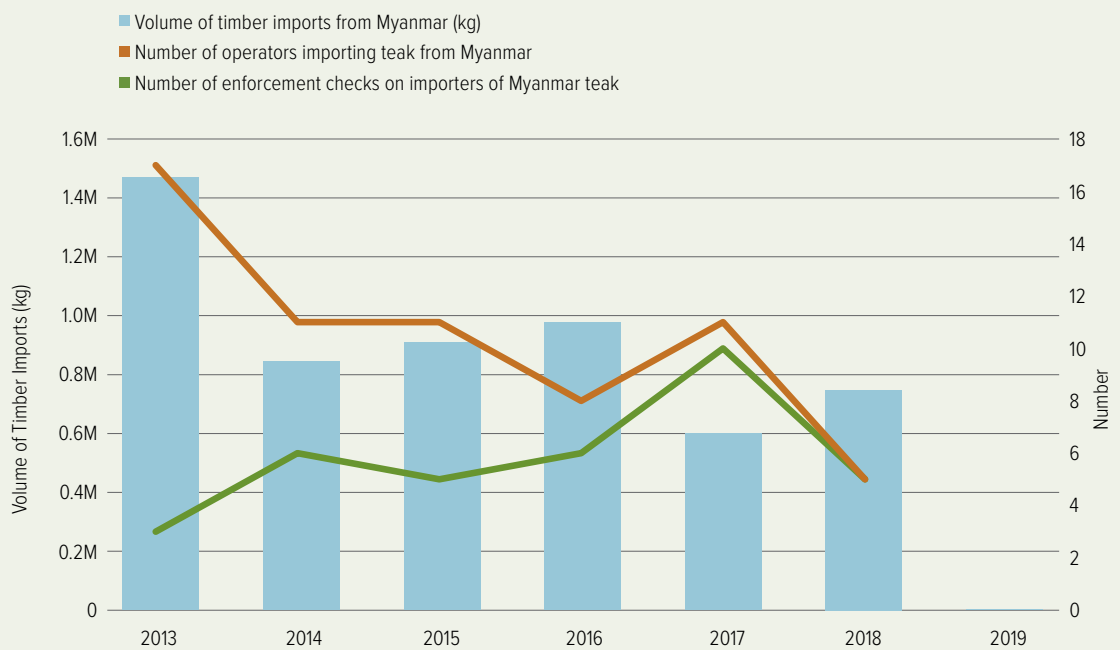
CASE STUDY

IMPLEMENTATION OF THE COMMON ENFORCEMENT POSITION IN GERMANY⁹

In March 2017, the German enforcement authority issued an order to the thirteen German operators importing teak from Myanmar warning that risk of illegal harvest was high. Following the EU common position, enforcement checks to verify EUTR compliance were ramped up, with inspections completed on all importers over 2017 and 2018 and a number of notices of remedial action issued. Letters were sent in April 2018 to the five remaining importers and a press release was issued in June 2018 notifying that wood from Myanmar does not currently meet the requirements of the EUTR. In addition, it was made clear that timber originating in Myanmar, even if imported through another country such as India, would be temporarily taken into custody and could be returned to Myanmar/country of origin, if legality could not be demonstrated within one month of seizure.

Two shipments of Myanmar teak valued at over €100,000 imported into Germany from Singapore in September 2018 were later seized by the German authorities and ordered to be returned in August 2019 when the importer was unable to demonstrate negligible risk within one month of seizure.

FIGURE 5 German monitoring and enforcement actions in relation to import volumes



Source: Eurostat Comext, 2020



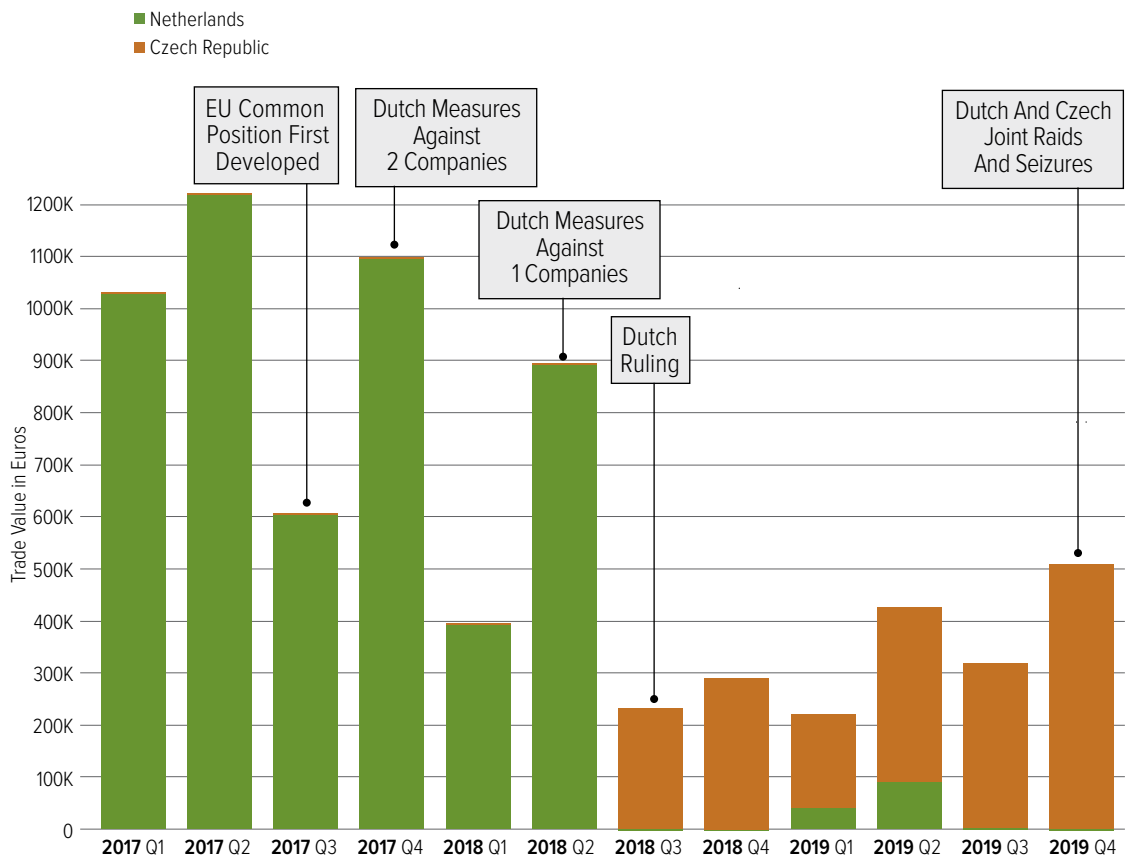
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Specific cases are now emerging showing deliberate circumvention of EU law by companies shifting ports of entry.

Following robust enforcement action against Dutch companies in the Netherlands, the Czech enforcement authority registered imports from Myanmar from August 2018. Joint Dutch and Czech enforcement actions uncovered deliberate circumvention of the EUTR with regards to teak from Myanmar, leading to raids and seizures in December 2019 in both countries. Publicly available information suggests that the teak was imported into the Czech Republic but pre-sold to buyers in the Netherlands.¹⁰

Criminal and administrative cases are currently ongoing in the Netherlands and Czech Republic. There were no imports from Myanmar into the Czech Republic following the raids in December 2019.

FIGURE 6 Enforcement actions and the circumvention of timber imports from Myanmar into the Netherlands



Source: Eurostat Comext, 2020



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Summary

Common enforcement positions only work if consistently enforced by all Member States. While EU Member States and the European Commission started developing a common position as early as 2017 concluding that EUTR-compliant teak from Myanmar is impossible, trade data indicates that there is as much Myanmar timber being imported into Europe now as in 2017. The only change has been some ports of entry.

The EUTR regulates the importer or first-placer of timber on the market, but inconsistent implementation across Member States is not preventing the timber being placed on the common market and has not addressed the underlying demand from buyers which remains at peak levels.

Behind the trade data, it is becomingly increasingly clear there are only a very small number of importers placing Myanmar teak on the EU common market. Robust enforcement approaches can bring these importers into compliance at the national level, but enforcement officials will need to work together to quickly identify new circumvention routes as they emerge and take action to strongly prosecute companies deliberately circumventing EU law.

The European Commission can help to ensure most consistent implementation through pilots and more effective checks on Member State enforcement actions. Independent reporting of more meaningful enforcement statistics and analysis across the single market is recommended to help more quickly identify where enforcement vulnerabilities are occurring.

There are opportunities to learn from wider EC efforts to promote better coordination between enforcement bodies across the EU Member States, strengthen enforcement approaches and increase accountability such as in the case of product regulation. In June 2019, the EC passed *Regulation (EU) 2019/1020 on market surveillance and compliance* of products which will require importers and manufacturers to ensure that products placed on the EU market are compliant with a broad suite of health, safety and environmental requirements. Timber and the EUTR are not included within the scope of the new regulation but similar efforts to strengthen coordination, accountability and consistency are clearly necessary.



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END NOTES

- ¹ EC, 2019a. *The Summary Record of the 24th FLEGT/EUTR Expert Group Meeting 21 June 2019* referencing earlier conclusions on teak from Myanmar. Available at <https://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupMeetingDoc&docid=34247>
- ² EC, 2019b. *The Summary Record of the 26th FLEGT/EUTR Expert Group Meeting 12 December 2019*. Available at <https://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupMeetingDoc&docid=39135>
- ³ EC, 2019c. *The new Single Market Scoreboard is out*. European Commission 2019 edition of the Single Market Scoreboard. Available at https://ec.europa.eu/growth/content/new-single-market-scoreboard-out_en
- ⁴ EC, 2019a. *The Summary Record of the 24th FLEGT/EUTR Expert Group Meeting 21 June 2019* referencing earlier conclusions on teak from Myanmar. Available at <https://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupMeetingDoc&docid=34247>
- ⁵ Court of The Hague Ruling published 24-01-2020. Available at <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBDHA:2020:473&showbutton=true&keyword=houtverordening>
- ⁶ Court of The Hague Ruling published 27-07-2018. Available at <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBDHA:2018:8196&showbutton=true&keyword=houtverordening>
- ⁷ The Belgian letter sent to Operators July 2018 is publicly available at <https://www.health.belgium.be/fr/news/le-bois-importe-du-myanmar-ne-repond-toujours-pas-aux-exigences-eutr>
- ⁸ The German press release of June 13 2018 is available at https://www.ble.de/SharedDocs/Pressemitteilungen/DE/2018/180613_Myanmar.html?nn=8904412
- ⁹ Information on the German enforcement case study has been sourced from the Deutscher Bundestag Drucksache 19/5681 Antwort der Bundesregierung auf die Kleine Anfrage der Abgeordneten Steffi Lemke, Uwe Kekeritz, Renate Künast, weiterer Abgeordneter und der Fraktion BÜNDNIS 90/DIE GRÜNEN – Drucksache 19/4984 – Holzimporte aus Myanmar from November 9 2018. Available at <https://kleineanfragen.de/bundestag/19/5681>
- ¹⁰ Netherlands Food and Consumer Products Safety Authority, 04-12-2019. Available at “Investigation into tainted timber” available <https://english.nvwa.nl/news/news/2019/12/04/investigation-into-tainted-timber>