

MYANMAR'S TIMBER TRADE ONE YEAR SINCE THE COUP: THE IMPACT OF INTERNATIONAL SANCTIONS



About Forest Trends

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Acronyms

ASEAN	Association of Southeast Asian Nations	MONREC	Ministry of Natural Resources and Environmental Conservation
CDM	Civil Disobedience Movement	MRT	Myanmar Rice Trading Co., Ltd
EC	European Commission	MTE	Myanma Timber Enterprise
EO	Executive Order	NLD	National League for Democracy
EU	European Union	OFAC	US Department of the Treasury's Office of Foreign Assets Control
EUR	Euros	PRC	People's Republic of China
EUTR	European Union Timber Regulation	PTG	Plantation Grade (a description fo the origin of the logs, in contrast to logs from natural forests)
FD	Forestry Department	SAC	State Administration Council
FPJVC	Forest Products Joint Venture Corporation Ltd.	SG	Sawing Grade (a measure of log quality)
FY	Fiscal Year	SFM	Sustainable Forest Management
ICC	International Criminal Court	SOE	State-Owned Enterprise
IDP	Internally displaced people	spp.	Species
ITTO	The International Timber Trade Organization	UGoM	Union Government of Myanmar
IWPA	International Wood Products Association	UK	United Kingdom
MEC	Myanmar Economic Corporation	UKTR	UK Timber Regulation
MEHL	Myanmar Economic Holdings	UN	United Nations
MEITI	Myanmar Extractive Industries Transparency Initiative	US	United States
MFTB	Myanmar Foreign Trade Bank	US\$	US Dollars
MICB	Myanmar Investment and Commercial Bank		
MoPF	Ministry of Planning and Finance		



Executive Summary

On February 1st, 2021, the military launched a coup d'état against the newly re-elected government of Myanmar. Over the past year, the military junta has been accused of massive human rights violations, arresting more than 12,000 people, killing more than 1,500, and instigating a growing humanitarian crisis that has seen more than 400,000 internally displaced people (IDPs) (AAPP Burma 2022, UN News 2022). Compounding the impact of COVID-19, the military's violence has destroyed Myanmar's economy. Furthermore, the majority of society has engaged in a predominately non-violent Civil Disobedience Movement (CDM), including a boycott of companies with military links.

Deprived of revenue, the junta has increasingly relied on revenue from natural resources to support their operations and their ongoing campaign to retain power, which has included escalation of armed conflict and attacks on civilians. While much international focus has been given to the revenues generated by the oil, gas, and mining sectors, the forest sector has in the past been an important source of revenue for Myanmar's governments and entities associated with the military. This report reviews the timber sector's role in the revenue now being generated for the current military regime.¹

FINDINGS & RECOMMENDATIONS

■ **In response to the coup, the US, EU, UK, Switzerland, and Canada passed sanctions on entities involved in the Myanmar forestry sector that effectively constitute a ban on all trade in timber products.**

- All five markets do not prohibit the trade in timber directly. Rather, they have sanctioned the Myanmar Timber Enterprise (MTE), the State-Owned Enterprise (SOE) that monopolizes the trade of timber from Myanmar. Because the MTE is the only source of legal timber in Myanmar, sanctions on the MTE are a de facto ban on any trade in Myanmar timber.
- All have also sanctioned military-linked conglomerates, including the Myanmar Economic Corporation (MEC) and its subsidiaries, thus prohibiting the use of the MEC-owned port of Alhone (Yangon). The EU and Switzerland have also sanctioned the Forest Products Joint Venture Corporation Ltd. (FPJVC), which is majority government owned.
- The UK and Canadian sanctions regimes also require businesses operating in the UK or Canada (regardless of the business' own nationality) to conduct due diligence to ensure that they are not violating sanctions.

■ **Sanctioning the Myanmar Foreign Trade Bank (MFTB) would significantly reduce the junta's access to foreign currency,** given that all payments to the MTE for export-grade timber are made through the MFTB. To date, only Canada has sanctioned the MFTB.

¹ The Myanmar military (Tatmadaw) and current junta are notoriously non-transparent in exactly how revenues are spent. Therefore, it is impossible to definitively state the proportion of timber revenues that flow directly to the junta to finance day-to-day operations, armed conflict, or specific instances of violence against civilians.



- The Independent Economists for Myanmar (2021) calculated that freezing deposits linked to the MFTB and Myanmar Investment and Commercial Bank (MICB) “would cut off roughly 2 billion US\$ dollars (US\$) per year in financing for the military.”
- **Regardless, given that all payments to the MTE are made in US dollars, any such payments are a violation of US sanctions, whether from within and outside of the US. There is precedent for penalizing non-US entities that process transactions in US\$.**
- **Importers of timber from Myanmar may also be committing the international war crime of pillage,** defined as the trade in stolen property, including natural resources, in the context of armed conflict. Pillage has universal jurisdiction and no statute of limitations.
- **Between May 2021 and February 2022, the MTE has reportedly conducted five auctions of teak, which generated at least US\$8.1 million in revenue for the junta.** None of the teak was auctioned as export grade. Unconfirmed media reports indicate significantly more (at least 10 times) in auction revenues.
- **Since the coup, importing countries report at least US\$190 million in trade of forest products from Myanmar— two orders of magnitude more than auctioned.**
 - **An ever-shrinking number of US and EU companies appear willing to take the risk of importing timber from Myanmar, but imports continue, nonetheless. Imports of US\$37 million reportedly entered markets with sanctions in place between February and November 2021.**
 - ◆ EU Member States report US\$22 million in timber imports from Myanmar, 60 percent of which flowed directly into Italy. During the four months after the coup, EIA reported that at least 27 companies in Italy continued importing timber from Myanmar (EIA 2021c).
 - ◆ US imports for 2021 have reportedly surpassed those of 2020, but there has been a 66 percent reduction in the number of importers since sanctions were announced. Nearly all timber flowing into the US was designated as teak, apparently mostly for the luxury yacht market.
 - ◆ There is evidence of continuing imports into the other three sanctioned markets (UK, Switzerland, and Canada), albeit on a much smaller scale.
- **China and India, the largest importers of Myanmar forest products, have not placed sanctions on Myanmar.** India reports a decrease in trade since the coup, and while charcoal imports have dropped, China otherwise reports an increase in imports.

The revenue figures noted above will likely increase once all importers have fully reported 2021 trade data.

This report also describes the junta’s opportunities to further increase revenue should they reverse anti-corruption reforms introduced by the former government and revert to the ways the last military-led junta used the sector to extract wealth. To avoid this and restrict funding to the junta, there is clearly a need to enforce existing sanctions regimes, if not expand them further.



Introduction

In February 2021, the Myanmar military (known as the Tatmadaw) overthrew the newly re-elected Union Government of Myanmar (UGoM), led by the National League for Democracy (NLD), in a coup d'état. Since then, to finance their regime, the military junta appears to rely largely on revenue from the exploitation of natural resources (IEM 2021), including timber. Indeed, the Ministry of Natural Resources and Environmental Conservation (MONREC 2021) confirms that the junta's policy is to accelerate the timber trade to achieve revenue targets.

As the US's "Business Advisory for Burma" (2022) states, the forest sector "should be wary of the associated illicit finance risks as well as reputational and legal risks of conducting business and utilizing supply chains under military control in Burma...The specific entities and sectors of greatest concern within Burma include: State-owned enterprises...[These] SOEs not only generate revenue for a military regime that is responsible for lethal attacks against the people of Burma, but many of them also are subject to allegations of corruption, child and forced labor, surveillance, and other human and labor rights abuses...In particular, teak, rubies and jade have been identified as goods made in Burma with forced labor and child labor; each of these goods are imported into the United States; and each has significant SOE involvement."

Consequently, several countries and the European Union (EU) have imposed punitive sanctions on those responsible for the coup, including preventing access to revenue from the forestry sector. Notably however, Myanmar's two major timber-trading partners, India and China, have taken no such measures.

This report outlines the existing sanctions relevant to Myanmar's forestry sector (Part 1). This should assist operators in compliance to avoid criminal liability, including imprisonment. Despite the lack of information reported by the UGoM, the junta, as well as the countries that have installed sanctions on Myanmar, the report examines evidence of compliance, using trade data reported by importing countries where available (Part 2). Based on these data, it appears that operators in markets with existing sanctions continued to import timber from Myanmar after sanctions came into effect. The report further examines the implications of failing to implement sanctions, noting that recent anti-corruption reforms put in place by the former UGoM likely stemmed losses of more than US\$1 billion per year and that their reversal could yield major sources of revenue for the junta (Part 3).^{2,3}

² Note: all dollars reported in this briefing refer to US dollars (US\$). No values were adjusted for inflation. Where reports were initially in Myanmar kyat, values have been converted to US\$ at the relevant exchange rate.

³ As sanctions regimes change frequently, Forest Trends does not represent or warrant the accuracy, suitability, or content of this publication. The report contains the *best known* and *publicly available* information current when the publication was prepared. The report is not intended to provide or constitute legal advice, nor does it intend to determine whether any specific shipments are in violation of sanctions (or any other legal regime). The reader is strongly advised to seek counsel from a licensed attorney in their jurisdiction should they need clarification on any sanctions regime or compliance thereof.



PART 1

International response to the coup: sanctions and possible violations

The international community was swift to condemn the coup (Box 1), but only the United States (US), the United Kingdom (UK), the European Union (EU), Switzerland, and Canada have passed sanctions on entities involved in the Myanmar forestry sector (Table 1). Notable is the omission of members of the region's major political bloc, the Association of Southeast Asian Nations (ASEAN), despite their rhetoric condemning the coup. The bloc, as well as the other major importers of Myanmar timber, China and India, largely continue to follow a non-interference policy.⁴ The language of the sanctions regimes varies but their broad intentions are similar, meant to:

- Limit support to the junta;
- Promote the peace, stability, and security of Myanmar;
- Promote respect for democracy, the rule of law, and good governance, particularly promoting the successful completion of Myanmar's transition to democracy;
- Discourage actions, policies, or activities that repress the civilian population;
- Promote compliance with international human rights law and respect for human rights; and
- In the case of financial sanctions, to freeze the junta's ability to access revenue.

Penalties for violating sanctions are meant to be effective, proportionate, and dissuasive. They include both civil (fines and forfeiture) and criminal penalties (including imprisonment).

Timber sanctions

This section describes the timber sanctions regimes and their coverage, while Appendix A reviews each of the five sanctions regimes in detail.

Notably, the five sanctions aimed at the forestry sector that have been imposed by the US, EU, UK, Canada, and Switzerland are all similar (Table 2). While they do not prohibit direct trade in timber, all have sanctioned the Myanmar Timber Enterprise (MTE), the State-Owned Enterprise that monopolizes the trade of timber in Myanmar, and the military-linked conglomerates Myanmar Economic Holdings (MEHL) and Myanmar Economic Corporation (MEC).

⁴ In April 2021, ASEAN issued a five-point consensus calling for an immediate cessation to violence, access to humanitarian aid, and for mediated dialogue between all the parties. In September, the UN blocked the junta's State Administration Council (SAC) from representing Myanmar at the General Assembly (Lynch et al. 2021). Likewise, in October, ASEAN refused to seat the SAC at their regional meeting (Reuters 2021a), and at the recent UN Climate Change Conference in Glasgow, a five-person delegation from the SAC was barred from representing Myanmar (Radio Free Asia 2021). While the bloc appears divided on how to engage the SAC going forward (with Cambodia, its current chair, indicating more willingness to engage), ultimately a non-political representative will attend the next ministerial meeting in February 2022 (Reuters 2022).



Table 1. Top 20 destinations for Myanmar timber by value, 2020

Country	2017 MoPF data (Myanmar's reported exports)		2020 Comtrade data (Reported imports)	Sanctions related to timber
	Rank	% of exports	% of exports	
India	1	37%	22%	
China	2	13%	33%	
Thailand	3	11%	7%	
Malaysia	4	7%	<1%	
Singapore	5	5%	2%	
Italy	6	4%	11%	✓ (EU)
Japan	7	2%	2%	†
Germany	8	2%	3%	✓ (EU)
Belgium	9	1%	<1%	✓ (EU)
Netherlands	10	1%	n/a	✓ (EU)
US	11	1%	6%	✓
Pakistan	12	1%	-	
Switzerland	13	<1%	<1%	✓
South Korea	14	<1%	<1%	†
Sweden	15	<1%	1.6%	✓ (EU)
Canada	16	<1%	<1%	
France	17	<1%	<1%	✓ (EU)
Sri Lanka	18	<1%	<1%	
United Kingdom	19	<1%	<1%	✓
Mauritius	20	<1%	<1%	

Source: Myanmar Ministry of Planning & Finance (MoPF) for 2017^{5,6}, and UN Comtrade 2022 for reporting countries' imports from Myanmar for 2020.⁷

† While not sanctions, Japan has halted all new development assistance, and South Korea has suspended arms sales and “defense exchanges” with Myanmar.

Together, these sanctions effectively constitute a ban on all trade in timber products from Myanmar. Because all legal trade begins with the MTE (Box 2)⁸, sanctions on the MTE are a *de facto* ban on any trade in timber from Myanmar. In addition, exporters and shipping companies may not use the MEC-owned port of Ahlone, in Yangon (MEC 2021).

⁵ This represents the most recent data available from the Myanmar MoPF (2019; Table 13.06 therein).

⁶ While official data, caution is warranted as UGoM reporting should be considered, at best, incomplete (see Forest Trends 2021, which reviews forestry data as reported by UGoM and other countries). For example, Figure 9 of this paper demonstrates the under-reporting of Myanmar exports by the UGoM as compared to reporting by the Customs agencies of China and India on imports from Myanmar.

⁷ Source: Comtrade (2022) Harmonized Tariff Schedule Code HS44; among the top 20 countries according to Comtrade, those not included in the MoPF's top 20 list include: Greece (1.4 percent of imports from Myanmar in 2020), Turkey (1.3 percent), Poland (1.1 percent), United Arab Emirates (<1 percent), Croatia (<1 percent), Australia (<1 percent), and Viet Nam (<1 percent). An additional 3 percent was imported by “Other Asia, N.E.S.” Note: at the time of publication, not all countries had reported to Comtrade for 2020. While this list may be subject to change, the only non-reporting country among the top 20 markets according to MoPF was Pakistan.

⁸ In the past, the MTE paid independent contractors in kind (i.e., in logs rather than in cash) as compensation for any work done, like harvesting or transportation. However, the MTE reportedly discontinued this practice in 2016 (Forest Trends 2021).


BOX 1
UN urges companies to avoid complicity in Myanmar

The international community was swift to condemn the Tatmadaw coup and highlight the need for companies to avoid complicity. In an official statement, Surya Deva, Vice-Chair of the UN Working Group on Business and Human Rights, noted that: “as military leaders are intensifying their campaign of repression, companies must act in line with the Guiding Principles on Business and Human Rights to avoid contributing to human rights violations, or becoming complicit in crimes if they continue to operate in the country.” And because “the risk of gross human rights violations has greatly increased in Myanmar, action by States and human rights due diligence by business, and investors, should be rapidly and proportionately heightened” (UN News 2021a). The UN Special Rapporteur on Myanmar, Tom Andrews, advocated that “[b]usinesses, both individually and collectively, should exert the maximum leverage on the military in Myanmar to halt what the High Commissioner for Human Rights has said may amount to crimes against humanity” (UN News 2021a). The UN Special Envoy, Christine Schraner Burgener, reinforced this, urging that “widespread, systemic attacks on civilians in Myanmar orchestrated by leaders of the military coup” demand a “firm, unified and resolute international response” (UN News 2021b).

However, the UN Security Council has yet to sanction Myanmar, despite mounting pressure from civil society to hold the SAC accountable.

Table 2. Sanctions regimes on the Myanmar forestry sector and date MTE sanction went into effect

Sanctions on:	Sanctions Regimes				
	US	Canada	EU	UK	Switzerland
Individuals responsible for the coup	✓	✓	✓	✓	✓
MTE	✓ April 21	✓ May 14	✓ June 1	✓ June 1	✓ July 1
Forest Products Joint Venture Corporation (FPJVC)			✓		✓
Myanmar Foreign Trade Bank (MFTB)		✓ [†]			
Military-backed conglomerates:					
• MEHL	✓	✓ [†]	✓	✓	✓
• MEC (including port of Ahlone)	✓	✓	✓	✓	✓
Compliance required by individuals and companies	All (impermissible for any entity to use US\$ to pay sanctioned entities)	Nationals only	Nationals only	Appears broadly relevant	As a general rule, apply to natural and legal persons in Switzerland
Due diligence explicitly required		✓		✓	

[†] Canada (2007) refers to MFTB as the Myanma FTB and MEHL as the Union of Myanmar Economic Holding Ltd. but then later as the Union of Burma Economic Holding Ltd. (Canada 2012; Canada 2022).



BOX 2

The role of the Myanmar Timber Enterprise (MTE)

Under the 1989 SOE law, the MTE “has the sole right to carry out...economic enterprises related to [the] Extraction of teak and sale of the same in the country and abroad” (Myanmar 1989). Within the MONREC, however, MTE exercises authority over the entire timber sector. Furthermore, the “MTE is solely responsible for timber sales either at agencies (ex-site) or in Yangon” (MEITI 2020b, pp. 55-68). Therefore, the MTE is the only initial source of timber in the legal supply chain in Myanmar.

The MTE harvests all timber itself or through sub-contractors, paying the UGoM a small royalty for the logs (e.g., <0.5% of market value for export grade teak; Forest Trends 2021). In the past, the MTE then sold the majority of logs directly to cronies and other favored buyers, leading to massive losses in revenue for the state (Appendix D). Domestic sales are conducted in Myanmar kyat and all export sales are conducted in US\$.

As the US Treasury (2021a) notes: “[t]hrough its regulatory role, MTE is a key generator of government revenue.”

In addition to the MTE, the EU and Switzerland have sanctioned payments to the Forest Products Joint Venture Corporation (FPJVC), in which the government has controlling interest, mainly through the MTE’s 45 percent ownership.⁹ Only Canada has sanctioned the Myanmar Forest Trade Bank (MFTB).

Unlike the Swiss, EU, and Canadian sanctions regimes, which explicitly state that they apply to national entities (or foreign companies and individuals operating in their countries), the UK sanctions do not specify to whom they apply. US sanctions regimes are also broadly applicable. Enforcement by the US Department of the Treasury’s Office of Foreign Assets Control (OFAC) has included cases against non-US companies making payments to sanctioned entities when those payments have been made in US\$ (Box 3).

Role of the Myanmar Foreign Trade Bank (MFTB)

The MFTB is a state-owned bank that provides trade finance and foreign exchange-related banking to the Myanmar government and its state enterprises, as well as managing Myanmar’s official foreign currency reserves. Notably, it holds no US\$-denominated accounts in Myanmar; it relies on its own US\$ accounts in other banks abroad. The Independent Economists for Myanmar calculated that freezing deposits linked to the MFTB and Myanmar Investment and Commercial Bank (MICB) “would cut off roughly US\$2 billion per year in financing for the military” (IEM 2021).

Given that the MTE conducts its auctions of export-grade teak in US\$ and all “forestry revenue payments” made in US\$ are made through the MFTB (MEITI 2020b), all such payments, whether by Americans or not, would be an impermissible violation of US sanctions and liable to prosecution. For example, Global Trade Review notes that the “MTE advises potential importers of its timber on its website that its preferred payment method is a letter of credit provided by Singaporean banks DBS, OCBC and UOB” (Atkins 2022). Thus, to comply with US sanctions, banks such as these worldwide should freeze the MTE’s US\$ bank accounts with the MFTB. Given that the MFTB has no US\$ accounts in Myanmar itself, but holds US\$ accounts in other foreign banks, these other banks are obliged to ensure that they are not violating US sanctions.

⁹ MTE owns 45 percent and MONREC’s Forestry Department (FD) owns a further 10 percent of FPJVC, with the remainder held privately (MEITI 2019a).



BOX 3

Precedent for a foreign company operating outside the US to be prosecuted by OFAC for US dollar payments to sanctioned entities

In 2017, OFAC found that the Singapore-based CSE TransTel Pte. Ltd made at least 104 transfers (worth over US\$11 million) from its US\$-denominated, Singapore-based bank accounts to Iranian businesses, thus violating US sanctions on Iran.¹⁰ Under their settlement with OFAC, TransTel agreed to pay a US\$12 million penalty to avoid criminal and civil liability.

By penalizing a non-US company for violating US sanctions this “highlights how the making of US dollar payments—which typically route through the US financial system—can serve as a US nexus that alone causes otherwise permitted conduct to fall within OFAC’s jurisdiction” (Karp et al. 2017). OFAC has also brought cases on non-American banks that simply processed such US\$ transactions involving sanctioned countries. In addition to OFAC’s ability to impose civil penalties, the Department of Justice can also pursue criminal charges, including imprisonment of individuals, for willful violations of US sanctions.¹¹

Due diligence requirements

As part of their guidance for companies to comply with sanctions, the UK notes that “[b]usinesses are ultimately responsible for conducting due diligence regarding their engagement and operations within Myanmar and should seek legal advice to ensure compliance” (HM Treasury 2021). Canada’s sanctions regime also explicitly requires that companies practice due diligence. As with the European Union Timber Regulation (EUTR), as well as the UK Timber Regulation (UKTR), a failure to demonstrate credible due diligence systems alone is punishable, regardless of whether it is proved that the operator in question otherwise violated the sanctions regime.

The UK sanctions guidance further notes that, in addition to sanctions, the UK Bribery Act applies to UK companies working overseas: “A company will have a full defense if it can show that despite a particular case of bribery it nevertheless had adequate procedures in place to prevent persons associated with it from bribing. Companies must therefore make sure that they have strong, up-to-date and effective anti-bribery policies and systems in place to prevent bribery by persons associated with them” (UK 2021b).

In summary, the five regimes with sanctions relevant to the forestry sector effectively constitute a ban on all trade with timber from Myanmar. Moreover, because the MTE conducts all auctions of export-grade timber in US\$, all trade—regardless of the nationality of entities involved—violates the US sanctions regime. Furthermore, all banks with MFTB accounts worldwide that facilitate these transactions are in violation of the US sanctions. Any of these violations are liable to penalties, including forfeiture, fines, and imprisonment.

¹⁰ Specifically, §1705(a) of the International Emergency Economic Powers Act and/or § 560.203 of the Iranian Transactions and Sanctions Regulations (Karp et al. 2017).

¹¹ For example, in “March 2016, the US Attorney’s Office for the Southern District of New York brought criminal charges against a Turkish and Iranian national, Reza Zarrab, along with a number of co-conspirators, for making U.S. dollar payments on behalf of Iranian entities through a network of companies in Turkey and the U.A.E.” (Weiss 2017).



Additional criminal liability associated with potential war crimes

Along with the national sanctions regimes, traders may be subjecting themselves to additional criminal liability and associated financial exposure if they are associated with or commit the international war crime of pillage. The trade in stolen property, including natural resources, in the context of armed conflict—known as pillage or plunder—has long been a recognized war crime. Many national laws, like the US War Crimes Act of 1996, also prohibit pillage.

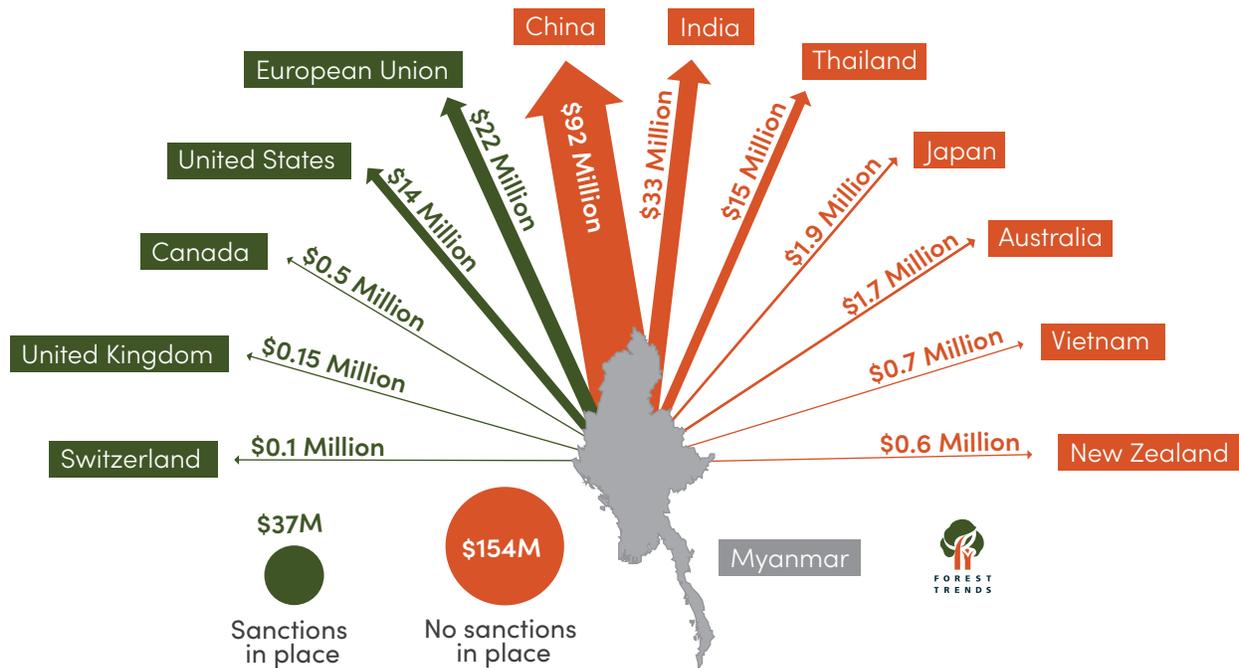
As a war crime, pillage is sufficiently grave that any state can assert criminal jurisdiction, regardless of where the pillage took place or the nationality of the perpetrator(s). Stewart (2010) argues that given the gravity of the crime, countries have an obligation to prosecute under this universal jurisdiction. And, as a war crime, there is no statute of limitations, leaving perpetrators of pillage at risk of prosecution for the rest of their lives (Stewart 2010). Appendix B reviews the war crime of pillage in further detail.

Compliance with sanctions on Myanmar affecting the forestry sector

No sanctions regimes have reported on compliance, nor have any stated when they will report.

However, there is evidence of continued trade since the coup. Countries report that imports of forest products from Myanmar continue to generate revenue for the junta valued at least US\$190 million between February and November 2021 (Figure 1).

Figure 1 | Imports of Myanmar timber since the February coup until November 2021, as reported by major destination markets



Source: UN Comtrade, General Department of Vietnam Customs, General Administration of Customs of the P.R.C., Customs Department of Thailand, 2022. Compiled and analyzed by Forest Trends.

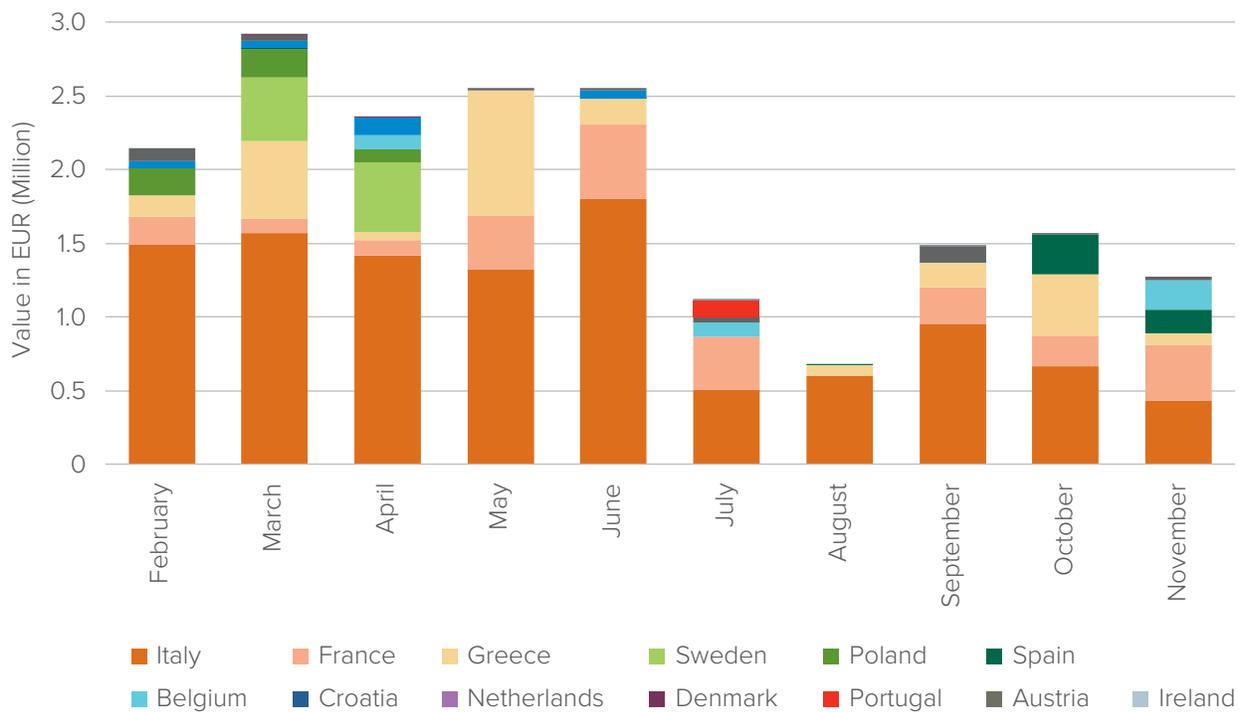


Trade with the EU

From February to November 2021, Italy imported nearly €11 million worth of timber products, comprising 60 percent of EU imports, according to Eurostat. Altogether, EU Member States reported over 3,240 metric tonnes in timber from Myanmar during this time period valued at nearly €19 million (US\$22 million).

Prior to the imposition of EU sanctions, two prominent importers stated they will continue to import teak from Myanmar, despite the coup (EIA 2021a).¹² It should be noted that since 2018, the EC has maintained a common position that no trade in Myanmar teak could meet the requirements of the European Union Timber Regulation (EUTR), especially legal acquisition. Thus, EU laws had already made imports of Myanmar teak a legal violation years before the coup (Forest Trends 2020).

Figure 2 | EU imports of Myanmar timber, by month, as reported by Member States (by value in Euros), February to November 2021



Source: Eurostat 2022. Compiled and analyzed by Forest Trends.

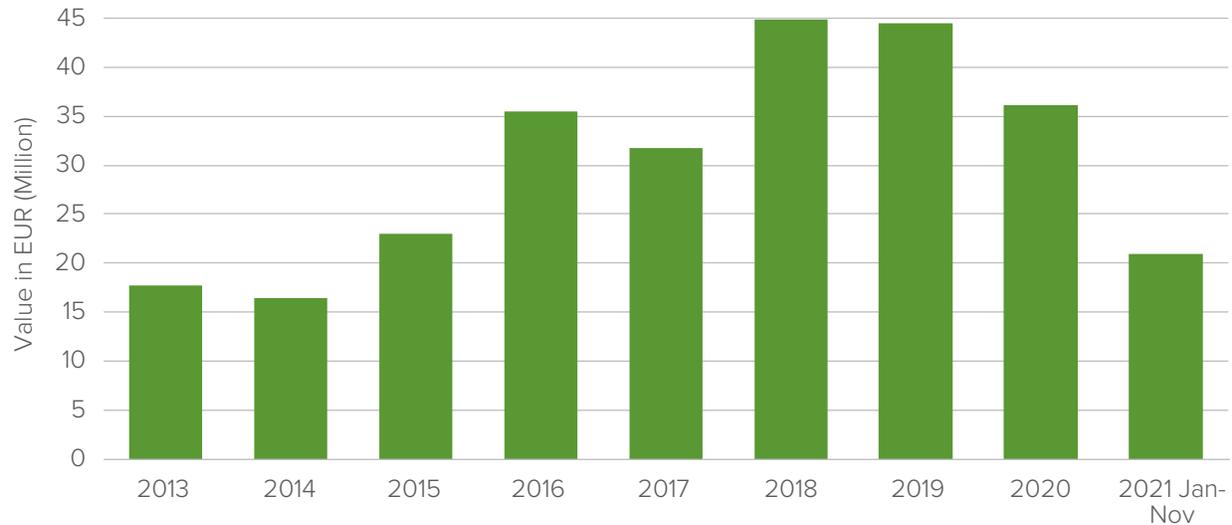
In June 2021, EIA reported that at least 27 companies in Italy have continued to import timber since the coup, much of it apparently intended for the luxury yacht market (EIA 2021c).¹³ Moreover, EIA found instances of what appears to be tax evasion through fraudulent pricing (i.e., under-reporting value at export as

¹² For example, a month before EU sanctions came into effect, GTH Italia released a statement: “[a]t present there is no sanction against MTE and no embargo on teak has been applied. It follows that the trade in teak can continue in compliance with the European regulation 995/2010 EUTR on ‘due diligence.’”

¹³ One of the companies, Win Enterprise, also participated in MTE’s May auction and is a subsidiary of FPJVC, which itself is 45 percent owned by MTE (see footnote 9).



Figure 3 | Total annual EU imports of Myanmar timber, 2013-2021



Source: Eurostat Comext 2022. Compiled and analyzed by Forest Trends. Note: 2021 is incomplete; chart reflects January to November data only.

compared to the declared value on import).¹⁴ Over the last decade, EU authorities reported US\$200 million more in timber imports from Myanmar than what Myanmar itself reported as exports; this under-reporting in trade likely resulted in the loss of at least US\$20 million in export taxes (Appendix D).

Trade with the US

The US reports that imports for 2021 surpassed those of 2020, even though the number of importing companies had been cut by two-thirds (Figure 4).¹⁵ Ninety-five percent of timber traded was classified as teak, and 95 percent was in sawnwood form. Two companies, East Teak Fine Hardwoods, Inc. and J. Gibson Mcllvain Company, continued to import after sanctions came into effect and together, they comprised two-thirds of all imports in 2021. On its website,¹⁶ J. Gibson Mcllvain Co., Inc. claims that they “comply with government regulations. The relationship between the U.S. and Myanmar is a confusing one, and it is imperative we stay on top of it to ensure we are importing lumber legally to protect our customers who buy from us.”

Justice for Myanmar (2022) reports that between February and November 2021, 82 shipments of Myanmar timber arrived in the US, claiming that importers “are purchasing timber from [25] private companies that are acting as brokers in Myanmar; they are evading sanctions by not buying directly from the MTE.” Justice for Myanmar wrote to five companies¹⁷ that had imported since the coup and only received a response from Wood Panel Products: “We ensure that whoever we purchase from directly in Myanmar are not associated with any of the Army Generals or their family’...[we] had not participated in any MTE timber

¹⁴ For example, the reported value of a shipment increased “from US\$67,169 on the Export Declaration filed in Yangon to US\$152,208 recorded on the SAD in Rijeka” (i.e., the import document when the shipment first entered Europe through Croatia). The income tax rate in Myanmar is 25 percent, while the rate in Singapore (the transit point) is 17 percent or lower, so fraudulently undervaluing exports would help evade Myanmar taxes.

¹⁵ Even outside US sanctions regimes, American operators have a strict liability to ensure they comply with the US Lacey Act (2008 amendments) which bans trade in any illegally sourced timber.

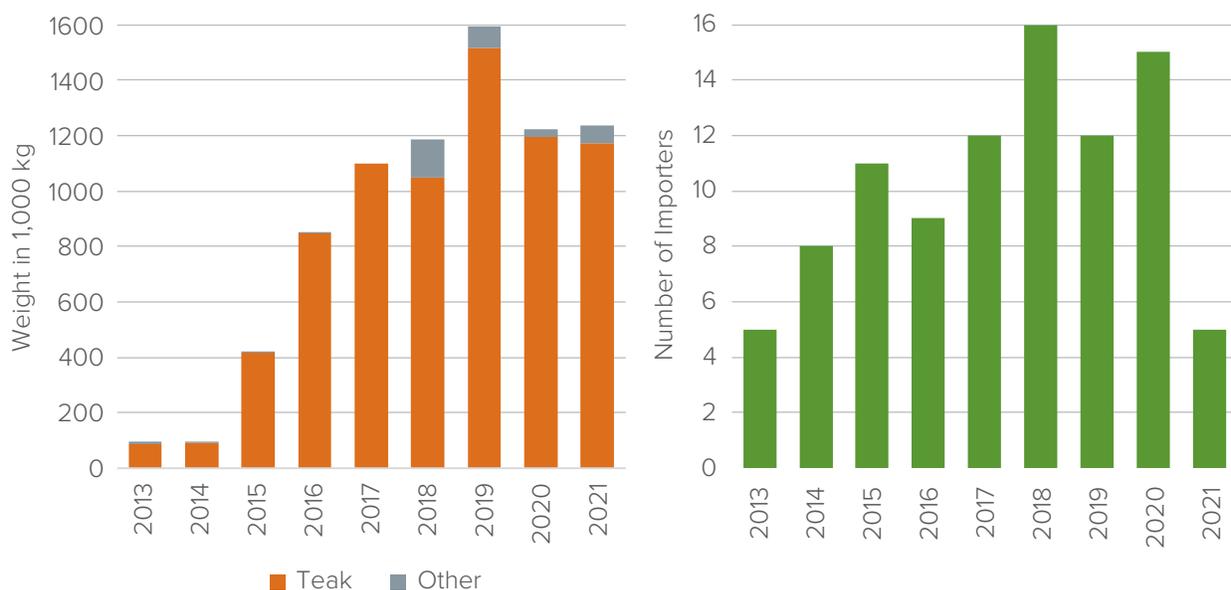
¹⁶ <https://www.mcllvain.com/teak/>

¹⁷ J. Gibson Mcllvain Co, Ltd; East Teak Fine Hardwoods Inc; Lumberbest; Kingsley Bate; and Wood Panel Products.



auctions this year’¹⁸ Since the US sanctions entered into force, all purchases are impermissible, regardless of the companies’ links to the junta, because all trade directly or indirectly benefits the MTE, given its central role in the sector.

Figure 4 | US imports of timber products from Myanmar, 2013-2021, by weight (kg) and timber species (left) and number of importers (right)



Source: Panjiva 2022, compiled and analyzed by Forest Trends.

Trade with other sanctioned markets

Despite sanctions, trade data still indicate imports of Myanmar timber into Canada (US\$410,000 from February to November), Switzerland (US\$130,000 from February to October), and the UK (US\$150,000 in March, June, July, August, October, and November).

In summary, a lack of information—due to poor reporting by Myanmar and no reporting by the MEITI—makes it difficult to identify sanctions violators. Nonetheless, customs agencies around the world continue to report imports from Myanmar, including into countries with sanction regimes, since the coup and even after the individual sanctions regimes came into effect.¹⁹

¹⁸ EIA (2021a) reported that Teak Decking Systems (US) released a statement in April 2021 (just prior to US sanctions on MTE) stating they would continue to buy Myanmar teak even though “[s]ome of our suppliers are saying, ‘Buy more teak now while you still can,’ and some of the world’s environmental groups are saying, ‘Stop buying teak – you are just funding the military.’”

¹⁹ According to monthly trade data from UN Comtrade for 2021, eleven countries reportedly imported more timber products (by value) in 2021 than 2020: Poland increased imports by US\$3.9 million, or 141 percent; both the US and New Zealand increased by US\$0.6 million (4 percent and 986 percent, respectively); Serbia and the Netherlands by US\$0.18 million (222 percent and 111 percent, respectively), and Switzerland by US\$54,000 (42 percent); the remainder all increased trade by less than US\$50,000 (Mexico, Iceland, Slovakia, Luxembourg, Israel). According to data from Eurostat for January through November 2021, Austria, Belgium, and France also imported more (by value) in 2021 than in 2020 (by EUR 1,530 [102 percent], EUR 20,619 [6 percent], and EUR 1,285,437 [84 percent], respectively).



PART 2

Revenue obtained by the junta from forestry since the coup

This section examines revenue obtained by the MTE, and thus available to the junta, since the coup. In particular, it outlines the possible impact of the timber-specific sanctions put into place by the US, EU, UK, Canada, and Switzerland.

The next section examines what additional revenue may be available if anti-corruption measures taken by prior Myanmar governments are reversed. A lack of information makes it difficult to know just how much the junta has gained from the forestry sector, but under previous military-led regimes, corruption led to massive losses each a year from the central budget of Myanmar. For example, an estimated US\$1 billion of revenue was kept by the MTE instead of flowing to the general treasury, and thus remained “off budget” and unavailable to the Union Government.

Timber sales since the coup: evidence from MTE auctions and media reporting

Since the coup, MONREC (2021) cites the junta’s policy as aimed at accelerating the timber trade to meet revenue targets, and that timber, especially teak, “must continue to play an important role in bringing in income to Myanmar”²⁰ (ITTO 2021c). The International Timber Trade Organization (ITTO) reports that the MTE began to auctioning teak in May 2021, and by February 2022, five auctions generated more than US\$8.1 million (2021b,c,d,e,f and further details in Appendix C).²¹

There are reports that the MTE conducted five additional auctions at the start of 2022, but the results have not been published on their website, and ITTO has not covered these auctions.²² While the MTE has not reported the results of any auctions since the coup (the most recent reporting is from January 2021), their site has two recent announcements for auctions:

- 1 To be held on January 28, 2022 in Yangon for 706 tons of teak (SG 4-7) and 240 m³ of teak conversions (No1/2/3/8/10 Saw Mill), as well as three auctions to be held outside Yangon for approximately 4,300 of other hardwood species (predominantly kanyin) (MTE 2022a); and
- 2 To be held in Yangon on February 25, 2022 for 415 tons of teak (SG 4-7), 303 tons of plantation teak (PTG 1-3), and 226 m³ of teak conversions (No1/2/3/8/10 Saw mill) (MTE 2022b).

We have been unable to confirm the results from any of these auctions.

²⁰ “In the case of logging, we urge you to follow the rules and regulations that do not harm the environment and to accelerate to achieve the target revenue” (MONREC 2021).

²¹ 11 companies reportedly bought timber from MTE in the May auction (EIA 2021c):

- Singapore-based: Green Links Pte Ltd and MTK Timber Pte Ltd;
- Joint Singapore/Myanmar-based: Yadi Shin Thant Co Ltd;
- Myanmar-based: Maung Maung Thein Co Ltd; Nagani Group Co Ltd; National Wood Industry Co Ltd; Thein Than Htun Manufacturing Co Ltd.; United Wood Industries Co. Ltd; Win Enterprise Co Ltd;
- Unknown nationality: United Industrial Co and Katpana Timber Ltd.

It is unknown whether these companies sold to other buyers.

²² The 2022 auction dates were reportedly January 19/20, January 25, February 17, February 23, and February 25.



Media report that significantly more timber has been auctioned since 2021—at least an order of magnitude (by volume) more timber than that reported by ITTO as auctioned (Appendix C). However, it has not been possible to confirm these reports.

As these auctions were all held after the US sanctions on the MTE came into effect, anyone involved in the auctions may be subject to prosecution by the US government. This is because the auctions were held in US\$, thus creating a US-nexus, regardless of the nationality of the parties involved.

No other timber sales have been reported by the junta, but if the MTE made deals directly with cronies or other preferred buyers—referred to as "private sales"—and if these sales were conducted in US\$, then these private sales would also be a violation of US sanctions. In general, however, the dearth in reporting and lack of a standard means of verification serves to emphasize the junta's purposeful lack of transparency.

Export earnings since the coup

Although ITTO reports US\$8.1 million in sales since the coup, importing countries report at least US\$190 million in timber imports from Myanmar (Figure 1). The source of this exported material is not clear as none of the timber auctioned by the MTE since the coup has reportedly been of export quality (all were Sawing Grade 4 or worse [Appendix C, Table 4]). The LA Times (Pierson 2022) claims the teak auctioned since the coup were “from a stockpile of 200,000 tons [c.360,000 m³] of illegally harvested timber seized by the former civilian government.”²³

While most countries reported decreased imports since the coup (and since COVID-19 restrictions), the value of China's imports reportedly increased (by 35 percent) in 2021 (Figure 5). The officially reported volume, however, dropped by 27 percent, mainly due to a dramatic decrease in imports of low-value charcoal (Figure 6), almost of all of which had gone to Yunnan Province.²⁴ Excluding charcoal, both the volume and value of forest products imported increased year-on-year (by 68 percent and 84 percent, respectively).

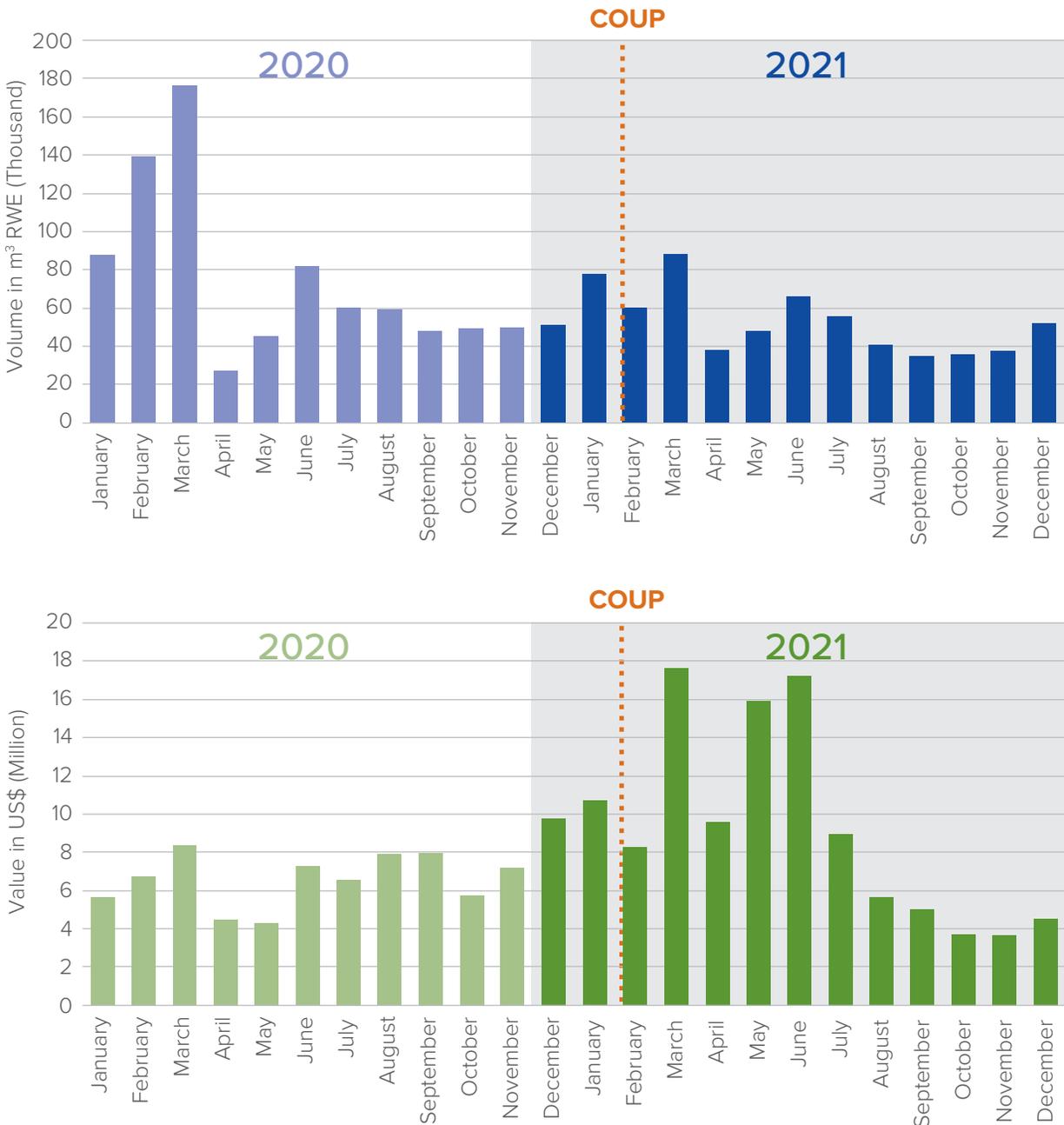
Unlike China, trade with India has reportedly declined since the coup, a continuation of a historical decline in reported trade (Figure 7). Nonetheless, about 200 companies reportedly continue to import wood from Myanmar. At least two of these purchased directly from MTE since the coup, according to bill of lading data compiled by Panjiva. Unlike other importers, the trade with India is not dominated by teak, but by *kanyin* (*Dipterocarpus* spp.), which makes up 80 percent of imports.

²³ On March 31, 2018 (the last reporting by the Myanmar Extractive Industries Transparency Initiative [2020b]), the MTE reportedly had 57,780 hoppus tons of teak stockpiled. The UGoM reported “over 11,250 tons, mostly teak, were seized in Kayah State in eastern Myanmar” in 2019 and 200 tons from Mandalay Region in 2020 (Forest Trends 2021).

²⁴ Two other categories have reportedly seen dramatic shifts in trade to China. In the months following the coup, flooring imports from Myanmar reportedly more than doubled (2.7 times), reaching 70 percent of value of all trade, but by December 2021 they were virtually unreported, whereas veneer had reportedly increased to 80 percent of the value of all trade. The species used in both these products is unknown, reported as “unspecified tropical wood.”



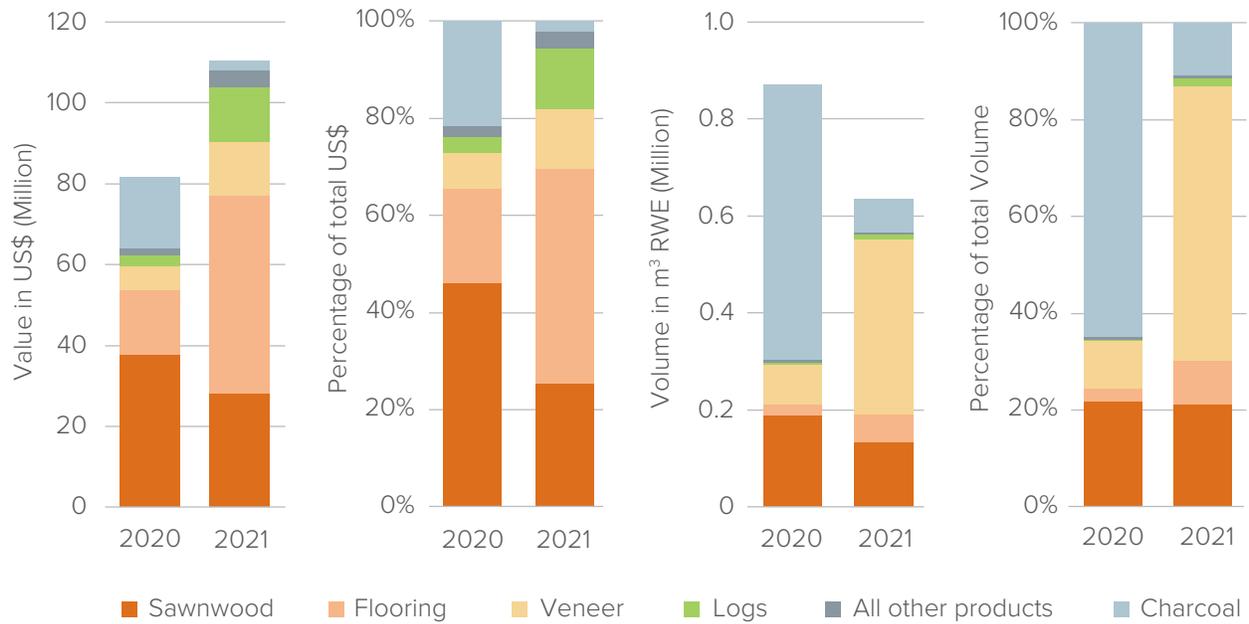
Figure 5 | Timber imports from Myanmar reported by China 2020-2021, by volume (m³ RWE; top) and value (US\$; bottom)



Source: General Administration of Customs of the P.R.C., compiled by Forest Trends.

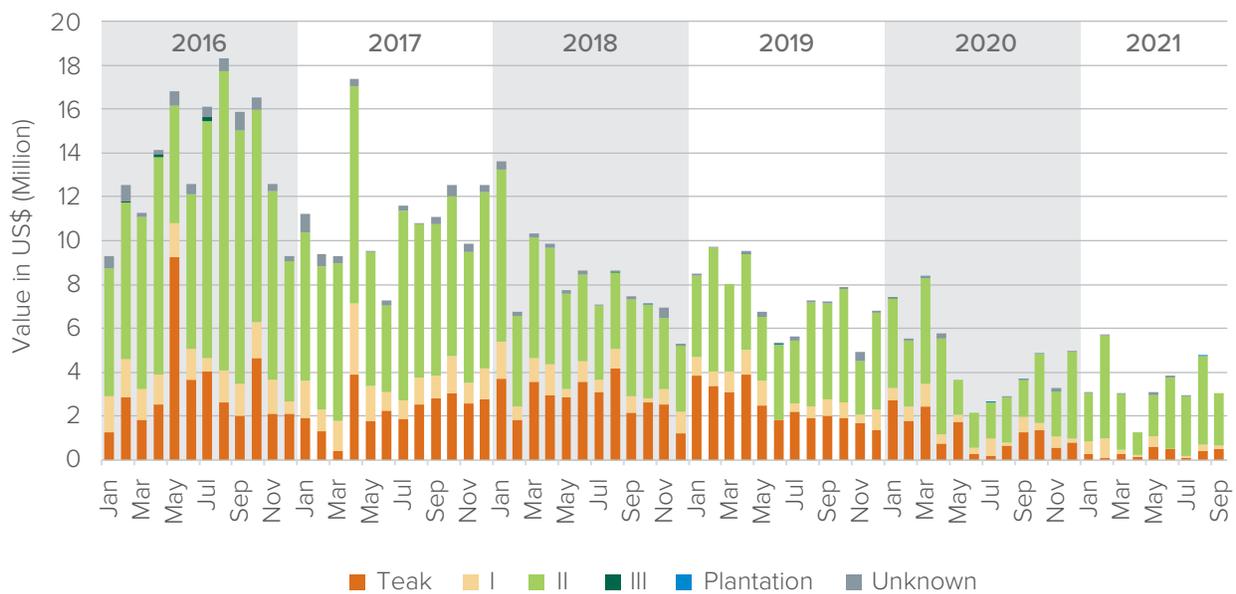


Figure 6 | Timber imports from Myanmar into China by product, 2020 and 2021



Source: General Administration of Customs of the P.R.C., compiled by Forest Trends.

Figure 7 | Imports of timber from Myanmar to India by month, 2016-September 2021, and by species-groupings, including teak; Group I [valuable hardwood spp]; Group II [lesser-valued hardwood spp, including kanyin]; plantation-grown timber; and unknown spp





PART 3

Opportunities for rent seeking in the Myanmar forestry sector – the need for sanctions

The previous section examined revenue generated by forestry since the coup, and this section examines possible opportunities for the junta to extract further revenue from the sector.

Historically, rent-seeking in the forestry sector was linked to corruption, fraud, misappropriation, and other illicit activities that began during previous military-led regimes. Forest Trends analyses show that losses due to this rent-seeking likely exceeded US\$3.5 billion in the four years between fiscal years (FY) 2014-2017 (see Appendix D for methodology and details). By 2021, the NLD-led UGoM had addressed many of these factors, bringing much of the revenue (especially that earned by MTE) into the general treasury. Figure 8, below, provides a summary of the former UGoM's reforms.

A recent report by the US Institute of Peace's Myanmar Study Group, entitled *Anatomy of the Military Coup*, notes that "[f]rom the outset of the coup regime, it was clear that Min Aung Hlaing intended to wipe out every achievement of elected government over the previous ten years, whether initiated by the NLD or by the military-dominated Thein Sein administration... Many observers believe that along with political motivations, economic interests were a key driver for the coup. Senior officers were concerned...that the military was about to be pushed more rapidly out of lucrative economic activity. The evidence...is that coup leaders immediately moved to jail all the senior economic officials and advisers and to reverse the full gamut of economic reforms instituted over the previous ten years" (USIP 2022). Should the junta reverse the reforms made in the forestry sector, massive amounts of revenue could once again flow "off budget" from the sector.

Smuggling

One of the clearest forms of loss of government revenue is from smuggling, the illegal movement of goods across borders without paying any relevant taxes. Due to its clandestine nature, however, measuring the amount of smuggling that occurs and thus revenue loss is complicated. One—albeit partial—measure is comparing the volumes reported by importers of forest products from Myanmar to the volumes reported by Myanmar itself as exports (calculations known as mirror-statistics).

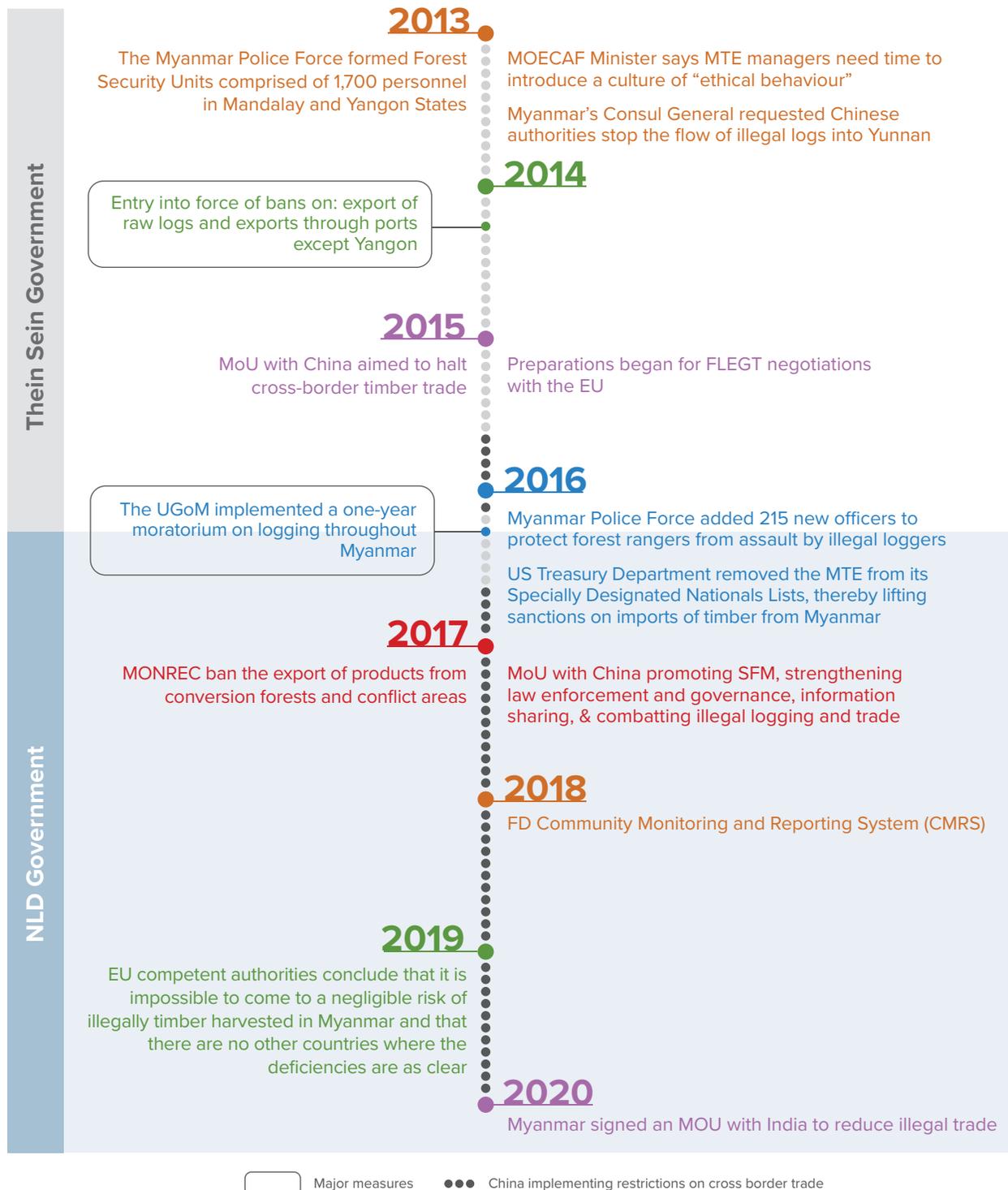
Since 2014, when Myanmar required all exports to go through the port of Yangon, the top five importers²⁵ reported US\$2 billion more in trade than Myanmar itself reported as exports (Appendix D.1).²⁶ Assuming no taxes were collected on these unreported, and thus illegal, exports, the associated losses in export taxes likely averaged at least US\$28 million each year. This loss does not include the losses in other taxes and fees. In reality, Myanmar is likely losing hundreds of millions of dollars annually to timber smuggling, especially if the trees were not purchased from MTE and no royalties (known in forestry as stumpage) were paid.

²⁵ India, China, the EU (including the UK up until 2021), Thailand, and the US.

²⁶ This difference in reporting suggesting at best misreporting (consistent with fraudulent mis-pricing by traders to avoid export taxes in Myanmar) and at worst outright smuggling.



Figure 8 | Major reforms undertaken by the Government of Myanmar in the forestry sector since



Source: Forest Trends 2021.



Below-market private sales

Similarly, as outlined in Appendix D.2, Myanmar experienced annual losses of hundreds of millions, if not billions, in US\$ when, rather than auctioning logs, the MTE sold them at below-market prices to cronies and other favored buyers. Many of these buyers have direct links to the military (Box 4).

BOX 4

Government loss is private gain

In the past, the MTE has made direct sales of timber to companies with links to the military. For example, the MTE sold timber to the Myanmar Rice Trading Co., Ltd. (MRT), which is part of the IGE Group²⁷ that is regarded by the UN's Independent International Fact-Finding Mission on Myanmar "as among the largest crony companies in Myanmar... IGE Group...donated Ks 50 million (US\$ 35,000) to the Tatmadaw on 1 September 2017 in connection with the 'clearance operations' that began on 25 August 2017 in northern Rakhine" (UN-IIFFMM 2019).

MRT is virtually wholly owned (99.5 percent) by a single individual, Ne Aung, who "is reportedly the brother of Rear Admiral Moe Aung, the Chief of Staff of the Myanmar Navy and director of [the military owned] MEHL, MEC²⁸ Ltd and some of their subsidiaries" (UN-IIFFMM 2019). Another director of MRT, Thant Zin, is also reportedly a director of the military-linked conglomerate MEC (EIA 2021c).

While MRT is a major player in Myanmar forestry, it has reportedly paid almost nothing to the government in taxes. According to the MEITI, MRT was one of only three companies (Table 3) that produced more than 10,000 hoppus tons (or more than 18,000 m³) of timber in FY 2014 and in 2015, but paid the UGoM less than 100 million Myanmar kyat each year (or about US\$80,000 in 2015) (MEITI 2019a,b).

Table 3. Companies that reportedly harvested more than 10,000 hoppus tons of timber and paid less than 100 million kyat in taxes to the UGoM during Fiscal Year 2014 and 2015 Source: MEITI 2019a,b.

Company	FY2014	FY2015
Myanmar Rice Trading Co., Ltd.	✓	✓
Tin Win Tun International Trading Company Ltd.	✓	✓
Global Star Co. Ltd	✓	✓
Htun Myat Aung Company Ltd		✓
Century Dragon Ltd		✓

Despite their lack of payments to government, MRT was reportedly among the top 10 producers of teak and the top six of hardwoods, and a dominant player in exports: ranking number one in 2014, and among the top two for teak or for hardwood species in each of the next three years.²⁹

Even with their dominant position in the forestry sector, and having reportedly exported more than US\$10 million per year, MRT claims to have paid only c.US\$75,000 in income tax between FY2014-2017. But even this is in dispute as the UGoM itself reported that, over this time, MRT paid no income tax payments at all.

Source: MEITI 2019a,b, 2020a,b.

²⁷ <https://www.ige.com.mm/chairmans-message>; Registration number 1062/2000-2001; established 25/01/2001 (MEITI 2019a).

²⁸ As discussed in Part 1, both MEHL and MEC are currently sanctioned by the EU, UK, US, and Canada.

²⁹ MEITI (2019a,b) report that in FY2014, 48 percent of MRT exports went to India and 46 percent to China, and in FY2015, 77 percent went to India and 14 percent to China.



Cho et al. (2017) states that under the Thein Sein regime there was a ban on the “direct sale of inferior quality teak and hardwood logs for domestic purposes,” but MEITI (2019a,b; 2020a,b) reported that direct sales constituted the majority of MTE sales. Under the NLD there was renewed push to limit all sales to auctions, which appeared to be the case by 2020 (although there has been no MEITI reporting to confirm this).

In December 2021, the junta prosecuted the former MONREC Minister U Ohn Win for some direct sales that resulted in government loss (Myanmar News Agency 2021). The junta’s State Administration Council (SAC) found him guilty under Section 55 of the Anti-Corruption Law for “his decision” to sell 172 tons of teak, ironwood, and gumkiho logs directly to the Daw Khin Kyi Foundation rather than using the MTE’s official auction, known as the Tender System. The Auditor-General of the Union found that by selling the logs at below market price, the state lost more than 100 million kyats (approximately US\$56,000). This case, however, represents less than 0.01 percent of the direct sales of teak over just four years (as reported by MEITI reporting for FY2014-2017³⁰).

It is not known if the current SAC has reverted to such private sales or if the only sales are those at auction (as reported in Appendix C).

MTE laundering timber into the legal supply chain

In addition to the selling of timber at below-market value to private buyers, the MTE appears to have laundered unreported, and thus illegal, wood (Appendix D.3). That is, over FY 2014-17, the MTE sold at least 270,000 m³ more in teak logs than they reported as available through their legal supply chain.³¹ However, nothing is known about the value of the teak involved (other than that was export-quality). But given that it was unreported, it is likely that no stumpage or other harvest-related fees were paid. Unfortunately, given this lack of information, it is impossible to calculate the exact losses associated with this laundering, but these losses are also likely to be in the tens of millions of dollars annually.

Misappropriation

Another likely loss of government revenue is profit kept by MTE itself. After 2012, the MTE was apparently permitted to retain 55 percent of annual profits of its forestry operations and sales. However, over the four years of MEITI (2019a,b and 2020a,b) reporting, the MTE retained at least 74 percent of profit, or in excess of US\$233 million more than permitted.

Where these profits ended up has not been made public. The Deputy Minister of Planning and Finance admitted in 2018 that the entire amount (a total more than US\$8.5 billion across all natural resource-SOEs) had been emptied from the SOE "other accounts" (Forest Trends 2021).

In 2019, the NLD government required that all the SOEs close their "other accounts" and remit all profit to the UGoM's central budget.

In summary, Myanmar has likely lost many billions of dollars in revenue from the forestry sector to fraud, misappropriation, smuggling, and other illicit activities. If the anti-corruption reforms—enacted after the last military-led junta—are reversed, then billions in revenue could once again be misappropriated. It is clear that robust enforcement of sanctions could have a material impact on this revenue flow.

³⁰ There is no data on direct sales from the period of the former military-led junta, nor are there reports during the current military-led junta.

³¹ That is, the volume in teak direct sales (as reported to the MEITI [2019a,b, 2020a,b]) were dramatically larger than the legal supply chain, where the MTE’s legal supply chain is the sum of the reported i) legal harvest, plus ii) confiscations (that may then enter the legal supply chain), plus iii) previously harvested timber sold from the MTE’s stockpiles (as reported to the MEITI [2019a,b, 2020a,b]). Note: this estimate of the amount of laundered logs is an underestimate, as the direct sales reported by MTE to the MEITI do not appear to include auctioned volumes.



Conclusion

A year after the coup, Myanmar remains under control of the military-led junta. While the UN Security Council has not sanctioned the regime, many western countries have. Notably, the US, UK, EU, Switzerland, and Canada have sanctioned the Myanmar Timber Enterprise (MTE), given that its control over the forestry sector affords a source of income for the junta.

To increase the impact of the existing sanctions regimes, this report advocates for increasing sanctions to include the Myanmar Foreign Trade Bank (MFTB)—as Canada has done since 2007—to ensure that all payments to the MTE, including by Indian and Chinese importers, would be frozen and thus unavailable to the junta. But even without sanctioning the MFTB, and even though the major importers of timber from Myanmar (India and China) have not imposed their own sanctions, because all sales of export-grade timber are conducted in US\$, any sale leaving Myanmar would be in violation of at least the US sanctions regime, regardless of whether an American entity is involved.

Moreover, given that since 2018, the EU has upheld a joint position that imports of Myanmar teak cannot comply with the EU Timber Regulation (EUTR), there should be no imports of Myanmar teak into EU Member States.

In addition, given that the coup and attendant violence indicates that the trade is linked to conflict, any shipment of timber sourced from Myanmar is arguably the result of pillage – an international war crime. Importers of timber from Myanmar in the context of the coup and the on-going conflict leave themselves open to prosecution at any time (there is no statute of limitations for war crimes). This creates important legal risks for a range of actors associated with this trade, and those engaged in it should practice the highest due diligence to insulate themselves from liability and potential prosecution.

Since the coup, the junta has reportedly auctioned more than US\$8 million in teak but exported more than US\$190 million in timber products. Importers in the EU (namely Italy, but also other Member States), the US, UK, Canada, and Switzerland have all reportedly imported timber since their sanctions entered into force in 2021. If sanctions are ineffective at reducing the timber trade, then the opportunity for the junta to use the forestry sector as a means of capturing revenue increases dramatically. This is especially true if anti-corruption reforms introduced prior to the coup are reversed. In the past, Myanmar lost billions of dollars from the forestry sector due to corruption, mismanagement, and other illicit activities.

With this report, Forest Trends is assisting companies and traders in their due diligence to ensure that they do not violate sanctions and put themselves in jeopardy of civil and criminal penalties, including imprisonment. The aim of sanctions is to put financial pressure on the junta, thus promoting a return to democracy and the rule of law, especially a respect for human rights. As the UN has stated, companies must comply with the UN's Guiding Principles on Business and Human Rights to avoid complicity (Box 1). Businesses, both individually and collectively, should exert the maximum leverage on the military to prevent crimes against humanity. This begins with complying with all sanctions.



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APPENDIX A National sanctions regimes

United States of America

The US has a long history of sanctions on Burma (as the US government still refers to Myanmar). In 1997 President Bill Clinton banned new investment, and then in 2007 President George W. Bush imposed sanctions on a number of officials and entities linked to the military-led junta (Martin 2012). In 2012, President Barack Obama began to ease the sanctions when the junta gave way to the Thein Sein regime. While the MTE remained sanctioned, the US-based International Wood Products Association (IWPA) was granted a license for its members to trade with Myanmar, predicated in part on “the IWPA’s commitment to encourage the Myanmar timber industry and government to put into place reforms to ensure that logs are harvested in Burma in a sustainable manner and in compliance with Burmese law...[and] to work toward independent legality verification” (IWPA 2022). In addition to the sanctions, existing US law—the 2008 Amendment of the Lacey Act—bans the trade in illegally sourced wood products—the world’s first such ban.

The US formally lifted sanctions against Myanmar in 2016, but “[o]n February 10, 2021, President Joe Biden issued Executive Order (EO) 14014 “Blocking Property with Respect to the Situation in Burma,” which “provides for the imposition of sanctions on certain Burmese parties in response to the Burmese military’s coup against the democratically elected civilian government in Burma (McMillan et al. 2021).

In parallel, OFAC sanctioned 15 officials (and, in some cases, their families) connected to the Myanmar military that “continues to repress the pro-democracy movement in the country and use lethal force against the people of Burma, including children and members of ethnic minority groups...and individuals...whose financial networks have contributed to military officials’ ill-gotten gains.” (USDOT 2021b).

On March 25, 2021, the US, in “a close partnership with the UK,” sanctioned the military holding companies MEC and MEHL (USDOS 2021a).

Then, in April 2021, the US Department of State (2021b) noted that the “military regime continues to ignore the will of the people of Burma to restore the country’s path to democracy. Instead of acceding to the clear aspirations of its citizens, the regime has intensified its violent crackdown, killing more than 650 people, including many children, and detaining more than 3,200 others.” Given this, the US increased the scope of their sanctions to include the MTE for “being a political subdivision, agency, or instrumentality of the Government of Burma...[The sanctioning of the MTE] reinforces our message to the military that the United States will continue to target specific funding channels and promote accountability for the coup and related violence” (USDOS 2021b). The US also sanctioned U Khin Maung Yi, the military-appointed Minister of MONREC, giving OFAC the power to investigate his activities and connections, including any companies engaged in business with him and the MTE.

EO 14014 makes no reference to due diligence requirements.



European Union

In 2011, the EU (2011) extended sanctions on the Myanmar to cover natural resource sectors, including 324 individuals and entities associated with forestry, including the MTE. The entire sanctions regime, except for arms, was lifted in 2012. In 2018, however, the EU (2018) imposed individual sanctions on those associated “with atrocities and serious human rights violations committed against the Rohingya population in Rakhine State in the second half of 2017.”

On February 22, 2021, the EU condemned the coup, and on March 22 began its sanctions regime (EU 2021a,b). On April 19, the EU sanctioned the military conglomerates MEHL and MEC, including “subsidiaries and affiliated companies in diverse sectors of the economy, including... transportation” (EU 2021c,d), such as the port of Ahlone in Yangon.

Then, jointly with the UK, the EU (2021e) announced on June 21, sanctions on the MTE because “either state-owned or controlled by the Myanmar Armed Forces (Tatmadaw), [the MTE is] contributing directly or indirectly to the military’s revenues or activities... By targeting the gems and timber sectors, these measures are aimed at restricting the junta’s ability to profit from Myanmar’s natural resources, while being crafted so as to avoid undue harm to the people of Myanmar.” In addition to the MTE, the EU sanctioned the FPJVC (EU 2021f).

The EU (2021g) regulations apply to EU operators (i.e., those who conduct business at least partially in the EU).³² These operators must comply with the obligation to freeze all assets (funds and economic resources) and must also ensure that they do not make any funds or economic resources available to sanctioned individuals and companies, including the MTE and the FPJVC.³³

The EU (2021g) guidance makes no reference to due diligence requirements.

United Kingdom

When part of the EU, the UK previously enacted implementing regulations to sanction Myanmar and the MTE.

Since the coup (and having left the EU), the UK, working in close partnership with Canada and the US, announced a similar range of sanctions, beginning on February 18, 2021, covering members of the junta; on March 25, 2021, on the military-linked MEHL and on April 1, 2021, on the MEC; and on June 21, 2021 on two SOEs, including the MTE (UK 2021a).

“The UK’s autonomous sanctions regime is established by the Myanmar (Sanctions) Regulations 2021 (“the Regulations”), which have replaced the Burma (Sanctions) (EU Exit) Regulations 2019...[In association with their “allies and partners,” the UK] “tailored its response to the coup and sought to impose a cost on the military while protecting the poorest and most vulnerable...Businesses should be aware that the commercial interests of the Myanmar Security Forces, and associated individuals, are wide-ranging... [b]usinesses operating in Myanmar should remain aware of developments in relevant sanctions. If procuring natural resources from Myanmar, particularly teak, businesses should be aware of sanctions and should ensure

³² The EU regulations “do not create obligations on non-EU operators, unless the business is conducted at least partly within the EU” (EU 2021g).

³³ Note: Article 4d(3) & 4d(4) of the EU Regulation (EU 2021h) allow the crediting of frozen accounts and the addition of interest and other earnings, of payments due under contracts or obligations pre-dating the date on which the Listed Person was included provided the funds remain frozen.



they conduct thorough supply chain due diligence to ensure that they are not supporting the military or its associated businesses” (UK 2021b).

The UK sanctioned the MTE because there were “reasonable grounds to suspect that MTE is under the control of, and/or is associated with, the SAC via its subservient relationship with MONREC...[and] that MTE makes available funds or economic resources to the SAC/military junta that could contribute to undermining democracy and repressing the civilian population” (HM Treasury 2021).

In addition to due diligence requirements, the UK (2021b) sanctions appear to have broad relevance: “It is prohibited to intentionally participate in any activities if you know that the object or effect of them is directly or indirectly to circumvent any of the prohibitions in the Regulations or to enable or facilitate the contravention of those prohibitions.” Further, the UK Bribery Act “applies to non-UK companies operating in the United Kingdom, and to UK companies working overseas.”

Switzerland

Switzerland originally sanctioned Myanmar in October 2000, lifting sanctions in May 2012 (except for the embargo on arms that could be used for “domestic repression”). Aligning itself with the EU, Switzerland reimposed sanctions in 2018 due to the military’s “systematic human rights violations” (SECO 2021a). On March 31, 2021, Switzerland imposed individual sanctions, among them on Min Aung Hlaing, Commander in Chief of the Armed Forces of Myanmar (Tatmadaw), and Myint Swe, the acting president of the country, and then on April 30, on ten high-ranking representatives of the military government and two economic conglomerates controlled by the military (MEC & MEHL) that participate in and support actions and policies that undermine democracy and the rule of law, as well as actions that threaten the peace, security and stability (SECO 2021b). Switzerland further suspended its cooperation with government agencies, concentrating on emergency aid, including the support and protection of people at risk, by non-governmental actors. On July 1, 2021, Switzerland sanctioned a further eight individuals and four entities, including the MTE and FPJVC because they are “controlled by and generate revenue for the Tatmadaw, therefore contributing to its capabilities to carry out activities undermining democracy and the rule of law” (SECO 2020c).

Swiss regulations do not mention due diligence requirements.

Canada

Canada imposed sanctions on Myanmar in 2007, lifted many of the sanctions in 2012, but then added additional sanctions in 2018 to address the Rohingya crisis (Canada 2007, 2012, 2018). Canada re-imposed widespread sanctions on February 22, 2021, to address the coup (Canada 2021a). On May 14, Canada (2021b) introduced sanctions against the MTE,³⁴ noting the “Tatmadaw has long been complicit in Myanmar’s illegal drug, timber, gems and jade mining economies, which attract organized criminal syndicates and incentivize corruption region-wide. In the absence of any semblance of domestic oversight or accountability in Myanmar, these industries, and associated corruption they generate, have the potential to grow to new heights.”

³⁴ Canada had previously sanctioned the MTE in 2007. <https://laws-lois.justice.gc.ca/eng/regulations/SOR-2007-285/FullText.html>



The 2007 sanctions included the MEC, MEHL (although known to Canada at the time as the Union of Myanmar Economic Holding Ltd, and later as Union of Burma Economic Holding Ltd [Canada 2007, 2022]), and the Myanmar Foreign Trade Bank (known to Canada as the Myanma FTB [Canada 2022]). None of the sanctions on these three entities were lifted in 2012 when Canada lifted sanctions on most other individuals and entities.

The sanctions apply to “any person in Canada and any Canadian outside Canada” and note “the Government of Canada's expectations with respect to responsible business practices abroad, and recommend[s] that Canadian companies undertake thoroughly responsible business conduct due diligence, including closely examining their supply chains to determine whether their activities support military-owned conglomerates or their affiliates” (Canada 2021b).



APPENDIX B Pillage

In addition to the sanctions regimes, traders of Myanmar timber may be in violation of international criminal law. For decades, it has been a crime to trade in stolen property, including natural resources, in the context of war. More specifically, Stewart (2010) notes the International Criminal Court (ICC) defines the elements of pillage to include the key legal components:

- The perpetrator knowingly appropriated property;³⁵
- Without the consent of the owner; and
- In the context of armed conflict.

Illegal logging in the context of Myanmar clearly meets all these elements:

- The logs are illegally appropriated by private companies and sold/exported;³⁶
 - Even before the coup, European enforcement authorities and the European Commission had developed a common position on teak imported from Myanmar, concluding that such imports could not comply with the requirements of the EUTR that importers can verify that the timber was legally harvested. This position has been upheld ever since (Forest Trends 2020).
- This is done at the expense of Myanmar (under the Constitution, the Myanmar State is the owner of all natural resources);
 - Since the coup and the ouster of the duly elected NLD government, no authority is in an official position to issue a valid license.
 - ◆ By definition, illegal logging is without the consent of the owner (at least without formal, legal license).
- The coup, subsequent violence, and Myanmar's long history of civil war mean that the logging and subsequent trade clearly took place in the context of widely-recognized armed conflict.³⁷

"[C]riminal courts are perfectly capable of prosecuting business representatives for pillage perpetrated during the course of commercial activities in a conflict zone" and indeed many have been (Annex 1 [Stewart 2010]). Both common law and civil law jurisdictions recognize pillage as one of the offenses that warrant extra-territorial application if perpetrated by their citizens. But as a war crime, pillage is sufficiently grave that any state can assert criminal jurisdiction regardless of where the pillage took place or the nationality of the perpetrator[s]—indeed, Stewart (2010) argues that given the gravity of the crime, countries have an obligation to prosecute under this universal jurisdiction. Moreover, as a war crime, there is no statute of limitations, and so perpetrators of pillage remain at risk of prosecution for the rest of their lives.

Given all this, any buyer of wood from Myanmar may not just be in violation of Myanmar's legislative framework and the sanctions regimes of many countries, but the buyer may have committed war crimes.

³⁵ The ICC includes "for private use", although historically, successful prosecution did not require this. Theft was pillage even if under what was considered "military necessity" (Stewart 2010).

³⁶ For example, the industry journal *SuperYacht News* reported on the sanctions regimes, their purpose, and the fact that trade would now be illegal (Jackson 2021b).

³⁷ For example, in September 2021, the United Nations (UN) High Commissioner for Human Rights, Michelle Bachelet, warned of an escalation "into a widespread civil war," noting that "clashes now occur regularly...in many areas of the country, where conflict has not been seen in generations," she then called "for more action on the part of the international community" (UN News 2021b)



APPENDIX C Reports of timber sales by the MTE

Since the coup, the media in Myanmar has been severely restricted (HRW 2021); nonetheless, the Irrawaddy, in particular, has continued to report on the forestry sector. This Appendix complements reporting in Myanmar media with international sources such as ITTO newsletters.

Auctions

Media reports at least an order of magnitude more sales (by volume) than the MTE auctions reported by the ITTO. These include:

- In June 2021, the Irrawaddy (2021a) reports:
 - That the MTE “held three separate auctions in late May in which nearly 10,300 tons of timber were sold for around US\$5 million (8.2 billion kyats)”
 - ◆ Note that these totals are more than US\$4 million (and almost 10,000 hoppus tons) in excess of the MTE auctions reported for May (Table 4).
 - That “Myanmar’s military regime will hold further timber auctions on June 23 and 24 as it seeks to raise hard currency to fund its coup...A total of 14,181 tons of timber from Sagaing, Bago and Yangon regions and Rakhine and southern Shan State will be auctioned...The auction will be held in Yangon... with buyers bidding online...[The] MTE has also invited tenders for the transportation of 67,690 tons of timber from western Sagaing Region to Monywa and Yangon. The logs are set to be sold in future auctions”
 - ◆ In September, 2021 the Irrawaddy (2021b) reported that the MTE had indeed auctioned more than 14,000 tons of timber in June. (Note: neither the MTE nor ITTO report any auctions in June 2021.)
- Jackson (2021) in Superyacht News reported that on September 15, 2021, the MTE was “due to hold one of two large auctions of illicit timber as a means of furthering funding its regime, the second auction is due to take place on 30 September. The junta has announced the sale of 12,500 tons of timber, including large amounts of teak, which is much prized for its use of superyachts and wider maritime applications”
 - Note: less than 600 hoppus tonnes were reported auctioned in September (Table 4), and although more than 50 hoppus tons of Sawing Grade (SG) 4 teak logs were available for auction, no bids were received. ITTO (2021f) note further that “[g]enerally, SG4 logs are processed to high quality products for niche markets in the EU and US. The EU announced trade restrictions targeting the MTE in June this year and before these became effective manufacturers tried to stock-up on logs and have switched to alternative markets but these markets may not require the top quality timber from Sawing Grade 4 logs.”



Table 4: MTE teak auctions in Yangon since the February 2021 coup. Source ITTO (2021b,c,d,e,f)

Auction date (2021)	Grades	Volume (hoppus ton)	\$/hoppus ton	Revenue	Total Revenue
May	SG5	138	3,039	\$419,382	
May	SG6	96	2,722	\$261,312	
May	SG7	105	2,181	\$229,005	
subtotal [†]					\$909,699
Aug	SG5	62.6	3,000	\$187,800	
Aug	SG6	653	2,650	\$1,730,450	
Aug	SG7	477.4	2,095	\$1,000,153	
subtotal					\$2,918,403
Sept/Oct	SG5	100.4	2,934	\$294,574	
Sept/Oct	SG6	269.8	2,711	\$731,428	
Sept/Oct	SG7	224.2	2,418	\$542,116	
subtotal					\$1,568,118
Nov (I)	SG5	68.9	2,959	\$203,875	
Nov (I)	SG6	161.6	2,530	\$408,848	
Nov (I)	SG7	206	2,401	\$494,606	
subtotal					\$1,107,329
Nov (II)	SG5	300.7	2,792	\$839,554	
Nov (II)	SG6	228.9	2,536	\$580,490	
Nov (II)	SG7	79	2,324	\$183,596	
subtotal					\$1,603,640
GRAND TOTAL					\$8,107,189

[†] The *Irrawaddy* (2021b) cited the MTE that “[t]he wood sold in May and June reportedly came from a stockpile of 200,000 tons of illegally-harvested timber seized by the now-ousted National League for Democracy government” including 1,500 tons of teak logs and 1,000 tons of sawn teak. [Note: neither the MTE nor ITTO reported any auctions in June.]

In contrast, starting in May 2021, ITTO (2021b,c,d,e,f) reports that the MTE began to auction teak, and since then five auctions have reportedly generated more than US\$8.1 million (Table 4).³⁸

³⁸ 11 companies reportedly bought timber from MTE in the May auction (EIA 2021c):

- Singapore-based: Green Links Pte Ltd and MTK Timber Pte Ltd;
- Joint Singapore/Myanmar-based: Yadi Shin Thant Co Ltd;
- Myanmar-based: Maung Maung Thein Co Ltd; Nagani Group Co Ltd; National Wood Industry Co Ltd; Thein Than Htun Manufacturing Co Ltd.; United Wood Industries Co. Ltd; Win Enterprise Co Ltd;
- Unknown nationality: United Industrial Co and Katpana Timber Ltd.



APPENDIX D

Losses in revenue due to corruption, fraud, misappropriation, and other illicit activities

This section estimates the scale of revenues lost to corruption, misappropriation, and other drivers under Myanmar's former governments, before the junta seized power in 2021. In order to estimate losses, we use government data, as reported by the Myanmar Extractive Transparency Initiative forestry reports (MEITI 2019a,b & 2020a,b).³⁹ These data are complemented with data from the International Tropical Timber Organization (ITTO) that has long covered Myanmar, including monthly reporting of teak auctions. When combined with other countries' customs data, the ITTO and MEITI data reveal major sources of illicit finance, fraud, and illegal trade. In summary, over just four years, these avenues led to government losses that exceeded US\$3.5 billion. If the anti-corruption reforms taken to stem these losses are reversed, billions in revenue could once again flow "off budget."

Smuggling

One analytical technique for estimating at least one aspect of smuggling is a method known as 'mirror statistics'—in this case comparing Myanmar Customs data to importer Customs data.

From 2014 to 2020, for example, Myanmar's top five timber markets reported imports from Myanmar valued at US\$3.2 billion, while Myanmar reported exports of less than US\$1.3 billion to these destinations (Figure 9). This discrepancy was more pronounced for certain markets: India reported 50 percent more imports than Myanmar reported, whereas China reported dramatically more (>7 times) in trade.

To reduce this smuggling, Myanmar's Thein Sein regime passed a regulation in 2013 that closed the land borders to the trade⁴⁰ and required that all timber exports go through the port of Yangon. However, it appears that this has been violated frequently. Large amounts of over-land exports to China, for example, mainly to Kunming and likely through Kachin State, were reported until 2017, when the NLD-government signed an MOU with China which committed to address this illegal cross-border trade. There has since been a dramatic reduction in volumes of cross-border trade reported by the Chinese Customs authority (Forest Trends 2021).⁴¹

Given that Myanmar has a specific goods tax of 10 percent on the export value of timber, this illegal trade likely led to the evasion of at least US\$28 million/year in lost tax revenue to the UGoM. We recognize that this total is necessarily an underestimate of total losses as it does not include revenue lost due to the theft of the trees themselves (i.e., the revenue that the MTE would have captured when they sold the trees), nor does it include, for example, lost royalties, known as stumpage, that should have been paid to the Forest Department when the MTE took ownership of the trees from the UGoM in the first place. Nor does it include any other export-related taxes and fees.

³⁹ The MEITI reports provided an unprecedented level of transparency into Myanmar's forestry sector; however, they only cover FY 2014-2017. Following the coup, the EITI's International Board in Oslo suspended Myanmar and, therefore, the data from MEITI are simply not available for FY 2018 onward.

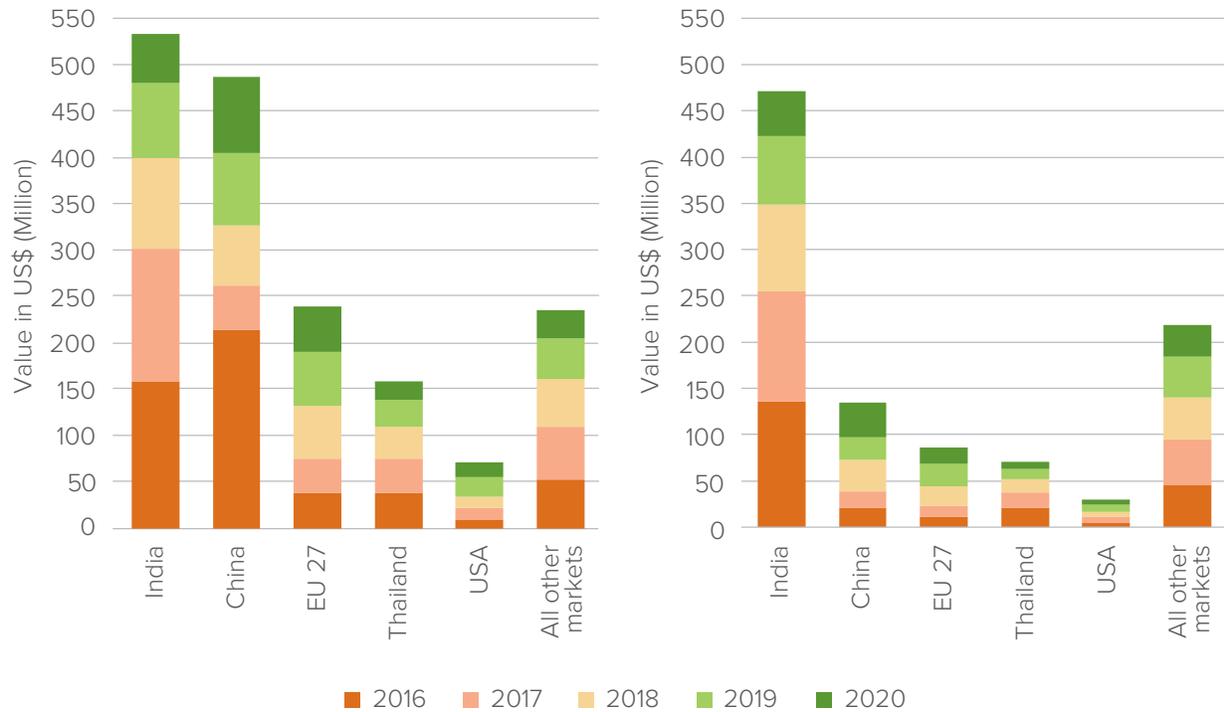
⁴⁰ The Sein regime was appointed by the Tatmadaw and ran Myanmar from 2011-2016. The regulation was MOECAAF Notification No-26/2013 (see Forest Trends 2021).

⁴¹ The drop in imports from Myanmar into China in the latter half of the 2010s was due in part to enforcement of Myanmar's log export ban, but also likely due to decreasing demand for rosewood from Southeast Asia following a consumption boom that saw imports spike in 2014, then drop dramatically. This decrease is attributed to numerous factors, including: a crackdown on corruption in China, commercial extinction of key rosewood species in Southeast Asia and a subsequent shift to African rosewood supplier countries, as well as shifting consumer preferences within China's emerging middle class and younger generations (Forest Trends 2015).



If smuggling is permitted to increase again, tax (and non-tax) evasion of hundreds of millions of US dollars annually would be likely.

Figure 9 | Trade (US\$ million, not adjusted for inflation) in timber products to Myanmar's top five trading partners, as reported by importing countries (left) and Myanmar (right)



Source: UN Comtrade and Union Government of Myanmar, compiled and analyzed by Forest Trends 2022. Note: EU 27 includes all current (2022) European Union member states but excludes the United Kingdom.

Fraud and illegal trade

Over the past decade, the MTE appears to have enabled the further loss of billions in government revenue by selling logs to cronies (and other preferred buyers [Text Box 4]) at dramatically below-market prices through direct sales or deals. That is, while the MTE has run public auctions of logs, at the same time they reportedly sold logs directly to private buyers at far below auction prices (Figure 10). For example, over FY 2014-2017, the MTE reportedly sold at least 200 times more export-grade teak logs through these 'direct sales' than they auctioned. Had these c.720,000 m³ of teak logs been sold instead at the auction prices, the government would have received at least US\$1.2 billion more in revenue, all of it profit (other than the cost of running the auctions).

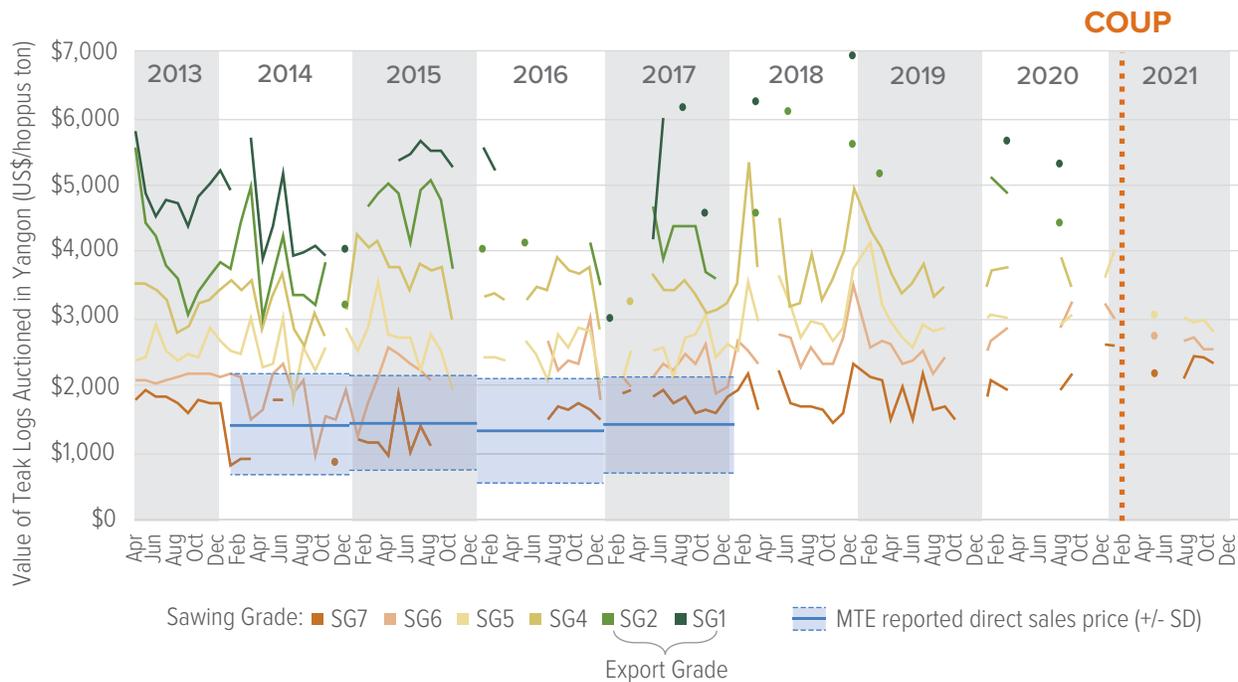
In addition to direct sales of teak logs, the MTE reportedly sold twice as many logs of other hardwood species (at least 1.3 million m³) directly to preferred buyers. But without knowing the species and grades involved in the sales, it is impossible to benchmark these prices against auction prices to determine if these too were sold at below-market prices. Still, given the trends outlined above, it is likely that these sales also led to the loss of hundreds of millions, if not billions, of US\$ in revenue.



MTE laundering timber into the legal supply chain

In addition to the laundering of teak outlined in Part III, there was also an unknown amount of other hardwood species that was likely laundered by the MTE. But without knowing the exact species (the MTE reports the trade only as ‘other hardwood’ species), it is difficult to track the legal supply chain to evaluate the provenance of these other hardwood species and their trade value, and thus to calculate gaps in the legal supply, let alone estimate the losses in revenue. But as with teak, it is likely that this illicit activity generates losses in the tens of millions of dollars each year.

Figure 10 | Prices for teak logs auctioned by the Myanmar Timber Enterprise in Yangon. US\$/hoppus tons, unadjusted for inflation. High quality, export grades are green, lower quality grades are orange and yellow. Blue sections indicate the MTE’s direct sales prices of teak logs (+/- 1 standard deviation) to preferred buyers.



Source: Compiled by Forest Trends, 2022. Note: the MTE direct sales prices come from MEITI (2019a,b, 2020a,b) reports; given the suspension of Myanmar by the EITI following the coup, these data are not available for subsequent years.



Forest Trends works to conserve forests and other ecosystems through the creation and wide adoption of a broad range of environmental finance, markets, and other payment and incentive mechanisms. This report was released by Forest Trends' Forest Policy, Trade, and Finance program, which seeks to create markets for legal forest products, while supporting parallel transformations away from timber and other commodities sourced illegally and unsustainably from forest areas.

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