



Swedish Court Rules Myanmar Timber Documentation Inadequate for EU Importers

Myanmar urged to link logging moratorium to milestones of forest sector reform

15 November 2016 | Jönköping, Sweden | Swedish Administrative Courts today confirmed a ruling that a certificate issued by the Myanmar Forest Products Merchants' Federation (MFPMF) did not provide adequate proof that a shipment of teak imported into Sweden had been legally harvested.

The decision upholds a key October 7 ruling, which held that the company that imported the teak via a Singapore trader had violated the EU Timber Regulation (EUTR), a 2013 law requiring companies to ensure their risk of importing illegally logged timber into the European Union is negligible. The company in question was fined 17,000 Swedish kronor (US\$1,700) and has informed Sweden's EUTR regulator that it will no longer source wood from Myanmar. The court's verdict follows nearly a year of injunctions from Swedish authorities and an appeal by the company.

"This is the first case where a court has determined that the certificate issued by MFPMF is not enough to secure legality; this case is likely to be used as guidance by other courts in the EU responsible for judging whether European companies have complied with the EU Timber Regulation," said Jade Saunders, a Forest Trends policy analyst who works with law enforcement officials in Europe and the US. "Cases involving Myanmar teak are already being investigated by authorities in other European countries, and we expect to see similar conclusions."

Buyers of Myanmar timber products often use what is commonly known as "the Green Folder" to demonstrate that their purchases comply with Myanmar's forest laws. The folder compiled by MFPMF typically includes permits issued by the Myanmar Timber Enterprise (MTE), the sole official seller of Myanmar logs, together with other official documentation.

The Swedish Courts, however, ruled that these documents were insufficient to prove a negligible risk of illegality. In particular, it upheld an earlier finding by the Swedish EUTR regulator that the MTE documentation fails to provide critical information on the origin of the logs, the logging company involved, and compliance with Myanmar's forest legislation – all necessary to determine whether any product is legal. While forest areas where the timber had been logged were identified in the folder, documentation clearly tracing the timber supply chain from the point of export back to the forest of harvest was found to be lacking.

Although Myanmar's wood products represent only a small portion of Sweden's overall imports, according to the European Regulation, companies should consider whether there is a high risk that supply chains include illegal timber by assessing the prevalence of illegal logging in a source country, the accessibility of official information and/or the presence of armed conflict. European Commission (EC) [Guidance](#) published earlier this year also directs companies and enforcement officials to consider national levels of corruption.

When sourcing from countries that suffer these problems, importers must take measures to reduce the risk of illegality to a negligible level, by documenting their full supply chain and assessing all risks associated with it.

Looking Forward: Linking the Myanmar Logging Moratorium to Reforms

In August, the Government of Myanmar imposed a nationwide logging moratorium, recognizing the damage to forests from decades of overharvesting. This pause provides breathing space for Myanmar's forests. At present, however, the moratorium is only temporary, expiring in March 2017 for most of the country's forests. Experience in other countries has shown that such time-bound logging bans are unlikely to result in meaningful change.

Forest Trends, a non-profit organization that tracks global forest developments, recommends that the Myanmar Government adopt firm policies to reform the forest sector and scale up the national reforestation policy. The organization suggests that logging should resume only when the forests have sufficiently recovered and only once the relevant institutions have adopted systems that ensure verifiable legal and sustainable forest management. Without such reform, the current moratorium will only "press pause" on Myanmar's timber troubles rather than effectively address them.

In addition, as the Swedish court case indicates, if Myanmar wants to maintain access to European wood markets, valued at close to €50 million between 2012 and 2015, these reforms must also include supply chain transparency, so European buyers have access to the credible evidence necessary to demonstrate compliance with the EUTR.

Mr Barber Cho, Secretary of the Myanmar Forest Certification Committee (MFCC), a government-linked body that is currently developing a system to demonstrate that Myanmar's timber exports are legal, made the following comment:

"The MTE is working on improving data systems so that information on traceability becomes more readily accessible. After Myanmar's current logging moratorium, all timber extraction will be the sole responsibility of MTE, so there will no longer be any question over who has the right to harvest. In the meantime, MFCC, with the support of FAO and the EU, is working on improving current verification systems with the aim of providing clearer evidence that our timber exports are legal."

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