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COMBATING
WILDLIFE AND FOREST CRIME

UNITED NATIONS OFFICE ON DRUGS AND CRIME



Criminal justice response to wildlife and forest crime in Myanmar

A Rapid Assessment



Non-sales unedited

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TABLE OF CONTENTS

1. INTRODUCTION	1
1.1. Illegal Timber Trade in Myanmar	2
1.2 Illegal Wildlife Trade in Myanmar	4
2. RESPONSES TO WILDLIFE AND FOREST CRIME	6
2.1 Competent Law Enforcement Authorities	6
2.2 Legal Framework for Investigation and Prosecution	11
2.3 Measuring the Impact of Enforcement Activities	15
3. UNODC PROGRAMME IN MYANMAR	21
4. CONCLUSION AND RECOMMENDATIONS.....	24

LIST OF FIGURES

Figure 1. Forested area in 2015 and forest changes over 1990-2015 (FAO 2015)	2
Figure 2. Myanmar forest coverage in 1,000 ha (FAO 2015)	3
Figure 3. Number of wild elephant carcasses found between 2010-13	4
Figure 4. Total recorded timber exports (in cubic meters) from Myanmar by the Customs	7
Figure 5. Annual quantity of teak exports recorded by	8
Figure 6. The criminal justice system and interagency functions in cases of illegal timber trade in Myanmar	10
Figure 7. Maximum fine relative to GDP per capita	13
Figure 8. Average volume (tonnes) of timber per seizure from 2007-2014, by the Myanmar Forestry Department	15
Figure 9. Number of seizures of illicit timber by the Myanmar Forestry Department, 2007-2014	15
Figure 10. Volume (tonnes) of timber by type, seized by the the Myanmar Forestry Department (2010-2016) *Up to September	16
Figure 11. Type of timber seized by the Myanmar Forestry Department, 2014-15	16
Figure 12. Volume (tonnes) of timber seized by the Myanmar Forestry Department, per region (2012-2014)	17
Figure 13. Myanmar Forestry Department photograph of timber being illicitly transported across the border to China	17
Figure 14. Offenders of timber trafficking crimes in Myanmar by nationality, 2009/10-2015	18
Figure 15. Seizures of illegal wildlife in states and regions of Myanmar, 2010-2015	19
Figure 16. Five most prevalent types of wildlife crime seizures within Myanmar, 2010-2015	19
Figure 17. Supreme Court of the Union of Myanmar data on wildlife crime cases and confiscated wildlife products, 2008-2013	20
Figure 18. Supreme Court of the Union of Myanmar data on criminal cases, and resulting imprisonments, involving wild animals prosecuted in court under the 'Protection of Wildlife and Natural Plants and Conservation of Natural Areas Law 1994'	21

1. INTRODUCTION

Myanmar is one of the top three countries in Southeast Asia in terms of forested area. Half of the Country is covered by forest, which accounts for 29 million hectares.¹ It is also situated within the Indo-Burma biodiversity hotspot, and is home to many globally threatened species of wildlife. These substantial resources have attracted considerable attention from national and international institutions, civil society and analysts, all concerned by the rate at which the forest and biodiversity is being legally and illegally depleted. Most discussions have focused on these threats from an ecological standpoint while, until recently, less attention has been given to assessing this depletion as a result of criminal activity. However, there is growing evidence that sophisticated criminal operations are contributing to forest exploitation to a significant degree.

The objective of this study is therefore to determine what role the criminal justice system in Myanmar is playing in the struggle against the illegal trade in timber and wildlife. This report is based on a series of field visits², a review of the available primary and secondary data, as well as interviews with key interlocutors. Interviews were mainly conducted with key players of the criminal justice systems such as prosecutors, police, customs, and environment/forestry officials involved in law enforcement. Whenever possible, interviews were conducted at the level of officers in charge of investigations.

This report is primarily concerned with the illicit exploitation of timber and wildlife within forest areas, and its movement and subsequent trafficking across the borders of Myanmar for profit. These activities often exist in the grey area between clandestine and legitimate business activities. For the purposes of this report, the broad term “illegal timber trade” will be used to refer to the illicit movement (often transboundary) of illegal and quasi-legal timber and wood products; the term “illegal wildlife trade” will be used to refer to the unlawful movement, sale or exchange of protected wild animal species, parts or products. When used in the report, the term “forest crime” refers to a broader set of criminal activities against flora and fauna in forest areas. In this formulation, the illegal trade in timber or wildlife are subsets of forest crime. In the scope of this study, no specific analysis was conducted to identify a common and internationally acceptable notion of “illegal timber” or “illegal wildlife”; this study has simply analysed the framework of responses to forest crime as defined by the national laws of Myanmar.

The political commitment to use criminal justice resources to target the illegal exploitation and trade in timber and wildlife is one of the starting points for the analyses in this report. The criminal justice system deals with multiple crimes and faces considerable public and political pressure on a range of issues. Prioritising interventions is the mechanism that criminal justice actors use in practice to meet large demands with limited resources. The issue of political will is of great relevance too, given ongoing accusations of official corruption and the protection of illicit logging by those who profit from it, including political leaders and senior officials.

While criminal justice systems are designed in theory to respond to all crimes, the purpose of this report is to map out, as far as possible, the processes in which forest crimes are detected, investigated and prosecuted, and by whom. By examining the linkages between the agencies involved and the different approaches taken, this report aims to stimulate a wider debate as to how the criminal justice system in Myanmar may be assisted by external actors. The recommendations of the report are aimed at national policy makers, as well as working to generate a wider discussion as to how criminal justice interventions can play a more effective role in curbing the illegal exploitation and trafficking of timber and wildlife in Myanmar.

¹ Food and Agriculture Organization of the United Nations (2015). *Global Forest Resources Assessment 2015. How are the world's forest changing?* Accessed on 14 October 2015 at <http://www.fao.org/3/a-i4808e.pdf>

² Conducted in June 2012 through the support of FAO. The report was subsequently updated in 2015.

1.1. Illegal Timber Trade in Myanmar

Myanmar has one of the largest land areas of the countries in mainland Southeast Asia and 44.2% of it is covered with forests. Between 2010 and 2015 Myanmar had the third largest forest loss in the World, equivalent to an annual loss of 546,000 hectares (1.7% annual rate). Since 1990 Myanmar has lost 26% of its forested area (see figure 1).³ Deciduous forests are composed of several commercially valuable timber species including Teak (*Tectona grandis*), and other hardwood species such as Myanmar Ironwood (*Xylia xylocarpa*), Burmese Rosewood (*Dalbergia oliveri*), Burma Padauk (*Pterocarpus macrocarpus*), and Beechwood (*Gmelina arborea*). Other major forest types include hill and temperate evergreen forest (25%), tropical evergreen forest (16%), and dry forest (10%).⁴

Myanmar's forests are under severe pressure due to population growth, expansion of agriculture and commercial crops, and increasing resource utilisation within Myanmar. Escalating demand for natural resources from neighbouring countries is also a significant driver, as wood consumption in the Southeast Asia region is increasing at a rapid rate. China, India, and several other emerging economies, as well as established US, European and Japanese markets, are key importers, fuelling demand for Myanmar's timber products.

According to UN Comtrade, Myanmar is one of the world's largest exporters of fuel wood and wood charcoal, with an annual value of \$30.5 million, which forms 2.8 percent of the global share.⁵ More significantly, Myanmar is the fifth largest global exporter of wood in the rough or roughly squared format. This trade has an annual value of \$653 million and comprises 5.2 percent of the global market.⁶ Based on figures collected from neighbouring countries, Myanmar exports 1.9 million cubic meters of timber annually, valued at \$800 million.⁷ There are very few value-added timber products exported, mostly due to the relative profitability of raw log export sales.

As Figure 1 illustrates, many countries in Southeast Asia have suffered substantial forest area depletion during 1990-2015, while other have largely expanded the size of their forested areas.

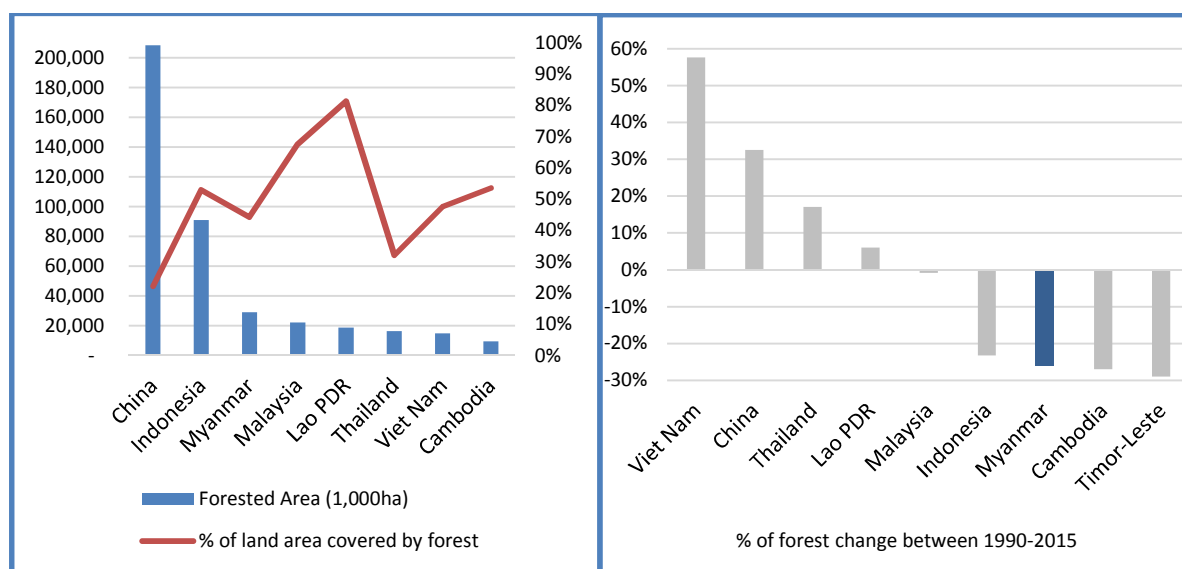


Figure 1. Forested area in 2015 and forest changes over 1990-2015 (FAO 2015)

³ FAO (2015), *Global Forest Resources Assessment 2015, How are the world's forests changing?*

⁴ Republic of the Union of Myanmar (2011), *National Biodiversity Strategy and Action Plan*

⁵ UN Comtrade (2010), *Fuel wood (excluding wood waste) and wood charcoal*

⁶ UN Comtrade (2012), *Wood in the rough or roughly squared format*

⁷ UNODC (2013), *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment*

The shrinking size of Myanmar’s forests over the past 25 years is visible in Figure 2. The most intense deforestation period in Myanmar is thought to have occurred during the 1990s, when Myanmar lost 4.3 million hectares of forest area. Data from the Food and Agriculture Organization (FAO) of the United Nations suggests that the speed of deforestation slightly slowed through the 2000-05 period, but this was followed by an acceleration during the 2010-15 period.

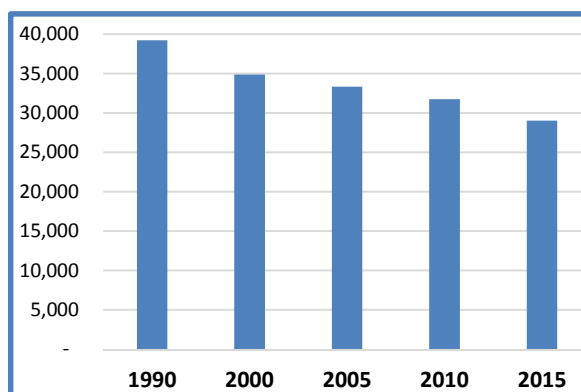


Figure 2. Myanmar forest coverage in 1,000 ha (FAO 2015)

Myanmar has developed a legal framework and tracking system to control the timber trade, under which all wood is considered legal if it has the hammer stamps of the state-owned Myanmar Timber Enterprise (under the Ministry of Environmental Conservation and Forests), and is exported via Yangon’s seaports.⁸

However, available information suggests that Myanmar’s illicit timber exploitation and trafficking represents a great cause for concern within the region. According to one recent report, illegal cross-border trade of timber, particularly to China, is not only occurring in vast quantities, but has also continued to occur for more than two decades.⁹

In an effort to stem the flow of illegal timber from the country, the Government enacted a ban on the export of raw logs, which took effect on April 1, 2014.¹⁰ Despite the ban, it has been reported that illegal timber trade continues. In January 2015, 155 Chinese nationals were arrested in Kachin State in a crackdown on illegal timber smuggling. Six months later, a Kachin State court sentenced 153 of the Chinese nationals to life imprisonment, and handed down 10-year sentences to two others¹¹; although one week later all 155 were pardoned and released as a “goodwill gesture”.¹² Another recent media report claimed that timber smuggling was increasing each year due to corruption amongst government officials, and that the government had announced 700 Forestry Department employees were facing disciplinary action in connection with timber smuggling.¹³

There is a strong need to protect the country’s natural resources for future generations. It is for this reason that confronting illegal logging and illicit timber trade must be made a high priority.

⁸ Woods, K. (2013), *Timber Trade Flows and Actors in Myanmar*, report for Forest Trends

⁹ Environmental Investigation Agency (2015), *Organised Chaos: The Illicit overland timber trade between Myanmar and China*

¹⁰ Ye Aung Thu (8 May, 2014), ‘On the World’s New Extinction Frontier’, published by Agence France-Presse, accessed at <http://www.nationmultimedia.com/opinion/On-the-worlds-new-extinction-frontier-30233078.html>

¹¹ Aljazeera (22 July, 2015), *Myanmar jails over 150 Chinese illegal loggers for life*, accessed via <http://www.aljazeera.com/news/2015/07/myanmar-jails-150-chinese-illegal-loggers-life-150722124355549.html>

¹² Channel News Asia (30 July, 2015), *Myanmar frees Chinese loggers as goodwill gesture*, accessed via <http://www.channelnewsasia.com/news/asiapacific/myanmar-frees-chinese/2018204.html>

¹³ Eleven News, *700 ‘corrupt’ forestry officials targeted*, accessed via <http://www.elevenmyanmar.com/local/700-%E2%80%99corrupt%E2%80%99-forestry-officials-targeted>

1.2 Illegal Wildlife Trade in Myanmar

Due to its location positioned between India, China and Thailand, Myanmar's wildlife includes a mix of species from South Asia, Central Asia, and Southeast Asia. Myanmar is home to at least 251 mammal species, 1,056 bird species, as many as 425 reptile and amphibian species, at least 350 freshwater fish, 16 marine mammals, and more than 800 marine fish species¹⁴. However, much still remains unknown about Myanmar's wildlife species, due to a lack of empirical data and scientific research.

Many globally threatened species have been recorded in Myanmar, including Indochinese tigers, Asian elephants, Asiatic black bears, red pandas, gaurs, and several primate species. A number of globally threatened species have not had any confirmed sightings in recent years, such as the Javan rhinoceros and the Sumatran rhinoceros, and may be locally extinct¹⁵. Increases to commercial hunting and the wildlife trade, both for local markets and for trade to China, as well as logging and habitat loss, pose serious threats to many of Myanmar's species.

Few comprehensive wildlife trade surveys have been carried out in Myanmar. Despite this, information gained from various periodic spot checks indicates that the illegal wildlife trade in Myanmar is widespread, involves numerous species, and is often carried out openly. Tigers, other wild cats such as Clouded leopards, leopards, leopard cats, and Asiatic golden cats, turtles, pangolins, snakes, orchids, and elephants are among the species most commonly targeted for commercial trade.

It is suspected that there may be as few as 85 tigers remaining in Myanmar's forests¹⁶, largely due to hunting and trading. Skins, skulls, skeletons, claws, teeth, and paws are some of the wild cat body parts regularly observed for sale at wildlife markets in Myanmar. There are no known captive tiger breeding facilities in Myanmar, with the exception of a few zoos, and as such it is possible that tiger parts in markets may be sourced from the wild in Myanmar and India, or from captive populations in Thailand and China.

Regarding elephants, the Supreme Court of the Union of Myanmar reported the total number of wild elephant carcasses from 2010 to 2013¹⁷. These figures indicate a significant increase in elephant killings in 2013, more than five times the number of elephants killed in 2012. However, there is insufficient data to determine if this is an ongoing trend.

Myanmar's location between India and China, and an inadequate law enforcement response, not only in Myanmar, but also across the borders in Thailand and China, has resulted in Myanmar functioning as a wildlife trafficking corridor. Several large, open wildlife markets are reported to exist at border towns such as Mong La (Shan State, on the Myanmar-China border), Tachilek (Shan State, on the Myanmar-Thailand border), and Three Pagoda Pass (Kayin State, on the Myanmar-Thailand border), as well as in the interior at Kyaiktiyo (also known as Golden Rock, in Mon State).

Mong La, specifically, is located within an autonomous zone under control of the National Democratic Alliance Army, where the central Myanmar government's authorities have very limited access and law

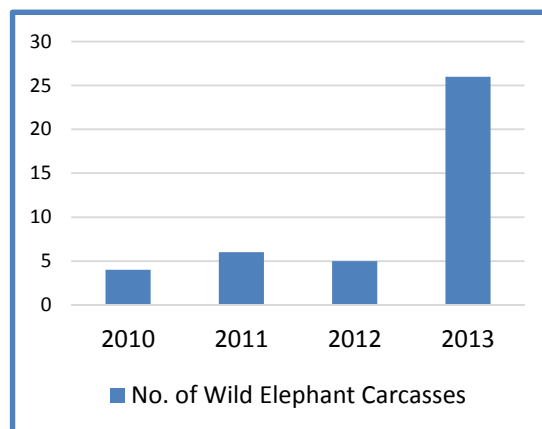


Figure 3. Number of wild elephant carcasses found between 2010-13

¹⁴ Republic of the Union of Myanmar (2011), *National Biodiversity Strategy and Action Plan*

¹⁵ *Ibid.*

¹⁶ GTRP (2010), *Global Tiger Recovery Program 2010-2022*

¹⁷ Supreme Court of the Union of Myanmar (2014), *Wildlife Crimes in Myanmar*, as presented at 4th ASEAN Chief Justice's Roundtable on 14 December, 2014; accessed via Asian Judges Network on Environment website, <http://www.asianjudges.org/wp-content/uploads/2015/01/28-Session-4.Illegal-Wildlife-Crime-Trafficking-and-Trade-Aye-Aye-Hlaing.pdf>

enforcement capabilities. A study involving 19 trade surveys conducted in Tachilek from 1991-2013, and seven trade surveys in Mong La from 2001-2014, found a total of more than 2000 wild cat parts openly for sale across the two markets, representing a minimum of 1,669 individual wild cats¹⁸.

Amongst the key challenges for the management and control of illegal wildlife trade in Myanmar are the limited financial and human resources, equipment and capacity of Myanmar's law enforcement agencies, as well as long and porous national land and protected area borders. These issues are compounded by the high level of demand for wildlife products, both domestically and across the borders in China and Thailand.

¹⁸ Nijman, V. and Shepherd, C.R. (2014), *Trade in tigers and other wild cats in Mong La and Tachilek, Myanmar – A tale of two border towns*

2. RESPONSES TO WILDLIFE AND FOREST CRIME

2.1 Competent Law Enforcement Authorities

A number of authorities in Myanmar are charged with the prevention of forest crime, although the degree to which the issue is a priority varies for each organisation. They are as follows:

- The law enforcement components of the Ministry of Environmental Conservation and Forestry
- The Customs Department
- The Myanmar Police Force
- The Attorney General's Office
- The Anti-Corruption Commission of Myanmar

Ministry of Environmental Conservation and Forestry

In Myanmar, the Ministry of Environmental Conservation and Forestry plays one of the most important roles in relation to policing forestry crimes. Forestry officers effectively have the same powers as police, including the power of search and confiscation, and the power to arrest and detain suspects. A range of actions are performed by Department of Forestry "Arrest Teams" in order to police forest crimes. These include:

- Local Forestry Department staff engaging in patrols and collecting information from informants, the media and other stakeholders in the area of jurisdiction.
- Investigations and searches initiated by Regional, District and Township Forest Department staff with a specific focus on the illegal timber trade.
- Surprise checks by Forestry Department special squads at places where illegal timber and forest products are usually collected and stored, or in localities where timber theft occurs.
- In cases of regions where security restrictions apply, joint search and seizure operations are conducted with military and police units, village and ward administrators.

The Forestry Department has some 63 District Forest offices and 315 Township Forest Offices. In addition, the Forestry Department staffs a number of Inspection and Revenue Stations in forest areas across the country and is actively engaged in combating the illegal timber trade.

In terms of departmental rules, Forestry Department officials can take two types of actions depending on the severity of the offence:

- In the case of relatively minor offences under Sections 40, 42, 43 (b) or 45 of the Forest Law (see below), officials from the Forestry Department can make an immediate arrest and transfer the case directly to the office of the prosecutor. This includes for the offences of illegal trespassing in forestry areas and the illegal cutting of trees.
- In the case of more serious offences under Sections 43 (a), 44 or 46 of the Forest Law, the Department's officials are tasked to collect relevant evidence and arrest suspects, but the case must be transferred to the Police for further investigation. Once completed, the investigation is handed over to the prosecutor's office. Examples of such cases include cutting down timber without a licence, and all offences related to the exploitation of teak.

Chapter 11 of the Department's 1995 Forest Rules provides that forestry officials may seek a search warrant from a relevant magistrate in order to enter private property. Forestry officials are also empowered to search and seize buildings or places which are accessible to the public without a warrant. In both of the two instances outlined above, and thus in more serious cases, before a complaint is made to the police forestry officials have the power to: summons the accused and witnesses to appear, request all relevant documentation, and undertake an investigation, including by recording witness statements.

The Myanmar Forestry Police

Established in August 2014, the Forestry Police is the newest addition to the Myanmar Police Force (MPF). With a staff of approximately 300, it is amongst the smaller specialised police forces in the country. The staff of the division – which includes 40 high-ranking officers – is located exclusively in Nay Pyi Taw and Yangon areas. Its role is to support the Forestry Department and uphold its policies, protect Myanmar’s forests, protect wildlife from illicit trafficking, and investigate and prosecute illicit logging.

The duties of the Forestry Police include the supervision of forests; advising the Forestry Department on strategic and policy-related matters; preventing, investigating, and prosecuting forest-related crimes, including illegal logging and wildlife trafficking; investigating non-forest related crimes in association with other local police departments; identifying and recording illegal loggers and illegal logging organisations; and fulfilling requests from the Forestry Department and the Home Affairs Department.

The personnel of the Forestry Police have not yet received any specialized training related to wildlife and forest crime. As of October 2015, no case had been investigated and/or brought to Court by the Forest Police. Most of the wildlife cases (31 in 2015) and timber-related cases (50 in 2015) are handled by local police, generally in cooperation with the Forestry Department, and referred to provincial courts.

Myanmar Customs Department

While the Myanmar Customs Department has no specific unit dedicated to timber trafficking, senior officials indicate that they work closely with other departments on the issue. Thus, a Forestry Department official is present at major ports and crossing points to be able assist in the inspection and identification of timber. Yangon Port’s container yard is where export timber is checked to ensure compliance with relevant regulations. Exports have to present the following documentation: export declaration form, export license, booking note, shipping instruction, Certificate of Myanmar Timber Enterprise, Certificate of the Forestry Department, sale contract, and commercial invoice.

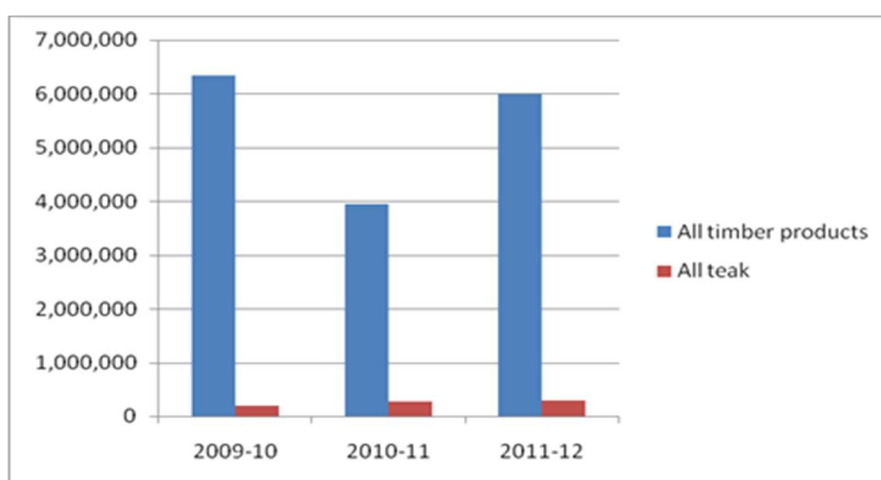


Figure 4. Total recorded timber exports (in cubic meters) from Myanmar by the Customs Department illustrating the proportion of teak exports, 2009-2012

Official figures provided by the Customs Department illustrate the overall extent of recorded cases of the movement of timber (see Figure 4 above). This peaked in 2009-10, with over 6 million cubic metres

recorded. There was a decline in the following year, but an increase for 2011. Teak exports are only a small proportion of the total. However, when looked at separately there is a growth in the volume of official teak exports from Myanmar from 2009 to 2012 (see Figure 5 below).

In the case where a seizure of illegal timber is made by the Customs Department, the wood itself is handed over to the Forestry Department, and any arrested suspects are handed over to the police.

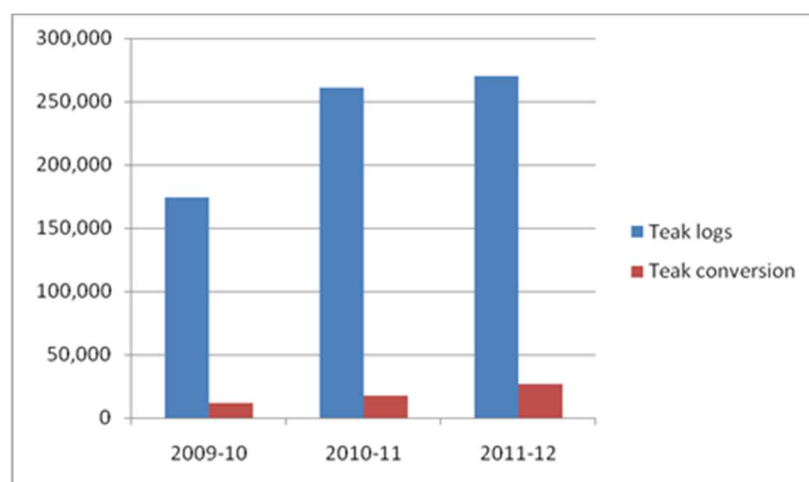


Figure 5. Annual quantity of teak exports recorded by Myanmar Customs, 2009-2012

The challenge facing the Customs Department is significant. Customs officials are responsible for regulating some 5,800 kilometres of the country's borders with Bangladesh, China, India, and Thailand. For the purposes of import and export control, there are eight established border posts where Customs has a physical presence. Customs officials report that in the border regions where significant trafficking of timber takes place – those with India, China and Thailand – there is

thick forest, and in several regions patrolling is not possible due to the on-going insurgency. This often prevents law enforcement from effectively patrolling these regions, thereby creating ideal conditions for smugglers and organized crime syndicates to smuggle illicit timber and wildlife across borders.

At the formal crossing points, most notably at Yangon Port, the number of containers moving through the Port is increasing, although it varies each month. There is a reported number of between 300 and 1,200 containers transiting the port every month. The Customs Department consists of 600 personnel, with a specialised Intelligence and Investigation Division consisting of 70 officers. The specific function of the Intelligence and Investigation Division is to curb illegal smuggling activities, collect intelligence on such activities, investigate tax evasion cases or the avoidance of paying customs duties, and investigate cases of corruption and abuse of office within the Customs Department itself.

Prosecution and the Attorney General's Office

There is no department within the Attorney General's Office that deals specifically with the issue of illegal timber trafficking or environmental crimes more generally. Cases are submitted from either the Police or Forestry Department and prosecutors may request further investigation as required. The Attorney General's Office provides advice to the Police, Forestry Department, and district and township prosecutors as to which laws may be appropriate, ensuring the maximum penalties for offenders.

Anti-Corruption Commission of Myanmar

A new addition to Myanmar's law enforcement authorities, which provides another angle to respond to illegal exploitation of timber and forests, is the Anti-Corruption Commission of Myanmar (ACCM). The Commission is the key agency to enforce 2013's Anti-Corruption Law, and it became a fully functional body in early 2014. It comprises 15 members and is responsible to the President, with five members selected each by the President, the Pyithu Hluttaw speaker and the Amyothar Hluttaw

speaker¹⁹. The ACCM is responsible for receiving and handling corruption complaints, carrying out investigations into allegations of corruption, and conducting activities to prevent and eradicate corruption. Any person who suffers from an act of bribery is entitled to lodge a complaint according to the stipulations of the Anti-Corruption Law 2013. If a complaint is received, or instructions are given by the President, the Pyithu Hluttaw speaker, or the Amyothar Hluttaw speaker, the ACCM will form an ad hoc investigation body to carry out the investigation. The investigation body will submit the investigation report to the ACCM, which must hold a meeting within 30 days of receiving the report to decide whether to reject the complaint or pass it to the Attorney General's Office for prosecution. If the ACCM decides that only an administrative action should be taken, it will notify the relevant official directly.

In addition, where there is evidence of illicit wealth accumulation through bribery, the ACCM may form an ad hoc preliminary scrutiny body, in order to carry out a process for the confiscation of property. The preliminary scrutiny body will examine the accused and witnesses, collect evidence, and submit a report to the ACCM, which will review the report and may pass an order to confiscate the property.

¹⁹ The Assembly of the Union in Myanmar, known as the Pyidaungsu Hluttaw, is made up of the Amyothar Hluttaw (House of Nationalities), which is the 224-seat Upper House; and the Pyithu Hluttaw (House of Representatives), which is the 440-seat Lower House. The leader of each house is known as the Speaker.

Interagency Cooperation

The Ministry of Environmental Conservation and Forestry is the focal point and chairperson for a Government-wide National Wildlife Enforcement Task Force comprising six line Ministries. The other members of the Task Force are the Departments of Home Affairs, Commerce and Trade, the Police, the Forestry Department of the Police, Customs and the Attorney General’s Office. One-stop service centres have been set up at check points at selected border areas, and are used to both investigate and control illegal timber movements. However, several officials indicated that there is much room for improvement in interagency coordination and that the Forestry Department itself is eager to ensure that the Task Force plays a role.

Figure 6 below provides an overview of the different roles of the various agencies and departments in the investigation and prosecution of crimes related to the forestry sector.

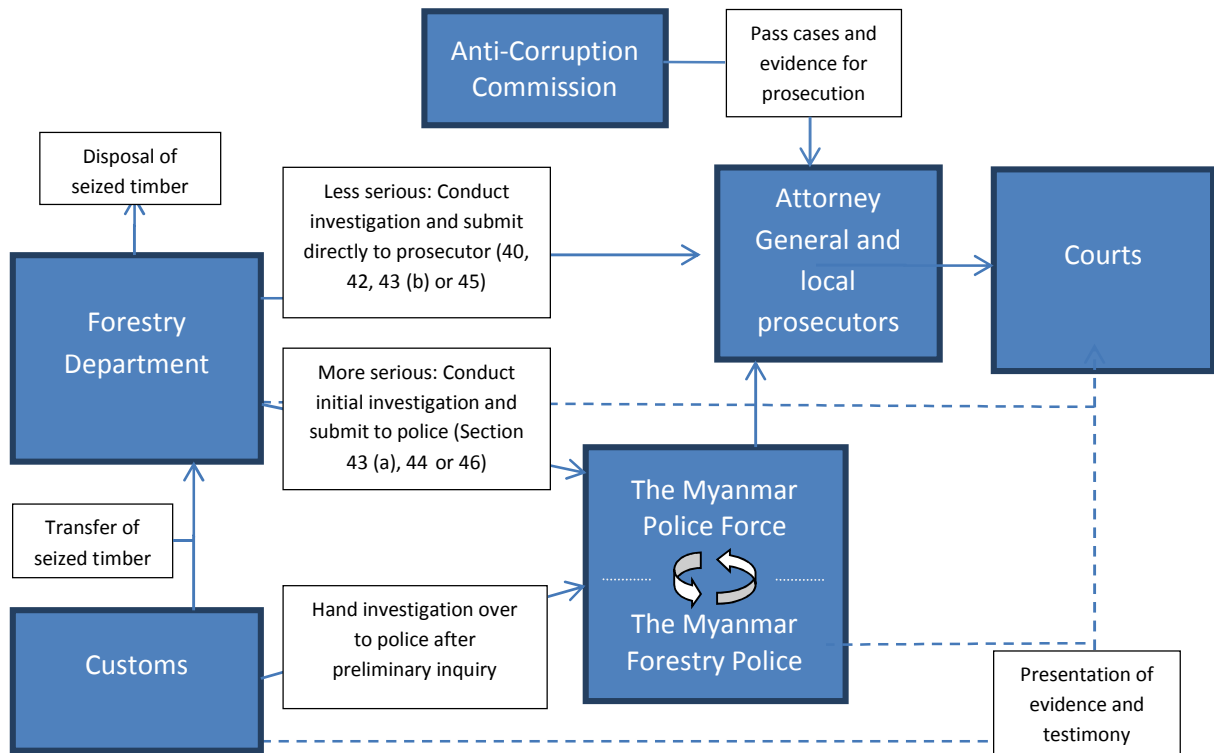


Figure 6. The criminal justice system and interagency functions in cases of illegal timber trade in Myanmar

2.2 Legal Framework for Investigation and Prosecution

Myanmar is a party to the main international treaties and conventions that aim to regulate crime, including the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), United Nations Convention against Transnational Organised Crime (UNTOC), United Nations Convention Against Corruption (UNCAC), and several Mutual Legal Assistance Treaties (MLAT). Some of these treaties are useful for improving regional cooperation in the field of timber trafficking. However, it must be highlighted that being party to a convention does not automatically translate into the adoption of relevant standards and requirements within the national legal framework. In fact, as for CITES, the legislation of Myanmar does not meet the requirements for its implementation, and thus fails in CITES Category 3.²⁰

Environmental Legislation

A number of specific pieces of legislation regulate the forestry sector. These are:

- The Forest Law of 1992
- The Protection of Wildlife and Natural Plants and Conservation of Natural Areas Law of 1994
- The Conservation of the Environment Law of 2012

In addition to this primary legislation, a number of rules have been promulgated which provide important regulatory frameworks for the work of Myanmar's government, and particularly that of the Forestry Department. The most important of these are The Forest Rules of 1995, and The Protection of Wildlife and Natural Plants and Conservation of Natural Areas Rules of 2002.

Timber Offences

Chapter IX of the Forest Law contains a series of provisions related to offences and penalties linked to the illegal trade in timber. These are as follows:

- Section 40 provides for a fine of up to five thousand kyats (\$6), or imprisonment for up to six months, or both, for trespassing or moving forest produce without "submitting to an examination at the revenue station", amongst other offences.
- Section 42 provides for a fine of up to twenty thousand kyats (\$23), or imprisonment for a term of up to two years, or both, for "extracting, moving or keeping in possession unlawfully timber from a reserved tree other than teak without a permit," amongst other offences.
- Section 43 is concerned specifically with the case of teak, and provides at subsection (a) for a fine of up to fifty thousand kyats (\$57), or a term of imprisonment for up to seven years, or both, for the cutting and removal of timber from "forest land or land at the disposal of Government". Subsection (b) levies a lower fine [up to five thousand kyats (\$6)], or imprisonment for no longer than six months, if teak is harvested from land other than forest land, or land at the disposal of Government.
- Section 44 concerns the fraudulent marking of timber, or possession of marking equipment for timber, without authority. A fine of thirty thousand kyats (\$34), or imprisonment for up to three years, or both, is prescribed for guilty persons.
- Section 45 focuses on the misuse of power by forest officials, who face a fine of ten thousand kyats (\$11), or imprisonment for a period of up to one year, for illegally seizing timber or timber products.
- Section 46 targets corruption within the Forestry Department. The acceptance of cash or in-kind contributions in contravention of the law, or involvement in the illicit movement of timber, constitutes an offence punishable with up to seven years imprisonment.

²⁰ UNODC (2015): Legal Framework to Address Wildlife and Timber Trafficking in the ASEAN Region

As previously discussed, the level of seriousness of the offence contained in the above articles determines which law enforcement institution will be responsible. In the case of Sections 40, 42, 43 (b), and 45, the Forestry Department has jurisdiction and can submit the case directly to the prosecutor. In the case of Sections 43 (a), 44, or 46, the Forestry Department may complete the investigation before submitting the case to the Police, who may conduct further work or review, prior to submitting the case to the prosecutor.

The new Parliament of Myanmar will be expected to deliberate on a number of amendments to the current Forestry Law, including – inter alia – those related to penalties. If approved, the new penalties for forest offences could raise to a minimum of 5 years imprisonment and a maximum of 15 years in the case of teak, while for other protected species (including Burmese Rosewood) the prison terms would range from a minimum of 3 to a maximum of 7 years. Monetary fines will be expected to rise to 20 times the current values.

Wildlife Offences

The Protection of Wildlife and Natural Plants and Conservation of Natural Areas Law of 1994, the associated Rule of 2002, and the Protected List of Wildlife 1994 are the main pieces of legislation applicable to wildlife crime. The Protected List of Wildlife defines three categories of species:

- ‘Completely protected’ wildlife – includes 39 species of mammals, 50 species of birds, and 9 species of reptiles and amphibians
- ‘Normally protected’ wildlife – includes 12 species of mammals, 43 species of birds, and 6 species of reptiles and amphibians
- ‘Seasonally protected’ wildlife – includes 2 species of mammals and 13 species of birds

Offences and penalties for wildlife crime are defined in three main articles of the Protection of Wildlife and Natural Plants and Conservation of Natural Areas Law. These are as follows:

- Section 35 targets offences in (a) hunting without a licence; (b) violation of any condition of the hunting licence; (c) Raising ‘normally protected’ or ‘seasonally protected’ species for commercial purposes without a licence. These acts are punishable with imprisonment up to three years, or a fine of 10,000 kyats (\$11), or both.
- Section 36 (a) applies to offences of killing, hunting, or wounding a ‘normally protected’ or ‘seasonally protected’ wild animal without permission; or possessing, selling, transporting, or transferring such animal or any part thereof without permission. These offences are punishable with up to five years imprisonment, or a fine of up to 30,000 kyat (\$34), or both.
- Section 37 (a) applies to acts of killing, hunting, or wounding a ‘completely protected’ wild animal without permission; or possessing, selling, transporting, or transferring such animal or any part thereof without permission. Section 37 (b) applies to acts of exporting a ‘completely protected’ wild animal, protected wild plant, or any part thereof, without the permission of the Director General. Offences under Section 37 are punishable with imprisonment of up to 7 years, or a fine of up to 50,000 kyats (\$57), or both.

Wildlife and forest crime is therefore punishable by a maximum deprivation of liberty of seven years, and the maximum fine imposed on natural persons is equivalent to less than 60 USD. Myanmar has the lowest monetary fines for forest crimes within the ASEAN Region. These penalties are too low to be a deterrent, or to be considered appropriate in relation to the wealth of individuals, as is illustrated in Figure 7.²¹ Furthermore, the current legal framework does not seem to properly address the importing or the re-exporting of alien protected species.

²¹ UNODC (2015): Legal Framework to Address Wildlife and Timber Trafficking in the ASEAN Region

The Law was submitted to the Parliament to amend – inter alia – the penalty provisions, which are supposed to reach up to 15 years of imprisonment and significantly higher monetary fines. These amendments are expected to be discussed by the new Parliament in 2016.

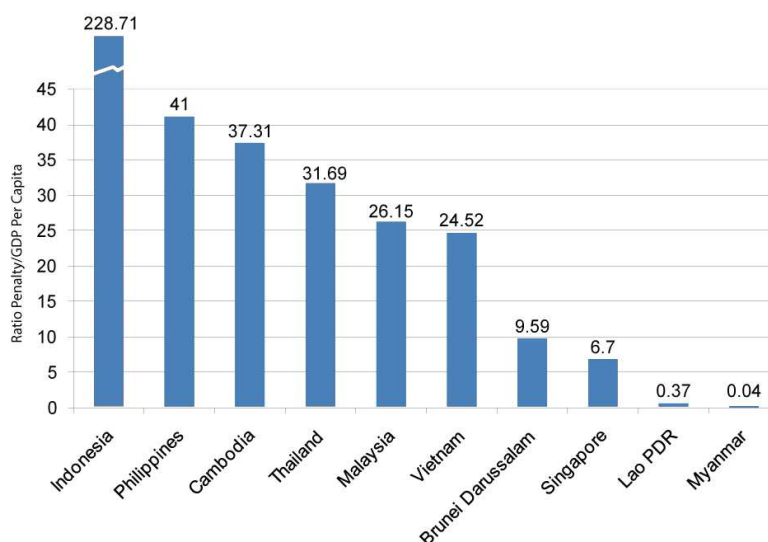


Figure 7. Maximum fine relative to GDP per capita

Public Property Legislation

Accordingly, a range of other laws are used in cases of illegal exploitation and trafficking of timber. The most common are the Public Property Protection Law of 1963 and the Public Property Protection Law of 1947.

The definition of public property in the 1963 legislation, in particular, is very broad and based on a *valuation* and *volume* of the property affected. Given the current and growing value of teak, it is therefore possible to obtain a higher sanction under this legislation than that prescribed in the Forest Law. The Public Property Law of 1963 contains a minimum sentence of 10 years and the 1947 Law a minimum sentence of seven years. The case must also be tried at the District Court, as opposed to the Township Court, given the seriousness of the offence.

The Public Property legislation was used in two recent cases in 2011. The first involved the seizure of 14.63 tonnes of teak and the offenders were charged under the 1963 Public Property Law. In a case later the same year 2.8 tonnes of teak were seized and the suspects were charged under the 1947 Public Property Law. A 2012 case where 13.4 tonnes of teak was seized resulted in charges being pressed under the Forest Law. The Attorney General’s Office reviews each case based on the available evidence in order to determine the most effective prosecutorial strategy, including which charges will be under what pieces of legislation. This determination is based on the requirement to ensure both that the case can be proved and that the maximum penalty can be obtained.

Anti-Corruption Legislation

Myanmar has more than 20 pieces of legislation containing provisions relating to anti-corruption; the primary legislation is the Anti-Corruption Law, which was enacted in August 2013, and came into effect on 17 September, 2013. This new law repealed the former Suppression of Corruption Act of 1948.

The new law represents an additional tool that could be used to prosecute cases of illegal exploitation of timber, with much stronger penalties than those provided by the Forest Law. Chapter 10 of the new Anti-Corruption Law stipulates the relevant offences and penalties, including:

- A maximum of 15 years in prison and a fine for a political post holder convicted of committing a bribery offence (Section 55);
- A maximum of 10 years in prison and a fine for any other authorised person convicted of committing a bribery offence (Section 56);
- A maximum of seven years in prison and a fine for any other person convicted of committing a bribery offence (Section 57);
- A maximum of five years in prison and a fine for any person convicted of committing offences including concealment, eradication, altering, or transferring money or property relating to any offence under the Anti-Corruption Law (Section 58).

However, the Anti-Corruption Law does not stipulate the value of the fines to be applied for the above offences, or how they shall be calculated. A key strength of the law is that it requires the accused to bear the burden of proof, and provide firm supporting documents and evidence that the money and/or property were received legally (Section 64). The Anti-Corruption Law also stipulates how asset declarations are managed and what are the measures to report corruption allegations, as well as the procedures for confiscation of money and property due to illicit enrichment.

Other Relevant Legislation

While officials in the Attorney General's Office indicate that some of the cases involving the illicit trade in timber involve a high degree of organisation and are "complex crimes", there have not yet been proactive investigations and prosecutions in the area. This is partially due to the fact that the Attorney General relies on the police to initiate such investigations. As of yet, there is no specific legislation dealing with organised crime in Myanmar, despite the country having ratified the United Nations Convention against Transnational Organised Crime in 2004.

Legislation passed in 2005 provides for mutual assistance in criminal matters and could be usefully applied in cases of cross-border timber trafficking. Myanmar has recently passed into law new legislation on money laundering. Given that the law has been on the statute books for only a short period of time, no prosecutions have yet been instituted using this legislation.

Both Customs and the Attorney General's Office indicate that prosecutions could be brought under the Sea Customs Law, or the Land Customs Law as amended in 1960. In both cases this legislation is based on old colonial laws (the India Act No. VIII of 1878 and the India Act No. XIX of 1924 respectively) and requires review and updating. The 1947 Export/Import Law could also be required, but is equally dated. It should be noted that prosecutions have also been brought under the Immigration Law when foreign nationals have been involved, given that this requires a lower evidentiary standard.

2.3 Measuring the Impact of Enforcement Activities

Illegal Timber Trade

Statistics on timber seizures provided by the Myanmar Forestry Department provide an overview of the places where the seizures took place, the volume of seizures, and the number of seizures that have been made by the department since 2007. In terms of the number of seizures, the data, visible in Figure 8, indicates that despite a slight decrease between 2008-09 and 2010-11, there was an increase overall in the number of seizures by the forestry department over recent years. The number of seizures proceeded to reach an all-time high in 2013-14.

However, it should be noted that there is an irregular trend in the pure volume of seized timber since 2007. This represents the actual tonnage seized, and apart from the high volume seized in 2009/10, and the slight increase in volume seen in 2013/14, there is a declining trend in the overall volume of seized timber. Comparing the annual volume of seized timber with the number of seizures, it seems that the volume per seizure is declining (Figure 9).

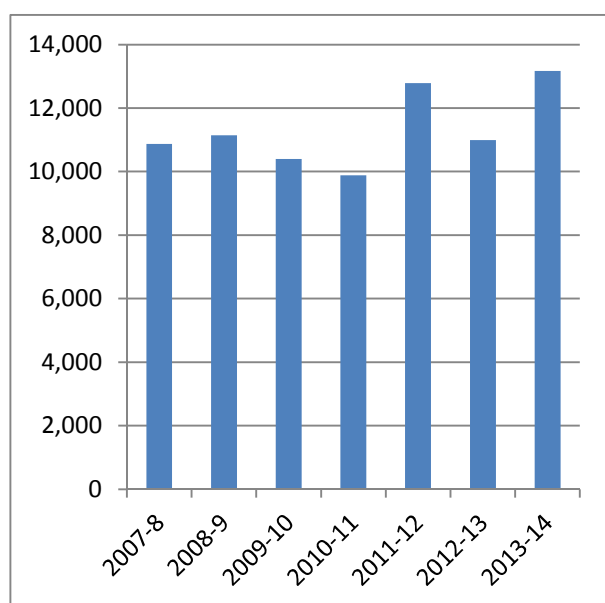


Figure 9. Number of seizures of illicit timber by the Myanmar Forestry Department, 2007-2014

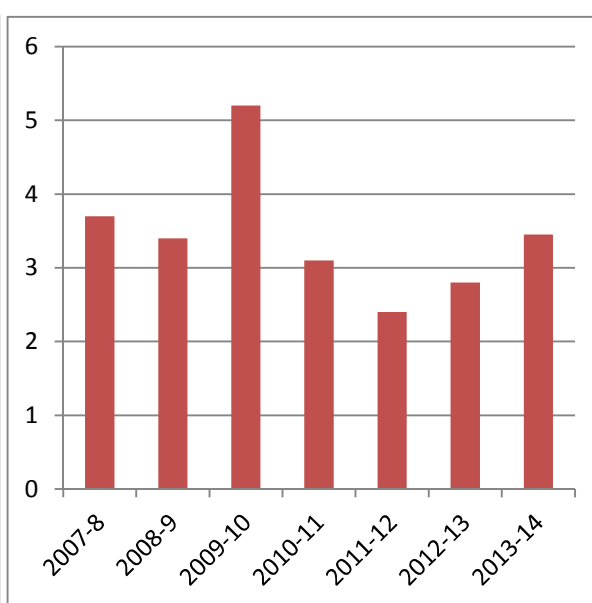


Figure 8. Average volume (tonnes) of timber per seizure from 2007-2014, by the Myanmar Forestry Department

Looking further into the species of timber that have been captured by the Myanmar Forestry Department, the data indicates that there are wide fluctuations in the types of timber seized each year (Figure 10). The 2013-14 fiscal year saw an increase in the seizure of teak logs compared to the previous year, but this number has subsequently declined for each of the past two years. Seizures of hardwood rose notably during 2013-14 and 2014-15. Seizures of an array of other types of wood, which, in total, are greater than teak/hardwood seizures most years, have spiked in the fiscal year 2014-15.

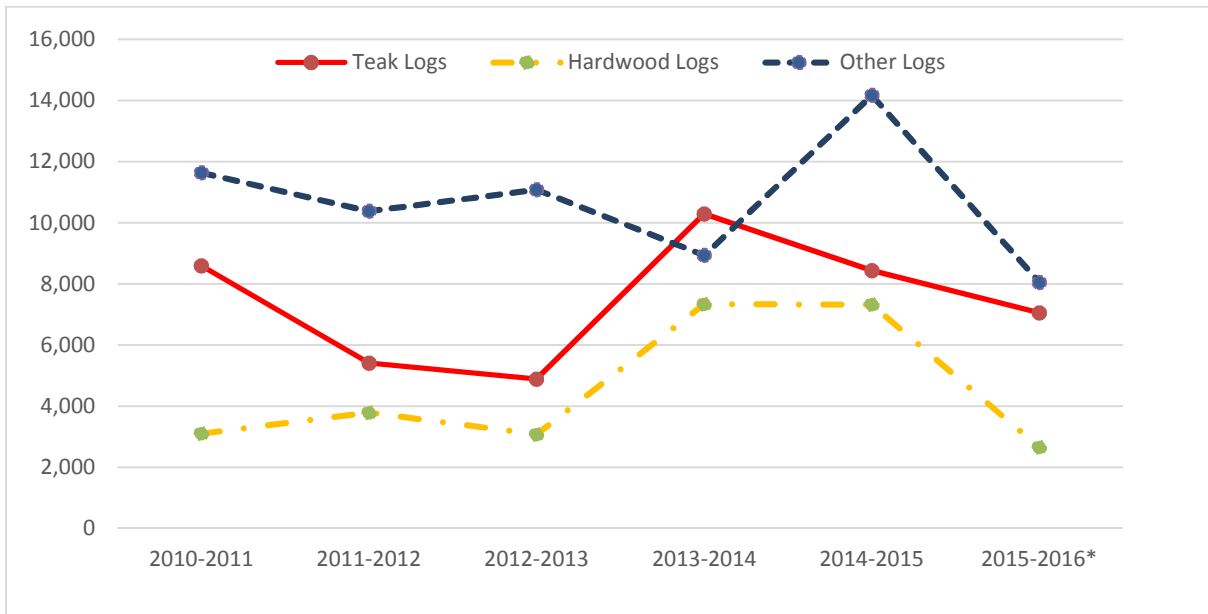


Figure 10. Volume (tonnes) of timber by type, seized by the Myanmar Forestry Department (2010-2016)
*Up to September

Oftentimes teak is the focus of discussions related to illegal timber harvesting and trafficking in Myanmar. While protecting teak should remain a priority, this emphasis risks diverting attention from

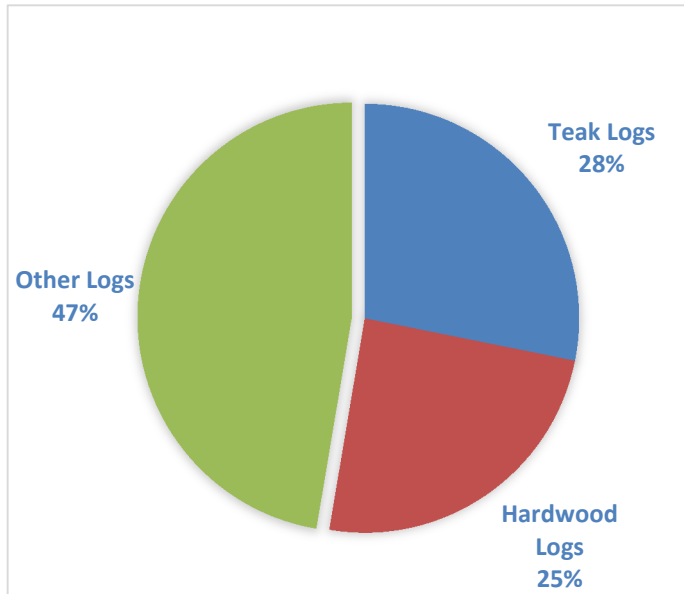


Figure 11. Type of timber seized by the Myanmar Forestry Department, 2014-15

other types of timber that are also potentially at risk. Over the past five years, with the exception of 2013-14, “other” types of wood have been seized in greater quantities than either teak or hardwoods. The data in Figure 11 emphasizes this point; in the most recent year with complete data (2014-15) 47% of timber seizures were of a type of timber other than teak or hardwood. This suggests, that in addition to teak, a number of other types of timber are being smuggled in large quantities. To prevent harvesting and trafficking of these types of trees, and to accurately determine the environmental dangers associated with harvesting them, more data is needed on the type of trees which constitute this category. Accordingly, more detailed statistics about timber seizures in

Myanmar should be recorded by law enforcement in the future.

Law enforcement, especially the Forestry Department, regularly seizes timber throughout Myanmar (Figure 12). Data provided by the Myanmar Forestry Department shows that the Sagaing Region had the largest number of seizures over the past two years. In addition, when compared to 2012-13, the 2013-14 fiscal year saw a 44% increase in timber seizures in Sagaing Region. A diverse group of timber species have been seized in the region including Pine wood, Gumkino wood, and wood from wood oil trees.

Shan State also has a high number of seizures. Data from 2012-13 suggests that in both Taunggyi and Lashio areas, the main seizures were made in relation to other woods. The prevalence of “other” wood

seizures in these regions suggests this is where law enforcement most needs to improve their data collection practices and where many species of trees may be at risk, without any significant awareness by those outside the region.

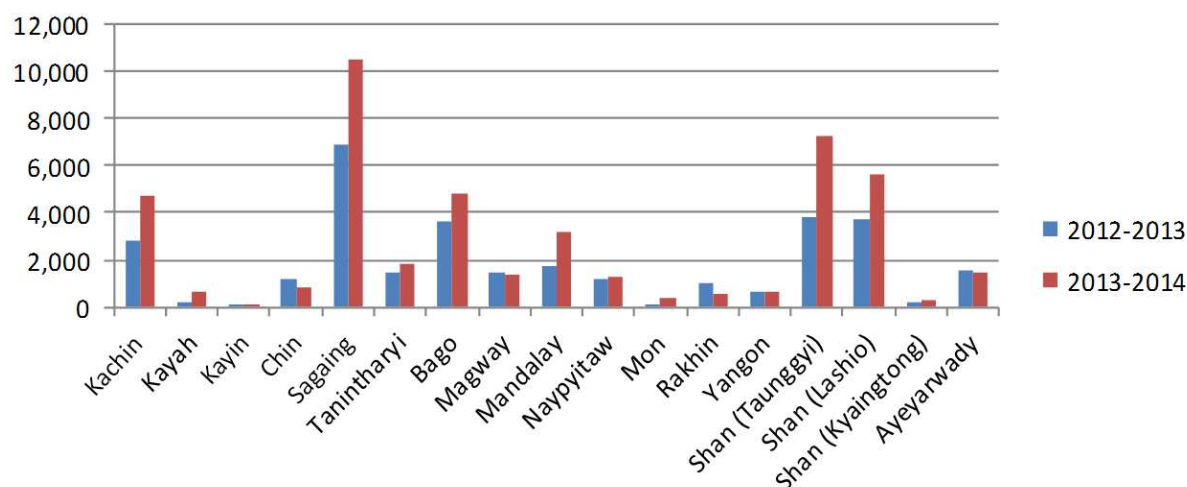


Figure 12. Volume (tonnes) of timber seized by the Myanmar Forestry Department, per region (2012-2014)

However, the most recent data (2013-14) shows that there has been a shift in the species of wood that is being seized, being mainly teak in Taunggyi, and mainly hardwood seized in Lashio. Also in Kachin, where the volume of seized timber significantly increased over the past two years, there has been a shift in the type of wood seized. In 2012-13, a high number of wood species other than teak and hardwood was registered, and the data suggests that hard wood seizures increased in 2013-14.

Between 2012 and 2014 a total of 24,163 cases were acknowledged as being related to forest offences by the forestry department. Out of these 24,163 cases, the Myanmar Forestry Department transferred 4,607 cases for prosecution (equal to 19% of cases).

Most cases involve a small number of people, and particularly in the case of teak exploitation, foreigners may pay local villagers to identify and cut down the trees. According to senior managers, the lack of a Forestry Department presence in the contested areas also means that there is likely trafficking occurring in many areas that has a very low risk of interception.

Until recently, there was only sparse information about foreigners involved in these crimes. During field interviews UNODC was informed of a specific case involving 15 foreign suspects. This case resulted in the acquittal of all 15 foreign suspects. A close resemblance is apparent between this case and that of



Figure 13. Myanmar Forestry Department photograph of timber being illicitly transported across the border to China

the 155 Chinese nationals arrested in Kachin State in January 2015 (previously discussed in section 1.1). In both cases all of those arrested were released before serving a prison sentence.

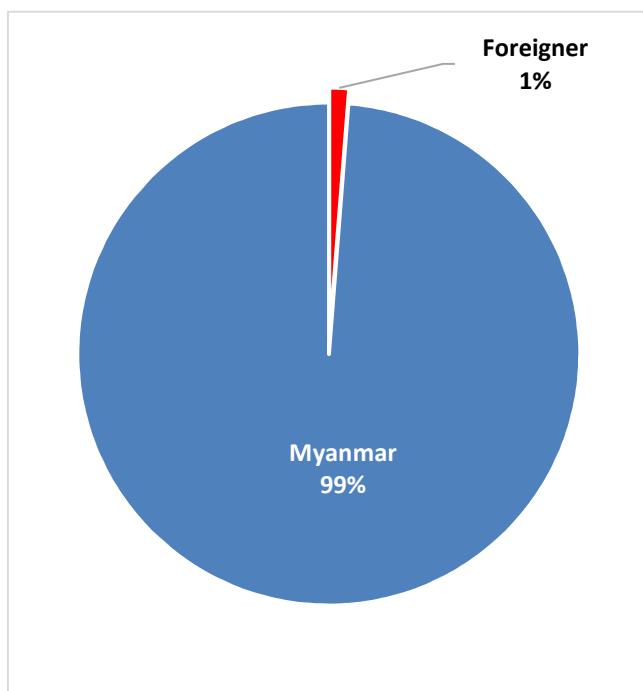


Figure 14. Offenders of timber trafficking crimes in Myanmar by nationality, 2009/10-2015

Recently released data from Myanmar’s government, as seen in Figure 14, provides more detail. Over the past five years, only one percent of those arrested for illicit timber trafficking have been foreigners, and in most years during this period this number has been a fraction of a percentage. The low percentage of foreigners being arrested is unlikely to indicate that few foreigners are participating in trafficking timber. It is more probable this statistic indicates those being arrested for timber trafficking are low-level players, who are almost always locals, rather than those organizing the broader illicit timber harvest. More work needs to be done to target mid-to-high level players involved in timber trafficking, as this will help to dismantle larger criminal networks and act a deterrent for other criminal rings.

For their part, the Myanmar Police Force reports that they have been actively combatting various types of forest crime. These appear to mainly be cases transferred to the Police by the Forestry Department. The Police indicate that between January and December 2011 there were 246 cases investigated, with 653 offenders being arrested and charged under the provisions of the Forest Law. Senior police officials report that there have been no high level investigations against criminal groups in the area of the illegal trade in timber.

The Attorney General’s Office reports that there is no available data on the number and success of prosecutions in the area of forest crime or the illegal timber trade. One of the difficulties of collecting such data is that the charges made are across a number of pieces of legislations (as discussed previously), as well as being dispersed amongst the various offices of district and township prosecutors.

Illegal Wildlife Trade

Data provided by the Forestry Department suggests that seizures of wildlife in Myanmar do not typically involve the large-scale quantities of wildlife products often seen in seizures in other Southeast Asian countries. To date, it is very difficult to find reports of African ivory, rhino horns, or other wildlife parts being seized in Myanmar. This could be an indication of a lack of detection capacity at ports of entry and exit, or it may indicate that transnational criminal syndicates connecting Africa to Asia are not including Myanmar in their routes. This possibility seems unlikely though based on the current legal loopholes, low penalties, and lax enforcement which would make of Myanmar an ideal smuggling hub.

Data from the Forestry Department confirms that wildlife crime cases are most commonly intercepted during domestic transportation, and less often, or rarely, detected at border crossings or wildlife markets. Most cases also involve a small number of people, often just one or two offenders.

Wildlife crimes occur throughout all regions of Myanmar, although these crimes are more heavily concentrated in some regions (Figure 15). Shan State, in particular, is the state in which the most wildlife crimes are intercepted. In 2015, seizures of illegal elephant skin, ivory, Golden Cats skin, goral antlers, pangolin scales, leopard skin and rhino horns have occurred, in addition to many other

animals. Mandalay State and Rakhine State also have a relatively high number of illicit wildlife seizures.

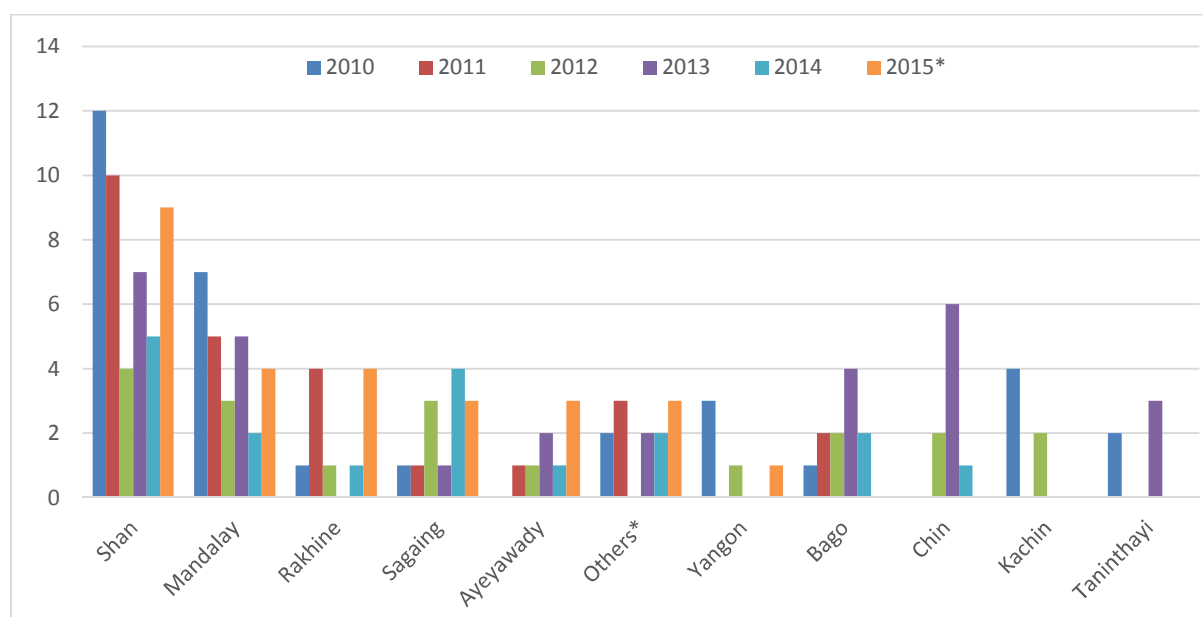


Figure 15. Seizures of illegal wildlife in states and regions of Myanmar, 2010-2015

From 2010-15 there were more than 15 different types of wildlife seized in Myanmar. The five most common types of wildlife seized were elephants, snakes, pangolins, orchids and turtles/tortoises (Figure 16). There is substantial yearly variation in the types of animals seized. Deer, as an example of this, were one of the top-five animals seized for the 2010-11 and 2014-15 fiscal years. Elephants, snakes and pangolins though are consistently amongst the most seized wildlife. These figures do not account for the weight, or the total number of units, of wildlife being seized as inconsistent reporting methodologies make it difficult to accurately compare these numbers, although it is clear the size of seizures can vary dramatically.

Data from the Supreme Court of the Union of Myanmar²² indicates that the number of wildlife crime cases and seizures remained

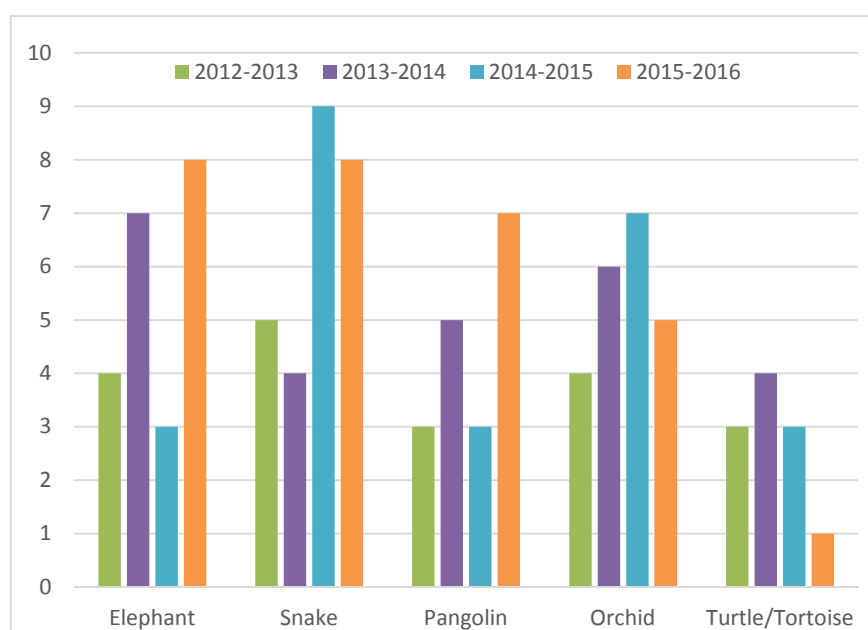


Figure 16. Five most prevalent types of wildlife crime seizures within Myanmar, 2010-2015

²² Supreme Court of the Union of Myanmar (2014), *Wildlife Crimes in Myanmar*, as presented at 4th ASEAN Chief Justice's Roundtable on 14 December, 2014; accessed via Asian Judges Network on Environment website, <http://www.asianjudges.org/wp-content/uploads/2015/01/28-Session-4.Illegal-Wildlife-Crime-Trafficking-and-Trade-Aye-Aye-Hlaing.pdf>

relatively consistent during the years 2008 – 2010, with a reduction of cases in 2011 followed by a significant increase in 2012 of almost triple the number of cases. However, the annual number of wildlife crime cases is minuscule in comparison to the thousands of annual illegal timber trade cases. This could be interpreted as an indication of the relatively lower priority law enforcement places on wildlife crimes as compared to timber crimes. As shown in Figure 17, the types of species and products involved in wildlife crime cases remained relatively consistent in the five years from 2008 to 2013, with a notably low incidence of cases related to the smuggling of tigers or the smuggling of other wild cat parts or products.

No.	Fiscal Year	Total Cases	Seized Items
1	2008-2009	34	Turtles and tortoises, Elephant carcass, tusks and skin, Sambar deer horns and skin, Goral skin, Snakes, Birds, Geckos, Pangolin scales
2	2009-2010	31	Turtles and tortoises, Bear and bear claws, Elephant tusks and skin, Tiger teeth, Sambar deer horns and skin, Snakes, Birds, Pangolin and pangolin scales, Orchids, Handmade guns and gunpowder
3	2010-2011	30	Turtles and tortoises, Elephant tusks and skin, Pangolin and pangolin skin, Tiger teeth, Sambar deer horns and skin, Snakes, Birds, Marbled cat skin, Civet skin, Python scales, Golden cat skin and taxidermic golden cat, Gaur horn, Clouded leopard skin, Birds, Gecko, Goral skull and horns
4	2011-2012	21	Elephants, elephant tusks and skin, Turtles and tortoises, Pangolin scales, Birds, Sambar deer horns, Goral horns, Snakes, Bears and bear bones, Hog deer teeth, Goral teeth, Bear teeth, Handmade guns
5	2012-2013	59	Elephants, elephant tusks and skin, Turtles and tortoises, Pangolin scales, Birds, Sambar deer horns, Goral horns, Snakes, Bears and bear bones, Hog deer teeth, Goral teeth, Bear teeth, Handmade guns, Orchids

Figure 17. Supreme Court of the Union of Myanmar data on wildlife crime cases and confiscated wildlife products, 2008-2013

A somewhat positive indication of an improving criminal justice response to wildlife crime can be drawn from data on prosecutions of relevant cases under the Protection of Wildlife and Natural Plants and Conservation of Natural Areas Law 1994, as shown below in Figure 18²³. This data indicates a steady increase in the number of cases resulting in imprisonments in the period 2008-2012, from 10 cases up to 25. In 2012, this figure indicates that 80 percent of court decisions on wildlife crime cases resulted in imprisonment. However, this was followed by a reduction to 15 imprisonments in 2013, or 51 percent of court decision on wildlife crime cases in that year, despite issuing decisions on almost the same number of cases.

²³ *Ibid.*

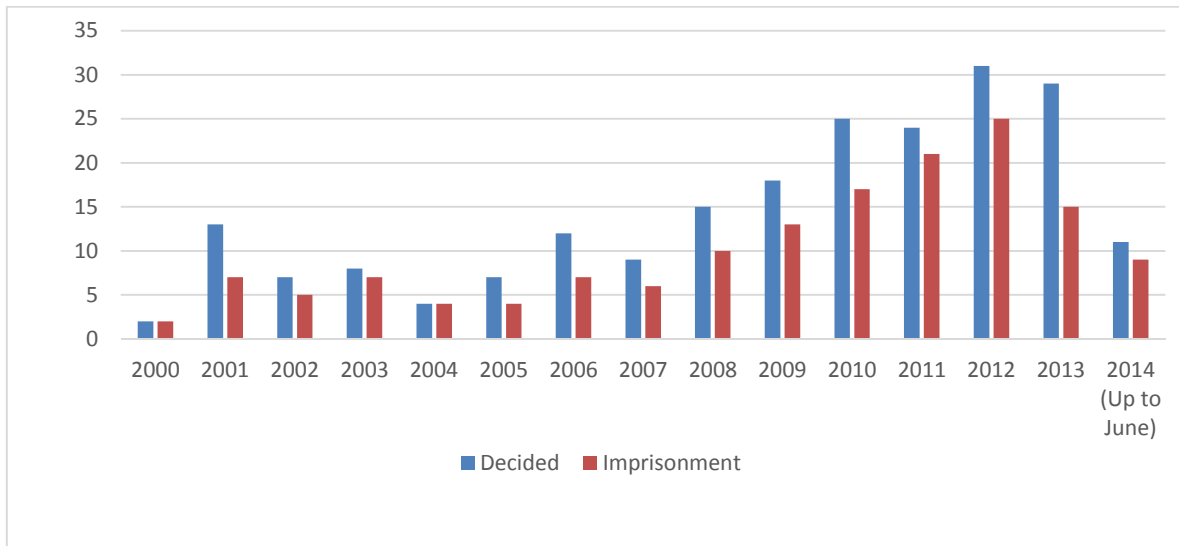


Figure 18. Supreme Court of the Union of Myanmar data on criminal cases, and resulting imprisonments, involving wild animals prosecuted in court under the 'Protection of Wildlife and Natural Plants and Conservation of Natural Areas Law 1994'

Conflicts in various areas of the Myanmar territory pose a significant additional challenge to the response to wildlife and forest crimes. Wildlife crime in Myanmar does elicit some action from law enforcement, although whether this response is proportionate to the amount of wildlife crime taking place is questionable. It is difficult to accurately measure the size of the problem, although it is certain that wildlife crime continues to provide significant funding to organized crime. The provision of resources to research the true scale of the illicit wildlife trade is needed, as this would allow law enforcement to more accurately understand what a proportionate response would entail. Wildlife in Myanmar could be more effectively protected if this were to occur, helping to keep fragile ecosystems intact and reducing the impact of organized criminal organizations on the social and economic well-being of the country.

To improve the efforts to reduce wildlife and forest crime, more resources need to be invested in this field. These resources, if properly allocated, could allow for improved data collection, increased patrols in under-observed regions, and they could support larger investigations targeting high-level players in the timber trafficking industry. Importantly, it will also require a strict implementation of the rule of law in those territories currently experiencing conflicts.

Taking any of these steps will require Myanmar's Government to place a new emphasis on the criminal justice system, and to make combatting forest crime a priority, in line with recent ASEAN decisions. If this is done, Myanmar may experience a significant reduction in the amount of indigenous species being unlawfully exploited. It may also become a less likely target for transnational criminal syndicates that take advantage of legal loopholes, low penalties and lax enforcement to smuggle through the Myanmar alien wildlife and timber species.

3. UNODC PROGRAMME IN MYANMAR

The UNODC Country Programme in Myanmar works towards a vision of *‘a healthier and safer national community, free from the threats posed by organised crime and drug use, and confident in the integrity of the criminal justice system to provide access to justice’*.

To support this vision, the Sub-Programme on Transnational Organised Crime and Trafficking is designed to support five main outcomes, namely in relation to:

- Drug and precursor trafficking;
- Human trafficking and smuggling of migrants;
- Border control;
- Money laundering and proceeds of crime;
- Wildlife and forest crime.

Building national capacities in these areas prepares and enables Myanmar to more actively and effectively contribute to regional cooperation, which is key to effectively tackling illicit trafficking. In addition to these main outcomes, support will be extended to the Government in countering other types of organised crime and other emerging crimes.

Outcome 1.5 specifically refers to wildlife and forest crime operations:

Outcome 1.5	Output 1	Output 2	Output 3	Output 4
Wildlife and forest crime operations identified and acted upon	Policy and legislative frameworks enhanced, to comply with regional and international norms and standards	Enhanced knowledge and skills developed within the MPF and prosecution, to investigate and prosecute criminal activities related to forest and wildlife crimes	Mechanisms for effective cooperation among relevant law enforcement, prosecution and judicial agencies enhanced to successfully prosecute forest and wildlife crimes	Prevention campaigns supported to raise awareness on the nature, scale and consequences of forest and wildlife crimes in Myanmar

Myanmar’s geographic location makes it particularly vulnerable to timber and wildlife crime. As a result, efforts to address these crimes must cover a wide range of issues in order to address all the links in the chain of forest and wildlife crime. To this end, UNODC will engage in different activities, namely:

- Work within the framework of the UNTOC and strive to ensure that Myanmar has the national capacity to comply with relevant international conventions, including CITES, to reduce the exploitation of wild fauna and flora.
- Assist the Government of Myanmar in the process of assessing and improving its policy and legislative frameworks to criminalise, investigate and prosecute forest and wildlife criminal offences.

- Support Myanmar Police Force in enhancing knowledge and developing skills to investigate and prosecute criminal activities related to forest and wildlife crimes. Deliver this support through the delivery of simple, visual and result-oriented training materials in Myanmar language, and specific face-to-face training packages delivered by qualified international instructors.
- Consolidate partnerships with other UN agencies, NGOs, international organisations, and with relevant community-based national, regional, multi-lateral and international stakeholders, to strengthen the criminal justice component of relevant environmental initiatives, and develop comprehensive alternative livelihood programmes for local communities involved in illegal logging and wildlife crimes.
- Support national institutions to promote multi-agency, cross-border cooperation, and a more coordinated response to wildlife and forest crime by identifying gaps and overlaps in the roles of MPF, customs officials, and rangers.
- Hold several multi-agency capacity building initiatives based on intelligence sharing and other investigative techniques such as controlled delivery.
- Put in place a monitoring system of the most relevant enforcement operations in the country, and support the publishing of regular bulletins to inform key national and international partners.
- Support dialogue and information campaigns involving the media, with a view to correctly frame the drivers of wildlife and forest crime.

4. CONCLUSION AND RECOMMENDATIONS

The investigation and prosecution of major cases of the illegal trade in timber and wildlife is not yet an overarching priority of the Government of Myanmar. However, there is an urgent need to change this, especially given the recent decision by the 10th ASEAN Ministerial Meeting on Transnational Crime to officially add 'trafficking of wildlife and timber' to the list of regional priority transnational crime threats. This decision has elevated the importance of wildlife and forest crime, and compels ASEAN Member States to implement a stronger law enforcement and criminal justice response.

There is a growing awareness in Myanmar of both the extent and damage being wrought by forest crime, and the illegal timber trade in particular. However, this has not yet translated into a coordinated criminal justice response. The illegal timber trade displays all the characteristics of organised crime; this includes illegal cross-border movements, the use of violence and widespread corruption to protect and facilitate activities, and a hierarchical and networked organisation. Yet, in most cases, the illicit trade in timber is not yet viewed as an organised crime, and this view continues to prevail within the criminal justice system. The focus of investigations is on mainstream crimes, essentially those that are reported or are discovered by relevant agencies. While there are some higher level prosecutions which have been undertaken in the region, they are by far the exception, rather than the rule, and have only targeted mid-level players.

While the Forestry Department is making a concerted effort to fight forest crime, its resources are limited. The Department cannot complete investigations in serious cases and, importantly, it does not have a presence in many areas where illicit timber and wildlife exploitation and trafficking occur. This allows organized crime, as well as low/mid-level players, to continue trafficking timber and wildlife with minimal fear of prosecution. To do this more resources will need to be allocated to agencies combatting forest crime and it must be made a greater political priority within Myanmar.

The Forestry Police is still in its infancy and currently there is no clear information on the actual capacity of this division to recalibrate the focus of investigations from the low-level/occasional players to the most prominent controllers of the criminal supply chain. Given the active role and knowledge of the Forestry Department in this sector, joint investigative teams between the police and forestry officials should be established.

While the Government's Task Force is an important step in the right direction, coordination between different departments could be greatly improved. At the most basic level, this is demonstrated in the different data sets provided by the departments involved. It is currently impossible to measure the overall impact of various efforts to reduce timber trafficking, as consolidated data is lacking. This is, in part, a reflection that prosecutions may be made under a variety of different pieces of legislation, making it more difficult to track than if all prosecutions were brought under the Forest Law.

Here, the role of the Attorney General's Office will be crucial. Prosecutors are aware of the necessity of engaging with more complex cases, and have the skills to do so. As with elsewhere in the region, if this approach is to be successful, prosecutors will also have to join investigative teams as advisors. That may mean that, in the end, these individuals may not be able to conduct the actual prosecution in court (as they may themselves be called as witnesses), but it will greatly strengthen the joint Government effort against illicit trafficking.

One key requirement here will be to improve communications with neighbouring countries on the issue of the illicit timber and wildlife trade. Some of this is occurring already, but it has not yet reached a stage that facilitates the regular exchange of intelligence and evidence for use in prosecutions. If complex investigations are to be mounted, it may be necessary to extradite key suspects from neighbouring countries or further afield.

Consideration should also be given to increasing the penalties for illegal timber and wildlife trade within the existing legislation, most notably the Forest Law and the Protection of Wildlife and Natural Plants and Conservation of Natural Areas Law. While the Public Property Law of 1963 does provide a

useful tool for prosecutors, amending the specific legislation related to the protection of forest resources would clearly signal the Government's intent to deal more severely with offenders in these cases, and simplify the process of bringing prosecutions.

The legal framework for confronting complex cases of illicit trafficking in Myanmar requires strengthening. While the country has ratified the UN Convention against Transnational Organised Crime, there is not yet an overarching law in place on the issue of organised crime. This is an important requirement and senior officials in the Attorney General's Office are eager to understand what such a law may entail. A series of new pieces of legislation, most notably on money laundering and on mutual assistance in criminal matters, are already in place, and the former lists illegal timber trade as a predicate offence. These are important building blocks, but more will be required if investigators and prosecutors are to have the required tools to meet the challenge.

The criminal justice system in Myanmar is not being used optimally to counter illicit timber and wildlife trade. It is therefore recommended to:

- Enhance legislative and regulatory frameworks to combat wildlife and forest crimes, starting by reviewing whether they meet all the obligations of relevant international conventions or regional standards.
- Review the penalties that are provided for wildlife and forest crime – including those for money laundering – to ensure they reflect the gravity of the crime and act as a deterrent. In the case of penalties for money laundering, it is important to align them at least to regional standards to avoid Myanmar becoming a safe haven for timber and wildlife trafficking rings.
- Train frontline forestry enforcement officials, police and border control officers to improve their skills in intercepting illegal timber and wildlife movements, the collection and preservation of evidence, interview techniques, electronic surveillance and appearance in court, amongst other aspects, in order to combat illicit timber trade and forest crimes.
- Form investigative task teams, drawing on the expertise of all relevant agencies, with the express purpose of targeting select high level and symbolically important illegal timber and wildlife trading operations.
- Enhance border control and capacity for cross-border cooperation through consolidation and expansion of the existing Border Liaison Offices network, in close cooperation with neighbouring countries.
- Standardise data across departments to measure crime and criminal justice responses. It's otherwise impossible to determine with accuracy both the overall extent of the organised crime issue, and whether progress is being made in countering it.
- Support prevention campaigns to raise awareness on the nature, scale and consequences of forest and wildlife crimes in the country, and lobby for illegal timber and wildlife trade to be included as a priority for policing within the relevant ASEAN fora.

Improving criminal justice responses to the illegal exploitation and trade in timber and wildlife will remain an important challenge for Myanmar. The protection of individual protected species (such as rosewood, teak, tigers, pangolins, and others), which are in short supply or are endangered, and for which there is an external demand, must be tackled in a more sophisticated way. The Myanmar Government must deploy criminal justice resources, and prioritise their use, if they are serious about combating crimes in the forest sector. In line with recent ASEAN decisions, combatting these crimes must become a priority of Myanmar's Government, as this would ensure that resources are allocated in the quantities necessary to enforce laws across the whole of the country. Moving forward it is hoped that improved enforcement can allow Myanmar's actions to match ASEAN rhetoric, and that this will result in reduced wildlife and forest crime within its borders.



UNODC

United Nations Office on Drugs and Crime