



Commercial Agriculture Expansion in Myanmar:

**Links to Deforestation, Conversion Timber,
and Land Conflicts**

EXECUTIVE SUMMARY

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EXECUTIVE SUMMARY AND KEY FINDINGS

In Myanmar, as in other countries of the Mekong, it is widely acknowledged that the clearing of forests to make way for the expansion of commercial agricultural fields is increasingly the leading driver of deforestation, alongside legal and illegal logging, and the clearance of forest areas to make way for infrastructure projects such as roads and hydropower dams. While the conversion of forests for agricultural development has been occurring for many decades, it is the unprecedented rate of this conversion that is now so astounding — as well as the fact that the government is encouraging increasing levels of investment for large-scale industrial agricultural expansion when laws and institutions are not yet able to regulate these large-scale land acquisitions (LSLAs). National legal frameworks — laws, regulations, and enforcement bodies — will need to be improved so this development occurs in the context of sustainable and legal forest management and local communities are assured that they have secure land use rights and access to these agricultural and forested landscapes for their livelihood needs.

Despite national statements purporting to protect Myanmar’s remaining forests, a new set of land and investment laws¹ are still facilitating the conversion of forests into private agribusiness concessions. Since Myanmar’s President U Thein Sein took office in March 2011, the new reform-minded government has promoted industrial agricultural development as an attractive sector for both domestic and, increasingly, foreign investment.² In the forest sector itself, promising new reforms have been progressing, but so far have focused only on the managed timber estates under the direct control of the Myanmar Forest Department (which have been over-harvested for decades). The remaining natural forests in the country’s resource-rich, ethnic-populated states are still left outside any effective forest management and are thus even more prone to extensive logging and forest conversion.³

In sum, each year Myanmar has been losing more than 1.15 million acres⁴ of forests — some of Southeast Asia’s last remaining (sub-)tropical High Conservation Value Forests (HCVF).⁵ Hardwood log exports have been growing by volume, and even more by value, since the new government took office (Figures 1 and 2). Between 2011 and 2013, the volume of timber product exports jumped from about 2.7 to over 3.3 million m³, with values increasing from just over US\$ 1 billion to about US\$ 1.6 billion. Much of Myanmar’s timber is no longer sourced from historical (over-cut) harvesting areas (government-managed timber estates predominately in the geographic center of the country). Instead, domestic private companies are clear-cutting HCVFs — for agribusiness, mining, and hydropower sites, and special economic zones (SEZs) — and producing Myanmar’s,

¹ In particular, two new 2012 land laws (the *Farmland Law* and the *Vacant, Fallow, and Virgin Lands Law*), and a forthcoming *National Land Use Policy*, along with a *Foreign Investment Law* and an anticipated more comprehensive investment law.

² Woods 2013a.

³ Woods 2013b.

⁴ This report lists all areas in acres rather than hectares to follow both Myanmar and USA common measurement standards.

⁵ This translates to an annual loss of 1.2 percent between 1990 and 2010, for a total of over 18.4 million acres (7.45 million ha), or 19 percent of total forest cover in just 10 years (FAO 2010). <http://www.fao.org/docrep/013/i1757e/il1757e.pdf>.

and some of the world's, most valuable "conversion timber."⁶ Forest Trends has estimated that conversion timber from these LSLAs now constitutes a significant portion of the Burmese timber being placed on the international market.

The legal frameworks for the large-scale conversion of forestland and the production of the resultant conversion timber remain weak and unclear. The laws, regulations, and procedures by which agribusiness concessions are allocated are not only spread across numerous government agency jurisdictions, but are also rife with legal loopholes, special permits, and/or exemptions (or may be missing entirely). Despite national policy dialogues and land tenure reforms⁷ that seek to overcome problems stemming from a lack of cross-sectoral coordination, the mandate to regulate and monitor these lands and timber harvests falls between various government institutions. The Forest Department, for example, effectively only manages the core managed timber estate areas (predominately teak), while many forest conversion areas, particularly in ethnic states, are essentially outside their power and authority and therefore the reach of the new forest sector reforms.

Without a fully functional forest governance system that reaches across the country and its land sectors, rent-seeking behavior, further destruction of forests, and denial of local land-use and access rights will continue unabated. Land rights issues and related conflicts, for example, have become one of the most high-profile obstacles confronting the reform government, with the number and intensity of local land and livelihood conflicts increasing in areas where land allocations have been assigned to the private sector without recognizing local communities' statutory and customary land rights. Claims that agribusiness ventures bring employment and economic development to local communities are left as hollow promises when villagers' farming fields and community forests are confiscated, and a large number of these cleared lands are still not planted and are not being managed with any social or environmental safeguards in place.

This report makes clear that forests, agriculture, and land governance must be at the center of any land reform policy in order to properly address resource management and land conflicts.

Building on previous Forest Trends research,⁸ this report:

- Collates, for the first time, new quantitative and qualitative data on the extent and nature of the expansion of agribusiness into the forests of Myanmar, supplemented with two field case studies;
- Analyzes the role that current laws and policies, and revenues generated from the sale of conversion timber, plays in driving this expansion; and
- Summarizes issues related to the socio-economic impacts of this development and the institutions regulating both the process of conversion as well as the resultant conversion timber.

The report, using the government's own difficult-to-access and limited data, also shows that, between 2010 and 2013, the two remote regions where the government has allocated the most private large-scale agribusiness

⁶ Woods 2013b.

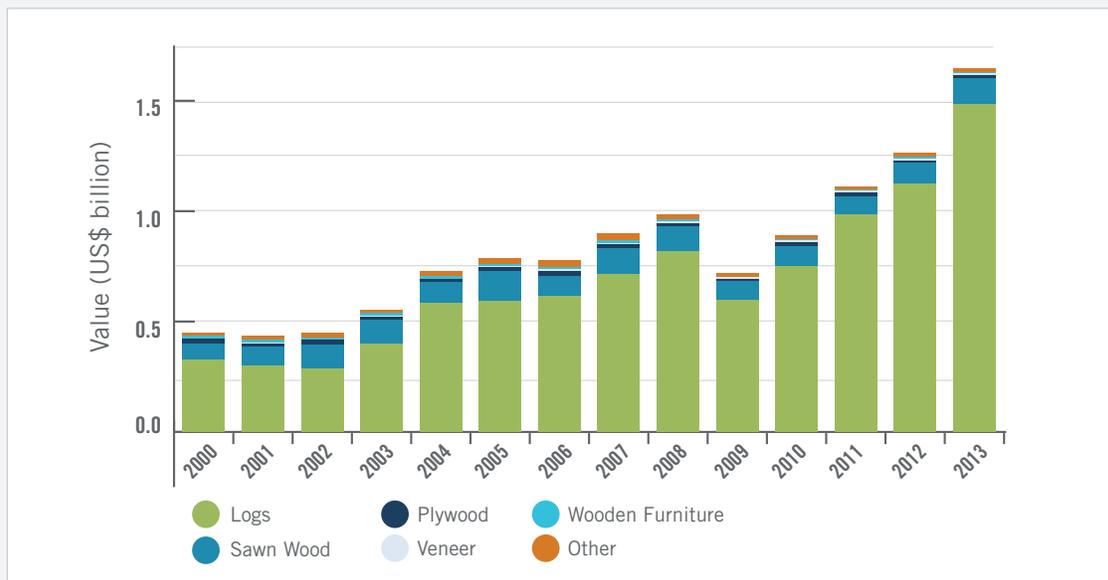
⁷ The Myanmar Union Parliament has established a Land Investigation Commission to compile an extensive report for the President on "illegal" land acquisitions in the country, which is to guide decision making on how to handle past "land grabs" (defined as illegal land acquisitions according to Myanmar's own laws and regulations) and mitigate future ones. In addition, a Presidential Land Allocation and Utilization Scrutiny Committee (LAUSC), previously headed by the current forestry minister, released a draft National Land Use Policy (NLUP) in late 2014 for public consultation with the hope to set the foundation for a holistic, cross-sectoral land policy reform, yet in line with a continued promotion of foreign investment in large-scale land-based projects.

⁸ This report follows the Woods 2013b Forest Trends report which identified conversion timber produced from agribusiness concessions in high-value forest reserves, predominately in ethnic states with latent political and land conflict, as the new primary driver of deforestation in the country.

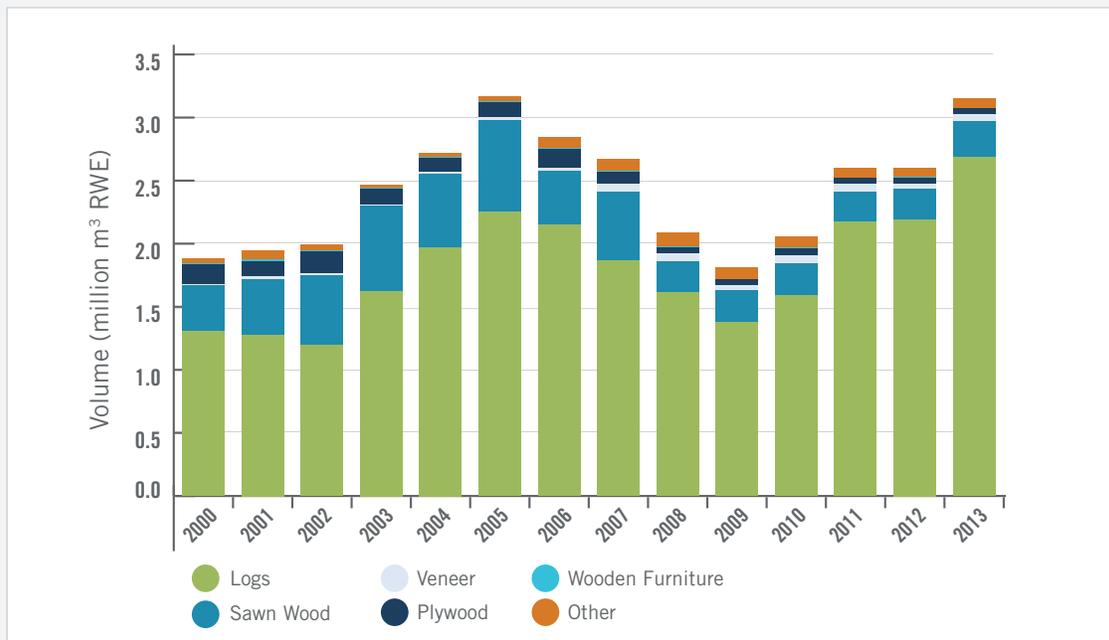
concessions are also the two regions with the greatest extent of Myanmar’s remaining carbon-rich and biodiverse forests, most heavily populated by ethnic minority groups, and the location of some of Myanmar’s most violent conflicts over land. Yet these two regions — Tanintharyi in the southeast with its oil palm and rubber development, and Kachin State in the north with its rubber and biofuels — have differed in the extent to which land concessions for agriculture have been used to access high-value conversion timber for export markets. The report shows that these differences have been driven not only by the particularities of the agro-ecological landscape, but also by dynamic political contexts and the degree to which agribusiness concessions have been allowed to overlap with forest reserves (or forest reserves have been allowed to be degazetted into other land categories).

FIGURE 1

MYANMAR TIMBER PRODUCTS EXPORT BY VALUE (US\$ BILLION)⁹



⁹ All trade statistics compiled by James Hewitt for Forest Trends. The government of Myanmar does not publish bilateral trade statistics. Consequently, importing country statistics have been used to assess Myanmar’s exports. The sources of the trade statistics used include: General Administration of Customs of the People’s Republic of China (for China), Eurostat (for imports by EU member states), Japan Customs (for Japan), Korea Customs Service (for South Korea), Tradeline Philippines (for the Philippines), Directorate General of Customs (for Taiwan), Customs Department of the Kingdom of Thailand (for Thailand), United States International Trade Commission Dataweb (for the US), and UN Comtrade. Vietnam chooses not to publish bilateral trade statistics other than in units of import and export value. Volumes and weights have consequently been estimated herein. Laos chooses not to publish trade statistics. Its trade in wood-based products with Myanmar is assumed herein to be zero. Source data for the imports of some countries during some years (e.g., Bangladesh 2008-2010 and 2012-2013, Taiwan 2013, and Vietnam 2013) have not yet been published but are estimated here.

FIGURE 2MYANMAR TIMBER PRODUCTS EXPORT BY VOLUME (MILLION M³ RWE*)

* RWE = Roundwood Equivalent

With this report, Forest Trends aims to catalyze dialogue and further data collection to more adequately capture the nature and geographic extent of forest conversion in Myanmar. The findings of this report should feed into discussions centered on forest and land policy reform that reaches more broadly beyond individual resource sectors and gives greater attention in securing land and forest use rights to people. The main findings of this report are summarized below.

1. **Between 2010 and 2013, land area allocated for large-scale private agriculture concessions increased by an unprecedented 170 percent.** According to official statistics, large-scale land acquisitions (LSLAs) for commercial agricultural production increased from nearly 2 million acres in 2010 to 5.2 million acres by mid-2013 (Table 1). Official 2013 agricultural statistics show that the government allocated over 800 domestic companies a total of nearly 750,000 acres of demarcated forestland for industrial agricultural production.¹⁰ These figures are an underestimate, as they are based on agricultural concessions allocated only by central government agencies and do not include additional concessions allocated by provincial, military, and/or non-state authorities.

¹⁰ MSU and MDRI/CESD 2013.

2. **While agricultural concessions allocated within forests between 2010 and 2013 largely resulted in forest conversion and timber production, less than one-fourth of total agricultural concession areas were actually planted with agricultural crops by the end of 2013.** In Kachin State and Tanintharyi Region, the two areas of the country with some of Southeast Asia’s last remaining HCVMs and the location of over 60 percent of Myanmar’s agribusiness concessions, only 12 and 19 percent (respectively) of total agricultural concession acreage had been planted. Government data imply, and empirical data presented here support, the speculation that many of these concessions provide legal loopholes for companies to either (a) access valuable timber and undertake logging operations, bypassing the more difficult process (open mainly to a handful of political elites) to obtain a logging concession, or (b) engage in “legal” land grabs for land speculation purposes, with little intention of planting the promised agricultural crops.
3. **Most large-scale agriculture concessions have been allocated in forest reserves, which are often de-gazetted in anticipation of the LSLAs.** From 2004 to 2005 alone, 1.77 million acres of forests (protected forest reserves, unclassified forests, and “other” forests) were de-gazetted to make way for resource extraction, energy infrastructure development, agricultural expansion, and military compounds, according to government data.¹¹ “Unclassified” forests, with typically less substantial tree cover, appear most targeted by agribusiness concessions, likely owing to their more ambiguous ecological function and jurisdictional control. Procedures for de-gazetting forest reserves may exist on paper, although no official contacted for this report knew of any written regulations nor did Forest Trends locate any such documents.
4. **Myanmar government does not collect data on the volumes of timber cut from agribusiness concessions or on any other land category other than the core managed areas overseen by the Forest Department, with few exceptions.** The Union Government of Myanmar does not differentiate timber according to source (e.g., natural forest, production forest, plantation, community forest, and forest conversion) and does not systematically document the production and trade of conversion timber. The little government data that exist are considered inaccurate and in any case only for internal reporting. The lack of a systematic method of issuing timber extraction permits and sound timber management plans throughout the country has resulted in the lack of consolidated accurate national forest and timber extraction data. Only two internal government data sets were obtained during the course of the study: one set documented 125,000 m³ of teak and non-teak timber harvested in 2011 and 2012 from oil palm and rubber concessions large-scale hydropower under the authority of MOECAF *only*.¹² The actual figure of conversion timber for that period will be higher once harvests from the agricultural concessions under agriculture ministry jurisdiction (the vast majority) as well as other land clearances (e.g., mining, or other infrastructure). The other data set documented nearly 70,000 acres of lowland forest cleared and/or burned in 2010 and 2011 alone *only* for oil palm concessions in Tanintharyi Region.¹³ The lack of systematic collection and availability of data hampers cross-sector land and resource management and planning.

¹¹ Data collected from MOECAF, Naypyitaw.

¹² Data collected from MOECAF, Naypyitaw.

¹³ Data collected from MOECAF, Naypyitaw.

TABLE 1

AVAILABLE CULTIVABLE LAND AND AGRIBUSINESS CONCESSIONS IN MYANMAR BY STATE/REGION, 2010/11–2012/13 (IN ACRES, CUMULATIVE)

State/Region	Land Marked Available for Perennial Crop Cultivation				Allocated	Allocated
	“Vacant”/ “Virgin” Land	Reserve/ Unclassified Forest	“Other” Forest	Total Land Available for Cultivation		
	2010–2011				2010–2011	2011–2012
Naypyitaw	—	—	—	—	—	7,408
Kachin	428,000	—	—	428,000	596,180	1,396,575
Kayin	945,790	—	—	945,790	2,161	4,011
Kayah	—	—	—	—	—	—
Chin	—	—	—	—	—	1,542
Sagaing	—	49,000	—	49,000	100,057	259,273
Tanintharyi	68,000	871,500	278,200	1,217,700	671,594	993,887
Bago	57,509	—	—	57,509	19,772	52,238
Magwe	148,545	2,597,701	—	2,746,246	202,492	211,292
Mandalay	714,594	1,341,558	—	2,056,152	10,300	6,262
Mon	—	206,010	—	206,010	—	—
Yangon	7,657	3,240	266,811	277,708	30,978	30,980
Rakhine	162,254	1,123,823	—	1,268,077	—	7,826
Shan	3,646,004	2,439,326	1,309,108	7,394,438	117,096	160,626
Ayeyarwady	—	333,386	—	333,386	193,353	285,844
TOTAL	6,178,353	8,965,544	1,854,119	16,998,016	1,943,983	3,417,762

Source: Central MoAI office, Naypyitaw, except for Tanintharyi 2012/13 which was collected from the regional head office.

Note: Allocated and planted concessions for Tanintharyi only includes oil palm (not rubber).

Data only includes agricultural concessions allocated by central government and does not include concessions allocated by provincial, military, and ethnic armed non-state authorities.

Allocated	Total % Allocated	Planted	% Planted
2012-2013			
17,554	0	5,217	30
1,381,165	26	172,348	12
34,946	1	15,867	45
—	—	—	—
1,743	0	118	7
533,406	10	19,543	4
1,896,970	36	359,455	19
200,150	4	91,074	46
219,578	4	95,949	44
56,046	1	14,497	26
—	—	—	—
80,208	2	76,243	95
131,667	3	13,176	10
323,833	6	120,403	37
335,331	6	212,969	64
5,212,597	100	1,196,859	23

- 5. The number and intensity of local land and livelihood conflicts have increased in parallel with the increase in the government allocations of agribusiness concessions to the private sector, with local communities unable to claim statutory or customary land use rights.** No laws in Myanmar officially recognize the customary laws or practices upon which ethnic communities rely. Under current laws and regulations, no person or community has any land use rights or an ability to make claims within any lands categorized as state forest, agricultural “wasteland,” or in an agribusiness concession. As a result, farmer-led protests — many of which are violent — are growing in number and strength across the country, challenging the new government’s political legitimacy and more liberal economic model of development.¹⁴ Thousands of past and recent land concessions are now being challenged by forcibly evicted communities across the country.¹⁵
- 6. The legality of timber harvested from cleared lands is questionable and difficult to verify, with land concession allocations highly susceptible to corruption and patronage politics.** The laws, regulations, and procedures by which agribusiness concessions are allocated — especially those involving the de-gazetting of forest reserves or those simply located inside a forest reserve without being declassified — are not only spread across numerous uncoordinated sectoral jurisdictions, but also rife with legal loopholes, special permits, and/or exemptions. Government authorities can relatively easily override any possible legal restrictions, creating a “rule by decree” governance situation conducive to rent-seeking behavior. Despite this weak governance context, land conversion can be considered technically legal according to Myanmar national law as long as the permits from relevant government agencies and authorities have been obtained. The conditions under which concessions are allocated, and whether social and environmental safeguards are properly implemented, is coming under increasing scrutiny.

Despite high international demand for Myanmar hardwoods that can be definitively verified as from a legal source, no attention has yet been given to delineate the laws, policies, and other regulations that could be used to establish the legality of conversion timber. The mixing of logs from different sources — natural forests, managed state forests, timber plantations, and land conversion — adds to the logistical and legal challenge to prove a clean chain-of-custody for legal wood products.¹⁶ A socially legitimate process to define the legality of land conversion and the resultant conversion timber would help to allay concerns that legal loopholes and corruption are being used to gain access to valuable Myanmar timber.

- 7. No study on industrial agricultural development as a driver of deforestation in Myanmar has been conducted, let alone one on the legality or social impacts of the land conversion.** The surge in awards of agricultural concessions is unprecedented and has received inadequate attention and research given the extent of its reach and impacts, especially given the stated international and national interests in reducing deforestation in Myanmar. Donor programs conflict with stated international and national interests in reducing deforestation in Myanmar (e.g., via REDD+ and FLEGT programs) when they simultaneously encourage large-scale agricultural development as a means of economic development but do not address the weak governance context and multiple, overlapping land-use conflicts that will ultimately threaten these programs as well.

¹⁴ TNI and BCN 2013.

¹⁵ Ibid.

¹⁶ Woods 2013b.

These findings are based on analysis from a two-year study relying on a literature review, the compilation of government data, and interviews with key stakeholders. The desktop study and interviews are complimented by extensive field-based research to present two exemplary regional field case studies, in this case in the Tanintharyi Region and Kachin State. Both regions are experiencing high levels of HCVF clearance for agricultural projects and increasing levels of social conflict. However, differences in the local political context, ecological landscape, and overlap of forest reserves and agribusiness concessions have also determined the degree to which land concessions have been used to produce high-value timber for export. Oil palm development in Tanintharyi Region has been a top-down, military-led operation to purportedly achieve domestic cooking oil self-sufficiency, but the domestic companies tasked with the nation's oil palm development program were primarily interested in land speculation and logging of the high-value forests. In contrast, in Kachin State local armed groups (“paramilitaries” and ethnic armed political opposition groups) and local political elites with business connections on both sides of the Myanmar-China border have been more interested in agribusiness development as a lucrative business venture in itself and less so in the consequential timber. To procure timber, Chinese businesses as well as Myanmar political elite have historically been able to secure a logging concession and therefore see little need to access timber through an agribusiness concession. Overall, resource extraction in Kachin State has been more closely tied to Chinese, rather than domestic, business interests in mining, timber, and more recently, agricultural commodities, the latter of which is an integral part of China's opium substitution support program. Both cases bring to light the role that large-scale agriculture concessions play in territorial rezoning that carries certain political and security implications in long-standing ethnic conflict zones.

BOX 1

Oil Palm Concessions in Myanmar

- 1.9 million acres — 35 percent of all agribusiness concession area — have been allocated to the private sector for oil palm development in Myanmar;
- All Myanmar's oil palm concessions are located in Tanintharyi Region, covering 18 percent of the region;
- Most oil palm concessions are located in forest reserves of high conservation value;
- Of the 1.9 million acres, only 360,000 acres (less than 20 percent) had been planted by the end of 2013;
- Nearly 70,000 acres of lowland rain forests had been cleared and/or burned in 2010 and 2011 just for oil palm concessions.
- Myanmar's palm concessions are owned by about 40 Myanmar businesses with strong ties to political and military leaders, the Ministry of Industry, and the Union of Myanmar Economic Holdings Ltd (a military conglomerate); and
- Many oil palm concessions in Tanintharyi, especially those closer to Thailand, are located on lands formerly inhabited by ethnic Karen populations who were forcibly evicted. Historical land-use claims by the Karen populations who wish to return to their original settlements since the tentative ceasefire with the KNU (armed Karen ceasefire group) present new challenges to the legality and ethics of oil palm production, rezoning for conservation, and resettlement of Internal Displaced Persons (IDPs) and refugees.

Conversion timber is an excellent illustration of the tension held between the forestry and agricultural sectors, and the respective institutions which increasingly are competing for authority and control over land, resources, and revenue streams in Myanmar. The recent developments and reforms in Myanmar have resulted in a growing institutional conflict between the Ministry of Environmental Conservation and Forestry (MOECAF) and the Ministry of Agriculture and Irrigation (MOAI) as they compete for different uses of forestlands — the MOAI for industrial agricultural expansion and the MOECAF for a more conservation-oriented forest agenda. With the prominence of large-scale agricultural development as the proposed driver of national economic development, the MOAI has risen in prestige and power, and MOECAF's long-held authority and control over vast areas of forested land in the country is now being challenged. Heavily compromised in technical capacity during the years of military rule, today the Forest Department has taken the lead in genuine attempts to reform into a well-governed and accountable enterprise.¹⁷ However, the carving up of forestlands under the MOECAF's jurisdiction into agribusiness concessions under the authority of the MOAI is presenting new territorial, institutional, environmental, and social challenges.

As the political and economic reforms in Myanmar have presented positive opportunities to potentially improve national economic growth and governance, ultimately long-term, inclusive, and sustainable growth will require the implementation of a broader range of policies and structural reforms. While the expected new Forest Law in 2015 will create a new and hopefully improved legal environment governing forests (including community forests), timber, and forest-based livelihoods in the country, there is no evidence that the issues raised here



Photo credit: Kevin Woods, MTE timber yard, Yangon

relating to forestland conversion and associated conversion timber will be addressed in the upcoming legislation. Processes such as the emerging Forest Law Enforcement, Governance and Trade (FLEGT) Voluntary Partnership Agreement (VPA) or forest certification standards will need to pay particular attention when hoping to demonstrate the legality of Burmese timber. These mechanisms must also address the problematic gap between what is considered “officially legal” and what is considered international best practice in terms of social legitimacy and the implementation of social and environmental safeguards (including the respect for land tenure security and use rights).

¹⁷ For example, the MOECAF now officially recognizes the “permanent” agricultural cultivation rights of villages (under 50 households) with cultivation claims predating the demarcated forest reserves in which they are now living (Soe Than Lyn 2013). This does not, however, extend to villagers who practice traditional rotational shifting agriculture.



Photo credit: Local researcher, mechanized agribusiness concession, Hukawng Valley, Kachin State



Photo credit: local researcher, farmer harvesting field



Photo credit: Local researcher, timber barge, oil palm concession area, Tanintharyi Region



Photo credit: Kevin Woods, log stockpile, Tanintharyi Region



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