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Background to the research

This country note presents Chatham House's assessment of the likelihood of illegality in the supply chains of the main wood-based products exported by Malaysia. It was prepared to inform our analysis of illegal trade at the international level which has been published as part of the report 'Establishing fair and sustainable forest economies: lessons learned from tackling illegal logging'. This is the most recent in a series of reports on governance and legality in the forest sector in the forest sector, an issue that Chatham House has been monitoring since 2008.

The country note has been published as a background document to explain how the international estimates of illegal trade were made. Thus, it is not intended to provide a comprehensive review of all the available data and information on forest sector legality for Malaysia. International and national experts in Malaysia's forest sector provided feedback on preliminary versions of the country note.

Overview of imports

Responsibilities for forestry are divided between the federal and state governments of Malaysia, and the forest sector varies significantly across the country. For this evaluation, the country is assessed as three regions: Peninsular Malaysia, Sabah and Sarawak.[1]

Malaysia and the EU began negotiating a Voluntary Partnership Agreement in 2007. Negotiations were complex because of the devolved responsibilities for forestry, and they stalled in 2014.[2]

Figure 1 summarizes statistics for the country's exports of all wood-based products. Figure 2 shows exports of the four main groups of wood-based products from tropical timber by the three subnational regions.

[1] Hoare, A. (2015), *Illegal Logging and Related Trade. The Response in Malaysia*, London: Royal Institute of International Affairs, https://www.chathamhouse.org/sites/default/files/field/field_document/20150121IllegalLoggingMalaysiaHoare.pdf.
[2] EU FLEGT Facility (2021), 'Malaysia: All about the Malaysia-EU Voluntary Partnership Agreement', https://www.euflegt.efi.int/es/malaysia; Derous, M. (2019), The EU and the 'Problem' of Illegal Logging: the Case of the EU-Malaysia VPA, European Foreign Affairs Review, 24(3): pp. 327–348, https://kluwerlawonline.com/journalarticle/European+Foreign+Affairs+Review/24.3/EERR2019028.

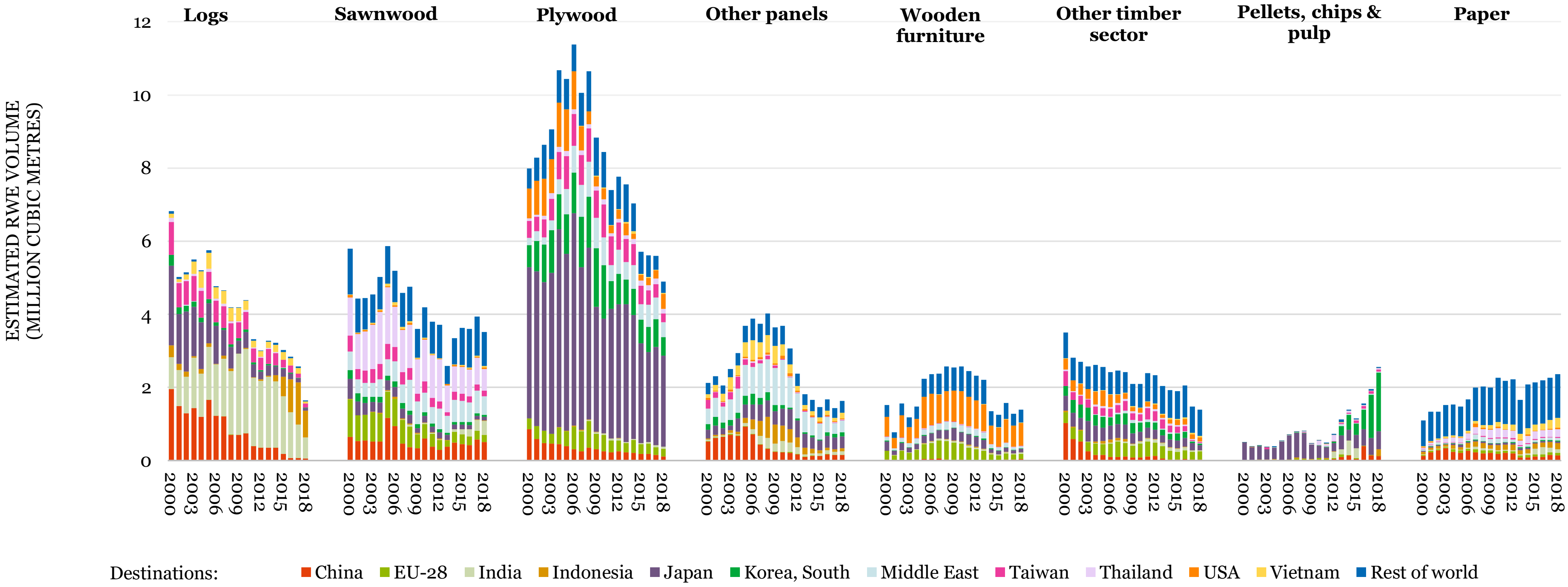

Figure 1: Exports of wood-based products from Malaysia[3,4]

[3] Standard conversion rates to estimate roundwood equivalent volume have been adopted for all countries, because of a lack of published data for many countries. The rates adopted are as follows, m^3 per m^3: 1.4 particleboard, 1.8 fibreboard and sawnwood, 1.9 mouldings and veneer, 2.3 plywood; and m^3 per tonne: 1.6 chips, 2.8 wooden furniture, 3.5 paper, 4.5 pulp. Where necessary, volume has been estimated from weight by assuming 1.4 m^3 per tonne.

[4] Source: Based on data from Malaysia Timber Council, http://mtc.com.my/; Malaysia Timber Industry Board, https://www.mtib.gov.my/informasi/sumber/statistik and https://www.mtib.gov.my/maskayu; Malaysia Open Data Portal, http://www.data.gov.my/data; Sarawak Timber Industry Development Corporation, https://www.sarawaktimber.gov.my/page-0-179-220-2020.html and https://www.sarawaktimber.gov.my/modules/web/pages.php?mod=download&id=110; Sabah Timber Industries Association, http://stia.com.my/reports.cfm; World Trade Atlas and UN Comtrade.

Overview of exports

The majority of Sarawak's exports, by volume, are of plywood, the main market for which is Japan, and logs, for which the main markets are India (from natural forest) and Indonesia (from plantations). In addition, Sarawak supplies roughly 20 per cent of the total volume of Malaysia's exports of particleboard and fibreboard. The raw material for this comes primarily from natural forest, in particular residues from milling.[5]

Sarawak's log export quota has steeply declined since about 2014. This is in part a reflection of the state government's policy to expand forest management certification[6] and to develop the domestic manufacturing industry. However, pulp and paper mills were not established as had originally been intended,[7] and so Sarawak has been supplying Indonesia with large volumes of plantation-grown logs since 2013.[8]

Peninsular Malaysia is the origin of almost all the remainder of Malaysia's exports of timber sector products. The majority of these derive from plantations.

Most of the tropical timber (i.e. from natural forest) that is exported from Peninsular Malaysia derives from state forest concessions that have been certified under the Malaysia Timber Certification Scheme (MTCS). The volume having MTCS chain of custody certification has been increasing. During the period 2012–2018, the EU accounted for approximately two-thirds of MTCS-certified exports. Most of that total comprises sawnwood, plywood and mouldings.[9]

Thailand accounted for between 20 and 30 per cent of Peninsular Malaysia's exports of tropical sawnwood during the period 2000–2018 (see Figure 2). China accounted for about 90 per cent of Malaysia's exports of sawn rubberwood in the last decade, and this comprised the majority of China's imports of sawnwood from Peninsular Malaysia during this period.[10]

The majority of Sabah's exports, by volume, are of plywood, the main market for which is Japan, and more recently, the US. Much of the tropical timber that Sabah exports derives from 'salvage logging' and deforestation.[11] In 2018, the export of logs was banned.

[5] Malaysia Timber Industry Board, https://www.mtib.gov.my/informasi/sumber/statistik
[6] Forest Department of Sarawak, (2021), 'Forest Management Certification', https://forestry.sarawak.gov.my/page-0-0-1242-Forest-Management-Certification.html (accessed 6 Sept. 2021).
[7] Under Sarawak's plantation policy, launched in 1997, it was intended to establish pulp and paper mills in the state, but this did not take place.
[8] See Table 2, 'Exports of Logs by Country of Destinations', *Perkasa*, Jan–March 2019, STIDC, https://www.sarawaktimber.gov.my/upload/file_folder/Publication/PERKASA_JanMar2019.pdf
[9] Malaysia Timber Certification Council (2021), 'Annual Reports', https://mtcc.com.my/annual-reports/.
[10] Malaysia Open Data Portal, (2019), 'Malaysia: Export of rubberwood sawn timber to major countries', https://www.data.gov.my/data/en_US/dataset/malaysia-export-of-rubberwood-sawn-timber-to-major-countries (accessed 6 Sept. 2021).
[11] For example, Jawala Inc. (2019), *Replanting Sabah's forests for future generations: Annual Report 2019*, Jawala Inc., https://links.sgx.com/FileOpen/Jawala%20Inc.%20Annual%20Report%202019.ashx?App=Announcement&FileID=584741; Priceworth International Berhad (2017), *Sustainable Forest Management Transforming PWI to Deliver Sustainable Result*, Annual report 2017, Priceworth International Berhad, https://disclosure.bursamalaysia.com/FileAccess/apbursaweb/download?id=182658&name=EA_DS_ATTACHMENTS; Table 18.8 in Sabah Forestry Department (2017), *Annual Report 2017*, Sabah Forestry Department, http://www.forest.sabah.gov.my/docs/ar/ar2017.pdf; and other documents suggest that, during 2017, roughly three-quarters of tropical log production in Sabah derived either from land designated for deforestation (ITP) – prior to establishing wood plantations – or by 'salvage logging' from land designated as natural forest (NFM).

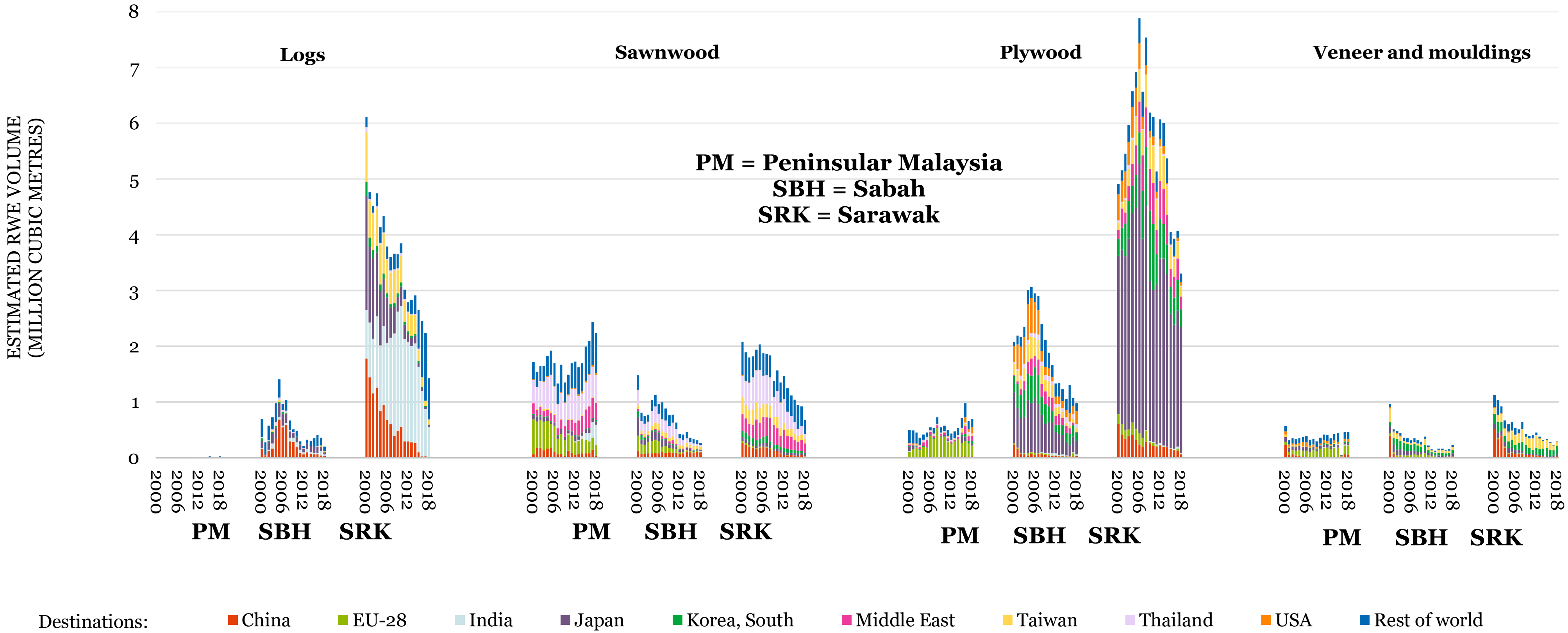

Figure 2: Exports of tropical timber[12] from Malaysia[13], [14]

[12] Tropical timber is defined herein as logs, sawnwood, mouldings, veneer and plywood of non-coniferous species deriving from natural forest (but excluding mill residues).
[13] Standard conversion rates to estimate roundwood equivalent volume have been adopted for all countries, because of a lack of published data for many countries. The rates adopted are as follows, m^3 per m^3: 1.4 particleboard, 1.8 fibreboard and sawnwood, 1.9 mouldings and veneer, 2.3 plywood; and m^3 per tonne: 1.6 chips, 2.8 wooden furniture, 3.5 paper, 4.5 pulp. Where necessary, volume has been estimated from weight by assuming 1.4 m^3 per tonne.
[14] Source: Based on data from Malaysia Timber Council, http://mtc.com.my/; Malaysia Timber Industry Board, https://www.mtib.gov.my/informasi/sumber/statistik and https://www.mtib.gov.my/maskayu; Malaysia Open Data Portal, https://www.data.gov.my/; Sarawak Timber Industry Development Corporation, https://www.sarawaktimber.gov.my/page-0-179-220-2020.html and https://www.sarawaktimber.gov.my/modules/web/pages.php?mod=download&id=110; Sabah Timber Industries Association, http://stia.com.my/reports.cfm; World Trade Atlas and UN Comtrade.

Methodology for estimating illegal logging and trade

The analysis considers five categories of illegal practices common across all countries. These categories are listed below, with examples given of the types of illegal activity that they can include in different countries and regions:

- Customary tenure & resource rights
  - FPIC not obtained from any affected people or communities
  - The rights of any affected people or communities not adequately taken into consideration and addressed in the process of allocating permits or developing management plans; and any loss of rights not adequately compensated
- Award of permits
  - EIAs not conducted in accordance with legal requirements
  - Decision-making process for the award of permits does not follow legally required process; e.g. calls for tenders not published; technical requirements for selection of bids not followed; evidence of corruption in the process
  - Use of proxies where the beneficiary would be ineligible
- Forest management & harvesting
  - Management plans not developed or implemented; e.g. plans do not meet legal requirements; logging in restricted areas; overharvesting of particular species; etc.
  - Health & safety and/or labour laws not complied with; e.g. no provision of safety equipment; employment of illegal immigrants; non-payment of salaries or of minimum legal wage
  - Environmental legislation not complied with; e.g. logging of protected areas or species; non-compliance with requirements for protection of wildlife; pollution of water courses
- Forest sector payments & financing
  - Relevant royalties, fees, taxes and fines not paid
  - Benefit-sharing agreements with local communities not complied with
  - Fraudulent financing / money laundering by concessionaires or in relation to mills
  - Transfer pricing
- Transport & trade
  - Export bans or quotas for certain species or products are breached or exceeded
  - False declarations made; e.g. misdeclarations of species, value, source
  - Non-compliance with CITES

Based on a review of the available data, the likelihood of each of the five categories of illegal practice was assessed for the main exported products of the main producer countries.[15] This was classified either as low (<10 per cent), low to medium (10–30 per cent), medium to substantial (30–60 per cent) or substantial (>60 per cent).

For the earlier years (2000, 2008 and 2013), the likelihood of illegality was determined based on Chatham House analyses in 2010 and 2015[16], with updates where additional data have since become available. The assessment for 2018 builds on this analysis, using available data and information to assess changes in legal compliance in the last five years of the study period. This included recent Chatham House research into governance reforms, analysis of trade data and the results of perception surveys, as well as a review of reports and data from other organizations.

[15] This analysis focuses on a limited number of products, these were selected according to three criteria: the scale of trade and rate of change in this, trade flows in which high proportions of illegal timber have been documented, and examples of particular types of illegality.
[16] Lawson, S. (2014), Methodology for Import-source Estimates of Illegally Sourced Wood Imports: Thailand, South Korea and India, Chatham House Report, London: Royal Institute of International Affairs, https://chathamhouse.soutron.net/Portal/Default/en-GB/RecordView/Index/187057 ; Hoare, A. (2014), Methodology for Estimating Levels of Illegal Timber- and Paper-sector Imports: Estimates for China, France, Japan, the Netherlands, the UK, the US and Vietnam, Chatham House Report, London: Royal Institute of International Affairs, https://chathamhouse.soutron.net/Portal/Default/en-GB/RecordView/Index/187059.

Summary of estimates of illegal exports

Levels of illegality in the forest sector vary greatly across the three regions of the country; they are low in Peninsular Malaysia, while in Sabah and Sarawak (particularly the latter) levels are higher. Forest governance and levels of legal compliance have improved across the country over the last two decades. Illegal practices do persist, however, particularly in relation to non-respect of native customary rights and high-level corruption in the allocation of logging rights.[17] These issues are most prevalent in Sarawak.[18]

Efforts to tackle illegal logging have been ongoing. These have included the development of legality verification systems in the three regions.[19] Efforts to tackle corruption have also intensified since 2014, including investigations by the Malaysian Anti-Corruption Commission.[20] In Sabah, after the arrival of a new chief minister in 2018, enforcement was strengthened, and investigations were launched into illegal activities by the previous government.[21] A new chief minister in Sarawak in 2014 also prompted increased efforts to tackle illegal logging in 2014 with the introduction of stronger penalties and new powers for enforcement agencies.[22]

[17] A summary of the types of illegality reported in the country is provided in UNEP-WCMC (2020), *Malaysia. Country overview to aid implementation of the EUTR*, UNEP-WCMC, https://ec.europa.eu/environment/forests/pdf/EUTR%20country%20overview_Malaysia%2025.6.2020.pdf; and in NEPCon (2018), *Timber Legality Risk Assessement: Malaysia – Sabah*, NEPCon, https://preferredbynature.org/sites/default/files/library/2018-12/NEPCon-TIMBER-Sabah%20Malaysia-Risk-Assessment-EN-V1.3.pdf; Wyn, L.T., (2013), *Malaysia: Illegalities in Forest Clearance for Large-scale Commercial Plantations*, Forest Trends, https://www.forest-trends.org/publications/malaysia-illegalities-in-forest-clearance-for-large-scale-commercial-plantations/; Clean Malaysia (2016), 'Illegal Logging Carries on Unabated in Pahang', Clean Malaysia, 10 February 2016, https://cleanmalaysia.com/2016/02/10/illegal-logging-carries-on-unabated-in-pahangs-lentang-forest-reserve/; Vengadesen, M. (2019), 'Loggers and Temiar villagers in blockade showdown', Malaysiakini, 21 July 2019, https://www.malaysiakini.com/news/484786; Forest Stewardship Council, A.C. (2018), *Centralized National Risk Assessment for Malaysia*, FSC, https://fsc.org/en/document-centre/documents/retrieve/5e9d94da-fac5-48a5-8558-de16c8120b31?mode=view#viewer.action=download

[18] For a summary, see UNEP-WCMC (2020), *Malaysia. Country overview*; and also Straumann, L. (2018), *Money Logging: On the Trail of the Asian Timber Mafia*, Muttenz/Basel, Switzerland: Schwabe AG; Lawson, S. (2011), Illegal logging in Sarawak, Malaysia: Implications for Lacey Act Implementation, PowerPoint Presentation, EarthSight and Chatham House, https://www.forest-trends.org/wp-content/uploads/imported/sam-lawson-presentation-for-potomac-forum-may-2011-v2-pdf.pdf; Global Witness (2016), *Wilful Ignorance: How Japan's Voluntary Approach is Failing to Stop the Trade in Illegal Timber*, Global Witness Briefing, 21 April 2021, https://www.globalwitness.org/en/reports/wilful-ignorance/; Sarawak Report (2014), 'Clean Governor? – New Revelations Over Japanese Kickback Scandal Confront Taib', Sarawak Report Special Investigation, 22 February 2014, https://www.sarawakreport.org/2014/02/questions-for-taib-after-new-revelations-over-japanese-kickbacks-special-investigation/; Queck, K. (2020), 'Musa Aman received kickbacks, not donations', Sarawak Report, 12 June 2020, https://www.sarawakreport.org/letter/musa-aman-received-kickbacks-not-donations/

[19] Details are available online: Forest Department Sarawak (2021), 'Sarawak Timber Legality Verification System (STLVS)', https://forestry.sarawak.gov.my/page-0-431-1206-Sarawak-Timber-Legality-Verification-System-STLVS.html (accessed 8 Sept. 2021); Malaysian Timber Industry Board (2013), *Malaysian timber legality assurance system MYTLAS: Your assurance of legal timber from Peninsular Malaysia*, Malaysian Timber Industry Board, https://www.mtib.gov.my/images/pdf/ILPA/mytlas.pdf; Global Forestry Services (2011), 'Verifying legality of timber and wood products', GFS, https://gfsinc.biz/programmes/wood-tracking-program/ (accessed 8 Sept. 2021).

[20] Free Malaysia Today (2018), 'MACC probes offices, Sabah Forestry Department for corruption', FMT, 21 August 2018, https://www.freemalaysiatoday.com/category/nation/2018/08/21/macc-probes-offices-sabah-forestry-department-for-corruption/?__cf_chl_jschl_tk__=Fai1joJBstcPHtM9H3OY8oAvMRyIbkHRyDM09JQvvHo-1636631311-0-gaNycGzNB70; Free Malaysia Today (2020), 'MACC obtains documents from Raub land, forestry offices on encroachment', FMT, 18 September 2020, https://www.freemalaysiatoday.com/category/nation/2020/09/18/macc-obtains-documents-from-raub-land-forestry-offices-on-encroachment/.

[21] See UNEP-WCMC (2020), *Malaysia. Country overview*.

[22] Forest Department Sarawak (2016), 'Sarawak State Government is committed to combat illegal logging', *The Borneo Post*, 3 March 2016, https://forestry.sarawak.gov.my/modules/web/pages.php?mod=news&sub=news_view&nid=327

The following table presents an overview of the likelihood of illegal practices in the production of the country's main exported wood-based products. The 'overall likelihood' column reflects all the types of illegal practice and is thus the most pessimistic assessment of the categories for a given year.

	Tenure and resource rights				**Award of permits**				**Forest management**				**Revenue and finance**				**Transport and Trade**				**Overall likelihood of illegality**			
	2000	2008	2013	2018	2000	2008	2013	2018	2000	2008	2013	2018	2000	2008	2013	2018	2000	2008	2013	2018	2000	2008	2013	2018
from natural forest:																								
Logs	Low to medium	Low to medium	Low	Low	Low to medium	Low to medium	Low	Low	Low to medium	Low to medium	Low	Low	Low to medium	Low	Low	Low	Low to medium	Low	Low	Low	Low to medium	Low to medium	Low	Low
Sawnwood	Low to medium	Low to medium	Low	Low	Low to medium	Low to medium	Low	Low	Low to medium	Low to medium	Low	Low	Low to medium	Low	Low	Low	Low to medium	Low	Low	Low	Low to medium	Low to medium	Low	Low
Veneer	Low to medium	Low to medium	Low	Low	Low to medium	Low to medium	Low	Low	Low to medium	Low to medium	Low	Low	Low to medium	Low	Low	Low	Low to medium	Low	Low	Low	Low to medium	Low to medium	Low	Low
Plywood	Low to medium	Low to medium	Low	Low	Low to medium	Low to medium	Low	Low	Low to medium	Low to medium	Low	Low	Low to medium	Low	Low	Low	Low to medium	Low	Low	Low	Low to medium	Low to medium	Low	Low
Mouldings	Low to medium	Low to medium	Low	Low	Low to medium	Low to medium	Low	Low	Low to medium	Low to medium	Low	Low	Low to medium	Low	Low	Low	Low to medium	Low	Low	Low	Low to medium	Low to medium	Low	Low
from plantations:																								
Sawnwood	Low to medium	Low	Low	Low	Low to medium	Low	Low	Low	Low	Low	Low	Low	Low	Low	Low	Low	Low	Low	Low	Low	Low to medium	Low to medium	Low	Low

Likelihood of illegality in the supply chain

- Low (<10%)
- Low to medium (10-30%)
- Medium to substantial (30-60%)
- Substantial (>60%)

Table 1: Estimated likelihood of illegality for Peninsular Malaysia's main exported wood-based products

	Tenure and resource rights				Award of permits				Forest management				Revenue and finance				Transport and Trade				Overall likelihood of illegality			
	2000	2008	2013	2018	2000	2008	2013	2018	2000	2008	2013	2018	2000	2008	2013	2018	2000	2008	2013	2018	2000	2008	2013	2018
from natural forest:																								
Logs	Substantial	Substantial	Substantial	Medium to substantial	Medium to substantial	Medium to substantial	Medium to substantial	Medium to substantial	Substantial	Medium to substantial	Medium to substantial	Low to medium	Substantial	Medium to substantial	Low to medium	Low	Medium to substantial	Medium to substantial	Low to medium	Low	Substantial	Substantial	Substantial	Medium to substantial
Sawnwood	Substantial	Substantial	Substantial	Medium to substantial	Medium to substantial	Medium to substantial	Medium to substantial	Medium to substantial	Substantial	Medium to substantial	Medium to substantial	Low to medium	Substantial	Medium to substantial	Low to medium	Low	Low to medium	Low to medium	Low to medium	Low	Substantial	Substantial	Substantial	Medium to substantial
Veneer	Substantial	Substantial	Substantial	Medium to substantial	Medium to substantial	Medium to substantial	Medium to substantial	Medium to substantial	Substantial	Medium to substantial	Medium to substantial	Low to medium	Substantial	Medium to substantial	Low to medium	Low	Low to medium	Low to medium	Low to medium	Low	Substantial	Substantial	Substantial	Medium to substantial
Plywood	Substantial	Substantial	Substantial	Medium to substantial	Medium to substantial	Medium to substantial	Medium to substantial	Medium to substantial	Substantial	Medium to substantial	Medium to substantial	Low to medium	Substantial	Medium to substantial	Low to medium	Low	Medium to substantial	Medium to substantial	Low to medium	Low	Substantial	Substantial	Substantial	Medium to substantial
Mouldings	Substantial	Substantial	Substantial	Medium to substantial	Medium to substantial	Medium to substantial	Medium to substantial	Medium to substantial	Substantial	Medium to substantial	Medium to substantial	Low to medium	Substantial	Medium to substantial	Low to medium	Low	Low to medium	Low to medium	Low to medium	Low	Substantial	Substantial	Substantial	Medium to substantial
from plantations:																								
Logs	Substantial	Substantial	Medium to substantial	Medium to substantial	Low	Low	Low	Low	Low	Low	Low	Low	Low	Low	Low	Low	Low	Low	Low	Low	Substantial	Substantial	Medium to substantial	Medium to substantial

Likelihood of illegality in the supply chain

Low (<10%)

Low to medium (10-30%)

Medium to substantial (30-60%)

Substantial (>60%)

Table 2: Estimated likelihood of illegal practices for Sarawak's main exported timber products

	Tenure and resource rights				Award of permits				Forest management				Revenue and finance				Transport and Trade				Overall likelihood of illegality			
	2000	2008	2013	2018	2000	2008	2013	2018	2000	2008	2013	2018	2000	2008	2013	2018	2000	2008	2013	2018	2000	2008	2013	2018
from natural forest:																								
Logs																								
Sawnwood																								
Veneer																								
Plywood																								
Mouldings																								
from plantations:																								
Logs																								

Likelihood of illegality in the supply chain

Low (<10%)

Low to medium (10-30%)

Medium to substantial (30-60%)

Substantial (>60%)

Table 3: Estimated likelihood of illegal practices for Sabah's main exported timber products