

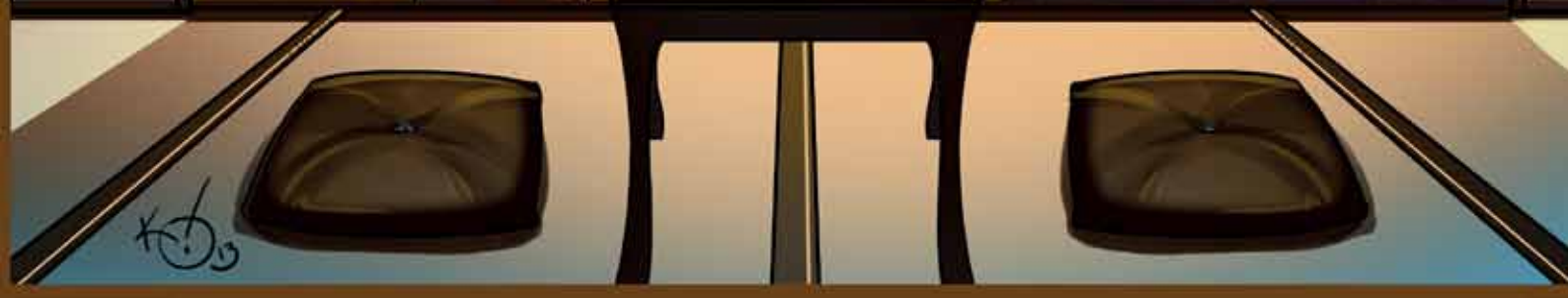
# An Industry Unchecked

Japan's extensive business with companies involved in illegal and destructive logging in the last rainforests of Malaysia



global witness

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# Contents

<b>Executive Summary</b>	<b>3</b>
<b>Recommendations</b>	<b>4</b>
<b>I. Corruption, illegal logging and forest destruction in Sarawak</b>	<b>5</b>
<b>II. Japan’s timber trade with Sarawak: long-term partners</b>	<b>7</b>
Case studies in illegal logging: Samling Global and Shin Yang Group	7
Illegal logging in Sarawak and links to Japanese companies	11
Japan’s trade in high-risk timber from Sarawak	13
<b>III. Japan’s timber legality verification system</b>	<b>14</b>
Sarawak timber: no assurance of legality or sustainability	15
Weaknesses in Japan’s approach to addressing illegal logging	16
<b>Conclusion</b>	<b>19</b>
<b>Endnotes</b>	<b>20</b>

Cover illustration by Kensuke Okabayashi

Shin Yang plywood mill in Bintulu,  
Sarawak



# Executive Summary

Japan has been the largest buyer of timber products from Sarawak, Malaysia, for more than twenty years. This report examines systematic corruption, illegal logging, and human rights violations in Sarawak's forest sector and the extensive timber trade between Sarawak and Japan. It argues that Japan should join the United States, the European Union, and Australia in enacting legislation that places a comprehensive prohibition on the import of illegal timber products and requires buyers to carry out due diligence on supply chains of wood-based products. Given the severity of the situation in Sarawak, companies in Japan should immediately stop sourcing there unless and until timber products can be independently verified as legal, sustainable, and free from corruption and human rights abuses.

For more than three decades, the once abundant rainforests of Sarawak have been plundered for the enrichment of the state's notoriously corrupt Chief Minister, Abdul Taib Mahmud, and his family and business associates. The Chief Minister has handed out logging and plantation licenses covering much of Sarawak's forests to a small group of elite while ignoring the customary land rights of indigenous communities who depend on the forests for their culture and livelihoods.<sup>1</sup> Recent investigations by Global Witness and others have found that corruption and bribery, tax evasion, illegal logging, and other criminal activity in Sarawak's forestry and land sectors are widespread.<sup>2</sup> As a result of rampant logging and forest clearance, Sarawak has one of the highest deforestation rates in Asia and only 5% of its original forests remain in an intact state.<sup>3</sup>

Over the last several years, Japan has accounted for approximately one third of Sarawak's exports of timber products by volume and export value.<sup>4</sup> This trade is dominated by some of the largest trading companies in Japan such as Sojitz Corporation, Itochu Corporation, Marubeni Corporation, Sumitomo Forestry, Sumitomo Corporation, and Mitsui & Co. Ltd., many of whom are long term trading partners with Sarawak's largest logging companies.<sup>5</sup> Some of these same logging companies have recently been found to be involved in systematic illegal and unsustainable logging in Sarawak, as well as in other countries where they operate.<sup>6</sup>

This report presents two case studies based on research and investigative work by Global Witness showing how Japanese companies are purchasing timber products that originate from or are likely to originate from logging concessions operated by two of Sarawak's largest logging companies where widespread illegal and unsustainable logging have recently been documented.

**Case Study 1:** Samling Global is a major supplier of plywood and logs to Japan. Samling was recently found to be systematically violating national forestry laws in its logging concessions in Sarawak<sup>7</sup> and is being challenged in Malaysian courts for violating the customary land rights of indigenous communities.<sup>8</sup> Sojitz Corporation and its subsidiaries buy timber products worth tens of millions of dollars from Samling each year,<sup>9</sup> including from mills that source timber from logging concessions where widespread illegal and unsustainable logging has been documented. In October 2012, Global Witness identified logs from two of these concessions in the log yard of Sanko Plywood, a subsidiary of Itochu Corporation at the time, and in the port of Gamagori.

**Case study 2:** Shin Yang Group is a major supplier of timber products to Japan. Global Witness has recently documented Shin Yang's involvement in illegal and unsustainable logging and human rights abuses in Sarawak.<sup>10</sup> Sojitz Corporation and Itochu Corporation buy timber products from Shin Yang, and Global Witness found that Japanese DIY stores Cainz Home and Living Style How's both carry Shin Yang plywood from mills sourcing timber from a logging concession where illegal and unsustainable logging was recently documented. The concession overlaps with a proposed national park located in a critical biodiversity conservation area called the "Heart of Borneo".

Despite the evidence, the Japanese industry associations and companies contacted by Global Witness and other NGOs have failed to put into place measures to independently verify that timber products sourced from Samling and Shin Yang are produced legally and free from human rights violations.

The Japanese Government has committed to addressing illegal logging, but its measures to date have been limited. At the 2005 G8 summit, Japan and other G8 member countries recognized *"the impacts that illegal logging, associated trade, and corruption have on environmental degradation, biodiversity loss, and deforestation and hence climate systems,"*<sup>11</sup> and committed to take steps to *"halt the import and marketing of illegally logged timber."*<sup>12</sup> The United States and European Union have since put into place comprehensive legislation prohibiting the import of illegal timber products and requiring buyers to carry out due diligence on their supply chains to avoid sourcing illegal timber. In 2012, Australia passed similar legislation.

In contrast, Japanese regulations only prohibit the use of illegal timber products by national government agencies, which account for less than 5% of Japan's total consumption of timber products.<sup>13</sup> The regulation excludes plywood used for concrete molding during building construction, a common use of tropical plywood. Private businesses and citizens are encouraged, but not required, to purchase legal timber products under Japanese law.<sup>14</sup> Moreover, the requirements Japan has established for verifying legality have serious weaknesses and do not oblige purchasers to carry out due diligence on their supply chains to ensure the timber products they import from high risk sources such as Sarawak are legal. Most of the timber products coming from Sarawak, including those sourced from logging concessions where systematic illegal and unsustainable logging have been documented, are likely to be certified as legal under Japan's Goho-wood system.

Tropical deforestation represents a global environmental crisis: it contributes significantly to global greenhouse gas emissions that are causing climate change<sup>15</sup> and threatens the survival of nearly half the earth's biodiversity.<sup>16</sup> Japan is the world's second largest importer of tropical timber behind China and the largest importer of tropical plywood, mainly from the highly threatened rainforests of Malaysia and Indonesia. A 2010 survey concluded that Japan was the largest per capita consumer of illegal timber products among major developed economies.<sup>17</sup> As such, Japan has a critical role to play in global efforts to stop the destruction of tropical forests and end the trade in illegal timber that drives corruption, human rights abuses, and environmental degradation in places like Sarawak. An



essential first step is to join the United States, the European Union, and Australia in prohibiting the import of illegal timber products and requiring all purchasers to carry out robust due diligence on their timber supply chains. Beyond this, Japan must urgently adopt measures to reduce its use of tropical timber.

Global Witness put the allegations contained in this report to the principal companies and industry associations involved. Responses were received from Sojitz Corporation, Itochu Corporation, Cainz Corporation, the Japan Lumber Importer's Association, and the Japan Federation of Wood Industry Associations. The relevant components of these responses have been incorporated into the body of this report.

## Recommendations

Japan has fallen behind other major wood product consumers, namely the US, the EU, and Australia, in prohibiting the trade in illegal wood products. This delay undermines the efforts taken by these other countries by providing an alternative destination for illegal timber, and does not live up to Japan's G8 commitments to tackle the problem of illegal logging. We therefore recommend the following actions.

### The Japanese Government should:

- Adopt regulatory measures prohibiting illegal timber products from entering the Japanese market and requiring companies and individuals placing timber products on the market to carry out robust due diligence on their supply chains. Regulatory measures should include:
  - Due diligence requiring collection of information on the origin and identity of all wood-based products, assessment of the risks of illegality using all available information, and adoption of appropriate measures to mitigate risks.
  - A definition of "legality" that requires compliance with all relevant laws and requires consideration of corruption and violations of customary land rights.
  - Effective enforcement and dissuasive penalties for non-compliance;

- Promote the use of sustainable timber products with a low risk of illegality, including from a revitalized domestic forestry industry.
- Evaluate the impacts of Japan's consumption on tropical forests and develop policies to eliminate the use of timber products that contribute to the degradation or loss of tropical forests.

### Japanese companies should:

- Conduct robust due diligence on their supply chains to ensure that corruption, illegal logging, human rights violations, and environmental degradation are not associated with the timber products they buy, and immediately cease sourcing where this cannot be guaranteed.
- Stop importing timber products from Sarawak unless and until such products can be independently verified as legal, sustainable and free of corruption and human rights violations.

### Japanese consumers should:

- Always inquire about the source of timber products and only purchase them if the seller can verify that they were produced legally, sustainably, and free of human rights abuses.



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Logging road in a Samling concession in the Upper Baram area, home to indigenous communities and some of the last pockets of intact rainforest in Sarawak.

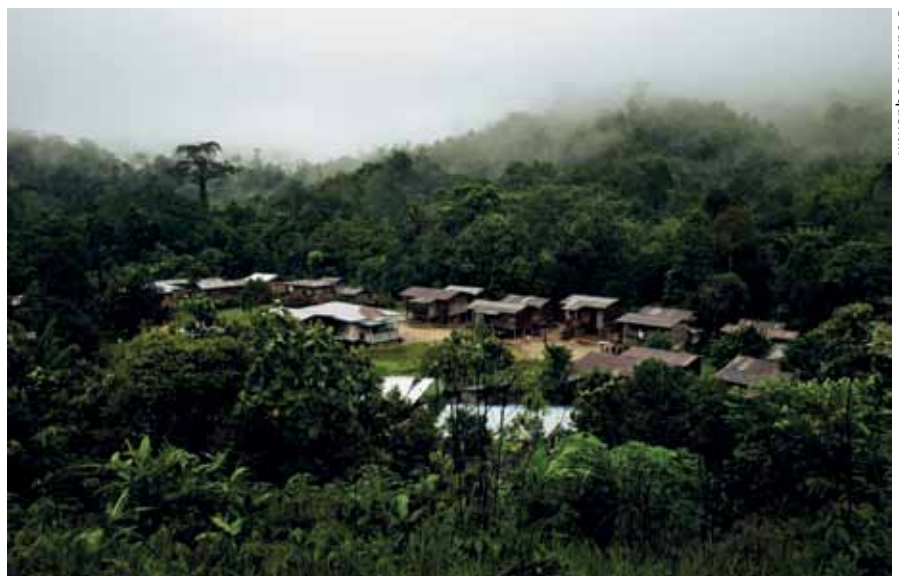
# I. Corruption, illegal logging, and forest destruction in Sarawak

Corruption in the Malaysian state of Sarawak, on the island of Borneo, has been widely recognized as a problem by the Malaysian federal government, foreign governments,<sup>18</sup> and civil society organizations. In 2011, the Malaysian Anti-Corruption Commission (MACC) announced an official probe into Chief Minister Abdul Taib Mahmud for alleged graft.<sup>19</sup> Similar concerns regarding Taib's abuse of power have been raised by non-governmental organizations.<sup>20</sup> Recent investigations by Global Witness exposed systematic, high-level corruption in Sarawak in the forestry and land sectors. Global Witness uncovered evidence that Taib receives kickbacks in return for handing out logging and plantation licenses in his role as head of the Ministry of Resource Planning and Environment.<sup>21</sup> Investigations also revealed political patronage in the issuance of land leases, allowing Taib's family members to acquire access to land for a fraction of the market value and then sell it at a significant mark-up in price. Moreover, the sale of land leases was found to be structured to evade payment of property gains tax,<sup>22</sup> which is an offense in Malaysia punishable by a prison sentence.<sup>23</sup> The findings prompted the anti-corruption NGO Transparency International to call for Taib to step down until the MACC had concluded its investigation.<sup>24</sup> The MACC has since increased its resources to investigate evidence of corruption involving Taib.<sup>25</sup>

The corrupt system of land allocation in Sarawak has facilitated the taking of indigenous peoples' land and forest resources in violation of Malaysia's international commitments to uphold the rights of indigenous peoples *"to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired."*<sup>26</sup> These rights have been reinforced by a series of judgments by Malaysian Courts.<sup>27</sup> However, the Sarawak government has failed to amend its laws or decision-making processes in light of these judgments and has been criticized by the Human Rights Commission of Malaysia (SUHAKAM) for failing to recognize customary land rights. The Sarawak Land Code gives the Sarawak Government the authority to extinguish all native customary rights,<sup>28</sup> and adheres to a narrow definition of such rights that focuses on agricultural cultivation and settlement while ignoring traditional uses of forests, such as hunting, fishing, and collecting food, medicine, and building materials. A recent report by SUHAKAM noted that this definition *"fails to take into account the traditional and cultural practices by which natives have occupied lands"*<sup>29</sup> and found that *"the granting of forest concessions by the government to logging companies and the leasing of land for palm oil cultivation have adversely affected [native customary rights] land claimants..."*<sup>30</sup> As a result,

indigenous communities in Sarawak who depend on forests and land for their livelihoods have been marginalized, leading to food insecurity and extreme poverty.<sup>31</sup> As of October 2009, numerous land rights cases were pending in Sarawak's state courts, many of which were brought by indigenous peoples for alleged infringement of their customary land rights by the issuance of licenses for logging and oil palm.<sup>32</sup>

Weak government oversight and law enforcement have also allowed logging companies to systematically violate Sarawak's forestry laws, while government policy has done little to ensure sustainability. The International Tropical Timber Organization (ITTO) mission to Sarawak in 1990 found Sarawak's forests were being



**Top: An indigenous Penan community of the Long Lomai area in the upper Baram River basin, one of many fighting to protect their forest lands and way of life against giant logging companies.**



**Bottom: A Penan man fishing in a forest stream. Forests are critical to the traditional livelihoods of indigenous communities in Sarawak.**

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logged at double the sustainable rate and “in a manner which is damaging to the environment.”<sup>33</sup> The rate of logging has increased since then to a level that is on average more than three times the ‘sustainable’ harvest as defined by the ITTO.<sup>34</sup> Moreover, Global Witness and others have documented examples of logging in violation of Sarawak’s forestry laws: these include harvesting of protected tree species and undersize trees, logging outside of licensed boundaries, logging on steep slopes, re-logging before the end of the designated felling cycle without the necessary environmental impact assessment, clearance of forests for road construction that exceeds the permissible area, and ignoring rules on maintaining buffers zones around rivers and streams to avoid erosion and pollution from logging debris.<sup>35</sup>

Illegal and unsustainable logging has had a devastating impact on Sarawak’s rainforests and once-rich biodiversity. Sarawak currently has a higher deforestation rate than any other major tropical timber producer, at around 2% annually.<sup>36</sup> An estimated 364,489 km of logging roads were carved out of Sarawak’s forests between 1990 and 2009 – enough to circle the Earth nine times – in an area half the size of Honshu, or roughly the size of England.<sup>37</sup> Global Witness estimates that only 5% of Sarawak’s original forests remain intact, of which just over half is formally protected, while 47% of Sarawak is either deforested or licensed to be cleared for plantations.<sup>38</sup>

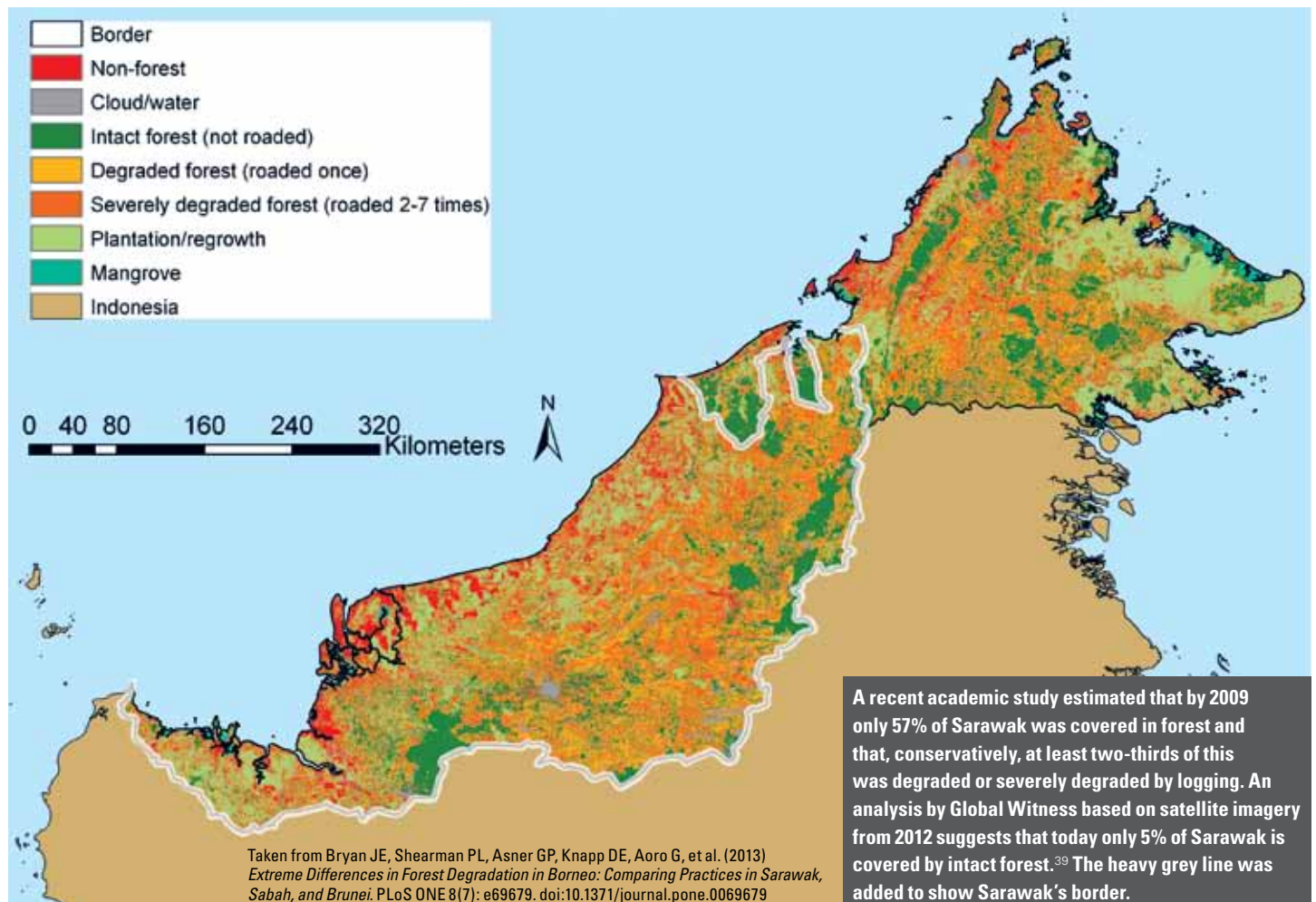
These statistics stand in stark contrast to the claims made by the Sarawak government that 84% of Sarawak remains forested.<sup>40</sup> In fact, the government’s figure includes palm oil and non-native timber plantations, and satellite imagery has confirmed that most of the remaining natural forest has been heavily degraded owing to multiple rounds of selective logging.<sup>41</sup>



Chief Minister Taib gave the keynote speech at the 2012 meeting of the International Tropical Timber Council in Yokohama, Japan, where he said: “I am glad to inform the Council that Sarawak is now strongly embarked in pursuit of sustainable forest management...”

This is particularly alarming given the region’s important biodiversity, which includes endangered animals such as orangutans, elephants, and rhinos.<sup>42</sup> Sarawak is part of the Heart of Borneo – a 22 million hectare trans-boundary conservation initiative between Malaysia, Indonesia, and Brunei led by WWF.<sup>43</sup> The majority of the logging and forest clearance in the Heart of Borneo is occurring in Sarawak.<sup>44</sup>

Yet, despite the evidence described above, Japan has been Sarawak’s largest buyer of timber products for more than two decades.



## II. Japan's timber trade with Sarawak: long-term partners

Approximately three quarters of Japan's wood supply comes from abroad.<sup>45</sup> The decline in Japan's domestic timber production since the 1960s was accompanied by a dramatic increase in timber imports (see Figure 1). Japan is the fourth largest consumer of timber products in the world behind the U.S., Europe and China, and the second largest importer of tropical timber after China. In 2009, the predominant uses of wood in Japan were for pulp and chip (46%), sawnwood (37%), and plywood (13%).<sup>46</sup> Tropical timber is commonly used for flooring, fixtures, building exteriors, furniture and concrete molding.<sup>47</sup> Japan is the world's largest importer of tropical plywood, and the Japanese construction industry uses large volumes of tropical plywood to make *kon-pane*, a type of plywood often used as temporary molding for wet concrete.<sup>48</sup>

The majority of Japan's tropical hardwoods are sourced from the Asia-Pacific region, known to Japanese importers as "*South Sea Timber*," mostly in the form of plywood from Malaysia and Indonesia.<sup>49</sup> The timber trade between Japan and Sarawak, Malaysia represents the largest bilateral trade flow of tropical timber in the world. Since 1995, Japan has on average imported a third of all timber products and more than half of all plywood exported by Sarawak, totaling 50 million cubic meters (m<sup>3</sup>) of tropical hardwood (see Figure 2).

Japan continues to be Sarawak's most important customer. In 2012, Japan is estimated to have accounted for 31% of the roundwood equivalent volume of Sarawak's exports of timber products, valued at around US\$800 million.<sup>50</sup> The trade in plywood between the two countries is particularly important to both. In 2012, Sarawak exported 55% of its plywood to Japan, and this accounted for 49% of Japan's total plywood imports.<sup>51</sup>

Numerous Japanese timber and trading companies buy timber products from Sarawak or operate there through subsidiaries, joint ventures with other Japanese companies, or joint ventures with Malaysian logging companies. In Sarawak, the major logging companies include Samling Group, Shin Yang Group, KTS Group, Rimbunan Hijau, Ta Ann Group, and WTK Group, and all of these companies sell logs or processed timber products to the Japanese market through various subsidiaries.<sup>52</sup>

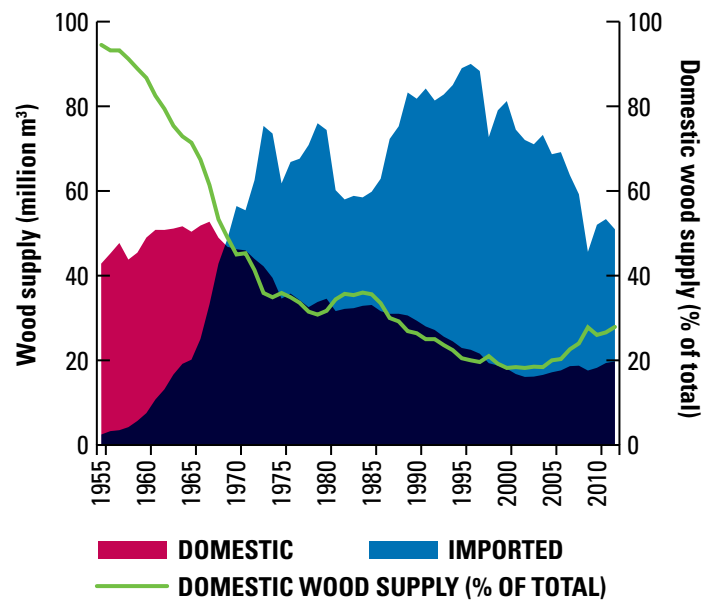


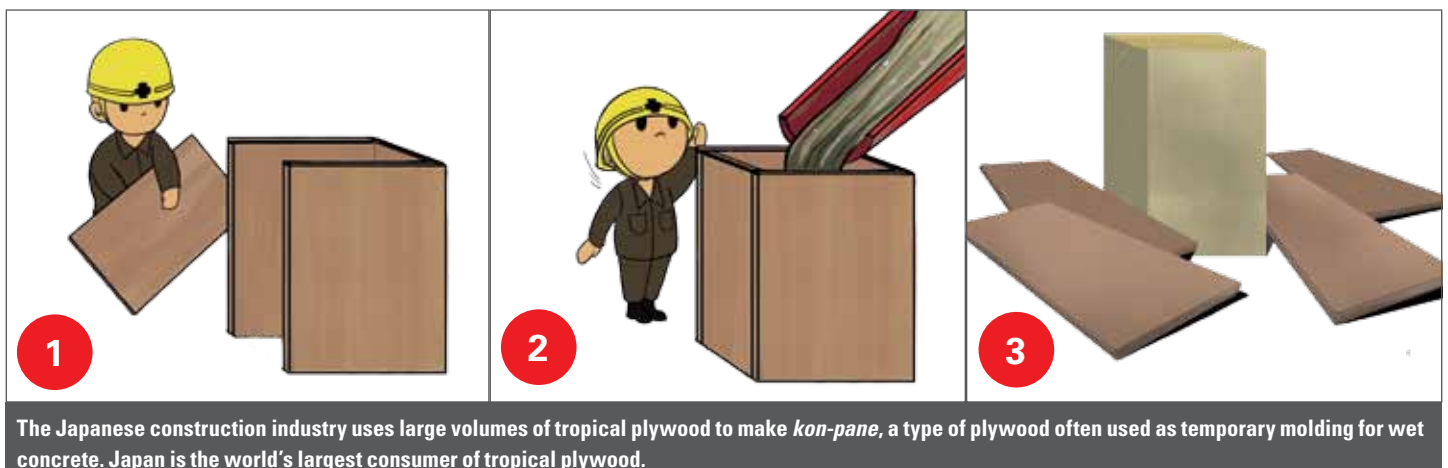
Figure 1. Japan's use of domestic and imported wood since 1955. Source: MAFF statistics

### Case studies in illegal logging: Samling Global and Shin Yang Group

Recent independent investigations into the operations of two of Sarawak's largest logging companies – Samling Global and Shin Yang Group – and their subsidiaries have found evidence of systematic violations of forestry laws.<sup>53</sup> In light of this, Global Witness carried out research to examine whether timber products originating from logging concessions in Sarawak where illegal logging has been documented are being imported into Japan. Below we present evidence that this is the case.

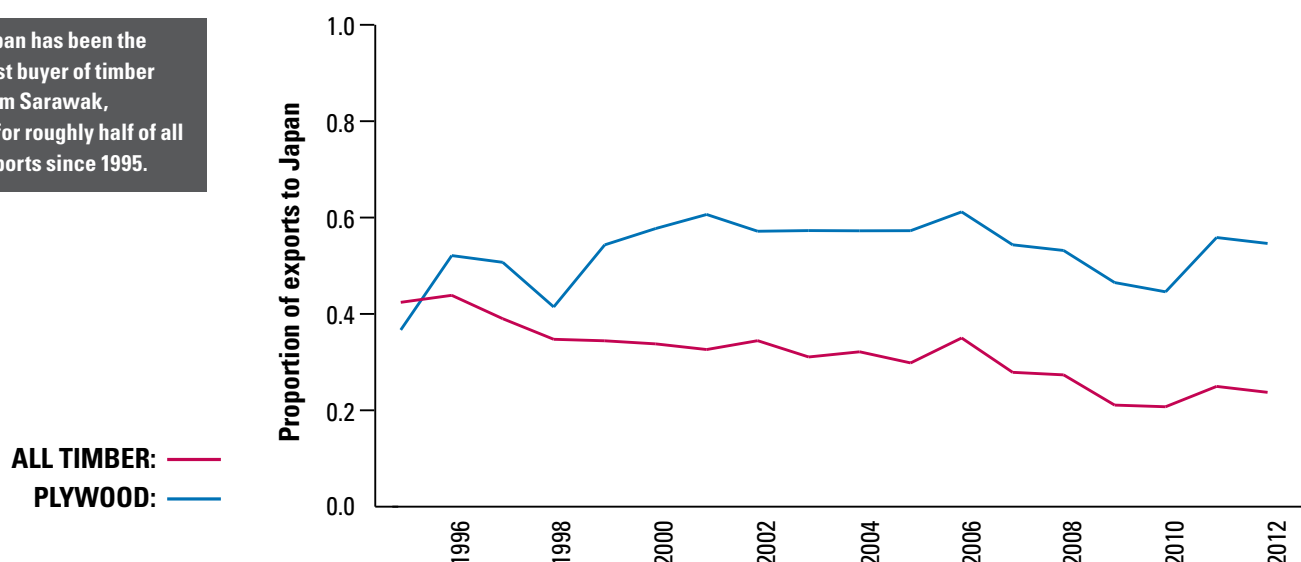
#### Case Study 1 – Samling Global

Samling Group has well-established relationships with several large trading companies in Japan. In FY 2011, the Group's total export





**Figure 2. Japan has been the single largest buyer of timber products from Sarawak, accounting for roughly half of all plywood exports since 1995.**



volumes to Japan accounted for 60.1% of its total plywood export sales and 9% of its total log export sales, worth US\$144 million.<sup>54</sup> Recently, systematic illegal logging in Samling's concessions in Sarawak has been documented by credible, independent sources. This case study provides evidence that Japanese companies are sourcing logs from concessions where illegal logging has recently been documented and plywood from mills that source from these concessions.

Samling has a long trade relationship with Sojitz Corporation, one of the largest trading companies in Japan, and is one of Sojitz's main suppliers of plywood.<sup>55</sup> In its 2010/11 fiscal year, Samling sold wood products worth roughly US\$50 million to Sojitz. The two companies recently renewed their contracts for the supply of logs, plywood and other timber products from Sarawak through 2015.<sup>56</sup> Sojitz supplies 25% of all plywood imports into Japan.<sup>57</sup>

Recent independent investigations have uncovered widespread and systematic illegal logging in Samling's logging concessions,

including those that supply mills from which Japan sources timber products.<sup>58</sup> In 2009, the Malaysian Auditor-General concluded that poor oversight and weak law enforcement has allowed illegal logging and associated environmental degradation in Sarawak.<sup>59</sup> The Auditor-General found illegal logging on steep slopes and close to riverbanks in two of Samling's concessions, resulting in erosion and water pollution.<sup>60</sup> In 2009, investigations by the Council on Ethics for the Norwegian Government Pension Fund, the world's largest sovereign wealth fund, identified "extensive and repeated breaches of license terms, regulations and other requirements in all the six concession areas that were surveyed," and determined that "the company's unacceptable practice will continue."<sup>61</sup> In response, Samling maintained that all of its operations were in compliance with relevant laws and regulations, but it did not provide specific information to counter the Council's findings. In 2010, the Norwegian Pension Fund chose to divest from Samling as a result of its findings.



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Independent investigations have documented systematic illegal logging in a number of Samling's concessions in Sarawak, behavior that one study determined was unlikely to change. Forest clearance along a logging road in breach of normal limits is shown here.

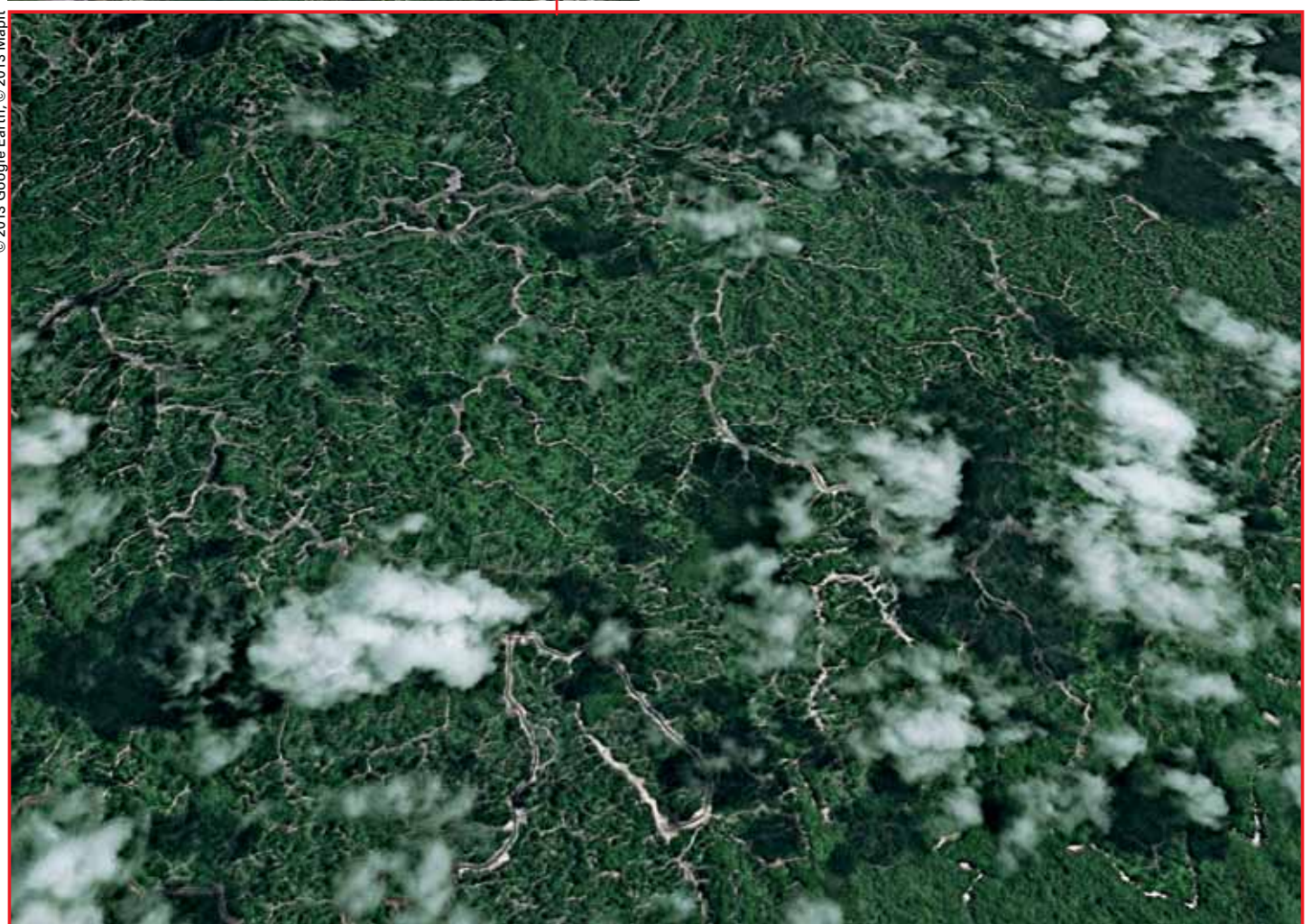


Recent investigations by Global Witness found that logs traceable to Samling concessions where systematic illegal logging has recently been documented are being imported by Japan. In October 2012, such logs were identified in the storage areas of the Port Authority at Gamagori and in a log yard belonging to Sanko Plywood, at the time a wholly owned subsidiary of the Itochu Corporation.<sup>62</sup> Sojitz buys plywood from two mills operated by Samling subsidiaries in the town of Miri and one in the town of Bintulu that source timber from concessions where systematic illegal logging has recently been documented. The links between documented illegal logging and timber products purchased by Itochu and Sojitz are described in Table I and the diagram on pages 12-13. In response to Global Witness' request for comment, Itochu

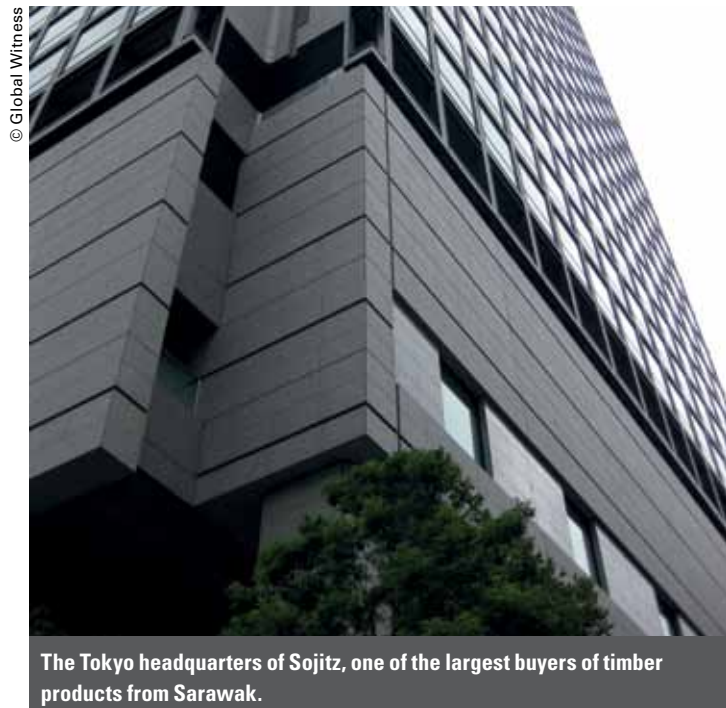
stated that the logs and timber products it sources from Sarawak are certified as legal by the relevant government agency in Sarawak; its staff or representatives regularly visit suppliers and conduct interviews and/or questionnaires to assess consistency with its CSR guidelines; and, based on a survey conducted in 2012, it is satisfied that its CSR guidelines are met by Samling Global. Itochu further stated that it *"has not found any evidence of human rights abuse or unsustainable logging"* by Samling Global. Sojitz stated that Samling Global has *"never been in violation of the law in any of the processes involving production, manufacturing nor export"* and that Sojitz *"has implemented surveys and hearings"* with Samling Global, presumably to assess third party allegations pertaining to Samling's logging operations, although the context and nature of these measures were not elaborated in Sojitz's response.

In December 2011, Global Witness and 13 other environmental organizations notified the Japan Federation of Wood Industry Associations (JFWIA) and the Japan Lumber Importers' Association (JLIA), of which a Sojitz representative serves as Vice Chairman, of the findings of the Norwegian Pension Fund and the high risk that timber from Samling was produced illegally.<sup>63</sup> However, no changes in sourcing or efforts to independently verify the legality of timber products from Samling have since been observed. When asked to comment on this allegation, JFWIA stated that on 27 January 2012 it was informed by a government representative responsible for verifying that no illegal activities were observed in Samling's logging concessions, and JLIA stated that it met with a delegation from the Sarawak government and Samling Group of Companies in Tokyo on 17 January 2012 and did not find evidence to support the allegations of illegality. JFWIA

**Shin Yang is carrying out illegal and destructive logging of intact rainforests in its T/3342 concession, which overlaps substantially with the proposed Danum-Linau National Park.**







The Tokyo headquarters of Sojitz, one of the largest buyers of timber products from Sarawak.

maintains that because the government of Sarawak attests to the legality of its products, statements referring to illegal logging are irrelevant.

Beyond the systematic violations of Sarawak's forestry laws, a number of court cases have been filed by indigenous people against Samling and its subsidiaries for violations of native customary rights. One such case was brought in 2007 by Penan people of Long Lamai against Merawa Sdn. Bhd., a wholly owned subsidiary of Samling Global, over land in one of the concessions where illegal logging has also been documented (see concession T/0390 in Table I). A recent court decision confirmed the Penan complainants' right to seek recourse for injuries caused by the violation of their native customary rights and the case is ongoing.<sup>64</sup>

## Case Study 2 – Shin Yang Group

Shin Yang Group is a major timber supplier for Japanese companies. Global Witness investigations in 2012 documented illegal and unsustainable logging operations by Shin Yang and identified examples of timber sourced by Japanese companies that is likely to have come from areas where such logging was observed. Shin Yang operates one mill in Miri and three mills in Bintulu.<sup>65</sup> Shin Yang Industries (Bintulu) is 65% owned by Shin Yang Corporation, while the state-run Sarawak Timber Industry Development Corporation holds a 30% share.<sup>66</sup> Shin Yang is not publicly traded and extremely opaque, it is a major supplier of plywood to Sojitz<sup>67</sup> and supplied Itochu with logs from its mill in Bintulu in November 2010.<sup>68</sup>

Recent satellite images of Shin Yang's concessions indicated examples of illegal logging on steep slopes and logging in a proposed national park.<sup>69</sup> A major source of Shin Yang's hardwood timber is a logging concession located in the Danum and Linau river areas, which is located in the middle of the Heart of Borneo conservation area and constitutes a large proportion of Sarawak's remaining 5% intact forests.<sup>70</sup> Owing in large part to significant logging inside the boundaries of the proposed Danum-Linau National Park, less than 10% of the approximately 135,000 hectares of the proposed park remains unlogged.<sup>71</sup>

Global Witness found logs from Shin Yang's concession in the proposed Danum-Linau National Park in the log yard of the

## Sourcing timber from Sarawak is not consistent with Corporate Social Responsibility commitments

The decision by Sojitz and Itochu to do business with companies involved in illegal and unsustainable logging and human rights violations in Sarawak is not consistent with their respective stated principles of social responsibility and environmental sustainability.

The Sojitz Group "CSR Action Guidelines for Supply Chains" states, for example, that the company "*shall duly consider the need to conserve ecosystems as well as local and global environments*" (Guideline 6) and "*shall observe all relevant laws and regulations, ensure fair transactions and prevent corruption*" (Guideline 7).<sup>74</sup>

Similarly, Itochu's "Basic policies for CSR promotion" commits to the principle of "*respect for human rights and consideration for the environment*" in supply chain management (3rd policy) and its Environmental Policy states that the company will "*duly consider the need to conserve ecosystems and biodiversity, as well as local and global environments*" and "*observe all domestic and foreign laws and regulations related to environmental conservation, along with other requirements to which we have subscribed.*"<sup>75</sup>

In order to meet these commitments, Sojitz and Itochu must cease sourcing timber products from companies in Sarawak unless and until they can independently verify that such products are produced legally, sustainably, and free from human rights abuses.

When asked to comment, Itochu stated that it conducts annual surveys of all key suppliers and that based on findings in 2012, it is satisfied that Samling Global and Shin Yang meet its CSR guidelines. Itochu further stated that it takes environmental responsibility and CSR seriously and suspends dealing with suppliers found to be in violation of its CSR Guidelines. Sojitz indicated that it uses "*on-site surveys and other methods*" to confirm that measures are in place to "*take into consideration the environment and society.*"

Gamagori port. Plywood from logs that are traceable to the Shin Yang plywood mill in Bintulu was also identified in the garden section of Japan's DIY store Cainz Home, a subsidiary of Beisia Group and DIY store Living Style How's, a subsidiary of Okazaki Seizai. The links between illegal and unsustainable logging by Shin Yang and timber products imported into Japan are summarized in Table I and the diagram on pages 12-13.

Both Itochu and Sojitz responded to Global Witness' request for comment by denying allegations against Shin Yang. Their responses pertained to both Samling and Shin Yang and are summarized in the previous section. Cainz responded that the plywood in question was purchased through a trading company and that it does not use verification measures and is not aware of the country or factory where the plywood it sells is manufactured.

In addition to violations of forestry laws, Shin Yang's logging operations in Sarawak have also been linked to human rights violations. In 2009, the Human Rights Commission of Malaysia (SUHAKAM) reported violations of indigenous land rights and "*glaring flaws*" in its impact assessments, which denied the existence of indigenous communities.<sup>72</sup> Global Witness was informed by a former staff of Shin Yang as well as villagers affected by the company's operations that the company used "*armed gangsters*" to intimidate company workers and villagers who opposed its logging activities.<sup>73</sup>



**Table 1: Illegal logging in Sarawak and links to Japanese companies**

	Logging Concession	Documented illegal operations <sup>76</sup>	Subsidiary holding concession	Plywood mill(s) supplied <sup>77</sup>	Links to Japanese companies <sup>*</sup>
<b>Samling Group</b>	T/0411	<ul style="list-style-type: none"> <li>Reentry logging without required Environmental Impact Assessment</li> <li>Land-based logging and road construction in class IV terrain (slopes exceeding 35 degrees)</li> <li>Excessive clearance of forests for construction of logging roads</li> <li>Clear-cutting in river buffer zones and polluting of rivers with logging debris</li> </ul>	Samling Plywood (Baramas) Sdn. Bhd., logging carried out by Syarikat Samling Timber Sdn Bhd.	Samling plywood mills in Miri	<ul style="list-style-type: none"> <li>Sojitz buys plywood from Samling Plywood (Baramas) and Samling Plywood (Miri)</li> </ul>
	T/0413	<ul style="list-style-type: none"> <li>Clear-cutting inside river buffer zones and polluting of rivers with logging debris</li> <li>Logging of protected trees</li> <li>Cutting of undersized trees, and false tagging of protected species</li> </ul>	Samling Plywood (Miri) Sdn. Bhd., subsidiary of Lingui Developments	Samling plywood mills in Miri	<ul style="list-style-type: none"> <li>Sojitz buys plywood from Samling Plywood (Baramas) and Samling Plywood (Miri)</li> <li>Logs found in log ponds at Itochu subsidiary Sanko Plywood and Gamagori port</li> </ul>
	T/0390	<ul style="list-style-type: none"> <li>Logging up to 5 km outside of the boundary of the license area</li> <li>Excessive clearance of forests for construction of logging roads</li> <li>Clear-cutting inside river buffer zones and polluting of rivers with logging debris</li> </ul>	Merawa Sdn. Bhd., subsidiary of Syarikat Samling Timber Sdn. Bhd.	Samling plywood mills in Miri	<ul style="list-style-type: none"> <li>Sojitz buys from Samling plywood mills in Miri</li> </ul>
	T/0294	<ul style="list-style-type: none"> <li>Reentry logging without required Environmental Impact Assessment</li> <li>Intensive logging inside Pulong Tau National Park (Batu Lawi extension, approved 13 May 2008)</li> <li>Illegal construction of roads</li> <li>Land-based logging in class IV terrain (slopes exceeding 35 degrees)</li> </ul>	Ravenscourt Sdn. Bhd, subsidiary of Syarikat Samling Timber Sdn. Bhd.	Samling plywood mills in Miri	<ul style="list-style-type: none"> <li>Sojitz buys from Samling plywood mills in Miri</li> </ul>
	T/9082	<ul style="list-style-type: none"> <li>Excessive clearance of forests for construction of logging roads</li> </ul>	SIF Management Sdn. Bhd., subsidiary of Syarikat Samling Timber Sdn. Bhd.	Samling plywood mills in Miri	<ul style="list-style-type: none"> <li>Sojitz buys from Samling plywood mills in Miri</li> </ul>
	T/3112	<ul style="list-style-type: none"> <li>Land-based logging in class IV terrain (slopes exceeding 35 degrees) and close to riverbanks</li> </ul>	Syarikat Samling Timber Sdn. Bhd.	Likely Samling mill in Bintulu	<ul style="list-style-type: none"> <li>Sojitz buys timber from Samling Plywood (Bintulu)</li> </ul>
	T/3284	<ul style="list-style-type: none"> <li>Land-based logging in class IV terrain (slopes exceeding 35 degrees) and close to riverbanks</li> </ul>	Samling Wood Industries Sdn. Bhd.	Likely Samling mill in Bintulu	<ul style="list-style-type: none"> <li>Sojitz buys timber from Samling Plywood (Bintulu)</li> <li>Logs found in log yard of Itochu subsidiary Sanko Plywood and in Gamagori port</li> </ul>
<b>Shin Yang Group</b>	T/3342	<ul style="list-style-type: none"> <li>Land-based logging in class IV terrain (slopes exceeding 35 degrees)</li> <li>Excessive clearance of forests for construction of logging roads</li> </ul>	Shin Yang Industries (Bintulu) Sdn. Bhd.	Shin Yang plywood mills in Bintulu	<ul style="list-style-type: none"> <li>Sojitz and Itochu purchase plywood from Shin Yang</li> <li>Logs found in Gamagori port</li> <li>Plywood labeled Shin Yang Plywood (Bintulu) Sdn Bhd found in Cainz Home (Beisia Group) and Living Style How's (Okazaki Seizai) DIY stores</li> </ul>

\*See Section II for supporting evidence. Global Witness requested comment from the Japanese buyers identified in this table. Responses were received from Sojitz Corporation, Itochu Corporation and Cainz Corporation and have been incorporated into Section II of this report. Sojitz denied that Samling or Shin Yang has ever been involved in illegal logging. Itochu said it has found no evidence of human rights abuse or unsustainable logging on the part of Samling or Shin Yang and the companies meet its CSR guidelines. Samling has refuted allegations of illegal logging.

# Japan's trade in high-risk

Many of Japan's largest trading companies source timber products from Sarawak.

Itochu buys from Samling and Shin Yang.



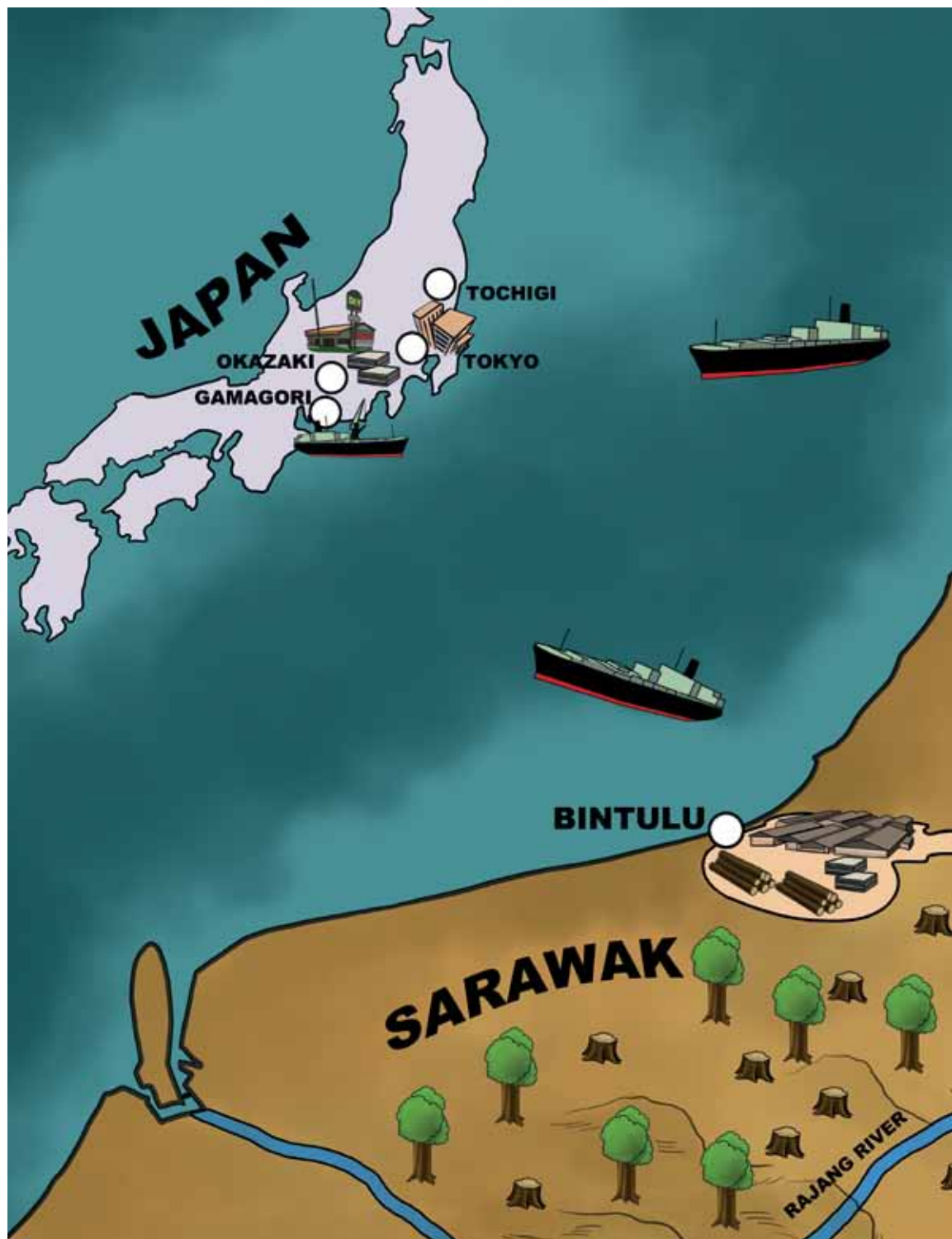
Sojitz buys from Samling mills in Miri and Bintulu and from Shin Yang.



DIY stores Living Style How's in Okazaki and Cainz in Tochigi were found to sell plywood from a Shin Yang mill in Bintulu.



Logs from Samling concessions T/0413 and likely T/3284 were found at Sanko Plywood, a subsidiary of Itochu at the time.





# timber from Sarawak



Illegal logging has been documented in Samling concessions in the Baram and Rajang River regions (see Table I). Logs from concessions T/0411, T/0413, T/0390, T/0294, T/9082 in the Baram River region are transported to Miri. Logs from concessions T/3284 and T/3112 in the Rajang River region are likely transported to Bintulu.



Illegal logging has been documented in a proposed National Park overlapped by Shin Yang concession T/3342 in the Rajang River region (see Table I). Logs from this concession are taken to Bintulu.



In October 2012, Global Witness visited ports and stores in Japan to identify high-risk timber. The results of our research and investigations are summarized here. For more information on illegal and destructive logging by Samling and Shin Yang and links to Japanese companies, see Table I and Section II of this report. Responses to Global Witness' request for comment were received from Sojitz Corporation, Itochu Corporation and Cainz Corporation and are incorporated into this report. The diagram is not drawn to scale.

Logs from Samling concession T/0413 and Shin Yang concession T/3342 were found in log yards at the port of Gamagori.



Logs from Samling and Shin Yang concessions where illegal logging has been documented are transported to Miri and Bintulu, where they are exported or processed into plywood and other products before export.



### III. Japan's timber legality verification system

Japan is the fourth largest consumer of imported timber products, and a recent study by the UK-based research institution Chatham House estimated that in 2008 it imported more than twice as much illegal timber per capita as the US, UK, or France.<sup>78</sup> In 2005, Japan, along with other G8 member countries, committed to take steps to “halt the import and marketing of illegally logged timber.”<sup>79</sup> However, Japan continues to rely on timber from Sarawak, where corruption, illegal logging and human rights abuses in the logging sector are well-documented. This brings into question the effectiveness of the measures Japan has taken to fulfill its commitment.

Illegal logging has been widely recognized as a global problem with negative impacts on the environment, human rights, development, trade, and governance. INTERPOL estimates that illegal logging accounts for over half of the volume of forestry activities in key producer tropical countries and 15-30% of all wood traded globally.<sup>80</sup> Illegal logging and its associated trade not only drive deforestation, they also undermine development and encourage corruption and other criminal activity.<sup>81</sup>

It is for these reasons that Japan, along with other G8 member countries, endorsed the G8 Action Program on Forests at the G8 Birmingham Summit in 1998. At the 2005 G8 Summit in Gleneagles, member countries agreed that “To tackle this issue effectively requires action from both timber producing and timber consuming countries.”<sup>82</sup> Japan subsequently introduced measures under its public procurement law, the “Green Purchasing Law” (GPL), requiring the national government to procure only legality verified wood.<sup>83</sup> The United States and the European Union have put in place comprehensive legislation prohibiting the trade in illegal timber products through the Lacey Act<sup>84</sup> and the EU Timber Regulation.<sup>85</sup> More recently, Australia adopted similar requirements under the Illegal Logging Prohibition Act.<sup>86</sup> The GPL remains

Japan's principal legal mechanism to address the trade in illegal timber products.

The Basic Policy under the GPL was amended in 2006 to require the procurement of timber products verified as “legal” and to give preference to “sustainable” products.<sup>87</sup> The Basic Policy covers paper, stationary, office furniture, interior fixtures and bedding, and public works materials, but excludes plywood used for molding concrete<sup>88</sup> even though this is a major use of tropical timber in Japan. The Government must procure timber products in the categories covered that are “in compliance with the regulations concerning forestry in [their] country or geographical area of origin” and show a preference for timber “obtained from a forest that is conducting a sustainable operation.”<sup>89</sup> This report focuses on provisions relating to legality, as it is the only standard that is mandatory.

As required by the Basic Policy, in 2006 the Forestry Agency<sup>90</sup> developed Guidelines for the implementation of the GPL which specify the acceptable methods for verification of legality.<sup>91</sup> The Guidelines, which are intended to provide clarity in interpreting the law to companies supplying public contracts, state that timber “should be harvested in a legal manner, consistent with procedures in the forest laws of timber producing countries and areas.”

The Guidelines recognize three methods of verifying legal wood, also known as “Goho-wood:”

1. verification by a forest certification system in combination with a chain of custody system, such as FSC, PEFC, or SGEC;
2. verification by entities authorized by an industry association; or
3. verification by independent systems developed by individual companies.



Japan's Goho-wood scheme gives the impression of a carefully devised system to ensure timber products are harvested legally and sustainably.



The second method is the most widely used: all 19 national timber industry associations and 47 prefectural timber associations have established codes of conduct and procedures for authorizing member companies that are based on a template formulated by the Japan Federation of Wood Importers Association.<sup>92</sup> According to this procedure, legality verification documents must be produced and exchanged at each step in the supply chain, from the harvester, to the intermediate industries, the exporter, the importer and ultimately the government. The authorization of a company as a Goho-wood supplier is largely determined by whether the company is able to properly handle the legality verification documents and separate wood products that have been verified as legal from those that have not.<sup>93</sup> Buyers are not required to verify the legality of their supply chains beyond the documentation provided by their immediate supplier. Furthermore, as discussed below, buyers are not required to take extra precautions where there is a high risk of illegality in their supply chain.

The government and industry associations have claimed an increasing percentage of timber product imports as legal under the Goho-wood system.<sup>94</sup> This includes a large proportion of the timber products imported from Sarawak, most of which is plywood. The Forestry Agency has estimated that 75% of Japan's plywood imports were verified as legal in 2012<sup>95</sup> and, as stated previously, around half of Japan's plywood imports come from Sarawak. Similarly, the Japan Lumber Importers Association whose membership includes large Japanese trading companies such as Sojitz, Itochu, Marubeni, and Sumitomo Corporation<sup>96</sup> that source from Sarawak and collectively account for 70% of all plywood imports to Japan,<sup>97</sup> has estimated that 88% of plywood imports by its members are Goho-wood compliant (See Figure 3).<sup>98</sup>

## Sarawak timber: no assurance of legality or sustainability

Under the Goho-wood system, an export permit document stamped and signed by the Sarawak Timber Industry Development Corporation (STIDC), the Sarawak government entity overseeing timber export procedures, is accepted as proof of legality.<sup>99</sup> However, the serious issues in Sarawak's forestry sector discussed in the report, which include well-documented and systematic illegal logging and ongoing disputes over customary land rights, call into question the reliability of Sarawak's system for verifying the legality of its timber.

One key weakness in Sarawak's legality verification system is a narrow definition of "legality" that does not adequately consider how legal obligations with regards to the customary land rights of indigenous peoples are being complied with during the licensing and planning of logging operations.<sup>100</sup> Significant weaknesses also exist in the procedures for monitoring logging operations and the flow of timber out of the forest. A 2009 analysis by independent experts found that there is "no physical tracking of logs back to stump" and no routine involvement of government officials prior to the arrival of timber at "Forest Checking Stations,"<sup>101</sup> which can be 400 km from the point of harvest. The analysis also observed that any field inspections can take place several months after harvesting by which time illegal timber may have entered the supply chain and been exported.<sup>102</sup> In addition, export licenses are issued by STIDC "without any procedure to verify that a mill is processing only legally supplied logs."<sup>103</sup> The analysis concluded that the effectiveness of legality verification measures was "uncertain" and questioned "whether current levels of monitoring are able to provide real confidence that there are effective controls to prevent illegal logging."<sup>104</sup> As noted in Section II, an assessment by the Malaysian

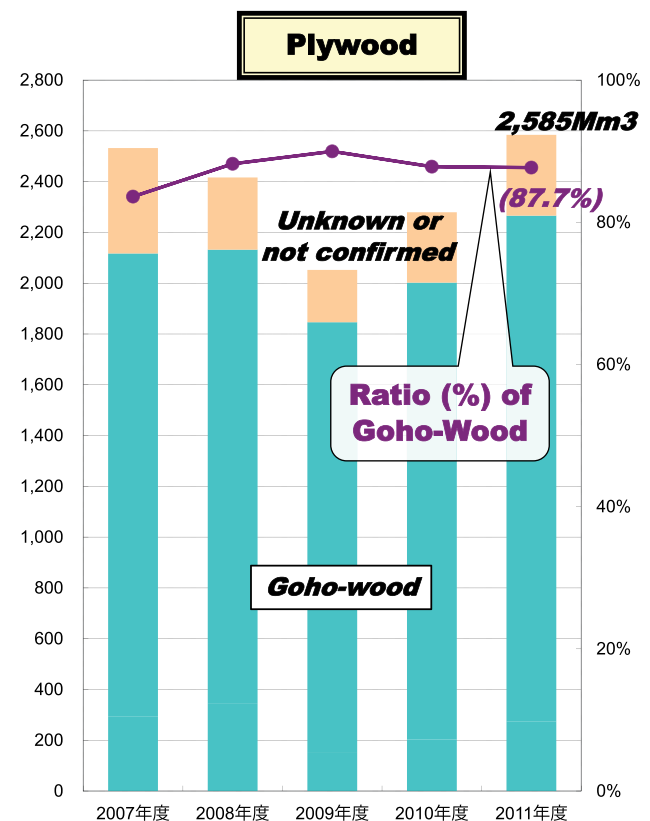
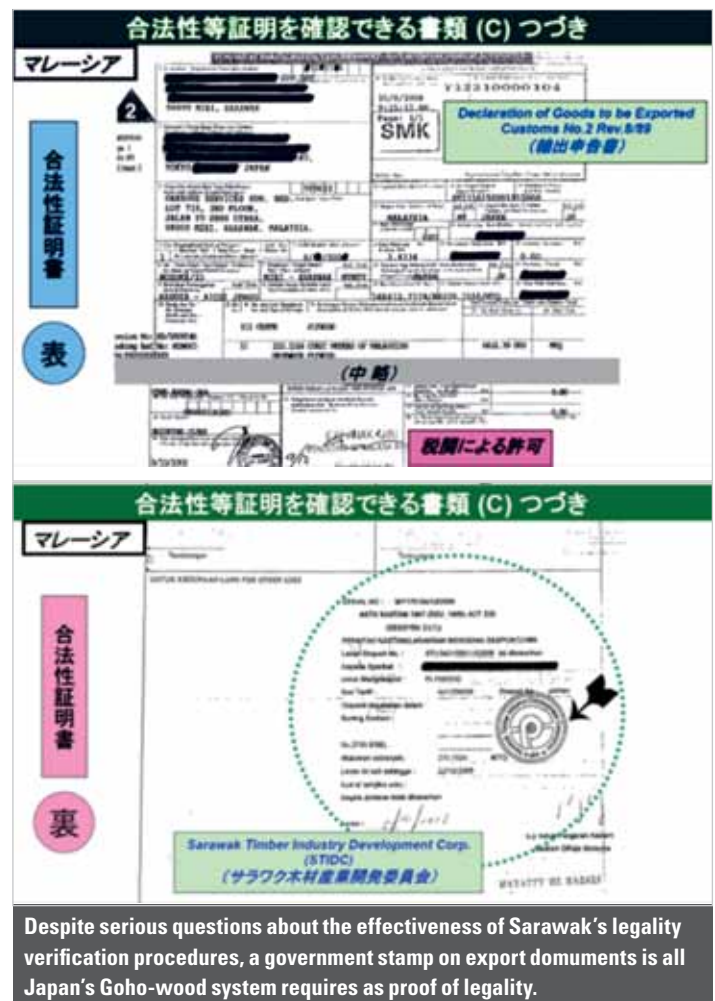


Figure 3. The Japan Lumber Importers Association says 88% of its members' plywood imports are certified as legal under the Goho-wood scheme. Much of this plywood comes from Sarawak.

Auditor-General documented illegality during its field investigations and concluded that weak oversight and enforcement was allowing illegal logging to take place in Sarawak.<sup>105</sup>

Weaknesses in Sarawak's measures for verifying legality are a major reason Sarawak is expected to be excluded from the Voluntary Partnership Agreement (VPA)<sup>106</sup> being negotiated between the European Union and Malaysia. The VPA is meant to ensure that timber products from Malaysia are verified as legal in line with EU regulations prohibiting the placing of illegal timber products on the EU market (see Box, page 18). As a result of its exclusion from the VPA, Sarawak would not be allowed to export timber products to the EU.<sup>107</sup> Moreover, the ability of STIDC to serve as an independent regulatory body is questionable owing to the Sarawak government's interest in promoting the timber trade. STIDC itself owns a large number of timber harvesting licenses through its subsidiaries and holds stakes in other companies involved in the timber trade including subsidiaries of Shin Yang Group.<sup>108</sup> Chief Minister Taib also has an interest in the timber trade, as he presides over the Sarawak government's institutional investments in sectors including forestry and plantations.<sup>109</sup> These bodies have major investments in, or "joint venture" developments with, private sector companies in which Taib's family has major shareholdings.<sup>110</sup> The Japan Lumber Importers' Association responded to Global Witness' request for comment by stating that Sarawak's legality verification system is *"well-established and now efficiently working in that country, which is also monitored by the independent committee including the Japanese NGOs. The system fulfills the requirements of the Japanese Green Procurement Policy and has been widely accepted in the Japanese lumber industry for 7 years. We trust it obtains enough official validity to certify as legal in Japan."*

## Weaknesses in Japan's approach to addressing illegal logging

The case studies of Samling and Shin Yang presented in this report illustrate that timber with a high risk of being illegal is continuing to flow into Japan with little or no scrutiny, and much of it is verified as legal under Japan's Goho-wood system. The designation of large volumes of timber from Sarawak as *"legal"* despite substantial independent evidence of widespread and systematic illegal logging, as well as evidence of corruption in the allocation of forestry and land licenses and ongoing legal challenges by indigenous peoples over land rights, suggests inherent weaknesses in Japan's current approach to legality verification. This is particularly concerning in that roughly 9% of all wood products imported by Japan in 2008 was estimated to be illegal according to the most recent comprehensive analysis.<sup>111</sup>

A key deficiency in Japan's current approach to addressing illegal logging is the limited coverage of the Green Purchasing Law (GPL). The GPL imposes requirements for procurement by the national government, but the public sector accounts for only about 5% of the consumption of timber products in Japan.<sup>112</sup> The GPL also excludes a common application of tropical timber, namely plywood used for molding concrete during building construction.<sup>113</sup> While private businesses and citizens are encouraged to purchase legal timber products under the GPL, they are not required to do so.<sup>114</sup> Imports by private companies such as Sojitz and Itochu are therefore not required to comply with the GPL for the vast majority of the timber products they import. Moreover, while a significant proportion of importers are voluntarily adopting the Goho-wood system in supplying the private sector, the effectiveness of these measures is seriously undermined by the weaknesses in the law



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In October 2012, Global Witness identified logs at the port of Gamagori originating from Samling and Shin Yang logging concessions in Sarawak where illegal and destructive logging has recently been documented.



and associated Guidelines described below. These include a vague definition of “legal”, the absence of a requirement for the importer or government to independently assess risks of illegality and take appropriate measures to mitigate such risks, and the lack of enforcement or penalties for noncompliance.

### 1) Vague definition of “legal”

The definition of legality provided in the Basic Policy and Guidelines lacks specific criteria as to what constitutes “*regulations concerning forestry*,”<sup>115</sup> thereby giving wide discretion as to how “legal” is defined. In the case of Sarawak, Japanese timber industry associations such as JLIA and JFWIA accept the limited definition of “legal” stipulated by the Sarawak government which does not consider violations of native customary rights to land, failure to pay appropriate fees or taxes, bribery, or other potential legal violations during the allocation of timber harvesting rights. An effective definition of legality ensures that the most prevalent modalities for illegality in the allocation, production, and trade of timber products are covered. The definition of legality adopted in the US, EU, and Australian legislation is broad enough to encompass these missing elements.<sup>116</sup> Despite the numerous legal disputes over underlying land tenure rights in places such as Sarawak,<sup>117</sup> for example, the Guidelines under the GPL do not clarify whether or how land rights should be considered under the definition of “legal”. The EU Timber Regulation, by contrast, states that laws covering “*third parties’ legal rights concerning use and tenure that are affected by timber harvesting*” are to be included when considering whether timber was legally harvested (see Box, page 18). The adequate consideration of land rights in the definition of legality was likely a major factor in the exclusion

of Sarawak from the VPA being negotiated between the European Union and Malaysia, discussed in the previous section.<sup>118</sup>

### 2) No requirement to carry out robust risk assessment and mitigation

The evidence of corruption, illegal logging, and violations of native customary rights in Sarawak’s forest sector and serious weaknesses in the government’s legality verification system undermine the reliability of the government’s claims of legality at the time export documents are issued. However, the Goho-wood system fails to account for these circumstances as it does not require purchasers to conduct an assessment of the risk of illegality or take appropriate measures to mitigate risks.<sup>119</sup>

The Goho-wood system is a document-based approach which relies heavily on assurances made by the producer country government and the private sector and lacks an appropriate mechanism to independently verify the accuracy of those assurances. The Goho-wood Handbook produced by industry associations states that the two minimum criteria for verifying legality are that 1) the seller guarantees the legality of the timber at the time of harvest; and 2) a third party such as an industry association or chain of custody certification body ensures the reliability of the seller’s guarantee.<sup>120</sup> In the case of Sarawak, the assurance of legality provided by STIDC is not reliable for the reasons explained in the previous section. Moreover, the reliance on industry associations as third party guarantors of legality verification is questionable due to the potential for conflict of interest.

While the Guidelines under the GPL require all actors in the supply chain from the harvester to the government procurer to provide documentation of legality, if for example the original claim of



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Log pond at the port of Gamagori where in October 2012 Global Witness identified logs from a Samling concession where systematic illegal logging has been documented.

legality was fraudulent, the Goho-wood Handbook states that the entity procuring the timber is not held responsible as long as it followed the proper procedures for obtaining the required document.<sup>121</sup> In the absence of any duty to conduct due diligence, Japanese companies have no incentive to verify the accuracy of documents claiming legality even when the risk of illegality is high. At a meeting in November 2012, a Sojitz representative told Global Witness that the company does not question shipping documents endorsed by the government of Sarawak stating that timber was legally produced.<sup>122</sup>

This contrasts with the due diligence requirements adopted in US, EU, and Australian legislation, which require importers to assess the risks of illegality in their supply chain and take appropriate measures to mitigate such risks, as discussed in the Box to the right for the European Union Timber Regulation.<sup>123</sup>

### 3) Lack of enforcement or penalties for noncompliance

The Goho-wood system does not include effective measures to ensure compliance with the law, including provisions for enforcement or dissuasive penalties for non-compliance.<sup>124</sup> Instead, the Goho-wood Handbook suggests that penalties may be assessed through other laws such as those that relate to accounting in the case of false statements or through civil lawsuits, or companies' misbehavior may be made public through the homepage of the authorizing association. By contrast, the EU Timber Regulation requires each member state to establish and apply penalties that are *"effective, proportionate and dissuasive"* and may include seizure of timber products, suspension of authorization to trade, imprisonment and fines that are proportionate to damages and losses.<sup>125</sup> Under the Lacey Act, violations can lead to civil penalties of up to US\$10,000 per violation or criminal penalties of up to US\$250,000 for individuals or US\$500,000 for organizations and up to 5 years of imprisonment.<sup>126</sup>

## The European Union Timber Regulation

The EU Timber Regulation (EUTR), which came into effect on 4 March 2013, establishes that *"The placing on the market of illegally harvested timber or timber products derived from such timber shall be prohibited"* (Article 4.1) and requires that *"Operators shall exercise due diligence when placing timber or timber products on the market."* (Article 4.2)

As discussed in Section III of this report, the EUTR goes far beyond Japan's Green Purchasing Law by applying to all operators placing timber products on European markets, defining a broad set of applicable legislation in countries where timber is harvested, and requiring due diligence on timber supply chains.

The EUTR specifies *"applicable legislation"* in the country where timber is harvested as covering:

- *rights to harvest timber within legally gazetted boundaries,*
- *payments for harvest rights and timber including duties related to timber harvesting,*
- *timber harvesting, including environmental and forest legislation including forest management and biodiversity conservation, where directly related to timber harvesting,*
- *third parties' legal rights concerning use and tenure that are affected by timber harvesting, and*
- *trade and customs, in so far as the forest sector is concerned.* (Article 2(h))

The requirements for due diligence require companies to gather comprehensive information on their supply chains, assess the risks of illegality, and take appropriate measures to reduce those risks. The preamble to the EUTR summarizes the requirements as follows:

*The due diligence system includes three elements inherent to risk management: access to information, risk assessment and mitigation of the risk identified. The due diligence system should provide access to information about the sources and suppliers of the timber and timber products being placed on the internal market for the first time, including relevant information such as compliance with the applicable legislation, the country of harvest, species, quantity, and where applicable sub-national region and concession of harvest. On the basis of this information, operators should carry out a risk assessment. Where a risk is identified, operators should mitigate such risk in a manner proportionate to the risk identified, with a view to preventing illegally harvested timber and timber products derived from such timber from being placed on the internal market. (Preamble, paragraph 17)*



# Conclusion

This report describes how rampant illegal and unsustainable logging is devastating Sarawak's once abundant rainforests and imperiling the indigenous communities that have for generations depended on these forests for their cultures and livelihoods. The Sarawak government's misleading claims of sustainability have been exposed by a growing body of rigorous analysis. Sarawak has one of the highest deforestation rates in the world and only 5% of its original forests have been spared from logging or clearance.

Recent investigations by Global Witness and others have provided unprecedented insight into the depths of the governance crisis in Sarawak. Corruption in the allocation of land and forestry licenses is systematic and involves the highest levels of the government, and weak law enforcement and unscrupulous behavior by logging companies is resulting in widespread illegal and unsustainable logging.

The dire situation in Sarawak's forest sector cannot be considered in isolation from the policies of its largest trading partner for timber products. Over the last two decades, Japan has consumed roughly one third of all timber products exported by Sarawak, and today their trade represents the single largest bilateral flow of tropical timber. Thus, Japan has a critical responsibility to ensure that it is not complicit in the well-documented corruption, illegal logging and environmental and human rights abuses taking place in Sarawak. As suggested by its decision not to participate in the Voluntary Partnership Agreement under negotiation between Malaysia and the European Union, the Sarawak government has little incentive to address fundamental issues like customary land rights, corruption

and environmental sustainability when its largest buyer asks few questions and accepts the government's assurances at face value.

Independent investigations including by the Malaysian Auditor-General have consistently found that illegal logging is widespread in Sarawak's logging sector, yet Japan's Goho-wood legality verification system appears to accept most timber products from Sarawak as legal purely on the basis of the Sarawak government's verification procedures. This is dubious given the well-documented governance issues in Sarawak. The notion of illegal logging speaks to the inability or unwillingness of governments to enforce their own laws, raising fundamental questions about the Goho-wood system's reliance on government assurances under such circumstances. A binding requirement for companies and individuals to carry out robust due diligence on their timber supply chains, combined with a prohibition on the imports of illegal timber products, as recommended in this report, would bring Japan's approach in line with emerging norms in other major developed economies.

More broadly, Japan has made important international commitments to protect biodiversity, reduce deforestation and forest degradation, and mitigate climate change. Japan's continued consumption of large volumes of tropical timber from poorly regulated countries such as Sarawak calls into question its true commitment to addressing these critical global challenges. As the world's second largest consumer of tropical timber, Japan should assess its role in tropical forest destruction and urgently develop policies to ensure that it is not contributing to the problem.

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Forests degraded by rampant logging are increasingly being cleared for timber and oil palm plantations, further imperiling Sarawak's forest-dependent indigenous cultures. This is a major reason Sarawak has one of the highest deforestation rates in the world.<sup>127</sup>

# Endnotes

1. The indigenous population of Sarawak is made up of more than two dozen groups and estimated to be 71% of the total population, or approximately 1.7 million people. Human Rights Commission of Malaysia (SUHAKAM), Report of the National Inquiry into the Land Rights of Indigenous Peoples, 2012, sec. 2.18. See also Article 161A (7) of the Federal Constitution of Malaysia and Section 3 of the Sarawak Interpretation Ordinance (Cap. 1 1958 Ed.). The Federal Constitution of Malaysia requires recognition of native customary rights on an equal basis with non-native property rights, under the principle of equality, and prohibits the compulsory acquisition or use of the land without compensation, under Article 5 (right to life) and Article 13 (right to property).
2. See, for example, Council on Ethics, The Norwegian Government Pension Fund Global, *To the Ministry of Finance, Recommendation of 22 February 2010*, [http://www.regjeringen.no/upload/FIN/etik/Recommendation\\_Samling.pdf](http://www.regjeringen.no/upload/FIN/etik/Recommendation_Samling.pdf); Global Witness, *In The Future There Will Be No Forests*, November 2012, <http://www.globalwitness.org/sites/default/files/library/HSBC-logging-briefing-FINAL-WEB.pdf>; Global Witness, *Inside Malaysia's Shadow State*, March 2013, <http://www.globalwitness.org/sites/default/files/library/Inside-Malaysia%E2%80%99s-Shadow-State-briefing.pdf>.
3. Based on analysis by Global Witness of Greenpeace/World Resources Institute (WRI) maps of "intact forest landscape" (IFL) (significant areas of unlogged forest, identified using satellite imagery, available at [www.intactforest.org](http://www.intactforest.org)) as of 2010, with adjustments for additional areas degraded by logging between 2010 and mid-2012, as shown in Landsat ETM7 imagery for subsequent years, and with addition of unlogged, gazetted protected areas not large enough to be classified as IFL. A recent study found that 20% of Sarawak's forests were intact in 2009 (see page 6 of this report), but the study was conservative in its approach to estimating areas subjected to logging (using a distance of 350 meters on either side of logging roads and not taking into account helicopter logging), and 53% of the satellite images used were from 2008 or earlier. See Bryan JE, Shearman PL, Asner GP, Knapp DE, Aoro G, et al, *Extreme Differences in Forest Degradation in Borneo: Comparing Practices in Sarawak, Sabah, and Brunei*, 2013 PLoS ONE 8(7): e69679, <http://www.plosone.org/article/info%3Adoi%2F10.1371%2Fjournal.pone.0069679>.
4. For example, in 2012 Japan accounted for an estimated 32% of the roundwood equivalent volume of Sarawak's exports of logs, sawnwood, plywood, veneer, and moulding, or 3.6 million m<sup>3</sup>, and 36% of the export value of Sarawak's exports of those commodities, or roughly US\$0.8 billion. Estimated by Global Witness based on provisional data from the Sarawak Timber Industry Development Corporation (STIDC). STIDC, *Perkasa*, January-March 2013, [http://www.sarawaktimber.org.my/publication/PERKASA\\_JanMar2013\\_web\\_s.pdf](http://www.sarawaktimber.org.my/publication/PERKASA_JanMar2013_web_s.pdf).
5. Based on information from annual reports and company websites. See also Japan Federation of Wood Industry Associations (JFWIA), *Field Research in Indonesia and Malaysia*, March 2009, <http://www.goho-wood.jp/kyougikai/pdf/h20report-2-1-3.pdf>; Japan Kenzai, *Bulls Business*, Issue No. 359, February 2013, <http://www.jkenzai.co.jp/info/mt-upload/B.B.25.2.pdf>.
6. See, for example, Council on Ethics of the Norwegian Pension Fund, 2010, *op. cit*; Global Witness, November 2012, *op. cit*; Global Witness, *Signing Their Lives Away: Private Use Permits and the Destruction of Community-owned Rainforest*, September 2012, <http://www.globalwitness.org/library/signing-their-lives-away-liberia%E2%80%99s-private-use-permits-and-destruction-community-owned>.
7. Council on Ethics of the Norwegian Pension Fund, 2010, *op. cit*.
8. See, for example, *Balare Jabu & Ors. v. Merawa Sdn. Bhd. & Ors* (High Court in Sabah and Sarawak at Miri). On 2 October 2012, the Federal Court of Malaysia in Kuching ordered the case to be retried in the High Court at Miri. [http://malaysianlaw.my/attachments/02\(i\)-50-2011\(Q\)\\_18964.pdf](http://malaysianlaw.my/attachments/02(i)-50-2011(Q)_18964.pdf). See also Daily Mail, *One tribe's war against corporate greed: How the Penan people of Borneo are fighting to preserve their forest against the loggers*, 7 April 2013, <http://www.dailymail.co.uk/news/article-2305446/One-tribes-war-corporate-greed-How-Penan-people-Borneo-fighting-preserve-forest-loggers.html>.
9. Samling Global, *2011 Annual Report*, 2011, p. 65-66, <http://202.66.146.82/listco/hk/samling/annual/2011/ar2011.pdf>.
10. Global Witness, November 2012, *op. cit*.
11. G8, *The Gleneagles Communiqué*, 2005, para. 36.
12. G8, *Environment and Development Ministerial*, 18 March 2005, para. 10.
13. Ministry of Environment of Japan, *Efforts against illegal logging*, 2006, <http://www.env.go.jp/nature/shinrin/pamph2/05-6.pdf>.
14. Government of Japan, Law No. 100 of 2000, Law Concerning the Promotion of Procurement of Eco-friendly Goods and Services by the State and Other Entities (Green Purchasing Law), art. 5, <http://www.env.go.jp/en/laws/policy/green/1.pdf>.
15. See, for example, Harris et al, *Baseline Map of Carbon Emissions from Deforestation in Tropical Regions*, Science, 22 June 2012: Vol. 336 no. 6088, p. 1573-1576.
16. See, for example, Lindsey, R., *Tropical Deforestation*, NASA, 30 March 2007, <http://earthobservatory.nasa.gov/Features/Deforestation/>.
17. Lawson, S. and McFaul, L., *Illegal Logging and Related Trade: Indicators of the Global Response*, Chatham House, 2010, pp. 50-64, <http://www.illegal-logging.info/uploads/CHillegalloggingpaperwebready1.pdf>.
18. See, for example, U.S. Department of State, Cable, *Sarawak: Opposition adrift; indigenous people lack services; police reject criticism*, 2006, <http://wikileaks.org/cable/2006/10/06KUALALUMPUR1935.html>.
19. The Star Malaysia, *Taib Mahmud being investigated*, says MACC, 6 September 2011.
20. See, for example, Bruno Manser Fund, *The Taib Timber Mafia – Stop Timber Corruption*, September 2012, p. 9-10, [http://www.stop-timber-corruption.org/resources/BMF\\_Taib\\_family\\_report\\_2012\\_09\\_20.pdf](http://www.stop-timber-corruption.org/resources/BMF_Taib_family_report_2012_09_20.pdf).
21. A license offered to a Global Witness investigator was valued at 76 million USD, necessitating a kickback of over US\$7 million USD to Chief Minister Taib. Global Witness, March 2013, *op. cit*.
22. One land lease was proposed to be sold to a Global Witness investigator through two sets of contracts: a small amount would be paid in Malaysia and be subject to the Malaysian Real Property Gains Tax, while the principal amount would be paid through an undisclosed agreement in Singapore and therefore not registered with Malaysian authorities. *Id.*, p. 4.
23. Malaysian Investment Development Authority, *Taxation: Real Property Gains Tax*, undated, <http://www.mida.gov.my/env3/index.php?page=real-property-gains-tax>; Act 169, Real Property Gains Tax Act 1976, art. 31.
24. Transparency International, *Taib should step down*, 20 March 2013, <http://www.kinitv.com/channel/8?v=8U8VJPzF6k>.
25. New Straits Times, *More than 20 individuals quizzed, 400 files scrutinized: MACC*, 30 June 2013, <http://www.nst.com.my/latest/more-than-20-individuals-quizzed-400-files-scrutinised-macc-1.310389>.
26. United Nations, UN Declaration on the Rights of Indigenous Peoples (UNDRIP), art. 26. Malaysia endorsed UNDRIP in 2007.
27. See, for example, *Adong bin Kuwau & Ors v Kerajaan Negeri Johor & Anor*, No. 24-828-1994 (High Court, Johor Bahru, November 21, 1996); *Nor Anak Nyawai & Ors v Borneo Pulp Plantation Sdn. Bhd. & Ors*, No. 22-28-99-1 (High Court of Sabah and Sarawak, Kuching, 12 May 2001); *Sagong Tasi & Ors v Kerajaan Negeri Selangor & Ors*, No. MTI-21-314-1996 (High Court of Malaya, Shah Alam, April 12, 2002); *Rambilin binti Ambit v Assistant Collector for Land Revenue, Pitas*, No. K 25-02-2002 (High Court of Sabah and Sarawak, Kota Kinabalu, July 9, 2007); *Superintendent of Land & Surveys Miri Division & Anor v Madeli Salleh*, No. 01-1-2006 (Q) (Federal Court, Putrajaya, October 8, 2007); *Agi Ak Bungkong & Ors v Ladang Sawit Bintulu S/B & Others*, No. 22-93-2001 (High Court of Sabah and Sarawak, Kuching, Jan. 21, 2010); *Mohd Ramli Kawi v Lands & Survey Kuching & Another*, No. 22-84-02 (High Court of Sabah and Sarawak, Kuching, Dec. 30, 2009). For analysis of these cases, see IDEAL, *Logging in Sarawak and the Rights of Sarawak's Indigenous Communities*, April 2010, <http://www.rengah.c2o.org/assets/pdf/de0209a.pdf>.
28. Government of Sarawak, Land Code Pertaining To Land Acquisition In Sarawak, date unknown, sec. 5(3)-(4), [http://www.landsurvey.sarawak.gov.my/modules/web/page.php?id=232#sect5\\_3](http://www.landsurvey.sarawak.gov.my/modules/web/page.php?id=232#sect5_3).
29. SUHAKAM, *Report of the National Inquiry into the Land Rights of Indigenous Peoples*. 2012, sec. 7.6.
30. *Id.*, sec. 3.43, 7.92.
31. See, for example, Chemsian Konsultant Sdn Bhd, *Social and Environmental Impact Assessment for the Murum Hydroelectric Power Project: Contemporary Ethnography*, 20 October 2011. Commissioned by the Sarawak Government, indicates that forest products constitute a significant portion of the Murum Penan people's household economy (sec. 9.3.4), and the effects of logging have left 31 % of children under five moderately malnourished and 12 % severely malnourished (sec. 14.3.1). <http://sarawak.s3.amazonaws.com/murum/Contemporary%20Ethnography%20RBedit-20-10-11.pdf>. See also SUHAKAM, *Report on Penan in Ulu Belaga: Right to Land & Socioeconomic Development*, 2007, [http://www.suhakam.org.my/c/document\\_library/get\\_file?p\\_l\\_id=14662&folderId=26470&name=D\\_LFE-712.pdf](http://www.suhakam.org.my/c/document_library/get_file?p_l_id=14662&folderId=26470&name=D_LFE-712.pdf).



32. See The Star, *Over 100 NCR land cases still pending*, 29 October 2009, <http://www.thestar.com.my/story.aspx?file=%2f2009%2f10%2f29%2fnation%2f4994833&sec=nation>; IDEAL, *op. cit.*, p. 11.
33. International Tropical Timber Council, *Report submitted to the ITTC by Mission Established Pursuant to Resolution I (VI), The Promotion of Sustainable Forest Management: A Case Study in Sarawak, Malaysia*, 7 May 1990, p. 35.
34. Adjusting for the reduced area of permanent forest estate, and accounting for standard logging practice in Sarawak, a “sustainable” harvest (consistent with ITTO definitions) would be 4 million cubic meters. Actual log production in Sarawak has averaged 13 million m3 in the 20 years since the ITTO recommendation in 1990. See Global Witness, *Sarawak Forest: Myths and Reality*, 3 April 2013, <http://www.globalwitness.org/sites/default/files/Sarawak%20myths%20and%20reality.doc.pdf>.
35. See Council on Ethics of the Norwegian Pension, *op. cit.*; Global Witness, November 2013, *op. cit.*
36. See SarVision, *Impact of oil palm plantations on peatland conversion in Sarawak 2005-2010, Summary report*, 25 January 2011, <http://www.wetlands.org/Portals/0/publications/Report/Malaysia%20Sarvision.pdf>.
37. Bryan et al, 2013, *op. cit.*, p.3.
38. Global Witness estimates as described in reference 3.
39. Bryan et al, 2013, *op. cit.*, Figure 2, p. 5; Global Witness estimates as described in reference 3.
40. Chief Minister of Sarawak, *Forestry in Sarawak*, undated, <http://chiefministertaib.sarawak.gov.my/en/perspectives/the-environment>.
41. Global Witness, April 2013, *op. cit.*
42. WWF, *Borneo wildlife*, undated, [http://wwf.panda.org/what\\_we\\_do/where\\_we\\_work/borneo\\_forests/borneo\\_animals/](http://wwf.panda.org/what_we_do/where_we_work/borneo_forests/borneo_animals/).
43. WWF, *About the Heart of Borneo*, undated, [http://wwf.panda.org/what\\_we\\_do/where\\_we\\_work/borneo\\_forests/about\\_borneo\\_forests/](http://wwf.panda.org/what_we_do/where_we_work/borneo_forests/about_borneo_forests/).
44. Measurements by Global Witness of differences between Intact Forest Landscape maps provided by Greenpeace/WRI for Borneo for 2005 and 2010 indicate more virgin forest was degraded in Sarawak’s part of the Heart of Borneo (2 million hectares) than in Indonesia Borneo, Brunei, and Sabah combined. See also [www.intactforests.org](http://www.intactforests.org).
45. According to the Japan Ministry of Agriculture, Forestry and Fisheries (MAFF) website, in 2012, 27.9% of the timber products used in Japan came from domestic forests. <http://www.rinya.maff.go.jp/j/press/kikaku/130628.html>.
46. Forestry Agency of Japan, *A Review of Forests, Forestry, and Wood Usage*, April 2011, slide 5, <http://www.rinya.maff.go.jp/j/riyou/koukyou/pdf/gaikan.pdf>.
47. Fairwood Partners, *Japan’s Timber Demand and Supply*, <http://www.fairwood.jp/forest/demandsupply.html>.
48. Dauvergne, Peter, *Shadows in the Forest: Japan and the Politics of Timber in Southeast Asia*, MIT Press, 2007, p. 8, 176.
49. Ohashi, Y., Executive Director of Japan Lumber Importers Association (JLIA), *Timber Imports and Market Situation in Japan*, 45th ITTC, November 2009, slides 1, 11, [http://www.itto.int/direct/topics/topics\\_pdf\\_download/topics\\_id=2186&no=2](http://www.itto.int/direct/topics/topics_pdf_download/topics_id=2186&no=2). According to MAFF, “South Sea Timber” includes wood from Indonesia, Malaysia, Papua New Guinea, Solomon Islands, Philippines, Singapore, and Brunei. In 2012, 84% of Japanese plywood imports came from Malaysia and Indonesia: 1,551,000 m3 from Malaysia, 947,000 m3 from Indonesia, 311,000 m3 from China. MAFF, 2012 Wood Import Records, <http://www.rinya.maff.go.jp/j/press/boutai/pdf/130327-02.pdf>.
50. Estimated by Global Witness based on provisional data on exports of logs, sawnwood, plywood, veneer and moulding totaling 3.6 million m3 roundwood equivalent. STIDC, *Perkasa*, January-March 2013, [http://www.sarawaktimber.org.my/publication/PERKASA\\_JanMar2013\\_web\\_s.pdf](http://www.sarawaktimber.org.my/publication/PERKASA_JanMar2013_web_s.pdf).
51. See Malaysia Timber Industry Board (MTIB) data for exports to Japan (1,443,000 m3) and MAFF data on imported plywood (2,960,000 m3). MAFF, 2012 Wood Import Records, *op. cit.*
52. JFWIA, *Field Research in Indonesia and Malaysia*, March 2009, *op. cit.*, p. 16-25; MAFF, Overseas timber product factories with JAS certification, [http://www.maff.go.jp/j/jas/jas\\_kikaku/pdf/rinsangaikoku.pdf](http://www.maff.go.jp/j/jas/jas_kikaku/pdf/rinsangaikoku.pdf).
53. Council on Ethics of the Norwegian Pension Fund, *op. cit.*; Global Witness November 2012, *op. cit.*; See also Malaysian Auditor-General, *Laporan Ketua Audit Negara, Aktiviti Kementerian/Jabatan/Agensi Dan Pengurusan Syarikat Kerajaan Negeri Sarawak, Tahun 2008*, 2009, p. 68-91. [https://www.audit.gov.my/docs/BI/4Auditor%20General's%20Report/2States/Sarawak/3.SARAWAK\\_aktiviti.pdf](https://www.audit.gov.my/docs/BI/4Auditor%20General's%20Report/2States/Sarawak/3.SARAWAK_aktiviti.pdf).
54. Samling Group, *op. cit.*, p. 9.
55. Samling Group, *op. cit.*, p. 65.
56. See Samling Global Group, *Poll Results from Special General Meeting held on 16 November 2011*, 2011, <http://www.hkexnews.hk/listedco/listconews/sehk/2011/1116/LTN20111116458.pdf>.
57. See Sojitz Corporation website, <http://www.sojitz-bm.com/business/product1.html>.
58. Illegals have also been recorded in Samling’s logging operations outside of Malaysia, namely in Liberia, Papua New Guinea, and Guyana. See, for example, Global Witness et al., *Signing their Lives away: Liberia’s Private Use Permits and the Destruction of Community-Owned Rainforest*, September 2012; Bruno Manser Funds, *Samling plays leading role in Guyana’s illegal logging scandal*, 18 October 2007, [http://www.illegal-logging.info/item\\_single.php?it\\_id=2382&it=news](http://www.illegal-logging.info/item_single.php?it_id=2382&it=news).
59. Council on Ethics of the Norwegian Pension Fund, 2010, *op. cit.*, describing findings of the Malaysian Auditor-General’s Report, 2009, *op. cit.*, p. 81.
60. Malaysian Auditor-General, 2009, *op. cit.*, p. 81. Illegals were found in concessions T/3112 and T/3284.
61. Council on Ethics of the Norwegian Pension Fund, *op. cit.*, pp. 41, 42. The Council commissioned a survey of the following concessions: T/9082, T0390, T/0411, T/0413, T/0404 (LPF/0021), and T/0294. Serious violations included “logging outside the concession area, logging in a protected area that had been officially excluded from the concession in order to be integrated into an existing national park, and re-entry logging without Environmental Impact Assessments.” It also found systematic practices of clear-cutting along the roads across wider sections than what is permitted, clear-cutting in riparian buffer zones, and rivers and streams causing pollution by logging debris; road construction and conventional logging on steep slopes; and logging of protected species and of undersized diameter trees.
62. On November 6, 2012, Tonichi News reported on the scheduled closing of Sanko Plywood in March 2013. <http://www.tonichi.net/news/index.php?id=25302>.
63. Environmental Investigating Agency, et al, *Groups call on Japan to stop buying illegal timber*, 15 December 2011, <http://www.eia-international.org/environmental-groups-call-on-japan-to-stop-buying-illegal-timber>.
64. The case is now being retried in the High Court at Miri to determine the Penans’ rights over the claimed area which includes Samling Group concession T/0390. See decision of the Federal Court of Malaysia in Kuching, October 2, 2012, *op. cit.*; Free Malaysia Today, *Landmark win for Penans in federal court*, 4 October 2012. <http://www.freemalaysiatoday.com/category/nation/2012/10/04/landmark-win-for-penans-in-federal-court/>.
65. JFWIA, *Field Research in Indonesia and Malaysia*, *op. cit.*, p. 18.
66. STIDC, *2011 Annual Report*, 2011, p. 97, <http://sarawaktimber.org.my/publication/1372142767-annualreport2011.pdf>.
67. Statement of Sojitz representative at meeting attended by Global Witness, 9 November 2012.
68. Presentation on legality verification by Haji Len Talif Saleh, Sarawak Forest Department, Goho Wood Seminar in Japan, December 2010, slide 54-55. Example of export documentation included one for a shipment of 600 cubic metres of meranti logs from Shin Yang Trading Sdn. in Bintulu, Sarawak, to Gamagori, Japan, consignee for which was listed as Itochu Corporation. [http://www.goho-wood.jp/topics/doc/sympo2010\\_report\\_6.pdf](http://www.goho-wood.jp/topics/doc/sympo2010_report_6.pdf).
69. Measured using Landsat ETM 7 satellite image February 2010; Global Witness, November 2010, *op. cit.*
70. Logging concession T/3342, licensed to Shin Yang Industries (Bintulu) Sdn. Bhd.
71. Based on analysis by Global Witness of Greenpeace/WRI maps show that 14,300 hectares of the proposed Danum-Linau National Park’s intact forests were logged by Shin Yang from 2000-2005, a further 36,000 hectares from 2005-2010, and a further 27,000 hectares by the end of February 2012.
72. SUHAKAM, *The Murum Hydroelectric Project and its impact towards the Economic, Social and Cultural Rights of the Affected Indigenous Peoples in Sarawak*, 2009, p. 8-9.
73. Testimony gathered by Global Witness from communities and former staff of Shin Yang in 2011 and 2012. One villager told Global Witness that “armed gangsters” visited their village and shot livestock following complaints by the community to company management about logging operations.
74. Sojitz Corporation, *Annual Report 2012*, 2012, p. 63, <https://www.sojitz.com/en/ir/reports/annual/pdf/2012/sojitz-2012/index.html>.
75. Itochu Corporation, *2012 Annual Report*, 2012, p. 72, 82, [www.itochu.co.jp/en/ir/doc/annual\\_report/2012/pdf/ar2012e.pdf](http://www.itochu.co.jp/en/ir/doc/annual_report/2012/pdf/ar2012e.pdf).
76. Based on findings in: Global Witness, November 2012, *op. cit.*, p. 13; Council on Ethics of the Norwegian Pension Fund, 2010, *op. cit.*, pp. 13-31; Malaysian Auditor-General’s Report, 2009, *op. cit.*, p. 81.
77. The Samling logging concessions located in the Baram River basin supply Samling’s mills in Miri due to proximity and topography, while concessions T/3112 and T/3284 are in the Rajang River basin and likely supply Samling’s mill in Bintulu. Shin Yang concession T/3342 is located above the Rajang River basin and supplies Shin Yang’s mills in Bintulu. See diagram on pages 12 – 13.
78. Lawson, S. and MacFaul, F., *op. cit.*, p. 106.
79. G8, *Environment and Development Ministerial*, 18 March 2005, para. 10.
80. Nellesmann, C., *Green Carbon, Black Trade: Illegal Logging, Tax Fraud and Laundering in the World’s Tropical Forests*, INTERPOL Environmental Crime Programme (eds), 2012, p. 6.
81. *Id.*, pp. 13-14. See also <http://www.interpol.int/Crime-areas/Environmental-crime/Projects/Project-Leaf>.
82. G8, *Gleaneagles Communiqué*, 2005, para. 37.
83. See Ministry of the Environment of Japan, Japan’s Green Purchasing Policy-Tackling Illegal Logging, 2007, p. 11, [http://www.env.go.jp/en/earth/forest/pamph\\_jgpp.pdf](http://www.env.go.jp/en/earth/forest/pamph_jgpp.pdf).
84. Government of United States, Lacey Act, 16 U.S.C. §§ 3371-3378.

85. European Union, Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010.
86. Government of Australia, Illegal Logging Prohibition Act (AILPA) 2012.
87. Government of Japan, Basic Policy on Promoting Green Purchasing, February 2013, <http://www.env.go.jp/en/laws/policy/green/2.pdf>. The promulgation of implementing policy is mandated under the Green Purchasing Law, *op. cit.*, Arts. 6 and 7. See also Japan's Green Purchasing Policy-Tackling Illegal Logging, *op. cit.*, p. 11.
88. JFWIA, *Goho Wood Handbook*. March 2012, p. 26, <http://goho-wood.jp/ihou/handbook.html>; Basic Policy on Promoting Green Purchasing, *op. cit.*, p. 153, 170 (limiting the scope of the policy on concrete molds to those made out of recycled materials) and p. 163, note 1 (limiting scope of the policy on plywood to wood construction work).
89. Basic Policy on Promoting Green Purchasing, *op. cit.*, p. 189.
90. The Japanese Forestry Agency sits within the Ministry of Agriculture, Forestry and Fisheries, and has primary responsibility for regulating both domestic forest management and timber imports.
91. Forestry Agency of Japan, Guideline for Verification on Legality and Sustainability of Wood and Wood Products, 15 February 2006, [http://www.rinya.maff.go.jp/j/boutai/ihoubatu/pdf/gaido1\\_e.pdf](http://www.rinya.maff.go.jp/j/boutai/ihoubatu/pdf/gaido1_e.pdf).
92. JFWIA, *Goho Wood Handbook*, *op. cit.*, p. 76 (Code of Conduct), p. 77-83 (Procedure for Authorization). As of 31 May 2013, p. 143 authorizing associations and 9,760 companies were participating in this method. [http://www.goho-wood.jp/nintei/meibo\\_info.php](http://www.goho-wood.jp/nintei/meibo_info.php).
93. See JFWIA, *Goho Wood Handbook*, *op. cit.*, p. 78 (template of Procedure for Authorization). The relevant provisions of this template were largely adopted by the JLIA for their Procedure for Authorization. See [http://www.goho-wood.jp/nintei\\_system/dantai\\_youryo/yunyukyo\\_dantai\\_youryo.pdf](http://www.goho-wood.jp/nintei_system/dantai_youryo/yunyukyo_dantai_youryo.pdf).
94. The Japanese Government has presented doubling of authorized Goho-wood suppliers since 2006 as evidence of increasing legal wood in the Japanese market. See Japanese Government response to questions by MP Shuichi Kato, Member of the House of Councillors, 29 June 2012, <http://www.sangiin.go.jp/japanese/joho1/kousei/syuisyo/180/meisai/m180155.htm>.
95. Presentation by O. Hashimoto of the Japanese Forestry Agency at the International Seminar on Goho-Wood, 11 Nov. 2012, Yokohama, Japan, slide 8. <http://www.goho-wood.jp/topics/doc/121113-pre01.pdf>.
96. JLIA, Member list, [http://www.goho-wood.jp/nintei\\_system/user/list.php?group\\_id=7](http://www.goho-wood.jp/nintei_system/user/list.php?group_id=7).
97. Presentation given by Y. Ohashi of JLIA at a Goho Wood Seminar, 6 September 2012, slide 2, [http://www.goho-wood.jp/nintei/doc/h24\\_kensyu6.pdf](http://www.goho-wood.jp/nintei/doc/h24_kensyu6.pdf) (July 16, 2013).
98. *Id.*, slide 6.
99. JFWIA, *Goho Wood Handbook*, *op. cit.*, p. 56. The Handbook explains that while export documents are not in principle sufficient as proof of legality, they would be acceptable if issuance of the permit also indicates legal compliance at the time of harvest (as is the case in Indonesia and Malaysia). For Sarawak, the JFWIA and associated Council for Tackling Illegal Logging and Promotion of Goho-wood recognizes the Declaration of Goods to be Exported: Customs No. 2 Rev. 8/89 as proof of legality if stamped and signed by STIDC. See *Id.*, p. 53 and 56; In response to Global Witness' request for comment, JFWIA stated that "Under the Goho-wood legality verification system export permission itself is not recognized as verification of legality; however, an export permit document checked by the forest authorities including STIDC is accepted as proof of legality."
100. J. Lounasvuori et. al, *Joint Technical Evaluation of Malaysian Timber Legality Assurance System (TLAS): Independent Report*, 3 February 2009, p. 35, <http://www.illegal-logging.info/uploads/EFMalaysiaTLAS.pdf>; See also FERN, Forest Watch Special – VPA Update, May 2013, <http://www.fern.org/sites/fern.org/files/VPA%20Update%20May%202013.pdf>.
101. *Id.*, p. 20.
102. *Id.*, p. 19, Box 4.
103. *Id.*, p. v.
104. *Id.*, p. 23, Box 5.
105. Malaysian Auditor-General, 2009, *op. cit.*
106. VPAs have been signed between the EU and six countries and negotiations are underway in others. For more information see European Forestry Institute, VPAs, undated, <http://www.euflegt.efi.int/portal/home/vpas/>.
107. Jakarta Post, *RI exports flourishing despite delays in signing of VPA deal*, June 17 2013, <http://www.thejakartapost.com/news/2013/06/17/ri-exports-flourishing-despite-delays-signing-vpa-deal.html>.
108. According to its 2011 Annual Report, STIDC held 30% of Shin Yang Industries (Bintulu) Sdn. Bhd. and 21% of Shin Yang Plywood (Bintulu) Sdn. *STIDC 2011 Annual Report*, p. 97, *op. cit.*; see also Faeh, D., *Development of Global Timber Tycoons in Sarawak, East Malaysia: History and Company Profiles*, Bruno Manser Fund, February 2011, p. 19, [http://stop-timber-corruption.org/resources/bmf\\_report\\_sarawak\\_timber\\_tycoons.pdf](http://stop-timber-corruption.org/resources/bmf_report_sarawak_timber_tycoons.pdf).
109. Taib is Chair of The Land Custody and Development Authority (PELITA), which has joint ventures with Ta Ann Holdings Bhd. Ta Ann Holdings, Bhd., *2012 Annual Report*, 2012, p. 224. He also presides over the State Financial Secretary Incorporated, which holds 25% of the shares of Sarawak Plantations Bhd. SPB Group, *Interim Report for 2nd Quarter Ended 30 June 2013*, 2013, [http://ir.listedcompany.com/tracker.pl?type=5&id=52317&redirect=http%3A%2F%2Fspb.listedcompany.com%2Fmisc%2Fquarterly\\_report\\_20130630.pdf](http://ir.listedcompany.com/tracker.pl?type=5&id=52317&redirect=http%3A%2F%2Fspb.listedcompany.com%2Fmisc%2Fquarterly_report_20130630.pdf).
110. For example, Taib's first cousin, Abdul Hamed Sepawi, is chairman of Ta Ann Holdings Bhd and Sarawak Plantations Bhd, and has shareholdings of 34.35% and 30.47%. Ta Ann Holdings, Bhd., *2012 Annual Report*, 2012, p. 222; SPB Group, *Interim Report for 2nd Quarter Ended 30 June 2013*, 2013, [http://ir.listedcompany.com/tracker.pl?type=5&id=52317&redirect=http%3A%2F%2Fspb.listedcompany.com%2Fmisc%2Fquarterly\\_report\\_20130630.pdf](http://ir.listedcompany.com/tracker.pl?type=5&id=52317&redirect=http%3A%2F%2Fspb.listedcompany.com%2Fmisc%2Fquarterly_report_20130630.pdf).
111. Lawson, S. and MacFaul, F., *op. cit.*, p. 106.
112. Ministry of Environment of Japan, *Efforts against illegal logging*, *op. cit.*
113. See reference 88.
114. Government of Japan, Green Purchasing Law, *op. cit.*, art. 5.
115. Japanese Government response to questions by MP Shuichi Kato, Member of the House of Councillors, *op. cit.*
116. See, for example, the Lacey Act, 16 USC 3372(a)(2) (B); Regulation (EU) No. 995/2010, Article 2(f) and (h); Illegal Logging Prohibition Act, Sec. 7.
117. JFWIA, *Report on Investigation of Legality Verification in Indonesia and Malaysia*, March 2008, p. 54, <http://goho-wood.jp/kyougikai/pdf/h19report-2-1-3.pdf>.
118. FERN, *EU Forest Watch*, February 2010, <http://www.fern.org/sites/fern.org/files/VPA%20update.pdf>.
119. JFWIA, *Goho Wood Handbook*, *op. cit.*, p. 26, 34. A mark from a forest certification body (i.e. SGEC, FSC, PEFC) is considered sufficient proof of legality for purposes of Goho Wood. See also Institute for Global Environmental Strategies, *Japan's Public Procurement Policy of Legal and Sustainable Timber*, August 2007, [http://pub.iges.or.jp/modules/envirolib/upload/983/attach/publicprocurement\\_final.pdf](http://pub.iges.or.jp/modules/envirolib/upload/983/attach/publicprocurement_final.pdf).
120. JFWIA, *Goho Wood Handbook*, *op. cit.*, p. 13. On the issue of third party verification, see also *Id.*, p. 31.
121. JFWIA, *Goho Wood Handbook*, *op. cit.*, p. 27.
122. Statement of Sojit representative at meeting attended by Global Witness, 9 November 2012.
123. For the U.S., see Colbourn, E., *Lacey Act Amendments of 2008*, U.S. Department of Justice, 29 March 2009, [http://www.forest-trends.org/~forestrtr/documents/files/doc\\_696.pdf](http://www.forest-trends.org/~forestrtr/documents/files/doc_696.pdf). For the E.U., see Regulation (EU) No. 995/2010, Article 6. For Australia, see Illegal Logging Prohibition Bill 2012, Section 14 (Importers) and Section 18 (Processors).
124. JFWIA, *Goho Wood Handbook*, *op. cit.*, p. 26.
125. See European Union, Regulation (EU) No. 995/2010, Article 18.
126. Government of the United States, Lacey Act, 16 USC § 3373. The penalty amount has been revised in accordance with The Criminal Fines Improvement Act of 1987, which enhances criminal fines for those laws whose criminal fines have not been adjusted since 1987.
127. SarVision, *op. cit.*





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Global Witness investigates and campaigns to prevent natural resource-related conflict and corruption and associated environmental and human rights abuses.

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