

Summary of SWG-FLEGT ASIA Technical Meeting on

Supply Chain Control on Private Land

1 April 2021 – Zoom meeting

Introduction

Thailand RFD (Mr. Sapol Boonsermsuk): Dir Boonsermsuk opened the meeting and welcomed the participants. He excused Mr Somsak Sapakosolkul, Deputy Director General of RFD, who had to attend to other important matters due to the technical problems in the morning which delayed the start of the meeting. Today's discussion will be split into two parts, with the first dedicated to supply chain controls on private land, led by the chair of the sub-working group Ms. Rungnapa Wattanavichian (TFCC). The second part will cover the topic of import controls, led by the chair of the import control sub-working group Mr. Jirawat Tangkijngamwong, Chairman of the Thai Timber Association.

FLEGT Asia (Dr. Alexander Hinrichs): Dr. Hinrichs of the European Forest Institute, which is responsible for implementing the EU-funded FLEGT Asia programme (FLEGT Asia), welcomed the participants and expressed his regret that it is not possible to meet in person due to the pandemic. The FLEGT Asia team notes the long and trusted relationship with Thailand and is delighted to be able to continue to work with Thailand at the technical level in support of drafting technical documents for inclusion in the Annexes of the VPA.

The FLEGT Asia team has recently been joined by two new members: Mr. Peter Aldinger and Mr. Björn Dupong, who will support the work on Thailand. Mr. Morne van der Linde, who previously supported the work on Thailand, has taken on new tasks within EFI in Europe.

RFD (Mr. Boonsermsuk): Mr Boonsermsuk thanked Dr. Hinrichs and handed the floor to Ms. Rungnapa Wattanavichian to lead the exchange on supply chain controls on private land.

Chair of SWG PL (Ms. Rungnapa Wattanavichian, TFCC): Ms Rungnapa explained that since the last meeting in 2020, the sub-working group on supply chain controls on private land has advanced in its discussions on the self-declaration, which is reflected in the latest concept paper shared with FLEGT Asia. The sub-working group held stakeholder consultations in the Northern, Southern, Eastern, and North-eastern parts of Thailand to collate feedback on the self-declaration implementation guideline (SD guideline). The relevant feedbacks helped the sub-working group in refining the guideline to ensure that the self-declaration is operational.

RFD/FEO (Mr. Tanongsak Nontapa): Mr Tanongsak, Director of the Forest Economics Office (FEO) provided an update on the preparation of the SD guideline. The FEO has prepared a report assessing whether the SD guideline is compliant with the existing laws in place. The report is currently being reviewed by the legal division of RFD and will be shared with the Director General once the legal review has been completed.

FLEGT Asia Comments on TH SCC Private Land Concept Paper (Received on 4 February 2021)

FLEGT Asia: Recommended to go through each comment previously submitted to the Thai side, one at a time.

Self-Declaration & Required Information / Role of attorneys

FLEGT Asia: Understands that self-declaration (SD) compiles necessary information that mills should receive for them to understand that the timber they are buying comes from a specific legal source. Raised the question of the role of “attorneys” in signing the self-declaration form. Are these understood to be “solicitors/lawyers” or “legal representatives”?

Chair of SWG PL: Clarified that the term “attorney”, in this case, refers to a legal representative authorized to sign on behalf of a land owner or tenant (e.g. a parent for their children).

FLEGT Asia: It is understood that this is a semantic issue.

Chair of SWG PL: Suggested that the term could be changed to “legal representative” or other terms for clarity.

Self-Declaration & Required Information / Person responsible for signing the SD form and submitting to mill owner

FLEGT Asia: Understands that whoever signs the SD form does not necessarily need to be the person delivering it to the mill. Is the form travelling with the timber and are agents or legal representatives obliged to bring the SD form to the mill?

Chair of SWG PL: The person responsible for moving the timber will be responsible for bringing the SD form to the mill. This could be the timber owner, agent, or buyer which have possession of timber at that transportation period but can be assigned to staff or driver.

FLEGT Asia: It is important that the SD form travels with the timber to the mill owner. It would be helpful to include in the guidelines for the mill owners that SD forms are to be compiled at the mill and not at the place of the agents.

Self-Declaration & Required Information / Owners required to collect geographic coordinates

FLEGT Asia: Did piloting/field tests identify any issues farmers may have related to collecting GPS coordinates? From FLEGT Asia’s experience farmers may not have the technical capacity to collect geographic coordinates.

Chair of SWG PL: informed that this issue was identified at the stakeholder consultation meeting and discussed amongst the sub-working and ad-hoc working groups.

The working groups concluded that the GPS coordinates should remain in the SD guideline to ensure timber source information. To assist farmers, TH could organize a capacity-building activity to strengthen understanding. Buyers could also help the farmers.

Self-Declaration & Required Information / Owners required to declare volume and weight

FLEGT Asia: It is our understanding that it might be difficult for owners to weigh the timber onsite. Is this a universal requirement or only for bulk timber? Where will the weight be measured?

Chair of SWG PL: Collecting information on volume and weight is important, as it provides a way to check that the timber was grown and harvested on the land – land size and type will determine how much timber can be produced on a given plot.

Fast Growing Tree Business Association (Mr. Amornpong Hiruwong): This requirement is primarily geared towards fast growing timber. The processing mill will have a scale to verify the weight.

FLEGT Asia: In the explanation of the SD form it will be important that volume/weight are not requirements for all shipments but only for certain ones.

Alternative Documentation/Evidence

FLEGT Asia: In the concept paper there are multiple references to other documentation/evidence that can be used to provide information covered in the SD form. We understand that the SD form is just a tool and that there may be other ways to demonstrate the legality of the timber source. However, the current wording leaves a lot of room to manoeuvre, and more guidance may help mills to determine which alternative documentation is appropriate.

Alternative Documentation/ CITES

FLEGT Asia: Do CITES permits contain all of the information listed in Table 1 of the Self-Declaration concept paper? More details about how the CITES permit will supplement the self-declaration are needed. If CITES permits are retained as an alternative form of documentation, they will need to be incorporated into the Legality Definition for Operator 3. CITES permits are currently described in the LD only for export procedures.

Relatedly, when will the CITES permit be issued? Will this happen at the harvest site, so that the CITES permit travels with the timber to the first processing mill?

Chair of SWG PL: prefer to discuss this topic internally first and exchange with FLEGT Asia via email.

FLEGT Asia: This is a good way forward. What is important is that if the CITES permit is retained as alternative documentation under the self-declaration process to demonstrate legality, we incorporate the concept into the relevant annexes of the VPA. There needs to be consistency between the description in the LD, SSC PL and TLAS annexes and clear guidance for the mill owners.

Alternative Documentation/ Certification

FLEGT Asia: The concept paper refers to forest management certification as alternative documentation to demonstrate legality of the timber source. What we would like to know is how certification substitutes the information in Table 1 of the self-declaration concept note, and whether the mill will be able to identify the source of the timber with confidence. To this end, chain of custody certification might be better suited than forest management certification. What is Thailand's understanding of how forest management certification will demonstrate the information provided in table 1?

Chair of SWG PL: Forest management certification will complement and substitute some of the information provided in table 1. The certificate will show the species and geographic coordinates of the timber source. Forest management certification may replace land title deeds or other documents.

FLEGT Asia: We would welcome an example of how forest management certification would replace the SD form especially for larger sized units where forest management certification would be available. In principle we see that the information in table 1 can be demonstrated via other means than the SD form but we have not yet seen this with forest management certification.

Chair of SWG PL: We will share an example with FLEGT Asia via email.

Measures to Prevent Illegality

FLEGT Asia: The concept paper states that guidelines for the mills will be developed. Is our understanding correct that the mills will have the following four legal obligations?

1. To ensure all timber acquired is legal
2. Implement an appropriate process to determine this
3. Maintain adequate and appropriate records
4. Make records available to the regulatory body – periodically or on request

Chair of SWG PL: We can confirm that mills will need to comply with all four obligations.

FLEGT Asia: Regarding the second legal obligation (implementing an appropriate process), Chapter 5 describes the concept of visits to the plantation site. We would like to ask what is expected of the mills with these visits, and how this obligation relates to the ongoing study looking at the risks of illegal timber entering the mills' supply chain. Will TH

require a system where mill owners have an obligation to ensure the integrity of the supply chain by assessing and mitigating risk?

Chair of SWG PL: More detailed information will be added to the concept paper on this. We will check with operators whether the requirements are feasible. Mill operators will need to implement appropriate process on their suppliers and visit farms if they have any questions or suspicions or if they have new customers.

FLEGT Asia: We also understood this as a due diligence requirement on the mill side. It would be helpful to elaborate more in chapter 5 on what mills need to do to conduct a risk-based assessment.

FLEGT Asia: Relatedly, will TH still allow for the current practice of farmers or agents selling timber at the mill gate? In this case, it may be difficult for the mill to do a site visit and be assured of the timber source. If TH will still allow this practice, how will the due diligence requirement be implemented?

Veneer/Plywood Industry Group (Mr. Pingsun Wang): Mills will continue to be able to receive timber at the factory gate. It is at the mills' discretion to accept timber at the gate. For high-risk timber, mills will need to ask for further information. Typically, mills will determine risk from source, specie, and type of seller – old or new. If the timber is deemed as risk, mill will do a plantation visit and request more documents.

FLEGT Asia: Accepting timber at the mill gate is partially explained in section 5. We would recommend that the way the mill verifies information is described in more detail in section 5. There will need to be a separation between standard cases and cases where risk is perceived to be higher, to ensure the integrity of the supply chain and to avoid greenwashing through the SD. This was also a point made by the EU during the last negotiations. Having clear guidelines for the mills in place will be crucial.

Private Forest Plantation Cooperative (Ms. Yingluck Patiphanthewa): What does FLEGT Asia mean by these "risks"? All timber from private land is legal. For plantation cooperatives all species are registered. Land owners have relevant documentation that timber has been harvested from specific lands.

FLEGT Asia: To clarify, we do not think that the risk is related to illegality at source but rather that the SD process could be misused. There is a possibility that timber from other sources are mixed with timber that has been harvested on private lands, and listed under the same SD. We would like to clarify how this will be addressed via the risk assessment. It is important to provide support to mills so that they can effectively verify where the timber in their supply chains originates.

Thai Timber Association (Mr. Jirawat Tangkijngamwong): It is not always possible to trace the timber back to source. The SD form is like an ID and it is up to the mill to decide whether they want to accept timber from a specific supplier or not. We cannot require them to reject timber.

FLEGT Asia: To summarize, we would like to ask TH to provide more information in the concept paper on how mills will verify information they receive through the SD. We fully

support what is described, but more details could be provided. We would also like to make reference to the ongoing study looking at supply chain risks.

Timber exports

FLEGT Asia: The concept paper states the SD form can be used for timber exports. We were wondering how the process will work with regard to log exports under the SD. Our understanding is that RFD has to issue an export permit.

Forest Economics Office (FEO): The SD form can be used to apply for an export permit under Art. 18/2 of the Forest Act. When the Forest Economics Office receives the SD form it triggers an inspection of the plantation by an RFD official. It is for only log.

FLEGT Asia: It would be helpful if the inspection is added to the concept paper.

Additional Points

FLEGT Asia: We would like to raise two additional points. With regard to the SD on public land, can TH share an update on the discussions? And, is the SD foreseen to be the same as for private lands?

TEFSO (Ms. Panjit Tansom): The SCC on Public Land (PBL) SWG, with an approval from the ad-hoc working group, will develop the SD concept for Sor Por Kor land. The concept will be based from the SD for private land. Additional steps which will be differed from the private lands are still under discussion and have not been concluded yet.

FLEGT Asia: We are looking forward to getting more information on the discussions and are open to explore together with TH any additions needed for the SD on public land. During the last negotiations, the EU also asked for more information on the use of SD on different types of land.

FLEGT Asia: With regard to the second point, we were wondering how the SD would work for onsite processing (temporary processing.) Our understanding is that onsite processing (temporary processing) is not yet fully covered in the LD on private land. What does this mean for the use of the SD? The SD form is a document for logs but if processing is happening onsite, then the temporary mill will be the first point of processing. Will RFD inspect these onsite mills (temporary mills) as it is required under the LD for other mills?

Chair of SWG PL: This issue is still under discussion and has not yet moved forward.

FLEGT Asia: Our view is that it is important to have RFD inspect the mills. The LD needs to make reference to processing mills and inspections. The SD may need to be adjusted if it is used also for sawn timber. We will have to come back to this when discussing the SCC Annex.

Chair of SWG: explained that the current SD form is intended for log only. The discussion on the use of SD for sawn timber is still ongoing internally. The conclusion has not yet reached.

FLEGT Asia: This is something we will have to come back to. For us it is important to understand where and when onsite processing (temporary processing) takes place and how it fits into the SD concept. There is a need for a more detailed description of what is allowed for onsite processing (temporary processing). Likewise, onsite processing (temporary processing) will need to be described in the LD and SCC and TLAS annexes.

Director Vijarn, RFD Legal Department: Onsite processing (temporary processing) can only be done for restricted timber. Non-restricted timber will have to be processed at a mill. Farmer who wish to process a restricted timber on-site will have to obtain a permit before processing timber but does not have to obtain a mill licence. On the other hands, permanent mill is required to have a mill licence before processing any timber. By law all timber from private land is non-restricted, processing is allowed without a permit. However, due to the current legal definition of “permanent mill”, mill will still need a mill licence. RFD is looking at how to amend overall regulation on processing mill to ensure coherency with the amended regulation on private land and Sor Por Kor. The discussion on temporary mill will be more productive when there are more updates on the regulatory amendment.

Next steps

- The SWG will **revise the concept paper by June**, and exchange with FLEGT Asia via email in the interim. The revised concept paper will:
 - Provide more details on the usage of CITES permits as alternative means to demonstrate legality of the timber source and align it with the LD;
 - Describe in more detail the way mills are required to verify information they receive from their suppliers;
 - Include a reference to onsite inspections done by RFD when the SD is used for exports;
- Once the concept paper has been finalized, FLEGT Asia has offered to incorporate relevant parts of the concept paper into the draft VPA annexes (notably the SCC and TLAS annexes).
- The SWG will share with FLEGT Asia examples of how forest management certification can replace the SD form, especially for larger sized units where forest management certification would be available.
- Thailand and FLEGT Asia will discuss with the EU whether the next formal meeting shall only focus on the SCC and LD annexes or whether it should also include a discussion on the SCC PL concept note, depending on progress at the technical level.

Attachments: 1. Participant list

Participant list

1. Mr. Alexander Hinrichs Head of Asia Regional Office, European Forest Institute - FLEGT & REDD Unit
2. Mr. Mr. Peter Aldinger Forest Governance & Timber Legality Assurance Expert, European Forest Institute - FLEGT & REDD Unit
3. Mr. Björn Dupong Forest Governance Expert, European Forest Institute - FLEGT & REDD Unit
4. Ms. Somrudee Nicrowattanayingyong FLEGT Facilitator to Thailand, EU FLEGT Asia Programme
5. Mr. Somporn Khongthanakrittakorn SME Consultant, European Forest Institute
6. Mr. Sapol Boonsermsuk Director of the Forestry Foreign Affairs Office, RFD
7. Mr. Tanongsak Nontapa Director of the Forest Economics Bureau, RFD
8. Ms. Rungnapa Wattanavichian Consultant, Thailand Forest Certification Council
9. Mr. Boonsuthee Jeerawongpanich Director of the Forest Standards Division, RFD
10. Ms. Piyathip Eawpanich President of the Private Forest Plantation Cooperative Limited
11. Ms. Yingluck Patiphanthewa Honorary Advisor of the Private Forest Plantation Cooperative Limited
12. Mr. Montri Yotarak Board Member, Private Forest Plantation Cooperative Limited
13. Mr. Methanee Seemuntara Forestry Technical Officer, Forest Certification Division, RFD
14. Mr. Jirawat Tangkijngamwong President of the Thai Timber Association
15. Mr. Karoon Krairawee Thai Timber Association
16. Mr. Ekkasit Aneksthisin Thai Timber Association
17. Mr. Amornpong Hirunwong Board member of the Fast-Growing Tree Business Association
18. Mr. Vijarn Sensakul Director of the Legal Office, RFD
19. Ms. Apiradee Jitprarop Legal Officer, Legal Office, RFD
20. Ms. Promporn Sakulwatcharin Customs Department
21. Mr. Pingsun Wang Secretary-General, Thai Panel Product Industry Club

22. Mr. Wiroat Kanaphongsa Thai Panel Product Industry Club
23. Mr. Rangsi Pongsawang Forestry Officer, The Forest Industries Permission Division, RFD
24. Ms. Konwilai Wongyot Reclaimed Timber Association
25. Mr. Poramet Payapsatan Reclaimed Timber Association
26. Ms. Tarida Dalai Project Officer, Federation of Thai Industries
27. Ms. Kanokwan Yordtong Project Officer, Federation of Thai Industries
28. Mr. Bruno Cammaert Forestry Officer, EU-FAO FLEGT Programme
29. Ms. Erica Pohnan Consultant, FAO-EU FLEGT Programme
30. Ms. Panjit Tansom Consultant, Thai-EU FLEGT Secretariat Office
31. Ms. Tippayarat Limsaisuk Operation Associate, Thai-EU FLEGT Secretariat Office
32. Ms. Supada Kongnakorn Project Assistant, Thai-EU FLEGT Secretariat Office
33. Ms. Pitinan Wongmakluekao Forestry Officer, Forest Standards Division, RFD
34. Ms. Pawinee Udommai Consultant – Annex Drafting