



**(Draft) Minutes of The Ad-Hoc Working Group Meeting on Legality Definition
No. 4/2016
On 24th August 2016 at Meeting room of Ballroom C, 2nd Floor,
Maruay Garden Hotel, Bangkok**

Attendees

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| 1. Mr.Pralong Damrongthai | Royal Forestry Department, RFD |
| 2. Ms.Woranuch Eiammanoch | International Forestry Cooperation Office, RFD |
| 3. Mr.Sukan Sirichantaradilok | The Customs Department |
| 4. Ms.Benjamaporn Promperm | Department of Foreign Trade |
| 5. Pol.Gen Teeruttewan Muengkrarawat | Superintendent General Staff Subdivision |
| 6. Mrs.Pornpen Warawilawan | Forest Industry Organization |
| 7. Ms.Rattana Saartnak | Permission Division, RFD |
| 8. Mr.Panus Siriarporntham | Forest-checkpoint Division, RFD |
| 9. Mrs.Jantana Potitan | Forest Land Management Division, RFD |
| 10. Mr.Piya Kengpenkhae | Forestry law Division, RFD |
| 11. Mrs.Yingluck Patiphanthewa | Private Forest Plantation Cooperative Limited |
| 12. Mr.Pingsun Wang | Thai Panel Product Industry Club |
| 13. Asst.Prof. Ethipol Srisaowalak | Chulalongkorn University |
| 14. Ms.Warangkana Rattanarat | RECOFTC |
| 15. Mr.Banjong Wongsrisoontorn | Forestry Certification Office, RFD |

Absentees

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| 1. Mr.Jarat Jirapanpanich | Agricultural Land Reform Office |
| 2. Mr.Phongsa Choonam | Tree Bank |
| 3. Mr.Nirut Buapha | Natural Resources and Environment Network Esan |
| 4. Mr.Baramee Chairat | The Assembly of the Poor |
| 5. Mr.Sawas Sookchan | Mae Tha Sustainable Agriculture Development |
| 6. Mr.Jirawat Tangkijngamwong | Thai Timber Association |
| 7. Mr.Ekasit Aneksittisin | Thai Timber Association |
| 8. Mr.Prasert Emdeengamlert | Sawmills Association |
| 9. Mr.Thanun Ounkomol | The Federation of Thai Industries |
| 10. Mr.Boonsuthee Jeravongpanich | Forestry Certification Office, RFD |
| 11. Reforestation Promotion Office, RFD representative | |

12. Forest Protection and Fire Control Bureau, RFD representative
13. Forestry Faculty, Kasasart University representative
14. Department of Trade Negotiations representative

Participants

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| 1. | Ms.Sutinee Wattana | Department of Foreign Trade |
| 2. | Ms.Pawinee Udommai | LD Consultant |
| 3. | Mr.Supat Moonpruk | Agricultural Land Reform Office |
| 4. | Ph.D. Somrudee Nicrowattanayingyoung | Consultant to the EU FLEGT Facility |
| 5. | Mr.Wiroat Kanaphongsa | Thai Panel Product Industry Club |
| 6. | Mr.Prayoon Sririsom | Royal Forest Department: RFD |
| 7. | Ms.Rungkarn Losiri | Permission Division, RFD |
| 6. | Ms.Krittiya Manawut | Reforestation Promotion Office, RFD |
| 7. | Ms.Rungkarn Losiri | Permission Division, RFD |
| 8. | Mr.Tanakarn Srisomboon | Permission Division, RFD |
| 9. | Mr.Thanandorn Petchdee | Permission Division, RFD |
| 10. | Mr.Prateep Lisakunruk | Forest-checkpoint Division, RFD |
| 11. | Mr.Poramet Payapsatan | RECOFTC |
| 12. | Ms.Suwimon Tonsiri | Forest Land Management Division, RFD |
| 13. | Ms.Busakorn Praditkhian | Royal Forest Department: RFD |
| 14. | Mr.Pratchaya Pansriri | Royal Forest Department: RFD |
| 15. | Ms.Nongnut Saejia | Forestry Certification Office, RFD |
| 16. | Mr.Kriengsak Ketkaew | Royal Forest Department: RFD |
| 17. | Mr.Wanchalerm Kranto | Forestry Certification Office, RFD |
| 18. | Ms.Isiyanee Samrit | Thai - EU FLEGT Secretariat Office (TEFSO) |
| 19. | Ms.Kessara Sanmongkol | Thai - EU FLEGT Secretariat Office (TEFSO) |
| 20. | Ms.Panjit Tansom | Thai - EU FLEGT Secretariat Office (TEFSO) |
| 21. | Ms.Thanaporn Chotemanee | Thai - EU FLEGT Secretariat Office (TEFSO) |
| 22. | Ms.Pajaree Yimsuan | Thai - EU FLEGT Secretariat Office (TEFSO) |
| 23. | Ms.Piraya Buddhasri | Thai - EU FLEGT Secretariat Office (TEFSO) |

The Meeting started at 09.30 hrs.

Mr.Pralong Damrongthai, the Deputy director-general of Royal Forest Department, is the chairman of the meeting on Thai- EU FLEGT VPA under the topic of Legality Definition No.4/2016. Total participants from government, civil society and private sectors are 38 people. The meeting follows the agenda items below;

Agenda item 1: Notifications

The chairman opened the meeting and reviewed the minutes of the previous meeting. It is found that the first challenge is the Act of Plantation and the second one is that some authorities are still not comprehend policy and law frame which regulated by government. Therefore, it should be reinforce them to understand including with supporting the reforestation. Also, it should assure agriculturists that their products would be supported. Currently, the Royal Forest Department (RFD) has already initiated the online registration system for 4 land types which are the private land, land possession registration, logging information, and timber transportation. Besides, there are 3 additional types of land registration in case of processing timber in the area, processed timber transportation and the registration for the certification of sustainable plantation management.

Apart from the above registration, the Forest Certification Organization (FCO) has planned on E-Tree system- the attachable photos registration system. E-Tree is convenient for the public to register online and reduce contacting time which cause the encouragement to reforest. However, RFD intended to solve any gaps which cause trouble to people, it should be admitted that RFD is not the only sector who involved in the process of solving problems and also changing law.

The chairman informed the meeting that the Minister of Natural Resources and Environment inquired about the progress of FLEGT process of RFD. The Deputy director-general of RFD informed the Minister that this issue will be resubmitted to the cabinet which caused the postponement. The meeting today is actually a part of collecting data for the next meeting with the head of negotiation and wait for the cabinet resubmission. Both processes are always performed concurrently.

Resolution The meeting be informed.

Agenda item 2: Adoption of the minutes of Thai- EU FLEGT VPA under the topic of Legality Definition No.3/2016

Pol.Gen Teeruttewan Muengkrarawat from Superintendent General Staff Subdivision required to change the attendee's surname from "Pol.Gen Teeruttewan Muengkra" to "Pol.Gen Teeruttewan Muengkrarawat" and change the position from "Deputy Superintendent" to "Superintendent"

Mrs.Yingluck Patiphanthewa from Private Forest Plantation Cooperative Limited asked to change the position from "Chief Advisor" to "President"

Mr.Poramet Payapsatan from RECOFTC required to change his position from "Project Coordinator of RECOFTC" to "Thailand Project Coordinator of RECOFTC"

Mr.Banjong Wongsrisoontorn, RFD, required to edit page 6 paragraph 1 in the last line from "is not be able to detect" to "is not be able to certificate"

Ms.Benjamaporn Promperm, DFT, asked to change the name of department from "Trade Department" to "Foreign Trade Department" on page 9.

The chairman informed the meeting that if the minutes meeting need to be edited, please inform back to the secretariat sector.

Resolution The meeting adopted the minutes meeting under the topic of LD No.3/2016

Agenda item 3: Following up the resolution of the previous Thai-EU FLEGT VPA meeting No.3/2016

According to the previous meeting, the meeting assigned RFD to cooperate with the Ministry of Commerce to appoint the committee to perform on Thailand DDS documentation.

Mr.Banjong Wongsrisoontorn, RFD, informed the meeting that the appointment on drafting committee, as he expected, would take a while. He suggested to provide the small-

group meeting to draft the text before bringing in the major meeting. Therefore, this would make the implementation smooth.

Resolution The meeting is informed.

Agenda item 4: The consideration of comments from European Union on Thailand Legality Definition draft

The chairman assigned Ms.Panjit Tansom, Technical Consultant of Thai-EU FLEGT Secretariat Office (TEFSO), to explain the overview of EU comments on Legality Definition and also to recommend the meeting to use provided documents for the meeting. For the suggestion to add the abbreviated code before each Operator and Principle, TEFSO has already edited it.

EU Comment No.3: the combination of Operator 6 (Transportation Operators) and other operators

Mrs.Pornpen Warawilawan, from Forest Industry Organization (FIO) suggested that this issue should be discussed in the next meeting which RFD will held the meeting on Supply Chain Control on 30th August,2016.

Ms.Pawinee Udommai, LD Consultant, added that the reason that EU commented so is probably to suggest that the transportation issue should be added in each certified Operator. This issue is easier to control if involved Operators would be in charge of it.

Otherwise, Mr.Banjong Wongsrisoontorn, RFD, claimed that this issue is the responsibility of the operators who possessed timber and it cannot be shifted to transportation operators. Therefore, it is possible that the LD will be edit as EU commented.

Ph.D.Somrudee Nicrowattanayingyong, Consultant to the EU FLEGT Facility from European Forest Institute (EFI), said that this issue is just the EU suggestion because EU afraid that it would be heavy duty load in the verification process of Thailand. According to the stated reason, EU had suggested Thailand to take all processes into action in LD Mini Field test for the working group whether all processes can be implement as suggested.

Mrs.Pornpen Warawilawan noticed on the issue on Good Governance of Operators and questioned how RFD would do if the forest checkpoint found uncertified timber mixing with certified one.

Mr.Panus Siriarporntham, from Forest Checkpoint Organization of RFD, explained that, in case of uncertified-timber transportation, the processors, transporter and vehicles will be seized by authorities. Additionally, he agreed with the Deputy Director of Forest Industry Organization that Operator 6 should be remained.

The chairman discussed with the working group how to manage in case that transportation operators transport other products together with wood products and who will be responsible of it. Mr.Panus Siriarporntham answered that question that technically timber transportation is differ from others which transport only timber. From that reason, there is the least possibility that wood products will be transported by mixing up with others. Also, for timber transportation, the timber flow license will be attached with the vehicle throughout the way.

The chairman suggested that, in this case, it will take a while for the implementation because the government must revise the reference law on transportation issue. He also agreed that this issue should be discussed in the meeting on supply chain control and Mini Field test. If it is necessary to edit the law, it will be implement later on. Currently, he asked to remain Operator 6.

Resolution The meeting agreed to remain Operator 6 as before because timber transportation usually does not mix up with other products and approved that this issue should be discussed in the next meeting on supply chain control on 30th August 2016 or during Mr.Sebastian from EFI come to join Mini Field test in September 2016.

EU Comment No.4: Sharing Gap/Issue Paper with EU

The chairman asked the working group whether the issue of not submitting Gap/Issue Paper will cause any trouble because, in the comments from EU, it stated that if this LD draft attached Gap/Issue Paper, it meant LD draft does not cover the main points as EU expected.

Ms.Panjit Tansom, TEFSO, explained the meeting that LD draft had been revised in the meeting No.2/2016 while, in the meeting No.3/2016 on Gap/Issue Paper, the meeting agreed that it is the domestic issue. Besides, that all three sectors still have irrelevant opinions, Thailand only submitted LD draft to EU on 15th July 2016 and received the comment back on 13th August 2016. Moreover, it cause no problem on the process that Thailand did not submit Gap/Issue Paper to EU because it is not stated in the regulation of negotiation and it depends on the voluntary of the country.

Mr.Banjong Wongsrisoontorn, RFD, reported that the reason why Thailand did not submit the document to EU is that now Thailand is implementing on submitting Gap/Issue Paper to discuss in the negotiation meeting which the Permanent Secretary of the Ministry of Natural Resources and Environment would be the chairman. If there would be any change concretely, we will consider on resubmitting it to EU.

Ph.D.Somrudee Nicrowattanayingyong, Consultant to the EU FLEGT Facility from EFI, explained that EU had ever seen the Gap/Issue Paper. Personally, she claimed that EU required Gap/Issue Paper to see the progress of it. Also, she agreed that Gap/Issue Paper should be submitted to EU to show the transparency of the process.

The chairman concluded that there are many ways of sharing documents, however, Thailand will certainly share this document with EU. Also, the processes should not be delayed, then it is necessary to make an understanding and report the results to the head of negotiation committee.

Resolution The meeting commented that Thailand would officially share Gap/Issue Paper with EU after completely editing it.

EU Comment No.7: Operator 1 Indicator 1.1.1 “Land Use Permit”

Ms.Panjit Tansom, TEFSO, informed the meeting that, in the pre-meeting with experts in RFD, the meeting suggested to edit “Land Use permit” to “license to do forest or tree plantation on Reserve Forest land” and gave the example of permission conditions such as making the permanent sign under the condition in the license in 23 issues. Also, she asked for opinions of the meeting whether Director General is the verifier on all three types of license.

Ms.Rungkarn Losiri, from Forestry Permission Division, explained that verifiers issued on Operator 1 Verifier 1.1.1 has been referenced from Act of Plantation in both Article 16, Article 16 bis and Article 20 on the land utilizing for living. In each Article, it has already specified that there are different Issued Verifiers. Forest Permission Organization will revise on Act of Reserved Forest B.E.2507 and additional transaction and will be informed the meeting later on.

Mr.Panus Siriarporntham, from Forest Checkpoint Organization of RFD, recommended that it should not be specified “Verifier Issued by” concluding in one Verifier. He suggested to separate “Verifier Issued by” into points for the understanding.

Resolution: The meeting approved and agreed to separate “Verifier Issued by” into points based on types of the permit. For the specification of “Verifier Issued by”, it should be discussed with Permission Division and Forestry Law Division later on.

EU Comment No.8 Operator 3, Indicator 1.1.1; “Land use deed/lease”

Ms.Panjit Tansom, TEFSO informed the meeting that the section “description of verification process” was changed from “the existence of a valid land use permit (held by

the operator) to “restricted species (referring in Forest Act, 1941, Section 7) require a Possessor's Right document” and adding two different descriptions of unrestricted species.

Mr.Banjong Wongsrisoontorn, RFD, stated that plantation registered timber must comply with Plantation Act. In a case of restricted species, if they are unregistered, they require a harvesting and supply chain permit.

Mr.Panus Siriarporntham, from Forest Checkpoint Organization of RFD, explained that there are two ways for issuing harvesting permit for restricted species. The first way is compliance with Forest Act. For plantation registered restricted species on Private land, they can either comply with Plantation Act or comply with Forest Act, Section 7.

Ms.Rattana Saartnak, from Permission Division, RFD proposed to change the description of verification process number 2 by deleting “unrestricted species” in order to avoid the confusion. Ms.Rattana also suggested revising that description 2 to be “Forest Plantation Act Annex timber”

Resolution: The meeting acknowledged and requested TEFSO to revise the conclusion to be coherent with the edited table by deleting unrestricted species” to “Forest Plantation Act Annex timber” in order to avoid the confusion.

EU Comment No.9 Operator 4: Principle 1 is not listed for Import Operators.

Ms.Panjit Tansom, TEFSO informed the meeting that EU questioned about the registration of importers and rules specifying about certain timber that unable to be imported.

Mr.Panus Siriarporntham, from Forest Checkpoint Organization of RFD, answered the question that the importer need to be registered. In addition, there are the list of timber products that cannot be imported from Ministry of Commerce's Announcement. After online registration, the Custom Department will determine duty. Then, RFD will verify and issue Transportation Certificate via the online system which process corresponding to NSW for traceability.

Asst.Prof. Ethipol Srisaowalak, Legal Expert from Chulalongkorn University asked Mr.Banjong about registration via single gateway system. Mr.Banjong answered that the online registration system was already available but the single gateway system will be active within early next year.

Resolution: The meeting agreed to add principle 1 Operator Legality (including Land) under operator 4 and note that it is a work in progress improving law that was expected to be implemented in early next year.

EU Comment No.10 Operator 5, Indicator 1.2.1: “An operator transforms a timber from a plantation on a registered plantation”

Ms.Panjit Tansom, TEFSO informed the meeting that RFD did not change Operator 5, Indicator 1.2.1 the same way as suggested from EU. On the other hands, RFD revised that indicator to “An operator transforms a timber from a plantation on a registered plantation require the relevant permit” to make it coherent with the existing verifiers.

Resolution: The meeting agreed

EU Comment No. 11) Operator 7, Indicator 1.2.2: “A Licensed Trader has issued a Confirmation Letter of Transformed Timber/ Transformed Rubber Timber or Timber Products for every shipment of timber and retained stub of same”.

Ms.Panjit Tansom, TEFSO informed the meeting that RFD agreed to remain indicator “Transformed Timber Account/product account” under Criteria 1 because they were the verifiers of operator legality that verify timber whether it relate to the document

providing at factory. The timber transportation was only verified destination

Resolution: The meeting agreed

EU comment No. 13 All Operators, criteria 2.1, 2.2 and 2.3: Traceability

Ms.Panjit Tansom, TEFSO informed the meeting that RFD added verifier 2.2.1.1 “Harvesting Certificate from the Registrar of Plantations”, verifier 2.1.1.2 “account of timber”, verifier 2.2.1.3 “the stamp showing timber possession”, Verifier Issued by and Verification Process Conducted by under criteria 2.1,2.2 and 2.3 of all operators. In addition, Ms.Panjit asked the meeting about verification frequency that should be clearer than “Ad-Hoc”

Ms.Rattana Saartnak, from Permission Division, RFD proposed to clarify verification of frequency as “per submitting harvesting permit”

While, Mrs.Pornpen Warawilawan from Forest Industry Organization proposed to clarify verification of frequency as “per asking for harvesting permit”

For the section Verifier Issued by, Ms.Rattana suggested consulting with Reforestation Promotion Office.

Resolution: The meeting agreed to assign Reforestation Promotion Office to add more information in section “Verifier Issued by” under criteria 2.2 of all operators.

EU comment No. 15 Operator 4: There is no mentioning of CITES.

Ms.Panjit Tansom, TEFSO informed the meeting that RFD added the indicator 2.1.1, verifier 2.1.1.2, Verifier Issued by, and Verification Process Conducted by under the criteria 2.1. Ms.Panjit also asked the meeting about the correctness of Verification Frequency which was clarified as “per importation”

Ph.D. Somrudee Nicrowattanayingyoung, Consultant to the EU FLEGT Facility suggested the meeting discussing only the issue that RFD was not sure instead of discussing every issue as we were running out of time. Ph.D. Somrudee requested the meeting to discuss and form the plan for Mini-field test of The Ad-Hoc Working Group on Legality Definition.

Mr.Banjong Wongsrisoontorn, RFD explained that RFD wanted the meeting to discuss, revise LD draft and make the resolution together. Actually, in this meeting, RFD wanted to ask the related organizations about issues of worker, environment, and hazardous substances. However, there were no representatives from the related organizations, so Mr.Banjong proposed the meeting to reconsider the EU comment and inform TEFSO about further suggestions via e-mail before August, 31 2016.

Ms.Warangkana Rattanarat, from RECOFTC agreed with Mr.Banjong that proposed the meeting to reconsider the EU comment and inform TEFSO about further suggestions.

Resolution: The meeting agreed to consider the EU comment and inform TEFSO about further suggestions before August, 31 2016.

Attachments 8 gap/issue papers

Mr.Poramet Payapsatan from RECOFTC asked for editing EFI comments by complying it with the lasted version of gap/issue papers

Ms.Rattana Saartnak, from Permission Division, RFD inquired about topic 4 “verification of unrestricted species” that missing from the table of contents in “ECC005 Annex 8 gap/issue papers” by referring the minute of The Ad-Hoc Working Group Meeting on Legality Definition no. 3/2016, page 7, topic 4 that the meeting did not agree to delete

this topic. Additionally, Ms.Rattana referred to the Mr.Banjong's opinion in page 5 topic 2, last paragraph that related to topic 4.

Ms.Kessara Sanmongkol from TEFSO explained to the meeting that topic 4 was not deleted but it was merged with topic 7 and 8, according to the minute no. 3, June 13,2016.

Ms.Pawinee Udommai, LD Consultant stated that according to the previous meeting, the contents were overlapping. So, the meeting agreed to merge topic 4 with topic 8 and remain the name of topic 8.

Mr.Banjong Wongsrisoontorn from Royal Forest Department gave the reason for this point that at that time, there was a problem about Rubber. They did not comply with Plantation Act, so RFD was unable to verify. Although, there was an alternative option (E-Tree) that could fill in the gaps, it was easier and more beneficial to specify Rubber under Forest Plantation Act. Therefore, it was appropriate to remove Rubber from the main topic and add them to Forest Plantation Act.

Ms.Rattana opposed that as there were many types of unregulated species on Private land, we should not focus only on Rubber. Also, we should not solve the problem by adding it under Forest Plantation Act Annex because it would take a long time to revise Forest Plantation Act Annex and not all kinds of plant could be specified under Forest Plantation Act Annex. Moreover, Forest Certification Office already implemented online registration system (E-tree) which could be an alternative option that could issue certificate for unregulated species on Private land. Ms.Rattana also proposed to revise table of contents, topic 3 in "ECC005 Annex 8 gap/issue papers" from "Forest Plantation Act Annex" to Forest Plantation Act Annex" corresponding to the resolution in page 9, topic 8.

Resolution: The meeting agreed to change topic 3 in Gap/issue papers from "Forest Plantation Act Annex" to "Verification of Unregulated Species on Private land"

Agenda item 5 Other matters

Mini field test

Ms.Panjit Tansom from Thai-EU FLEGT Secretariat Office informed the meeting that the representatives of EU will discuss the LD comments and conduct Mini field test in Thailand on November, 2016 as shown in attachments. There will be approximately seven participants including two persons from TEFSO, 1-2 representative(s) from private sector, 1-2 CSO representative(s), one representative from EFI, and/or LD consultant. In addition, the meeting discussed about the places for conducting mini field test. Mrs.Yingluck Patiphanthewa from Private Forest Plantation Cooperative Limited proposed to visit plantation cooperative member(s) in Amphoe Tha Mai, Chanthaburi on day 1 and then visit FIO area in Chachuengsao on day 2.

Mr.Banjong Wongsrisoontorn from Royal Forest Department proposed to visit a wood processing mill at Sinjaroen Vineer and Plywood Company, Bangbuathong, Nonthaburi on day 3.

Mr.Panus Siriarporntham from Forest-Checkpoint Division proposed to visit Kabinburi checkpoint, Chachuengsao and/or Ladlumkaew checkpoint on day 2 because these checkpoints are in between Chanthaburi and Chachoengsao province.

Moreover, Mr.Banjong suggested to change the date of Mini field test from September, 21 to September, 22 and requested the meeting to informing TEFSO about mini field test participants list and further comments on EFI comments in August, 31 2016

Resolution: The meeting agreed to operate Mini field test at Chanthaburi, Chachoengsao and Nonthaburi province, Thailand and agreed to send participants list and further comments back to TEFSO

Next Step

- Reforestation Promotion Office will add more information in section “Verifier Issued by” under criteria 2.2 of all operators.
- TEFSO will revise the conclusion of each issue to be related to the edited Table by deleting “unrestricted species” to avoid the confusion.
- TEFSO will consult with Permission Division and Forestry law Division about “Verifier Issued by” of operator1, v1.1.1 again.
- The meeting will inform TEFSO about mini field test participants list and further comments on EFI comments before August, 31 2016.
- TEFSO will revise the conclusion of each issue to be related to the edited Table.
- TEFSO will revise topic 3 in Gap paper according to the meeting’s resolution.

Next meeting

For the next Ad-Hoc Working Group Meeting on Legality Definition, Thai-EU FLEGT Secretariat Office will inform the date, time and location to the working group.

The meeting finished at 16.30 Hrs.

Ms. Piraya Buddhasri
Coordinator assistant
Ms.Thanaporn Chotemanee
Coordinator assistant
Minutes recorder
Minutes translator

Mr. Banjong Wongsrisoontorn
Director of TEFSO
Ms. Panjit Tansom
Technical Consultant
Minutes verifier