

Main FLEGT Asia comments on Thailand's first draft of Annex IX – Public Disclosure dated 31 May 2021

By FLEGT Asia programme, 7 July 2021

- **Section 1 - Introduction:** No comment
- **Section 2 - Legal basis on public disclosure of information of Thailand**
 - In this section it is mentioned that “this Annex is in line with the Thai Official Information Act, 1997 specifying that the public has a right to know the official information.” What does the “right to know” entail? Does this mean to have access to information?
 - Category 4: Since this section makes reference to the Official Information Act, 1997, there is no need to repeat the description of all the instances in which information is prohibited from disclosure. It is sufficient for the purposes of the Annex to mention only that there is information prohibited from disclosure.
- **Section 3 - List of Information to be made public**
 - How has this list of information been developed? What was the role of multi-stakeholder input in developing the list? Would be good to describe in 1 or 2 sentences.
- **Section 3.1 – VPA-specific information**
 - We would suggest to only keep the headings in this section to align the level of detail with the next section on “Information on Thailand’s forest and timber sector”. The detailed information can then be described in Appendix 1, table 1.
 - We suggest to add “The text of this Agreement, its Annexes and any amendments”.
- **Section 3.2 – Information on Thailand’s forest and timber sector**
 - No comment
- **Section 4 - Mechanisms by which the information can be accessed**
 - We do not yet fully understand the section on the duties and powers of a State Agency to implement the Official Information Act, 1997. Kindly provide further clarification in our upcoming meeting.
 - What is the procedure for accessing publicly available information (categories 1-3)?
 - Do the four means listed (contact in person, by phone, in writing, via website) apply to all publicly available categories of information (categories 1, 2 and 3)?
 - There are a few practical considerations which do not need to be specified in detail in the Annex but would be good to clarify among the SWG as these relate to the successful implementation of the Annex:
 - What is the timing for approval to request official information?
 - Are there any fees involved in obtaining official information?
 - Under what circumstances can the information request be denied?

To this end, it would be helpful if Thailand could provide during the upcoming meeting a short example of the process how information can be accessed under the different categories.

- **Section 5 - Mechanism on public disclosure of information**
 - We would suggest to integrate this section in “4. Mechanisms by which the information can be accessed”.
 - We would be interested to learn more about the Official Information Board. Who sits on this Board and which agency hosts it?
 - What happens in the event that the person requesting official information is not satisfied with the Board's decision of not providing the information?

- **Appendix 1 - Information to be made public and responsible bodies**
 - **Table 1 - VPA specific information**
 - RFD is currently listed as the sole responsible body to issue VPA-specific information. However, RFD and the EU are both responsible for publishing the VPA text and JIC information. As for regular reports provided by the EU, it is the EU’s responsibility to publish this type of information.
 - The latest version of the Independent Audit Annex states that: “[Independent Audit] Reports approved by the JIC will be considered public documents and summaries must be published on the Parties’ websites.” Hence, in addition to the summary which is already listed as category 2, the full report would also need to be made public upon request (category 3).
 - The IA Annex states that a summary of the tender evaluation report for the IA must be made public. This would need to be added.

 - **Table 2 – Information on Thailand’s forest and timber sector**
 - Do we understand correctly that any of the information listed is already in the public domain? Are the responsible bodies already issuing this information or do they need to be made aware of their responsibility to make the information publicly available?
 - It appears that none of the information in the table is classified as category 4. Do we understand correctly that all information listed is hence publicly available or will be made available?
 - We would be interested to learn more about how the different categories have been assigned to each type of information. Is the mechanism of disclosure spelled out in relevant legislation?
 - Laws, Regulation, Guidelines & Procedures: It would be helpful if Thailand could also list any international conventions and agreements signed and ratified by Thailand applying to the VPA.

- **Appendix 2 - Dissemination channels of relevant State agencies**
 - It is very helpful to see the type of information described in Appendix 2 to get a better understanding of the responsible state agencies and their contact information. However, the information is very detailed and it may be possible to describe the information instead in lower-level implementing regulations and

guidelines at a later point. This would also accommodate for any changes to contact details (e.g. website links).

Comparison of Annex II (LD) and Annex IX (Public Disclosure)

Documents mentioned in the LD but missing in Annex IX

- **O1-1.1.1:** Memorandum of understanding between RFD and FIO
- **O1-5.1.1, O1-5.1.2, O1-5.1.3, O2-5.1.1, O2-5.1.2, O2-5.1.3, O5-4.1.1, O5-4.1.2, O5-4.1.3 (FIO work safety):**
 - Report on internal audit
 - Workplan on health, safety and workplace environment.
 - OSHE Safety manual
 - Record of requisition of a personal protective equipment
- **O2-3.2.2, O5-2.2.1, O5-2.2.2:** Self-declaration
- **O4-1.1.1, O5-2.2.1, O6-2.1.1:** Import entry declaration; For log and processed timber: Record of co-inspection
- **O5-1.1.2:** Permit on processing place to process timber from registered plantation
- **O5-1.2.1:** Permit on establishment of processing mill
- **O5-1.2.2:** Permit on processing timber
- **O5-3.1.1:** Permit on operation of business hazardous to health
- **O5-3.2.1:** Possessive License of hazardous substance
- **O6-1.1.1:** Permit on establishment of trading place; Permit on establishment of timber product trading place
- **O6-1.2.1:** Letter of certification for trade and export of timber, wood products and charcoal
- **O6-1.2.1, O6-1.2.3:** Export permit (Or.2):
- **O6-1.2.3:** Cargo Permit, Export entry declaration

Are these documents publicly available, or part of a document already listed in Table 1? All key information related to verification mentioned in the LD should be included in Annex IX (grouped together under a higher-level heading).