

Summary of SWG-FLEGT ASIA Technical Meeting on Supply Chain Controls on Private Lands Concept Paper (Session 1)

4 August, 2021 – Zoom meeting

Opening Remarks

Director of Forestry Foreign Affairs Office, Royal Forest Department (RFD) (Mr Sapol Boonsermsuk): Provided opening remarks and a brief update on the covid situation in Thailand. He explained that the day will be separated into two sessions: the morning session will be on the supply chain controls (SCC) on private land, while the afternoon will be on SCC on public land.

FLEGT Asia Focal Point for Thailand (Dr Alexander Hinrichs): Thanked the Director for his opening remarks and mentioned how honoured he was that the Thai side is still willing and able and to meet under the challenging circumstances. He explained that the work on the concept note is close to completion and that focus of attention should shift to how the principle and procedures in the concept note should be integrated into the SCC Annex. FLEGT Asia's comments are generally 'higher-level', but further clarification is requested on certain issues, such as how the two forms mentioned in the concept paper (the self-declaration (SD) form and the transport form) relate to one another. FLEGT Asia proposes to share detailed comments and edits in writing following the meeting, to help finalize concept paper so that it can be integrated into the SCC annex.

Leader of the Sub-Working Group (SWG) on Private Land (Ms Rungnapa Wattanavichian): Shares presentation on responses to FLEGT Asia's comments, which were submitted before the meeting. Proposes that FLEGT Asia's comments, and responses to them, be addressed one-by-one. Reminds participants that the concept paper has three pathways through which a private owner can demonstrate legality, but that the meeting will focus on SD.

FLEGT Asia Comments on Section 3 - Self-declaration method

FLEGT Asia Focal Point for Thailand (Dr Alexander Hinrichs): Asks whether the mill owner will need to receive both the SD form and the transportation form.

Leader of the Sub-Working Group (SWG) on Private Land (Ms Rungnapa Wattanavichian): Confirms that the mill owner will need to receive both forms. Explains that the SD form will always be completed by the grower, but that the transportation form could be completed by the grower or a trader.

FLEGT Asia Focal Point for Thailand (Dr Alexander Hinrichs): Asks, in the case of a trader selling timber to a mill, how the mill owner can be assured that the timber comes from the source in the SD. Observes that there is no way to reconcile the information on the SD form with information in the transportation form now that the requirement for the 'log list' (size, quantity, and volume or weight) only appears in the transportation form – it was previously listed in the information that had to be provided in the SD form under Table 1 in the concept paper.

Leader of the Sub-Working Group (SWG) on Private Land (Ms Rungnapa Wattanavichian): Observes that Table 1 of the concept paper needs to be amended to include the 'log list' (size, quantity, and volume or weight), so that the SD form can be

reconciled with the transportation form. Assures FLEGT Asia that this is in fact already what is planned and presents the draft SD form showing table for itemized declaration of logs/timber, which includes dimensions / volume / estimated weight.

Leader of the Sub-Working Group (SWG) on Private Land (Ms Rungnapa Wattanavichian): Reiterates that all the relevant the information from the SD will have to be put on the transportation form, but that if grower is selling to a trader on-site, the transport form will have to be completed by the trader. There will not be a requirement for the grower to sign or certify the transportation form.

President of Tree Bank (Mr Phongsa Choonam): Recommends that the legal basis for the SD form should be explained to those that will have to use it. Without an explanation many people may question the legitimacy of the process, which may cause problems.

Leader of the Sub-Working Group (SWG) on Private Land (Ms Rungnapa Wattanavichian): Agrees with Mr Choonam's recommendation. The legal basis could be described on the SD guideline but will not be included on the SD form for conciseness

FLEGT Asia Focal Point for Thailand (Dr Alexander Hinrichs): Emphasizes the importance of SCC and that the grower provides sufficient evidence to demonstrate that the timber comes from their land. Asks about the movement of bulk shipments of timber products, where it is not possible to provide the dimensions / volume. For example, what happens with woodchips?

Leader of the Sub-Working Group (SWG) on Private Land (Ms Rungnapa Wattanavichian): The SD form contains an option to indicate volume / weight. These will be estimates provided by the grower, which will have to be confirmed by the mill operator later.

FLEGT Asia Comments on Section 3.1 - Self-declaration method

FLEGT Asia Focal Point for Thailand (Dr Alexander Hinrichs): Explains that the comment relates to terminology, and that proposed edits will be submitted alongside comments in the concept paper.

FLEGT Asia Comments on Section 3.2 - Self-declaration method

FLEGT Asia Focal Point for Thailand (Dr Alexander Hinrichs): Explains that it is necessary for the guideline's mentioned in Section 3.2 to be accurately reflected in the SCC Annex. This is an important issue for the mills, especially regarding the alternative information that mill operators can accept to confirm legality. The concept paper says that the mill operators may decide on the appropriateness of the alternative information, so it will be important for the guidelines to explain what is 'appropriate'. Ultimately, mill operators will need to make sure that the alternative information is substantively the same as that listed in the SD form.

Leader of the Sub-Working Group (SWG) on Private Land (Ms Rungnapa Wattanavichian): Acknowledges the issue and agrees that the guidelines will need to be updated to provide more information to mill operators. Agrees that alternative information has to be substantively the same as that in the SD form.

FLEGT Asia Comments on Section 3.2 - CITES

FLEGT Asia Focal Point for Thailand (Dr Alexander Hinrichs): Explains that the section says on-site inspections will be conducted “when necessary”. Would like to know more about when inspections will be determined to be “necessary”, and when they won’t be necessary.

Director of CITES Flora Convention Division, Department of Agriculture (Ms. Duengduan Sripota): Explained that under CITES permitting, all harvesting must be done in line with regulations. These require that the grower registers the tree nursery with the Department of Agriculture (DOA), and that the grower notifies the DOA when they want to harvest the trees. The DOA must confirm that the registered trees are planted on-site, after which the grower may harvest the trees and be issued with a CITES permit. The DOA must be able to confirm the source of the timber being harvested, otherwise a CITES permit cannot be issued.

Director of CITES Flora Convention Division, Department of Agriculture (Ms. Duengduan Sripota): Noted that CITES permit will be issued for exportation only. There is no CITES specific regulation for CITES timber intended for the domestic market; hence tree nursery registration and on-site inspection are not required.

President of the Private Forest Plantation Cooperative Limited (Ms Piyathip Eawpanich): Observed that if a species is listed under CITES and a grower / trader wants to export, all CITES requirements will need to be satisfied. Growers / traders cannot export CITES-listed species only using the SD form. She suggested that since Thailand does not have a CITES-specific regulation for domestic use; SD could become another option to assure legal source.

FLEGT Asia Focal Point for Thailand (Dr Alexander Hinrichs): Explains that FLEGT Asia’s main concern is that there are sufficient controls in place to ensure that the SD system cannot be used to launder illegally harvested CITES-listed species, such as ‘rosewood’.

NOTE: *A lengthy internal discussion about the CITES permitting process took place, but this is not reflected here. Stakeholders agreed that more technical discussions on the issue will be required.*

Director of the Forestry Standards Division (Mr Boonsuthee Jeravongpanich): Shared presentation on results of survey conducted on proposed SD system (presentation available separately).

FLEGT Asia Focal Point for Thailand (Dr Alexander Hinrichs): Found the presentation very interesting. Asked whether the results of the survey will lead to any changes in the SD system as it is currently described, or any ‘follow-up’ actions.

Director of the Forestry Standards Division (Mr Boonsuthee Jeravongpanich): Explained that no changes are envisioned since the comments are mainly high-level, but the results of the survey may influence how the process is presented to officials and other stakeholders.

NOTE: *A second lengthy internal discussion about the requirements for RFD certification of timber grown on private lands for export ensued. Stakeholders agreed that more technical discussions on the issue will be required.*

FLEGT Asia Focal Point for Thailand (Dr Alexander Hinrichs): Summarized the discussion: when a grower is directly exporting using the SD process, the RFD will need to certify the source of the timber (RFD will need to see the stumps). However, when the

grower is selling timber to a processor who intends to eventually export the timber a different process is used.

Director of RFD Legal Group (Mr Vijarn Seansakul): Confirmed that this is the case. He further clarified about an export certificate (18/2) and SD. RFD's Announcement specifies that SD is an accepted document for issuing an export certificate. Farmers can use SD to apply for a certificate to export log. Before issuing a certificate, RFD will do an on-site inspection (checking tree stubs). RFD will use other methods such as a satellite image or witness to verify timber harvested some time ago. He reiterated that the current SD system intends for log only. When the timber goes through mill process, mills will issue another form; that form will be used to issue an export certificate.

He noted that timber processed on-site of harvest is one remaining gap. It is still not concluded whether SD would cover this type of timber. This may be further discussed internally; concurrently, RFD is in the process of reviewing the legal definition of "timber processing," which is still unclear about on-site processing. Once the review completes, it could progress the Sub-working Group discussion.

FLEGT Asia Focal Point for Thailand (Dr Alexander Hinrichs): Asks when guidance on the SD system will be released? Can RFD share details about how the SD system will be implemented, especially regarding capacity building of growers, officials, and other stakeholders.

Director of the Forestry Standards Division (Mr Boonsuthee Jeravongpanich): Explained that implementation should begin in September. However, results from the survey (mentioned above) will first need to be presented to the Sub-working Group (SWG) for consideration, and finally approved by the Director General of the RFD. Some minor amendments to the SD guideline may be required. Unlikely that there would be any amendments to the forms.

Director of RFD Legal Group (Mr Vijarn Seansakul): Explained that all government officials will need to be notified. Relevant information / material will be sent out to all agencies, including provincial offices.

Leader of the Sub-Working Group (SWG) on Private Land (Ms Rungnapa Wattanavichian): Explained that promotional / educational material (including an animated video) has been produced and will be released to educate farmers about how to prepare the SD form. This will also probably be released in September.

FLEGT Asia Comments on Section 5 - Timber processing and Measures for preventing the process of bringing illegal timber to enter supply chain

FLEGT Asia Focal Point for Thailand (Dr Alexander Hinrichs): Asks whether there is a legal requirement for mill operators to archive documents for two years, as mentioned in the concept paper.

Director of Forest Industries Permission Division (Mr. Montree Nuchanong): This is an existing legal requirement.

FLEGT Asia (Mr Peter Aldinger): Explains comment on the need for mill operators to conduct risk assessment and risk mitigation, and asks if language proposed in the comment could be used.

Leader of the Sub-Working Group (SWG) on Private Land (Ms Rungnapa Wattanavichian): Thinks that the language could be used but asks other stakeholders whether specific guidelines on this issue should be provided for mill operators.

Director of Forest Industries Permission Division (Mr. Montree Nuchanong): Explains that risk assessment / risk mitigation cannot be legally required but agrees that voluntary guidelines could be provided.

Leader of the Sub-Working Group (SWG) on Private Land (Ms Rungnapa Wattanavichian): Explains that the law says mill operators have to be confident that purchased timber is legal, but no guidelines on how this should be done have been developed. If the SD is now linked to the intake of timber at the mills, further discussions will be required to see how this process may need to be further developed. What kind of output is required for FLEGT Asia?

FLEGT Asia Focal Point for Thailand (Dr Alexander Hinrichs): Explains that the guidelines will need to be clear, as they will eventually have to be described in the SCC Annex. It would be helpful if there is a legal obligation on the mill operator. More details on what the mill should be checking are needed.

FLEGT Asia Comments on Section 6 – Exportation of Timber

FLEGT Asia Focal Point for Thailand (Dr Alexander Hinrichs): Questions on this topic were largely covered in earlier discussions.

Concluding Remarks and Next Steps

Leader of the Sub-Working Group (SWG) on Private Land (Ms Rungnapa Wattanavichian): Further internal discussions will be needed on how risk assessment / risk mitigation should be conducted by mill operators. The information in Table 1 will be updated to include the log list (size, quantity, and volume or weight), and an explanation provided about why it is important.

FLEGT Asia Focal Point for Thailand (Dr Alexander Hinrichs): Agrees with points made by Ms Wattanavichian. Also asks if more details can be provided about how photographs will be used in the SD form (who takes photos, what is being photographed, etc.). FLEGT Asia will provide detailed comments on the concept note shortly after the meeting. Once the concept note is finalized, the Thai side and FLEGT Asia will need to find a way to work together to integrate the principles and procedures into the SCC Annex. Asks what the best way to proceed is.

Director of the Forestry Standards Division (Mr Boonsuthee Jeravongpanich): Observes that it should be the TLAS/SCC SWG that should take responsibility. Agrees to be the focal point responsible for the work.

FLEGT Asia Focal Point for Thailand (Dr Alexander Hinrichs): Suggests that once internal discussions have been completed, Thai side contact FLEGT Asia to begin integration of concept note into SCC Annex.

Summary of SWG-FLEGT Asia Technical Meeting on Supply Chain Controls on Public Lands Concept Paper (Session 2)

4 August, 2021 – Zoom meeting

Opening Remarks

Leader of Supply Chain Controls (SCC) on Public Lands SWG (Ms Atcharaporn Daisai, RECOFTC): Opened the meeting and presented the SCC on Public Land (Sor Por Kor) concept paper. She highlighted where there are similarities and differences to the SCC on private lands concept paper.

President, Private Forest Plantation Cooperative (Ms Piyathip Eawpanich): Asked for clarification whether the public lands concept paper also addresses land that the Agricultural Land Reform Office (ALRO), purchased from private individuals.

Agriculture Land Reform Office (Ms Rotchanaphan Narongin): Explained that Sor Por Kor consists of land that was once forest and land purchased from private owners. Lands purchased from private owners will have a land deed called “Nor Sor”.

Fast-Growing Tree Business Association (Mr Amornpong Hirunwong): Explained that when ALRO allocates a land that they bought from a private owner to a farmer, a document indicating ALRO as a landowner and farmer as a leasee will be issued.

An internal discussion among SWG members ensued on whether such land would be covered by the public or private lands concept paper. It was agreed that further discussions are needed among SWG members, and with RFD and the ALRO under the Ministry of Environment and Natural Resources.

Use of the Witness Concept as a Risk Mitigation Measure

FLEGT Asia Focal Point for Thailand (Dr Alexander Hinrichs): Requested further clarification on the witness concept related to risk mitigation for case 3 (planted trees on Sor Por Kor lands that are of a restricted species). Are witnesses required to follow a certain procedure (e.g. do field visits) and can they be held liable for their testimonies? It will be important to describe this in the concept paper to ensure that the system is working well and that it assures the mills of the legality of the timber. In this regard, will the details of the witnessing concept be added to the RFD guidelines on the self-declaration?

Leader of SCC on Public Lands SWG (Ms Atcharaporn Daisai, RECOFTC): The SWG has not yet discussed the role and accountability of witnesses in detail but will do so at its next meeting.

Leader of SCC on Public Lands (Ms Atcharaporn Daisai, RECOFTC): Explained that the witness concept was conceived by the SWG to have people or groups that are familiar with the harvest plot, and possibly with a level of credibility such as co-ops and provincial authorities, to provide assurance for case 3 timber.

Director of RFD Legal Group (Mr Vijarn Seansakul): Witnesses will need to be eyewitnesses to the tree harvesting on Sor Por Kor land. Witnesses will need to be eyewitnesses or are aware of the timber growers’ actions in order to confirm the information on the SD form. If it is discovered that fraudulent information has been provided on the SD

form, both the timber owner and the witness may be liable to criminal prosecution when the officials, after the interviewing, can confirm that the information is fraudulent.

Honorary Advisor of the Private Forest Plantation Cooperative Limited (Ms Yingluk Patibhanthewa): Witnesses can also include members of a cooperative. Members are living in clusters which means that they know what their neighbors are planting. The cooperative is also monitoring what farmers are planting.

President of Tree Bank (Mr Phongsa Choonam): Questioned why RFD is regulating what farmers are allowed to plant and harvest.

Director of RFD Legal Group (Mr Vijarn Seansakul): Explained that the self-declaration is voluntary because, by timber harvesting law, timber planted on Sor Por Kor is not a restricted species and one does not need permission to harvest them. However, the law still regulates timber transportation from Sor Por Kor, but only applies to a case where timber passes the first forest checkpoint. (more details on the *Transportation of timber and checkpoints* section below) For legality verification at the mill, it is possible to apply for Art. 18/1 certification but in case the timber owner chooses not to do so, they can fill in the self-declaration form.

President of Thai Panel Product Industry Club (Mr Pingsun Wang): From a mill operator's point of view, the witness concept increases our confidence of the timber's legality. Currently, we do not have full assurance for timber from Sor Por Kor Land, but have not yet received any timber from Sor Por Kor land either. Most mills still use timber from private land, but this may change in the future when the Sor Por Kor regulation is clear. The witness statement and SD form will then significantly increase our confidence. As a current practice, many mills sign contracts with co-ops or trusted farmer groups to ensure a regular supply of legal timber. He confirmed that mills take utmost care to only purchase legal timber.

Agriculture Land Reform Office (Ms Rotchanaphan Narongin): Supported the witness idea. She also informed that ALRO can issue a land status certificate.

FLEGT Asia Focal Point for Thailand (Dr Alexander Hinrichs): Overall, it is understood that further discussions among the SWG are needed on the witness concept and the assurances that witnesses can provide to the mills. These include the responsibilities of the witness, who the witness is (individuals, cooperatives, associations or government bodies) and to what extent witnesses can be held liable.

Use of the Farmer Registration Record as a Risk Mitigation Method

FLEGT Asia (Mr Peter Aldinger): We would be interested to know more about the farmer registration record. It can be a useful measure for mill owners to verify legality if the record states the timing of planting the timber, the number of trees and species. Does the record cover this type of information and how difficult is it for farmers to register with the Department of Agriculture?

Leader of Supply Chain Controls (SCC) on Public Lands SWG (Ms Atcharaporn Daisai, RECOFTC): All farmers, incl. tree planters, can be registered and the registration includes a record of species and number of trees. The database is updated annually.

President of Thai Panel Product Industry Club (Mr Pingsun Wang): If the documentation to prove legality is certified by a government agency, then there is sufficient credibility for the

mill operators. Some of the mills' customers wish to export the timber products and may require further documentation to prove legality. The information from the farmer registration record would be useful in this case.

Transportation of timber and checkpoints

FLEGT Asia Focal Point for Thailand (Dr Alexander Hinrichs): The concept paper describes that a fee needs to be paid when the timber is transported through an RFD checkpoint. It is our understanding that there are less checkpoints in place now. Will timber still pass through checkpoints in all cases or will there also be cases where the timber travels directly to the mill?

Director of RFD Legal Group (Mr Vijarn Seansakul): If the timber transport passes the first checkpoint, a transportation permit will need to be obtained from the RFD officials at the checkpoint, and fee will need to be paid in order to transport the timber from the checkpoint. However, in case the transport does not pass a checkpoint, it does not need a transport permit, the self-declaration form can be used as an accompanying document to transport the timber. Regulation on Sor Por Kor timber transport is specified on Article 25, Article 38 (2), and Article 39 of the Forest Act B.E. 1941.

then the self-declaration can be used as a substitute to the transport permit.

Forestry Technical Officer, Forest Certification Division, RFD (Mr Methanee Seemantara): There are currently 20 RFD checkpoints in Thailand, but five additional checkpoints are being set up. The reasons for increasing the number of checkpoints are to improve enforcement preventing timber mixing during transportation, make it easier to obtain permits, and control imported timber that is transported from Bangkok port to other cities.

FLEGT Asia Focal Point for Thailand (Dr Alexander Hinrichs): It is understood that there are some changes in regard to transporting timber and the role of checkpoints. In this regard, the concept paper would need to be updated to reflect the current practice.

Official definitions of planted/unplanted trees

Agriculture Land Reform Office (Ms Rotchanaphan Narongin): Currently, ALRO and RFD do not have the official definitions for planted and unplanted trees.

Director of RFD Legal Group (Mr Vijarn Seansakul): Regarding the scope of group 3 timber, RFD is still in the reviewing process whether the announcement from the Ministry of Natural Resources and Environment is retroactive and would apply to trees that were planted before the lands received Sor Por Kor land rights document.

President of Tree Bank (Mr Phongsa Choonam): Relevant state departments should announce a clear definition to prevent any misunderstandings or misusages amongst operators and state officials.

Concluding Remarks and Next Steps

FLEGT Asia Focal Point (Dr Alexander Hinrichs): Thanked participants for the fruitful discussion. It is understood that RFD's focus is currently mainly on the SCC on private land concept paper and that the SCC on public land paper will be put forward later. FLEGT Asia

will be on standby for another round of commenting once the work on the public land paper has advanced. In the meantime, FLEGT Asia will send detailed comments on the paper by the end of this week.

Director of Forestry Foreign Affairs Office, RFD (Mr Sapol Boonsermsuk): Thanked all participants, the SWG and FLEGT Asia for the good discussion and reiterated that there is a need to find a balance that is acceptable to all sides and that enhances the credibility of timber from public lands.

Attachment:

1. Participant list

Participant list

1. Mr. Alexander Hinrichs Head of Asia Regional Office, European Forest Institute - FLEGT & REDD Unit
2. 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, , EU FLEGT Asia Programme
6. Mr. Sapol Boonsermsuk Director of Forestry Foreign Affairs Office, RFD
7. Mr. Tanongsak Nontapa Director of the Forest Economics Bureau, RFD
8. Mr. Boonsuthee Jeerawongpanich Director of the Forest Standards Division, RFD
9. Mr. Sermyot Chamnankha Director of the Forest Economy Division, RFD
10. Ms. Rungnapa Wattanavichian Consultant of Thailand Forest Certification Council, Federation of Thai Industries
11. Ms. Kanokwan Yordtong Project Officer, The Federation of Thai Industries
12. Ms. Atcharaporn Daisai FLEGT Coordinator, RECOFTC
13. Mr. Sittiporn Rodprisom Project Officer of the V4MF, RECOFTC
14. Ms. Warangkana Rattanarat Programme Director for Thailand, RECOFTC
15. Mr. Wirote Tipin Coordinator of Sustainable Development Foundation
16. Mr. Nirut Buapha Natural Resources and Environment Network Esan coopertor
17. Mr. Phongsa Choonam President of Tree Bank
18. Mr. Soontorn Rakrong Secretary of Rubber Farmer Association
19. Mr. Suvit Tonghom Member of Network of Rubber Tappers
20. Mr. Vijarn Seansakul Director of Legal Group, RFD
21. Ms. Apiradee Jitprarop Legal Officer, Legal Group, RFD
22. Mr. Montree Nuchanong Director of Forest Industries Permission Division, RFD
23. Mr. Methanee Seemuntara Forestry Technical Officer, Forest Certification Division, RFD
24. Mr. Ronnarit Chumkhunthod Forestry Officer, Forest Certification Division, RFD
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| 27. | Ms. Piyathip Eawpanich | President of the Private Forest Plantation Cooperative Limited |
| 28. | Ms. Yingluck Patiphanthewa | Honorary Advisor of the Private Forest Plantation Cooperative Limited |
| 29. | Mr. Pingsun Wang | President of Thai Panel Product Industry Club |
| 30. | Mr. Wiroj Kanaphongsa | Manager of Thai Panel Product Industry Club |
| 31. | Mr. Amornpong Hirunwong | Board member of the Fast-Growing Tree Business Association |
| 32. | Mr. Poramet Payapsatan | FLEGT-VPA Project Coordinator, Reclaimed Timber Association |
| 33. | Ms. Konwilai Wongyot | Coordinator, Reclaimed Timber Association |
| 34. | Mr. Piphat Punna | Vice President of Thai Woods Export Association |
| 35. | Mr. Karoon Krairawee | Director of Thai Timber Association |
| 36. | Ms. Duengduan Sripota | Director of CITES Flora Convention Division, Department of Agriculture |
| 37. | Ms. Rotchanaphan Narongin | Legal Officer, Senior Professional Level, Agriculture Land Reform Office |
| 38. | Ms. Duangjai Thudam | Land Reform Technical Officer, Professional Level, Agriculture Land Reform Office |
| 39. | Ms. Nathanon Santimitra | Land Reform Technical Officer, Practitioner Level, Agriculture Land Reform Office |
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