

Guidelines for Declaring the Legality of Timber from Private Land

- Sub-Working Group on Supply Chain Control from Private Lands -

1. Background

Under the Forest Law Enforcement, Governance and Trade Voluntary Partnership Agreement between Thailand and the European Union (Thai-EU FLEGT VPA), the timber legality assurance system of Thailand (THA-TLAS) has been developed in accordance with applicable laws and regulations currently in force in Thailand including various management requirements that apply within Thailand to demonstrate the legality of timber in Thailand providing assurances to the process of planting, cutting, importing, transporting, processing, trading and exporting timber and timber products. The THA-TLAS does not allow any illegal or unverified timber and timber products to enter the timber supply chain in Thailand.

Forest Act B.E. 2484, as amended by the Forest Act (No. 8) B.E. 2562, Section 7, Paragraph One, stipulates that all trees that are grown on private land are not prohibited species. The felling, cutting, and transportation of such timber can be done without governmental permission. In order to utilize timber originating from private lands in a processing mill, the mill operator has an obligation to ask for a permission to establish the processing mill. **The mill operator has to verify the incoming timber or timber product which are legal acquisition/ from legal sources. Therefore, guidelines are developed by RFD and stakeholders in order to help mill operators and exporters to demonstrate timber legality from private lands by clearly identifying its source from a specific area so that traceability is possible.** The guidelines will be legally binding under 18/2 and 51(6), which specifies that evidence listed on 18/1 and 18/2 or other evidence that can demonstrate legal acquisition can be used to declare the legality of timber.

2. Pathways for declaration of timber legality on private land.

The legality of timber is determined by source and ownership of the timber, there are 3 pathways to declare the timber legality on private lands:

(a) the registration and implementation of Plantation Act B.E. 2535, and as amended.

(b) the implementation of Section 18/1 including the delegating option under Section 18/3 of the Forest Act B.E. 2484, which was amended further by Forest Act (No. 8), B.E. 2562.

(c) self-declaration.

(Details of (a), (b) as per Annex 6, Supply Chain Control)

3. Self-declaration method

3.1 Declaration of timber legality can be done by timber owners. The timber owners prepare self-declaration document and attachment of relevant evidence in accordance with RFD's guideline or additional document, evidence beyond RFD's guideline, together with transportation information to processing mills or other places as the timber owners wish. Timber owners can be landowner, tenant or attorney, who will sign the self-declaration document for a declaration purpose.

Table 1. Information/Documents/Evidence in a Self-Declaration Document

No.	Information	Documents/Evidences
1	Source of tree/timber: location/land parcel	A copy of Certificate of Land Ownership, including a simple map
2	Geographic coordinates of source of tree/timber	Indicate in self-declaration document
3	Identification of the owner: name and address	A copy of ID card/ sale contract (In addition, a sale contract is attached if timbers have already been purchased by mill operators/buyers from timber owners/landowners.)
4	Species of timber	Indicate in self-declaration document
5	Characteristics of timber	Photos of trees, logs, or plantation

3.2 Other documents/evidence can be substituted of documents/evidence specified in Table 1. The mill operator is responsible for making a judgement on the appropriateness of the substitute documents/evidence. Those substitutes must be able to demonstrate the legality of the timber source.

Example: Documents/evidences that can be used to substitute some documents or evidences in Table 1.

- Certificate of plantation registration of conservation plant for export (if the timber species are listed in Appendix II and III of CITES)

The applicant submits the application in the form specified by the Department of Agriculture, Ministry of Agriculture and Cooperatives attach with evidences as specified in the request form, together with the account supporting the registration request. The information in the application will be contained location, geographic coordinates, common name, scientific name and characteristics of trees e.g., age, perimeter, height and volume. The application can be submitted by onsite, post or electronics methods. The certificate of registration under Plantation Act can be used as evidence for plantation registration. The CITES competent officer will verify the evidences and onsite inspection (if needed), then then certificate will be issued within 5 operational days. If the certificate holders want to harvest the trees, they need to inform the officer 5 operational days in advance, if the officer find inconsistent information with the certificate during onsite inspect, the officer will ask for correction within 45 days, if cannot do the correction the officer will withdrawn the certificate. The certificate is valid for 5 years after issue. Regarding of the information and process, the evidences no. 1, 3 and 5 in table 1 can be substituted by the certificate.

- Forest certificate issued by a third-party certification body

Forest certification is a voluntary certification that include; Sustainable Forest Management Certification (FM) which issued for plantation and Chain of Custody Certification (CoC) which issued for production process or activities after plantation, there are national and international standards. In this guideline, the self-declaration is used for sources to first mill which there is not processing, therefore the

FM certification will be referred in this guideline. Information on FM Certificate or in scheme owners database will demonstrate name, address, location of certification owner and if claim is made on delivery documents, it is linked via a certificate number, which can be tracked in a database of the certification system of scheme owners. Independent third-party certification body (CB) will audit the certified unit annually, the audit system must assure that the forestry operation complies with the standard requirements which include legality as well. Regarding of the information and process, the evidences no. 1, 3 and 5 in table 1 can be substituted by the certificate.

To determine which forest certification scheme can substitute which document/evidence, the scheme must be able to demonstrate legal verification specific to species. Furthermore, the scheme must be accepted by RFD and stakeholders. The samples of certification scheme are TFCC and FSC.

4. Documents for transporting timber from private land

A tree/timber owner can declare information of timber transportation through the following two documents:

4.1 Self-Declaration Document and attached document of no.1-5 in table 1, and loaded timber photo

4.2 A form for timber transportation comprising the following details:

- Maximum time for transportation determined by transporter
- Location of departure and destination
- Name of the transporter
- Type of vehicle and its license plate number
- Signature of a purchaser or a timber owner
- Log list; species, size, quantity, and volume or weight

5. Timber processing and Measures for preventing the process of bringing illegal timber to enter supply chain

The mill operator must examine the timber to ensure that all the timber and timber products entering the processing mill are legal, have legal production process, and come from legal sources. The mill operator to archive the evidence for inspection by RFD, archiving can be in digital or analog form for at least 2 years. And the mill shall always check log list at least once a year when requesting a renewal. Details as per Annex 6: Thailand Supply Chain Control.

A guideline to verify the legality of timber and timber products which are operated by the mill operators themselves in order to prevent illegal timber enter to their mills. The operator is responsible for verifying the correctness of the self-declaration document according to item 1 when receiving the information. If found inconsistency or uncertainty of information, additional verifying may be carried out in some of item 2-5 (as per this paragraph) as follows;

1. Check the reliability of information such as coordinates: do they match information of the source of tree, land title: does the identification of timber owner relate to land owner, species: are they correct according to the attached list.
2. Make a purchase agreement
3. Register vendors or make a membership system between suppliers and mills. (Membership verification)
4. Visit the plantation site

5. Check the registration with the government sector or being a member under specific organizations such as the Royal Forest Department, Rubber Authority of Thailand, the Department of Agricultural Extension, Bank for Agriculture and Agricultural Cooperatives or the Forest Cooperative

There is no difference in practices between valuable native species and exotic species since the government measure effectively prevents illegal timbers from entering the supply chain and protects forest resources. Since 30th April B.E. 2561, Royal Forest Department has established Forest Centers and Forest Protection and Development Bodies, which have authorities “to protect and suppress forest trespassing, control wildfire, and coordinate with local agencies to suppress infraction in accordance with forest laws, and solve the forest problems”. There are 76 Forest Centers, which contain 329 Forest Protection and Development Bodies across Thailand.

6. Exportation of timber

The operator who wishes to export logs can submit self-declaration document together with relevant documents/evidence to apply for an export certificate in accordance with Section 18/2 of Forest Act B.E. 2484 which was amended further by Forest Act (No.8) B.E.2562, after that RFD competent officer will do onsite inspection before issue the certificate. Details as per Annex 6: Thailand Supply Chain Control.