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Abbreviations

ACCTC  ASEAN Coordinators of Customs Training Centres
ADVANCE  Agricultural Development and Value Chain Enhancement Project
AEC  ASEAN Economic Community
AFTA  ASEAN Free Trade Area
AHTN  ASEAN Harmonised Tariff Nomenclature
APRIS  ASEAN Programme for Regional Integration Support
ARISE  ASEAN Regional Integration Support by the EU
ASEAN WEN  ASEAN Wildlife Enforcement Network
ASEAN  Association of South East Asian Nations
ASW  ASEAN Single Window
ATIGA  ASEAN Trade in Goods Agreement
AVA  Agri-Food and Veterinary Authority (Singapore)
CEN  Customs Enforcement Network
CEPT  Common Effective Preferential Tariff
CITES  Convention on International Trade in Endangered Species of Wild Fauna & Flora
CLMV  Cambodia, Laos, Myanmar/Burma, Vietnam
CoO  Certificate of Origin
CPTFWG  Customs Procedures and Trade Facilitation Working Group
ECCM  Experts Committee on Customs Matters
EDI  Electronic Data Interchange
EFI  European Forest Institute
ENVIRONET  Customs Internet facility (World Customs Organization)
ETA  Electronic Transactions Act (Thailand)
EU  European Union
FLEGT  Forest Law Enforcement, Governance and Trade
FTD  Foreign Trade Department
HS  Harmonised System
INATRADE  Electronic Trade Licensing Services, Ministry of Trade (Indonesia)
INSW  Indonesian National Single Window
INSW-PT  Indonesian National Single Window Preparatory Team
IT  Information technology
LIU  Licence Information Unit, Indonesia
LVLK  Timber Legality Verification Body, Indonesia
MITI  Ministry of International Trade and Industry (Malaysia)
MNRE  Ministry of Natural Resources and Environment (Thailand)
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tr>
<td>MoU</td>
<td>Memorandum of understanding</td>
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<tr>
<td>MTCS</td>
<td>Malaysian Timber Certification Scheme</td>
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<td>MTIB</td>
<td>Malaysian Timber Industries Board</td>
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<td>MY</td>
<td>Malaysia</td>
</tr>
<tr>
<td>NACCS</td>
<td>National Automated Cargo and Port Consolidated System (Vietnam)</td>
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<tr>
<td>NCCIM</td>
<td>National Chambers of Commerce and Industry Malaysia</td>
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<tr>
<td>NGO</td>
<td>Non-governmental organisation</td>
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<tr>
<td>NSW MATRADE</td>
<td>National Single Window Malaysia External Trade and Development Corporation</td>
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<td>NSW</td>
<td>National Single Window</td>
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<tr>
<td>PEB</td>
<td>Export declaration, Indonesia</td>
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<tr>
<td>PRF</td>
<td>Permanent Reserved Forests</td>
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<td>READI</td>
<td>Regional EU–ASEAN Dialogue Instrument</td>
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<td>RFD</td>
<td>Royal Forest Department, Thailand</td>
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<tr>
<td>RILO A/P</td>
<td>Regional Intelligence Liaison Offices Asia Pacific</td>
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<td>RWE</td>
<td>Roundwood equivalent</td>
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<td>SCG</td>
<td>Siam Cement Group</td>
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<td>SILK</td>
<td>Timber Legality Information Portal, Indonesia</td>
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<td>SKSHH</td>
<td>Forest Product Legality Letter, Indonesia</td>
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<tr>
<td>SME</td>
<td>Small or medium enterprise</td>
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<td>SMK</td>
<td>Customs Information System</td>
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<td>STIDC</td>
<td>Sarawak Timber Industry Development Corporation</td>
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<td>SVLK</td>
<td>Timber Legality Verification System, Indonesia</td>
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<td>TFAC</td>
<td>Trade Facilitation Action Council</td>
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<td>THAI-NSW</td>
<td>Thailand – National Single Window</td>
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<td>THAI-TLAS</td>
<td>Thailand Timber legality assurance systems</td>
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<td>TLAS</td>
<td>Timber Legality Assurance System</td>
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<tr>
<td>TRAFFIC</td>
<td>Wildlife Trade Monitoring Network</td>
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<tr>
<td>TREATI</td>
<td>Trans Regional EU–ASEAN Trade Initiative</td>
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<tr>
<td>UN/CEFACT</td>
<td>United Nations Centre for Trade Facilitation and Electronic Business</td>
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<tr>
<td>UN/EDIFACT</td>
<td>United Nations/Electronic Data Interchange for Administration, Commerce and Transport</td>
</tr>
<tr>
<td>UNCITRAL</td>
<td>United Nations Commission on International Trade Law</td>
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<tr>
<td>USAID</td>
<td>United States Agency for International Development</td>
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<tr>
<td>VN-NSW</td>
<td>Vietnam – National Single Window</td>
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<tr>
<td>VPA</td>
<td>Voluntary Partnership Agreement</td>
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<td>WCO</td>
<td>World Customs Organization</td>
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<td>WTO</td>
<td>World Trade Organization</td>
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Executive summary

This scoping study on ASEAN timber trade, customs and timber legality began in response to progress in Voluntary Partnership Agreements (VPAs) between timber-exporting countries in ASEAN and the EU, and to ASEAN’s move towards economic integration. VPAs establish control and licensing procedures to ensure that only legal timber and timber products from partner countries enter the EU market.

Timber legality and its associated trade is a longstanding issue in Southeast Asia. In 2009, ASEAN’s Ministers on Agriculture and Forestry endorsed a regional reference framework for timber legality, the ASEAN Criteria and Indicators for Legality of Timber, and for timber tracking, ASEAN Guidelines for Chain of Custody of Legal Timber and Sustainable Timber. The ASEAN Secretariat and ASEAN member states have since held several related meetings and capacity building events. Countries’ involvement in VPAs and FLEGT licensing form part of these developments. To date, one ASEAN member state is implementing a VPA and four are in negotiations with the EU.

At the same time, ASEAN is working to achieve its target of finalising the ASEAN Economic Community by 2015. The aim is for the ASEAN Economic Community to have the following characteristics: a single market and production base, a highly competitive economic region, a region of equitable economic development and a region fully integrated into the global economy as one production base. The ASEAN Single Window system is an important instrument for fostering the integration of regional trade and customs.

ASEAN member states have made positive responses to comply with the EU Timber Regulation but they need time to develop timber legality assurance systems and integrate them into national procedures. Preparation of the ASEAN Single Window depends on each member state completing a National Single Window.

Against that background, this scoping study has the following aims:

- to document ASEAN member states’ progress in developing their National Single Windows within and progress by ASEAN
- to evaluate how harmonisation of ASEAN customs procedures and targeted measures for trade facilitation can improve communication, control and promotion of timber legality within the region to the EU and other markets
- to recommend ways to improve documentation and reporting of timber legality and trade (imports/exports) in legal timber within ASEAN and with other markets.

This scoping study set out to achieve these objectives by collecting and updating information using the following methods: interviews, visits to four ASEAN member states, Internet research, workshop participation and consultations with the ASEAN Secretariat. The author conducted interviews...
both at the ASEAN Secretariat and in ASEAN member states. Interviews were preceded by identification of the major issues relevant to the agency where interviews took place. At the ASEAN Secretariat, the aim of interviews was to clarify information and obtain updates on projects and programmes associated with legality of timber and preparation of the ASEAN Single Window (ASW). The author visited four of the 10 ASEAN member states during the study period: Indonesia, Malaysia, Thailand and Vietnam. In each visit, the agencies for forestry and customs were targeted. The aim of the visits was to obtain updates on the country’s recent policies on its National Single Window (NSW), customs cooperation and timber legality assurance system (TLAS). Internet research was undertaken to gather secondary information on progress at regional level and at national level for all 10 member states. The ASEAN–EFI Workshop on Timber Legality Assurance in Kuala Lumpur on 22–24 April 2013 was used as an opportunity to confirm the accuracy of information previously gathered. Presentations and discussions enriched the pool of information. Further discussions beyond the workshop sessions were used to explore details and to complete information on particular issues.

At regional level, the scoping study compiled the following findings on trade, customs and timber legality:

1. The ASEAN Single Window (ASW) is a secure network through which all parties involved in trade and transport in ASEAN can lodge standardised information and documents to fulfil all regulatory requirements related to imports, exports and transit. The ASW builds on the National Single Window (NSW) systems of each ASEAN member state. Integration will take place in two stages: integration of agencies within individual ASEAN member states and integration of each NSW at regional level. Therefore, the ASW concept depends on the establishment of an integrated, secured communication network operating in a federated manner, with no central server, where the NSWs of 10 individual ASEAN member states operate and integrate, based on standardised information exchange, procedures, formalities and international best practices. ASW gateways installed at national level will connect NSWs through the ASW network. ASEAN member states have committed to establishing an ASW by signing the ASW Agreement and ASW Protocol in 2005 and 2006, respectively. NSWs allow single submission of cargo clearance data, synchronous and simultaneous processing, and decision-making through a single channel. The ASEAN-6 countries (Brunei Darussalam, Indonesia, Malaysia, Philippines, Singapore and Thailand) have made considerable progress in establishing their NSWs. The other four countries or CLMV countries (Cambodia, Laos, Myanmar/Burma and Vietnam) have focused on establishing the platform for NSWs and launching the NSW development process. ASEAN member states have also made progress in establishing a regional architecture connecting NSWs, including a regional architecture for an ASW Pilot Project involving seven member states. However, the ASW is unlikely to be operational by 2015, as in original targets.
Customs cooperation is a useful way of coordinating trade in ASEAN more effectively and of countering the trade in illegal timber. Useful forms of collaboration against illegal timber trade include: information-sharing on customs and forest laws; documentation accompanying shipments; export restrictions; spontaneous intelligence-sharing on specific shipments; prior notification of shipments; joint investigation of timber trade statistics discrepancies, with early analysis to monitor trade flows and to enable greater control of data; sharing of best practices and experiences to strengthen customs integrity; cooperation to more effectively implement CITES; agreement for the use of customs export declarations; or additional attestation of legality in the country of import as a check on legality. The ASEAN Directors-General of Customs first signed an ASEAN Customs Code of Conduct in 1983. The First ASEAN Finance Ministers’ Meeting in Thailand on 1 March 1997 further deepened and broadened this commitment with the signing of the ASEAN Agreement on Customs. This agreement was again amended by the 2012 ASEAN Customs Agreement. The Agreement espouses the principles of consistency, simplicity, efficiency, transparency, access to appeals, and mutual assistance in the conduct of customs. Bilateral arrangements on illegal logging and its related trade exist in ASEAN, usually developed between forest agencies. The challenge for countries is to make fullest use of existing bilateral arrangements and statements on illegal logging to strengthen customs cooperation and to encourage the inclusion of customs cooperation in future agreements. When an agreement touches on trade, then customs may have an important role in its implementation. For example, Indonesia has made MoUs and other forms of agreement with the UK, Japan, USA, Korea, China and Norway. Other initiatives target the flow of timber through Mekong countries and China. Vietnam, Cambodia, China and Laos are intensifying their cooperation in forestry, including in the cross-border trade of timber. Even though these MoUs were rationalised in the scope of illegal logging between the competent authorities in forestry, related elements on timber trade may be transformed into customs cooperation.

ATIGA (ASEAN Trade In Goods Agreement) is a regional platform that may be used to support the trade of legal timber. The objective of this Agreement is to achieve free flow of goods in ASEAN as one of the principal means to establish a single market and production base for the deeper economic integration of the region towards the realisation of the ASEAN Economic Community by 2015. This Agreement applies to all products under the ASEAN Harmonised Tariff Nomenclature (AHTN). ATIGA addresses the following: Tariff Liberalisation (Reduction or Elimination of Import Duties, Elimination of Tariff Rate Quotas, Issuance of Legal Enactments, Enjoyment of Concessions, Temporary Modification or Suspension of Concessions, Special Treatment on Rice and Sugar); Rules of Origin and, Non-Tariff Measures.

The ASEAN-EU Programme for Regional Integration Support, Phase II (APRIS II) ran with EU funding from 2006 to 2010. The programme broadly supported ASEAN efforts to develop a single market and
production base for goods trade. APRIS II facilitated the signing of an MoU on customs and initiated a pilot scheme for self-certification of Rules of Origin. One option to explore is whether this approach could serve as a model to cover certification of legal origin of timber within ASEAN. Building on the momentum of APRIS II, ASEAN and the EU have decided to continue with another programme, the ASEAN Regional Integration Support from the EU (ARISE). ARISE is expected to result in: freer flow of goods within ASEAN, through removing barriers related to transport and to customs procedures; and preparation for and implementation of the ASEAN Framework Agreements on Facilitation of Goods in Transit. Neither APRIS II nor ARISE deal directly with timber products.

5 Several instruments in the customs arena and under the purview of the World Customs Organization could be used to reduce trade in illegal timber. These include the customs Internet facility (ENVIRONET), Regional Intelligence Liaison Offices Asia Pacific (RILO A/P) and the Customs Enforcement Network (CEN). RILOs include CITES in their scope of operation. Similarly, the ASEAN Wildlife Enforcement Network (ASEAN WEN) also provides opportunities to discuss in regular meetings on ASEAN level the role of forestry and customs in legal timber trade.

Following are findings on trade, customs and timber legality for individual member states:

1 In Indonesia, the Indonesian National Single Window Preparatory Team (INSW-PT) oversaw the development of the Indonesia National Single Window (INSW). In 2010, the INSW became formally operational. It is now mandatory in 11 Indonesian ports with 18 participating government agencies (out of 39 agencies involved in exports and imports). These ports handle about 90% of all Indonesian trade. Participating government agencies, such as the Ministry of Forestry and Ministry of Trade are linked electronically with customs. ETPIK (a registered timber exporter) and SILK (the timber legality information system) within the Ministry of Forestry regulate procedures for electronic licensing of timber and timber product exports.

2 Indonesia has made significant progress in implementing its VPA. The Ministry of Forestry is leading the development and implementation of the national timber legality assurance system called Sistem Verifikasi Legalitas Kayu (SVLK) in Indonesian. Timber legality is verified through independent third-party auditing and licensing. Independent forest monitors, many from national NGOs, are an integral part of the system. The LIU (Licence Information Unit), based in the Ministry of Forestry, monitors timber exports through an online system. Indonesia and the EU are planning to sign the VPA on 30 September 2013.

3 In Indonesia, capacity-building to identify legal timber products from other countries is underway in the Ministries of Forestry, Industry, Trade and Finance (Customs Department). Indonesia expressed an interest in
participating in a regional dialogue on timber legality and timber legality assurance under ASEAN platforms. In the past, Indonesia has demonstrated a preference for bilateral MoUs for working with trade partners. The Ministry of Trade is working on a regulation on legal timber imports as required by the VPA.

4 Malaysia’s NSW is operational, but complementary instruments are still in development. Dagang Net operates the system for issuing electronic permits for timber and timber product exports. By 2003, an automated trade facilitation system called SMK-Dagang*Net was operational at all customs entry points. To date, 26 of the 33 permit-issuing agencies that fall under customs are part of the NSW, with agencies from Peninsular Malaysia, Sabah and Sarawak. Twenty of these have a paperless environment for customs clearance. The Ministry of International Trade and Industry (MITI) is leading Malaysia’s representation or the ASW, and the Ministry of Finance is leading the development of Malaysia’s NSW. The Trade Facilitation Action Council (TFAC) established by MITI monitors trade-related activities and the performance of service providers.

5 Malaysia has begun exchanging electronic Preferential Certificates of Origin (ATIGA CEPT Form D) with Indonesia and the Philippines. Malaysia has banned imports of logs and sawn timber from Indonesia. Capacity in customs to identify legal timber products from other countries is still low and relies on the work of the Malaysian Timber Industries Board (MTIB), Sarawak Timber Industry Development Corporation (STIDC) and the Sabah Forestry Department. It is increasingly important that Malaysian authorities can determine the legality of timber imports, given that import volumes have risen to more than 6 million m³ roundwood equivalent (RWE), 4 million m³ RWE of pulp and paper and 2 million m³ RWE of logs and timber products.

6 Malaysia is streamlining its FLEGT-licensing systems. The MTIB and Sabah Forestry Department are leading the development of FLEGT-licensing systems. FLEGT licensing will eventually involve eight agencies in five ministries. Peninsular Malaysia also established a national timber legality assurance system in response to the release of the EU Timber Regulation. The system for Sabah is in development. Malaysia appears to prefer a combination of timber verification and licensing systems, namely: FLEGT licensing (initially for Peninsular Malaysia and Sabah only); certification under Malaysia’s National Timber Certification Scheme, and other international and voluntary certification systems.

7 A public–private partnership manages Singapore’s NSW, called TradeNet. A private firm, Crimson Logic Pte Ltd, owns and operates TradeNet. TradeNet handles more than 30,000 declarations each day, processes 90% of permits in 10 minutes and receives 100% of collections through interbank deductions. The Electronic Transactions Act (ETA) regulates TradeNet, based on the UNCITRAL Model Law on
Electronic Commerce. The Customs Act authorises the Director-General of Customs to establish and operate a computer service and make provisions for the electronic submission of trade-related documents.

8 In Singapore, traders are required to comply with the requirements of the Agri-Food and Veterinary Authority (AVA), which controls the import and export of timber and timber products (listed under CITES). Traders must have a certificate from AVA before lodging an electronic application for a permit to import or export timber and timber products. AVA verifies all the inputs in the system, relevant documents such as CITES permits, invoice, bill of lading and packing list before granting approval. AVA also selects consignments for inspection when necessary. AVA investigates consignments that are declared under the wrong HS (Harmonised System) and product codes to ascertain the legality of the import. Customs agents in Singapore have the ability to monitor and control international timber trade by using provisions in customs legislation. In addition, they wield extensive enforcement capacity to enforce customs regulations and to support provisions in other legislation, in relation to illegality in trade.

9 The Thailand Logistics Committee established the National Subcommittee on Integrated Information Linkage for Import, Export and Logistics, which is chaired by the Permanent Secretary of the Ministry of Finance. Thailand’s NSW is in place. As of November 2011, the NSW had about 8000 subscribers, serving about 100,000 traders and 36 government authorities involved in import, export, logistics and supply chains. The Electronic Transactions Act (ETA) of 2001 came into force in April 2002. The Thailand Electronic Transactions Development Agency has drafted a third amendment to the ETA to strengthen its ability to further facilitate international electronic transactions.

10 Agencies involved with the trade of timber and timber products are the Department of Agriculture, Department of Primary Industries and Mines, Royal Forest Department, Office of the Rubber Replanting Aid Fund and Department of National Parks, Wildlife and Plant Conservation. This engagement of multiple agencies indicates that Thailand’s NSW has the capacity to accommodate timber. Discussions on procedures for documenting and reporting trade in timber and timber products are underway. In 2010, the Ministry of Environment and Natural Resources established a FLEGT negotiation committee, and the EU and the Royal Government of Thailand formally launched VPA negotiations in 2013.

11 Thailand imported more than 6 million m³ of RWE of timber in 2012. Thai authorities refer to the Certificate of Origin (CoO) to verify the legality of imported timber, but the CoO is not mandatory and it is not a guarantee of the country of harvest of the wood. The Thai government indicated a preference for the establishment of a regional mechanism under the ATIGA and ASEAN Customs Agreement. However, timber producers and timber-product manufacturers are expected to be well
consulted before any decision is taken. Thailand may raise the issue of legal timber trade in regular ASEAN customs meetings.

12 The Prime Minister of Vietnam issued a decision on the establishment of the National Steering Committee for the ASEAN Single Window and National Single Customs Window in 2011. Japan funded the development of the NSW, but the electronic system for issuing permits to export timber and timber products is not yet operational. The government is modernising its customs systems and is piloting the NSW in two stages. Stage 1 involves the Ministry of Trade and the Ministry of Transportation. In Stage 2, scheduled for 2014, more line ministries will join, including the Ministry of Health and Ministry of Natural Resources. In 2012, Vietnam and Laos signed an MoU to work together in the field on forest protection, forest law enforcement, and control and prevention of illegal trade and transport of timber, forest products and wildlife. Vietnam also has bilateral MoUs that include timber trade with China and Cambodia, and it is planning one with Indonesia. Vietnam and the EU began VPA negotiations in 2010. Vietnam has prepared the sixth version of its national legality definition and timber legality assurance system.

13 Cambodia established a steering committee on the NSW in 2008 and tested three IT models for the NSW system. The General Director of Customs and Excise is working to strengthen the use of electronic documentation. Customs procedures for identifying legal timber are in the initial stages of development. Cambodia and Vietnam signed an MoU on illegal logging and cross-border transport in 2012. Cambodia is a member of ASEAN WEN and CITES and applies CITES mechanisms to prevent trafficking of illegal timber. Cambodia and the EU have had some initial discussions on a VPA.

14 Laos began preparations for a NSW in 2012 and is developing a system for issuing export permits electronically, with support from the World Bank. Illegal logging is a major concern in the country, as indicated by its MoUs with China, Thailand, Cambodia, and by its ongoing preparations for a VPA with the EU.

15 Myanmar/Burma is still in the early stages of developing a NSW. The use of information and communications technology is not common in Myanmar/Burma and the customs department generally does not use electronic systems. As illegal logging is a major national concern, the Government of Myanmar/Burma has initiated cooperation with Bangladesh, India, Laos, Thailand and Vietnam. Myanmar/Burma and India have set up a joint trade committee. Myanmar/Burma has established the Myanmar Forest Certification Scheme, and recently contacted the EU to start preparations for a VPA.

16 The Philippines issued Executive Order 482 to establish the NSW Task Force; the planned NSW includes forestry but has no clear procedures for timber products. Documentation and reporting on trade in timber and timber products are not in place and the legality verification mechanism
is not yet operational. The Philippines requires that transport documents called Certificate of Timber or Lumber Origin accompany all shipments of round timber and lumber from the harvesting site (origin) to the final destination. The Philippines has made preliminary contact with the EU on a VPA and private enterprises in the Philippines are making individual arrangements for compliance with the EU Timber Regulation. The Philippines is committed to following procedures set out by the World Customs Organization. The Philippines is a member of ASEAN WEN and CITES and applies CITES mechanisms.

The second objective of this study was to evaluate how the harmonisation of ASEAN customs procedures and targeted measures for trade facilitation can improve communication, control and promotion of timber legality within the region and towards the EU and other markets. ASEAN member states have not yet intensively discussed this issue. Representatives for customs and forestry seldom meet in ASEAN joint meetings and the sectors focus on separate issues: the focus of forestry is on sustainable forest management and illegal logging, whereas customs is pursuing harmonisation, relieving barriers to trade and seeking procedures to support trade facilitation.

Nevertheless, several regional customs platforms and initiatives offer potential for supporting the information exchange, monitoring, enforcement and promotion of legal timber trade. These are summarised below.

1 The ATIGA and CEPT Form D+ could be used to document the legality of timber as part of the NSW systems. This option guarantees fast information exchange between ASEAN member states. However, each ASEAN member state must first define what constitutes timber legality at national level, for example, as part of a VPA process. ASEAN must also develop mechanisms for giving information to countries outside ASEAN, that is, outside the ASW. Information exchange and monitoring opportunities exist and ASEAN legal timber trade could be promoted based on the advantages of ASW.

2 ASEAN could make use of RILO intelligence as all ASEAN member states are members of the WCO, except Laos, which is an associate of the WCO. RILO and its instrument, CEN, aim to prevent violations of trade regulations. This approach is feasible because CITES procedures are integrated into RILO. RILO operations could add compliance with timber legality requirements. Enforcement opportunities exist because RILO procedures already include regional-level enforcement. Information exchange, however, might not be very effective because only registered users can access the data. Similarly, as the focus for RILO is on enforcement, this approach may not support efforts to promote ASEAN timber as legal to international market.

3 Mechanisms developed by the ASEAN–EU funded APRIS II and ARISE programmes, which aim to strengthen economic integration in ASEAN could be used. Mechanisms from these programmes are highly suitable for the single window system, given that ARISE is building on previous work related to NSWs. Information exchange and monitoring at regional
level could be developed and ways for promoting ASEAN timber as legal in international market identified. However, the ARISE project does not explicitly cover timber. The consultant team managing the project said that the next phase of the project may include timber if ASEAN and the EU identify this as a preferential cooperation area.

4 ASEAN WEN arrangements. Use of ASEAN WEN is not suitable unless ASEAN WEN is amended to include aspects of timber legality assurance systems. ASEAN WEN is strong at communication and campaigning, but would not be strong at enforcing timber trade rule because ASEAN WEN bases its activities on received reports and does not undertake monitoring actions or regional enforcement.

The study offers the following recommendations for maintaining legality in timber imports and exports, both within ASEAN and to other markets:

1 It is recommended that an organisation such as EFI documents the principles, basic elements and documents used in the national timber legality assurance systems currently under development or implementation by ASEAN member states. Lessons are also available from other VPA processes, and from the three training workshops on timber legality assurance organised by the ASEAN Secretariat and supported by EFI. This information could guide ASEAN member states in the creation of links between countries' timber legality assurance systems. The EU and EFI may follow up this recommendation with the ASEAN Secretariat and individual ASEAN member states.

2 ASEAN member states would benefit from integrating their timber legality assurance systems into their NSWs. Mainstreaming these two initiatives would enhance efficiency in documenting timber exports and provide effective instruments for exchanging information between trade partners within ASEAN and in the international market. The EU may follow up this recommendation with the ASEAN member states engaging in bilateral VPA negotiations with the EU.

3 ASEAN member states would benefit from simultaneously developing improved documentation and licensing mechanisms for timber legality when developing their NSWs.

4 ASEAN member states with significant timber production would benefit from entering into VPA negotiations with the EU as a means of addressing the legality of timber exports through the development of national timber legality assurance systems that improve forest sector governance. The EU and EFI may follow up this recommendation with the ASEAN member states not engaging in bilateral VPA negotiations through awareness-raising activities and studies.

5 ASEAN member states should increase the information exchange through ASEAN platforms on forestry, trade and customs, and on building a regional understanding of how national systems serve to
demonstrate timber legality within ASEAN. The EU and EFI may follow up this recommendation with the ASEAN Secretariat.

The study offers the following recommendations on capacity-building, customs cooperation and regional enforcement of timber legality. It is recommended:

1. That ASEAN organise meetings and design technical work to build the capacity of all operators within ASEAN so they gain a good understanding of the legal timber trade, market demands and sector governance.

2. That the ASEAN Secretariat and the EU discuss ways to support the legal timber through future ASEAN–EU cooperation programmes and initiatives.

3. That ASEAN facilitate meetings to seek meaningful multistakeholder engagement in the development of national timber legality assurance systems and advancements at regional level.

4. That ASEAN and its member states encourage forestry officers to participate in customs meetings, particularly meetings of the Customs Procedures and Trade Facilitation Working Group, so that legality of timber enters the customs agenda and recommendations rise to higher customs authorities.

5. That ASEAN expand pilots of the harmonisation of ASEAN customs procedures and targeted measures for trade facilitation to improve communication, control and promotion of FLEGT-licensed timber within the region, primarily in Malaysia, Singapore, Thailand, Vietnam and Indonesia. One area to test is the possible addition of timber legality to ATIGA Form D (under Origin Criterion).

6. That ASEAN explore the benefits of using the services of RILO (Regional Intelligence Liaison Offices) to enforce timber legality requirements, particularly in the regional market.

An overall recommendation is that ASEAN Forestry and Trade Facilitation Officials seek ways and identify support to encourage ASEAN member states to discuss collaboration on timber legality and trade in higher ASEAN forums, possibly leading to a dialogue on timber legality and trade within ASEAN and with major trade partners such as the EU.
1 Introduction

In October 2003, the European Union adopted the Action Plan for Forest Law Enforcement, Governance and Trade (FLEGT), with the aim of reducing illegal logging and its associated trade. A principal instrument of the EU FLEGT Action Plan is the Voluntary Partnership Agreement (VPA) between timber-exporting countries and the EU. VPAs establish control and licensing procedures to ensure that only legal timber products from partner countries enter the EU market. In 2010, the EU FLEGT Facility of the European Forest Institute (EFI) launched the FLEGT Asia Regional Programme with funding from the EU to support the implementation of the EU FLEGT Action Plan in Asia.

Facilitating trade and improving the capacity of customs agencies are activities that support legal timber trade in Asia and help exporters meet international market requirements. These activities contribute not only to the EU’s goals but also to targets for community building set by the Association of Southeast Asian Nations (ASEAN). Several programmes have undertaken initiatives to enhance customs cooperation to reduce the trade in illegal timber, in cooperation with ASEAN. The EU also has begun initiatives to facilitate trade with ASEAN, including the ASEAN–EU Programme for Regional Integration Support (APRIS) and the ASEAN Regional Integration Support (ARISE) programme.

Since December 2007, ASEAN has been working on building the ASEAN Single Window (ASW), based on the integration and connectivity of its member states. The ASW is a key component of the ASEAN Economic Community, which is scheduled to become operational in 2015. The ASW will serve as a mechanism through which signatory countries can exchange import and export data online. The ASW is defined in the agreement signed by ASEAN Economic Ministers at the 11th ASEAN Summit, Kuala Lumpur, December 2005, as:

the environment where National Single Windows of Member Countries operate and integrate. The National Single Window is defined as a system which enables: i. a single submission of data and information; …iii. a single decision-making for customs release and clearance. A single decision-making shall be uniformly interpreted as a single point of decision for the release of cargoes by the Customs on the basis of decisions, if required, taken by Line ministries and communicated in a timely manner to the Customs.

It is yet to be determined whether the ASW can expedite customs clearance and ensure an unbroken trail of data by using international standards to track and confirm the veracity of documents for timber and timber exports, especially FLEGT-licensed and -verified legal timber. However, in the context of timber export licences, Indonesia and Thailand provide instructive examples. Both these countries have established a system whereby the national customs authority works in collaboration with the government.
agency responsible for forest administration (Royal Forestry Department in Thailand and Ministry of Forestry in Indonesia).

The EU is engaging in formal dialogues on VPAs with several ASEAN member states: Indonesia signed a VPA in 2013 and Laos, Malaysia, Thailand and Vietnam are negotiating a VPA. A central element of a VPA is the timber legality assurance system, which holds that legality at the source (where the timber is harvested) must be documented and reported throughout the supply chain until final use or export.

Timber markets in Southeast Asia are closely connected to each other. At an ASEAN/EFI training workshop in Kota Kinabalu on 25–27 October 2011, participants from Cambodia, Indonesia, Laos, Malaysia, Myanmar/Burma, Thailand, Vietnam and the Philippines discussed ways to ensure that they only trade in legal timber. Recommendations included the following:

- In preparation for the ASW and market requirements for timber legality verification throughout ASEAN, ASEAN member states must better coordinate their data on in- and outflows of timber, legality definitions and legal standards, and data management systems, terminology, formats and traceability requirements.
- ASEAN is advised to identify country focal points on timber legality to improve coordination and to promote dialogue between ASEAN member states (as is done for the Convention on International Trade in Endangered Species (CITES)).

At the 11th meeting of the ASEAN Working Group on a Pan-ASEAN Timber Certification Initiative in May 2012, EFI proposed that a scoping study be carried out on the ASW and timber legality in the ASEAN member states that had made progress on developing NSWs and were at the same time negotiating a VPA. EFI also proposed that the study look at how to document and report on timber legality. The meeting agreed to this proposal and asked EFI to follow it up.

1.1 Objectives of the scoping study

The objectives of the scoping study are as follows:

- to document the status and adoption or development of a NSW within each ASEAN member state, as well as progress made by ASEAN
- to evaluate how the harmonisation of ASEAN customs procedures and targeted measures for facilitating trade can improve information exchange, control and promotion of timber legality both within the regional market and for the EU and other markets
- to use information from interviews at the ASEAN Secretariat and selected member states to recommend ways to improve documentation and reporting of timber legality and related trade (imports/exports) within ASEAN and to other markets.
The scope of this assignment is to understand whether:

- ASEAN member states have made progress in developing and implementing NSWs.
- ASEAN member states have clear procedures for granting electronic permits to exports of timber and timber products.
- ASEAN member states have identified specific procedures for documenting and reporting trade in legal timber and timber products. Such procedures include bilateral Memorandums of Understanding (MoUs), enforcement focal points and ASEAN WEN arrangements.
- ASEAN member states can provide examples of customs cooperation between countries that can be used as a model for information exchange on timber legality between member states.
- VPA partner countries can readily integrate the legality verification processes that they are developing, including for issuing FLEGT licences, into their national export permit systems.
- Customs authorities of ASEAN member states are generally able to determine the legality of timber products imported from other countries.
- Existing regional mechanisms can be used as a platform for facilitating legal timber trade or whether a new mechanism must be established. Existing mechanisms include the ASEAN Customs Procedures and Trade Facilitation Working Group (CPTFWG), the ASEAN Wildlife Enforcement Network (WEN) and the ASEAN Senior Officials of Forestry.

### 1.2 Methodology

This scoping study used the following methods to collect and update information to achieve the objectives:

1. **Interviews**

   The author conducted interviews with government officials of ASEAN member states both at the ASEAN Secretariat and in ASEAN member states. Before the interviews, the author identified the main issues relevant to each particular agency interviewed. The aim of interviews with officials at the ASEAN Secretariat was to clarify and update information on projects or programmes associated with timber legality and preparation of single windows.

2. **Visits to ASEAN member states**

   The author visited 4 of the 10 ASEAN member states during the study period, namely Indonesia, Malaysia, Thailand and Vietnam. Indonesia and Malaysia were selected because of their progress with VPAs. Thailand and Vietnam were selected as major processing countries that import and export large timber volumes. The author had planned to visit Singapore but cancelled the visit and conducted consultations by email instead. In each visit, the author targeted the agencies responsible for forestry and customs.
The aim was to elicit up-to-date information on each country’s recent policies on developing a NSW, customs cooperation and timber legality assurance systems.

In Thailand, the author visited the offices of the EU Delegation to Thailand and the Indonesian Embassy. In Malaysia, the author met with the Malaysian Timber Industries Board (MTIB), the Malaysian Timber Certification Council and Dagang Net, which operates the Malaysian NSW. Visits to the States of Sabah and Sarawak could not be arranged because of time shortages and logistics.

3 Internet research

The author also conducted Internet research on all 10 member states to obtain secondary data on regional and national circumstances and progress.

4 Workshop

The author used information from presentations and discussions at the ASEAN-EFI Workshop on Timber Legality Assurance in Kuala Lumpur on 22–24 April 2013 to confirm the accuracy of his previous research findings and enrich the pool of information. The author also held informal discussions with some workshop participants outside workshop sessions to explore specific aspects in more detail.

5 Consultations

Consultations with officials at the ASEAN Secretariat focused on the following topics: informing about the author’s terms of reference for the study, clarifying the author’s proposed activities, agreeing which ASEAN member states the author would visit, agreeing on specific themes for each country visit, clarifying details of ASEAN customs cooperation and dealing with administrative matters related to the study.

The author also met with the original proponents of the study at the EFI office in Kuala Lumpur to clarify which aspects of the study were of interest to the EU and the relationship between the present studies and other EU or EFI studies and activities. The author also received an update on progress in implementing the EU FLEGT Action Plan and VPAs in the region.
2 Main findings

2.1 ASEAN

2.1.1 Preparations for the ASEAN Single Window

Since December 2007, ASEAN has been working towards the creation of an ASEAN Single Window (ASW), based on the integration and connectivity of its member states. The ASW is a key component of the ASEAN Economic Community, which is scheduled to become operational in 2015. The ASW will serve as a mechanism through which signatory countries can exchange import and export data online. The ASW is defined as ‘the environment where National Single Windows of Member Countries operate and integrate’. The National Single Window is defined in the agreement of ASEAN Economic Ministers at the 11th ASEAN Summit as:

- a system which enables:
  - i. a single submission of data and information; …
  - iii. a single decision-making for customs release and clearance. A single decision-making shall be uniformly interpreted as a single point of decision for the release of cargoes by the Customs on the basis of decisions, if required, taken by Line ministries and communicated in a timely manner to the Customs’

In practice, the ASW is a means by which ASEAN member states can exchange cargo clearance data electronically. Exporters complete an online application for a unified ASEAN Trade In Goods Agreement Certificate of Origin (ATIGA Form D). The issuing agency processes the certificate electronically and forwards its response directly to the importer and importing country’s customs agency. This process is expected to expedite the import and export of products.

As an intermediate step, Brunei, Indonesia, Malaysia, the Philippines, Singapore and Thailand have activated NSWs, which are at varying levels of development. Having a NSW allows the national agencies in a country to process information simultaneously and deliver decisions through one channel. Cambodia, Laos, Myanmar/Burma and Vietnam are developing NSWs.

In 2011, ASEAN member states signed an MoU to implement an ASW pilot project. A key aspect of the project was the creation of secure information and communications infrastructure for the ASW. The project also explored the legal issues associated with regional data exchange; to date, legal gap analyses have been completed for Vietnam and Laos. The pilot project was supposed to be implemented in 2012 with the support of the USAID ASEAN Single Window Project, a five-year programme that started in 2010. Implementation is however delayed.
The ASW is based on the establishment of an integrated, secured communications network operating in a federated manner. That is, there is no central server. Rather, the NSWs of the 10 ASEAN member states operate in an integrated manner, based on standardised information exchange, procedures, formalities and international best practices (Figure 1).

The basic properties of the ASW are as follows:

- Operational NSWs are prerequisites for the ASW, because it is structured as a secure network to enable cross-border exchange of data among the 10 ASEAN member states.
- Transactional trade data do not go through a central server nor are data stored in a centralised database in a central server.
- Each ASEAN member state hosts the regionally developed ASW Gateway Application. This enables cross-border exchange of data between any two NSWs through the ASW secure network.

ASEAN member states committed to establishing the ASW by signing the ASW Agreement and ASW Protocol in 2005 and 2006, respectively. A NSW allows a single submission of cargo clearance data, synchronous and simultaneous processing, and decision-making through a single channel. The ASEAN-6, that is, Brunei, Indonesia, Malaysia, Philippines, Singapore and Thailand, committed to establishing NSWs by 2008. The CLMV countries, that is, Cambodia, Laos, Myanmar/Burma and Vietnam, were due to implement their NSWs by 2012.

Figure 1 Illustration of ASEAN Single Window environment

Source: ASEAN ASW website (http://asw.asean.org/images/ASW_Animation.swf)
The ASEAN-6 have made considerable progress in establishing their NSWs. The CLMV countries have focused on building a platform for their NSWs and have launched the NSW development process. At regional level, ASEAN member states have established a regional architecture to connect NSWs. In particular, they have endorsed the regional architecture for an ASW pilot project, in which seven member states are participating.

Development partners supporting the ASW include USAID, under the ADVANCE (Agricultural Development and Value Chain Enhancement) Project. With the support of USAID, ASEAN member states are piloting the ASW in three components, as follows:

- Component 1: Determining the most feasible network architecture for conducting the ASW pilot project using a federated approach
- Component 2: Setting up the network infrastructure agreed upon by member states to implement the ASW pilot project
- Component 3: Evaluating the outcomes of the pilot project and making recommendations for the final ASW.

Due to funding constraints, Component 2 was divided into two phases. The first phase involved a scaled-down pilot to test a scaled-down version of the architecture and illustrate the feasibility of the electronic exchange of information and functional services in an integrated secured environment. When sufficient funding is available, phase 2 will involve a scaled-up pilot to test the full architecture as recommended following Component 1.

The scaled-down pilot started in 2011. During this pilot, the ASW Gateway was installed in seven countries and in the regional services server. The architecture was tested for the exchange of ASEAN Customs Declaration Documents and ATIGA Form D data between participating states. The ASW architecture will be expanded to include the full Component 1 design and will likely test data exchange at increased volumes. It is expected that live exchange will occur from 2014 or 2015 with all 10 member states included. In addition, permanent staff will take over the daily management of the ASW. The Component 3 evaluation of pilot project outcomes was originally scheduled for the end of 2014, but this has been changed.

It is envisaged that the ASW will be fully operational by 2015. Member states must therefore plan how to sustain the ASW architecture and services, building on a sustainability study that has already been completed. The ASW Steering Committee requested that the sustainability study obtain a sustainability plan, including a business model, on how to convert Component 1 into a prototype of the entire ASW, and also requested to establish an ASW governance structure. The ASEAN Secretariat is expected to govern the ASW in such a way that the bulk of each country’s trade data remain in the custody of that country. However, the Secretariat will have the authority to facilitate the exchange of information on traded goods and provide mechanisms to ameliorate any disparity of data between states.
2.1.2 ASEAN customs cooperation

If ASEAN countries are to implement effective trade controls, their customs agencies must work together. This is particularly so for countering the trade in illegal timber. Countries can collaborate in the following areas to reduce illegal timber trade:

- information-sharing on customs and forest laws
- documentation accompanying shipments and export restrictions
- spontaneous intelligence sharing on specific shipments
- prior notification of shipments
- joint investigation of discrepancies in timber trade statistics, with early analysis to monitor trade flows and enable greater control of data
- sharing of best practices and experiences to strengthen customs integrity
- cooperation to implement CITES more effectively
- agreement for the use of customs export declarations, or an additional attestation of legality, in the country of import as a check on legality.

The ASEAN Directors-General of Customs signed the first ASEAN Customs Code of Conduct in 1983. The code was revised in 1995 to reflect developments in ASEAN, particularly the creation of the ASEAN Free Trade Area (AFTA). Through this code of conduct, member states committed to facilitating intra-ASEAN trade by simplifying and harmonising trade procedures and enhancing regional cooperation in customs.

The ASEAN Agreement on Customs further deepened and broadened this commitment. ASEAN Finance Ministers signed this agreement at the First ASEAN Finance Ministers’ Meeting in Thailand on 1 March 1997. In 2012, the ASEAN Customs Agreement amended the earlier version and espouses the principles of consistency, simplicity, efficiency, transparency, access to appeals and mutual assistance in the conduct of customs. In addition, in the 2012 agreement, member states agreed:

- to use the common tariff nomenclature in the ASEAN Harmonised Tariff Nomenclature (AHTN) to make it easier for traders operating in the region.
- to avoid using customs valuations for protection or as a barrier to trade. Member states agreed to apply the provisions of the WTO Valuation Agreement and adopt a common interpretation of the WTO Valuation Agreement to ensure uniformity and standardisation.
- to continuously simplify and harmonise customs procedures, to expedite the clearance of goods and thus reduce time and transaction costs at customs points. The states agreed to follow the standards and recommended practices set out in the Kyoto Convention on the simplification and harmonisation of customs procedures.
- to exchange vital information to aid the prevention and repression of smuggling, trafficking of narcotics and psychotropic substances, and other customs frauds.
- to give the right to appeal decisions by the customs authorities of member states, subject to national laws and regulations in each country.
• to encourage cooperation and consultations with private enterprises in ASEAN, particularly on ways to further facilitate trade within the ASEAN region.

The 2012 agreement outlines institutional arrangements to support its implementation. These arrangements include the following ASEAN bodies on customs (see http://www.asean.org/communities/asean-economic-community/item/background-on-customs-cooperation-in-asean):

• At the working level is the ASEAN Experts’ Committee on Customs Matters (ECCM). The ECCM oversees the implementation of the Policy Implementation and Work Programme, and reports to the ASEAN Directors-General of Customs Meeting. The ECCM can convene task forces to address specific issues such as tariff nomenclature and classification. These ad hoc bodies must be time-bound and task specific. The ASEAN Secretariat chairs the ECCM, which meets two or three times a year. The most recent ECCM Meeting took place in the ASEAN Secretariat in Jakarta on 4-6 June 2013.

• The ASEAN Coordinators of Customs Training Centres (ACCTC) is a forum set up to enhance cooperation. Heads of customs training centres or the human resources divisions of customs administrations take part in this forum, which coordinates the provision of training and technical assistance among ASEAN member states through the ASEAN Customs Training Network. The ACCTC reports to the ASEAN Directors-General of Customs Meeting. Its present chair is Malaysia.

• The annual Meeting of the ASEAN Directors-General of Customs oversees all customs cooperation activities in ASEAN. The most recent meeting, the 22nd ASEAN Directors-General of Customs Meeting, was held in Singapore on 4–6 June 2013.

• The ASEAN Directors-General of Customs Meeting reports to the ASEAN Finance Ministers’ Meeting, because customs cooperation is included in the Ministerial Understanding on ASEAN Cooperation in Finance and the AFTA Council Meeting, which supervises the implementation of the ASEAN Free Trade Area.

• The ASEAN Secretariat provides the necessary support for supervising, coordinating and reviewing the implementation of the cooperation activities.

2.1.3 ASEAN Trade In Goods Agreement and ASEAN–EU support projects

Article 1 of the Trade in Goods Agreement (ATIGA) states the agreement’s objective, as follows:

The objective of this Agreement is to achieve free flow of goods in ASEAN as one of the principal means to establish a single market and production base for the deeper economic integration of the region towards the realisation of the AEC (ASEAN Economic Community) by 2015.
ATIGA applies to all products under the AHTN (Article 4). Its articles cover the following:

- General provisions
- Tariff Liberalisation (Reduction or Elimination of Import Duties, Elimination of Tariff Rate Quotas, Issuance of Legal Enactments, Enjoyment of Concessions, Temporary Modification or Suspension of Concessions, Special Treatment on Rice and Sugar), Rules of Origin (Origin Criteria, Wholly Obtained or Produced Goods, Not Wholly Obtained or Produced Goods, Calculation of Regional Value Content, Accumulation, Minimal Operations and Processes, Direct Consignment, De Minimis, Treatment of Packages and Packing Materials, Accessories, Spare Parts and Tools, Neutral Elements, Identical and Interchangeable Materials, Certificate of Origin, Sub-Committee on Rules of Origin
- Non-Tariff Measures.

In developing customs and trade, ASEAN has received support from the EU through two programmes: APRIS II and ARISE.

The APRIS II Programme ran with EU funding from 2006 to 2010. The programme broadly supported ASEAN efforts to develop a single market and production base for goods trade. APRIS II success stories include the following:

- Regarding standards and conformance:
  - Implementing the main elements of the ASEAN Cosmetics Directive, the aim of which is to create an ASEAN single market for cosmetics
  - Pursuing efforts to harmonise other priority integration sectors. Some of the most important sectors are electrical and electronic equipment, agro-based products and automotive products.
- With respect to customs:
  - Developing an ASEAN Customs Data Model and the common ASEAN Customs Declaration Document
  - Completing the detailed design, pilot testing and gap analysis in ASEAN member states for an Air Cargo Clearance Model
  - Completing the detailed design of the future ASEAN Transit System
  - Signing an MoU and initiating a pilot scheme for the self-certification of Rules of Origin. If the pilot succeeds, the model may serve to cover certification of legal origin of timber
  - Finalising a Human Resource Development Blueprint and regional training plan, together with a Blueprint for Customs Integrity.
- Legal aspects:
  - APRIS II strengthened the capacity of various ASEAN Secretariat services, in particular the Legal Services and Agreement Division, and helped to develop an ASEAN Enhanced Dispute Settlement Mechanism, while contributing to the drafting of legal text in ATIGA.
- Dialogues:
  - APRIS II was instrumental in facilitating dialogue between ASEAN and EU
  - Networking under TREATI and READI dialogue platforms.
Building on the momentum of APRIS, ASEAN and the EU have decided to continue with another programme, the ASEAN Regional Integration Support from the EU (ARISE). Besides delivering tailor-made technical expertise and networking to support ASEAN in its efforts to establish the AEC, especially in the fields of customs and standards, the new programme also draws inspiration from the Master Plan on ASEAN Connectivity.

The ARISE Technical Cooperation team is based in the ASEAN Secretariat and supports the work of the Market Integration Directorate, providing the ASEAN Economic Bodies with technical assistance and capacity-building. Beneficiaries include the ASEAN Secretariat, ASEAN member states’ ministries and line agencies, ASEAN technical bodies, and industry, including small and medium enterprises (SMEs).


- Overall ASEAN economic integration process management strengthened through:
  - enhanced management of integration processes through intensified EU-ASEAN dialogue on wider strategic options drawing on EU experience
  - monitoring system in place for the specific integration initiatives under the programme.
- Freer flow of goods within ASEAN:
  - progress in removing barriers related to transport and customs procedures
  - preparation for and implementation of the ASEAN Framework Agreements on:
    - facilitation of goods in transit
    - multimodal transport
    - facilitation of interstate transport
    - preparation for the implementation of the pilot ASEAN customs transit system.
- Strengthened capacity of the ASEAN Secretariat to support AEC implementation and integration
- Development of the institutional capacity of the ASEAN Secretariat through:
  - provision of additional staff
  - training and capacity-building.

2.1.4 Single window, customs cooperation and trade agreement for timber products

Collaboration between customs agencies is increasing as a way to implement trade controls more effectively and counter the trade in illegal timber (see Section 4.1.2). Bilateral agreements on illegal logging pave the way for greater cooperation against illegal timber trade in the short to medium term. The challenge for countries is to make fullest use of existing bilateral arrangements and statements on illegal logging to strengthen
customs cooperation and to encourage the inclusion of customs cooperation in future agreements. Previous agreements only addressed illegal logging, but recently, the consequences of illegal logging for the timber trade has come to be seen as equally important. Customs authorities often contribute to bilateral agreements that touch on trade in some way.

Bilateral agreements and statements on illegal logging in Asia Pacific include the following:

- UK–Indonesia Memorandum of Understanding on Cooperation to Improve Forest Law Enforcement and Governance and to Combat Illegal Logging and the International Trade in Illegally Logged Timber and Wood Products (April 2002)
- China–Indonesia Memorandum of Understanding Concerning Cooperation in Combating Illegal Trade of Forest Products (December 2002)
- US–Indonesia Memorandum of Understanding on Combating Illegal Logging and Associated Trade (November 2006)
- China–US Memorandum of Understanding on Illegal Logging and Associated Trade (May 2008)
- Japan and Indonesia Joint Announcement on the Cooperation in Combating Illegal Logging and the Trade in Illegally Logged Timber and Wood Products (June 2003)
- Indonesia and Republic of Korea Joint Statement on ‘The Call for Combating International Trade in Illegally Harvested Forest Products’ (July 2003)
- Letter of Intent between Indonesia and Norway dealing with illegal logging (August 2012).

This list may suggest that only Indonesia has embraced bilateral agreements as a vehicle for joint efforts to combat illegal logging. However, efforts to stem the flow of illegally logged timber across the Mekong countries and China have led to further bilateral cooperation within the region. Vietnam, Cambodia, China and Laos are intensifying cooperation, particularly in relation to cross-border trade of timber.

An example is the 2012–2017 MoU between the Forest Protection Department of the Vietnam Forestry Administration and the Department of Forestry Inspection in the Lao Ministry of Agriculture. The MoU covers cooperation in forest protection, forest law enforcement, and control and prevention of illegal trade and transport of timber, forest products and wildlife. This MoU potentially offers a basis for customs cooperation in the future.

Many agreements and arrangements for mutual administrative assistance between customs agencies are in place. These are often based on World Customs Organization (WCO) models, which set out generic protocols for information exchange, investigations, surveillance and joint action. Therefore, an effective way to strengthen customs cooperation to reduce illegal timber trade may be the combination of a bilateral agreement on illegal logging with provisions for customs collaboration and a general
customs-to-customs agreement, whether a formal customs cooperation and mutual administrative assistance agreement or an MoU. MoUs between customs authorities in the Asia Pacific are in place, and there may be scope to mobilise these for efforts to reduce the trade in illegal timber.

Strong political support increases the likelihood of customs agencies working together to reduce the trade in illegal timber. The US–Indonesia illegal logging MoU and US–Peru Trade Promotion Agreement are examples of the inclusion of provisions for customs cooperation in bilateral arrangements on illegal logging. The action plan for the UK–Indonesia illegal logging MoU illustrates how such agreements can include practical activities to engage and strengthen customs.

Yet customs agencies acting alone do not have the skills, resources or power to detect and prosecute illegal timber. Customs agencies must work with the authorities responsible for forestry, agriculture, trade, environment, foreign affairs and border control. MoUs between the relevant agencies can facilitate the necessary cooperation.

Another approach is to target existing regional processes and platforms and build on a shared agenda to set up regular meetings between customs and forestry officials and foster cooperation. Examples of useful platforms for cooperation between customs agencies and other authorities are ASEAN Senior Officials on Forestry and its follow-up meetings and Asia FLEG, which promulgated the Bali Declaration in 2001 but is now defunct. Another useful platform is the CPTFWG, which was designed to address issues related to customs integration. CPTFWG is an instrument of the ASEAN Customs Directors-General Meeting, and it is tasked in particular with preparing recommendations for strategic customs cooperation and trade facilitation. Regional dialogues related to timber trade may come under the purview of CPTFWG.

Several existing instruments in customs and under the purview of the WCO may support efforts to reduce the trade in illegal timber. These include the customs Internet facility (ENVIRONET), Regional Intelligence Liaison Office Asia Pacific (RILO A/P) and the Customs Enforcement Network (CEN). RILO A/P was set up in Hong Kong in 1987, making it the first RILO in the world. In 2004, RILO A/P was relocated to Beijing. The main objective of RILOs is to promote regional cooperation to reduce customs fraud and enhance customs capacity in intelligence and enforcement.

Useful measures that harness these kinds of agencies in efforts to reduce illegal trade in forest products include the following:

- WCO member countries officially request RILO A/P to incorporate the control of illegal trade in timber and other forest products into its work programme as a priority.
- Trade in illegal wood is included in the CEN seizures database as its own category, and/or all countries submit information on illegal timber trade (seizures and infractions) to RILO A/P, and/or all countries use
ENVIRONET to request and exchange information on suspect timber shipments and documentation.

The WCO created ENVIRONET after the establishment of CEN. ENVIRONET is an Internet-based service through which customs agencies and other authorities can exchange information and work together. ENVIRONET provides for real-time communication on environmental border protection between customs agencies, competent national authorities, international organisations and their regional networks, and other enforcement authorities with similar responsibilities. ENVIRONET includes illegal timber in its scope, so customs and forestry enforcement officials and others can use the service. Given that ENVIRONET serves a range of functions, such as the exchange of information on seizures and on suspected trafficking, the service may prove useful for facilitating rapid decision-making on suspect timber shipments and documentation.

However, the needs of customs agencies vary from country to country, depending on the availability of resources. Initiatives for stronger customs cooperation must take these differences into account. As of 2005, work by RILO had uncovered 6270 cases against CITES. The CEN database listed six cases of illegal timber seizures in 2004, with a total of 218 tonnes of illegal timber seized. This gives an idea of how this instrument can be used to support customs cooperation.

It may be possible to follow some of the recommendations in this report by developing a support programme for Vietnam, Cambodia, Laos, Myanmar/Burma and Thailand. The trade in illegal timber between these countries is considerable, but they also have several common features, which is an enabling factor for instituting some form of subregional programme. MoUs between customs agencies are in place among these countries and it is likely they have similar capacity-building needs.

The ASEAN Wildlife Enforcement Network (ASEAN WEN) is an example of a functioning cross-border law enforcement mechanism. ASEAN created ASEAN WEN in December 2005 in response to the need for a coordinated international law enforcement response to illegal international wildlife trafficking. ASEAN WEN is the world’s largest nature crime enforcement network. It fosters vital regional cooperative links between police, customs, the judiciary and environmental agencies.

All 10 ASEAN member states are participants in ASEAN WEN. The network is also fostering engagement with other countries and organisations linked to Southeast Asia’s wildlife trade. These include the United States, China, Japan, South Korea, Australia, South Asian Association for Regional Cooperation, several African states and the EU. The main partners in ASEAN WEN are the Government of Thailand, FREELAND Foundation, TRAFFIC, ASEAN, US State Department, US Fish and Wildlife Service, US Justice Department, US Forest Service and CITES.
ASEAN WEN has achieved the following milestones:

- carried out more than 70 new enforcement actions
- trained more than 1800 personnel from 154 agencies
- established a secretariat, called the Program Coordination Unit, in Bangkok
- created six active national-level environment crime task forces
- agreed on a strategic action plan for coordinated action against nature crimes
- forged partnerships with Interpol, UN Office on Drugs and Crime, World Bank and ASEAN Centre for Biodiversity.

2.2 ASEAN member states

2.2.1 Indonesia

Progress in developing and implementing a National Single Customs Window

The Indonesian National Single Window Preparatory Team (INSW-PT) was set up in 2006 to develop the INSW, under the supervision of the Minister of Finance. The deputy minister oversaw the day-to-day operations of the team and a secretariat from the Co-ordinating Ministry of Economic Affairs provided support. The INSW-PT completed its blueprint for the NSW in 2007. The blueprint formally adopts the ASEAN definition of a NSW, that is, that a NSW is a single point for the submission, synchronous processing and approval of trade documents needed for customs release and clearance of cargo. Indonesia’s NSW blueprint broadens this definition to also include ports and e-payment systems. This broader scope means that the INSW links not only government agencies, but also ports, financial institutions and transport operators.

Development of the INSW took place in stages. In 2010, the INSW became formally operational. It is now mandatory in 11 Indonesian ports and 18 of the 39 government agencies involved in export and import are participating. These 11 ports handle about 90% of all Indonesian trade.

Stakeholders in the INSW are the private sector and the government agencies that are responsible for imports and exports. Therefore, the INSW Secretariat has established standard operating procedures for public–private consultations on the INSW. Through these consultations, the private sector can bring problems to the attention of the government, and the government can coordinate activities and inform the private sector and government agencies about issues with the INSW.

Procedures for granting electronic permission for timber and timber product exports

In Indonesia, the INSW involves electronic connections between government agencies and customs. Therefore, customs receives electronic notifications when an agency issues an import licence or permit. Some
government agencies have also introduced electronic ‘tracking and tracing’, so that importers can quickly identify problems.

Users with an ID and password access the system through the INSW portal. When the system is complete, exporters and importers will be able to submit clearance and licensing requests, monitor the clearance process and obtain clearance and licences online. The portal also provides open access to trade policy information on tariffs and the permits required for import and export. Users can obtain copies of the service-level agreements and standard operating procedures on how the 18 government agencies process trade documents.

The INSW has required a large number of agencies to change their operating procedures. These agencies’ IT systems may need updating, the back-office systems for issuing permits need modernisation, and legal and IT issues on the transfer of information between the private sector and government agencies, and between government agencies, remain. The President issued a Presidential Decree to address legal issues related to data transmission, security and confidentiality, and to the translation of decrees to allow electronic decision-making.

However, only a small group of about 100 priority traders (all members of the Meat Importers and Traders Association) have access to full paperless clearance through the INSW. These are generally large companies that have sophisticated IT systems and that qualify for post-clearance audit facilities. In addition, about 350 non-priority traders can also use INSW facilities because they have sophisticated IT systems, but they do not qualify for the post-clearance audit facility. Interviews revealed that fewer than 50 timber and timber product companies comply with this post-clearance audit facility.

A legal framework to implement the INSW is in place. It includes the following:

- Presidential Decree No. 54/2002 as amended by PD No. 24/ 2005 and No. 22/2007 Regarding Coordinating Team for Improving the Flow of Export and Import of Goods
- Presidential Instruction No. 3/2006 and No. 6/2007 on Investment Climate
- Presidential Instruction No. 5/2008 on Economic Programmes

In 2013, the government issued Ministerial Decree No. 18/2013 on information for timber legality verification through the Timber Legality Information Portal System and Issuance of V-Legal Documents (SILK; http://silk.dephut.go.id). The decree serves to integrate the SVLK into the NSW.

- The electronic service covers the following:
  - general information and news on the SVLK
• policy and regulations related to timber legality
• list and profiles of timber assessment and verification bodies
• announcement of incoming assessment/verification
• list of certificate holders
• public disclosure on issuance, amendment, transfer, postponement, suspension and cancellation of certificates
• list of registered timber exporters
• re-capitulation of V-Legal Documents based on tariff code and export destination.

In principle, the SILK portal service can provide access to the following agencies:

• government agencies
• National Accreditation Agency
• assessment and verification bodies
• certificate holders
• registered exporters of timber and timber products
• competent authorities in destination countries
• independent monitoring organisations.

Procedures for documenting and reporting trade in legal timber and timber products


Following the development of the SVLK (the Indonesian TLAS), the Ministry of Trade amended Minister of Trade Regulation No. 20/2008, which regulates the country’s timber export licensing policies. The revision covers the endorsement by SVLK verification bodies of timber and timber products that comply with ISO 17020 standards.

Verification bodies publish both Timber Legality Certificates and V-Legal Documents. Verification bodies are accredited by the National Accreditation Agency. Timber product exporters seeking a V-Legal Document must apply to Timber Legality Verification Bodies (LVLK). The LVLK carry out the verification and inspection process, and then issue the V-Legal Document to exporters that meet legality standards. The V-Legal Documents contain information about the type and volume of timber products to be exported, HS codes (using ASEAN Harmonised System (HS) Codes), the country of destination and any additional information. The process for trading legal timber is depicted in Figure 2.
Having a V-Legal Document for exports of timber and timber products became mandatory in January 2013. Between January and April 2013 there had been more than 18,000 shipments of V-Legal timber and timber products to international destinations, covering 33 HS codes and 135 destination countries, 25 of which are in the EU (Table 1).

Table 1 Exports of timber and timber products from Indonesia, using V-Legal Documents and Indonesian NSW

<table>
<thead>
<tr>
<th>Shipments</th>
<th>18,914</th>
</tr>
</thead>
<tbody>
<tr>
<td>Destination countries</td>
<td>135</td>
</tr>
<tr>
<td>EU countries</td>
<td>25</td>
</tr>
<tr>
<td>HS codes</td>
<td>33</td>
</tr>
<tr>
<td>Loading ports</td>
<td>51</td>
</tr>
<tr>
<td>Unloading ports</td>
<td>665</td>
</tr>
<tr>
<td>Value (USD)</td>
<td>1,479,148,414</td>
</tr>
</tbody>
</table>
Examples of international customs cooperation as a possible model for information exchange between ASEAN member states

Indonesia, Malaysia, the Philippines and Brunei launched an electronic customs system in 2009. The first step was the exchange of CEPT Form D, considered essential because the information on the form affects the tariff that importers must pay. Tariffs on traded goods are lower when traders use electronic CEPT Form D.

Use of electronic CEPT Form D has increased considerably since its introduction because the process reduces costs for operators.

VPA legality verification processes for FLEGT licences that can be readily integrated into the country’s customs export permit systems

The Indonesian TLAS (SVLK) includes an online system for issuing V-Legal Documents as part of the above-mentioned SILK (http://silk.dphut.go.id). Licence management is part of the Licence Information Unit (LIU) in the Directorate General for the Development of Forestry Businesses in the Ministry of Forestry and became operational on 1 August 2012. LIU’s online system replaced the previous timber product endorsement mechanism run by the Forestry Industry Revitalization Body.

The SILK is directly connected to INATRADE, a system at the Directorate General of Foreign Trade in the Ministry of Trade. INATRADE connects to the INSW portal at the Directorate General of Customs and Excise in the Ministry of Finance for export registration. Through this system, customs departments in export destination countries can ascertain or clarify the legality of timber from Indonesia. Ministry of Forestry Decree No. 18/2013 governs access to SILK by competent authorities in destination countries. The decree requires destination countries to submit a list of competent authorities, which can then access the following information through the portal:

- competent authorities at destination countries
- validation of V-Legal Documents
- registered persons who can issue V-legal Documents

Systems to enable customs authorities to ascertain the legality of timber products imported from other countries

Indonesian customs is involved in implementation of the VPA. The customs department helped prepare procedures for exporting licensed timber and gave advice on amendments to the Ministry of Trade regulation on timber exports. Customs authorities also led the initiative to export timber through the INSW. The current regulation on timber imports requires that the exporter attach a Certificate of Origin (CoO) to the imported timber and timber products. At the time of this report, the Ministry of Trade, in collaboration with the Ministry of Forestry, is drafting new regulations on timber imports into Indonesia. Draft versions have been circulated for discussion within the sector, but they have not made publicly available. It is expected that the new regulation will outline the requirements and
procedures for ascertaining the legality of timber and timber products imported into Indonesia from other countries.

**Existing regional mechanisms preferred as a platform for managing legal timber trade**

After five years of negotiations, Indonesia and the EU are prepared to sign a VPA in September 2013. The two parties have established a Joint Preparatory Committee to deal with any remaining barriers to implementing the VPA. Through its preparations for the VPA, Indonesia is ready to manage legal timber trade over its borders and to discuss regional mechanisms. However, Indonesia is not in a position to lead any new regional mechanism for managing legal timber trade. Rather, for Indonesia, the ASW is the preferred mechanism.

**2.2.2 Malaysia**

**Progress in developing and implementing a National Single Customs Window**

Malaysia’s NSW was developed alongside Dagang Net. Malaysia’s National Chambers of Commerce and Industry (NCCIM) set up Dagang Net in 1989 after the government tasked it with creating paperless, electronic customs services to support and streamline international trade processes. NCCIM pioneered the use of a single window for trade with the Electronic Data Interchange (EDI), which it introduced in August 1993.

In 1995, the government incorporated Dagang Net’s globally used EDIFACT-driven EDI systems into the customs information system operated by the Royal Malaysian Customs, thus linking the two systems to create in 1997 a national systems architecture known as SMK-Dagang*Net. SMK-Dagang*Net, led by Dagang Net and the Royal Malaysian Customs, automated import–export declarations and clearances. The first direct interface between the two systems was implemented for Port Klang. This included the commercial use of e-government, digital signatures, smartcards and electronic fund transfers to enhance the effectiveness, efficiency and productivity of Port Klang.

By 2003, SMK-Dagang*Net was automating trade procedures at all customs entry points. The nationwide roll-out was completed in 2004. SMK-Dagang*Net also adopted open, standards-based technologies in accordance with the UN/CEFACT global standards. Customs is using SMK-Dagang*Net for trade through Port Klang, Kuala Lumpur International Airport, Penang’s major ports in Butterworth and Bayan Lepas, Johor’s two major ports and the major ports in Kota Kinabalu and Kuching.

In September 2009, the national government selected Dagang Net as the service provider to develop, manage and operate the country’s NSW. The aim of developing the NSW was to create an integrated gateway where importers and exporters, customs brokers, freight forwarders, shipping agents, banks and insurance companies can submit trade-related information and documents only once, at a single entry point. Malaysia
started in 2009 to link participating permit-issuing agencies so that operators could apply for and officials could approve import–export permits over the Internet. In 2013, of the 33 permit-issuing agencies under customs, 26 agencies are using the NSW, covering Peninsular Malaysia, Sabah and Sarawak. Twenty of these 26 agencies have a paperless environment for customs clearance, as they no longer require hardcopies of documents.

MITI is leading the implementation of Malaysia’s NSW, also known as the Trade Facilitation Portal. MITI set up the Trade Facilitation Action Council (TFAC) to monitor trade activities and the performance of service providers in related activities and in trade facilitation. NSW MATRADE was appointed as the implementing agency. NSW MATRADE then established the NSW Technical Committee.

**Figure 3  Malaysia's NSW environment**

Source: Eswaran (2010)

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**Procedures for issuing electronic permits for exports of timber and timber products**

The Malaysian government envisaged the NSW as an electronic approach for managing trade and increasing efficiency in government systems. Table 2 illustrates how NSW performs five core services as described in 'Survey on Single Window Experiences Relating to Accepting Documents in Paper and E-format' (UNECE, 2010).

The government has built on that vision to implement a fully electronic trading environment (Table 3).
### Table 2 Services provided by Malaysia’s NSW

<table>
<thead>
<tr>
<th>Ref</th>
<th>Services</th>
<th>Sender</th>
<th>Recipient</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Electronic customs declarations</td>
<td>• Importers/exporters&lt;br&gt;• Forwarding agents</td>
<td>• Customs</td>
</tr>
<tr>
<td>2</td>
<td>Electronic duty payment</td>
<td>• Importers/exporters&lt;br&gt;• Forwarding agents</td>
<td>• Customs&lt;br&gt;• Banks</td>
</tr>
<tr>
<td>3</td>
<td>Electronic manifests</td>
<td>• Freight forwarders&lt;br&gt;• Shipping agents</td>
<td>• Customs&lt;br&gt;• Free zone authority&lt;br&gt;• Port operator</td>
</tr>
<tr>
<td>4</td>
<td>Electronic permits</td>
<td>• Importers/exporters&lt;br&gt;• Forwarding agents</td>
<td>• Permit-issuing agencies&lt;br&gt;• Customs</td>
</tr>
<tr>
<td>5</td>
<td>Electronic preferential certificates of origin</td>
<td>• Importers/exporters&lt;br&gt;• Forwarding agents</td>
<td>• Ministry of International Trade and Industry (MITI)</td>
</tr>
</tbody>
</table>

### Table 3 Malaysia’s electronic trading environment

<table>
<thead>
<tr>
<th>Ref</th>
<th>Services</th>
<th>Status</th>
<th>Remarks and Targets</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Electronic customs declarations</td>
<td>• 99% electronic usage nationwide</td>
<td>• Customs working towards paperless implementation nationwide by 2010</td>
</tr>
<tr>
<td>2</td>
<td>Electronic duty payment</td>
<td>• 5% electronic usage nationwide</td>
<td>• Fully paperless in customs stations that adopted full electronic usage&lt;br&gt;• Customs working towards full electronic implementation nationwide by 2011</td>
</tr>
<tr>
<td>3</td>
<td>Electronic manifests</td>
<td>• 100% electronic usage in Port Klang and Kuantan Port&lt;br&gt;• PILOT – Penang Port</td>
<td>• Fully paperless in customs stations that adopted full electronic usage&lt;br&gt;• Customs working towards full electronic implementation nationwide by 2011</td>
</tr>
<tr>
<td>4</td>
<td>Electronic permits</td>
<td>• 19 PIAs on electronic environment (out of 22 PIAs)</td>
<td>• Fully paperless for those PIAs in that adopted full electronic usage</td>
</tr>
<tr>
<td>5</td>
<td>Electronic preferential certificates of origin</td>
<td>• PILOT</td>
<td>• MITI is working towards full electronic implementation nationwide by 2011</td>
</tr>
</tbody>
</table>
Malaysian customs implemented its clearance mechanisms in accordance with the 2007 Strategic Trade Act. The NSW covers all commodities as all agencies must use the system.

Three agencies in Malaysia have the authority to issue export permits for timber. These are:

- MTIB in Peninsular Malaysia
- STIDC in Sarawak
- Sabah Forestry Department in Sabah.

These permit-issuing agencies operate in the NSW of Malaysia. In the interview with Dagang Net for this study, a representative from Dagang Net stated that the system is not entirely paperless. Clearance for exports of timber and timber products passes through Dagang Net to be integrated into the Malaysian single window. MTIB, STIDC and the Sabah Forestry Department supply paper documents.

The Ministry of Plantation Industries and Commodities is the coordinating institution for the timber sector. The Ministry of Natural Resources and Environment oversees forestry.

In addition to proof of legality, timber and timber products for export must have CITES certificates and phytosanitary measures on packaging. In the interview, the Dagang Net representative said that the NSW does not cover these yet. Operators must obtain a CITES certificate from National CITES Management Authorities and phytosanitary certificates from the Ministry of Agriculture and Agro-based Industry.

**Figure 4  Malaysia E-commerce environment**

Source: Eswaran (2010)
Procedures for documenting and reporting trade in legal timber and timber products

Malaysia allows the harvesting of logs from three land categories:

- permanent reserved forests (PRF)/permanent forest estate (PFE)
- state land
- alienated land.

One third of PRF/PFE areas are certified under the Malaysian Timber Certification Scheme (MTCS). This means that logs harvested from these forests are deemed both legal and sustainable. The international Programme for the Endorsement of Forest Certification Schemes (PEFC) has endorsed the MTCS. In addition, PRF managers seek certification under voluntary schemes, such as that of the Forest Stewardship Council.

Peninsular Malaysia is also developing a national timber legality assurance system called MY-TLAS to confirm the legality of logs harvested from: non-certified PRF areas, state land, and alienated land, in response to the EU Timber Regulation and other demand-side measures on legal timber. The system considers the standards drafted under the VPA.

Examples of international customs cooperation as a possible model for information exchange between ASEAN member states

Malaysia has begun exchanging electronic Preferential Certificates of Origin (CEPT Form D) with Indonesia and the Philippines through the ASW. Timber-licensing authorities in Malaysia have incorporated Malaysia’s ban on imports of logs and sawn timber from Indonesia into their relevant regulations, by listing them by their HS codes. This makes it possible for authorities to detect efforts to illegally import logs and sawn timber from Indonesia.

VPA legality verification processes for FLEGT licences that can be readily integrated into the country’s customs export permit systems

On 1 February 2013, while VPA negotiations were still underway, Malaysia began trialling a timber legality assurance system known as MY-TLAS, as an independent national initiative to enable exporters to meet the requirements of the EU Timber Regulation. To ensure the system was robust, an independent third-party auditor, SIRIM QAS International Sdn. Bhd, conducted a compliance audit during 4–24 March 2013 using a set of established checklist and guidelines.

When MY-TLAS is ready, it will become part of MTIB’s licensing system. The MTIB online licensing system, or MTIB Core System, has been connected directly online with customs SMK since 2006. Malaysia imports only four types of VPA core products, namely logs, sawn timber, veneer and plywood. Malaysia has prohibited imports of logs from Indonesia because Indonesia has imposed an export ban on those
products. It is not clear whether this import ban is fully enforced. Figure 5 shows that Malaysian authorities check a PEB/SKSHH document at Sarawak Entry Points, although Indonesia has stopped using the SKSHH document.

Figure 5 Handling of imports of timber and timber products in Sarawak

Source: STIDC (2011)

Systems to enable customs authorities to ascertain the legality of timber products imported from other countries

Customs authorities receive licensed timber for export from companies that have obtained licences from Malaysian licensing authorities (MTIB, STIDC and Sabah Forestry Department). Malaysian law also requires that licensing authorities approve imports of logs. Therefore, whether timber imported from other countries is deemed ‘legal’ depends on the mechanism that these licensing authorities adopt. Currently, Malaysian law does not require a certificate of legality of timber from exporting countries, although it does require a CoO. Following are import requirements:

- application form detailing species, quantity and country of export
- confirmation of contract/sales agreement (for timber from specified countries) by Malaysian Embassy or trade office in, or other recognised bodies from, country of export
- company’s registration certificate from Companies Commission of Malaysia.
- To issue import licences, MTIB verifies the following:
  - invoice, bill of lading, CoO
  - Customs Declaration Form for Import (Form CD1).
- The Department of Agriculture inspects consignments for compliance with phytosanitary requirements.
- MTIB inspects the consignment to verify compliance and issues import licence (JK69) to clear customs.
- Import of other timber products:
  - The Department of Agriculture inspects consignment for compliance with phytosanitary requirements.
  - Company submits CD1 Form to Royal Malaysian Customs for customs clearance.
- The verification procedure applies to all consignments.

**Existing regional mechanisms preferred as a platform for managing the legal timber trade**

Malaysia and Indonesia are running trial exchanges between their single window systems. Authorities exchange information on all commodities between Port Klang in Peninsular Malaysia and Tanjung Priok Port near Jakarta. Evaluators deemed the pilot a success in applying single window technologies, but raised questions about privacy and confidentiality, the liability associated with having a ‘central’ system, and the central system operator. The pilot demonstrated that customs cooperation can work and is ready for scaling up. Scaling up may include expanding the scope to cover the trade in verified legally harvested timber between the two countries. However, necessary improvements include tightening management of the risks caused by misuse of the CEPT Form D and creating additional codes so that the system can identify legal timber. Following lessons learnt from the pilot, Malaysia authorities have indicated that they may prefer a bilateral mechanism for managing the legal timber trade in the future.

### 2.2.3 Singapore

**Progress in developing and implementing a National Single Customs Window**

A public–private partnership manages the Singapore Single Window, which is called TradeNet. The private firm, Crimson Logic Pte Ltd, was formed in 1988 to own and operate TradeNet. The company has four members, all government-owned agencies:

- The Singapore Trade Development Board (now IE Singapore): 55%
- Port Authority: 15%
- Civil Aviation Authority: 15%
- Singapore Telecoms (SingTel): 15%

The government structured Crimson Logic as a private, for-profit firm that would manage TradeNet as one of its core functions. The rationale for this system was that it would allow the government to avoid the costs of operating a nationwide network of infrastructure and services. TradeNet generates revenue to cover costs by imposing charges on users. The charges are modest: USD 20/month for each account user and less than
USD 3 for each transaction or permit. Crimson Logic claims the fees through direct debits from users’ bank accounts.

The first transaction completed through TradeNet was a shipping application submitted in January 1989. The shipment was approved in 10 minutes. By the end of 1989, TradeNet handled 45% of all documentation for sea and air shipments. It now handles more than 30,000 declarations each day, processes 90% of permits in 10 minutes, and collects 100% of fees through interbank deductions.

Through the system, traders can process permits, check the status of transactions and make billing enquiries. It also allows users to download lists of permits and code tables showing, for example, country, port and HS codes. Authorities can use the portal to process declarations and make enquiries. TradeNet uses an open platform with Object Oriented Methodology, Java/J2EE technology and operates on the Unix Platform. Data are submitted electronically in UN/EDIFACT standards formats or Extensible Markup Language. Alternatively, users submit data in other formats, which approved software providers translate into the format required by TradeNet.

Despite the success of TradeNet to date, Singapore remains committed to continual improvement. It is planning mobile services such as the delivery of text messages upon approval and the facilitation of business-to-business exchange.

**Procedures for issuing electronic permits for exports of timber and timber products**

The Electronic Transactions Act (ETA) regulates TradeNet. The ETA is based on the UNCITRAL Model Law on Electronic Commerce. The Customs Act authorises the Director-General of Customs to establish and operate a computer service and make provision for trade-related documents to be submitted electronically. The Goods and Services Tax Act authorises electronic filing and payment to the Comptroller General.

It is mandatory to submit permit applications and declarations electronically. Users must register and sign a contract. Fees are statutory and legislated. All data are sent through secure channels, including data for timber.

**Procedures for documenting and reporting trade in legal timber and timber products**

Users submit Singaporean customs export and import declarations using software provided by companies approved by Singapore customs or through the government’s web-based application. The front-end software offers users a variety of data-submission methods. For example, they can submit data over the Internet using the web application, through client-based input or through a host-to-host connection. After a user submits a declaration, the data are sent for automated processing by authorities through TradeNet. The permit-processing module provides an intelligent routing agent that automatically determines the workflow.
required for that particular permit application and routes it to the relevant authorities for their processing. With the built-in intelligence that enables automated processing, more than 90% of the declarations do not require manual intervention and users are able to receive and print their approved cargo clearance permit within 10 minutes (see http://www.unece.org/fileadmin/DAM/cefact/single_window/sw_cases/Download/Singapore.pdf).

Before applying for a permit to trade in timber and timber products, traders must comply with the requirements of the Agri-Food and Veterinary Authority (AVA), which controls the import and export of timber and timber products listed under CITES. AVA verifies all inputs in the system, relevant documents such as CITES permits, invoice, bill of lading and packing list before granting approval. AVA also selects consignments for inspection when necessary.

AVA also inspects all consignments for compliance with phytosanitary requirements before issuing a phytosanitary certificate. Therefore, AVA inspects all consignments before export.

Requirements for the CoO depends on the regulatory authority of the importing country. The CoO for a product can take the form of self-certification by the importer or exporter on the product’s commercial invoice or an official letter by the importer or exporter. The trader can also obtain certification of origin by applying for a CoO to the authorised authority in the exporting country. An authority can issue an Ordinary Certificate of Origin or a Preferential Certificate of Origin if a product meets the criteria for being locally manufactured under the Schemes of Preference and Free Trade Agreement. This criterion is known as the Rules of Origin.

**Ability of customs authorities to identify legal timber products from other countries**

Customs agents have the ability to monitor and control international timber trade by using provisions in customs legislation. In addition, they wield extensive enforcement capacity to enforce customs regulations and to support provisions in other legislation, in relation to illegality in trade.

Importers must obtain the appropriate import permit before importing goods into Singapore, regardless of whether the goods are controlled. This same requirement applies to goods that are imported through dedicated pipelines or through other transport modes that do not pass through conventional checkpoint clearance.

Singapore has enacted laws and systems to enforce CITES. AVA investigates on consignments declared under the wrong HS or product codes. AVA controls imports of the following items:

- ginseng roots
- meat and meat products of animals and birds
• medicines and veterinary needs
• milk powder - skimmed (coloured for animal feed), fresh milk/skimmed/pasteurised from Peninsular Malaysia/Sabah/Sarawak
• organic fertiliser
• plants with/without soil, flowers and seeds
• rhinoceros horn, worked, unworked or prepared and worked and powder of this product
• tableware and kitchenware of :
  − porcelain or china
  − lead crystal
• timber (listed in CITES)
• vegetables (fresh/chilled).

Existing regional mechanisms preferred as a platform for managing the legal timber trade (or whether a new mechanism needs to be set up)

Singapore has indicated no preference between a bilateral or a regional platform.

2.2.4 Thailand

Progress in developing and implementing a National Single Customs Window

In December 2005, the Government of Thailand appointed the Customs Department in the Ministry of Finance as the lead agency for establishing a NSW, in partnership with other agencies. The Thailand Logistics Committee established the National Sub-Committee on Integrated Information Linkage for Import, Export and Logistics, chaired by the Permanent Secretary of the Ministry of Finance. The National Sub-Committee consists of executives from relevant government authorities and business communities. The Thailand Single Window e-Logistics was renamed as the Thailand National Single Window by the National Sub-Committee in January 2008 in order to enhance understanding of the single window development and facilitate integrated data linkage among government and business sectors as well as resource mobilisation related to National Single Window and ASEAN Single Window implementation (see http://asw.asean.org/nsw/thailand/thailand-general-information).

One of the key components of the THAI-NSW introduced in 2007 is called the ‘e-Customs Paperless Service,’ which has enabled automated cargo release and clearance nationwide since 2008. The THAI-NSW began its official operation in July 2008, enabling the exchange of electronic documents among government authorities and business communities in a paperless service environment. As of November 2011, THAI-NSW has about 8 000 subscribers, serving about 100 000 traders and 36 government authorities involved in import, export, logistics and supply chains (see http://www.unescap.org/tid/unnext/pub/brief8.pdf). Government and business sectors have agreed upon the adoption of the ebXML standard, public key infrastructure, and digital signature for
secure electronic document exchange within the single window environment. The National Logistics Committee endorsed the Regulatory Framework Model of the Thailand National Single Window in 2010, as illustrated in Figure 6.

THAI-NSW involves 36 government agencies. Agencies involved in the trade of timber and timber products are the Department of Agriculture, Department of Primary Industries and Mines, Royal Forest Department, Office of the Rubber Replanting Aid Fund and Department of National Parks, Wildlife and Plant Conservation. This engagement of multiple agencies indicates that the THAI-NSW has the capacity to accommodate timber.

The Royal Forest Department (RFD) is preparing for the inclusion of timber goods in the second phase of the NSW. The RFD, Customs and Computer Union Co. Ltd scheduled the completion of this phase for October 2013. According to an agreement made 30 April 2013, testing and partial implementation of the completed NSW would take place in September to November 2013, with full implementation in December 2013.

Figure 6 Conceptual model of Thailand’s national single window

Source: National Logistics Committee (2010)
Procedures for issuing electronic permits for exports of timber and timber products

Thailand’s Electronic Transactions Act (ETA) of 2001 authorises the use and exchange of electronic documents in a paperless environment. The ETA came into force in April 2002. Thailand has since continued to develop and improve its legal framework for electronic transactions, with amendments to the ETA in 2008 allowing for scanned documents to be accepted as originals. The Thai Electronic Transactions Development Agency has drafted a third amendment to the ETA to further facilitate international electronic transactions. Government agencies involved in the THAI-NSW are revising relevant laws and regulations to enhance paperless information sharing with the business sector. This legal setup applies to all commodities, including timber and timber products.

The RFD is not the sole agency in Thailand with responsibility for timber and timber products. The RFD argued that it is not responsible for controlling import and export procedures, as this is the role of customs, the Foreign Trade Department (FTD) and the Ministry of Commerce. Rather, the RFD oversees domestic use only and is only involved in import clearances by working alongside customs to ensure that timber is declared correctly in terms of species, state and quantity, particularly for taxation purposes. Timber for export remains in the custody of customs in the port or customs area. Custody moves to the RFD only when the timber moves out of the port. Exports come under the purview of the FTD. Timber for export must be accompanied by a RFD timber certificate, demonstrating its legality. However, less than 5% of FTD exports require RFD certificates. These are mainly products from eucalyptus plantations such as chipwood, roundwood and sawnwood.

Changing the existing paper-based system to a digital system is not simple. The RFD controls domestic timber use under the Forest Act, B.E. 2484 (1941). Changing to a digital system will involve training for hundreds of RFD officers, especially senior officers.

Procedures for documenting and reporting trade in legal timber and timber products

Problems with determining the legality of timber

Sources of domestically harvested timber and management of trees

- Natural forests: Forest areas are categorised by land use and by legal designation. Thailand reportedly had 17 218 400 ha of forest (34% of the total area of the country) in 2009. Of this, 2.7 million ha was designated as national forest under the control of the RFD. Logging in these forests is banned, so no part of the forest estate is designated as production forest.
- Eucalyptus plantations: Planted eucalyptus species grow in traditional forest blocks and along the edges of farmers’ fields. There are no reliable data on the extent of eucalyptus, but the major mills using timber from these plantations, namely SCG and Double A, report that
a relatively small proportion of these plantations are under the direct control of the mills, whereas farmers plant and manage the bulk using outgrower schemes. Farmers manage plantations on coppice rotations of four years. Therefore, at any time, a large area has either just been felled or is in an early stage of growth.

- A Ministry of Agriculture survey found that in 2008 Thailand had around 2.7 million ha of rubber plantations, with smallholders owning almost all of them. More than 80% of trees older than six years are in the south of the country near the Malaysian border. By contrast, only one third of trees less than six years old are in the south, because of large-scale planting in the north-east of the country.

Having different management schemes for different sources of timber compounds the already high complexity of proving the legality of timber. The RFD has strong capacity to control the timber flow, but it is not the only government agency involved in the harvesting of the trees.

**Imported timber**

Thailand imports timber for domestic consumption and export. Laos, Myanmar/Burma and Malaysia are major sources of imported timber, which takes the form of logs, sawn timber and plywood. Traders in Thailand import a total of more than 7 million m\(^3\) RWE (round wood equivalent) of timber each year. However, not all timber imported into Thailand has a CoO. This creates a critical need to address legality of timber imports.

The RFD is preparing schemes to track timber along the supply chain, using three phases:

- Phase I: Timber tracking for domestically harvested timber
- Phase II: Timber tracking for imported timber
- Phased III: Timber tracking for mixed sources of timber.

The RFD has almost finalised Phase I.

**Problems with documenting and reporting legal timber trade**

Thailand requires that imported timber have a CoO issued by an organisation in the exporting country. The CoO states that the wood in a particular shipment has come from a particular country, but it does not guarantee that this is the real origin of the wood. CoOs do not specify, or make reference to, the past chain of custody. It is widely acknowledged that timber may have been routed through several locations before it physically leaves a country and acquires a CoO.

A CoO is frequently the only document on origin. Shipping documents do provide some form of corroboration, as bills of lading and ships’ manifests are solid pieces of evidence that the wood has been shipped. However, these documents name only the supplier and not the wood’s origin. A CoO is not mandatory for wood imported into Thailand and its use seems to depend on requirements in the country of origin. Many
shipments of wood enter with no CoO. In these cases, the only
documentary evidence of origin are the shipping documents and any
stamps or marks on the timber itself.

A common misconception is that the CoO provides some evidence that
the wood is legal. A CoO does not provide this evidence, which is a
fundamental weakness. If the CoO does not identify the specific location
from which the wood originates, it is not possible to say anything about
its original legality, although a CoO does imply legality of transport. For
example, it is possible that a CoO accurately declares the origin of the
wood, such as the country of origin, but does not specify that it was
illegally harvested in a wildlife reserve.

Timber originating from within Thailand similarly lacks documentary
evidence. The law does not require a CoO for timber purchased locally
from domestic suppliers. However, the RFD can provide a CoO if a
customer requests proof of origin. This kind of certificate may be an
acceptable example of customs cooperation that ASEAN member states
can draw on to exchange information on timber legality. Timber from the
teak plantations managed by FIO provides an example of this type of
evidence when the source is clearly established and supported by
evidence of traceability. At present, however, a CoO does not appear to
be a reliable means of establishing the wood’s true origin.

For domestically produced eucalyptus and rubberwood, the situation is
especially uncertain. The law does not require timber originating from
rubber or eucalyptus plantations to have documentation for transport.

It is highly desirable for Thailand to produce detailed, accurate and timely
data on the domestic production of all wood. Data requirements for
currently ‘exempt’ species need to be considered when developing a
TLAS. Creating such a database requires knowledge of timber
production locations throughout the country and locations of timber
plantations of all species, with data reported annually. Authorities must
collect data at critical control points, including timber sources such as
plantations, forest gate and point of import, and key points such as
factory gates where data checking of data can lead to data quality
control.

Another consideration for developing a paperless system is the need for
a data collection and management system that can provide information
in real time about the status of timber within the main supply chains in
Thailand. The outputs would inform, and provide the supporting evidence
for, decisions related to legality and timber licensing.

**VPA legality verification processes for FLEGT licences that can be readily integrated into the country’s customs export permit systems**

In 2010, the RFD established the first FLEGT Committee. In 2011, the
RFD proposed to the Ministry of Natural Resources and Environment
(MNRE) the establishment of the Thai FLEGT Committee chaired by the
Permanent Secretary of MNRE. Following this initiative, the RFD set up the Office of Forestry Certification at the end of August 2012. Subsequently, the national FLEGT Committee agreed to: finalise the draft of scope of the VPA for negotiations, pursuant to Article 190 of the Thai Constitution, and establish three National FLEGT Sub-committees.

On 26 October 2012, MNRE presented the scope of VPA negotiations to the Council of Ministers for consideration (under Article 190 of the Constitution). The Council of Ministers approved the scope of the VPA and the National Assembly endorsed it.

One of the subcommittees is preparing the THAI-TLAS. Under the current proposal, the THAI-TLAS will have the following features:

- timber legality assurance system for harvested eucalyptus logs on private land, mostly from around paddy fields: District Administration Offices will implement this part of the system.
- timber legality assurance system for harvested rubber logs from trees planted on private land and state land: Office of Rubber Replanting Aid Fund will implement this part of the system.
- timber legality assurance system for forest plantations on state land: the RFD will implement this part of the system.
- timber legality assurance system for logs and timber products from other agricultural trees: Local administrative authorities, including village offices, will implement this part of the system.
- timber legality assurance system for imported timber into Thailand. The authority responsible for implementing the system for imported timber and timber products is yet to be decided.

Systems to enable customs authorities to ascertain the legality of timber products imported from other countries

When a shipment arrives in Thailand, importers must file a goods declaration and supporting documents for the imports with a customs officer at the port of entry. Imported cargo is not considered to have legally entered Thailand until after the shipment has arrived in the port of entry, Customs has authorised delivery of the merchandise and applicable taxes and duties have been paid. It is the responsibility of an importer to arrange for examination and release of the imported cargo. In addition, depending on the nature of the imports, and regardless of value, the importers may need to obtain a permit to facilitate clearance of the imports. Some, not all, of the goods require permits, and the relevant permit issuing agencies should be contacted prior to the importation (see http://www.customs.go.th/wps/wcm/connect/custom/export/importer /importer).

Thailand import procedures have four stages, as follows (see http://www.nepconthailand.com/customs.html):

- The first stage of the import clearance procedure is to submit an import declaration (Customs Form 99 or 99/1) manually or through the EDI system.
The second stage is to prepare the following supporting documents (Customs Notification No. 38/2543): bill of lading or air waybill; three duplicates of invoices; packing list; insurance premium invoice; release form (Customs Form 100/1 or 469); foreign transaction form if the import value exceeds THB 500 000; import licence (if applicable); certificates of origin (if applicable); and other relevant documents such as catalogues, product specifications, etc.

The third stage is to submit the import declaration and all supporting documents for examination by customs at the port of entry (in case of EDI Red Line or manual system). The customs officials will check whether the declaration is properly made, and the supporting documents required are attached. In addition, customs tariff, tax and duty calculation, valuation of goods are also examined at this stage.

The fourth stage is payment of applicable taxes and/or depositing guarantee.

In case of red line (high risk shipment), the minimum documents required to be submitted to customs for the clearance of imports are (see http://www.customs.go.th/wps/wcm/connect/cussten/importexport/importer/importer):

- import declaration
- bill of lading or air waybill
- invoice
- packing list
- import licence (if applicable)
- Certificates of Origin (if applicable)
- other relevant documents such as catalogue, product ingredients, etc.

Thailand has shown that it can work with neighbouring countries to address issues arising in those countries by insisting on CoOs. CoOs may not guarantee legality, but their presence possibly deters traders from using Thailand to launder illegal timber. However, the CoO is not mandatory, so Thailand may create a new regulation requiring that all timber and timber products imported into Thailand be accompanied by a CoO. This will require coordination between countries but Thailand is not alone in developing such procedures. Where timber is imported from a third country, that is, not the original harvest location, exporting countries must take special action to identify sources of supply and ensure reliability of information and authenticity.

**Existing regional mechanisms preferred as a platform for managing the legal timber trade**

Interviews for this study indicate that Thailand would prefer to set up a regional mechanism up under the ATIGA and ASEAN Customs Agreement. However, this will require consultation with timber producers and timber-product manufacturers. Strengthening the legal trade in timber products may be an agenda item for regular ASEAN customs meetings. In addition, Thailand heads the ASEAN Forest Products Industry Council and is willing to discuss timber legality at this level.
2.2.5 Vietnam

**Progress in developing and implementing a National Single Customs Window**

In December 2005, the Government of Vietnam agreed to implement a NSW by 2011, to contribute to the commitment to have the ASW in place by 2012.

On 29 November 2011, the Prime Minister issued Decision No. 2120/QD-TTg on the establishment of the National Steering Committee for ASEAN Single Window and NSW. Another Prime Ministerial Decision ordered a pilot test of the NSW for exports, imports, transit goods and means of transport on entry, exit or transit in accordance with the Law on Customs.

The General Department of Vietnam Customs, Ministry of Finance and the Japan International Cooperation Agency have signed the record of discussion of Japanese Technical Cooperation Project for ‘Promoting E-customs in Vietnam’. The project follows the Japanese grant aid project for ‘E-Customs and National Single Window for Customs Modernisation’. In April 2012, the Government of Japan agreed to establish an environment for operating and maintaining a customs automation system integrated with the Japan National Single Window system (NACCS) which will be transferred to Vietnam Customs (see http://www.jica.go.jp/vietnam/english/office/topics/c8h0vm000001sp52-att/press120409_en.pdf). In 2013, Vietnam also launched the Vietnam Automated Cargo and Port Consolidated System and the Vietnam Customs Information System funded by the Government of Japan. Efforts to simplify administrative procedures, improve import–export operations, modernise customs and develop a NSW are underway.

VN-NSW is a government priority issue and a VN-NSW pilot is planned, with two stages:

- Stage 1, 2011–2013, involving the Ministry of Trade and Ministry of Transport
- Stage 2, from 2014, with more line ministries, including the Ministry of Health and Ministry of Natural Resources.

To implement the VN-NSW, the government set up a National Steering Committee chaired by the Deputy Prime Minister. The Minister of Finance is deputy chair of the Steering Committee and the Vietnam customs department serves as advisory agency. Vietnam customs is also preparing an electronic customs system as required by Decree 87. The system is based on the ASEAN eight-digit HS codes.

The Vietnam Customs Authority has flagged the following possible challenges:

- VN-NSW will involve huge volumes of data, and so customs must retain custody of the database. It is logical to base the database on traded commodities.
• Line ministries will submit data in different formats and using different codes.
• Line ministries may have to make some structural changes. Customs has started reforming its organisational configuration.

**Procedures for issuing electronic permits for exports of timber and timber products**

The customs authority receives an electronic notification when an import licence or permit is issued, because of electronic links with participating government agencies. Some government agencies have also implemented electronic ‘tracking and tracing’ so that importers can quickly identify problems. The government Decree 87/2012/ND-CP on expansion of e-customs procedures came into effect on 1 January 2013. As of February 2013, customs was deploying electronic customs procedures in 21 of the 34 provincial and municipal customs departments (101 customs branches), with the others to join until the end of 2013. The government issued Decree 87/2012/ND-CP on expansion of e-customs procedures, which came into effect on 1 January 2013. The Ministry of Industry and Trade has applied CEPT Form D in the pilot period of VN-SW. A pilot programme on a single e-portal is also underway.

The electronic system will include timber products following the completion of Vietnam’s timber legality assurance system and following training of operators dealing with the harvesting, processing, transport and export of timber products.

**Procedures for documenting and reporting trade in legal timber and timber products (bilateral MoUs, enforcement focal points, ASEAN WEN arrangements, etc.)**

Vietnam customs does not have a separate programme for timber and products. Rather, timber and timber products receive the same treatment as many other commodities and products. However, these products are important in customs clearance because of related environmental issues and Vietnam customs actively addresses issues related to forestry. For example, customs diligently enforces CITES.

Importers are licensed, and timber is confiscated if the importer does not hold a valid licence. Customs see FLEGT licensing as additional work. Until 2011, Vietnam had a 19-digit system for coding traded commodities but it will change to an 8-digit system in compliance with the ASEAN Customs Agreement.

MOIT is the licensing agency that oversees imports from Cambodia. Forestry officers inspect imports of timber and timber products from Cambodia at the entry point. A government regulation deals with imports from other countries by setting out the relationships between licensing agencies.

Although many companies may welcome a system for documenting and reporting trade in licensed legal timber, Vietnam has many SMEs, which
may not record their timber sources. This will create a large burden for proving legality that is outside the capacity of Vietnamese customs.

**Examples of international customs cooperation as a possible model for information exchange between ASEAN member states**

Vietnam has entered into MoUs with China and Cambodia that cover forestry and timber trade but does not include specific and detailed articles on timber products. The agreement with Cambodia deals mainly with administrative support for information and intelligence exchange. The agreement with China concerns administrative support mechanisms and mutual understanding on anti-smuggling measures. Vietnam and China have regular exchange programmes and annual meetings to review information exchange mechanisms for customs cooperation.

In 2012, Vietnam and Laos initiated an MoU on field-level cooperation activities covering forest protection, forest law enforcement, controlling and preventing the illegal trade and transport of timber, forest products and wildlife. Targeted cooperative activities include the following:

- exchange of information, knowledge and experience in preventing and controlling illegal logging
- wildlife hunting and trade and transport of forest products in border regions
- strengthening cooperation in forest fire management
- activities to adapt to changes in international markets
- strengthening cooperation in enforcement of regional and international commitments and conventions
- monitoring and promotion of trade in forest products
- education and awareness raising among communities.

Outside customs cooperation, forestry authorities implement the MoU between Vietnam and Laos. Greater engagement of customs, particularly in dealing with trade, is necessary.

**VPA legality verification processes for FLEGT licences that can be readily integrated into the country’s customs export permit systems**

The Vietnamese government and the EU announced the start of formal VPA negotiations on 18 August 2010. Formal negotiations started in November 2010. During the third negotiation session in Brussels on 14 November 2012, the two sides discussed Vietnam’s timber legality definition, the future timber legality assurance system, how to trace legality of timber imports given that Vietnam sources timber from more than 30 countries and which timber products the VPA would cover.

Vietnam is still developing its timber legality assurance system for both domestic consumption and export markets. The Vietnamese government was concerned that FLEGT-licensed timber would not be available in Vietnam when the EU Timber Regulation came into force on 3 March 2013.
However, the government issued Circular No. 01/2012/TT-BNNPTNT on ‘Regulation of documentation concerning the legality and the inspection of the source of forest products’. This circular refers to managing the circulation of forest products to protect national forest resources, and granting permits to prove the legal origin of timber to meet the requirements of the US Lacey Act and the EU Timber Regulation. In terms of institutional preparedness, Vietnam has established a Standing Office for FLEGT and a Lacey Act Administration of Forestry in the Forest Sector Support Program premises.

Systems to enable customs authorities to ascertain the legality of timber products imported from other countries

The government is still considering how to define ‘legal’ timber. In 2010, the Vietnam timber legality assurance system Technical Working Group developed plans to conduct research in the following three areas:

- Vietnam’s timber legality definition
- domestic and imported timber flows
- stakeholder analysis.

In September 2011, the government established the timber legality drafting team and timber legality assurance system drafting team. Members of these teams come from government agencies in trade, finance, customs, foreign affairs, justice, two NGOs and one industry association.

When the legality definition and timber legality assurance system are operational, the Vietnam Customs Authority may directly improve its capacity to identify legal timber in imports and exports.

Existing regional mechanisms preferred as a platform for managing the legal timber trade (or whether a new mechanism needs to be set up)

Vietnam has revealed a preference for bilateral mechanisms, given MoUs with its neighbours China, Cambodia and Laos. An agreement with Indonesia is planned.

2.3 Other ASEAN member states

This study did not include visits to other ASEAN member states, so no details are available on those countries’ preparations of the NSW, timber legality assurance system and incorporation of legal timber and timber products into the NSW. For these countries, information came primarily from Internet research and so findings are unconfirmed (Table 4). The matrix does not include Brunei Darussalam because of its small volume of timber trade.
<table>
<thead>
<tr>
<th>Aspect</th>
<th>Myanmar/Burma</th>
<th>Laos</th>
<th>Cambodia</th>
<th>The Philippines</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development and implementation of NSW</td>
<td>No clear information</td>
<td>Preparations commenced in 2012</td>
<td>Steering Committee on NWS established in 2008</td>
<td>Executive Order 482 established NSW Task Force</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Three IT models for the NSW system under testing</td>
<td></td>
</tr>
<tr>
<td>Procedures for issuing electronic permits for exports of timber and</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>timber products</td>
<td>No clear information</td>
<td>Under development</td>
<td>Implemented by the General Director of Customs and</td>
<td>Forestry is included but no clear procedures for its products yet</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Exercise</td>
<td></td>
</tr>
<tr>
<td>Procedures for documenting and reporting trade in legal timber and</td>
<td>Ongoing, discussions with EU underway</td>
<td>Ongoing, discussions with EU and donors</td>
<td>Under development</td>
<td>Not yet in place. Preliminary contact with EU has been made</td>
</tr>
<tr>
<td>timber products</td>
<td></td>
<td>underway</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Examples of international customs cooperation as a possible model for</td>
<td>Cross Border Trade Agreement with Bangladesh, Bangladesh,</td>
<td>Cross-border trade agreements with China,</td>
<td>On 27 June 2012, Cambodia’s Forestry Administration,</td>
<td>The Philippines is committed to following World Customs Organization’s</td>
</tr>
<tr>
<td>information exchange between ASEAN member states</td>
<td>India, Laos, Thailand</td>
<td>Thailand and Vietnam</td>
<td>Ministry of Agriculture, Forestry and Fisheries signed</td>
<td>procedures</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>an MoU on forestry with Vietnam’s Administration of</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Forestry in the Ministry of Agriculture and Rural</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Development</td>
<td></td>
</tr>
</tbody>
</table>
3 Harmonisation of customs procedures and prospects for managing trade in legal timber

Several interviewees in this scoping study pointed out that customs lies at the end of a chain of verification of traded goods. Therefore, respondents see harmonisation of customs classifications and procedures as purely technical aspects to serve customs cooperation initiatives. On the other hand, growing demand to verify the legality of traded goods requires customs authorities to take an active role. Concerns about the legality of timber have increased considerably throughout the ASEAN region, as legality verification becomes a prerequisite for trade. The introduction of VPAs and the EU Timber Regulation has caused a positive industry response and these legal instruments have a direct effect on exports and imports of timber and timber products for ASEAN and ASEAN member states. As awareness has grown, calls for customs to adjust their export and import procedures have become frequent in all member states. Adjustments for the European market are occurring at the same time that ASEAN member states prepare for the ASW.

The previous sections looked at progress in NSW development and customs collaboration in ASEAN and in four member states, namely Indonesia, Malaysia, Thailand and Vietnam. The sections also looked at each country’s preparations of timber legality assurance system. The following issues emerged throughout:

- readiness of harmonisation of customs classifications (AHTN) and procedures
- readiness of timber legality assurance system
- readiness of NSW
- readiness of timber legality assurance system elements for incorporation into customs procedures and NSWs.

Most ASEAN member states have made progress in using the eight-digit system for customs classification, and have made the necessary legal amendments accordingly. Singapore is still using a 12-digit customs classification system and has provided no clear technical explanation for how this 12-digit systems is to be harmonised with the 8-digit system.

The previous section also provided examples of customs cooperation. The following sections look at these frameworks of customs cooperation to identify opportunities for greater cooperation in managing the trade of legal timber products in the ASEAN region.
3.1 Customs cooperation under ATIGA and the ASEAN Customs Agreement

The aim of ATIGA, made in 2010, was to achieve ‘free flow of goods in ASEAN as one of the principal means to establish a single market and production base for the deeper economic integration of the region towards the realisation of the AEC1 by 2015’. When it came into force, ATIGA replaced the previous scheme, known as Common Effective Preferential Tariff (CEPT).

ATIGA Form D replaced CEPT Form D. Form D is the certificate of origin that a national government issues to exporters so that their counterpart importers can get a preferential rate (see http://www.unescap.org/tid/unnex/tools/dhmg-annex4-1.pdf). As shown in Figure 7, ATIGA Form D requires information on the exporter, the importer, the conveyance route, the product, the country that issued the certificate and the purpose. Origin Criterion (circled) is the part of this form to which a legal timber certificate may be added.
Figure 7 ATIGA Form D, with potential for legal origin of timber to be added (circled)

Source: ATIGA (2011)
The part of ATIGA that is relevant to customs cooperation and therefore to legal timber trade appears primarily in the chapter on Rules of Origin (see section 2.1.3). ATIGA is already used and offers an opportunity to express the legality of timber when traded.

As mentioned earlier, the ASEAN Directors-General of Customs first signed an ASEAN Customs Code of Conduct in 1983. The code was revised in 1995 to reflect the latest developments in ASEAN, particularly AFTA. Through this Code of Conduct, member states committed to simplifying and harmonising trade procedures for intra-ASEAN trade and to enhancing regional cooperation in customs. Member states further deepened and broadened this commitment with the signing of the ASEAN Agreement on Customs by the First ASEAN Finance Ministers’ Meeting on 1 March 1997 in Phuket, Thailand. The 2012 ASEAN Customs Agreement amended the 1997 agreement. In the 2012 Agreement, the countries agreed:

- to use the common tariff nomenclature in the AHTN to make it easier for traders operating in the region.
- to continuously simplify and harmonise customs procedures, to expedite the clearance of goods and thus reduce time and transaction costs at customs points. The states agreed to follow the standards and recommended practices set out in the Kyoto Convention on the simplification and harmonisation of customs procedures.
- to exchange vital information to aid the prevention and repression of smuggling, trafficking of narcotics and psychotropic substances, and other customs fraud.
- to encourage cooperation and consultations with private enterprises in ASEAN, particularly on ways to further facilitate trade within the ASEAN region.

This existing framework offers considerable potential for ASEAN member states to document the legality of timber in trade both within and outside the ASEAN region. Customs exchanges through ATIGA Form D and agreements on CoOs may be the most suitable schemes for supporting the legal timber trade, and are certainly appropriate for use in developing the ASW. Control of timber trade can shift from customs to other relevant enforcement and technical agencies. As these schemes have a risk-based approach, they encourage efficiency in controls. The aggregation of markets at regional level will lead to greater support of legal timber trade in ASEAN and give EU operators even greater assurance that timber exported from ASEAN member states complies with the EU Timber Regulation.
3.2 Customs cooperation under RILO and its instruments

RILO provides mechanisms and instruments for intelligence work within the customs working area. RILO instruments such as ENVIRONET and CEN create an effective framework for cooperation. However, this framework deals not with the procedural requirements of customs, but rather responds to cases reported by RILO. Although not directly suitable for the ASW, it may serve as a complementary framework for the trade in legal timber. Reports of cases are valuable as they are highly effective in campaigns against illegal trade or customs fraud. From the perspective of the EU and other international markets, drawing on the RILO framework would enhance the credibility of measures to keep the timber trade legal.

3.3 Customs cooperation under the ARISE programme

ARISE is expected to strengthen economic integration processes and deliver the following results:

- enhanced management of integration processes through intensified EU-ASEAN dialogue on wider strategic options drawing on EU experience.
- monitoring system in place for the specific integration initiatives under the programme.
- freer flow of goods within ASEAN, including facilitation of goods in transit, multimodal transport, facilitation of interstate transport and preparation for the implementation of the pilot ASEAN customs transit system.

Timber is not included in the scope of commodities covered by the ARISE programme. Nevertheless, the EU and ASEAN may wish to consider requiring the inclusion of timber in future programmes related to trade facilitation. If this were the case, ASEAN and its member states could use the ARISE framework to strengthen customs cooperation in trading legal timber products and thus integrate the programme into the single window system. ARISE tools and products may prove highly suitable for communications between ASEAN member states and between ASEAN and the rest of the world. Information exchange and enforcement can be made more specific to the cross-border areas of ASEAN member states, which is also a major issue for the timber trade. Efforts to sell products to the EU and other international markets may yield greater results, because the EU is actively involved in the ARISE Programme.
3.4 Customs cooperation in the ASEAN WEN framework

ASEAN WEN engages all 10 ASEAN countries, China and the United States. It works on two levels. At national level, participant governments create interagency environment crime task forces that involve police, customs and environment officers. At regional level, task forces serve as focal points for efforts to reduce transnational wildlife crime and for exchanging intelligence between countries about cross-border syndicates.

Project activities include the following:

- compilation of wildlife law enforcement data in participating countries to provide baseline data for measuring ASEAN WEN impacts and successes
- surveys to allow identification of potential task force participants and help set priorities for training and capacity-building activities
- specific courses and workshops to provide the means to build and sustain effective wildlife law enforcement
- training packages developed in concert with government agencies and in local languages, helping to address gaps in wildlife law enforcement skills development
- increased public understanding about the illegal wildlife trade and civil society support, essential for addressing wildlife crime
- increase in roles of nongovernmental, media, and corporate organisations so they provide additional support and publicity for ASEAN WEN.

ASEAN WEN is a cooperation framework that has demonstrated its effectiveness. Customs is involved at national level. At regional level, cooperation concentrates more on intelligence work. The framework design is based on cases using reports generated by intelligence work. Communication is effective with bilateral and regional coordination. This framework is about illegal trafficking, and does not apply to legal trade. ASEAN member states do not consider this framework as a suitable option for managing the legal timber trade through the ASW, in the customs single window system, even though its control mechanisms and campaigns are strong.

3.5 Customs cooperation under bilateral schemes

Malaysia has tested bilateral schemes for electronic customs data exchange with Indonesia and with the Philippines. When the member states’ NSWs are fully operational the effectiveness of customs cooperation in legal timber will improve. However, the Philippines has not included specific requirements for timber legality in its NSW and Malaysia is still finalising its system for verifying legal timber products.
Communication in real time has proven effective, and ATIGA-CEPT Form D can cover timber. Countries still have to develop ways to ensure the credibility of data exchange, and international trading partners may have to wait until authorities have incorporated every component of legal timber into the national and ASEAN single windows.

Forestry and customs cooperation between Vietnam, Laos and Cambodia is focusing on the cross-border timber trade with the aim of using cross-border information exchange and legal measures to reduce illegal logging.

Discussions and interviews for this scoping study indicate that most countries prefer such bilateral arrangements for incorporating legal timber into customs single window cooperation. The main suggested criteria to select the options are simplicity and practicability.

At regional level, representatives of customs and forestry at regional workshops and government officials interviewed for this study identified the need to intensify joint regional meetings between forestry and customs, with authorities from each sector also invited to the other sector’s meetings.

Table 5 assesses the framework that (will be) available against needs associated with legal timber trade.
### Table 5  Assessment of the potential effectiveness of communication, control, promotion and market benefits of different types of cooperation

<table>
<thead>
<tr>
<th>Level</th>
<th>Type of harmonisation</th>
<th>Suitability for single window mechanism</th>
<th>Communication</th>
<th>Control</th>
<th>Promotion</th>
<th>Towards EU/other market</th>
</tr>
</thead>
<tbody>
<tr>
<td>ASEAN</td>
<td>Using current ATIGA-CEPT format Form D+ in single window system</td>
<td>Fully suitable (part of single window)</td>
<td>Internal communications within ASEAN member states is guaranteed. External communication mechanism needs further refinement</td>
<td>High</td>
<td>Following the benefits of ASW in international market</td>
<td>Neutral</td>
</tr>
<tr>
<td></td>
<td>Using RILO instruments, intelligence work – violation of regulations/agreements and CEN database</td>
<td>Bridging or transition mechanisms are required</td>
<td>Good instrument for campaign against trade in illegal wood products</td>
<td>High control by WCO</td>
<td>Only enforcement related</td>
<td>Control by WCO increases effects to the international market</td>
</tr>
<tr>
<td></td>
<td>Using mechanisms developed by APRIS II/ARISE, which aim at strengthening overall management of ASEAN economic integration</td>
<td>Potentially suitable for inclusion in single window</td>
<td>Dialogues and communication are embedded in the design of ARISE</td>
<td>Potentially high when implemented for timber</td>
<td>Including timber in the programme may enhance promotion significantly</td>
<td>High potential for use as additional instrument to strengthen EU–ASEAN Trade</td>
</tr>
<tr>
<td></td>
<td>Using ASEAN–WEN arrangements</td>
<td>Less suitable, unless the mechanism is adjusted to complement TLASs</td>
<td>Communication and campaign on WEN is in place; very effective</td>
<td>Control depends on the mechanism of reporting, which is not compulsory and enforced by agencies other than customs</td>
<td>Not predesigned for promotion</td>
<td>Effective for countries that have ratified CITES; effective for ASEAN–US timber trade under CITES (Appendices II and III)</td>
</tr>
<tr>
<td>Level</td>
<td>Type of harmonisation</td>
<td>Suitability for single window mechanism</td>
<td>Communication</td>
<td>Control</td>
<td>Promotion</td>
<td>Towards EU/other market</td>
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<td>---------------------------------------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Bilateral</td>
<td>Vietnam–Lao–Cambodia</td>
<td>Needs several additional steps to form part of the single window</td>
<td>Limited communication to countries engaged in the MoUs</td>
<td>Control of legal timber trade is limited to the degree of detail information exchange among parties</td>
<td>Limited, not sufficiently detailed</td>
<td>Need for special arrangements in the VPA when TLAS are operational</td>
</tr>
<tr>
<td></td>
<td>Malaysia–the Philippines–Indonesia</td>
<td>Predesigned for single window system and when Malaysian and Philippines TLAS are operational</td>
<td>Limited communication to the countries engaged in the MoUs</td>
<td>Control is high for bilateral trading</td>
<td>Limited</td>
<td>Need for special arrangements in the VPA</td>
</tr>
<tr>
<td></td>
<td>Thailand–Indonesia on Fruit exports</td>
<td>If it is adopted for timber and Thailand’s TLAS is operational, then this mechanism may be ready to be attached to single window system</td>
<td>Limited communication to the countries engaged in the MoUs</td>
<td>Control is high for bilateral trading</td>
<td>Could be made effective for special trading agreement of timber products</td>
<td>Need for special arrangement in the VPA mechanisms</td>
</tr>
</tbody>
</table>
4 Concluding remarks

1. Every ASEAN member state is making serious efforts to expedite the development and adoption of single window systems. ASEAN member states already see single window systems as necessary to meet international trade demands.

2. All ASEAN member states are making progress, but some are more advanced than others.

3. All NSWs cover timber and timber products. Some countries already have in their NSW a mechanism for timber and timber products. All member states are prioritising the use of information and communications technology.

4. Development partners have assisted ASEAN in preparing the ASW. ASEAN requires further support to achieve its 2015 ASW targets.

5. ASEAN may also wish to engage with the WCO-RILO in the Asia-Pacific region. Networking for customs enforcement has demonstrated its effectiveness in the past and could be intensified in the future.

6. ASEAN programmes for harmonising customs procedures must be sustained. Harmonisation may also be developed to specifically address the timber legality assurance system and licensing mechanisms.
5 Recommendations

5.1 Timber legality and related trade (imports/exports) within ASEAN and to other markets

Timber markets worldwide are increasingly responding to the problem of illegal timber and its associated trade. Consumer countries such as the EU, the United States and Australia have developed policies to keep illegal timber from entering their markets. A large proportion of timber exports from ASEAN countries go to these countries. Malaysia, Vietnam, Laos and Thailand are negotiating a VPA with the EU and Indonesia has begun implementing one. Good forest management and responsible timber trade depend on timber-exporting countries implementing timber legality assurance and consumer countries enforcing regulations on timber legality. Within this context, the study offers the following recommendations:

1. A high priority for ASEAN member states is to expedite the development of their national timber legality assurance systems. Indonesia’s and Malaysia’s experiences with developing their systems offer lessons for other countries. Other lessons can be drawn from the ASEAN regional reference framework for timber legality, the Guidelines for Chain of Custody of Legal Timber and Sustainable Timber and the experiences of other countries, such as African countries that have signed VPAs. Lessons from a series of three training workshops on timber legality assurance, facilitated by EFI, indicate that principles and basic processes for developing a timber legality assurance system can be formulated and used as general guidelines for other member states. EFI, in support of the ASEAN Secretariat, may follow up this recommendation.

2. All ASEAN member states except Singapore are still developing a NSW. Development of the timber legality assurance system and NSW may take place together. ASEAN member states can then integrate the development of the timber legality assurance system into NSW development. This may increase the effectiveness of the timber legality assurance system, allowing it to become also an effective instrument for documenting and reporting timber exports to ASEAN trade partners and to the international market.

3. The EU Timber Regulation establishes requirements for timber imports into the EU. These requirements are relevant for exports by all ASEAN member states, whether their products are made from domestic or imported timber. ASEAN states use different methods and documents to demonstrate legal origin of timber, including a wide range of generic documents, country-specific
solutions, voluntary verification and certification, and measures discussed in VPA negotiations. Many of these documents are only used at national level, whereas others are relevant for international markets because they inform the importing country or company about the legality of the timber. Countries can simultaneously improve their documentation and licensing mechanisms to best fit their NSW. Streamlining efforts in this way would make the exchange of documents between member states more effective. This will lead to more standardised documentation that the ASW can then use for communications relevant to timber trade. Developing such standards will lead to greater clarity on procedures and documents associated with customs clearance in legal timber trade.

4 Imports of timber into VPA partner countries for export to the EU pose a credibility problem for VPAs if the Agreement does not regulate them, because the EU Timber Regulation recognises a FLEGT licence as acceptable proof of legality. ASEAN member states negotiating a VPA are recommended to address the legality of imported timber in their timber legality assurance system.

5 Timber associations and NGOs also have a role to play in promoting responsible sourcing practices. It is recommended that countries focus heavily on information exchange through ASEAN platforms on forestry, trade and customs, and to building understanding of how timber legality is demonstrated under existing national systems.

5.2 Customs cooperation on timber legality assurance

A frequently made point in the interviews for this study is that customs plays its role at each end of export and import processes. Therefore, authorities dealing with timber for export or import must be ready to become more active in approaching customs authorities and collaborating with customs. The study offers the following recommendations in this sphere:

1 Competent operators require information exchange through ASEAN platforms on forestry, trade and customs. All relevant officials and economic operators require greater capacity building so they can deal with legal timber trade under the single window system. The ASEAN Secretariat can organise meetings and design technical capacity-building activities.

2 Customs authorities at each end of export and import processes need training in timber legality. ASEAN holds regular meetings for customs departments, and at the technical level is the ASEAN CPTFWG, which is designed to work on issues related to
customs integration. CPTFWG prepares recommendations on strategic customs cooperation and trade facilitation. Timber trade may therefore come under the purview of CPTFWG if it is seen as strategic to do so. It is recommended that forestry officers participate in CPTFWG meetings so that timber legality may be intensively discussed under customs affairs.

3 It is recommended that ASEAN undertake considerable capacity-building on timber legality at national and regional levels. Furthermore, ASEAN could build on member states’ positive experiences with stakeholder involvement in VPAs and timber legality assurance and explore ways to achieve more meaningful stakeholder engagement and integration in the development of timber legality assurance systems.

4 It is recommended that ASEAN expand its pilot programmes on the harmonisation of ASEAN customs procedures, based on eight-digit AHTN code, and undertake targeted measures to improve communication, control and promotion of FLEGT-licensed timber within the region, especially in Indonesia, Malaysia, Singapore, Thailand and Vietnam. A specific activity in piloting common customs procedures may be to include timber legality as an additional requirement in the current pilot project with ATIGA Form D (under Origin Criterion). Including legality of timber in ATIGA Form D will increase credibility in the eyes of the international market because this Form D relates to the World Customs Organization Data Model 3.0. Enforcing timber legality requirements, particularly in the regional market, may lead to benefits from services delivered by WCO RILO (Regional Intelligence Liaison Offices).
6 Documents reviewed for this study


Association of Southeast Nations (ASEAN) 2009. Report of the Eighth Meeting of the Working Group on a Pan-ASEAN Timber Certification Initiative, 8–9 April. ASEAN, Bandar Seri Begawan, Brunei Darussalam.


Hinrichs, A. 2009. Briefing Note on ASEAN Criteria and Indicators for Legality of Timber. ASEAN, Jakarta, Indonesia.


