

V-Legal/FLEGT Shipment Test: Key lessons from processing FLEGT licences in the EU

Gunther Hentschel

Technical Consultant, Efeca

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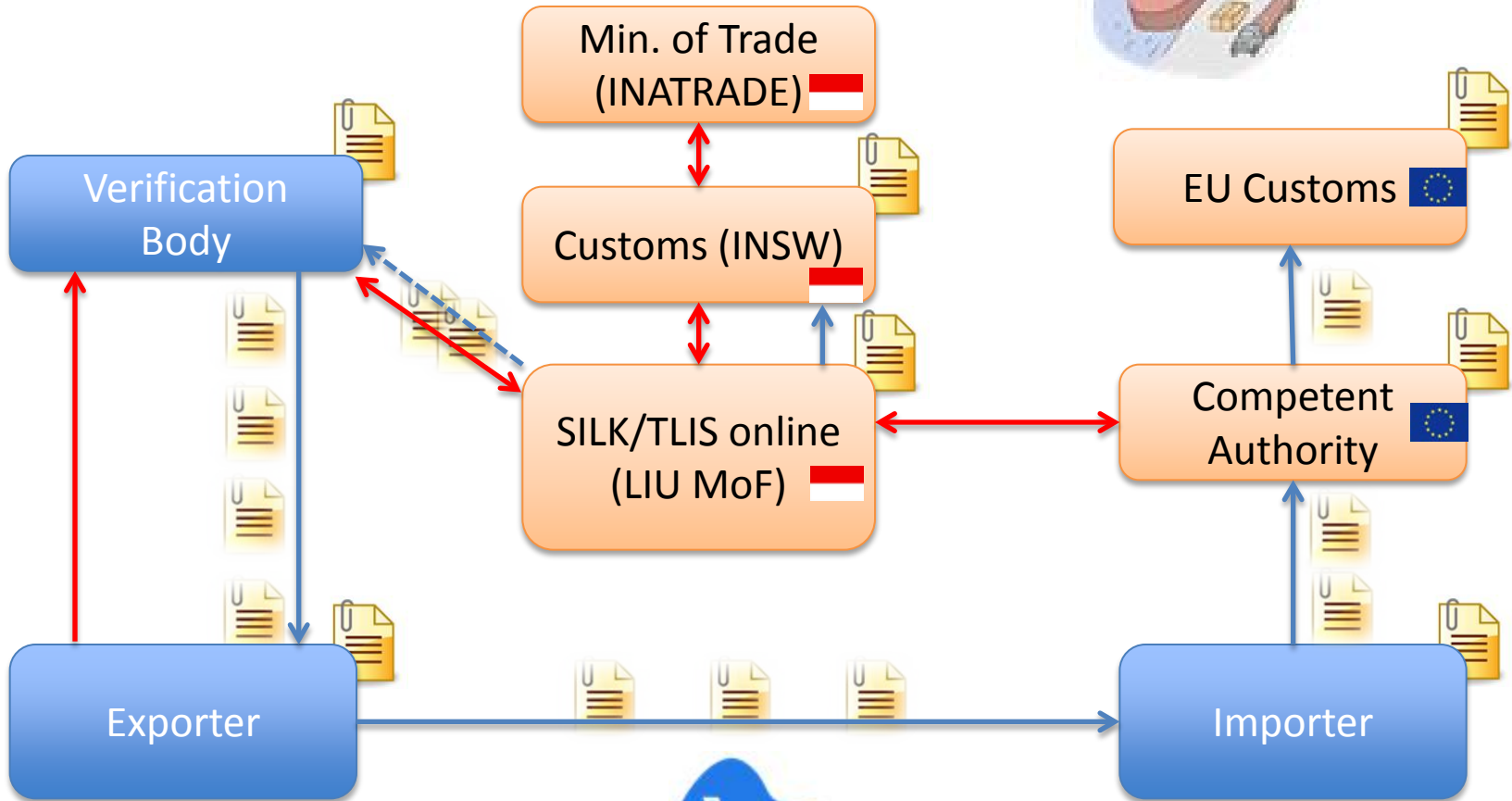
Content

- Shipment test details
- The licensing scheme with Indonesia
- General clearance process and SAD
- Role of the private sector
- Role of the authorities on the EU side
- Format of the licences & related issues
- Issues with the shipping process
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- Recommendations

Shipment test details

- 17 Indonesian exporters and 29 EU importers
 - Plywood, joinery, mouldings, paper, furniture
- 5 participating EU Member States
 - Cyprus, Denmark, Germany, Netherlands, UK
- Competent Authorities, Customs, Agents, Forwarding Agents, Importers
- Test-run only, legal provisions will apply once the VPA is operational
- Assess processes, capacity and effectiveness of actors involved in handling FLEGT licences

Issuance of V-Legal/FLEGT licences



→ licences

→ information

Private organisations

Public organisations



General clearance process

- Forwarding agents on behalf of the importer enter the data from shipping documents into customs' system
- Defined measures require e.g. entering licence number for HS Code and country
- Underlying risk profile specifies required actions, e.g. original documents or inspections
- Release for free circulation

SAD data entry mask

Goederencode (vak 33) TARIC-onderverdeling Eerste aanvullende TARIC-code Tweede aanvullende TARIC-code Nationale onderverdeling Nationale accijnscode
 clear 44072510 00 0000 0000 00

Goederen omschrijving (vak 31)
 MERANTI VINGERLAS, BEWERKT TROPISCH LOOFHOUT

44 of 260

Soort verpakking (vak 31) Aantal colli Merken en nummers
 BE - BUNDEL (BUNDLE) 1

Bruto massa (vak 35) 2236
 Netto massa (vak 38) 2147
 Aanvullende eenheden (vak 41) 4

Gegevens

Gevraagde regeling (vak 37) 40 - IVVEN
 Voorafgaande regeling (vak 37) 00 - NIET BE
 Verbijzondering van de regeling (vak 37) -
 Code land van oorsprong (vak 34a) ID - INDONE
 Aanvullende code productschap (vak 31)

Communautaire preferentie (vak 36) 200 - TDEP
 Preferentie/contingent code (vak 39) 035 - TARIET
 Prijs van de goederen (vak 42) 5299
 Statistische-/douanewaarde (vak 46) 7

Kostenfactor
 VZ - Verzekeringskosten tot plaats van binnenkomst

Overige

Soort bescheid (vak 44) N865 - FORMULIER A; OOK FACTUURVERKLARING FORM. A
 Identificeer bescheid (vak 44) 0081508/SBY/2012

N853 - GEMEENSCHAPPELIJK (VETERINAIR) DOC. VAN BINNENKOMST (GDB)
 N862 - VERKLARING VAN OORSPRONG
 N864 - PREFERENTIEEL OORSPRONGSCERTIFICAAT
 N865 - FORMULIER A; OOK FACTUURVERKLARING FORM. A
 N934 - DV1
 N935 - FACTUUR
 N952 - CARNET T.I.R.
 N954 - EUR. 1 CERTIFICAAT; OOK FACTUURVERKLARING
 N955 - CARNET ATA
 N990 - VERG. GEBRUIK EC DOUANEREG. VOOR GEBRUIK VAN BLIJZ.BESTEMMING
 U002 - CERTIFICAAT VAN OORSPRONG LANDBOUWPRODUCTEN
 U003 - CERTIFICAAT VAN OORSPRONG ALGEMEEN
 U004 - BEWUS VAN OORSPRONG
 U005 - OORSPRONGSBENAMINGSCERTIFICAAT
 U030 - VERKLARING ILO
 U031 - EUR. 1 MET DE VERMELDING AFWIJKING BESLUIT N. 2009/776/EG
 U040 - BEWUS VAN OORSPRONG ALGEMEEN
 U043 - CERT. EUR. 1 MET VERM. "DEROGATION-DECISION 2005/578/EG"
 U045 - CERTIFICAAT INZAKE GOEDERENVERKEER EUR-MED
 U048 - FACTUURVERKLARING EUR-MED
 U049 - CERT. EUR. 1 MET VERM. "DEROGATION-DECISION NO 2007/167/EG"
 U050 - CERT. EUR. 1 MET VERM. "DEROGATION-DECISION 2008/767/EC"
 U052 - FORM. A MET VERM. "AFWIJKING-VO(EU) 439/2011"
 U055 - CERT. EUR. 1 MET VERM. "DEROGATION-DECISION 2008/820/EC"
 U057 - CERT. EUR. 1 MET VERM. "DEROGATION-DECISION 2011/047UE"
 U058 - CERT. EUR. 1 MET VERM. DEROGATION-DECISION 2011/122UE
 U059 - VERKLARING VAN OORSPRONG
 U060 - VERKLARING VAN OORSPRONG
 U064 - CERTIFICAAT INZAKE GOEDERENVERKEER EUR. 1
 U066 - Certificaat van oorsprong Kazachstan

Role of the importer

- Forward the “Original” and “Copy for EU Customs Authority” to the FLEGT Competent Authority for verification of the validity and authenticity of the licence
- Insert "FLEGT" and the licence number in box 44 of the Single Administrative Document for customs declaration
- Most likely forwarding agents will handle this administrative process on behalf of the importer

Role of the Competent Authority

- Verification of the validity and authenticity of the FLEGT licence
- Where necessary, physical checks will be carried out (*may be delegated to customs in certain cases*)
- Communication with LIU Indonesia in case of any concerns regarding the validity of the licence or missing information
- Provision of the FLEGT Licence approved by the Competent Authority to the Customs Authority
- CAs need 1-3 days to process the licences

Role of EU Customs





- Verification of the import consignments being accompanied with FLEGT licences
- Verification of the FLEGT Competent Authority having approved the FLEGT licence
- Potential physical checks initiated by the CA
- Release products for free circulation according to normal procedures
 - *Note: as for the FLEGT shipment test, customs did not have the mandate to seize any shipments*

V-Legal document/FLEGT licence



A EUROPEAN UNION		Indonesian LEGAL Wood		FLEGT B	
ORIGINAL	1	1 Issuing authority Name LVLK BRIK Address GEDUNG MANGGALA WANABAKTI BLOK IV LANTAI 8-WING C JL. GATOT SUBROTO, SENAYAN, DKI JAKARTA 10270 Authority registration number LVLK-001-IDN	2 Importer Name [REDACTED] Address [REDACTED] UNITED KINGDOM Country of destination and ISO Code UNITED KINGDOM - GB Port of loading TANJUNG PRIOK Port of discharge FELIXSTOWE Value (USD) 8,945.98		
		3 V-Legal/FLEGT licence number 12.12005-00017.001-ID-GB	4 Date of Expiry 15 FEB 2013		
		5 Country of export INDONESIA	7 Means of transport BY SEA		
		6 ISO Code ID			
		8 Licensee Name PT [REDACTED] INDONESIA Address [REDACTED] ETPIK Number [REDACTED]-REV.3/UPP/ETPIK/V/2012 Tax Payer Number [REDACTED] 17.9-057.000			
		9 Commercial description of the timber products FSC MERANTI DOOR, FSC OAK DOOR, FSC PINE DOOR			10 HS-Heading 4418
	1				

V-Legal document/FLEGT licence

11 Common and Scientific Names MERANTI (<i>Shorea spp.</i>); OAK (<i>Quercus spp.</i>); PINE (<i>Pinus spp.</i>)			12 Country of harvest INDONESIA; URUGUAY; NEW ZEALAND		13 ISO Codes ID;UY;NZ
14 Volume (m3) 25.3500	15 Net Weight (kg) 12,675.00	16 Number of units 638			
17 Distinguishing marks INVOICE: ████████ 382-10 ISSUED			 0003655039		
18 Signature and stamp of issuing authority  Name PUDIYANTORO, SE Place and date JAKARTA, 18 OCTOBER 2012					
0735E876B23BD3A890939FABA61C6843ED54315BD477961A694E03B34BB59EF1					

Issues with the licence format

- Field 2: “Value (USD)” may alert customs and is commercially sensitive (agents)
- Displaying exporter and importer is sensitive
- Field 14, 15, 16: all entries required
- Field 17: “Distinguishing Marks” do not provide a clear link (invoice and barcode)
- Field 18: CAs need samples for “Signatures”
- The link between the FLEGT license and the shipment is not necessarily clear

Issues with the shipping process

- Consignment being split up into different vessels/ transport batches (→ volumes do not match, 1 licence for 2 Custom declarations)
- The recipient of the goods changes during the shipping (→ the importer does not match)
- The port of destination changes (→ the port and/or country of destination do not match)
- Does the FLEGT Regulation enable reissuance of a licence?

FLEGT Regulation Art.2

5. ‘FLEGT licence’ means a shipment-based or market participant-based document of a standard format which is to be forgery-resistant, tamper-proof, and verifiable, and which refers to a shipment as being in compliance with the requirements of the FLEGT licensing scheme, duly issued and validated by a partner country’s licensing authority.

- “Shipment-based” document should be further defined or amended, e.g. such document being linked with Bill of Ladings
- A “market participant-based” document does not ensure linking a license to a particular shipment
- Based on the test run documents, Customs expressed concern that the FLEGT license could be relatively easy to falsify

FLEGT Regulation Art.4

1. Imports into the Community of timber products exported from partner countries shall be prohibited unless the shipment is covered by a FLEGT licence.
 - Concerning the roles of CA and Customs, it should be clarified that “covered” means a FLEGT license approved by the CA

FLEGT Regulation Art.5

1. A FLEGT licence covering each shipment shall be available to the competent authority at the same time as the customs declaration for that shipment is presented for release for free circulation in the Community. The competent authorities shall keep a record — in electronic or paper format — of the original FLEGT licence together with the corresponding customs declaration.

- CAs would need a FLEGT licence min. 3 days before the customs declaration
- CAs do not keep records of customs declarations

FLEGT Regulation Art.5

7. Customs authorities may suspend the release of or detain timber products where they have reason to believe that the licence may not be valid.

- The approval of the licence status is the obligation of the CA prior to release for free circulation; Customs should suspend or detain where the consignment does not match the licence data

FLEGT Regulation Art.7

2. The Commission shall provide all competent authorities of the Member States with the names and other relevant details of the licensing authorities designated by partner countries, authenticated specimens of stamps and signatures attesting that a licence has been legally issued, and any other relevant information received in respect of licences.

- As for the VPA with Indonesia, CAs seek information directly from the Licensing Information Unit (LIU) in Indonesia; it should be discussed, whether a “central point of expertise” or alike in Europe is needed

Recommendations

- A clear linkage between licence and the consignment should be defined and established
 - E.g. specifying the licence code on the Bill of Lading
- To address irregular shipping, clarify options and potential procedures for reissuance of a license
- The level of physical checks on FLEGT consignments should be consistent within the EU, hence guidance on risk measures should be provided to EU Customs
 - E.g. establish a minimum sampling rate agreed by CAs
 - Why has this issue not been addressed in the Regulation?

Recommendations

- Discuss the current design of FLEGT licenses in the light of fraud and anti-fraud measures
- Identify needs for CAs to cooperate with each other (e.g. if the port of destination within the EU changes) and establish appropriate guidance and structure
- Clarify if CAs need to receive and archive custom declarations with the corresponding FLEGT licenses
- Clarify the procedures for products covered by both CITES permits and FLEGT licenses
- Conduct more research on shipping scenarios

THANK YOU

Contact EFI for more details on the Shipment Test:
Xavier Rossi, xavier.rossi@efi.int

Contact Efeca for more details on the Shipment Test:
Emily Fripp, emily.fripp@efeca.com
Gunther Hentschel, ghentschel@fastmail.fm