



## WORKSHOP SUMMARY

### Stakeholder Mapping for EU-FLEGT VPA Negotiation: Preparation by Thailand

*July 23<sup>rd</sup> 2012, Chiang Mai, Thailand*

The workshop aimed to present the study “Forestry Stakeholder Mapping in Thailand” which is part of the EU FLEGT Asia support programme implemented by the European Forest Institute (EFI) with the support of the European Union (EU). The programme has been cooperating with the Royal Thai Government (RTG) since 2010, and operates in close collaboration with the Royal Forest Department (RFD). The study has been undertaken in the context of the RTG’s preparations for possible Voluntary Partnership Agreement (VPA) negotiations with the EU. The Terms of Reference of the study were jointly elaborated by the EFI and RFD.

Effective and balanced participation of all stakeholders/interest groups ensures consensus building and equitable access to the VPA process. Such participation is crucial to a successful and credible outcome. Therefore, the study was commissioned to the Forest and People Research Centre (FP) of Chiang Mai University for identifying the stakeholders that might be directly or indirectly affected by the potential VPA negotiations.

The workshop has been co-organized by the FP and the RFD. Besides presenting the preliminary study, other objectives of the workshop were to gather comments and feedback from the interested participants, and to foster the prospect of multi-stakeholder involvement. The event was attended by 103 participants from government agencies [RFD, Customs Department, Department of Europe, Forest Industry Organization (semi-private enterprise)]; private sector (associations and individual companies); civil society including farmer’s associations related to wood products, NGOs, people’s networks, universities and international organizations (see list of participants attached). Also several members of the Standing Committee on Legal Affairs, Justice and Human Rights of the House of Representatives, the Parliament of Thailand participated.

The opening addresses were given by the Deputy Director General of the RFD, Mr. Prayut Lorsuwansiri, and the representative of the EU Delegation to Thailand, Ms. Delphine Brissonneau. A keynote speech on EU-FLEGT VPA and the role of the Standing Committee on Legal Affairs, Justice and Human Rights was presented by the Chair of the Committee, Pol. Gen. Viroon Phuensaen. Two presentations and Q & A sessions, group work and a high level panel discussion completed the event.

Comments and participatory discussions indicated the strong support by the key stakeholders to FLEGT and their demand for commencement of the VPA negotiations between the EU and Thailand. The RFD as the focal point of the FLEGT VPA process and the Standing Committee on Legal Affairs, Justice and Human Rights were pleased to receive very detailed stakeholder feedback for further preparation on the VPA negotiation framework.

## **Proceedings: Morning session**

The workshop was opened by the Deputy Director General of the RFD, **Mr. Prayut Lorsuwansiri**, who welcomed the participants and elaborated the objectives of workshop. He underlined the good cooperation between the RFD and the EU-FLEGT Asia programme through the EFI on this joint study conducted by the FP, which will provide important outcome regarding the multi-stakeholder engagement in the FLEGT VPA process as well as private sector preparations to the upcoming EU Timber Regulation. The FLEGT VPA negotiation and the EU Timber Regulation seemed intertwined in the view of the RFD-DDG and other government officials although it should be considered as separate issues regarding timber, wood products and their respective management schemes.

In the opening remark of the representative of the EU Delegation to Thailand, **Ms. Delphine Brissonneau** thanked the RFD and FP for organizing the workshop. She provided some background on the EU FLEGT Action plan and its two key measures, the Voluntary Partnership Agreement on one hand and the EU Timber Regulation on the other hand highlighting that they are mutually reinforcing. In particular she emphasized that the VPA is a comprehensive tool aiming at strengthening the forest sector. She underlined that it is more than an answer to a trade issue but should contribute to broader development objectives such as poverty reduction and environmental conservation. She stressed the importance of stakeholders' participation and engagement within a VPA process in order to ensure that concerns and interests from different groups are well addressed during negotiation.

The keynote speech on EU-FLEGT VPA and the roles of the Standing Committee on Legal Affairs, Justice and Human Rights was presented by the Chair of the Standing Committee **Pol.Gen. Viroon Phuensaen**. He stressed that the entry of the Standing Committee into the FLEGT VPA process is due to Dr. Sureeratna Lakanavichian's request for consultation in May 2012 regarding legal implication and feasible approach for FLEGT VPA preparation as the issue has been carried out by the involved government agencies since 2010 with slow paces. The Standing Committee has decided to include this request into its consideration as an urgent case-study agenda. As a consequence, the Standing Committee visited the EU headquarter in Brussels, Belgium, and learned about the issues of FLEGT on 2 July 2012. Consequently on 18 July 2012, the Standing Committee invited the involved agencies/ representatives to explain their involvement and/or impacts from FLEGT VPA plus EU Timber Regulation, and stressed their concerns regarding FLEGT VPA preparation in Thailand at present. The outcome was that the involved parties expressed various concerns regarding negative impacts to Thai wood industry. Thus the Standing Committee decided to join this workshop in order to learn about the facts and in-depth information from concerned persons and agencies.

The Standing Committee would like to know more about several issues regarding 1) impacts of EU Timber Regulation upon Thailand, 2) advantages and disadvantages of FLEGT VPA on small holders, wood product producers (including rubber and fruit trees), wood product manufacturers, wood-related businesses, as well as wood product exporters to European markets, 3) benefits from implementation of EU Timber Regulation to Thai private sector, and 4) what would be the impact if Thailand decided not to enter into FLEGT VPA negotiation with EU. The facts and opinions of all involved parties would be formulated as a basis which would be presented to the parliament and/or government. Furthermore, the Standing Committee would utilize the findings for further consideration if the EU-FLEGT VPA framework for negotiation is to be considered by the parliament under the Thailand constitution B.E. 2550, item 190. For

further work by the Standing Committee, Mr. Wiratana Kallayasiri, the Vice Chair, was assigned the responsibility as the Chair of the Working Committee to follow up on this issue not only with RFD, but also with other ministries, private sector, civil society and other involved persons.

Following the opening ceremony, the reporters from local newspapers and national newspapers interviewed Mr. Prayut Lorsuwansiri (RFD-DDG), Ms. Delphine Brissonneau (EU representative) and Dr. Alexander Hinrichs (EFI-EU FLEGT Asia Regional Programme) regarding issues about FLEGT VPA negotiations, progress and responses of Thai wood industry, as well as, impacts from implementation of EU Timber Regulation next year.

**FLEGT VPA updates and Introduction of Stakeholder Mapping Study by Dr. Alexander Hinrichs, Regional Advisor, EFI-EU FLEGT Asia Regional Programme,** re-introduced principles and requirements of the EU FLEGT Action Plan, in particular the concept of FLEGT VPAs and the EU Timber Regulation. He stressed the significance, process and common misunderstandings about VPAs. The current status of FLEGT VPA negotiations and implementation of VPA agreements around the world was illustrated, showing that there have been 13 VPA country-partners to the EU in total, while 6 countries concluded their negotiations and are currently under system development for issuance of FLEGT licenses. Dr. Hinrichs then explained about the importance of stakeholder consultation and participation in the VPA process. Current status of Thailand's internal preparation was also presented, as well as, the need to know about stakeholders interests and their possible involvement with the RTG in the VPA processes (presentation annexed).

**Forestry Stakeholder Consultation and Mapping in Thailand by Dr. Sureeratna Lakanavichian, Executive Director, Forest and People Research Centre (FP), Chiang Mai University,** presented the principles and definitions of FLEGT VPA, EU Timber Regulation and importance of stakeholder consultation and participation in the FLEGT VPA process in Thai language. It was to set up a framework of understanding by the newcomers into the FLEGT VPA and the key stakeholders involved with the study. The significant issues were identification of the key stakeholders, and impacts of FLEGT VPA to Thailand, its forest industry sector and its stakeholders. It was suggested by the author that a network or a committee of multi-stakeholders should be formed so as to help prepare a framework of negotiation with equitable access of all concerns which may be arose from FLEGT VPA negotiation process and how to address those issues. The preliminary findings were identification of the stakeholders into four categories and significant issues to be incorporated in the VPA negotiation framework. Four categories of forestry stakeholders which were proposed for further formulation of a multi-stakeholder network included: 1) associations/federation involving in wood industry, 2) private sector, 3) civil society and 4) involved government agencies (details in an annexed presentation). Issues identified from the study were divided into three groups: 1) legality issue-definition, 2) conflicts between forest tenure and land tenure, leading to forest encroachment, and 3) good governance of forest management, with particular to transparency and accountability. Only 2 former issues were selected for participatory group discussion in the afternoon session. The participants were also encouraged to discuss how to involve in the FLEGT VPA processes from now onwards (presentation annexed).

## Q & A session

Q & A was divided into 2 sessions for the morning presentations: 1) after Dr. Hinrichs' presentation (about 45 minutes), and 2) after Dr. Lakanavichian's presentation (about 40 minutes). The questions and answers are summarized below based on the question themes.

### 1) Q & A to Dr. Hinrichs

There were various questions and comments regarding both FLEGT VPA and EU Timber Regulation: the question about how long it would take to negotiate a FLEGT VPA; clarification on processes to obtain legality; how to examine whether that wood was legal or not; how flexible the EU specific considerations would be, and a worry about the framework and process to be developed for FLEGT VPA negotiation between EU and Thailand as there were some difficult examples regarding bilateral negotiations between Thailand and other countries or the EU.

Dr. Hinrichs attempted to answer all questions above. He specifically stressed the importance of the Thai internal process in preparing for VPA negotiations with the EU. The duration of negotiations would depend on the VPA framework and issues identified by Thailand. No one could estimate the time duration at this moment (he gave examples from other countries). The stakeholders and negotiating representatives must recognize the fact that a VPA is considered a medium-term answer, not an immediate solution, to the requirements of the EU Timber Regulation, which will be effective anyway in March 2013. A VPA offers a structured and multi-stakeholder based review of the entire forestry sector, exceeding the elements related to trade. Under a VPA, the Government of Thailand needed to provide legality assurance for both wood imports and domestic production on all wood product exports to the countries in the EU. Defining legality must be a Thai process in discussing with the key stakeholders. Preparing the control procedures for both imports and exports to assure that illegal wood could not enter or exist in the Thai market would be a joint process with the EU. He acknowledged the concerns regarding EU limited flexibility and difficulty in bilateral negotiation, but the EU would try to provide facilitation support when the negotiation was decided to begin. Thus it is crucial to have the stakeholders involved in the VPA processes from preparation to negotiation to implementation stages; otherwise the VPA negotiations could be misled or unsuccessful.

### 2) Q & A to Dr. Sureeratna

The questions and comments were mostly related to the group classification as a few participants thought that the division into four groups presented might make the process of stakeholder involvement complicated and difficult resulting in slowing the process of negotiation. Also a proposal of dividing groups according to the categories in the afternoon group discussion was made.

The answers from the research team leader, Dr. Sureeratna, were that the stakeholder categorization was aiming to ease out the process of involving many stakeholders if their group representatives could be identified, implying that each group must have their own means and strategies prior to the VPA involvement. This was the preliminary idea of the research team in foreseeing that the members of each group would elect their own representatives and gain access to the focal point of the National FLEGT Negotiation Committee accordingly. The groups for participatory discussion in the afternoon session remained two according to the presentation.

## **Proceedings: Afternoon session**

### **Participatory Group Discussion**

The workshop organizers divided each group by their seat sides (right or left, according to the stage in the morning meeting hall). The groups were provided with 2 issues for discussion: legality definition, and how to address conflicts between forest tenure and land tenure. However, it was agreed that the group members might decide to discuss only the first issue. One facilitator was assigned to each group. The results of group discussion are as follows:

**Group 1:** This group analyzed the products, related laws and responsible parties, such as, (1) forest laws (Forest Act of 1941, Forest Plantation Act of 1992 and National Forest Reserve Act of 1964) for legal wood responsible by the RFD, (2) Rubber Replanting Aid Act of 1987 for parawood responsible by the Rubber Replanting Aid Fund, (3) Land Act of 1954 for land responsible by the Land Department with involved agencies (following below), and (4) Trade law for imports and exports responsible by Ministry of Commerce, Customs Department, Ministry of Industry, Ministry of Natural Resource and Environment and Ministry of Agriculture and Cooperatives. Involved agencies for land issues were identified as Department of Treasury, Land Reform Office, Cooperatives Land Office and Public Welfare Department.

It was proposed to the RFD that tree species under its authority must be listed clearly. Trees grown by villagers outside the RFD's responsibility should be responsible by Local government, e.g. Tambon Administrative Organization (TAO or Ao Bo Toa), Tambon municipality (Tambon is a sub-district), district office. If the land is legal, the trees on that piece of land are legal accordingly. However, there are trees on the land which tax was paid to the local government, namely Po Bo To 5 (tax receipt), which is unequal to land title deed. What would be the impacts to the Po Bo To 5 owners? Trees on the government's land should be legal accordingly. Trees grown by the farmers on the usufruct land which was permitted by the government, e.g. land reform areas, treasury land, forest plantation cooperatives, should be legal as well.

How would certified wood and un-certified wood be included in the VPA? The conclusion was that in the case of timber, the Customs Department should be consulted in order to legalize the timber. For FLEGT VPA issue, the implementation must follow the level of permission request to the RFD. In the negotiation process, there are several issues to be prepared and discussed, i.e. quality of Certificate of Origin (COO) for imports, proof of legality in the exporting nation (for Thai imports), procedures to assure the EU that the sources of wood products were certified with evidence, procedures of the products and public royalty.

The rights to certify the wood products outside forests should be given to the local government, such as, TAO, Village headman and Kamnan (chief of the village headmen) for identifying legality. To assure these rights, the group specified the following types of trees and their responsible agencies: i) registered forest trees by the RFD, ii) parawood by the Rubber Replanting Aid Fund, iii) other types of trees by local government, iv) imported wood following joint ASEAN requirements for COO and legality assurance. Types of legal land for parawood trees were identified into 46 items which would have to be registered or certified by the Rubber Replanting Aid Fund and the RFD.

**Group 2:** The members of this group believed that the current laws held their righteousness but some might be wrong at certain time and should be amended. The group discussed the problems and approaches to solve the problems systematically as follows: (1) parawood as an

agricultural by-product, the approach was to ask for releasing of EU strictness on FLEGT and identifying the parawood product category different from other forest species, (2) parawood trees planted in the forest, the approach was to identify the evidence of the usufruct right, if any, (3) difficulty in wood product management, the approach was to specify the source and legality of the land, (4) origins of various types of wood, the approach was to identify the sources of wood systematically and to register the trees, (5) right origins of trees but not yet legalized, the approach was to look for (or enact) the suitable laws for certifying those trees, (6) permission agency without authority to certify the trees, the approach was to develop processes for identifying tree origins, such as, tree identification for allowing tree legality, (7) other EU requirements, the approach was to add necessary items for certification accordingly, (8) trees without evidences of origin, the approach was to set up a regulation and relevant procedures for certifying the trees, if suitable, and (9) since the RFD's certification procedures for trees are perceived as limited, the approach was to set up *an organization* with involvement of other relevant sectors for certifying the trees.

In conclusion, the group divided its scheme into 2 categories: short-term and long-term solutions. For a short-term solution, it was to set up a multi-sector committee or to adjust the existing National FLEGT Negotiation Committee for negotiating on a short-term basis in order to protect the affected persons/agencies. In a long-term solution, it was to establish a multi-stakeholder organization to certify and control the tree rights by registering them individually, as well as to document and control the chain of custody (from harvesting, transporting to manufacturing and domestic sales or exporting). The new organization must be capable of all required tasks and accepted by the EU and the key stakeholders of Thailand. It was expected by the group members that a new legislation incorporating the above suggestions must be developed and enacted soonest so as to cover all types of wood, in particular wood outside the current forest laws. However, the group would like to suggest the responsible agencies to enter into the VPA processes as soon as possible, even before asking for EU flexibility in enforcing the Timber Regulation next year.

## Panel Discussion

The moderator, Dr. Wanchai Arunpraparut (Faculty of Forestry, Kasetsart University) welcomed and introduced the six panelists: Mr. Wiratana Kallayasiri (Vice Chair, Standing Committee on Legal Affairs, Justice and Human Rights), Mr. Prayut Lorsuwansiri (DDG of RFD), Mr. Jirawat Tangkijngamwong (Chair of Thai Timber Association), Mr. Sutin Phonchaisuree (Chair of Thai Rubber Association), Mr. Chainant Ukosakul (Chair, Committee of International Trade, Board of Trade of Thailand) and Mr. Pongsa Chunam (Managing Director of Tree Bank, Representative of People's Network). The brief details of all presentations are as follows.

1. **Mr. Wiratana Kallayasiri** gave a brief overview on the tasks in management of wood and wood products in Thailand. He stressed the importance of the private sector for Thailand and suggested that each involved agency must oversee its products in order to achieve the goals, such as, the RFD dealt with wood from the forests and forest plantation under its jurisdiction, the Office of Rubber Replanting Aid Fund must oversee the parawood, the local government (i.e. TAO) should be responsible for wood from villagers' hedgerow planting without legal documents. The negotiation between EU and Thailand should discuss this issue of legality in their hedgerows and accept the villagers' ownership and legality of wood as the areas could be investigated and approved by TAO members.

In Thailand, the government sector has been responsible for enacting legislation, control and support of relevant activities, while the private sector has developed mechanisms for materializing the actions accordingly. Thus it is necessary to rearrange the proportion of the govern-

ment sector versus civil society and associations (private-sector organizations) in the National FLEGT Negotiation Committee to 50:50. If it is decided by the government to set up a new agency to be responsible for FLEGT VPA actions, it should include the representatives from Ministry of Agriculture and Cooperatives (e.g. Office of Rubber Replanting Aid Fund), Ministry of Interior (e.g. local government bodies, village headmen), in addition to the Ministry of Natural Resource and Environment (e.g. RFD), Ministry of Foreign Affairs and Ministry of Commerce. For the associations, a process of selection should be applied.

Finally, the issue of FLEGT VPA negotiations and the Constitution (item 190) had been thoroughly examined and he stressed that this FLEGT VPA issue would have to go through the parliament for approval prior to any negotiation. Hence, the framework for VPA negotiations must be developed and driven by the Standing Committee on Legal Affairs, Justice and Human Rights of the Parliament urgently. The Chair of the Standing committee, Pol. Gen. Vi-roon, has appointed Mr. Wiratana as the Chair of the Working Committee which members would be decided and appointed during the next day after this workshop for working on the VPA framework and related issues in order to submit to the parliament as soon as possible.

2. **Mr. Prayut Lorsuwansiri** indicated that the RFD is preparing a FLEGT VPA work plan and has made significant progress. At this workshop, it was to share preliminary results with the key stakeholders. The next step was on 26 July 2012, the RFD would co-organize a seminar with Ministry of Foreign Affairs for considering the details of the EU TR and drafting a framework for the VPA process. The draft framework would be coordinated with EFI for further adjustment. The advantages of VPA implementation were preparation for international trade (not only with the EU) and easing out the procedures for the wood exporters to EU markets. However, the disadvantages included intensive steps of monitoring by EU, more documentation, and negative trend of wood exports to EU yielding lower or even nil transaction. Nevertheless, the Ministry of Foreign Affairs agreed to follow up on the process of FLEGT VPA, the RFD would have to take further actions accordingly.

3. **Mr. Jirawat Tangkijngamwong** agreed with the idea of integrating all involved parties (e.g. Office of Rubber Replanting Aid Fund, Ministry of Agriculture and Cooperatives, local government) in order to drive the process to determine what is legal wood. In general, EU would examine harmonized codes of the wood products; hence all companies must understand this fact and prepare the necessary documentation. The proper documentation was required not only by EU, but the whole world as well. As for March 2013, the effective date of EU Timber Regulation, it would be necessary to start the FLEGT VPA negotiation as soon as possible so that Thailand could set up an action plan. In the initial phase of the Timber Regulation, each unit must prepare its documents. Wood importers must have Certificate of Origin (COO) and legality assurance, while forest planters must also have clear evidence of their rights on the trees.

4. **Mr. Sutin Phonchaisuree** expressed his concern about the foreseeing impacts to parawood business. According to his parawood association, the parawood business, particularly particle boards and furniture, had a total value of 40,000 million baht annually, of which about 20,000 – 30,000 million baht were from sales to the EU. He welcomed the high level participation at the workshop and agreed with Mr. Wiratana about the urgency to proceed with the ideas and work plan for pursuing VPA negotiations.

5. **Mr. Chainant Ukosakul** explained briefly about the roles of the Board of Trade of Thailand which were to support its members. The Board of Trade has supported FTA negotiations between Thailand and other countries, including other ASEAN countries and the EU. He appreciated various measures initiated by EU, such as, Climate Change and this FLEGT VPA. Any negotiations have been difficult and complex so far, including negotiation between EU and ASEAN. As for Thailand, the EU could soon revoke the GSP exemption status of some exported items from Thailand, which would also affect Thailand's timber trade. Regarding the FLEGT VPA preparations, it has been rather slow and it might encounter some bottlenecks along the way which he would like to know. Inevitably, EU through EFI had to explain again

about it. However, time would not permit Thailand to achieve the VPA conclusion in time before the EU Timber Regulation is enforced. In the near future, there would be new measures by various developed countries, not just this EU-FLEGT VPA. Thus, this should be the right time for the Thai industry sector and the country as a whole to adjust and prepare well for this kind of international policy implementation.

6. **Mr. Pongsa Chunam** highlighted that he has spoken on behalf of the local people and introduced the fact that there have been about 20 million rai (3.2 million hectares) of trees planted by the Tree Bank members all over the country. The Tree Bank has attempted to legalize all the trees planted by its members as some areas might be outside legal land titles. It has encouraged its members to plant more trees which might allow their lands be approved by the authority. It has been rather sad in Thailand and other wood producing countries that the trees would have values only upon being harvested. The Tree Bank has emphasized the concept that the trees must be assets of their owners, not the annex of their titled land which was the current Land Act of Thailand. At present, the Tree Bank members have identified and labelled the trees, and calculated tree volumes as well as carbon sequestration. Therefore the Tree Bank has proposed a National Tree Bank Act. A draft of such Act was submitted to the previous government in order to confirm the tree registration and further acknowledge tree assets and tree tenure. The Tree Bank would also like to request the RFD to support its actions, instead of conducting the roles of control and permission.

## Q & A session

Only two questions and one comment:

How would the EU validate the timber tracking of what have been presented and how to make it correct? What do people perceive as a risk or positive opportunity in order to send clear signals to EU? The comment was on the Tree Bank: it has been a social process which has built up the relationship between the Tree Bank members in identifying and monitoring the assets of families and communities. What we discussed today might not only respond to FLEGT VPA process, but target sustainable forest management. The female commenter also highlighted the lack of a woman in the panel.

The answers by the panel to the questions were as follows. For the validation of timber tracking, the Tree Bank has implemented the methods as explained above. Each tree had its identity and relevant data. It would be feasible if the Tree Bank approach is applied elsewhere in Thailand.

Regarding the risk or opportunity perceived by people, Thailand has all responsible agencies for enforcing the existing laws. Each agency has its authority and responsibility. However, Thailand would have to create a forum for working on preparation for FLEGT VPA negotiations by the Working Committee every Wednesday according to the work plan mentioned by the Standing Committee. The forum should reduce problems and obstacles in the preparation process. The private sector has seen the risk as exports to the EU would be challenged, while the opportunity would be its ability to maintain or increase its exports. The government sector saw that the EU could force upon Thailand new rules but it provided the opportunity that Thailand could set up the approaches and methods on its own within the EU FLEGT VPA scheme. It seemed to allow the Thai government to re-invent and promote economic forest plantations again.

## Concluding Remarks

The workshop was closed by Mr. Prayut Lorsuwansiri (DDG of RFD). He expressed his thanks to all participants on behalf of the RFD and the FP, Chiang Mai University. On 26 July 2012, the valuable inputs would be included in the EU-FLEGT VPA preparation resulting in an approach for negotiation which would be utilized for drafting a framework for VPA negotiation.

In his concluding remarks, Dr. Hinrichs also thanked all participants for creating such a dynamic and fruitful atmosphere. He noted that the interest of the participants whom were the key stakeholders identified in the study was apparent. He was very pleased to see a very strong commitment and a clear work plan to further work on the VPA framework and parliamentary consideration. The result of the Forestry Stakeholder Mapping would elaborate on the groups of stakeholders, their interests and how they select their representatives for involving in the VPA preparation and negotiation. He highlighted that the responsible authorities are already discussing how to improve certain procedures for legality assurance, which is one element under the FLEGT VPA negotiations.

Dr. Hinrichs finally explained that the workshop would be documented yielding a workshop summary which would be sent to all registered participants, as well as, the presentations. He then concluded thanking again all the people whom contributed to the success of this workshop.

Chiang Mai, 31/7/2012  
FP, RFD and EFI FLEGT Asia