



## FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

### Terms of Reference

<b>Job Title:</b>	International VPA Processes Expert
<b>Location:</b>	Hanoi, Viet Nam
<b>Start date of Action:</b> asap	<b>Duration:</b> 25 working days
<b>Completion Date:</b> January 2014	

#### GENERAL DESCRIPTION OF TASK(S) AND OBJECTIVES TO BE ACHIEVED

##### 1. Context and justification

Viet Nam is a major supplier of wood furniture worldwide and the EU is an important market for Viet Nam timber products. On 18th August 2010, Viet Nam officially announced the start of formal negotiations for a bilateral FLEGT Voluntary Partnership Agreement (VPA).

The aim of these negotiations between Viet Nam and the EU is the conclusion of a trade agreement that would create conditions for Viet Nam's timber producers to improve their position on the EU market and increase their ability to adapt to EU market requirements with respect to legality of timber.

So far, Viet Nam and the EU have conducted three negotiation rounds (Technical Working Group Meetings - TWG); and to support the negotiation process there have been numerous Joint Expert Meetings (JEMs), Video Conferences, and several Technical Working Sessions. To date the process has resulted in the 6th draft version of Timber Legality Definition (LD). The preparation of the Timber Legality Assurance System (TLAS) is at an earlier stage.

To guide the design of Viet Nam's TLAS, three templates have been developed with support from EFI, these in order of use are:

##### **TLAS Template 3 – detailed presentation of the legality verification for each verifier/evidence in the LD**

TLAS Template 3 is an extension of the LD. It provides in table format detailed additional information on the verification approach for each verifier proposed in the LD. Template 3 provides information on the roles of the different parties involved in the verification and handling of the verifiers/evidence. In Viet Nam there are currently two versions of Template 3 which are in development: i) one template for organisations (companies etc.) and ii) a second template for households (smallholders etc.). TLAS Template 3 will be the basis for the implementation of the verification system in the context of TLAS. An adequate level of detail in this document will contribute to strengthen the credibility of the VPA and facilitate its implementation.

##### **TLAS Template 2 – outline of legality verification approach for each ministry and agency involved in TLAS**

The objective of TLAS Template 2 is to document how each ministry and government agency responsible for the verification of the legal compliance of the verifiers listed in the LD will carry out their verification functions. The document outlines the verification approaches of the government bodies during VPA implementation ensuring that they are based on credible methodologies. It provides the basis for effective planning of TLAS implementation at the ministry and agency level.

##### **TLAS Template 1 – summary of the key features of TLAS**

The objectives of TLAS Template 1 is to provide stakeholders and the general public in Viet Nam and abroad with a solid summary of the key TLAS features to be set up by Vietnam in the context of the VPA. As Template 1 is supposed to present all five elements of TLAS including Legality Definition, Timber Traceability, Verification, and FLEGT Licensing and Independent Evaluation it should be completed at an advanced stage of the negotiation (i.e. after Templates 2 and 3), once all the different TLAS components have been negotiated and described in detail.

Support for preparation of TLAS Template 3 has so far been in the form of joint working sessions between VNFOREST and EFI and short-term expert assistance from GIZ. Currently there is no external assistance available to support the preparation of any of the templates other than inputs from EFI's experts during periodic joint working sessions. Support for the VPA consultation process has also been limited, with no single dedicated resource or project available to assist with this important activity which aims to ensure:

- Credibility of the FLEGT process
- Support from stakeholders
- Agreements that are based on the local reality and that are realistic and operational; and
- Requirements imposed are not an undue burden on small-scale producers.

Support from FAO-FLEGT would provide urgently needed expert assistance for further development of TLAS Template 3 and then preparation of Template 2 & 1, it's linkage to FLEGT Licencing through the development of a system to classify companies according to their compliance to relevant national legal provisions and other criteria such as private certification (FSC, CoC, etc.) and support for consultations with various stakeholders to ensure the appropriate development of the TLAS, and thereby contribute towards successful conclusion of VPA negotiations

between Viet Nam and the EU. Support for meetings and workshops necessary to achieve the outputs in these Terms of Reference will be subject to a separate Letter of Agreement.

The Forest Protection Department (FPD) of VNFOREST will assign its staff to work with the Expert Team, providing all the necessary information available to the FPD and facilitate access to additional information as required and if available. The FPD will assist the Expert Team with the organisation of the different stakeholder meetings or workshops subject to the resource availability. The FPD will provide the necessary introductions that may be needed for the experts to consult with relevant officials from other ministries or agencies and other stakeholders".

## 2. Objective of the Terms of Reference

The general objective is to support VNFOREST's development of the TLAS templates 1, 2 and 3 as part of the TLAS Annex of the VPA.

## 3. Expected Outputs/deliverables

The International VPA Processes Expert will be supported by a National Legal Expert. The expected outputs below will be the result of the combined Expert Team inputs but the final delivery of the Outputs or Deliverables will be the responsibility of the International VPA processes expert:

### Output 1

An advanced draft of the TLAS Template 3 for Organisations and Households is developed with relevant legal references and other information (archiving, validity, and frequency of checking) for each verifier. List of verifiers and the corresponding indicators for which currently there are no legal reference, presenting verification/checking methods. The document is available for stakeholder consultation.

### Output 2

Drafts of TLAS Template 2 and 1 are developed for each relevant ministry/agency with accurate information and an adequate level of detail.

### Output 3

Concept for a national timber traceability system developed that is appropriate to the needs and conditions of different supply chains in Viet Nam.

### Output 4

Proposal for a system to classify companies that produce timber products to EU market according to a risk-based approach and their compliance with relevant national legal provisions and other criteria such as private certification (FSC, CoC, etc.).

## 4. Expected Activities and description of consultant work

### Activities and description of work for Output 1

The International VPA Processes Expert will work with the National Legal Expert and will be guided by the VNFOREST TLAS Team:

- To complete an advanced draft of Template 3 for Organisations and Households, taking into accounts comments from EU
- Conduct consultations with relevant ministry/agencies involved in the verification process, as appropriate
- Provide detailed legal references for each verifier including:
  - a) The legal basis for the verifier.
  - b) Specific prescriptions for the management of non-compliances/violations related to the verifier (indicate when reference not available).
    - List in a separate document the verifiers for which there is no detailed legal reference for verification/checking methods.
    - Provide the verification/approval method for the "Approved by" column on a case by case basis, especially - but not limited to - verifiers implying field examinations, including the controls carried out by the residential forest rangers.
    - Provide the following information for each verifier:
      - How and where the verifier is archived?
        - ✓ Paper/electronic copies
        - ✓ Local/provincial/central level
        - ✓ Other
      - How long the verifier is valid?
        - ✓ Once for all
        - ✓ For each consignment
        - ✓ For a year or more
        - ✓ Other
      - How often the verifier is checked in TLAS? According to which criteria?
        - ✓ Only once for issuing the FLEGT license
        - ✓ Several times (annually, monthly, same time at other verifiers)
        - ✓ Other

## Activities and description of work for Output 2

The International VPA Processes Expert will provide expert input and conduct consultations with relevant agencies involved in the verification process to complete the draft TLAS Template 2 – The International VPA Processes Expert will analyse and present information (collected by the National Legal Expert using the available template) related to the verification of legality for each ministry and government agency involved in TLAS. The information to be provided in Template 2 is based on the following 7 questions with different levels of detail expected:

- Which verifiers/evidence is verified by the ministry/agency?
- Who/which division is in charge of the verification in the ministry/agency?
- What skills are required for personnel in conducting of the verification?
- What types of verifications are conducted by the ministry/agency?
- How often are verifications conducted?
- What procedures are applied for non-compliance?
- Are internal controls in place to ensure that legality verification is done adequately?

Expert input to complete the draft TLAS Template 1 – Prepare an overview section for the future Annex on TLAS, including:

- An introduction that presents a general approach of Vietnam in terms of system to verify the legality of timber, particularly in terms of product coverage, the timber origin and verification bodies involved.
- Description of the LD and procedures for verifying timber legality i) in each government agency involved in the LD (see specific template on Ministry level TLAS + table) and ii) at the centralized level.
- A detailed description of the traceability system for timber products and its operational implications for the administration and economic operators in the sector.
- A description of the system of issuing FLEGT licenses.
- A description of the approach to the Independent Evaluation.
- A table showing the requirements for traceability and associated supply chain controls.

## Activities and description of work for Output 3

Expert input and consultations with relevant stakeholders involved in enforcing and implementing supply chain control systems to inform VNFORST's conceptualisation of a national timber traceability system appropriate to the needs and conditions of different supply chains in Viet Nam, with activities including:

- Identifying options for a national timber traceability system
- Review results of focus group meetings with stakeholders (conducted by the National Legal Expert in coordination with FPD) involved in enforcing and implementing supply chain management systems to review options and make suggestions on a national timber traceability system appropriate to the needs and conditions of different supply chains in Viet Nam.
- Preparing, for inclusion in TLAS Template 1, a detailed description of the traceability system for timber products and its operational implications for the administration and economic operators in the sector.

## Activities and description of work for Output 4

Expert input and consultations with relevant stakeholders to inform the development of a company classification system that supports the implementation of TLAS and FLEGT Licensing effectively and efficiently based on risk assessment, with activities including:

- Review company information collected by National Legal Expert
- Propose draft classification criteria and system for companies in accordance with existing legislation and their compliance with TLAS, taken into consideration certification schemes
- Finalise classification criteria and system based on stakeholder consultations conducted by the National Legal Expert in coordination with the FPD

## 5. Supervision and Responsibilities of the consultant

The International VPA Processes Expert will be hired through an FAO contract to provide services to the Government of Vietnam (represented by the office of VN FOREST). Day to day supervision will be completed by the Forest Protection Department, VN FOREST. The overall approval of the outcomes of the work by FAO will be based on the joint satisfaction of completion of work by the Forest Protection, VN FOREST and the FAO FLEGT Forestry Officer in the Asia region. All reporting and output related communication should be copied to both the FAO FLEGT Forestry Officer and the point of contact within the Forest Protection Department, VN FOREST Vietnam.

The International VPA Processes Expert is responsible for completing all tasks and products outlined in these terms of reference – section 4. All tasks will be considered complete after approval by both VN FOREST and the FAO FLEGT Forestry Officer in the Asia region.

Additional resources to conduct the consultations and ensure the transportation, etc. will be provided to the Forest Protection Department, VN FOREST through a separate Letter of Agreement between FAO and the Forest Protection Department, VN FOREST.

## 6. Composition of the Expert team and expected profiles

The Expert team will be composed of 2 consultants; the International VPA Processes Expert with experience in the development of VPA and TLAS processes, and a National Legal Expert.

The International Expert for this assignment should have the following expertise and experience:

- Postgraduate degree in Forestry, Law or other relevant subject
- A minimum of 7 years of relevant work experience, recent working experience in Vietnam is an advantage
- Knowledge of FLEGT related issues, and the VPA process.
- Familiarity with forest and forest product related legislation in Vietnam.
- Understanding and experience of the functioning of forest sector related agencies at central and lower levels.
- Understanding and experience of verification or auditing procedures in the forest sector.
- Knowledge of national and/or company-based timber traceability systems.
- Knowledge of risk based approaches to developing company classification systems for verification or auditing purposes.

The National Legal Expert for this assignment should have the following expertise and experience:

- Postgraduate degree in Forestry, Law or other relevant subject
- A minimum of 5 years of relevant work experience
- Knowledge of FLEGT related issues, and the VPA process.
- Extensive knowledge of the legal framework governing the conduct of business and forestry activities in Vietnam.

### 7. Duration and timing

Contract duration will include 25 days (when actually employed) for the International VPA Processes Expert and 45 days (when actually employed) for the National Legal Expert.

### 8. Work plan

The work plan corresponds to the period over which the various outputs are expected to be developed within the Forest Protection Department.

Activities	Month		
	Nov	Dec	Jan
<b>Output 1</b>			
Complete the Template 3 for Organisations and Households, taking into accounts comments from EU	x		
Conduct consultations with relevant ministry/agencies involved in the verification process, as appropriate		x	
Provide detailed legal references for each verifier		x	
<b>Output 2</b>			
Draft proposed verification of legality for each ministry and government agency		x	
Conduct consultations with relevant agencies involved in the verification process			x
Complete the draft TLAS Template 2 based on consultation results			x
Complete TLAS Template 1			x
<b>Output 3</b>			
Identifying options for a national timber traceability system	x		
Review the results of stakeholder consultations conducted by National Legal Expert		x	
Prepare detailed description of the traceability system and its operational implications			x
<b>Output 4</b>			
Review company information and develop draft classification criteria and system	x		
Review the results of stakeholder consultations conducted by National Legal Expert		x	
Finalise classification criteria and system based stakeholder consultations conducted by National Legal Expert			x

### 9. Recruitment process

#### *Selection process, evaluation criteria and scoring*

The selection process will be consistent with the FAO standards and criteria for recruiting consultant services. The FAO will establish an FAO evaluation team who will advertise the terms of reference, receive all submissions of candidacy, establish a short list of candidates for interviews, conduct interviews and provide a final hierarchy of selected candidates.

The short list will be based on criteria and a scoring process established and agreed by the FAO evaluation team and an appointed contact from the Forest Protection Department, VN FOREST office.

#### *Evaluation team*

The FAO evaluation team will be composed of 3 persons employed by FAO, with a VN FOREST representative acting as official observer to the process and empowered to provide an official "no objection" to the process and selection of candidates.