



Training Material:
**Timber legality for wood
and wood products**

**WWF-Vietnam
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DISCLAIMED

This document is only for training purpose and to provide information and is not intended and should not be considered legal advice. Individuals who are seeking legal advice related to this issue of Lacey Act compliance or any other law or regulation, it is necessary to consult with qualified legal experts.

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PREFACE

Vietnam is a key supplier of IKEA, with suppliers depending most on the sources of domestic processed and imported materials. Because the source of certified materials accounts a very modest proportion, if IKEA doesn't want his reputation to be affected, the uncertified materials needs proving legal origin.

On the other hand, the application of the EU's Accountability and the U.S Lacey Act requires that the importers of timber and timber products who want to keep these markets must keep their chain of custody and their timber from illegal timber and ensure the transparency of the entire chain of custody from forest to warehouses.

Component 1 of the project on the close cooperation between IKEA and WWF with strategic suppliers, directly and indirectly shares IKEA's opinions, points out the inadequacies in the chain of custody according to Lacey Act and the Accountability which needs addressing through capacity building. This process is carried out through the following steps: (i) analyze the shortcomings and propose training needs done in June and July 2010; (ii) compile training documents in order to equip necessary knowledge for IKEA's direct and indirect suppliers on Lacey Act, FLEGT and the timber legality in accordance with Vietnam's current laws, and (iii) train IKEA's direct and indirect suppliers these aforementioned understandings. This document is for those above countries (ii) with three main parts:

1. Strengthening forest law enforcement, governance and trade (FLEGT)
2. U.S Lacey Act
3. General guidance on timber legality.

PART ONE

FOREST LAW ENFORCEMENT, GOVERNANCE & TRADE (FLEGT)



CHAPTE R I

What is FLEGT?

Illegal logging results in serious environmental, social and economic damage. G8 Summit in 1998 discussed and formally adopted "Action Programme on Forests" to tackle illegal logging globally. Subsequently, in April 2002, the European Commission hosted an international workshop to discuss how the EU could contribute to measures to combat illegal logging. In the same year, at the World Summit on Sustainable Development (WSSD) held in Johannesburg, the European Commission set a strong commitment to combat illegal logging and the associated trade in illegally-harvested timber. The EU published its first Proposal for a FLEGT Action Plan in May 2003.

FLEGT stands for **F**orest **L**aw **E**nforcement, **G**overnance and **T**rade. The EU FLEGT Action Plan sets out a programme of actions that forms the European Union's response to the problem of illegal logging and the trade in associated timber products.



A number of other initiatives, arising from both national and international commitments, have also developed in parallel. In particular, three regional FLEG (Forest Law Enforcement and Governance) processes have been established in South East Asia, Africa (AFLEG), Europe and North Asia (ENAFLEG). These processes, co-ordinated by the World Bank, have resulted in ministerial commitments to identify and implement actions to combat illegal logging in each region.



Chapter II - The EU FLEGT Action Plan

The EU FLEGT Action Plan sets out a range of measures that aim to combat the problem of illegal logging. These focus on seven broad areas:

1. Support to timber-producing countries;
2. Activities to promote trade in legal timber;
3. Promoting public procurement policies;
4. Support for private sector initiatives;
5. Safeguards for financing and investment;
6. Use of existing legislative instruments or adoption of new legislation to support the Plan;
7. Addressing the problem of conflict timber.

Each of these is discussed below:

2.1. Support producing countries

The Action Plan aims to provide financial and technical support and advice to timber-producing countries to achieve the following objectives:

- Improved governance structures, and development of reliable verification systems where forest law enforcement has been weak;
- Policy reform that focuses on laws and regulations that are appropriate to the country in question, and through which all stakeholders can engage in policy dialogue;
- Improved transparency and information exchange between producing and consuming countries, including support for independent forest monitoring;
- Capacity building and training in producing countries, including support for governance institutions in the implementation of new governance mechanism;
- Support for the development of community-based forest management and the empowerment of local people to help prevent illegal logging.

2.2. Promoting legal timber trade

There are two parts to this programme area: (i) work with the EU's trading partners that are primary timber producers and (ii) focus on the role of other major timber-importing countries in international market.

2.2.1. Development of Voluntary Partnership Agreements

The Action Plan proposes voluntary, bilateral agreements between producing countries (FLEGT Partner Countries) and the EU. These Voluntary Partnership Agreements (VPAs) set out the commitments and actions of both parties to tackle illegal logging. The intended outcomes of VPAs are:

- Improved forest governance;
- Improved access to timber market within the EU and from Partner Countries;

- Increased revenues collected by Partner Country governments;
- Increased access to support and development for Partner Country governments;
- Implementation of more effective enforcement tools in Partner Countries;
- Improved foundations for implementing sustainable forest management.

VPA's offer an approach by which timber legality exported to the EU can be identified using licences issued by Partner Countries. These will be underpinned by timber legality assurance systems developed under the auspices of each VPA. FLEGT licenses covering timber shipments will enable EU customs agencies to distinguish verified legal timber from Partner Countries and to allow it entry to the EU and to preventing illegal timber from those countries. The assurance system will address controls on timber production, processing, internal verification, licensing and independent monitoring.

2.2.2. Multilateral framework for international collaboration:

The EU is an important but not a dominant player in global timber markets. It is important that, through dialogue with other major timber importers, such as China, Japan and the US, the EU is able to reinforce VPAs and promote cooperation in combating illegal logging and associated trade in countries where EU markets have less influence.

2.3. Promoting public procurement policies

The Action Plan encourages EU Member States to implement policies that favour sustainable and verified legal timber in their procurement contracts. Such policies require suppliers to demonstrate adequate evidence of legality and/or sustainability of timber sources. To date, the governments of Belgium, Denmark, France, Germany, the UK and the Netherlands have begun to implement such purchasing programmes.

2.4. Support to private sector initiatives

The Action Plan encourages private sector involvement, including support to build private sector capacity in producer countries. Such support may be aimed, for example, at higher standards of forest management, and legal compliance, improved supply chain management, and adoption of corporate social responsibility standards. European Commission and Member State grants to support the Global Forest Trade Network and the Tropical Timber Action Plan are examples of this type of activity.

2.5. Safeguarding investment

There are cases where investment in the forest sector has encourages illegal logging, for example by installation of too big processing capacity that not match with available timber resources. The Action Plan aims to encourage banks and financial institutions to take long-term legal supply, as well as environmental and social factors into account when conducting verification for such investments in forestry sector.

2.6. Use of existing or new legislation

The EU is considering law and under law of Community or Member State in combating illegal timber trade. This included:

- Examination of how anti-laundering money law can be applied to forest crimes;

- Review on the implementation of the Convention on International Trade in Endangered Species (CITES), and examination of the potential for inclusion of other timber species in protection list;
- Examination of measures set out in the OECD convention on bribery where evidence suggests bribes have played a part in the awarding of timber harvest rights;
- Examination of ways in which national legislation if stolen timber can be applied in the timber trade;
- The European Commission is also considering possibilities for new legislation at the EU or Member State level that would cover trade in illegal timber not covered by VPAs.

2.7. Conflict timber

The Action Plan commits the EUs will develop a more robust definition of conflict timber and to better recognize relation between forestry and conflict in development programmes.



Chapter III - What is legal timber?

3.1. Background

The EU FLEGT Action Plan identifies a number of measures to address the growing problem of illegal logging and the related trade in illegal timber. Fundamental to implementation of these measures is the ability to differentiate between legal and illegal timber. Therefore, a definition of legality will be an important component of the Legality Assurance Systems that will form part of Voluntary Partnership Agreements (VPAs) to be negotiated and signed between the EU and partner countries.

3.2. What should be included in a timber legality definition?

A practical definition of timber legality will require more than just listing all applicable laws to a country's forest sector. Deciding which laws should comprise a legality definition is the right of each timber-producing country. However, practicality of assessment, its impact on achieving the definition's goals, the consistency between laws, and equity in relation to all forest stakeholders' rights, all need to be taken into consideration. Many countries have a large number of laws related to forests and timber and assessments of compliance with all of them is not an easy task. Moreover, not all laws are equally relevant to addressing the most serious impacts of illegal logging. For example, compliance with a law relating to harvest rights is clearly an essential component of a definition, while compliance with road traffic laws is probably not. In some countries, there may be inconsistencies between laws, particularly where legislation is enacted at both national and regional level. This can make it difficult to be fully comply with all laws. In these cases, it is necessary to establish which law takes are in priority at least on an interim basis until all contradictions are resolved.

Besides, existing forest laws in some countries may not allow local people from access to forest resources, forcing them to operate illegally to meet their basic livelihood needs or compliance may be beyond the practical means of local communities..

Such issues will require examination of the current law with a view to legislative reform. The long-term objectives of the FLEGT Action Plan is sustainably forest management. Definitions of timber legality should therefore incorporate laws that address the three pillars of sustainability: economic, environmental and social objectives. These are likely to include:

- Granting harvesting permit and only to harvest timber within boundaries specified in the permit;
- Compliance with requirements regarding forest management, including compliance with relevant environmental, labour and community welfare legislation;
- Compliance with requirements concerning taxes, import and export duties, royalties and fees directly related to timber harvesting and timber trade;
- Respect for tenure or land use rights and resources that may be affected by timber harvest rights, where such rights exist;

- Compliance with requirements for trade and export procedures.

3.3. Developing a legality definition

The process for deciding which laws are included in a definition of legality is the responsibility of partner country in which the laws apply and, if a definition is to be a component of a legality assurance system to underpin a trade agreement, it must be endorsed by the country's government. However, the nature of this process is the definition should be agreed by local different stakeholders.

The potential harm caused by failure to comply with laws can affect different stakeholders in the timber-producing country such as government, private sector, the general public, and local and indigenous communities – in different ways. Therefore, the process to decide which laws should be included in a definition should generally involve wide consultation with all interested parties. In some countries with clearly-defined laws, developing a legality definition may be a relatively simple exercise. In others, inadequate, conflicting or inequitable laws might make a clear definition of legality more difficult to achieve. In these cases, several rounds of stakeholder consultation may be needed as well as field-testing application of the definition. There may be instances where the consultation process identifies laws which do not support sustainable forest management or where an important right is not protected by existing law. In such cases, it may be necessary to adopt interim definition that give the best possible outcomes while a programme of regulatory reform is pursued.

3.4. Implementing a definition of legality

Checking compliance with the law will require a clear, practical and verifiable definition. It must be easily understood by staff of both forest operators and enforcement agencies. This means that:

- It must be clear which laws and regulations are included in the definition and which are not;
- There must be clear tested evidence (with criteria and indicators) justified its suitability to determine compliance with each law or regulation;
- There should be practical way to carry out such tests in the field.

To apply a definition in practice may require significant training of operational and enforcement staff in the forest sector. It is anticipated that, over time, experience with applying timber legality definitions will indicate ways in which they should be improved. Additionally, laws are also likely to be amended over time. Provision should therefore be made for a process to review and modify a legality definition. For example, a definition may need to be changed if:

- A law or regulation that forms part of the definition is amended or repealed;
- A new law or regulation that may be relevant to timber production is issued;
- Experience shows the definition is not in line with a particular law.

CHAPTER IV



Chapter IV - A timber legality assurance system

4.1. Background

The European Union's Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan identifies a range of measures to address the problem of illegal logging and related trade. The Action Plan places particular emphasis on governance reforms and capacity building in timber-producing countries. This is supported by actions aimed at reducing the trade and use of illegally-harvested timber and promoting the use of legally-harvested timber in the EU. The EU proposed to do this through Voluntary Partnership Agreements (VPAs) between the EU and timber-producing countries where illegal logging is a problem. An important part of each VPA will be establishment of a licensing scheme to ensure that only timber products that have been produced in accordance with the national legislation of the exporting country are imported into the EU. Under the licensing scheme, import into the EU of timber exported from a Partner Country will be prohibited unless the timber is covered by a valid license. However, trade in timber products from non-EU partner countries will be unaffected.

4.2. Elements of a legality assurance system

The purpose of a legality assurance system (LAS) is to provide a reliable means to distinguish between legal and illegally produced forest products. Issuance of licenses by Partner Countries requires a system for ensuring that only legally-produced timber is licensed for export. This must include checks of forest operations and also control of the supply chain from harvesting to export. Such a legality assurance system includes five components:

- **A definition of timber legality:** A standard that sets out clearly which laws of the Partner Country must be met and provides criteria and indicators with which to test compliance with these laws;
- **Control of the supply chain:** Requirements for systems to trace wood products through the production chain from harvesting to the point of export;
- **Verification:** Requirements for verification of both compliance with the legality definition and control of supply chain;
- **Issuance of licenses:** Details of who will issue licenses and how to issue.
- **Independent control of third party for these above mechanisms:** A way to provide credibility by ensuring that all requirements of the TLAS are being implemented as prescribed.

4.3. Developing legality assurance systems

In many partner countries, some elements of an adequate legality assurance system have already existed. However, all aspects may not be operating effectively. In these cases, the partner country will need to implement changes to ensure their existing systems guarantee legality and provide reliable tracking origin of timber products.

In other cases, where existing systems are very limited or do not function adequately, new systems will have to be developed. It is anticipated that, in most cases, Partnership Agreements will be negotiated and come into force before legality assurance systems are

fully operational and the licensing of timber products commences. A key component of a VPA will be a detailed plan that sets out clearly defined time-bound actions for developing the LAS and implementing the licensing scheme. The VPA will identify areas in which there is a need for technical and financial assistance to support these actions.

4.4. Implementing legality assurance systems

There are two approaches to developing and implementing legality assurance systems: shipment-based and operator-based.

Shipment-based licenses: Each consignment of timber products to be exported to the EU is individually licensed by the Licensing Authority. This approach, in which a Licensing Agency checks evidence of legal origin supplied for each shipment if it meet requirements of of LAS or not?

Operator-based licenses: The Licensing Agency will check that a particular operator has a system to control the legal origin of all wood that meets the requirements for legality assurance systems. All shipments from the operator would be covered by FLEGT licences as long as periodic audits showed that the approved system remained effective. In these cases, there is considerable scope for recognizing a variety of existing systems being used by operators such as certification schemes and wood tracing systems. In such cases, it would be necessary for these systems to be periodically checked by the Licensing Agency to ensure they meet the requirements for legality assurance systems.

In some Partner Countries, it will be possible to develop and implement a legality assurance system on a country-wide basis. It is anticipated, however, that at least in the short term, systems are more likely to be limited in their scope – perhaps geographically or to key supply chains exporting to the EU. While this may be appropriate as an initial stage, the EU will encourage Partner Countries to expand the application of its legality systems to all its exports as well as the domestic market. Monitoring overall operation of each Partner Country's legality assurance system will be a key responsibility of a Joint Implementation Committee (JIC) comprising representatives of the Partner Country government and the EU.



CHAPTER V

Chapter V - Control of the supply chain: Wood tracing systems and chain of custody

5.1. Background

A key component of the EU FLEGT Action Plan is to negotiate and sign the Voluntary Partnership Agreements between the EU and producing countries. An important part of such agreements is the establishment of a licensing scheme to ensure that only timber products that have been produced in accordance with the national legislation of the exporting country may be imported into the EU. Under the licensing scheme, import into the EU of timber exported from a Partner Country will be prohibited unless the timber is covered by a valid license. The issuing of licenses will require implementation of a legality assurance system (LAS). Under such a system, in order to issue a license, the Licensing Agency will need to have evidence to confirm that the timber was legally produced and that it has been designed to describe outcomes that must be achieved, rather than prescribe the means for achieving can be traced to known legal origins. This requires three conditions:

- A definition of what legal timber is
- A mechanism for control of the supply chain (e.g. wood tracing system or chain of custody)
- A means for verifying that the requirements of the legality definition and the supply chain have been met so this information can be presented to the Licensing Agency to allow that license to be issued.

5.2. Principles and criteria for control

5.2.1. Use rights

There is clear delineation of areas where forest resource use rights have been allocated to each entity and clearly showed on the map. There is sufficient information about the location and holders of use rights to allow checks that all harvesting permit is issued by authorized Agencies.



5.2.2 Production and processing

There are effective mechanisms for tracing timber throughout the supply chain from harvesting to the point of export.

5.2.2.1. Each link in the production chain has been identified and, for each link, there are controls to ensure traceability of timber or timber products.

5.2.2.2. Standing tree: There is a mechanism for checking the location of standing tree to be harvested and confirming that it is consistent with the areas for which use rights have been allocated.

5.2.2.3. Logs in the forest: Logs or log loads are clearly identified and documented prior to being transported.

5.2.2.4. Transport: All supporting document related to timber and transportation shall be recorded. Mixing with material from illegal or unknown sources is not allowed during transport in order to check origin of timber at transit storage.

5.2.2.5. Control at transit storage: There are adequate controls at transit storage facilities, to ensure that material from legally verified sources is kept segregated from material from all other sources or, if mixing is allowed, that material from unknown sources and material which was harvested without legal harvesting rights is excluded from the facility.

5.2.2.6. Timber at primary processing facilities: There are strict controls to ensure that only legal verified timber is entered into the factories. Illegal harvested or unknown source timber are not allowed to enter the factories.

5.2.2.7. Control in factory: If within processing facilities, there are timber from different sources, separation of each sources are required. Balance volumes of in and out timber shall be applied.

5.2.2.8. Arrival at point of export: All material (logs, log loads or processed timber) arriving at the point of export is accompanied by the documentation necessary to confirm that it has been legally verified.

Explanation: Although the approach used to identify material can vary (e.g. use of labels for individual items, or based on documentation for each shipment), the system should suit the type and value of material in order to avoid risks of mixing legal and illegal or timber.



5.2.3 Quantities

There shall be a robust and effective mechanisms for measuring and recording the quantities of timber products at each point of the supply chain, including reliable pre-harvest estimation for standing trees of a compartment or forest area before harvesting.. All data shall be accurately recorded in a way which makes it possible to reconcile data for all points of supply chain.

5.2.3.1. Information on quantities of legally-produced material is reconciled in a reliable and timely manner throughout the entire supply chain. The approach used and the frequency of reconciliation should be such that any failures will be identified in a timely manner.

5.2.3.2. Standing tree yield: Prior to harvest commencing, a reliable estimate of standing volume is made at an appropriate level of accuracy for each area to be harvested, including areas being converted to other land uses. These estimation are recorded in a way which makes it possible to compare quantities of standing timber in an area with the actual volume cut.

5.2.3.3. Harvested logs in the forest: Information on the volume or weight of harvested logs, together with any other appropriate data, is collected and recorded and is sufficiently detailed and in a format which makes reconciliation with estimates of standing timber and with next points in the chain possible.

5.2.3.4. Transportation and transit storage: Information on the quantity of timber being transported or stored is recorded and is sufficiently detailed and in a format which makes reconciliation with prior and next points in the chain possible.

5.2.3.5. Timber at primary processing facilities: Information on the origin and quantity of all timber raw material which is delivered to the facility is recorded and is sufficiently detailed and in a format which makes reconciliation with prior and next points in the chain possible.

5.2.3.6. Control inside processing facilities: Information on the quantity of raw material and final product from legally-verified sources is recorded and a reliable calculation of the conversion ratio is made. Based on these figures, there is regular reconciliation to ensure that the quantity of legally-verified product produced does not exceed the amount which can be reasonably expected to be produced from the quantity of legally-verified raw material used. Where conversion ratios used exceed industry averages, this must be adequately justified.

5.2.3.7. Arrival at point of export: All goods (logs or finished products) arriving at the point of export is accompanied by appropriate identification and documentation stating the quantity and origin (e.g. last point of transformation) of the material. This information shall be collected and recorded in order to make reconciliation with data and information of previous stages in the supply chain and which can be used to support issuance of a legality license.

Explanation: No more timber can be claimed under the LAS than the ones has been produced from legally-verified sources. At each point of the supply chain, the volume of timber claimed coming from legally-verified sources can ben readily cross-checked with the volumes of rawmaterial entered in the processing facility. This means that recorde must be maintained for the raw material input and prodcuts output from each stage of production, including both forest orgin and timber processing facilities. These records must be up to date and data must be gathered and analyzed sufficiently quickly to allow discrepancies to be identified.

5.2.4 Mixing of legally verified timber with other timber

If mixing of timber from legally verified sources with timber from other sources is allowed, there are sufficient controls in place to exclude material which is from unknown sources or which was harvested without legal harvesting rights.

5.2.4.1. Segregation is preferred, but mixing may be allowed for a defined fixed period (e.g. 4 years) if there is reasonable justification and satisfied with criteria 2.4.2, 2.4.4.

5.2.4.2. Mixing may only occur in processing facilities and transit storage or timber terminals where there are adequate security controls to ensure that unknown or illegal timber is excluded. However it is not permitted in the forest, during transport or at roadside or other insecure storage.

5.2.4.3. There is a system in place to ensure that timber from unknown sources and log which was harvested without legal harvesting permit are not entered into processing facilities or transit storage.

5.2.4.4. There is a system or measure in place to ensure that the quantity of product of a particular quality and species which is eligible to be licensed as legally verified does not exceed the proportion of the total product as the quantity of raw material of the same quality and species from verified legal sources used in the production process for that product type.

Explanation: This specifies the conditions under which timber from legally-verified sources within the LAS may be mixed with other approved system. This could be legally-imported timber or timber from areas where harvest rights have been issued and are in the process of legaity verification. It requires that there are system in place to exclude timber from unknown sources, or from sources for which harvest rights have not been allocated.

5.2.5. Imported wood products

There are adequate controls to ensure that all imported wood products are from legally produced²⁾

5.2.5.1. There is a system in place to ensure that all imported logs or wood products have been imported legally.

5.2.5.2. If agreed with the Partner Country, there is a system in place to ensure that imported logs or wood products were legally produced in and exported from the country where the timber was harvested.

Explanation: Imported timber from a third country which produced in partner country need to be include under TLAS of the partner country. It will be necessary, however, for the partner country to ensure any imported timber to be included in the TLAS can be traced to legal export documentation from the country of origin. The partner country may implement a system to ensure that all imported timber that is destined for re-export under the LAS shall be legally produced in supplying country of origin (e.g. by developing a system of verification in conjunction with the producer country). However, such a sytem is not mandatory under the LAS:

Endnotes

1) It will not always be necessary to maintain traceability for a log, log shipment or wood product back to the specific origin, but this level of traceability will be needed between the forest and the first point to adequate control of mixing (e.g. a timber terminal or processing facility).

2) partner countries will be encouraged to develop legality assurance mechanism which include a requirement for each operator to ensure that all timber, domestic or imported, are from legal sources.



CHAPTER VI



Chapter VI - Requirements for verification

6.1. Background

In order to issue a license, the Licensing Agency will need to have sufficient evidences to justify that the timber was legally produced and also it can be traced through the supply chain back to its legal origin¹⁾. This requires three things:

- A definition of what is legal timber;
- A mechanism for control of the supply chain e.g. wood tracing system or chain of custody;
- A means for verifying that the requirements of the legality definition and the supply chain have been met so this information can be presented to the Licensing Agency to allow the license to be issued.

6.2. Verifying legal compliance and chain of custody

FLEGT licenses will be issued on the basis of evidence provided to the Licensing Agency that all the requirements of a Partner Country's legality definition have been met. This evidence will typically be provided through regular audits of activities in forest management units and processing facilities to verify:

- Compliance with the requirements of the definition of legality in the forest and, where the definition requires it, at processing facilities;
- Implementation of supply chain controls at each point where a timber is transferred from point to point, received or at the factory – such as sawmills and plywood mills – to ensure that there will be no unknown timber sources has entered into the process.
- Verification must result in clear and credible evidence that can be presented to the Licensing Agency and Independent Monitor Agency that demonstrates:
- Export timber products have been produced in a manner that complies with all laws included in the legality definition;



- There are sufficient controls to assure that licensed products included only timber from legal operations.

Verification agency should have an appropriately qualified and operate systems that conform to accepted auditing practices. For external (i.e. non-state) agencies, accreditation to a recognized standard may provide evidence of such qualifications.

6.3. Principles and criteria for verification activities

Verification provides adequate control to ensure the legality of timber to be licensed. Verification must be sufficiently robust and effective to ensure that any non-compliance with requirements, either in the forest or within the supply chain, are identified and action is taken in a timely manner to resolve the problem. The intensity of verification should be proportional to the specific circumstances in the Partner Country.

6.3.1 Organisation

Verification is carried out by a government, manufacturer or third-party organization, or some combination of these, which has adequate resources, management systems and skilled and trained personnel, as well as robust and effective mechanisms to control conflicts of interest.

6.3.1.1. Verification is undertaken by one or more organizations which are clearly identified and which are competent and adequately resourced.

6.3.1.2. All verification personnel have the skills and experience necessary to perform their jobs and are adequately supervised.

6.3.1.3. Verification activities are carried out under an adequate documented management system and provide means to ensure transparency of the system.

6.3.1.4. There is a robust system in place to ensure that all potential conflicts of interest at both the individual and the organizational level have been identified and documented and are being effectively managed and controlled.

6.3.1.5. Where verification activities are carried out by field-based monitoring personnel who are routinely involved with forest operations (e.g. forest guards), there must also be component of the verification process carried out by other personnel who are not routinely involved with either the forest operations or line management of the field-based monitoring personnel.



6.3.2. Verification of legality in the forest

There is a clear scope setting out what has to be verified. The verification methodology is documented and ensures that the process is systematic, transparent, evidence-based, carried out at regular intervals and covers everything included within the scope.

6.3.2.1. There is a clear, detailed, documented scope setting out what must be verified which, as a minimum, meets all the requirements contained within the definition of legality.

6.3.2.2. There is a documented verification methodology which is appropriate, transparent, justified and effective and includes adequate checks of documentation, operating records and operations as well as collection of relevant information from external interest parties.

6.3.2.3. Verification is carried out at regular intervals and there is provision for unannounced verification visits. The frequency and intensity of verification should be proportional to the robustness of the system being implemented. Records of verification activities are maintained in a form which allows monitoring by internal auditors and the independent monitor.

6.3.3. Verification of systems to control the supply chain

There is a clear scope setting out what has to be verified which covers the entire supply chain from harvesting to export. The verification methodology is documented and ensures that the process is systematic, transparent, evidence-based, carried out at regular intervals, covers everything included within the scope, and includes regular and timely reconciliation of data between each stage in the chain.

6.3.3.1. There is a clear, detailed, documented scope setting out what must be verified which is fully consistent with the principles for control of the supply chain set out in Section 6.2.

6.3.3.2. There is a documented system in place which defines how compliance with the supply chain requirements will be verified.

6.3.3.3. There are routine checks that the required controls are being implemented throughout the supply chain. The intensity of verification should be proportional to the robustness of the system being implemented to ensure compliance. Records of verification activities are maintained in a form which allows monitoring by internal auditors and the independent monitor.

6.3.3.4. There is reconciliation of data between each stage in the supply chain. The methodology for reconciliation, including who is responsible, how the reconciliation will be managed and the timing, is clearly documented and justified.

6.3.4. Non-compliances

There is an effective and functioning mechanism for requiring and enforcing appropriate corrective action where non-compliances are identified.

6.3.4.1. There is a system in place for requiring corrective and preventive actions where non-compliances are detected, and for enforcing implementation of the action.

Chú thích: ¹⁾ The process should include provision of the safeguarding of commercially sensitive information. In this context transparency refers to information that is relevant to verification of legality and the supply chain.



CHAPTER VII

Chapter VII - Voluntary Partnership Agreements

7.1. What are Voluntary Partnership Agreements?

The EU FLEGT Action Plan recognizes that, as a significant consumer of wood products, the EU shares responsibility with timber-producing countries to tackle illegal logging and its associated trade. However, there is currently no practical mechanism for identifying and excluding illegal timber from the EU market. The FLEGT Action Plan therefore proposes the development of Voluntary Partnership Agreements (VPAs) between the EU and individual timber-producing countries (FLEGT Partner Countries). These agreements are designed ultimately to eliminate illegally-produced timber from a Partner Country's international and domestic trade. A VPA is a binding agreement between the EU and a Partner Country by which the EU and the Partner Country undertake to work together to support the aims of the FLEGT Action Plan and to implement a timber licensing scheme. To enable this, a new European Regulation on the implementation of the FLEGT licensing scheme has been adopted¹⁾.

7.2. What do VPAs cover?

VPAs aim to contribute to timber-producing countries commitments to promote sustainable forest management by supporting improvement in forest law enforcement and governance. One element common to all agreements will be that Partner Countries have, or be committed to developing, credible legal and administrative structures and technical systems to verify that timber is produced in accordance with national laws. This implies:

- A commitment to ensure that the applicable forest law is consistent, understandable and feasible and promotes sustainable forest management;
- Developing technical and administrative systems to monitor logging operations, identify and track timber from the point of harvest to the market or point of export;
- A commitment to improve transparency and accountability in forest governance;
- Building monitoring and balances into the tracking and licensing system, including the implementation of an independent monitoring system;
- Developing procedures to license the export of legally harvested timber.

However, VPAs also need to recognise that conditions affecting forest governance and law enforcement in Partner Countries is different. In each country, a VPA will need to take account of factors such as national forest governance issues, forest-related legislation, the nature of forest and land use rights, the nature of timber trade, current forest sector initiatives and the capacity to implement agreements.

Key elements to consider in designing and implementing VPAs are likely to include:

- Social safeguards: VPAs should seek to minimize adverse impacts on local communities and poor people by taking account of indigenous and local communities's

livelihoods associated with forests. Partner Countries will also be encouraged to link FLEGT issues to their poverty reduction strategies and to monitor the impacts of VPAs on poverty;

- Stakeholder involvement: Provision should be made for regular consultation with stakeholders during the design and implementation of VPAs. This should include ways to involve the private sector in efforts to combat illegal logging but should also ensure that any requirements imposed are not an undue burden on small-scale producers. In some Partner Countries, meeting these commitments will require considerable institutional strengthening and capacity building. VPAs should identify areas in which there is a need for technical and financial assistance. Any assistance will be directed towards promoting legality in the forest sector, as a fundamental step towards achieving sustainable forest management. Likely areas of focus will include:

- Assistance with undertaking legislative and regulatory reforms, where needed;
- Assistance to develop systems to verify that timber has been harvested legally;
- Capacity building for Partner Country governments and civil society;
- Seeking just and equitable solutions to illegal logging which minimize adverse impacts on forest-dependent communities;
- Strengthening existing institutions and institution building;
- Support for policy, legislative and regulatory reform in the forest sector.



7.3. Developing a Voluntary Partnership Agreements (VPA)

VPAs are initiated by informal discussion between the EU and prospective Partner Countries, generally undertaken by the European Commission and one or more Member States. These aim to ensure that stakeholders in the country have a good understanding of the aims of a VPA and the mechanisms for its implementation. It also helps the EU gain an understanding of forest sector issues in the country that need to be addressed in designing a VPA. A prospective Partner Country notifies the European Commission when it is ready for formal negotiations. Negotiation of an agreement will focus on issues of importance to forest law enforcement and governance in the Partner Country. The negotiation process may take several months. A VPA will come into force when the negotiation process has been concluded and the administrative requirements of each party (e.g. ratification) have been completed.

7.3.1. Joint Implementation Committee

A Joint Implementation Committee (JIC) made of representatives of the Partner Country, the European Commission Member States will be established to oversee implementation of each VPA. It will be responsible for ensuring that discussion between the EU and the Partner Country is regular and effective. It will facilitate, monitor and supervise the implementation of the Partnership Agreement and mediate and resolve any conflicts and disputes that arise. ***The JIC's tasks will include:***

- Deciding on the timing of the effectiveness of the licensing scheme;
- Monitoring and reviewing overall progress of implementation of the Partnership Agreement;
- Reviewing reports from the Independent Monitor and complaints about the operation of the licensing scheme;
- Mediating and working to resolve conflicts relating to the Agreement and the licensing scheme.

7.3.2. Planning and Implementation

Each VPA should include a detailed plan that sets out clearly defined, time-bound actions for improving forest sector governance and implementing the licensing scheme. It may be some time after a VPA comes into force before the operation of a licensing scheme becomes effective as there may be a need to develop or strengthen the Legality Assurance System. When a Partner Country considers its Legality Assurance System has met all the requirements it will notify the EU, via the JIC. Upon confirming this, the European Commission will add the Partner Country, and any additional products to be covered by the licensing scheme, to the Appendices of the EU FLEGT Regulation. From this point, all applicable products exports from the Partner Country to the EU will require a FLEGT license.

7.3.3. Scope of Partnership Agreements

The licensing scheme will initially cover a limited range of solid wood products (i.e., logs, sawnwood, veneers and plywood). However, each VPA will include provision to extend the scope to other product categories, where there is beneficial for the Partner Country.

7.3.4. Reviews and reporting

Annual reports on the development and implementation of each VPA will need to be prepared. These reports will include details of the achievement of the objectives and agreed time-bound actions as well as progress on eliminating illegal timber exported to non-EU markets and sold in the domestic market. When a FLEGT licensing scheme is operational, details should also be provided of the number of FLEGT licenses issued and the quantities of timber products exported to the EU. Each VPA should include provision for review of its effectiveness and impact. The first review should be carried out no later than two years after a VPA starts, although additional reviews may be called for when issues with implementation arise.

7.3.5. Duration of Partnership Agreements

Once in effect, Partnership Agreements will remain in force until either the EC or the Partner Country informs the other of their intention to withdraw, with advance notice of one year. Where a review identifies serious failures in the implementation of the Partnership Agreement and these are not rectified within a mutually agreed timeframe, the Agreement can be suspended, with the result that the Partner Country will revert to non-partner status.

7.4. What advantages for FLEGT Partner Countries?

Implementing the VPAs and the licensing scheme will require capacity building and investment to ensure reliability and credibility. In return, there are advantages for Partner Countries. These include:

- Political and financial reinforcement of Government reforms aimed at improving forest governance;
- Improved access to EU markets, as public and private procurement policies increasingly specify the use of legal timber and the exclusion of unidentified or illegal timber, since all imports to the EU will be considered legal;
- Increased revenue from taxes and duties which, in some cases, may exceed the costs associated with running the licensing system;
- Increased revenue to finance poverty reduction and on community development programmes;
- Priority for EU development assistance for FLEGT-related measures;
- Additional enforcement tools to combat illegal activities;
- A foundation framework for which will facilitate private operators to progress to certification of sustainable forest management;
- Improved international reputation for Governments commitment to good governance.

Trade with countries that choose not to enter into VPAs will be unaffected. However, as purchasers increasingly adopt policies favouring procurement of verified legal timber, countries which have problems with illegal logging and which choose not to enter into VPAs may find their market share in the EU reduced.

Note

- 1) EC Regulation No 2173/2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community.



CHAPTER VIII



Chapter VIII - Guidelines for Independent Monitoring

8.1. Background

The EU's Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan sets out a range of actions to tackle problems of poor forest governance and weak law enforcement that give rise to illegal logging in a number of timber-producing countries and the associated trade in illegally-logged timber products. The centerpiece of the Action Plan is the formation of voluntary bilateral agreements between the EU and timber-producing countries. These Voluntary Partnership Agreements (VPAs) aim to support governance reform and strengthen enforcement activities in the timber-producing countries (Partner Countries), while setting up a licensing scheme that will ensure that only legally-produced timber products are exported to the EU. FLEGT licences, covering all exports of timber products listed in a VPA, will be issued by the Partner Country's authorities under national FLEGT Licensing Scheme and on the basis of a Legality Assurance System (LAS) that will include the following components:

- A definition of legally-produced timber that describes the laws that must be complied with in order for a license to be issued and the checks that need to be made to determine compliance;
- A system to track timber from forest operations to export that excludes timber from unknown or illegal sources from the supply chain
- A system to verify compliance with all elements of the legality definition and control of the supply chain
- Licensing of timber products for export, on an approved manufacturer or individual shipment basis;
- Independent monitoring to provide assurance to all interested parties that the system is working as planned and maintain its credibility.

The EU's competent authorities¹ will only permit entry to timber products from a Partner Country included in its VPA if they are covered by a FLEGT license.

The Independent Monitoring component is a function that is independent of a Partner Country's government forest sector regulatory bodies. It aims to provide credibility to the FLEGT licensing scheme by checking that all aspects of a Partner Country's LAS are operating as intended. The Briefing Note provides guidance on the elements for effective independent monitoring, set out as a set of principles and criteria. The following terms are used:

The Joint Implementation Committee (JIC) is a committee established for each VPA made up of representatives of the Partner Country, the European Commission and Member States. Its role is to facilitate and monitor the implementation of the VPA, and to mediate and resolve any conflicts and disputes that arise.

Legality Assurance System (LAS) is the system for assuring that timber or timber products exported from the Partner Country to the EU have been produced in compliance with relevant national legislation. It comprises:

- (i) A definition of legally-produced timber
- (ii) A system to verify compliance with the definition
- (iii) A system to trace timber products from a forest to point of export
- (iv) Licensing of exports to attest to their legality; and
- (v) Independent monitoring of all components

The Third-Party Monitor is a non-political body, possessing the necessary skills and systems to ensure its independence and objectivity, which monitors implementation of the LAS by:

- (i) Checking all its aspects using best auditing practice
- (ii) Identifying non-compliance and system failures; and
- (iii) Reporting its findings to the JIC.

The Reporting Body may be established by the JIC as a subsidiary body for day-to-day work. It:

- (i) Examines and validates the findings of the Third-Party Monitor before their public release;
- (ii) Identifies corrective actions where appropriate and checks whether such actions are taken,
- (iii) Responds to complaints concerning implementation of the LAS.

The authority for this function is the JIC but, in most cases, the day-to-day activities may be undertaken by a sub-committee or advisory panel convened by and working for the JIC. The Reporting Body would comprise individuals with relevant expertise from a representative range of interest groups. It may have decision-making responsibilities or have only a consultative role, with all decision-making powers retained by the JIC. Where no sub-committee or advisory panel is established, the Reporting Body responsibilities would be retained by the JIC.

Conformity Assessment Body is an organization that is competent in determining whether a product, system, process or a person's competence etc. meets a defined specification. It demonstrates its competence by adhering to relevant standards, in particular relevant ISO/IEC normative documents²⁾, preferably by seeking accreditation against those standards.

A corrective action is an action taken by an actor in the LAS to correct non-compliances or system failures identified by the Third-Party Monitor.

8.2. Institutional arrangements

8.2.1. Designation of authority:

The Partner Country Government formally authorizes the independent monitoring function and allows it to operate in an effective and transparent way.

8.2.1.1. The Partner Country Government provides the Third Party Monitor with a formal mandate to access the people, documents, and sites necessary to carry out its function.

8.2.1.2. The Partner Country Government ensures that the conditions necessary for the effective operation of the Third Party Monitor are in place.

8.2.1.3. The Partner Country Government ensures that adequate funding³⁾ and resources are available to allow full functioning of independent monitoring.

8.2.2 Independence from other elements of the LAS:

There is a clear separation between organizations and individuals that are involved in management or regulation of the forest resource and those involved in Independent Monitoring.

8.2.2.1. Organisations and individuals with a direct role in the operation of the LAS or with a commercial interest in the forestry sector are not involved in any aspect of independent monitoring.

8.2.2.2. The Third-Party Monitor has no commercial or institutional relationship with any organization involved in the operation of the LAS, or whose activities are subject to monitoring.

8.2.3 Appointment of the Third Party Monitor:

There is a transparent mechanism for the appointment of the Third-Party Monitor and clear, publicly-available rules regarding its operation.

8.2.3.1 The terms of reference (ToR) for the Third-Party Monitor are approved by the JIC and made public prior to the selection process for the Third-Party Monitor.

8.2.3.2. There are clear guidelines for engaging the Third-Party Monitor, which include an appropriate selection procedure that is open to all qualified domestic and international applicants and ensures transparency and value for money.

8.2.3.3. The Third-Party Monitor's contract or agreement with the Partner Country Government provides for:

- Freedom from interference in the operation of the Third-Party Monitor's activities;
- Access, within the limitations prescribed by national legislation, to government and company information relating to the operation of the LAS;
- Access to the forest estate and timber transport, storage, processing and export facilities that are relevant to the operation of the LAS;
- Payment of the Third-Party Monitor's fees or costs;
- Based on the work undertaken regardless of the nature of its findings; and
- Safeguards concerning the protection and use of commercially-confidential information.

8.2.4. Establishment of complaints mechanism:

There is a mechanism established for handling complaints and disputes that arise from independent monitoring. This is adequate to deal with any complaints about the operation of the licensing scheme.

8.2.4.1. The complaints mechanism is approved by the JIC. It includes principles to guide reporting about complaints and actions taken to address them;

8.2.4.2. The complaints mechanism includes a mechanism for taking further actions, such as forwarding allegations of LAS failure to the Third-Party Monitor to investigate and monitoring the outcomes of the investigation.



8.3. Third-Party Monitor

8.3.1. Organisational and technical requirements:

The Third-Party Monitor is an organization that is independent of other components of the Legality Assurance System and operates in accordance with a documented management structure, policies and procedures that meet internationally-accepted best practice.

8.3.1.1. The Third-Party Monitor is subject to external audits by a body which meets the requirements of ISO 17011 or equivalent. These audits verify:

- That the Third-Party Monitor operates in accordance with the requirements of ISO Guides 62, 65, 66 or equivalent; and

- That it is qualified to offer assessment services covering the forest sector and forest products supply chains.

Typically, to meet these requirements, the Third-Party Monitor would be an organization that is accredited as a conformity assessment body to offer services in these fields.

8.3.1.2. The Third-Party Monitor should have:

- At least five years experience of assessing forest management and chain of custody verification; and
- Performed assessments of forest management and supply chain verification, preferably in countries with forest sector characteristics similar to those of the Partner Country.

8.3.1.3. Where the Third-Party Monitor's principal headquarters are not in the Partner Country, it should offer its services in a joint venture with a domestic organization with relevant experiences.

8.3.1.4. The JIC should establish minimum technical and experience requirements for the Third-Party Monitor, taking the forest sector conditions and governance challenges in the Partner Country into account.⁷

8.3.2. Monitoring methodology:

The Third-Party Monitor's methodology is evidence-based and carried out at minimum specified intervals.

8.3.2.1. There is a documented monitoring methodology which includes adequate checks of documentation, operating records and operations of all parties in the LAS.

8.3.2.2. Monitoring is carried out at regular intervals and there is provision for unannounced monitoring. The frequency and intensity of monitoring should be proportional to the risk of non-compliance.

8.3.2.3. Monitoring activities seek and consider input from a range of stakeholder groups including forest owners and managers, processors, buyers, central and regional governments, academics, conservation organizations, NOGs, workers, forest users, indigenous groups and communities.

8.3.3. Scope of monitoring:

The Third-Party Monitor operates according to terms of reference that clearly specify what has to be monitored and which cover all agreed requirements for the issuance of FLEGT licenses.

8.3.3.1. Monitoring determines whether the LAS is operating according to the requirements for the issuance of FLEGT licenses. It includes:

- Checking all elements of the LAS – including legal compliance in forest management, supply chain integrity, verification activities and issuance of licenses;
- Identifying and documenting non-compliance with LAS requirements; and
- Assessing the effectiveness of corrective actions taken to address non-compliance.

8.3.3.2. For the process of cross checking and monitoring, the FLEGT licensing scheme, the Third-Party Monitor may have access to relevant documents and data concerning imports from the Partner Country into the EU. However EU Member States's competent authorities may withhold information which they are not permitted to communicate subject to their respective national laws.

8.3.4. Reporting requirements:

The Third-Party Monitor reports regularly to the Reporting Body on the integrity of the legality assurance scheme, including non-compliances, as well as assessment of corrective actions taken to address them.

8.3.4.1. The Third-Party Monitor has documented procedures for the preparation of reports which specify their contents and timing. Typically, two reports are delivered each reporting period:

- A full report for consideration by the Reporting Body, containing all relevant information on the monitoring programme and findings; and

- A public summary report based on the full report and covering, as a minimum, a summary of key findings, non-compliances identified and concerns of stakeholders.

8.3.4.2. The Third-Party Monitor may make additional reports to the Reporting Body outside the regular reporting framework, for instance where serious infringements are detected.

8.3.4.3. The Third-Party Monitor takes into account the Reporting Body's recommendations on amendments to the report pertaining to substantiating evidence, clarifying facts, justifying conclusions, and improving objectivity. However, the Third-Party Monitor determines the final content of the reports.

8.4. The reporting body

8.4.1. Structure and mode of operation:

The structure of the Reporting Body, including its relationship to the JIC; is clearly documented and publicly available.

8.4.1.1. There are guidelines setting out the Reporting Body's functions and how it relates to the Partner Country Government, the Third-Party Monitor and the JIC. Where applicable, these cover routine reporting and feedback between the JIC and the Reporting Body, and dealing with exceptional circumstances.

8.4.1.2. The Reporting Body and its members shall act objectively and should reject any political, commercial, financial and other pressures that could compromise their impartiality.

8.4.1.3. The Reporting Body identifies, describes and documents any relationship its members may have with bodies and individuals involved in the forest sector to determine the potential for conflict of interest. Any potential conflicts identified, and the actions taken to mitigate them, are made public.

8.4.1.4. The Reporting Body does not include individuals who are directly involved in the implementation of the LAS.



8.4.2. Roles and responsibilities:

There are clearly documented, publicly-available terms of reference setting out the Reporting Body's roles and responsibilities.

8.4.2.1. The Reporting Body receives and promptly reviews and comments as appropriate on the Third-Party Monitor's reports. This includes:

- reviewing and approving the full reports and where necessary recommending clarification of facts and improving objectivity; and
- reviewing and approving the public summary reports, where necessary recommending clarification of facts and domain, as well as monitoring their publication.

8.4.2.2. Where necessary, the Reporting Body communicates, via an agreed structure, to relevant actors in the LAS any recommendations arising from the Third-Party Monitor's reports.

8.4.2.3. The Reporting Body has an accessible and functioning mechanism for receiving complaints and other input from any interested party and passing these on to appropriate body dealing with complaints and disputes. This includes mechanisms for:

- receiving and considering input from stakeholder groups where appropriate and
- making public a summary of information on complaints and actions taken to address them.



CHAPTER IX

Chapter IX - Manufacturer - based legality assurance and FLEGT licensing

9.1. Background

The European Union Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan provides for Voluntary partnership agreement (VPAs) between timber-producing countries and the EU. Under VPAs, Partner Countries will implement a licensing scheme that attests to the legality of their timber exports to the EU, and EU border control agencies will allow shipments of timber products from Partner Countries entry to the EU Market only if they are covered by FLEGT licenses. In this way, EU markets can be assured that products they buy from Partner Countries have been legally produced, thereby reducing commercial and reputational risk.

FLEGT licensing must be based on a Legality Assurance System (LAS), which provides a reliable means to distinguish between legal and illegally produced forest products. These consist of five elements: (1) a definition of legal timber; (2) verification of compliance with the definition; (3) verification of supply chain controls from harvesting to export to ensure that no timber of unknown or illegal origin is included in exported shipments; (4) issuance of licenses; and (5) independent monitoring to ensure the LAS is working as intended.

In most cases, the verification of legal compliance and supply chain control elements will be operated by **Partner Country government agencies**, or qualified private sector verification organizations (e.g. providers of inspection services) acting on a Partner Country government's behalf. However, it is also possible that the LAS may provide for one or both of these elements to be operated by **Cerification bodies contracted by a company** – any entity operating in timber production in a Partner Country's jurisdiction. The latter are called **manufacturer-based legality assurance controls** in this paper. They may operate throughout the supply chain from timber harvesting, through transport and manufacturing to export.

The justification for **company - based legality assurance and licensing** could include the following:

- It acknowledges the fact that many manufacturers have already established control systems that aim to demonstrate timber legality and/or the sustainable management of forests. In some cases, these control systems are certified by third-party conformity assessment bodies using standards that cover legal compliance and material traceability.

- It aims to avoid increasing unduly the administrative burden that might arise from implementation of the licensing scheme, both for manufacturer that handle large export volumes and Partner Countries licensing authorities.

This note is intended to provide guidance for those developing Legality Assurance Systems for EU FLEGT licensing. It describes how government and manufacturer-based elements of legality assurance systems might work.

9.2. Responsibilities for legality assurance and licensing

The ultimate responsibility for licensing lies with the VPA Partner Government. Under its VPA, each Partner Country will assign a Licensing Agency with the task of issuing FLEGT licenses. In all cases, licenses will be issued on the basis of evidence of acceptable control systems that assure that timber covered has been produced in compliance with the legality definition and that timber of



unknown origin, or illegally-produced timber, has been excluded from its supply chain. Such control systems may be operated by or on behalf of government agencies, or by market participants themselves. **Manufacturer -based** and **shipment-based licensing** could operate concurrently in a Partner Country. Where a LAS includes **manufacturer -based** elements, the Partner Country government, not the EU, will be responsible for approving those elements and ensuring that they remain effective. The actual structure and mode of operation of each Partner Country's LAS will form a key part of its VPA and will need to be agreed during negotiations with the EU. It is expected that details, including the role of **manufacturer**, will vary between Partner Countries depending, for example, on the context of their forest regulation, existing and proposed control systems, the use of electronic export/FLEGT licensing systems and characteristics of their trade.

A condition for the approval of **manufacturer based** licensing systems is that they meet the same level of controls as applied by the Licensing Agency in its **shipment-based** licensing procedure.

9.2. Manufacturer - based legality assurance

Controls operated by manufacturer should assure compliance with the Partner Country's legality definition, or control of supply chains in order to exclude unknown or illegally-produced timber. These are known as "**internal**" controls. Examples include:

- Systems for assuring compliance with forest management and timber harvesting regulations;
- Systems for tracing logs from point of harvest to processing facility or export;
- Chain of custody systems operating in a processing facility linking raw material inputs with product outputs.

Verification that these systems are functioning can be through collating with a recognized external standard that includes relevant principles and criteria, by a authorised body using its own proprietary criteria or through direct verification by the licensing authority. These are known as "*external controls*". Examples include:

- Where a certification scheme is used for legality assurance, it must be subject to approval by the Partner Country's Licensing Authority. This will involve ensuring that the standard, the system for accrediting certification bodies, and the assessment systems they use all meet specified criteria;
- Where a proprietary assurance system, covered by a certification scheme is used, the criteria used by the verification body, and their qualifications and assessment procedures, would be subject to similar approval;
- A final option is where the Licensing Authority, or a body operating on its behalf, directly verifies compliance of manufacturer.

In every cases, criteria and the procedures used by the Licensing Agency for assessing and approving certification schemes, proprietary assurance systems and individual manufacturer controls would need to be established. These criteria and procedures would form part of the VPA text.

Generally, eligible manufacturer control systems should include measures to demonstrate compliance with relevant elements of the LAS. An acceptable internal control system is likely to include the following elements:

- A detailed description of the system that covers all the manufacturer's relevant activities and, where applicable, those of its suppliers;
- Accessible, verifiable records to demonstrate the effective operation of the system;
- Definition of qualifications, responsibilities and authorities of personnel who operate the system;
- Specification of regular audits of the system, and records of those audits;
- Procedures for corrective actions to prevent reoccurrence of non-compliances detected during operational controls or audits;
- Regular management review for assessing the effectiveness of the system and initiating actions for improvement.

9.3. Licensing

9.3.1. Shipment-based licensing

Shipment-based FLEGT licences may be employed where the Partner Country wishes to maintain direct control over the system; some countries may wish to build on procedures and institution already in place for regulating exports of shipments of timber. To obtain a shipment-based licence, an exporter would need to present evidence to the Partner Country's Licensing Agency that an individual consignment of a product had been produced in accordance with all elements of the country's LAS. This evidence would have to be based on approved controls covering each step in the production process. A licence applicant could demonstrate the legality of an individual consignment for instance through:

- Presentation of verified information produced by the applicant's internal control system and, where applicable, by the control systems of other participants in the supply chain.
- Presentation of information generated by a verification system operated by a government agency or an approved private sector body, operating on the government's behalf

Approved controls would be needed at all stages of the supply chain. Where shipments are of processed products, verification of the effectiveness of these controls would have to be implemented in the forest, at intermediate storage, in processing facilities and at the export port. Verification of log shipments could be confined to the forest, intermediate storage and port stages.

For example, a sawmill operator wishing to export a one-off consignment of sawn timber to the EU might purchase logs from a forest area that held a forest management certificate under a scheme that the Licensing Agency had approved. To obtain a license for the shipment, the exporter would also need to present evidence to the Licensing Agency that no raw material used in its production was from other sources than the certified forest are. Such evidence could be produced either by a government-operated national log tracking system, or by the exporter's own chain of custody system that the Licensing Agency had approved.



Figure 1: Examples of alternatives for shipment-based

Supply chain stage	1) Full government verification	2) Manufacturer based legality verification with government supply chain controls	3) All manufacturer-based controls
Verified legal forest management	Legality checked by government verifiers	Legality verified through certification scheme approved by licensing authority	Legality verified through certification scheme approved by licensing authority
Verified supply chain	Supply chain covered by national timber tracking system	Supply chain covered by national timber tracking system	Supply chain covered by operator's tracking system verified and approved by licensing authority
Export consignment checked	Shipment checked by licensing authority	Shipment checked by licensing authority	Shipment checked by licensing authority

9.3.2 Manufacturer -based licensing

Manufacturer-based licenses would be issued by the Partner Country's Licensing Agency on the basis of evidence provided by an exporter that it maintained sufficient controls to ensure that all its exports destined for the EU came from legal sources. An exporter could demonstrate the presence of such controls for instance through:

- Its internal control system certified under a recognized scheme that had been approved by the Licensing Authority;
- Its internal control system assessed and approved directly by the **Licensing Authority**, or another body operating on its behalf.

In either case, where the exporter relied on upstream supply chain controls, these would need either to be based on government-operated verification of compliance and material traceability, or approved **manufacturer-based** legality assurance controls. **manufacturer licensing** would allow issuance of FLEGT-licences covering all an exporter's shipments without checks on individual shipments, as long as the exporter, and its relevant suppliers, maintain approved legality assurance controls.

Such authorization would require regular assessments to ensure that the systems for which approval has been given were still in place and that records of products passing through the system demonstrated that the controls were being effectively used. Manufacturer would have to advise the Licensing Agency (or, where relevant, their certification body or verification body) if they had made significant changes to their controls between assessments as these would normally require re-assessment. Exporters applying manufacturer-based licensing would have to provide the necessary information to be contained on the FLEGT license for each shipment and would also have to provide records of each shipment to the licensing authority. There are several alternative means by which a manufacturer could provide evidence of sufficient controls. Some examples are illustrated in Figure 2 and described below:

Figure 2: Examples of alternatives for manufacturer-based

Supply chain stage	1) Full government verification	2) Manufacturer-based legality verification with government supply chain controls	3) All manufacturer-based controls
Verified legal forest management	Legality checked by government verifiers	Legality verified through certification scheme approved by licensing authority.	Legality verified through certification scheme approved by licensing authority
Verified supply chain	Supply chain covered by national timber tracking system	Supply chain covered by national timber tracking system	Supply chain covered by a chain of custody certification scheme approved by licensing authority
Licensed manufacturer	Manufacturer's control systems checked and approved by licensing authority. All exports to the EU are licensed as long as approval is valid.	Manufacturer's control systems checked and approved by licensing authority. All exports to the EU are licensed as long as approval is valid.	Manufacturer's control systems certified by approved scheme. All exports to the EU are licensed as long as approval is valid.

Full government verification: this comprises government-operated legality verification and a national timber tracking system capable of tracking all logs harvested in a country or region back to their forest of origin. An exporter would qualify for **manufacturer-based** licensing as long as it could demonstrate that it only used logs that could be traced using the national system.

Manufacturer-based legality verification with government supply chain controls – for example, a sawmill company exporting timber might purchase logs from several forest areas, each of which held forest management certification under an approved scheme, while log movements were controlled by means of a national tracking system. The sawmill company would qualify for **manufacturer-based** licensing if it could demonstrate that it only used timber from certified areas, traced through via the national tracking system.

All control systems manufacturer-based: for example, a plywood company with approved certified management systems that covered its forest operations, log transportation, production of plywood and product deliveries to the export port would qualify for **manufacturer-based** licensing as long as its logs were not sourced from outside this system, or from other suppliers whose systems that had not been approved. In this case, maintenance of the validity of each certificate would be sufficient for the company to maintain its **manufacturer** status.

9.4. Issuance of licenses

FLEGT licenses must be issued in the name of the Partner Country's Licensing Agency to all applicable timber shipments prior to their export to the EU. The EU FLEGT Regulation requires that a license covering each shipment from a Partner Country is available to the EU member state's competent authority at the same time as the customs declaration for the

shipment. EU border control authorities will verify that shipments are covered by valid licenses prior to authorizing release for free circulation in the EU.

For **shipment-based licenses**, the Partner Country's Licensing Agency would issue licenses to exporters on the basis of evidence of the legality of each individual shipment as demonstrated by the presence of approved controls throughout the supply chain. It will be important that good information about licensing requirements is available to exporters. This should aim to avoid situations where exporters apply for FLEGT licenses for consignments that are ready to ship, only to find that their raw material supplies had not been subject to approved controls. Retrospective approval in such cases is unlikely to be possible.

For **manufacturer-based licenses**, there are a number of approaches possible which would have to be detailed and agreed during VPA negotiations. Possible approaches could be:

- The Licensing Agency could pre-issue standard FLEGT licenses to approved manufacturer authorising them to complete the necessary details and allocate licenses to individual shipments when required. This could be on pre-numbered forms. The manufacturer would provide records of each shipment to the licensing authority. This type of system would require stringent controls to ensure that the right to issue licenses was not abused.
- The Licensing Agency could issue a FLEGT license at the time of export of each shipment, based on presentation by the manufacturer of evidence of the approved verification of its control system (e.g., its certification to a scheme approved by the licensing authority).
- The issuing of electronic FLEGT licenses by manufacturer could be another modality to be explored.

The information describing each shipment included on the FLEGT license would be the same, regardless of whether a license were shipment or manufacturer based, and procedures for handling shipments and licenses within the EU would be identical for both licence types.

9.5. Actions on system failure

Each VPA will need to include the steps to take in case of systemic problems with the legality assurance system. The independent monitoring provided for under each VPA will check periodically whether the LAS is working as intended and report any weaknesses or failures detected to the Joint Implementation Committee. The Joint Implementation Committee in turn would be responsible for recommending steps to address failures reported by independent monitoring. In the case of legality assurance systems where verification in the forest and log tracking is carried out by or on behalf of the partner government, correcting problems would be the responsibility of the relevant government agency and failure to do so would risk the validity of the entire licensing scheme. Where LAS included manufacturer-based elements, the Licensing Agency through its approval process, would have the primary responsibility for checking whether the controls provided by those elements were being maintained. If checks revealed problems in an element, the Licensing Agency would have to decide, on the basis of the severity of the failure, whether to require corrective action to be taken, or to immediately withdraw its approval of that element.

If the Licensing Agency withdrew its approval of any element in a supply chain, this could risk the validity of all manufacturer-based licences that depended on that element. The Licensing Agency would therefore need to publish promptly information concerning the suspension or withdrawal of its approval of any legality assurance element. It would also need to suspend future issuance of manufacturer licenses that depended on LAS elements for which its approval had been withdrawn. For example, withdrawal of the accreditation of a certification body operating an approved scheme should concurrently result in withdrawal of the Licensing Authority's approval of that body. This would affect all certificates issued by that body as well as issuance of FLEGT licenses that depended on the certificates it had

issued. Failures in the overall operation of a certification scheme, for example, through weaknesses in its accreditation procedures, would jeopardize its approval for legality assurance, and hence all certificates that had been issued through the scheme.

Should independent monitoring detect problems in manufacturer-based elements of a LAS, this could also indicate a failure of the licensing authority's own approval process. Such failure would then need to be addressed promptly to maintain the credibility of all operator-based systems in the Partner Country. The Joint Implementation Committee would be responsible for recommending a course of action if manufacturer-based elements were failing to meet the requirements agreed in the VPA.

CHAPTER X



Chapter X - FLEGT and VPA in Vietnam

Government of Vietnam and the EU have entered into a formal negotiations on the VPA. Below is the joint statement between Vietnam and EU following an online meeting between two parties August 16th, 2010:

JOINT STATEMENT

MINISTRY OF AGRICULTURE AND RURAL DEVELOPMENT – THE SOCIALIST REPUBLIC OF VIETNAM AND THE EUROPEAN COMMISSION

ON

NEGOTIATION ON VOLUNTARY PARTNERSHIP AGREEMENT (VPA) – FLEGT (FOREST LAW ENFORCEMENT, GOVERNANCE AND TRADE)

In October 2008, the EU introduced the legislation to limit the risk of illegally-harvested timber and timber products entering the EU market. Timber and timber products which are licensed under FLEGT will be considered meeting the requirements of this legislation.

On 5th July, 2010, during the meeting between Deputy Minister Hua Duc Nhi, Ministry of Agriculture and Rural Development (MARD) and Mr Timo Makela, Director of External Relations and Environmental Finance, Environment DG, European Commission (EC), the two parties discussed VPA FLEGT between Vietnam and EU. Attending the meeting were representatives of the General Directorate of Forestry, Ambassador – Head of EU Delegation in Vietnam, and representatives from the Embassy of Finland, Germany, Netherlands in Hanoi.

The two sides agreed to start formal negotiations for VPA FLEGT between Vietnam and EU, hold the first negotiating session in October or November 2010 in Hanoi with the hope that the final negotiations will be completed in late 2012 with the signing of VPA.

On 29th June, 2010, the Office of Vietnam Government had the Dispatch No. 4474/VPCP-KTN assigned MARD to be responsible for implementing FLEGT in Vietnam and coordinating with relevant Ministries and Agencies to build the National Action Plan to limit the risks for the production and export of timber products in order to meet the changes of international markets and leading negotiating and signing session of VPA with EU.

The purpose of the negotiation between Vietnam and EU is to reach an agreement enabling wood processing business in Vietnam to expand exports of timber and timber products into EU market and increase their adaptability with the requirements of EU markets on timber legality. The application of VPA FLEGT to build controlling and licensing system is to ensure that only legally harvested timber products are imported into the EU market.

EU has recently signed the VPA FLEGT with four African countries and been negotiating with some countries in Asia such as Malaysia and Indonesia. Currently, Vietnam is a major supplier of timber products in the world, in which EU is one of the largest markets.

VPA FLEGT between Vietnam and EU means that both parties will work together to ensure the legality and responsibilities of timber producers, exporters and importers, contributing to forest sustainable management and minimizing the impacts of climate change in the world.

Hanoi, _ 8/2010



PART TWO THE U.S. LACEY ACT

The Lacey Act submitted by Iowa Senator John Lacey in Spring 1900 was then signed by U.S. President William Mckinley to promulgate into law on 25th May 1900.

The Lacey Act was added in 1969, 1981, and 1988 and most recently on 22nd May 2008.

The supplement of 22nd May 2008 effective from December 15th 2008 was to expand the amendent scope of the law for plants and plant products (Section 8204. Preventing illegal logging).

1) *What does the U.S. Lacey Act do?*

- a) Prohibiting the sale of plants and plant products – including illegal timber and timber products from any state of the U.S or from overseas into the U.S.
- b) Require importers to declare the origian and the name of timber in their products.
- c) Establish penaties for violation of this Act, including confiscation of goods, fines or imprisonment, or confiscation of facilities or transporting equipments in serious cases such as smuggling illegally originated products or forgery.

2) *What is considered a violation of the Lacey Act?*

There are two kinds of violation of the Lacey Act:

First, plants or plant products from illegal harvesting, mining, transporting, and importing and agreements in any country or state in U.S. This constitutes illegal origin plants.

Second, illegally harvested plants are imported, purchased, owned in U.S. territory. This consitutues violation of the Lacey Act.

The prosecution on the basis that illegal materials in the products are detected at any stage of the supply chain.

3) *What is illegal under the Lacey Act?*

“Illegal” is defined by the contents of the laws of sovereign nations. Range of the laws relates to violations of the Lacey Act which only limits in the laws governing the following acts:

- a) Theft of plants;
- b) Taking plants from an officially protected area, such as a park or reserve;
- c) Taking plants from other types of “officially designated areas” that are recognized by a country’s laws and regulations;
- d) Taking plants without, or contrary to, the required authorization;

- e) Failure to pay appropriate royalties, taxes or fees associated with the plants's harvest, transport or commerce; or
- f) Laws governing export or trans-shipment such as a log-export ban.

It is important to note that the ignorance of the laws and decrees can not protect violators from prosecution by the Lacey Act if violated.

4) *What information under the Lacey Act must be declared and why?*

The Lacey Act requires importers to provide a basic declaration to accompany every shipment of plants or plants products. The declaration must contain:

- a) The scientific name of any species used,
- b) The country of harvest,
- c) The quantity and measure, and
- d) The value
- e) Harvesting location
- f) The quantity and measurement
- g) Value

If more than one species are used to make products, it needs declaring all species. The purpose of these declarations is to increase transparency about the timber and plant trade and enable the U.S. government to better enforce the law.

5) *To which agency is the declaration submitted?*

The declaration is submitted to the Agency of Plant Health Inspectorate Service (APHIS) under the U.S. Department of Agriculture (USDA). Electronic declaration form will soon be available in the near future.

6) *Is there any exemption of declaration?*

Yes.

First, to give the timber processing industry time to adjust, the Act has special chapters for complex products which often use raw materials from different countries or different species. If the country of origin or species is unknown to the consignment, the Act allows the declaration with the most suitable name or the country of origin. The relaxation will be much reduced after the government reviews declaration request within two years.

Second, the declaration for paper products from recycled pulp should not declare the name of species or the origin of recycled materials. However, the compulsory declaration must have the average percentage of recycled materials, species and the original information of non-recycled plant material as well as the percentage in the product.

Finally, the importers don't need to declare the plant material for packaging such as cartons or pallets, unless these packagings are imported products.

7) *The practical examples of violation of the Lacey Act?*

A company in California imports flooring consignment from China, is produced from illegal harvested timber in one country in Africa.

An exporter from Latin America deliberately mislabels the flooring consignment made of Spanish cedar, exports to U.S. with cheaper wood species to evade tax and avoid CITES.

A paper company use illegally harvested wood in Indonesia and sell their paper products to the U.S.

8) *Penalty of the Lacey Act*

Acts of violation may be fined as follows:

Fines,

Confiscation of goods and facilities

Up to 5 year imprisonment

9) *Is there any different between the Lacey Act and the current laws and policies?*

The Lacey Act comes from the point of reducing demands for illegal timber but is clear and more consistent than the Regulation on FLEGT and VPA of EU.

FLEGT eliminates illegally-harvested plant products. VPA is a bilateral agreement to remove certain specific species.

The Lacey Act establishes the basic legal principles – that prohibits trade in illegal materials in U.S. territory – and allows the companies to act themselves in the way they deem fit. In other words, the Act does not require companies to comply with any written lawful rule since there is no document which could guarantee 100% legality. Instead, U.S. government will evaluate the appropriateness under the circumstances.

10) *How will the Lacey Act be implemented by the U.S. government?*

The Agency of Fish and Wild Service (FWS), with long experiences in the field of inspecting of importing and smuggling of wild animals, and the APHIS, with the traditional responsibility in importing plants, will handle the declaration and inspection of the cases of illegally-imported timber. The Department of Homeland Security, the Agency of tax and border control will support this.

If the federal inspectors discover or receive evidences of violations, the investigation will be conducted. If there is clear evidence, the shipment may be confiscated and this case may be transferred to the Ministry of Justice.

U.S. Congress will have written guidance to enforcement authorities of the Act, on this basis, these agencies will issue guidance to implement the provisions of the Act.

11) *When does the Lacey Act take effect?*

Actually, the Lacey Act was in effect from May 22nd 2008. However, the valid period for each different sort of goods is different. For wooden furniture, this Act has taken effect from April 1st, 2010.

12) *How to deal with the Lacey Act?*

First, the Lacey Act does not impose a definition of general legality for timber and timber products from importing countries into U.S. market. According to the Lacey Act, a business complies with its domestic laws, it also meets the legality of their products under the Lacey Act. Therefore, business exporting timber and timber products into U.S. market will not experience problems with the Lacey Act if it fully complies with its domestic laws.

Second, exporting business of timber and timber products into U.S. market should keep close contact with their importing partners into this market to fully prepare the necessary information and valid declaration for their exported shipment.



PART THREE GENERAL GUIDELINES FOR THE LEGALITY OF WOOD

I. Legal land use rights for all types of forests and forest land

For all types of forest and forest lands, forest owners (organizations, individuals) must have the legal right to use land, shown by the records:

1. Certificate of land use right (Red Book)
2. The Decision to allocate land and forests
3. The contract to lease land and forest

Land which has been allocated or leased before October 15th 1993 shall continue to be used as in the initial plan in accordance with relevant laws.

II. FOREST HARVESTING

A. Natural forest harvesting

Legal right to harvest natural forests

Enterprises must have approved record of harvesting design and map (ratio: 1/5000).

The content of harvesting record includes:

1. The forest to be put into harvesting;
2. The location legal to be harvested, in which specifying sub-compartment, plots and lots;
3. The areas to be put into harvesting for subdivision, plot, lot;
4. The output allowed to be harvested, including large wood, salvaged timber and fuelwood under sub-zones, plot, lot;
5. Type of wood as group, diameter and species;
6. The target for basic construction, expected labor cost or harvesting price, and product consumption;
7. Silvicultural targets;
8. The delivery system as prescribed

The order of elaboration and approval of the record of harvesting design:

1. The record of harvesting design implemented by organizations registered on harvesting design advice business

2. The Department of Agriculture and Rural Development (DARD) assesses the record of harvesting design by design consultants.
3. DARD submits the statement with the record of approved harvesting design to Provincial People's Committee and MARD.
4. Provincial People Committee approves the record of harvesting design and issue harvesting license.
5. MARD decides to open the forest.

Harvesting natural forests

1. Forest owners are only allowed to conduct harvesting activities after having the decision to open the forest for harvesting.
2. Forest owners may take the initiative to organize according to content of decision to open the forest for harvesting and the current regulations.
3. Forest owners make records and hand over to the harvesting unit: the record of harvesting design, the decision to open the forest, and the sites (the boundaries of harvesting area by lot, plot, sub-area landmark system, forest hammer marks;
Forest owner makes a record to harvesting entity: harvesting design dossier, the decision to open forest for harvesting, and the site (boundary of harvesting location by plot, compartment, sub-compartment of marker system, tree-marking; the total of logged marking trees, the network of export, transportation, the location of harvesting site which is purposed to be open).
4. Preparing for harvesting:
 - a) Climber cutting entirely or partially (except drop leaf forest) to ensure safety for harvesting forest;
 - b) Opening new skid tracks, transportation system, log landings and log storgates or repairs them inside harvesting area.
5. Harvesting organization
 - a) Harvesting must be exactly permitted location name;
 - b) Strictly forbid to fell trees without marked, completely each lot and harvested timber is verified by actual volume for marking seal.
 - c) It must be cut in to session, cut branch, top; number of of session must be coincided with number of marked seal trees.
 - d) As soon as trees in a lot are felled, they should be immediately transported to the timber yards enumerating and marking on the end of session with pain, making history of timber and calculating large-timber volume. The allowed error (counted for the entire harvesting area) between the total volume of harvested timber according to the log list made by forest owner with the total volume of big timber in the design record is $\pm 15\%$;
7. Making minute for handing over forest between forest owner and harvesting unit after harvesting
8. Duration for harvesting: stipulating from January 1 to March 31 of next year.
9. Checking forest after harvesting: After completion of harvesting, the DARD or DARD commissions DFD together with forest owner and harvesting unit check harvested areas, make minutes for evaluating harvested process:
 - a) Implementing result as compared with harvested record, harvesting permission and decision for harvesting which mentions to location name, area, skid track, transportation system and log landings.
 - b) Technology of harvesting as cut stump, rate of felled trees and tackles them after harvesting, number of trees without marked seal, number of marked trees are not be cut.
 - c) Opening forest and cleaning forest

- d) General assessment on harvesting and recommendation for forest owner, designing units about mistake (if any), recommend on deal case with the mistake (if any)
 - e) Marking seal for trees
10. Forest owner is responsible in front of law for the accuracy of the timber history they have made when timber is transported to consumption.
11. Closing the forest after harvesting:
- a) Base on checking result after harvesting, the DARD makes decision on closing the harvested forest;
 - b) When having decision on closing harvested forest, forest owner make historical record of forests to manage and protect according to current regulation.
 - c) The decision on closing the forest is sent to district People's Committee and district FPD for monitoring.

B. Timber harvesting in concentrated plantation forests by State budget and grant

Legal harvesting right

Harvesting method: by forest owner's decision, but it must ensure reforestation immediately after the next service.

The company must have approved harvesting design record and map (scale: 1/5000).

The content of harvesting design record:

1. Location name and harvesting area;
2. Timber species, age, volume, rate of utilisation and production;
3. A harvesting map scaled 1/5000;
4. A reforestation methods;
5. Summary of harvesting records

Procedures for issuing harvesting permit:

- a) For provincial units, Department of Agriculture and Rural Development approves records and issues harvesting permits.
- b) For units not under the province, Companies, Corporation approve records for forest owners who are members of the Companies, Corporation, report to relevant Ministries for monitoring. Harvested timber is freely consumed and circulated.

C. Timber harvesting in plantation forest, scattered trees, home garden yards by State loan, commercial loan with State's guarantee

Legal harvesting right

The enterprise must have approved harvesting design record and map (scale: 1/5000).

The content of harvesting design record:

1. Location name and harvesting area;
2. Timber species, age, volume, rate of utilisation and production;
3. A harvesting map scaled 1/5000;
4. A reforestation methods;
5. Summary of harvesting records

Procedures of issuing harvesting permit:

- a) If forest owner is organization, enterprise under the province, People's Committee issues the harvesting permit.
- b) If forest owner is member of company, Corporation not under the province, the Company and Corporation issue harvesting permit.

D. Timber harvesting in plantation forests of households, individuals, residential communities by State budget and grant

Harvesting timber using grant loans, national budget: implement according to specified regulations of each project, forest owner only make a statistical report on sites, areas, estimated volume to submit to the district People's Committee for approval.

E. Timber harvesting in plantation forests, scattered trees, garden yards by forest owner's own investment

Legal harvesting right

Procedures to issuing harvesting permit:

Forest owners (organisations, private) decide by themselves without harvesting permit. However, to have the record on their legal timber origin, forest owners need:

- a) Confirmation of commune People's Committee on the record (for household forest owner).
- b) Confirmation of district People's Committee on the record (for organisation forest owner).

The content of the form submitting to commune People's Committee (for households), submitting to People's Committee (for business):

1. Location (sub-compartment, consignment, plot), the harvesting area;
2. Tree species, age, volume and quantity;
3. Harvesting time.

III. IMPORT WOOD

1. The enterprise must hold the business registration certificates and legal import license

2. Each shipping company and its vessels are registered with the Ministry of Transportation (MoT) (Vietnam Maritime Bureau or Maritime Department)

3. Documents required for timber import are current and correct:

- a) All documents required for legal export from producer country;
- b) Customs declaration authorizing import;
- c) Forestry Protection Department (FPD) documents approving wood transport from the port.

4. Export documents are valid and up to date:

- a) Bill of lading;
- b) Packing lists for the sawn timber or wood products;
- c) Certificates for sourcing of FPD;
- d) Chain of custody records indicating origin of logs used to produce timber products.

IV. TRANSPORTATION OF WOOD

1. Clear evidence of documents and licenses for companies and carries involved in timber products transportation shall be demonstrated by companies and carriers in accordance with the laws and regulations:

1.1. Transportation companies and individuals are licensed to transport timber

1.2. Transporting vehicles are registered and valid.

2. Clear evidence of documents and corresponding markings of timber products for transport shall be demonstrated by companies and carriers in accordance with the laws and regulations.

2.1. All logs transported from harvesting areas are marked with an official stamp

2.2. Timber records correct to the MARD format;

2.3. Documents to certify the origin of the timber supplied by the FPD or District FPD certification for timber not subject to stamping, or Commune PC certificate for timber from plantations and scattered trees;

2.4. Timber consignment paperwork during transportation is complete and current

a) Sales invoice according to the regulations of the Ministry of Finance;

b) Ex-warehousing-cum-internal transportation bills for internal transportation;

c) Official FPD record of timber stamping compatible with the timber consignment.

2.5. Imported timber transportation papers consist of the following:

a) Import declaration or certification from customs;

b) Timber records/lists by the exporting country, including the scientific name;

c) Forest ranger stamps or their equivalent from the exporting country or, if absent, from FPD office at point of import.

V. TIMBER PROCESSING

1. The timber processing (and trading) facility has the requisite legal business registration certificate issued by the District People's Committee (for individual business households) and the Department of Planning and Investment (for business organizations), and license to process commodities for foreign merchants (if necessary) (issued by the Ministry of Industry and Trade).

2. Timber for processing is strictly controlled and has complete documents proving the legality.

2.1. The timber processing and trading facility has wood log books to record all wood entering or exiting the facility.


2.2. All raw material (from domestic sources) received by the wood processing facility must be accompanied by sale contracts and official sale invoices under the regulations of the Ministry of Finance.


2.3. All raw material (from importing sources) received by the wood processing company must be accompanied by documents of timber origin.


- a) All legal documents for exporting of producing countries;
- b) Customs declaration for importing;
- c) The documents approved by the FPD on transporting timber from the port.


VI- Chain of custody (CoC) and Chain of Custody Control (CoCC) in Vietnam

CoC in Vietnam is shown briefly in Figure 01.

The purple rectangles  represent the different states of wood, being altered by processing, refining, trading, transporting, from stranding trees in the forest, borders (for imported wood) to products for sale in domestic market or export.

The yellow diamonds  represent technological steps made to transform round logs in the forest and imported woods into preliminary products and products. These technological steps create a basis for the control points of the chain of custody. Preliminary treatment and refinement, geographically, can be isolated or can be also be located on a place in the premises of a factory.

The blue diamond  represents the timber transportation and trading activities related to ownership transfer. Merchants can participate in the chain of custody at every link and every state of the wood and wood products.

The red arrow  represents the stage of technology, business arising, or transportation activities.

From the perspective of ensuring the legality of timber, understanding of the supply chain is to understand the method as well as the traceability of timber origin and legality. To do that, each supply chain must be analyzed to determine the control points.

Figure 01 indicates the points not to be missed if we want to control the supply chain not to be broken and out of control. These control points include:

- (01) Harvested round log,
- (02) Imported timber,
- (03) Timber in transportation,
- (04) Timber on production line,
- (05) Timber on production line,
- (06) Exported wood products,
- (07) Wood products for the domestic market.

For each point in the 7 control points above, it is always necessary to specify:

a) Objectives & Control locations

Objectives of controlling is (i) to ensure the traceability of timber, or (ii) to ensure the legality of timber, or (iii) both. According to the requirements of timber legality assurance system (TLAS), objectives of controlling include both: (i) to ensure the traceability of timber, and (ii) to ensure the legality of timber. It is necessary to determine the control locations to acknowledge the relationship of each control point with other points in the supply chain.

b) Subject for control

Subject for control is the stage of timber at control point of the supply chain from timber in harvesting area, from the process of transformation in transportation, trading (ownership transfer), processing to exported products or products sold in the domestic market.

c) Control Indicator

Control indicator is the indicator (i) helps the traceability of timber and (ii) verifies the legality of timber.

d) Verifying information

Verifying information is the tool to verify any component of the control point.

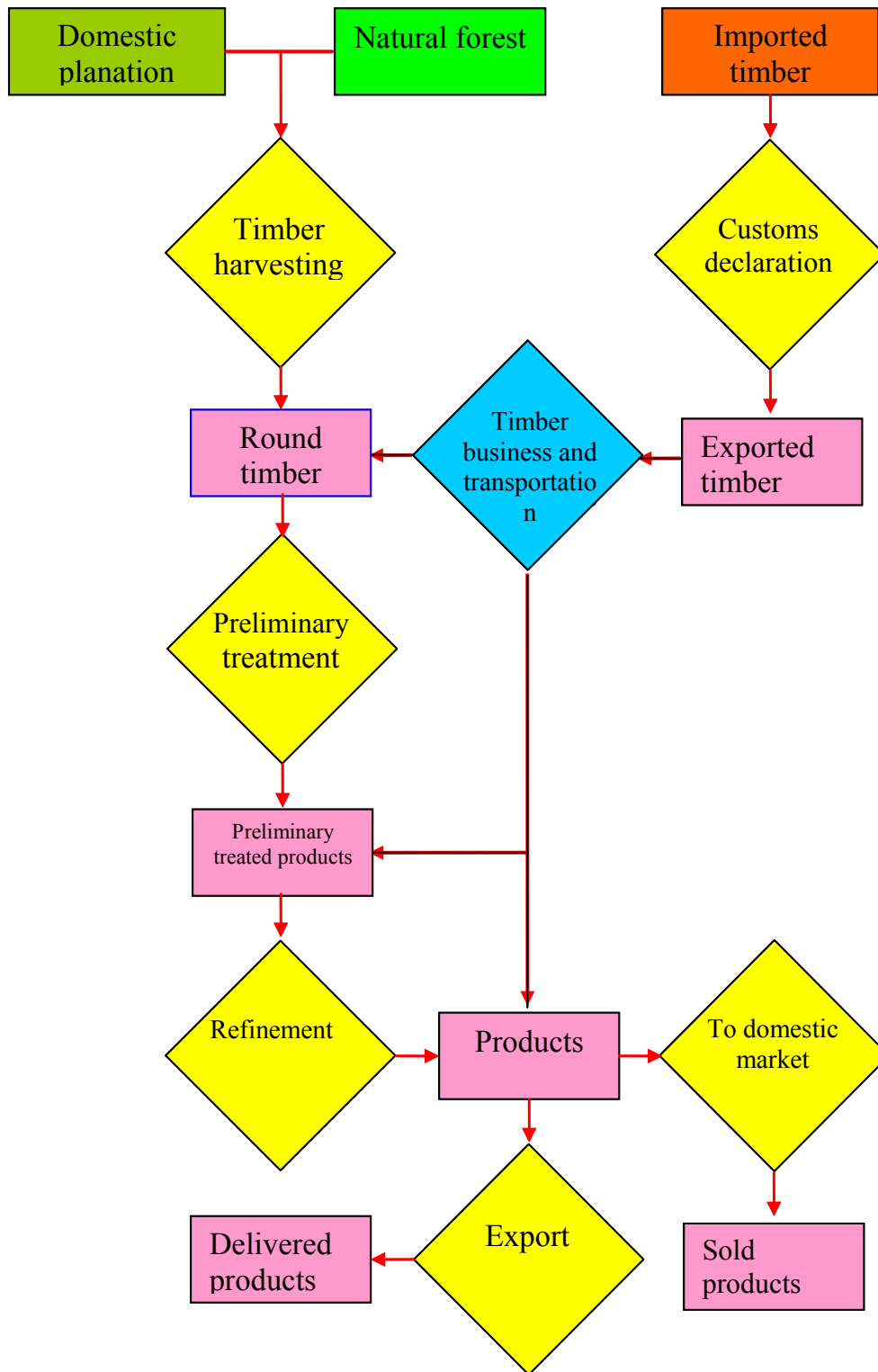
e) Parties and relevant stakeholders

Parties and relevant stakeholders include organisations, individuals involved in the supply chain or having effects on the supply chain.

f) Reference

Reference includes legal documents, procedures, work instruction, and anything that affects the supply chain and the legality of timber at the control points. Reference may also be different types of documents supporting the traceability and the legality of timber.

Figure 3: The timber supply chain in Vietnam



Here are the proposed control methods of above 7 control points:

Table 1: Control of round log harvested from plantations

Control Point 01.1: Control of round log harvested from plantations					
Objectives and control locations	Subjects for control	Control indicator (Control support document)	Information declaration	Parties and relevant partners	Reference
(i) Origins of round log harvested from plantations are clear (ii) Harvesting plots.	Round log harvested from plantations	Harvesting license/Harvesting registration.	(i) Species, (ii) Forest volume, (iii) Volume of harvested timber (ton/m ³) (iv) Harvesting location, (v) Harvesting timeline.	(i) Forest owner submits harvesting application/harvesting registration, (ii) DARD grants harvesting license (iii) Higher authorities of forest owner grant harvesting license, (iv) Chairman of district People's Committee grants harvesting license, (v) Commune Chairman accepts harvesting registration, (vi) Residential forest rangers check and accept.	Circular No. 35/2011/TT-BNNPTNT, dated 20 th May 2011.

Table 2: Control of round timber log from natural forests

Control Point 01.2: Control of round timber harvested from natural forests					
Objectives and control locations	Subjects for control	Control indicator (Control support document)	Information declaration	Parties and relevant partners	Reference
(i) Origins of round log harvested from natural forests are clear; (ii) Harvesting plots.	Round timber harvested from natural forests	Harvesting license	(i) Species; (ii) Forest volume; (iii) Volume of harvested timber (m3), (iv) Volume of harvested trees; (iv) Harvesting location, (vi) Harvesting timeline (vii) Hammer ranger marks	(i) Forest owner submits harvesting application; (ii) DARD grant harvesting permit; (iii) Chairman of district People's Committee grants harvesting permit; Commune FPD; (v) Commune chairman.	Circular No. 35/2011/TT-BNNPTNT, dated 20 th May 2011.

Table 3: Control of imported timber

Control Point 02: Imported timber					
Objectives and control locations	Subjects for control	Control indicator (Control support document)	Information declaration	Parties and relevant partners	Reference
(i) Origin of imported timber is known; (ii) Seaport or on land border.	Imported timber	Customs declaration	(i) Species (trade name and specific name); (ii) Volume; (iii) Exporters; (iv) Importers; (v) Exporting countries; (vi) On board (vii) Dispatch	(i) Importers submit imported timber application; (ii) Checked and declared by customs; (iii) Forest rangers check and declare imported timber.	“Process of importing materials to product exports” attached with Decision 1904/QĐ-BTC dated 10 th August 2009 of Ministry of Finance.
		Origin certification	(i) Timber description, (ii) Volume		
		Sale contract	(i) Commodity description, (ii) Volume (iii) Price (iv) Total amount of money (Amount), (v) On board, (vi) dispatch harbour, (vii) Delivery		
		Bill of	(i) Commodity description, (ii) Volume, (iii) Unit price, (iv) Total amount of money (amount).		
		Lading	(i) On board harbour, (ii) Dispatch harbour, (iii) Commodity description		

		Log list.	(i) Log number, (ii) Total quantity of log, (ii) Total volume		
		Packing list	(i) Commodity description, (ii) Quantity		
		Flora quarantine	(i) Quantity and descriptions of containers; (ii) Name of commodity and quantity to declare		

Table 4: Control of timber in transportation

Control Point 03: Timber in transportation					
Objectives and control locations	Subjects for control	Control indicator (Control support document)	Information declaration	Parties and relevant partners	Reference
(i) Timber origin traceability. (ii) Timber transportation	Timber in transportation	Log list and transportation package	(i) Species, (ii) Number of log, (iii) Total quantity of log, (iv) Hammer ranger mark, (v) Quantity of transported timber (m3/ton), (vi) Harvesting location/Port of entry, (vii) Destination, (viii) Transportation time.	(i) Timber owner submits transportation package; (ii) Forest rangers grant.	<p>Circular No. 01 /2012/TT-BNNPTNT, Dated 04th January 2012, MARD</p> <p>Circular No. 42/2012/TT-BNNPTNT, dated 21st August 2012, MARD.</p>

		Packing list	(i) Species, (ii) Volume (ton/m3), (iii) Quantity	Timber owner	
		Sales contract.	(i) Species, (ii) Volume (ton/m3), (iii) Unit price, (iv) Total amount of money (Amount).	Buyer and seller	
		Sale invoice/Internal delivery and transportation bill.	(i) Species, (ii) Volume (ton/m3), (iii) Unit price, (iv) Total amount of money (Amount).	(i) Buyer/seller, (ii) Transporter.	

Table 5: Control of timber in preliminary processing

Control Point 04: Timber in preliminary treatment					
Objectives and control locations	Subjects for control	Control indicator (Control support document)	Information declaration	Parties and relevant partners	Reference
(i) Tracting timber from preliminary processing (ii) Preliminary production line.	Timber in preliminary treatment.	Production plan	(i) Species, (ii) Code of production plan, (iii) Name/Code of product, (iv) Number of product consignment, (v) Quantity of products, (vi) Quantity of timber material, (vi) Production time.	(i) Preliminary production	Circular No. 01 /2012/TT-BNNPTNT, Dated 04th January 2012, MARD
		Timber in –out record book.	(i) Species, (ii) Quantity of import and export (m ³ /ton), (iii) Environmental status of timber, (iv) Number of timber material consignment.	(i) Preliminary production Unit. (ii) Forest rangers	Circular No. 42/2012/TT-BNNPTNT, dated 21st August 2012 MARD.
		Norm of material consumption.	(i) Quantity of timber materials to product 1 m ³ /1 unit of preliminary treatment.	(i) Preliminary production Unit	

		Product result report.	(i) Species, (ii) Name/code of product, (iii) Quantity of products; (iv) Number of product consignment; (v) Code of production plan, (vi) Actual material consumption; (vii) Number of timber material consignment.	(i) Preliminary production Unit	
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Table 6: Control of timber in refinement

Control Point 05: Timber in refinement production					
Objectives and control locations	Subjects for control	Control indicator (Control support document)	Information declaration	Parties and relevant partners	Reference
(i) Traceability origin of timber in refinement production, (ii) Refinement production line.	Timber in refinement production.	Timber delivery order.	(i) Species, (ii) Quantity, (iii) Number of material timber, (iv) Code of production plan, (v) Name/code of product, (vi) Number of product consignment	(i) Storekeeper, (ii) Manager of material store, (iii) Production manager.	
		Pallet card.	(i) Code of production plan, (ii) Code/name of part/semi-finished products, (iii) Quantity of part/semi-finished products on pallet, (iv) Number of material timber consignment.	(i) Foreman, (ii) Production manager.	
		Bill of detailed hand-over/semi-finished products between production stages.	(i) Code of production plan, (ii) Code/name of part/semi-finished products, (iii) Quantity of part/semi-finished products, (iv) Number of material timber consignment	(i) Foreman, (ii) Production manager.	

		Report of production output	(i) Code of production plan, (ii) Code/name of part/semi-finished products, (iii) Quantity of produced products, (iv) Number of product consignment, (v) Number of material timber consignment.	(i) Foreman, (ii) Production manager.	
		Reports of actual material consumption	(i) Quantity of consumed material categorized by (ii) number of material consignment, (iii) code/name of product, (iv) code of production plan.	(i) Foreman, (ii) Production manager.	

Table 7: Control of exported products

Control Point 06: Exported products					
Objectives and control locations	Subjects for control	Control indicator (Control support document)	Information declaration	Parties and relevant partners	Reference
(i) Traceability timber origin of exported products, (ii) Exporting point.	Exported products	Purchasing contract.	(i) Buyer, (ii) Seller, (iii) Code/name of product, (iv) Number of product, (v) Price unit, (vi) Total amount of money, (vii) Delivery, (viii) Up loading harbour Cảng lên hàng, (ix) Dispatch harbour	(i) Producer, (ii) Exporter, (iii) Customs	
		Bill.	(i) Code/name of product, (ii) Number of product consignment, (iii) Number of product, (iv) Price unit, (v) Total amount of money.		
		Packing list	(i) Number of product consignment, (ii) Quantity of product, (iii) Product description, (iv) Total number of container.		
		Bill of lading	(i) Number of product consignment, (ii) Total number of container.		

		Customs declaration form.	(i) Exporter, (ii) Importer, (iii) Code/name of product, (iv) Number of product consignment, (v) Quantity of product, (vi) Number of contract, (vii) Cảng nhập khẩu, (viii) Importing country.		
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Table 8: Control of products sold in the domestic market

Control Point 07: Products sold in the domestic market					
Objectives and control locations	Subjects for control	Control indicator (Control support document)	Information declaration	Parties and relevant partners	Reference
(i) Traceability origin of product sold in domestic market. (ii) Point of selling products into domestic market	Products sold in the domestic market.	Sale contract.	(i) Code/name of product, (ii) Quantity of product, (iii) Price unit, (vi) Total amount of money.	(i) Producers/(ii) Sellers.	
		Invoice.	(i) Code/name of products, (ii) Number of product consignment, (iii) Product description, (iv) Quantity of product, (v) Unit price, (vi) Total contract value.	(i) Producers (ii) Sellers.	

3. The current provisions of Ministry of Agriculture and Rural Development on timber products harvesting, transportation and storage

Currently, timber harvesting, transportation, processing and storage is governed by the following legal norms:

Decision No. 44/2006/QĐ-BNN date 01st June 2006 promulgating the regulation management of tree-marking and hammer rangers;

- a) Circular No.35/2011-TT-BNNPTNT dated 20th May 2011 promulgating the guideline on harvesting and salvaging timber and non-timber forest products;
- b) Circular No. 01/2012-TT-BNNPTNT date 04th January 2012 promulgating the provision on document package of legal forest products and examination of forest product origins;
- c) Circular No. 42/2012-TT-BNNPTNT dated 21st August 2012 amending and supplementing several articles of Circular No. 01/2012-TT-BNNPTNT dated 04th January 2012 promulgating the provision on document package of legal forest products and examination of forest product origins.

APPENDIXES

APPENDIX 01

**MINISTRY OF AGRICULTURE
AND RURAL DEVELOPMENT**

THE SOCIAL REPUBLIC OF VIETNAM
· Independence- Freedom- Happiness

No. **35** /2011/TT-BNNPTNT

Hanoi, 20th May 2011

CIRCULAR

On guiding the implementation of timber and non-timber forest product harvesting and salvaging

Pursuant to the Forest Protection and Development Law on 3rd December, 2004;

Pursuant to the Decree No.01/2008/NĐ-CP dated on 03rd January 2008 by the Government on stipulating the functions, responsibilities, mandates and organizational structure of the Ministry of Agriculture and Rural Development;

Pursuant to the Decree No. 75/2009/NĐ-CP dated 10th September 2009 by the Government on amending Article 3 of the Decree No.01/2008/NĐ-CP dated on 3rd January, 2008 by the Government on stipulating the functions, responsibilities, mandates and organizational functions of the Ministry of Agriculture and Rural Development;

Pursuant to the Decree No.23/2006/NĐ-CP dated 03rd March 2006 by the Government on implementing the Forest Protection and Development Law;

Pursuant to the Decision No.186/2006/QĐ-TTg dated 14th August 2006 by the Prime Minister on issuing the Forest management regulation;

The Ministry of Agriculture and Rural Development provides guidelines on harvesting and salvaging timber and non-timber forest products as follows:

Chapter I

GENERAL STIPULATIONS

Article 1. Amendment scope and application subjects

1. Amendment scope: The Circular stipulates subjects, conditions and procedures for harvesting, salvage harvesting of timber and non-timber forest products in natural forests, plantation forests and floral species having the same names with timber species, non-timber forest products in the nationwide.
2. Application subjects
 - a) Forest owners are forestry companies, state forest enterprises, protection forest management boards, special-use forest management boards and enterprises and cooperatives have forestry-related business registration (forest owner hereinafter shortened as organizations).
 - b) Forest owners are households, individuals, village communities and forest owner not subjected to item a, clause 1 in this Article (the forest owner hereinafter shortened as households).
 - c) State agencies, individuals, enterprises those are not forest owner but related to harvesting operation of timber and NTFP.

Article 2. Terminology interpretation

In this Circular, the below terms shall be understood as follows:

1. Cutting of weak trees: cutting the trees which are twisted, ail, of bad quality and not suitable for forest business purposes.
2. Climber cutting: cutting creepers, shrubs before harvesting.
3. Forest cleaning: chopping branches, crowns, treating scratch-resistant trees, felled and broken trees in the process of timber main harvesting, salvaging, reclaiming.
4. Harvesting location: name of forest plots, compartments and sub-compartments
5. Log
6. Decayed timber and timber with wood core only: dead dry timber, rotten timber or timber with wood core only.
7. Main harvesting: felling timber to make use of forest's growth to mainly achieve commercial purposes but having to ensure forest development a sustainable utility as specified in the forest regulation or forest sustainable management regulation or harvesting regulations.
8. Big log: logs with average diameter of 25 centime (cm for short) or over and length of one meter (m for short) or over.
9. Small log: logs with other diameter rather than those specified in clause 8 Article 2 in this Circular.
10. Landing area: the landing site in harvesting area.
11. Harvesting cycles: the interval between two continuous harvesting times in the main harvesting area for selective harvesting where forest volume in the subsequent harvesting must be at least equal to the forest volume in the previous harvesting.
12. Concentrated plantation forests: plantation forest which shall has concentrated area of 0.5 ha or more and forest trip of at least 20 m long and 3 tree rows or more in case of separate planting with other forests.
13. Non-timber forest products in the Circular are just limited to forest floral species.
14. Consulting services are organizations entitled by law to design the forest harvesting.
15. Limited harvesting: harvesting one tree species without exceeding twenty percent (or 20%) of total volume or 30% of individuals of such tree species in the harvesting area.
16. Harvesting intensity: is calculated in percentage (%) between the volume of felled trees in forest plot with total forest volume of such plot at the designing time.
17. Forest owner: organization, household assigned, leased by the Government with forest, forest land for forestry-related production, business in accordance with the Forest Protection and Development Law.
18. Harvesting of timber in natural forests for annual demand: one single harvesting per year or per multi-years as regulated in the Circular.
19. Statement of harvesting design: a description of fundamental situation of the harvesting area, technical implementation measures; harvesting and salvage volume, categories and detailed tables on forest harvesting technical standards. (Attached appendix 1).
20. List of proposed products to be harvested: description of some information on location, area, volume, categories of timber and non-timber forest products to be harvested, salvaged; completion, timeframe (attached Appendix 2).
21. Harvesting registration: common administrative document to submit to competent authorities to register the harvesting permit for timber and non-timber forest products (attached Appendix 3).

Article 3. Principles, conditions for harvesting and salvaging timber and NTFP

1. Harvesting and salvaging in the correct locations, sites, forest product categories as permitted by competent authorities or as registered.
2. Measures for ensuring forest regeneration, minimize negative impacts on environment and forests' protection capacity must be in place.
3. Harvesting of rare, specious and endangered floral species under group Ia, IIa must follow the provisions in the Decree No.32/2006/NĐ-CP dated on 30th March 2006 by the

Government on managing rare, precious and endangered forest fauna and flora (hereinafter referred to the Decree No.32/NĐ-CP).

Harvesting of forest floral species under group IIa must follow the provisions in the Circular excluding special use forests where only limited harvesting is permitted.

4. Harvesting and salvaging of timber and non-timber forest products shall be permitted only in the areas leased, allocated, temporarily allocated for management and utility by competent agencies in compliance with legislations or permitted by People's Committees of Centrally-managed cities and provinces (hereinafter referred to Provincial People's Committees).

5. Forest owner or harvesting agencies are permitted to receive timber and non-timber forest products after harvesting and salvaging except for other provisions in the Circular.

Article 4. Types of forests and forest products to be harvested and salvaged

1. Natural timber forests and natural mixed timber, bamboo forests.

In case of harvesting for annual demands, eligible forests will be determined in accordance with the harvesting plan approved by competent authorities.

In case of main harvesting, eligible forests must be not-yet harvested forests or harvested forests with at least after one harvesting cycle and meeting with following criteria:

a) Minimum timber volume must be met:

Evergreen broad leaf forests: 150 cubic meter per hectare (m³/ha)

Semi-deciduous broad leaf timber forests: 130 m³/ha

Drop leaf forests: 110 m³/ha

Coniferous forests: 130 m³/ha

Mixed timber and bamboo forests: 80 m³/ha

b) Volumes of trees with harvesting diameter in the plot shall be more than 30% of total forest volume in such plot.

c) Diameter of harvesting timber tree measured at 1.3 m far from the ground to tree trunk (or D1.3 m for short) shall be at least 45 cm for group I and II, 40 cm for group III and VI and 35 cm for group VII and VIII. For Dipterocarpus species in drop leaf forests, diameter of tree shall be 35 cm at the minimum.

d) Plantation

2. Rừng trồng.

a) For productive plantation: eligible forests are determined in accordance with each type of species and forest commercial purposes, forest owner can make own decision for harvesting.

b) For protective plantation: eligible forests are forests meeting with protection standards as regulated in Article 28 in Forest management regulation attached with the Decision No. 186/2006/QĐ-ĐTg dated 14th August 2006 of the Prime Minister (hereinafter shortened as Decision 186/2006/QĐ-ĐTg).

3. Pure bamboo forests and natural mixed bamboo timber forests: eligible forests shall be mature forests for technological demands or with coverage of 0.7 or more.

4. Salvage harvesting forest:

a) Timber trees including stumps, roots and non-timber forest products in the sites cleared to build infrastructure or other purposes.

b) Timber trees and non-timber forest products in the areas where silviculture methods are implemented (restoring, maintaining, thinning, forest enrichment, conversion of seedling forests, plantation forest reclaiming) in production forests, protection forests and special-use forests (excluding strictly protected zones).

c) Timber trees, including stump, roots and non-timber forest products when harvesting is conducted for scientific research and forestry-related job training.

d) Timber trees and non-timber forest products which are standing dead, dry dead and fired-damaged in production forests, protection forests and special-use forests (excluding strictly protected zones).

e) Timber trees and non-timber forest products on the floor of exporting, transporting routes, landing sites as approved in the annual main harvesting design dossier.

5. Salvaged timber:

Trees, logs, barks which are decayed, removed, fire-damaged wood; branches, crowns, stumps and roots and other non-timber forest products in rice fields, rivers and damps in production forests, protection forests, special-use forests (except for the strictly protected zones).

6. Harvesting and salvaging of flora having the same name with timber species, non-timber forest products and logs, stumps, roots and branches of all parameters outside the areas planned for forestry shall be determined by organizations, individuals (except there are other regulations applied by local authorities or village communities). After harvesting and salvaging, local People's Committee at commune, ward and town level shall be informed about harvesting and salvaging sites, volumes and categories for their endorsement to underpin the transportation and consumption.

Chapter II

SPECIFIC STIPULATIONS

SECTION 1: DEVELOPMENT OF FOREST MANAGEMENT PLAN AND HARVESTING PLAN

Article 5. Development forest management plan

Forest owners are organisations which have permission to harvest forests in accordance with main harvesting plans are required to develop forest management plan or sustainable forest harvesting plans (hereinafter referred to forest management plans).

1. Content of the plan: comply with the guideline on developing forest management plan, sustainable forest management plans promulgated by the Ministry of Agriculture and Rural Development.

2. Submitting and approving procedures: organisations which are forest owners submit one (01) registration dossier to Department of Agriculture and Rural Development. The registration dossier consists of: An official registration letter, Forest regulation plan and a corresponding map.

Within 03 working days after receipt of harvesting application document, if the document is not eligible, Department of Agriculture and Rural Development must inform forest owners to supplement additional document in accordance with regulations.

Within 10 working days after receipt of eligible harvesting application document, Department of Agriculture and Rural Development must approve the plan and return approved result to forest owners.

Article 6. Development of harvesting plan

1. Household forest owners having plan for harvesting for annual demand need to develop harvesting plan.

a) Content of the plan: is complied with the guideline on developing forest harvesting plan for households promulgated by the Ministry of Agriculture and Rural Development.

b) Submitting and approving procedures: household forest owners submit one (01) harvesting application document to People's Committees in districts, towns and cities managed by provinces. The document should consist of: an official registration form, forest harvesting plan and a harvesting location map.

With 03 working days after receipt of application document, if they are not eligible, District People's Committees must inform forest owner to supplement them in accordance with regulations.

Within 10 working days after receipt of application document, District People's Committees approve the plan and return approved result to forest owner.

Within 10 working days after receipt of application document, District People's Committees approve the plan and return approved result to forest owners.

2. Organisation forest owners which are ineligible for harvest in the main harvesting areas in accordance with the forest harvesting plans but having demands to harvest timber for non-commercial purposes shall develop their harvesting plans to submit for Provincial Departments of Agriculture and Rural Development' approval in compliance with provisions in clause 2 Article 5 in this Circular.

SECTION 2

HARVESTING, SALVAGING OF TIMBER AND NON-TIMBER FOREST PRODUCTS BY ORGANISATION FOREST OWNER

Article 7. Main timber harvesting in natural forests

1. Criteria: Forest harvesting plans or sustainable management plans approved in accordance with provisions in clause 2 Article 5 in this Circular are in place.

2. Quota allocation: Pursuant to the annual planned quota approved by the Prime Minister, Ministry of Agriculture and Rural Development circulates the harvesting quotas to each locality, thereof, Provincial People's Committees allocate harvesting quota to forest owner.

3. Harvesting permit granting process and procedures

a) Development and appraisal of harvesting design: comply with the guidelines on design for selective harvesting promulgated by the Ministry of Agriculture and Rural Development.

b) Approval of harvesting design and granting harvesting permit: Forest owner submit 01 dossier to Provincial Departments of Agriculture and Rural Development. The application document consists of: An official request, design statement, harvesting location map, and tree marking maps and appraisal minute of harvesting design.

Within 03 working days since receiving the application document if they are ineligible, Provincial Departments of Agriculture and Rural Developments are required to inform forest owner to supplement them in accordance with regulations.

Within 10 working days since receiving eligible document, Provincial Departments of Agriculture and Rural Development approve design document, issue harvesting permits and return approved result to forest owner. The maximum duration of harvesting permits is 12 months since its issuing date.

4. Harvesting arrangement: organisation can harvest forest by themselves or sub-contract with harvesting licensed company but they have to comply with the following regulations:

a) Clearing creepers, shrubs, making skidding and transporting road, landing yard in compliance with permit and approved harvesting design.

b) Felling only marked trees and weak trees. The highest felled stump (from the ground) is not more than diameter of the cut surface of remaining tree stumps. If stumps have buttress, it is permitted to cut on the buttress.

- c) Timeline for forest cleaning post-harvesting: must be completed after 15 days at the latest since the closing or expiry date of the harvesting activities.
 - d) Comply with other technical requirements as required in the Regulation on sivilculture measures for timber and bamboo production forests (or QPN 14-92 for short) promulgated in the Decision No. 200/QDD.KT dated 31st March 1993 by the Ministry of Forestry (current Ministry of Agriculture and Rural Development).
5. Product verification
- Felled trees will be cut crown, transported to landing sites, forest owner or harvesting unit make numbering mark on one end of the logs, prepare forest product lists, measure quantity. Total of actually harvested timber (for the entire harvesting area) is permitted to exceed 15% compared with the timber volume granted in the harvesting permits. In case of exceeding over 15%, forest owner report to Provincial Departments of Agriculture and Rural Development to conduct field investigation to clarify causes, endorse before accepting the surplus timber volume.
6. Post-harvesting forest mangement
- a) After completing or expiry date of harvesting, forest owners report to Provincial Departments of Agriculture and Rural Development to conduct field supervision and evaluation.
 - b) Pursuant to the supervision findings and correction of deficiencies (if any), Provincial Departments of Agriculture and Rural Development decides to close forest after harvesting.
 - c) When the Decision on post-harvesting forest closing is in place, forest owner are required to exercise forest management, protection and restoration measures in compliance with the Regulation No. 14-92 and the Decision No. 186/QDD-TTg.

Article 8. Harvesting concentrated plantation forests by State budget and grant

1. Harvesting method:
- a) For production forests: decision will be made by forest owner however if clear-cutting is applied, forest shall be replanted in the subsequent planting season.
 - b) For protection forests:
In case closed canopy forests, it is allowed to harvest supporting trees provide that ensuring the density of remaining main trees to be 600 standing trees per hectare at minimum (or trees/ha for short). If the density is not met, supporting trees shall be untouched to ensure the density as regulated for main trees.

When forests meeting with requirements for protection as regulated in Article 28 Decision No.186/2006/QĐ-TTg are allowed to harvest with the maximum intensity of 20% but forest canopy cover after harvesting shall be more than 0.6 or strip-based clear cutting, integrated patch-based cutting with annual harvesting area is not more than 2/10 of the plantation area meeting with protection criteria and then new plantation is required in the next plantation season for the harvested strip.

Harvesting strip shall be in parallel with contour with maximum width of 50m for forests with critical protection degree and 30m for forests with extremely critical protection degree; Maximum area of harvesting patches is 02 ha for forest with critical protection degree and 01ha for forest with extremely critical protection degree.

- 2. Harvesting design: forest owner will design by themselves or hire consultants to conduct field investigation to collect data, develop harvesting map in the ratio of 1:5,000 or 1:10,000 and prepare the statement for harvesting design.
- 3. Approval of harvesting plan and issuing permit:

Organization forest owner under direct management of province will submit 01 application document to Department of Agriculture and Rural Development. Organisation forest owner not under management of provinces will submit 01 application document to the direct

administration authority. The application document consists of: Official request, harvesting design document and harvesting map.

Within 03 working days since receiving application document, if they are ineligible, the receiving authority is required to inform forest owner to supplement them in accordance with regulations.

Within 10 working days since receiving an eligible application document, receiving authority approves the application document, issues harvesting permits and returns approved result to forest owner. The maximum duration of harvesting permits is 12 months at maximum since issuing date.

Article 9. Harvesting concentrated plantation by forest owner's own investment or State incentives

1. Harvesting method: comply with clause 1 Article 8 in this Circular.
2. Harvesting design: implemented as clause 2 Article 9 in this Circular.
3. Harvesting application: Forest owner approves the harvesting designing dossiers by themselves and submit 01 dossier to Commune People's Committee to register. The registration dossier consists of: Registration form, decision on approving the harvesting design, statement for harvesting design and harvesting location map.

Within 03 working days since receiving application document, if they are ineligible, the Commune People's Committees are required to inform forest owner to supplement them in accordance with regulations.

Within 10 working days since receiving an eligible application document, if Communal People's Committees have no other decisions, forest owner is allowed to harvest in compliance with the approved decision.

Article 10. Bamboo harvesting in natural production forests, natural protection forests.

1. Harvesting intensity: maximum 70% of trees and shrubs for production forests and maximum 30% of trees and shrubs for protection forests.
2. Harvesting design: forest owner design by themselves or hire consultants to conduct field investigation to prepare the statement for harvesting design and develop the map of harvesting location.
3. Forest owner approves the harvesting design by themselves and submits 01 document to Provincial Departments of Agriculture and Rural Development to register. A harvesting document consists of: Registration form, decision on approving the harvesting design, statement for harvesting design and harvesting map.

Within 01 working days since receiving the dossiers, if they are ineligible, Department of Agriculture and Rural Development are required to inform forest owner to supplement them in accordance with regulations.

Within 10 working days since receiving an eligible registration dossier, if Provincial Department of Agriculture and Rural Development have no other decisions, forest owner is allowed to harvest in compliance with the approved decision.

Article 11. Timber salvaging in the sites cleared for infrastructures or for other using purposes

1. Criteria: must be permitted by the competent authorities to convert forest for infrastructure building or changing forest using purposes into other using purposes.
2. Entities permitted to harvest: After being permitted to convert forest to build infrastructure or change into other using purposes, contractor shall complete compensation procedures as regulated, Provincial People's Committees allocate forest to forest owner or the entities having harvesting functions.

3. Harvesting design: forest owner or entities permitted by Provincial People's Committees to harvest or hire consultants to clear boundaries around the harvesting areas for salvage collection, develop map in the ratio of 1:5,000 or 1:10,000, collect data and prepare statement for harvesting design. After completing the harvesting, Commune rangers or commune forestry officials will be informed to supervise the site and prepare the acceptance minutes.

4. Issuing harvesting permits: forest owner or harvesting entities submit 01 registration dossier to Provincial Department of Agriculture and Rural Development. The dossier consists of: Official request, document of the competent authorities to allow forest conversion to build infrastructure or changes of forest using purposes, document on allocating harvesting duties by Provincial People's Committees, acceptance sheet by commune forest rangers or commune forest officials, statement for harvesting design and harvesting location map.

Within 03 working days since receiving the dossiers, if they are ineligible, Provincial Department of Agriculture and Rural Developments are required to inform forest owner or harvesting entities to supplement them in accordance with regulations.

Within 10 working days since receiving eligible registration dossiers, Provincial Departments of Agriculture and Rural Development approve the dossiers, issue harvesting permits and return to forest owner or harvesting entities. Harvesting duration is compliant with the registration by forest owner or harvesting entities provided with ensuring time for site clearance and as specified in the harvesting permit.

Article 12. Timber salvaging during implementing sivilculture measures or sivilculture harvesting activities for scientific researches and job training

1. Harvesting criteria:

a) Timber salvaging when implementing sivilculture measures:

For natural forests or plantation forest funded by State budget, grant: designing dossier or sivilculture project approved by competent authorities are in place.

For plantation forest invested by forest owner or supported by Government: Forest owner develop and approve the designing dossier or forestry project by themselves.

b) Timber salvaging for training and scientific research: training plan, scientific research project or proposal approved by competent agencies must be in place.

2. Developing list of products to be salvaged:

Pursuant to the designing dossier, sivilculture projects, scientific research projects; training plants approved by competent authorities, forest owner can conduct or hire consultants to conduct field investigation to collect data, mark hammers for trees in natural forests permitted to salvage with $D_{1.3m}$ of at least 25 cm and develop list products to be harvested.

3. Salvaging registration:

a) For natural forests and plantation forests by State budget and grant:

Forest owner managed by provinces submit 01 dossier to Provincial Departments of Agriculture and Rural Development, forest owner not managed by provinces submit 01 dossier to their direct management authorities. The dossier consists of: Registration form, designing dossier, sivilculture project or training plan or scientific research plan or proposal and list of products to be harvested.

Within 03 working days since receiving the dossiers, if they are ineligible, the receiving authorities are required to inform forest owner to supplement them in accordance with regulations.

Within 10 working days since receiving eligible registration dossiers, if competent authorities have no other decisions, forest owner is allowed to harvest in compliance with the registering dossier.

b) For plantation forest invested by forest owner or supported by Government: Forest owner submits 01 dossier to Commune People's Committee. Registration dossier is stipulated as in item a, clause 3 this Article.

Within 03 working days since receiving the dossiers, if they are ineligible, Communal People's Committees are required to inform forest owner to supplement them in accordance with regulations.

Within 05 working days since receiving eligible registration dossiers, if Communal People's Committees have no other decisions, forest owner is allowed to salvage in accordance with registering dossier.

Article 13. Salvaging dry dead, fired standing trees, broken trees and salvage collection of lying timber, stump, roots and branches.

In case of not salvaging products, forest owner will make their own decision. If yes, the following steps shall be conducted:

1. For natural forests or plantation forests funded by State budget, grant:

a) Harvesting design: Forest owner conducts by themselves or hires consultants to conduct field investigation, develops harvesting location map and prepares statement for harvesting design.

b) Issuing salvaging permits: Forest owner submits 01 dossier to Provincial Departments of Agriculture and Rural Development. The dossier consists of: Official request, statement for harvesting design, map of salvage harvesting locations.

Within 03 working days since receiving the dossiers, if they are ineligible, Provincial Departments of Agriculture and Rural Development are required to inform forest owner to supplement them in accordance with regulations.

Within 10 working days since receiving eligible registration dossiers, Provincial Departments of Agriculture approve the dossiers, issue salvage permits and return to forest owner. The duration of salvage a harvesting permit is 12 months since its issuing date.

2. For plantation forests invested by forest owner or supported by Government.

a) Develop list of products to be salvaged: forest owner can develop by themselves or hire consultants to conduct field investigation and develop list of products to be salvaged.

b) Salvaging registration: forest owner submits 01 dossier to Communal People's Committees to register. The dossier consists of: Registration form, list of products to be harvested.

Within 03 working days since receiving the dossiers, if they are ineligible, Communal People's Committees are required to inform forest owner to supplement them in accordance with regulations.

Within 05 working days since receiving eligible registration dossiers, if Communal People's Committees have no other decisions, forest owner is allowed to harvest in compliance with their registration.

Article 14. Harvesting and salvaging of non-timber forest products and bamboo in natural forests, plantation forests (excluding the strictly protected zones in special-use forests)

1. Forest products in Cites management list and pine resin in natural forests, plantation forests invested by State budget and grant:

a) Harvesting and salvage harvesting design: Forest owner conduct by themselves or hire consultants to conduct field investigation to collect data, develop harvesting and salvage harvesting location map and prepare statement for harvesting design.

b) Issuing harvesting permits: Forest owner submit 01 dossier to Department of Agriculture and Rural Development. The dossier consists of: An official request, statement for harvesting design and harvesting, salvage harvesting location map.

Within 03 working days since receiving the dossiers, if they are ineligible, Department of Agriculture and Rural Developments are required to inform forest owner to supplement them in accordance with regulations.

Within 10 working days since receiving eligible registration dossiers, Department of Agriculture and Rural Developments approve the dossiers, issue salvage harvesting permits and return to forest owner. The duration of harvesting permits is 12 months since issuing date.

2. Types of forest products not specified in clause 1 this Article.

a) Develop list of products to be harvested: forest owner can conduct by themselves or hire consultants to conduct field investigation and develop list of products to be harvested.

b) Harvesting registration: follow item b clause 2 Article 13 in this Circular.

Article 15. Timber harvesting in natural forests for annual demand

1. Harvesting criteria: Forest harvesting plan approved in compliance with clause 2 Article 6 in this Circular.

2. Number of trees to be harvested:

Maximum number of trees: $L = N.n$ (trees). Where:

L means the maximum number of trees permitted for each harvesting;

N means the annual average number of trees permitted to be harvested in accordance with the approved harvesting plan;

n means the interval between two consecutive harvesting times (n is calculated by number of years).

3. Harvesting design: Forest owner conduct by themselves or hire consultants to conduct field investigation to collect data, place hammer marks on the number of trees specified in clause 2 this Article and prepare the statement for harvesting design.

After completing, forest owner report to local District Forest rangers to examine the field. Acceptance minutes shall be made if harvesting is conducted in the approved forest type, location, area and number of trees specified in clause 2 this Article.

4. Issuing harvesting permits:

Forest owner submit 01 dossier to Provincial Departments of Agriculture and Rural Development. The dossier consists of: An official request, statement for selective harvesting design, hammer marks to place on harvested trees, acceptance minutes prepared by local District Forest rangers.

Within 03 working days since receiving the dossiers, if they are ineligible, Provincial Departments of Agriculture and Rural Developments are required to inform forest owner to supplement them in accordance with regulations.

Within 10 working days since receiving eligible registration dossiers, Provincial Departments of Agriculture and Rural Developments approve the dossiers, issue harvesting permits and return to forest owner; as well as circulate to District People's Committees, Local District Forest rangers and Communal People's Committees. The duration of a harvesting permit is 12 months since its issuing date.

5. Harvesting and accepting products: Decisions shall be made by forest owner. Timber volume is checked and accepted pursuant to the actual dimension of the trees permitted to be harvested as specified in harvesting permits.

Section 3
HARVESTING, SALVAGING TIMBER AND NON-TIMBER FOREST PRODUCTS
BY HOUSEHOLD FOREST OWNER.

Article 16. Main timber harvesting in natural forests

Household forest owner are encouraged to apply the main harvesting method as regulated in this Article. If main harvesting is impossible to be conducted, provisions in Article 17 in this Circular shall be followed.

1. Harvesting criteria: Forest harvesting plans approved in accordance with provisions in clause 1 Article 6 in this Circular are in place
2. Quota allocation: Pursuant to the annual planned quota circulated by Ministry of Agriculture and Rural Development, Provincial People's Committees allocate harvesting quotas to District People's Committees. Pursuant to harvesting plans of forest owner, District People's Committees allocate harvesting quotas to communes; Communal People's Committees will specify volume of timber to be harvested to forest owner.
3. Harvesting design: complied with the guideline on selective harvesting issued by the Ministry of Agriculture and Rural Development.
4. Issuing harvesting permits:

Forest owner submit 01 registration dossier to District People's Committees. The dossier consists of: An official request, statement for selective harvesting design, hammering marks of trees to be harvested, acceptance minutes of Commune Forest rangers or commune forestry officials and harvesting location map.

Within 03 working days since receiving the dossiers, if they are ineligible, District People's Committees are required to inform forest owner to supplement them in accordance with regulations.

Within 10 working days since receiving eligible dossiers, District People's Committees approve dossiers, issue harvesting permits and return to forest owner; as well as circulate to Provincial Departments of Agriculture and Rural Development, Local District Forest Protection Department and Communal People's Committees. The maximum duration of harvesting permits is 12 months since issuing date.

5. Harvesting: is complied with item 4 Article 7 in this Circular.
6. Product acceptance: Felled timber cut crowns, transported to landing site, forest owner or harvesting entities mark numbers in the end of timber logs, prepare forestry product list, measure and calculate volume. Allowable errors (for the entire harvesting area) between the actual harvested timber volume compared with the timber volume granted in harvesting permits is 15% at maximum. In case this error is more than 15%, forest owner report to commune forest rangers to clarify reasons, endorse prior to accepting the surplus timber volume.
7. Post-harvesting forest management: after completing harvest or expiry date of harvesting, forest owner report to Commune forest rangers or commune forestry officials to conduct field inspection. Basing on inspection results and correction and addressing errors (if any), Commune People's Committees official request District People's Committees to issue decision on post-harvesting closing. After the forest closing decision is issued, forest owner are required to conduct measures to manage, protect and restore the forests in accordance with regulations.

Article 17. Timber harvesting in natural forests for annual demands.

1. Harvesting criteria: As specified in clause 1 Article 16 in this Circular.
2. Number of trees to be harvested: As specified in clause 2 Article 15 in this Circular.
3. Harvesting design: Forest owner conduct by themselves or hire consultants to conduct field investigation to collect data, place hammering places on the trees to be harvested as specified in clause 2 this Article and prepare statement for harvesting design.
After completing, forest owner report to commune forest rangers or commune forestry officials to examine the field. Acceptance minutes shall be made if harvesting is conducted in the approved forest type, location, area and number of trees as specified in clause 2 this Article.
4. Issuing harvesting permits: as specified in clause 4 Article 16 in this Circular.
5. Harvesting operation and product acceptance: as specified in clause 5 Article 15 in this Circular.

Article 18. Timber harvesting in concentrated plantation forests by State budget and grant

1. Harvesting method: as specified in clause 1 Article 8 this Circular.
2. Harvesting design: Forest owner conduct by themselves or hire consultants to conduct field investigation to develop harvesting location map and prepare statement for harvesting design.
3. Issuing harvesting permits:

Forest owner submit 01 dossier to District People's Committees. The dossier consists of: An official request, statement for harvesting design, harvesting location map.

Within 03 working days since receiving the dossiers, if they are ineligible, District People's Committees are required to inform forest owner to supplement them in accordance with regulations.

Within 10 working days since receiving eligible dossiers, District People's Committees approve dossiers, issue harvesting permits and return to forest owner; as well as circulate to Communal People's Committees for monitoring. The maximum duration of harvesting permits is 12 months since issuing date.

Article 19. Timber harvesting in concentrated plantation forests invested by forest owner or supported by the Government.

1. Harvesting method: as specified in clause 1 Article 18 in this Circular.
2. Develop list of products to be harvested: Forest owner can develop by themselves or hire consultants to conduct field investigation, verification and develop list of products to be harvested.
3. Harvesting registration: Forest owner submit 01 dossier to Communal People's Committees to register. The dossier consists of: Registration form, list of products to be harvested.

Within 03 working days since receiving the dossiers, if they are ineligible, Communal People's Committees are required to inform forest owner to supplement them in accordance with regulations.

Within 05 working days since receiving eligible registration dossiers, if Communal People's Committees have no other decisions, forest owner are allowed to harvest in compliance with their registration

Article 20. Plantation timber harvesting in garden yards, farms and scattered plantation timber trees.

1. Develop list of products to be harvested: forest owner can develop by themselves or hire consultants to collect data and develop list of products to be harvested.
2. Harvesting registration: as specified in clause 3 Article 19 in this Circular.

Article 21. Bamboo harvesting in natural production forests, natural protection forests.

1. Harvesting intensity: as specified in clause 1 Article 10 in this Circular.
2. Develop list of products to be harvested: forest owner can develop by themselves or hire consultants to conduct field investigation, verification to develop harvesting operation area and develop list of products to be harvested.
3. Harvesting registration: Forest owner submit 01 dossier to Communal People's Committees to register. The dossier consists of: Registration form, list of products to be harvested, harvesting operation map.

Within 03 working days since receiving the dossiers, if they are ineligible, Communal People's Committees are required to inform forest owner to supplement them in accordance with regulations.

Within 05 working days since receiving eligible registration dossiers, if Communal People's Committees have no other decisions, forest owner are allowed to harvest in compliance with their registration.

Article 22. Timber salvaging in the sites cleared for infrastructures or for other using purposes.

1. Criteria: as specified in clause 1, Article 11 in this Circular.
2. Develop lists of products to be harvested: Forest owner clear boundaries, develop salvage operation area map, collect data and develop list of products to be harvested by themselves or hiring consultants. After these activities are completed, commune forest rangers or commune forestry officials will be reported to examine the field and deliver acceptance minutes.
3. Harvesting registration: Forest owner submit 01 registration dossier to District Department of Agriculture and Rural Development. The dossier consists of: Official request, document of the competent authorities to allow forest conversion to build infrastructure or changes of forest using purposes, acceptance minutes by commune forest rangers or commune forest officials, list of products to be harvested and harvesting operation area map.

Within 03 working days since receiving the dossiers, if they are ineligible, District Department of Agriculture and Rural Developments are required to inform forest owner or harvesting entities to supplement them in accordance with regulations.

Within 10 working days since receiving eligible registration dossiers, District Department of Agriculture and Rural Development have no other decisions, forest owner are allowed to harvest in compliance with their registration.

Article 23. Salvage during the implementation of sivilculture measures

1. For natural forests
 - a) Develop list of products to be harvested: Forest owner develop harvesting design or sivilculture project; place hammer marks on natural forest trees allowed to harvest with $D_{1.3m}$ of 25cm or more; develop list of products to be harvested by them or by hiring consultants. After these activities are completed, commune forest rangers or commune forestry officials will be reported to examine the field and deliver acceptance minute.
 - b) Harvesting registration: Forest owner submit 01 dossier to District People's committee. The dossier consists of: Harvesting registration, harvesting design or sivilculture project approved

by forest owner, list of products to be harvested and acceptance minutes by commune forest rangers or commune forestry officials.

Within 03 working days since receiving the dossiers, if they are ineligible, District People's Committees are required to inform forest owner to supplement them in accordance with regulations.

Within 10 working days since receiving eligible registration dossiers, District People's Committees have no other decisions, forest owner are allowed to harvest in compliance with their registration.

2) For plantation forests

a) Develop list of products to be harvested: as specified in item a, clause 1 this Article accept for hammer marks.

b) Harvesting registration: Forest owner submit 01 dossier to Communal People's Committee. The dossier is the same with the dossier specified in item b clause 1 this Article.

Within 03 working days since receiving the dossiers, if they are ineligible, Communal People's Committees are required to inform forest owner to supplement them in accordance with regulations.

Within 05 working days since receiving eligible registration dossiers, Communal People's Committee have no other decisions, forest owner are allowed to harvest in compliance with their registration.

Article 24. Salvage of dead dry, fired-damaged, felled and broken timber trees and reclaiming lying timber, stumps, roots and branches

In case of not reclaiming, decision shall be made by forest owner, otherwise the below steps will be followed:

1. For timber in natural forests or plantation forests invested by State budget or grant

a) Forest owner conduct field investigation and develop harvesting location map by themselves or hiring consultants.

b) Harvesting and salvage registration: Forest owner submit 01 dossier to District People's committee. The dossier consists of: Harvesting registration, list of products to be harvested, harvesting operation map.

Within 03 working days since receiving the dossiers, if they are ineligible, District People's Committees are required to inform forest owner to supplement them in accordance with regulations.

Within 10 working days since receiving an eligible registration dossier, if District People's Committees have no other decisions, forest owner shall be entitled to harvest in compliance with their registration.

2. For plantation forests invested by forest owner or supported by Government

a) Develop list of products to be harvested: forest owner conduct field investigation, verification and develop list of products to be harvested by themselves or by hiring consultants.

b) Harvesting registration: Forest owner submit 01 dossier to Communal People's Committees to register. The dossier consists of: Registration form, list of products to be harvested.

Within 03 working days since receiving the dossiers, if they are ineligible, Communal People's Committees are required to inform forest owner to supplement them in accordance with regulations

Within 05 working days since receiving eligible registration dossiers, if Communal People's Committees have no other decisions, forest owner are allowed to harvest in compliance with their registration.

Article 25. Harvesting non-timber forest products, bamboo in natural forests, plantation forests (except for the strictly protected zone in special use forest)

1. Forest products in Cites management list and pine resin in natural forests, plantation forests invested by State budget and grant

a) Harvesting design: Forest owner conduct field investigation by themselves or by hiring consultants to develop harvesting location map and prepare statement for harvesting design.

b) Issuing harvesting permits: Forest owner submit 01 dossier to District People's committee. The dossier consists of: An official request, statement for harvesting design and harvesting location map.

Within 03 working days since receiving the dossiers, if they are ineligible, District People's Committees are required to inform forest owner to supplement them in accordance with regulations.

Within 10 working days since receiving eligible registration dossiers, District People's Committees approve the dossiers, issue harvesting permits and return to forest owner. The duration of harvesting permits is 12 months since issuing date.

2. Types of forest products not specified in clause 1 this Article:

a) Develop list of products to be harvested: forest owner conduct field investigation, assessment and develop list of products to be harvested by themselves or by hiring consultants.

b) Harvesting registration: the same with provisions in item b clause 2 Article 24 in this Circular.

Chapter III

IMPLEMENTATION ORGANIZATION

Article 26. Responsibilities of forest owner and harvesting entities

1. Complying with procedures on harvesting and salvage of timber and non-timber forest products specified in this Circular.

2. Taking responsibility to the laws for the accuracy of harvesting design, statement for harvesting design, list of products to be harvested and relevant documents developed, registered, reported or proposed by them.

3. Self-organizing the supervision for harvesting, salvage of timber and non-timber forest products. Taking responsibility to the laws for any violations occurred in the area permitted to harvest by competent authorities or registered by them.

4. Complying with reporting scheme as specified in Article 33, Chapter III in this Circular. Reporting template is specified in the attached appendix 4 and 5.

Article 27. Responsibilities of Communal People's Committee

1. Fulfilling responsibilities, mandates when receiving, addressing timber and non-timber forest products harvesting and salvaging procedures in the commune's areas as specified in this Circular.
2. Taking responsibility to the laws for the accuracy in procedure endorsement and supervision, monitoring findings during the operational process by forest owner, harvesting entities in commune.
3. Taking responsibility to Chairperson of People's committee at district and provincial level for any violations occurred in the commune.
4. Suggesting recommendations for District People's committee to timely address difficulties faced by forest owner, harvesting entities in timber and non-timber forest products harvesting and salvaging.
5. Being competent to suspend, refuse to proceed procedures for timber and non-timber forest products harvesting and salvaging of forest owner, harvesting entities if violations are occurred or non-compliance with reporting scheme as regulated.
6. Fulfilling the reporting scheme as specified in Article 33, Chapter III in this Circular. Reporting template is specified in the attached appendix 6.

Commune forest rangers, commune forestry officials assist Chairperson of Communal People's Committee to implement the duties as specified in this Article.

Article 28. Responsibilities of District People's committee

1. Fulfilling responsibilities, mandates when receiving, addressing timber and non-timber forest products harvesting and salvaging procedures in the district's areas as specified in this Circular.
2. Taking responsibility to the laws for the accuracy in procedure endorsement and supervision, monitoring findings during the operational process by forest owner, harvesting entities in district.
3. Taking responsibility to Chairperson of Provincial People's Committees for any violations occurred in the district.
4. Suggesting recommendations for Provincial People's Committees to timely address difficulties faced by forest owner, harvesting entities in timber and non-timber forest products harvesting and salvaging.
5. Supervising and monitoring the proceeding of timber and non-timber forest products harvesting and salvaging of Communal People's Committee. Entitled to suspend, refuse to proceed or not allow Communal People's Committee to carry out procedures for timber and non-timber forest products harvesting and salvaging if violations are occurred or non-compliance with the required reporting scheme by fault of forest owner or harvesting entities.
6. Fulfilling the reporting scheme as specified in Article 33, Chapter III in this Circular. Reporting template is specified in the attached appendix 7.

District forest protection department, functional division of District People's committee assist Chairperson of District People's Committee to implement the duties as specified in this Article.

Article 29. Responsibilities of Provincial People's Committees

1. Fulfilling responsibilities, mandates when receiving, addressing timber and non-timber forest products harvesting and salvaging procedures in the province's areas as specified in this Circular.

2. Taking responsibility to direct District and Communal People's Committees and relevant agencies in implementing State administration tasks on forest protection and development in locality.

3. Allocating harvesting quota for main timber in natural forests for organizations and District People's committee in accordance with the announcement of the Ministry of Agriculture and Rural Development.

4. Taking responsibility to the Prime Minister for any violations occurred during the timber and non-timber forest products harvesting and salvaging in the province.

5. Supervising and monitoring the proceeding of timber and non-timber forest products harvesting and salvaging of Provincial Departments of Agriculture and Rural Development, District and Communal People's committee. Entitled to suspend, refuse to proceed or not allow District and Communal People's Committee, province's functional agencies to carry out procedures for timber and non-timber forest products harvesting and salvaging if violations are occurred or non-compliance with the required reporting scheme by fault of forest owner or harvesting entities.

6. Fulfilling the reporting scheme as specified in Article 33, Chapter III in this Circular.

Provincial Departments of Agriculture and Rural Development assists Chairperson of Provincial People's Committees to implement the duties as specified in this Article.

Article 30. Responsibilities of Provincial People's Committees.

1. Fulfilling responsibilities, mandates when receiving, addressing timber and non-timber forest products harvesting and salvaging procedures in the province as specified in this Circular.

2. Providing detailed guidelines on contents, templates and other documents related to timber and non-timber forest products harvesting and salvaging as specified in this Circular for a consistent implementation in localities.

3. Taking responsibility to Chairperson of Provincial People's Committees, Minister of Agriculture and Rural Development and to the laws for the accuracy in approving harvesting design for main timber in natural forests of organizations and in addressing procedures on harvesting and salvaging timber and non-timber forest products in province.

4. Supervising and monitoring the proceeding of timber and non-timber forest products harvesting and salvaging of District and Communal People's Committee. Recommend Provincial People's Committees or request District, Communal People's Committee not to proceed procedures on timber and non-timber forest products harvesting and salvaging for forest owner with violations or non-complying with the regulated reporting scheme.

5. Fulfilling the reporting scheme as specified in Article 33, Chapter III in this Circular. Reporting template is specified in the attached appendix 8.

District Forestry department, District Forest protection department assist Director of Provincial People's Committees to implement the duties as specified in this Article.

Article 31. Responsibilities of Vietnam Administration of Forestry

1. Fulfilling responsibilities, mandates when receiving, addressing timber and non-timber forest products harvesting and salvaging procedures in nationwide as specified in this Circular.
2. Synthesizing to report to Minister of Agriculture and Rural Development to submit for Prime Minister's approval of annual plan on main timber harvesting in natural forests nationwide.
3. Announcing harvesting quota for timber harvesting in annual natural forests for provinces, cities under the Central in accordance with Prime Minister's approval.
4. Directing Provincial Departments of Agriculture and Rural Development on the approving criteria of harvesting design, issuing harvesting permits for main timber in natural forests. Conducting annual supervision on the implementation and management of forest harvesting by localities.
5. Recommending the Minister of Agriculture and Rural Development to suspend activities, refuse to proceed or request Provincial People's Committees not to carry out procedures to harvest and salvage timber and non-timber forest products for forest owner with violations or non-compliance with the required reporting scheme.
6. Addressing the occurring duties in harvesting and salvaging timber and non-timber forest products in accordance with their competence appointed by the Minister of Agriculture and Rural Development.

Article 32. Duties of forest protection agencies

1. Fulfilling responsibilities, mandates when receiving, addressing timber and non-timber forest products harvesting and salvaging procedures in the province as specified in this Circular.
2. Supervising, monitoring and timely identifying violations in timber and non-timber forest products harvesting and salvaging conducted by forest owner, harvesting agencies to timely propose or handle in compliance with regulations.
3. Endorsing contents in the list of products; volume of timber and non-timber forest products harvested and salvaged in compliance with the Circular to underpin the circulation for consumption.

Article 33. Reporting scheme

1. Reporting procedures for forest harvesting results.
 - a) Commune forestry officials and commune forest rangers report to Communal People's Committee.
 - b) Organization forest owner, harvesting agencies report to District People's committee, Provincial Departments of Agriculture and Rural Development and their administration authority (for organizations not managed by provinces).
 - c) Communal People's Committee, District Forest protection department report to District People's committee.

- d) District People's committee report to Provincial People's Committees and Provincial Departments of Agriculture and Rural Development.
- e) Provincial Departments of Agriculture and Rural Development reports to Provincial People's Committees and Ministry of Agriculture and Rural Development.
- f) Provincial People's Committees reports to Ministry of Agriculture and Rural Development.

2. Reporting periods for forest harvesting results

- a) Organization forest owner, commune forest rangers, commune forestry officials submit report on monthly 20th.
- b) Communal People's Committee submits report on month 25th.
- c) District People's committee submits report on 30th in the last month of each Quarter.
- d) Provincial Departments of Agriculture and Rural Development submits report on six-month and annual basis.
- e) Provincial People's Committees submits annual reports.

3. Contents of forest harvesting report

- a) Timber harvesting and salvaging in natural forests, plantation forests: Total harvesting volume in the reporting period is.....m³ (main harvesting:.....m³, salvage:.....m³; reclaiming:.....m³) is categorized into: Volume of felled timber, volume of timber marked with forest hammer, volume of consumed timber (including timber put into processing mills)
- b) Non-timber forest products harvesting: category, volume of harvested timber, volume of confiscated forest products (trees, tons or m³).
- c) Assess the implementation of harvesting procedures and standards, specify difficulties and barriers in implementation process.

Article 34. Execution provisions

1. The Circular replaces the Decision No.40/2005/QĐ-BNN dated 07th July 2005 issued by the Minister of Agriculture and Rural Development on issuing the Regulation on timber and other forest product harvesting.
2. Previous regulations issued by the Ministry of Agriculture and Rural Development on procedures to harvest and salvage timber and non-timber forest products against with the Circular will be invalid.
3. This Circular comes into effect within 45 days since issuing date.
4. During the implementation process, if any difficulties occurred, they should be timely reported to Ministry of Agriculture and Rural Development for amendment and supplementing.

To:

Prime Minister, Deputy Prime Ministers;
Office of Central Party;
Office of National Assembly;
President office;
Government office;
Central highland steering board;
Ministries, Ministerial-level agencies, agencies
under the Government;
People's Supreme Procuracy;
People's Supreme Court;
Central offices of organizations;
Government gazette, Government website;
Document checking department, Ministry of
Justice;
People Councils, People Committees, DARD of
provinces, cities under the Central;
Minister and Vice Ministers of Ministry of
Agriculture and Rural Development;
Departments under Ministry of Agriculture and
Rural Development;
Filing: VNFOREST.¹⁰

ON BEHALF OF MINISTER

VICE MINISTER

Hua Duc Nhi

APPENDIX 02

MINISTRY OF AGRICULTURE
AND RURAL DEVELOPMENT

THE SOCIALIST REPUBLIC OF VIET NAM
Independence- Freedom- Happiness

No. 01/2012/TT-BNNPTNT

Ha Noi, 04th January 2012

CIRCULAR

On document package of legal forest products and examination of forest product origin

Pursuant to the Forest Protection and Development Law on 3rd December 2004;

Pursuant to the Decree No. 23/2006/ND-CP dated 03rd March 2006 of the Government on implementing the Forest Protection and Development Law;

Pursuant to the Decree No. 01/2008/ND-CP dated 03rd January 2008 and the Decree No.75/2009/ND-CP dated 10th September 2009 of the Government on amending the Article 3 Decree No. 01/2008/ND-CP dated 03rd January 2008 of the Government regulating the functions, responsibilities, mandates and organizational structure of the Ministry of Agriculture and Rural Development;

Ministry of Agriculture and Rural Development regulates a legal document package of forest products and the examination of forest products' origin as follows:

Chapter I

GENERAL PROVISIONS

Article 1. Amendment scope

The Circular regulates the legal document package of forest products and examine the origin of timber and non-timber forest products (hereinafter referred for forest products) in the territory of the Socialist Republic of Viet Nam.

Article 2. Application scope

The Circular applies to national organizations, residential communities, households, individuals; overseas organizations, individuals operating, transporting, processing, trading, keeping forest products in the territory of the Socialist Republic of Viet Nam.

Article 3. Terminology interpretation

Some terms in the Circular shall be understood as follows:

1. Residential forest protection agency: Forest ranger of special use forests, Forest ranger of protection forests; Forest rangers of district, towns, cities (hereinafter referred to District Forest rangers); Forest protection departments of provinces and cities under the management of the Central in the localities without District Forest rangers.
2. Document package of forest products are the records related to forest products which is prepared, stored in the forest product producing and trading agencies and circulated together with forest products in the process of harvesting, trading, transporting, processing and storing.

3. Non-timber forest products are forest animals, forest plants not meeting with the requirements of timber in item b, c, Clause 3, Article 5 of this Circular and their parts, derivatives.
4. Derivatives of forest animals, forest plants are all types of materials derived from forest animals, forest plants such as blood, fluid of forest animals; resins, essential oil extracted from unprocessed forest plants.
5. Packing list is the list of forest products for one check-and-approval, trade, export, import or forest products transported by one vehicle in accordance with the template 01 of the Circular.
6. Entry and exit books are the books to record forest products entered and exited of the harvesting, processing and trading organizations in accordance with the template 02 of the Circular.
7. Internal transportation means forest products are transported among its subordinate units such as forest enterprises, forest companies, processing factories, branches, stores, ect under an enterprise with legal status and internal accounting; or if forest products transported from an enterprise with legal status and independent accounting to its subordinate units with external accounting and vice versa.

If forest owners or organizations, individuals purchase standing trees, transporting the forest products from harvesting site to their stores or processing units is also considered internal transportation.

8. To endorse forest products means to endorse the legality of forest product document package and the compliance between the document package and the forest products.
9. Unprocessed forest products are those not impacted by tools, equipment of all kinds after being harvested, imported, handled if confiscated and still in the original shape and parameter.

Article 4. Determine quantity and volume of forest products

1. Quantity of round timber, sawn timber, square timber is determined in accordance with the provisions on hammer mark management and placement issued by the Ministry of Agriculture and Rural development.

For stump, roots or timber with complex shape, ornamental trees, trees for shadow, old-century trees including their roots, trunks, branches, leaves which are unable to measure diameter, length to determine volume, such timber shall be weighted by kilogram (kg) and converted with the ratio 1,000kg equivalent to 1 m³ round timber or measure by ster and converted with the ratio 1 ster equivalent to 0.7 m³ round timber.

2. Forest animals are quantified by number of their individuals and weighted by kg; if it is impossible to determine the number of individuals, such animals shall be weighted by kg.

Parts, derivatives of forest animals, forest plants are quantified by their weight (kg) or by volume (ml) if parts, derivatives of forest animals are in the liquid form.

3. Determine volume of forest products made from non-timber forest plants by measuring their weight in kilogram (kg).

Article 5. Packing list

1. The template of packing list in the Circular is applied to all organizations, residential communities, households and individuals.

2. The packing list developed by organizations, residential communities, households, individuals harvesting, importing, exporting forest products after checking and approving, placing hammer marks or checking and approving, exporting forest products at the same time and by one transportation vehicle.

Organizations, residential communities, households, individuals developing the packing list take responsibilities to the laws for the accuracy and the legality of forest products specified in the packing list.

3. Methods of developing the packing list

a) Forest products owner records all information about forest products in the packing list.

b) Provide detailed information on untouched round logs, round square timber, timber with the smaller end's diameter of 10 cm to under 20 cm, more than one meter in length or more than 20 cm in diameter of the smaller end and more than 30 cm in length and sawn, square planks, boxes of over 1 meter in length, over 20 cm in width and over 5 cm in thickness.

c) Write the total quantity, volume or weight of the round timber, square timber, and sawn timber with parameters smaller than the item b this Clause.

d) Write quantity, volume or weight of each non-timber forest product or the total figure of all non-timber forest products in compliance with the actual figure.

e) On the bottom of each page of the packing list, write the total volume of forest.

Article 6. Record of forest products entered and existed

1. The template record of forest products entered and existed issued in the Circular applies to all organizations harvesting, processing or trading forest products.

2. The record shall be managed in the entity as regulated in the Clause 1 this Article. Forest product owner is responsible for recording the following information right after the entry or exit of forest products: date; name of forest products, their origin; parameters, quantity, volume, opening balance, closing balance.

The entity regulated in Clause 1 this Article shall report to residential forest rangers to examine and sign for endorsement in the monitoring book when importing timber harvested from domestic natural forests.

Article 7. Forest product endorsement

1. Authorities competent to endorse forest products

a) Forest rangers at district level, Forest rangers of provinces, cities managed by the Central in the localities without District forest rangers endorse forest products in the following cases:

- Unprocessed forest products harvested from natural forests, centralized plantations domestically of the delivering entities;

- Imported forest products which are not processed domestically of the delivering organizations, individuals;

- Domestic captive-bred animals and their parts, derivatives of the delivering organizations, residential communities, households, individuals;

- Confiscated forest products after being handled but not processed of the delivering organizations, residential communities, households, individuals;

- Processed forest products of the delivering organizations, residential communities, households, individuals;
- Forest products transported internally among places not in the same province, city managed by the Central.

b) Forest rangers of special use forests, Forest rangers of protection forests endorse the produced forest products which were legally harvested from such special use forests, protection forests respectively as well as handled confiscated forest products within their competence.

c) Residential forest ranger advises People's Committee at commune, ward, town level (hereinafter referred to Commune People's Committee) endorses forest products in the following cases:

- Unprocessed forest products harvested from gardens, farms, dispersed plantations of the delivering organizations;
- Unprocessed forest products harvested from domestic natural forests, centralized plantations, gardens, farms, dispersed plantations of the delivering residential communities, households, individuals.

2. Procedures and document package to request the endorsement for forest products

a) Forest product owner submits 01 (original) package directly to the State competent authority as regulated in the Clause 1 of this Article for endorsing their forest products.

b) The document package consists of: packing list, sales invoice in compliance with requirements of Ministry of Finance (if available) and documents on the origin of forest products in compliance with the State's current provisions.

In case of purchasing forest products from different communities, households, individuals harvesting from their gardens, farms, dispersed trees, the purchaser develops a packing list which is signed by representatives for the communities, households, individuals.

3. Endorsement timeline

a) The endorsement shall be proceeded and feedback to forest product owners in the office of the endorsing agency not over 03 working days since receiving the eligible document package. If the examination shows that the document package and forest products are compliant with regulations, the endorsement shall be proceeded immediately.

In case of ineligible document package, the package receiving agency takes the responsibility to inform to forest product owners and instruct them to complete their document package.

b) If case of requiring verification of forest products' origin before endorsement, the package receiving agency informs forest product owner immediately and verify unclear issues related to the document package, forest products' origin, quantity, volume and type of forest products; after completing the verification, a verification minutes needs to be developed. If the verification shows no violations, the forest products shall be endorsed as regulated in the Circular. The timeline to endorse forest products in the case of required verification is not over 05 working days since receiving the eligible document package.

If any violations detected in the verification process, such violations shall be addressed in accordance with the current legislations.

c) Representatives from the State agency endorsing the forest products must state their comments on the items declared by forest products owners in the document package, including number, date, month, year of the accompanied invoice, number plate of transportation vehicle (if available); date, month, year of endorsement; sign and write their full name, position and place the stamp in the packing list as well as take the responsibility to the laws for the accuracy and origin of the legal forest products.

In case of endorsement by Commune People's Committee as regulated in item c, Clause 1 this Article, it is required to have signature of residential forest rangers in the packing list; Residential forest products shall be responsible to the laws for the accuracy and legal origin of forest products for their advice.

Article 8. Management and storage of the document package

1. Forest product owners are responsible for managing the document package (original copy) together with forest products; keeping the document package, monitoring books within 05 years since the delivery date of forest products.

2. The agency competent to endorse the document package is responsible for keeping the endorsed packing list (original copy) and documents related to forest products' origin (copy) in head office.

Chapter II

LEGAL DOCUMENT PACKAGE

Article 1

DOCUMENT PACKAGE ON FOREST PRODUCTS' ORIGIN

Article 9. Domestically-harvested forest products

1. Document package for timber harvested from the main harvesting area, salvaged harvesting, cut for sanitation from natural forests, centralized plantations, gardens, farms, dispersed trees.

a) Documents on timber harvesting as regulated in the Circular 35/2011/TT-BNNPTNT dated 20/5/2011 of the Ministry of Agriculture and Rural development guiding the harvesting, salvaging timber and non-timber forest products (hereinafter referred to as the Circular 35/2011/TT-BNNPTNT) and other State prevailing regulations.

b) For timber eligible to be placed with hammer marks in accordance with the regulations of the Ministry of Agriculture and Rural development: minutes of endorsing the timber have been placed with hammer marks and the packing list.

For timber ineligible to be placed with hammer marks in accordance with the regulations of the Ministry of Agriculture and Rural development: the packing list with the endorsement of residential forest rangers.

2. Document package for non-timber forest products harvested from domestic forests

a) For forest plants, the document package consists of: documents on harvesting the non-timber forest products as regulated in the Circular No. 35/2011/TT-BNNPTNT; packing list.

b) For forest animals: the packing list with the endorsement of residential forest rangers.

Article 10. Imported forest products

1. Customs declaration for the imported forest products with the endorsement of Customs at border gate in accordance with the State's current regulations.
2. Packing list developed by overseas organizations, individuals who export the forest products.
3. The document certifying forest products' origin and other documents of the export country (if available).
4. CITES permits for the forest products under the Appendix I, II of the Convention on International Trade of Endangered Species.

Article 11. Handled confiscated forest products

Document package of handled confiscated forest products consists of: decision on handling administrative violations or decision on handling evidences of the State competent agencies by confiscating to the State, together with the minutes of the case and the packing list.

Section 2

DOCUMENT PACKAGE ON FOREST PRODUCTS IN CIRCULATION

Article 12. Unprocessed forest products originating from domestic natural forests

1. Document package of the delivering entities consists of: sales invoice in accordance with regulations of Ministry of Finance, together with the packing list endorsed by residential forest rangers.
2. Document package of residential communities, households, individuals delivering forest products: packing list endorsed by Commune People's Committee.

Article 13. Unprocessed forest products harvested from centralized plantations, gardens, farms, dispersed trees

1. Document package of the forest products harvested from centralized plantations of the delivering entities consists of: sales invoice in accordance with regulations of Ministry of Finance together with the packing list endorsed by residential forest rangers.
2. Document package of forest products harvested from gardens, farms, dispersed trees of delivering entities consists of: sales invoice in accordance with regulations of Ministry of Finance together with the packing list endorsed by Commune People's Committee.
3. Document package of forest products delivered by residential communities, households, individuals: packing list endorsed by Commune People's Committee.

Article 14. Imported forest products not processed domestically

1. Document package of the delivering entities consists of: sales invoice in accordance with regulations of Ministry of Finance, together with the packing list endorsed by residential forest rangers.
2. Document package of forest products delivered by individuals: the packing list endorsed by residential forest rangers.

Article 15. Domestically captive-bred forest animals; their parts, derivatives

1. Document package of forest products delivered by organizations consists of: sales invoice in accordance with regulations of Ministry of Finance, together with the packing list endorsed by residential forest rangers.

2. Document package of forest products delivered by communities, households, individuals consist of: packing list endorsed by residential forest rangers.

Article 16. Unprocessed forest products

1. Document package of forest products delivered by State competent authority consists of: sales invoice in accordance with regulations of Ministry of Finance, together with the packing list developed by the seller.

2. Document package delivered by organizations consists of: sales invoice in accordance with regulations of Ministry of Finance, together with the packing list endorsed by residential forest rangers.

3. Document package of forest products delivered by residential communities, households, individuals consists of: the packing list endorsed by residential forest rangers.

Article 17. Processed forest products

1. Document package of processed forest products originating from domestically natural forests of the delivering organizations consist of: sales invoice in accordance with regulations of Ministry of Finance, together with the packing list endorsed by residential forest rangers.

2. Processed forest products originating from imported timber, handled confiscated timber

a) Document package of processed forest products originating from imported timber, handled confiscated timber of the organizations regulated in item a, Clause 4, Article 26 of the Circular consists of: sales invoice in accordance with regulations of Ministry of Finance together with the packing list.

b) Document package of processed forest products originating from imported timber, handled confiscated timber of the organizations regulated in item b, Clause 4, Article 26 of the Circular consist of: sales invoice in accordance with regulations of Ministry of Finance, together with the packing list endorsed by residential forest rangers.

3. Document package of processed forest products originating from domestically natural forests, imported timber, handled confiscated timber of the delivering communities, households, individuals: packing list with the endorsement of residential forest rangers.

4. Document package of processed forest products originating from centralized plantations, gardens, farms, dispersed trees.

a) Document package of processed forest products originating from centralized plantations, gardens, farms, dispersed trees of delivering organizations consists of: sales invoice in accordance with regulations of Ministry of Finance, together with packing list.

b) Document package of processed timber originating from centralized plantations, gardens, farms, dispersed trees of delivering residential communities, households, individuals: packing list.

5. Document package of processed non-timber forest products

a) Document package of processed non-timber forest products of the delivering organizations consists of: sales invoice in accordance with regulations of Ministry of Finance, together with packing list.

b) Document package of processed forest products of the delivering residential communities, households, individuals: packing list.

Article 18. Internal transportation of forest products

1. Document package of forest products transported internally within one province, city managed by the Central consists of: internal delivery bill together with the packing list.
2. Document package of forest products transported internally among places not in the same province, city managed by the Central.
 - a) Document package of timber, forest animals, parts, derivatives consists of: internal delivery bill together with the packing list for each transportation vehicle with the endorsement of residential forest rangers.
 - b) Document package of transported forest products which are not regulated in item a, this Clause consists of: internal delivery bill, together with packing list.

Article 19. Transportation of in-transit forest products

1. Customs declaration on the transited forest products with the endorsement of Customs at the Border gate in accordance with State's prevailing regulations.
2. Packing list of the overseas organizations, individuals exporting the shipment.
3. CITES permit for the forest products under the Appendix I, II of the Convention on International Trade in Endangered Species.
4. If in-transit forest products are unloaded in the territory of Viet Nam to continue transporting or due to the change of transportation vehicle or in-transit at wharf, station, ect, document package of the in-transit forest products shall consist of: packing list for each consignment, each transportation vehicle, together with certified copies of document package of in-transit forest products as regulated in Item 1, 2,3 of this Article.

Section 3

DOCUMENT PACKAGE OF FOREST PRODUCTS AT PROCESSING, TRADING, STORING FACILITIES

Article 20. Document package of forest products at processing, trading, forest animals captive breeding facilities

The document package at processing, trading, forest animals captive breeding facilities consists of: entry-and-exit monitoring book; sales invoice; packing list and other documents related to the entered, exited forest products as regulated in the Circular.

Article 21. Document package of forest products in the storage facilities

Document package of forest products in the storage facilities is compliant with each type of forest products in the stages of the chain of custody (forest products' origin; circulation; processing, trading) in accordance with the Circular.

Chapter III

EXAMINATION OF FOREST PRODUCTS' ORIGIN

Section 1

PRINCIPLES OF EXAMINING FOREST PRODUCTS' ORIGIN

Article 22. Organizing the examination

1. Examination of forest products is conducted during the harvesting, transporting, processing, trading, captive-breeding, storing process by Forest rangers at all levels.

If the examination detects that forest products' owner does not have the eligible document package or the actual forest products are not compliant with the document package as regulated in the Circular, the examining agency shall organize the investigation, verification against the forest products' origin.

2. Examination of forest products shall be conducted in accordance with the schedule or at random if identifying or receiving intelligence about any sign of violation against laws by forest products' owner. During the examination, forest rangers shall wear their uniform, stripe, badge, insignia in accordance with the State's regulations.

3. Every examination shall be conducted following the procedures stipulated by laws with examination minutes made following the template 03 or 04 (for examination against forest products harvesting) issued together with the Circular. In case of detecting violations against State regulations, administrative violation minutes shall be made in accordance with the Decree No. 99/2009/NĐ-CP dated 02/11/2009 by the Government on punishing administrative violations in forest management, forest protection and forest products management.

Article 23. Intelligence-based examination

1. Receiving, handling intelligence

a) Upon receiving intelligence against legal violations, the informed forest ranger shall report to his Manager. If citizen denounces directly at the head-office, a minute on receiving the intelligence shall be made. If receiving intelligence via telephone, the informed forest ranger shall request the informant provide his/her full name, address, telephone number; if the information not provided, the forest ranger shall report to his Manager.

b) Manager of forest ranger agencies is responsible for developing an intelligence book and organizing the management of the book as a confidential material.

2. Organize intelligence-based examination

Intelligence provided by organizations, individuals under any form is considered the foundation to consider the examination of forest products. Manager of the agency receiving the intelligence decides to conduct the intelligence-based examination when having appropriate foundations.

Section 2

EXAMINATION OF FOREST PRODUCTS HARVESTING

Article 24. Examination against the implementation of forest products harvesting

1. Examination scope

a) Compliance with legal regulations prior to harvesting: approval of harvesting design, harvesting permit, site preparation (vegetation clearing, building new road or upgrading transporting road, log site, boundary marks around the harvesting area).

b) Compliance with legal regulations during and after harvesting: harvesting locations; technical standards; quantity, volume, category of forest products harvested in the main harvesting areas, salvaged harvesting, cut for sanitation; forest hand-over and post-harvesting protection.

c) Documents related to the harvesting.

2. Examination methods

a) Entire examination or random selection on at least 30% (thirty percent) of the total forest area permitted to harvest.

b) Compare and check the harvesting document package against the actual harvesting on site.

Article 25. Examination of harvested forest products

1. For timber harvested, transported to the log site, examination shall be conducted against the timber as well as forest hammer marks as follows:

a) Log site after harvesting; quantity, volume, name of species, log-cutting, marking numbers; hammer marks, ect in accordance with regulations of the Ministry of Agriculture and Rural Development.

b) Harvesting document package as regulated in the Article 24 of this Circular.

2. For non-timber forest products, examination shall be conducted against quantity, volume, name of species; examining and endorsing packing list; harvesting document package as regulated in the Article 24 of this Circular.

Section 3

**EXAMINATION AGAINST FOREST PRODUCTS IN PROCESSING,
TRADING, STORAGE FACILITIES; FOREST ANIMAL CAPTIVE-
BREEDING FACILITIES**

Article 26. Examination against forest products processing, trading facilities

1. When examining forest products at the forest product processing, trading facilities, a written request by Head of the competent forest protection agency is required to be in place.

If detecting forest products from illegal sources, the forest ranger on duty is entitled to organize the examination immediately and at the same time to report to his Head.

2. Processing, trading facilities are required to obey the request for examination by the on-duty forest rangers; submit documents related to the management of the processing, trading facilities as well as origin of forest products in accordance with the Circular.

3. Examination scope

a) Documents related to the management of processing, trading facilities: Business register license, including the activities on processing and trading issued by State competent agencies.

b) Document package of forest products.

c) Forest products currently available in the processing, trading facilities.

d) Forest hammer marks on the timber that is required to be marked with forest hammers in compliance with regulations of Ministry of Agriculture and Rural development.

đ) Approach to keep the document package of forest products.

4. In every first quarter, Forest protection departments at provincial levels are responsible for reviewing, classifying, publicizing the results to processing, trading facilities in their management areas and posted in the office of Forest protection departments and at the same

time, reporting to the Central Forest Protection Department about the legal compliance by the organizations following the two groups:

- a) Processing, trading facilitates well complying with State regulations.
- b) Processing, trading facilities violating State regulations on document package of forest products or not complying fully with the State regulations.

Article 27. Examination of forest product storing facilities

1. Examining the storing facilities of forest products which are not regulated in the Article 26 of the Circular, including stations, wharf, store is required to have an written request by Head of forest protection agency.

If detecting forest products originating from illegal sources, on-duty forest rangers are entitled to examine immediately and at the same time, report to the Head of his agency.

2. Owner of the storing facility and owner of forest products are required to obey the requirements of forest rangers; submit the document package of available forest products in accordance with the Circular.

3. Examination scope

- a) Document package of stored forest products
- b) Forest products available in the storing facilities.
- c) Forest hammer for timber which is required to have hammer marks in compliance with regulations of Ministry of Agriculture and Rural development.

Article 28. Examination of forest animals captive-breeding facilities

1. When examining the captive-breeding facilities, forest rangers must demonstrate the written request by Head of the competent forest protection agency.

If detecting forest products originating from illegal sources, on-duty forest rangers are entitled to examine immediately and at the same time, report to the Head of his agency.

2. Examination scope

- a) Status of compliance with legal regulations on captive-breeding: certificate on captive-breeding registration, farming conditions, origin of animals, environmental hygiene.
- b) Document package of entered, existing forest animals.
- c) Current captive-bred forest animals.

Section 4

EXAMINATION OF FOREST PRODUCTS IN CIRCULATION

Article 29. Examination of Forest Products In Circulation

1. Forest rangers are allowed to stop vehicles transporting in land, on waterway to examine forest products only when have foundations showing that such vehicles are transporting forest products illegally. The official directing its staff to stop the vehicles takes the responsibility to the laws for his decision to stop the vehicles.

The command to stop the vehicles can be ordered alone or together with using horn, forest ranger flag, and torch.

Barriers are not allowed to install along the roads to stop vehicles to examine forest products. In the special case, this must be decided by Chairman of People's Committee at provincial level who takes the responsibility for steering and organizing the installment of such barriers.

2. Drivers of the forest product-transporting vehicles are responsible for obeying the stop command of forest rangers; submit the document package related to the forest products (original copy) in accordance with the Circular and State's prevailing requirements on transportation.

3. Examination scope

a) Document package on forest products

b) The forest products currently transported by the vehicles.

c) Forest hammers marks for timber that required to be placed with forest hammer marks in accordance with regulations of Ministry of Agriculture and Rural Development.

After the examination, the chairperson of the examination shall write name of examining agency; examining date, month, year; quantity, volume of forest products transported by the vehicles; sign and write his full name in the back side of the sales invoice and packing list.

Article 30. Examination of imported, exported, transited forest products at border gates

If it is necessary to verify the origin of forest products imported, exported, transited, Provincial Forest Protection Departments shall, in cooperation with Border Customs, organize the examination, verification of forest products' origin in compliance with the Circular and other current legal regulations.

Chapter IV

IMPLEMENTATION ORGANIZATION

Article 31. Effect

1. The Circular comes into effect after 45 days since its signing date.

2. The Circular replaces the Decision No.59/2005/QĐ-BNN dated 10/10/2005 by the Minister of Agriculture and Rural Development on issuing the Regulation on examining and controlling forest products.

Article 32. Reporting scheme

1. On the end day of each quarter, the harvesting, processing, trading entities submit a periodical three-month report following the template No.05 attached with the Circular on the status of input and output forest products to the residential forest rangers.

2. For the authorities competent to endorse forest products

a) Commune People's Committee submits a periodical monthly report in the first week of the next month following the template No.06 attached with the Circular on the status of forest product endorsement to residential forest rangers if there is any forest products endorsed in such a month according to the Circular.

b) Residential forest rangers submit a periodical quarterly report in the second week of the next quarter following the template No.06 attached with the Circular on the status of input and output forest products in their managed areas to Provincial Forest Protection Departments.

c) Provincial Forest Protection Departments are responsible for providing, reporting the status of forest product management and checking their origin in their managed areas in accordance with the Circular when requested by the Central Forest Protection Department.

Article 33. Violation addressing

Organizations, individuals violating against the provisions in the Circular, depending on the nature, extent of their violations, shall be blamed, punished administratively or prosecuted criminally in compliance with legal regulations./.

To:

MINISTER

- Prime Minister, Deputy Prime Ministers;
- Office of Central Party;
- Central office and Party departments
- President office;
- Office of National Assembly;
- Ministries, Ministerial-level agencies, agencies under the Government
- People Committees of cities, provinces managed by the Central;
- People's Supreme Court;
- People's Supreme Procuracy;
- Department of document checking (Ministry of Justice);
- DARD of cities, provinces managed by the Central;
- Official gazette, Government website;
- Relevant departments under MARD

Cao Duc Phat
(Signed)

APPENDIX 03

MINISTRY OF AGRICULTURE
AND RURAL DEVELOPMENT

THE SOCIAL REPUBLIC OF VIETNAM
Independence- Freedom- Happiness

No: 42/2012/TT-BNNPTNT

Hanoi, 21st August 2012

CIRCULAR

AMENDING, SUPPLEMENTING SEVERAL ARTICLE OF CIRCULAR NO. 01/2012/TT-BNNPTNT DATED 04/01/2012 REGULATING ON LEGAL FOREST PRODUCTS AND EXAMINATION OF FOREST PRODUCT ORIGIN

Pursuant to Forest Protection and Development Law dated 03rd December 2004;

Pursuant to the Decree No. 23/2006/NĐ-CP dated on 3rd March 2006 by the Government on implementing Forest Protection and Development Law;.

Pursuant to the Decree No. 01/2008/NĐ-CP dated on 03rd January 2008 and the Decree No. 75/2009/NĐ-CP dated on 10th September 2009 by the government on amending Article 3 of the Decree No. 01/2008/NĐ-CP dated on 03rd January 2008 by the government on stipulating the functions, responsibilities, mandates and organizational structure of the Ministry of Agriculture and Rural Development;

According to the proposal of the General Director of the General Department of Forestry;

Minister of the Ministry of Agriculture and Rural Development issued Circular amending, supplementing several Article of Circular No. 01/2012/TT-BNNPTNT dated 04/01/2012 regulating on legal forest products and examination of forest product origin

Article 1. Amend and supplement several Articles of Circular No. 01/2012/TT-BNNPTNT

1. Clause 7, Article 3 amended and supplemented as follows:

“7. Internal transportation means forest products are transported among its subordinate units such as forest enterprises, forest companies, processing factories, branches, stores, ect under an enterprise with legal status and internal accounting; or if forest products transported from an enterprise with legal status and independent accounting to its subordinate units with external accounting and vice versa.

When timber products are transported from harvesting areas to processing areas, warehouses; from processing areas, warehouses to delivering areas between buyers and sellers under the contracts of this shipment, it also considered internal transportation”.

2. Clause 1, Article 4 amended and supplemented as follows:

“1. Quantity of round timber, sawn timber, square timber is determined in accordance with the provisions on hammer mark management and placement issued by the Ministry of Agriculture and Rural development.

For stump, roots or timber with complex shape, ornamental trees, trees for shadow, old-century trees including their roots, trunks, branches, leaves which are unable to measure diameter, length to determine volume, such timber shall be weighted by kilogram (kg) and converted with the ratio 1,000kg equivalent to 1 m³ round timber or measure by ster and converted with the ratio 1 ster equivalent to 0.7 m³ round timber.”

3. Point c, Clause 3, Article 5 amended and supplemented as follows:

“c) Write the total quantity, volume or weight of the round timber, square timber, and sawn timber with parameters smaller than the item b this Point b, Clause 3, Article 5 of Circular 01/2012/TT-BNNPTNT or timber harvested from concentrated plantation not categories in terms of diameter.

Where making general packing list, forest products for processing different products, timber owner must make packing list for each type of products and record the origins extracted from this general packing list.”

4. Clause 1, Article 7 amended and supplemented as follows:

a) At Point a, Clause 1, Article 7, delete the phrase: “concentrated plantation”.

b) Point c, Clause 1, Article 7 amended and supplemented as follows:

“c) Residential forest ranger advises Director of People’s Committee at commune, ward, town level (hereinafter referred to Commune People’s Committee) endorses unprocessed forest products harvested from domestic natural forests of the delivering residential communities, households and individuals”.

5. Point b, Clause 1, Article 9, delete the phrase: “For timber not eligible to be placed with hammer marks in accordance with the regulations of the Ministry of Agriculture and Rural Development: packing list with the endorsement of competent authorities stipulated at Clause 1, Article 7 of this Circular.”

6. Article 13 amended and supplemented as follows:

“Article 13. Unprocessed forest products harvested from concentrated plantations, gardens, farms, scattered trees

1. Document package of forest products harvested from concentrated plantations, gardens, farms, scattered trees of delivering entities consists of: value invoice or export invoice in accordance with regulations of Ministry of Finance together with packing list.

2. Document package of forest products delivered by residential communities, households, individuals: packing list.”

7. Article 14 amended and supplemented as follows:

“Article 14. Imported forest products not processed domestically

1. Document package of the forest products imported directly in accordance with the provisions at Article 10 of Circular No. 01/2012/TT-BNNPTNT dated 04 January 2012.
2. Document package of forest products with delivering importing origins
 - a) Document package of imported forest products of the delivering entities consists of: value invoice or export invoice in accordance with the regulations of Ministry of Finance and packing list endorsed by residential forest rangers.
 - b) Document package of imported forest products delivered by individuals: the packing list endorsed by residential forest rangers.

8. Point a, Clause 2, Article 18 amended and supplemented as follows:

“a) Document package of forest products transportation of domestic natural timber, recovered unprocessed timber, forest animals, their parts and derivatives consists of: internal delivery bill together with the packing list endorsed by residential forest rangers.”

Article 2. Replacing the phrases stipulated at Circular No. số 01/2012/TT-BNNPTNT

- a) Replacing the phrase: “sale invoice” by “value invoice or export invoice”.
- b) Replacing the phrase: “internal delivery bill” by “internal delivery-transportation bill”.

Article 3. Implementation provisions

1. This Circular takes effect from 15 October 2012.
2. In the implementation process, if any problems arise, organizations and individuals should be promptly reported to Ministry of Agriculture and Rural Development to resolve./.

To:

MINISTER

- Prime Minister, Deputy Prime Ministers;
- Office of Central Party;
- Central office and Party departments
- President office;
- Office of National Assembly;
- Ministries, Ministerial-level agencies, agencies under the Government
- People Committees of cities, provinces managed by the Central;
- People’s Supreme Court;
- People’s Supreme Procuracy;
- Department of document checking (Ministry of Justice);
- DARD of cities, provinces managed by the Central;
- Official gazette, Government website;
- Relevant departments under MARD

Cao Duc Phat
(Signed)

APPENDIX 04
REGULATION (EU) No 995/2010 OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL

Of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ⁽²⁾

Whereas:

(1) Forests provide a broad variety of environmental, economic and social benefits including timber and non-timber forest products and environmental services essential for humankind, such as maintaining biodiversity and ecosystem functions and protecting the climate system.

(2) Due to the growing demand for timber and timber products worldwide, in combination with the institutional and governance deficiencies that are present in the forest sector in a number of timber-producing countries, illegal logging and the associated trade have become matters of ever greater concern.

(3) Illegal logging is a pervasive problem of major international concern. It poses a significant threat to forests as it contributes to the process of deforestation and forest degradation, which is responsible for about 20% of global CO₂ emissions, threatens biodiversity, and undermines sustainable forest management and development including the commercial viability of operators acting in accordance with applicable legislation. It also contributes to desertification and soil erosion and can exacerbate extreme weather events and flooding. In addition, it has social, political and economic implications, often undermining progress towards good governance and threatening the livelihood of local forest-dependent communities, and it can be linked to armed conflicts. Combating the problem of illegal logging in the context of this Regulation is expected to contribute to the Union's climate change mitigation efforts in a cost-effective manner and should be seen as complementary to Union action and commitments in the context of the United Nations Framework Convention on Climate Change.

(4) Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme ⁽³⁾ identifies as a priority action the examination of the possibility of taking active measures to prevent and combat trade in illegally harvested wood and the continuation of the active participation of the Union and of Member States in the implementation of global and regional resolutions and agreements on forest-related issues.

1 OJ C 318, 23.12.2009, p. 88.

2 Position of the European Parliament of 22 April 2009 (OJ C 184 E, 8.7.2010, p. 145), position of the

Council at first reading of 1 March 2010 (OJ C 114 E, 4.5.2010, p.17) and position of the European Parliament of 7 July 2010 (not yet published in the Official Journal).

3 OJ L 242, 10.9.2002, p. 1

(5) The Commission Communication of 21 May 2003 entitled "Forest Law Enforcement, Governance and Trade (FLEGT): Proposal for an EU Action Plan" proposed a package of measures to support international efforts to tackle the problem of illegal logging and associated trade in the context of overall efforts of the Union to achieve sustainable forest management.

(6) The European Parliament and the Council welcomed that Communication and recognized the need for the Union to contribute to global efforts to address the problem of illegal logging.

(7) In accordance with the aim of that Communication, namely to ensure that only timber products which have been produced in accordance with the national legislation of the timber-producing country enter the Union, the Union has been negotiating Voluntary Partnership Agreements (FLEGT VPAs) with timber-producing countries (partner countries), which create a legally binding obligation for the parties to implement a licensing scheme and to regulate trade in timber and timber products identified in those FLEGT VPAs.

(8) Given the major scale and urgency of the problem, it is necessary to support the fight against illegal logging and related trade actively, to complement and strengthen the FLEGT VPA initiative and to improve synergies between policies aimed at the conservation of forests and the achievement of a high level of environmental protection, including combating climate change and biodiversity loss.

(9) The efforts made by countries which have concluded FLEGT VPAs with the Union and the principles incorporated in them, in particular with regard to the definition of legally produced timber, should be recognized and further encouragement for countries to conclude FLEGT VPAs should be given. It should be also taken into account that under the FLEGT licensing scheme only timber harvested in accordance with the relevant national legislation and timber products derived from such timber are exported into the Union. Therefore timber embedded in timber products listed in Annexes II and III to Council Regulation (EC) No 2173/2005 of 20 December 2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community ⁽¹⁾, originating in partner countries listed in Annex 1 to that Regulation, should be considered to have been legally harvested provided those timber products comply with that Regulation and any implementing provisions.

(10) Account should also be taken of the fact that the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) places a requirement on parties to CITES only to grant a CITES permit for export when a CITES-listed species has been harvested, inter alia, in compliance with national legislation in the exporting country. Therefore timber of species listed in Annex A, B or C to Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein ⁵ should be considered to have been legally harvested provided it complies with that Regulation and any implementing provisions.

(11) Bearing in mind that the use of recycled timber and timber products should be encouraged, and that including such products in the scope of this Regulation would place a disproportionate burden on operators, used timber and timber products what have completed their lifecycle, and would otherwise be disposed of as waste, should be excluded from the scope of this Regulation

(12) The placing on the internal market for the first time of illegally harvested timber or timber products derived from such timber should be prohibited as one of the measures of this Regulation. Taking into account the complexity of illegal logging, its underlying causes and its impact, specific measures should be taken, such as those that target the behavior of operators.

⁴ OJ L 347, 30.12.2005, trang 1

⁵ OJ L 61, 3.3.1997, trang 1.

(13) In the context of the FLEGT Action Plan the Commission and, where appropriate,

Member States may support and conduct studies and research on the levels and nature of illegal logging in different countries and make such information publicly available, as well as support the provision of practical guidance to operators on applicable legislation in timber-producing countries.

(14) In the absence of an internationally agreed definition, the legislation of the country where the timber was harvested, including regulations as well as the implementation in that country of relevant international conventions to which that country is party, should be the basis for defining what constitutes illegal logging.

(15) Many timber products undergo numerous processes before and after they are placed on the internal market for the first time. In order to avoid imposing any unnecessary administrative burden, only operators that place timber and timber products on the internal market for the first time should be subject to the due diligence system, while a trader in the supply chain should be required to provide basis information on its suppliers and its buyer to enable the traceability of timber and timber products.

(16) On the basis of a systemic approach, operators placing timber and timber products for the first time on the internal market should take the appropriate steps in order to ascertain that illegally harvested timber and timber products derived from such timber are not placed on the internal market. To that end, operators should exercise due diligence through a system of measures and procedures to minimize the risk of placing illegally harvested timber and timber products derived from such timber on the internal market.

(17) The due diligence system includes three elements inherent to risk management: access to information, risk assessment and mitigation of the risk identified. The due diligence system should provide access to information about the sources and suppliers of the timber and timber products being placed on the internal market for the first time, including relevant information such as compliance with the applicable legislation, the country of harvest, species, quantity, and where applicable sub-national region and concession of harvest. On the basis of this information, operators should carry out a risk assessment. Where a risk is identified, operators should mitigate such risk in a manner proportionate to the risk identified, with a view to preventing illegally harvested timber and timber products derived from such timber from being placed on the internal market.

(18) In order to avoid any unnecessary administrative burden, operators already using systems or procedures which comply with the requirements of this Regulation should not be required to set up new systems.

(19) In order to recognise good practice in the forestry sector, certification or other third party verified schemes that include verification of compliance with applicable legislation may be used in the risk assessment procedure.

(20) The timber sector is of major importance for the economy of the Union. Organisations of operators are important actors in the sector as they represent the interests of the latter on a large scale and interact with a diverse range of stakeholders. Those organisations also have the expertise and capacity to analyse relevant legislation and facilitate the compliance of their members, but should not use this competence to dominate the market. In order to facilitate the implementation of this Regulation and to contribute to the development of good practices it is appropriate to recognise organisations which have developed due diligence systems meeting the requirements of this Regulation. Recognition and withdrawal of recognition of monitoring organisations should be performed in a fair and transparent manner. A list of such recognised organisations should be made public in order to enable operators to use them.

(21) Competent authorities should carry out checks at regular intervals on monitoring organisations to verify that they effectively fulfil the obligations laid down in this Regulation. Moreover, competent authorities should endeavour to carry out checks when in possession of relevant information, including substantiated concerns from third parties.

(22) Competent authorities should monitor that operators effectively fulfil the obligations laid down in this Regulation. For that purpose the competent authorities should carry out official checks, in accordance with a plan as appropriate, which may include checks on the premises of operators and field audits, and should be able to require operators to take remedial actions where necessary. Moreover, competent

authorities should endeavour to carry out checks when in possession of relevant information, including substantiated concerns from third parties.

(23) Competent authorities should keep records of the checks and the relevant information should be made available in accordance with Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information ⁽⁶⁾.

(24) Taking into account the international character of illegal logging and related trade, competent authorities should cooperate with each other and with the administrative authorities of third countries and the Commission.

(25) In order to facilitate the ability of operators who place timber or timber products on the internal market to comply with the requirements of this Regulation, taking into account the situation small and medium sized enterprises, Member States, assisted by the Commission where appropriate, may provide operators with technical and other assistance and facilitate the exchange of information. Such assistance should not release operators from their obligation to exercise due diligence.

(26) Traders and monitoring organisations should refrain from measures which could jeopardise the attainment of the objective of this Regulation.

(27) Member States should ensure that infringements of this Regulation, including by operators, traders and monitoring organisations, are sanctioned by effective, proportionate and dissuasive penalties. National rules may provide that, after effective, proportionate and dissuasive penalties are applied for infringements of this prohibition of placing on the internal market of illegally harvested timber or timber products derived from such timber, such timber and timber products should not necessarily be destroyed but may instead be used or disposed of for public interest purposes.

(28) The Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) concerning the procedures for the recognition and withdrawal of recognition of monitoring organisations, concerning further relevant risk assessment criteria that may be necessary to supplement those already provided for in this Regulation and concerning the list of timber and timber products to which this Regulation applies. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.

(29) In order to ensure uniform conditions for implementation, implementing powers should be conferred on the Commission to adopt detailed rules with regard to the frequency and the nature of the checks by competent authorities on monitoring organisations and to the due diligence systems except as regards further relevant risk assessment criteria. In accordance with Article 291 TFEU, rules and general principles concerning mechanisms for the control by Member States of the Commission's exercise of implementing powers are to be laid down in advance by a regulation adopted in accordance with the ordinary legislative procedure. Pending the adoption of that new regulation Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁷⁾ continues to apply, with the exception of the regulatory procedure with scrutiny, which is not applicable.

⁶ OJ L 41, 14.2.2003, trang 26.

(30) Operators and competent authorities should be given a reasonable period in order to prepare themselves to meet the requirements of this Regulation.

(31) Since the objective of this Regulation, namely the fight against illegal logging and related trade, cannot be achieved by the Member States individually and can therefore, by reason of its scale, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS REGULATION:

Article 1
Subject matter

This Regulation lays down the obligations of operators who place timber and timber products on the internal market for the first time, as well as the obligations of traders.

Article 2
Định nghĩa

For the purposes of this Regulation, the following definitions shall apply:

- (a) "timber and timber products" means the timber and timber products set out in the Annex, with the exception of timber products or components of such products manufactured from timber or timber products that have completed their lifecycle and would otherwise be disposed of as waste, as defined in Article 3(1) of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste⁽⁸⁾.
- (b) "placing on the market" means the supply by any means, irrespective of the selling technique used, of timber or timber products for the first time on the internal market for distribution or use in the course of a commercial activity, whether in return for payment or free of charge. It also includes the supply by means of distance communication as defined in Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts⁽⁹⁾. The supply on the internal market of timber products derived from timber or timber products already placed on the internal market shall not constitute "placing on the market".
- (c) "operators" means any natural or legal person that places timber or timber products on the market;
- (d) "traders" means any natural or legal person who, in the course of a commercial activity, sells or buys on the internal market timber or timber products already placed on the internal market;
- (e) "country of harvest" means the country or territory where the timber or the timber embedded in the timber products was harvested;
- (f) "legally harvested" means harvested in accordance with the applicable legislation in the country of harvest;

⁷ OJ L 184, 17.7.1999, trang 23

⁸ OJ L 312, 22.11.2008, trang 3.

⁹ OJ L 144, 4.6.1997, trang 19.

(g) "illegal harvested" means harvested in contravention of applicable legislation in the country of harvest;

(h) "applicable legislation" means the legislation in force in the country of harvest concerning the following matters:

- Rights to harvest timber within legally gazetted boundaries,
- Payments for harvest rights and timber including duties related to timber harvesting,
- Timber harvesting, including environmental and forest legislation including forest management and biodiversity conservation, where directly related to timber harvesting,
- Third parties' legal rights concerning use and tenure that are affected by timber harvesting, and
- Trade and customs, in so far as the forest sector is concerned.

Article 3

Status of timber and timber products covered by FLEGT and CITES

Timber embedded in timber products listed in Annexes II and III to Regulation (EC) No 2173/2005 which originate in partner countries listed in Annex 1 to that Regulation and which comply with that Regulation and its implementing provisions shall be considered to have been legally harvested for the purposes of this Regulation.

Timber of species listed in Annex A, B or C to Regulation (EC) No 338/97 and which complies with that Regulation and its implementing provisions shall be considered to have been legally harvested for the purposes of this Regulation.

Article 4

Obligations of operators

1. The placing on the market of illegally harvested timber or timber products derived from such timber shall be prohibited.
2. Operators shall exercise due diligence when placing timber or timber products on the market. To that end, they shall use a framework of procedures and measures, hereinafter referred to as a "due diligence system", as set out in Article 6.
3. Each operator shall maintain and regularly evaluate the due diligence system which it uses, except where the operator makes use of a due diligence system established by a monitoring organisation referred to in Article 8. Existing supervision systems under national legislation and any voluntary chain of custody mechanism which fulfill the requirements of this Regulation may be used as a basis for the due diligence system.

Article 5

Obligation of traceability

Traders shall, throughout the supply chain, be able to identify:

- a) The operators or the traders who have supplied the timber and timber products; and
 - b) Where applicable, the traders to whom they have supplied timber and timber products.
- Traders shall keep the information referred to in the first paragraph for at least five years and shall provide that information to competent authorities if they so request.

Article 6

Due diligence systems

1. The due diligence system referred to in Article 4(2) shall contain the following elements:
 - a) Measures and procedures providing access to the following information concerning the operator's supply of timber or timber products placed on the market:
 - Description, including the trade name and type of product as well as the common name of tree species and, where applicable, its full scientific name,
 - Country of harvest, and where applicable:
 - (i) Sub-national region where the timber was harvested; and
 - (ii) Concession of harvest,
 - Quantity (expressed in volume, weight or number of units),
 - Name and address of the supplier to the operator,

- Name and address of the trader to whom the timber and timber products have been supplied,
 - Documents or other information indicating compliance of those timber and timber products with the applicable legislation;
- b) Risk assessment procedures enabling the operator to analyse and evaluate the risk of illegally harvested timber or timber products derived from such timber being placed on the market.

Such procedures shall take into account the information set out in point (a) as well as relevant risk assessment criteria, including:

- Assurance of compliance with applicable legislation, which may include certification or other third-party-verified schemes which cover compliance with applicable legislation,
- Prevalence of illegal harvesting of specific tree species,
- Prevalence of illegal harvesting or practices in the country of harvest and/or sub-national region where the timber was harvested, including consideration of the prevalence of armed conflict,
- Sanctions imposed by the UN Security Council or the Council of the European Union on timber imports or exports,
- Complexity of the supply chain of timber and timber products.

c) Except where the risk identified in course of the risk assessment procedures referred to in point (b) is negligible, risk mitigation procedures which consist of a set of measures and procedures that are adequate and proportionate to minimise effectively that risk and which may include requiring additional information or documents and/or requiring third party verification.

2. Detailed rules necessary to ensure the uniform implementation of paragraph 1, except as regards further relevant risk assessment criteria referred to in the second sentence of paragraph 1(b) of this Article, shall be adopted in accordance with the regulatory procedure referred to in Article 18(2). Those rules shall be adopted by 3 June 2012.

3. Taking into account market developments and the experience gained in the implementation of this Regulation, in particular as identified through the Exchange of information referred to in Article 13 and the reporting referred to in Article 20(3), the Commission may adopt delegated acts in accordance with Article 290 TFEU as regards further relevant risk assessment criteria that may be necessary to supplement those referred to in the second sentence of paragraph 1(b) of this Article with a view to ensuring the effectiveness of the due diligence system.

For the delegated acts referred to in this paragraph the procedures set out in Article 15, 16 and 17 shall apply.

Article 7

Competent authorities

1. Each Member State shall designate one or more competent authorities responsible for the application of this Regulation. Member States shall inform the Commission of the names and addresses of the competent authorities by 3 June 2011. Member States shall inform the Commission of any changes to the names or addresses of the competent authorities.

2. The Commission shall make publicly available, including on the Internet, a list of the competent authorities. The list shall be regularly updated.

Article 8

Monitoring organisations

1. A monitoring organisation shall:
 - a) Maintain and regularly evaluate a due diligence system as set out in Article 6 and grant operators the right to use it;
 - b) Verify the proper use of its due diligence system by such operators;
 - c) Take appropriate action in the event of failure by an operator to properly use its due diligence system, including notification of competent authorities in the event of significant or repeated failure by the operator.
2. An organisation may apply for recognition as a monitoring organisation if it complies with the following requirements:
 - a) It has legal personality and is legally established within the Union;
 - b) It ensures the absence of any conflict of interest in carrying out its functions.
3. The Commission, after consulting the Member State(s) concerned, shall recognise as a monitoring organisation an applicant that fulfils the requirements set out in paragraph 2. The decision to grant recognition to a monitoring organisation shall be communicated by the Commission to the competent authorities of all the Member States.
4. The competent authorities shall carry out checks at regular intervals to verify that the monitoring organisations operating within the competent authorities' jurisdiction continue to fulfil the functions laid down in paragraph 1 and comply with the requirements laid down in paragraph 2. Checks may also be carried out when the competent authority of the Member State is in possession of relevant information, including substantiated concerns in the implementation by the operators of the due diligence system established by a monitoring organisation. A report of the checks shall be made available in accordance with Directive 2003/4/EC.
5. If a competent authority determines that a monitoring organisation either no longer fulfils the functions laid down in paragraph 1 or no longer complies with the requirements laid down in paragraph 2, it shall without delay inform the Commission.
6. The Commission shall withdraw recognition of a monitoring organisation when, in particular on the basis of the information provided pursuant to paragraph 5, it has determined that the monitoring organisation no longer fulfils the functions laid down in paragraph 1 or the requirements laid down in paragraph 2. Before withdrawing recognition of a monitoring organisation, the Commission shall inform the Member States concerned. The decision to withdraw recognition of a monitoring organisation shall be communicated by the Commission to the competent authorities of all the Member States.
7. In order to supplement the procedural rules with regard to the recognition and withdrawal of recognition of monitoring organisations and, if experience so requires, to amend them, the Commission may adopt delegated acts in accordance with Article 290 TFEU, while ensuring that the recognition and withdrawal of recognition are performed in a fair and transparent. For the delegated acts referred to in this paragraph, the procedures set out in Article 15, 16 and 17 shall apply. Those acts shall be adopted by 3 March 2012.
8. Detailed rules concerning the frequency and the nature of the checks referred to in paragraph 4, necessary to ensure the effective oversight of monitoring organisations and the uniform implementation of that paragraph, shall be adopted in accordance with the regulatory procedure referred to in Article 18(2). Those rules shall be adopted by 3 June 2012.

Article 9

List of monitoring organisations

The Commission shall publish the list of monitoring organisations in *the Official Journal of the European Union*, C series, and shall make it available on its website. The list shall be regularly

updated.

Article 10

Checks on operators

1. The competent authorities shall carry out checks to verify if operators comply with the requirements set out in Article 4 and 6.
2. The checks referred to in paragraph 1 shall be conducted in accordance with a periodically reviewed plan following a risk-based approach. In addition, checks may be conducted when a competent authority is in possession of relevant information, including on the basis of substantiated concerns provided by third parties, concerning compliance by an operator with this Regulation.
3. The checks referred to in paragraph 1 may include, inter alia:
 - a) Examination of the due diligence system, including risk assessment and risk mitigation procedures;
 - b) Examination of documentation and records that demonstrate the proper functioning of the due diligence system and procedures;
 - c) Spot checks, including field audits.
4. Operators shall offer all assistance necessary to facilitate the performance of the checks referred to in paragraph 1, notably as regards access to premises and the presentation of documentation of records.
5. Without prejudice to Article 19, where, following the checks referred to in paragraph 1, shortcomings have been detected, the competent authorities may issue a notice of remedial actions to be taken by the operator. Additionally, depending on the nature of the shortcomings detected, Member States may take immediate interim measures, including inter alia:
 - a) Seizure of timber and timber products;
 - b) Prohibition of marketing of timber and timber products.

Article 11

Records of checks

1. The competent authorities shall keep records of the checks referred to in Article 10(1), indicating in particular their nature and results, as well as of any notice of remedial actions issued under Article 10(5). Records of all checks shall be kept for at least five years.
2. The information referred to in paragraph 1 shall be made available in accordance with Directive 2003/4/EC.

Article 12

Cooperation

1. Competent authorities shall cooperate with each other, with the administrative authorities of third countries and with the Commission in order to ensure compliance with this Regulation.
2. The competent authorities shall exchange information on serious shortcomings detected through the checks referred to in Article 8(4) and 10(1) and on the types of penalties imposed in accordance with Article 19 with the competent authorities of other Member States and with the Commission.

Article 13

Technical assistance, guidance and Exchange of information

1. Without prejudice to the operators' obligation to exercise due diligence under Article 4(2), Member States, assisted by the Commission where appropriate, may provide technical and other assistance and guidance to operators, taking into account the situation of small and medium-sized enterprises, in order to facilitate compliance with the requirements of this Regulation, in particular in relation to the implementation of a due diligence system in accordance with Article 6.
2. Member States, assisted by the Commission where appropriate, may facilitate the exchange and dissemination of relevant information on illegal logging, in particular with a view to assisting operators in assessing risk as set out in Article 6(1)(b), and on best practices regarding the implementation of this Regulation.
3. Assistance shall be provided in a manner which avoids compromising the responsibilities of competent authorities and preserves their independence in enforcing this Regulation.

Article 14

Amendments of the Annex

In order to take into account, on the one hand, the experience gained in the implementation of this Regulation, in particular as identified through the reporting referred to in Article 20(3) and (4) and through the exchange of information as referred to in Article 13, and, on the other hand, developments with regard to technical characteristics, end-users and production processes of timber and timber products, the Commission may adopt delegated acts in accordance with Article 290 TFEU by amending and supplementing the list of timber and timber products set out in the Annex. Such acts shall not create a disproportionate burden on operators. For the delegated acts referred to in this Article the procedures set out in Article 15, 16 and 17

shall apply.

Article 15

Exercise of the delegation

1. The power to adopt the delegated acts referred to in Article 6(3), 8(7) and 14 shall be conferred on the Commission for a period of seven years from 2 December 2010. The Commission shall make a report in respect of the delegated powers not later than three months before the end of a three-year period after the date of application of this Regulation. The delegation of powers shall be automatically extended for periods of an identical duration, unless the European Parliament or the Council revokes it in accordance with Article 16.
2. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
3. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in Articles 16 and 17.

Article 16

Revocation of delegation

1. The delegation of powers referred to in Articles 6(3), 8(7) and 14 may be revoked at any time by the European Parliament or by the Council.
2. The institution which has commenced an internal procedure for deciding whether to revoke the delegation of powers shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated powers which could be subject to revocation and possible reasons for a revocation.
3. The decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the *Official Journal of the European Union*.

Article 17

Objections to delegated acts

1. The European Parliament or the Council may object to a delegated act within a period of two months from the date of notification. At the initiative of the European Parliament or the Council, this period shall be extended by two months.
2. If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act, it shall be published in the *Official Journal of the European Union* and shall enter into force on the date stated therein.
The delegated act may be published in the Official Journal of the European Union and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to have objections.
3. If the European Parliament or the Council objects to a delegated act, the act shall not enter into force. The institution which objects shall state the reasons for objecting to the

delegated act.

Article 18

Committee

1. The Commission shall be assisted by the Forest Law Enforcement Governance and Trade (FLEGT) Committee established under Article 11 of Regulation (EC) No 2173/2005.
2. Where reference is made to this paragraph, Article 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.
The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

Article 19

Penalties

1. The Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented.
2. The penalties provided for must be effective, proportionate and dissuasive and may include, inter alia:
 - a) Fines proportionate to the environmental damage, the value of this timber or timber products concerned and the tax losses and economic detriment resulting from the infringement, calculating the level of such fines in such way as to make sure that they effectively deprive those responsible of the economic benefits derived from the serious infringements, without prejudice to the legitimate right to exercise a profession, and gradually increasing the level of such fines for repeated serious infringements;
 - b) Seizure of the timber and timber products concerned;
 - c) Immediate suspension of authorisation to trade.
3. The Member States shall notify those provisions to the Commission and shall notify it without delay of any subsequent amendments affecting them.

Article 20

Reporting

1. Member States shall submit to the Commission, by 30 April of every second year following 3 March 2013, a report on the application of this Regulation during the previous two years.
2. On the basis of those reports, the Commission shall draw up a report to be submitted to the European Parliament and to the Council every two years. In preparing the report, the Commission shall have regard to the progress made in respect of the conclusion and operation of the FLEGT VPAs pursuant to Regulation (EC) No 2173/2005 and their contribution to minimising the presence of illegally harvested timber and timber products derived from such timber on the internal market.
3. By 3 December 2012 and every six years thereafter, the Commission shall, on the basis of reporting on and experience with the application of this Regulation, review the functioning and effectiveness of this Regulation, including in preventing illegally harvested timber or timber products derived from such timber being placed on the market. It shall in particular consider the administrative consequences for small and medium-sized enterprises and product coverage. The

reports may be accompanied, if necessary, by appropriate legislative proposals.

4. The first of the reports referred to in paragraph 3 shall include an evaluation of the current Union economic and trade situation with regard to the products listed under Chapter 49 of the Combine Nomenclature, taking particularly into account the competitiveness of the relevant sectors, in order to consider their possible inclusion in the list of timber and timber products set out in the Annex to this Regulation.

The report referred to in the first subparagraph shall also include an assessment of the effectiveness of the prohibition of the placing on the market of illegally harvested timber and timber products derived from such timber as set out in Article 4(1) as well as of the due diligence systems set out in Article 6.

Article 21

Entry into force and application

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply as from 3 March 2013. However, Articles 6(2), 7(1), 8(7) and 8(8) shall apply as from 2 December 2010.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Quy định này mang tính pháp lý ràng buộc toàn bộ và áp dụng trực tiếp tại tất cả các quốc gia thành viên.

Done at Strasbourg, 20 October 2010.

For the European Parliament
The President

O. CHASTEL

J. BUZEK