



FLEGT Briefing Notes

FOREST LAW ENFORCEMENT, GOVERNANCE AND TRADE

Legality assurance systems: Requirements for verification

1 Background

A key component of the EU FLEGT Action Plan is the development of Voluntary Partnership Agreements between the EU and producer countries (see Briefing Note 6). An important part of such agreements is the establishment of a licensing scheme to ensure that only timber products that have been legally 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) (see Briefing Note 3). Under such a system, in order to issue a license, the Licensing Authority will need to have evidence to confirm that the timber was legally produced and that it can be traced through the supply chain back to its legal origin. This requires three things:

- A definition of legally-produced timber (see Briefing Note 2).
- A mechanism for control of the supply chain e.g. wood tracing system or chain of custody (see Briefing Note 4).
- A means for verifying that the requirements of the legality definition and the supply chain have been

The titles of the seven briefing notes in this series are:

1. What is FLEGT?
2. What is legal timber?
3. A timber legality assurance system
4. Control of the supply chain: Wood tracing systems and chain of custody
5. *Legality assurance systems: requirements for verification*
6. Voluntary Partnership Agreements (VPA)
7. Guidelines for independent monitoring

met so this information can be presented to the Licensing Authority to allow the license to be issued.

This paper describes the third of these components by means of a series of principles and associated criteria.

These describe outcomes that must be achieved rather than prescribe the means for achieving the outcomes. This provides scope for Partner Countries to determine the best way of achieving compliance within their particular national context.





2 Verifying legal compliance and chain of custody

FLEGT licenses will be issued on the basis of evidence provided to the Licensing Authority 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 product is shipped, received or transformed – such as sawmills and plywood mills – to check that no material that is unaccounted for has entered the process.

Verification must result in clear and credible evidence that can be presented to the Licensing Authority and Independent Monitor that demonstrates that:

- Export consignments 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 include only timber from legal operations.

Organisations performing verification should be appropriately qualified and operate systems that conform to accepted auditing practices. For external (i.e. non-state) agencies, accreditation to a recognised standard may provide evidence of such qualifications.

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.

3.1 Organisation

Verification is carried out by a government, market participant or third-party organisation, 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.

3.1.1: Verification is undertaken by one or more organisations which are clearly identified and which are competent and adequately resourced.

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

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

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

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 a 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.

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, transparent¹, evidence-based, carried out at regular intervals and covers everything included within the scope.





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.

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 interested parties.

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.

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.

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 2.

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

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.

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.

3.4 Non-compliances

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

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.

(Endnotes)

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

