

Study on the Feasibility of a Regional Mechanism for Mutual Recognition of Legality and Possible ASEAN Common Position on Timber Legality for Trade within ASEAN and for Timber Entering the Region

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1. Background

- One of the the primary objectives of ASEAN co-operation in forestry is to enhance the international competitiveness of ASEAN's forestry products that meet international standards and requirements, and which are consistent with sustainable forest management, conservation and protection.
- The *Vision and Strategic Plan for ASEAN Co-operation in Food, Agriculture and Forestry, 2016-2025* underlined the need to promote dialogue with the private sector, strengthen FLEG; and promote certification of management systems.
- The *ASEAN Economic Blueprint 2025* called for enhancing competitiveness and productivity through harmonisation of standards, and alignment with international standards and mutual recognition.
- The *Kuala Lumpur Declaration in Combating Transnational Crime, 2015* has endorsed trafficking of timber as a new area of transnational crime under the purview of the ASEAN Ministerial Meeting on Transnational Crime (AMMTC).
- The *ASEAN Political-Security Community (APSC) Blueprint 2025* further identified the need to strengthen the capacity of law enforcement officials and the criminal justice system to combat the trafficking of timber.

- The *Strategic Plan of Action (SPA) for ASEAN Co-operation in Forestry, 2016-2025*, has included activities to facilitate trade in accordance with internationally-accepted standards and guidelines; establish regional agreements on timber trade, including the requirement for legal timber; and facilitate the inclusion of legal timber trade in the development NSWs.
- The *Work Plan for Forest Law Enforcement and Governance (FLEG) in ASEAN, 2016 - 2025*, has also included activities to develop a regional framework for mutual recognition of timber legality, including guidelines to recognise system used by each AMS; and to promote SME in increasing the trade in legal timber and those from sustainably managed forests.

2. Timber Legality Definitions in ASEAN

- AMS have adopted the ASEAN Criteria and Indicators (C&I) for Legality of Timber, 2009, to facilitate trade in legal timber and timber products.
- It consists of 6 criteria and 15 indicators covering general administrative requirements of permitting, planning, taxing, and harvesting in a defined forest area (legal origin of timber), as well as compliance aspects related to environmental protection, health and safety, community rights, and traceability of logs.

- The ASEAN C&I for Legality of Timber, 2009, presents a credible and efficient reference framework for adaptation of country specific 'Timber Legality Standards' by AMS under the phased approach to forest certification.
- Indonesia, Malaysia, Myanmar and the Philippines through their TLAS, timber certification schemes and/or enforcement of legislation have met the requirements of the ASEAN C&I for Legality of Timber, 2009, for verifying timber legality.
- In this regard, the definition of timber legality adopted in Cambodia, Indonesia, Malaysia, Myanmar, the Philippines and Vietnam generally referred to timber harvested or imported and produced in compliance with the forestry laws and regulations of the country.
- Lao PDR and Thailand have drafted definitions for timber legality that are being finalised through the EU-FLEGT VPA process.
- Nevertheless, verification of timber legality in AMS involves licence for timber harvesting, official receipts for payment of forest charges, transport documents, export permit, import permit and customs declaration.

3. Feasibility and Challenges of an ASEAN Regional Mechanism for Mutual Recognition of Timber Legality

(a) Feasibility

- It is highly feasible to develop an ASEAN Timber Legality Verification Scheme (ATLVS) using the ASEAN C&I for Legality of Timber, 2009, as the regional framework for mutual recognition of timber legality in the ASEAN region.
- The ATLVS will allow each AMS to decide when it is ready to have its developed national criteria and indicators for legality of timber to be assessed against the ASEAN C&I for Legality of Timber, 2009.
- The ASEAN C&I for Legality of Timber, 2009, would need to be reviewed and refined under the aegis of ASOF to reflect advances in wood processing and in undertaking timber legality verification, as well as changes in international norms and requirements used to verify timber legality.
- As the revision will be a lengthy negotiation process, in the interim the ASEAN C&I for Legality of Timber, 2009, could be used as a regional framework for mutual recognition of timber legality among AMS to verify their timber products against their own standards on timber legality which have been accorded recognition under the ATLVS.

- In this context, the assessment for admission into the ATLVS should be done under the aegis of ASOF and the ASEAN Consultative Committee on Standards and Quality (ACCSQ).
- The ASEAN Peer Consultation Framework (PCF) in Forestry under the aegis of ASOF could be used to undertake the assessment or by a Panel of ASEAN Experts nominated by AMS and endorsed by ASOF.
- ASOF, through the ASEAN Secretariat, will maintain a registry of the endorsed independent experts where it will draw on a case by case basis specific experts for undertaking the assessment of the AMS national timber legality standards for admission into the ATLVS.
- The assessment report including its recommendation for mutual recognition under the ATLVS or otherwise will be decided by ASOF and the ACCSQ, especially the Working Group 1 on Standards and Mutual Recognition Arrangements (MRAs).
- The admitted national timber legality scheme should be reviewed once every five years to take into account changing societal needs for timber products, and international norms for verification of timber legality.

- The verification of legality of timber against the national timber legality standards should be carried out by CBs which are accredited by the national accreditation bodies established against the ISO/IEC 17011:2004 on requirements for accreditation bodies accrediting conformity assessment bodies.
- The national accreditation bodies should also be members of the International Accreditation Forum (IAF) and signatories to its Multi-lateral Recognition Arrangement (MLA) for Quality Management Systems certification.
- The accreditation of the CBs should be issued against the ISO/IEC 17021-1:2015 on requirements for bodies providing audit and certification of management systems.
- In addition, the auditors of CBs should possess the competence as described in the ISO 19011:2011 on principles of auditing, managing an audit programme, and conducting management system audits.
- To ensure governance and transparency of the ATLVS, conflict resolution mechanisms have to be developed with clear rules and procedures for resolving complaints at the various stages involved in timber legality verification.

- An ASEAN logo/label should also be designed to provide verifiable information that is not misleading on the origin of the legal timber, including clear rules and procedures on its use.
- In addition, the trade in legal timber under the ATLVS should not only be facilitated, but should also be included in the ASEAN Single Window based on the developed NSWs.
- In fact, Brunei Darussalam, Indonesia, Malaysia, Singapore and Thailand have already included timber and timber products in their NSWs.

(b) Challenges

- Currently, only Indonesia, Malaysia and Myanmar have national level criteria and indicators for assessing timber legality that meet the requirements of the ASEAN C&I for Legality of Timber, 2009.
- The ASEAN C&I for Legality of Timber, 2009, needs to be reviewed and revised to allow it to be benchmarked against global standards used for verification of timber legality.

- Cambodia, Lao PDR, Myanmar and Vietnam do not have national accreditation bodies which are members of the IAF and signatories to the MLA or established against the ISO/IEC 17011:2004.
- Hence, it will be costly for local CBs to be accredited as third party auditors in undertaking timber legality verification, for example, if they are to be accredited by the Accreditation Services International (ASI).
- In addition, even if the revised ASEAN C&I for Legality of Timber, 2009, is adopted as a regional framework for mutual recognition of timber legality among AMS under the ATLVS, there is still an urgent need to train sufficient national independent auditors who are competent to undertake timber legality verification in accordance with the ISO 19011:2011.

4. Readiness of ASEAN Region to Trade in Legal Timber

- A questionnaire entitled “Survey on the Feasibility of a Regional Mechanism for Timber Legality and Readiness for Trade in Legal Timber in ASEAN” was prepared and sent to 65 individuals comprising 4 stakeholder groups, as follows:

- (i) governmental organisations
 - (ii) economic/private sector, including industry associations;
 - (iii) environmental NGOs; and
 - (iv) forest certification scheme bodies.
- Although only 9 responded, representing 13.8%, they were supportive of having a regional framework for mutual recognition of timber legality in the ASEAN region.
 - They further supported using the ASEAN C&I for Legality of Timber, 2009, as a regional reference set, and that intra- and extra-ASEAN trade in timber products should originate from legal sources.
 - AMS, through the Work Plan for FLEG in ASEAN, 2016 - 2025, and the SPA for ASEAN Co-operation in Forestry, 2016-2025, have clearly underscored their commitment to establish regional agreements on timber trade, including legal timber; and to facilitate the inclusion of legal timber trade in the development of NSWs.

- However, the standards and conformance infrastructures to undertake timber legality verification, including their quality, at both the country and ASEAN levels are still inadequate.
- Only Indonesia and Malaysia have in place managed national forest certification schemes with CBs accredited by national accreditation bodies that are signatories to the MLA of the IAF.
- Furthermore, a framework for mutual recognition of timber legality among AMS using the ASEAN C&I for Legality of Timber, 2009, as a common reference set has yet to be agreed by the countries in the region.
- Even if this is agreed, the set of criteria and indicators would need to be revised to reflect, among others, new technologies in wood processing and stakeholder expectations, and international norms in timber legality verification.
- Alternately, an agreement could be negotiated and agreed by AMS to trade in legal timber, but this could result in an agreement having the minimum standards and requirements that would likely not be robust and be in line with international norms for timber legality verification.

- In the interim, AMS could consider agreeing to mutually recognise each other documents for verifying timber legality where each AMS documentation should meet a common standard reference set of documents that is robust for conducting timber legality verification.
- For timber entering the region, all AMS are ready to ensure that timber is from legally managed forests in the countries where they are harvested and produced.
- Control measures and procedures need to be developed to ascertain the legality of the timber entering ASEAN as the current reliance on import permit and customs declaration might not be an effective safeguard.

5. Conclusion and Recommendations

- In view that AMS are at varying stages of developing timber legality systems and their national timber certification schemes, it is best that a phased approach be adopted to implement the proposed ATLVS using the ASEAN C&I for Legality of Timber, 2009, as the regional framework for mutual recognition of timber legality in the ASEAN region.
- Going forward, it is recommended that:
 - (i) to review and revise the ASEAN C&I for Legality of Timber, 2009;
 - (ii) to use the revised ASEAN C&I for Legality of Timber, 2009, as a regional framework for mutual recognition of timber legality in the region under the ATLVS;
 - (iii) to assess the capacity of existing and potential CBs, and to conduct focused training on forest management and chain-of-custody certification;
 - (iv) to strengthen the work between ASOF and ACCSQ in the field of mutual recognition arrangements and on conformity assessment among AMS;
 - (v) to include the trade in legal timber in the development of NSWs through the work of the Customs Procedures and Trade Facilitation Working Group (CPTWG) of ASEAN;

- (vi) to strengthen regional customs co-operation to facilitate the trade in legal timber through the work of the ASEAN Director-General of Customs Meeting;
 - (vii) to establish a regional clearing house mechanism to share information on trade in timber products that are sourced legally, including the exchange on export and import data, and data regarding certified forest areas;
 - (viii) to promote dialogue and support the private sector, especially the SME, in increasing the trade in legal timber; and
 - (ix) to establish a national multi-sectoral committee in individual AMS involving relevant authorities, for example, customs, trade and forestry, to enhance trade in legal timber and timber products, and a network among them at the ASEAN level.
- Finally, synergies between systems should also be promoted at the country level, while at the ASEAN level support programmes and related processes should be better co-ordinated.

THANK YOU