



# ASEAN Voluntary Code of Conduct on Imports for Forest and Timber Companies

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ASEAN Senior Officials on Forestry (ASOF)



# Table of Contents

|  |    |
|--|----|
| Abbreviations and Acronyms .....   | 1  |
| Some Definitions .....   | 2  |
| 1. Introduction .....  | 3  |
| 2. Objectives .....  | 5  |
| 3. Varied Scope of voluntary code of conduct .....                                       | 6  |
| 4. Elements of Voluntary Code of Conduct on Imports for forest and timber Companies..... | 7  |
| Appendix 1. ASEAN Criteria and Indicators for Legality of Timber .....                   | 8  |
| Appendix 2. Flyer of the ASEAN Voluntary Code of Conduct.....                            | 11 |

# Abbreviations and Acronyms

|                   |   |
|-------------------|---|
| ASEAN             | Association of Southeast Asian Nations  |
| AMAF              | ASEAN Ministers on Agriculture and Forestry                                     |
| AMS               | ASEAN Member States   |
| ASOF              | ASEAN Senior Officials on Forestry  |
| AWG on FPD        | ASEAN Working Group on Forest Products Development                              |
| CITES             | Convention on International Trade in Endangered Species of Wild Fauna and Flora |
| CoC               | Code of Conduct   |
| FME               | Forest Management Enterprise  |
| FMU               | Forest Management Unit  |
| FLEG              | Forest Law Enforcement and Governance   |
| EU-FLEGT Facility | European Union Forest Law Enforcement Governance and Trade Facility             |
| SFM               | Sustainable Forest Management   |

## Some Definitions

**Chain-of-Custody:** a system which provides a link between verified/certified material in a product or product line and the forest source of origin. It consists of documentation that describes the path taken by forest products from the harvesting site to the consumer, including all successive stages of processing, transformation, and distribution.

**Forest Management Unit (FMU):** area designated for forest management, characterized by a management and/or harvesting plan and a defined boundary (area of origin of the verified timber).

**Forest Management Enterprise (FME):** entity implementing forest management and harvesting activities at the defined forest management area. It can be a concessionaire, a governmental or public body, a private enterprise, a community-based operation.

# 1. Introduction

The Association of South-East Asian Nations (ASEAN) is a regional cooperation organization composed of ten countries, geographically located in the tropical zone of Southeastern Asia. The region is covered by 210 Million hectares of forests (FRA, 2015) containing Mega-Biodiversity of fauna and flora. Among the ten ASEAN countries, Indonesia has the most extensive forest area and abundant forest resources (timber, non-timber forest products and ecosystem services). Malaysia is one of the pioneer in forest management certification and currently has the largest forest area certified as sustainably managed in ASEAN.

The cooperation in Forestry has commenced since 1990's covering the issues on sustainable forest management (SFM), forest products development, forest law enforcement and governance (FLEG), Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), wildlife enforcement, social forestry and forest and climate change. The vision of forestry cooperation is *“Forest resources are sustainably managed at the landscape level to meet societal needs, both socio-economically and culturally, of the present and future generations, and to contribute positively to sustainable development”*.

The ASEAN Member States (AMS) represent an important player in global forest and timber trade. The total exports of timber and timber products from ASEAN (excluding Brunei Darussalam and Singapore) increased by 50 percent from USD 18 billion in 2006 to USD 27 billion in 2016. Along with China, these ASEAN countries dominate many timber trade flows. As a group, these ASEAN countries accounted for USD 27.1 billion in timber and timber products exports in 2016 which was 7 percent of global exports.

Besides Intra-ASEAN trade, amongst other countries that traded with AMS are Australia, China, India, Japan, Republic of Korea, the European Union and the United States. The United States used to be an important market destination for timber and timber products from ASEAN between 2006 and 2016. At present from net producers, a few ASEAN producing countries have gradually become net importers due to the increasing expansion of private sectors' activities in these countries.

Considering the importance of the ASEAN region in timber trade and its abundant of forest resources, AMS are enhancing sustainable forest management (SFM) as a backbone of ASEAN Cooperation in Forestry. In ensuring sustainability of forest resources, the 38<sup>th</sup> ASEAN Ministers on Agriculture and Forestry (AMAF) has adopted the Strategic Plan of Action (SPA) for ASEAN Cooperation in Forestry (2016-2025) and the Work Plan for Forest Law Enforcement and Governance (FLEG) in ASEAN, 2016-2025. Among the measures, the ASEAN Senior Officials on Forestry (ASOF) has set up several key priorities including to develop Manual for FLEG Implementation in AMS, Voluntary Code of Conduct for Forest and Timber Companies in ASEAN and promote dialogue on Mutual Recognition Arrangement (MRA) for legality of timber. Those priorities is expected may support AMS in trade facilitation, economic integration and enhancing market access while also ensuring SFM and improving forest law enforcement and governance implementation.



**Regional Workshop on Developing Code of Conduct on Imports for Forest & Timber Companies in ASEAN, Kuala Lumpur, Malaysia** Photo: EU FLEGT Facility

To strengthen FLEG implementation, the 40<sup>th</sup> AMAF Meeting held on 11 October 2018 in Ha Noi, Viet Nam, agreed for ASEAN to develop a regional voluntary code of conduct (CoC) on imports for forest and timber companies in ASEAN. The CoC will encourage private sectors to conduct legitimate business and manage sustainable long-term enterprises and responds to local and regional market demands for timber that is complying with the basic legal regulations by trading in legally-sourced timber. This initiative will promote legal and sustainable timber trade and SFM best practices in ASEAN.

## 2. Objectives

The ASEAN voluntary code of conduct on imports for forest and timber companies aims to promote legal and sustainable timber trade in the ASEAN region, in compliance with international voluntary legality requirements and national legality standards. As part of the FLEG Work Plan, the voluntary code of conduct will be an important tool to improve forest governance involving the private sectors in the region. The voluntary code of conduct is drawn up to indicate important elements to which the forest and timber companies should pay proper attention in importing forest and timber products to the region.



**FLEGT-Licensed timber shipment.** Photo: EU FLEGT Facility

### 3. Varied Scope of voluntary code of conduct

Code of conduct is set of rules of behavior that guide the decisions, procedures and systems of an organization in a way that (a) contributes to the welfare of its key stakeholders, and (b) respects the rights of all constituents affected by its operations<sup>1</sup>.

According to FAO, code-of-conduct is an effective tool for promoting forest law compliance. It can benefit forest industries to increase efficiency and strengthen a firm's comparative advantage in the long-term; maintain relations with customers, suppliers and government agencies; by operating legally, a company will also avoid the costs of bribes and litigation<sup>2</sup>.

In this context, the Legality of Timber is referring to the wood materials satisfying the requirements of the ASEAN Criteria and Indicators for Legality of Timber adopted by AMAF in 2009 (appendix 1).

For the purpose of interpretation of this Voluntary Code of Conduct, "Country" shall mean "country of harvest" for primary timber products and "exporting country" for other processed timber products.



**Enforcement activities, controlling the legality of timber.** Photo: Malaysian Timber Industry Board

<sup>1</sup> International Federation of Accountants. 2006. Defining and Developing an effective Code of Conduct

<sup>2</sup> FAO. 2005. Best Practices for improving Law Compliance in the Forestry Sector.



## **4. Elements of Voluntary Code of Conduct on Imports for forest and timber Companies in ASEAN**

ASEAN Senior Officials on Forestry (ASOF) has reiterated its commitment to enhance sustainable forest management (SFM) in the region, as well as trade of legally harvested timber and associated wood products. Several regional policies have been developed such as the ASEAN Criteria and Indicator for Sustainable Management of Tropical Forest, Manual for Assessing FLEG Implementation in AMS, ASEAN Guidelines on Phased Approach towards Forest Certification, ASEAN Guidelines for Chain of Custody of Legal Timber and Sustainable Timber.

Forest and timber companies should conduct their businesses lawfully and comply with all relevant legislations and regulations in the country or origin or source. Companies involved in importing forest and timber products, shall be responsible to:

1. Purchase only legal timber and timber products.
2. Prove the legality of the timber and timber products. The evidences of legality is an original or a copy of valid and authentic documents and other evidence to prove the legality of the timber and timber products including but not limited to, custom clearance document from the exporter and importer country.
3. Obtain permits, when applicable, for timber species listed in the appendices of the Convention on International Trade in Endangered Species of Wild Fauna & Flora (CITES).
4. Require their suppliers to provide information and documents that verify the legality of the exported timber and timber products, and implement effective measures to assess and mitigate any legality risks.

# Appendix 1. ASEAN Criteria and Indicators for Legality of Timber

## ASEAN Criteria and Indicators for Legality of Timber<sup>3</sup>

- **Criterion 1: The Forest Management Enterprise holds the legal right to operate and to harvest timber at the designated forest area.**

The Forest Management Enterprise (FME) shall prove that it is formally registered with relevant government authorities and has validly obtained the legal right to operate within the Forest Management Unit (FMU) under verification. The legal status of the FMU shall be clearly defined and boundaries delineated.

- Indicator 1.1: The FME has legal authorization to conduct forestry-related business in accordance with the requirements of the country where it operates.
- Indicator 1.2: The FME has legal authorization to harvest in the FMU under verification, as proven by a valid permit or license issued pursuant to the laws and regulations governing the management of forest resources, including customary laws where legally recognized.
- Indicator 1.3: The FMU is unambiguously delineated and dedicated to forest utilization.

- **Criterion 2: The Forest Management Enterprise holds approved authorization for its harvesting operations, based on an approved cut**

The FME shall have received the necessary approvals for its utilization activities based on the relevant planning requirements legislated by the relevant authorities.

- Indicator 2.1: The FME can demonstrate that it has received a valid approval by the relevant authorities for its current harvesting operations and other related activities, based on a proper planning process.

- **Criterion 3: The Forest Management Enterprise fulfils CITES compliance and the requirements of relevant environmental laws and regulations.**

The FME shall demonstrate compliance with the applicable provisions of CITES and the relevant laws and regulations relating to environmental obligations of a forest management operation.

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<sup>3</sup> The ASEAN Criteria and Indicators for Legality of Timber is part of the ASEAN Phased-approach to Forest Certification Programme, targeting at the step-wise implementation of sustainable forest management at the forest management unit level in ASEAN Member States.

- Indicator 3.1: The FME conducts environmental impact assessments where and when appropriate.
  - Indicator 3.2: The FME implements mitigation measures to minimize negative environmental impacts in accordance with its own assessments and relevant laws and regulations.
  - Indicator 3.3: The FME complies with the applicable provisions and requirements of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).
  - Indicator 3.4: The FME fulfils required procedures for protected tree species within the FMU in accordance with the relevant laws and regulations.
  - Indicator 3.5: The FME cooperates with relevant agencies in implementing adequate measures to prevent any unauthorised activities by third parties within the FMU.
- **Criterion 4: The Forest Management Enterprise fulfils the requirements of relevant social laws and regulations.**

The FME shall demonstrate compliance with relevant laws and regulations relating to the social obligations of a forest management operation.

- Indicator 4.1: The FME fully observes the use rights of local communities in accordance with relevant laws and regulations.
  - Indicator 4.2: The FME complies with the relevant laws and regulations on employees' and workers' occupational health and safety requirements.
- **Criterion 5: The Forest Management Enterprise has paid all statutory charges directly related to timber harvesting and timber trade.**

The FME consistently settles all due payments of obligatory taxes, fees and/or royal- ties associated with maintaining the legal right to harvest and permitted harvesting volumes to the appropriate authority in a timely manner.

- Indicator 5.1: The FME has paid all applicable and legally prescribed fees, royal- ties, taxes and other charges to the appropriate authority in a timely manner, as documented through clear evidence.
- **Criterion 6: The Forest Management Enterprise implements a traceability system that allows for the tracking of all logs from the forest gate to the relevant harvesting sites.**

Chain-of-custody provides a link between verified/certified material in a product or product line and the forest source of origin. Documented control of this chain is a fundamental requirement to ensure that separation is maintained between verified (legal) and non-verified products. Criterion 6 describes the requirements from the forest gate back to the point of harvest (log tracking requirements). Chain-of-custody or timber

tracking of all later steps in the supply chain (manufacturing and trading steps) are specified in the ASEAN Chain of Custody Guideline.

- Indicator 6.1: The FME applies a traceability system which properly controls and documents all timber flows from the harvesting area to the forest gate.
- Indicator 6.2: The traceability system effectively controls the risk of mixing verified legal and non-verified forest products within the remit of the FME.
- Indicator 6.3: Forest products verified as legal can be properly identified at the forest gate through a clear system of documentation and marking

## **Appendix 2. Flyer of the ASEAN Voluntary Code of Conduct on Imports for Forest and Timber Companies.**

(Flyer will be developed after final elements been agreed)

