



## **Memo**

# **EU and Vietnam complete negotiations on a FLEGT Voluntary Partnership Agreement**

Brussels, 11 May 2017

After nearly six years of negotiation, today, Mrs Astrid Schomaker, Director for Global Sustainable Development of the European Commission's Directorate-General for the Environment and Dr Ha Cong Tuan, Vietnamese Vice-Minister of Agriculture and Rural Development initialled the text of the FLEGT VPA. This marks the formal conclusion of the negotiations.

The two sides will now undertake a legal review of the negotiated text which will then be followed by translation of the Agreement into the EU's official languages and Vietnamese. Before the agreement can enter into force, each Party will have to complete the procedure for signature and ratification of the Agreement in line with its internal procedures.

This VPA, for which negotiations started in October 2010, is the EU's second VPA with an Asian country (after Indonesia). Vietnam is a major timber importing and processing country which has seen an exponential growth of its forest-based industries over the past decade and which plays an important role in the global market.

The VPA is a further building block in the EU's fight against illegal logging and associated trade and towards improving forest governance worldwide. Once the VPA is fully implemented, Vietnam's shipments of timber and timber products to the EU will be accompanied by a FLEGT licence, demonstrating the legal origin of these products. As FLEGT-licensed products automatically meet the requirements of the EU Timber Regulation, Vietnam's timber and timber products will not be subject to the due diligence provisions of the EU Timber Regulation, which prohibits the placing of illegal timber on the EU market.

**What are Forest Law Enforcement Governance and Trade Voluntary Partnership Agreements?**

FLEGT VPAs are bilateral agreements between the EU and timber exporting countries. They aim to improve forest sector governance and ensure that the timber and timber products imported into the EU are produced in compliance with the laws and regulations of the VPA partner country.

Once agreed, the VPAs are legally binding on both parties, committing them to trading only in wood products that has been verified as legal. Under these agreements exporting countries develop systems to both verify and certify the legality of their timber exports to the EU.

### **Objective of the EU-Vietnam VPA**

The objective of the agreement, consistent with the EU and Vietnam's joint commitment to the sustainable management of all types of forests, is to provide a legal framework aimed at ensuring that all imports into the EU from Vietnam of timber and timber products covered by the VPA have been legally produced. This is achieved through the establishment of a Timber Legality Assurance System to monitor the supply chain and a FLEGT licensing system to ensure that only products duly accompanied by a FLEGT licence will in the future be able to enter the EU market. In doing so, the VPA is intended to make an important contribution to the fight against illegal logging and promote trade in timber products that are from sustainably managed forests and are harvested in accordance with the domestic legislation in the country of harvest.

### **Scope of the EU-Vietnam VPA**

The scope of the agreement covers all export markets and the domestic market in Vietnam. In terms of sources, the agreement covers both imported timber, a major source of raw materials for Vietnam, and all domestic sources in Vietnam, including natural and plantation forests, confiscated timber (under specific conditions), timber from home-gardens, farms and scattered trees, and rubberwood.

The range of timber products included in the scope of the agreement encompasses all major products exported to the EU, particularly the five compulsory timber products as defined in the FLEGT Regulation of 2005 (logs, sawn timber, railway sleepers, plywood and veneer) and also includes a number of other timber products such as wood in chips or particles, parquet flooring, particle board and wooden furniture.

The core of the VPA is the description of the Vietnam Timber Legality Assurance System (VNTLAS), which will ensure that timber products exported from Vietnam to the EU are verified legal according to specified requirements for all stages of the supply chain, from import and harvesting onwards.

The VNTLAS has seven elements:

1. Timber legality definition

The VPA defines 'legally produced timber' as timber products harvested or imported and produced in accordance with legislation of Vietnam as set out in the legality definition and other relevant provisions of the VPA, and in the case of imported timber, timber products harvested, produced and exported in accordance with the relevant legislation of the country of harvest (covering rights to harvest, forestry activities, taxation and fees and trade and customs) in line with the procedures described in the VPA annex on the VNTLAS.

The legality definition itself sets out the core requirements of legislation applicable to timber in Vietnam in the form of principles, criteria and verifiers. All elements of the legality definition need to be complied with in order to consider that the timber has been legally produced. The legality definition is divided into two sections: one for Organisations (i.e. business, including private, state owned and cooperatives) and one for Households (i.e. domestic households, individuals and village communities), in order to cater for the differences in the regulations that apply to these two groups.

2. The development, verification and approval of verifiers of legal compliance of operators at all stages of supply chains

Verifiers are documents referred to in the legality definition that are used for Organisations and Households to demonstrate legal compliance. There is a distinction between static and dynamic verifiers:

- Static verifiers are used to verify the legal compliance of the establishment and operations of Organisations and Households in timber harvesting, processing, transportation and trade.
- Dynamic verifiers are used to verify the legal compliance of timber origin and timber in circulation at each stage of the supply chain.

3. The Organisations Classification System (OCS) and risk-based verification to assess the compliance of operators

The purpose of the OCS – a new system that is going to be developed by Vietnam as part of the future implementation of the agreement – is to assess periodically the risk level of all Organisations involved in the timber supply chain with regard to their compliance with VNTLAS requirements in order to apply appropriate verification measures in an effective, efficient and timely manner. The OCS will be operated by the Forest Protection Department or other entities authorised by the government. The OCS will also support the Forest Protection Department in its management of violations of the law on forestry and other key sectors under the legality definition.

4. Timber supply chain controls

Supply chain controls aim to prevent the entrance of illegal timber or unverified timber into the VNTLAS supply chain. They apply to all three supply chain critical control points in the VNTLAS:

- Timber sources entering the VNTLAS: Vietnam maintains strict control over the management and harvesting of timber from domestic natural forest, and for allowing confiscated timber to enter the VNTLAS supply chain. To ensure compliance of imported timber, Vietnam shall issue legislation requiring importers to conduct due diligence over the legal origin of imported timber, which covers collection of information, risk assessment and mitigation of any risk related to the legal origin. Compliance with due diligence requirements will be verified by Vietnam Customs in cooperation with other relevant agencies. Adequate, proportionate and dissuasive sanctions for violations of the future import regulation will be put in place.
- Intermediate stages: The controls include systems to support data analysis to monitor timber volumes within and between stages of supply chains; and physical inspections particularly on the basis of the analyses of supply-chain data.
- Export to any market: A risk-based approach will apply, based on the OCS category, for the verification of shipments of timber destined both for EU and non-EU markets.

#### 5. FLEGT licensing

Once the VNTLAS is operational, it will provide for the issuance of a FLEGT licence for each shipment of timber that is exported to the EU market. Such shipment and the exporter will have to have meet all the requirements set out in the VNTLAS legality definition, supply chain controls and verification procedures.

#### 6. Internal inspections, complaints and feedback mechanism and management of violations

Government agencies may carry out inspections to detect loopholes in laws, regulations and management mechanisms and to recommend solutions; as well as to prevent and combat corruption and to detect and handle violations of the law. There will be a mechanism for stakeholder complaints and feedback concerning the VNTLAS and FLEGT licensing. Violations will be handled in accordance with Vietnamese legislation, which provide for administrative and criminal sanctions to be applied to both Organisations and Households.

#### 7. Independent evaluation

An independent evaluator will periodically assess the implementation, efficiency and credibility of the VNTLAS in order to identify, document and report any non-compliances and weaknesses in the system. The independent evaluator will

propose measures for improvement to the EU-Vietnam Joint Implementation Committee.

In addition to the seven elements of the VNTLAS, the VPA includes provisions for transparency and access to information necessary for and supportive of stakeholders' involvement in the implementation of the agreement. This assurance that key forestry-related information will be made available to the public also represents an important contribution to reinforcing Vietnam's forest governance.

### **Towards implementation of the Agreement**

The VPA will enter into force after it has been signed and then ratified by both the EU and Vietnam. To implement the agreement Vietnam will need to revise and/or issue new legislation to realise the commitments of the agreement. It will then need to develop the VNTLAS elements and build capacity to operate the system.

Before the FLEGT licensing scheme can become operational, the EU and Vietnam will undertake a joint assessment to confirm that the VNTLAS is operating as described in the VPA according to a detailed set of criteria included in a dedicated Annex to the Agreement.

A Joint Implementation Committee will oversee implementation of the agreement. Pending its entry into force, the Parties have also agreed on key elements for Interim governance arrangements and other measures to be taken in preparation of the implementation of the Agreement.

Vietnam has committed to include all stakeholders in the implementation of this Agreement. To this end it will put in place adequate mechanisms for consultation and participation of stakeholders, including with regard to monitoring implementation of the agreement. VPA implementation will require external technical assistance and support from the EU and its Member States. In addition, Vietnam will have to mobilise its own resources to build the capacity of all actors to implement the future VNTLAS.