ADMINISTRATION OF FORESTRY, MINISTRY OF AGRICULTURE AND RURAL DEVELOPMENT, VIET NAM
DIRECTORATE-GENERAL FOR ENVIRONMENT, EUROPEAN COMMISSION

Q&A BOOKLET

ON VOLUNTARY PARTNERSHIP AGREEMENT BETWEEN THE SOCIALIST REPUBLIC OF VIETNAM AND THE EUROPEAN UNION ON FOREST LAW ENFORCEMENT, GOVERNANCE AND TRADE (VPA/FLEGT)

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Introduction

The Voluntary Partnership Agreement on Forest Law Enforcement, Governance and Trade (VPA/FLEGT) is a trade agreement between Viet Nam and the European Union (EU). The objective of the VPA/FLEGT is to create legal framework to ensure that timber and timber products exported from Viet Nam to the EU come from legal sources, thereby contributing to promotion of trade in timber and timber products between Viet Nam and the EU.

The Government of Viet Nam and the EU entered into negotiation on the VPA/FLEGT in November 2010. After 6 years of negotiation, Viet Nam and the EU concluded the negotiation process on 11 May 2017 and officially signed the Agreement on 19 October 2018 in Brussels, Belgium. The Agreement was ratified by the European Parliament on 15 April 2019 and approved by the Government of Viet Nam on 23 April 2019 under the Resolution No. 25/NQ-CP. Accordingly, it has entered into force since 1 June 2019.

In order to inform the public about this new Agreement, and about joint work on combating illegal logging and promoting trade in legal timber products, this information brief has been prepared by the Viet Nam Administration of Forestry, under Ministry of Agriculture and Rural Development, together with the Directorate-General for Environment, under the European Commission, and the EU Delegation to Viet Nam. The brief provides background information, explains the basic concepts and elements of the VPA/FLEGT, and answers a range of frequently asked questions on how the two parties will implement their agreement and what the expected outcomes are.

The brief is published in both Vietnamese and English for public distribution, and is available on websites of the European Commission, EU Delegation to Viet Nam, European Forest Institute and Viet Nam Administration of Forestry.

On 19 October 2018, in Brussels, the Agreement was signed by Minister of Agriculture and Rural Development of Viet Nam, Mr. Nguyen Xuan Cuong, and President of the Council of the European Union, Mr. Sebastian Kurz, together with High Representative of the European Union for Foreign Affairs and Security Policy, Ms. Federica Mogherini

On 11 May 2017, in Brussels, Chief Negotiator of Viet Nam, Mr. Ha Cong Tuan, Standing Vice Minister of Agriculture and Rural Development, and Chief Negotiator of the EU, Mrs. Astrid Schomaker, Director for Global Sustainable Development at Directorate-General of Environment, European Commission, concluded the VPA/FLEGT negotiation process

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Part One: Background and basics

Question 1

What is the Voluntary Partnership Agreement on Forest Law Enforcement, Governance and Trade between Viet Nam and the European Union?

The objective of the VPA/FLEGT is to provide a legal framework aimed at ensuring that all timber products that are imported into the European Union (EU) from Viet Nam are legally produced and come from legal timber sources. This objective is consistent with the EU and Viet Nam's joint commitment to the sustainable management of all types of forests.

This objective will be achieved through the establishment of a Viet Nam Timber Legality Assurance System (VNTLAS), together with a FLEGT licensing scheme to ensure that only products accompanied by a FLEGT licence will in the future be able to enter the EU market.

In doing so, the VPA/FLEGT 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.

The scope of the Agreement, and the scope of regulation in the Timber Legality Assurance System, covers timber and timber products produced for Viet Nam's domestic market and export markets. In terms of timber sources, the Timber Legality Assurance System addresses the legality of not only domestic timber sources but also those Viet Nam imports. And the regulations apply to all operators in Viet Nam, including Organisations and Households that are involved in timber production, trading and transportation, processing, and import and export.

To do this, the VPA/FLEGT includes requirements for Viet Nam's operators to take responsibility when sourcing timber to ensure that only legal timber enters the supply chain, including when sourcing timber domestically, and to exercise due diligence over the legal origin of timber they import. This means that when the VPA/FLEGT is implemented, it will not only ensure that all Viet Nam's timber exports to the EU are legal. It will also raise standards throughout the timber industry in Viet Nam, as well as promoting legal supply chains in international timber trade.

In addition, the VPA/FLEGT includes a commitment to transparency and that key forestry-related information will be made available to the public. This commitment is necessary for and supportive of stakeholders' involvement in the implementation of the Agreement, and also represents an important contribution to reinforcing Viet Nam's forest governance.

Question 2

Why did Viet Nam and the EU engage in a VPA/FLEGT?

The VPA/FLEGT provides a way by which Viet Nam can simultaneously address problems associated with illegal logging, improve its forest management, improve regulation in the timber industry and promote responsible business practices, and strengthen market opportunities for its timber products in European and other markets.

The EU engaged in a VPA/FLEGT with Viet Nam as part of its efforts to eliminate illegal timber from the EU market, under the EU Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan. The FLEGT Action Plan, adopted in 2003, is the EU response to growing

concerns within the EU and its member states about the harmful economic, social and environmental impacts of illegal logging and associated trade. The plan aims to address illegal logging by strengthening sustainable and legal forest management, improving governance and promoting trade in legally produced timber.

Question 3

What is the significance of the forestry sector and timber industry for Viet Nam?

The forestry sector and timber industry is a key contributor to Viet Nam's economy and export revenues, as well as being a source of employment and livelihoods for millions of rural farmers and industrial workers. Viet Nam has over 4,500 timber and forest product processing and trading enterprises, of which around 95% are micro and small-sized enterprises. Over the last decade, the export value of forest products has increased from 3.4 billion USD in 2010 to 11.2 billion USD in 2019, and these products have been exported to more than 120 countries. Export revenues from Viet Nam's timber industry are projected to continue to increase in the coming years according to the Viet Nam Administration of Forestry under the Ministry of Agriculture and Rural Development.

Question 4

How important is the EU as an export market for Viet Nam's timber products?

The EU is an important market for timber products from Viet Nam, alongside other export markets such as the United States, China, Japan and Korea. In 2019 years, the value of Viet Nam's wood product exports to the EU has achieved 1.03 billion USD, increased 15.8 % compared to 2018, accounting for 9.2% of total Vietnamese wood products export turnover value. The EU is an important market for Viet Nam because the main products destined for EU consumers are items of higher value indoor and outdoor wooden furniture.

Question 5

Do any timber markets other than the EU also have regulations on timber legality?

Yes. Australia, Indonesia, Norway, the United States and the 28 Member States of the European Union have already adopted legislation to close their markets to illegal timber. Switzerland is considering to adopt equivalent legislation. In October 2018, South Korea joined these countries to become the first country in East Asia to implement mandatory legislation that regulates the legality of imported and domestic timber and timber products. Timber products verified as legal by VPA/FLEGT systems are deemed to comply with the legality requirements of South Korea's new legislation.

Question 6

How was the VPA/FLEGT negotiated?

In May 2010, Viet Nam became the third country in Asia to enter into VPA/FLEGT negotiations with the EU. The negotiations took place over a period of seven years and were concluded in May 2017. The negotiations included 11 rounds of formal negotiations and numerous technical meetings and working sessions and stakeholder consultation activities.

For Viet Nam, the negotiation was led by the Viet Nam Administration of Forestry (VNFOREST) under the Ministry of Agriculture and Rural Development (MARD). The Chief Negotiator was Dr. Ha Cong Tuan, Vice Minister of MARD. Viet Nam's negotiation team also included representatives from the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Industry and Trade, the General Department of Customs under the Ministry of Finance, and the Viet Nam Timber and Forest Products Association.

The European Commission's Directorate-General for Environment (DG ENV) negotiated on behalf of the EU. The Chief Negotiator was Mrs. Astrid Schomaker, Director for Global Sustainable Development at DG ENV. The negotiation meetings typically included representatives from the EU Delegation to Viet Nam, the European Commission Headquarters, and representatives of EU Member States in Viet Nam. The EU FLEGT Facility, hosted by the European Forest Institute (EFI), provided technical support to the negotiation process.

Question 7

How did stakeholders participate in the VPA/FLEGT negotiations?

During VPA/FLEGT negotiations, consultations were held with different stakeholder groups in Viet Nam including the private sector, local authorities, non-governmental organisations, and forest communities. The consultation methods included posting drafts of the VPA/FLEGT documents online for comment; organising stakeholder consultation events; and holding regular feedback meetings on key issues with the industry associations and enterprises. Vietnamese non-governmental organisations also formed a FLEGT Network in 2012 which conducted local consultations on the VPA/FLEGT with forest communities and timber growers.

Question 8

What is the connection between the VPA/FLEGT and the EU Timber Regulation?

In October 2010, the European Union adopted the EU Timber Regulation which prohibits the sale of illegally harvested timber and products manufactured from such timber. The EU Timber Regulation also obliges importers and traders who first place timber or timber products on the EU market to exercise due diligence to minimise the risk of selling illegal timber.

Currently, timber and timber products which are imported into the EU from Viet Nam are subject to the EU Timber Regulation. This will continue to be the case until the point in time when Viet Nam's FLEGT licensing scheme becomes operational. The EU Timber

Regulation recognises the legality of FLEGT-licensed timber that has been verified through a partner country's control systems agreed under a VPA/FLEGT. The Regulation will therefore exempt FLEGT licensed timber and timber products from further due diligence requirements. Viet Nam is a VPA/FLEGT partner country, but it has not yet reached the stage of FLEGT licensing.

Question 9

What is the connection between the VPA/FLEGT and the Free Trade Agreement between Viet Nam and the European Union?

In parallel with the VPA/FLEGT, the European Union and Viet Nam have negotiated a Free Trade Agreement which was signed by the parties on 30 June 2019. While they are separate agreements, the VPA/FLEGT forms an important part of the broader provisions in the EU-Viet Nam Free Trade Agreement. The VPA/FLEGT relates to implementation of the 'Trade and Sustainable Development' Chapter of the Free Trade Agreement, which includes provisions on sustainable forest management and trade in forest products.

Part Two: The Viet Nam Timber Legality Assurance System

Question 10

How is timber legality defined in Viet Nam's VPA/FLEGT?

The VPA/FLEGT defines 'legally produced timber' as timber products that are harvested or imported and produced in accordance with the laws and regulations of Viet Nam, and in the case of imported timber, with relevant legislation of the country of harvest.

This means that for timber products to be legal they must come from legal sources and they must also be legally produced at all stages in the timber supply chains.

In terms of domestic timber sources, the utilisation of timber from trees and forests in Viet Nam has to comply with the currently applicable laws and regulations on land use rights, forest use rights, forest management and protection, and harvesting regulations. For imported timber, organisations or individuals who import timber into Viet Nam will have to ensure that the timber complies with relevant legislation in the country where that timber has been harvested. And timber production in Viet Nam also has to comply with the currently applicable laws and regulations on timber trade and transportation, timber processing, customs procedures for import and export, tax regulations, and labour regulations.

These requirements are set out in Viet Nam's Timber Legality Definition, which can be found in Annex II of the VPA/FLEGT, and which is described further in **Question 14.**

Question 11

What is the Viet Nam Timber Legality Assurance System?

The Viet Nam Timber Legality Assurance System (VNTLAS) is the core part of the VPA/FLEGT. The purpose of the VNTLAS is to ensure the legality of Viet Nam's timber and timber products and to ensure that timber products exported from Viet Nam to the EU are verified as legal such as that they can be issued with a FLEGT Licence. The VNTLAS is described in Annex V of the VPA/FLEGT.

The VNTLAS is built on several important foundations:

- **Firstly, the VNTLAS is based on Viet Nam's national legislation in force, together with new legislation that will be introduced to implement the VPA/FLEGT.** The legality assurance system is based on the laws and regulations that apply to each step of the timber supply chain, including harvesting, import, transportation, processing, trade and export. The VNTLAS regulations aim to increase the responsibility of operators for ensuring timber legality, as well as strengthening the system of timber supply chain control and legality verification.
- **Secondly, the VNTLAS is based on the particular characteristics of Viet Nam's timber industry and timber supply chains.** For example, Viet Nam's timber industry relies on both imported and domestically harvested timber supplies. Forestry production and forest industries in Viet Nam also include a large number of household producers as well as a large number of enterprises of different sizes and other types of organisations. The design of the VNTLAS takes these special characteristics of Viet Nam's forestry sector into account.

- **Thirdly, the VNTLAS is based on the important principle of risk management.** Viet Nam's timber industry and timber supply chains are complex and diversified. This means that the most critical risks need to be identified and prioritized in the legality assurance system. This risk management principle is applied in several parts of the VNTLAS, including the timber import controls, the Organisations Classification System, and the verification of timber exports. Applying the risk management principle is essential to establish a system that is effective and efficient for both the verification authorities and operators.
- **Lastly, implementation of the VNTLAS will include independent or third party checks to make sure the system is working as expected, and to identify and address any weaknesses or non-compliances in the system.** These checks include an independent evaluation, inspections by state inspection agencies, and complaints and feedback mechanisms. This is supported by the commitments made in the VPA/FLEGT to public disclosure of information and stakeholder participation in monitoring implementation.

Question 12

Who will be the subjects under the Timber Legality Assurance System?

The VNTLAS will apply to both Organisations and Households. Organisations are defined in the VPA/FLEGT as including forestry companies, state forest enterprises, protection forest management boards, special-use forest management boards, and cooperatives and enterprises involved at any stage of the supply chain and that have business registration. Households subject to the VNTLAS include

domestic households, individuals, village communities, and all other entities not belonging to the Organisations category. Household businesses employing more than 10 labourers on a regular basis are considered as Organisations in the application of the VNTLAS.

Question 13 *How will the Timber Legality Assurance System work?*

The VNTLAS will be implemented through seven inter-related elements:

1) The **timber legality definition** – which sets out the requirements of Viet Nam's laws and regulations that are applicable to timber sources and timber production.
2) The **development, verification and approval of verifiers at all stages of supply chains** – which includes the responsibilities of organisations and households, and of Government verification entities, for fulfilling the requirements of the timber legality definition.
3) The **oganisations classification system** – which will assess the risk level of organisations with regard to their compliance with the VNTLAS requirements, in order to apply appropriate verification measures in an effective, efficient and timely manner.
4) The **timber supply chain controls** – which are applied to manage the supply chain from the point of harvest or import of timber to its final sale, and which aim prevent the entrance of illegal timber or unverified timber into the supply chain.
5) The **FLEGT licensing scheme** – which will provide for the issuance of a FLEGT licence for each shipment of timber

products that is exported to the EU market.

6) The **internal inspections and feedback mechanisms** – which will follow the regulations in Vietnamese laws on inspection, complaints, and denunciations.

7) The **independent evaluation** – which 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.

These seven elements of the VNTLAS are described in more detail in the following questions.

To support its functioning, the VNTLAS will also include three management information systems, including: (i) a database on violations of the Law on Forestry; (ii) the Organisations Classification System database, managed by the Forest Protection Department; and (iii) the FLEGT licensing database, managed by the FLEGT Licensing Authority.

Question 14 *What is the Timber Legality Definition?*

The timber legality definition sets out the requirements of the laws and regulations that are applicable to timber in Viet Nam. The legality definition is divided into two parts – one for Organisations and one for Households – to cater for some differences in the regulations that apply to each of these two groups. The timber legality definition can be found in Annex II of the VPA/FLEGT.

The timber legality definition contains seven Principles. The first three Principles cover the laws and regulations that apply to

timber sources, including: timber harvested from domestic sources (Principle 1); confiscated timber that has been correctly handled (Principle 2) and meets the legality requirements; and imported timber (Principle 3). The other four Principles cover the laws and regulations that apply to timber transportation and trade (Principle 4); timber processing (Principle 5); the customs procedures for export (Principle 6); and regulations on tax and employees (Principle 7).

Each principle is divided into several criteria, as well as indicators and verifiers. The indicators and verifiers are the evidence – such as approved or certified documents – that organisations and households need to fulfil and provide to demonstrate legal compliance

During implementation of the Agreement, the legality definition will be periodically up-dated to reflect any changes in the national laws and regulations that apply to timber in Viet Nam.

Question 15

How are the legality verifiers developed, verified and approved?

This part of the VNTLAS describes the responsibilities for developing, verifying and approving the verifiers in the timber legality definition. This includes the responsibilities of organisations and households, and of the Government verification agencies. The Government verification agencies include forest protection, customs and the other concerned verification entities.

There are two types of verifiers that are included in the timber legality definition:

- Some verifiers are used to demonstrate legal compliance

in the establishment and operations of organisations and households that are involved in timber production, processing, transportation and trade, etc. These are referred to as "static verifiers". For example, the business registration certificate of an enterprise is a static verifier. A forest land use certificate belonging to a household is another example of a static verifier. Static verifiers are developed and approved on a one-time basis and may be renewed on a periodic basis.

- Other verifiers are used to demonstrate the legality of individual batches of timber at each stage of the supply chain. These are referred to as "dynamic verifiers". Dynamic verifiers include the documentary evidence that is required in the legal forest product dossier, such as the packing list of forest products, sales invoices, and other documents.

The development of verifiers is the preparation of a document or dossier of documents by organisations and households, or by verification entities, in accordance with the applicable laws and regulations. Verification is the process of checking the legality, validity and conformity of these verifiers. The verification process includes documentary checks and/or physical checks by the verification entities. The approval of verifiers by the verification entities is the recognition of the compliance of each verifier according to the regulations.

Question 16

What is the Organisations Classification System and how will it work?

The Organisations Classification System (OCS) is a new element of regulation that will be introduced by Viet Nam to implement the VPA/FLEGT and the VNTLAS. The purpose of the OCS is to assess the risk level of organisations with regard to their compliance with VNTLAS requirements, in order to apply appropriate verification measures in an effective, efficient and timely manner. The OCS aims to reduce administrative procedures, to facilitate the production and business activities of organisations, and to encourage organisations to comply with the law. According to the VPA/FLEGT, the OCS will apply to all organisations in the VNTLAS supply chain.

The organisations subject to this regulation will need to register with the system, and also to make a self-assessment of their compliance with VNTLAS requirements. The self-assessment is done when an organisation first registers with the system, and on a periodic basis thereafter. Thes self-assessment by an organisation will then be appraised by the local forest protection agency, or by another verification entity authorized by the Government.

The self-assessment and appraisal is based on four criteria, which include: (i) compliance with the verifiers on the establishment and operations of organisations (these are the 'static verifiers' defined in **Question 15**); (ii) compliance with supply chain control verifiers to ensure that only legal timber enters the supply chain (these are the 'dynamic verifiers' defined in **Question 15**); (iii) fulfilment of supply chain declaration and reporting requirements; and (iv) the record of any violations of the laws and regulations by the organisation.

According to these criteria, and on the basis of the self-assessment and appraisal procedure, organisations will be classified into one of two risk categories:

- Category 1 (compliant): Organisations that meet the criteria;
- Category 2 (non-compliant): Organisations that do not fully meet the criteria or newly established Organisations.

In the risk-based verification system, Category 2 organisations will be subject to a higher level of control as compared to Category 1 organisations. To give an example, when exporting timber products, Category 2 organisations will need to obtain certification of the timber export dossier from the local forest protection agency before export take place, while Category 1 organisations will be able to self-certify their timber export dossier. Category 2 organisations will also be subject to a higher level of documentary and physical checks on shipments of timber products before export. Viet Nam will introduce legislation to implement the VNTLAS which will include detailed regulations on the OCS procedures and requirements.

Question 17 *What are the timber supply chain controls?*

A timber supply chain is a system of organisations, people, technology, activities, information and resources that move and transform timber and timber products from the point of harvest or import to its final sale. Supply chain controls aim to prevent the entrance of illegal timber or unverified timber into the supply chain. In the VNTLAS, there are several critical control points in the supply chain which are shown in **Figure 1**. These critical control points include: (1) timber sources entering VNTLAS; (2) transactions of timber through transportation and trade; (3) the timber processing site; and (4) export of timber and timber products.

Figure 1: Critical Control Points in the VNTLAS Supply Chain

1. TIMBER SOURCES ENTERING VNTLAS

- Timber from main harvesting, salvage harvesting and salvage collection from domestic natural forest;
- Timber from main harvesting, salvage harvesting and salvage collection from planted protection forest and planted production forest;
- Rubber wood;
- Timber from home gardens, farms and scattered trees;
- Handled confiscated timber
- Imported timber

↓

2. FIRST, SECOND AND ANY SUBSEQUENT TRANSPORTATION AND TRADE OF TIMBER PRODUCTS

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3. TIMBER PROCESSING SITE → **4. EXPORT OF TIMBER AND TIMBER PRODUCTS**

With respect to timber sources entering the VNTLAS, Viet Nam maintains strict control over the management and harvesting of timber from domestic natural forest, over the handling confiscated timber, and for timber imports. To ensure the legality of imported timber, a risk-based verification system will be introduced, together with legislation requiring importers to conduct due diligence to ensure that imported timber has been legally harvested, produced and exported in accordance with the legislation in the country of harvest. These timber import controls are described in more detail in **Question 19**.

The supply chains controls in the VNTLAS include a number of different elements. Government regulations set out the required contents of the dossiers for legal forest products for the different timbers sources, and for the subsequent steps in the supply chain. The controls also include requirements for monitoring and reporting by organisations and households; monitoring timber volumes within and between stages of the supply chain; and systematic, random and ad hoc physical checks conducted by the verification agencies.

Question 18 *How will the VNTLAS deal with domestic timber?*

The VNTLAS covers all domestic sources of timber in Viet Nam, including: timber from planted production forest; timber from home-gardens, farms and scattered trees; rubber wood; and allowable harvesting of timber from natural forest. According to current regulations, there is a prohibition on main harvesting of timber from natural forest, and only timber from salvage harvesting or salvage collection is permitted. Organisations and households

will need to take responsibility when supplying and sourcing domestic timber to ensure that only legal timber enters the supply chain, and that harvesting complies with regulations on land use rights, forest use rights, management, environment and society. The timber legality definition lists the criteria and verifiers which apply to organisations and households using timber from different domestic sources.

Question 19 *How will the VNTLAS deal with imported timber?*

Viet Nam's VPA/FLEGT addresses the legality of not only domestic timber but also timber that is imported into Viet Nam. To ensure the legality of imported timber, a risk-based verification approach will be introduced. The main elements of the timber import controls are as follows:

- **Risk filters for imported timber.** Two risk filters will be applied to timber imports, in addition to the customs risk assessment system operated by the customs authorities. The first is **timber species risk categories**. Imported timber species will be classified into two groups – high-risk and low-risk – based on a number of criteria. For example, species classified as high risk will include endangered, precious and rare species according to the Vietnamese legislation on controlled timber species and CITES Appendices. The second risk filter is **risk associated with geographic origin**. Timber imports of high risk species and/or from high risk geographic origin will be subject to more intensive import controls. The criteria for these risk filters are given in the VPA/FLEGT and specified in the VNTLAS legislation.

- **Due diligence responsibilities of timber importers.** Timber importers will be required to conduct due diligence to ensure that the imported timber has been legally harvested, produced and exported in accordance with the relevant legislation in the country of harvest. The due diligence means that importers will need to collect information from their suppliers in other countries, to analyse this information to identify any risks of illegality, and to adopt measures to mitigate any risks associated with the timber source. As defined in the VPA/FLEGT, this risk assessment should cover rights to harvest, forestry activities, taxation and fees, and trade and customs according to legislation of the country of harvest.
- **Self-declaration requirement.** Importers will need to complete a self-declaration that explains their due diligence activities. The self-declaration will apply to all timber imports, with the exception of import shipments that are covered by either a CITES Permit, or by a FLEGT License from another VPA/FLEGT country as recognised by Viet Nam. The self-declaration will be submitted together with applicable customs documentation.
- **Additional documentary requirements.** For imports of timber of high risk species and/or from high risk geographic origin, additional documentation will be needed as evidence of legality. This may include: certification by a voluntary certification scheme or national certification scheme recognized by Viet Nam as meeting VNTLAS requirements; a legal harvesting document in line with legislation in the country of harvest; or alternative documents demonstrating legality in line with legislation in the country of harvest.
- **Risk-based verification of timber imports.** Compliance with the import regulations, including the due diligence requirements, will be made through customs inspection and post-customs checks by the customs authorities in cooperation with the

local forest protection agency. In the event of non-compliance with the import regulations, adequate, proportionate and dissuasive administrative or criminal sanctions will be imposed in accordance with the applicable legislation of Viet Nam.

Question 20 *How will the VNTLAS deal with timber exports?*

A risk-based approach will also be applied for the verification of timber exports destined for both EU and non-EU markets. For organisations, this will be based on the risk categories in the Organisations Classification System, as described in **Question 16**. All timber exporters will need to comply with the applicable requirements for contents of the timber export dossier. When exporting timber products, Category 2 organisations and individuals will need to obtain certification of the timber export dossier from the local forest protection agency before export take place. Category 1 organisations will be able to self-certify their timber export dossier.

When the VPA/FLEGT is fully implemented and FLEGT licensing starts, exporters to the EU market will also be required to apply for and obtain the FLEGT licence.

Question 21

How will the VNTLAS deal with timber in transit?

Timber in transit is not included in the VNTLAS.

"Timber products in transit" means any timber products originating from a third country, which enter the territory of Viet Nam under customs control and leave it in the same form whilst retaining their country of origin.

Transit timber remains segregated from timber entering the VNTLAS supply chain and is under customs supervision from the entry point into Viet Nam until exit from Viet Nam unprocessed according to the laws and regulations of Viet Nam. Transit timber is not subject to VNTLAS legality verification and is not covered by the FLEGT licensing scheme.

Question 22

What does the VPA/FLEGT say about forest certification schemes?

The VPA/FLEGT provides for the recognition of both voluntary forest certification schemes and national certification schemes. Viet Nam will assess voluntary certification and national certification schemes in accordance with requirements of the VNTLAS, in order to provide a basis for recognition of such schemes. Recognised voluntary certification and national certification schemes will be taken into account as a supplementary verifier for the risk-based verification of timber imports. Voluntary certification schemes, voluntary due

diligence and chain-of-custody systems may also be integrated in the methodology for the Organisations Classification System. The Viet Nam – EU Joint Implementation Committee will play a role in endorsing the methodology for assessment of such schemes.

Question 23

How will violations of the law and non-compliances with VNTLAS be handled?

The existing laws and regulations of Viet Nam will apply for handling violations of the Law on Forestry and non-compliances with the VNTLAS. Depending on the type and severity of the violation or non-compliance, either administrative or criminal procedures, sanctions and penalties will apply. Violations of the Law on Forestry are also recorded in a central violations database. The record of violations is taken into account in the risk-based verification system.

Part Three: The FLEGT licencing scheme

Question 24

What is a FLEGT Licence?

A FLEGT Licence is a licence issued by a timber-producing country that has a Voluntary Partnership Agreement (VPA/FLEGT)

with the EU. The FLEGT licence attests to the legality of the timber or timber products. When Viet Nam Timber Legality Assurance System (VNTLAS) is fully operational as described in the VPA/FLEGT, Viet Nam will begin to issue FLEGT licences for shipments of timber and timber products bound for the EU market.

Question 25

What is a FLEGT licensing authority and who will issue FLEGT licences in Viet Nam?

A FLEGT licensing authority is the agency that is designated by the government of an exporting country to issue and validate FLEGT licences to accompany shipments of timber or timber products being exported to the EU. In Viet Nam, the CITES Management Authority of Viet Nam will serve as the FLEGT Licensing Authority.

Question 26

Which products are covered by the FLEGT licensing scheme?

The timber products that will be covered by the FLEGT licensing scheme are listed in Annex I of the VPA/FLEGT. They include all those required by the EU regulation establishing a FLEGT licensing scheme, [1]which are a minimum requirement for VPA/FLEGT: logs, sawn timber, railway sleepers, plywood and veneer. In addition, the Viet Nam VPA/FLEGT also covers other timber products such as

1. 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.

wood in chips or particles, wood for panels and flooring, particle board and fibreboard, and wooden furniture. The VPA/FLEGT does not cover products made from bamboo or rattan.

Question 27

Is a FLEGT licence granted to an operator, or to a shipment of timber for export?

A separate FLEGT licence will be issued for each individual shipment of timber products being exported to the EU. This means that a FLEGT license will be issued for a single shipment, of a single export operator, to a single point of entry – country and customs point – in the EU. One FLEGT licence should not be declared to more than one customs office in the EU.

A single FLEGT license shall not be granted to an export operator for multiple export shipments.

Question 28

How will exporters apply for a FLEGT license?

Viet Nam will issue regulations and guidelines for the FLEGT licensing scheme, including the documentary requirements and application procedures. It is intended that a computerized on-line system will be developed for FLEGT licensing, but FLEGT licences may be issued in paper or electronic form. Exporters will need to make the application and obtain a FLEGT licence from the Licencing Authority before submitting the shipment for customs clearance for export.

Question 29

Will FLEGT licences be valid throughout the European Union?

Yes. While each shipment with a valid FLEGT licence should only enter the EU through one point of entry, after customs clearance and acceptance of the valid FLEGT licence, the goods in the shipment will be free to circulate throughout the European market.

Question 30

When will the FLEGT licensing scheme start?

The VPA/FLEGT implementation process is underway, but it will take some time before it is fully operational. Firstly, Viet Nam will introduce national legislation and guidelines to implement the Timber Legality Assurance System and FLEGT licencing scheme. The systems will then be established, including the database systems for verification and licensing.

Before FLEGT licensing can start, Viet Nam and the EU will commission a joint assessment of the readiness of the VNTLAS. The purpose of this assessment will be to determine if the VNTLAS is fully established and is completely fulfilling its functions as expected in the VPA/FLEGT.

On the basis of the assessment of readiness, Viet Nam and the EU will jointly agree on a date on which the FLEGT licensing scheme will start operating.

Question 31

What is the status of Viet Nam's exports to the EU before FLEGT licensing starts?

Before FLEGT licensing begins, EU-based importers and traders of Viet Nam's timber products will be subject to the requirements of the EU Timber Regulation. This regulation prohibits the placement of illegally-harvested timber products on the EU market and requires importers and traders in the EU to undertake due diligence, as described in **Question 8**.

The EU Timber Regulation applies to companies in the EU that are importing and trading timber. To comply with the regulation, these EU-based operators may require certain information and evidence from the Vietnamese companies that export products to them.

When the FLEGT licensing scheme begins, Viet Nam's exports will automatically meet the requirements of the EU Timber Regulation. This should strengthen the market position of Vietnamese verified-legal timber products in the EU market.

Question 32

Will the VNTLAS and FLEGT licensing apply to timber from CITES listed species?

Timber from species that are subject to the provisions of CITES are subject to the same control and verification procedures under Viet Nam Timber Legality Assurance System as other timber. The CITES Management Authority of Viet Nam will issue CITES permits for shipments to the EU that contain only timber that are subject to the provision of CITES. In line with the FLEGT regulation, timber and

timber products which are subject to the CITES provisions shall be exempted from FLEGT licensing requirements. Shipments which do not contain timber subject to the provision of CITES shall be subject to a FLEGT licence.

Question 33

Will FLEGT licences be required for exports to non-EU markets?

Viet Nam currently does not specify FLEGT licensing requirements for timber and timber products exported to markets other than for the EU. However, through the VPA/FLEGT, Viet Nam has committed to using the Timber Legality Assurance System to verify the legality of timber products for all exports of timber and timber products regardless of the destination.

Question 34

Will businesses certified by FSC, CoC or PEFC need to apply for a FLEGT licence?

Yes. Operators that hold voluntary certification will be subject to the same requirements as non-certified operators. Once Viet Nam begins issuing FLEGT licences, all export shipments to the EU will also need to have a FLEGT licence. The way in which voluntary certification schemes are taken into account in the operation of the VNTLAS is described further in **Question 21**.

Part Four: Implementation and Expected Outcomes of the VPA/FLEGT

Question 35

When did the VPA/FLEGT come into effect and what is the duration?

The VPA/FLEGT was ratified by the Government of Viet Nam and by the European Union in April 2019, and it entered into force in June 2019. The Agreement will remain in force for a period of five years, to mid-2024, after which it will be automatically extended for consecutive periods of five years, unless either Party renounces the extension by notifying the other Party in writing at least twelve months before the date for extension.

Question 36

How will the VPA/FLEGT be implemented?

While the VPA/FLEGT entered into force in mid-2019, it will take some time before the Viet Nam Timber Legality Assurance System (VNTLAS) and the FLEGT licencing scheme are fully established and operational. Implementation will take place through several stages.

In November 2017, the Parties agreed on a Joint Implementation Framework which is used to guide and monitor the initial implementation of the Agreement. The Joint Implementation Framework covers the period leading up to a joint assessment of readiness of the VNTLAS which will be conducted before FLEGT

licensing starts.

The Government of Viet Nam has also issued a VPA/FLEGT Implementation Plan through Decision No.1624/QD-TTg of the Prime Minister on 14 November 2019. This plan sets out the specific tasks for implementation of the Agreement that are assigned to central government ministries, the provincial government authorities, and to other agencies and stakeholders. In this plan, the implementation tasks are grouped under seven headings:

1) Communication and public disclosure of information;
2) Development of legal documents;
3) Improvement of technical infrastructure for operation of the VNTLAS;
4) Capacity building for VPA/FLEGT implementation;
5) Management, monitoring and evaluation of VPA/FLEGT implementation;
6) Completion of mechanisms and policies for sustainable development of the timber processing industry and export;
7) Regional and international cooperation to facilitate forest law enforcement, governance and trade.

In the first stage, Viet Nam is preparing a new government decree on the VNTLAS, as well as revising existing regulations where required, which will provide the national legislative basis for implementation of the Agreement. These legislative documents and guidelines will also provide the basis for establishing the technical infrastructure and systems and capacity building for the verification authories and for organisations and households

Before the FLEGT licensing scheme can become operational, the EU and Viet Nam will undertake a joint assessment to confirm that the VNTLAS is operating as described in the Agreement. This assessment will take place when all the preparatory work has been completed, and the verification and licencing systems and other elements of the VPA/FLEGT are operational. The readiness

assessment may be conducted in several stages, to allow for any weaknesses to be identified, addressed and then reassessed. Viet Nam and the EU will subsequently decide on a date for commencement of the FLEGT licensing scheme which will mark the beginning of full implementation of the Agreement.

Question 37 *How is VPA/FLEGT implementation managed?*

Viet Nam and the EU have established a Joint Implementation Committee (JIC) to facilitate the management, monitoring and review of the Agreement. The Joint Implementation Committee will meet at least twice a year in the first two years of implementation, and once per year thereafter. Additional meetings may be convened at the request of either of the Parties. The functions of the Joint Implementation Committee are described in Annex IX of the Agreement.

The Joint Implementation Committee will ensure that its work is transparent and that information about its work and decisions are made available to the public. One of the important functions of the Joint Implementation Committee is to publish information about the Agreement, including an Annual Report on implementation progress; minutes of meetings and summaries of decisions of the Joint Implementation Committee; and information about the independent evaluation, including its procedures and public summary reports.

Question 38

What is the role of stakeholders in VPA/FLEGT implementation?

Viet Nam and the EU recognize that forestry stakeholders have a crucial role to play in implementation and monitoring of the VPA/FLEGT. The Agreement includes the commitment that regular consultations will be held with stakeholders during implementation, and that Viet Nam will ensure that a mechanism is in place for monitoring VPA/FLEGT implementation, made up of representatives of relevant Government agencies and other relevant stakeholders.

In 2017, a Multi Stakeholder Core Group was established as a focal point for stakeholder engagement and coordination in the process of VPA/FLEGT implementation. The Multi Stakeholder Core Group includes representatives from the timber industry and timber growers associations, professional associations, Vietnamese non-governmental organisations, research institutes, government verification agencies, and international NGOs and development partners. In addition to being a forum for regular communication and information exchange, the Multi Stakeholder Core Group provides advice and feedback on the VNTLAS, and may propose issues for consideration by the Joint Implementation Committee.

The VPA/FLEGT also envisages a functional system of checks and balances, such as complaints mechanisms and the independent evaluation, as well as commitments on disclosure of key forestry-related information and to involve stakeholders in implementation and monitoring.

Question 39

How will the VPA/FLEGT and the VNTLAS be monitored and evaluated?

An Independent Evaluator will be commissioned by Viet Nam to periodically assess the implementation, efficiency and credibility of the VNTLAS, and in order to identify, document and report any non-compliances and weaknesses in the system. In addition, the Independent Evaluator will design and operate a complaints mechanism for the VNTLAS and FLEGT licensing.

The Independent Evaluator will report to and propose measures for improvement to the Joint Implementation Committee. The Joint Implementation Committee will publish summary reports of the Independent Evaluator.

The Agreement also includes a commitment to monitor the social, economic and environmental impacts of the VPA/FLEGT. This will include assessing the impacts on ethnic minorities, local communities, households and the timber industry. The purpose of the impact monitoring will be to assess progress and achievements, as well as to identify any adverse or negative impacts, and to decide on appropriate measures to mitigate any identified negative impacts.

The European Commission also funds the FLEGT Independent Market Monitor for all VPA/FLEGT countries, which is managed by the International Tropical Timber Organization. The Independent Market Monitor will assess the trade in timber products between Viet Nam and the EU, and the impacts of FLEGT licensing on this trade.

During implementation of the VPA/FLEGT, a framework for monitoring and evaluation will be developed together with stakeholders to guide this process. This framework will also set out the mechanisms for stakeholders to be involved in monitoring and

evaluating the VPA/FLEGT implementation and impacts according to their interests.

Question 40

What happens if problems emerge during VPA/FLEGT implementation?

Joint oversight of VPA/FLEGT implementation by the EU and Viet Nam will be through the Joint Implementation Committee as described in **Question 36**. In addition to this, there are different mechanisms for oversight and inspection of VPA/FLEGT implementation, as follows.

Internal inspections by Vietnamese state and government inspection agencies will be conducted as required to detect loopholes in laws, regulations and management mechanisms; as well as to prevent and combat corruption, and to detect and handle violations of the law.

The procedures for lodging, handling and settlement of complaints and denunciations by domestic or foreign organisations or individuals will apply according to Vietnamese law.

In addition, the Independent Evaluator will design and operate a systems for the receipt, collation and reporting of complaints about the operation of the VNTLAS and the FLEGT licensing scheme. This complaints management system will be approved by the Joint Implementation Committee. The system will ensure confidentiality in the receipt of complaints and denunciations and the identity of the claimants will be protected. The procedures for the independent evaluation will also specify how information received from relevant stakeholders will be recorded and utilized by the Independent

Evaluator, notably NGOs, forest associations, enterprises, trade unions, local communities and people living in the forest areas.

Questions, complaints and denunciations from organisations or individuals are also received by the verification authorities and FLEGT Licensing Authority either independently or through the representative timber industry associations and socio-political organisations.

Feedback on VNTLAS implementation may also go through policy dialogues and forums organised by the government, by representative industry associations, by socio-political organisations and by social organisations according to the laws of Viet Nam.

Question 41 *How will the VPA/FLEGT benefit Viet Nam in the future?*

It is expected that implementation of the VPA/FLEGT will bring a range of economic, environmental, social and governance benefits to Viet Nam:

- **Improved access to EU market opportunities.** FLEGT-licensed timber will automatically meet the requirements of the EU Timber Regulation, so will be exempt from any due diligence requirement, thereby saving time and money for Vietnamese exporters and EU importers. This should increase the competitiveness of Viet Nam's timber products in the EU market, as well as increasing EU importer confidence in these products. The EU commits to recognising FLEGT-licensed products from Viet Nam as meeting the requirements of the EU Timber Regulation, and promoting a favourable market position for these products.

- **Improved global image and market position of Vietnamese timber products.** It is expected that the VPA/FLEGT will raise the international profile and reputation of Viet Nam's timber industry and timber products, as it will highlight Viet Nam's efforts to improve governance and legal compliance in one of its main export sectors. This will in turn strengthen the market position of Viet Nam's verified-legal timber products in global markets.
- **Improved forest governance.** Implementation of the VPA/FLEGT will strengthen regulation of the timber industry in Viet Nam, thereby helping to improve state management and contributing to the forest sector reform process. At the same time, the VPA/FLEGT aims to increase the responsibility of private sector operators, including organisations and households, for the legality of timber products, thereby also promoting corporate social responsibility and awareness amongst operators and the general public.
- **Promoting and increasing the value of domestic timber production.** It is anticipated that implementation of the VPA/FLEGT will contribute to increasing demand for domestically produced timber, in particular from longer-rotation and value-added timber plantations. This will in turn encourage the development of stronger linkages between domestic timber producers, processors and exporters. In this way, the VPA/FLEGT will also contribute to the sustainable management of forest resources in Viet Nam.
- **Improved transparency in the forestry sector.** The VPA/FLEGT includes provisions for transparency and access to information necessary for and supportive of stakeholders' involvement in the implementation of the VPA/FLEGT. This assurance that key forestry-related information will be made available to the public also represents an important contribution to reinforcing Viet Nam's forest governance.

Question 42

What benefits have already arisen from the VPA/FLEGT process?

Several positive developments have emerged during the VPA/FLEGT negotiations:

- **Consolidation of legislation and regulations.** Steps have been taken to consolidate the legislative and regulatory framework in forestry. For example, since 2012, the Ministry of Agriculture and Rural Development has introduced new regulations on the management of forest products and supply chain control, which brought together previously scattered regulations into a more coherent framework. Preparation of the timber legality definition also brought together forestry-specific legislation and regulations with those of other sectors in a comprehensive framework for the first time.
- **Clarification of forest land use rights**. Forest land use rights are fully incorporated in the timber legality definition for both Organisations and Households in order to establish the legality of domestic timber supplies. An inclusive approach was taken to defining forest land use rights, so that in addition to formal Land Use Certificates, the legality definition identifies a range of other documents used as evidence of land use rights. This responds to the current situation whereby some households have still not been allocated formal Land Use Certificates, but are nonetheless legal land users.
- **Management and protection of domestic natural forests.** The Government of Viet Nam has taken a series of measures in recent years to strengthen management and control over exploitation of domestic natural forest. For example, in 2014, the Government introduced a prohibition on harvesting natural forest timber, with

the exception of limited utilization for domestic consumption by local forest communities. This has been combined with a series of new legislation on sustainable forest management and certification. While these measures are not only linked to the VPA/FLEGT process, they reflect increased commitment of the Government to address FLEGT-related issues.

- **Stakeholder consultations and engagement.** As compared to other trade negotiations in Viet Nam, the VPA/FLEGT provided opportunity for stakeholders to contribute more frequently during the development of the Agreement through a variety of consultation mechanisms. Over time, there has also been an increased level of understanding and engagement of Vietnamese NGOs in FLEGT issues, in particular through the VNGO-FLEGT Network, which was formed in 2012 to promote inputs from social organisations in the process.

Part Five: Other questions

Question 43 *How can I get a copy of the Agreement?*

The text of the Agreement, including Annexes, is publicly available – it is published in the Official Journal of the European Union (OJEU) and is available on the Commission's website and that of the Government of Viet Nam.

Question 44

Which other countries are involved in VPA/FLEGT?

There are 14 other countries that are either negotiating or implementing a VPA/FLEGT with the European Union: Indonesia; Malaysia; Thailand; Laos; Ghana; Republic of the Congo; Democratic Republic of the Congo; Honduras; Guyana; Central African Republic; Cameroon; Côte d'Ivoire; Gabon; Liberia. In 2016, Indonesia became the first to reach the milestone of issuing FLEGT licences. For more information on each country's progress, see the website of the EU FLEGT Facility: http://www.euflegt.efi.int/where-we-work

Question 45

What is link between the VPA/FLEGT and REDD+ initiative?

Addressing land-use governance challenges is key to successful implementation of both REDD+ and the EU FLEGT Action Plan. This will ultimately contribute to reducing deforestation and tackling climate change. In many countries, including Viet Nam, there is active engagement in both REDD+ and FLEGT. This provides an opportunity to build on the interactions between the two processes and make better progress on delivering the objectives of both. Increased interaction between REDD+ and FLEGT processes at the national and sub-national levels could further advance forest and land-use governance reforms related to clarifying the legal framework including for land tenure, strengthening stakeholder engagement, increasing transparency and balancing competing interests.

Websites for further information

https://ec.europa.eu/environment/forests/flegt.htm

www.tongcuclamnghiep.gov.vn

http://www.euflegt.efi.int/vietnam

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