



F A O F L E G T P R O G R A M M E



Food and Agriculture
Organization of the
United Nations



PROCEEDINGS
OF
THE FINAL WORKSHOP OF MYANMAR TIMBER
LEGALITY ASSURANCE SYSTEM (MTLAS)
GAP ANALYSIS PROJECT

Held at the Inya Lake Hotel
Yangon, February 17, 2017

Myanmar Forest Certification Committee
(MFCC)

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ACRONYMS

C&I	-	Criteria and Indicator
CB	-	Certification Bodies
CF	-	Community Forestry
COC	-	Chain of Custody
CSO	-	Civil Service Organization
EUTR	-	European Union Timber Regulation
FAO	-	Food Agricultural Organization
FD	-	Forest Department
FLEGT	-	Forest Law Enforcement Governance and Trade
FMU	-	Forest Management Unit
FPIC	-	Free prior and informed consent
GTF	-	Global Timber Forum
MFCC	-	Myanmar Forest Certification Committee
MFCS	-	Myanmar Forest Certification Scheme
MFPMF	-	Myanmar Forest Products Merchants Federation
MONREC	-	Ministry of Natural Resources & Environmental Conservation
MTE	-	Myanma Timber Enterprise
MTLAS	-	Myanmar Timber Legality Assurance System
NSQD	-	National Standard and Quality Department
SFM	-	Sustainable Forest Management
SVLK	-	Sistem Verifikasi Legalitas Kayu (Indonesian Timber Legality Assurance System)
TLAS	-	Timber Legality Assurance System
UCF	-	Unclassified Forest
VPA	-	Voluntary Partnership Agreement

1. Introduction

Myanmar is endowed with one of the largest forest covers in the region. About half of the country is still covered with forests, which have been well managed under the Myanmar Selection System over 150 years. Forest resources play a dominant role in improving the socio-economic life of the people of the nation. The country is the world's prime supplier of natural teak (*Tectona grandis*) which is one of the pillars of the State's economy. Forest Policy and legislation with regard to the conservation and harvesting of the forest resources are in place. Timber harvesting is being carried out by Myanmar Timber Enterprise (MTE) which is the state organization responsible for implementation of the rules and regulations developed for systematic harvesting. The Myanmar Timber Legality Assurance System (MTLAS) was established based on the existing legislation, rules and regulations of Myanmar.

The Myanmar Forest Certification Committee (MFCC) with support of the FAO-EU FLEGT Programme, identified challenges, issues and gaps in the current MTLAS against international best practices. The objective of this MTLAS Gap Analysis was to inform the multi-stakeholder dialogue initiated through the FLEGT VPA process and the development of the Myanmar FLEGT VPA TLAS.

The Inception Workshop of MTLAS Gap Analysis Project was held on 3 March 2016. At the Workshop the methodology was presented for the successful implementation of the project. The Inception Workshop was also the opportunity to discuss the compositions, roles and responsibilities of the Project Consultative Group and Core Team.

The Expert Team conducted a desk review of the MTLAS against the proposed Gap Analysis Framework which had been developed for the purpose of the study. The Core Group and Expert Team together with the national and international Experts and observers conducted field review to assess the practice on the ground. The Expert Team compiled a consolidated MTLAS Gap Analysis Report based on the results of the desk study and field review. The report was shared with all members of Consultative Group.

The report was further discussed at the Final Consultative Workshop, held on 17 February at the Inya Lake Hotel in Yangon, where a wider number of national and international stakeholders were asked to provide feedback on report findings and suggest possible next steps.

2. Objectives of the Workshop

The Objectives of the Final Workshop included:

- (i) Presentation of the results of the MTLAS Gap Analysis including findings of the field and mill visits.
- (ii) Expert-led group discussions on moving towards a FLEGT VPATLAS.
- (iii) Propose recommendations for future activities in the development of national FLEGT VPAProcess.

3. Attendance to the workshop

The number of participants and organization attended to the workshop are as follow; -

(1)	Myanmar Forest Certification Committee-MFCC	12
(2)	Interim Task Force –ITF (Myanmar FLEGT-VPA)	9
(3)	<u>Government</u>	
	- Permanent Secretary of MONREC	1
	- Community Forest National Working Group	1
	- Forest Department	18
	- Myanma Timber Enterprise	23
	- Environmental Conservation Department	2
(4)	NGO/CSO/INGO	21
(5)	Private Sector	20
(6)	Observers (International Participants)	42
	Total	<u>149</u>

4. Opening Session

The first part of the morning session consisted of opening remarks by representatives from MONREC and FAO.

4.1 Opening and welcoming remarks by U Kyaw Zaw, Director, Forest Department

U Kyaw Zaw, Director of the Forest Department (FD) delivered the opening and welcoming remarks on behalf of Dr. Nyi Nyi Kyaw Director-General of FD. The full text of his opening remarks is provided in *Annex-1*. He highlighted the illegal logging of forests has severe negative impacts



on a local level, it contributes to the degradation of the environment through biodiversity loss, destruction of habitats for animal species and forest dependent people, on a global level, it impacts on the water cycle, carbon emission and climate change. He noted the

growing concern for illegal logging of forests particularly in the tropics has resulted in a global effort introducing measure to address the problem.

With the democratic reform of the country U Kyaw Zaw elaborated on the development of new policies in Myanmar to work for economic development in parallel with environmental conservation. He mentioned the measures to the sustainable forest management namely; log export was stopped in April 2014, forest management plans for 10 years have been

revised, timber harvesting was stopped in 2016-17 financial year for the whole country and for 10 years in Bago ranges and 10 year reforestation and rehabilitation programme has been drawn up to improve the forest conditions.

He briefly mentioned the development of MTLAS and its Gap Analysis Project supported by EU FAO FLEGT Support Programme to identify the



strengths and weaknesses of the current MTLAS against internationally recognized legality principles. He finally expressed his enthusiasm to receiving the results of the MTLAS gap analysis study to strengthen the Myanmar

System to be recognized by the international market and to fulfil some criteria of the sustainable forest management.

4.2 Opening remarks by Mr. Bruno Cammaert, Forestry officer, FAO FLEGT Support Programme

Mr. Bruno Cammaert, Forestry Officer, FAO-EU FLEGT Programme, FAO Regional Office for Asia and the Pacific delivered the opening remarks. He expressed his honour to be able to provide a few



opening remarks on behalf of FAO to the workshop. The full text of his opening remarks appears as *Annex-2*. He mentioned that the MFCC is presenting the results of the MTLAS Gap Analysis review to the workshop which involved national

representation from all stakeholder groups as well as international experts and observes.

He pointed out that it is not easy for a country to agree to a transparent and participatory review of its system and practices against international best practices. It is a testimony to the willingness of Myanmar to carry out this review to engage in the forest sector reform. He emphasized the objective of the Gap Analysis which is to look at what is available and to use this process to build awareness among all stakeholders and to inform the longer term dialogue on timber legality assurance and governance reform in Myanmar.

He also mentioned the cases in Europe and other regulated markets where importers of Myanmar timber have been asked to provide more and better evidence of the legality of timber they source. The MTLAS Gap

Analysis was designed to inform longer term reform, not to provide any immediate and specific solutions or to fix gaps but it should provide guidance on where to start. Finally he wished the workshop informative and productive and looking forward to receiving feedback from all stakeholder groups.

5 Presentation by the Resource Persons

5.1 FLEGT-VPA Indonesia - Achievements and Challenges

Dr. Agus Sarsito, the FLEGT VPA chief negotiator of Indonesia, presented the FLEGT VPA Indonesia - Achievements and Challenges. His presentation in slides is provided in *Annex-3*.



Indonesia started FLEGT VPA negotiation in March 2007 and became ready to issue FLEGT Licence only in November 2016. Indonesian timber can enter EU market with FLEGT licence and to non-EU market with V-legal, issued based on the Indonesian TLAS or SVLK (Sistem Verifikasi Legalitas Kayu). Mr. Sarsito also mentioned the challenges encountered during the Indonesian FLEGT VPA process and further work for SVLK and FLEGT VPA.

5.2 International Trade Update

The presentation was made by Ms. Rachel Butler, Executive Director of Global Timber Forum (GTF). The full text of presentation in slides is provided in *Annex-4*. She emphasized that GTF facilitates specific coalitions of industry and stakeholders to address



shared challenges in delivering responsibly sourced and traded goods. She explained how the EU Timber Regulation – EUTR and US Lacey Act enforcement is applicable to timber products entering the EU and United State of America. She explained the ruling of the Swedish court that the Green Book issued by Myanmar Forest Products Merchants Federation (MFPMF) and which includes all export documents for legal timber products, was deemed insufficient for due diligence under the EUTR but that the ruling did not conclude that the Myanmar timber was illegal. Ms Rachel shared the response of international traders to the perception survey conducted by Global Timber Forum regarding the import of Myanmar timber. All respondents were

- keen to understand how traceability could be proven from mill back to forest and

- looking to the government of Myanmar to articulate a clear and visible reform process which could include traceability, legality assurance and independent verification processes.

She concluded that the international customers hoped that the gap assessment study is used constructively as a start of process of consultation with all stakeholders to strengthen the MTLAS.

5.3 Progress report of MTLAS gap analysis study

U Barber Cho presented the "Progress of the MTLAS gap analysis project". The full presentation is provided in *Annex-5*. He mentioned briefly the formulation, objectives, activities and progress of the project



and during the final workshop it will be discussed the gaps of MTLAS against the international principles identified by the project and the ways forward for the development of MTLAS to be recognized by international markets.

He emphasized that MTLAS Gap Analysis study was designed to inform the longer term reform and not to provide any immediate and specific solution.

5.4 Findings of the MTLAS Gap Analysis



Ms. Sofia Ryder, International Timber Legality Assurance Expert of the project presented the findings of the MTLAS Gap Analysis including field observations in the two Forest Management Units (FMU), the supply chain, the log depots and the processing mills

together with the Core Team. The full text of her presentation appears in *Annex-6*. She explained the current MTLAS, the objectives of the MTLAS Gap Analysis and Gap Analysis Process supported by the EU FAO FLEGT Support Programme. Based on the field evaluations, the observations were made on the following topics.

- (a) MTLAS as a Legality Assurance System
- (b) Scope of Legality Addressed in the Forest
- (c) Supply Chain Control
- (d) Internal checks in the Forest and Supply Chain

- (e) Forest Sources Addressed by MTLAS
- (f) Stakeholder Engagement
- (g) Risks of Dishonest or Unethical Conduct

She pointed out the following potential areas for strengthening MTLAS-

- (a) Multi stakeholder participatory review of the current MTLAS
- (b) Address all sources of timber
- (c) Strengthen and simplify existing mechanisms for supply chain control
- (d) Strengthen internal and external verification
- (e) Specify measures for assurance against dishonest or unethical conduct
- (f) Mechanisms for monitoring and oversight of MTLAS
- (g) Mechanisms for the issuance of statements, licences or other evidence of conformity
- (h) Document and make publically available MTLAS Systems, processes and procedures.

5.5 Discussion Points

Q: Question

A: Answer

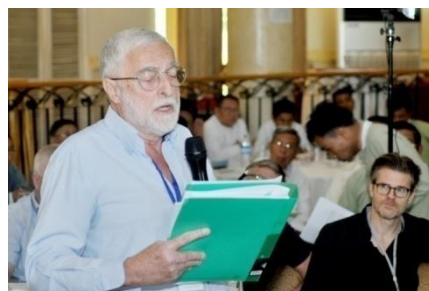
C: Comment

C: For many reasons there are ongoing illegal loggings in the country and these need to be addressed by government at the same time as the development of the TLAS.



A: The TLAS's are designed to control illegal logging by working together closely among all stakeholders including the private sector, CSOs and government. Code of conduct must be prepared for timber traders to apply due diligence to avoid illegal timber in their timber trade.

Q: CSO participation in the further development and implementation of MTLAS should be defined clearly in the gap analysis and/or follow up steps. It was also recommended to include CSO participation in the 3rd party verification and monitoring functions of MTLAS.



The extraction of conversion timber which comes out from the areas of land use change must be controlled properly so that illegal timber from other forests could not mix up with them.

A: CSO/ NGOs participated in the development of MTLAS and third-party verification or monitoring of the product and system is included. The representatives of CSO / NGOs are also recommended to be members of the third party or independent MTLAS assessment team.



The conversion timber are also extracted by MTE from large areas and the procedure is the same as the normal extraction of mature trees except all species of smaller sizes are extracted in the conversion area. FD marks the trees for felling down to 2 feet at breast height in those areas. The average volume of conversion timber extracted during 2011-2012 to 2015-2016 is less than 10% of the volume extracted for the whole country.

6 Recommendations to strengthen the MTLAS :

Group Presentation

The participants were divided into 4 groups as follow to discuss the

(a) Stakeholder's reviews on findings of MTLAS gap analysis and

(b) Way forward to strengthen the MTLAS ,

Group (1) CSO + NGOs + INGO

Group (2) Private sector

Group (3) Government

Group (4) International Participants.

The outcome of the discussion for each group was presented to the plenary session of the workshop. The comments, suggestions/ recommendations by the group are as follow.

6.1 Group (1) CSO + NGOs +INGO group

- The conventional method of hammer markings on the log should be reviewed.
- Third-party verification and monitoring of the system should be compulsory.
- Awareness and Capacity building for CSOs on MTLAS is required for third party verification and monitoring.



- All stakeholders must be involved in all steps of MTLAS development and implementation and the information should be easily accessible to all stakeholders.
- All timber from all sources (e.g. CF) must be included in MTLAS.
- Simplify the existing documentation and marking of timber along the supply chain to allow easy and efficient traceability of timber back to the forest/stump.
- To study the TLAS of other countries apart from Indonesia.
- Implementation of FPIC in harvesting activities should be considered
- Participation of local communities who stay around the forests is needed as much as possible
- New technologies to improve MTLAS must be explored; data-based system of all information along the supply chain and recording system on log/timber e.g. barcode, genetic marker.
- Policy and Legislation should be reviewed and revised.
- Public consultation is needed before annual harvesting activities.

6.2 Group (2) Private Sector

Most of the participants from group 2 are business persons and their discussions revolved around value addition through certification/verification by recognized parties.



- ◆ The Legal frameworks should be reviewed to suit the current situation.
- ◆ Latest technologies of recording information on the supply chain and timber should be applied.
- ◆ Coordination body to govern the MTLAS activities and third-party certification bodies are needed.
- ◆ The TLAS of other countries apart from Indonesia should be studied.

6.3 Group (3) Government sector

- The gaps identified in the report are between the domestic rules and regulations and international requirements
- The assessment team might not have had access to all departmental instructions with regard to harvesting milling and marketing of timber in



Myanmar.

- The hammer marks on logs of some species cannot be visible and it is difficult to trace back of those logs to the original forest or stump.

6.4 Group (4) International group

A. Major comments

- ✚ Illegal trade happening through China with documentation currently not challenged by Swedish court case. This affects efficiency of EUTR and there is a need to address this loophole.
- ✚ There is a needs to improve the control of supply chain to avoid illegal logs going to neighbouring countries and ending up in Europe unchallenged compared to logs exported directly with green book.
- ✚ Look at international standards on accreditation for possible solutions

Priority areas for action

- ✚ Government to transparently announce its commitment to deal with the gaps.
- ✚ Private sector to have a list of documents needed for trading and go to MTE/FD and ask for it in order to enhance transparency of supply chain.
- ✚ When logging starts again: identify which timber in the stock piles can be documented/ traced to be exported to Europe.
- ✚ In the interim, the FLEGT Interim Task Force to initiate the MTLAS revision process.
- ✚ Establish the Multi Stakeholder Group to support the debate on structure and content of the MTLAS revision process and the legality definition.
- ✚ Clear definition of LEGALITY (within the MSG)
- ✚ Government to prepare an action plan to deal with the gaps identified in the MTLAS Analysis
- ✚ Government authorities to accept independent verification to support due diligence of EU operators (enhance capacity)
- ✚ Computerization of FD/MTE documentation.



7 Panel Discussion

The last session of the workshop was occupied by the panel discussion with the following panelists to enhance the MTLAS.

1. U Shwe Kyaw, Chairman of MFCC
2. Ms. Sofia Ryder, International Expert of MTLAS Gap Analysis Project
3. U Kyaw Zaw, Director, Forest Department, MONREC
4. Dr. Sein Win, Chairman of MFPMF
5. U Salai Cung Lian Thawng, CSO



U Barber Cho, secretary of MFCC facilitated the discussion.

The panel discussion started with introductory remarks by the panelists.

U Salai : The report of the gap analysis which is pretty diplomatic is useful to strengthen the MTLAS.

Dr. Sein Win : We have the Timber Legality System, but it needs to be improved according to the international principles.

U Shwe Kyaw : The finding of the gap analysis project is the starting point to strengthen the MTLAS. The MFCC will report the outcomes of this workshop to the MONREC and the Ministry will decide how to fix the gaps identified by the project.

Ms. Sofia Ryder: During desk-based review and field visit all people engaged were very cooperative to understand the whole system.

U Kyaw Zaw :

Q: Is the government ready to fix the gaps of MTLAS with multi stakeholder involvement?

A: FD is keen to receive the results of gap analysis to fix the gaps identified with the participation of all the stakeholders. Forestry sector has already been done a number of reforms for sustainable forest management. Trade and custom portions must also be considered in the report.

U Salai :

Q: What role MFCC should play?

A: MFCC is a semi-government organization and its responsibility is mainly to govern and coordinate the forest

management certification activities in Myanmar with the cooperation of all stakeholders including CSOs.

Dr. Sein Win :

Q: How the MFCC and Private Sector can help the Myanmar FLEGT VPA implementation?

A: The Private Sector thought that MFCC is a body to certify for timber legality. Third-party certification body is required to certify independently.

Private Sector suffers a lot for not having the sound certificate of legality for its timber and timber product under MTLAS.

U Shwe Kyaw :

Q: Do you have any plan to strengthen the MFCC?

A: MFCC is the semi-government organization consists of representatives from CSO/NGO, Private sector and Government. MFCC is the governing body of forest certification activities in Myanmar and implementing the Myanmar Forest Certification Scheme (MFCS). MFCC is in-charge of developing the C&I for forest management certification. The third party certification body of MFCS will certify a FMUs if it comply the set standard (C&I).

MFCC is assisting the FLEGT VPA process by implementing the FAO FLEGT MTLAS gap analysis project as timber legality is also one of the requirements of SFM.

U Kyaw Zaw :

The outcomes from the gap analysis project are very useful to enhance the MTLAS. FD and MTE are committed to fix the gaps in cooperation with all stakeholders involved.

Mr. Richard Holloway, ALARM

Comment

There should be independent monitoring. The certification bodies must have capacity in technical matter to carry out verification activities. With regard to the unethical and dishonest cases CSOs are good in finding out.



Dr. Maung Maung Than (RECOFTC)

Comment and Question

1. MTLAS gap analysis study is now completed and gaps are identified to strengthen the MTLAS.
2. How could the finding of the study help in developing FLEGT VPA process?
3. How could Myanmar timber get access to the EU and other markets while FLEGT VPA process might delay due to the gaps of MTLAS identified?



A : In the FLEGT VPA process it is important to develop the TLAS which is acceptable by the host country and EU. The MTLAS is well established and based on the rules and regulation of Myanmar.

If the gaps identified could be fixed the MTLAS will become the FLEGT VPA TLAS.

It takes some years to complete the FLEGT VPA process. During the process the timber and timber products from Myanmar can go to EU and other markets with "due diligence" programme of complying the current MTLAS requirements.

8. Closing Remarks:

Concluding Remarks by U Shwe Kyaw, Chairman, MFCC on the occasion of the "Final Workshop of the MTLAS Gap Analysis Project"

Distinguished Guests, Participants, Ladies and Gentleman

Our Workshop is going to conclude very soon. I am very pleased and happy that after the whole day of the workshop, we are now able to successfully conclude this "Final Workshop of the MTLAS Gap Analysis Project". Over 150 participants and observers at the workshop have taken part actively in the discussions.

As you all know, the morning session of the workshop was occupied the presentations on the global timber market situation by Ms. Rachel Butler from GTF, the lesson learnt from the Indonesian's experience on EU FLEGT VPA process by Dr. Agus Sarsito from Indonesia to update our knowledge on FLEGT VPA Process and the



findings of the field-verified gap analysis study of MTLAS by Ms. Sofia Ryder, Project Consultant.

In the afternoon session four stakeholder groups of the participants discussed in depth the presentations made by Ms. Sofia Ryder how to fix up the gaps of the MTLAS, suggest the way forward to strengthen the MTLAS and make recommendations to be made to the Minister of Natural Resource and Environmental Conservation. The discussions had been lively and the deliberations very valuable. I think the workshop deliberations fulfilled the objectives of the workshop.

During the workshop, it has been discussed that illegal logging could not sufficiently be stopped by law enforcement only but it needs to be complemented with other activities such as stakeholder participation in all stages, proper implementation of forestry operations, third party verification, revision and insight the system etc. to strengthen the MTLAS and promote the legal timber trade.

Ladies and Gentleman

For this overwhelming success of the workshop, I should first of all, thank U Kyaw Zaw for delivering the opening address on behalf of the Director-General of the Forest Department for gracing the workshop with his presence.

I would like to take this opportunity to express my sincere appreciation to the resource persons who have presented the valuable presentations and the distinguished participants and observers from Europe and US for your presence and contributions to the workshop.

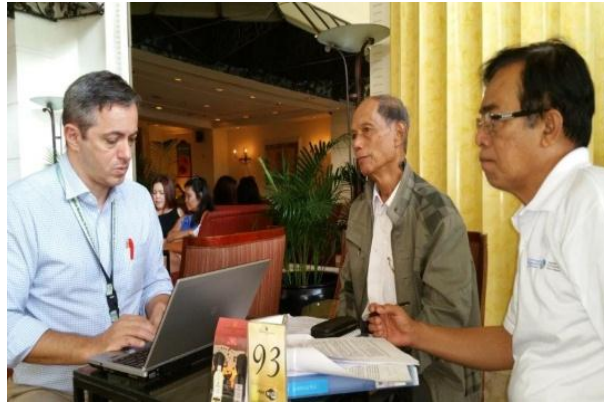
The generous support from the EU FAO FLEGT Support Programme and the Global Timber Forum to conduct the project of MTLAS Gap Analysis is very much appreciated.

My thanks also go to everyone involved in organizing the workshop and to the Hotel management for their excellent service.

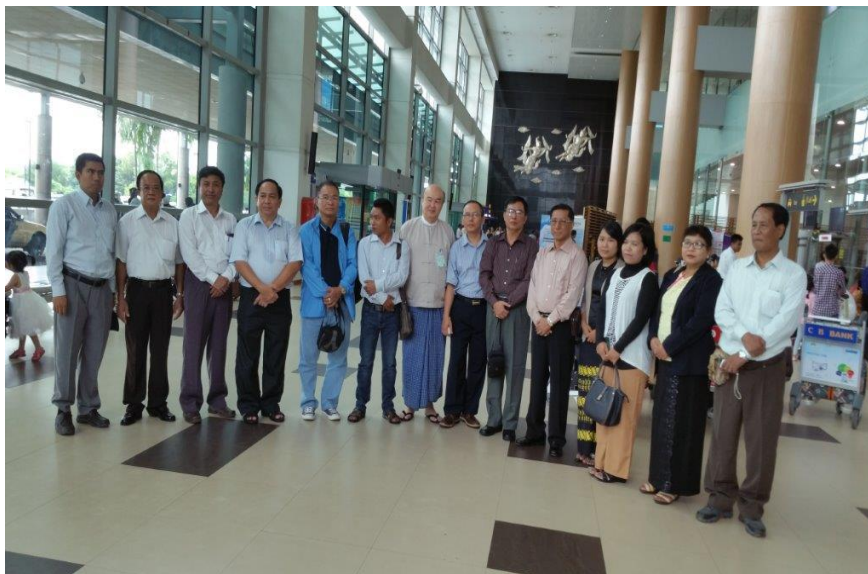
Ladies and Gentleman

Finally, it is a great pleasure and honour for MFCC to work with you for the enhancement of the MTLAS.

Thank you



Discussion of the very beginning of the project (30-4-2015)



To Study Tour of Core Team to Indonesia (4-9-2016)

Opening speech by U Kyaw Zaw (Director of Forest Department, MONREC)

- Representatives from
- EU FAO Support Programme
- EU Delegation in Myanmar
- Global Timber Forum
- MFPMF
- NGO, INGOs
- Officials from MONREC
- International observers from Europe
- Participants, ladies and gentlemen.

Good morning!

It is a great privilege and pleasure for me to have the opportunity to address this “Final Workshop of the Myanmar Timber Legality Assurance System (in short MTLAS) Gap Analysis Project” organized by Myanmar Forest Certification Committee- MFCC, EU-FAO FLEGT Support Programme and Global Timber Forum. I wish to express my sincere appreciation to all of you who will be involved in this important workshop.

Ladies and Gentlemen,

You may be aware that illegal logging of forests has severe negative impacts on a local level, it contributes to the degradation of the environment through bio- diversity loss, destruction of habitats for animal species and forest dependent people, on a global level, it impacts on the water cycle, carbon emission and climate change. Moreover illegal logging undermines the livelihoods of forest communities, reduces the competitiveness of legitimate forestry practices, decreases government revenues, lessens the rule of law of forests and fosters corruption. Hence the growing concern for illegal logging of forests, particularly in the tropics has resulted in a global effort introducing measure to address the problem. The EU Timber Regulation started in March 2013 is the one which ensures that EU member states exercise trading only in legal timber and timber products. Efforts to regulate trade in timber and promote trade of legally verified timber only also come from outside Europe, with the adoption in 2008 of the Lacey Act amendment in the US as well as other regulations in Switzerland and Australia.

Ladies and Gentlemen/Forest

Regarding the forest management, Myanmar pays serious attention to conservation of its forest resources and takes necessary measures to reduce unsustainable practices.

With the democratic reform of the country, new policies are laid down to work for economic development in parallel with environmental conservation. However, in Myanmar like other developing countries, complexity nature of socio-economic and poverty, lack of financial assets and market access are main causes of deforestation and illegal logging of forest resources. We are taking instigated measures to improve the situation.

With the object of generating more employment in the country, utilizing less raw material and ensuring premium price for timber products, log export was stopped in April 2014. Forest management plans for 10 years at the Forest Management Unit level have been

revised according to the current situation and are being implemented. Timber harvesting is stopped in this 2016-17 financial year for the whole country and for 10 years in Bago ranges which is the home of best teak in Myanmar. It has been planned to harvest the volume well below the annual allowable cut of the forest resources starting in 2017-18. Ten years Reforestation and Rehabilitation Programme (2017-18 to 2026-27) has been drawn up to improve the forest conditions and will be implemented in next year. The programme not only includes the plantation establishment but also other silvicultural operations which includes natural regeneration, improvement felling, climber cutting, enrichment planting in natural forests, community forest establishment and so on.

With regard to the illegal logging, it has been more controlled with the attachment of police forces to the Forest Department. Over 205000 tons of illegal Timber were seized during 2011-2015. Myanmar has already engaged in the EU FLEGT VPA process in March 2014 with the preparation phase.

The Forest Department-FD and Myanmar Timber Enterprise - MTE under the Ministry of Natural Resource Environment and Conservation -MONREC have been working closely since 1950's to ensure systematic logging, minimize damage to the forests, prevent timber poaching and transport of timber. As a result, legislation, rules and regulations with regard to harvesting, transporting and processing of timber are in place.

Ladies and Gentlemen

Now I would like to bring your attention to the MTLAS Gap Analysis Project and the workshop itself.

The current MTLAS is based on the above existing rules and regulations and has 6 principles and 15 criteria. It is noted that MTLAS Gap Analysis Project supported by EU FAO FLEGT Support Programme is to identify the weaknesses of the system against internationally recognized legality principles, requirements and best practices and by doing so informs the future Myanmar-EU FLEGT VPA process.

The project is also focused on capacity building of the members of MFCC, Myanmar FLEGT Interim Task Force and other related persons.

The international expert team of the project conducted the desk-based gap analysis of the MTLAS based on the available information through internet and correspondence with relevant persons, and prepared the MTLAS gap analysis framework criteria for field assessment. The desk-based results were field verified by the international team together with the Core Team of the project in Toungoo forest district in Bago Region and Maw Laik and Kalay districts in Sagaing Region. With the comments and suggestions of the Core Team the expert team prepared the field-verified results of the gap analysis of MTLAS for this workshop. It is noted that the results will be further discussed with wider participation of stakeholders during the workshop and finalized.

I am very much enthusiastic to see the results of MTLAS gap analysis study to strengthen our system to be recognized by the international market and to fulfill some criteria of the sustainable forest management.

Ladies and Gentlemen

I would sincerely and strongly urge all the participants to freely and actively participate in the discussions in order to achieve the objectives of the workshop. I am confident that the deliberations of the workshop will be of great use for our future efforts to fulfill our commitment to achieve the sustainable forest management in Myanmar.

In conclusion, I would like to thank the EU FAO FLEGT Support Programme and the Global Timber Forum for the generous Support to conduct the project. To all the distinguished guests and those who will participate in the workshop I extend my sincere appreciation and wish you all great success and achievements in your deliberations. Finally I would like to thank MFCC for organizing this event and all the resource persons from various organizations for their valuable contributions.

Thank you

Annex 2

Opening remarks by Bruno (Representative of FAO)

Excellency U Kyaw Zaw, Director of Forest Department.

U Shwe Kyaw, Chairman of the Myanmar Forest Certification Committee

Representatives from Civil Society, Private Sector and Government Agencies

Representatives from the EU Delegation, Development Partners, International Organizations and representatives and members of EU and US Timber Trade Federations and Associations.

I am very honored to be able to provide a few opening remarks on behalf of the FAO Representation in Myanmar, FAO's Regional Office in Bangkok as well as our Forestry Department in Rome.

Some if not most of you attended the launch of this MTLAS Gap Analysis project about a year ago and today the MFCC is presenting the result of this review which involved national representatives from all stakeholder groups as well as international experts and observers.

I would like to stress that it is never easy for a country or government to agree to a transparent and participatory review of its systems and practices against international best practice. By doing so you potentially expose weaknesses or gaps and trigger difficult discussions. This is exactly what this MTLAS Gap Analysis is about and it is a testimony to the willingness of this country to engage in forest sector reform - which has in fact already started.

The original objective of the Gap Analysis was to look at what was already available and to use this process to build awareness among forest sector practitioners and to inform the longer term dialogue on timber legality assurance and governance reform in Myanmar. MFCC is presenting a final product today but the intent has always been to trigger further debate among forest sector stakeholders and to eventually inform a future VPA negotiation process.

Since the start of the project we have also seen a number of cases in Europe and other regulated markets, where importers of Myanmar timber have been asked to provide more and better evidence of the legality of the timber they source. There is now a sense of urgency to address legality assurance and traceability to help maintain or facilitate responsible trade. The MTLAS Gap Analysis was designed to inform longer term reform, not to provide any immediate and specific solutions or to fix gaps but it should provide guidance on where to start. The Global Timber Forum has mobilized international traders and trade associations who are present today and who are keen to learn more about the results of the gap analysis and to hear what you would like to do next.

Finally I would like to use this opportunity to thank all those involved in designing, implementing and of course also funding this project through the FAO EU FLEGT programme.

I wish you all a very informative and productive workshop and I am looking forward to receiving feedback from all stakeholder groups, today but also in the follow up to this initiative.

Thank you.

Annex 3

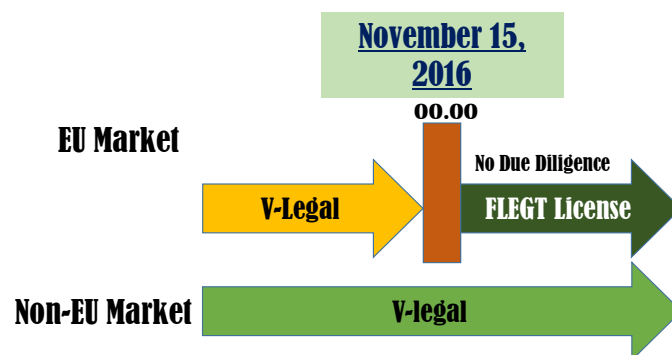
FLAGT - VPA

Indonesia Achievements and Challenges

by
Agus Sarsito
Indonesia

Final Workshop on MTLAS Gap Analysis Project
17 February 2017
Inya Lake Hotel -Yangoon

FLEGT Licensing



Indonesia-EU



Achievements

- SVLK have been fully implemented since 2013
- SVLK formally recognized by EU (signed, ratified, “Go-alive”)- Indonesian Timber Product enter EU without Due Dilingence
- Indonesia is pioneer in developing TLAS (SVLK)

Challenges

1. Everybody watch your back
2. Maintain FLEGT licenses credibility
3. Keep import procedure simple but credible
4. Convince Indonesia's business the benefit (versus cost) of having FLEGT license
5. Exceptance of SVLK by Importing country stake holders
6. Pressure from other schemes
7. EUTR Implementation
8. EU Support to FLEGT licensed timber products, include in

Action taken by Indonesia for FLEGT Licensing (to Maintain credibilitas SVLK)

- Coordination with related government offices
- Ensure all elements of SVLK consistantly play their role (*National Accreditation Committee, Independent Monitoring, Confirmaty Accessment Bodies and Auditee*)
- Monitor FLEGT licensing
- Assist SME obtaining FLEGT license (continuation)

Futher Work for SVLK and FLEGT-VPA

- Periodic Evaluation
- Impact Monitoring
- EUTR = FLEGT-VPA
- UE consistant implement VPA

Thank you

Presentation by Ms. Rachael Butler, GTF (Global Timber Forum)

International Trade Update

Rachel Butler
Executive Director



GTF convenes specific coalitions of industry and stakeholders to address shared challenges in delivering responsibly sourced and traded goods.

2

EUTR & Lacey Act Enforcement

- **European Union Timber Regulation**
 - Duty on first importer to undertake risk assessment 'Due Diligence' of timber sources – not shipment based
 - Prohibits first importer to place illegal wood on the market
 - Focus on 'Due Diligence' so much enforcement is not publicised
 - Company can buy fully legal timber BUT still not be compliant if they failed to conduct Due Diligence
- **United States Lacey Act**
 - Prohibits any supply chain actor in the wood chain from placing illegal timber on the market
 - High profile cases; Gibson Guitars, Lumber Liquidators. Usually out of court settlements – considerable high fines
 - 'Due Care' is used as part of the company's defence if facing Lacey Act investigation
- Summary of enforcement actions undertaken by TREE (Timber Regulation Enforcement Exchange) <http://www.forest->



3

Swedish EUTR Ruling



- Small-scale operator – Almtra Nordic
- No documented risk assessment or mitigation
 - Ruling did not suggest that the timber was illegal
 - Used the ‘Green Book’ - Myanmar Forest Products Merchants’ Federation (MFPMF)
- Penalty ‘proportionate’ to company turnover not source country impact
- Not a legally-binding precedent (because company didn’t appeal, low level court)
- However has triggered checks and reassessments, and discussion of acceptable supply chain documentation across the EU
- Report & statement from Forest Department Statement available here: <http://forest-trends.org/blog/2016/11/22/swedish-court-on-myanmar-wood-imports>
- Ongoing EUTR actions likely further rulings in other EU countries



Response of International Traders

- All respondents have long-term business relationships and were committed to the country & traded direct
- All respondents followed Myanmar developments from various sources; academics, auditing bodies, CSOs and NGOs
- Many of the EU traders suspending or cancelling existing contracts whilst they understood the further requirements placed upon them for importing product from Myanmar
- Many traders had struggled with the existing Myanmar system citing complexity in exercising due diligence
- Those that continued trading were looking to understand how their due diligence and due care efforts could be further enhanced



Next Steps

- All respondents to survey were keen to understand what further traceability was available from mill to forest
- International Markets are looking to Government and authorities of Myanmar to articulate a clear and visible reform process whilst at the same time instituting traceability, legality assurance and independent verification processes
- That the Gap Assessment is used constructively as a start of a process of consultation with all stakeholders to develop and strengthen the MTLAS



Presentation by U Barber Cho, Secretary of MFCC

Good Morning!

Myanmar had good reputation in conservation of her forest as her natural resources for long time. However, because of the apparent deforestation and forest degradation, the harvesting system has been criticized. As you are aware, although the SFM Forest Certification systems has drawn the attention in the timber trade in 1990s, the status of legal timber is getting wide recognized in the international timber trade nowadays.

It is said that to decide whether it is legal or illegal, the law of the producer country must be referred and applied. However, the standard of the international requirement, especially from the developed countries, are widely referred. The legality issue is to cover the whole Supply Chain from the harvesting, transportation, manufacturing and finally to export. There are certain rules and regulation to be complied with to meet the legality status. It show that if the harvesting does not meet the legal requirement, the products will be no longer legal products even if the required rules and laws are strictly complied in later stages. It is not an hidden fact that

Myanmar had harvest over AAC in 2000s, whatever reason was given, the legality status of Myanmar timber becomes controversial. In Myanmar, the forest is administered and conserved by Forest Department, and Myanma Timber Enterprise harvests while the private sector produce. These harvesting and manufacturing are also under FD control. The Private sector cannot export, without the approval by FD, any consignment.

In order to modify such export method based on the FD-controlled regulation into Timber Legality Assurance System (TLAS), MFCC has tried to formulate based on (1) the existing practices and laws/regulations and (2) the Criteria and Indicators of ITTO/ASEAN. It will be branded as MTLAS (Myanmar Timber Legality Assurance System). So far, no Container of Timber has been exported under MTLAS. Why !. To approve MTLAS and to make MTLAS functional, we feel necessary to review the MTLAS under the multi-stakeholders consultation process. The shortfall or the weakness will be understood as GAP to strengthen MTLAS. Fortunately, MFCC has been awarded an assistance project, from EU-FAO Assistance Programme, to strengthen the MTLAS. The duration of the project is for about 8 months, The Consultative Group and The Core Team are formed with MFCC members and ITF (Interim Task Force Members which are formed for VPA Negotiation). Then The Project has appointed An Independent Assessor to work with the Core Team to find out the gap by performing DESK REVIEW , Study Tour to Indonesia and Field Trip to the FMUs in the area of TaungOo/ kalay/ Mawlike, etc. Then The International

Independent Assessor wrote the gap assessment report and then being approved after asking suggestion from Consultative Group and Core Team.

The meaning of APPROVED is that the report is approved to explain in this workshop. It does not mean that it is approved to apply it for the timber export. In this junction, I would like to assure you one important fact- the strengthening MTLAS is not totally intended to apply as a quick fixation so that the current export can be continued by avoiding EUTR/Lacey enforcements.. Although we brand as FINAL WORKSHOP, it does not mean it is final workshop to approve MTLAS. It is Final Workshop under the EU FAO assisted project. For MTLAS, it is just beginning. Without the cooperation and support

from the 3 key-stakeholders: The Government, The Private Sector and CSO/NGO, we will not be able to construct the reputable and internationally-acceptable MTLAS.

One more important thing is that we have identified certain GAPs under our study, however, there can still be GAPs which we could not identify or we failed to identify. Any system in the world never be ever perfect. We need timely review and we may need to amend, add and delete, etc. From the presentation by Ms Rachel of GTF and the attendance of many timber traders from EU and USA, we can notice that the relevant laws to be legal timber products are applied effectively in the countries and traders are very serious to make Myanmar Timbers legal.

Finally, I would like to assure you again MTLAS is not intended to be a short term system. We will try our best to make MTLAS reputable and international-acceptable TLAS System.

Thank you.

Barber Cho, Secretary of MFCC

Presentation by Ms. Sofia Ryder, International Expert MTLAS Project

MTLAS GAP ANALYSIS

17th February 2017

What is MTLAS?

- Myanmar Principles & Criteria (P&C) for legality developed in 2013 (response to ASEAN market integration objectives)
- Based on Myanmar's existing legal framework
- The P&C form basis for the Myanmar Timber Legality Assurance System (MTLAS)

Objectives of the MTLAS Gap Analysis

- To evaluate the current MTLAS against **internationally recognised principles, requirements and best practice**
- A capacity building exercise, to identify possible areas for strengthening the MTLAS in accordance with agreed objectives
- To inform the development of a VPA-TLAS that would meet FLEGT requirements and incorporate elements of best practice for legality assurance systems

Gap Analysis Process

- Led by the Myanmar Forest Certification Committee (MFCC)
- Supported by the Food and Agriculture Organization of the United Nations
- Multi-stakeholder, participatory process including a Core Group (inc. ITF members) and Consultative Group
- Included desk based component and field observations

Observation 1: MTLAS as a Legality Assurance System

- MTLAS does not include some key elements of assurance schemes e.g. licensing or attestation to the compliance of the timber or an operator, independent assurance, oversight or monitoring
- Definition of legality in the forest, mechanisms for supply chain control & verification or assurance would need to be strengthened to meet specific international frameworks for legality assurance

Observation 2: Scope of Legality Addressed in the Forest

- MTLAS does not sufficiently address some important areas covered by existing international frameworks e.g.
 - Use of legal methods to obtain tenure or management/harvesting rights
 - Provisions for the granting of customary rights
 - Free prior and informed consent in connection with transfer of forest management rights and customary rights to harvesting organisations
 - Legal requirements covering environment and biodiversity considerations

Observation 3: Supply Chain Control

- Legal framework provides a well-established system for the tracking the movement of logs to point of export
- Potential for loss of information or contamination of legal and unknown sources
- Tracing back and/or demonstrating and/or verifying a origin of timber (for DDS) necessitates travel to administrative FD and MTE offices to obtain information

Observation 4: Internal Checks in the Forest and Supply Chain

- Legal framework- operational checks are carried out by FD
- Emphasis on AAC and royalty payment
- Checks are not independently monitored or evaluated
- Effectiveness may be affected by FD capacity, physical risk to FD personnel, dishonest or unethical conduct or conflicts of interest

Observation 5: Forest Sources Addressed by MTLAS

- MTLAS P&C and control procedures address timber from reserved forests, protected public forests and unclassified forests
- MTLAS does not specifically address e.g.
 - Conversion timber
 - Timber sourced from non-state controlled sources in contested ethnic areas
 - Timber from commercial plantations
 - Timber from tree crops (e.g. rubber)
 - Imported timber

Finding 6: Stakeholder Engagement

- Limited stakeholder engagement on MTLAS P&C (and therefore limited understanding and support) achieved
- Note MFCC no mandate to develop or adapt legislation and/or consult stakeholders on appropriateness of legal framework

Finding 7: Risks of Dishonest or Unethical Conduct

- Potential for conflict of interest and dishonest or unethical conduct at all levels of the supply chain
- Indicators of dishonest or unethical conduct in specifying assurance measures have not been incorporated

Some Potential Areas for Strengthening MTLAS

1. A multi-stakeholder participatory review of the current MTLAS scope and definition of legality
2. Address all the possible sources of timber (define the legal framework and/or requirements for incorporating or isolating such sources from the verified legal supply)
3. Strengthen and simplify existing mechanisms for supply chain control including consistent recording of information critical to demonstrating traceability
4. Strengthen internal and external (independent) verification of a broader scope of compliance in the forest and supply chain controls

Potential Areas for Strengthening MTLAS (Cont.)

5. Specify measures for assurance against dishonest or unethical conduct
 6. Mechanisms for monitoring and oversight of MTLAS
 7. Mechanisms for the issuance of statements, licenses or other evidence of conformity based on compliance with the specified definitions and supply chain controls
 8. Document and make publically available MTLAS systems, processes and procedures
-

Thank you

**Final Workshop of Gap Analysis of Myanmar Timber Legality Assurance
System (MTLAS) 17 February 2017**

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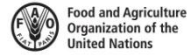
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F A O F L E G T P R O G R A M M E



Final Workshop of MTLAS Gap Analysis Project

“မြန်မာနိုင်ငံ၏ တရားဝင်ထုတ်လုပ်သည့်သစ်ဖြစ်ကြောင်းအာမခံသည့်စနစ်
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၂၀၁၇ခုနှစ်၊ ဖေဖော်ဝါရီလ (၁၇) ရက်နေ့

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