



Advancing a Sustainable Global Timber Trade through the EU FLEGT Action Plan

WWF-Malaysia Workshop Report



Report on the FLEGT Kick Start Workshop in Le Meridien, Kota Kinabalu, Sabah

October 8th, 2012:

By

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Report Produced Under Project MY03100I
Advancing a legal and sustainable global timber trade through the EU FLEGT
action plan.

The Project is funded by the European Union, represented by the European
Commission.

January 2013

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Abbreviation

CoC	Chain of Custody
EFI	European Forest Institute
EU	European Union
EUTR	European Union Timber Regulation
FLEGT	Forest Law Enforcement Governance and Trade
FSC	Forest Stewardship Council
GFS	Global Forestry Services
KDCA	Kadazandusun Cultural Association Sabah
PEFC	Programme for the Endorsement of Forest Certification
PROTEM	Pro Tempore
SFD	Sabah Forestry Department
SFMLA	Sustainable Forest Management License Agreement
TLAS	Timber Legality Assurance System
VPA	Voluntary Partnership Agreement
WWF	World Wide Fund for Nature

1.0 Workshop Overview

The Sabah's FLEGT Kick Start Workshop and Consultation was conducted at Kota Kinabalu, Sabah on 8 October 2012. This workshop was jointly organized by Sabah Forestry Department (SFD) and WWF-Malaysia, bringing together 67 participants representing Federal and State government ministries, State government agencies, indigenous people groups, private sectors and also academia (see Annex 1 for Participant List). The neighbouring state of Sarawak sent an official from the government and a representative from the forest industries to observe in the workshop.

The workshop provided an opportunity to bring together participants with wide range of experience and expertise working in the context of the forestry sector, both the forest operation and its associated trade. The intention of the workshop was to allow local stakeholder in Sabah to deepen their personal understandings of the historical background on how FLEGT process began in the county and informed them of an on-going new project in Sabah with collaboration from EU. The support from EU was in actual fact, an earlier proposal submitted to enhance the FLEGT implementation in Malaysia by WWF-Malaysia and it was only approved end 2011 with the intent to build capacity on understanding the current status of the on-going negotiation, role of Non state Actors (NSA), improving forest governance and supporting the implementation of FLEGT in Sabah. The workshop became the platform for WWF-Malaysia to share the EU funded project with the local stakeholders and also informed the group on the on-going activities currently being undertaken by SFD with regards to the FLEGT VPA process.

Workshop Objective

- a. To introduce WWF-MY's project entitled 'Advancing a legal and sustainable global timber trade through the EU FLEGT action plan.
- b. To bring together relevant stakeholders (target group) to deliberate, raise concerns and build consensus among them with regards to the FLEGT-VPA process in Sabah.
- c. To initiate a process to start the discussion on the development of TLAS Sabah, scope expansion, auditing, piloting and funding of the whole process.
- d. To present updates on the EU Timber regulation and VPA negotiation between Malaysia and the EU.

The one day workshop was very packed on its agenda but productive. There are four (4) presenters during the workshop in which the summaries of their presentation are captured in chapter 3 of this report.

2.0 Workshop Agenda

TIME	PROGRAMME	SPEAKERS
8.30-9.30 am	Arrival of participants/ Registration	
9.30-10.00 am	Opening Remarks and presentation video clip by the Director of Forestry Department, Datuk Sam Mannan	
10.00-10.30 am	Coffee Break	
10.30-11.00 am	2003 -2013 : The EU Forest Law Enforcement Governance and Trade (FLEGT) Action Plan, Almost fully operational	Mr Vincent van den Berk (Programme Coordinator – FLEGT Asia)
11.00 – 11.30 am	Updates on FLEGT VPA and TLAS Negotiation Process	Ms Loke Sim Wah (PROTEM Secretariat FLEGT)
11.30 – 12.00 pm	Development of Sabah TLAS	Mr Andurus Abi (Sabah Forestry Department) and Dr Kevin Grace (GFS Sdn Bhd)
12.00 – 12.30 pm	WWF FLEGT Project in Sabah	Ms Ivy Wong (WWF-Malaysia)
12.30 – 2.00 pm	Lunch	
2.00 – 3.00 pm	Discussion on the Next Steps for FLEGT in Sabah - Capacity Building - TLAS Review and refinement (Principle 5 & 6) - Focal point for Trade queries	Facilitated by: Mr Frederick Kugan, Sabah Forestry Department
3.00- 3.30 pm	Coffee Break	
3.30 – 4.40 pm	Discussion Continues	Mr Frederick Kugan, Sabah Forestry Department
4.40 – 5.00 pm	Concluding Remarks	
End of Programme		

3.0 Session Summaries

Opening Session: Opening Remarks

The workshop was officiated and opened by the Director of Sabah Forestry Department (SFD), Datuk Sam Mannan. The Director informed the participants briefly on the developments of FLEGT in Sabah and what Sabah has done to expand the work to build capacity on understanding the TLAS especially in supporting a project on FLEGT Auditing of the long term license forest concession holders in Sabah. This was carried out in 2010 and several recommendations from the project were taken on board to improve the Sabah TLAS auditing process and highlighted the need to complete the auditing process to the remaining principles. The Director briefed the participants that in the process of the deliberation between state and federal government on FLEGT in Malaysia, the state have stated its ambition to have the controlling powers on export of Sabah timber resources to be given back to the state. The Sabah Forestry Department has step up its work on monitoring and enforcement of logging and forestry activities in the state and showed a video clip on the treatment of seized equipment that was used to carry out illegal logging activities in the state of Sabah.

Session 1: The EU Forest Law Enforcement Governance and Trade (FLEGT) Action Plan 2003-2013 by Mr Vincent van den Berk (VVB)

VVB from European Forest Institute (EFI) briefed on the historical background of the FLEGT Action plan which was formulated in 2003 by the European Union. VVB informed the group that the EU Timber Regulation (EU TR) will come into force on 1st March 2013 and through that, a more stringent checking and monitoring system will be put in place to prevent the movement of illegal timber entering the EU. VVB also explained to the participants on the main obligations, due diligence and the definition of legality and how to determine the legality of timber. VVB presented the global situation on current VPA partnership and where Malaysia is, in terms of the FLEGT process. VVB further emphasized that having a concluded VPA does not mean immediate implementation of the FLEGT license as there is a ratification process in the EU as well as a rolling out phase in Malaysia on its TLAS and the monitoring process by the Third party Monitoring agencies. The clarification given was clear and that answered some questions posed by some participants during the workshop.

Session 2: Update on FLEGT VPA Negotiation and TLAS by Ms Loke Si Wah (LSW)

LSW from the PROTEM Secretariat presented and provided updates were based on the recent 8th multi-stakeholder consultation that was held in Kuala Lumpur. LSW briefed the participants of the current status of TLAS for Peninsular Malaysia (PM), finalization of some key measures within the legal text and also the latest development/ amendment of PM's TLAS. LSW highlighted that there were 25 issues raised on the whole Malaysia EU FLEGT process and it was clustered into 5 distinct groups, i.e., legality definition, market incentives, TLAS principles, VPA process, and stakeholder consultation process. LSW further explained that after the 3rd consultation, no new issues were recorded as it was becoming repetitive and it can be concluded that the full range of issues and concerns of stakeholders had been captured in development of TLAS and VPA negotiations. Finally, LSW concluded her presentation by giving assurance that the current VPA process will provide a marketing tool and offer market access into the EU as this will also ensure sustainability of forest resources in the longer terms and to form a legal baseline for the management of forest operation and its associated trade.

Session 3: An update on initiatives to meet timber legality requirements by Mr Andurus Abi (AB)

AB representing SFD presented a brief update on the departments' activities concerning the preparation of the timber industry towards compliance of the timber legality requirements and the EU Timber Regulation (EUTR). AB started off by updating the participants on the status of Sabah's position on FLEGT-VPA.

AB highlighted that SFD activities focused on full forest certification by 2014, and RIL had been implemented since 2010. The Sabah TLAS will be developed irrespective of whether the FLEGT-VPA is signed or not. AB further clarified that this is an on-going process and is being reviewed but yet to be finalized due to the changes of the TLAS format by the EU and the amended products scope which include seven (7) new products namely mouldings, builders joinery & carpentry, wood-based furniture, fibreboard, particle board, wooden board and railway sleepers etc.

AB explained that the TLAS which consist of 6 principles and 18 criteria will be presented and revised by November 2012. As an update, the remaining two (2) principles, i.e., Mill Operations and Trade & Custom (principle 5 & 6 of the TLAS document) is anticipated to be applied in the next mill quarterly audit and plantation timber. The plantation timber will include, among others, forest reserve converted to ITP, State Lands as well as Alienated Lands.

Before AB ended his presentation, he further assured that the department will explore other alternative options to meet the timber legality requirements such as due diligence in accordance to the EU Guidelines which is expected to be made available soon. The department also foresee that there will be more consultations that will take place before the end of the year so as to get more inputs from the stakeholders. This also includes the full utilization of the department's FLEGT unit so as to assist the industry and State-federal relation on FLEGT and Licensing issue through the appropriate channel.

Session 4: Development of Sabah TLAS Auditing System by Dr Kevin Grace (KG), Global Forestry Services

KG representing GFS (Malaysia) Sdn Bhd presented on the “Development of Sabah TLAS Auditing System”. KG explained that the state look at legality matters as an important issue as it addresses the market demand as well as meeting requirements of the importing countries regulations. KG further elaborated that companies involved in importing timber and wood products are liable for civil or criminal prosecution if found to be importing illegal timber products under the EU Timber Regulation. KG suggested that the easy way to show legality of timber is by way of certification as a key tool which include, among others, FSC, PEFC and Independent Legal Verification.

The Sabah TLAS Auditing system has been piloted on the four principles (P1-P4) and internal TLAS working group was formed by Sabah Forestry Department (SFD) to draft the initial legality auditing system. KG presented all the important updates in the build-up towards finalizing the Assessment Standard (partly) of Sabah TLAS whereby a series of workshops were conducted and the results were deliberated among the various stakeholders.

KG also highlighted the latest development of the Malaysia-EU VPA negotiation whereby Malaysia has not signed the VPA. KG clarified that EU does not expect any timber in the world to be licensed under the FLEGT system by March 2013 but nevertheless it should have due diligence system in place (importer) before the timber enters EU. Sabah TLAS provides the basis for due diligence for forest management to address the EUTR, Lacey Act and other upcoming regulations. However, KG further stressed that Sabah TLAS must be fully transparent with the results of its legal verification by making it publicly available.

At the moment, the Sabah TLAS does not include or take into consideration the supply chain. Chain of Custody (CoC) auditing or checking is being conducted on a voluntary basis and there is a need for Sabah requiring CoC systems for all mills to comply with TLAS P5 & P6. KG informed the

participants that the next step is to verify CoC supply chain from the Sabah TLAS forest area to the mills and through production and trade.

KG concluded his presentation by commending the state's commitment in taking the steps to support the systems for good forest management through Reduced Impact Logging (RIL) and Sabah TLAS that is all part of the due diligence needed in the international timber markets.

Session 5: WWF FLEGT Project in Sabah by Ms Ivy Wong (IW)

IW presented on 'WWF FLEGT Project' in Sabah. IW started off by explaining the differences between timber legality and sustainability as well as the comparison of three (3) legality regulations, i.e., Lacey Act (US), EUTR (EU) as well as the Australia illegal logging bill. IW further informed the stakeholders of the current situation that stakeholders are lacking the capacity on the issues of sustainability in forestry and market.

IW stressed that the social rights on forest issue must be resolved to move forward. As a matter of fact, money and time incentive as well as capacity building are also lacking. IW further suggested that the state should learn from countries such as Indonesia who has moved significantly on its TLAS development and implementation. Thereafter, IW explained on why and what WWF-MY intends to do with regards to timber and wood product legality in Sabah. Brief explanations on the current situation as well as the barriers to operating sustainably were highlighted. Further, IW informed the stakeholders that the EU supported project will end in 2016 and hoped that all stakeholders will work together with the governmental bodies on the project implementation action plan.

IW concluded the presentation by informing the stakeholders that WWF-MY will embark on the FLEGT project in Sabah which will include participation of all stakeholders towards the FLEGT implementation process in Sabah with allocation funding from the EC of Euro 277,024 for 42 months of project period.

Session 6: Discussion led by Mr Fredrick Kugan (FK)

This session aimed at providing participants with the opportunity to ask questions as well as provide inputs moving forward as well as ways in which the momentum gained from the process can be sustained. The discussion started off with a summary of a few selected topics from the previous presentations and deliberation of these topics as follows:

Topic: Revision of Sabah TLAS

- The revision is to be done with all relevant stakeholders which include the timber industry. Sabah Timber Association will assist in any way possible with regards to the consultation involving the industry.
- Sabah TLAS is expected to be finalized by November 2012¹.
- WWF-MY to support in any way possible consultation participation. SFD will revise the existing TLAS by means of incorporating the new requirements by the EU e.g. seven (7) additional products. SFD will require assistance and support from the relevant stakeholder in order to expedite the process.
- Any relevant information or reports must be circulated within two (2) weeks before the consultation takes place.
- PROTEM Secretariat advised that EU requested additional element to be documented and TLAS data management to be observed. In response to that, SFD informed that the database for TLAS has been successfully developed and further addition will be updated to include useful statistic on mill operation.
- SFD informed that the first auditing covers all long term licenses while the second audit will be extended to other license holders. SFD also highlighted that SFMLA holders have agreed to the threshold of 70% for legal compliance provided that they meet the critical indicators.
- PROTEM informed that the discussion at the National level regarding the data monitoring is based on mass volume and not on species level.
- SFD will appoint credible and recognized auditors to do the monitoring.
- SFD expecting to address the risk management needs by end 2012².

Topic: Scope expansion

- Due to the fact that pulp and paper production is significant in Sabah; SFD will consider including that in the product scope.
- Revised TLAS shall be circulated to all relevant stakeholders for their inputs and followed by workshop.

¹ The meeting has not taken place as per planned. The new tentative date is January 14-15, 2013.

² This has not been completed.

- An enquiry was made with regards to whether 70% passing mark is acceptable to EU in meeting the timber legality requirements and will be further deliberated.
- SFD clarified that the definition of legality as proposed in Sabah TLAS is in-line with the VPA. Further deliberation on the legality definition will be required and in order to be accepted by the EU.

Topic: Auditing

- The Terms of Reference (ToR) for Third Party Monitoring (TPM) was drafted by Malaysia and reviewed by the EU. The ToR should include working experience with forest management.
- SFD needs to reduce the frequency of audits. Therefore, a combination of all audits into one exercise comprising of TLAS, SFMLA internal audit etc. to develop a comprehensive audit.

Topic: Piloting

- SFD proposed to pilot the revised Sabah's TLAS, which includes Principle 5 & Principle 6. Besides that, identifying suitable practical mechanisms for the audit should also be piloted involving the industry players.
- Industry representatives agreed that this can be done after setting up the working committee.

Topic: Funding

- SFD thanked the EU and WWF-Malaysia via its support for the allocated funds for FLEGT in Sabah in the amount of Euro 277,024. This includes conducting workshops and consultations, and for including the expansion of Principles 5 & 6 in TLAS Sabah.
- EFI's FLEGT coordinator, Mr Vincent informed that FAO /EU FLEGT had developed a new program which will start in January 2013. This program, an activity under the VPA, covers funding of pilot activities applicable by government institutions. He will email the full details to SFD.

Topic: Others




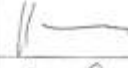
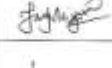


- NIOSH expressed concerns for Sabah's level of compliance to the OSH regulation which at present, is below par. This could be improved by having more support in terms of funding for documentation, conducting safety trainings or workshops, and for the establishment of a safety committee. NIOSH explained that part of the funding could be sourced from SOCSO (PERKESO) but there is not enough for the intended improvements.
- The representative from KDCA, Dr Benedict highlighted the role of community organization and the need to provide support e.g. logistics etc. to ensure their active participation in follow-up workshop.




The workshop which ended at 4.40 pm was closed with Mr Fredrick Kugan thanking everyone for their attendance, cooperation as well as active participation throughout the workshop.


Annex 1: Participant List

SABAH'S FLEGT KICK START WORKSHOP AND CONSULTING
8TH OCTOBER 2012
LE MERIDIAN HOTEL KOTA KINABALU

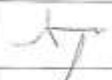




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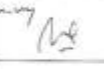
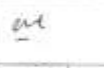
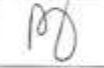
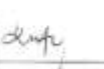

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SABAH'S FLEGT KICK START WORKSHOP AND CONSULTING IN SABAH
8TH OCTOBER 2012
LE MERIDIAN HOTEL, KOTA KINABALU

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42.			PACOS		
43.			Jabatan Tenaga Kerja Sabah		

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44.			Sabah Environmental Protection Department (SEPA)		
45.			Persatuan Murut Sabah (PMS)		
46.			CASH, Labuan		
47.			INDEP		
48.			Persatuan Momogun Rungus Sabah (SAMORA)		
49.			Persatuan Kedayan Sabah (KEDAYAN)		
50.			Kesatuan Pekerja-Pekerja Industri Perkayuan, Sandakan		

51 See Yu Ling

~~51~~ (Innovating Furniture S/B) Yusoff Esmail

**SABAH'S FLEGT KICK START WORKSHOP AND CONSULTING IN SABAH
8TH OCTOBER 2012
LE MERIDIAN HOTEL KOTA KINABALU**

NO.	NAMES	POSITION	ORGANIZATION	SIGNATURE
1.	Datuk Sam Mannan	Director of Forestry	Sabah Forestry Department	
2.	TP(FSP)	Deputy Director (FSP)	Sabah Forestry Department	
3.	M(FME)	Manager(FME)	Sabah Forestry Department	
4.	Mr. Jeflus S. Sinajin	K(SFM)	Sabah Forestry Department	
5.	Mr. Mashor Hj. Mohd. Jaini	K(FRM)	Sabah Forestry Department	
6.	Mr. Andurus Abi	K(EIS)	Sabah Forestry Department	
7.	Mr. Werfred Jilimin	K(P&P)	Sabah Forestry Department	
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Annex 2: Plates



Fellow participants exchanging views on the development of FLEGT in Sabah.



Mr Vincent van den Berk of the European Forest Institute having discussion with fellow speakers.



Participants of the 1 day workshop



Datuk Sam Mannan of Sabah Forestry Department delivering his opening speech at the workshop.



Mr Vincent van den Berk delivering his presentation entitled “FLEGT Action Plan 2003-2013”.



Ms Loke Sim Wah delivering her presentation on “Update on FLEGT-VPA negotiation and TLAS”.



Dr Kevin Grace of GFS (Malaysia) delivering his presentation entitled “Development of Sabah TLAS”.



Ms Ivy Wong of WWF-Malaysia delivering her presentation entitled “WWF FLEGT Project in Sabah”.



Q&A session with the participants of the workshop.



Mr Fred Kugan of Sabah Forestry Department chairing the discussion and wrap up session for the workshop.

Annex 3: Handouts