

THE GOVERNMENT

No. 102/2020/ND-CP

SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom – Happiness

Hanoi, September 01, 2020

DECREE

VIETNAM TIMBER LEGALITY ASSURANCE SYSTEM

Pursuant to the Law on Government organization dated June 19, 2015;

Pursuant to the Law on Forestry dated November 15, 2017;

Pursuant to the Voluntary Partnership Agreement on Forest Law Enforcement, Governance and Trade (VPA/FLEGT) between Vietnam and Europe Union, which comes into force from June 01, 2019;

At the request of the Minister of Agriculture and Rural Development;

The Government promulgates a Decree on Vietnam Timber Legality Assurance System .

Chapter I

GENERAL PROVISIONS

Article 1. Scope

1. This Decree provides for Vietnam Timber Legality Assurance System (VNTLAS) for export and import; criteria, authority, procedures for classifying timber producers and exporters; issuance of FLEGT licenses.
2. Regulations of law on management, tracing of origins of forestry products and relevant legislative documents shall apply to VNTLAS for harvest, transport, trade and processing of timber.

Article 2. Regulated entities

This Decree applies to domestic organizations, household businesses, households, communities, individuals; foreign organizations and individuals involved in the activities mentioned in Article 1 of this Decree.

Article 3. Definitions

For the purpose of the Decree, the terms below are construed as follows:

1. “legal timber” means timber or timber products (hereinafter referred to as “timber”) that are harvested, imported, confiscated, transported, traded, processed, exported in accordance with Vietnam’s law, relevant regulations of international treaties to which Vietnam is a signatory and relevant laws of the country in which the timber is harvested.
2. “FLEGT license” means a document issued by a CITES authority of Vietnam for export, temporary import and re-export of timber shipments (except confiscated shipment) to Europe Union (EU) in accordance with this Decree, the VPA/FLEGT and relevant legislative documents.
3. “owner” means an organization, household business, household, community or individual who has the legal ownership to the timber as prescribed by law.
4. An “organization” can be an enterprise, cooperative, cooperative union, management board or a protection forest or specialized forest, or any other organization established in accordance with regulations of law.
5. “verification” means inspection of the legitimacy, legality and consistency of the documents and the actual import/export shipment of timber.
6. “local forest protection body” can be a district-level forest protection body or provincial forest protection body where district-level forest protection bodies are not available.
7. A “shipment” means a single export/import/temporary import/re-export shipment of a specific amount of timber according to the export/import/temporary import/re-export documents.
8. “enterprise classification system” means a system for receiving, processing, storing and publishing information about enterprise classification.
9. “relevant laws of the country of harvest“ means applicable regulations of law of that country on harvest, management of forests, timber taxes, trade and customs.
10. “timber declaration” means information about the timber shipment provided by the owner upon import/export of timber. The owner shall be legally responsible for the declared information and legal timber origins in the packing list.
11. A “low risk country” means a country that satisfies one of the criteria specified in Clause 1 Article 5 of this Decree.
12. “high risk timber” means timber that satisfies one of the criteria specified in Clause 1 Article 6 of this Decree.
13. “due diligence” of the importer means the responsibility of the importer to provide information about legality of the imported timber, implement measures for assessing and minimizing risks required by the country of harvest and this Decree; and take responsibility for the information they provided.

Chapter II

MANAGEMENT OF IMPORTED AND EXPORTED TIMBER

Section 1. MANAGEMENT OF IMPORTED TIMBER

Article 4. General provisions

1. Imported timber must be legal, undergo all import procedures, be inspected and monitor by the customs in accordance with customs laws.
2. Risk management principles shall apply to management of imported timber to prevent, discover, stop and deal with violations of law, ensuring timber is imported legally while encouraging organizations and individuals to comply with law.
3. Imported timber shall undergo risk management according to the criteria specified in Article 5 and Article 6 of this Decree on determination of low risk and high risk countries, low risk and high risk timber.
4. The timber importer shall be legally responsible for:
 - a) Legal origins of the timber according to relevant laws of the country of harvest;
 - b) Comply with the request for information according to the criteria for evaluation of exporting countries prescribed in Article 5 of this Decree and the criteria for determination of risk category of imported timber prescribed in Article 6 of this Decree.
 - c) In the cases specified in Point c Clause 2 Article 7 of this Decree: Provide documents; declare the origin of imported timber; take responsibility for the accuracy of the documents provided and information declared.
5. Documents for sale, transfer of imported timber:
 - a) In case the importer sells all or part of the import shipment to one or more than one buyers, the importer shall prepare a packing list by extracting information from the packing list for imported timber, make copies of the timber dossier for import bearing the importer's signature and seal (if any), provide them for the buyers and retain the original copies;
 - a) In case the buyer mentioned in Point a of this Clause sells all or part of the import shipment to another buyer, the seller shall prepare a packing list by extracting information from the previous packing list, make copies of the timber dossier for import bearing the seller's signature and seal (if any), provide them for the buyer and retain the original copies;
 - c) In case the imported timber is sold to another buyer, the seller shall follow the instructions specified in Point b of this Clause;

d) Regulations of Point a, b or c of this Clause shall apply to other forms of ownership transfer.

Article 5. Criteria for determination and authority to announce low risk countries

1. Countries are considered low risk if:

a) They have an operative TLAS in place issuing FLEGT licenses; or

b) They have binding national regulatory frameworks on due diligence for timber legality covering the whole supply chain to the country of harvest recognized by Vietnam as meeting the VNTLAS criteria; or

c) The indicator for effectiveness of government according to World Bank Worldwide Governance Indicators (WGI) is from 0 and above. The regulatory system on for CITES implementation is rated I-level as announced by the CITES Secretariat and one of the two following are met: Vietnam has a bilateral agreement on timber legality with these countries, or countries have a national regulatory timber certification scheme recognized by Vietnam as meeting timber legality criteria prescribed by this Decree.

2. A country will be considered high risk if the criteria specified in Clause 1 of this Article are not satisfied.

3. The Ministry of Agriculture and Rural Development shall cooperate with the Ministry of Industry and Trade, the Ministry of Natural Resources and Environment, the Ministry of Foreign Affairs, relevant ministries and central authorities in issuing and updating the list of low risk countries in accordance with international treaties to which Vietnam is a signatory.

The list of low risk countries shall be published on www.kiendlam.org.vn.

Article 6. Criteria for determination and authority to announce risk category of imported timber species

1. Imported timber species are considered high risk if:

a) The species are listed in any of the Appendices of CITES;

b) The species are critically endangered precious and rare species in Category IA and Category IIA; on Vietnam's List of controlled species;

c) The timber species are imported into Vietnam for the first time;

d) The species are threatened with extinction in the country of harvest or illegally traded as determined by the Ministry of Agriculture and Rural Development, the Ministry of Industry and Trade, the Ministry of Natural Resources and Environment, the Ministry of Foreign Affairs, relevant ministries, central authorities and the organizations specified in international treaties to which Vietnam is a signatory.

2. Low risk species are defined as those not satisfying any of the criteria specified in Clause 1 of this Article.

3. The Ministry of Agriculture and Rural Development shall take charge and cooperate with relevant authorities in updating and announcing the list of imported types of timber every 6 months on June 30 and December 31.

The list of imported types of timber, including their scientific name, common Vietnamese names and English names (if any), shall be published on www.kiemlam.org.vn.

Article 7. Timber dossier for import

While following customs procedures for the import shipment, in addition to the customs dossier prescribed by customs law, the importer shall submit the following documents to the customs authority where the declaration is registered:

1. Original copy of the packing list for imported timber (Form No. 01 or 02 in Appendix I hereof).

2. One of the following documents:

a) In case the timber is listed in a CITES Appendix: Copy of the CITES permit for export or re-export issued by a CITES authority of the exporting or re-exporting country; Copy of the CITES permit for import issued by a CITES authority of Vietnam;

b) In case timber is imported from a country that has entered a Timber Legality Agreement with EU and has an operative FLEGT licensing system: Copy of the FLEGT license to export issued by a competent authority of the exporting country;

c) In cases other than those specified in Point a or Point b of this Clause: Declaration of imported timber origin (Form No. 03 in Appendix I hereof).

Section 2. MANAGEMENT OF EXPORTED TIMBER

Article 8. General provisions

1. Exported timber must be legal, undergo all export procedures, be inspected and monitor by the customs in accordance with customs laws.

2. Exported timber shall be managed by types, importing countries and classification of timber processors and exporters.

3. Exported timber shall have CITES permits, FLEGT licenses or packing list prescribed by this Decree.

4. A shipment of exported timber that has been granted a FLEGT license will be prioritized while following customs procedures as prescribed by customs laws.

Article 9. Verification of timber origin before export

1. Subject of verification: Shipments of timber for export of owners other than Category I enterprises.

Verification is not required for shipments of timber derived from domestic cultivated forests for export to non-EU markets

2. Verifying authority: domestic forest protection authority.

3. An application for verification of timber origin for export shall consist of:

a) Original copy of Form No. 04 in Appendix I hereof;

b) Original copy of the packing list for exported timber (Form No. 05 or 06 in Appendix I hereof);

c) Copies of the timber dossier for import specified in Article 7 of this Decree or documents about origin of domestically harvested timber according to regulations on the Minister of Agriculture and Rural Development on management and tracing of forest product origins.

4. The owner shall send submit the application in person, by post, by email or through the enterprise classification system.

5. Procedures:

a) The owner shall submit 01 application prescribed in Clause 3 of this Article to the domestic forest protection authority (verifying authority). Within 01 working day from the receipt of the application, the verifying authority shall carry out the verification or, if the application is invalid, instruct the owner in person or in writing to supplement the application;

b) The verifying authority shall complete the field check within 03 working days from the receipt of the valid application in accordance with Clause 6 of this Article and grant the certification. In case certification is not granted, the verifying authority shall send a written notification and provide explanation within 01 working day from the day on which the verification record is issued.

6. Inspecting export shipments of timber:

a) Inspection time: before the shipment is loaded onto the means of transport;

b) Inspection location: The warehouse/depot where the shipment is stored as requested by the owner;

c) Inspection contents: compare documents prepared by the owner with the actual weight, quantity, specifications, types and origin of timber; legality of the shipment; issue inspection record according to Form No. 07 in the Appendix hereof and certify the packing list;

d) 20% of the timber shipments shall undergo field check. When informed of violations, forest protection officials shall propose increase in this percentage and extension of inspection period for up to 02 more days to the head of the forest protection authority, who will be legally responsible for his/her decision.

Article 10. Timber dossier for export

While following customs procedures for the export shipment, in addition to the customs dossier prescribed by customs law, the importer shall submit one of the following documents to the customs authority where the declaration is registered:

1. a) If the timber is listed in a CITES Appendix: Original copy or electronic copy of the CITES permit for export issued by a CITES authority of Vietnam.

2. If the timber is not listed in any CITES Appendix:

a) In case timber is exported to EU market: Original copy or electronic copy of the FLEGT license;

b) In case timber is exported to non-EU markets:

If the owner is a Category I enterprise: Original copy of the packing list prepared by the owner.

If the owner is not a Category I enterprise: Original copy of the packing list prepared by the owner and certified by a domestic forest protection authority in accordance with Article 9 of this Decree.

3. In case the owner has completed the dossier for export and entrust another enterprise to export, the authorized enterprise shall enclose the entrustment contract with the documents mentioned in Clause 1 or Clause 2 of this Article.

Chapter III

CLASSIFICATION OF TIMBER PROCESSORS AND EXPORTERS

Article 11. General provisions

1. Enterprises shall be classified through the enterprise classification system.

2. The enterprise classification system shall be run by constantly updated with information about the enterprises' operation and compliance to the law provided by the enterprises and verified by competent authorities as prescribed by this Decree.

3. The first classification shall be done when an enterprise signs up into the enterprise classification system. The second classification shall be carried out after 1 year from the first classification. The third and succeeding classifications shall be carried out every 02 years for Category I enterprises and every year for Category II enterprises from the previous classification date or from the date of conversion from Group I to Group II.

4. The provincial forest protection authority (or Provincial Department of Agriculture and Rural development if a provincial forest protection authority is not available) shall classify enterprises in accordance with Article 12 and Article 13 of this Decree.

Article 12. Classification criteria

1. Category I enterprises are those that:

a) Have been registered and operated for at least 01 year from the registration date in accordance with regulations of law on enterprise establishment and operation;

b) Comply with regulations of law on timber legality assurance of this Decree and the Minister of Agriculture and Rural Development; and

c) Prepare and submit reports in accordance with Clause 4 Article 27 of this Decree and retain original documents as prescribed by law;

d) Not commit any of the violations specified in Clause 4 Article 13 of this Decree;

dd) The criteria mentioned in Point a and Point b of this Clause are specified in Appendix II hereof.

2. Category II enterprises are those that fail to satisfy any of the criteria specified in Clause 1 of this Article.

Article 13. Classification procedures

1. Subjects of classification: legally established enterprises that process and export timbers.

2. Applications shall be received and processed by the forest protection authority or Department of Agriculture and Rural development if a provincial forest protection authority is not available (hereinafter referred to as “receiving authority”) of the province where the enterprise’s headquarters or processing facility is located.

3. Procedures:

a) The applying enterprise (applicant) shall sign up into the enterprise classification system and complete Form No. 08 in Appendix hereof.

If the applicant cannot access the enterprise classification system, Form No. 08 may be submitted in person or sent by post to the receiving authority, which will enter information into the enterprise classification system;

b) Within 01 working day from the receipt of the enterprise's information as prescribed in Point a of this Clause, the enterprise classification system will automatically classify the enterprise into Category I according to the criteria specified in Clause 1 Article 12 of this Decree.

If the information provided by the enterprise needs verifying, the receiving authority shall, within 03 working days from the day on which the classification result is available on the enterprise classification system, send a written notification of the time and contents of verification to the applicant. Within 05 working days from the notification date, the receiving authority shall cooperate with relevant agencies in verifying the information and inform the result to the applicant;

c) Within 03 working days from the day on which the enterprise is classified into Category I or the verification result is available as prescribed in Point b of this Clause, the receiving authority shall classify the enterprise into Category I if the criteria specified in Clause 1 Article 12 of this Decree are fully satisfied;

d) Within 01 working day from the day on which the enterprise is classified into Category I as prescribed in Point c of this Clause, the receiving authority shall inform the enterprise of the result. In case the criteria for Category I enterprises are not fully satisfied, the receiving shall inform and provide explanation for the enterprise.

4. In case a Category I enterprise or its legal representative is facing criminal prosecution as prescribed in Article 232 of the 2015's the Criminal Code (amended in 2017) or incurs administrative penalties for illegal logging, deforestation, transport of forest products, trade or processing of forest products that carries a fine of 25.000.000 VND or above:

a) Within 01 working day from the day on which information about the violations is received from a competent authority, the receiving authority shall issue a decision to put the enterprise into Category II, update the enterprise classification system and provide explanation therein;

b) Within 01 working day from the day on which the enterprise classification system is updated, Forest Protection Department shall publish the list of reclassified enterprises on www.kiemlam.org.vn.

5. The Ministry of Agriculture and Rural Development shall elaborate regulations on enterprise classification.

Chapter IV

FLEGT LICENSES AND INDEPENDENT EVALUATION

Section 1. FLEGT Licensing

Article 14. General provisions

1. FLEGT licenses shall be granted for each export shipment of legal timber that is listed under Appendix III of this Decree of an exporter or that is temporarily imported at the first checkpoint of import into the EU market.
2. An export shipment of timber to the EU market will be granted only one FLEGT license before the customs declaration is registered.
3. FLEGT licensing shall be electronic. In case electronic licensing is not available or at the request of the owner, a physical FLEGT license may be issued provided it is updated to the electronic licensing system. The licensing authority shall retain the physical license and send an electronic photocopy of the issued FLEGT license to the FLEGT authority of the importing country in EU.
4. For a shipment of mixed timber where the details cannot be fully specified in the FLEGT license, the qualitative and quantitative information about the shipment shall be specified in the extra description sheet (Form No. 09 in Appendix I hereof).
5. For an export shipment of both timber that is listed in CITES appendices and timber that is not listed in CITES appendices to EU market, a single CITES license shall be issued in accordance with the Government's Decree No. 06/2019/ND-CP. For timber that is listed in Cites appendices, the application for licensing shall be prepared in accordance with Clause 2 Article 23 of Decree No. 06/2019/ND-CP. For timber that is not listed in CITES appendices, the application for licensing shall be prepared in accordance with Clause 3 Article 16 of this Decree.
6. An FLEGT license is not required for any export shipment of timber to the EU market that has been granted a CITES license.

Article 15. FLEGT license and effective period of FLEGT license

1. An FLEGT license shall have the A4 paper size; information therein shall be written in both Vietnamese and English according to Form No. 10 in Appendix I hereof. The license shall bear the signature and seal of a CITES authority of Vietnam.
2. Erasures and changes are not permitted on the FLEGT license, except the license is renewed, replaced or reissued by a CITES authority of Vietnam.
3. The FLEGT will be effective for up to 06 months from its issuance date.

Article 16. Issuing the FLEGT license

1. The FLEGT license shall be granted for: legal timber that is listed under Appendix III of this Decree that is exported or temporarily imported to EU market, except timber subject to CITES licensing or shipments of products derived from confiscated timber.

2. FLEGT licensing authority: CITES authority of Vietnam (hereinafter referred to as “licensing authority”).

3. An application for the FLEGT license shall consist of:

a) Original copy of Form No. 11 in Appendix I hereof;

b) Original copy of the packing list if the applicant is a Category I enterprise; Original copy of the packing list certified by a domestic forest protection authority if the applicant is not a Category I enterprise;

c) Copy of the sale contract or equivalent;

d) Invoices prescribed by the Ministry of Finance (if any);

dd) Other documents proving legal origins of the export shipment of timber (if any).

4. The owner shall submit the application in person, by post or electronically (through the National Single-window Information Portal, FLEGT Licensing System or National Public Service Portal).

5. Procedures:

a) The owner (applicant) shall submit 01 application prescribed in Clause 3 of this Article to the licensing authority. The licensing authority shall examine the validity of the application. If the application is invalid, the licensing authority shall, within 02 working days from the receipt of the application, inform and instruct the owner to supplement the application in writing, by email or through the National Single-window Information Portal, FLEGT Licensing System or National Public Service Portal;

b) Within 05 working days from the receipt of the valid application, the licensing authority shall decide whether to issue the FLEGT license or reject the application, in which case the licensing authority shall inform the applicant and provide explanation.

In case of the legal origin of timber is suspicious, the licensing authority shall, within 03 working days from the receipt of the application, send a written notification of verification time to the applicant, the verifying authority and relevant authorities. The licensing authority shall take charge and cooperate with the verifying authority and relevant authorities in verifying the legality of the shipment. The verification shall not last longer than 10 working days from the notification date. A record shall be made according to Form No. 12 in Appendix 1 hereof when the verification is done.

c) Within 01 working day from the ending date of the verification, the licensing authority shall issue the FLEGT license if the shipment is eligible, or inform the applicant and provide explanation if the application is rejected;

d) Within 01 working day from the issuance date of the FLEGT license, the licensing authority shall provide the FLEGT license for the applicant, upload information about the issued FLEGT license to its website, and send a photocopy of the issued FLEGT license to the FLEGT authority of the importing country in EU.

6. For export shipment of timber samples for commercial purposes, the application for the FLEGT license shall contain the documents specified in Points a, b and dd Clause 3 of this Article.

Article 17. Renewing the FLEGT license

1. When an FLEGT expires before a licensed shipment of timber is exported, the owner may apply for renewal of the FLEGT license.

2. The licensing authority is also the renewing authority.

3. An application for renewal of the FLEGT license shall consist of:

a) Original copy of Form No. 13 in Appendix I hereof which has to contain the reason for renewal;

b) Original copy of the physical FLEGT license or electronic copy of the electronic FLEGT license.

4. The owner shall submit the application in person, by post or electronically (through the National Single-window Information Portal, FLEGT Licensing System or National Public Service Portal).

5. Procedures:

a) The owner (applicant) shall submit 01 application prescribed in Clause 3 of this Article to the licensing authority. If the application is invalid, the licensing authority shall, within 02 working days from the receipt of the application, inform and instruct the owner to supplement the application in writing or through the National Single-window Information Portal, FLEGT Licensing System or National Public Service Portal;

b) Within 03 working days from the receipt of the valid application, the licensing authority shall decide whether to renew the FLEGT license or reject the application, in which case the licensing authority shall inform the applicant and provide explanation;

c) Within 01 working day from the renewal date of the FLEGT license, the licensing authority shall provide the renewed FLEGT license for the applicant, upload information about the renewed FLEGT license to its website and inform the FLEGT authority of the importing country in EU. In case the application is rejected, the licensing authority shall, within 01 working day from the day on which the written rejection is signed, send a notification to the applicant.

6. Within 15 working days from the expiration date of the FLEGT license, the holder must apply for its renewal. The license shall be renewed by putting a new expiration date thereon and appending a seal in box 4.1. A renewed license will be effective for up to 02 more months from the renewal date.

Article 18. Replacing the FLEGT license

1. An FLEGT license will be replaced if it is lost, damaged or incorrect.

2. The licensing authority will replace the license.

3. An application for replacement of the FLEGT license shall consist of:

a) If the physical FLEGT license is lost: Original copy of Form No. 13 in Appendix I hereof;

b) If the physical FLEGT license is damaged or incorrect: Original copy of Form No. 13 in Appendix I hereof and original copy of the FLEGT license issued;

c) If the electronic FLEGT license is incorrect: Original copy of Form No. 13 in Appendix I hereof and electronic copy of the FLEGT license issued.

4. The owner shall submit the application in person, by post or electronically (through the National Single-window Information Portal, FLEGT Licensing System or National Public Service Portal).

5. Procedures:

a) The owner shall submit 01 application prescribed in Clause 3 of this Article to the licensing authority. If the application is invalid, the licensing authority shall, within 02 working days from the receipt of the application, inform and instruct the owner to supplement the application in writing, by email or through the National Single-window Information Portal, FLEGT Licensing System or National Public Service Portal;

b) In the cases specified in Point a Clause 3 of this Article: Within 02 working days from the receipt of the valid application, the licensing authority shall send General Department of Customs a request for verification of the customs clearance status of the shipment to which the FLEGT license is granted. Within 01 working day, from the receipt of the response from General Department of Customs, the licensing authority shall decide whether to replace the FLEGT license or reject the application, in which case the licensing authority shall inform the applicant and provide explanation;

c) In the cases specified in Point b and Point c Clause 3 of this Article: Within 03 working days from the receipt of the valid application, the licensing authority shall decide whether to replace the FLEGT license or reject the application, in which case the licensing authority shall inform the applicant and provide explanation;

d) Within 01 working day from the replacement date of the FLEGT license, the licensing authority shall provide the FLEGT license for the applicant, upload information about the reissued FLEGT license to its website and inform the FLEGT authority of the importing country in EU. In case the application is rejected, the licensing authority shall, within 01 working day from the day on which the written rejection is signed, send a notification to the applicant.

6. The specimen of the replacing FLEGT license specimen is provided in Form No. 10 in Appendix I hereof. The replacing license shall contain all information on the original license and bear the words “giấy phép thay thế” (“replacement”). The replacing license shall have the same expiration date as that of the original license.

Article 19. Reissuing the FLEGT license

1. The FLEGT license will be reissued if there are changes in the products, HS codes, timber species, unit or more than 10% difference in quantity or weight in the export shipment of timber.

2. The licensing authority will reissue the license.

3. The owner shall submit the application in person, by post or electronically (through the National Single-window Information Portal, FLEGT Licensing System or National Public Service Portal).

4. An application for reissuance of the FLEGT license shall consist of:

a) If the quantity or weight of the shipment is smaller than that specified in the FLEGT license: Original copy of Form 13 in Appendix I hereof and original copy of the physical FLEGT license or electronic copy of the electronic FLEGT license;

b) If the quantity or weight of the shipment is greater than that specified in the FLEGT license or the products, HS codes or timber species in the shipment are changed: the documents specified in Point a of this Clause, Points b, c, dd Clause 3 Article 16 of this Decree.

5. Procedures:

a) In the cases specified in Point a Clause 4 of this Article:

The owner (applicant) shall submit 01 application specified in Point a Clause 4 of this Article to the licensing authority.

If the application is invalid, the licensing authority shall, within 01 working day from the receipt of the application, inform and instruct the owner to supplement the application in writing, by email or through the National Single-window Information Portal, FLEGT Licensing System or National Public Service Portal.

Within 02 working days from the receipt of the valid application, the licensing authority shall decide whether to reissue the FLEGT license or reject the application, in which case the licensing authority shall inform the applicant and provide explanation.

c) Within 01 working day from the reissuance date of the FLEGT license, the licensing authority shall provide the FLEGT license for the applicant, upload information about the reissued FLEGT license to its website and inform the FLEGT authority of the importing country in EU. In case the application is rejected, the licensing authority shall, within 01 working day from the day on which the written rejection is signed, send a notification to the applicant.

b) In the cases specified in Point b Clause 4 of this Article: follow the procedures specified in Clause 5 Article 16 of this Decree.

6. The reissued FLEGT will be effective for up to 06 months from the reissuance date.

Article 20. Revoking the FLEGT license

1. The FLEGT license will be revoked if:

a) It is voluntarily returned by the owner (license holder);

b) The FLEGT expires but the owner does not export the shipment or apply for renewal of the license, in which case the owner shall return the license to the licensing authority within 10 days from its expiration date;

c) Violations relevant to the export shipment of timber of law are discovered after the FLEGT license is issued;

d) The owner forges or falsifies information on the issued FLEGT license.

2. The licensing authority will revoke the license.

3. Procedures:

a) In the cases specified in Point a and Point b Clause 1 of this Article where the FLEGT license is issued electronically, the owner shall return the license to the licensing authority through the electronic FLEGT licensing system. The licensing authority shall invalidate the license on the system;

b) In the cases specified in Point a and Point b Clause 1 of this Article where the FLEGT license is issued physically, the owner shall return the license to the licensing authority in person or by post;

c) In the cases specified in Point c and Point d Clause 1 of this Article, the licensing authority shall issue a decision to revoke the FLEGT license;

d) The licensing authority shall upload information about the revoked FLEGT license to its website and inform the FLEGT authority of the importing country in EU.

4. The physical FLEGT license that is revoked and the decision on revocation shall be retained for 05 years.

Article 21. Electronic issuance of the FLEGT license

1. A physical application is not required after an electronic application has been submitted by the owner. The electronic application shall be photocopies of the original copies, unless they have digital signatures.

2. The owner shall retain the original copies of the documents specified in Articles 16, 17, 18, 19 of this Decree for 05 years from the submission date and provide them for competent authorities when requested.

3. In case of a physical FLEGT license, owner shall submit the application for renewal, replacement or reissuance of the license in person or by post.

Section 2. INDEPENDENT EVALUATION

Article 22. Identification of independent evaluator

1. The independent evaluator shall be a juridical person in Vietnam.

2. The independent evaluator must not participate in the import, processing and export of timber or formulation of forestry regulatory documents; forest management and timber trade.

3. The independent evaluator shall have a quality control system suitable with ISO 17021 or equivalent.

4. The independent evaluator's personnel shall have professional qualifications and practical experience of audit and evaluation relevant to forest management, protection and utilization; forest product processing and trade.

5. The independent evaluator must not have any conflict of interest resulting from a relationship with timber importers, processors, exporters and forestry sector regulatory authorities.

6. The Ministry of Agriculture and Rural Development shall consult with the organizations specified in the International Treaties to which Vietnam is a signatory in appointing the independent evaluator in accordance with bidding laws.

Article 23. Evaluation contents

1. The implementation of the VNTLAS; control of the supply chain and data management; classification of enterprises and certification of timber for export.

2. FLEGT licensing.
3. Difficulties that occur during the implementation of the VNTLAS.
4. Other contents decided by the Ministry of Agriculture and Rural Development and the organizations specified in the International Treaties to which Vietnam is a signatory.
5. The evaluation framework shall be decided by the Ministry of Agriculture and Rural Development and the organizations specified in the International Treaties to which Vietnam is a signatory.

Article 24. Evaluation methodology, evaluation frequency and reporting

1. The independent evaluation methodology shall conform to ISO 19011, ISO 17021 or equivalent under decision of the Ministry of Agriculture and Rural Development and the organizations specified in the International Treaties to which Vietnam is a signatory.
2. Frequency: every 06 months in the first year after the FLEGT license is issued; every 12 months in the next two years. after 03 years, the Ministry of Agriculture and Rural Development shall cooperate with the organizations specified in the International Treaties to which Vietnam is a signatory in deciding the evaluation frequency.
3. Reporting: Within 15 days from the end of the evaluation, the independent evaluator shall submit a report to the Ministry of Agriculture and Rural Development and the organizations specified in the International Treaties to which Vietnam is a signatory.

Chapter V

ORGANIZING THE IMPLEMENTATION

Article 25. Responsibilities of the Minister of Agriculture and Rural Development

1. Take charge and cooperate with relevant ministries and central authorities in providing guidance and organizing the implementation of this Decree within their jurisdiction.
2. Cooperate with relevant ministries, central authorities and the People's Committees of provinces in inspecting and supervising the implementation of this Decree.
3. Preside over the development of the database of enterprise classification and forestry-related violations; operation of the FLEGT licensing system and FLEGT licensing data; provide guidance on management and use of this database.
4. Reach a consensus with the Joint Implementation Committee (JIC) on evaluation methodology and evaluation of necessary preparations for the FLEGT licensing in accordance with VPA/FLEGT; propose the effective date of the Decree on management of timber of export

specified in Section 2 Chapter II and FLEGT licensing specified in Section 1 Chapter IV of this Decree to the Prime Minister.

Article 26. Responsibilities of the People’s Committees of provinces

1. Organize promotion of the VNTLAS in accordance with this Decree.
2. Provide guidance and supervise local authorities implementing this Decree.
3. Request relevant authorities to cooperate with forest protection authorities in classifying enterprises in accordance with this Decree.

Article 27. Responsibilities of forest protection authorities, FLEGT licensing authorities, customs authorities, relevant organizations and individuals

1. Forest protection authorities:

- a) Provincial forest protection authorities (or Departments of Agriculture and Rural development of provinces in which provincial forest protection authorities are not available) shall preside over the certification of timber for export; organize the enterprise classification; inspect and supervise compliance to the law of organizations and individuals within their jurisdiction; manage and trace origins of timber; retain documents in accordance with this Decree and relevant laws; retain, backup and protect data about transactions on the enterprise classification system;
- b) Forest Protection Department shall develop, manage and operate the enterprise classification system; implement necessary measures to protect information and data therein; ensure accurate, timely and effective sharing of information for relevant organizations and individuals; inspect and supervise the process of enterprise classification, compliance to regulations of law on timber production and processing nationwide; announce enterprise classification results; advise the Ministry of Agriculture and Rural Development disclosing information in accordance with this Decree.

2. Licensing authorities shall:

- a) Manage the issuance, renewal, revocation, reissuance and replacement of FLEGT licenses in accordance with this Decree;
- b) Manage the database of applications for FLEGT licensing, including granted and rejected applications;
- c) Provide information to clarify FLEGT licensing issues at the request of competent authorities of importing countries in case of suspicious authenticity and legitimacy of the license.

3. Customs authorities shall:

a) Cooperate with forest protection authorities and relevant authorities in verifying legality of import and export shipments of timber;

b) Inspect and certify packing lists of imported timber.

4. Other organizations and individuals shall:

a) Take legal responsibility for the accuracy and legality of timber in harvesting, import, transport, trade, processing and export; comply with timber legality requirements prescribed in this Decree and relevant laws;

b) Retain timber dossiers for 05 years from the day on which timber is sold;

c) Timber importers and exporters shall submit reports every 03 months on last day of each quarter to the domestic forest protection authority according to Form No. 14 in Appendix I hereof. Provide information about import and export of timber at the request of competent authorities;

d) Declare, explain, provide information about origins of imported and exported timber in accordance with this Decree and facilitate inspection and supervision by competent authorities.

Chapter VI

IMPLEMENTATION CLAUSES

Article 28. Effect

1. This Decree comes into force from October 30, 2020, except the cases specified in Clause 2 and Clause 3 of this Article.

2. Within 30 working days from the day on which the Ministry of Agriculture and Rural Development reaches a consensus with JIC as prescribed in Clause 4 Article 25 of this Decree, the Prime Minister will issue a decision on effective dates of regulations on management of timber for export prescribed in Section 2 Chapter II and FLEGT licensing prescribed in Section 1 Chapter IV of this Decree.

3. Regulations of Chapter III of this Decree on classification of timber processors and exporters shall come into force after 18 months from the effective date of this Decree.

4. Regulations of Article 17 of Circular No. 27/2018/TT-BNNPTNT on timber dossiers for import cease to have effect from the effective date of this Decree.

5. Regulations of Article 26 of Circular No. 27/2018/TT-BNNPTNT on timber dossiers for export cease to have effect from the effective date of the Prime Minister's decision mentioned in Clause 2 of this Article.

Before the effective date of the Prime Minister’s decision mentioned in Clause 2 of this Article, timber dossiers for export shall be prepared in accordance with applicable regulations of law.

Article 29. Transition clauses

For import shipments of timber whose customs declarations have been registered before the effective date of this Circular and that have not been granted customs clearance, regulations on management of imported timber that are applicable when the customs declarations are registered shall apply.

Article 30. Responsibility for implementation

1. The Minister of Agriculture and Rural Development shall organize the implementation of this Decree.
2. Ministers, Heads of ministerial-level agencies, Heads of Governmental agencies, Presidents of the People’s Committees of provinces, relevant organizations and individuals are responsible for the implementation of this Decree./.

**ON BEHALF OF THE GOVERNMENT
THE PRIME MINISTER**

Nguyen Xuan Phuc

APPENDIX II

CRITERIA FOR CLASSIFICATION OF TIMBER PROCESSORS AND EXPORTERS
(Enclosed with the Government’s Decree No. 102/2020/ND-CP)

No.	Criteria
I	COMPLIANCE WITH REGULATIONS ON ENTERPRISE ESTABLISHMENT AND OPERATION
1	Documents proving compliance with regulations on enterprise establishment:
a	Certificate of Enterprise Registration (for enterprises without foreign investments)
b	Certificate of Investment Registration (for foreign investors or enterprises in which 51% of charter capital is held by foreign investors, enterprises operating in industry parks, export processing zones)

2	Documents proving compliance to regulations on environmental protection:
a	Decision on approving environmental impact assessment report for processing facilities of timber and woodchips from natural forests with capacity of from 5.000 m ³ product/year or more
b	Decision on approving environmental impact assessment report for plywood processing facilities with capacity of from 100.000 m ² product/year or more
c	Decision on approving environmental impact assessment report for furniture producing facilities with total area of warehouses and factories from 10.000 m ² or more
d	Environmental protection plan for facilities with smaller capacity or area than those of the facilities mentioned in a, b, c above
3	Documents proving compliance to regulations on fire safety:
-	Design on fire prevention and firefighting as prescribed by law
4	Documents proving compliance to regulations on monitoring purchases and sales of forest products:
-	Fully recorded logbook of purchases and sales of forest products.
5	Compliance with tax and labor laws means fulfillment of the following criteria:
a	The enterprise is not included in the public list of tax risk
b	There is an labor safety and hygiene plan as prescribed by law
c	Workers are included in the enterprise's payroll
d	Information about payment of social insurance and health insurance for workers are publicly available in accordance with the Law on Social Insurance
dd	Workers are members of the enterprise's Trade Union
II	COMPLIANCE WITH REGULATIONS ON LEGAL ORIGIN OF TIMBER
1	Compliance with regulations on timber harvesting dossier for enterprises processing and exporting self-harvested timber
a	Compliance with regulations on timber harvesting procedures
b	Timber packing list as prescribed by law
c	Copies of timber origin dossier
2	Compliance with regulations on timber dossier for enterprises processing and exporting confiscated timber
a	Timber packing list as prescribed by law
b	Copies of confiscated timber dossier
3	Compliance with regulations on timber dossier for enterprises processing and exporting imported timber

a	Timber packing list as prescribed by law
b	Imported timber dossier
4	Compliance with regulations on timber dossier during trade, transport, processing of timber
a	Timber packing list as prescribed by law
b	Copies of timber origin dossier
5	Compliance with regulations on timber dossier for enterprise processing and exporting timber self-harvested from the enterprise's forest
a	Compliance with regulations on right to use land and right to use forests
b	Copies of harvested timber dossier as prescribed by law

APPENDIX III

PRODUCT COVERAGE: HARMONISED COMMODITY CODES FOR TIMBER AND TIMBER PRODUCTS

COVERED UNDER THE FLEGT LICENSING SCHEME

(Enclosed with the Government's Decree No. 102/2020/ND-CP dated September 01, 2020)

HS codes	Description	Notes
Chapter 44	Wood and articles of wood; wood charcoal	
4401	Fuel wood, in logs, in billets, in twigs, in faggots or in similar forms; wood in chips or particles; sawdust and wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms	Not from bamboo nor rattan
4403	Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared	
4406	Railway or tramway sleepers (cross-ties) of wood	
4407	Wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm	
4408	Sheets for veneering (including those obtained by slicing laminated wood), for plywood or for similar laminated wood and other wood, sawn lengthwise, sliced or peeled, whether or not planed, sanded, spliced or end-jointed, of a thickness not exceeding 6 mm.	Not from bamboo nor rattan
4409	Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated,	Not from bamboo nor rattan

	chamfered, V-jointed, beaded, moulded, rounded or the like) along any of its edges, ends or faces, whether or not planed, sanded or end-jointed.	
4410	Particle board, oriented strand board (OSB) and similar board (for example, waferboard) of wood or other ligneous materials, whether or not agglomerated with resins or other organic binding substances	Not from bamboo nor rattan
4411	Fibreboard of wood or other ligneous materials, whether or not bonded with resins or other organic substances	Not from bamboo nor rattan
4412	Plywood, veneered panels and similar laminated wood	Not from bamboo nor rattan
441300	Densified wood, in blocks, plates, strips or profile shapes	Not from bamboo nor rattan
441400	Wooden frames for paintings, photographs, mirrors or similar objects	Not from bamboo nor rattan
4415	Packing cases, boxes, crates, drums and similar packings, of wood; cable-drums of wood; pallets, box pallets and other load boards, of wood; pallet collars of wood	Not from bamboo nor rattan
4416	Casks, barrels, vats, tubs and other coopers' products and parts thereof, of wood, including staves	Not from bamboo nor rattan
4418	Builders' joinery and carpentry of wood, including cellular wood panels, assembled flooring panels, shingles and shakes	Not from bamboo nor rattan
Chapter 94	Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings	
940330	Wooden furniture of a kind used in offices	
940340	Wooden furniture of a kind used in kitchens	
940350	Wooden furniture of a kind used in the bedroom	
940360	Other wooden furniture	

Notes: Mixed timber products include the wooden products under Chapter 44 and 94, except those with HS codes of 4403, 4406, 4407

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