

TERMS OF REFERENCE (TOR)

DDS and Law Expert

Project: Support to VPA processes in Vietnam, Laos and Cameroon toward legal timber supply chains between VPA countries

PN: 19.2249.1-001.00

Time frame: October 2022 to November 2022

1. Background/Context

Africa is a major supplier of tropical hardwood for Vietnam. In 2021, African timber accounts for 15.2% of total imports. Cameroon is Africa's largest timber supplier. Statistics provided by Vietnam Customs Office show that, in the first 4 months of 2022, wood imports from Cameroon reached 176,311 m³, an increase of 21.3%, followed by Papua New Guinea with an increase of 55,260 m³, up 24.2%, Nigeria 48,070 m³, up 51.7%, Congo 34,216 m³, up 10.7%. In the Mekong region, in 2021, Laos Government changed the policy applicable for timber trade control, allowing log and sawn timber export. As a result, the volume of wood exported from Laos to Viet Nam increased significantly. In the first 4 months of 2022, wood imports from Laos reached 87,773 m³, an increase of 79.1%. In spite of wood-import reinforced control under Decree 102, the flow of wood from African countries and the Mekong sub-region to Vietnam is still facing risk of legality.

On October 19, 2018, Vietnam, and the European Union (EU) signed the VPA/FLEGT, which came into effect from the 1st of June 2019. The key commitments by the Vietnamese Government have been embedded already earlier into the Forest Law effective from the 1st of January 2019. Accordingly, tremendous efforts have been made to develop Vietnam Timber Legality Assurance System (VNTLAS). In accordance with VNTLAS regulations, operators have to provide additional evidence to prove wood legality and take counter-measures to mitigate potential risks.

Current practice shows that, although Vietnam's timber industry has achieved remarkable development in recent years, export turnover has increased by an average of over 15%, the sector is still exposed to new requirements on green development by further efforts to improve wood supply chain control. The trade protection counter-measures applied in key markets are putting Vietnam's wood processing and trading operators in a new context with serious challenges.

- On November 17, 2021, the European Commission (EC) proposed a draft law to prevent the import of goods related to deforestation. According to this draft law, companies importing wood products from Vietnam have to prove that their supply chains do not contribute to deforestation. This means that Vietnamese businesses have to provide European customers with proof that the traded furniture is made of raw materials that are not harvested from any land obtained due to deforestation or degraded land after December 31, 2020, even if the production proves to be legal under the laws of the country of producers.
- On June 6, 2022, the US Department of Commerce (DOC) initiated investigations called *scope inquiry of wooden cabinets and vanities and components thereof from the People's Republic of China (A-570-106, C-570-107)*. With these investigations, a large portion of wooden furniture exported by Vietnam to the US is facing the risk of US anti-dumping and anti-circumvention tariffs. Encountered this US investigation, Vietnamese operators have to testify the transparent timber supply chain and provide evidence of circumvention-free trade to DOC.
- Vietnam's timber-legality regulations have to be changed/modified, and considerations are being made by MARD to amend selected provisions of Decree 102 on imported timber and regulations on timber distribution in local markets, including that of imported timber.

Therefore, VIFOREST wishes to take actions for further improvement of the capacity of relevant operators so that they could properly practice DD and comply with VPA/FLEGT and VNTLAS. In

addition, with further support of GIZ, VIFOREST intends to equip its member companies with major knowledge and skills to respond on trade protection measures that may be imposed by major consumers of wooden products exported from Vietnam.

In following-up the success of cooperation between VIFOREST and GIZ in strengthening the capacity of importers to in DD practice in 2020 – 2021 with 6 DD training courses conducted in various localities and setting up a Q&A page on DD and VPA/FLEGT, VIFOREST will continue supporting relevant entrepreneurs to improve their capacity to adapt to the changing regulatory landscape of wood product trade.

VIFOREST planned to recruit 01 DDS and Law consultant who will responsible for supporting VIFOREST and wood companies to implement DD including guidance to explain the timber supply chain and gather information in response to the US initiation of anti-dumping and anti-subsidy investigations (AD/CVD) of kitchen cabinets and vanities.

2. Objective of the assignment

Providing guidance to explain the timber supply chain and gather information in response to the US initiation of anti-dumping and anti-subsidy investigations (AD/CVD) of kitchen cabinets and vanities. This case study will be used to guide operators to respond on commercial investigations, and, thereby, strengthen the legality assurance required for timber products exported from Vietnam to international markets. The guidance can applicable not only for US market but also EU and other markets in the world.

3. Main tasks and suggested working schedule of the consultants

- The expert is expected to perform the following tasks during the consultancy:
 - Develop and agree on the workplan with the VIFOREST and GIZ, including methodology and timeline for the execution of the consultancy
 - Collect questionnaires from DOC (via ACCESS website (<https://access.trade.gov/>)) on Anti-Circumvention Inquiries of the Antidumping and Countervailing Duty Orders of Wooden Cabinets and Vanities and Components imported from Vietnam.
 - ❖ Updated Questionnaires on ACCESS website (<https://access.trade.gov/>). This includes: 1- Quality & Value Questionnaires; 2- Supplement Questionnaires; 3- Second Supplement Questionnaires.
 - ❖ Translate into Vietnamese.
 - ❖ Consult with Trade Remedies Authority of Vietnam and DOC for any comments to clarify questionnaires, if it is needed.
 - Develop guidance to answer questionnaires from the Department of Commerce (DOC).
 - ❖ Clarify and explanation on glossary or words of questionnaires
 - ❖ Guidance to answer each questionnaire
 - ❖ Guidance on preparing of Comments; Case Brief và Rebutal Brief)
 - ❖ Provide technical measures/ skills to make answer sheet for the Response to Quantity and Value Questionnaire following DOC requirement.
 - ❖ Provide experience and recommendation to response questionnaires.
 - ❖ Consult with Trade Remedies Authority of Vietnam during guidance preparation.
 - Develop guidance to create ACCESS accounts on the US Department of Commerce's information page.

- ❖ Registering ACCESS accounts. This will include two types of accounts (Guest Account and E-filler) and guidance on use of each account.
- ❖ Find out/ interact with ACCESS account: 1-finding information basing on Case No, Barcode and Full-text; 2- information on description of products covered by the orders basing on Harmonized System (HS) Codes; 3- Updated information on any actions/ activities that DOC and petitioner’ revise or raise during investigation time and after a preliminary decision.
- ❖ Guidance for preparation of comments/ case brief/ rebuttal brief/ hearing to submit to DOC.
- ❖ Consult with Trade Remedies Authority of Vietnam during guidance preparation.
- Develop guidance on evidence collection and construction of supply chain diagrams.
 - ❖ List of documents and evidences related to requests of questionnaires.
 - ❖ Guidance to develop supply chain.
 - ❖ Consult with Trade Remedies Authority of Vietnam during guidance preparation.
- Share 03 draft guidance with VIFOREST, GIZ and relevant government agencies such as Trade Remedies Board – Vietnam Competition Authority and receive feedback
- Finalise 03 guidance and submit to VIFOREST as input for the script of 03 video guidelines on the trade defense.

4. Gender equality and social safeguard requirements

Gender equality and social safeguard, hereafter call GENDER is one of the key values of GIZ’s work and the envisioned achievements of the support to FLEGT VPA implement project’s outcomes. Therefore, gender is mainstreamed in project activities (planning, implementation, monitoring, reporting) to enable beneficiaries to participate and benefit equally.

VIFOREST is one of long-term partner of the GIZ projects. Therefore, derived from the expectation, within this consultancy, experts need to pay attention and ensure the implementation of the following guideline on GENDER of GIZ in line with consultancy tasks.

Note: Annex: Gender guideline for your reference

5. Time schedule & Place

Assignment duration: October 2022 to November 2022

Place: Hanoi

Worktable

No	Activities	Coordination required and means of coordination	Working days	Deliverables
1	Working with VIFOREST and GIZ to develop and agree on the workplan	VIFOREST/ GIZ	1	Final workplan
2	Collect questionnaires from DOC	VIFOREST	3	A set of questionnaires
3	Develop guidance to answer questionnaires from the Department of Commerce (DOC) - Draft guidance	VIFOREST	10	Draft/ final guidance

	<ul style="list-style-type: none"> - Consult with Consult with Trade Remedies Authority of Vietnam - Finalizing 			
4	Develop guidance to create ACCESS accounts on the US Department of Commerce's information page. <ul style="list-style-type: none"> - Draft guidance - Consult with Consult with Trade Remedies Authority of Vietnam - Finalizing 	VIFOREST	6	Draft/ final guidance
5	Develop guidance on evidence collection and construction of supply chain diagrams. <ul style="list-style-type: none"> - Draft guidance - Consult with Consult with Trade Remedies Authority of Vietnam - Finalizing 	VIFOREST	10	Draft/ final guidance
TOTAL			30	

6. Requirements of qualification and competencies

- Master's degree in forestry or international economics or law/trade or related areas
- At least 7 years experiences in the fields of trade remedy or international trade.
- Well knowledge on law on foreign trade and support wood producers to defend certain trade remedies cases investigated by foreign investigating authorities, helping Vietnam producers in certain trade remedies cases on imports.
- Well knowledge on anti-circumvention inquiries of the antidumping and countervailing duty orders.
- Good skills of analysis and management of supply chain and well familiar with forest/timber legal framework applicable in Vietnam and Vietnamese commitments to assure timber legality.
- Good ability to read and write report in both Vietnamese and English.

7. Responsibilities of VIFOREST

- VIFOREST will support experts to perform tasks. This may include preparation of Q & A with timber importers.
- VIFOREST will support expert to work with timber enterprise and relevant agencies during task.

Hanoi, 28 September 2022



Ngô Sy Hoai – Vice Chairman and General Secretary