



# Lessons from the timber sector for natural rubber in Thailand

Since 2013, Thailand has been actively developing its Thai Timber Legality Assurance System (TH-TLAS), initially as part of the negotiations with the European Union (EU) to sign a Voluntary Partnership Agreement (VPA) under the Forest, Law Enforcement, Governance and Trade (FLEGT) initiative, but now independently.

The overall objective of the TH-TLAS is to ensure that only legally produced timber enters the supply chain, and that it can be traced from the point of harvest to the point of export, to satisfy the expanding scope of legality and sustainability requirements in consumer markets. To achieve this, the TH-TLAS adopts a risk-based approach, which focuses attention and resources on the most critical risks. In preparation for the development of the TH-TLAS, Thailand engaged in an inclusive participatory process, involving assessments of relevant laws and the timber supply chain, and stakeholder consultations to identify risks, gaps and areas where reform was needed. One area identified was smallholder production of timber on private and public lands.

## The self-declaration procedure for timber from private land and Sor Por Kor 4-01

In 2019, Thailand amended Article 7 of the Forestry Law, permitting the planting, harvesting, and transportation of trees from private land without restriction or the need for verification by authorities. This was followed in 2020 with a decision by the government that all trees planted on Sor Por Kor 4-01 land – public land for which producers have a legal right to use – are unrestricted for the purposes of harvesting and transportation. This apparent lack of government oversight raised concerns among some stakeholders about how the legal origin of timber from such sources would be assured. Responding to this, the Ad Hoc Working Group (AHWG) – the principal group of stakeholders guiding the development of the TH-TLAS – endorsed an innovative approach allowing for self-declaration. Smallholder producers may self-declare what they harvest, as long as they provide all required information to the timber buyer – usually a local processor. This information is checked and maintained by the buyer, and can be reviewed by the authorities and used to trace the timber back to the smallholder producer, if needed.



Rubber plantation in Thailand.

Photo: Vecteezy/Sujin Jetkasettakorn

The aim of the self-declaration (SD) process is to ensure timber legality at origin without instituting a heavy and overly bureaucratic ‘command and control’ verification procedure, instead creating a system of incentives for all actors in the supply chain – underpinned by possible enforcement action – to produce and use legal timber. This is necessary, given the large number of smallholders to officials, and is in keeping with the risk-based approach, since the overwhelming majority of smallholders are producing timber on land that was already cleared or heavily degraded – the changes instituted in 2019 and 2020 were intended to incentivise smallholders to plant trees and use degraded land productively.

## Regulation (EU) 2023/1115 on deforestation-free products

The EU’s regulation requiring legal and deforestation-free production (EUDR) of ‘relevant commodities’ – cattle, cocoa, coffee, palm oil, rubber, soya, wood, and certain derived products – will be applied from 30 December 2025. It requires operators<sup>1</sup> to demonstrate that relevant commodities have been produced without causing deforestation, and in accordance with the laws applicable in the country of production concerning the legal status of the area of production, before they can be placed on the EU market. The purpose of the EUDR is to address the continuing problem of deforestation and forest degradation. However, the approach taken in the EUDR is not without risks and has the potential to adversely affect some of the more vulnerable stakeholders involved in the production of the relevant commodities. This is certainly the case with the natural rubber sector in Thailand, which is dominated by smallholders and SMEs.

## Thailand’s rubber sector and the EUDR

Thailand is the largest producer of natural rubber in the World. In 2022, it produced more than 4.7 million tonnes of natural rubber, accounting for approximately 33% of global rubber production. Thailand was also the world’s second largest exporter of natural rubber and rubber products, behind only China. The export value of natural rubber and rubber products in 2022 reached USD 2.2 billion, of which more than USD 1.7 billion were exported to the EU directly and indirectly, such as through Malaysia. This makes the

Thai rubber farmers share their opinions and recommendations on the self declaration during field testing.

Photo: Somporn Khongthanakrittakorn



natural rubber sector an important source of revenue for Thailand – in 2022 it was the fourth most valuable agricultural product according to export value<sup>2</sup>. At the production level, the sector is dominated by smallholders: 1.68 million smallholder households maintain rubber plantations over a total area of 3.9 million ha (24.4 million rai), for an average of 2.3 ha of rubber plantation per household (14.5 rai/household). Of the total cultivated area, 3.5 million ha (22 million rai) are mature and produce<sup>3</sup> a total annual average of 3-4 million tonnes. The majority of rubber production occurs in the south of the country, but a significant proportion occurs in the north and northeast, where it is associated with more deforestation. Regarding compliance with EUDR information requirements, many smallholders will face challenges, given that an estimated 20% have no formally recognised land title.



Another challenge relates to the recording and transfer of information along the supply chain. Currently, it is not standard practice for smallholders to collect geolocation information for their plots of land, which operators will need to verify deforestation-free production. It is also very common for traders and middlemen to collect and mix the rubber without requesting or maintaining documentation demonstrating origin or legality. The combined rubber from different sources is then sold on to larger processors, who have no way of identifying or tracing the origin of each producers' individual contribution to a particular delivery or shipment. Under the EUDR, rubber from such a supply chain will not be allowed to be placed on the EU market. Considering these points, it is clear that the EUDR could significantly disrupt the flow of natural rubber and natural rubber products to the EU, unless producers, traders and processors update their practices. Fortunately, Thailand already has experience with systems which could facilitate access to the information needed by operators to demonstrate compliance with EUDR information requirements under Articles 9 and 10, notably the SD developed by RFD for smallholder timber producers under the TH-TLAS.

## Learning from the TH-TLAS

To explore the feasibility of adopting a similar approach to that taken in the timber sector, the EU-funded FLEGT Asia Programme assessed whether a version of the SD could be used by rubber producers to collect geolocation coordinates and information needed to demonstrate legal compliance with Thai law. If so, the SD could potentially be used by



◀ Recording transactions in a collection centre, Thailand.

Photo: Wilfredo Lelis

operators during the exercise of due diligence to establish deforestation-free and legal production. The assessment was conducted in the provinces of Nakhon Si Thammarat in the south, and Loei in the northeast, and involved extensive consultations with farmer institutions, individual farmers, and buyers at the first point of sale in the rubber supply chain. The findings of the assessment indicate that the SD could be used to capture and make available to operators information needed to conduct due diligence, and that Thai rubber producers and buyers could use such a system and would be willing to do so, as long as certain conditions are met.

## Recalibrating the SD to the rubber sector

To ensure that operators are able to verify deforestation-free and legal production, the SD should capture basic information about the product, as well as the date of production; record the geolocation of the plot of land on which the rubber was produced; and indicate how relevant Thai laws have been complied with. This information must also be conveyed 'downstream' to traders and processors to ensure traceability, and ultimately to facilitate

the conduct of due diligence by operators. The SD developed by RFD already captures most of the basic information required, including details about the product, identification of the owner and their legal right to use the plot of land – a copy of the owner’s land use right should be attached with the SD – and the geographic coordinates for the land used to produce the product. Still, the SD would need to be updated so that it captures information relevant to the specific characteristics of the rubber product, and the date the product was produced. The SD would also need to indicate that for plots of land > 4 ha, smallholders need to provide coordinates for polygons and, ideally, indicate compliance with the applicable laws concerning the legal status of the area of production.

## Going beyond the SD

To respond to the need to establish compliance with applicable Thai laws concerning the legal status of the area of production, an additional Self-Assessment (SA) procedure could be combined with – or developed separately to accompany – the SD. It would comprise a set of questions, which would allow producers to assess the extent to which they have complied with relevant legal requirements relating to land use, labour practices, the environment, taxes, trade and the rights of third parties. The information collected in the SD, together with the SA, could then be passed to the buyer of the rubber product, who would be obliged to conduct basic checks to ensure the accuracy of the SD and SA. There are obviously risks associated with allowing producers to self-declare and self-assess, however, these can be mitigated in a similar way to the timber sector, i.e. by partly placing responsibility for checking documentation on buyers, underpinned by the ultimate threat of government enforcement action. The suitability and appropriateness of this approach must be considered in the context of the current low rates of deforestation in Thailand, which generally indicates lower risk.

## Ensuring traceability in the rubber sector

The SD and SA could arguably provide a basis for operators to conduct due diligence and, ultimately, demonstrate deforestation-free and legal production, assuming that such a system can be effectively calibrated to respond to the requirements prescribed in the EUDR. However, actors in the rubber supply chain will have to ensure that this information is available to operators in a form that is understandable and useable. This will, for the majority of actors, require the adoption of new practices and procedures, either voluntarily or through government-mandated changes. Better management of the rubber value chain, starting with segregation of rubber product by source, will be needed. Operators will need assurances, and be able to verify, that rubber considered legal and deforestation free – based upon the information provided in the SD and SA – have not been mixed with other rubber products of unknown legal status or origin. Ideally, an appropriate and user-friendly electronic information management system would underpin this process, collaboratively developed by the government and the private sector. Moreover, it would also likely require positive incentives – price premiums for SD / SA rubber products – to be provided, if widespread and rapid adoption of the proposed system is the goal.

### Footnotes

- <sup>1</sup> I.e. those who import or place goods on the European market.
- <sup>2</sup> <https://www.oae.go.th/view/1/รายละเอียดข่าว/ข่าว%20สศท./42449/TH-TH>
- <sup>3</sup> <https://www.oae.go.th/assets/portals/1/fileups/prcaidata/files/para%20rubber%2065.pdf>



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