

# **FOREST LAW ENFORCEMENT, GOVERNANCE AND TRADE (FLEGT): OPPORTUNITIES AND CHALLENGES**

## **MALAYSIA-EU VPA NEGOTIATIONS**

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Side Event at XXIII IUFRO WORLD  
CONGRESS

Seoul, Korea

25 August 2010

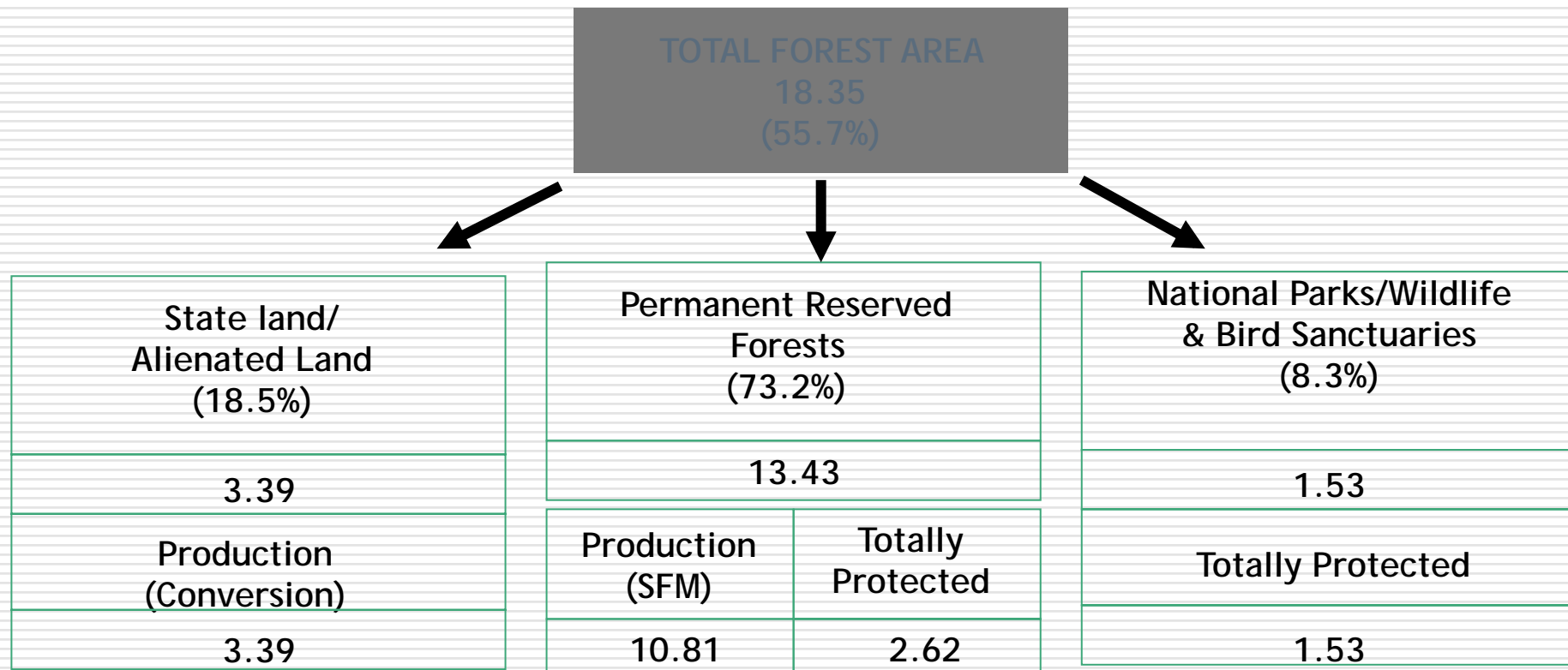
# SCOPE

- Malaysia in Brief
- Forest land use in Malaysia - 2006
- Exports of timber products – 2009
- Exports by destinations – 2009
- Major products exported to EU – 2009
- Illegal logging
- Emerging market requirements
- Timber legality & Sustainability
- Importance of FLEGT VPA
- Voluntary Partnership Agreement (VPA)
- VPA Process
- Negotiating structure
- Market study
- Market benefits & promotion
- Timber Legality Assurance System (TLAS)
- Structure of TLAS
- Implementation / Monitoring of VPA
- Inputs by Stakeholders
- Further work
- Conclusions

# MALAYSIA IN BRIEF

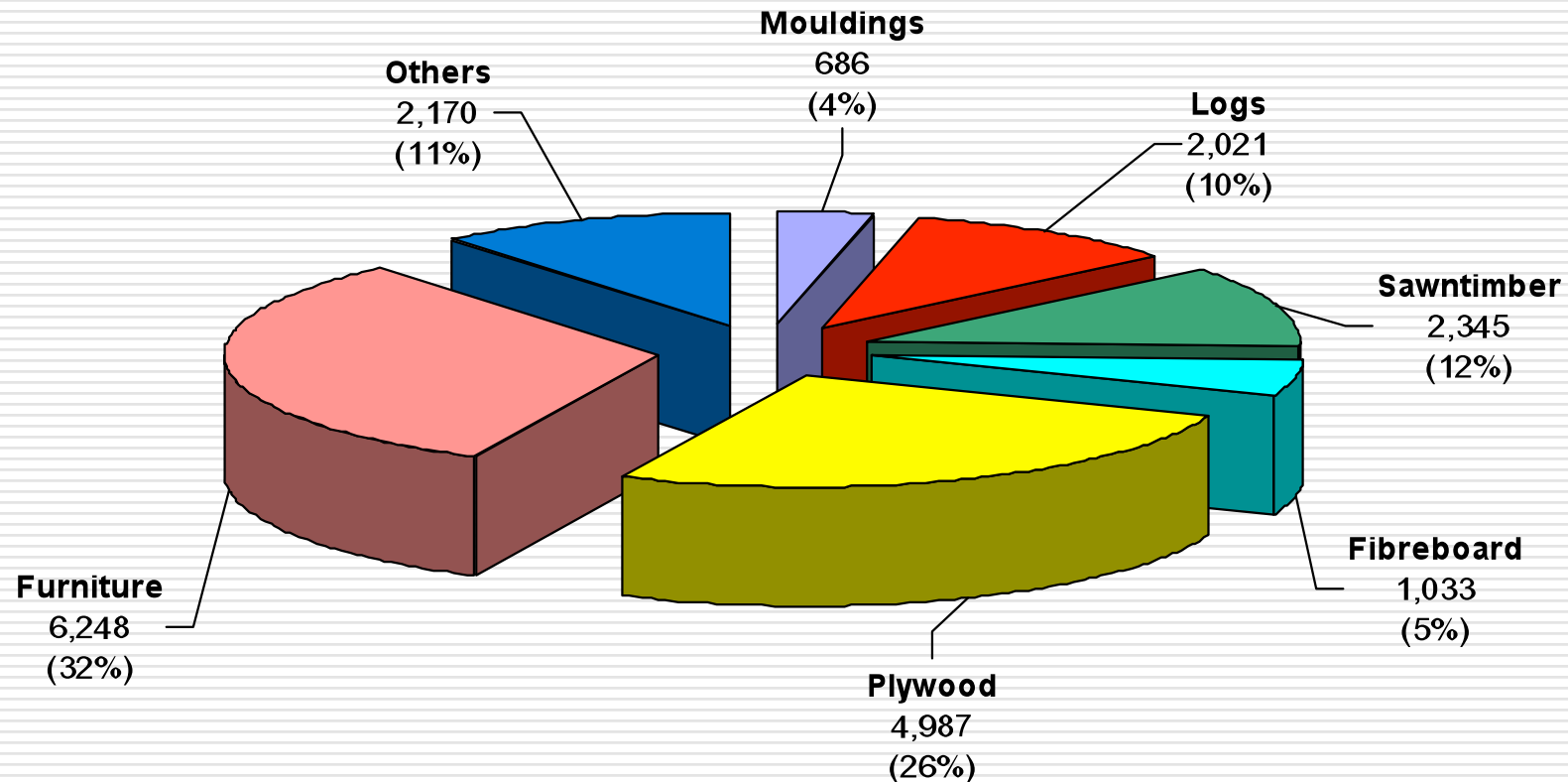
- ❑ Land area – 32.95 million ha
- ❑ Multiethnic population of about 24.8 million
- ❑ Federation of 13 States & 3 Federal Territories
- ❑ Forestry – State responsibility
- ❑ Coordination by NLC

# FOREST LAND USE IN MALAYSIA 2006 (million ha)



*Source: Forestry Departments of Peninsular Malaysia, Sabah & Sarawak  
Ministry of Natural Resources and Environment*

# EXPORT OF TIMBER PRODUCTS – 2009 (RM Million)

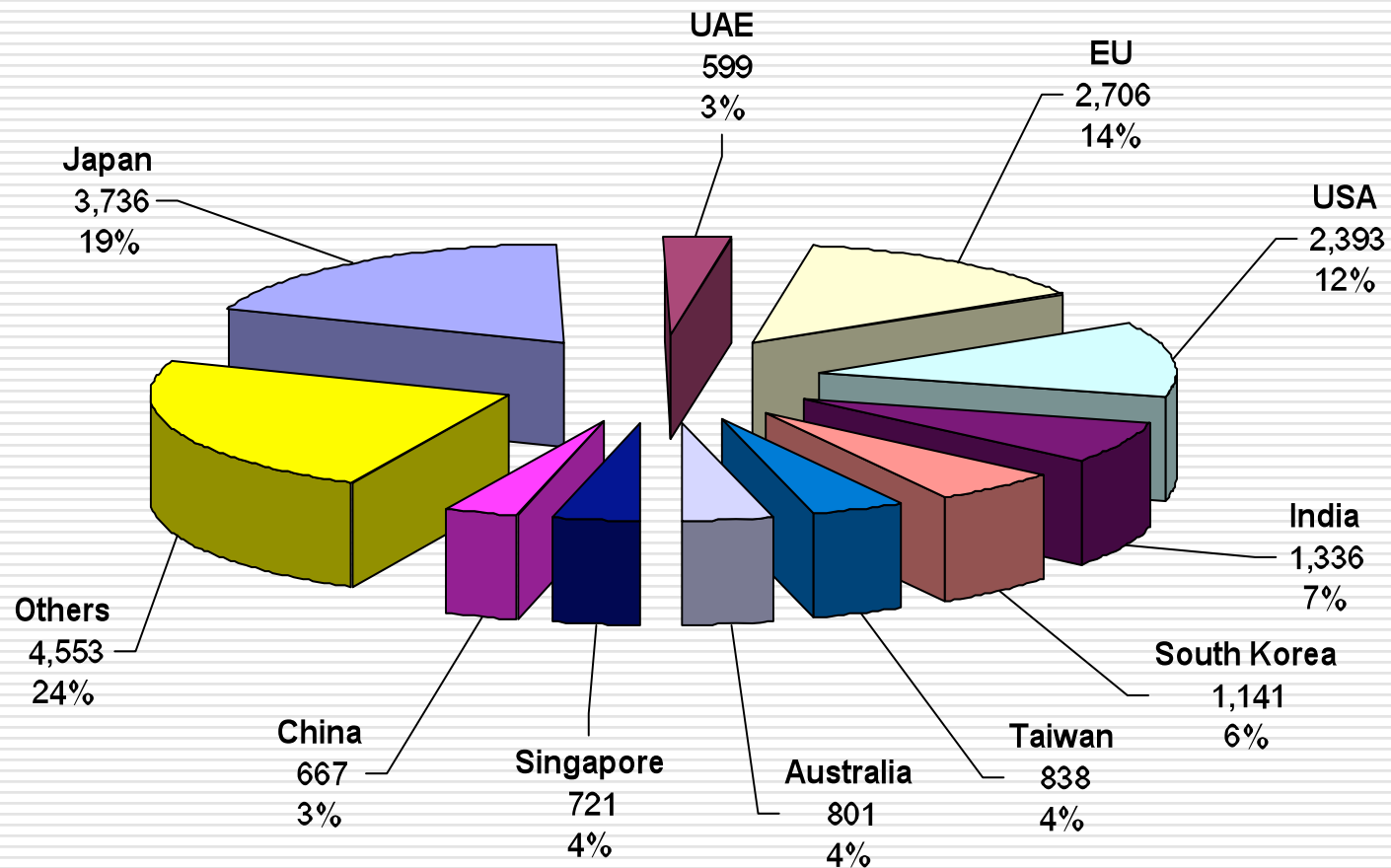


**TOTAL : RM 19.49 Billion**

**Source : MTIB**

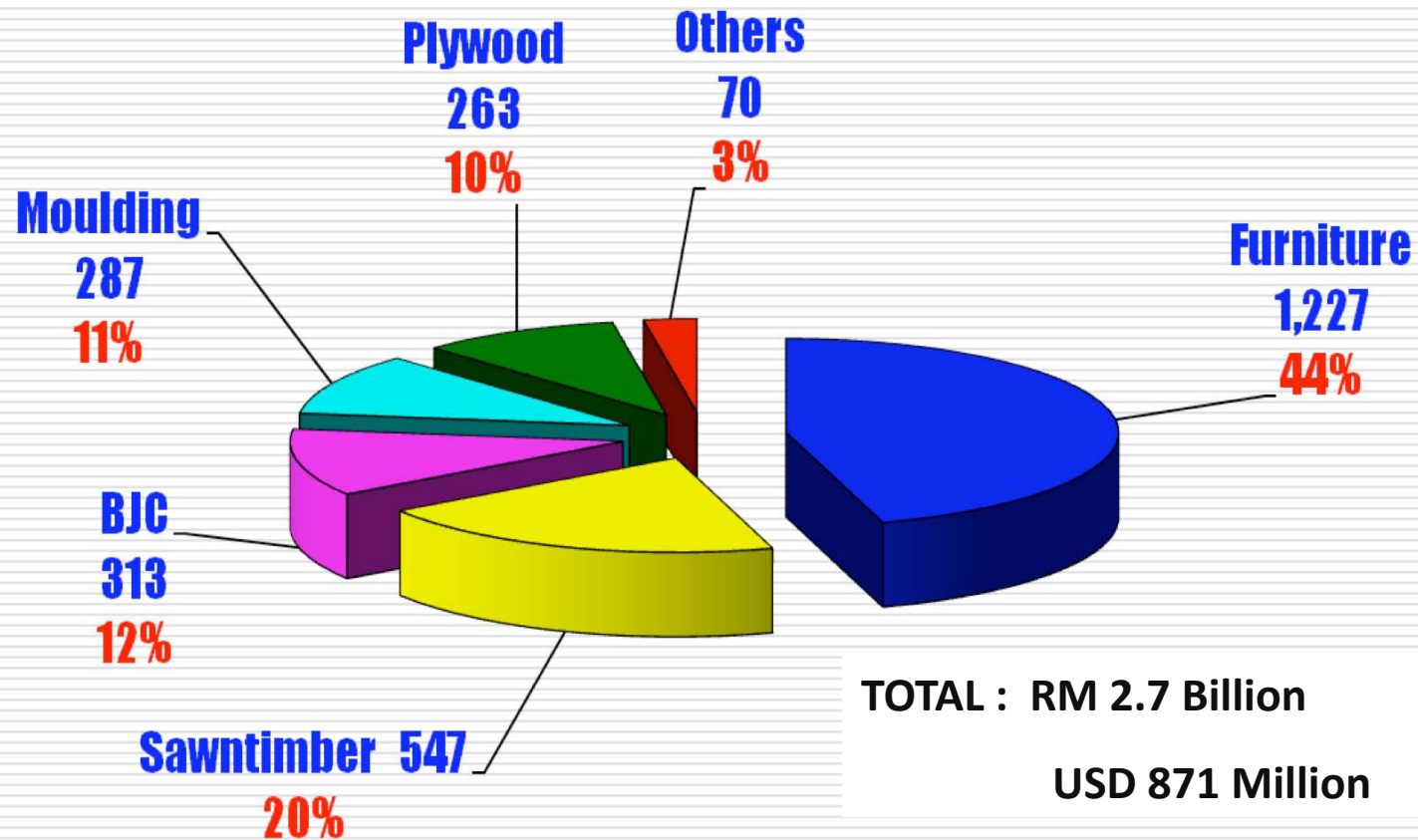
**USD 6.28 Billion**

# EXPORT BY DESTINATION – 2009 (RM Million)



Source : DOS & MTIB

# Major Timber Products Exported to EU-2009 ( in RM Million)



Source : MTIB

# ILLEGAL LOGGING

- ❑ Global concern - loss of assets and revenue, environmental impact, biodiversity loss
- ❑ Illegal logging estimated at \$23 billion annually (8-10% of global total)
- ❑ Recent study by WWF of illegal timber in EU market (July 2008)
  - 16-19% illegal
  - largest quantity from Russia
  - Top exporters of illegal wood into the EU;
    - Russia (10.4); Indonesia (4.2); China (3.7); Brazil (2.8); Belarus (1.5); Ukraine(1.5); Bosnia H (1.2); Cameroon (0.645); Gabon (0.590) million m<sup>3</sup> of RWE.
  - Malaysia 0.28 million m<sup>3</sup> of RWE. About 1.4 %
- ❑ Negative perceptions about Malaysia



# EMERGING MARKET REQUIREMENTS

- ❑ Green consumerism
- ❑ Increasing demand for timber and timber products from a sustainable or legal source
- ❑ Efforts directed to combat illegal logging and its associated trade
- ❑ Markets and public procurement policies in many developed countries now demand legal timber assured through due diligence or credible verification system (TLAS)
  - *EU Due Diligence Regulation / VPA*
  - *US Lacey Act*
  - *Public Procurement Policies on Timber Products of other countries*

# TIMBER LEGALITY & SUSTAINABILITY

- ❑ Sustainable timber product of SFM (social, environmental & economic factors)
- ❑ Sustainable timber assured through certification schemes, e.g., PEFC, FSC, LEI, MTCS etc.
- ❑ SFM / certification long-term goal
- ❑ Legal timber milestone on journey to attain SFM / sustainable timber
- ❑ Legal timber embraces relevant legislation dealing with social, environmental & economic aspects with lesser number of criteria and indicators
- ❑ Verification of legal timber through TLAS

# IMPORTANCE OF FLEGT VPA

- ❑ **Sustainability & Legality Of Malaysian Timber**
  - **Logs harvested from 3 land categories:**
    - **Permanent Reserved Forests (PRF)**
    - **State Land (SL)**
    - **Alienated Land (AL)**
  - **PRF under SFM**
    - **1/3 certified mainly under MTCS and logs are legal & sustainable**
    - **logs from uncertified PRF are legal**
  - **SL & AL not under SFM but logs harvested are legal**
    - **80% of Malaysia's total log production are harvested from uncertified PRF, SL & AL**
    - **Need for TLAS to assure legality of logs harvested from SL / AL and uncertified PRF**
    - **VPA recognises timber from uncertified PRF, SL and AL as legal license under FLEGT VPA**

# IMPORTANCE OF FLEGT VPA

- FLEGT Licensed Timber is recognized as legal timber by EU and public procurement policies of various EU Member Countries**
- Provide an assurance system that can address the demand for legal timber in other environment-sensitive markets**

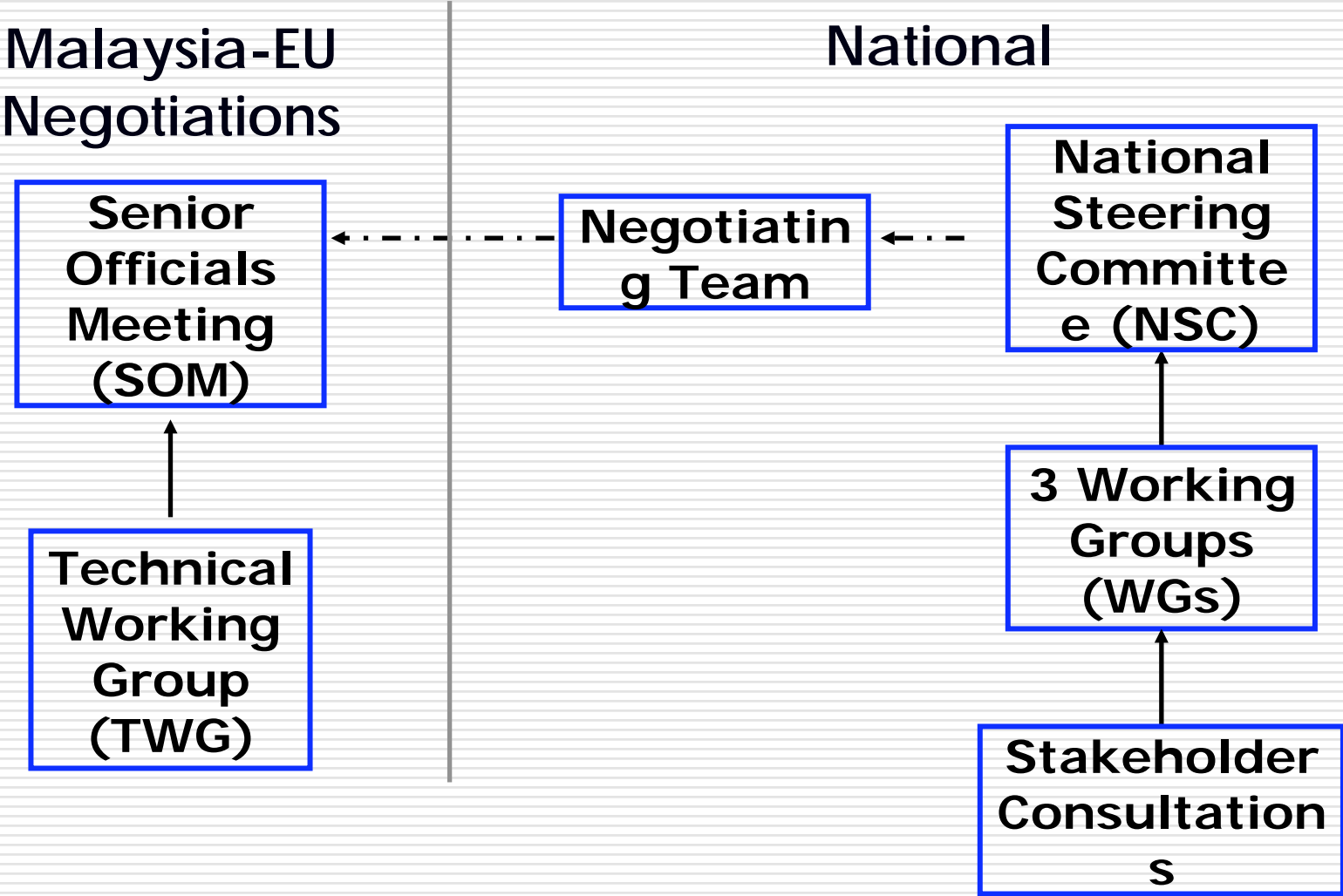
# **VOLUNTARY PARTNERSHIP AGREEMENT (VPA)**

- 2003 EU FLEGT Action Plan**
- Bilateral Partnership Agreements between EU and Timber Exporting countries**
- VPA focus on legal timber**
- Legality definition based on existing laws of exporting country**
- TLAS based on existing control and licensing system**
- VPA legally binding**
- TPM**
- Market benefits**
- Capacity building assistance**

# VPA PROCESS

- ❑ **Informal consultations since April 2004**
- ❑ **Formal negotiations announced September 2006**
- ❑ **Negotiations through SOM supported by TWG; 2 SOMs and 9 TWG meetings held; several video-conferences**
- ❑ **Preparations by Malaysia**
  - **NSC - Mandate to the Negotiating Team**
  - **WG I - Legal drafting & General provisions**
  - **WG II – TLAS**
  - **WG III - Market Benefits and Capacity Building**
- ❑ **Major issues subjected to Stakeholder Consultations; TLAS, Market Benefits**

# NEGOTIATING STRUCTURE



# MARKET STUDY

- ❑ **Market study on impact of a FLEGT VPA between Malaysia and the EU by Forest Industries Intelligence Ltd.**
- ❑ **Undertaken in 6 major EU markets**
- ❑ **Analysis of trade data and structured interviews**
  - **80 Timber trade and industry companies**
  - **21 Trade associations**
  - **29 Government departments**
  - **21 NGO's**
- ❑ **NGO's supportive of VPA but some concerns on Malaysian forestry**
- ❑ **Little willingness by EU private sector to pay premium for VPA timber**
- ❑ **Public procurement 25% of overall trade**
- ❑ **Potential for premiums**



# MARKET BENEFITS & PROMOTION

## □ Malaysia's request for market benefits include:

- Full acceptance
- Harmonisation of PPP
- Incentives for use of VPA timber
- Green premium
- IMM

## □ Measures by EU

- Communication on public procurement
- Due diligence regulation (DDR)
- Initiatives with other major markets
- VPA product visibility campaign
- Capacity building assistance

# **TIMBER LEGALITY ASSURANCE SYSTEM (TLAS)**

- ❑ Development of TLAS involved extensive consultations with stakeholders**
- ❑ Components**
  - Product coverage**
  - Definition of Legal Timber**
  - Principles and Criteria of Legal Timber (Annex A)**
  - Control Procedures (Annex B)**
  - Sources of Timber (Annex C)**
  - Third Party Monitoring (Annex D)**
  - Management of Seized Timber (Annex E)**

# STRUCTURE OF TLAS

- ❑ **Regional basis; Peninsular Malaysia, Sabah, Sarawak**
- ❑ **Annex A lists relevant legislation throughout the production chain to be complied clustered under 6 principles; Right to harvest, forest operations, statutory charges, other users' rights, mill operations, trade and customs**
- ❑ **Principle divided into criteria with corresponding control procedures in tabulated form to facilitate monitoring by TPM**
- ❑ **Annex B provides control procedures for each criterion in a tabulated manner indicating principle and legislation addressed, enforcement agency and means of verification**

# IMPLEMENTATION / MONITORING OF VPA

- ❑ **Licensing of VPA timber by existing authorities**
- ❑ **TPM to verify implementation of TLAS**
- ❑ **IMM to monitor market benefits**
- ❑ **Roles of RB and JIC**
- ❑ **Mid-term Review**

# INPUTS BY STAKEHOLDERS

- ❑ **Development of TLAS**
  - 6 stakeholder consultations / briefings
  - Informal meetings
  - Meetings with Minister
  - Written submissions
- ❑ **Technical evaluation of TLAS**
  - Discussions with consultants
  - Written submissions
  - Presentation and discussion of consultants' Draft Report and further written submissions
- ❑ **During implementation of TLAS**
  - Public summary of TPM's reports
  - RB to seek and receive views from stakeholders on the TLAS and its implementation
  - Consideration of report by JIC
- ❑ **Review of TLAS**

# FURTHER WORK

- Substantial progress**
- Finalisation of TLAS**
- Capacity building projects**
- Market benefits**
- Legal drafting**
- Administrative & funding arrangements**
- Market promotion**

# CONCLUSIONS

- ❑ Malaysia fully committed to sustainability of timber from PRF and legality of timber from other forest areas.
- ❑ VPA is on legal & not sustainable timber
- ❑ Strategic and catalytic role of VPA to achieve timber legality and SFM in the long-term
- ❑ EU approach; consultations, assistance for capacity building, market benefits
- ❑ Stakeholder inputs and concerns
- ❑ VPA cannot solve all problems; some outside scope of VPA/forestry sector
- ❑ Success depends on stakeholder cooperation; assistance for capacity building; and market response
- ❑ VPA unprecedented and legally binding; steep learning curve
- ❑ Implementation costs; burden on industry
- ❑ Need for pragmatism and reciprocity

**THANK YOU**