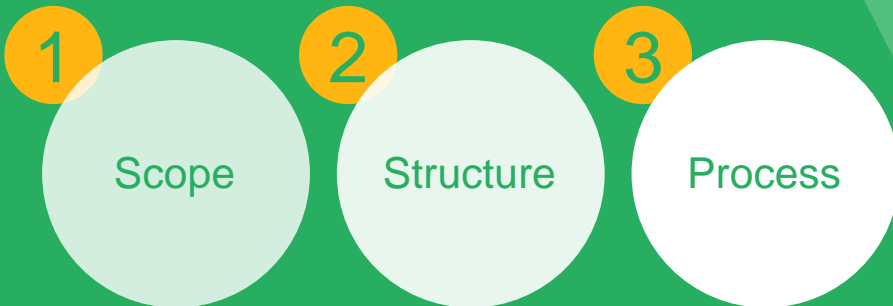


Development of Legality Definition

Preparation for the first
VPA negotiation session

Vientiane, December 2015



Scope

- ✓ Product scope
- ✓ Market destination
- ✓ Timber sources
- ✓ Areas and Types of Laws

Product scope

- Minimum scope
 - *Use of Harmonised Commodity Description and Coding System*
 - *Primary processing (logs, railway sleepers, sawn timber, plywood, veneer)*
- All VPAs agreed on larger scope (EU TR)
 - *Additional products covered based on the country's trade priorities - e.g. furniture, parquet flooring, ...*
 - *Secondary processing increases complexity of system, more involvement of SMEs*

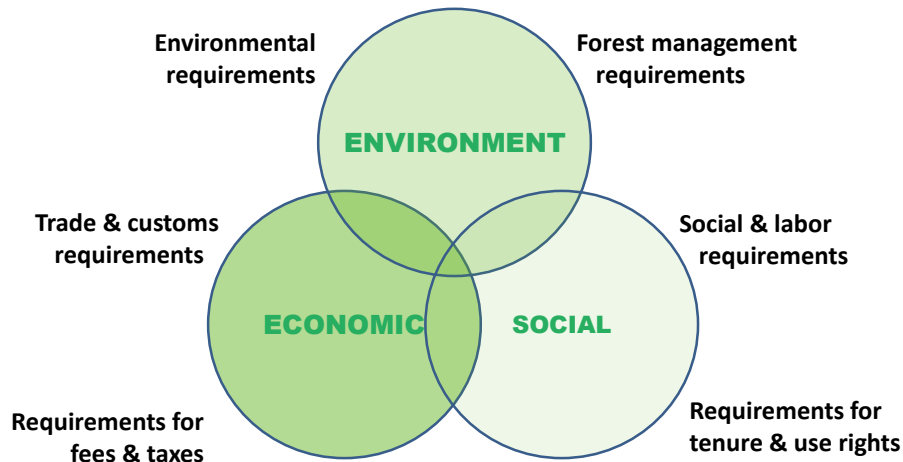
Market destination

- Minimum: exports to the EU (FLEGT license)
- All exports?
- Domestic market?

Timber sources

- Timber from Production Forest Areas
 - *Opportunity to build on/recognise voluntary certification*
- Timber from land conversion
 - *Inclusion ->*
 - *All concluded VPAs (except CAR)*
 - *Shared understanding of what constitutes legal conversion timber*
 - *Origin considerations: process for approving land conversion, from approved area, ...*
 - *Exclusion -> segregation*
- Timber from all types of plantation
 - *Small holders: Commercial and/or local-subsistence use?*
 - *Rubber wood?*
- Timber from Village Use Forests
 - *Commercial and/or subsistence use*
- Others?

Areas of law



Types of law

- Legality definition is based on a subset of legislation that has entered into country's law – e.g.:
 - *Legislation relating to the whole supply chain – from the allocation of logging rights through processing and transport to export and benefit sharing – e.g.*
 - *as identified in Forestry Legality Compendium*
 - *Other legislation relating to business, employment, environment, social security, biodiversity conservation, freedom of information, ...*
 - *Could include codes or guides – e.g. harvesting code of practice, RIL guidelines*
- Possible subnational rules
- International treaties, such as multilateral environmental agreements?

Structure

What structure?

- LD is a list of legal requirements
- Organised around aspects of legality that will be verified through TLAS

Laos forestry compendium - Starting point for Structure?

- Land Classification, Allocation and Planning
- Project Approval for Concessions and Plantation Investment
- Forest management
- Quota Development, Approval and allocation - including Annual Harvest Planning
- Harvesting
- Log Landing 1
- Log Landing 2
- Log Landing 3
- Timber Processing
- Transport
- Trading
- Export

Use compendium structure?

- Organised along the supply chain
- Can some elements be merged?
 - Example: harvesting, log landing 1 and 2
- Are all potential aspects of legality covered?
 - OSH?
 - Social obligations?
 - ...

Ways of structuring the LD

- Supply chain - example from Vietnam
 - Forest use rights
 - Harvesting/import
 - Processing
 - Transporting
 - Trading
 - Export
- Permit types - example from Indonesia
 - Concessions, Community Forest Management, ...
 - Processing is separated
- Hybrid - Example from Liberia
 - Legal existence
 - Forest use rights
 - Forest management and environmental obligations
 - Transporting
 - Processing
 - Social obligations
 - Workers rights, OHS
 - Taxes and fees
 - Export and trade

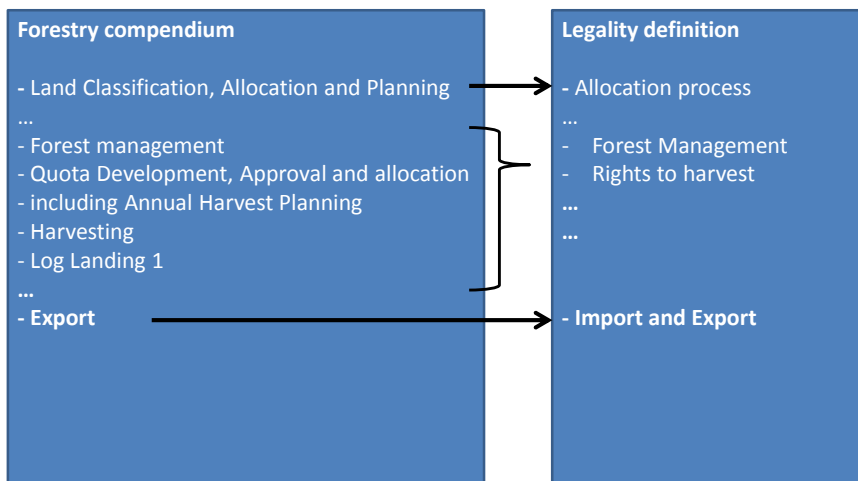
Typical elements in VPA LD Examples

- *Allocation processes and procedures*
- *Company registration and other requirements*
- *Legal and customary right to land*
- *Right to harvest*
- *Other user rights*
- *Forest management and harvesting operations*
- *Timber processing*
- *Transport and logistics*
- *Environmental protection*
- *Social obligations*
- *Workers rights*
- *Worker health and safety*
- *Import and exports*
- *Fees and taxes*
- *Trade and customs*

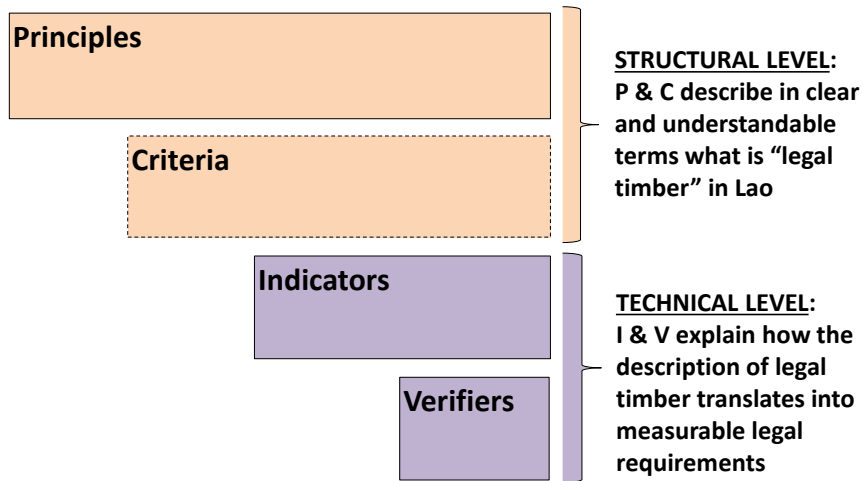
Building the LD Option 1: Extensive



Building the LD Option 2 : grouped



Legality Definition hierarchy



Requirements adapted to source

- Some requirements in common – e.g. transportation documentation
- Some requirements differ:
 - Allocation rights
 - User rights
 - Benefit sharing
 - Forest management obligations

Legality Definition by source

Production forest

Examples:

- Forest Allocation
- Harvesting rights
- Sustainable Forest management
- Transportation
- ...

Concession

Examples:

- Land allocation
- Harvesting rights
- Transportation
- ...



Process

Role of Thematic Expert Groups in LD development

- Thematic Expert groups:
 - Select what requirement to put in the LD through stakeholder discussion for the theme
 - Potentially group
 - Reformulate
 - Identify evidences to assess compliance

From Compendium to LD

PROCESSING				
Business Registration Certificate	Article 45. Business operations in the forest	Law No. 06/NA on Forests 2007 Article 45. Business operations in the forest	Business involved in the processing of timber must be registered with MAF	
		Law No. 46/NA on Enterprise 2013 Articles 12 and 13 on registration of enterprises, Articles 32, 33 and 34 on partnership enterprises, Articles 78, 79 and 81 on companies, Article 86 and 92 on limited companies, Articles 191, 192 and 193 on state-owned companies, and Article 224 on joint (state with non-state-owned) companies	Business involved in the processing of timber must be registered with MOIC	
		Law No. 02/NA on Investment Promotion, 2009 Article 19 on enterprise registration certificate	Business involved in the processing of timber must be registered	
		Law No. 48/NA on Industrial Processing 2013	Business involved in the processing of timber must be registered	
Operating Permit	Article 45. Business operations in the forest	Decision No. 1301/MOIC on Timber Processing Management 2007 All Articles Article 5 specifies the requirements for making an application for an operating permit including Article 5 (9) specifies the requirement for a production plan.	A timber processing factory must have an operating permit	
		Decision No. 0719/MOIC on Timber Processing Manufacture Standards 2009 Article 12 Small household timber processing must apply for permits/licenses according to Article 5 and Article 6 of the Decision on Timber Processing Management No. 1301/MOIC, 2007 and shall be considered case by case according to Article 45 of the Processing Industry Law. 12.1 All levels of the timber processing manufactures	Business involved in the processing of timber must be registered according to their operating standard/capacity	

From Compendium to LD

PROCESSING		Principle	Timber processing
Business Registration Certificate	Article 45. Business operations in the forest	Criteria	Company has the right to process timber
		Indicator 1	Company is registered
		Verifier 1	MAF business registration certificate
		Verifier 2	MOIC business registration certificate
		Indicator 2	Company holds a valid operating permit
		Verifier 2	Operating Permit compliant with the company capacity
Operating Permit	Article 45. Business operations in the forest	<p>Article 5 specifies the requirements for making an application for an operating permit including Article 5 (9) specifies the requirement for a production plan.</p> <p>Decision No. 0719/MOIC on Timber Processing Manufacture Standards 2009 Article 12 Small household timber processing must apply for permits/licenses according to Article 5 and Article 6 of the Decision on Timber Processing Management No. 1301/MOIC, 2007 and shall be considered case by case according to Article 45 of the Processing Industry Law. 13.1. All levels of the timber processing manufactures,</p>	<p>Business involved in the processing of timber must be registered according to their operating standard/capacity</p>

How to select requirements?

- Areas of legality covered by EUTR
 - Tenure or use rights
 - Rights to harvest
 - Forest management requirements
 - Taxes & fees related to harvesting and trade
 - Trade & export procedures
- Other areas of legality
- Stakeholders decide on what to include

What needs to be done

- Agree on scope
- Agree on structure
- Select aspect of legality to be included
- Group requirements under aspects of legality

EU FLEGT
Facility

Thank You

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