



Timber Legality Definition of Confiscated Timber in the Framework of the FLEGT VPA Process in Laos



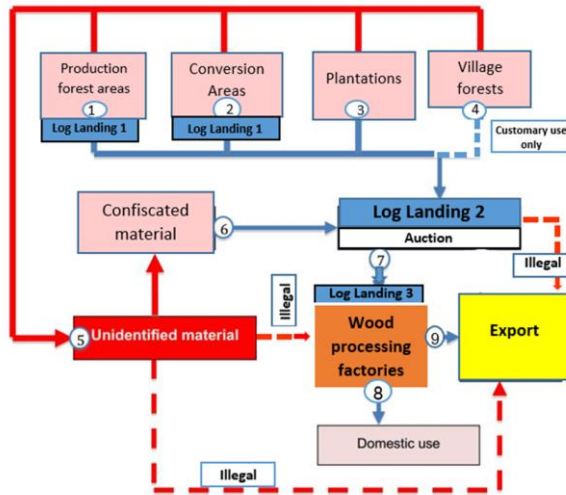
What is confiscated timber?

Timber may be seized and confiscated under situations whereby it has been determined to be, or suspected to be, illegal in nature.

1. collected timber (Lao: Mai torn hom): is illegal timber found unattended, therefore there is no prosecution possible, because no person involved
2. seized timber (Lao: Mai ayat): illegal timber detected and temporarily secured, taken off from the person who had violated a law or regulation
3. confiscated timber (Lao: Mai jeutt): illegal timber that is finally impounded and whose “owner” has been prosecuted for criminal activity



Confiscated timber in the supply chain



Stages in the timber flow during which timber can be seized/ confiscated

1. During the unauthorized felling of trees
2. During the transport of timber from the felling site to log landing 1
3. During the transport of timber from log landing 1 to log landing 2
4. During the transport of timber from log landing 2 on public roads to a customer, a wood processing facility or an international border
5. During the temporary storage of illegal timber at various locations
6. At a wood processing facility
7. After the first or second processing step on the way to further processing or to the customer of the semi-finished wood product
8. During importation at international borders



Law enforcement agencies in Laos that seize and confiscate timber

1. Inspection section of POFI of PAFO and DFIU of DAFO (under MAF)
2. Provincial customs unit and international customs checkpoints, (Ministry of Finance)
3. Unit of trade inspection, Section of Domestic Trade, POIC (MOIC)
4. environmental police, economic police (Ministry of Public Security)
5. Special task forces and checkpoints under their mandate, established according to MoU of provincial and district governors. consisting of multi-agency staff, mainly from forest inspection, department of finance (tax), POIC, police, armed forces, PONRE



Important legal references for seizure/ confiscating timber

- Forest law, No. 06/ NA, from 24 Dec 2007.
- Decree of the Prime Minister about strengthening control of timber harvest, timber transport and timber business, No. 15/ PM, 10 May 2016.
- Law about prosecution of crimes, No.17/ NA, 10 Jul 2012.
- POFI: MoU of the minister of MAF about the establishment and responsibilities of POFI, No. 1041/ MAF, 21 May 2013.
- POFI: MoU of the minister of MAF about the inspection and prosecution regarding the forest and forest products, No. 0141/ MAF, 18 Nov 2010.
- POIC: Decree about trade inspection, No. 508 /GO, issued on 4 Oct 2012.
- Customs: customs law, issued by the national assembly, No. 04/NA, from 20 Dec 2011
- Provincial level: Regulations for the management and protection of the national conservation forest areas (issued by provincial governor)
- MoU of the provincial governors about the establishment of the committee responsible for solving the problem of transporting and harvesting illegal timber



Registration of confiscated timber with the Office for Management of State Assets

All timber, legally felled from national production forests, timber harvested in conversion areas as well as all confiscated timber must be registered as state asset before being sold. Legal references:

- Order 57/PM 2014 and
- Instruction 3211/MOF 23 September 2015: Instruction on Implementation of Order of the Prime Minister No. 57/PM, dated 16 Dec 2014 on Income Collection Management from the Sales of Timber and Non-timber Forest Products (NTFP) into State Budget



Sale of confiscated timber through auction

Some important legislation documents:

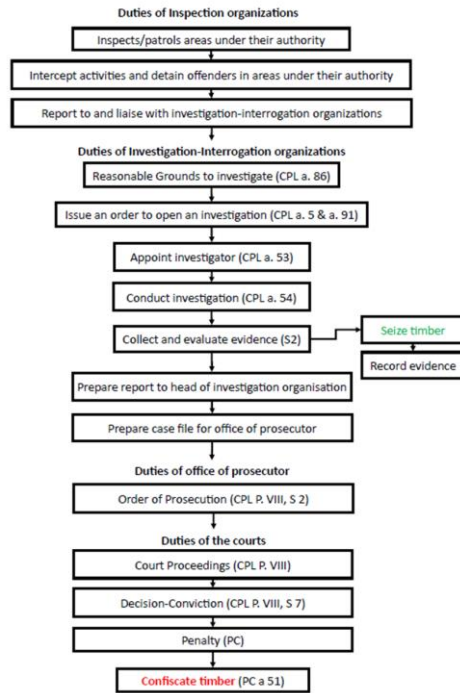
- PM19 from 2017-03-02 on central timber auction committee for confiscated timber
- MOIC-DIMEX No.0336 from 2017-03-13 on auction of confiscated timber
- GO-KHA No. 2524 from 2016-12-20 on establishment of provincial timber auction committee

Documents on sale of timber in general:

- MOIC No. 1726 from 2012-08-23 on Regulations on Sale and Purchase of Timber
- MOIC-DIMEX No. 1813 from 2015-09-04 on timber prices



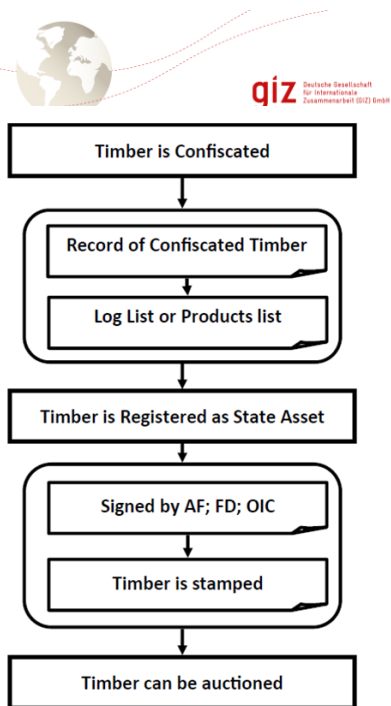
Steps in the process of confiscation of timber



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Registration of confiscated timber with the Office for the Management of State Assets

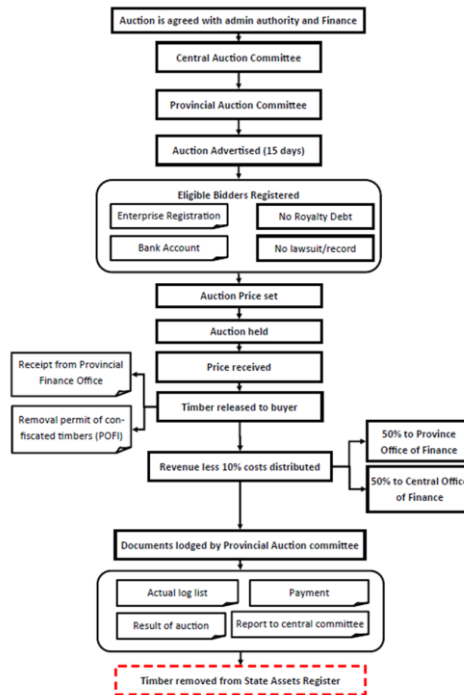


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Marketing of confiscated timber through auction sale



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Principles, criteria, verifiers for the TLD 5 (1)

PRINCIPLE 5.1 DETERMINATION OF CONFISCATED TIMBER		
Criterion 5.1.1 The State has confiscated or collected the timber according to the laws		
Indicators	Verifiers	Legal references
The court issue the confiscation based on the case file prepared by the authorized state agency	• Order of Prosecution by Custom	Customs Law 2012
	• Order of Prosecution by POFI	• Decision No. 3063/MAF on Organization and Implementation (mandate) of the Department of Forest Inspection (DOFI) dated 30 June 2017
The timber is collected by the authorized agency	• Penalty Decision by the court on confiscation	Criminal Procedure Law (2012)
	• ???????	• ????????
	•	•
	•	•
	•	•
	•	•
	• xxx	•

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Principles, criteria, verifiers for the TLD 5 (continued 2)

PRINCIPLE 5.1 DETERMINATION OF CONFISCATED TIMBER		
Criterion 5.1.2 The confiscated timber has been marked and registered as a State asset		
Indicators	Verifiers	Legal references
	<ul style="list-style-type: none"> Log lists registration into state assets 	<ul style="list-style-type: none"> Instruction 3211/MOF (2015), article 2
	<ul style="list-style-type: none"> Certificate of deletion from state assets 	<ul style="list-style-type: none"> Law 06/NA (2007), article 11 (1) Instruction No. 3211/MOF (2015), article 6

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Principles, criteria, verifiers for the TLD 5 (continued 3)

PRINCIPLE 5.2 Sale of confiscated timber by the state		
Criterion 5.2.1 Timber auction shall be in compliance with regulations (please check to be in general in line with auction for timber in production forest)		
Indicators	Verifiers	Legal references
5.2.1.1. Bidding committee has been established from three concerned sectors such as Agriculture and Forestry, Industrial and Commerce and Finance at the provincial level.	<ul style="list-style-type: none"> Letter of appoint of bidding committee by the provincial Governor 	<ul style="list-style-type: none"> Order 17/PM (2008), article 6 (2) Regulation 1726/MOIC (2012), chapter I (4)
5.2.1.2 Sales of timber from official log lists have been conducted through transparent auction by the bidding committee.	<ul style="list-style-type: none"> Letter of announcement 	<ul style="list-style-type: none"> Regulation 1726/MOIC. (2012), chapter II (1.1)
	<ul style="list-style-type: none"> Results of bidding 	<ul style="list-style-type: none"> Regulation 1726/MOIC. (2012), chapter II (2) Regulation 0204/MAF (2002), article 17
	<ul style="list-style-type: none"> Selling contract 	<ul style="list-style-type: none"> Law 06/NA (2007), article 11 (1) Regulation No. 1726/MOIC. (2012), chapter III (1)
	<ul style="list-style-type: none"> Receipt of payment from timber buyer 	<ul style="list-style-type: none"> Law 06/NA (2007), article 11 (1) Regulation No. 1726/MOIC (2012), chapter III (2)
03.02.2018	<ul style="list-style-type: none"> Report on auction result 	<ul style="list-style-type: none"> Instruction No.

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Report on auction result

Instruction No.

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Open questions

Which organisations apart from Custom and DOFI/POFI are allowed to confiscate timber?

What is the legal framework for collected timber and are the procedures the same as for confiscated timber?

Which role plays the CITES convention and where the process for a CITES certificate should start?



Next steps for the development of TLD 5

- Identification of the core expert team
- Sharing of the assessment report of the law consultant with the core team
- Organize core expert team to discuss the TLD on 15.2.2019
- Discuss TLD 5 in the next TWG before end of February
- Send draft of TLD 5 to EU
- Discuss TLD 5 in next face to face negotiations middle of March



Thank you for your attention!



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Department of Forest Inspection
That Dam Campus, Chanthabuly District
Vientiane Capital, Lao PDR
P. O. Box 12 95
T +856 21 255 264
F +856 21 255 263
E marc.gross@giz.de
I www.giz.de

Responsible
Heiko Woerner

Author(s)

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Layout

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