

ANNEX V- TOR FOR INDEPENDENT EVALUATION AND INDEPENDENT EVALUATION IN TLAS

Negotiation Support and Development Committee (NSCD) Meeting

Date: 7 – 8 /04/2022

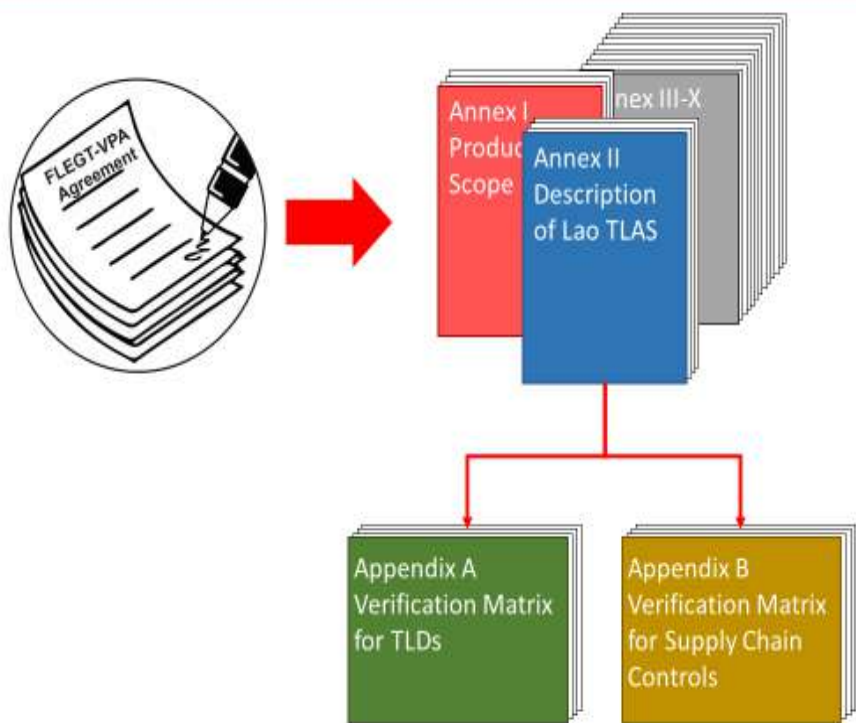
Presented by: Mr. Khamvene Keomanivong, Head of FLEGT Standing Office

Contents

1. VPA and Annex V
2. Annex V TOR for Independent evaluation in brief
3. Related evaluation of Lao TLAS implementation
4. Contents of TOR for independent evaluation
5. Independent public observation in Lao TLAS
6. Complaints and observations

1. VPA and Annex V

VPA Annexes and Appendices of Annex II



VPA text

Annex I: Product Scope

Annex II: Timber legality assurance system (TLAS)

- Appendix A TLDs matrix and related verification
- Appendix B SCC and related verification
- (Appendix C FLEGT licensing)
- (Appendix D Independent evaluation)

Annex III: Conditions governing the release for free circulation

Annex IV: Requirements and technical specifications of FLEGT Licenses

Annex V: Terms of Reference for Independent evaluation

Annex VI: Criteria for assessing the operationality of TLAS

Annex VII: Public disclosure of information

Annex VIII: Functions of Joint Implementation Committee

13/11/2018

TWG Meeting

6

Structure confirmed during TWG meeting from 26th Nov. 2021

2. Annex V: TOR for Independent evaluation in brief

Requirements

- Independent evaluation is one of the elements of TLAS
- Annex V “TOR for independent evaluation” is required to define for the independent evaluation body to evaluate the implementation and effectiveness of Lao TLAS.

Objectives

- Provide detailed objectives, scope, mandates, methodology, reporting and information disclosure for independent evaluation body to perform its evaluation;
- Define competence criteria and procurement procedures for contracting independent evaluation body; and
- Determines the independent public observation in Lao TLAS.

Intended results of Annex

- The Lao TLAS functionality is well understood to seek potential weakness to partly or entirely improve it;
- The JIC can timely make decision on continuation or suspension of issuing FLEGT license for wood products export to EU markets and other export markets; and
- The broad objectives of the VPA are achieved.

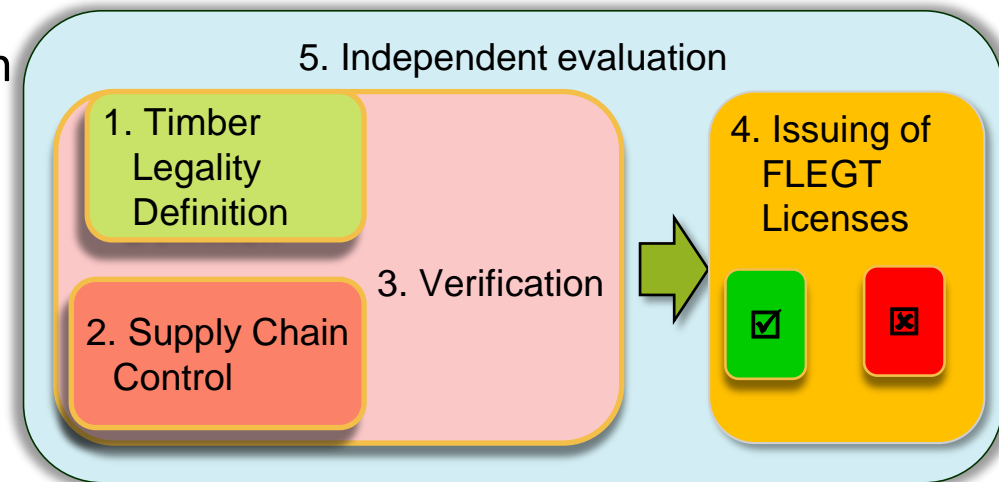
3. Related assessment of Lao TLAS implementation

1. Verification

- Subject: Performance of government and/or private operators to
 - Comply with Legality Definition(s)
 - Comply with requirements related to timber supply chain
- Carried out by a verification bodies (DOFI and POFI)

2. Independent evaluation

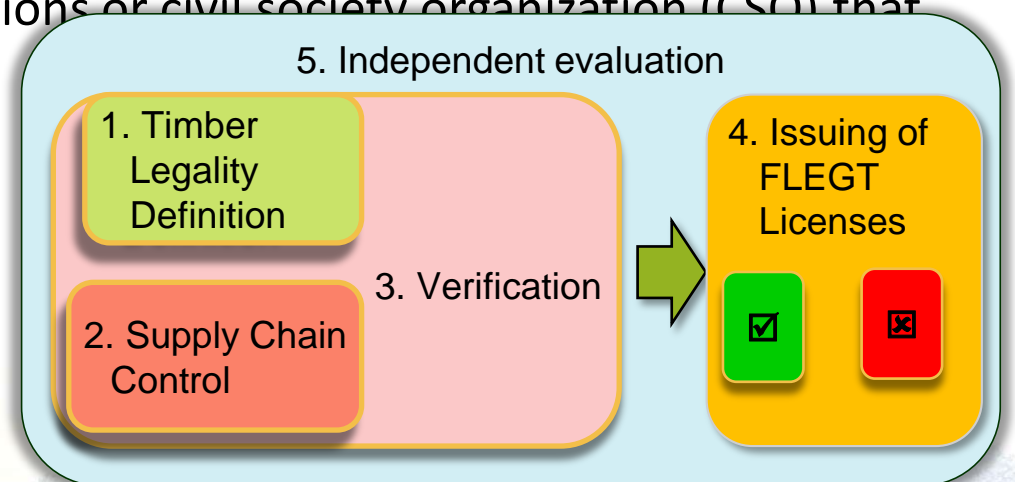
- Subject: Implementation and effectiveness of TLAS
 - Verification bodies (verification function)
 - FLEGT Licensing Authorities (licensing function)
- Carried out by an independent evaluation body contracted by EU with **TOR** that reports to JIC.



3. Related assessment of Lao TLAS implementation

3. Independent public observation (Formal or Voluntary)

- Subject: performance of
 - Operators
 - Verification body
 - FLEGT Licensing Authority
- Carried out by the public (Individuals, entities, organizations or civil society organization (CSO) that report to Government agencies).



4. Contents of TOR for independent evaluation

1. Objectives of the TOR
2. Scope of independent evaluation
3. Mandates and confidentiality
4. Methodology of independent evaluation
5. Reporting and information disclosure to the public
6. Complaints and appeals
7. Competence criteria for independent evaluation body
8. Contracting procedures for independent evaluation body

4. Contents of TOR for independent evaluation – Continued

1. Objectives of the TOR

- Assess whether the Lao TLAS is functioning in accordance with the provisions in Annex II of VPA
- Assess (i) the effectiveness of the Lao TLAS and (ii) the credibility of the FLEGT licenses issued under VPA.

4. Contents of TOR for independent evaluation – Continued

2. Scope of independent evaluation - Covers all aspects of the Lao TLAS implementation

- 1) Verification function to ensure that government and private sector operators comply with the TLDs and SCC requirements
- 2) FLEGT licensing function ensuring legality of timber products for the EU and other international markets.
- 3) Handling of non-compliance with the Lao TLAS requirements and imposing of penalties in accordance with the legal proceedings
- 4) Possible weaknesses in the Lao TLAS and related systemic or implementation improvements
- 5) Accessibility of stakeholders to information on the TLAS implementation
- 6) Information on the timber production and trade from the Lao PDR to the EU, including release for free circulation of FLEGT licensed timber in the EU Member States.
- 7) Other assessments, studies or tasks commissioned by the JIC.

4. Contents of TOR for independent evaluation – Continued

3. Mandate and confidentiality

- Has a full mandate to assess the implementation of the Lao TLAS in its entirety and has open access to all information related to the Lao TLAS.
- May not disclose information on the TLAS implementation to external parties, except for the information included in the evaluation reports.
- The JIC decides on the policy for the public disclosure of the findings of the Independent Evaluation.

4. Contents of TOR for independent evaluation – Continued

4. Methodology of evaluation

Collect information as appropriate from the following line agencies:

- 1) Verification Bodies such as DOFI and POFI
- 2) Relevant government bodies (Both central and provincial levels)
- 3) Inspection bodies such as Lao State Audit Organization, State Inspection Organization and other inspection organizations
- 4) Private or government operators related to harvesting, transportation, auctioning, domestically trading, processing and exporting of timber
- 5) FLEGT Licensing Authority
- 6) Affected Communities
- 7) Civil Society
- 8) Mass media
- 9) Other stakeholders as indicated by JIC.

4. Contents of TOR for independent evaluation – Continued

5. Reporting and publicity

- Publishes the evaluation methodology once it has been approved by the JIC.
- Reports exclusively to the JIC.

4. Contents of TOR for independent evaluation – Continued

6. Complaints and appeals

- The Independent Evaluation Body shall have a mechanism in place for receiving, validating/evaluating and responding to complaints and appeals.
- The Independent Evaluation Body shall provide public access to, or disclosure of the mechanism to submit complaints and appeals.

4. Contents of TOR for independent evaluation – Continued

7. Competence criteria for independent evaluation body

- Conform with the ISO/IEC 17021 on audit and certification of management systems and ISO/IEC 17065 on certifying products, processes and service, or equivalent
- Shall have the following conditions and competence:
 - 1) Shall be a legal entity.
 - 2) Shall have a mechanism in place to ensure its impartiality and independence from the Lao forest sector,
 - 3) Shall not be directly involved in forest management, timber processing, trade in timber, regulatory control.
 - 4) Shall have good knowledge on the Lao forest sector (Forest management, timber processing and trade, management of timber supply chain, traceability of timber products)
 - 5) Shall have proven experience on the assessment of forestry and forest industries in tropical regions of South-East Asia.

4. Contents of TOR for independent evaluation – Continued

8. Contracting procedures for independent evaluation body

- Shall be contracted in accordance with the relevant procurement rules of the Lao Government.
- The JIC consent is required for the contracting the independent evaluation body.

5. Independent public observation in Lao TLAS

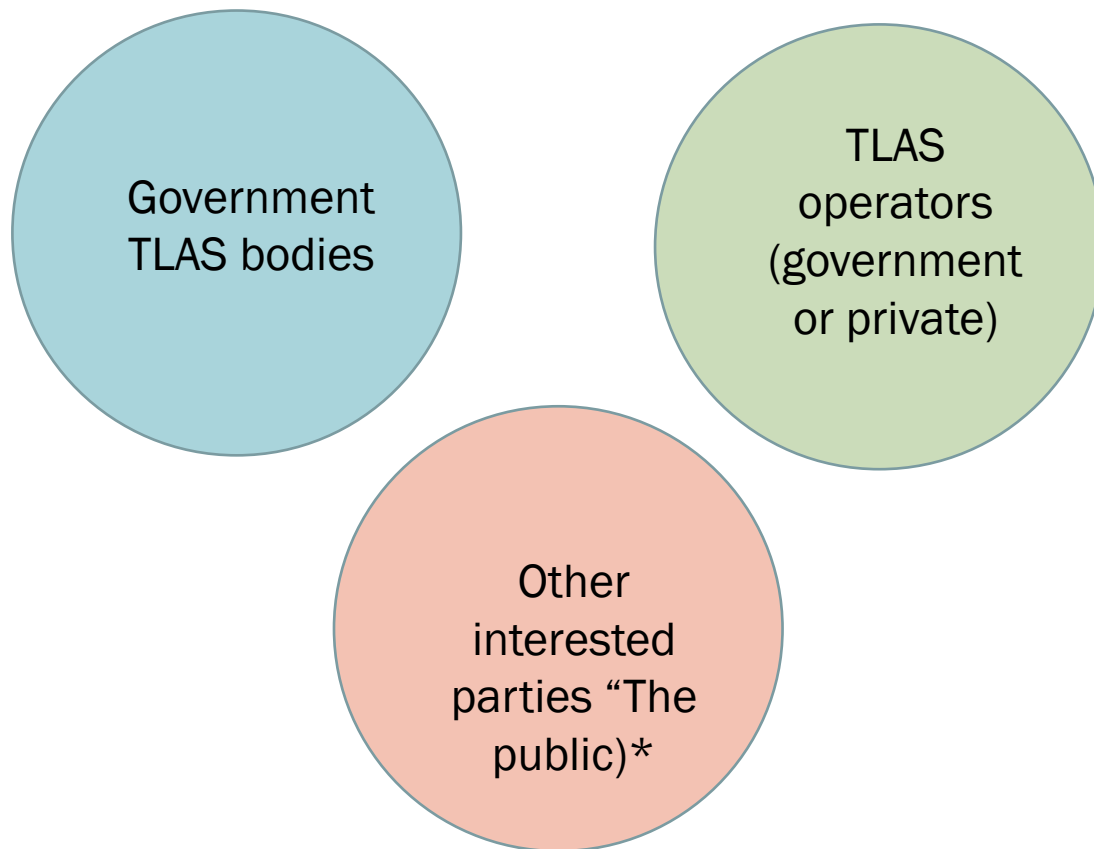
- Two options of independent public observation were presented and discussed.
 - ✓ Option 1: Independent public observation as a formal TLAS element (Systematic evaluation of TLAS with long term commitments, adequate capacity and financial support)
 - ✓ Option 2: Independent public observation as voluntary/ad hoc observation (Voluntary contribution, no binding obligations)
- As the capacity of the public in Laos still has
 - ✓ No clear vision to support VPA process,
 - ✓ lack of long-term plan and motivation
 - ✓ Inadequate in-house technical capacity
 - ✓ Inadequate financial support

5. Independent public observation in Lao TLAS

- **Therefore**, the TWG has proposed take in account option 2 as voluntary/ad hoc observation in which
 - ✓ Government to set up mechanisms for the public (Individuals, entities, organizations or CSOs) to submit observations finding and complaints to verification bodies and licensing authority.
 - ✓ Independent evaluation body to set up mechanisms/practices to receive observation findings from the public.

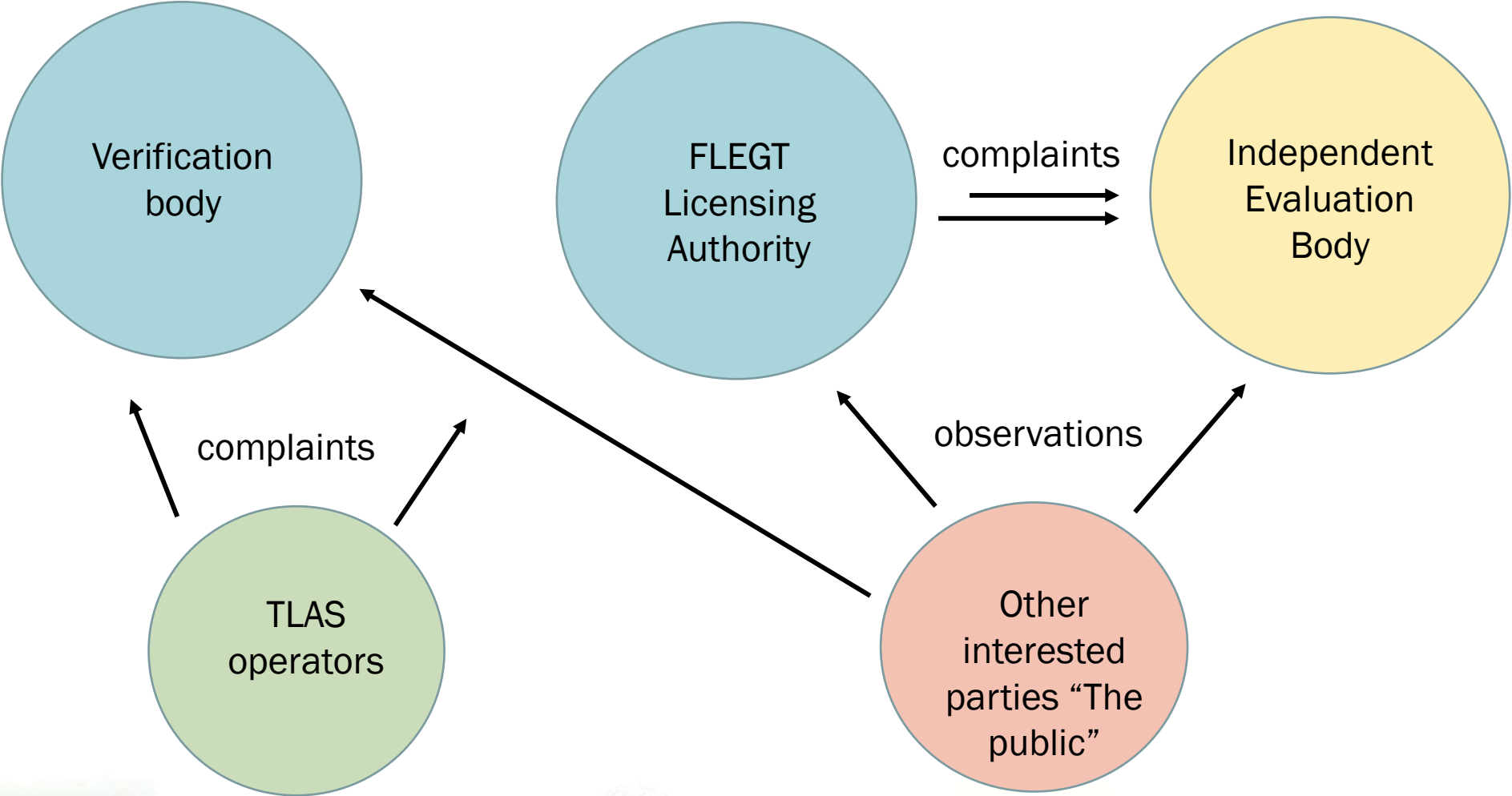
6. Complaints and observations

Stakeholders of Lao TLAS



* Means individuals, entities, organizations or CSOs who shall not be directly involved in forest management, timber processing, trade in timber, regulatory control.

Complaints & observations



Complaints and observations

- **Complaints**

- ✓ TLAS operators lodge, if not satisfied with the decision of
 - ✓ Verification body
 - ✓ FLEGT Licensing Authority
- ✓ Verification Body and FLEGT Licensing Authority lodge, if not satisfied with the report of
 - ✓ Independent Evaluation Body

- **Observations**

- ✓ Interested parties lodge, if they want to share observation findings with
 - ✓ Verification body
 - ✓ FLEGT Licensing Authority
 - ✓ Independent Evaluation Body

Mechanisms related to complaints and observations

- Verification body, FLEGT Licensing Authority and Independent Evaluation Body have their own mechanisms to
 - ✓ Lodge complaints and observations
 - ✓ Oral
 - ✓ Paper-based
 - ✓ Electronic (e.g. through website)
 - ✓ Address complaints and observations in a timely manner
 - ✓ Investigate (e.g. verification body checks if an operator has violated TLAS requirements)
 - ✓ Take actions, where necessary (e.g. verification body raises a non-compliance)
 - ✓ Provide feedback to the one who lodged the complaint or observation
 - ✓ Enable appeals, if the one who lodged the complaint or observation is not satisfied
 - ✓ Amicable handling
 - ✓ Escalation to an arbitration/mediation process or court

FLEGT

ກົມກວດກາປ່າໄມ້
ແຜນງານ Lao-EU FLEGT VPA
ການຄ້າໄມ້ ທີ່ຖືກຕ້ອງຕາມກົດໝາຍ

THANK YOU

