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Stakeholders in the EU-Lao PDR FLEGT VPA Negotiations: The roles of non-state actors

Imprint

Published by

European Forest Institute (EFI), EU-FLEGT Asia Programme

www.efi.int/partnerships/EUFLEGTAsia

Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH,
Protection and Sustainable Use of Forest Ecosystems and Biodiversity (ProFEB) Project

www.giz.de/en/worldwide/66110.html

Lao-EU FLEGT VPA Website, FLEGT Standing Office

www.flegtlaos.com

As at

February 2022

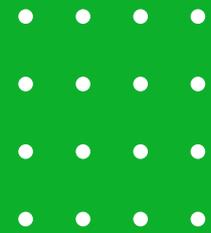
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This publication has been produced with the financial assistance of the European Union and on behalf of the German Federal Ministry for Economic Cooperation and Development (BMZ). The views expressed herein can in no way be taken to reflect the official opinion of the European Union or BMZ.

HIGHLIGHTS



- The main objectives for Lao People's Democratic Republic (PDR) to engage in negotiations with the European Union (EU) on the Forest Law Enforcement, Governance and Trade (FLEGT) Voluntary Partnership Agreement (VPA) are to combat illegal timber logging and associated trade, facilitate the export of legal timber/ wood products from Lao PDR to the EU and other international markets, and most importantly improve forest governance and support sustainable forest management in Lao PDR.
- The FLEGT VPA process represents a fundamental transformation in how the Lao forestry sector is governed, where non-state actors are given unprecedented access to influence policies and regulations that affect the forestry sector by opening up spaces for these actors to participate in national consultative meetings and in the bilateral negotiations between Lao PDR and the EU.
- Non-state actors have made substantial contribution to the FLEGT VPA negotiation process through their participation in these platforms. Regulatory revisions on the key points that these actors brought up in the national platforms have been addressed, for example during the revision of the Forest Law and the Prime Minister Decree on Environmental and Social Impact Assessment. Comments provided have also resulted in revisions of applicable regulations and thus adjustment of indicators in the Lao's Timber Legality Definitions, vice versa.
- The challenges that these non-state actors face is unique to their institutional affiliations. For example, for civil society organisations (CSOs), the main challenges are: i) limited human and financial resources within the CSOs, also leading to the loss of previously built capacity when members retire from active participation in the network ii) restricted enabling political environment for CSOs to operate; and iii) limited understanding of the technical aspects of the FLEGT VPA processes, technical annexes and their complexities. For the private sector, the main challenges are: i) time commitment to attend FLEGT VPA related meetings, ii) inconsistent or weak enforcement of policies and regulations between the central and local government, iii) lack of regulatory incentives, and iv) lack of financial capital to scale up operations to be able to compete with neighboring countries.
- The FLEGT VPA process in Lao PDR thus far has shown that the government has been open to providing the opportunities through multi-stakeholder engagement structures for CSOs and the private sector to participate in decision-making processes, despite the challenges. Experiences from other more advanced VPA countries indicate that non-state actors not only require time, technical knowledge, resources (human and finance) and targeted capacity building to fully and effectively participate, it is essential to develop trust and a common understanding of and clarity on the roles within and amongst the stakeholder groups in the process.
- Moving forward, it is important not only to ensure the continued and effective participation from non-state actors in the development of a national system for timber legality assurance of Lao PDR, but more broadly to continue supporting their ability to contribute to the ongoing forestry governance reform in the country as well as to engage in learning about operator-based market requirements in international markets.

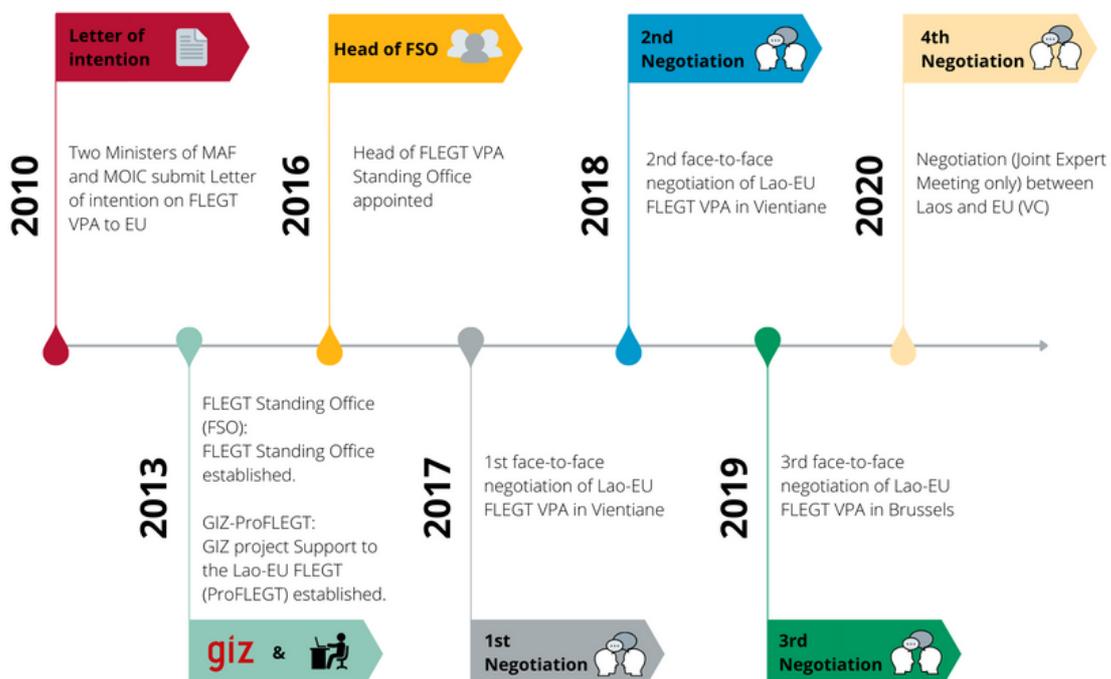
OVERVIEW OF THE PAPER

This paper takes stock of the involvement of non-state actors (civil society organisations and private sector) in the negotiations of the Lao PDR with the European Union (EU) on the Forest Law Enforcement, Governance and Trade (FLEGT) Voluntary Partnership Agreement (VPA). It starts with an overview of the status of the EU-Lao PDR FLEGT VPA as of January 2022, focusing specifically on the status of the technical work and the roles of stakeholders in providing their inputs on these technical work through the negotiation process. The paper provides a comprehensive account of the stakeholder engagement structures that are formally established to ensure that the FLEGT VPA negotiations in Lao PDR are participatory and consultative. The paper then narrows the focus to assess how non-state actors got involved and explains their roles and their engagement in influencing the content and direction of the EU-Lao PDR FLEGT VPA. This is followed by the challenges that these non-state actors have faced and the prospects going forward.

SECTION I: STATUS OF THE LAO PDR-EU FLEGT VPA

In April 2012, Lao PDR formally expressed to the EU its interest in commencing a process to move towards negotiation of a FLEGT VPA to improve forest governance in order to promote trade in legal timber products. The Government of Lao PDR (GoL) authorised the preparation to join the formal FLEGT VPA negotiations with the EU in June 2015 in Notification No 986/PMO. Following the approval, Lao PDR established its negotiating structure – launching a National Steering Committee and appointing a Chief Negotiator. In October 2015, Lao PDR communicated to the EU its readiness to negotiate and the first negotiation round took place in April 2017 in Vientiane Capital. As of January 2022, four rounds of negotiations on FLEGT VPA between the EU and Lao PDR were conducted (Figure 1)[i]. Due to the travel restrictions imposed by the global COVID-19 pandemic, the fourth round of negotiation took place virtually in September 2020. Lao PDR reiterated in this fourth negotiation that multi-stakeholder approach with involvement of government, private sector and civil society remains a core strength of the VPA between Lao PDR and the EU, as the negotiations continue to progress[ii].

Figure 1. Overview of FLEGT VPA process and the bilateral meetings between EU and Lao PDR



The fifth round of negotiation between the EU and Lao PDR was to be held virtually in April 2021. However, due to the stringent COVID-19 travel restrictions in Lao PDR, much of the technical work particularly the field testing of the Lao Timber Legality Assurance System (Lao TLAS) could not be conducted. Both parties agreed to postpone the fifth negotiation from April to November 2021. Furthermore, the institutional reforms, which took place in mid-2021 in Lao PDR, resulted in the change of the Lao negotiation team (new Chief Negotiator, new Technical Focal Point, and new head of the FLEGT Standing Office). These factors led to the further delay of the fifth negotiation round from April 2021 to the tentative date which was provisionally agreed by the EU and Lao PDR around the first quarter of 2022.

Despite these delays, Lao PDR continued to make progress on the technical work to the extent possible. Multi-stakeholder, participatory consultations and meetings such as Technical Working Group (TWG) and Negotiation Support and Development Committee (NSDC) continued, mainly via virtual means, with involvement of government and non-government stakeholders. Communications between the EU and Lao PDR also remained active through email exchanges between the technical focal points.

SECTION II. OVERVIEW OF STAKEHOLDER ENGAGEMENT STRUCTURES IN THE EU-LAO PDR FLEGT VPA

Stakeholders in government ministries, private sector associations and CSOs develop the VPAs through a deliberative, consultative and participatory process. FLEGT VPA is a vehicle for addressing the economic, environmental and social needs of different stakeholders and for including some of the stakeholders who have never previously had a voice in decision-making with regards to forest governance[iii]. In Lao PDR, the FLEGT VPA process has resulted in the establishment and functioning of the following multi-stakeholder engagement structures.

2.1. NATIONAL STEERING COMMITTEE: ROLES

In August 2015, the Prime Minister of Lao PDR set up a multi-stakeholder National Steering Committee (NSC) on the VPA (Decision No. 65/PM), giving stakeholders in Lao PDR unprecedented access to influence policies and regulations that affect the forestry sector. As stated in Article 3 of this Decision, the NSC functions as the Secretariat to the GoL to establish a strategic framework to steer the VPA negotiation and implementation of its obligations. Led by the Vice Prime Minister who is responsible for economics and traffic, the NSC gives directions for the different FLEGT sub-committees such as the Negotiation Support and Development Committee (NSDC), oversees the implementation of FLEGT work plans between Lao PDR and the EU and disseminates the negotiation results to relevant line agencies. The NSC is also responsible for the introduction and necessary endorsement of the Lao TLAS as well as for proposing all the VPA technical Annexes to relevant ministries and seeks for government's direction and approval.

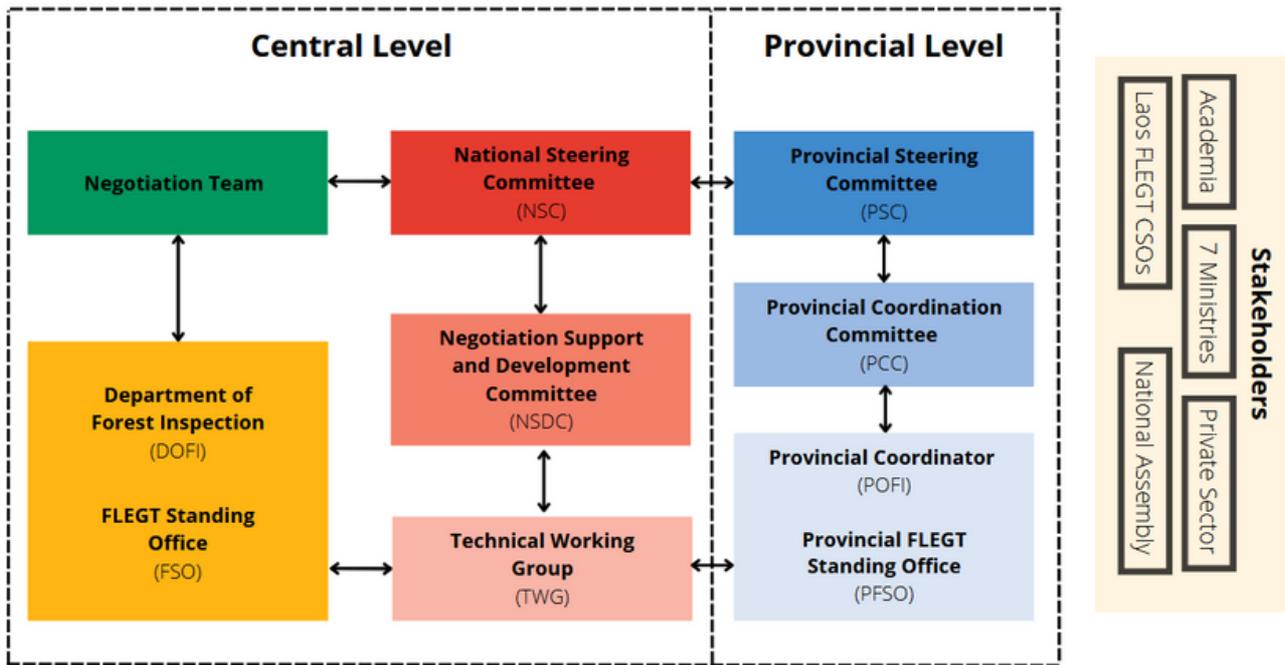
2.2. NATIONAL STEERING COMMITTEE: MEMBERS

In addition to representatives from Government at central and provincial levels, members of the NSC includes mass organisations[iv], self-selected representatives from CSOs and the private sector associations. Article 1 of the Decision No. 65/PM specified the following stakeholders as members of the NSC:

1. **Government:** includes Minister and Vice Minister of the Ministry of Agriculture and Forestry (MAF), Vice Ministers of the Ministry of Industry and Commerce (MOIC), the Ministry of Natural Resources and Environment (MONRE), the Ministry of Foreign Affairs (MoFA), the Ministry of Planning and Investment (MPI), the Ministry of Finance (MoF), the Ministry of Justice (MoJ), vice Governors of the three FLEGT pilot provinces (Attapeu, Khammoune and Sayabury) and mass organisations (Lao Women Union, Lao Youth Union and Lao Federation of Trade Unions).
2. **Private sector:** includes representatives of the Lao National Chamber of Commerce and Industry, particularly the Lao Wood Processing Association and the Lao Furniture Association. Both associations have actively been participating in various technical meetings on the VPA in Lao PDR and in the formal bilateral negotiations between the EU and Lao PDR. A particular interest of the private sector is on the development of supply chain control and legality of plantation timber.
3. **Civil society organisations:** includes a group of 20 CSOs that formed the ‘Lao CSO FLEGT Network’ in 2015. Through a self selection process, they identified five CSOs to represent the group in various technical meetings on the VPA in Lao PDR and in the formal bilateral negotiations between the EU and Lao PDR. As of January 2022, the Network has 26 member organisations. Each member was elected to contribute to work on various components of the Lao PDR-EU FLEGT VPA.

In addition to the NSC, the MAF issued various implementing regulations including Decision No. 1868/MAF in 2016, Agreement No 3711/MAF in 2019 and others to establish the following stakeholder engagement structure (Figure 2) to ensure that VPA is a consultative, participatory process that actively engages government and non government stakeholders in Lao PDR.

Figure 2. Multi-stakeholder consultative platforms



2.3. NEGOTIATION SUPPORT AND DEVELOPMENT COMMITTEE

The Negotiation Support and Development Committee (NSDC) has 24 members[v] consisting of representatives from the ministries in the NSC, plus those from CSOs, private sector and academia. Head of the NSDC is the Director General of Department of Forest Inspection (DOFI), while Deputy Heads are Director Generals from Department of Forestry (DOF), Department of Industry and Handicraft (DOIH) and Department of Import and Export (DIMEX). The main tasks of the NSDC include:

- Lead consultations, review and endorse VPA annexes taking into account the legal context and reforms in country as well as stakeholders' inputs,
- Prepare and attend bilateral meetings with the EU,
- Review and endorse the annual work plan of EU-Lao PDR FLEGT VPA process,
- Advise and guide FSO to implement the annual work plan of EU-Lao PDR FLEGT VPA process,
- Report the progress of EU-Lao PDR FLEGT VPA process to the NSC regularly,
- Chair, advise, and lead TWG meetings to study technical documents in accordance with the mandate and responsibility of Departments.

2.4. TECHNICAL WORKING GROUP

The NSDC is supported by a Technical Working Group (TWG) that includes representatives from the same ministries, from provincial administration, private sector and CSOs as those in the NSDC. However, they are at the Heads or Deputy Heads of Divisions level and vary depending on the technical topic that is discussed. There is also no limit as to how many representatives from the Lao CSO FLEGT Network, Lao National Chamber of Commerce and Industry, Lao Wood Processing Association, Lao Furniture Association can participate in the TWG, as stipulated in Agreement No 3711/MAF in 2019. In addition to supporting the NSDC, the TWG mainly focuses its technical work along the timber supply chain and therefore is involved in the drafting of the Lao TLAS and other technical annexes of the VPA.

2.5. FLEGT STANDING OFFICE

The FLEGT Standing Office (FSO) was opened by MAF in October 2013 to serve as the secretariat to provide coordination support with the EU and to all national and international stakeholders working directly with or indirectly supporting the FLEGT process in Lao PDR. The FSO has been set up and is equipped with trained national staff from DOFI and technical backstopping from the national and international experts from the GIZ ProFEB programme. As an additional entity to the Department of Forest Inspection, the FSO has been tasked to engage, coordinate and build bridges between all relevant stakeholders.

2.6. LAO NEGOTIATION TEAM

The Vice Minister of MAF is appointed as the Chief Negotiator to lead the Lao delegation in the negotiations with the EU on VPA FLEGT. The Vice Ministers of MOIC and of MONRE are appointed as Vice Chief Negotiators. The Director General of Department of Forest Inspection functions as the secretariat for the Negotiation Team. Representatives of the NSDC and the TWG are selected to be members of the Negotiation Team and join according to the topics of each negotiation. Representatives of the CSOs and Private Sector also joined the Lao Negotiation Team during the formal negotiations with the EU.

SECTION III. INVOLVEMENT OF THE LAO CIVIL SOCIETY ORGANISATIONS[VI]

3.1. ORIGIN AND MEMBERSHIP

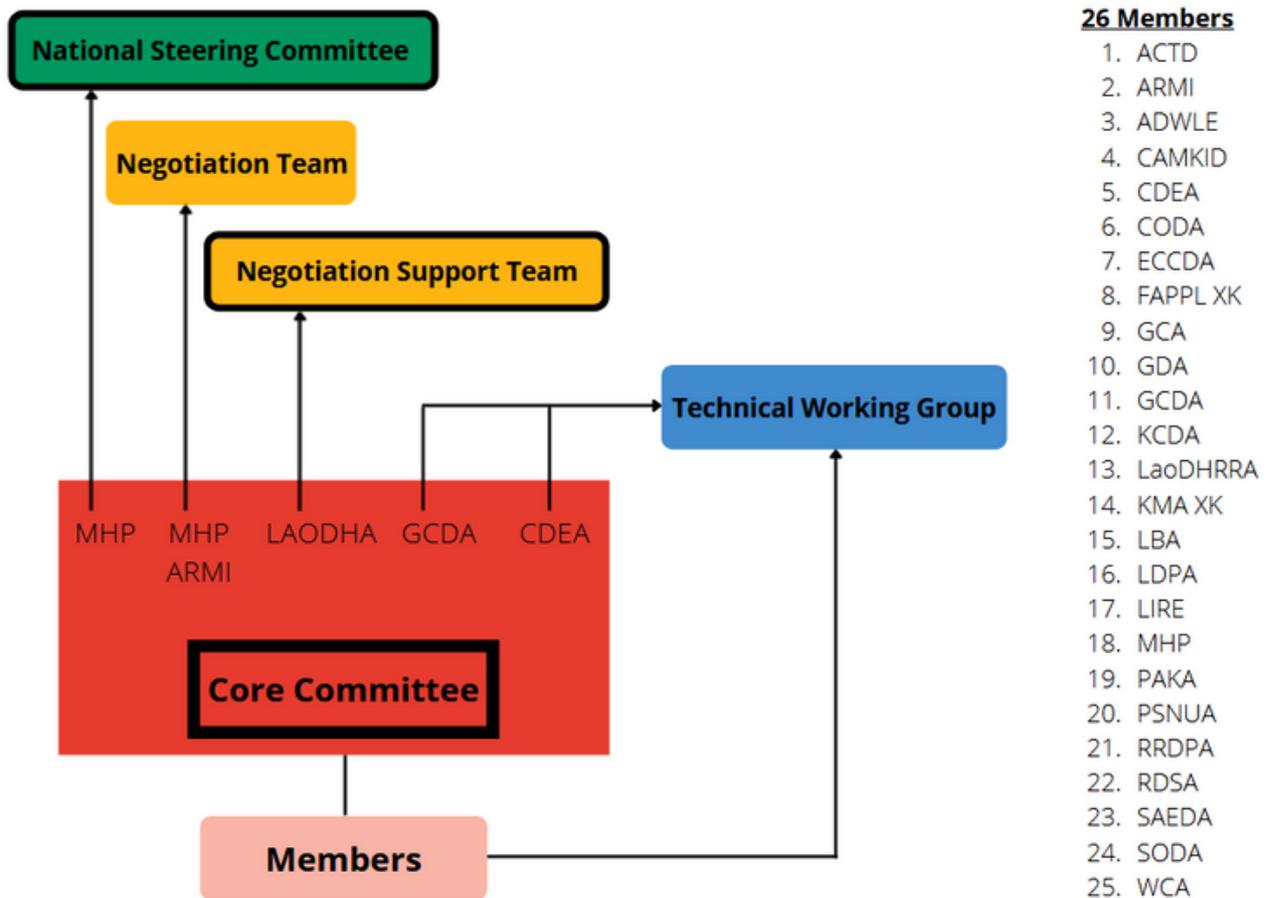
In Lao PDR, civil society are organisations recognised by the government to implement projects to support the National Social Economic Development Plan and contribute to the socio-economic development of the country and poverty reduction. Civil society can comprise entities such as Non-profit Association, Foundations, International Non-Governmental Organisations, Community-based Organisations, Social Enterprises and other informal groups such as: farmer groups and cooperatives, organic vegetable groups, revolving groups and others[vii].

Prior to 2013, the forestry sector in Lao PDR has conventionally included government, private sector, development partners and international non-government organisations. The preparation for the FLEGT VPA negotiations provided the opportunities and spaces for Lao CSOs to participate in forestry governance given that the EU strongly encourages that national CSOs participate in the VPA processes. Therefore, from 2014, Lao CSOs started to discuss how they can be involved in the VPA negotiations and started to mobilise its potential members.

By 2015, DOFI issued a list of VPA stakeholders that included Lao CSOs. This was followed by a document from DOFI approving the formation of a permanent **Lao CSO FLEGT Committee** and subsequently **Lao CSO FLEGT Network**. In 2019, the network published their charter[viii] which defined the organisation, activities and steering and meeting structure. The recognition of the Lao CSO FLEGT Network by DOFI and its participation in the EU-Lao PDR FLEGT VPA process represents a fundamental shift in how the forestry sector is governed in Lao PDR, a transformation that would not have been possible without the VPA.

As of January 2022, the Lao CSO FLEGT Network comprises 26 members whose work cover all provinces in Lao PDR. The Network elects their Core Committee, which comprises 5 members (Women Mobilising for Development as the President responsible for national negotiation, Lao Development of Human Resource in Rural Area as Vice President responsible for administration, Association for Rural Mobilisation and Improvement as Core Member responsible for communications, Green Community Development Association as Core Member responsible for fund raising, and Community Development and Environment Association as Core Member responsible for TWG). The representatives were officially approved by DOFI in 2019 as stated in Letter no. 0193/DOFI. Figure 3 shows the organisational structure of the Lao CSO FLEGT Network.

Figure 3. Organisational structure of the Lao CSO FLEGT Network



3.2. FUNCTIONS AND PROCEDURES

As stated in Article 22 of its Charter[ix], the expected roles of the Lao CSO FLEGT Network include:

- Provide oversight to the Lao CSO projects related to FLEGT VPA;
- Communicate progress of the Lao CSOs participation in the FLEGT VPA process nationally (e.g. present reports at NSDC, TWG meetings) and internationally (e.g. publications in [logging off](#));
- Participate and provide inputs through the multi-stakeholder consultative platforms such as the NSC, NSDC, TWG, and related meetings;
- Participate and provide inputs through technical working groups working on annexes of the EU-Lao PDR FLEGT VPA such as Product Scope, TLDs, and TLAS.

According to the Charter, the Core Committee shall meet every two months (or as necessary, depending on available resources), and conduct quarterly meetings with DOFI/ FSO and biannually with the EU Delegation to Lao PDR. The member organisations meet at least annually, depending on necessity and funding availability. Technical documents related to the FLEGT VPA process in Lao PDR (such as draft timber legality definitions) are circulated amongst the members via email and/or WhatsApp. Representatives from the Core Committee participate in the formal negotiations between the EU and Lao PDR on FLEGT VPA. Following these negotiations, representatives of the Core Committee who attended the negotiation sessions will hold a meeting with the Core Committee and the Network to inform them on the results from the negotiations and the next activities.

Each member of the CSO FLEGT Network has been elected to participate and support in meetings related to specific TLAS elements and other topics such as legislative and regulatory amendment. The designated list is shared with DOFI and FSO. CSO representatives confirmed that in general they have received documents (in Lao and English) and invitations to technical meetings based on this list. As stated in the Charter, the Network has institutional arrangements to structure their interactions amongst its members as well as their engagement with the FSO and other partners. The CSO FLEGT Network continues to be involved in drafting of the TLDs as well as the TLAS and other VPA annexes by participating in technical meetings organized by FSO and in the various NSDC and TWG meetings.

As of January 2022, representatives from the Network participated in all TWG meetings, all NSC meetings and all four rounds of EU-Lao PDR VPA Negotiations. Prior to attending these meetings, the Network would organise ad-hoc meetings amongst its members to gather comments and prepare to report these comments during the NSDC and TWG meetings. They often invite technical staff from the GIZ ProFEB and government officer from the FSO to selected sessions of these ad-hoc meetings to explain the key technical topics to be discussed at these meetings.

Comments from CSOs in these multi-stakeholder meetings often focused on: (i) compensation and resettlement, (ii) access to information, (iii) how to make registration of smallholder plantation accessible and affordable, and (iv) revision of the legal framework for timber from village use forest to allow villagers to manage and sell timber from village use areas as outlined in the new Forest Law (2019). These often cited topics reflect that the core business of most CSOs in the network relates to engagement of people on the local level. The Network keeps a list of actions/ requests that they have made to the FSO to monitor if their comments have been addressed satisfactorily. If their concerns are not addressed, the Network follows up via (i) letters to the FSO, and/ or (ii) re-iterate the concerns at TWG and NSDC meeting.

3.3. IMPACTS

The CSO FLEGT Network has made substantial contribution to the Lao PDR-EU FLEGT VPA negotiation process through their participation in these national platforms. Regulatory revisions on the key points that CSOs brought up in the national platforms have been addressed. For example, the new Forest Law allows for the commercial use of timber from village use forest areas, and the decree on promotion of plantation business provides various incentives to smallholders. In addition to the new 2019 Forest Law, the Prime Minister Decree 21 on Environmental and Social Impact Assessment (ESIA) has further institutionalised stakeholder consultations in government processes. The Forestry Law refers to the need to “consult and agree with local people” (section 5, article 87) and the ESIA Decree obligates that ESIAs are to be publicly consulted and disclosed.

Comments from CSOs in the TWG and NSDC meetings also resulted in the revision and consideration of applicable regulations and adjustment of indicators in the TLDs, and vice versa. For example, a verifier for an indicator in the TLD for Natural Production Forests requires that 12% of revenues from sales of timber from Production Forest Areas must be deposited into village accounts for development activities. Most importantly, in the TLD on Conversion Timber, social and environmental impact assessments for development projects that involve conversion timber must be conducted prior to the timber harvesting process. Furthermore, development projects that are subject to compensation and/ or resettlement must also prepare a compensation and resettlement plan in consultation with affected parties and that information is to be disclosed. These adjustments/ revisions are reflected in the new ESIA Decree.

In addition to their participation in these technical meetings, representatives of the CSO FLEGT Network conducted and presented their research reports focusing on transparency in the forestry sector, conversion timber and village use forests at the TWG and NSDC meetings held in May 2019. The co-chairs of the TWG and NSDC meetings welcomed these initiatives from the CSOs and encouraged them to continue their engagement in the Lao PDR-EU FLEGT VPA negotiation process by providing these targeted constructive inputs. Members of the CSO FLEGT Networks continue to work on these topics through the supports from sources including the FAO-EU FLEGT Programme, Fern, GIZ ProFEB and EU Delegation amongst others.

3.4. CHALLENGES

Given that the CSO FLEGT Network is still relatively new, there have been many challenges. As mentioned in an earlier section, the spaces and opportunities for the Lao CSOs involvement in the national forestry policymaking did not exist prior to the start of the EU-Lao PDR FLEGT VPA negotiations. Thus, the first challenge was to create a willingness from the Lao CSOs to engage in the FLEGT VPA process itself. At the start of the process, Lao CSOs needed an understanding that there is no risk from their participation in the VPA negotiations, as well as an atmosphere of trust and that their participation is indeed wanted by the government, and most importantly that their engagement would result in meaningful changes.

Another major hurdle faced by CSOs who decided to be part of the CSO FLEGT Network concerns their acceptance by other key stakeholders such as the government, the private sector and those that they are supposed to represent (e.g. other CSOs, villagers, etc.). As reported by Fern[x], the acceptance of Lao CSOs as legitimate stakeholders in the VPA process has been challenging and their participation has been difficult at times. Their ability to contribute to the multi-stakeholder process has been limited by lack of technical knowledge and experience of a majority of Lao CSO FLEGT Network members. On the other hand, some of the members of the CSO FLEGT Network[xi] reported that their status as a Lao CSO at times has not positively been perceived by the government nor the private sector, who had very limited experience working with the Lao CSOs and were unsure of their intentions or what they could contribute to the technical meetings. Some of the CSOs members admitted that they were reluctant to speak or provide technical inputs during consultative meetings that involve other stakeholders due to their lack of understanding of the subject being discussed.

The third, more of an administrative, challenge was to mobilise existing Lao CSOs into a group to work on the forestry sector given that a majority of the Lao CSOs and its staff did not have prior experience with projects related to forest management at the community level or the VPA. The availability and sources of funding significantly shape how much they can contribute to the CSO FLEGT Network given that each member's participation is on a voluntary basis.



The CSO FLEGT Network has faced challenges in engaging Lao CSOs as active members of the VPA process.

In terms of funding support, the EU through the EU FLEGT Facility hosted by the European Forest Institute provided the initial contribution to raise awareness of the Lao CSOs on the FLEGT VPA and the potential contributions from Lao CSOs. The EU Delegation to Lao PDR, through Fern provided support for the monthly, quarterly and annual meetings of the Network. Members of the CSO FLEGT Network also benefited from the financial support from the FAO-EU FLEGT Programme through grants that focus on capacity building of their members. GIZ ProFEB supported and implemented workshops and trainings (as part of their quarterly or biannual meetings, and in ProFEB EEA trainings) for CSO FLEGT network members to strengthen CSOs capacities targeting their intensified involvement in the VPA process. The EU Delegation also provided some technical supports on capacity building of the Lao CSO FLEGT Network's members with regards to FLEGT through the Voices for Mekong Forest project of RECOFTC. Overall, supports are available to the CSOs, although they have not been continuous or specifically tailored to the VPA technical topics such as TLDs and TLAS. It is important to emphasise that these funding supports to the Network stopped by the end of 2021.

Other challenges faced by the CSO FLEGT Network stem from their haphazard nature of internal organisation, knowledge management and information sharing, despite having an endorsed Charter. Some of the Network members mentioned that the lack of structured exchanges amongst the members remains a challenge for them to provide timely and applicable inputs into technical meetings via their proxy representatives. They also mentioned that the CSO FLEGT Network would have a stronger voice in the VPA process if the Network was better organised in its knowledge management and information sharing amongst members. For example, the Network would benefit from a knowledge management system where discussions on technical topics are structurally documented and shared amongst members given that members take turn to participate in TWG and NSDC. As such, some members who might not have followed the process, but were delegated to attend technical meetings, continue to find it challenging to be able to provide inputs on technical topics, and thus limiting their full and effective participation in such forums as NSDC and TWG.

Nonetheless, the space for national CSOs that was opened up by the EU-Lao FLEGT VPA process remains the only formal government-led multi-stakeholder processes which actively involves Lao CSOs in its negotiations, technical committees, and legislative amendment processes.

SECTION IV: INVOLVEMENT OF THE PRIVATE SECTOR

4.1. LAO FURNITURE ASSOCIATION AND LAO WOOD PROCESSING INDUSTRY ASSOCIATION

As mentioned in Section I, two private sector associations under the Lao National Chamber of Commerce and Industry are represented in the EU-Lao PDR FLEGT VPA process. First, the **Lao Furniture Association** which currently has about 90 members, each paying an annual membership fee of USD 35. The fee is used to support its Secretariat.

About 80% of the Lao Furniture Association's members are considered small and medium enterprises (SMEs) according to the Lao Law on Enterprises. These members often have low skills, weak timber input and output control and no proper financial management system. For these reasons producing good quality wood products that can compete with those made by countries in the region or internationally remain a challenge. Their lack of strong financial management systems also prevents them from having access to loans to scale up and improve their business operations. On the other hand, some members are quite advanced in these aspects such as the **Burapha Agro-Forestry Co., Ltd.**

To gather inputs on the VPA process (draft TLDs and TLAS) from members of the Association, the Secretariat would organise a meeting with their members prior to the NSDC or TWG or the formal EU-Lao PDR negotiations in person or via telephone. The Secretariat staff would prepare the notes from these meetings. A representative from Burapha Agro-Forestry Co., Ltd regularly represents the Association's members at official meetings, reports back to the Secretariat who then informs other members.

The second private sector association that is represented in the FLEGT VPA processes in Lao PDR is the **Lao Wood Processing Industry Association** which consists of about 35 members. In comparison to the Lao Furniture Association, the Lao Wood Processing Industry Association has not been as well organised in the way that they organise and gather their members' inputs on the draft TLDs, TLAS and other technical annexes. Nonetheless, a representative from the association regularly participates in all the VPA related meeting such as the TWG and NSDC. And similar to the Lao Furniture Association, a major concern for the Lao Wood Processing Industry Association to be part of the FLEGT VPA process is the potential burdens that the TLAS may create for their business operation.

4.2. IMPACTS AND CHALLENGES

The main challenge for the private sector has been that because its members are private companies (a majority being small and medium-sized), their time commitment to attend VPA related meetings is limited. As such they nominated their representatives to participate in the process. The representatives of both associations remarked that there are ample opportunities for private sector to engage in the FLEGT VPA process and that they felt welcomed at various technical meetings to prepare for the EU-Lao PDR FLEGT VPA negotiations and that they were given sufficient time to comment on the negotiation materials. They also appreciated the **social media group** that was set up for the EU-Lao PDR FLEGT VPA negotiation as a means to be informed and have access to all the negotiation materials.

For the private sector, their most pressing concern in the FLEGT VPA process is on the development and revision of regulatory framework pertaining to the supply chain control of planted timber and timber processing and industry operations. Their representatives therefore have participated quite actively in meetings related to the TLD on plantation and the TLAS, notably on supply chain control and verification. They also made several substantial comments that were considered by the TWG and NSDC with regards to the control and export of timber from plantation. Their inputs were specifically on issues related to capacity of the different sizes of enterprises to comply with the applicable laws, tree planting on village land, farmer land, and the different levels of understanding between the national and provincial level concerning the regulatory framework on plantations. They suggested to the TWG and NSDC that there needs to be instruction and/ or manual developed specifically for provincial and district level administration on how plantation development and management on private land and village land can be implemented. Another suggestion from the private sector was that applicable legislation for the enterprises should be scale sensitive, noting that there is variation in the processing capacities of their members.

Other challenges that the associations[xii] mentioned as hindering their competitiveness and thus their expectations that the FLEGT VPA process and the implementation of the Lao TLAS could help to address include:

- Dissemination and enforcement of the laws and regulations pertaining to the forestry sector has been weak mainly due to the lack of coordination between the central and local government.
- Overlaps in mandates and interpretation of supply chain control and related inspections.
- Inconsistencies in the Government's policies and regulations that aim to promote timber processing businesses in terms of incentives to produce quality and value added wood products to spur innovation and competitiveness in wood processing industry.
- Initiatives or interventions to encourage businesses to produce high quality, value added wood products have been largely unsuccessful due to the limitation in terms of human resources and skillsets, as well as the lack of innovative technology and access to international markets.
- Lack of access to appropriate loans to improve technology and modernise the production process to produce new wood products to compete on international markets.

SECTION V: CONCLUSION AND GOING FORWARD

The FLEGT VPA process and the development of the national TLAS in Lao PDR thus far has shown that the GoL has been open to providing the opportunities through multi-stakeholder engagement structures (refer to Section II) for CSOs and the private sector to participate in decision-making processes, despite the challenges that were outlined in Section III and IV, respectively. Experiences from other more advanced VPA countries[xiii] indicate that stakeholders not only require time, technical knowledge, resources (human and finance) and targeted capacity building to participate fully and effectively, it is essential to develop trust and a common understanding of and clarity on the roles within and amongst the stakeholder groups in national reform processes and the FLEGT VPA process itself.

Particular to the Lao PDR's context, the following recommendations aim at ensuring not only the continued and effective participation from non-state actors in the development of a national system for timber legality assurance of Lao PDR, but more broadly at supporting their ability to contribute to the ongoing forestry governance reform in the country.

5.1. THE PRIVATE SECTOR

First, given that many of the members of the two private sector associations and their concerns overlap, the two associations should consider the possibility and means to collaborate more efficiently and to actively bring forward a joint viewpoint or statement of private sector concerns and suggestions into the development and subsequent implementation of the Lao TLAS and related national reform processes. The **Lao National Chamber of Commerce and Industry** could take lead in bringing these two associations together. In addition, the current and upcoming technical and capacity building support by the government and support programs (i.e. development, dissemination, deployment and enforcement of new regulatory framework) should take into account the vast differences in capacity of the private sector which ranges from informal household-based operators to large international companies. Finally, capacity building initiatives should also aim at building the capacity within the private sector associations and at providing targeted support and incentives to encourage more members from the associations to participate in the different stakeholder engagement structures and to learn more about operator-based market requirements in international markets.

Moving forward, the private sector should be offered capacity building support and incentives to encourage their participation in the different stakeholder engagement structures.



5.2. THE CSO FLEGT NETWORK

While there have been various supports from different sources to enable the operability of the Lao CSO FLEGT Network and to support participation of members of the Network in the different national stakeholder engagement structures as well as the bilateral negotiations between the EU and Lao PDR, capacity of many of the Network's members on technical topics such as Lao TLAS, VPA annexes and Lao regulations (still going through reforms) remains a significant challenge. As such, further technical support should take into consideration the requirements that come with the engagement into FLEGT and be targeted towards the pertaining conditions in the current national political and legislative framework. Technical support needs to focus on the understanding of the implications of the Lao TLAS and suggest targeted recommendations for the involvement of CSOs where appropriate and required.

There is a need to provide further technical support and targeted capacity building to ensure that the Network can make substantial contribution towards the technical components of the Lao TLAS and more broadly to the forestry governance reform in the national context. CSOs are the key actors for technical outreach on the Lao TLAS requirements to the local communities, and hence building their understanding of the system remains essential. They can also play a role in informing about operator-based market requirements in international markets. Support should focus particularly on strengthening the operational structure of the Network, focusing on its internal knowledge management system and its operational procedures. Therefore, it is recommended that a capacity need assessment of the CSO FLEGT Network is conducted as Lao PDR continues to make progress on its forest governance reforms. This assessment should also include (i) understanding among the Network members of their roles in the Lao TLAS, as well as a joint reflection on the Charter and new requirements by international markets, (ii) how CSOs could make use of the various stakeholder engagement structures to continue to make substantial, technical inputs into the national governance reform process, and (iii) how to mobilise resources to ensure the sustainable administrative operations of the Network, once the external supports are finished. Furthermore, support programs towards the CSO FLEGT Network either to build their technical capacity or to support the operation of the Network should be coordinated to ensure resource efficiency and complementarity.

Footnotes

[i] First and second negotiation was in 2017 and 2018 in Vientiane Capital, the third negotiation was in 2019 in Brussels.

[ii] [Joint Press release - EU-Laos JEM4. 20200928. Final.pdf \(europa.eu\)](#)

[iii] VPA Unpacked. <https://www.vpaunpacked.org/vpa-country-stakeholders>

[iv] In Lao PDR, mass organisations are quasi-governmental party organisations, that at times fulfill the roles of civil society organizations. However, they are characterized by strong vertical networks, most having a representative in each village linked to the district, provincial, and national levels. Examples of mass organizations are Lao Front for National Construction, Lao Women's Union, Lao Federation of Trade Unions, and Lao People's Revolutionary Youth Union (source: ADB 2011, Civil Society Briefs. Lao People's Democratic Republic)

[v] Additional to the four Director Generals who are Head and Deputy Heads of the Committee, other members of the NSDC are Deputy Director Generals from relevant ministries. These are MAF (Department of Forest Inspection, Department of Forest, Department of Planning and Finance), Ministry of Industry and Commerce (Department of Industry and Handicraft, Department of Import and Export), Ministry of Natural Resource and Environment (Department of Natural Resource and Environment Policy), Ministry of Foreign Affairs (Department of Treaties and Law), Ministry of Planning and Investment (Department of International Cooperation), Ministry of Finance (Department of Customs), Ministry of Justice (Department of Law), Ministry of Labour and Social Welfare (Department of Labour Management), National Assembly (Department of Economic Production), Prime Minister Office (Department of Executive Economic planning and Development), Provincial Department of Agricultural and Forestry (Attapeu and Khamouane), National University of Laos (Vice Dean of Faculty of Forestry Science), Deputy Head of National Trade and Industry Chamber, Deputy Head of Lao Wood Processing Association, Deputy head of Lao Furniture Association, and Coordinator of the CSO FLEGT Network.

[vi] While there are international civil society organizations that work on forest governance in Lao PDR, this briefing only covers the Lao civil society organizations that are member of the CSO FLEGT Network.

[vii] Civil Society Working Group 2017, Lao CSO Directory 2017, https://interactions-laos.fr/wp-content/uploads/2019/10/e-Directory_LAO-CSO_eng.pdf

[viii] CSO FLEGT Network Charter - <https://loggingoff.info/library/lao-cso-flegt-charter/>

[ix] Note that the Charter itself does not contain explicit articles on the roles of the CSO FLEGT Network

[x] Fern Briefing Note on Laos Civil Society in the Laos-EU VPA. June 2019

https://www.fern.org/fileadmin/uploads/fern/Documents/briefingnote_laosFINAL.pdf

[xi] Based on various interviews conducted by EFI technical expert with members of the CSO FLEGT Network while on missions to Lao PDR.

[xii] Based on various interviews conducted by EFI technical expert with members of the CSO FLEGT Network while on missions to Lao PDR

[xiii] EFI. Briefing on Engaging Civil Society Stakeholders in FLEGT VPA.

<https://www.euflegt.efi.int/es/publications/engaging-civil-society-stakeholders>