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ແຜນງານ Lao-EU FLEGT VPA
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Info Brief

Survey of timber operator in Lao PDR: Current situation and policy implications

Introduction

The government of Lao People's Democratic Republic plans to improve the forestry sector by revising major regulations on forest and land use, restricting export of unprocessed timber products made from natural timber, and by encouraging plantation. The Prime Minister's Order 15 (PMO 15) dated 13 May 2016 made a breakthrough in forest use and forest management in the country, aiming toward sustainable forestry. Specifically, the PMO 15 aims to step up government's control over timber harvest, management, inspection, transport and business activities. The implementation of the PMO 15 resulted in closure of numerous operators those failed to meet the standards set out in the PMO 15 and in subsequent policies. Data from the PMO 15 assessment report shows that as of December 2020 there were only 969 factories in operation, a sharp decrease from 2,103 factories prior to the PMO 15. Of the factories functional by December 2020, there were six sawmills, 364 wood processing factories, 599 furniture factories, and 121 furniture households.

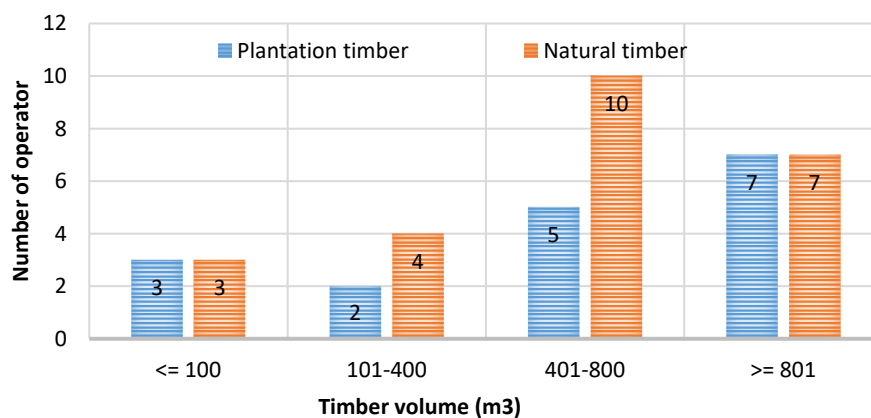
The government is committed to sustainable forest management and combating illegal activities in the forest. Under the EU Forest Law Enforcement Governance and Trade Initiative, the government entered into negotiations with the EU on a Voluntary Partnership Agreement (VPA) in February 2012. The negotiation aims to ensure the legality of timber products in entire supply chains. The Lao government has been establishing a national Timber Legality Assurance System (TLAS) to materialize the legality commitment in the VPA. Under the negotiation, the government and the EU agreed to assess existing institutional and business environments influencing the wood processing industry. The research explored challenges faced by operators engaging in processing and export faced when exporting their wood products.

Method and operator's backgrounds

This Brief presents key results of the assessment. Specifically, it describes operator's challenges in complying to the government's legality requirements including the challenges faced by the operators in export preparation, during the export, and after the completion of their export activities. In addition, the Brief presents the practices of the government agencies mandated to monitor the operator's activities in those processes. The assessment was undertaken by way of a survey with 40 operators from six provinces (Vientiane Capital, Khammouane, Champasack, Saravance, Sekong and Attapeu Provinces). The operator survey was conducted in 2020, with aim to derive information from the operators for their activities undertaken in 2019 and before that.

The operators participated in the survey were purposely selected based on their engagement with export activities. Specifically, these operators belonged to the two groups. The first group (accounting for nearly 90% of the total operators selected for the survey) include those engaged in both processing and export activities. The second group (the remaining over 10%) were those who did not engage in processing, but merely trading for export. Nearly 50% of the operators in the survey used natural timber; the remaining (40%) used plantation timber and both sources of timber (10%). In 2019, over 50% of the operators in the survey each used 400 m³ of timber to make timber products (Figure 1). The operators in the survey were Lao national, joint ventures, and foreign-owned. These operators (40) could not represent the entire operators those are in operation in Laos (969 operators). This means insights from the survey may not hold true for all operators in the country. Nonetheless, these insights are useful for the government to consider how to ease doing business, to facilitate export activities, and to promote operator's legality compliance.

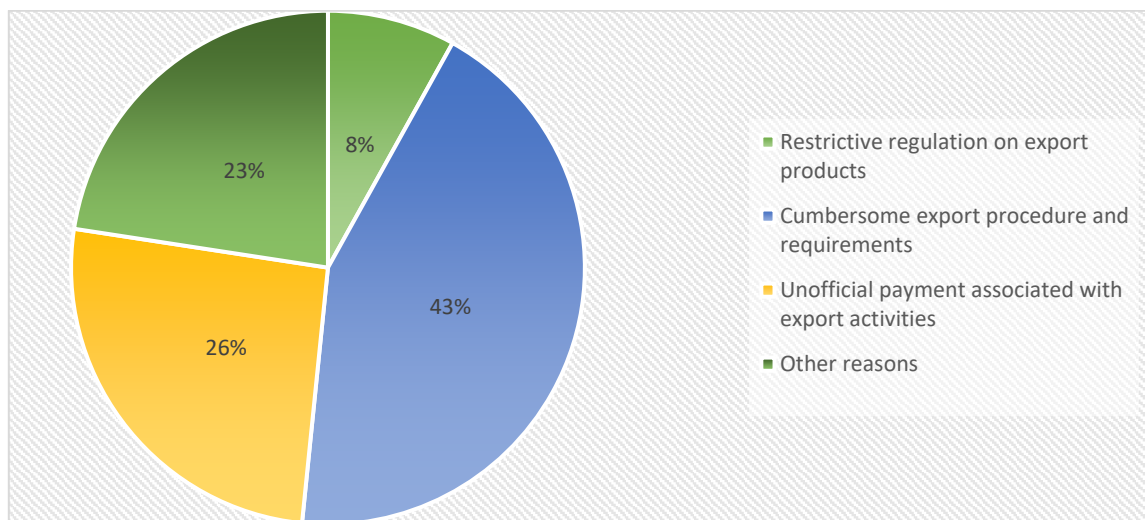
Figure 1. Timber use by the operator



Operator's major challenges

This section summarized the major challenges faced by the operators in export processes. In the survey, the operators were requested to share their major challenges they faced in export processes. These operators shared their views. These views were then grouped into four major areas (Figure 2).

Figure 2. Major challenges in export faced by the operator



Cumbersome export procedure and requirements.

This area was most commonly cited by the operators (43% of the operators cited the challenge in this area). Specific challenges shared by the operator include

- The export process was slow, mainly triggered by complex government procedures and requirements;
- Many inspection teams check the product. Inspection takes time. Inspection agencies overlap and were uncoordinated. Export procedure was too complex and had too many steps. There were many inspection points with many staff.
- Officials treated plantation timber similar to natural timber in terms of legality requirements.
- Severe problems associated with the facility check by the Inspection Committee. And there were several staff from each agency participated in the team.
- The level of control over the legality of the products made from plantation timber is the same with that for natural timber.

Additional payment associated with export activities.

This area was the second mostly cited by the operators (26%). Specific challenges mentioned by the operators include:

- The additional payment made to the activities related to export procedure. This occurred at different stages, from preparation of export documents, operator's facility check, and to transportation, and border check points.
- The company has paid additional payment to some activities associated with physical checks on the products, the reviewing export documents.
- Operators also made additional payment on transportation from the factory to the border check points.

Restrictive regulation on export products.

This area received 8% of the comments from the operators. Specific challenges shared by the operators include

- The sizes of the products defined by MOIC allowed for export were not what was needed by export markets.
- Finished products with the size, standards and specifications dictated by the MOIC¹ were not of buyer's interests. Buyers also did not like the product style.
- Though the PMO 15 did not restrict the export of finished products, the size of the products allowed for export was limited.

Other reasons.

23% of the operators under the survey mentioned about other challenges. Some of these challenges were:

- The support given to the operator from the government to facilitate their export activities was not enough.
- Information on how to prepare export documentation including the filling in custom declaration form, calculating tax, accessing to market information on demands and preferences, among others was not available for many operators.
- Operators particularly the small ones were more disadvantaged than medium and large-scale ones
- The National Wood Processing Industry Association and Lao Furniture Association did not function well. There were only few activities intended for their members.
- Operators cited *"unstable market"*, *"skill labor is limited"*, *"raw material is limited"* or *"lacking support from Chamber of Industry and commerce"* and *"export market demand decreased because of COVID"* as other challenges too.

¹ The size of specific products allowed to export is shown in the MOIC's Decision No. 0939/MOIC. DIH dated 1 August 2019.

Recommendations for improvement

Addressing the challenges faced by the operators requires following recommendations

Simplification of export process and requirement.

- The government needs to establish an independent team, probably led by Lao Chamber of Industry and Commerce, to undertake a comprehensive review of entire export processes as well as rules and regulations governing those processes to identify particular steps, rules and regulations those could be simplified.
- The review team should consult carefully with different the operators representing different operator groups (by size, nationality, product lines, timber sources, among others), as well as with the two above-mentioned associations and representatives from relevant government agencies such as Department of Import and Export, Department of Industry and Handicraft, Provincial Office of Industry and Commerce, Tax and Customs and Provincial Agriculture and Forestry Office.
- The review should pay a particular attention to export-related rules and regulations, the activities and procedures concerning export document preparation, Inspection Committee's facility check, and the committee members. It is important to identify which agencies are necessary and how many staff members from each agency those should be participated in the committee and their particular roles in this process.
- Coordination among government agencies in charge of timber export control should be improved greatly, particular concerning physical check of the products. When it comes to the facility check undertaken by the Inspection Committee, it should be the duty of the agencies in charge of the facility check to contact each other to form the committee rather than requesting the operators to contact every agency to form the team.
- The government may wish to establish an online platform through which operators with products ready for export send their request for facility check with specific timing and location. Within a certain amount of time (e.g. 12 or 48 hours after the operator has sent the request), the agencies should contact each other, establish the committee and inform the operator about their visit. It's recommended that each agency only send one member to the team.
- Following the government's plans these policies will be implemented in 'transition period' before the implementation of the Voluntary Partnership Agreement (VPA). In transition period, the government will start building Timber Legality Assurance System (TLAS) requirements into the system. When VPA is implemented and TLAS is fully functioned, loading certificate will be replaced by FLEGT license, and single TLAS will be adopted for both domestic and export markets.

Additional payment should be addressed throughout.

- The government should have clear information on export process and what the operator is supposed to do regarding activities before, during and after export. The information should be clear in terms of which agencies involved in what stages and their particular role in that stages. This information should be communicated well to all operators involved in export.
- Information on rules and regulations governing export activities, on export processes and operator's activities can be shared in various channels for the operators include government media agencies (e.g. television, newspapers, official social medias platforms), also through other venues including the two associations, and Lao Chamber of Industry and Commerce.
- The government may want to consider the establishment of a hotline involving inter-government agencies -- for the operators to report on illegal activities triggered additional payment. Strong mechanism are also need to be established to protect the operators who report the illegal activities triggered additional payment.
- Reducing additional payment also requires the government to reduce physical checks particularly those undertaken by custom agencies at the border and the government agencies posted on roadside. Operator's consignments sealed and wired by the Inspection Committee should not be opened to check unless there is a clear sign of operator's violation of legality requirements. Consignments sealed and wired should be considered as "safe" and allow to through "green lane" at custom checkpoints at the time of export.
- The government should encourage the operators to report any abuse of power by officials including request for additional payment.
- Under FLEGT VPA, the Vietnamese government decided FLEGT licensing in the future will be online-based.² The government of Laos may consider this approach. It may start with piloting this approach for facility check and issuance of loading certificate. Insights from this piloting would be important for future implementation of FLEGT licensing mechanism. Cross-country exchanges between Laos and Vietnam are useful for the Lao government's consideration.

² Under FLEGT VPA, the Vietnamese government decided FLEGT licensing in the future will be online-based. Vietnamese exporters need to submit all required documents electronically. These documents will be reviewed by FLEGT licensing body (CITES Authority). If the documents are sufficient and reliable, the FLEGT licensing agency will issue FLEGT permit and electronically send to the exporters. In this process, there exists no physical interaction between exporter and government authorities unless there is reason for the authorities need to check.

Simplification of legality requirements for products made from plantation timber.

- The government need to have specific regulations and tax, and fees for plantation timber. These regulations should be simplified and simpler than that adopted for natural timber.
- The government should revise plantation timber export procedure, includes the reducing of physical check before and during export.
- Plantation timber products should be given priority and treated as “green lane” at the point of export. The government should make this message clear to competent authorities as well as the operators using plantation timber to ensure the compliance.
- The Ministry of Industry and Commerce (MOIC) has been working on a new instruction for export of plantation timber products. The MOIC should expedite the process. Lessons-learned from the implementation of this new Instruction in the future should be used for the formation of an Instruction for natural timbers.

Understanding export market.

- Understanding the dynamics of export market is key in maintain market access. Currently, information from export markets including market dynamics, preferences in product lines, styles, size and timber species, is scant for many operators. As Vietnam is a major market for timber products from Laos, efforts be made to understand Vietnam market better. This information could be obtained by way of a comprehensive market research examining market preferences in Vietnam. Insights from this research should be communicated with Lao government agencies particularly MOIC and Ministry of Agriculture and Forestry (MAF) and their subsidiaries for possible policy change (e.g. list of timber products allowed to export and/or adjustment of the products to meet the market requirements).
- The government of Laos should discuss with Vietnamese counterpart on policies and measures intended to facilitate the trade. More broadly, activities identified in the existing Memorandum of Understanding (MOU) between MAF’s Department of Forestry and Vietnam Administration of Forestry could be reviewed and implemented in a way that creates enabling environment to facilitate legal timber trade between the two countries.
- A similar mechanism should be established between timber associations in the two countries too to exchange market information, and to encourage operators in Laos and Vietnam to collaborate with each other in meeting the legality requirements and facilitate legal trade. ProFEB and FLEGT Standing Office are in a unique position to support these activities.

Capacity building.

- Building capacity to the operators is an urgent task. The operators in the survey requested capacity building in several areas such as preparation of export documents, calculation of tax, improvement of labor skills and processing technologies.
- MOIC particularly DIMEX and DIH should collaborate with the associations should do a training need assessment with representatives from the companies of different types (e.g. by size, labor, turnover, product lines, market, ownership). This assessment will help identify particular training needs for specific groups of the operator. Those needs should be classified into short-term, medium-term and long-term.
- MOIC, MAF and other relevant ministries should mobilize and call for supports to implement trainings to equip operators with what they have required. Training priority should be given to most urgent issues such as preparation of the export documents and tax calculation. Small and medium enterprises (SMEs) with limited resources should be prioritized in the training.
- In the long run, MOIC, MAF and relevant ministries should consider a development strategy for timber sector. The strategy should clearly illustrate government's vision about the sector in the future. This means the identification of strength and weakness of the sector concerning timber sources, product outputs, markets, labor, technologies, among others, and based on these establishes policies, measures and required resources to ensure the activities in the strategy be implemented effectively.
- Enhancing capacity for the National Wood Processing Industry Association and Lao Furniture Association is vital for operator's legality compliance and facilitating the trade. The association's role should be strengthened with concrete activities and information useful for operators so that the latter are motivated to join the associations.
- A review of associations' current situations, strengths and weakness should be conducted. This review should also explore the associations' activities, memberships, their relationships with government agencies and other actor groups (e.g. donor), as well as pros and cons. Results from the reviews should be used as inputs for a capacity building program intended for the associations.
- The government of Lao should consider involving the two associations in the policymaking process. Associations need to be strategic in generating benefits for their members particularly Small and Medium Enterprises. Those benefits may include policy enabling environment, ease of doing business, and export market information. Collaboration with Vietnam Timber and Forest Products Association (VIFOREST) is important for trade expansion too³.

³ In Vietnam, National Timber and Forest Product Association (VIFOREST) directly involves in policymaking process (e.g. FLEGT VPA negotiation, the development of Vietnam Timber Legality Assurance System (VNTLAS), development of government policies and measures in controlling timber import and transshipment).



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