



CSO representatives attend a technical session on the Laos-EU VPA in Vientiane, capital of Lao PDR.

The Laos-EU Voluntary Partnership Agreement Laos civil society takes stock

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Lao CSOs now have greater confidence to speak out on topics such as conversion timber, transparency, land and legal rights to the forest. They are contributing to Forestry Law reform and timber legality definitions.

This briefing paper, issued before the third European Union (EU) – Lao People’s Democratic Republic Forest Law Enforcement Governance and Trade (FLEGT) Negotiation Meeting, provides a synopsis of Lao Civil Society Organisations’ (CSO) involvement in national forest governance via the EU’s FLEGT Action Plan and accompanying Voluntary Partnership Agreement (VPA). The briefing describes how CSOs got involved, their roles, their engagement in influencing the content and direction of the Lao VPA, and the challenges they have faced.¹

The Lao CSO FLEGT Committee is a democratically elected group of five CSOs with a network membership of 25 supporting CSOs (the electorate). The Committee and Network provide clear and concise inputs into the EU’s VPA process, promoting meaningful participation, equitable distribution of forest benefits, better transparency and decision-making and ultimately improved forest governance.



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¹ Ten people from nine Lao CSOs have been interviewed for the purpose of this briefing.



Community consultation workshop on the FLEGT-VPA in Khammuan province organised by PADETC and the Lao CSO FLEGT core committee. PADETC (Participatory Development Training Centre) is an indigenous, all-Lao organisation committed to making a unique and distinctive contribution to the development of Laos.

Civil Society Laos

The Lao People's Democratic Republic (Laos) is a single party state led by the Lao People's Revolutionary Party (LPRP). Following trends in other Association of South East Asian Nations (ASEAN) countries, the legal foundations for Laos CSOs were set in 2006 when the Government of Laos drafted a Decree on Non-Profit Associations to provide the legal framework for their management. It was approved by the Prime Minister in 2009.² Since the LPRP is meant to represent all citizens,³ CSOs⁴ in Laos are not considered to be representatives of citizens' interests as they are in the Global North.

The public does not participate in drafting policies and decision making. The establishment and formal registration of a Lao CSO is therefore a complex and necessarily political process that comes with many restrictions related to funding, approval of projects and permissible areas of activity. And, although Laos CSOs may present carefully worded and nuanced criticisms of the Government of Laos' governance style and development pathways, direct and public disapproval is not appropriate. CSOs are allowed to be independent organisations, but they are expected to support government development plans.

After the 2009 Decree, CSO numbers grew. This led to a revision of the Decree in 2017 which added further restrictions and rules for operating a CSO.⁵ New, complex registration procedures resulted in a number of CSOs ceasing operations or changing to private sector social enterprises. At the time of writing there are about 250 registered CSOs but few of them are socially or environmentally orientated, most are occupational and professional.

Lao CSOs and FLEGT – The Early Years

Lao CSOs that work on poverty reduction and rural development have long understood that forests are (or should be) an integral part of rural villages' community livelihoods. They also knew that low participation or the lack of benefit sharing reduces villagers' opportunities to fully reap the benefits. The VPA process offered the potential to address these issues and also open new spaces for multi-stakeholder engagement, and so Lao CSOs discussed how to be involved.⁶

² Decree on Associations, No. 115, dated 29 April 2009, effective November 2009.

³ Article 3, Lao PDR Constitution. 1991 updated 2003.

⁴ The official term translated from Lao language to English is "Non-Profit Association" (NPA) however, these groups prefer to call themselves and be called Lao Civil Society Organisations.

⁵ Article 31, Decree on Associations, No. 238, dated October 11, 2017.

⁶ The Government of Laos announced its interest in negotiating a VPA in February 2012. In October 2013 the Ministry of Agriculture and Forestry opened a FLEGT Standing Office. CSO organising began in 2014.

What is a VPA?

A Voluntary Partnership Agreement is a legally binding bilateral trade agreements which set out the commitments and action that the EU on behalf of all its Member States and timber exporting (and producing) countries will take to tackle illegal logging. These include measures to increase participation of rights holders and non-state stakeholders; recognise communities' rights to the land; and address corruption. VPAs are required to have the buy-in of national stakeholders, including NGOs, local communities, indigenous peoples, and the timber industry.

VPAs are a central plank of the EU's Action Plan to address the illegal timber trade: the **Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan**.

A VPA includes three main elements:

- a. **Defining legality** or deciding which laws will be enforced for the purpose of the agreement.
- b. **Developing a Legality Assurance System (LAS)** (including timber tracking, government legality controls, and systems to verify the legality of the timber). A FLEGT licence is issued to timber

verified as legal, and this allows it to be shipped to the EU.

- c. **Independent audits** of the whole system, to ensure credibility of the export licenses.

So far, seven countries have signed VPAs with the EU and are currently developing the systems needed to control, verify and license legal timber. They are the Central African Republic, Cameroon, Ghana, Indonesia, Liberia, the Republic of Congo and Vietnam. Another eight are being negotiated in Democratic Republic of Congo, Gabon, Guyana, Honduras, Malaysia, Ivory Coast, Laos and Thailand.

Another central element of the FLEGT action plan is the EU Timber Regulation (EUTR) which came into force on 3 March 2013. It prohibits operators from placing illegally harvested timber and products derived from illegal timber on the EU market. All timber and timber products with a FLEGT licence automatically comply with the EUTR. This means that when purchasing FLEGT-licensed timber, EU operators do not need to carry out additional due diligence checks. This demand-side measure provides an incentive for timber exporting countries to negotiate a VPA.



Community consultation workshop on the FLEGT-VPA in Khammuan province organised by PADETC and the Lao CSO FLEGT core committee.



Muang Ngoi, Louangphrabang Province

David Petit / flickr.com CC

CSOs held discussion with International Non-Governmental Organisations (INGOs) about how the VPA could improve forest dependent villagers' livelihoods and create space for them to operate more independently. Even though the Laos forestry sector has traditionally only included government, private sector and INGOs,⁷ the EU has a pre-requisite that CSOs participate in the VPA.⁸ This provided the encouragement Lao CSOs needed to take their place.

An early and promising signal from the Ministry of Agriculture and Forestry's Department of Forest Inspection (DOFI) came in 2015 when they issued a list of VPA stakeholders that included CSOs. This was followed by a document approving the formation of a permanent Lao CSO FLEGT Committee.⁹ With the door open, a small group of Lao CSOs researched how other countries' CSOs had organised themselves and discussed options for Laos. They also had exchanges with INGOs that had helped other local CSO in the VPA process. They decided that an elected representative committee supported by a network would be most effective.

It was initially difficult, however, to contact and include Laos CSOs from around the country and organise elections due to lack of coordination capacity. A second attempt to create a committee, secretariat and membership based network was successful¹⁰ and was approved by the DOFI in 2015. Official government recognition of the Lao CSO FLEGT Committee and Network was an important milestone.

A second challenge for the CSO FLEGT Committee and Network was their lack of experience and capacity in topics related to the VPA, such as: English and Lao forestry technical terms, how a multi-stakeholder process to achieve an international trade agreement works, strategic engagement and negotiation, and internal organising and coordination. Through self-learning and support from INGOs, Laos CSOs began the long and ongoing process of building their FLEGT capacity.

They also faced the challenges of how to organise themselves into a group with a clear vision and mission, how to coordinate their representation and how to communicate in a concise and coherent manner. Even more vital was that they be accepted by other stakeholders (government, private sector, villages) as legitimate and trusted participants, based on the skills and knowledge that they brought to the process.

⁷ The forestry sector in Laos has been the domain of professionally trained male foresters. Lao CSO initiated change with the Head of the Secretariat and the CSO representative on the Lao negotiation team, both female.

⁸ The Council of the European Union adopted the FLEGT Action Plan in October 2003. In its conclusions, the Council urged the European Community and its Member States inter alia to: strengthen effective participation of all stakeholders, notably non-state actors and indigenous people, in policy-making and implementation. Council of the European Union (2003) Communication from the Commission to the Council and the European Parliament on Forest Law Enforcement, Governance and Trade (FLEGT): Proposal for an EU Action Plan – Council Conclusions. p.3 Available at: <https://eur-lex.europa.eu/legal-content/SL/TXT/?uri=CELEX:52003DC0251>

⁹ Department of Forestry Inspection, approval letters (2015 and 2019) available at <https://loggingoff.info/flegt-vpas/flegt-vpa-countries/laos/>

¹⁰ The list of members of the Lao CSO FLEGT network is available at <https://loggingoff.info/flegt-vpas/flegt-vpa-countries/laos/>



Construction site of the Nam Kong 1 Hydro-power Dam, Attapeu Province.

Credit: Mr. Phonesavanh

Lao CSO Influence in the Forestry Sector

Unprecedented Participation

In Laos, participation in government-led forums normally involves listening and offering supportive and agreeable comments. Previous forestry legislation has, at best, involved consultation on the final plans. Through formalisation of roles as part of the VPA, CSO engagement included constructive criticism and the opportunity to offer alternative ideas. CSOs worked as field-level researchers and facilitators, supported by an international donor. This allowed them to gather information on village forestry and even created space for representatives from forest dependent communities to travel to the capital and directly participate in meetings.

Lao CSOs participated in numerous meetings related to the VPA, including Technical Working Groups (22), Thematic Expert Groups (8), and FLEGT National Steering Committee and EU – Lao VPA Negotiations (3 including June, 2019).¹¹ In addition to these forums, Lao CSOs have cooperated with

the Department of Industry and Handicraft, and the Ministry of Industry and Commerce (MOIC), to build the capacity of household, small, and medium wood-processing enterprises.

Forestry Sector Legal Reform

In 2016 the Government of Laos issued legislation PM 015 “Strengthening Strictness of Timber Harvest Management and Inspection, Timber Transport and Business”. This was the first ever legislation from this high level to directly aim to halt illegal logging and initiate improvements in forest governance. It gave all FLEGT-VPA stakeholders a boost, especially as data showed large reductions in log exports and confirmed the government’s commitment.¹² Even more encouraging was the investigation of senior government officials’ involvement in illegal logging and actions to address this. On the downside, however, enforcement of the Decree has negatively affected the economy by shutting down many small-scale illegal logging and saw-mill operations and related household industries.¹³

¹¹ The Laos-EU VPA is a multi-stakeholder process that includes various government ministries and departments, Lao CSOs and the private sector. At the highest level is the Negotiation Team supported by a Negotiation Support and Development Committee and a Negotiation Team. Technical support for these groups comes from Technical Working Groups and Thematic Expert Groups. Coordination is provided by the FLEGT Standing Office (FSO).

¹² Forest Trends Report Series: Forest Policy, Trade, and Finance Laos Log and Sawwood Export Ban: Impacts on the Vietnam—Lao Timber Trade Forest Trends Report Series: Forest Policy, Trade, and Finance Laos Log and Sawwood Export Ban: Impacts on the Vietnam—Lao Timber Trade Phuc Xuan To and Kerstin Canby, Forest Trends, March 2017

¹³ Forest Trends Report Series Impacts of the Laos Log and Sawwood Export Forest Policy, Trade, and Finance Bans. Phuc Xuan To, Naomi Basik Treanor, and Kerstin Canby. April, 2017.

Lao CSOs in the VPA: With capacity comes confidence

Lao CSOs directly engaging with central-level forestry officials was unheard of prior to the start of the Lao VPA process. It was not surprising, therefore, that CSOs faced a crisis of confidence early on. Government officials were also unfamiliar with CSOs and what they could offer to improve the VPA. To overcome this, Lao CSOs have had to go through a transformative capacity change and acquire not only technical knowledge, but confidence. They now have greater confidence to speak out on topics such as conversion timber, transparency, land and legal rights to the forest, and appreciate that confidence is an asset they bring to stakeholder meetings. In mid-2019, with VPA negotiations continuing, Lao CSOs are more confident and better prepared to provide useful comments and opinions. However keeping it in perspective, as one CSO FLEGT Committee member stated:

“Being in the VPA process is like riding a tiger, you are sometimes taken for a wild and uncontrollable trip”.

Another excellent opportunity for the Lao CSOs to engage in legal reform began in 2017 with the revision of the 2007 Forestry Law. The previous law was weak on forest governance. The Department of Forestry circulated the revised Forestry Law for comments and the CSO Committee and Network convened and critically analysed the Law with the aim of improving it.

They were successful in getting the rights of forest dependent communities to manage and sell timber from their formally mapped and documented Village Use Forests (Community Forestry) recognised (article 64, revised 2007 Forestry Law). They also achieved agreement on the need for greater overall participation of villages in forest activities (articles 6.3, 21, 46 revised 2007 Forestry Law). Other recommendations such as village participation in government timber surveys¹⁴ and village ownership of conversion timber were not included.

Pending Land Law reforms are also closely related to Village Use Forests and land rights. Lao CSOs coordinated with international NGOs to monitor if the Law would include recognition of “Communal Land” ownership. The outcomes of these efforts will be known in June 2019 when both these Laws are tabled at the National Assembly.

Timber Legality Definition Discussions

As part of the VPA multi-stakeholder process, Lao CSOs’ participation in the VPA Technical Working Groups (TWG)¹⁵ has been influential. Through monitoring, it has been shown CSO suggestions in TWG have resulted in adjustment of legality indicators. A verifier for an indicator in the Timber Legality Definition (TLD) for Natural Production Forests (v6.2: 06-06-2018) shows that 12 per cent of revenues from sales of timber from Production Forest Areas must be deposited into village accounts for development activities. In the TLD on Conversion Timber (v4.6: 13-05-2019) social and environmental impact assessments for development projects that involve conversion timber must be done. In addition, conflict management mechanisms should be established and functioning.¹⁶

CSOs aim to further influence TLDs¹⁷ and Forestry Law through three new research reports looking at: transparency in the forestry sector, conversion timber and Village Use Forests. These seminal documents have already been presented to the Government of Laos, EU representatives and development partners.

CSO Challenges

Lao CSOs still face capacity related challenges, but it is important to appreciate the baseline from where they

¹⁴ A forest survey is for data collection and assessment of forest conditions, forest cover, change of forest and forest resource use, tree species, wood volume, biomass, carbon sequestration amount in forest, regenerating trees and NTFPs. 2007 Forestry Law. Surveys must legally occur prior to a timber extraction activity.

¹⁵ To support the FLEGT VPA negotiations between Lao PDR and the EU, Technical Working Groups (TWGs) have been set up based on Decision No. 1915/Ministry of Agriculture and Forestry. The TWGs provide recommendations on VPA negotiation elements (legality definition, legality assurance system, domestic market). In some cases the TWGs give comments on the Timber Legality Definition.

¹⁶ Presently there is a moratorium on logging in Production Forests. Conversion timber (from development projects that convert forest to another land type) is still occurring.

¹⁷ TLD 4 on Village Use Forests is still being negotiated and all TLD need increased transparency, including the TLAS.



Community consultation workshop on FLEGT-VPA in Khammuan province organised by PADETC and the Lao CSO FLEGT core committee.

started and the political context in which they operate. Prior to the VPA, no Lao CSOs had ever been invited into formal government-led multi-stakeholder process, and none had experience with legislative design or international trade agreements. Their very status as a CSO was a challenge for the Government to accept. The Government had no experience of working with CSOs, and were unsure of CSOs' intentions or what they could contribute. All stakeholders (CSOs, villagers, government and private sector) have greatly increased their capacity to work on FLEGT (technical knowledge, cooperation and diplomacy skills, understanding and respect for each other) but CSOs still struggle to offer inputs on technical topics. For example, the TWG for the TLD includes topics of which CSOs have little or no expertise, making participation difficult. Although international organisations have offered some capacity building, this has not been continuous or specific to the TLD.

Acceptance of CSOs as legitimate stakeholders has been an uphill battle and participation has been challenging at times. CSOs feel the VPA stakeholder process is imbalanced – the Government leads and CSOs and the private sector follow. The Government needed to approve the first elected CSO FLEGT Committee in 2015 and the new Committee elected in 2018. The Government must be informed about all CSO FLEGT-related activities at the central-level, and village level

activities require the participation of provincial or district officials. Donor projects for CSOs require Government approval and are delayed by many months. Completed CSO activities must be reported back to the DOFI every two to three months and engagement with media and external public communications must first be checked by the DOFI. This close monitoring of CSO activities shows that the Government intends to maintain some control over how and what inputs CSOs offer to the VPA process.

Coordination between VPA stakeholders is a prerequisite for success. A shining example is the open and regular communications Lao CSO have with the EU Delegation in Laos. The two groups have met on numerous occasions to discuss VPA-related issues. However, coordination between the Lao CSOs and the FLEGT Standing Office (FSO) is not always efficient. For example, FSO invitations for meetings are sometimes sent late and meeting minutes are not shared. FLEGT documents (e.g Timber Legality Definitions) are not always available in the Lao language or posted publically.¹⁸ Internally, some network members that have collected useful field information have not transferred it to the CSO representatives that attend TWG meetings. Regardless of

¹⁸ With support from GIZ, a website on the Laos-EU VPA process is available but is outdated and lacks many documents. <https://flegtlaos.com/>

these shortcomings, as the stakeholders have built trust and grown accustomed to a multi-stakeholder process, coordination has improved and reached a new level for the forest sector.

The Road Ahead

In 2019, the Lao CSO Committee and Network will follow their new Strategic Plan and govern through their Network approved Charter. They aim to use the VPA to improve forest community rights. It is expected they will continue to participate in TLD technical meetings, FLEGT Steering Committee Meetings, EU-Lao FLEGT Negotiations and other forums. They are determined to improve internal network

communications and wider public knowledge about CSOs and the VPA.¹⁹ As in the past, capacity will be a challenge, but there is now a young generation of CSOs that will be the future leaders on forestry governance. To ensure capacity continues to grow, it is crucial that CSOs have access to funds that allow them to dedicate more time to FLEGT.

The VPA is expected to be signed in 2020, and CSOs are discussing what, if any, role they could have in monitoring the VPA. If they are involved, it would be yet again an unprecedented and positive role for them in the Laos forestry sector.

¹⁹ The existing Lao CSO FLEGT Committee and Network Facebook site has over 700 friends.



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