

# Legal Forest Conversion in ASEAN: NDCs, FLEGT and REDD+ Linkages

Pheakkdey Nguon, Jeremy Broadhead

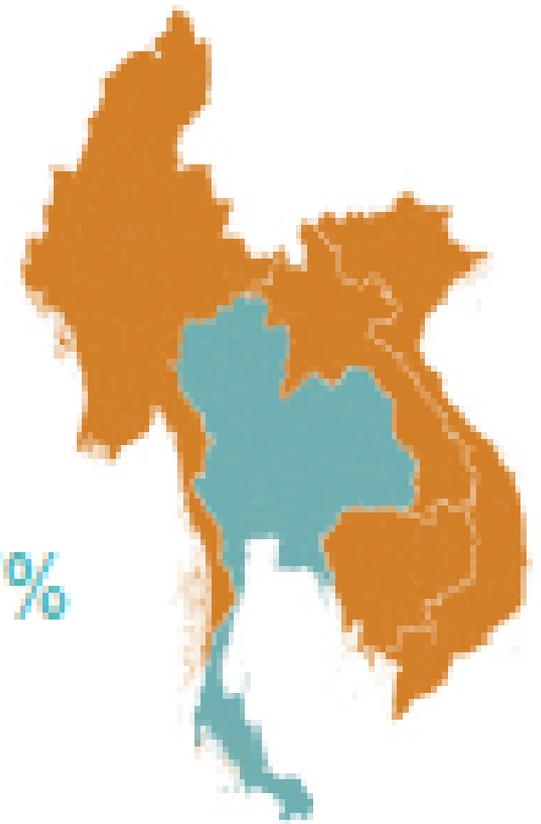
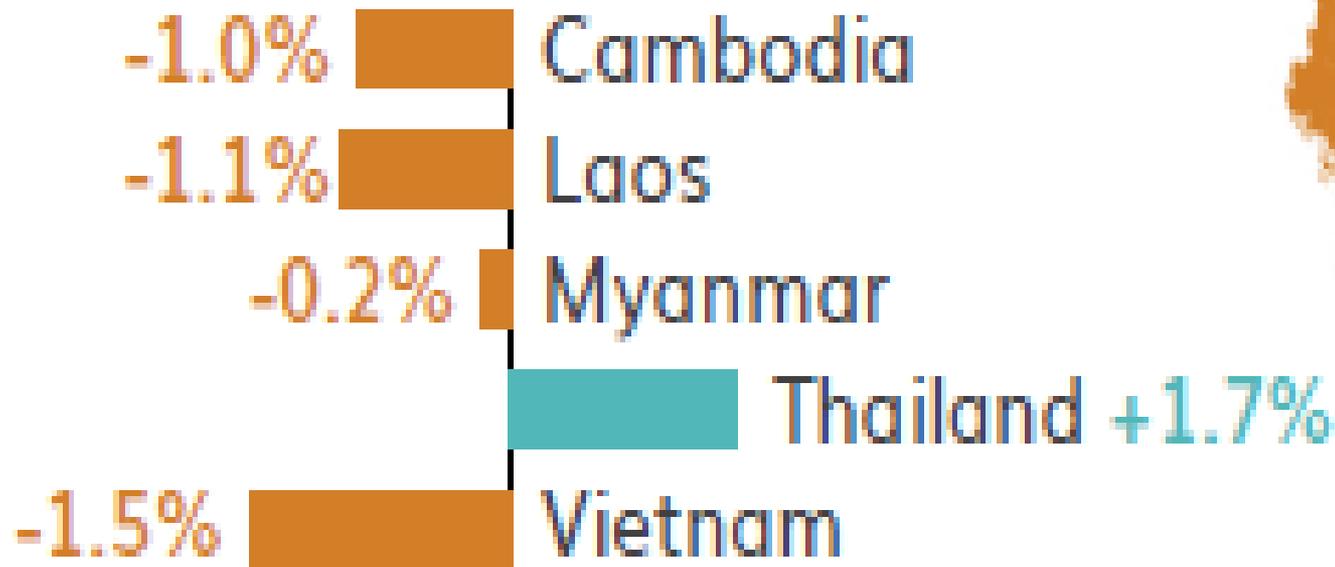
7<sup>th</sup> TLA Regional Training Workshop  
Indonesia, 19-21 November 2019



# Context

- About **80% of global deforestation** is caused by the expansion of land used for **agricultural purposes**.
- In Southeast Asia, agricultural expansion is responsible for **61% of forest loss** from 2001 to 2015.
- **Forest conversion** happens when **natural forest** cover is converted to other uses such as agriculture, forest plantation, infrastructure development, mining, settlement and others.

# Forest cover dynamics in the Mekong, 2010-2017



Sources: NYDF Assessment (2019); University of Maryland (2019)

# Nationally Determined Contributions (NDCs)

- Pledged contributions of countries to the goals of the Paris Agreement
- 183 countries, including ASEAN Member States, have submitted a first NDC. The next NDCs are expected in 2020.
- Provide additional momentum to achieve sustainable forest and land management objectives
- Commitments to improve land use, land use change and forestry (LULUCF) sector to reduce emissions in the NDCs is second only to the energy sector.
- Countries have made explicit link on meeting the NDC targets via REDD+ implementation. A few countries also mentioned the link to FLEGT implementation to achieve NDC targets.

# NDCs in ASEAN

Countries	LULUCF Commitments
Cambodia	Increase forest cover to 60% of national land area <b>Mentioned:</b> FLEGT
Indonesia	Effective land use and spatial planning, sustainable forest management
Lao PDR	Implement Forestry Strategy to increase forest cover to 70% of land area
Malaysia	Sustainable forest management and use of natural resources
Myanmar	Increase Reserved Forest and Protected Public Forest to 30% and Protected Area Systems to 10% of total national land area. <b>Mentioned:</b> FLEGT and REDD+
Singapore	Emissions from land use change and forestry is small
Thailand	Increase national forest cover to 40% through local community participation
Vietnam	Increase forest cover to 45% of national land area

**Note:** Brunei and the Philippines have not submitted their NDCs.

**Source:** UNFCCC November 2019. [NDCs Registry](#)

# FLEGT and REDD+ in ASEAN

<b>Licensing</b>				Indonesia
<b>Ratified</b>				Vietnam
<b>Negotiation</b>		Malaysia Thailand	Lao PDR	
<b>Non-VPA</b>	Brunei Singapore	Myanmar Philippines	Cambodia	
	<b>Non-REDD+</b>	<b>Readiness</b>	<b>Readiness/ implementation</b>	<b>Implementation</b>

# Challenge: Forest Definition

- Definition of “Forest” affects the extent to which domestic laws support NDC targets.
- Definitions: **FREL versus Forest Law/ Act**
  - FREL definitions could differ from those used in national law
    - Example: Cambodia, Indonesia
  - FREL definitions often follow FAO definition of forest
    - Example: Cambodia, Lao PDR, Myanmar, Vietnam
  - FREL definitions are assessed by UNFCCC and applicable in NDCs, while national definitions are legally applicable.
  - FRELS exclude natural forest conversion to agricultural tree crops and industrial tree plantation but national definitions may include the latter.
    - Example: Cambodia, Lao PDR

# Challenge: Forest conversion

- Legal frameworks in most AMS stipulate **due process** for forest conversion (e.g., permits, administrative steps, EIAs, fees, etc).
- Studies found that due process is often not followed, indicating conversion may be illegal.
- Studies concluded that **forest conversion** happens in the context of **complicated, inconsistent, and poorly enforced legal frameworks**.

# Example: Indonesia

- **Single reclassifications**

- **Forest Estate Release Mechanism**

- For **convertible production forest** in provinces where the size of the forest estate is **more than 30 percent** of the total area of the province.

- **Forest Estate Review**

- For forest estate that no longer meets the criteria of its classification

- **Forest Estate Gazettement**

- To designate land areas as a forest estate

- **Multiple Reclassifications**

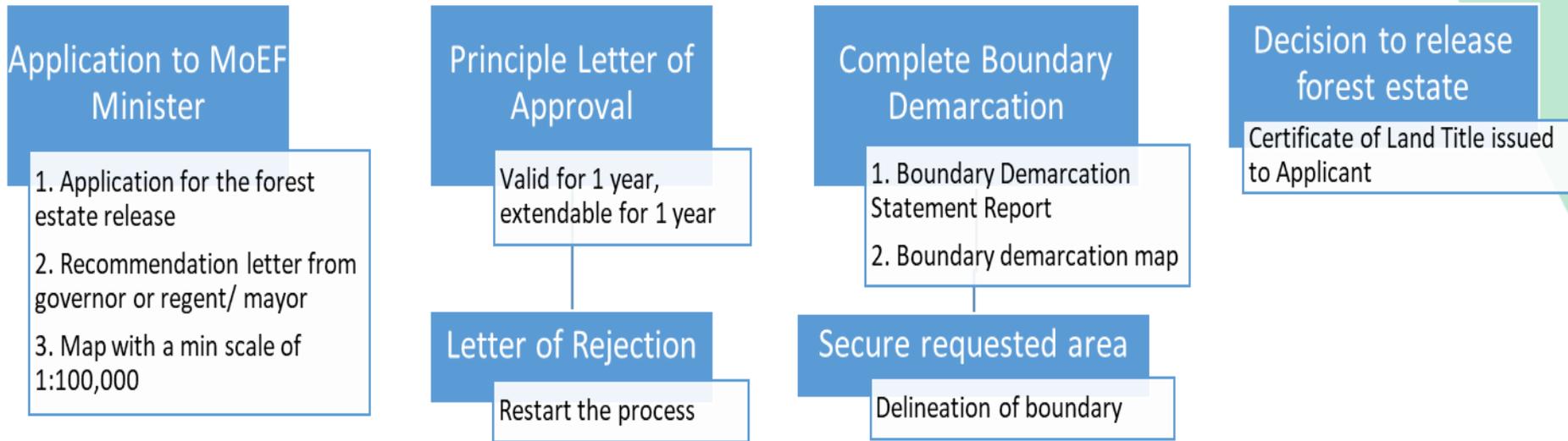
- **Forest Estate Exchange Mechanism**

- For **convertible production forest** in provinces where the size of the forest estate is **less than 30 percent** of the total area of the province
    - Permanent production forests and,
    - Limited production forests

# Forest Estate Release Mechanism

- **Requirements**
  - **Convertible production forest** is a forest area which is reserved for development other than forestry activities. Agriculture cultivation and plantation development are considered as non forestry activities.
  - A maximum of **100,000 ha** of land can be converted from convertible production forest to non forest land for one company or one group\*.
  - People **eligible to apply** for a forest estate release
    - Minister of Environment and Forestry or a government official equivalent to a minister,
    - Governor or regent/ mayor,
    - Head of governmental or private business entity or foundation

# Forest Estate Release Mechanism



- Within the “principle approval” period, Applicant is prohibited from
  - Transferring the principle letter of approval to another party without the approval of the Minister of Forestry.
  - Undertaking any activities in the proposed released forest estate area, unless the applicant acquires a **dispensation letter from the Minister**.

# Take home messages

- ASEAN MS uses different definitions in different settings (e.g. national law, NDC).
- Forest conversion amongst ASEAN MS follow different due processes. It is context specific.
- **Challenge:** illegal forest conversion and illegal production of timber and agricultural commodities may hamper efforts to achieve NDC targets.
- **Opportunity:** NDCs can act as catalysts to generate political will, clarify and implement relevant legislation, and promote coordination of institutions in planning and implementation, including through FLEGT and REDD+.

# Group Discussion

1. What due process is necessary to convert natural forest to other land cover categories?
2. What processes and institutions are involved in developing the NDC in your country?
3. What are the roles of forest conversion legal frameworks and FLEGT in your country's NDC?

# Thank you

[Pheakkdey.Nguon@efi.int](mailto:Pheakkdey.Nguon@efi.int)

[Jeremy.Broadhead@efi.int](mailto:Jeremy.Broadhead@efi.int)

