

Forest governance assessment for REDD+ implementation in Lao PDR through application of the PROFOR forest governance tool



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Forest Governance Assessment for REDD+ in Lao PDR

Part I. Background Report

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AUTHORSHIP

The background report was prepared by Dr. Unna Chokkalingam and Dr. Khamla Phanvilay, under a contract from the FCPF-World Bank.

DISCLAIMER

All omissions and inaccuracies in this document are the responsibility of the authors. The views expressed do not necessarily represent those of the institutions involved.

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Executive Summary

The report has been prepared as a reference for the participatory forest governance diagnostic exercise being carried out in Laos as part of the World Bank's Forest Carbon Partnership Facility's REDD-Readiness Process. It provides background information on the full range of issues covered by the three pillars of the PROFOR forest governance framework – forest-related policy, planning and implementation in Lao PDR. Information has been drawn from the personal knowledge and experience of the consultants, quick desktop reviews of literature, and interviews with some key informants across stakeholder groups.

Chapter 2 of the report provides an overview of the forests and forest use in Laos, the history of forest management, and the stakeholders involved. Laos has a relatively high forest cover (estimated 40.3% in 2010) compared to its neighbors but of vastly reduced quality due to various degradation pressures including illegal logging which has increased drastically in recent times. Deforestation is also a continuing problem in some areas of the country. The history of forest management has shifted from a pre-dominantly production-oriented agenda in the 1970s-1980s to a more conservation and sustainable forest management agenda in the 1990s-2000s. More participatory approaches in state-managed forests and direct community management of village forest areas are favored and being developed at present. Plantations have been promoted for timber production since the 1990s but with little success. Interest in REDD+ and PES schemes has emerged since around 2008 as a means to raise revenues for forest protection.

Chapter 3 provides an overview of forest institutions, policies and laws. Bulk of Laos' natural forest estate is to be divided into three categories and administered by the state – Conservation forests, Protection forests and Production forests. The legal framework is most extensive for Production Forests and just evolving for Conservation and Protection Forests. Regulations for areas to be allocated to other entities (such as villages, private sector, households) have not been detailed out sufficiently for implementation. Higher-level national priorities of turning land into capital and becoming the battery of the ASEAN through hydropower development may be in direct conflict with forestry sector goals of 70% forest cover to protect the nation's biodiversity, watersheds and environment.

Government agencies dedicated to forest management and protection now include DOF (MAF) responsible for production forests including plantations and production of timber and NTFPs, DFRM (MONRE) responsible for protection and conservation forests since 2011/12, and DOFI (MAF) responsible for forest and wildlife law enforcement since 2007/08. Institutional arrangements are still in flux and unclear on numerous aspects.

Following economic growth and diversification in the last 10-20 years, the forestry sector contributes (mainly in the form of timber revenue) a very low and declining proportion (1.6%) of the national GDP of Laos at present. However, official estimates do not include substantial unaccounted timber revenues from infrastructure construction and development projects. Further, Laos' official export figures vary widely from UN Comtrade statistics of importing countries (a difference of more than 500 million US\$ in 2011).

Chapter 4 covers stakeholder participation and grievance resolution, as well as the transparency, accountability and quality of planning and decision making processes in the forestry sector. All public forest management and land use planning is envisioned to be conducted through participatory approaches which are just evolving. Conflict resolution is

mostly dealt with at the village level and little goes further up through the line agencies or courts for various reasons. National-level conflict resolution mechanisms are to be developed as part of the FCPF REDD+ Readiness process.

There is limited access to information about forests including inventory data, production and revenues. Information is not systematically managed in the organization and the quality of available information is poor. Transparency is low in government actions including licensing. Civil society is just emerging in Laos with new decrees clarifying rules and regulations. However, their activity is restricted and closely monitored. The private sector with a few exceptions has not adopted voluntary safeguards and standards. Media reporting on forestry sector activities and problems has increased in recent times, however, media capacity is weak and it is closely controlled.

Chapter 5 covers implementation, enforcement and compliance. Overall implementation and enforcement of the laws is very poor. There is a shortage of both staff and staff capacity in all forest-related agencies to fulfill their mandates and/or manage their assigned areas. Revenue sources for sustainable management of the vast forest resources are very limited. Given a freeze on logging in Production Forest Areas and a state budget deficit, donor funding has been the main revenue source in the last years. Land allocation, registration and titling have not been carried out in forestlands except on two pilot sites, and recognition and security of rights to land and forest resources is extremely weak. Cooperation and coordination among forest agencies, between sectors and between local to national levels needs strengthening. There have been some promising models of cooperation and coordination in recent years.

Forest law enforcement in the country is ineffective and there is substantial revenue leakage from the forestry sector at present. Numerous donor projects are helping to strengthen DOFI and other enforcement agencies. There is increased evidence and perception of corruption in the forestry sector with complaints being reported to the National Assembly and questions being raised in public fora. The government recognizes the need for improved governance and has been working on establishing independent agencies and strengthening the legal and institutional framework to deal with the issue.

Chapter 6 concludes by indicating that Laos is amongst the first set of countries undertaking this self-assessment, and the very first one in Asia. This diagnostic exercise could serve as a concrete step towards governance tracking and reform for REDD+ implementation and for the larger forestry sector as a whole. REDD+ Readiness efforts could be beneficially coordinated with other relevant initiatives such as the European Union's FLEGT VPA process and UNDP's Poverty and Environment Initiative to improve forest governance in Laos.

Chapter 1 Introduction

1.1 Purpose of this background assessment

This background paper was prepared to support the participatory forest governance diagnostic exercise carried out in Laos with funding from the World Bank's Forest Carbon Partnership Facility (FCPF). The governance diagnostic is one of a range of activities being carried out to support REDD+ readiness in Laos. Through the diagnostic exercise, stakeholders have the opportunity to reflect on challenges facing the forestry sector and identify strengths, weaknesses and priority areas for further work. This report was intended to provide a reference for stakeholders before and during the workshop, to ensure that all parties had access to relevant information and were able to score governance indicators based on documented evidence as well as their own experience.

Laos is participating in the Forest Carbon Partnership Facility managed by the World Bank and is in the REDD-Readiness phase. REDD-Readiness helps prepare countries for a possible future REDD+ payment mechanism funded by multilateral and bilateral donors, and the private sector. The FCPF REDD-Readiness Fund supports participating countries to develop the necessary policies and systems for REDD+, including adopting national REDD+ strategies; developing reference emission levels (i.e. a baseline); designing systems for measurement, reporting, and verification of emission reductions; and setting up REDD+ national management arrangements, including environmental and social safeguards and mechanisms for benefit sharing and resolving grievances. The REDD-Readiness process will allow countries to analyze and make informed decisions on engagement in REDD+ implementation keeping in view the country context. A significant component of readiness involves national consultations and stakeholder participation in the analyses and decision-making processes.

The REDD Readiness Preparation Proposal (R-PP) for Lao PDR highlights the need for a detailed look at governance issues for the sector and the executive summary of the document states that:

Broad agreement has been reached at an international conference on a draft framework of three core governance parameters for REDD+ and key considerations (i.e. „what to monitor“). The framework is comprehensive and can be adapted for Lao PDR taking into account particular national circumstances and governance situations which are described in more detail in component 2a of the R-PP. Among others, it will monitor policy implementation, law enforcement, compliance with environmental laws (e.g. hydropower, mining), illegal logging, land use and carbon rights, equity of benefit-sharing arrangements, corruption, institutional performance, conflict resolution mechanisms. The REDD+ office shall develop country-specific indicators for the governance parameters and principles based on broad consultations with major stakeholders, to be used for measurement, reporting and verification. Right after the start of the R-PP implementation, a baseline survey of pertinent governance factors will be conducted (or commissioned) by the REDD+ office.

The inclusion of the diagnostic exercise as an early activity for FCPF REDD+ readiness reflects the importance of governance to REDD+ implementation. REDD+ implementation

requires the involvement of a wide range of actors and as such, it is important that all these stakeholders are involved in identifying potential obstacles to progress and priorities to support implementation.

1.2 Forest governance defined

The term “forest governance” covers a wide range of factors, and stakeholders may have different interpretations of what the term means. PROFOR, the Program on Forests, provides the following definition of forest governance for the purposes of this diagnostic exercise: “*Forest governance includes the norms, processes, instruments, people, and organizations that control how people interact with forests*”. This definition covers many things: traditional culture as well as modern bureaucracy, and private markets as well as public laws. Key features of good forest governance include adherence to the rule of law, transparency and low levels of corruption, stakeholder inputs in decision making, accountability of all officials, low regulatory burden, and political stability.

This report aims to provide background information relevant to the range of different aspects of governance to be discussed at the diagnostic workshop. Information has been drawn from the personal knowledge and experience of the consultants, quick desktop reviews of literature, and interviews with some key informants across stakeholder groups. The material is organized under three pillars of governance as articulated by the internationally endorsed framework that was developed by FAO and PROFOR in 2011—a) Policy, legal, institutional and regulatory frameworks; b) Planning and decision-making processes; and c) Implementation, enforcement and compliance. The scope of material covered has been left intentionally broad to allow stakeholders to consider processes by which rules are developed, implemented and enforced, including who is involved at each stage of managing the forests. The report does not attempt to provide answers to the questions to be discussed at the diagnostic workshop, but to ensure that participants have access to a range of information to complement their own views and experience.

1.3 Forest governance diagnostics: What and why

The diagnostic tool aims to provide information and a workshop for discussion between stakeholders about the status of forest governance: i.e., to discuss what is working well at the moment, and where challenges remain. The analysis offers a baseline for tracking trends in forest governance, and can be used to identify priorities for action for those working in the sector.

A diagnostic exercise is simply a process by which stakeholders are encouraged to think about, discuss and agree how well the forests are managed at present. This tool is intended to provide a framework for the discussions: to ensure that the full range of relevant issues are discussed.

1.4 How the tool is used in Lao PDR

The intention of the forest governance diagnostic exercise is to help inform the implementation of REDD+ readiness activities in Laos. Measurement of the components and key attributes in each pillar (Policy, Planning and Implementation) is carried out using a questionnaire developed by PROFOR and customized for the specific case of the REDD+ program in Lao PDR. The exercise helps to identify priorities for support to governance initiatives, provide

background information relevant to planning and implementing specific activities, and provide a baseline for forest governance trends to be tracked over time.

For the diagnostic tool to be effective, it requires the participation of a range of groups and organizations involved in managing Laos' forests, and/or are users of forest land and resources, and who are likely to be affected by forest management policies and possible future implementation of REDD+ in the country. A consultation meeting was organized in Vientiane to provide the forum for discussion and debate about governance challenges among a spectrum of knowledgeable representatives from the different stakeholder groups. The diagnostic exercise provided an opportunity to reflect and share experiences on forest governance challenges in Laos, and build consensus for reform. Details and outcomes of the consultation meeting are presented in Part II.

Chapter 2 Forests and Forest Use in Laos

2.1 Overview, history and trends

2.1.1 Forest cover, condition and value

Laos is one of the few Asian countries with high remaining forest area. In 2010, forests (more than 20% tree canopy cover) covered 9.6 million hectares or 40.3% of Lao PDR as per official estimates (Figure 1), and 15.7 million ha or 66% as per less-stringent FAO definitions (more than 10% tree canopy cover). Bulk of the forest is mixed deciduous, dry evergreen and dry dipterocarp. Forest plantations cover more than 400,000 ha at present and species planted are mostly rubber, eucalyptus and teak.

Laos is reputed to be one of the most biodiverse countries in Asia with 8000 – 11,000 species of flowering plants, 166 species of reptiles and amphibians, at least 700 species of birds, 90 known species of bats and over 100 species of large mammals, and the country's forests play a key role in regional and global biodiversity conservation. Most (80%) of

the country is mountainous or upland, with one third steeply inclined (slopes >30%), thus making the forest landscapes very important for other environmental services such as watershed regulation and soil protection. Laos' large forest estate is also critical for its climate change mitigation and adaptation functions. Laos' forests and biodiversity play a significant role in the national economy by providing a range of timber and non-timber forest products (NTFP), and supporting hydropower generation, agriculture, ecotourism and fisheries. The country also looks to earning performance-based payments from the international community for reducing its forest-based carbon emissions in the near future

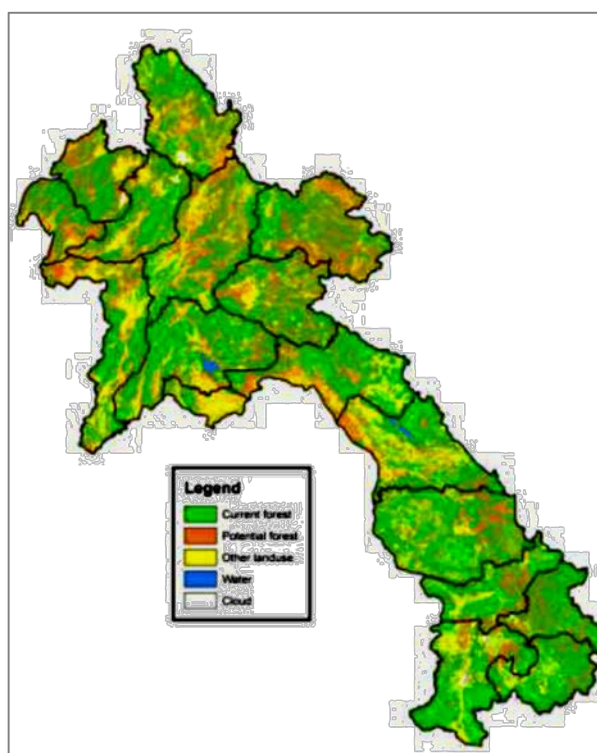


Figure 1. Forest cover map of Lao PDR 2010.

Source: MAF/DOF.

2.1.2 Trends and pressures

Official statistics indicate that forest cover declined from about 70% in the 1940s, to 49.1% in 1982, to 47.2% in 1992, 41.5% in 2002, and 40.3% in 2010 (Figure 2). As per these estimates, the annual rate of deforestation in the country rose from 0.4% (46,900 ha/year) in 1982-92, to 1.2% (134,000 ha/year) in 1992-2002 and dropped to 0.35% (35,000 ha/year) in 2002-2010.

However the average national reduction in deforestation masks regional-level trends across the country. Provincial-level estimates for 2002-10 indicate that forest cover increased by 2.6% in the

northern region, but declined by 0.9% and 2% in the central and southern regions where deforestation appears to still be an issue. Official estimates from 1992 to 2002 indicate a significant decline in forest quality with dense forests (>70% canopy cover) decreasing from 29.1% to 8.3% of total forest cover, and open forests (<40% canopy cover) increasing from 16.3% to 28.9%. Forest fragmentation also increased with large forest blocks (> 1000 ha) falling from 88% to 52% and smaller forest blocks (< 100 ha) rising from 4.5% to 30.2%.

Thus there is continuing high pressure on the forest and land resources of Laos in different parts of the country. A 2010 analysis identified the main drivers of deforestation from 1992-2002 as pioneering shifting cultivation, agricultural and hydropower expansion. Hydropower, mining, infrastructure, plantation and cash crop development have all risen sharply in the last decade and may now be the key drivers of deforestation wherever it occurs at present. Remaining high-density forests are now mainly in National Biodiversity Conservation Areas which are threatened by uncontrolled logging facilitated by high market demand in the region, enhanced road access and weak law enforcement. The Government has been attempting to reduce and halt the practice of shifting cultivation, and the current contribution of shifting cultivation to ongoing deforestation and forest degradation is unclear. Laos is also a reputed harbor for wildlife trading in the region which along with habitat conversion and degradation is a serious threat to the biodiversity in the country.

The country is now enhancing its national forest cover monitoring system through high-quality remote sensing and ground-truthing efforts undertaken with JICA support in the last few years. More accurate data and trends from 2000 to 2005 and 2010 should become available soon.

2.1.3 History of forest management

With the establishment of the Lao Peoples' Democratic Republic in 1975 up until 1989, the government's forestry agenda was mainly an economic one. Nine State Forest Enterprises (SFEs) were established to manage allocated production forests and supply forest products, and the SFEs in turn appointed Provincial Forest Enterprises (PFEs). The Provincial Forestry administration controlled other forestland. Management by these agencies was ineffective and there was widespread overexploitation of forests with little regard for sustainability. Another

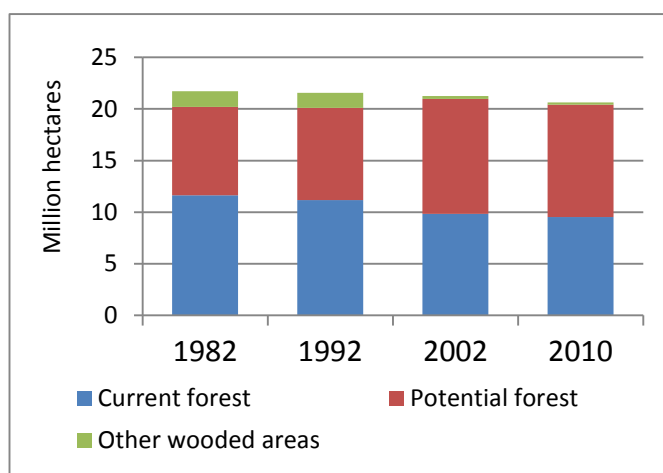


Figure 2. Forest cover change over time in Lao PDR. Source: MAF/DOF (2005, 2012).

key policy goal from early on was to stabilize shifting cultivation to reduce annual deforestation and related environmental problems.

In May 1989, the government convened a National Forestry Conference to address the ongoing deforestation issue and made a significant alteration in forest policy. Focus was now shifted to protecting and enhancing forest capacity; returning forest cover to 70% by 2020; improving the economic benefits from forest resources; and linking forest protection and rehabilitation to generation of food, commodities and livelihoods for upland populations. SFEs and PFEs were dissolved and stabilization of shifting cultivation was retained as a priority item on the agenda. Two Prime Ministerial (PM) Decrees 117 and 118 detailed out the new sustainable forest and wildlife management arrangements.

A nationwide logging ban was declared in 1991 (PM Decree 67) to control widespread illegal logging and MAF was instructed to prepare measures for effective forest management, timber production and trade, and forest survey and classification. 1993 was a landmark year for biodiversity conservation in Laos with PM Decree 164 leading to the establishment of 18 national conservation forests and setting the basis for biodiversity conservation in the country. Six more national biodiversity conservation areas were added later bringing the total to 24 Conservation Forest Areas covering 3.8 million hectares. Additionally, 57 provincial and 144 district conservation forest areas were declared covering 0.9 M ha and 0.5 M ha respectively. Management of the Conservation Areas is currently still at an initial stage with many of them lacking clear boundaries, management plans, and human and financial resources. Resource depletion continues with widespread illegal harvesting and trade of timber and wildlife, and some areas are further threatened by encroachment and economic development pressures.

The year 1993 also saw the initiation of the land and forest allocation program in the country with PM Decree 169 setting out a new framework for providing forest management and use contracts to villages, families and afforestation businesses. Further legislation sought to consolidate the land and forest allocation program aiming at stabilizing shifting cultivation and protecting and using forests sustainably as per a defined classification system. Through the program from 1995/96 to 2002/03, the District Agriculture and Forestry Office (DAFO, MAF) carried out land and forest allocation in 6,830 villages (>50% of the national total) with households receiving land for agriculture, livestock rearing and tree planting. Reviews suggest that the process was inadequate with limited and uneven participation of local communities, and lack of capacity and experience among the planners. The Program was beneficial in the delineation of village boundaries and resource use zones in some parts of the country, but led to a reduction of agricultural and forest use area available to upland households resulting in negative impacts on local livelihoods and food security.

The 1990s also saw the piloting of different models of community-based forest management through projects such as the Forest Management and Conservation Project (FOMACOP) and the Lao Swedish Forestry Program (LSFP). Government policy however was not ready for the fully community-based FOMACOP concept, and in 1999, PM Decree 11 placed all logging operations under the control of the government and cancelled all other orders on forest management and businesses that conflicted with this decree.

Subsequently in 2001, the Socio-economic Development Strategic Plan to the year 2020 committed to delineating forests into three categories – production, protection and conservation; stabilizing shifting cultivation by 2010 and promoting tree plantations for production. A 2002 PM Order banned the export of unprocessed timber from natural forests

and aimed to promote domestic wood processing. However, exports of unprocessed timber continued to flow out from Laos as visible in UN Comtrade data from importing countries.

From 2006 to 2008, three PM decrees were issued establishing a total of 51 state-administered Production Forest Areas (PFAs) across the country covering a total of 3.08 million hectares. The Sustainable Forestry and Rural Development (SUFORD) Project from 2003 to 2012 helped set up 16 of these PFAs following a participatory sustainable forest management approach and develop legislative support for their management. SUFORD in its third phase is currently helping scale up these efforts to other PFAs across the country. Since 2012, logging quotas have not been issued in PFAs pending completion of forest inventories and sustainable forest management (SFM) plans. Since then, the only permitted commercial logging is in approved infrastructure project and plantation areas.

The envisioned 8.2 million hectares of National Protection Forest Areas for protecting watersheds and other environmental and strategic functions have not yet been established on the ground. There are large numbers of villages and agricultural areas within the currently proposed 49 National Protection Forest Areas covering 7.5 million hectares. Besides the National areas, provincial and district governments had established local protection forest areas (23 and 52 areas covering 558,000 hectares) early on based on Article 12 of the Land Law. Government agencies are now conducting a review of the actual land use in the proposed three forest categories for correction and submission of final areas to the National Assembly for approval.

Given the suboptimal outcomes of the previous forest and land allocation program, more participatory forest and land use planning attempts are ongoing at present. Village forests are being delineated through this land use planning process and the management concept and guidelines for these village forests are currently under discussion and development. However, villages in Lao PDR have historically and in most cases still continue to practice customary methods of forest tenure, use and management despite a government management system and interventions that are recognized in legislation. Further there has been substantial relocation of villages across the country, both spontaneous and through government resettlement programs, as a result of which local land and resource use is still in flux and under negotiation.

In line with the government's long-standing policy of promoting tree plantations for timber production, there have been three distinct waves of tree planting efforts in the country. First through smallholder teak plantations in the north of the country in the 1990s, followed by the Lao-ADB industrial tree plantation loan program from 1994-2003, and mixed large and small-scale tree planting efforts by both domestic smallholders and foreign investors in the last decade. More than 700,000 hectares of plantation concessions have been allocated, which is beyond the targeted 500,000 hectares of plantations. Existing plantation area in both concessions and plantations on private lands is more than 400,000 ha with roughly 74% planted to rubber, 13% to eucalyptus, 7% teak, and 6% other species. Data accuracy is difficult to verify and the figures probably exclude a sizeable proportion of unregistered smallholder plantations on private lands. Most of the area planted is to rubber which is classified as a forest plantation. Plantation promotion for timber production has not been very successful given the challenges of finding suitable land, incidence of land encroachment and land conflicts, lack of viable credit, low market prices for eucalyptus and teak, and inability to compete with high-value illegal timber from natural forests. In 2012, further granting of concessions for

eucalyptus, rubber and mining was banned pending a review of the status, outcomes, impacts and potential for such concession developments.

Laos began to engage in REDD+-related activities in 2008 with the set-up of a National REDD+ Task Force and the submission of an R-PP to the World Bank FCPF in 2010. Numerous bilateral and multilateral projects have been supporting the country in preparing for REDD-readiness from 2008 to the present both at national level and through REDD+ pilots on the ground. The REDD+ Task Force was reconstituted in 2013 under the chairmanship of the Department of Forest Resource Management (DFRM) in the new Ministry of Natural Resources and Environment (MONRE).

Forest management and law enforcement remain highly ineffective at present. There is widespread illegal logging and forest encroachment on the ground with opening up of markets and roads, and rapid inflow of funds and investments into the country. A National Forest Conference was held in 2007 and a subsequent PM Order No. 30 provided clearer and stricter measures for controlling logging and the timber business. The National Forest Conference on Forest management, Forest Inspection and Forest business in January 2012 led to agreement between the sectors on responsibilities and priority steps to be undertaken to improve forest management, inspection and business operations.

Several important efforts at improving forest governance are now being made with donor support such as improving the quality and monitoring of land-based investments including agriculture and plantations, developing and piloting a timber legality assurance system as the basis for negotiating a FLEGT VPA with the European Union, and enhancing forest law enforcement capacity and coordination in the country.

2.2 Stakeholders and their interests

Given that forests/forestland is the largest land category in Laos, a wide range of stakeholders are interested in and affected by their management and use (Table 1). Forest resources are critical for rural livelihoods in Laos, both for subsistence and cash income with an estimated contribution of one million kip per capita per year in 2002. In many areas, there is no affordable alternative to these resources for the rural poor.

Two key government agencies, DFRM in MONRE and the Department of Forestry (DOF) in the Ministry of Agriculture and Forestry (MAF) are responsible for managing the forest areas and resources. The Department of Forest Inspection (DOFI) in MAF is the main agency responsible for inspection and enforcement. Other government agencies and the National Assembly also have a stake in forest management and protection, besides long-standing mass organizations appointed by the Lao Peoples' Revolutionary Party such as the Lao Women's' Union and Lao Front for National Reconstruction.

The last few years have seen the emergence of local civil society organizations (termed non-profit associations) and the private sector in numerous fields including forest-related activities. Laos is categorized as a "least developed country" by the United Nations, and numerous multilateral and bilateral donors and international non-government organizations (INGOs) support sustainable development and environmental management activities in Laos.

Table 1. Key stakeholders in the forestry sector.

| Stakeholder Group | Key stakeholders in forestry sector |
|-----------------------------------|--|
| Central Government | <p>Core agencies - DFRM (MONRE), DOF (MAF), DOFI (MAF)</p> <p>Other agencies - MOIC, MPI, MONRE (Departments of Land allocation and development, Land administration, ESIA), MOF, Military, MOJ, PM office</p> <p>Lao WEN - Customs, Economic Police, Anti-corruption agency, State inspection, Peoples' courts, Interpol, and Science and Technology besides five others already listed above</p> <p>State academic and research institutions: FOF NUOL, NERI, NAFRI, Northern Agriculture and Forestry College</p> |
| Government agencies – local level | <p>PAFO, PONRE, POFI, Provincial governors</p> <p>DAFO, DONRE, District chiefs</p> |
| Party | <p>Politburo</p> <p>Mass organizations – Lao Front for National Construction, Lao Women's Union</p> |
| Legislature | National Assembly |
| Communities | <p>Village communities</p> <p>Village forest administration (evolving)</p> |
| Civil Society | Non Profit Associations, Cooperatives, Production Groups |
| Private Sector | <p>Plantation companies, Logging enterprises, Wood and NTFP processing companies, Timber and NTFP traders, furniture industry, handicraft industry, charcoal producers, REDD+ investors, forestry technical consulting companies</p> <p>Mining, agriculture, hydropower concessions, ecotourism operators</p> |
| International agencies | <p>International donors and agencies – WB, ADB, Germany, Japan, Finland, Switzerland, USA, Sweden, Korea, China, UNDP, FAO, IUCN, APFNet</p> <p>International NGOs – WWF, WCS, RECOFTC, SNV, Helvetas, VFI</p> |
| Regional agencies | ASEAN (ASOF, AMAF, ASOEN), MRC |
| | |

Chapter 3 Forest Institutions, Policies, and Laws

3.1 Policies and laws

3.1.1 Basic policies and laws affecting forests

Forestry strategy

Forestry Strategy 2020 (FS 2020) adopted in 2005 is the key policy guiding the forestry sector in Laos. It aims to bring forest cover back to historic levels (70%) by 2020. Some other stated objectives include stopping shifting cultivation; completing land use planning and allocation; strengthening the legal framework, forest management and law enforcement; increasing local peoples' participation and benefits from forest management; promoting commercial tree plantations; providing a sustainable flow of forest products; enhancing biodiversity conservation and other environmental services; upgrading the processing industry for efficient and quality production but in line with available sustainable supply of resources; and contributing to livelihood improvement, fiscal revenue and foreign exchange.

Outcomes of the recent review of FS2020 implementation suggest that about 60% of the proposed 146 action plans have been completed or are ongoing. As is required of every sector in Laos now, the forestry strategy will be redesigned to 2025 with a vision formulated for 2030. The current forestry strategy does not include new mechanisms such as REDD+, and does not address some of the major deforestation and degradation drivers that impact the forests at the current time such as hydropower, mining, cash crops and other development projects, as well as the high regional timber demand and improved road access leading to uncontrolled logging.

Forest Resources Inspection strategy Action Plan

The forest Resources Inspection strategy action plan was issued in February 2013 and clarifies DOFI's role and approach to forest and wildlife law enforcement. Their operations would cover four main priorities:

- Forest and Mill inspections including legality of harvesting in all approved logging areas, and for Chain of Custody, REDD+ and FLEGT
- Wildlife inspections including legal custody and use of wildlife as well as governance of wildlife habitat
- Transportation inspections to ensure legal transport of forest products and wildlife
- International Borders inspection and liaison with cross-border officials to ensure legality of transportation of forest products and wildlife across the borders

Three forest categories

Laos' forest estate is to be divided into three categories: Production, Protection and Conservation forest areas. Lao PDR's policy on biological conservation is based largely on a system of protected areas. Its policy on forest production is based on a system of natural Production Forest Areas managed in a sustainable manner with due regard to conservation

and local livelihood needs, along with promotion of commercial plantation development for timber and NTFP production. Further, a substantial area (8.2 million hectares) in protection forest is envisioned to fully protect the watersheds in the largely mountainous terrain of the country that aspires to be the battery of the Association for Southeast Asian Nations (ASEAN) through the development of hydropower dams.

Production, Protection and Conservation Forest Areas are to be administered by the state with the participation of and some benefits flowing to the local communities. Also envisioned are village forests within village territories to be administered by the village for village benefit following customary boundaries and use practices throughout the country, including inside National Production, Protection and Conservation Forest Areas. The village forests are to be divided into three functional categories as well – village use, protection and conservation. The private sector, villagers and other organizations are encouraged to develop commercial plantation forests including rubber via forestland concessions or on their own private lands. Villagers, the private sector and other organizations are permitted to participate in forest rehabilitation activities, ecotourism, REDD+ and other Payment for Environmental Services (PES) schemes in all forest areas as per the current draft revision of the forestry law.

Most of the proposed forest areas have not yet been delineated and it is unclear where exactly they are on the ground (Table 2). The three forest categories and their proposed and/or declared areas have now been submitted to the National Assembly for approval. National Assembly Notice 273 from August 2014 requires an accurate and complete resurvey and delineation of boundaries of the three forest types extracting out areas approved for other purposes and if necessary, surveying new areas to compensate for the loss. It further specifies that village agricultural and residential land within larger forest areas should be excised from forestland and included in other land categories.

Table 2. Established/ Planned Forest Areas (Number and size)

| No | Established/ Planned Forest Areas | No. of areas | Area (ha) |
|----|--|--------------|-------------------|
| 1 | National Production Forest Areas | 51 | 3,080,000 |
| 2 | National Protection Forest Areas (8.2 M ha target) | 49 | 7,500,000 |
| 3 | National Conservation Forest Areas | 24 | 3,800,000 |
| 4 | Provincial Conservation forest areas * | 57 | 900,000 |
| 5 | District Conservation forest areas* | 144 | 500,000 |
| 6 | Provincial Protection forest areas* | 23 | 600,000 |
| 7 | District Protection forest areas* | 52 | 55,000 |
| 8 | Plantation forest concessions (0.5 M allocated, 0.378 M planted) | - | 500,000 |
| | TOTAL (71.5% of the national land area) | | 16,935,000 |
| 9 | Village forests outside 1-7 | | |
| 10 | Smallholder and domestic plantations on private non-forest lands | | |

*Sigarty (2003) Report on legal framework of forestry sector for forestry strategy 2020, Lao PDR

The Forestry Law: The Forestry Law was promulgated in 1996 and revised in 2008. The Law forms the basis for conservation, protection, commercial exploitation, and use of forest resources in forestlands across the country. It is currently under revision again alongside drafting of the National Land Policy (NLP) and revised Land Law. Land policy changes will have important implications for the forestry sector.

Production Forests: An elaborate legal framework has been developed for sustainable management, timber and NTFP production, and benefit-sharing in PFAs with support from the SUFORD project starting from 2003 and now in its third phase. Key legislation includes Decree 59/2002 on Sustainable management of Production Forest Areas, three PM decrees from 2006-08 declaring all 51 PFAs, and MAF regulation 0204/2003 on Establishment and sustainable management of production forest. Further, numerous guidelines have been issued for participatory forest inventory, management planning, monitoring implementation, village boundary demarcation, timber harvesting, bidding for timber sales, chain of custody, and establishment and operation of village forestry committees among others. An important new development is the 2012 Decree 001/PR on sharing of timber revenue from PFAs (supersedes the earlier 2006 DOF Guideline) which allocates 12% of the total timber sales revenue in PFAs to the village development funds. Logging quotas have been suspended in PFAs since 2012 and are to be issued only after the completion of inventories and preparation of sustainable management plans for all PFAs which is ongoing at present and slated to be completed by end of the fiscal year in 2015.

Conservation forests: The legal framework for conservation forests is yet to be fully developed. To date, there is PM Decree 164 (1993) and MAF Regulation No 0360 (2003) on the management of NBCAs and aquatic & wildlife conservation. A draft PM decree related to management of Protected Areas is pending finalization of the forestry law revision. The separate Wildlife and Aquatic Law from 2007 provides the basis for managing, monitoring, conserving, developing and utilizing wildlife and aquatic species in a sustainable manner.

Protection forests: For protection forests, PM Decree 333 issued in 2010 is the main legal framework. Draft guidelines for Protection forest management and planning was prepared in 2013 but its status is unclear. The protection forest category per se is not yet functional in general since few national protection forest areas have been formally established and the management concept is still undecided.

Villagers' rights and village forests: Villagers' customary use rights in forest areas are recognized in the forestry law and elaborated in MAF Decision 54/1996 and MAF Guideline 377/1996 on Customary Use of Forest Resources. Production and Conservation forest legislation further elaborate villagers' rights within those forest areas. MAF Regulation 535 on Village Forest Management issued in 2001 consolidated existing provisions concerning village forests, e.g. classification and timber use for village benefit and house construction. It also legally recognized the collection of NTFPs for sale based on approved management plans provided that villagers formed groups or associations. However, forest management plans have been difficult to formulate. Commercial timber harvesting is not legally permitted in village forests. Draft DOF guidelines for village forest establishment and management is currently being developed and tested. The specific management concept and legal framework for village forests managed and used by villagers is being reconsidered and discussed at present.

Plantation forests: As per the forestry and land laws and PM Decree 135 on State Land lease or concession (2009), degraded and barren forestland can be allocated for commercial

plantations to households (3 hectares per labor plus more on concession basis) and to registered enterprises on a concession basis. However, the laws do not clearly define degraded and barren forestland nor do they specify the jurisdiction in which such plantation concessions can be allocated, leading to varying interpretations and ad hoc implementation on the ground. Forestlands have not yet been allocated to households for plantation purposes and the viability of this proposition is currently under review. More than the targeted 500,000 ha of plantation concessions have already been allocated to private enterprises, both domestic and foreign across the country. Problems of plantation concessions resulting in overlapping land claims and land conflicts, encroachment into public forestland, and conversion of natural forests or agricultural fallow land have been reported. Further issuance of rubber and eucalyptus plantation concessions is currently under a moratorium and review as per PM Order 13 (2012). Besides plantation development on allocated “forestland” (the boundaries of which are still unclear on the ground pending completion of land use planning and registration across the country), smallholders and companies are free to develop plantations on private agricultural and other land.

Besides articles in the forestry law, there is a host of regulations for plantation registration, management plans, harvesting, transport approvals and export permits. On the plantation promotion side, PM Order 18 on Forest Resource Management Policy (2002-03) bans the export of unprocessed logs and sawn timber from natural forest and requires each wood-processing factory to have a tree plantation for internal factory use. PM Decree 96 (2003) on industrial tree plantations and environmental protection outlines various incentives such as tax and fee exemptions. This decree is to be improved soon.

From the investment approval and monitoring angle, the Ministry of Planning and Investment’s (MPI) Law on Investment Promotion (2009) and Decree on State Land Lease or Concession 135 (2009) provide the overarching framework for land concessions. MPI with UNDP support is trying to upgrade investment quality including in the forestry sector through preparation of a model MOU and concession agreement which includes a SESA. The Department of Environmental and Social Impact Assessment (DESIA) in MONRE has a new Ministerial Instruction 8030 on ESIA of Investment Projects and Activities (2013). Once they pass the ESIA, the investors have to prepare an Environmental and Social Management and Monitoring Plan (ESMMP) which is to serve as the guiding document for DESIA to monitor the specific investment activity. There is at present no one clear place, document or site to go to for the investment procedure for developing commercial plantations. The investor contacts MPI, and MPI contacts the concerned Ministry who then liaises down and across agencies.

REDD+: The REDD+ concept has been introduced into the draft revised forestry law and the implementing decree and supporting regulations are to be developed in the next years.

Industrial processing and trade: The Ministry of Industry and Commerce has a host of regulations related to industrial processing, machinery and vehicles for wood extraction and transport, transport approvals, import and export licensing and procedures, and certificates of origin.

Conversion of forestland and salvage logging: Forestland conversion is mainly covered in the forestry law and clear criteria for when such conversions can be permitted (how maximum benefit to the nation and to the well-being of the people will be determined) is missing. Also missing are details on consultation and consent process and compensation to be paid to the affected parties. These are issues being discussed and developed at present

in the land policy and land law. There is concern that land can be claimed by the state for business investments as well with limited consent and compensation processes in place. Criteria and guidelines for implementation and inspection of forestland conversion, along with the agencies responsible are unclear.

Current legal framework for salvage logging includes PM Order 17 on Strengthening the forest management, protection and coordination of management forest and forestry business (2008), and MAF Regulation on the timber harvesting and post harvesting in the water basin for hydropower electricity No 0112 (2008). As per PM Order 17, a Committee is to be set up to supervise the logging. Composition of the committee is left relatively open – relevant line agencies and local authorities or any capable units. The high-level committee appears to operate independently of the forestry sector agencies whose role in the process is unclear. A clear legal framework and institutional authority and oversight over salvage logging are missing at present. Many agencies at local and national levels are issuing infrastructure and development project permits, barter deals of timber for infrastructure construction debts is common, and there is little control or transparency on salvage logging operations, volumes harvested and the resultant timber revenues.

Overview of the legal framework

There are varying opinions on the completeness, consistency and quality of the forestry legal framework. Some stakeholders suggest that the legal framework is comprehensive and adequate and the main problem is in the implementation capacity. It would be more important to focus on the key elements to be enforced and identify mechanisms for implementation rather than trying to further improve the legal framework. Others suggest that the legal framework still lacks clarity and updating in numerous aspects which hampers implementation, for example in terms of rights of villagers and duties of different authorities. There are no detailed descriptions or accompanying regulations for many items in the law which allows for different interpretations, and practical information for enforcement agencies, prosecutors and judges is missing. Further, dissemination of the law is constrained by budget restraints and lack of education materials and resources.

The legal framework includes the sustainable forest management concept, however, there is a limited recognition and understanding of the concept – that all forest areas can and should be managed and used in a sustainable manner over the long term for multiple goods and services as required. Forests and forestry operations in Laos tend to be viewed in a dichotomous manner – either exploit for production or protect under lock and key. This has led to the splitting of responsibilities for the forestry sector with one Ministry placed in charge of the “protection and conservation forest areas” and the other left in charge of the “production forest areas”. The forestry law and the overall forestry agenda is primarily focused on conservation/ protection while on the ground there is widespread exploitation of all forest areas in response to market demand and opportunity to profit.

The legal framework focuses mainly on public forest areas. Village forestry, plantation forestry, and household forests on forestlands allocated to other entities have not been detailed out for effective implementation. Private sector role in forest management and protection at present is limited to plantation forestry in allocated areas. A larger role is envisioned for them in forest regeneration, and management and protection of public forests for environmental services in the future as stated in the draft revision of the forestry law. Inventories and management plans

are required as a basis for sustainable management in all areas; however, implementation has been curtailed by staff and funding limitations.

The legal framework is particularly weak, unclear and ridden with loopholes in the areas of overlap of tasks with other sectors where substantial financial revenue can be generated such as concessions and conversion of forestland; salvage logging; and transport, processing and export of timber and timber products. There are numerous instances where the intention to limit an activity such as the export of unprocessed timber is phrased as “unless permitted by the government” which creates a gap and opportunity for various agencies to permit the undesirable activity.

3.1.2 International agreements affecting forests

Laos PDR signed the Convention on the Protection of World Cultural and Natural Heritage in 1987, the United Nations Framework Convention on Climate Change (UNFCCC) in 1995, the Agreement on Cooperation for Sustainable Development of the Mekong River Basin in 1995, the Conservation of Biological Diversity (CBD) in 1996, the United Nations Convention to Combat Desertification in 1996, ASEAN agreement on trans-boundary haze pollution in 2002, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in 2004, and the Ramsar Convention on Wetlands in 2010. Responsibility for reporting and communication on all of the above treaties lies with the new Ministry, MONRE.

The Department of Forest Resource Management under MONRE is now responsible for managing Laos' implementation of CITES and CBD. Coordination committees have been set up and there are periodic consultation meetings and reporting on activities. However, implementation has been difficult and irregular given a lack of human resources. There is a proposal to establish a separate division under DFRM to implement these international treaties. However, the Department of Planning and Cooperation under MONRE also has a division for implementation of international treaties. A meeting scheduled for September 2014 was expected to clarify the mandates in this regard.

As a signatory to the CBD, Laos committed to developing a national biodiversity strategy. In 2004, the National Biodiversity Strategy to 2020 and the National Biodiversity Action plan to 2010 were adopted aiming to protect biodiversity resources in Lao PDR and ensure their sustainable use. The Action Plan will now be revised to 2020. Laos submitted its fourth report to the CBD and the fifth is under preparation. With regard to CITES, Laos committed to building synergies with the ASEAN Wildlife Enforcement Network (ASEAN WEN) to strengthen customs procedures and reduce the ongoing high volume cross-border wildlife trade. Lao WEN, a chapter of the ASEAN WEN has been instituted in Laos under the leadership of DOFI bringing on board all law enforcement agencies responsible for forest and wildlife law enforcement and developing a coordinated strategy and activities.

Laos submitted its second national communication to the UNFCCC in March 2013. The current UNFCCC national focal point is the Department of Disaster Risk Management and Climate Change under MONRE. MONRE has the overall mandate for development and implementation of REDD+ in the country and delegated the responsibility to DFRM. DFRM chairs the newly appointed National REDD+ Task Force constituted in October 2013 and the REDD+ division within DFRM is to act as the national secretariat for the REDD+ Task Force. Laos has participated in the UNFCCC REDD+ negotiations over the last six years and submitted an R-PP to the WB FCPF in 2010. The country is currently preparing for REDD+

readiness with the support of various bilateral and multilateral donors, NGOs and the private sector.

Lao PDR has two sites designated as Wetlands of International Importance in 2010, Xe Champhone Wetlands in Savannakhet Province and Beung Kiat Ngong Wetlands in Champassak Province with a total surface area of 14,760 hectares. IUCN has been supporting exchange visits and dialogues and prepared background information on both Ramsar sites to support decisions on future management interventions. Plans for UNCCD implementation have not been designed yet and the responsibility for implementation lay with the National Agriculture and Forestry Research Institute (NAFRI). Hin Nam No National Protected Area is being proposed as the first World Heritage Convention site in the natural category in Laos and the application process is just being initiated.

The government of Laos is currently working towards developing a Voluntary Partnership Agreement with the European Union to build a timber legality assurance system and access European markets while strengthening sustainable forest management and improving forest governance in the country. DOFI is the focal point for this activity and is supported by various donor projects.

3.2 Forest Land Tenure and Ownership

The overall guiding legal framework for forestland tenure and ownership are the Constitution, the evolving National Land Policy, and the land and forestry laws. According to the existing legal framework, natural forest and forestland belong to the national community and the state manages them. However, forest and forestland can be allocated for use to different entities as prescribed. Trees planted in approved designated areas with own labor and/or funds become the property of those individuals or organizations.

Most of the forestland in the country is to be held in large state-administered production, protection and conservation forest areas and managed using participatory approaches. Villagers have customary use rights in the permitted use zones of the state-administered conservation, protection and production forest areas as per the management plans and regulations. The potential nature and range of these rights is unclear at present. Forestland to be directly allocated to other entities as per the current legal framework is as follows:

- a) **Village forest and forestland** to village communities with possible communal tenure in the near future as indicated in the current draft land policy and land law. It was unclear whether village forests within National Production, Protection and Conservation Forest Areas would also be eligible for communal land titles. Forestry officials now suggest that all village forests would be eligible for the same type of legal tenure. Villagers have rights to manage and use the communal forests as per approved plans but no rights to transfer or bequeath the forestland. There are no clear regulations yet for the formal process of allocation and transfer of ownership and management rights to forests to communities.
- b) **Degraded and barren forestland to individuals or households** within the village for forestry purposes. Each household is eligible to receive three hectares per labor as per current forestry and land laws; however, this provision is being reconsidered in the latest revision of the two laws given insufficient land to allocate to individuals across the country.
- c) **Degraded or barren forestland allocated on a concession basis** for forest plantation development. Concession holders (private enterprises, households and individuals) have

temporary tenure over the land as per the specific concession arrangements but they own the planted trees.

- d) **Lease or concession of forestland to social organizations** for preservation and development. It is not clear how these organizations are to manage and use the allocated forestland, and what rights they have.
- e) **Forests and forestland allocated for other purposes through concessions or lease** (such as mining, and possibly ecosystem services and ecotourism as in the draft forestry law) belong to the state or the entities who allocated it. Concession and lease holders have temporary tenure over the land and no rights to the existing timber and NTFPs.
- f) **Forests and forestland allocated to other government agencies** such as the Military, Universities and Research centers. It is not clear how these organizations are to manage and use the allocated forestland, and what rights they have.

A type of customary practice that is not yet covered by the legal framework is natural forests occupied and managed by individuals as protection forest and buffer areas near their agricultural fields. Full registration of natural forest by individuals is not a common practice and is not allowed by the (forestry) law except for regenerated forests. There are no guidelines in the legal framework for dealing with such areas.

Land use planning process

In reality, policies and plans related to forestland allocation and titling to the state, communities and households are yet to be implemented on the ground, and customary land tenure overlapping with allocated concessions and private agricultural lands operates on the ground in most of the country. Besides land use and tenure is unsettled and under negotiation in many spontaneous migrant or resettlement villages. Boundary demarcation of state-administered forest areas was done primarily in places supported by donors and development projects.

An earlier formal land use planning and allocation attempt in the 1990s conducted in 5,400 villages was focused more on protecting forest areas and did not match with land use practices on the ground. A more participatory approach was reinitiated following the appointment of a new National Land Management Authority in 2006 and a new Participatory Land Use Planning process manual for village level planning financed by JICA, Sida and GIZ in 2010. Rather than allocating one hectare of agricultural land and three hectares of forestland to each household as specified in the law, the approach recognizes existing use and inheritance practices. It differentiates agricultural areas from forest areas, marking agricultural areas as those that have already been used for agriculture and some reserve areas for future population expansion. However, in reality little reserve land is available. The process of differentiation of village forests from forests to be administered by the state is unclear and so is the process of identification of degraded and barren lands for allocation to households or other entities for forestry/reforestation purposes.

At present, two parallel government processes approximately following this same manual as a basis are being implemented at the village level. One process has been conducted in roughly 170-200 villages across the country by various organizations and donor projects working with DAFO/MAF and line agencies of the Land Allocation and Development section of the District Office for Natural Resource and Environment (DONRE). And the other process led by the Department of Land Allocation and Development (DLAD) in MONRE has been conducted in more than 4000 villages in the country starting from the 47 poorest districts.

There are different opinions on the nature and efficacy of the two processes, the quality of the imagery and materials used, time taken, level of participation, and outcomes. Suggested time for effective planning by the MAF/DONRE/Donor project group is 15 days per village, and time estimated by DLAD is five days per village. There is little communication and coordination between these two processes. At times both teams may cover the same villages, duplicating the effort and resulting in confused outcomes. Additionally various organizations and projects supporting village land use planning also develop their own methods, some agencies use visual tools, some don't and there is a lot of skepticism and confusion.

One problem with the manual is that it focuses on only two land categories - agricultural and forestry land. It does not go in-depth into the eight types of land categories and involve all eight sectors, so zoning and addressing each land type in the villages is not clear. DLAD indicates that they zone all eight land categories using an additional supplementary guideline they developed for the purpose, and invite all eight sectors to participate in the final planning meeting. Other projects appear to focus on agriculture and forestry categories and map other existing land uses as they are.

The areas to be covered are vast and financial and human capacity is limited. Besides, there are also other spatial planning processes such as integrated spatial planning by the Department of Environmental Quality Promotion (MONRE) and the five-year provincial and district socio-economic development planning by MPI that appear to operate independently of the local land use planning process. The local district-level plans are not always recognized at higher levels and larger land use allocation decisions could be superimposed on them. Ironing out the rules and processes, coordinating between agencies and projects, and satisfactorily completing boundary demarcation, credible village land use planning and allocation, and consolidating with higher level planning processes across the country is a major challenge.

3.3 Governmental institutions

3.3.1 Dedicated to forest management or protection

Forest management, protection, forestland use allocation and other forestry sector responsibilities had been under the responsibility of a single institution, the Department of Forestry (DOF) in the Ministry of Agriculture and Forestry (MAF). Major institutional restructuring in the forestry sector began in 2006/07. Primary responsibility for land use planning and allocation shifted to a new National Land Management Authority who was to work with the different sectors including MAF for land use planning and allocation of land under their respective jurisdictions. Forest enforcement responsibility was separated from forest management responsibilities in 2007/08 and assigned to a new separate agency Department of Forest Inspection (DOFI) within MAF in order to address the problems of illegal logging and wildlife trade, forest-related corruption and land encroachment. Subsequently, the wood processing industry, which was originally under the supervision of both MAF and Ministry of Industry and Commerce (MOIC), moved to MOIC control in 2008 with the issuance of PM Decree 17 on strengthening forest management, protection and coordination of management of forest and forestry business. Responsibility for timber tracking outside the forest areas, that is from the second landing, also moved to MOIC.

In 2011/12, responsibility for forest management was also split and assigned to two Ministries. Management responsibility for production forest areas was retained by DOF while

conservation and protection forest area management moved to the Department of Forest Resource Management (DFRM) in the newly created Ministry of Natural Resources and Environment (MONRE) (Figure 3).

Institutional arrangements are still in flux and the Director General (DG) of DFRM announced at the Forestry Subsector Working Group (FSSWG) in early 2014 that there were plans to restructure again and bring the forest management agencies back together, though the exact nature of the arrangement and timeframe was undecided. As part of the forestry law revision process, discussions were also ongoing on altering the setup of the inspection agency to enhance its independence by either moving it out of the forest production agency MAF and into MONRE, or making it entirely independent of both institutions MAF and MONRE.

DFRM

The newly established DFRM has nine divisions including Protection forest management, Conservation forest management, Wildlife management, REDD+, Protection and conservation forest Inventory, Protection and conservation forest inspection, and Forest regeneration. Its line agencies are PONRE at provincial level and DONRE at district level. DFRM's TOR from May 2012 indicates responsibility for improving the overall forest policy and legal framework with the exception of logging, plantation and timber-related aspects, implementing forest-related international treaties, and for all activities within Protection forest, Conservation forest, Corridor zones and Specific conservation areas. Activities in forest areas under its jurisdiction include zoning, management planning, monitoring, inspection, conflict resolution, regeneration, managing salvage logging in infrastructure construction areas, REDD+, ecotourism and PES. MONRE's TOR indicates that it is the overall focal point for REDD+ and MONRE handed the responsibility to DFRM. DFRM now chairs the National REDD+ Task Force and its REDD+ division acts as the secretariat to the Task Force.

DOF

At present, DOF has eight divisions including Production Forest and Logging Management, Village Forest and Non-Timber Product Management, Forest Plantation and Forest Investment Promotion, Forest Inventory and Planning, and a REDD Office. It also hosts the Forest and Forest Resource Development Fund (FRDF) office. Its line agencies are PAFO at the provincial level and DAFO at the district level. DOF's revised TOR from August 2012 suggests responsibility for all activities in production forest areas, village forests within Production Forest Areas, unclassified forestlands and forest plantations including zoning, planning, management and monitoring of the forestland and resources, and reviewing and commenting on investment proposals for these areas. Further, they are responsible for all timber, NTFP and charcoal production-related activities in the country including management of harvesting, transport, certification, timber stamping, business registration and licensing. FIPD within DOF is mentioned as the core agency to carry out forest surveys, change monitoring, and information management on forest resources across the country. The DOF REDD Office is to coordinate MAF's REDD+ activities, and contribute to and support overall REDD+ implementation.

DOFI

DOFI's line agency at the provincial level is POFI and it also has 2-3 inspection staff sitting in each DAFO office who can respond to village-level issues. DOFI's mandate was also revised in August 2012. According to DOFI staff, they have the mandate to enforce the wildlife and

forestry laws in all three forest categories including plantations, and down the chain of custody for timber – the logging in production and infrastructure construction areas as per the pre-logging surveys, transport on the roads, and down the chain to the sawmills, processing industries, the markets and the borders. DFRM, and state inspection agencies in MONRE, MAF and MOIC are responsible for monitoring and patrolling in areas under their jurisdiction. DOFI steps in to inspect and when there is a problem. DOFI can join MOIC to inspect sawmills and processing centers. At international checkpoints, DOFI can inspect the products, export papers and stamps. They focus on 3 main valuable timber species and find it difficult to check other products such as NTFPs and wildlife since people can hide small animals in the vehicles. They receive information from other agencies in the ASEAN WEN about wildlife smuggling.

The 2012 TORs of all three institutions tried to identify their areas of responsibility and avoid overlap. However there are still gaps and overlaps requiring further clarification such as:

- Which agency is responsible for overall forest policy and legal frameworks?
- DOF's revised TOR indicates that it has the mandate for overall forest inventory over the nation. However, DFRM has an inventory service tasked with surveying areas under its jurisdiction.
- DFRM's TOR suggests that it is responsible for managing and following up on salvage logging activities in hydropower dam, mining and infrastructure construction sites in areas under its jurisdiction. However, other agencies indicate that DOF (PAFO) is responsible for managing the logging in infrastructure construction areas in protection and conservation areas as well, since they are the only ones with the authority to grade, list and stamp the timber at log landing II for submission to MOIC. In practice, a high-level committee operating independently of MAF and MONRE has been supervising salvage logging operations.
- DFRM's TOR indicates that its inspection service division is responsible for inspection, confiscation of illegal material and interrogation in forest areas under its jurisdiction. MONRE's TOR indicates its mandate to conduct monitoring and inspection on forest use, timber exploitation, NTFPs, and the exploitation of forest and forest land throughout the country. Further clarification is required on DOFI's mandate as compared with DFRM and MONRE's mandates in protection and conservation forest areas, as well as across the nation overall.

3.3.2 Influencing forest management or protection

Policies and legislation including those of the forestry sector are approved and endorsed by the Ministry of Justice (MOJ), the Prime Minister's office and finally the National Assembly. Forest-related issues requiring National Assembly approval as per the forestry law are conversion of natural forest categories; approval of annual logging plans or quotas; conversion, lease and concession of forestland beyond set thresholds; and declaration of large national forest areas across provinces. The National Assembly also plays the role of overall watchdog, overseeing performance of all sectors including forestry, and receiving and responding to direct and indirect feedback from different stakeholders across the country. The National Assembly has in the last few years been closely involved in the drafting and discussion of the National Land policy, and has raised its concerns over the emerging land conflicts across the country as well as the ongoing widespread illegal logging and timber trade that are rapidly degrading the forests of Laos.

MOIC and their line agencies has been responsible for the supervision of timber flow from Log Landing 2 to the processing factory and up to the point of export. They set the floor prices and oversee the bidding process, sign the sale contracts and calculate the timber royalties to send to the Ministry of Finance (MOF), provide import permits, issue export permits for plantation timber, patrol roads and checkpoints, and oversee auctions for confiscated timber. They draft the legal framework for forest product processing and trade, provide permits for setting up wood and NTFP processing factories (sawmills, furniture and other), promote improved industry standards, and manage and monitor the industries for compliance. With responsibility for the processing and trading end, they have a significant influence on the forest areas where the raw materials are sourced. Responsibility for overseeing timber transport outside the forest areas (i.e. beyond log landing 2) is now unclear with PM Decree 32 from the National Forestry Conference 2012 indicating a transfer back of responsibility from MOIC to DOF. However, the legal status of Decree 32 is unclear and the decision has not yet been implemented. In practice in the past, DOF has supported the transport of timber from PFAs.

The Ministry of Planning and Investment (MPI) is the agency that promotes investments in the country, both domestic and foreign. Policies it sets and the process it adopts for approving such investments including liaising with the forestry sector can influence forestland development and management. Investments of concern to the forestry sector are wood processing industries including furniture factories; forest plantations; and investments in mining, hydropower, power lines, roads and agriculture that potentially result in conversion or degradation of forestland. MONRE's Department of Environmental and Social Impact assessment (DESIA) is responsible for assessing the ESIA's prepared by developers and providing recommendations to approve, reject or improve the proposed investment plans. It is also responsible for monitoring environmental and social compliance in line with the approved Environmental and Social Management and Monitoring Plan and budget.

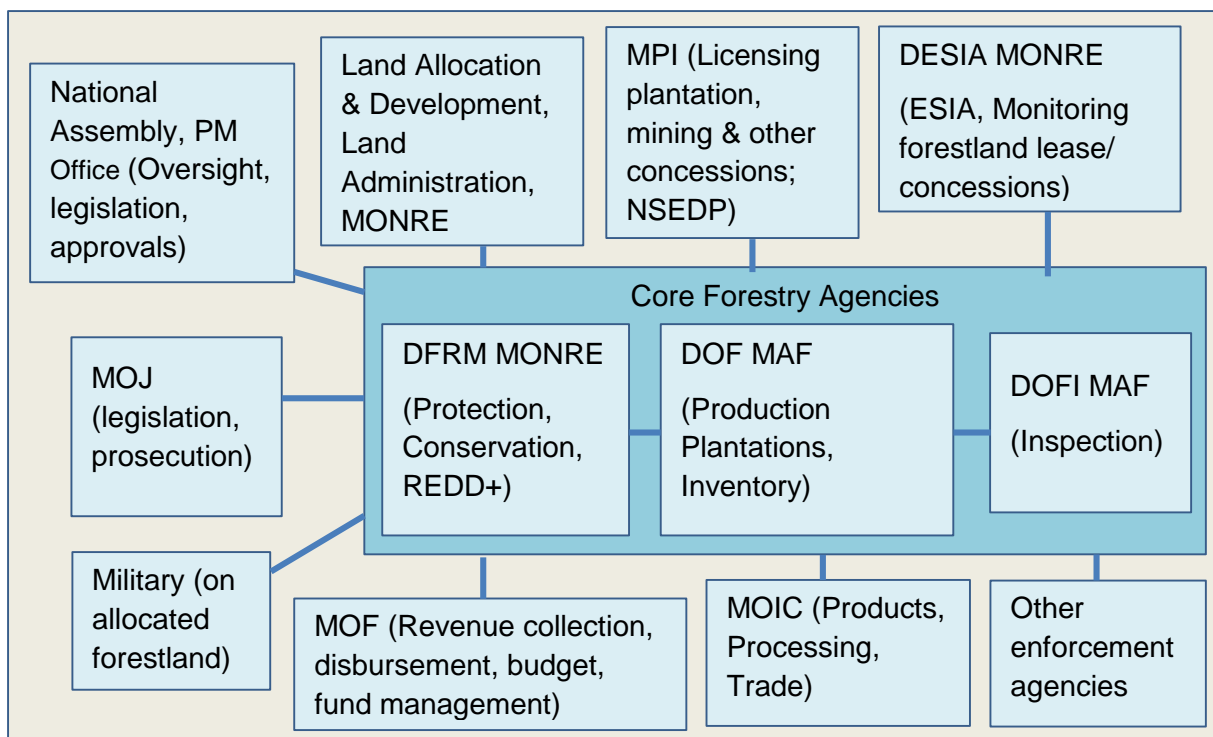


Figure 3. Core forestry agencies and others influencing forest management and protection.

MONRE's Land Allocation and Development Department is to work with the forestry agencies to conduct forestland use planning and allocation. MONRE's Land Administration Department and its line agencies are responsible for land policy and legal framework development, land registration and titling, monitoring implementation of the land law, and for land conflict resolution.

The Treasury Department in the Ministry of Finance balances the national budget, and allocates and disburses funds to the different sectors based on proposals, revenue available and National Assembly approval. The State Asset Department is responsible for overseeing fund management and monitoring of expenditures.

Another key agency that influences forest management and protection is the Military that is allocated substantial forest area for protection along national borders and in other strategic areas. They appear to have substantial and overriding authority over the forestry sector though there is no publicly-available supporting documentation or legal framework spelling out their role, rights and mandate in forest lands. For example, do they have rights to engage in or approve plantation investments, logging and other forestry sector activities?

There are numerous other agencies with inspection and enforcement mandates related to the forestry sector such as the Economic police, Customs, Anti-corruption agency, State inspection agency, Peoples' courts, Interpol, and Science and technology. The Ministry of Justice is responsible for prosecution of legal cases.

Provincial and district governments have direct influence on forest management and protection following through from the *samsang* decentralization policy whereby responsibility for development planning and implementation in the provinces and related budgets was delegated directly to the provincial authorities. Forest resources provide the main revenue options in many provinces at present and local infrastructure projects such as new roads and power lines could directly cut through high-density forest areas which are logged.

3.4 Coordination with other laws and policies

Important cross-sectoral laws, policies or plans are outlined below.

Party resolutions: Laos holds a Party Congress every four years which results in party resolutions that make overall recommendations guiding planning and development in the country.

National Socio-economic development strategy and 5-year Plans (NSEDP): This is a key multi-sectoral policy planning process led by MPI with inputs provided by different sectors and other stakeholders. The Seventh National Socio-Economic Development Plan (2011-2015) aimed to increase forest cover to 65% of the country by 2015, regenerate 3.9 million hectares of natural forest, reforest 200,000 hectares, survey and classify 60% of the forests by forest type, and expand the certified production forest area by 10% by 2015. The country is now working on developing its eighth National socio-economic development plan for 2016-20. Inputs for the Natural Resource and Environment sector are to be coordinated by the Planning and Cooperation department in MONRE.

The coordination process for drafting the NSEDP is weak and does not adequately reflect on and balance different sectoral priorities. Higher-level national priorities of turning land into capital and becoming the battery of the ASEAN through hydropower development may be in

direct conflict with forestry sector goals of 70% forest cover to protect the nation's biodiversity, watersheds and environment.

National Growth and Poverty Eradication Strategy (NGPES) 2004: This strategy provides the framework for enhancing growth and development while reducing poverty, particularly in the 47 poorest districts across the country. Agriculture and forestry are key elements in this poverty eradication strategy which include measures such as participatory forest management, village-based natural resource management and tree planting. The NGPES aimed to help Laos exit the group of Least Developed Countries by 2020 and recognized the need to balance economic growth, socio-cultural development and environmental preservation. The NGPES was incorporated into the Sixth National Socio-Economic Development Plan (2006-2010).

National Land Policy and Land Law: The NLP has been discussed and worked on since about 2010. It will define national land use and development priorities, how land will be allocated to the different sectors for management and use, and determine process and procedure for land allocation, conversion and compensation of affected parties. Linked to this policy is the land law which is being revised to closely reflect the intent of the evolving NLP. The NLP and Land Law will have a significant bearing on the available forestland in the country as well as its categorization, allocation, management and use. Land use master plans from district to national levels that come out of the land use planning process (bottom up and/or top down) are to serve as important cross-sectoral reference documents.

Climate Change related: A Clean Development Mechanism decree which appears to still be in draft form is the only climate change-related legislation to date in Laos. A REDD+ strategy, decree and supporting legal framework are to be drafted once technical working groups are established with support from WB FCPF and other donors.

Decentralization policy: The government initiated a *Samsang* or three pillars policy for decentralizing rights and administration to the local level with PM Instruction 01 (2000), PM Order on Decentralization (2001), the Law on Local Administration (2003), and recently the Politburo Resolution 03 (2012). The policy aims to develop the provinces as strategic units, districts as comprehensively strong units, and villages as developments units. The Provinces and districts are to formulate their own 5-year and annual socioeconomic plans and related budgets, and the revenue collection tasks linked to these plans are their own responsibility. Local institutions thus have increased rights and administrative powers over land use planning and allocation, infrastructure and development projects, and revenue collection, management and distribution. At present, the legal framework for effective implementation of decentralized management is incomplete, and capacity to implement, monitor and control is low.

3.5 The Forest economy

3.5.1 Production and revenue from the forestry sector

As per official estimates, the direct contribution of the forestry sector to the GDP increased from 799 billion kip (100 M US\$) in 2006 to a high of 1871 b kip (234 M US\$) in 2008, and since then has declined steadily to a low of 1166 b kip (145 M US\$) in 2012. This decline is accompanied by an overall decline in the contribution of the forestry sector to national GDP from 4.6% in 2007 to 1.6% in 2012. Share of timber royalty in the central government tax revenue was about 20% from 1993/94 to 1995/96. With the expansion of the manufacturing

and service sector in the late 2000s, proportion of timber royalties in the government tax revenue gradually decreased to less than 1% in 2009/10. Amount of timber royalty peaked at 361.8 billion kip in 2001/02 and decreased to 9.8 billion kip in 2011/12. The statistics thus suggest an absolute and relative decline in forestry sector contribution to the national economy following economic growth and diversification in the last 10-20 years.

However, the reported forestry sector revenue is primarily from timber production in PFAs. It does not appear to include significant timber revenue from infrastructure construction and development projects, the local regulated quotas issued by provincial and district agencies, and substantial use of timber to directly pay for local infrastructure construction debts. The reported revenue does not include the substantial unaccounted exports of wood and wood products as visible from UN Comtrade statistics of countries importing timber from Laos.

Lao's Import-Export (DIMEX) and Customs Departments report export value of wood and wood products from 2004-2011 as ranging from 35 to 102 million US\$ (Figure 4). These figures are way below what importing countries report to the UN Comtrade as payment for timber coming in from Laos – 120 million US\$ in 2002, rising steadily to about 200+ million US\$ from 2006 to 2009, and then rising sharply to 611 million US\$ in 2011. Adding in the 509 million US\$ difference in export values accruing to Laos from import country data over the customs data of 167 million US\$ raises the contribution of the forestry sector to the national GDP to 8% and more in 2011.

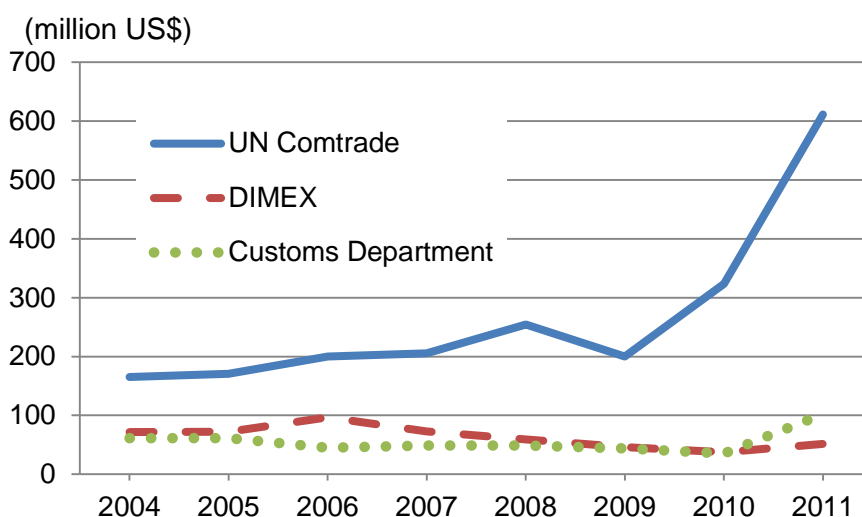


Figure 4. Export value of wood and wood products from Lao PDR from 2004 to 2011. Source: FSCAP Forestry Strategy 2020 review report.

Timber production system

According to the forestry legal framework, commercial timber production can be carried out as per an annual logging plan in Production Forest Areas where inventories and sustainable management plans have been completed, in approved infrastructure project areas after a pre-harvest inventory, and in plantation forest areas. Though commercial production is not officially allowed in village use forest areas, much timber comes out of these areas through permits issued for harvesting for local village needs or clearance for infrastructure projects. Further formal demarcation of village forests confirming and identifying their legal status has not yet been completed on the ground, leaving an implementation loophole.

Laos has a formal process for regulating its timber harvests through a volume quota system. There are three types of quotas – a) annual quotas issued by the central government based on PAFO's assessment of log availability from PFAs, infrastructure project areas, clearing for production areas, and plantations as well as a review of timber required by development projects and wood processing industries in the province, b) special quotas based on immediate development and budgetary needs of the central or provincial governments and coming out of infrastructure project areas, and c) local regulated quotas issued by provincial or district government agencies for local infrastructure projects and village use forest areas. The relationship between the infrastructure project areas included in annual quotas versus those included in special quotas and local regulated quotas is unclear.

Key problems with the current volume quota system are that quotas are allocated at multiple levels and they do not directly correlate with defined harvest areas, thus making it difficult to trace the timber to a licensed harvest area and ensure sustainable management of forest areas. Everyone has a piece of paper saying they have been authorized. Further, the quotas are also based on wood processing industry needs, and development and budgetary requirements. The number and processing capacity of active sawmills in the country is very high, beyond the sustainable supply capacity of the forest areas. Besides, with the NSEDP aiming for rapid economic growth, development priorities and budgetary needs at both national and local levels eclipse forest capacity to supply sustainable timber. Timber is a key revenue source for local governments that are in charge of their own development planning and budgets under the decentralization policy, and is often used directly as payment in kind for local infrastructure projects. Timber is also a major source of income in many villages situated near accessible high-value forests at present.

Very small volumes of timber are sourced from managed PFAs and plantations at present. Majority of the timber comes from infrastructure projects under special quotas issued by the central government and significant volumes also come from local regulated quotas. Data collection and verification systems are poor, with lack of recording and reconciliation of volumes and sources of timber from the harvest sites down the chain to the factories and borders. Opportunity to profit or retain the revenues at local levels is high resulting in little incentive for effective record keeping, data collection and reporting. As per the legislation, confiscated timber from illegal logging operations is to be sold to the highest bidder with revenues gained flowing into the official streams. However the legalization of illegal timber provides a warped incentive to perpetuate illegal logging.

There have been numerous media reports in the last months about the uncontrolled illegal logging going on around the country, for example the huge trucks carrying high-value timber heading for the borders and the large numbers of sawmill operations near national conservation forests. The government is aware of the current problems in the timber production sector - the issues have been raised at the National Assembly and the FSSWG, and key officials have expressed their concerns in public meetings. The government with the support of development partners is trying to improve its forest governance by promoting land use planning and zoning across the country, setting in place management systems for all PFAs, improving forest law enforcement and coordination, and further clarifying institutional responsibilities and roles. Laos is also developing and piloting a timber legality assurance system as the basis for negotiating a FLEGT VPA with the European Union and improving overall forest governance. The forestry sector is now seeking high-level endorsement for these negotiations.

Other forest products

Other forest products of economic value include charcoal, rubber, NTFPs and wildlife.

Charcoal production for sale is a major economic activity around forest areas in Laos but production data is unavailable. MONRE reported on Jul 17, 2014 that over 700,000 cubic meters of trees are felled illegally every year for charcoal production, construction poles and firewood. Conventional low-value black charcoal is sold in domestic markets and in China and Thailand. Since 2006, there has been rising commercial production of high-value white charcoal via smallholder *mai tiew* (*Cratoxylon prunifolium*) plantations for export to Japan and Korea. As per UN Comtrade data, charcoal export volume from Laos rose to 50,000 tons in 2013 with a value of 24 million US\$.

A wide range of NTFP species are traded including rattan, bamboo, cardamom, cinnamon, palm nut, orchids, mulberry paper and damar resin. NTFP export value peaked at 11 million US\$ in 2001/02 and has ranged from 3-5 million US\$ from 2003/04 to 2011/12. Consistency and reliability of data on both commercial NTFP production (DOF) and trade (export data by DIMEX) is unclear. As per official statistics, NTFP contribution to export earnings is less than 0.5%. Demand for products seems high and limited supply due to diminishing resources and inconsistent quality appear to be the problem. Given the potential for NTFPs to provide significant cash income to local communities, development projects are supporting the production, processing and marketing of various NTFP products such as bamboo and rattan by smallholders. There is also significant investment in NTFP plantations for export markets such as agarwood, biofuel crops and rubber.

Investments in rubber plantations have increased significantly in the last decade with reported total planting area of 320,905 ha (FS2020 review) or 265,000 ha (DOF Plantation Promotion Department). Estimates of area planted come mainly from allocated concessions for rubber (467,804 ha to date allocated), and smallholder plantations are probably not well-captured in this data. Production at present is low compared to the planted area given the young age of the plantations. There have been significant rubber exports since 2006 with export values ranging from 12-14 million US\$ in 2006-09, and rising steadily from then on to 67 million US\$ in 2012. Most of the production is exported to China. Market prices tend to fluctuate depending on international developments.

There has been no national level survey on wildlife trade to date. There is significant wildlife harvesting for consumption and sale within Laos and a large illegal cross-border wildlife trade generating substantial unaccounted income. Nooren and Claridge (2001) report wildlife trade worth US\$11.8 million at a single checkpoint in Xepon District of Savannakhet Province. Wildlife inspections in Lao PDR in 2011 and 2012 resulted in the confiscation of 1218 wild animals comprising 39 species and over a ton of wildlife parts. There have also been seizures from cross-border smuggling of wildlife from Laos into neighboring countries such as Vietnam and China.

3.5.2 Who gets access to resources and benefits

According to Presidential Decree 1 (2012) on timber revenue sharing from PFAs, 70% of the revenues go to the National treasury, 6% to the FRDF, 6% for PFA management costs in the source province, 6% for PFA management costs in other provinces with low timber revenue, and 12% to the village development funds. This new benefit-sharing regulation would ensure more funds for operational forest management and stable income for local stakeholders over

the previous one that shared the difference between the sale price and minimum price set by MOIC with other stakeholders. However, no quotas have been issued since 2012 when the update of this regulation came into place. In reality, commercial timber harvesting is ongoing in all forest areas because of limited implementation and enforcement with benefits being distributed across the board.

Plantation timber and NTFPs belong to the private sector, smallholders and foreign investors that establish them on allocated lands or on private lands.

As per the forestry law, commercial NTFPs can be harvested in PFAs and ICAs but in reality harvest is ongoing in all forest areas following local customary practices. Annual quotas for NTFP volumes are granted from national level down to district levels. Middlemen bring the quotas and buy the produce from the villagers. Taxes and royalties for natural forest products are paid by the traders at different levels from the village to the export point. NTFPs are estimated to contribute to 40-50% of the cash income of rural households, and this important safety net for households is declining rapidly with deforestation and conversion of forests to agriculture and other uses.

Revenues from other forestry sector activities such as concession fees from forestry plantations and mining, as well as salvage logging revenues from development and infrastructure construction projects do not accrue to the forestry sector or the local communities as per the laws at present. There is very little transparency on the revenue earned and the benefit distribution in salvage logging operations.

3.5.3 Competition, incentives and markets

Natural forest timber

The government has regulated that the sale of timber from PFAs and of confiscated timber should be through the bidding system to obtain a premium value. Only domestic buyers are allowed to bid with the intention of supporting the domestic industry and adding value to the raw materials. However, domestic buyers have tended to form cartels with big buyers buying out little ones in order to keep the prices down. Often even the base prices set by MOIC cannot be obtained. Agreement from the National Forestry Conference in January 2012 tried to address this issue by including foreign buyers as well in the auction process; however, the agreement has not been implemented yet.

Much of the natural forest timber from Laos is headed to neighboring countries such as China, Vietnam and Thailand for direct sale or processing and export to other markets. Markets for prohibited timber species is high and is resulting in widespread illegal logging across the country, particularly with the construction of roads and creation of new access to formerly remote conservation forest areas. Forests in the surrounding countries have been logged out and Laos is the last frontier.

SFM and production in natural PFAs appears difficult given the high costs and low wood volumes available, domestic buyer cartels depressing prices and free unregulated timber flow available outside. Wood volumes from PFAs are very low due to the nature of the forest, few commercial species available, and the selective logging regimes to be applied as per SFM guidelines. Contracted loggers have to bear the costs themselves while there is a long timeframe for receipt of payment following the sales.

Plantation timber

Timber plantation operations in Laos are relatively small in scale. Large-scale production for pulp and paper has not proven viable given the limited labor and land available and declining international markets. Companies are exploring other possible wood products that can be generated from eucalyptus and other exotic plantation trees. However, prices for fast-growing plantation timber are low and they find it difficult to compete against the plentiful illegal natural forest timber available in the market. Markets for smallholder teak production also face the problem of low quality timber and low prices. Companies also report on excessive bureaucratic processes and related processing costs for exporting plantation timber.

Some domestic companies have invested in high-value native tree plantations on privately-owned lands and believe that there is a serious market for the wood that will flow out from these plantations, particularly once the timber from natural forests run dry. However, the timeframe for return on investments is long, and it takes substantial investment, time and effort. Incentives for domestic companies to engage in this effort are inadequate at present given the limited funding availability, high interest rates on commercial bank loans, and focus on foreign companies for concession issuance and investment promotion. There is declining interest in the timber plantation sector from the industry side, both domestic and foreign under the current framework conditions.

Certified products

Markets for certified premium timber products are low. Some timber from PFAs, teak plantations and eucalyptus plantations in Laos have been certified by the Forest Stewardship Council (FSC). However, certification costs are high and it is not clear that certification renders higher values for the products in current markets. European markets source a lot of their material from within Europe at present and the growing Asian markets are less critical about the origin of the timber and sustainable management of the resources. For teak, large volumes of mature high-quality teak are available from other ASEAN countries such as Indonesia and Myanmar which are not certified but produced in smallholder forests and are also acceptable to consumers from an environmental and socio-economic standpoint.

Processing and value-adding

The timber quotas are issued to target groups, in the past mainly to domestic wood processing industries and for export. In the last year, a quota was also issued to the furniture association. The furniture association however has been unable to get the allocated timber from the provinces due to limited availability and provincial prioritization of local projects and budgetary needs. In line with Laos' aim to promote the domestic wood processing sector and add value within the country, unprocessed timber is not to be exported unless there is special approval from government. However, the law is silent as to which government agency can permit such exports leaving a loophole for permitting by different agencies.

The quality of Lao domestic wood processing is low and the timber is mostly processed in neighboring countries (Vietnam, China and Thailand) for re-export or domestic sale. Upgrading domestic wood processing industrial capacity in terms of wood recovery and higher-quality production, while downsizing the overall volume to match sustainable supply has been the policy since early on. Information on effect of industrial restructuring is not available. Value-added furniture production and exports have risen steadily since the late 1990s generating 2.4 million US\$ in 2013. However, processed products are just a fraction of

the total timber export which is mainly in the form of roundwood and sawn wood (600 million US\$ in 2013 as per the UN Comtrade database).

3.5.4 Valuing and safeguarding environmental goods

The laws clearly aim to protect biodiversity and other environmental services of forests and to require various forestry sector activities to meet sustainability standards and safeguards.

PFAs are to practice SFM with selective logging at sustainable low levels and protect high-value conservation forests, water sources and other vulnerable areas. FSC certification is to be pursued for forest management in at least 10% of the PFAs.

Plantations and other development projects and concessions in forest areas are to submit ESIA's to DESIA in MONRE and following approval of the assessment and mitigation impact proposals, they are to submit an ESMMP including activities and budget. DESIA monitors their fulfillment of the ESMMP. MONRE has developed new guidelines No. 8030 for ESIA preparation and review. However, the forestry sector has no direct role in planning or decision-making of the proposed projects, and can only comment on the ESIA's. Often the projects have unnecessarily large impacts on forests, for example roads and power lines cutting through dense forests or opening up National Protected Areas. DESIA is working with UNDP's Poverty and Environment Initiative (PEI) to improve the regulations and quality of the ESIA's and define more specific criteria for preparation, review and monitoring of ESIA's. PEI is also helping MPI improve investment quality through improved MOU and concession agreement models including a Strategic Environmental and Social Assessment (SESA) to be annexed to the Concession Agreement.

The government is trying to pilot and develop MOUs and Concession Agreements with new hydropower projects that require the companies to directly protect catchment areas, rehabilitate forests and contribute to local livelihoods through PES schemes. MONRE is working on developing a PES policy with support from donors, including piloting incentive schemes for villagers to alter their land use practices. In addition, they are exploring charging compensation fees for all developments that negatively impact the forest environment such as road and power line construction.

Chapter 4 Planning and Decision-Making

This section focuses on stakeholder participation, as well as the transparency, accountability and quality of planning and decision making processes in the forestry sector.

4.1 Stakeholder participation

4.1.1 Opportunities and level of use

The Forestry Strategy 2020 states clearly the official policy to adopt the participatory approach to management of production, protection and conservation forest areas, and to increase involvement of villagers in sustainable management and use of village forestland through participatory land use planning and land allocation. The Forestry Law 2007 sets out commitments to manage forests and forest resources with the participation of local people and the current draft revision of the forestry law (February 2014) makes more explicit the intention to manage all forests with peoples' participation by including participation in overarching articles related to Forest management, Forest Management Planning, and Management of forestland.

Establishment of participatory forest management mechanisms in public forests is most advanced for Production Forest Areas where detailed regulations and guidelines have been set forth for local villagers' participation (through a Village Forestry Organization) in sustainable forest management and use, from management planning to distribution of log sale revenues. However, level of local involvement and participation in practice has depended on the timber volumes and revenue available in the area, with villagers in richer timber provinces respecting the forest boundaries and being more ready to be involved in production forest management.

Participatory management is also envisioned in state-administered Conservation forest areas and Protection forest areas but approaches and arrangements have not been clarified yet. In allocated village forests, village forestry units are to be responsible for preparing rules and regulations and managing the areas. Other than a Village forestry committee establishment guidance note for PFAs, there are no clear guidelines for the formulation of these village forestry units and indications of how representative they are of the villagers. Thus participatory forest management approaches are just evolving at present. What participation actually means, and the participation process, roles, responsibilities and benefits for different stakeholders still need to be ironed out in most forest areas.

The land use planning legal framework supports participatory land use planning and allocation at the village level reflecting actual land and forest use. The level and quality of participation in land use planning and allocation to date is variable. Stakeholder consultation and involvement in planning of infrastructure and development projects and allocation of concessions has been limited, resulting in overlap of concessions with villagers' use areas and increased land conflicts. In many instances, the concession allocations have taken place prior to completion of village land use planning. There is no clear guidance on the implementation of participatory approaches and penalties for not ensuring such participation in land use planning and allocation processes.

Stakeholder participation or consultation of non-government stakeholders in policy-making, implementation and review is a new and evolving concept in Lao PDR. At the national level, the FSSWG and NRESWG provide fora for some non-government stakeholders (NGOs,

donors and development projects) in these sectors to share information and provide inputs and comments into ongoing policy processes and activities. The National REDD+ Task Force at present only includes government stakeholders from across Ministries. There have been some consultations in the last few years for different policy and legal reform processes (example: land policy, water law, forestry law) driven by both the National Assembly and donors supporting the reform processes, however the consultation processes and consideration of comments have been ad hoc and inconsistent. There is a lack of common understanding on the meaning of consultation and participation between donors and government agencies.

The new overarching framework for legal enactment (Law on Making Legislation No. 19/2012) demands some public consultations in the law-making process such as to organize workshops, post the draft law on a website for at least sixty days to allow all parties to give comments, send to concerned sectors and parties for comments, ask for comments from domestic and foreign experts, and consider comments from individuals, legal entities and organizations. However, it does not clearly spell out the stakeholders to be consulted or procedures to be followed for consultation, processing and consideration of the comments, as well as penalties for failure to consult. Further specified consultation prescriptions are not strictly implemented.

Donors have pushed for and supported consultation processes for decision-making, planning and implementation in numerous development projects and programs in Laos in recent times. World Bank-supported initiatives such as the R-PP, FIP, FCPF REDD Readiness process, PAWP and LENS2 have recently conducted and/or plan to conduct stakeholder consultation processes as per the mandated WB safeguards system for initiation and implementation of project activities from national to local levels. The EU FLEGT/VPA process will conduct detailed stakeholder consultations down to local levels as preparation for negotiations to establish a timber legality assurance system in the country. ADB projects will follow ADB guidelines for stakeholder consultation processes in all its forestry sector projects (such as the BCC and FIP) adapted to the specific project and circumstances. Some REDD-related initiatives such as the GIZ-KfW CliPAD project will implement *Free Prior and Informed Consent* (FPIC) with local communities in their project areas and conduct wider consultations on the REDD+ strategy, benefit-sharing arrangements and other key aspects. There are also numerous projects and NGOs piloting participatory forest and land use planning processes on the ground.

4.1.2 Mechanisms for handling stakeholder grievances and conflicts

The forestry law 2007 suggests that civil conflicts (such as tenure rights) should be handled by the village administration offices and then submitted to the next higher levels of district administration offices and the courts if needed. The court system consists of district courts, provincial courts, and the People's Supreme Court. Administrative conflicts are to be settled by forest inspection and management organizations at the local level and then to higher levels if needed.

Key legislation related to overall conflict resolution were issued in 2005 and include PM Decree 192 on the Compensation and Resettlement of People Affected by Development Projects, along with related regulations and technical guidelines; Resolution of economic disputes law, and the Law on the handling of petitions. The Law on Investment Promotion (2009) provides

that settlement of conflicts related to investment shall follow the procedures stipulated in the contract.

In practice, most local-level conflicts are dealt with through customary law and practice or through village mediation units developed under the village administrative structure. However, conflict resolution at local levels through customary law or village mediation units is not able to and does not have the authority to handle conflicts between villagers and outside investors or government agencies. Villagers are hesitant to approach line agencies in cases of disputes where the line agency has a conflict of interest, for example in land conflict cases where DONRE was involved in the land allocation. Many communities are also reluctant to approach the court system due to a lack of experience with it, worries over the costs involved and that there may be undue influence from interested parties. There is a severe lack of lawyers and legal advice available for the plaintiffs. Increasingly the National Assembly is seen as the ultimate recourse for plaintiffs failing to obtain satisfactory resolution through statutory legal systems, as witnessed by the recent escalation in unresolved land-related complaints to the National Assembly following increased foreign direct investment (FDI) and land pressures. At present, a clear grievance process, channels, and independent agencies to deal with conflicts in a fair and just manner are missing in the forestry sector.

Some donor projects and NGOs in the forestry sector such as SUFORD SU, CliPAD and WCS have or are attempting to develop and build grievance mechanisms in their target areas and link community concerns to higher levels of decision-making. WB FCPF will try to develop conflict-resolution mechanisms at the national level for REDD+ related issues.

4.2 Transparency and accountability

4.2.1 Quality of and access to information about forests

There is limited public access to forest-related information such as inventory data, timber production, trade statistics, concession areas and developments, area and location of plantations, revenues and its distribution, conflicts and their resolution, forest-related offences and outcomes, and land use information and trends.

Readily-accessible published documents at present include periodic nationwide forest cover assessments, an annual review of REDD+ activities in the country from 2010 to 2012, and Lao trade statistics published by MOIC. The DOF website has been inactive for a few years now. Laos reports on forestry sector information to some international agencies and processes such as FAO, UNFCCC, UNFF and CBD on a regular basis, and this information is available to the general public. Laos, unlike its neighbors, does not report to the UN Comtrade on its exports, and UN Comtrade data on timber imports from Laos is not consistent with Laos' official timber export data issued by the Customs department.

Much of the information is not systematically managed by the institutions and is often owned and held by individuals, making it very difficult to track and access. Information to be released to the public goes through a thorough and time-consuming vetting process, in particular for the more sensitive information. Stakeholders and the public can make formal requests for specific non-confidential information. Once the request is approved, the stakeholder can approach the agency for the information. However, if the data is held by an individual staff member, the staff member has to seek permission further up the line to release the same. Reports are generally not shared with other sectors unless there are specific requests or problems.

The quality of much of the available forest-related information across different aspects and agencies is low and there are large information gaps. Numbers come from individuals without the backing of solid factual databases. Transparency and accountability is low, and in some instances there are disincentives for accurate reporting such as for data related to the timber trade or confiscated timber.

There are substantial inconsistencies in data arising from within and between different agencies. Data may be released informally by the technical staff prior to the official approval processes and this data may be inconsistent with the final data released, leading to different data and information available in the public domain. A single agency at the local level may provide different data at different times. Between different agencies, division of roles and responsibilities are often unclear and coordination mechanisms for data management have not been developed yet.

Some areas of significant data gaps and inconsistencies include

- Timber harvest, processing and trade
- Concession data - Concessions are issued at different levels and concession administration is fragmented across agencies without a coordinated information management system.
- NTFP harvests - Reports are prepared only if a quota is issued.
- Area and location of plantations and related information – Villagers and village authorities report on plantation extent and other details to DAFO. People may not declare all the land they planted on in order to avoid tax dues, and there may be many unregistered plantations. There is no GPS/GIS information, and no monitoring or verification of the data on the ground by the forestry agencies.
- Land cover and land use information and trends including area under shifting cultivation

4.2.2 Transparency of government actions, including licensing

There are attempts to make government actions more transparent. The forestry law refers to regulations for various criteria and procedures to be followed for different activities, however many of the regulations are yet to be developed. At present, there is a lack of clear standards and criteria for issues such as licensing of some business activities, issuing land concessions, permitting conversion of forestlands and export of logs, thus leaving room for varying interpretations and actions. For example the law does not specify the jurisdiction where plantations can be established nor does it provide a clear technical definition for “degraded forestland” which is supposedly available for plantation concessions. Another example is the article in the forestry law that disallows log exports unless permitted by the government, but it does not indicate which government agency or level can issue such permits.

Production Forest Areas have the most comprehensive legal framework at present with transparent criteria and procedures for forest management, logging, benefit-sharing and other aspects. Procedures are less rigorous and less transparent in road and other infrastructure construction projects and salvage logging in the project areas.

Another aspect of transparency is public information access. Public information databases and documents are very limited at present. Concession agreements are confidential. ESIA's are supposed to be public but they are also difficult to access.

4.2.3 Government oversight mechanisms

Article 116 of the forestry law provides for the following oversight mechanisms for the forest management and inspection agencies, to monitor their performance and enhance their transparency and fairness:

- *Inspection by the National Assembly:* The National Assembly oversees the performance of all sectors including forestry. At National Assembly meetings, sectors and representatives from each province report on performance, and the Assembly also receives direct information from stakeholders across the country through a public hotline. Major forest-related decisions such as conversion of natural forest categories and annual logging plans or quotas require National Assembly approval. The National Assembly has heard and deliberated on many forestry-related concerns in the last years and has been involved in some major decisions related to forests and forestlands.
- *Inspection by the State Inspection Authority as provided in the Law on State Inspection:* The State Inspection Authority was established as an independent agency in 2001. It generally assesses human resource and administrative issues, and occasionally inspects logging and other forestry activities by forming ad hoc committees.
- *Monitoring by Lao citizens, organizations and individuals* at the grass root levels, and offices, organizations, technical units and enterprises of the State: They can request the concerned organizations to undertake inspection of the suspected violators. Forest and land-related complaints and concerns have been raised by Lao citizens and communities in recent years through various mechanisms.

4.2.4 Oversight of civil society and businesses in the forest sector

Activities of civil society organizations, both domestic and international, are closely monitored and regulated. They have to work closely with government agencies and have to be accompanied by officials when going to the field (see Section 4.3.1).

Business investors in the forestry sector who obtain land leases or concessions are required to follow ESIA procedures and then fulfill the social, environmental and other commitments in their Concession Agreements, and Environmental and Social Management and Monitoring Plans (ESMMP). However in the past, the quality of the concession agreements as well as monitoring and follow up on investment obligations has been poor. Following the updated Environmental Protection Law in 2013, there is an updated ESIA regulation 8030 and ongoing concession licensing reform supported by UNDP to enhance investment quality and compliance. ESIA's were not entirely independent since the investor paid for conducting the ESIA's. In the future, the investors will have to pay regularly into a fund for conducting the ESIA's as per the schedule in the approved ESMMP. MPI, DOFI, and the Land Administration Department also have roles to play in forest concession monitoring.

Domestic plantation investors tend to purchase the land rather than acquire concessions, and are therefore largely outside the ESIA and monitoring requirements. There are now calls to assess the environmental, social and financial sustainability of the rising area of smallholder plantations, in particular rubber. Registration of all forest plantations are under way with local authorities for securing exemption from land tax and for undertaking timber harvesting.

For logging and wood processing operations, the government aims to support and promote chain of custody certification and timber legality verification in line with ASEAN, FLEGT and WTO requirements. At present, DOF and its line agencies oversee logging and hauling businesses in Production Forest Areas, while oversight for such activities in infrastructure project areas is not clear. Oversight for wood processing factories and their operations lies with MOIC, and safeguards and standards for such businesses are limited at present. DOFI can inspect all forest areas, roads, factories, warehouses and outlets down the forest resource supply chain. Numerous other agencies can also oversee business activity in the forestry sector, resulting in gaps and overlaps in responsibilities.

4.3. Stakeholder capacity

4.3.1 Activity and capacity of civil society

Space for civil society engagement is just emerging in Laos. The Government approved Decree 115 on Associations in April 2009 thus setting a legal basis and taking the first steps towards an enabling environment for local civil society organizations in Lao PDR. Decree 13 issued in January 2010 is a revised decree clarifying the rules and regulations for International Non-Government Organizations (INGOs) to operate in Lao PDR. Forestry-related NPAs and INGOs are members of the FSSWG and invited to participate in the regular meetings, share information, discuss and provide comments.

NPAs

Lao civil society organizations are termed Non Profit Associations (NPAs). Decree 115 requires local NPAs to report any donation greater than 50 million kip and also requires them to work only in the fields of agriculture, education, public health, sport, science, and humanitarian benefit. The NPAs are registered after rigorous checking and approval procedures, and their activities are restricted and closely monitored. At present, there are a few NPAs active in natural resource and development-related sectors and their funding and support comes mainly from international donors and INGOs. They are required to work closely with government institutions and within the prescribed regulations, and thus cannot fully assume the role of independent monitors. They need the approval of the Ministry of Home Affairs to implement local activities and late approval may mean that the activities cannot be implemented. NPA staff also has to be accompanied by local officials when going to the field. Lack of official staff availability at the right time or lack of funds for DSA payments may again mean that the activities cannot be implemented.

The Learning House for Development is a network set up in 2010 to bring together both registered and non-registered NPAs working on poverty alleviation, and help strengthen these emerging organizations. NPAS express their interest in and indicate that they already have substantial capacity to support forestry policy making and management activities, and to work with local communities. They seek greater recognition and room for their potential role and contribution. Different donor projects are currently engaged in ongoing and upcoming activities to build the technical, fundraising, financial management and administrative capacity of NPAs. However capacity building efforts are constrained by restrictions placed on NPA activities.

INGOs

Key INGOs operating in the forestry and NRE sectors are WCS, WWF, Helvetas, RECOFTC, SNV and VFI. They have been engaged in activities across the forestry spectrum from

biodiversity conservation to community forestry, capacity building, timber legality, REDD+, livelihood enhancement, NTFP marketing, certification and monitoring. An INGO network was established in January 2005 to facilitate liaison and information sharing among INGOs and other development partners as well as the Government of Laos. The INGOs are active with strong skills in monitoring and advocacy. They participate in key fora and act as relatively independent monitors of the Lao forestry sector. There is tight control over their activities, and project approvals and decisions can take a long time.

Communities

Community use and management of the forests mainly follows customary practice at present. The legal framework for allocation of forests to communities, and procedures and guidelines for village forest management and benefits to be derived is still evolving. For example it is still unclear as to what type of forest is to be allocated and to which entity as a representative of the community. Community role in forest management as envisioned in the legal framework or at the national level is not communicated and understood effectively on the ground. There is some clarity now on their role and expected revenues from timber and NTFP production in PFAs but production has been under a moratorium since 2012. Their expected role and benefit-sharing in conservation and protection forests is still unclear. Community capacity for participatory sustainable forest management, and village forest planning and management needs to be strengthened. Planning and implementation processes, and mechanisms for their participation have not been adequately defined yet.

4.3.2 Business use of standards, safeguard and certification

There are two main foreign timber plantation companies operating in Laos, Stora Enso and Oji. Oji has adopted FSC certification for its plantations as required by its Japanese parent company and developed 'Best Operation Practice' for Laos. However, their Lao supervisors find it difficult to guide and control local contractor performance and ensure implementation of the detailed rules in line with environmental safeguards. The contractors also change on a daily basis, making it difficult to train and maintain the required standards. Oji finds that FSC certification increased the cost but no premium price is available for the products at present. Intermediary agencies are certifying timber of unclear origin as well and the markets are not well-regulated.

Stora Enso set up an agro-forestry pilot project of 500 hectares in southern Laos on severely degraded land tainted with unexploded ordnance from the Vietnam War. Following participatory land use planning, villagers intercropped rice in widely-spaced eucalyptus and acacia plantations and received promising rice yields. They now aim to expand the model to their larger concession area and to seek FSC certification for their plantations. They make a deposit of US\$350 per hectare of land used into the village development fund for community benefit, and believe the project has high potential to contribute to local employment, food security and livelihoods.

Domestic logging, timber plantation and processing companies as well as associations such as the furniture association, the plantation association and the wood processing industry association have not explicitly adopted any environmental or social standards and safeguards. Rubber and NTFP plantations (both foreign and domestic) emerging across the country have also not voluntarily adopted specific standards or safeguards for their operations.

Some exceptions are FSC certification for smallholder teak plantations in Northern Laos with donor support as well as certification of rattan production from natural forests in southern Laos with WWF support. However, FSC certification for teak production may not be sustainable in the long run given the high certification process costs and the low quality of the timber produced. One Vietnamese rubber company, the state-owned Vietnam Rubber Group (VRG) has promised to improve communication with communities affected by its plantations in Cambodia and Laos following requests from Global Witness, a British NGO. Communities affected by VRG's plantations can now lodge formal complaints or inquiries with the firm which aims to directly resolve all complaints and inquiries within 30 days of receiving them.

Timber exporters have to follow regulations of importing countries such as compliance with CITES for exports to China and the goho-wood system, a voluntary system adopted by some national companies in Japan to tackle illegal logging.

4.3.3 Activity and capacity of the media

Media reporting has increased in recent times since the government promulgated the law on public information, however it is still strongly monitored and controlled. Media consists of one single state-run TV news channel, four key newspapers and some radio programs. They are generally not free to express views on sensitive issues or to review and critique official policies. However, the media has been increasingly reporting on illegal activities in the forestry sector such as illegal logging and sawmill operations which are now widespread and rising in public visibility.

Capacity is weak and just evolving in terms of quality and credibility of investigation and reporting. Journalists often misinterpret the available data or comments made in public meetings both due to lack of technical knowledge and lack of adequate verification procedures. They also lack the investigative journalistic skills to go out and find the stories or news and report on it.

A new Lao decree on management of information through the Internet issued in September 2014 bans information aimed at discrediting the party and government policies, and enacts strict internet controls.

Chapter 5 Implementation, Enforcement and Compliance

5.1 Capacities of government forest agencies

5.1.1 General staff capacity

There is a significant shortage of staff to carry out forest management and enforcement activities over the estimated 16.9 million hectares of forestland across the country, particularly in the newer agencies DFRM and DOFI. DFRM with responsibility over bulk of the forest area has 40 permanent staff (and 80 voluntary staff) at the central level, 196 staff in PONRE at provincial level and 190 staff (1 per district) in DONRE at the district level. If the one DONRE staff goes to the checkpoint, no one is left in the office, leave alone to manage the forest areas. DOFI has 500 inspection officers around the country – about 30-40 staff in its office at central level, about 30-40 POFI staff in the 18 provinces, and 2-3 inspection staff sitting in each DAFO office who can respond to village-level issues. One reason for the staffing shortage is the limited government quota for appointing staff due to funding limitations and a desire to keep the government structure small.

Further staff capacity, particularly at local levels, is low to perform the required planning, management, monitoring, enforcement and reporting functions. Staff capacity to engage with civil society and other stakeholders is also very low. TORs are unclear and staff lack facilities and incentives such as adequate salary, promotion and rewards for good technical performance. Staff skills and qualifications often do not match the positions due to various reasons such as: the recruitment process does not focus on the skills required, the criteria are not specific, and there are political interventions in the process. Further, some of the skills may just not exist in the country. For example, there are no available training programs specifically tailored for forest inspection in the country or on community engagement in the forestry sector. Increasingly government recruitment faces competition from private sector and consultancy opportunities that are more attractive economically and professionally for well-qualified candidates. However, government positions are still respected and sought after.

There is limited expertise within the forestry agencies to build capacity of their own staff. Substantial knowledge and knowhow comes in from the outside. Training programs are now being organized and conducted by donor projects for building technical, project planning, inspection and other skills. Capacity building efforts face some problems such as unavailability of staff (given that there are so few) to attend the programs, lack of follow up on application of the new knowledge and skills, and turnover of staff due to reassignment to other positions and organizations.

Staff capacity in other agencies involved in forestry sector activities such as in the land planning and development department (to carry out effective land surveying and planning), land administration department (to carry out land registration and titling), MPI (to screen investments) and DESIA (to ensure environmental and social quality and compliance) is also very low, both in terms of numbers as well as qualifications and training to perform the mandated tasks and coordinate with other agencies.

5.1.2 Information management

DOF requires its divisions and line agencies to make annual plans and provide summarized reports on activities and achievements on a weekly, monthly, quarterly and annual basis.

There are specific reporting formats. However, it has been difficult to implement the reporting requirements and the quality of the information is questionable. Every district has been supplied the required equipment but reports are sparse, or units and formats are inconsistent. Capacity for data gathering, processing and reporting is low. Performance depends on individuals, and trained people are frequently transferred to other places and positions. Another possibility is that there is not much happening on the ground to report on given the limited staff and budgets for forestry activities. Newer agencies such as DOFI, DFRM and MONRE overall are yet to develop and/or implement clear reporting procedures.

The SUFORD project attempted to establish forest management databases at district levels including spatial data. However, implementation has depended on individuals in the agency. In addition, most forest-related data is stored at the central level and there is limited capacity to deal with such data at district and provincial levels. There is an overall lack of incentives for effective reporting, and in some cases involving cash payments and benefit-sharing, there may actually be disincentives to report accurate figures.

Further available plans and data are not sufficiently used for decision making, planning and evaluation. For example, local authorities may not follow the forest management plans for timber harvesting.

At present, forestry sector reporting is primarily paper-based with the possible exception of Champassak province. There are no clear and comprehensive digital and/or web-based information management systems yet in any of the agencies conducting forestry-related activities including DOF, DOFI, Department of Investment Promotion (DIP, MPI), MOIC, DFRM and other departments in MONRE. Further, there is little effort at coordinated information management and sharing between agencies.

Recent information management initiatives, status and outcomes

Efforts at developing comprehensive information management systems have been initiated in some agencies with support from donor projects as follows:

- The SUFORD AF project built the DOF document management system or Knowledge Tree and uploaded more than 1000 documents by 2010. However, most documents are not accessible to the public to date.
- DOF is developing a comprehensive National Forest Information System with support from a series of JICA projects. The system is to cover information on forest (such as biomass, carbon stocks, forest cover), as well as forest management and planning. It is to be linked to information flows from district and provincial levels. However, progress of system development is unclear at present.
- A unified reporting and information management system for DOFI is to be developed with support from the SUFORD SU project. It includes strengthening capacity to use the system at the local levels, especially at checkpoints and to coordinate with the national level. Staff members are to use smartphones to take pictures and provide GPS locations as evidence for investigations.
- DIP (MPI) established an MS Access database providing information on concessions with support from the UNDP PEI project. Now the data is being migrated into a web-based concession compliance database with links down to the provincial level. There will be annual reports from MPI on the quality of the concessions based on the attributes listed. DESIA (MONRE) is developing an environmental and social compliance database for concessions including forest-related concessions with support from the Environmental

Management Support Programme (EMSP). There are further plans to link these two databases from DIP (MPI) and DESIA (MONRE) to have a coordinated information system for managing concession compliance but outcomes of this effort remain to be seen.

- DIP (MPI) is trying to ramp up self-reporting by investors as mandated by the 2009 Investment Law and in Concession Agreements. This includes biennial and annual reporting of revenues, tax payments, contributions to community development and other. There is some political will within MPI to enhance reporting and investor compliance given the sizeable financial deficit in the country and inability to collect and account for the revenues due from investors.
- The Planning Department in MONRE is trying to develop a database for donor projects related to the natural resources and environment sector. However, budget constraints, lack of leadership and poor technical skills constrain the effort. A new Centre for Information on Natural Resources and the Environment has been created under MONRE but progress to date on information gathering and coordination has been weak.
- A timber tracking and verification system from source to end user with accompanying information management may be developed as part of the FLEGT VPA process.

Indications are that most information management systems built will be primarily internal for use and reporting within the Ministries themselves, and public access is not likely at this point. Some data may be available to the public based on official requests.

5.1.3 Ability to monitor forests

National forest cover monitoring (remote sensing imagery, biophysical inventory and attribute monitoring) was dependent on donor support and conducted sporadically in the past. The resolution of the nationwide land and forest cover assessments was coarse, and mapping and inventory had to be repeated at the forest management level for use in activities there.

Forest data at the management unit level exists for PFAs supported by the SUFORD Project Phases I and II. The third phase SUFORD SU is now supporting the completion of inventories in 41 PFAs and the government is conducting the inventory in the remaining 10, all scheduled to be completed by end of the financial year 2015.

One official agency FIPD in DOF has been responsible for overall forest cover monitoring and inventory in the forestry sector. DOF intended to allocate monitoring responsibilities to the provincial level and established one unit or section under PAFO for this task in all provinces. However, technical support from FIPD is still required to implement this arrangement. PAFO can support the inventory but data is brought to the FIPD central office for analysis. Monitoring for illegal logging or forestland encroachment can be done by local authorities.

Efforts have been made in the last few years to develop a more systematic National Forest Cover Monitoring and National Forest Inventory process using well-defined procedures and international quality standards with the support of JICA and other donor projects. It also includes forest cover change analyses and carbon mapping for supplying REDD-relevant data. The projects have conducted substantial on-the-job training and capacity building at the national level as part of their activities. FIPD contains some of the most well trained staff in the forestry sector at present. SUFORD SU and REDD-related projects may invest in monitoring systems and capacity building for monitoring in their target areas.

There has been no systematic forest biodiversity monitoring to date. Monitoring efforts have depended on NGO and donor support, focusing on certain areas and certain species. IUCN is supporting biodiversity monitoring in Ramsar sites in southern Laos, WCS is supporting wildlife monitoring in Nam et Phou Louey and Nam Kading National Protected Areas, and WWF supports biodiversity monitoring in its project sites in southern Laos. Recent and upcoming donor-supported projects such as the GIZ Hin Nam No project, WB's Protected Areas and Wildlife project and KfW's Integrated Conservation of Biodiversity and Forests (ICBF) Project support capacity building for biodiversity monitoring in different areas.

DFRM has now established an Inventory Service division for Protection and Conservation forests. One of its tasks is to undertake zoning, survey and assessment of forest cover rates, and survey of seed stands, timber, NTFPs, wildlife, genetic resources and forest carbon. However, DFRM's activities are constrained by a lack of budget and staff.

5.1.4 Revenue collection and distribution for SFM and local livelihoods

Revenue for the forestry sector comes mainly from timber and NTFP sales, in particular from Production Forest Areas. Other forestry revenue sources that accrue to the forestry sector include taxes from logging companies in production forest areas, natural resource exploration fees, and compensation fees for reforestation from private sector actors such as mining companies who clear the land. MOF does the actual collection in all sectors and then proportions are to be distributed down as agreed.

According to a new benefit-sharing arrangement that was put in place through Presidential Decree 1 (2012) on timber revenue sharing from PFAs, 70% of the revenues are to be retained by the National Treasury (MOF), with 6% entering the FRDF, 6% used for PFA management costs in the source province, 6% used for PFA management costs in other provinces with low timber revenue, and 12% entering the village development funds. However, there has been no official logging and revenue generation in Production Forest Areas since the passing of the revised regulation in 2012.

In the logging operations in Production Forest Areas prior to 2012, some provinces deducted their share of the revenue and even the inventory costs prior to sending on the revenues to MOF. There is little trust at local levels that revenues will flow back from the Treasury as prescribed.

Other revenues generated from forest resources and forestlands do not flow back to the forestry sector or local communities at present. This includes timber revenues from salvage logging in infrastructure construction areas; forestland concession fees including land tax; confiscated timber revenues; taxes from plantation timber, charcoal, processed timber and NTFP products and ecotourism; and rents from lease of forestland. These revenues go to the Ministry of Finance and there are ongoing discussions that part of these should accrue to the forestry sector. There is also direct use of timber for public purposes and timber barter deals for infrastructure or development projects. Government agencies that cut trees for infrastructure projects (example for road or power line construction) do not pay compensation fees for reforestation. Contracting and timber sales in infrastructure projects and salvage logging are often not transparent or following the required competitive bidding process.

FRDF managed by MAF is the main fund for forestry-related activities. Fund management has improved. However, there have been serious funding limitations in recent years for carrying out sustainable forest management and enforcement activities despite increased need for

funds with institutional division and creation of additional forestry agencies DOFI and DFRM. The main inflow into the FRDF at present is allocation from the national budget and the amounts have been very limited given the deficit in national budgets. Out of the requested amounts for sustainable management of the vast forest estate, only a fraction (15 billion kip per year) has been approved by the National Assembly, and the Treasury was able to disburse only half of the approved amount (about 7 billion kip).

With an ongoing logging ban in production forest areas and limited inflows from the national budget, the key source of funds at present is overseas development assistance through forest-related donor projects. These funds are channeled through the Environmental Protection Fund (EPF), Poverty Reduction Fund and other funds and banks, and come with their own agendas and management rules.

With the decentralization policy, there has been expanded direct use of forest resources by local authorities with no linkages and inflows into the national treasury. Provincial and district forestry activities can also be funded by provincial authorities and forestry line agencies from their own finances raised at local levels. Districts could get funds from other line Ministries too. Given allocation of funding from different agencies (MOF and other), different funds and different administration levels for various forest-related activities, it is difficult to have a comprehensive oversight of the available funding for the forestry sector and its origin.

Budgets for the new Ministry MONRE are very low with main income arising from the NT2 hydropower project. Possible revenue channels for the EPF under MONRE are still unclear. Besides the FRDF under MAF, DFRM also seeks to access some funds from the EPF for forest conservation and protection.

Besides negotiating with MOF for return of revenues from forest areas for forestry activities, new revenue sources and mechanisms are currently being explored for forest conservation and management such as REDD+, payment for watershed services, biodiversity offsets, ecotourism, and compensation payments from development/conversion projects.

5.2 Law enforcement

5.2.1 Prevention, detection and suppression of forest crime

Law enforcement is not very effective at present except perhaps in some production and conservation forest areas supported by donor projects and agencies. Open access use and land and resource grabbing is common. Illegal logging and timber trade expanded drastically in the last two years. A strategy and action plan exists for prevention, detection and suppression of forest crimes, particularly at the national level, but needs to be fully implemented. Detection and suppression in particular is weak. Staff, transport, equipment and financial resources are a major constraint for monitoring and inspection in all forestry-related agencies, particularly in MONRE which is responsible for about 78% of the forest estate or 13 million hectares of conservation and protection forest areas.

The main agency for forestry and wildlife law enforcement is DOFI and DOFI's line agencies at the provincial and district levels are in charge of activities on the ground. However, all different activities on the ground come together at the district level including awareness raising, management, monitoring, and law enforcement. Forest inspection officers at the district level are limited to about two persons at present. They are hosted by the DAFO office and may be assigned to do other tasks related to forest management. DONRE offices are not

fully operational due to insufficient staff and in some districts they still share the same office with DAFO.

Further, there are many different agencies responsible for forest and wildlife-related inspection at the local level (linked to DFRM, MOIC, DESIA, environmental police, customs, military, local authorities, and others), and their mandates have not been adequately differentiated yet. Besides, different conservation, protection and production forest areas are pending delineation on the ground. There is a resultant fragmentation and lack of clarity regarding roles and responsibilities for enforcement both in terms of tasks (inspection, investigation, confiscation, arrests, detention, and preparing cases for prosecution) and locations along the supply chain (in different forest areas, factories, roads and checkpoints at present) creating significant enforcement loopholes. Recently, there has been an enhanced attempt to organize and coordinate enforcement agencies and actions under the umbrella of the Lao WEN chaired by DOFI and they already report some success in wildlife crime detection and suppression through coordinated joint efforts.

DOFI's capacity to fulfill its enforcement role is restrained at present by limited staff, resources, equipment and transport. They have a total of just 500 inspection officers around the country. Besides, the staff has mainly forestry backgrounds with no training in investigation or enforcement skills such as collecting and recording evidence at a crime scene, apprehending an offender, using technology such as GPS, and safety issues. Capacity to deal with international crime is more limited. Different donors (WB projects, ADB, USAID) are stepping in to provide appropriate training and capacity building for DOFI and other inspection agencies to fulfill their enforcement roles and work in concert. There are also plans to develop investigation and enforcement curriculum at the NUOL and other Universities with support from donor projects.

The level of independence of the inspection agency DOFI has been questioned given its location within MAF which is also responsible for production forests and logging. Further, the enforcement agency at the provincial level is attached to PAFO, and inspection officers sit within DAFO at the district level. The case reports have to be signed by DAFO and PAFO and some cases may not reach the courts. Recent discussions on institutional reform in the context of revising the forestry law have deliberated on further separating the inspection agency from the forest management agencies.

The need to actively involve local people for effective law enforcement in forest management and protection has been recognized. The GIZ Hin Nam No National Protected Area project in Khammuane is testing the co-management model where local people are employed in patrolling and protecting the forests against intruders, and receive a share of the fines paid by the offenders which appears to serve as a strong incentive for law enforcement. However, villagers' rights and roles in the law enforcement process have to be clarified.

5.2.2 Cooperation with judges and prosecutors

Few cases reach the courts. When items are seized, the issue may be solved immediately on the site through negotiation between the parties and is a possible source of corruption. Items seized may be sold and proceeds used or shared through the system without entering the reports.

For cases that do reach the courts, there have been some problems with gathering of adequate evidence and preparing cases as required for action by the public prosecutors and

judges. Capacity should be strengthened for gathering evidence and for prosecution in forestry-related cases.

5.3 Administration of land tenure

5.3.1 Documentation of property ownership and rights

According to the Land administration department in MONRE, there are mainly two types of land registration and titling ongoing at present – government land, and residential and agricultural land for individuals. In the future, there will also be registration of company (Lao companies), collective and communal lands. Communal lands will still be under state ownership but the title will confer permanent rights to the community. The details of communal titling (type of title, purpose, in whose name) are still being discussed. At present, allocation of agricultural land to households depends on requests from the villagers and existing land use and occupation by households and communities are recognized and accepted. Land ceilings are to be applied as mentioned in the land law.

For forestlands, the land use planning process conducted by various agencies and projects have not yet proceeded to the steps of allocation to different entities, registration and titling. At most, the process has resulted in village boundary maps, land cover maps, and land use maps (indicating residential area, agricultural area, forest area and other land use) signed by the villagers and district governors.

Thus there is still no formal ownership of forestland by different entities except in two pilot communal titling initiatives supported by donor projects in Sangthong and Nakai districts. In Sangthong district, Vientiane province, five villages received temporary land use certificates to village forest in 2011 as part of a bamboo value chain project. In Nakai district, Khammuane province, 14 villages resettled because of the Nam Theun 2 hydropower dam received permanent titles to forestland and other village areas in 2013. These cases set a legal precedent but they are very different in their approaches and common central-level rules and guidelines are lacking for implementation of communal titling. The forestry sector will have to decide about allocation and titling of forestlands for different entities. Financial and technical support are a pre-requisite to go through the process, set up area management plans, secure communal tenure, and monitor outcomes.

The Department of Land Allocation and Development stores its land use planning information and outputs including spatial data in a server that can be accessed through formal requests. It is not open to the public for fear of inaccuracy and critique at these very early stages. An information system for land registration and titling has not been developed yet.

5.3.2 Resolution of land disputes

With recent increased economic activity and rising land values in Laos, there has been a rapid increase in land-related conflicts related to inheritance, overlapping land use rights, boundary delineation, and land leases and concessions. Many conflicts arise due to land allocations without prior land use planning, or due to poor planning using rushed and less participatory methods that did not adequately consider ongoing customary use patterns. Conflicts over expropriation of private land for development projects and dissatisfaction with the levels of compensation paid have also featured often in recent media reports. Large areas are allocated to agriculture and plantation concessions by MPI but are actually not available on the ground.

Further the same area may be allocated to multiple agencies or the areas allocated may already be used and claimed by village communities resulting in overlapping claims.

There is an established system of mediation at the village level with village mediation units under the village administrative structure as per MOJ Decree (2010) on conflict resolution. Articles 80-81 in the land law state that the issue should be mediated at the village level and then move up to district, provincial and central levels if not resolved. At the district level, the mediators are the Governor's office, the sector whose jurisdiction the land falls under, and the land administration department. There is also a one door registration of conflicts through the land administration department though this is not widely known. Conflict resolution should not take more than one year and the time duration depends on the specific case.

Currently conflicts get reported at different levels (national, provincial, district, village) and there are no clear figures on the number of conflicts, especially at local levels. At present, people often report at the village level and then go directly to the National Assembly for possible resolution. The land administration department received 141 cases for mediation. At times people file simultaneously with different sectors and at different levels and it could be parallel processes on the same case, so overall figures are unclear. Out of the 141 cases received, 81 were not followed up on by the applicants and 60 are still being processed. There is no single clear streamlined process for conflict resolution and there are many sectors and levels dealing with it. There is also no clear and transparent registration and database of cases and their outcomes at present.

5.3.3 Security of rights and compensation

Recognition and security of rights to land and forest resources is very weak at present in Laos. Land use planning and allocation have not been completed in large parts of the country, land registration and titling is in its infancy, and it has been difficult to defend customary claims and use rights in the face of substantial FDI inflows for land concessions and development projects in recent years of rapid economic growth. Increased land pressures and loss of agricultural land has had negative impacts on food security and local livelihoods. Further, with land zonation into state-administered forest areas, rise in forest plantations and cash cropping, and restrictions on access into some village forest types, peoples' access to forest resources they once depended on is diminishing. At present, both forest area boundaries and peoples' use of resources in different forest areas are unclear leading to confusion and conflict.

Land has been expropriated by the government for both public use and for business investments, and compensation levels have not been based on market values. Even titled land in urban areas is not secure at present. Some donor-supported development projects such as the hydropower dam Nam Theun II have seen better consideration of socio-economic issues and attempts at compensation for resettlement and loss of livelihood options.

Consultation processes and compensation levels are not yet formally regulated and are currently being discussed as part of the drafting of the National Land Policy. The drafting of the NLP has been ongoing for four years now indicating the conflicting viewpoints and difficulties in reaching consensus. The latest draft (February 2014) gives the state the right to expropriate land for business purpose along with public purpose and national benefit.

In the case of public purpose or national benefit without profit, the compensation shall be appropriate and just. In the case of business purpose, market value is to be paid. The draft does not require stakeholder consent even for land taken over for business purposes, and

refers to conducting consultation processes but no requirements are prescribed as to the nature of the process. If expropriation for private investment purposes is approved, investors will have insufficient legal protection against arbitrary expropriation of their investments, land and forest loss for communities will be exacerbated, and the benefit of issuing land titles as per the national policy will be undermined.

The timeframe for completion of effective land use planning, allocation and titling is unpredictable and depends on staff and funding availability. As per the draft NLP, the government aims to complete land registration and land titling for individuals, group of individuals, collectives, organizations and communities by 2025, 11 years hence. In line with the policy of decentralization, responsibility for completion of the allocation is to be given to the districts. There are no clear provisions to ensure the quality of the process and a sound participatory approach.

Further in the interim, there is no legal framework for recognizing and securing customary land rights, and no requirement to complete the village land use planning process prior to land allocation for development and business purposes. Laos recognizes customary rights but in actual practice at present, the community has little power or formal mechanism to reject external interventions and protect its customary rights. The community cannot impose penalties or deter illegal activities in forestlands they have protected and managed. In one instance, a village tried to protect a communal forest that a business enterprise intended to take over by allocating it to individual households who could then apply for land certificates and demonstrate clear ownership to avoid the takeover. The community would have liked to have retained it as a community forest but there is less clarity on that possibility at the moment and the threats are here and now.

5.4 Cooperation and coordination

5.4.1 Among forest-related agencies

The two forest management agencies DOF in MAF and DFRM in MONRE now have new or revised TORs which have attempted to clarify their mandates and reduce overlap. However the institutional setup and arrangements between DOF and DFRM are still evolving, roles and responsibilities are unclear, and formal coordination mechanisms or procedures have not been established at present. Task division is particularly unclear at local levels between the line agencies of PAFO, DAFO, PONRE, DONRE and POFI.

The FSSWG chaired by DFRM and JICA has been meeting regularly and has served as a forum for discussion, information sharing and coordination not just with all interested forestry-related stakeholders but between the two forestry agencies themselves.

An area where some progress has been made is REDD+ where a REDD+ Task Force has been set up under the chairmanship of the DG of DFRM, and attempts have been made to clarify and coordinate REDD+ activities between the REDD agencies under DFRM and DOF. Donor support has been critical in bringing about greater clarity and coordination on REDD+-related tasks.

For forest inspection, the role and responsibilities of DOFI situated under MAF for inspection in Protection and Conservation forests which is under MONRE, has not been clarified. DFRM has also set up its own inspection division. However, DOFI believes that it still has the mandate

for inspection and enforcement in all forest areas. Lack of clarification of roles and responsibilities hamper cooperation and coordination on law enforcement.

5.4.2 Between forest and non-forest agencies

There is overall very weak coordination between different sectors in Laos with no clear established mechanisms or procedures for coordination. There is little coordination between different departments within MONRE itself – for example between DFRM and Water Resources, DESIA, Land allocation and development, and Land administration.

The land use planning process is to be implemented by MONRE in coordination with DAFO for forest and agricultural land using the same agreed-on operations manual. However in practice, there are two parallel processes running driven by different levels of MONRE and MAF, and using varied methods and equipment. The Centre for Information on Natural Resources and Environment in MONRE is supposed to gather, compile and coordinate information flows for the NRE sector but this is a new institution still getting on its feet. The Planning and Cooperation Department in MONRE is to help coordinate activities across MONRE, and planning and coordination meetings were to be held in September 2014 to decide on the way forward on a number of issues.

Further there is limited cooperation and coordination between the forestry sector overall and other agencies influencing forest management and protection such as MOIC, MPI, MOF, the Military, Mining, Energy, Public Works and Transport, and Agriculture. There is a lack of clear mandates, guidelines on process, and agency roles and responsibilities for coordinating both policy making and implementation across agencies. If strategies suggest cross-linking or coordination with concerned sectors, details are not provided or remain undeveloped and very general statements are made. Capacity for coordination is often low even if an agency has the mandate to coordinate, for example MPI's mandate to present a coordinated socio-economic development plan with inputs from all key sectors, or to verify investment proposals working with the line Ministries. The National Environment Council which was envisioned as the possible high-level coordinating and decision-making body for REDD+ became invalid with institutional restructuring.

Some recent attempts at enhanced coordination and cooperation include:

- Lao WEN, a chapter of the ASEAN WEN which was established in Laos under the leadership of DOFI bringing on board all law enforcement agencies responsible for forest and wildlife law enforcement in Laos and developing a coordinated strategy and activities. The group reports on some successes to date, such as with rescuing bears from the illegal wildlife trade.
- The REDD+ Task Force brings together representatives from different Ministries and government agencies as a forum to plan and decide on REDD+ policies, activities and investments in the country. However the mandate and roles of the different agencies within the group and how they are to cooperate and coordinate in practice is unclear.
- MPI and DESIA in MONRE with support from UNDP's PEI is working towards developing a coordinated framework for ensuring quality investments in the agriculture and forestry sector among others, and greater investor compliance with the legal framework, and social and environmental requirements.
- The Natural Resource and Environment Sector Working Group (NRESWG) established in 2013 and chaired by MONRE, Germany and the World Bank is a forum for dialogue and

coordination between the government, development partners and other stakeholders on development issues related to the NRE sector. It has five sub-sector working groups under its wing – forestry, land, geology and mining, water resource and disaster, and environment and climate change. The Sector Working Groups are to ensure the development and implementation of sectoral strategies which link to the NSEDP and the Millennium Development Goals (MDGs). All issues addressed through the ten Sector Working Groups are subsequently reported and considered by the government through the Round Table Process led by MPI which aims to ensure that both the Government and its Development Partners are working under a common understanding of the policies and strategic direction adopted for the country's development.

5.4.3 Between national and sub-national governments

Local governments have traditionally had substantial control over resources in their areas. The recent explicit policy of *samsang* or decentralized development and budget responsibility to local levels is consistent with such traditional rights, and the provinces operate even more autonomously now as a result. There is little cooperation and coordination between the local and central governments.

Previously provincial levels had to clear their plans and approvals with central agencies which provided some minimal checks and balances. Now there is little information flow and revenue flow from the local levels and the center is detached from activities on the ground. Local provinces prioritize their own revenues and obtain them from available sources, and their actions may not be aligned with national policy prerogatives such as protecting and enhancing the forest resources. There are no effective incentives for performance or sanctions for malpractice at local levels. The central agency's role is reduced to monitoring after the fact but they do not have adequate authority to confront and dismantle illegal sawmills and plantations once established.

5.4.4 Across national borders

Laos shares borders with five countries, Vietnam, Thailand, China, Cambodia and Myanmar, and has developed some bilateral cooperation activities on forest-related issues. DOFI and Department of Forest Protection, MARD of Vietnam signed an MOU (2009-12) for forest and wildlife law enforcement – to control illegal trade and transport in wildlife, timber and NTFPs and fulfill their regional and international commitments related to climate change, biodiversity and CITES. As per the renewed agreement for the period 2012-17, the parties agreed to cooperate on exchanging information and experience in preventing and controlling illegal activities, strengthening cooperation on fire management along and across the border, and adapting to the transformed international market for timber and timber products.

MAF Laos signed an MOU with China on Chinese investments in rubber and other agricultural plantations in Laos. In addition, the China-supported APFNet project on Sustainable forest management in Northern Laos aims to promote information-sharing and communication on forestry inspection with the establishment of two selected checkpoints, and enhance transboundary biodiversity conservation through fire monitoring towers, joint patrolling along the border and an information-sharing system.

Laos and Thailand have developed a Joint Strategic Plan to strengthen wildlife law enforcement cooperation along the Thai-Lao border. The plan covers information exchange

and communication; cooperation on enforcement, research and conservation, and joint activities the two countries may undertake at both the national and local levels.

Laos is involved in many forest-related cooperation activities at the ASEAN-level. Some key activities include a trans-boundary haze pollution agreement, cooperation on CITES implementation through the ASEAN WEN, development of a pan ASEAN timber certification initiative, and being part of an ASEAN social forestry network.

5.5. Controlling corruption

There is increased public evidence and perception of corruption in the forestry sector and questions are being raised in public fora. Trucks with huge logs approaching the national borders are a familiar sight across the country, and so are lines of sawmills outside some National Protected Areas. With rising foreign direct investment, rapid economic growth, enhanced road access and rising market demand, there is high opportunity for making quick profits from exploitation of forest and land resources. Most of Laos' GDP comes from resource extraction.

Many agencies and stakeholders appear to be involved and benefitting from local to national levels making it a challenge to control. National level agencies have little control over local operations with the current implementation of the decentralization policy. Further depending on the actors involved, individuals from other agencies and/or levels may not be able to interfere with the activity. Consequences and sanctions for corrupt practices are inadequate.

Laos ranks very low on Transparency International's Corruption Perceptions Index, 145 out of 175 countries around the world in 2014. Laos' corruption perception index has increased to 25+ points in 2013 and 2014.

5.5.1 Legal and institutional framework and its implementation

In terms of the legal and institutional framework for tackling corruption and enhancing transparency and accountability, the government adopted Decree 95/PM in 1995 for procurement of goods and services by civil servants, an Anti-Corruption Decree (Decree No.193/PM) in 1999, set up the State Inspection Authority including an Anti-Corruption Inspection department in 2001, signed the anti-corruption convention in 2003, passed an Anti-Corruption Law in 2005, and adopted a State Inspection Law in 2007. As per the anti-corruption law, all assets and debts of government officials at management level and their family members have to be declared. The Central Committee of the Party also issued a resolution for all party members to avoid corrupt or fraudulent activities.

The government, with the support of various development partners has undertaken initiatives to restructure the state institutions, and improve working conditions and administrative procedures to reduce the scope for corruption. Auditing and inspection has been introduced to create greater accountability. The State Inspection Authority is responsible for dealing with corruption at the national level and gathering evidence. Additionally, the State Inspection Department in each Ministry is responsible for a Ministry's internal problems.

However, the anti-corruption measures have not yet been effectively implemented. Asset declaration has not yet been fully executed and only a few corruption cases reach the court. From 2009-2011, the Supreme Peoples' prosecutor reported on 29 corruption cases brought in for legal proceedings, including corruption-related timber logging and trade involving corruption in the forestry sector. Information on corruption cases is not widely available to the

public via the media or other sources. Coordination between the different agencies responsible for tackling corruption is a problem, including between the prosecutor's office and the State Inspection Authority at the central and local levels. Further, the agencies often lack sufficient authority, funds and government support to carry out their tasks.

5.5.2 Use of codes of conduct for civil servants

The forest agencies, DOF, DOFI and DFRM have codes of conduct which also address corruption and bribery. The staff must take periodic training on their obligations.

The anti-corruption law sets out prohibitions, duties and obligations for Persons who have Position, Power and Duty. Chapter VII in the current forestry law has a list of prohibitions for forestry staff and inspection officers including abusing duties and positions and receiving bribes for their own benefit; falsifying documents; and using violence, intimidation or threats. Prohibitions for businessmen, organizations and the general population include offering bribes to forestry staff and forestry inspection officers; and colluding with officials and others in undertaking illegal logging, encroachment and destroying forest and forest resources.

As per the anti-corruption law, there are educational and disciplinary measures for minor corruption offenses of government staff, and there can be legal proceedings for more serious offences. As per Article 124 of the forestry law, minor violations warrant disciplinary measures such as warnings, suspensions, transfers and dismissal. For more serious offences, there are fines, civil and penal measures as stated in Articles 125-127.

5.5.3 Complaint mechanisms and protection for whistleblowers

There are few different ways for the public to report corrupt activities in Laos – through a National Assembly hotline that is open during its plenary sessions, a Customs hotline, and by sending petitions to the government. The National Assembly has discussed and followed up on some of the concerns raised through the hotline. According to non-government actors, the reporting means are not always easy and effective to use and there are some safety concerns.

Inspection agencies are now cultivating informants at the village level. Incentives and protection for reporting need further enhancement.

In terms of follow up, some complaints are investigated but not systematically. There is a tendency to target the smaller actors in investigations.

5.5.4 Use of safeguards, internal controls, auditing and accounting

For enhancing financial accountability in all public institutions in Laos, an independent State Audit Agency was established in 1998 and an audit law was passed in 2006. Within the Ministry of Finance, the Department of Inspection of Finance is responsible for internal auditing and monitoring the implementation of the state budget. Results of all audits are sent to the National Assembly.

There are some internal controls and safeguards within the forestry agencies as well and management of official funds in the forestry agencies has improved. The Forest Resource Development Fund available for forestry-related activities has a spending plan and review and reporting system. Guidelines to manage the fund are in line with the budget law and regulations. Information is updated on a quarterly basis. The State Assets Management Department in the Ministry of Finance is responsible for monitoring and following up on forest-

related revenues and expenditures. Regular audits are conducted and action is occasionally taken on the findings.

However, little of the forest-related revenue flows to the forestry sector at present. There has been substantial leakage of revenue in the last years with uncontrolled illegal logging, trade and export across the country; cross-border wildlife trade; and unaccounted revenues from salvage logging and confiscated timber. Many agencies are involved in activities down the forest resource chain from DOF and DFRM, to MOIC, MOF, customs, DOFI and others. The many agencies involved, overlapping and unclear roles and responsibilities, and gaps in regulations leave much room for corruption and revenue leakage.

Below are some examples where tightening of safeguards and controls are required:

- Many different agencies are involved in the concession assessment and issuance process such as MPI, MAF and DESIA in order to enhance the quality of decision making and reduce the scope for corruption. However, due to a lack of clarity in institutional roles and responsibilities, transparency in the assessment and allocation process, clear definitions and criteria for area selection, and clear prescriptions for stakeholder consultation and consent, the process is not well-regulated.
- Allowing confiscated timber to be sold and revenue put into the system allows the easy transformation of illegal timber into legal timber at the current time, with revenue sharing all around between illegal loggers and enforcers through the chain. Furthermore, it leads to underreporting of illegal logging and confiscated timber in order to retain the revenue at the local level or for personal gain.
- The commercial timber trade is carried out through cash transactions at present which are hard to track and verify. Requiring bank transactions tied to specific quantities and entities could help tighten the system and reduce corruption.

Chapter 6 Conclusions

At the national level in Laos, the legal framework for the forestry sector is evolving with policies, laws and regulations being continuously drafted and improved at present. These include policies and legislation for the three forest categories as envisioned, land allocation to villages and communities, plantations for producing timber and NTFPs, participatory management, community forestry, reforestation, managing timber and other forestry business, domestic value addition, monitoring and enforcement.

However there is a significant gap between the evolving national legal framework and implementation on the ground. Official land use planning has not yet been completed in large parts of the country and customary land use practices operate alongside new commercial land pressures, market and road development, opportunities for quick profits, and minimal consequences for offenders. The laws are often not aligned with the local contexts and there is little awareness or understanding of it at local levels. Further, the official policy of decentralized governance has resulted in autonomous resource use on the ground with little linkage to national level policies and regulations.

Many agencies are involved in the forestry sector. Four agencies, DOF, DFRM, DOFI and MOIC are directly involved in forest management and protection and/or the forest products business. Others such as the military and the customs influence forest management and protection. Further many other sectors influence the forestry sector through forestland conversion or use, for example mining, energy, public works and transport, and agriculture. The number of agencies involved; the divided and fragmented interests and priorities; and gaps, overlap and inconsistencies in institutional roles and responsibilities presents a major challenge for effective forest governance. Coordination mechanisms are rudimentary at present.

Furthermore, the forestry sector faces large capacity gaps in terms of human resources, their qualifications and skills, budgets, equipment, and transport for managing and protecting the vast forestry estate as envisioned. Transparency and accountability is low with little incentive for good performance. Boundaries are yet to be demarcated on the ground. Participatory community management models are being explored at present to bridge the capacity gap, and enhance sustainability by involving local stakeholders in forest management and supporting their livelihoods.

A large part of the revenue from forestlands and resources does not accrue to the forestry sector at the current time due to corruption and illegal activities, as well as diversion of timber and other income from salvage logging and other forest-related operations to other sectors. As part of the evolving new institutional and regulatory framework, discussions are ongoing to track and retrieve such revenue for forest management purposes, strengthen forest law enforcement and identify alternative revenue sources for SFM such as PES.

The way forward

Laos faces many forest governance challenges for REDD+ implementation. However Laos' challenges are not unique. Many other countries face similar challenges. Laos is, however, amongst the first set of countries that is undertaking this self-assessment, and the very first

one in Asia. This diagnostic exercise could serve as a concrete step towards governance tracking and reform for REDD+ implementation and for the larger forestry sector as a whole.

REDD+ and overall forest management and protection strategies and legal frameworks will have to devise ways to achieve speedy and meaningful land use planning and allocation, institutional coordination and capacity development, and effective stakeholder participation and benefit-sharing for sustainable forest management and monitoring. It will have to address the institutional complexities and gaps, and the effects of decentralization. It will have to take into account the ongoing deforestation pressures such as expansion of investment in mining, infrastructure, energy, commercial agriculture and other sectors, and strike a balance between protection and development. It will have to deal with timber demand, illegal logging and the thriving cross-border timber trade. It will have to deal with corruption and law enforcement.

REDD+ Readiness efforts could be coordinated with other relevant initiatives to improve forest governance in Laos to avoid duplication and achieve maximum impact. Examples of other ongoing initiatives related to forest governance are FLEGT VPA negotiation process which could support much needed reforms and mechanisms to tighten timber harvesting and trade in the country, the UNDP Poverty and Environment Initiative supporting concession licensing and monitoring reform, and various donors' efforts to enhance forest law enforcement capacity and coordination.

Annex 1. Sources of Information

Interviews with key government agencies, donor agencies and projects, private sector and civil society organizations.

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Annex 2. Glossary

| | |
|-----------|---|
| ADB | Asian Development Bank |
| AMAF | ASEAN Ministerial Meeting on Agriculture and Forestry |
| APFNet | Asia Pacific Network for Sustainable Forest Management and Rehabilitation |
| ASEAN | Association of Southeast Asian Nations |
| ASEAN WEN | ASEAN Wildlife Enforcement Network |
| ASOEN | ASEAN Senior Officials on Environment. |
| ASOF | ASEAN Senior Officials in Forestry |
| BCC | Biodiversity Conservation Corridors Project |
| CBD | Convention on Biological Diversity |
| CITES | Convention on International Trade in Endangered Species of Wild Fauna and Flora |
| ClipAD | Climate Protection through Avoided Deforestation Project |
| DAFO | District Agriculture and Forestry Office |
| DESIA | Department of Environmental and Social Impact Assessment |
| DFRM | Department of Forest Resource Management |
| DG | Director General |
| DIMEX | Department of Import-Export |
| DIP | Department of Investment Promotion |
| DLAD | Department of Land Allocation and Development |
| DOF | Department of Forestry |
| DOFI | Department of Forest Inspection |
| DONRE | District Office for Natural Resources and Environment |
| EPF | Environmental Protection Fund |
| ESIA | Environmental and Social Impact Assessment |
| ESMMP | Environmental and Social Management and Monitoring Plan |
| FAO | Food and Agriculture Organization |
| FCPF | Forest Carbon Partnership Facility |
| FDI | Foreign Direct Investment |
| FIP | Forest Investment Program |
| FIPD | Forest Inventory and Planning Division |
| FLEGT | Forest Law Enforcement, Governance and Trade |
| FOF | Faculty of Forestry |
| FOMACOP | Forest Management and Conservation Project |
| FPIC | Free Prior and Informed Consent |
| FRDF | Forest and Forest Resource Development Fund |
| FSC | Forest Stewardship Council |
| FSCAP | Forestry Sector Capacity Development Project |
| FSSWG | Forestry Subsector Working Group |
| GCDA | Green Community Development Association |

| | |
|---------|--|
| GDP | Gross Domestic Product |
| GIS | Geographic Information System |
| GIZ | Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH |
| GPS | Global Positioning System |
| ICBF | Integrated Conservation of Biodiversity and Forests |
| INGO | International Non-Government Organisation |
| IUCN | International Union for Conservation of Nature |
| JICA | Japan International Cooperation Agency |
| KfW | Kreditanstalt für Wiederaufbau – German development bank |
| Lao WEN | Lao Wildlife Enforcement Network |
| LENS2 | Lao Environmental and Social Project Phase 2 |
| LSFP | Lao Swedish Forestry Program |
| MAF | Ministry of Agriculture and Forestry |
| MARD | Ministry of Agriculture and Rural Development |
| MDG | Millennium Development Goal |
| MOF | Ministry of Finance |
| MOIC | Ministry of Industry and Commerce |
| MOJ | Ministry of Justice |
| MONRE | Ministry of Natural Resources and Environment |
| MOU | Memorandum of Understanding |
| MPI | Ministry of Planning and Investment |
| MRC | Mekong River Commission |
| NAFRI | National Agriculture and Forestry Research Institute |
| NERI | National Economic Research Institute |
| NGO | Non-Government Organization |
| NGPES | National Growth and Poverty Eradication Strategy |
| NLP | National Land Policy |
| NPA | Non Profit Associations |
| NRE | Natural Resource and Environment |
| NRESWG | Natural Resource and Environment Sector Working Group |
| NSEDP | National Socio-Economic Development Plan |
| NTFP | Non Timber Forest Product |
| NUOL | National University of Laos |
| PAFO | Provincial Agriculture and Forestry Office |
| PAWP | Protected Area and Wildlife Project |
| PEI | Poverty and Environment Initiative |
| PES | Payment for environmental services |
| PFA | Production Forest Area |
| PFE | Provincial Forest Enterprise |

| | |
|-----------|---|
| PM | Prime Minister |
| POFI | Provincial-level Office of Forest Inspection |
| PONRE | Provincial Office for Natural Resources and Environment |
| PROFOR | Program on Forests |
| RECOFTC | The Center for People and Forests |
| REDD+ | Reducing emissions from deforestation and forest degradation in developing countries, and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries |
| SESA | Strategic Environmental and Social Assessment |
| SFE | State Forest Enterprise |
| SFM | Sustainable Forest Management |
| Sida | Swedish International Development Cooperation Agency |
| SNV | SNV Netherlands Development Organization |
| SUFORD-SU | Sustainable Forestry for Rural Development Scaling Up project |
| SUFORD AF | Sustainable Forestry for Rural Development Additional Financing project |
| TOR | Terms of Reference |
| UN | United Nations |
| UNDP | United Nations Development Programme |
| UNFCCC | United Nations Framework Convention on Climate Change |
| UNFF | United Nations Forum on Forests |
| USAID | United States Agency for International Development |
| VFI | Village Focus International |
| VPA | Voluntary Partnership Agreement |
| VRG | Vietnam Rubber Group |
| WB | World Bank |
| WCS | Wildlife Conservation Society |
| WTO | World Trade Organization |
| WWF | World Wide Fund for Nature |

Forest Governance Assessment for REDD+ in Lao PDR

Part II. Findings and recommendations from the multi-stakeholder consultation meeting

Consultation Meeting held on 27-28 October 2014

Vientiane Plaza Hotel, Vientiane Capital, Lao PDR

Organizers: Department of Forestry (DOF, MAF), World Bank Forest Carbon Partnership Facility (FCPF), GIZ Climate Protection through Avoided Deforestation (CliPAD) Project, Sustainable Forestry for Rural Development Scaling Up (SUFORD-SU) Project

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Executive Summary

This report describes a multi-stakeholder consultation meeting held in Vientiane, Laos from 27-28 October 2014. The purpose of the meeting was to provide participants a forum to discuss governance challenges in the forestry sector in Laos, and build consensus for reform by identifying reform priorities and proposed actions to address them.

The consultation meeting made use of a diagnostic tool developed by the Program on Forests (PROFOR) managed by the World Bank. Information was gathered using a generic questionnaire developed by PROFOR and customized for the specific case of the REDD+ program in Lao PDR. Participants worked in four small multi-stakeholder groups to discuss and score the indicators in the questionnaire. The questionnaire provided a structure for participants to discuss a wide range of issues relevant to the forestry sector, and attempt to reach agreement on the current status of each of the issues based on their knowledge and experience. Stakeholders discussed and scored a variety of governance issues including the status of the legal framework, participation, transparency, stakeholder capacity, law enforcement and corruption.

Group discussion participants were also encouraged to identify priority governance issues and concrete steps that could be taken in the short, medium and long term to improve these. The following issues were identified as top priority for action.

- **Ensuring sustainable and predictable budget / financing** for the forestry sector by tracking all revenues from forests and ensure its return for forest management and forestry activities, and exploring alternative sources of financing through new funds and mechanisms such as PES and REDD+.
- **Strengthening the legal framework** to cover all forest types and activities in a clear manner with little gap to convey the full intent and aid implementation.
- **Enhancing the legal framework for monitoring and inspection** starting with articles in the forestry law to implementing regulations for different forest areas and clarification of organizational mandates of different agencies for inspection.
- **Completing forest inventories and surveys, providing better data and information** on forest resources, and completing boundary demarcation.
- **Developing and strengthening stakeholder participation in forest management and planning**, and building capacities for improving forest-related livelihoods.
- **Enhancing implementation, transparency and monitoring** in the forestry sector by harmonizing policies and plans, strengthening forest law enforcement and building capacities for monitoring at all levels.
- **Providing an enabling framework for sustainable private sector involvement**
- **Securing tenure rights to forest and forest land**
- **Supporting the public prosecutor** with enhanced information gathering, coordination between agencies, and creating a public informant network.
- **Strengthening law enforcement agency capacity and co-operation** through training and workshops, establishing Provincial Wildlife Enforcement Networks (Provincial WEN) and an environmental law enforcement training curriculum and/or academy.

- **Strengthening law enforcement strategy of all departments and local institutes** by building a common vision and direction.

At the final session in the meeting, invited representatives of different stakeholder groups and then other participants remarked on the priority issues, their organizations' experiences and plans in relation to these issues, and how actions and dialogue could emerge from this diagnostics exercise. Donor representatives, JICA, WB and GIZ, expressed that the open consultations at the meeting and agreement on priority issues were a good starting point for improving forest governance in Lao PDR. Their agencies were committed to working with the Lao government and development partners to address these challenging issues. The GIZ ProFLEGT representative indicated that most of the issues raised would be followed up as part of the FLEGT VPA process.

The private sector representative indicated that increasing fragmentation of responsibility for the forestry sector across different Ministries and agencies left large governance gaps and loopholes, and recommended consolidation. DFRM, DOFI and DOF representatives pointed out the large resource and capacity gaps that need to be addressed, along with further clarification of institutional roles and responsibilities and completion of village forest allocation across the country.

The CSO representative and GIZ CliPAD representative stressed the importance of local community considerations and identifying appropriate participatory forest management models for improving forest governance on the ground. SUFORD project advisor pointed out the governance problem arising from classifying degraded land used by people for shifting cultivation or food production as potential forest area and trying to reforest it. Besides looking at the challenges, MONRE DDMCC representative recommended also exploring forest potential such as biodiversity, herbal products, food, other PES mechanisms and multi-purpose forest use.

Mr. Ounekham from the DOF REDD Office stated that this meeting was the first of several upcoming discussion meetings under FCPF to develop the national REDD+ mechanism in line with UNFCCC and national requirements. The DG, Mr. Thongpath expressed his appreciation for the 1.5 day-consultation meeting and stated that they accepted all the comments and discussions even though there were a lot of challenges and problems, so they could improve and reform forest governance in all aspects at macro and micro levels simultaneously. He believed the time was now right for action.

1. Overview of the consultation meeting

A multi-stakeholder consultation meeting was convened on October 27-28, 2014 to conduct a participatory diagnostics exercise of forest governance challenges relevant to the implementation of REDD+ in Lao PDR. The meeting was opened by the co-chairs, Mr. Thongpath Vongmany, Director General of the Department of Forestry (DOF), Ministry of Agriculture and Forestry (MAF), and Ms. Sally Burningham, Country Director of the World Bank Laos office.

A cross-section of representatives from different stakeholder groups engaged with the forestry sector including government agencies, civil society organizations (CSOs), private sector, and bilateral and multilateral development partners were invited to the meeting. A total of 50 people attended – 23 staff from various government agencies, 21 representatives from donor agencies and projects, five from civil society organizations, and one from the private sector. The agenda and participant list are in Annex 1 and Annex 2 of this report.

1.1 Objectives of the meeting

- To provide a forum for information-sharing, reflection and discussion of the strengths and challenges for forest governance in Lao PDR among a spectrum of knowledgeable representatives from the different stakeholder groups
- To establish the current status of forest governance in the country that can be used as a baseline for monitoring trends over time, and as background information for policy-making, planning and implementing REDD+ in the country
- To build consensus for reform by identifying reform priorities and proposed actions to address them

1.2 Meeting structure and process

Following welcome and opening remarks by the co-chairs, two presentations “set the scene” for discussions between participants. Mr. Satoshi Ishihara of the World Bank introduced the governance diagnostics exercise, and presented the meeting objectives and experiences from elsewhere. Project expert Dr. Unna Chokkalingam provided participants with an overview of the forest governance challenges in Lao PDR as identified in the background report. Dr. Paula Williams of the SUFORD Scaling Up Project then introduced the aims and methods to be used in the group discussions and the planned outputs.

Information was gathered using a generic questionnaire developed by PROFOR and customized for the specific case of the REDD+ program in Lao PDR. Participants worked in four small multi-stakeholder groups to discuss and score the indicators in the questionnaire. The questionnaire provided a structure for participants to discuss a wide range of issues relevant to the forestry sector, and attempt to reach agreement on the current status of each of the issues. The issues discussed are described in Section 2 of this report, followed by charts that show the scoring of the indicators. Following the scoring exercise, the groups then identified three reform priorities and proposed actions to address them. The resultant matrix of reform priorities are presented in Section 3 of this report.

On Day 2, discussion group outcomes were posted on the meeting room walls for reviewing by all participants. Each group then presented the outcomes of their scoring exercise, and the

identified priorities and actions in a plenary session. This was followed by remarks from invited representatives of different stakeholder groups and then all participants on the priority issues, their organizations' experiences and plans in relation to these issues, and how actions and dialogue could emerge from this diagnostics exercise.

1.3 Opening statements

Mr. Khamsene Ounekham, Deputy Director of the REDD+ Office, DOF (MAF) welcomed the participants, and introduced the meeting and its link to the FCPF REDD+ Readiness Process in Laos.

Mr. Thongpath Vongmany, Director General of the Department of Forestry, MAF opened the meeting and presented an overview of the forestry sector strategy in Laos. Three key considerations included community engagement and the village forest system for forest protection, restoration of degraded forests, and plantations to supply wood and NTFPs (target of at least 1 million m³/year of timber from plantations). The Forestry Strategy 2020, adopted in 2005, aimed for a forest cover target of 70% including 500,000 hectares of plantations. For biodiversity conservation, the law on wildlife and aquatic life has been promulgated and the country is a member of CITES.

The Director General (DG) summarized the existing laws, regulations, and strategies related to the forestry sector and stressed that the challenge lay in ensuring effective implementation of the laws. He urged the participants to consider some key issues in their group deliberations such as:

- How to address decentralization of forestry activities?
- Should there be a consolidated forest governance structure under one Ministry rather than a fragmented structure?
- The process of planning and decision making: Forestry plans link to National socio-economic development plans every five years. Also each province and district is to formulate socio-economic plans and forestry is being considered at each level.
- Are budgets adequate?
- There are many ongoing projects and programs – to what extent are they able to implement activities on the ground?

He encouraged the participants to share their comments on the World Bank background paper to be presented, which consolidates forest governance information in the country, and to reflect on the challenges and experiences so far. He indicated that the diagnostics exercise proposed for the meeting would aim to provide baseline data, determine priority areas for improvement, and help amend action plans for moving forward. Forest governance issues had been mentioned in other meetings, but here was a chance to discuss in depth and find workable solutions for the future.

Mr. Thongpath indicated that forest governance was a problem for many countries, but it had now also become a regional and international problem. Laos is a partner to many regional and international forestry-related fora and seeks to transform governance of its forestry sector to one ruled by law. Following his comprehensive overview, he formally opened the multi-stakeholder consultation meeting.

In her opening speech, Ms. Sally Burningham, Country Director of the World Bank Laos office acknowledged that protecting forests was a major challenge, the participants in the room were working hard on it and the World Bank was happy to partner in this effort.

The World Bank supports a Green Growth strategy in all the countries it works in and would like the 8th National Socio-economic Development Plan now being developed to be a green-growth plan for Laos.



Ms. Sally indicated that Laos' forests had both national and international value. As mentioned by the DG, a large proportion of the timber logging in Laos was now illegal and did not create revenue for the government. The Lao government was trying to meet the Millennium Development Goals (MDGs). However, the MDG related to forest cover was not going to be met.

She concurred with the DG that clear accountability, enforcement, and assignment of roles and responsibilities would empower Laos to reign in illegal logging and meet its forest protection goals. The World Bank, Germany, Finland and many other donors were engaged in trying to strengthen the forestry sector. The World Bank had made significant commitments to the forestry sector in Laos both in terms of time and funding, through the SUFORD projects, wildlife protection projects, and other.

Ms. Sally highlighted that illegal logging was very visible, as large logs were involved and not tiny diamonds, so it was difficult to understand how it could not be controlled. Resources lost to Laos could be seen from data on imports of forest products from Laos into neighboring countries, such as Vietnam and China. It was a macro-economic issue, and not just an environmental issue. She concluded by wishing the participants all the best, and hoped that useful and concrete outcomes would come out of the consultation meeting.

1.4 Overview of presentations

Mr. Satoshi Ishihara from the World Bank presented the PROFOR governance diagnostic tool, its objectives and experience of its use in other countries. Governance, he indicated, was more than government - it involved other stakeholders and there were costs to poor

governance. By jointly measuring actionable indicators, reforms could be owned and used by all stakeholders. PROFOR provided a generic set of indicators and Laos could choose those most suitable for its circumstances and develop its own governance tools and indicators. There were no standards against which to measure an indicator. It was flexible and up to each country. He presented indicators selected by other countries and indicated that if assessment was done regularly over time, progress could be monitored. He concluded that every country faced governance challenges and that it was not unique to Laos.

Dr. Unna Chokkalingam, project expert, presented the background paper on forest governance in Laos covering various aspects across the three pillars of governance. (Dr. Khamla Phanvilay, co-author, could not be present at the meeting due to prior unalterable commitments.) The background paper was based on the personal knowledge and expertise of the consultants, a literature review and interviews with knowledgeable senior experts across stakeholder groups.

The presentation started with a review of forest cover and condition across the country and indicated a need for clarification of drivers of deforestation and degradation at this time given changing land use patterns across the country. This was followed by a brief overview of the history of forest management in the country and then coverage of a range of important issues under each of the three pillars of governance. The project expert concluded with a chart summarizing the key governance issues and gaps, and emphasized like the earlier speakers that Laos was not unique in its forest governance challenges. The question was how to improve forest governance in Lao PDR. Ongoing initiatives like FLEGT, REDD+ and other national and regional efforts offered opportunities to undertake key governance reforms.

Laos was one of the first countries to undertake the governance diagnostics assessment exercise and the very first one in Asia, thereby indicating its willingness and commitment to address the issues. This assessment could serve as a concrete first step towards multi-stakeholder forest governance tracking and reform in the country.

Dr. Paula Williams of the SUFORD Scaling Up (SUFORD-SU) Project introduced the aims and methods to be used in the group discussions and the planned outputs, which are covered in Section 2 of this report.

Q&A session

A representative from the Poverty and Environment Initiative (PEI) of UNDP: Thanked the project expert for a comprehensive presentation and stated that everyone liked to talk about problems, but had not identified many solutions. What did the project expert think should be the focus in terms of solutions – one or two main factors?

Response from project expert: From my personal viewpoint, a fundamental question is “Can the state effectively manage the large forest estate envisioned covering 70% of the land area of the country given the staff and budget gaps, and the situation and needs on the ground? To be effective, management will have to be devolved to communities with the state playing a supportive role. Models and approaches for effective devolution have to be explored.” Secondly, there is real need for sustainable timber production given high demand in the region and increasingly within the country as well. Closing one’s eyes to the timber issue will not make it go away. What could be the ways to ensure sustainable timber production? How can Laos provide an enabling environment for commercial timber plantations? Lessons could be learnt from the successful experience of its neighbor Vietnam in developing smallholder

plantations. Also initiatives like FLEGT will be useful to improve timber tracking and accounting.

Ministry of Natural Resource and Environment (MONRE) representative: The project expert did not mention the watershed management mechanism that started from 2010, especially the potential for PES schemes in the future. I agree with the PEI representative that we need to see priorities and actions, opportunities and future potential for improvement in the report.

Response from Dr. Paula Williams: That is what we plan to do in this workshop, discuss priorities and actions. The background paper is a draft and all of our contributions will be added to the final paper.

Response from project expert: Thanks, Paula, for the clarification that solutions will be discussed in the working groups. The primary purpose of the background paper is to review the actual status of forest governance at present and not provide recommendations. The workshop participants can discuss ways to move forward.

Planning Department, MONRE: In preparing the Natural Resource and Environment Sector strategy to 2025 and vision to 2030, we also obtained figures on the different forest areas from DOF. However, our figures appear to be different from those in the expert's presentation.

Response from project expert: The figures in the presentation were obtained through interviews and from the literature to fill in gaps. Agrees with the participant that there are many different figures in the public domain and it would be good to get clear official figures.



2. Forest Governance Diagnostics exercise

PROFOR, the Program on Forests, provides the following broad definition of forest governance: “Forest governance includes the norms, processes, instruments, people, and organizations that control how people interact with forests”. Key features of good forest governance include adherence to the rule of law, transparency and low levels of corruption, stakeholder inputs in decision making, accountability of all officials, low regulatory burden, and political stability. Responsibility for forest governance thus lies collectively with the government and all relevant stakeholders. A participatory governance diagnostic exercise can help identify the strengths and weaknesses in forest governance as well as the interventions required for improvements.

2.1 The diagnostic tool and its implementation

The current forest governance assessment in Lao PDR used the “PROFOR forestry governance diagnostic tool” which is based on two steps: the preparation of a background report to inform discussions, followed by scoring of a set of governance indicators in a multi-stakeholder consultation meeting. Both the background report and the indicators were organized following the internationally endorsed “Framework for Forest Governance Assessment and Monitoring” that was developed by FAO and PROFOR in 2011. The Framework organizes governance under three broad pillars —a) Policy, legal, institutional and regulatory frameworks; b) Planning and decision-making processes; and c) Implementation, enforcement and compliance (Figure 1). The background report provided a snapshot of the current status of a broad range of forest governance issues across the three pillars in Laos. A summary of the report was circulated to invited workshop participants prior to the event.

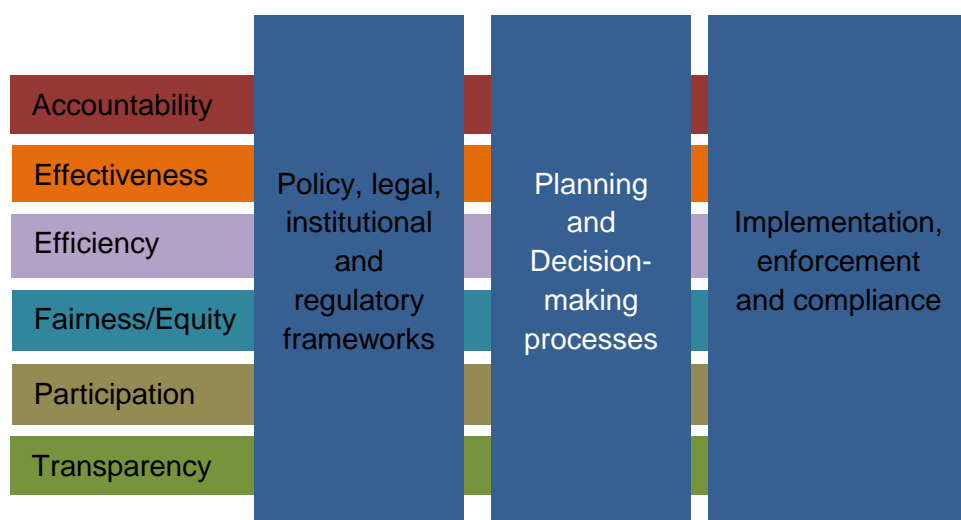


Figure 1. Pillars and principles of forest governance

At the multi-stakeholder consultation meeting held on 27-28th October 2014, four multi-stakeholder discussion groups scored a forest governance questionnaire/ indicator set customized for Laos. Measurement of the components and key attributes in each pillar encouraged an organized assessment and avoided the risk of overlooking important aspects of governance. The indicators were all “actionable”, that is the set of choices for scoring each indicator presented a range of conditions, from undesirable to desirable. Selecting something less than the most desirable choice indicated an opportunity for action to improve governance. Being actionable, the indicators were inherently normative. There were good and bad scores.

The norms reflected widely held views of good governance. In most cases, the indicators reflected six common principles of good governance built into the FAO-PROFOR framework:

- Accountability—that people and institutions should be accountable for their actions,
- Effectiveness—that the mechanisms of governance should achieve the ends they intend to achieve,
- Efficiency—that governance should work with a minimum of waste,
- Fairness/equity—that the benefits and burdens of the forest resources should fall in a way generally viewed as just,
- Participation—that all interested people should have an opportunity to be heard or to influence government decisions that affect the forest, and
- Transparency—that information about the forest and how it is governed should be reasonably available to all.

The scores for the questions across the three pillars set a baseline for the quality of forest governance, and help identify areas needing improvement, formulate targeted interventions and develop indicators for monitoring progress. Measurement of the attributes through a multi-stakeholder consultation meeting helps build common understanding and consensus for reform among stakeholders likely to be impacted differently by the reform process.

There were four discussion groups, each focusing on questions related to one pillar of forest governance. Each group was assisted by two moderators, a simultaneous interpreter, and a rapporteur. Participants were pre-assigned to the four groups based on their area of work and expertise, and also in order to ensure the multi-stakeholder character of each group. The proposed questionnaire for their respective group was sent to the participants beforehand to allow them to reflect on and discuss the questions in advance within their agencies. Each question was accompanied by explanatory notes and the set of multiple choice responses indicating low to high performance on that specific indicator. See Table 1 for group topic, composition and moderators.

The groups discussed and scored 59 questions in all. Adding in all the sub-questions (for example, capacity in each of three different forest agencies) scored by the groups resulted in a total of 123 questions scored (see final list of questions used in Annex 3). Full questionnaires and responses identified by workshop participants are available on request.

Table 1. Discussion Group Details

| Discussion Groups | Representation of voting members | Moderators | Questions scored |
|--|--|---|--|
| Group 1: Policy and legal frameworks | 4 GOL, 1 CSO, 4 donor agency/ project | Viengxamay Srithirath (WB), Unna Chokkalingam (WB) | 14 questions, 21 including sub-questions |
| Group 2: Planning and decision-making processes | 4 GOL, 2 donor agency/ projects, 3 CSO | Paula Williams (SUFORD-SU), Khamla Phandanouvong (GCDA) | 16 questions, 34 including sub-questions |
| Group 3: Implementation, enforcement and compliance | 5 GOL, 1 donor agency/ project | Thongsoune Bounphasaisol (GIZ CliPAD), Carl Mossberg | 15 questions, 34 including sub-questions |

| | | | |
|---|---------------------------------------|---|--------------------------------------|
| Group 4: Implementation, enforcement, compliance | 3 GOL, 1 CSO, 1 donor agency/ project | Bill Adams (SUFORD-SU), Bounyadeth Phouangmala (WB) | 14 questions, 34 incl. sub-questions |
|---|---------------------------------------|---|--------------------------------------|

GOL – Government of Laos, CSO – Civil Society Organization

Once the group members reached a common understanding of the question, each member chose a response based on her/his own expert knowledge and perception of the particular governance component and jotted it down on a sticky note. Providing initial responses on sticky notes provided room for participants’ to share their own insights and experiences without being unduly influenced by the rest of the group right at the start. The responses/scores were then tallied and members provided explanations for their choices. The group then tried to reach consensus on their response for the particular question to the extent possible through facilitated discussion and further information provision. The final responses or scores closely reflect the actual state of governance as perceived by the group.

Groups 3 and 4 scored all questions on a consensus basis while Group 1 scored 12 of the 14 questions on a consensus basis. Group 2 was not able to agree on most questions except for one, and presented average scores instead of consensus scores. Group 2 was the most diverse group with almost equal numbers of government, donor and civil society organization (CSO) representatives, and further time would have been required for discussion to reach possible consensus. CSO and private sector representation was low at the meeting and it is possible that greater diversity of participants in Groups 1, 3 and 4 as well may have meant more divergent scores and greater need for discussion to try to reach mutual understanding and consensus.

There were some interpretation problems with the translated Lao versions of the questions not accurately reflecting the content in the English versions. This made it difficult for Lao language speakers to quickly capture the meaning of some terms, and the subtle but meaningful variations in intermediate responses, for example, “some areas” versus “most areas”. Additional time was required to discuss and clarify the intent.

Overall it was a very useful exercise as the group members were exposed to and had to reflect on key forest governance issues related to policy, legal and institutional frameworks, planning and decision-making processes, and implementation, enforcement and compliance. Discussions were lively, and participants were enthusiastic and positive with a view to moving forward.

2.2 Results from the scoring of indicators

The results from the scoring of the specific indicators for each of the governance pillars are presented in the form of bar charts in Figures 2-5 below. Each figure shows the governance gap measured as the % difference between desired level for the indicator and the actual scores assigned by the stakeholders in the group (see conversion in Table 2 below). For those questions where the group score falls below the highest possible, there is a governance weakness and the extent of the shortfall is illustrative of the level of effort needed to improve that aspect of governance to acceptable levels.

For a question with 5 possible responses (0-4), a group score of 4, the best possible response, would mean no governance gap for the indicator. A group score of 0, the least desirable response, would mean a 100% governance gap, and a group score of 2, would mean a 50% governance gap.

Governance gap = $((4-2) \times 100)/4 = 50\%$.

Likewise for a 4-option question (scores of 0-3), a score of 3 would mean no gap, a score of 2 a 33% gap and so on. Where groups were not able to reach consensus (two questions in Group 1, and all but one question in Group 2), average scores were calculated and converted into governance gaps. In a 5-option question, an average score of 1.5 would translate into a governance gap of 62.5%.

Table 2. Conversion of group scores to governance gaps

| Group score (5 options) | Governance gap (%) | Group score (4 options) | Governance gap (%) | Group score (3 options) | Governance gap (%) |
|-------------------------|--------------------|-------------------------|--------------------|-------------------------|--------------------|
| 4 (best) | 0 | 3 (best) | 0 | 2 (best) | 0 |
| 3 | 25 | 2 | 33 | 1 | 50 |
| 2 | 50 | 1 | 67 | 0 (lowest) | 100 |
| 1 | 75 | 0 (lowest) | 100 | | |
| 0 (lowest) | 100 | | | | |

Each bar chart is color-coded to depict the governance gaps as follows:

Red: gap is greater than 67%

Yellow: gap is more than 33% and less than or equal to 67%

Green: gap is less than or equal to 33%

Absence of a bar indicates no gap was identified for that indicator.

In general most attributes of forest governance scored at the workshop could be improved. However, there are notable strengths (as judged by no gaps or very low gaps) in some areas.

Overall, the diagnostics exercise suggests that most extensive gaps occurred in Pillar 2. This is different from common perceptions as stated in the literature, interviews and public meetings that the key forest governance gaps are in Pillar 3, related to weak on-the-ground implementation, enforcement and compliance. However, it is also possible that gaps in Pillar 3 as perceived by different stakeholders may not have come out clearly at the consultation meeting since Groups 3 and 4 dealing with Pillar 3 were mainly composed of government representatives and did not reflect adequately the perspectives of other stakeholders.

Group 1 Pillar 1: Issues covered included forest-related policies and laws, legal framework to support and protect land tenure and use rights, concordance of broader development policies with forest policies, institutional frameworks, and financial incentives and benefit sharing. Group members included government and donor project representatives, as well as one CSO representative. The Group was lively and enthusiastic, and found it easy to reach consensus on many issues. The first question which dealt with the completeness and consistency of the legal framework for different forest areas was difficult to reach consensus on. Participants had varying levels of information on the forest-related legal framework and were not able to discuss and agree easily if the questions were too specific about particular forest areas or agencies. Therefore, sub-questions were removed in some later questions to proceed rapidly.

Strengths identified by the Group in Pillar 1 include a substantive clear legal framework for production forest areas, legal requirement for inventories and/or long term management plans

in some types of forest areas (such as Production Forest Areas and Conversion Areas), national development policies and plans partially promoting sustainability in the forest sector (problem lies in implementing regulations and implementation), policies and laws providing some support to sustainable livelihoods of forest dependent communities, presence of official mechanisms for coordinating cross-sectoral forest-related policy and planning at both national and local levels (though not comprehensive), and clear provisions on benefit sharing from some forest uses and revenues.

The biggest gaps in Pillar 1 relate to lack of a legal framework for village and household forests, highly inadequate forest agency budgets and dependence on donor funding, and inadequacy of existing social and environmental safeguards to ensure sustainability. Areas with moderate scores identified as requiring further improvement were:

- legal frameworks for other forest areas (such as conservation and protection forest areas, commercial plantations, conversion areas, and forest areas allocated to other government agencies such as the military),
- clarity and consistency in forest-related mandates between different agencies at national level and also between national and local levels,
- standards for exercise of discretion by government officials (regulations to be amended and/or developed),
- openness and competitiveness of approval, licensing and sale procedures,
- harmonization of customary and formal rights, and
- strengthening legal requirement for community involvement in public forest management.

Group 2 Pillar 2 Planning and decision-making processes: Issues covered included stakeholder participation, capacity, and action; transparency and accountability; quality of decision-making; and adoption and implementation of standards and safeguards by private sector and civil society. Group members included a mix of government, CSO and donor project representatives. It was an enthusiastic, hard-working group that was able to reach consensus on only one question and would have liked to have had more time to discuss. They faced some problems with translation from English to Lao and interpretation of some of the questions and intermediate responses.

Two significant strengths identified in Pillar 2 are the capacity of forest-dependent communities to be effectively involved in forest management and planning, and access to practical and effective avenues to resolve most types of disputes for at least some stakeholders. The biggest gaps identified related to the lack of inventories and management plans for protection forest areas; political interference affecting the regular activities and technical decisions of the Department of Forest Inspection (DOFI) and the Department of Forest Resource Management (DFRM); low government capacity to engage with other stakeholders; only some stakeholders functioning openly and following the laws, and few private sector actors adopting voluntary safeguards and private codes of conduct. Private sector actors were not present to provide their views.

Group results indicate that the following areas need further strengthening:

- opportunities for stakeholder input in the creation of forest policies and regulations,
- stakeholder participation in planning and management of public forests,

- capacity of civil society, small and medium enterprises, and other stakeholders for involvement in forest management and planning,
- public accessibility of forest-related information
- effective and independent external monitors of forestry agencies' activities
- government revenue tracking system
- use of supply and demand information in policy and decision making
- completion of inventories and management planning in production, conservation and village forest areas across the country
- credible and strong CSOs, and
- effective and independent media.

Group 3 Pillar 3 Implementation, enforcement and compliance: Issues covered by this Group included administration of forest resources, administration of land tenure and property rights, and some measures to address finance-related corruption. Group members who voted in this group included MONRE and DOF representatives, and one donor project representative. Generally through the questions, government staff scored higher than the technical advisor to the donor project, which became a useful part of discussions to defend and explain scoring and mostly leading to consensus at the end. As all members had good command in Lao language, no English interpretation was needed. The discussions mostly focused on how to interpret the questions.

Pillar 3 strengths as identified by the group were: Recordkeeping is reliable, complete, and easy to review in some parts of the country but not in others; state forest boundaries are clearly surveyed and demarcated in most places; serious conflicts between or within communities and between the state and stakeholders occur only occasionally (versus more frequent conflicts between communities and the private sector); secure tenure of state forests and forests allocated to private sector in some parts of the country; secure resource access by forest-dependent communities; and forest agencies subject to some audits and corrective action. Only one very serious gap (> 67% score) was identified – collection, sharing and redistribution of forest taxes, royalties, charges and rents by the Ministry of Finance (MOF) was very ineffective. MOF representatives were not present.

The group results indicate that the following areas need further improvement:

- Salaries of staff and capacity of different forest-related agencies,
- Information management systems,
- Collection, sharing and redistribution of forest taxes, royalties, charges and rents by the Ministry of Industry and commerce (MOIC) and MAF,
- Management to follow plans and lead to sustainable forest management,
- Enabling framework for private sector,
- Current command and control models,
- Demarcation of village and private forest boundaries,
- Clarity and completion of tenure rights allocation for forest and forestland,
- Conflicts between communities and companies,
- Security of village forest tenure, and
- Corruption resistance of revenue management system

The questions most difficult to score were the quality of records and reports on management (there was much debate on this item and finally the group decided on a relatively high score for this item); and boundary demarcation and tenure stability questions especially for private sector, as the term “Private sector” covered a broad range from large scale concessions to households. The group work would have benefitted from presence of all stakeholder groups as invited – Government, CSOs, a few more donor agency/project representatives and private sector representatives. The resulting scores now to a major extent represent the views of government agencies.

Group 4 Pillar 3 Implementation, enforcement and compliance: Issues covered included accountability of forest officials, confidence in the public prosecutor, investigation and penalties for forest crimes, law enforcement strategies and capacity of the five primary law enforcement partners (Customs, Department of Forest Resource Management (DFRM), Economic Police (ENV), Department of Forest Inspection (DOFI/POFI), coordination among forest-related agencies and 13 Lao PDR environmental law enforcement departments, and corruption.

The Group was positive and looked at the need for future solutions. They did not assign very poor scores (suggesting a greater than 67% governance gap) to any indicators. They identified numerous strengths. Strategies and capacity for prevention of forest-related crimes were scored high (particularly at central level) as compared to those for detection and suppression. Law enforcement efforts covered areas outside the forest as well though fragmented. They had confidence in law enforcement departments and the Public Prosecutor. The public prosecutor’s response was strong, but evidence must be collected that supports prosecution. Moderate levels of cooperation and coordination exist between forest-related agencies at national to local levels and across sectors, while coordination between law enforcement agencies was ranked lower. Law enforcement mandates were not clear and may be competing.

Capacity for law enforcement needed to be built, particularly for detection and suppression and for international crime. With regard to corruption, the group believed the government must take control of it and lead change. Codes of conduct existed in DOF, DFRM and DOFI that also address corruption but not in MOIC. There were ways for the public to report corruption but it was not always easy or safe to use. Corruption complaints were dealt with unevenly, some were investigated but not systematically and investigations tended to target the smaller actors.

Figure 2: PILLAR 1- POLICY, LEGAL, INSTITUTIONAL AND REGULATORY FRAMEWORKS (Q1-Q14, SCORED BY GROUP 1)

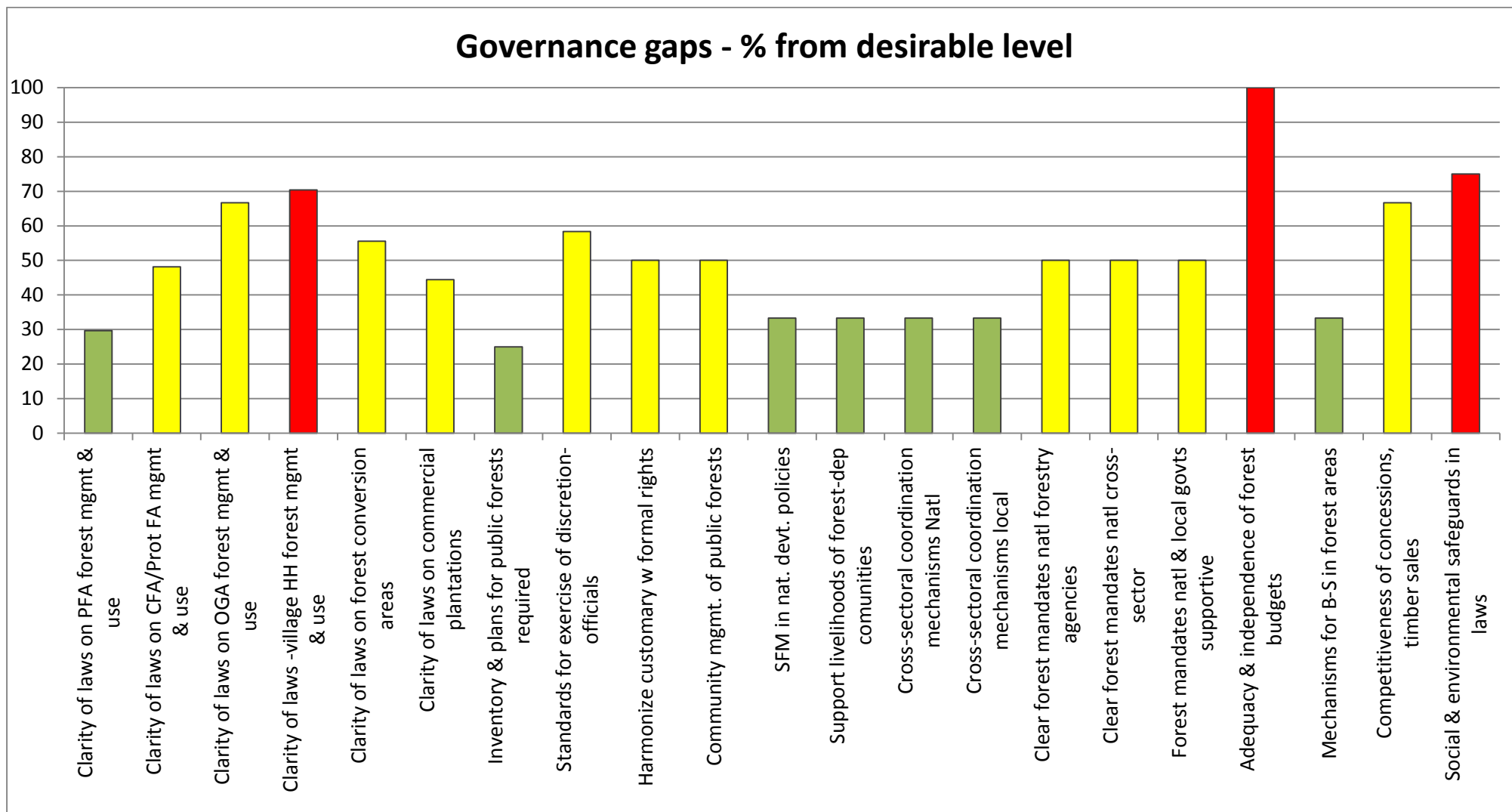


Figure 3: PILLAR 2-PLANNING AND DECISION-MAKING PROCESSES (Q15-Q30, SCORED BY GROUP 2) one mistake

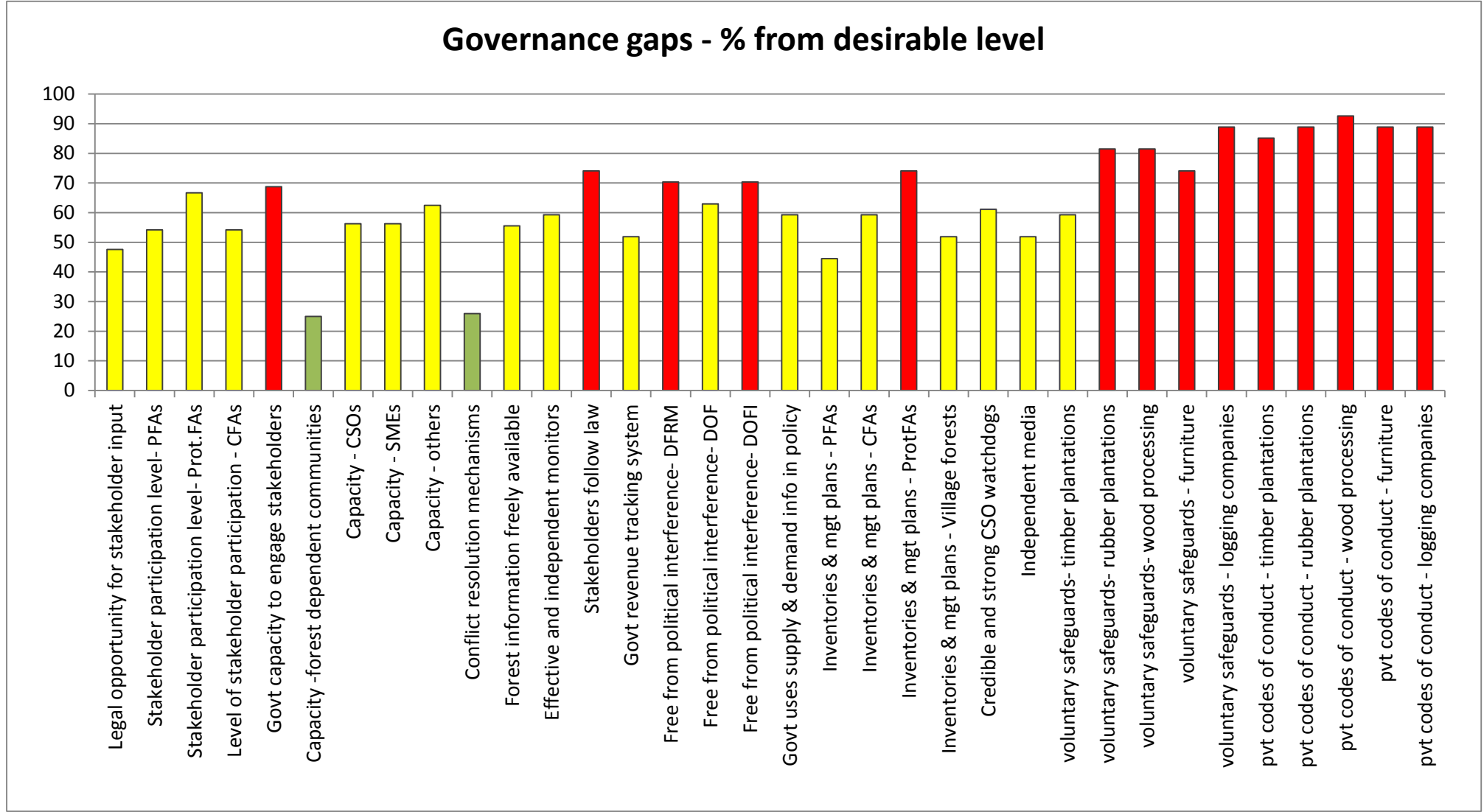


Figure 4: PILLAR 3-IMPLEMENTATION, ENFORCEMENT AND COMPLIANCE (Q31-Q45, SCORED BY GROUP 3)

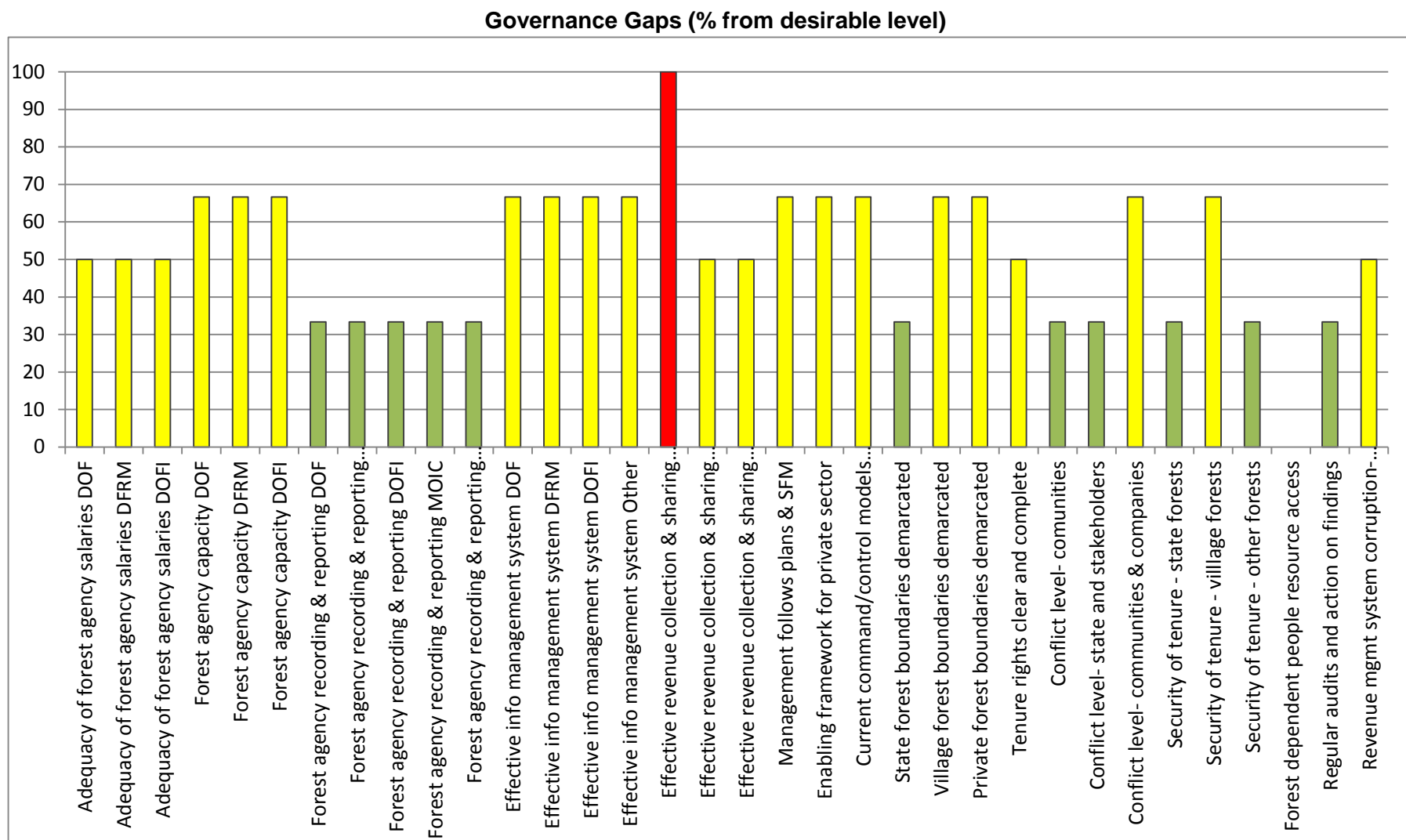
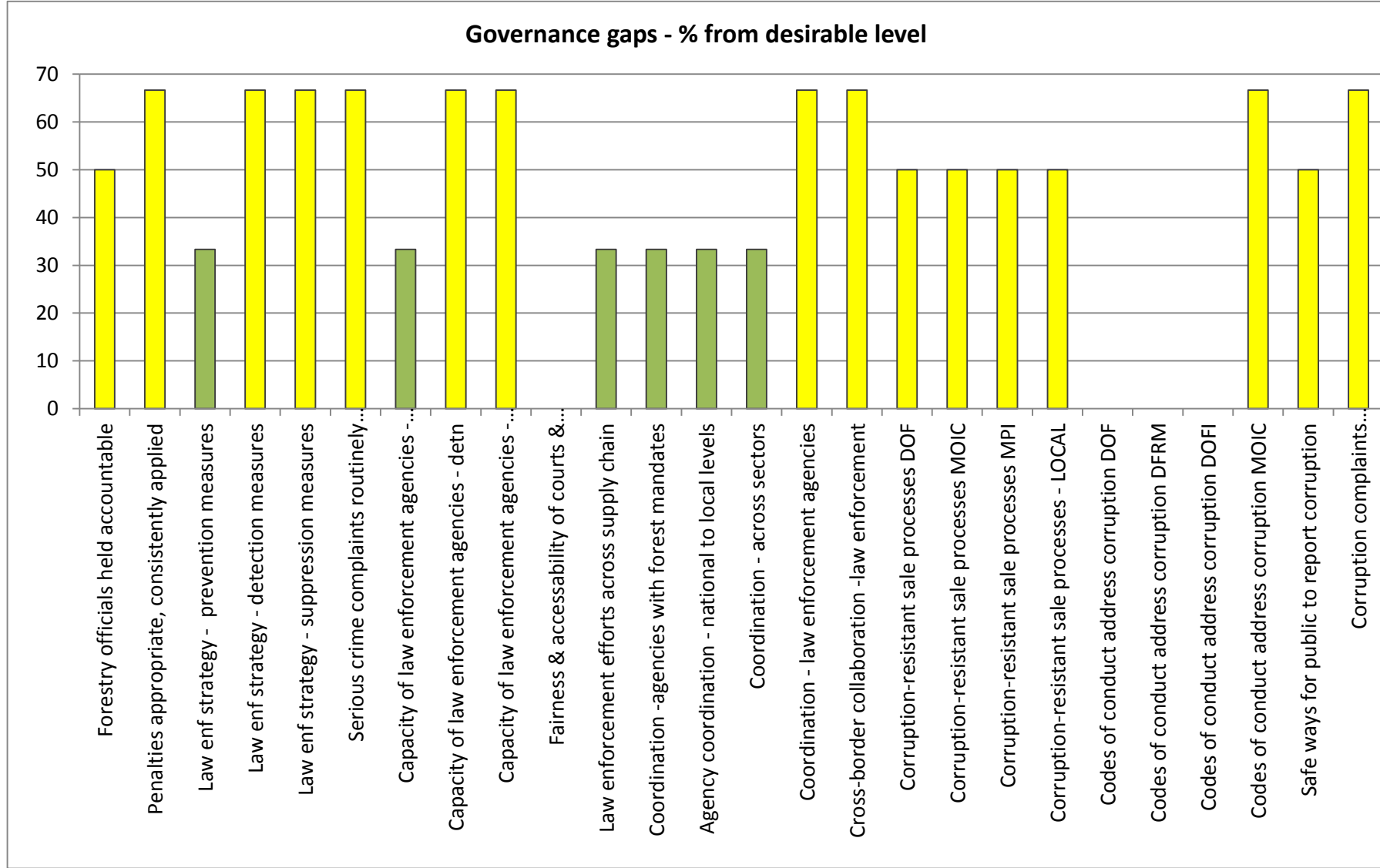


Figure 5: PILLAR 3-IMPLEMENTATION, ENFORCEMENT AND COMPLIANCE (Q46-Q59, SCORED BY GROUP 4)



3. Top priority issues identified by the groups

Based on the scoring of the questionnaires, participants were asked to identify top priority issues requiring urgent action and propose next steps to move these forward in the short, medium and long term. Top priority issues identified by the groups were as follows. See Table 3 for the issues along with suggested actions, actors and linkages to existing initiatives.

Group one Pillar One (Policy, Legal, Institutional and Regulatory Frameworks)

- 1) **Sustainable and predictable budget / financing** – There was full agreement on this item and recognition of the need to track all revenues from forests and ensure its return for forest management and forestry activities. Alternative sources of financing, such as through the Environmental Protection Fund, and through new mechanisms, such as PES and REDD+, were also highlighted.
- 2) **Policy and legal framework** – The Group felt it imperative to complete the legal framework to cover all forest types and activities in a clear manner with little gap to convey the full intent and aid implementation. This included legal frameworks for protection, conservation and village forests, for salvage logging and for clarifying MOIC-MAF mandates.
- 3) **Monitoring and Inspection** – A better legal framework for effective monitoring and inspection was required starting with articles in the forestry law to implementing regulations for different forest areas and clarification of organizational mandates of different agencies for inspection. Independent oversight, peoples' participation, and cross-sectoral coordination for monitoring and inspection were recognized as critical.

Group II Pillar 2 (Planning and Decision Making processes)

- 4) **Data, information, inventories and surveys, boundary delineation** — The Group identified the need to complete forest inventories and provide better information on forest resources in consultation with local groups as a top priority, along with improving and harmonizing databases and tracking across agencies in the medium term, and completing forest land titling and boundary demarcation in the long term.
- 5) **Stakeholder participation in forest management & planning** – There was an urgent need to engage local people in forest management; build capacities for improving forest-related livelihoods through NTFPs, agroforestry and ecotourism; and conduct participatory forest management planning in the long term. Such participation could be initiated through various ongoing donor projects in the forestry sector.
- 6) **Implementation, transparency, independent and joint monitoring** – The Group thought it critical to enhance implementation, transparency and monitoring in the forestry sector by reviewing existing policies, laws and legislation to harmonize and make master plans in the short term, strengthening

forest law enforcement and building capacities for monitoring at all levels in the medium term, and preparing periodic Forest Governance Reports and State of Environment Reports in the long term.

Group III Pillar 3 (Implementation, Enforcement and Compliance)

The Group discussed and agreed on the following three top priorities but did not have sufficient time to complete the specific actions and actors to follow up on these priorities. Issue No 7 here may have some overlap with Issue No 1 identified by Group 1 as a top priority.

- 7) **Collection, sharing and redistribution of Forest Taxes, Royalties, Charges and Rents**
- 8) **Enabling framework for sustainable private sector involvement**
- 9) **Tenure rights to forest and forest land**

Group IV Pillar 3 (Implementation, Enforcement and Compliance)

- 10) **Better collaboration and cooperation with public prosecutor** – Collection of better information by investigation partners to support public prosecution was identified as a top priority. This required assessing information needs from central to district levels with the key five law enforcement agencies; coordinating through a Provincial WEN to gather information; and in the long-term, educating villagers on their rights and responsibilities and creating a public informant network.
- 11) **Strengthen law enforcement agency capacity and co-operation** – The Group thought it critical to strengthen law enforcement agency capacity and cooperation by building law enforcement skills through training and workshops for DOFI and all Lao Wildlife Enforcement Network (Lao WEN) partners, establishing Provincial WENs in the medium-term, and establishing an environmental law enforcement training curriculum and/or academy in the long term.
- 12) **Strengthen law enforcement strategy of all departments and local institutes** - Building a common vision and direction was another top priority. This could be done by designing and implementing consistent and coordinated Terms of Reference, Standard Operating Procedures and environmental law enforcement Strategy for all Lao-WEN Law Enforcement Partner agencies in line with the Lao-WEN strategy.

Table 3. Top priorities for action and suggested next steps

| Timeframe | Suggested actions | Responsible actors | Existing initiatives & linkages |
|--|--|----------------------------------|---------------------------------|
| Issue 1: Sustainable & predictable budget / financing | | | |
| Medium term (1-3 years) | Improve tracking of all revenues from forests (salvage logging and other) and ensure return of revenue for forest management / forestry activities | PM office, MAF and MOF committee | |
| | Restructure and leverage the mandate of the Environmental Protection Fund (EPF) for the forestry sector as well. Some forest funds for protection, conservation, biodiversity should be managed under the EPF, and the EPF should apply to all provinces, not just a few | MAF, MOF, DPM | |
| | New revenue sources (PES/REDD, Biodiversity offsets) | DFRM, DOF | |
| Issue 2: Policy & legal framework (transparency, clarity, comprehensive) | | | |
| Short term (< 3 years) | Improve PM order No. 17 (to reduce illegal logging and clarify MOIC-MAF mandates) | | |
| | Improve Decree 33 on protection forest | | |
| | Formulate new Conservation Forest Decree | | |
| Medium term | Improve salvage logging regulations | | |
| | Formulate protection forest guidelines | | |
| | Formulate village forest regulations | | |
| Issue 3: Monitoring and Inspection (including oversight & peoples' participation) | | | |

| Timeframe | Suggested actions | Responsible actors | Existing initiatives & linkages |
|---|---|--|--|
| Short term | Ensure improved monitoring and inspection (with independent oversight agency & people's participation) in the current revision of forestry law | Law revision committee chaired by MONRE, DFRM technical lead | |
| Medium term | Ensure improved monitoring and inspection (with independent oversight agency & people's participation) in implementing regulations developed for different forest areas | DFRM, DOF, MONRE | |
| Long term (> 3 years) | Clarify the mandates of the different inspection agencies and ensure the independence of the central inspection agency | DFRM, DOFI, PM Office, National Assembly, State Audit Organization | |
| | Establish a cross-sectoral M&E committee | MONRE, MAF, PM Office | |
| Issue 4: Data, information, inventories and surveys, boundary delineation – in consultation with local groups | | | |
| Short-Term | Complete Production Forest Area inventories | DOF, FIPD, Universities | SUFORD-SU |
| | Implement PM Decree on forest inventory and survey | MONRE, MAF | NA Order to resurvey 3 forest types PM Order to complete PFA forest inventory & demarcation by 2015 |
| Medium Term | Improve and harmonize databases and tracking | MONRE, MAF, MOF, MOIC, LSB, MPI | Lao DECIDE, SUFORD-SU, FIPD, MAF, DOFI, etc. |
| Long-Term | Forest land titling and boundary demarcation | MONRE, MAF | Must parallel existing commercial land titling |
| Issue 5: Stakeholder participation in forest management & planning – increase diversity of stakeholders and build capacities | | | |
| Short-Term | Engage local people in forest management | MAF, MONRE, LFNC, LWU | SUFORD-SU, PES, CliPAD, other projects |
| Medium Term | Training on forest-related livelihoods, NTFPs, agroforestry, ecotourism | MAF, MONRE | SUFORD-SU, PES, CliPAD, other projects |

| Timeframe | Suggested actions | Responsible actors | Existing initiatives & linkages |
|---|---|--|--|
| Long-Term | Participatory forest management planning | | SUFORD-SU, CliPAD, other projects |
| Issue 6: Implementation, transparency, independent and joint monitoring | | | |
| Short-Term | Review of policies, laws, legislation to harmonize & make master plans | National Assembly, MAF, MONRE, media | SUFORD-SU, CliPAD, GIZ, others |
| Medium Term | Strengthen forest law enforcement | MAF, MONRE, MOJ, villagers | DOFI, Lao-WEN |
| | Build capacities for monitoring at all levels | MAF, MONRE, FSSWG, media, villagers | FSCAP monitoring of FS2020, SUFORD-SU, CliPAD, other projects |
| Long-Term | Forest Governance Reports – every 3-5 years | MAF, MONRE, DOFI, MOIC | State of Environment Reports every 3 years, national water sector profiles |
| Issue 7: Collection, sharing and redistribution of Forest Taxes, Royalties, Charges and Rents | | | |
| Issue 8: Enabling framework for sustainable private sector involvement | | | |
| Issue 9: Tenure rights to forest and forest land | | | |
| Issue 10: Public Prosecutor Collaboration | | | |
| Short term | Investigation partners (collect better information) - Public Prosecutor conduct needs assessment meeting at Central, Provincial and District Levels with 5 key law enforcement departments. | <u>Lead:</u> Public Prosecutor <u>Partners:</u> Army, Customs, Anti-Corruption Agency, DOFI/POFI, Economic Police | SUFORD-SU Project, Protected Area Wildlife Project |
| Medium term | Department Cooperation (work together to collect information): Design and Implement Provincial-WEN that will coordinate enforcement departments. | <u>Lead:</u> DOFI <u>Partners:</u> Army, Customs, Anti-Corruption Agency, Economic Police, MOIC | SUFORD-SU Project, Protected Area Wildlife Project |

| Timeframe | Suggested actions | Responsible actors | Existing initiatives & linkages |
|---|--|---|---|
| Long term | Village education (collect timely information): Educate villagers on their rights and responsibilities and create public informant network. | <u>Lead:</u> Public Prosecutor <u>Partners:</u> DOFI/POFI, NGOs, Prov-WEN | SUFORD-SU Project, CliPAD Project Pro-FLEGT Project, KfW Project, NGOs |
| Issue 11: Agency Co-operation | | | |
| Short term | Co-Training Workshops & Courses (Building Skills): Ensure that all Law enforcement training and workshops have equal participation of DOFI/POFI and Lao-WEN partner departments. | <u>Lead:</u> DOFI (Chair of Lao-WEN) <u>Partners:</u> 13 Lao-WEN Departments | SUFORD-SU Project, CliPAD Project, Pro-FLEGT Project, KfW Project |
| Medium term | Establish Provincial WEN (Building Confidence): Coordinate all provincial departments having an environmental law enforcement responsibility. | <u>Lead:</u> Chair of Lao-WEN <u>Partners:</u> Provincial law enforcement departments. | SUFORD-SU Project, CliPAD Project, Pro-FLEGT Project, KfW Project |
| Long term | Training Academy at NUOL (Building Knowledge): Establish a law enforcement practical training curriculum at NUOL for environmental law enforcement. | <u>Lead:</u> NUOL <u>Partners:</u> Lao-WEN | SUFORD-SU Project, CliPAD Project, Pro-FLEGT Project, KfW Project |
| Issue 12: Law Enforcement Strategy | | | |
| Short term | Lao-WEN TOR (Common Vision): Design and implement Terms of Reference for all Lao-WEN Law Enforcement Partners | <u>Lead:</u> Chair of Lao-WEN <u>Partners:</u> All Lao-WEN Departments. | SUFORD-SU Project, CliPAD Project, Pro-FLEGT Project, KfW Project |
| Medium term | Lao-WEN SOP (Common Direction): Design and implement Standard Operating Procedures for use by all LPDR Departments having an environmental law enforcement responsibility. | <u>Lead:</u> Chair of Lao-WEN <u>Partners:</u> All Lao-WEN Departments | SUFORD-SU Project, CliPAD Project, Pro-FLEGT Project, KfW Project |

| Timeframe | Suggested actions | Responsible actors | Existing initiatives & linkages |
|-----------|--|--|---|
| Long term | Lao-WEN Partner Strategy (linked to Common Lao-WEN Strategy): Design and implement department law enforcement strategy that is common to Lao-WEN Strategy, i.e. having one strategy) | <u>Lead:</u> Ministries <u>Partners:</u> All Departments that have an environmental law enforcement strategy. | SUFORD-SU Project, CliPAD Project, Pro-FLEGT Project, KfW Project |

4. Next steps and actions from the consultation meeting

Eight invited speakers from different agencies presented their viewpoints and statements on priority issues for forest governance, their organization's engagement or planned engagement in these areas, and the way forward from this present initiative to accomplish and monitor forest governance reform in Laos. The session was chaired by Mr. Thongpath Vongmany, the DG of DOF.

Mr. Shuhei Terada, JICA: Mr. Shuhei stated that the consultations were very open the day before and main priority issues had been identified for further action. The Forestry Strategy 2020 review indicated the weak governance in the forestry sector, and forest governance was raised as a key issue at the last Forestry Subsector working Group (FSSWG) meeting on September 23rd, 2014. The issue needs to be addressed as part of the overall forestry sector and not only under REDD+. Forestry is a priority for JICA in Laos and JICA has supported many projects to date. JICA assisted in formulating FS 2020, the development of the forestry law in 2007, five-year plans and other regulations, as well as capacity development for planning. JICA will formulate a new integrated Forestry Sector Program starting in December 2014 and covering sustainable forest management and REDD+ activities. The background paper for the meeting and many other studies suggest that Lao forestry is under heavy pressure at the moment. Improved governance is critical to achieve sustainability. JICA wants to join forces with the Lao government, development partners and CSOs on these challenging issues.

Mr. Satoshi Ishihara, World Bank: Mr. Satoshi stated that the candid assessment at the consultation meeting provided a good starting point. All stakeholders can align their perspectives and agree on where Laos is, and what the key issues and priority actions required are. Even more important is the follow-up on what has been discussed and agreed upon. Then can go back again in 6 months or a year to monitor progress and address remaining gaps. The WB is supporting SUFORD-SU and FCPF projects, which cover a lot of forest governance-related issues. Socio-economic development and poverty are closely linked since many people live in forests or have a stake in the forests. A common mechanism has to be established for all stakeholders to discuss issues. He offered his congratulations on this very important workshop and said that the WB was glad to support the process.

Heiko Woerner, GIZ ProFLEGT Project: Mr. Heiko provided an overview of GIZ support to the FLEGT process and VPA negotiations since 2010. Multi-stakeholder working groups have been established for defining timber legality, wood processing, village forest management, etc. A FLEGT meeting was to be held on 8 November 2014 for the working groups to discuss these topics with other broader stakeholders. The FLEGT VPA process will involve multiple stakeholders: government, civil society and the private sector. There is high political commitment from MAF, MONRE and MOIC; and other Ministries are also joining the technical working groups. He was very happy about the outcomes of this consultation meeting and stated that most of the issues raised here would be followed up in the FLEGT VPA process.

Mr. Saneu Chounramany, New Chip Xeng (NCX) Group: After listening to the presentations and feedback over the last two days, Mr. Saneu wanted to provide some feedback on behalf of the private sector. He explained his background. NCX was a Honda distributor operating in Laos for 23-24 years. They have been dealing with forestry issues in the last 3-4 years and

were the developers of the first REDD+ project using a public-private partnership model in Laos. On 18 August 2014, they signed an agreement with MONRE to conduct joint projects through the public-private partnership model, which is a very important model for the private sector.

He focused on three main points related to forest governance from the private forest sector point of view:

- There is a need to showcase good models to enhance implementation and forest law enforcement. The Lao tradition is to pay respect to seniors, elderly and those with more experience. Government forestry officials need to act as models for enforcing laws for subordinates further down at different levels.
- Enforcement of laws and regulations tended to be arbitrary, compromising and not stringent. There are many weaknesses and gaps, and stronger measures are needed to alter the course of the forestry sector at this critical time.
- With division of responsibilities for the forestry sector from one (MAF), to later two (MAF and MOIC) and now three Ministries (MAF, MOIC, MONRE), illegal logging rose and reached the massive proportions of today. History provides the answer to what needs to be done. If responsibilities are divided between many Ministries, there are more gaps and loopholes. One Ministry should take the lead and responsibility, so they can be more decisive. Others can cooperate with them. He emphasized that he was not criticizing any person or Ministry, just looking at the historical situation.

Souvanpheng Phommasane, Agroforestry Development Consulting (CSO): He agreed with the comments made by other participants, especially the previous speaker. In practice, non-profit associations have been working hand in hand with the government to disseminate the laws and implement policies at the local level. He thanked DOF for inviting them to this meeting to share their comprehension and understanding. In this forum, forest governance was examined at the macro level. It should also be examined at the micro or community level. He highlighted co-management as an important governance tool that has been piloted on the ground in the GIZ Hin Nam No project in Khammuane province. Some problems in implementation are that certain rights need to be allocated to villagers to make management decisions, detain encroachers, etc. for effective enforcement; or as in Viet Nam, where villagers could refer such cases to districts or provinces. Co-management he felt, is a good model for forest governance in the future.

Saysamone, DDG, DFRM MONRE: He clarified that DFRM also had a role to play in successful implementation of REDD+. With regard to forest governance, there are now two forestry departments, DOF and DFRM, with different responsibilities. Activities of DFRM are being reviewed and revised after two years of operation now. Detailed work plans on forest restoration, timber plantation establishment, forest inspection and other activities along with coordination between the different agencies (such as DOF, water resources, electricity and other law enforcement agencies) and among line departments is critical. Budgets and qualified personnel are also essential. MONRE does not have forestry staff in some provinces. When MONRE separated from MAF, MAF did not dispatch personnel, and they had to wait for the National Assembly to allocate staff.

Participatory forest management is important and DFRM is now exploring modalities for community engagement with the National University of Laos - possible benefit-sharing

approaches and incentives for local people. It is also essential to have field offices in all forest areas but this leads back to issues of personnel shortages. He reflected on whether the resource shortages could be resolved by recruiting contractual staff, as in Nam et Phou Louey National Protect Area, or by using local villagers, or working with the military.

Policies and legislation need reevaluation or drafting: Forestry Strategy 2020, vision to 2030, wildlife and aquatic law, PM Decree 17, and legislation for Protection Forest Areas and Conservation Forest Areas. The revised forestry law is ready and would be presented to the National Assembly in the coming session. Enforcement and advocacy should be combined with policy making.

Bounthan Philachanh, DOFI: Mr. Bounthan stated that DOFI was one of the agencies to suppress illegal logging and supervise the logging business as stipulated in the criminal procedure laws. He presented three key issues that need strengthening:

- **Staff training:** Originally DOFI was set up at central and provincial levels, and now it had expanded to the district level. Most of the staff recruited at local levels come with a forestry background and have to be trained regarding laws and their enforcement, including sophisticated training on inspection and collection of evidence. Staff accountability has to be improved and the support of higher authorities to ensure transparency of field operations is important. Training is required for prosecutors too to ensure that they consider and follow the procedures in the law.
- **Patrolling:** Patrolling activities need strengthening. This includes setting up patrolling stations in the most vulnerable hot-spot areas, emergency mobile teams to respond in a timely manner when information comes in from remote areas, and a feedback network of individuals who could work undercover with law enforcement agencies.
- **Information system:** A reporting and information system has to be developed to support forest law enforcement and prosecutors. Records of wrong-doers, criminal records and seizure of proceeds have to be maintained. The database should have genuine actionable information to strengthen forest law enforcement and protect forests.

Mr. Khamsene Ounekham, REDD Office, DOF: He clarified the priority areas for forest governance under DOF which included expediting the survey of production forest areas by 2015, supporting REDD+, and contributing to improvement of law enforcement and forest governance.

DOF has sufficient staff but their capacity needs strengthening in terms of expertise, and skills in facilitation, coordination and communication within their own department, and with other agencies, sectors, outsiders and international agencies. Rather than just sporadic training, a systematic approach to building capacity is required along with material and equipment.

Further clarity is required in organizational structures, roles and responsibilities for enhanced forest governance. Organizational arrangements would be reviewed under the FCPF project and improved to meet the requirements of REDD+.

This meeting is the first of several upcoming discussion meetings under FCPF. Many such meetings will be held in the future to develop the REDD+ mechanism, revise legislation and consolidate all feedback in line with UNFCCC and national requirements.

Mr. Thongpath, the chair, thanked individual speakers for their frank comments and good suggestions. Following the remarks from the eight invited speakers, he opened up the discussion to the other participants.

Mr. Somsack, Head of Village Forest Division, DOF highlighted the importance of allocating and managing village forests in relation to forest governance. With the SUFORD project in the past, MAF has a role in village forest allocation in the production forest areas. Allocation has to also be completed in the 1.9 million hectares of village forests outside the three forest categories, and funding and budgets are required to complete this task.

Mr. Kaisorn, DDMCC, MONRE: Mr. Kaisorn pointed out that the participants had looked at different dimensions of forest governance over the last two days but had not looked at forest potential besides REDD+. These included biodiversity, herbal products, food, other PES mechanisms and multi-purpose forest use. There is increasing demand for eastern traditions. He believes that such potential should be explored and integrated into the national strategy.

Thongsoune Bounphasaisol, GIZ CliPAD Project: He pointed out that for forest protection at the grassroots level, local viewpoints, their roles and problems have not been considered in depth yet. How can they get involved? Are they the causes of forest destruction? How can we help them so they can join forest protection? Local people could not be ignored when talking about forest governance. If people have food to eat, they could be the guardians of the forest and law dissemination may not be an issue. He called for a dialogue with local people for effective forest governance in the future. **Mr. Thongpath** agreed that setting up village forests and village forestry units for the more than 8000 villages in the country was the missing link, especially for forest law enforcement.

Saneu Chounramany, NCX Group: He called for more private sector involvement in the future to ensure a truly multi-stakeholder dialogue.

Esa Puustjarvi, Chief Technical Advisor, SUFORD-SU Project: He highlighted the governance problem inside production forest areas related to classification of “degraded forest areas” as “potential forest areas”. People use the degraded areas for shifting cultivation to maintain their livelihoods and if this is prohibited, their standards of living would be lowered. Degraded areas are classified as forest areas, but going back after three years, one finds the villagers there again and there are no alternatives to offer them. Continuation of this policy means the continuation of the problem. The future use of degraded forest areas has to be defined. To what extent they could become forests again and how soon - maybe in the long-term, but unrealistic to assume that they could become forest as soon as the management plan was prepared. He believes the issue should be reviewed as part of the forest law revision. **Mr. Thongpath** thanked him for the comment and responded that they were discussing this issue as part of the National Forest Inventory classification discussion and making adjustments.

5. Closing remarks by Mr. Thongpath Vongmany, DG, DOF

Mr. Thongpath expressed his appreciation for the 1.5 day-consultation meeting on behalf of the co-chairs, himself and Mr. Satoshi Ishihara from the World Bank. Issues discussed at the meeting were consistent with government directions to improve forest governance. MAF organized governance and administration training for its staff, both senior officials and technical staff 2-3 times a year. This workshop was very useful for the forestry sector and could provide inputs for staff governance training.

There was clear policy direction and improvements in the legal framework, but there were many implementation challenges and pitfalls with many problems emerging. He indicated that one had to be honest about forest governance improvement for consistency, efficiency and to overcome the pitfalls. Many countries in the region prohibit exploitation and logging, but wood consumption is increasing. It is important to identify and address the root causes of the problems and poor governance, and see how these root causes influence the future directions.

He indicated that they accepted all the comments and discussions even though there were a lot of challenges and problems, so they could improve and reform forest governance in the future. He expressed deep appreciation to the WB FCPF for organizing the meeting and for their concerns about forest governance issues in Lao PDR. He believed that valuable information had been obtained from the workshop to improve forest governance in Lao PDR. Forest governance is also related to local people, poverty eradication, socio-economic development and environmental issues. They need to balance development and conservation goals by classifying the different areas and using some areas for development.

PM Decree No. 17 clarifying MAF-MOIC mandates had been revised the day before and sent to the Deputy Prime Minister. Other legislation is now being revised. Mr. Thongpath appreciated the contributions made by all representatives, and thanked them for sparing their time and providing constructive feedback. He accepted all the inputs so they could continue discussing and improving forest governance in all aspects, such as policy, decision-making, and enforcement at macro and micro levels simultaneously. He believed the time was now right for action. He declared the workshop closed with great success and looked forward to the consolidated inputs and final report.

Annex 1. Meeting Agenda

Organizers: Department of Forestry (DOF, MAF), World Bank Forest Carbon Partnership Facility (FCPF), GIZ Climate Protection through Avoided Deforestation (CliPAD), SUFORD Scaling Up Project

Venue: Lao Plaza, Vientiane

Language: Lao and English with simultaneous interpretation

| TIME | MAIN ACTIVITY | DETAILS |
|--------------------------------|---|---|
| Day 1 (27 October 2014) | | |
| 08.00am | Participant registration | |
| 08.30am | Opening session | Co-chairs (DG DOF Mr. Thongpath Vongmany and WB Country Manager Ms. Sally L. Burningham) welcome and opening remarks Mr. Satoshi Ishihara (WB) introduces governance diagnostics exercise, and presents meeting objectives and experiences from |
| 09.00am | Background paper on forest governance in Laos | Project expert (Dr. Unna Chokkalingam) summarizes background paper, followed by Q&A and discussion |
| 10.00am | Coffee/Tea | |
| 10.15am | Introduction to group discussions | Dr. Paula Williams provides instructions for group formation and work - to score the governance indicators, and to identify a small number of reform priorities and proposed actions to address them |
| 10.30am | Group discussions | The groups begin to score the indicators |
| 12.00pm | Lunch | |
| 01.00pm-04.30pm | Group discussions | Scoring of indicators continues. On completion of scoring, groups identify priority issues and proposed actions to address them Each group's reporter submits the group's scoring, the identified priority issues and proposed actions in writing to the facilitator |
| Day 2 (28 October 2014) | | |
| 08.30am | Informal viewing of group outputs | Facilitators have posted the group reports on meeting room walls |
| 09.00am | Group presentations in plenary | Reporters present their group's work; Q&A and discussion after each presentation (facilitated by Mr. Thongsoune Bounphasaisol) |
| 10.30am | Coffee/Tea | |
| 10.45am | Group presentations continue | |
| 11.15am | Way forward | Remarks by panel on how to monitor progress in forest governance – Donor agencies, NGOs, Private sector, DOFI, DFRM, DOF Co-chairs lead open discussion of next steps, priorities for reform, application to ongoing processes (e.g., REDD+, FLEGT) |
| 12.15pm-12.30pm | Closing session | Closing remarks by co-chairs |
| 12.30-01.30pm | Lunch | |

Annex 2. Participant List October 27-28, 2014

| No | Name | Organization | Position |
|-----|--------------------------|--|--------------------------------|
| 1) | Khamla Phandanouvong | Green Community Development Association (GCDA) | Deputy Director |
| 2) | Carl Mossberg | Independent Consultant | |
| 3) | Boupha Vongkhamchanh | DOF | Official |
| 4) | Paula Williams | SUFORD SU Project-DOF | M&E Advisor |
| 5) | Lomkham Sengchanoudom | Forest Resource Development Fund, DOF | Head of section |
| 6) | Anothay Chanthalasy | Land Use Planning Department | DDG |
| 7) | Viengxamay Srithirath | World Bank | Country Officer |
| 8) | Chinsamouth Keosoutha | Social Development Alliance Association (SODA) | Co-director |
| 9) | Bounpakone Phongphichit | Planning and Cooperation Department | Head of Division |
| 10) | Souvanna Chanthaleusi | REDD Office, DOF | Deputy Head of Division |
| 11) | Saysamone Phothisat | DFRM, MONRE | DDG |
| 12) | Micah Ingallis | UNDP | Expert |
| 13) | Houmpheng Bouphakham | DFRM, MONRE | Head of REDD Division |
| 14) | Khamphone Bounthavy | DOFI | Head of Cooperation section |
| 15) | Vinh Phengdouag | Department of Land Planning and Development, MONRE | DDG |
| 16) | Thongsouk Xayaphanthong | Dept. of Disaster Risk Management, MONRE | Deputy Head |
| 17) | Kaisorn Thanthathep | DDMCC, MONRE | DDG |
| 18) | Somsack Sy Somvang | DOF, Village forest division | Head |
| 19) | Heiko Woerner | GIZ ProFLEGT Project | Technical Advisor |
| 20) | Thongsoune Bounphasaisol | GIZ CliPAD | National Technical Coordinator |

| | | | |
|-----|------------------------|---|--------------------------------------|
| 21) | Ammala Namsavanh | MPI | Official |
| 22) | Nathan Liebel | UNDP PEI | CTA |
| 23) | Lamphanh Khomadam | DFRM, MONRE | Head of National Protected Areas |
| 24) | Simphaserert | SUFORD | Finance Officer |
| 25) | Bill Adams | SUFORD - DOFI | Technical Advisor |
| 26) | Noriyoshi Kitamura | JICA NFIS Project-DOF | CTA |
| 27) | Esa Puustjarvi | SUFORD-DOF | CTA |
| 28) | Jussi Viding | SUFORD | JPO |
| 29) | Souvanpheng Phommasane | Agro-Forest and Development Consultant Co. (AFC) | Director |
| 30) | Bounthanh Philachanh | DOFI | Director of Planning and Cooperation |
| 31) | Lattana Thammavongsa | DOF, Production Division | Deputy Director |
| 32) | Richard Hackman | Mekong Regional Land Governance Project (SDC-GIZ) | Coordinator |
| 33) | Saneu Chounramany | New Chip Xeng | Vice President |
| 34) | AirYai Vongxay | DOF REDD office | Officer |
| 35) | Khamsene Ounekham | DOF REDD Office | Deputy Director |
| 36) | Sandy Soukasearm | DOF REDD Office | Officer |
| 37) | Keoladorm Phanthavong | DOF | Officer |
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| 50) | Michael Brady | IFC | |

Annex 3. Final Questionnaire used at meeting

PILLAR 1 (GROUP 1): POLICY, LEGAL, INSTITUTIONAL & REGULATORY FRAMEWORKS

1.1 FOREST RELATED POLICIES AND LAWS

- 1) Are there clear and consistent laws and regulations governing forest use and management?
- 2) Does the forest law require the government to inventory the public forests and create plans for them?
- 3) Where the law grants discretion to government officials, does the law include standards for exercise of that discretion?

1.2 LEGAL FRAMEWORK TO SUPPORT AND PROTECT LAND TENURE, OWNERSHIP AND USE RIGHTS

- 4) Do the laws recognize customary and traditional rights to land and forest resources and harmonize them with formal rights?
- 5) Does the law include ways for local communities to share or obtain management authority over some public forests?

1.3 CONCORDANCE OF BROADER DEVELOPMENT POLICIES WITH FOREST POLICIES

- 6) Do national development policies and plans promote sustainability in the forest sector?
- 7) Do forest policies and laws support and enable sustainable livelihoods of forest dependent communities?
- 8) Are there mechanisms within the government to coordinate and harmonize cross-sectoral forest-related policy, planning, or practice issues?

1.4 INSTITUTIONAL FRAMEWORKS

- 9) Are forest-related mandates of national agencies clear, distinct and mutually supportive?
- 10) To what extent are forest-related mandates of national and local governments clear and mutually supportive?
- 11) Are the forest agency budgets adequate and predictable for pursuing national goals for sustainable forest management, and independent of forest revenues, donor funding, and other distorting factors?

1.5 FINANCIAL INCENTIVES, ECONOMIC INSTRUMENTS & BENEFIT SHARING

- 12) Does the law have specific provisions for sharing benefits or revenue from public forests with local communities?
- 13) Do the laws and policies require open and competitive procedures such as auctions to allocate forest resources, government concessions and sales of forest products?
- 14) Do laws require forest sector activities to meet sustainability safeguards and standards to protect against social and environmental harm?

PILLAR 2 (GROUP 2): PLANNING & DECISION-MAKING PROCESSES

a. STAKEHOLDER PARTICIPATION, CAPACITY, AND ACTION

- 15) Do laws give local communities and other stakeholders opportunities for input in the creation of forest policies, laws and regulations?
- 16) What is the level of stakeholder participation in planning and management of public forests?
- 17) Do governments (at all levels) have capacity to engage with communities, civil society organizations and other stakeholders on forest-related decision-making processes and implementation?
- 18) Do stakeholders (forest dependent communities, civil society and small and medium enterprises) have the capacity to be actively involved in forest management and planning?
- 19) Are there practical and effective means for stakeholders to resolve forest and land-related conflicts?

2.2. TRANSPARENCY AND ACCOUNTABILITY

- 20) Is forest-related information (forest cover, inventory data, management plans, production and trade data, legal framework, budgets and revenues) easily accessible to the public in a user-friendly format?
- 21) Are there effective and independent external monitors and evaluators of forestry agencies' activities?
- 22) Do private agencies, corporate entities, businesses and civil society organizations operating in the forest sector function in an open and transparent manner with adherence to the rule of law?
- 23) Does the government have a transparent, credible and comprehensive system of tracking its revenues and expenditures in the sector?
- 24) Is the forest agency free from political interference?

2.3 QUALITY OF DECISION-MAKING

- 25) Does the government use supply and demand information in making forest-related planning and decision-making?
- 26) Have forest inventories been conducted and management plans been developed for all public forests and communal forest areas?

2.4 ADOPTION AND IMPLEMENTATION OF STANDARDS AND SAFEGUARDS BY PRIVATE SECTOR AND CIVIL SOCIETY

- 27) Does the forestry sector have credible and strong civil-society organizations with independence in decision making, including monitors and watchdogs?
- 28) Are the media independent and free to publish reports on forests and their management in a format widely accessible to the public?
- 29) Have large private sector actors in the forest sector (including financial institutions), adopted and implemented voluntary environmental and social safeguards? (33)
- 30) Do forest industries (private operators like logging companies, sawmillers, timber dealers, plantation companies, furniture makers, etc.) have a private code of conduct, including provisions against participating in corruption? (34)

PILLAR 3 (GROUP 3): IMPLEMENTATION, ENFORCEMENT AND COMPLIANCE

3.1. ADMINISTRATION OF FOREST RESOURCES

- 31) Is the salary and benefit package for forest agency staff adequate to attract and retain competent staff?
- 32) Do the forest-related agencies have the capacity to fulfill their mandates and oversee the areas assigned to them?
- 33) Does the forest-related agency record and report its management and/or enforcement activities?
- 34) Do forest-related agencies have an effective information management system and use information technology (e.g., computers & appropriate software, GPS, GIS) appropriately to carry out their responsibilities?
- 35) Are the collection, sharing and redistribution of forest taxes, royalties, charges and rents effective?
- 36) Does on-the-ground management of forests follow adopted policies, laws and plans and show a commitment to sustainable management of forests?
- 37) How is the enabling framework for sustainable private sector involvement including investments in forestry?
- 38) Are command and control approaches applied to forest markets achieving their objectives?

3.2 ADMINISTRATION OF LAND TENURE AND PROPERTY RIGHTS

- 39) Are forest boundaries clearly surveyed and demarcated on the ground?
- 40) Are tenure rights to forest and forestland clear, complete, and well-recognized?
- 41) Are there serious conflicts between different stakeholders in the context of forest access, management and use?
- 42) Are forest and forestland tenure stable and secure, so people can rely on them to plan their activities and investments?
- 43) Do forest dependent communities have secure access to the resources that they depend on?

3.3 MEASURES TO ADDRESS CORRUPTION

- 44) Are regular audits of the forest agencies undertaken and is action taken on the findings?
- 45) Are the systems for forest revenue collection, expenditure, budgeting, accounting, redistribution and audit resistant to corruption?

PILLAR 3 (GROUP 4): IMPLEMENTATION, ENFORCEMENT AND COMPLIANCE

4.1 FOREST-RELATED LAW ENFORCEMENT AND ADJUDICATION

- 46) Are forest agency officials held accountable if they fail to perform their duties or fail to act lawfully?
- 47) Are the penalties for breaches of forest laws and regulations appropriate and consistently applied?
- 48) Does the government's forest law enforcement strategy include effective measures for prevention, detection and suppression of forest crimes?
- 49) Are reports of serious forest crimes routinely investigated?
- 50) Do law enforcement agencies have adequate capacity to suppress, detect and prevent forest related crimes and illegal activities?
- 51) Are the courts and arbitrators accessible, fair, honest and independent; and can they deliver enforceable outcomes?
- 52) Does the government effort against forest crimes cover the whole forest supply chain, including transport, processing, and trade?

4.2 COOPERATION AND COORDINATION

- 53) To what extent are forest-related activities of different agencies coordinated and mutually supportive?
- 54) Is there effective coordination within and between law enforcement agencies, including police and customs, to combat forest crime?
- 55) Does the country participate in cross-border collaboration (whether issue-specific or general forestry collaboration) on forest law enforcement?

4.3 MEASURES TO ADDRESS CORRUPTION

- 56) Are concession and sale allocation processes transparent and resistant to corruption?
- 57) Do the forest agencies have codes of conduct and staff training which explicitly address corruption and bribery?
- 58) Does the public have easy, effective and safe ways to report corrupt practices to an appropriate authority?
- 59) Do complaints of alleged forest corruption lead to investigation and appropriate sanctions?

Annex 4. Glossary

| | |
|------------|---|
| CFA | Conservation Forest Area |
| CITES | Convention on International Trade in Endangered Species of Wild Fauna and Flora |
| CliPAD | Climate Protection through Avoided Deforestation Project |
| CSO | Civil Society Organization |
| DDMCC | Department of Disaster Management and Climate Change |
| DFRM | Department of Forest Resource Management |
| DG | Director General |
| DOF | Department of Forestry |
| DOFI | Department of Forest Inspection |
| DPM | Deputy Prime Minister |
| ENV | Economic Police |
| EPF | Environmental Protection Fund |
| FAO | Food and Agriculture Organization |
| FCPF | Forest Carbon Partnership Facility |
| FIPD | Forest Inventory and Planning Division |
| FLEGT | Forest Law Enforcement, Governance and Trade |
| FSCAP | Forestry Sector Capacity Development Project |
| FSSWG | Forestry Subsector Working Group |
| GCDA | Green Community Development Association |
| GIZ | Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH |
| GOL | Government of Laos |
| HH | Household |
| JICA | Japan International Cooperation Agency |
| KfW | Kreditanstalt für Wiederaufbau – German development bank |
| Lao WEN | Lao Wildlife Enforcement Network |
| Lao-DECIDE | Lao government Information Platform – Informing decisions for sustainable development |
| LFNC | Lao Front for National Construction |
| LSB | Lao Statistic Bureau |
| LWU | Lao Womens' Union |
| MAF | Ministry of Agriculture and Forestry |
| MDG | Millennium Development Goal |
| MOF | Ministry of Finance |
| MOIC | Ministry of Industry and Commerce |
| MOJ | Ministry of Justice |
| MONRE | Ministry of Natural Resources and Environment |

| | |
|----------------|---|
| MPI | Ministry of Planning and Investment |
| NA | National Assembly |
| NCX | New Chip Xeng Group |
| NGO | Non-Government Organization |
| NTFP | Non Timber Forest Product |
| NUOL | National University of Laos |
| OGA | Other Government Agencies |
| PEI | Poverty and Environment Initiative |
| PES | Payments for environmental services |
| PFA | Production Forest Area |
| PM | Prime Minister |
| POFI | Provincial level Office of Forest Inspection |
| ProFLEGT | GIZ FLEGT support Project |
| PROFOR | Program of Forests |
| ProtFA | Protection Forest Area |
| Provincial WEN | Provincial Wildlife Enforcement Network |
| REDD+ | Reducing emissions from deforestation and forest degradation in developing countries, and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries |
| SME | Small and Medium Enterprises |
| SUFORD-SU | Sustainable Forestry for Rural Development Scaling Up project |
| UNDP | United Nations Development Programme |
| UNFCCC | United Nations Framework Convention on Climate Change |
| VPA | Voluntary Partnership Agreement |
| WB | World Bank |



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