



## Forest Tenure and Policies in Lao PDR

National Workshop Proceedings

28-29 November 2011



Rights and Resources Initiative (RRI)

RECOFTC – The Center for People and Forests  
and Ministry of Agriculture and Forest, Lao PDR

## Table of Contents

OVERVIEW .....	4
DAY 1 – OPENING SESSION .....	6
Welcome Address .....	6
Official opening of the workshop and Address .....	6
Welcome Address .....	7
DAY 1 – MORNING SESSION .....	8
An overview on tenure transformation in Asia and drivers behind change in tenure .....	8
Current forest Policy and laws related to community based forest management in Lao PDR .....	8
Current status of community based forest management in Lao PDR .....	10
FOREST TENURE EXPERIENCES .....	11
Vietnam .....	11
Nepal .....	12
Brazil.....	13
DAY 1 - AFTERNOON SESSION .....	15
Questions and Answers to Brazil, Lao PDR, Nepal and Vietnam presenters .....	15
Sharing experience of forest tenure reform in China .....	17
Lessons learned from China’s forest tenure .....	18
Additional comments and views on China’s forest tenure experiences .....	19
New challenges and opportunity related to forest tenure, land allocation and titling in Lao PDR .....	19
Questions and Answers .....	20
GROUP DISCUSSIONS .....	22
Group 1: Review of current status of policies and laws .....	22
Guiding Questions .....	22
Presentation of Group Work.....	22
Additional comments and discussion.....	22
Group 2: Review of existing information and knowledge systems .....	24
Guiding Questions .....	24
Presentation of Group Work.....	24
Additional Comments and Discussion .....	25
Response from group presenter / other group members .....	25
Group 3: Review of institutional arrangement at central and local levels to promote community and private-based management of forest resource .....	25
Guiding Questions .....	25
Presentation of Group Work.....	26
Additional Comments and Discussion .....	26
Group 4: Review of existing external assistance related to community and private based management of forest resource.....	27
Guiding Questions .....	27
Presentation of Group Work.....	27
Additional Comments and Discussion .....	28

<b>COMMENTS BY SELECTED AGENCIES.....</b>	<b>29</b>
National Assembly .....	29
Ministry of Natural Resources and Environment .....	29
Faculty of Forestry of the National University of Lao .....	30
SUFORD/WB, to represent International organization and projects .....	30
JICA, to represent International organization and projects .....	30
CLIPAD, to represent International organization and projects .....	31
Land Issues Working Group, representing Local NGOs/Civil Society Organizations .....	31
Association of Biodiversity, representing Local NGOs/Civil Society Organizations .....	32
<b>DAY 2 - PLENARY DISCUSSION.....</b>	<b>33</b>
Further Comments and Discussion .....	33
<b>FINAL COMMENTS .....</b>	<b>35</b>
Nepal .....	35
Brazil.....	35
China .....	35
<b>RRI FUTURE SUPPORT .....</b>	<b>36</b>
<b>CLOSING.....</b>	<b>36</b>
<b>ANNEXES</b>	

## OVERVIEW

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A national workshop on **Forest Tenure and Policies in Lao PDR** was recently held in Vientiane from 28-29 November, 2011. The workshop was hosted by the Department of Forests of Lao PDR, with support from RECOFTC – the Center for People and Forests and the Rights and Resources Initiatives (RRI). The key objective of the workshop was to continue the process of learning on forest land tenure reform from various countries, review and reflect on the current states of forest tenure in Lao PDR, and work out on pathways to forest tenure change.

The workshop was attended by 89 participants representing government agencies, national assembly, civil society groups, and international organizations working in Lao PDR. In order to share experience of reforming forest tenure from other countries, resource persons were also invited from China, Nepal, Brazil and Vietnam. In the opening remarks, Dr. Ty Phommasack, Deputy Minister of Environment and Natural Resources expressed that in the context of government plan to review the policies and laws in Lao PDR, the workshop could provide significant inputs and develop better understanding of the desirability of forest policy change, tenure reform and community rights amongst stakeholders. In the welcoming note, Mr. James Bampton of RECOFTC stated that there is a growing competing interest over land, water and forests between large scale investors and rural, often poor, communities relying on the same resources for their livelihoods- therefore there is an urgent need to clarify the tenure arrangement and ensure that local communities are getting benefit from those resources.

While presenting an overview of Asia regional tenure status and trends, Dr. Ganga Dahal of RECOFTC/RRI mentioned that there is a growing trend of transforming forest tenure from solely government administration to more on giving rights to indigenous people and local communities under various models. However, Dr. Dahal presented that 68 percent of the total forest land in Asia is still under government administration.

In the workshop, Lao delegates who visited China to learn about the Chinese experience on forest tenure reform also presented some of their key learning from China in terms of implementing and advancing forest tenure reform. On behalf of the delegates, Mr. Chanthaviphone of the Ministry of Environment and Natural Resources presented China visit report, where he highlighted the need of clarity on tenure distribution, extent of rights to local communities and private sector, and the need to increase economic benefits from the management of Lao forest for both the local people and the government.

Workshop participants discussed on the following four thematic issues and identified gaps, opportunities and assistance needed to address those gaps and challenges.

- Review of current status of policies and laws
- Review of existing information and knowledge system
- Review of institutional arrangement at central and local levels
- Review of existing external assistance in promoting community and private based forest management

Participants working on each theme have also presented some recommendations and the way forward in advancing forest tenure and policy changes in Lao PDR.

In the context of recent issuance of communal land titling in Sangthong district in Lao PDR, it is expected that community rights and benefits will receive greater consideration in the whole process of revision of current policies and laws in Lao PDR.

In the closing remarks, Dr. Silavanh (DG of Department of Forests in Lao PDR) highlighted the need of addressing identified policy gaps, and to develop clear mechanism to monitor and implement those policies on the ground.



## **DAY 1 – OPENING SESSION**

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### **Welcome Address – Dr. Silavanh Sawathvong**

Dr. Silavanh welcomed the participants from all sectors in Lao PDR and the resource persons from other countries, and he thanked the organizers. He reiterated the objective of the workshop to review and provide recommendations on forest tenure issues and the rights over the use of forest land, whilst exchanging experiences with other countries. One driver for this is the need to mitigate climate change through sustainable natural resource utilization. Dr. Silavanh then gave an overview of the workshop agenda and asked for participants to provide inputs into the discussions. He also explained that the Government of Lao PDR (GoL) has long been developing and implementing policies to conserve forests for the benefit of the nation. New developments require ongoing review and revision of policies so Lao PDR can develop a green economy as proposed in the 7<sup>th</sup> National Socio-Economic Development Plan (NSEDPP); and achieve its Millennium Development Goals (MDGs). The outputs of the workshop will inform the National Assembly (NA) process to review laws relating to forest and land tenure that will commence in January and culminate in June 2012. In the longer term, the benefits should contribute to national development and to reducing the negative impacts of shifting cultivation and poverty reduction. .

### **Official opening of the workshop and Address – Dr. Ty Phommasack**

Dr. Phommasack expressed his delight to participate and officially open the workshop. He also welcomed participants and resource persons from other countries, and expressed the importance of the workshop. He reminded participants that over the last 30 years much progress has been made to determine how best we can manage the country's natural resources. However, he recognizes that there are both emerging and outstanding issues that require further consideration. He reiterated the aim of the workshop to provide suggestions for future direction. In 1989, the transformation towards a market economy started. During the same year, the first national workshop on forestry was held. That meeting led to the development of a forest policy aimed at stabilizing 'slash and burn' practices by allocating the rights of use of land and forests for local communities. The introduction of these policies has provided many lessons on how local communities could take ownership of the management of local natural resources. However, a number of issues relating to implementation and specific procedures still remain. There should be a detailed overview plan to guide how land is allocated to local communities, and this is what the party and the government are working on. There are many sectors involved when land use planning and implementation are carried out and this requires good coordination and clarity on the roles and responsibilities of different parties.

So, who is in charge of the overall forest management?

It is not only the government or provincial government or private or social organizations; it is also the local people who have an intimate relationship with the forest. This is why the coordination issues are so important between sectors and different levels. When the policy was introduced, the legal framework was developed to fit this. There should be eight procedures in land use management. However, we currently only follow six. Dr. Ty encouraged feedback and comments from participants. The GoL would like to encourage local communities to be involved more and more in forest management and follow the policy to eradicate slash and burn. We have to carefully consider the balance between conservation and destructive developments, such as rubber plantation expansion in the north of Lao PDR, for which there is a plan to expand by 500,000 ha. Such development activities need a lot of land. He maintained that we cannot go for development that destroys the natural forest; however we must discuss coordination mechanisms to coordinate activities and reduce conflict. Dr. Pommasack looks forward to learning from other countries' experiences, and to discuss what can be adapted for application in Lao PDR. The result of this significant meeting will be reported to relevant sectoral authorities to address identified issues. We must understand any disagreements amongst us in a spirit of inter-sectoral cooperation, and therefore discuss openly. Dr. Pommasack then officially opened the workshop.

### **Welcome Address – Mr. James Bampton**

Mr. Bampton reiterated a welcome to all participants noting that the good turnout demonstrated how important forest and land tenure issues are to so many people. He welcomed the resource persons from other countries indicating that Lao PDR can learn many lessons from the experiences of these other countries. The Rights and Resources Initiative (RRI) was explained, including the shared beliefs of coalition partners. Mr. Bampton then explained the history of RRI's involvement in Lao PDR based on an understanding of the forest tenure situation in the country. He then outlined the three elements of the RRI 'Forest Tenure Learning Group' project led by RECOFTC – The Center for People and Forests, explaining that two groups of Lao officials had now visited China on study tours and that the current workshop was to share this experience and learn more together from other countries and to relate this to the Lao context. The third element of the project is to extract the common understanding from the workshop to prepare a short policy brief on forest tenure reform for Lao PDR.



## **DAY 1 – MORNING SESSION**

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### **An overview on tenure transformation in Asia and drivers behind change in tenure – Dr. Ganga Dahal**

Dr. Ganga Dahal shared the findings of a recent RECOFTC study commissioned by the European Forest Institute (EFI) on the 'status and trends of forest tenure in Asia'. He started with key terms and concepts relating to 'tenure' and 'ownership', and categories of public and private forest land ownerships. He shared the fact that Latin America is more advanced in giving rights to local people than Asia, which in turn is more advanced than Africa. A table was presented showing how 11 Asian countries fare in relation to forest land ownership. Notable is the variation between countries as shown by examples from India, Vietnam, China and Indonesia. Salient points regarding forest tenure in PNG, the Philippines, Thailand and Lao PDR were also shared. Dr. Dahal expressed some opinions on why forest tenure is changing – demand from forest peoples; increasing conflict over forestland; greater democracy and decentralization; realization that clarity of tenure supports development; and due to the driving forces of climate change, commodity demand and food security. Challenges facing Asian countries are many and variable and can be grouped as economic, ecological, political and social. Some positive examples of countries addressing these challenges from China, Brazil and India were presented. Dr. Dahal finished his presentation with two key messages: tenure reform is not the be-all and end-all of all problems, but is a key precondition to deal with emerging and imminent challenges in Asia.

### **Current forest Policy and laws related to community based forest management in Lao PDR– Dr. Silavanh Sawathvong**

Dr. Sawathvong opened by stating the following: the Government of Lao policy for forests; and the target adopted by the 7<sup>th</sup> National Socio-Economic Development Plan (NSED) which is to increase forest coverage by 65% by 2015 and 70% by 2020. Lao forest laws focus on three categories of forest. He showed a map of 'production' 'protection' and 'preservation' forests including 8.2 million ha of national parks. According to Lao definition of forest, which is based on 20% crown cover, the total forest coverage is calculated as 42%. But according to FAO definition (10% crown cover), total forest coverage in Lao PDR is calculated as 68%. Nevertheless, Lao PDR still needs further work on production forests. In most of the regions of the country, the forest cover has decreased by 1%. However, in the north, forest cover has increased through plantations and curtailing of slash and burn practices. Around 34% of land requires forest regeneration or reforestation- out of which 25% is outside the categorized forest land. In these areas, Lao PDR requires new policies and ways of working to involve local people in its management through a new mechanism of some kind of 'community forestry'. The country needs to maintain and increase forest and prevent deforestation



and the practice of slash and burn. As of now, 52% of the local communities are already participating in some form of forest management (almost 2,000 villages). Lao policy allows local communities to live in forested areas for collaborative forest management and use forest products for their livelihoods. Also, the GoL is looking at a community forestry model which is based on sharing benefits between state and local communities. Forest management has four elements in the law: organization, management, development, and utilization. For production forest, there are existing law, decrees, regulations and technical guidelines. For example, *Kumbans* (cluster of villages) are involved in this through various benefit sharing mechanisms. Similarly, 58 areas of production forest are identified as potential sites for hydro-power development. Such sites are associated with watersheds management under protection forests. Lao PDR has policies and legislation to manage these areas, based on these policies, it is mandatory to spend 1% of hydro-power profit for forest management. It also important to ensure that local communities involved in protecting the forest receive some kind of benefits, for this, a mechanism needs to be developed considering both rights and responsibilities. Currently, there are 24 conservation areas covering 4.7 million ha, which is also a challenging task to keep forest intact across those areas.

One strategy to maintain those areas is to promote eco-tourism along with mechanisms for local communities to participate. Detailed plans exist for the management of these conservation areas. In 2010, the Department of Forests (DoF) recognized that other types of forest exist outside the three categories already mentioned, including community managed forests. These cannot be converted into other land uses, but there exist some rich forest as well. We therefore need to work out the land tenure for these areas so that local population can collaborate. This land does not belong to the state, but to the communities. Within this forest area, there are different types in terms of quality of forest and the land they grow on. Many organizations have identified that deforestation is ongoing in Lao PDR. Therefore, the country needs to work on forest recovery essential for environmental services, for ensuring green production and enabling local communities to benefit from a clean environment and healthy livelihoods. Forests are not just trees – it also relates to ecology and both living and non-living aspects, such as water resources, which are important for energy development that will enable industrialization. Forests help maintain water resources, the challenging issue is in relation to the balance between development and preservation. Task delegation is important as the resources belong to everyone, not any one in particular. The owner of the forest is the Lao people as stated by the former President at the national forestry conference. However, local communities are intimately related to their local forests for their livelihoods. Dr. Sawathvong supports the National Assembly's move to review all the policies and laws relating to natural resources including forests, water and minerals, so that all sectors could move in a coordinated and complementary fashion. This workshop is a first step in this process.

## **Current status of community based forest management in Lao PDR – Mr. Phomma Pathoummavong**

For production forest, a Forest Law was enacted in 1975 which guided the sustainable forest management and harvesting activities until 1991. The village forest policy emanates from the Forest Law and promotes a strategy for forest development and agreement between villages and other organizations involved in the management of forest. At the moment, participatory village forest development is being implemented in nine provinces through the Sustainable Forestry and Rural Development (SUFORD) project supported by the World Bank. This entails Participatory Land Use Planning (PLUP), management of resources and identification of boundaries. In other areas, local communities already have their own de facto forest management regulations and systems in place. One of the key activities in such areas include- forest plantations, e.g. teak plantations in Luang Prabang. Similarly, in some areas, rubber plantation is very common, which follow either 2+3 or 1+4 systems (land, labor, finance, market and technology). Involvement of local communities is also encouraged in ecotourism development and in restoration in production forests. In two areas of production forests, Forest Stewardship Council (FSC) has certified 81 ha of forest, where current harvesting per year is about 10,000 m<sup>3</sup>. Out of this harvest, 25% of surplus profit goes to the village community for their development. In monetary term, the value of such profit per year per community would be around 1-2 million kip. The certification project aims to increase the value of exports, apart from SUFORD areas, 310 villages are getting 4,100 USD. Similarly in another cluster, 411 villages are getting 8,000 USD. A NTFP management project for rattan handicrafts has led to the certification of around 400 ha managed by 4 villages. Benefits from this value chain are around 250 million kip.

Another example of successful community NTFP management is from Oudomxay for bamboo shoot commercialization. Nevertheless, some gaps remain in the legal framework and implementation. Also some improper activities continue to take place. Some areas have not received state funds. Some areas have limited land available for local communities. For village forest management there are many concerns within the GoL, particularly relating to the low capacity of district level staff and villagers. The level of participation is still low and needs to be improved. More effort is needed to disseminate the provisions under various laws, regulations and policies. Lack of funds is still a serious limiting factor. It is impossible to entirely prevent slash and burn practices; therefore there is a need to introduce alternative livelihood practices. Another concern is the change in land use – particularly through the granting of concessions, where we should think about local community participation and the benefits they are supposed to receive. However, people cannot rely only on funding from the central government; so we need investments from other players too.

## FOREST TENURE EXPERIENCES

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### Vietnam – Dr. Nguyen Quang Tan

Dr. Nguyen Quang Tan shared a background of Vietnam – population, forest area, agricultural advances. After reunification in 1975, deforestation increased due to a variety of factors. State Forest Enterprises were unable to manage forests sustainably. They had a narrow focus on timber and there was poor participation of local people. Forest dependent peoples are generally poor. Vietnam learned from decentralization experiences from other countries and developed a legal framework that allowed forest allocation to individuals, households, and communities. For individuals and households, the legal framework has been in place since the 1990s, including the transferability of rights through 50 year renewable titles awarded under the forest land allocation program (FLA). Another form of community involvement in forestry is through forest contracting, where households are contracted on an annual basis to protect specific areas of natural forests. The Land Law recognized the legal status of village communities in 2003 allowing the possibility of communal forest management since 2004. Ten provinces were covered in the first phase of the program. A second phase is being undertaken in 2011-12.

In Vietnam, there are ten different groups of forest managers – individuals and households manage 25% of the forest, communities only 1%. It appears that tenure reform has contributed to a reduction in deforestation and increased reforestation, although factors such as market forces have also contributed to the overall outcome. Forest tenure reform has also contributed to local livelihoods where communities have market access, and the security in tenure has increased community investment. Nevertheless, there are some shortcomings: about 18% of the forest still remains under People's Committee management or other categories and has yet to be allocated; the impact of reforms in upland areas where market access is difficult is more variable; FLA focused too much on timber; FLA to individuals and households is not always appropriate in ethnic minorities who are used to communal management; weak capacity of local authorities in FLA processes and lack of support services afterwards. But there are unfolding opportunities such as: REDD+ and PES programs, which could potentially for increase benefits from forests, i.e. increase incentives for active participation. Community Forest Management (CFM) is now a priority for the forest sector and state commitment exists to allocate more forest.

There exist a number of issues and challenges around forest tenure reform in Vietnam. Some of these are: lack of a comprehensive and conclusive review and reflection of outcomes and lessons after two decades of tenure reform; the need to recognize multiple management traditions to allow flexibility in management planning and benefit sharing mechanisms; and the need to improve the capacity of support institutions and

expand community forestry whilst making FLA more pro-poor. Dr. Nguyen also reiterated Dr. Dahal's key message saying: "Tenure is not the end of the issue – it is the start – still requires much attention to supporting rights holders afterwards".

### Nepal – Dr. Keshav Kanel

Dr. Kanel asserted that reforming forest tenure and devolving authority to accountable community organizations leads to improved forest outcomes (however, he is less certain on economic or poverty aspects). He gave an overview of the geography and demography of Nepal, and the evolutionary history of forest management since 1957. Nationalization of forests in 1957 led to the 'principal agent landlordism' by the government. Initially, Nepal faced dilemmas on various issues such as: who can produce goods and services; who has access and control over the forest; how to regulate the extraction of forest products, etc.? Reasons for deforestation have both 'external' explanations and solutions (technical issues) and 'internal' explanations and solutions (knowledge and rights actually reside with local communities). Therefore, Nepal resolved to revise the Forest Act during the Panchayat regime in order to hand over forests to local political bodies (*Panchyats*<sup>1</sup>). Area limits were imposed for plantations at 125 ha and 500 ha for natural forests. In natural forest, only 75% benefits accrued to villagers. Some forests were also contracted to private enterprises. The incentives were inadequate for people to participate. In 1988, foresters realized that Community Forest User Groups (CFUGs) involving 'real' users should be the foundation of the 1993 Forest Act and Regulation of 1995 and should be entrusted with rights to use and sell forest products with 100% benefits accruing to communities. CFUGs are independent entities. This fundamental change required the complete reorganization of the Forest Agency to facilitate rather than control and command communities through retraining in social sciences and organizational management. The Community Forestry Division (CFD) is set up and becomes a key division within the Department of Forestry (DoF). Forests in Nepal are now categorized not according to bio-physical characteristics but according to tenure arrangement, such as: Community Forest (CF), Leasehold Forest (LHF), Religious Forest (RF), National Forest (protection), and Government Managed Forest (GMF).

The Federation of Community Forest Users Nepal (FECOFUN) was established in 1985 and has been instrumental in representing CFUGs. Dr. Kanel described the key attributes of CF in Nepal saying the Government maintains ownership of the land; use and management rights are given to CFUGs; regulation is undertaken by both CFUGs and DoF; forest users form autonomous, self-governing and independent CFUGs; CFUGs are registered at the district<sup>2</sup> level by District Forest Officers (DFOs) as independent

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<sup>1</sup> This was the lowest level of local Government administration at the time and there were approximately 4,000 in Nepal.

<sup>2</sup> There are 75 districts in Nepal.

institutions; CFUGs have rights of access, withdrawal, use and management, but not alienation; CFUGs are governed through a general assembly of all members and an elected executive committee. CF Operational Plans (OPs) are prepared by communities with support from foresters and must be approved by DFOs; CFUGs find management for self-use (subsistence) easy, but commercialization is still complicated; an emerging issue relates to carbon rights; CFs manage their own funds – recent community forestry guidelines proposed that 25% must be used for forest management and 35% for pro-poor livelihoods programs; CFUGs are obliged to submit annual reports to DFOs; DFOs oversee and monitor CF in their districts. There are currently 16,937 CFUGs in Nepal involving 2.1 million households (41% of the total population of Nepal) covering 1.57million ha (27% of total forest area).

The impacts of CF in Nepal are visible: forests have returned; biomass and carbon contents have increased; CFs together generate around USD 12 million annually from the sale of forest products (both timber and NTFPs). However, until recently expenditure focused primarily on infrastructure, so the policy changed to ensure spending on pro-poor activities. CF has been successful in the hills but difficult in the lowlands due to an 'iron triangle' of elites, timber traders and government officials. Another challenge facing CF in Nepal is fatigue as similar issues keep resurfacing and capacity building is continually required as new generations become involved.

Dr Kanel's key messages were: institutional innovation should precede technical innovation; governments must devolve management rights to local communities; government officers need retraining on participatory forest management; practice first then make policy; work closely with politicians to make change happen.

### **Brazil – Mr. Luiz Carlos Joels**

Mr. Joels explained that in Brazil it has been an ongoing 26-year process of tenure reform since the 1985 restoration of democracy and introduction of a new constitution which had chapters on the environment, indigenous peoples, and human rights. The death of the rubber tapper union leader Chico Mendes in 1988 caused public outrage and this led to the establishment of extractive reserves for local communities. The 1992 Rio conference also raised awareness regarding the environment, the need to stop deforestation and protect native people's rights. Priority policies led to some initial changes: increase in the area allocated to native Brazilians from <200,000 to over 1 million square kilometer and another 780,000 ha are under some kind of protection but are also destined for use, mostly by traditional communities; new approaches to conservation areas and settlements to allow for sustainable use; creation of a single environmental agency; deforestation control as policy focus; investments on science and technology, of which the most visible is the remote sensing of deforestation. The results were: constitutional imperatives were addressed; and deforestation inside protected and indigenous people's areas was lower at least by 10% than outside, in

Amazonia as a whole. So the next stage of reform was to address these areas outside the existing allocated areas.

Deforestation in Brazil was driven by land grabbing and frontier expansion reaching a record in 2003. This triggered an integrated policy approach involving 14 ministries to create a positive agenda for the development of CF models that could get greater economic benefits from their tenure over forests: created the Brazilian Forest Service; concessions were restricted to designated public forests for companies; CF and Climate Change policies and plans were developed. Institutional reform of the forest apparatus, most critically: forests included in presidential agenda; formal multi-stakeholder committee to determine common interests; creation of rules and regulations for use of 'public' forests (more existed for private forests); creation of specific institution – the Brazilian Forest Service (BFS); create funding mechanisms; decentralize forest management to state level. The changes led to limited use rights being given to communities under Government agency supervision.

A national program for community forestry was developed, and coordinated by BFS and the Ministry of Agrarian Reform with many difficulties in coordination. Other agencies were given places on a multi-stakeholder committee to coordinate this. The concept was developed in 2007, and finally launched in 2009. Strong civil society participation helped legitimize and guide the process. The area where communities or households have tenure is quite large but there are restrictions on its use: Indigenous people's land reached 111,576,200 ha (updated figure) where no logging is allowed, settlements comprise 16,839,313 ha and sustainable use conservation areas include 25,000,000 ha but there are also limitations on logging in these areas. Private household forests cover 48,000,000 ha. Nevertheless, probably only 2% of this area is actually actively sustainably managed, although this could reach 10% – the main constraint being the lack of markets. The changes have demonstrably contributed to reduced deforestation and lower rates than any year since 1988. Nevertheless, of current deforestation, only 30% is legal deforestation. Another lesson is that decentralization can work (e.g. Acre) or not (e.g. Maranhão) depending on the commitment of the State Government. Therefore, central government must maintain some authority (this remains an issue in Brazil). Climate change led to the establishment of the Amazon Fund, which is being used to support sustainable forest management (SFM) in support of the National Plan for Climate Change. Another program is the '*Programa Terra Legal*' (Legal Land Program) that recognizes that people need land they occupy for agriculture and that titling them enables access to credit and government programs.

Therefore, there is a wide mix of tenure arrangements in the Amazon – concessions, communities and private tenure arrangements. The pattern depends very much on the history of settlement and social organization. Challenges remain – conservative forces are politically well organized around traditional views of natural resource management and conversion to agri-business.

## DAY 1 - AFTERNOON SESSION

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### Questions and Answers to Brazil, Lao PDR, Nepal and Vietnam presenters

**Q. What are the differences between Vietnamese and Lao PDR processes with regards to boundary demarcation and temporary title issued (3 years in Lao PDR)?**

A. Dr. Nguyen Quang Tan – As not knowing much about the process in Lao PDR, preferred to comment on the situation in Vietnam where allocation to communities and households happen side-by-side through a process that enables the community to determine which tenure regime they would like where. It should be demand driven and flexible. Technicalities for both household and communal allocation are very similar, with the only difference being the names on the titles. However, in Vietnam they give permanent land title to communities whereas in Lao PDR it appears to be temporary so far.

**Q. What was the budget and time-span for land reform programs in Vietnam?**

A. Dr. Nguyen Quang Tan – In Vietnam, it is estimated that US\$23 will be required per hectare in allocation process, duration of couple of months to more than a year for a particular site.

**Q. As Nepal is mountainous, we would like to know about shifting cultivation situation in Nepal and how government forestry officials deal with it.**

A. Dr. Keshav Kanel – Only 5 of 75 districts have shifting cultivation albeit in a small scale. However, where it occurs it is in government managed forests. Legally, it should not happen, but government appreciates that this is a survival strategy for the poorest families and turns a blind eye. The Leasehold Forestry Program allows allocation of up to 1 ha to poorest families for permanent agroforestry.

**Q. Until 1988 there was a dictatorship in Brazil, but now democracy, so which regime is better for forest management? Is deforestation decreasing?**

A. Mr. Luiz Carlos Joels – Democracy is much better as in a dictatorship, decisions are made by only a few people that didn't always understand realities in forests. However, democracy has difficulties as different power groups argue and setbacks can occur. There is legal deforestation in Brazil, depending on where in the country – 20% of a landholding can be deforested in Amazonia; 50% in middle areas and 80% in the south. All deforestation has to be approved. As some areas are being transferred from public to private title, some more deforestation will inevitably happen accordingly. Shifting cultivation could therefore only cover 20% at any one time in Amazonia. Remaining areas of forest should be used for NTFP production (rattans, nuts, oils and resins)



**Q. Regarding the allocation of forests to villagers in Vietnam – how does the benefiting of communities affect the income to the state? Same question for Nepal?**

A. Dr. Nguyen Quang Tan – Local people already benefited from forests. Allocation allows for legal utilization of forests. Also now, we have to follow more regulations. However, most land allocated to communities is degraded, therefore the previous ‘owners’ (usually SFEs) don’t lose much income.

A. Dr. Keshav Kanel – When forests were handed over to local government bodies they gave 25% from sales to government in natural forests. Now, 100% of benefits accrue to the communities, except VAT (13%) applies if CFUGs sell timber outside the CFUG. For 2 commercially attractive species in the Terai (lowland) region, CFUGs have to pay 15% of revenue on external sales.

**Q. Would like to know about the evidence / inspection / adjudication and whether traditional or government ways are followed when identifying forest land allocation in Vietnam?**

A. Dr. Nguyen Quang Tan – Legally speaking ‘national ownership’ in Vietnam is by all citizens, managed by the government on the people’s behalf. Therefore, no individual and customary ownership exists. However, researchers continually bring up the danger of not following traditional forest and land practices. e.g. in central highlands where only one option was imposed and alternative options of customary management systems weren’t discussed.

**Q. Nepal policy separates the land and forest (land rights remain with the state but forest/trees can be allocated to people). Asked about family / households and ownership in this light.**

A. Not answered. However, private ownership of land does exist in Nepal for residences, agricultural land and in some cases private forests (usually small plantations).

Clarifications from Dr. Ganga Dahal – ‘ownership’ doesn’t only relate to the ability to ‘sell’ something it also relates to the inability of unilaterally extinguishing forest land without compensation, e.g. collective rights in China over forests cannot be extinguished by the central government without consent of the community and due compensation.

Additionally, private concessionaires can only gain access to collectively owned forest areas through negotiation with whoever (collective or individual farming households) has been allocated the rights over particular areas. .

## Sharing experience of forest tenure reform in China – Ms. Xing Hong

In PR China, only around 40% of the forest land is owned by the state – the remaining 60% belongs to Collectives. With regard to challenges relating to rural poverty and growing disparity between rural and urban dwellers, the inability to match forest product demand from domestic supply, and low forest quality, the Chinese government recognized the following four problems as contributing factors: vaguely defined ownership; unspecified operational entity; inflexible operation mechanism; and irrational distribution of benefits (e.g. taxes comprised almost 75% of forest revenues). So, in order to develop the productive forces in the forestry sector, promote modern forestry, increase farmers' income and advance the ecological civilization, the Chinese government launched a reform of the collective forest tenure system, starting in Fujian and Jiangxi provinces with a focus on clarifying forest rights, giving individuals more management freedom, regulating forestland transfer, and reducing the tax burden. Subsequently extended across the country, the reform has five main areas: the clarification of property rights; the demarcation and certification of these rights; the devolution of the power of management; the implementation of disposal rights; and the protection of the right to earnings from forestry. The reform, strictly in line with existing laws on Forest, Contracting Land in Rural Areas, Property, Villager Committee Organization, allowed villagers to choose whether to continue to manage forests collectively, or to manage in village groups or smaller partnership groups of interested farmers, or to contract out the management to a private enterprise or to divide the forest into household blocks. Rights-holders then receive a certificate which in turn enables farmers to use these for rental, shares, mortgage or transfer.

The reform was enabled as it was promoted as a priority at the highest levels within the Communist Party and in government as shown in Document 10. Implementation was enabled by clarifying and devolving different roles to: counties (cities) exercising direct leadership; townships organizing the implementation; villages and groups going about the execution; and forest departments providing services, while giving full play to the role of grassroots party organizations in the countryside. This led to the establishment of 35,000 forestry reform offices, widespread publicity and awareness raising and the training of 38 million facilitators. Central government budgeted 1-1.5 RMB per mu (15 mu = 1 ha) and Provincial governments allocate varying complementary funding. The People's Bank, the Ministry of Finance, China Banking Regulatory Commission, China Insurance Regulatory Commission, etc. have jointly issued guidance to strengthen financial services to farmers.

Practical measures at the village level are guided by '6 signatures' (notice of villager group meetings; check in for villager group meeting; villager group's implementation programs; woodland boundary confirmation; contracts; villager committee's resolution on villager group's implementation program) and '4 bulletins' (villager group's implementation programs; forest reform procedure; forest reform current situation;

forest reform results). About 82 million farmers who have obtained forest right certificates, and over 300 million of farmers have benefited directly from the reform: farmers' zeal and potential are released; forestry industry investments have increased rapidly (total of forestry loans has exceeded RMB ¥ 10 billion, equal to total forestry investment of the central government in 2010); farmers receive a great deal of direct benefits (average household has nearly RMB ¥ 100,000 of assets of forest resources); a large number of forest ownership disputes have been mediated; relations between the party cadres and the masses in rural areas have improved; and 36 million jobs were created in 19 provinces that had launched the forest reform.

### **Lessons learned from China's forest tenure – Dr. Chanthaviphone Inthavong / Dr. Thavone Inthavong**

The objectives of the study tour were to share technical lessons on the forest tenure reform in PR China and how to raise capacity and work on the policy framework, and also to strengthen the technical cooperation between the two countries. Participants observed how the registration process is undertaken in Teng Chong County through discussions with government officials and villagers at the County Forest Service Center, at a Ginkgo growing village and at a township forest office. A large wood processing factory was also visited. Finally, a high level meeting with State Forest Administration and Yunnan Provincial officials was held in Kunming, Yunnan. The team learnt of the long history of gradual tenure reforms since 1980, the objective of which is to encourage participation of villagers to take control over management and the benefits of doing so. Public interest forests remain under state control – biodiversity conservation, watershed protection, cultural heritage sites, etc. Lesson learned: policy has encouraged local people in voluntary planting – good for forest and livelihoods. Reform was prioritized by the government and organized systematically with appropriate budgets allocated. Everything has been done in a comprehensive manner – addressing laws, regulations, etc. across sectors and with technical inputs to promote fruit and timber species.

Government's other supportive policies include reducing taxes and providing technical services to farmers involved in forestry. However, communities still have to follow forest categorization and respect protection forest areas. The team also observed that some villagers have benefited more than others. Notable was the praise from the wood processing industry for the reform as it has promoted tree growing to supply raw materials. Differences between PR China and Lao PDR are principally that land titles have not been given out and the support services are not in place in Lao PDR. Agreed to follow up by sharing through this workshop and to share further information on details of laws, procedures, outreach materials, etc. In particular to share experiences working with shared ethnic groups. In the longer-term we proposed to share more on lessons learned and to draft a proposal for technical and financial assistance for 7-10 years, not only support for infrastructure.

### **Additional comments and views on China's forest tenure experiences – Ms. Li Shuxin and Ms. Xing Hong**

Dr. Chantaviphone was commended for capturing the main points of China's forest tenure reform from the short study tour. Ms. Li Shuxin shared some further background information that shows that most forest resources are in southern China. Both the area and volume of forests increasing, primarily through plantations, but the per capita forest area is very low (in comparison to Lao PDR). Despite this growth, supply is still not meeting demand. Natural disaster in 1998 and flooding around the Yangste and Yellow rivers encouraged the development of a new policy to shift focus from forest resource extraction to spending resources on forests. This gave rise to six big forestry projects. But the existing institutional mechanism reduced their effectiveness as local people had no incentive to get involved. There was an uneasy relationship between farmers as they benefitted little from collective forests (mostly village leaders benefitted). Therefore, a preferential environment was developed to enable reform, starting with the Law on rural land contracting (2003). In the final analysis, there are actually no losers (although some village leaders would have lost some power and income in the short run).

### **New challenges and opportunity related to forest tenure, land allocation and titling in Lao PDR – Dr. Chanthaviphone Inthavong**

Firstly, Dr. Inthavong shared some history of policy relating to land, forests and national development in Lao PDR that led to the individualization of lands with area limits related to labor availability. With the drive to eliminate swidden agriculture, Land Use Planning and Land Allocation (LUPLA) took place in 2/3 of all villages. However, this only led to issuance of temporary three-year certificates, almost all of which have since expired without follow up. The impacts are therefore not as good as expected. The GoL's current policy states that the Lao economy shall be market driven (new mechanism), with tree planting a priority, and that private investment shall be the driving force. Attractive

conditions have been set for Lao and international investors. Nevertheless, some issues remain floating such as: farmer's food security & socio-economic development; appropriate legislation is not complete; the land allocation process and coordination between local and central governments are unclear; and the impacts on biodiversity are detrimental. However, plantations can assist in the eradication of poverty if governed well, although the issue of farmers' access to quality land remains unresolved. Some of the priority activities for land management are: increase awareness and recognition that land and natural resources are the fundamentals for increasing food security, reducing rural poverty and for assuring sustainable nation-wide prosperity; determine land needs of different sectors and society to meet national development objectives; national-wide macro- and micro- Land Use Zoning Plan development; nation-wide Land Use (State, Communal & Private) Rights Registration Campaign; decentralization of land administration and management activities (to District & Village Levels); and the establishment of a (Computerized) National Land Information System. The current national targets for conservation (Indirect Use) land is 70% including wetland areas, leaving 30% for production (Direct Use) Land. Land uses should be related to topography and slope. In the past, land management projects have been mostly implemented through externally funded projects. The Government of Laos recognizes issues with externally funded projects finishing and to scale up and mainstream the learning from project interventions. A new target is for 1 million land titles to be issued during the next 20 years and should be completed for every village.

## Questions and Answers

**Q. On the need to encourage the participation of local people: Do current policies in Lao PDR allow this? If so, how is this done?**

A. Ms. Li Shuxin – Reform is not only the task of the forest sector – it is the task of the whole government; all sectors have responsibility to advance village improvement. Forestry reform should be led by the forest agency. Many villages in China didn't even know how much forest they had. Have to organize meetings and allow villagers to decide how to allocate forests. Other sectors provide support in other ways.

**Q. What is the process adopted in China before the forest land allocation?**

A. Dr. Silavanh Sawathvong – Land belongs to state entities (central state and collectives) and only forest use rights are granted for up to 70 years. In China, contracts with companies require consultation with communities but government grants contracts in a different way than Lao PDR and Indonesia. The Chinese do not use the term 'ownership' or 'selling', rather 'transfer of use rights'. However, it is also possible to mortgage use rights. Vietnam is similar to China in terms of land ownership in that all land belongs to state entities (in Vietnam's case, to the central government). A central directive means that all sectors have to follow the policy direction stated. If related to the forest sector, the responsible forest agency takes the lead. In China, great efforts were made on training provincial and district staff. In Lao PDR, funds are allocated to

implement forest policies, but not on a per hectare basis. **Another important lesson from China is that people have the will to improve forests as they have rights and can benefit from it.** A subsidy for forest improvement (as in China) is a development policy. For example, in China biogas from pig-manure is subsidized by government. Similar subsidy programs exist in Vietnam. Party unity and leadership is very important, so the party must reach consensus across sectors and direct policy and implementation.

**Q. We understand that much progress has been made but can people transfer their rights for land use? Do you provide land for large-scale concessions in China?**

A. Ms. Li Shuxin – Farmers can transfer rights to others according to their own desire (not termed ‘selling’) but always for less than the duration of the title. This happens through negotiation. A farmer must report their desire to transfer with village authorities and forest agency so the certificate can be changed. State land has concessions with private companies, and private companies can negotiate with farmers to use collective forests allocated to them.



## GROUP DISCUSSIONS

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(Participants self-selected their participation in groups)

**Group 1: Review of current status of policies and laws** – identify gaps, opportunities and assistance needs

### Guiding Questions

- What are the missing points that current policies and laws are not addressing?
- What are the possible opportunities to address the gaps?
- What support is needed to address the gaps?

### Presentation of Group Work

- The group reached to a common understanding that missing points in the policy and legislation requires an in depth review. The needs of communities are addressed in the legal framework, but there is a need to raise awareness in local communities on their rights. Tax issues need to be investigated.
- Local communities should have forum and opportunity to report. Local communities need support in understanding land and forest tenure issues. Further learning and sharing from / with other countries will be helpful. Climate change – REDD+ issues will require changes to the legal framework.
- Support required in updating university curricula; gender issue needs to be mainstreamed; coordination mechanism should be in place; stronger message to violators and better law enforcement needed.

### Additional comments and discussion

- ❖ Inspection and monitoring are important areas to be considered
- ❖ Lao PDR is becoming more involved with the European Union's Forest Law Enforcement, Governance and Trade (FLEGT) program and may consider opening discussions on a Voluntary (VPA) process. As legality standards require clear tenure verification, this could become a 'driver' to support forest tenure clarification.
- ❖ The focus of policy revisions should be on the 25% forest remaining outside of categorized forest areas, which require greater clarification in terms of tenure rights, roles and responsibilities.
- ❖ How can traditional ways of forest management be incorporated in the legal framework?
- ❖ Village financial mechanism is an issue as villagers don't have capacity to manage funds. This could cause difficulties as the funds could be quite significant.
- ❖ Need to draft legislation to further categorize other forests outside the three existing categories. Existing law does not cover category of traditional use rights over forest resources; therefore, it needs to be included in the legislation. From the China example, the question is raised whether it is possible for Lao PDR to limit



concessions to only contracts. The difference between concessions and contracts is that for concessions, concessionaires can do whatever they like and exclude villagers, whereas with contracts rights, roles and responsibilities have to be defined and negotiated.

- ❖ Need to educate foresters about traditional ways of forest management rather than only sticking on scientific knowledge.
- ❖ Dr. Silavanh gave a detailed response to the above comments: One meeting on the need to review the Forest Law has recently occurred (in particular in relation to REDD+) and recorded comments and suggestions. In general, we can summarize that the existing legal framework has some gaps due to changing global circumstances. REDD+ is a big new issue as forest carbon requires consideration. The REDD+ Preparedness Plan (RPP) is now prepared and includes discussion on forest definitions. Another area that needs to be addressed relates to forest ecological services. The 7th National Socio-Economic Development Plan focuses on 'green development' so a mechanism is required to secure funding to support ecological services through Payment for Environmental Services (PES). There exists a Forest Development Fund through a Presidential Decree; however, this requires more detailed provisions for forest activities on rehabilitation and recovery. The ultimate goal is for the forest to regenerate itself, but in the interim phase clarity is needed on how subsidies can be mainstreamed to incentives, which are not clearly mentioned in the existing legal framework. Need to develop mechanisms for banks to participate in forestry agenda. All stakeholders' interests need to be considered, not only local communities. Need to discuss both obligations and benefits, when discussing forest management for all sectors participating in the process. To be successful, there is a need for facilitation and support and the introduction of international initiatives, such as FLEGT (aims to encourage good forest management and governance which are in line with the GoL priorities to prevent forest degradation and deforestation). Lao PDR is ahead of many countries in the region in terms of readiness in estimating carbon stocks in different types of forest. Other countries are interested in learning from Lao PDR. The Department of Forest Inspection (DoFI) has developed an institutional structure from national to local level and has been taking violators to court. The Ministry of Industry and Commerce are preparing for WTO accession and the 'T' of FLEGT is under their jurisdiction.

Five forest certification inspections have been undertaken for the export of timber and standards and systems are developed. The GoL is also actively working to support the certification of teak grown by small-holders. FLEGT is not only about law enforcement. The GoL is working on a solution for a similar process in China. The 2020 plan is for the whole GoL and nation. A five year plan has been developed and can be shared regarding the areas outside the existing three forest categories. It is here where further work is needed to clarify community rights of those villagers that live in the forest. If these areas are not sorted out, they may be transformed into other forest types or land uses. Article 42 of the Forest Law (2007) discusses

customary practices. DoF respects local customs and religions throughout the country, such as cemeteries and sacred forests, e.g. near Wattay Airport. Different forests – e.g. production, protection and conservation – PM Decree 52 elaborate the details on benefits sharing between state and communities. This has also been drafted as a presidential decree and is covered in PM Decree 333. Benefit sharing from a hydro project is being worked out and some provisions already exist. Over the years, Lao PDR has increased the number of conservation areas by 24. Training of forestry officials occurs through NUoL and Forestry Schools, and curricula covers the participation of local communities and benefit sharing. The law on concessions in Article 43, point 5 clearly mentioned that no concession will be granted in good natural forest, but only in degraded areas that cannot be restored easily. There are different levels of authorization, but so far implementation and enforcement have been weak.

## **Group 2: Review of existing information and knowledge systems –** identify existing, gaps, opportunities and assistance needs

### **Guiding Questions**

- What information and knowledge systems are currently in place in the MAF/DoF and MONRE and other line agencies?
- How efficient and effective are those systems in practice? Are they coherent and harmonized?
- What needs to be done to make them more effective?
- Are there any opportunities to advance such systems?
- What support would help to develop further such systems?

### **Presentation of Group Work**

- The presentation included previously developed slides giving an overview of responsible bodies for information development and dissemination under MAF and MoNRE. Also, the National Geographic Department (NGD) is responsible for maps. Showed mapping and database systems employed in Lao language, such as land titles and other statistics, concession areas, and GIS showing different categories of land use and title. Presented information on development areas. Sangthong district is an example using high definition satellite images and balloon aerial photographs. Similar information is available on agriculture under NAFRI as well as plantations, such as those developed for rubber plantations.
- Gaps include information on *Jatropha* plantations invading conservation areas and the resettlement of people in protected areas. MoNRE is also looking at how to keep track of environmental impacts. Looking for long-term database systems that can be shared across ministries. In Lao PDR, UTM 97 is being used by the government. Need to establish coordination committees and for collaboration with others, such as in

Amazonia.

- Shifting cultivation stabilization project is in operation. Policies and laws not always followed. Need more transparency and commitment about rights of local communities.

#### **Additional Comments and Discussion**

- ❖ There is huge information regarding cooperative lands. Land titling projects cannot be implemented in remote areas as tenure is unknown.
- ❖ It appears that the database systems are very comprehensive, but how to make best use of them are not yet clear.
- ❖ Most discussion held at macro-level and is too technical. There is a need to consider local level information management.

#### **Response from group presenter / other group members:**

- ❖ Where possible the database system should support village level work and discussions. Fiber optic system is spreading across the country to make this possible in the future.
- ❖ Some databases have different formats so they can't speak to each other, so compatibility needs to be resolved so more users can share and combine data held in databases
- ❖ Exchange of land for new uses encourages investors to take everything from the site, e.g. electricity line placement.
- ❖ Information and 'knowledge' systems are either digital or analogue. Nowadays, they are mostly digital; staffs have upgraded knowledge significantly since GPS introduction in early 1990s. Therefore, questions discussed in the group covered how can we better utilize the new systems, upscale them and elucidate the benefit.

### **Group 3: Review of institutional arrangement at central and local levels to promote community and private-based management of forest resource** – identify gaps, opportunities and assistance needs.

#### **Guiding Questions**

- What institutions are currently involved in the promotion and regulation of community and private forestry?
- How do they support the process of advancing community and private forestry?
- Are there any positive cases of such interventions?
- Which areas or challenges are not addressed by those institutions?
- Where are the bottlenecks?
- How can we best address the missing areas or challenges?

### Presentation of Group Work

- Stakeholder participation is and should continue to be broad. There has been a review workshop with MoF. At the central level, the Deputy PM chairs the committee. At the local level, there are committees for Land Use Planning and Land Allocation (LUPLA). At MAF, there is a LUPLA unit under decree 0822 with budget. Around 8,000 villages have proceeded with LUPLA. The Land Law (2003) authorized NLMA to undertake such activities.
- Concerns over implementation: now NMLA is under MoNRE so further LUPLA has been put on hold. Provincial and District levels have poor coordination and activities don't get completed. Support and resources are inadequate. Limited technical inputs. Central level lacks budget for widespread training of local staff.
- Future plan – need to identify, to refer to the legal framework, under the four principles of 'break-through approaches'. Involvement of whole society, not only specific agencies. Society needs to be sensitized.
- HR issues – require quantity and quality improvement. Physical and financial resources. Regulatory framework requires review and revision including community participation. Manuals and guidelines should be developed from pilot activities.
- Poverty – access to financial resources for middle and low level people should be easier. e.g. Issues of access to banks.

### Additional Comments and Discussion

- ❖ Clearly there already exists much cooperation amongst stakeholders. What about gender issues and religious groups?
- ❖ Which department is responsible for information management and has the data from LUPLA been entered into database systems? Is there a guidebook for local level staff, e.g. for concession allocation. In reality, concessionaires sometimes just invade. Is this Because of errors in reading maps or lack of understanding of procedures?
- ❖ MAF was responsible for cooperative tenure allocation. Temporary certificates can be transferred into permanent certificates. Inappropriate activities take place where they shouldn't because of misinterpretations around LUPLA. What can be done to address population growth? Use of NTFPs, e.g. a village in Savanakheth has their own strong regulations which include penalizing invasion from neighboring communities. Can we make such systems formal or not? Implementation and enforcement of national policies is weak. We have village forests and need to manage these better, but how?
- ❖ Future plans will take issues into consideration by recognizing weaknesses and discrepancies between policies and implementation. However, policies and laws are not clear on village lands such as in China. In Lao PDR, the state can simply take land back anytime. Local community and civil society groups could organize mass movement and awareness raising throughout the country. Need to establish at the lowest level a mechanism for recognizing outstanding groups of people. Another

issue is the lack of monitoring and evaluation, and yet another is the lack of budget planning. How do we get financial resources to the local level?

**Group 4: Review of existing external assistance related to community and private based management of forest resource** – identify gaps, opportunities and assistance needs

#### **Guiding Questions**

- What kind of external assistance is currently available for the promotion of community and private forestry and titling?
- Is the type of assistance provided enough and efficient in addressing the agenda of community and private forest promotion?
- What further external assistance would be necessary for forest tenure reform and titling?
- What opportunities exist for external assistance for the promotion of community and private forest?
- What are the possible ways to increase amount and quality of such assistance?

#### **Presentation of Group Work**

- Listed many ongoing external assistance projects that involve aspects of NRM but few focus specifically on communal land titling. Therefore, it is inadequate. Issues of piecemeal nature of support, lack of continuity, lack of coordination, monitoring, etc. LUPLA policy not clear and confusions between laws on communal land management.
- There is therefore a need to support improved information and capacity building.
- Need to develop guidelines, policies and incentives. Capacity building of staff required at all levels. National CF Program needed. Awareness raising at the grassroots level through campaigns on benefits and rights so they can become more active to meet their own needs. Coordination mechanism between stakeholders active in community development through NRM.
- REDD projects could increase support for communal land titling if considered as a priority. Concessionaires should be required or encouraged to complete communal and individual land titling around concessions as a condition in the concession contracts to reduce future conflict.

### Additional Comments and Discussion

- ❖ Stakeholders involved in external assistance include private sector and local NGOs. Lao PDR could consider a similar coordination mechanism to that in Vietnam – Forest Sector Support Program (FSSP) – that coordinates sector assistance through annual meetings and plans to direct external support to forest sector plan. FSSP has secretariat in DoF to manage this.
- ❖ CSOs have many projects promoting village based NRM and establishment of local rules and regulations in some places. e.g. concerns over future generations.
- ❖ Although some villages are getting much support than others, funds should be allocated from different projects for communal land titling and CF development.
- ❖ Dr. Silavanh clarified that a mechanism exists for sharing information and coordination on forest and land development through Working Groups and that these coordinate external support, there is one for agriculture and NRM led by MAF. There are four Sub-Groups, including one on forestry led by DoF to coordinate sectoral assistance. Many NGOs and friendly countries, land use groups share lessons and experiences of / with local communities. Big companies such as Oji also participate. A similar coordination mechanism as in Vietnam to have a ‘basket fund’ for forestry is attractive to Lao PDR. Needs to be brought up at the highest levels to encourage donors to follow the Paris and Vientiane Declarations to ensure effectiveness of ODI. ODI covers about 80% so coordination is crucial for all sectors. Donors not yet able to do this. GIZ, JICA and others try to coordinate their assistance to develop models and best practices and guidelines in community participatory methodologies to be followed by all (new initiative by DoF). Concessions in Laos are in different forms – mining, hydro-, plantations etc. Therefore, there is a need for different formulas (e.g. 1+4, 2+3, etc.) in different situations. Of course the local people are the ‘owner’ of the land so they must be consulted. The GoL is taking initiative to develop producer groups to enable better negotiating power. Also, there is a need for local organization to negotiate on sharing of benefits.

## COMMENTS BY SELECTED AGENCIES

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### National Assembly

National Assembly (NA) supports and agrees with all the points discussed so far. Emphasized why it is important to be honest about the weaknesses otherwise the people will not trust the government. There are good policies, etc. but still some issues remain. For example, management administration at local level is weak and officers are not good role models especially regarding coordination and the illegal authorization of private ventures despite local people saying no. Therefore, there is a need to uphold the law at the local level by raising awareness on laws and rights.

Lessons from overseas are useful – policy making should reflect the reality (not the ideal). For the forest sector we need to check again what needs to be reviewed. The first thing to review is tenure rights. Government and local community rights, e.g. China, communities have greater and clear rights over land. If possible, MAF through DoF should conduct an analysis on what could be done in Lao PDR in relation to the quality of the forest. In Lao PDR, such large areas of concessions by companies through government authorization should not be allowed. A lot is done with 2+3 (land and labor) + (finance, market and technology). Need to reconsider tax, customs and banking and access to credit. In China, this was an important aspect of the reform process. The private sector needs to invest more in processing, especially in relation to plantations. The law on forests and land are related to the master plan for land use. There is a lack of consistency in information to enable cross-referencing; coordination mechanisms are required at all levels.

### Ministry of Natural Resources and Environment

Dr. Chantaviphone acknowledged that he was not speaking only on behalf of MoNRE. He appreciates the workshop being held in Lao PDR, particularly to give clarification on how all this can contribute to poverty reduction. Generating income from forest is crucial, which can contribute to this if land and forests are allocated to communities. 1,000 patches of land should be titled – this needs a systematic approach. We agree with the National Assembly (NA) speakers that policy needs to be clearer, need to review issues related to tenure such as ownership or long-term leases. Before concessions are granted, local people's needs should be dealt with first. We should also work to secure soft-loan and technical support from China to support large-scale land titling.



### **Faculty of Forestry of the National University of Lao**

Students need to learn more about these issues so they are prepared for their future careers. Faculty of Forestry would like to focus on how to create the best human resources to work in the sector. Educational institutions are criticized as capacity level in government positions is weak. Employment of government staff should focus on the people who have been appropriately trained.

### **SUFORD/WB, to represent International organization and projects**

This initiative is a good opportunity to bring forested areas outside the three existing categories under management. Lack of resources is definitely a limiting factor. As the policy is developed, it must take this into account allowing cost-effective self-management and self-regulation. This could only happen if communities are allowed to get a major share of the benefit. The GoL needs to support and regulate, including law enforcement. Focus on what is possible, given the resources available, and not on the impossible. e.g. inside production forest, shifting cultivation is still taking place where needed by local communities, but in a controlled fashion that reduces the negative impacts. It balances interests of both parties and builds trust. Would also like to see some areas of degraded forests inside production forest be considered for a similar approach – Nepal and Vietnam have managed to rehabilitate degraded areas through CF. Important to consider what trees could be grown in these situations (production forests focus on indigenous species). We have to realise that degraded areas are degraded because they are being used for economic activities. An example of this is from production forest area where nearby rubber plantations have properly established on degraded forest area, but as the local population used these areas they have now shifted the same activities into the production forest.

### **JICA, to represent International organization and projects**

PAREDD project in Luang Prabang is very concerned with avoiding deforestation and increasing carbon stocks. JICA will hand over the Forest Information Center next month. JICA has developed a forest preservation program and recently signed to distribute equipment to local level to build capacity to support capacity development of villagers. JICA's capacity development project is supporting DoF in various areas, such as demarcating protection areas. JICA supports improved coordination mechanisms.

There is also an MoU between JICA and RECOFTC to enable collaboration and the meeting of top-down and bottom-up approaches, e.g. capacity building on carbon accounting.

### **CLIPAD, to represent International organization and projects**

It is good to learn from different resource persons, through working at the grassroots level; lots of issues relating to tenure have been recognised. REDD+ also depends on these issues being resolved. In Sayaburi province, the CLIPAD project area has many land use problems, particularly the demarcation of different forest categories and land uses. If the demarcation is done on the ground, people will know where the boundaries are. There has been an announcement to stop slash and burn farming, but no monitoring is done so forests have been destroyed and converted into agriculture land. Therefore, the big issue is the implementation of the LUPLA and demarcation. Should follow China's example or people will destroy the forests. Law enforcement should involve local communities. FPIC processes should be undertaken. Need to identify currently unidentified forest areas. If these are to be included in REDD+ projects, they need to be identified or their carbon stock cannot be marketed. REDD+ projects can then take place in such areas.

### **Land Issues Working Group, representing Local NGOs/Civil Society Organizations**

After working seven years on CF in Southern Laos, it has become clear that tenure is the biggest issue being faced by the villagers. Over the past 5-6 years, Laos has seen a rapid expansion of foreign direct investment (FDI) in the agro-forestry sector. Implementation problems, despite some good policies, are leading to local communities being adversely affected when such concessions are established incorrectly. An example from Savannakhet Province was presented where dense forest was cleared and deliberately targeted by rubber plantations. The areas actually planted are outside areas allocated for the concession, but actually inside an area designated as a conservation area. Lao villagers have sustainably managed natural resources for hundreds of years. Villagers want to be able to manage their forests, but without the rights over their forest lands, it is impossible for them to undertake this management in the long run. The Land Issues Working Group (LIWG) views forest tenure as an important policy reform which is urgently needed.

## Association of Biodiversity, representing Local NGOs/Civil Society Organizations

Mining and other concessionaires do not respect agreements. They try to take advantage of any gaps in laws or contracts. Therefore, everything must be in writing, e.g. contributions to local communities. There must be awareness among communities as they do not know much about modern society and what they can benefit from NTFPs and sustainable forest management. National Biodiversity Conservation Areas (NBCAs) need information systems. Need database so we can provide information to communities. People can grow and export NTFPs sustainably.

Implementation issues continue to be critical. Local communities are very cooperative. Difficult to change our own mindset, but we can use young people to use new technologies. Government inspection, as it is currently, is in effect 'inspecting yourself'. Should use the young people and work with the Ministry of Education. They will then learn practically rather than just theoretically from books. We should also develop different learning platforms, e.g. TV debates. Learning can take place in many forms. Globalization and regional linkages create the engine for economic development. Where does economic growth come from? It comes from natural resources and social development. Therefore, this has to be done in an equitable way so consumption can drive growth. Although poor, Lao people are happy.



## DAY 2 - PLENARY DISCUSSION

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*Time reduced to 30 minutes. The facilitator asked participants to attempt to summarise what the workshop can agree upon.*

Dr. Silavanh summarized the proceedings based on his following observations: Policy – should be improved to address the gaps. We should work together to address these gaps. Both rich and degraded forests areas need addressing if both are to be protected, and not degraded and improved. The three categories of forest are clear, but the remaining 25% outside the classified forest needs clarity on tenure, rights and responsibilities. Demarcation and recognition of degraded areas transformed into commercial plantations and for improving livelihoods should be undertaken. We need to rehabilitate degraded areas to increase national forest cover.

Policies should benefit all stakeholders and these should be spelt out clearly. In order to get ecological services to contribute to the national economy, e.g. PES and REDD+, we must share benefits with local communities. National economic results enable reinvestment to villages for development. DoF wishes to pilot a mechanism to work with hydro-electric sector to provide funds for forest rehabilitation within catchments of these projects. Concerns have been raised about weaknesses in information dissemination to change attitudes and behaviour, especially to young people. Capacity development of government staff is equally important. Therefore, we should take diversified approaches and need to work with development partners to continue this process.

### Further Comments and Discussion

- ❖ Strongly support above points. Appreciation of the meeting. How to further benefit from the meeting is a key question. The answer is that these points need to be taken into consideration while revising the laws.
- ❖ Mr. Luis Carlos Joels noted that Brazil has experience in many of these issues, and resolved some successfully. e.g. on relationship between concessions and local communities and multi-stakeholder processes. He offers support to provide further information on any of these issues after the workshop.
- ❖ For the development and management of degraded forest areas we need to consider definitions of degraded forest and different categories before working on the policy. How do we measure and determine what is degraded and what isn't? Some areas are not degraded today, but may be tomorrow, and then concessions may be granted. Planning has to be comprehensive involving all sectors. If areas are identified for mining, roads, special economic zones, soil quality, etc. so other sectors have overlapping interests. Need to put maps together.
- ❖ There are gaps in mining concession practices such as relating to EIAs and then avoidable problems have to be solved later. Need detailed plan for degraded areas and select the types of crops that are suitable.

- ❖ A big question is whether we give the land rights to people and then the government pays compensation. If they take it back, can RRI support a consultative process for this to happen? Lao PDR needs investment in district level capacity building.
- ❖ Need to disseminate the law and showcase best cases that have made a 'breakthrough. Should conduct a tenure assessment on how land is already being used before deciding on new land uses. One of the steps for granting concessions and in other land use planning should be to provide access to the needed information to many people. We know some people are destroying the forest, why do we not stop them? We should not only identify the protected areas and local knowledge about these areas, but also inform the people of these findings; detailed consultation processes should be undertaken, without which, no decisions should be made. All these should be built into regulations and manuals.



## FINAL COMMENTS

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### Nepal

Very interested to learn about what is happening in Lao PDR and the deliberations taking place, Dr. Kanel maintain that ‘traditionally’ trained foresters are more towards nationalization of forest under state management. However, he along with other foresters has changed their understanding through experience and now sees that where there is good forest, it is because it serves people and they maintain the forest accordingly. Foresters rely more on ‘hard power’ (laws, regulations, enforcement) but need to use ‘soft power’ (awareness raising, incentives, consultation and consensus building, etc.) to facilitate people to work for the same interests. Need to put words into action. Dr. Kanel is willing to share all CF policies, regulations, guidelines, etc. from Nepal and these can be used to guide similar in Lao PDR or be adapted to local context. A final message is that it is important to practice – “we learn from both successes and failures equally. Must implement in the field to learn what works and what doesn’t”.

### Brazil

Mr. Luiz Joels appreciated the rich discussion held in the meeting. All elements needed to move forward forest tenure reform to have better benefit to local communities were discussed in greater length. The world is changing fast. Community based forest management (CBFM) has the potential to produce the goods required for development as well as meeting MDGs. It is very important in the development of a country as opportunities for alternative development paths have limited time. CBFM is worth pursuing and advancing forward.

### China

Firstly, Ms. Li Shuxin highlighted the usefulness of bringing participants from all sectors together to discuss these issues as forestry does not only belong to the forest sector but to all society. Secondly, the workshop purpose should reflect upon what needs to be done next. Thirdly, China has made progress in advancing forest tenure reform and if this can give some insights for adaptation to the Lao context, then they are willing to extend help. Ms. Li Shuxin offers continued support to Lao PDR from the State Forest Administration (SFA) and also through Asia-Pacific Network for Sustainable Forest Management (APFnet).

## **RRI FUTURE SUPPORT**

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What could RRI offer in 2012 to support the continuation of forest tenure reform in Lao PDR? Participants were reminded that RRI is not a traditional donor initiative, but a coalition of partners that believes securing local tenure is a precondition for rural development. Some of the areas of support needed were put forward by the participants as below.

- ❖ An interest was expressed in further cooperation with China and other countries in sharing information on policy-making and laws, and models to get income from forests. Continue the workshop series and documenting and analyzing policies and land uses. RRI support could be instrumental in the policy review process whereby providing information about and experience of forest tenure reform.
- ❖ Therefore, information sharing is something that RRI can support. The master plan for land use still has implementation problems. MoNRE discussed information problems around different areas such as mining, construction, etc. NA is also discussing this. Why activities are still not implemented the proper way? Need master plan to be supported through legislation. Clear mapping is also important aspect to address. Then all sectors can use the same maps and plans. Different sectors have to work together.

## **CLOSING**

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Dr. Silavanh closed the workshop by saying that DoF will share outputs from workshop with all participants. He thanked resource persons and all participants for their active participation. He stated that the deadline to discuss in NA revisions to laws is June 2012. MAF is taking the lead, but requires inputs from other sectors. Consultation will continue. In the Lao context, he would prefer to use terminology that expresses 'improve' rather than 'reform'. Lao PDR will adapt learning from other countries. There is a need to reach consensus at the highest levels to improve forest management in the future. A master plan and sectoral ownership is important as MoNRE will cover water, land and environment, whereas MAF will focus on forests and emerging challenges such as food security, climate change, risk reduction from natural disasters, etc. MAF and MoNRE will work together closely. Dr. Silavanh invited partners, such as RRI, to continue the discussion and work together in the policy review process.