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## SUMMARY REPORT

# **Policy, Laws and Regulations and the UNFCCC Cancun Safeguards: Frameworks and Gaps in the Lao PDR**

June 2015

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The final responsibility for opinions expressed in the report lies with the author, Dr. Rita Gebert. They do not necessarily represent the opinions of GIZ or of any member of the Government of the Lao People's Democratic Republic.

## Abbreviations

ADB	Asian Development Bank
CBD	Convention on Biological Diversity
CEDAW	Committee on the Elimination of Discrimination against Women
CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
CITES	Convention on International Trade in Endangered Species
CLiPAD	Climate Protection through Avoided Deforestation
CP	Conference of Parties
DFRM	Department of Forest Resource Management
DOF	Department of Forestry
ESIA	Environmental and Social Impact Assessment
ESMF	Environmental and Social Management Framework
EUR	Euro
FCPF	Forest Carbon Partnership Facility
FDF	Forest Development Fund
FDI	Foreign Direct Investment
FLEGT	Forest Law Enforcement Governance and Trade
FOMACOP	Forest Management and Conservation Project
FPIC	Free, Prior and Informed Consent
FS2020	Forest Strategy 2020
FSC	Forest Stewardship Council
FSSWG	Forest Sub-Sector Working Group
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH
GoL	Government of the Lao PDR
ha	hectare(s)
IEE	Initial Environmental Examination
INGO	International Non-Governmental Organisation
KfW	Kreditanstalt für Wiederaufbau / German Development Bank
LPRP	Lao People's Revolutionary Party
MAF	Ministry of Agriculture and Forestry
MONRE	Ministry of Natural Resources and Environment
MRV	Measurement, Reporting and Verification
NA	National Assembly
N/A	Not Available
NPA	National Protected Area (formerly known as National Biodiversity Conservation Area)
NT2	Nam Theun Two (name of hydropower project)
NTFP	Non-Timber Forest Product
PES	Payment for Environmental Services
PFA	Production Forest Area
PLR	Policies, Laws and Regulations
PM	Prime Minister
PSFM	Participatory Sustainable Forest Management
RECOFTC	The Centre for People and Forests

REDD	Reducing Emissions from Deforestation and Forest Degradation
REDD+	REDD <i>plus</i> the role of conservation, sustainable management of forests and enhancement of forest carbon stocks
REL	Reference Emission Level
R-PP	Readiness Preparation Proposal (for REDD+)
SBSTTA	Subsidiary Body on Scientific Technical and Technological Advice
SEPC	Social and Environmental Principles and Criteria
SES	Social and Environmental Standards
SESA	Strategic Environmental and Social Assessment
SEZ	Special Economic Zone
SIS	Safeguards Information System
SUFORD-SU	Sustainable Forestry and Rural Development-Scaling Up (project)
TF	Task Force
TOR	Terms of Reference
UNDRIP	United Nations Declaration on the Rights of Indigenous People
UNFCCC	United Nations Framework Convention on Climate Change
UN-REDD	United Nations Collaborative Programme on REDD+ in Developing Countries
VCS	Verified Carbon Standard
VDF	Village Development Fund
VFM	Village Forest Management
VFMP	Village Forest Management Plan
VMU	Village Mediation Unit
WCS	Wildlife Conservation Society
WWF	World Wide Fund for Nature

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## Executive Summary

The Lao PDR has set an ambitious forest cover goal of 70% by 2020. The Government of the Lao PDR (GoL) includes forestry as one of the pillars contributing to poverty reduction in the country. But the longstanding goal of 70% forest cover is at risk. There are many challenges facing forest governance in the Lao PDR at present, and the challenges to the forestry sector arising from other sectors are daunting. It is often easy to blame local communities for deforestation and forest degradation, but there are underlying drivers such as economic development policies and governance issues that are among the root causes of deforestation. There is increasing recognition that many of the direct and underlying drivers of deforestation in Laos arise outside the forest sector.

Laos is in the process of establishing a comprehensive legal and policy framework that would cover the issues most relevant for the implementation of REDD+ and the UNFCCC safeguards. Nonetheless, there remain significant gaps in the policies, laws and regulations (PLRs) that govern land and forest management in Laos. Unfortunately, at the time of this study the most crucial pieces of draft legislation—the Land Policy, and major amendments to the Land and Forest Laws were not yet tabled for approval by the National Assembly. The PLR gaps related to the Cancun safeguards will need to be systematically filled, but it cannot be expected that this will be a quick and easy process. There are some areas, such as Payment for Environmental Services (PES), that are not at all covered by any PLRs until now. Others, such as on land tenure security, benefit-sharing, information transparency and dissemination, and grievance redress are incomplete. Without creation of new PLRs or adjustments to some existing ones it will be challenging to implement the Cancun safeguards and the attendant Safeguards Information System (SIS) which is a prerequisite to receive REDD+ performance-based payments (cf. Warsaw Framework on REDD+).

REDD+ readiness planning and implementation needs the full support offered by the Forest Carbon Partnership Facility (FCPF) along with other development partners such as GIZ, JICA, SNV, and WCS. A strong focus would need to be put on the safeguards along with support for Village Forest Management (VFM) and community land titling. In developing a national safeguards framework or system, there will need to be strengthened institutions, such as a Safeguards Working Group established and supported under the REDD+ Task Force. There still needs to be intense dialoguing and common understanding created among key stakeholders on the role of the safeguards and a SIS as requirements for results-based payments under REDD+.

One of the major gaps for REDD+ and the UNFCCC safeguards lies in the land and forest tenure policies towards local communities of all ethnic groups in Laos. The legal framework on customary uses of land and forest remains incomplete and does not accord secure rights and tenure in its current form. Moreover, there are no policies that give special recognition to different ethnic people's needs for forest, forest land and for different forest products (including NTFPs). There are, rather, restrictions on what villagers may do in certain categories of forest, including whether they are allowed to sell NTFPs or not. Villagers are legally not allowed to sell timber. Years of forest allocation and forest protection policies, also aimed at eradicating the livelihood practice of shifting cultivation, have reduced local communities' claims to land.

More recent developments in the awarding of concessions for mining, hydropower and industrial tree plantations have made local communities' land tenure even less secure. How to ensure that local communities are not further alienated from their traditional forest lands through concessions and infrastructure projects? An important PLR to reduce land alienation is the Land Law (under revision) which allows community land titling. To date, however, very little land has received community title in Laos. Indeed, rural areas in general have very few individual titles either.

Current PLRs do not cover benefit-sharing adequately (exception for Production Forest Areas). Local communities need more support to have a say in forest resource management and clear benefits from forests. In the absence of clear benefit-sharing mechanisms, future REDD+ benefits will also be difficult to make fairly. Local communities who are faced with the highest opportunity-costs should also receive the highest benefits. A major challenge for the implementation of REDD+ would be to ensure that benefits reach participating local communities of all ethnic groups in a timely manner. Equally challenging would be to establish mechanisms by which local communities know exactly what their entitlements are and by when they should receive them.

Poorer local communities with few viable livelihoods alternatives will have difficulties with results-based financing modalities as foreseen under REDD+. Therefore, the design of a benefit distribution system would need to take both “activities” and “performance” into account. Mechanisms will need to be devised that include upfront payments, such as followed under CliPAD for activity-related payments to villagers. Given known budgeting difficulties, it would also be necessary for a special fund that reaches villages with upfront payments. This could take place, perhaps, under the umbrella of the Forest Development Fund or the Environmental Protection Fund.

VFM is not a requirement *per se* under the Cancun safeguards, but would be one of the most important options to ensure that local communities of all ethnic groups are able to benefit from REDD+. A good strategy will be to link Village Forest Management and community titling, by which local communities are provided more scope for decision-making. For VFM to work well, however, allocation of good quality forest land to villages for permanent titling would have to be accelerated, while refraining from declaring too much village forest for protection or conservation purposes (that accords communities fewer rights). VFM would require revisions to both the Forest Law and various regulations to give it more legal backing in the country. Well-implemented VFM would go a long way to achieving more security and greater decision-making power for local communities, especially when it includes the possibilities of maintaining shifting cultivation within village forest and agricultural landscapes.

Some PLRs, especially those related to sustainable forest management and to environment impact assessments both allow for participation and encourage it. Nonetheless, the top-down nature of PLR implementation in Laos leaves little room for “full and effective participation” (and FPIC) as called for under the Cancun safeguards. One of the major risks for the Cancun safeguards in the Lao PDR is an underlying lack of trust that local communities are skilled enough to manage the land and forest areas within their village boundaries. Virtually all PLRs call for supervision and checking by officials of what village authorities are managing. In turn, village authorities are to check and supervise what the villagers at large are doing. With little trust, it is not possible for local communities to have full and effective participation, or to gain full benefits from REDD+ implementation.

Implementing REDD+ and the Cancun safeguards may not bring about a major paradigm shift in Laos, but their serious implementation—with provision of transparent and credible information to all stakeholders within the country and to the international community—could contribute to improving the rights of local communities, while conserving the forest and biodiversity resources of the country. Secure land tenure and VFM are also directly associated with the future of REDD+ in Laos. There will undoubtedly need to be serious discussions as to a development trajectory that promotes economic development but without serious harm to the environment or the people who depend directly on forest resources for livelihoods.

## Table of Contents

Acknowledgements	i
Abbreviations and Acronyms	ii
Executive Summary	iv
<b>1 Introduction and Background</b>	<b>1</b>
1.1 What are the Cancun Safeguards?	2
1.2 Overview of the Legal Framework in the Lao PDR	4
<b>2 REDD+ Readiness and Safeguards Implementation</b>	<b>5</b>
<b>3 Risks, Drivers and PLRs: Contextualising the Cancun Safeguards</b>	<b>6</b>
3.1 Forest Governance: A Major Challenge	7
3.2 Challenges and Risks: Examples from Practice	8
3.2.1 Safeguard b) Transparent and Effective Governance	9
3.2.2 Safeguard c) Knowledge and Rights of Indigenous People and Local Communities	12
3.2.3 Safeguard d) Full and Effective Participation	13
3.2.4 Safeguard e) Enhanced Social and Environmental Benefits	15
3.2.5 Safeguards f) and g) Risk of Reversal, Risk of Displacements	15
3.3 A Note on Drivers of Deforestation and Forest Degradation	16
<b>4 PLR Options and Recommendations</b>	<b>18</b>
<b>5 Towards a Safeguards Information System: Initial Inputs</b>	<b>22</b>
5.1 Challenges for SIS Development and Some Starting Points	23
<b>6 Conclusion</b>	<b>24</b>
<b>7 Selected References</b>	<b>25</b>

## List of Boxes and Figures

Figure 1	General Process and Steps Towards a Country Safeguards System, Including SIS	4
Box 1	Hierarchy of Legislation in the Lao PDR	5
Figure 2	Profor Pillars and Principles of Governance	8
Figure 3	National Forest Categories, 2010: Focus on Houaphan Province	9
Figure 4	Allocated and Actual Rubber Plantation Concession Areas, Nambak District Luang Phabang	11
Figure 5	Participatory NTFP and Biodiversity Map by Khmu Villagers in Luang Phabang	12
Figure 6	Flowchart—From Safeguards Goals to PLRs and SIS	23



## Annexes

Annex 1	Terms of Reference	27
Annex 2	FCPF Grant Overview and Overlap with the Cancun Safeguards	29
Annex 3	Schedule and Persons Interviewed	32
Annex 4	PLRs Included for Gap Analysis	34
Annex 5	Safeguards in International Discourse	36
Annex 6	Summary of Forest Governance Issues in Laos: Two Recent Evaluations	37
Annex 7	PLRs and Ethnic Groups in the Lao PDR	39
Annex 8	PLR Gap Analysis: Criteria and Matrix	40
Annex 9	SIS Elements and Providing Safeguards Information: An Overview of UNFCCC Requirements	52
Annex 10	Starting Points for SIS and Biodiversity Monitoring in the Lao PDR	53

## 1. Introduction and Background

This study was commissioned by the Forest Governance Programme of the *Deutsche Gesellschaft für Internationale Zusammenarbeit* (GIZ) GmbH in cooperation with the Climate Protection through Avoided Deforestation Programme (CliPAD) implemented by the Department of Forest Resources Management (DFRM) under the Ministry of Natural Resources and Environment (MONRE) in the Lao People's Democratic Republic (Lao PDR).<sup>1</sup> CliPAD is supported by GIZ and the Kreditanstalt für Wiederaufbau (KfW). The study provides an analysis of the Policy, Laws and Regulations (PLRs) in the Lao PDR that pertain to the UN Framework Convention on Climate Change (UNFCCC) Conference of Parties' (CP) decisions to establish, implement and monitor governance, social and environmental safeguards<sup>2</sup> for Reducing Emissions from Deforestation and Forest Degradation (REDD+).<sup>3</sup> It also includes initial ideas on a Safeguard Information System (SIS). This is a summary version of a longer study report.<sup>4</sup>

The Lao PDR has been on the road to REDD+ readiness for a number of years. A Readiness Preparation Proposal (R-PP) to apply for funding under the Forest Carbon Partnership Facility (FCPF) was submitted by the Ministry of Agriculture and Forestry (MAF) at the end of 2010. The grant was approved in the second half of 2014. A number of development partners provide REDD+ support to the Lao PDR, including Germany, Japan, Finland, United States, the World Bank and the World Wide Fund for Nature (WWF) (funding from Austria). Overall, however, there has been little discussion or analysis in Laos on the Cancun safeguards.<sup>5</sup>

This study has a special focus on a PLR gap analysis vis-à-vis the Cancun safeguards and also provides a brief overview of possible initial steps needed for an SIS. It aims to support REDD+ readiness processes in Laos by providing a foundation for safeguards work that should be continued under the FCPF Grant with its Strategic Environmental and Social Assessment (SESA) process. Recognising key PLR gaps should help to provide initial inputs for designing REDD+ safeguards in the Lao PDR during the implementation of the FCPF grant (FCPF task overlaps with the Cancun safeguards are at Annex 2). Without the safeguards in place, and the beginnings of an SIS, performance-based payments for REDD+ implementation will remain a major challenge as agreed upon at CP 19 in Warsaw, Poland. It is strongly recommended that relevant development partners take up the results of this study for active dialoguing on safeguards and SIS development during the FCPF grant implementation and beyond.

In the report that follows the safeguards will be addressed from several angles: governance, social and environmental concerns. They are contextualised in Chapter 3 by way of a risk analysis based on information from interlocutors, articles and the author's own past work; a note on drivers of deforestation and forest degradation is also included. Chapter 4 provides an overview of where the gaps for safeguards implementation lie, and highlights major PLR areas requiring attention from policy and law decision-makers; it provides some options and recommendations for PLR gap-filling measures. Chapter 5 provides initial inputs on developing an SIS. More detailed information in charts and tables is found in the Annexes to this study.

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<sup>1</sup> Hereafter referred to interchangeably as Lao PDR or Laos. The Terms of Reference for this study are at Annex 1.

<sup>2</sup> Hereafter referred to interchangeably as the Cancun safeguards or the UNFCCC safeguards. They refer to the safeguards included at Appendix I of Decision 1/CP.16 (2010).

<sup>3</sup> The "Plus" in REDD+ stands for the role of conservation of forest carbon stocks, sustainable management of forests and enhancement of carbon stocks. See Paragraph 70, Decision 1/CP.16.

<sup>4</sup> For interested readers the long version of the report is available from CliPAD at the following addresses: [jens.kallabinski@giz.de](mailto:jens.kallabinski@giz.de) or [sebastian.koch@giz.de](mailto:sebastian.koch@giz.de)

<sup>5</sup> One exception was a safeguards workshop, sponsored by RECOFTC, in mid-2014 in Vientiane.

Data for this study were collected in the Lao PDR.<sup>6</sup> Both Lao and foreign experts knowledgeable about REDD+ and/or the forestry sector were interviewed (see schedule at Annex 3). Considerable time was spent to collect, consolidate and analyse the most relevant PLRs (a list of PLRs is at Annex 4 and references to PLRs are found throughout the text).

### 1.1 What are the Cancun Safeguards?<sup>7</sup>

CP 16 in Cancun (2010) produced a set of decisions that provided a broader definition for REDD+. It introduced the concept of multiple environmental and socio-economic benefits in addition to forest-related emissions reductions. REDD+ strategies and implementation were framed to give recognition to indigenous people and local communities who live in and near forest. Safeguards are a type of risk mitigation. Proponents and analysts of the Cancun safeguards argue, however, that they reflect the language of the United Nations core human rights conventions. Thus, the Cancun safeguards go beyond risk mitigation to actively propound benefits and human rights for indigenous people and local communities at the heart of REDD+ activities.<sup>8</sup> Seen in this light, the safeguards should help ensure that multiple environmental and social benefits are gained under REDD+. Under Decision 1/CP16, Paragraph 70 clarifies the CP's intentions to broaden REDD, in essence creating REDD+, with the addition of sustainable management, conservation and enhancement of forests and forest carbon stocks. Paragraph 70 includes the following five REDD+ activities:

- (a) Reducing emissions from deforestation; (b) Reducing emissions from forest degradation; (c) Conservation of forest carbon stocks; (d) Sustainable management of forests; (e) Enhancement of forest carbon stocks;

Paragraph 72 requests developing country Parties to define their REDD+ strategies and action plans in the country context while considering the following:

- Drivers of deforestation and forest degradation;
- Land tenure issues;
- Forest governance issues;
- Gender considerations, and Safeguards.

Strategies and action plans should ensure “the full and effective participation of relevant stakeholders, *inter alia* indigenous peoples and local communities.” That “full and effective participation” is also one of the seven Cancun safeguards indicates the high importance this is accorded by the international community. Paragraphs 69 and 72 refer to the safeguards (outlined in Paragraph 2 of Appendix I), saying in essence that they are an integral part of REDD+. The safeguards themselves also include forest governance. Land tenure shall not be ignored in the implementation of REDD+ activities; no harm should come to indigenous people's and/or local communities' tenure security.

The seven safeguards under Paragraph 2 of Appendix I (to Decision 1/CP16) are as follows:

- a. Consistency with national forest programmes and objectives of relevant international conventions/agreements;
- b. Transparent and effective national forest governance structures;
- c. Respect for the knowledge and rights of indigenous peoples and local communities;
- d. Full and effective participation of relevant stakeholders, in particular, indigenous peoples and local communities, in the actions referred to in paragraphs 70 and 72 of this decision;
- e. Conservation of natural forests and biological diversity, ensuring that the actions referred to in Paragraph 70 are not used for the conversion of natural forests, but to incentivize the protection and

<sup>6</sup> The researcher was Dr. Rita Gebert, a senior socio-economic development expert with extensive experience on rural and forest dependent livelihoods in upland regions of Southeast Asia, and on safeguards implementation in the forestry sector.

<sup>7</sup> For further discussion on safeguards in international discourse, please see Annex 5.

<sup>8</sup> See for example the ClientEarth publication (2013) entitled *A Guide to Understanding and Implementing the UNFCCC REDD+ Safeguards: A Review of Relevant International Law*.

conservation of natural forests and their ecosystem services, and to enhance other social and environmental benefits;<sup>9</sup>

f. Actions to address the risks of reversals;

g. Actions to reduce displacement of emissions.

The seven Cancun safeguards are broad in scope. They include governance, social (or socio-economic) and environmental including biodiversity aspects.

Just as there needs to be measurements, reporting and verification (MRV) to track changes in forest carbon stocks, developing country Parties are also requested under Decision 1/CP.16 Paragraph 71 to provide information on safeguard implementation in the form of *A system for providing information on how the safeguards . . . are being addressed and respected throughout the implementation of the activities referred to in paragraph 70*. This is called a Safeguards Information System (SIS).

During CP.17 (Durban 2011), the safeguards' importance was verified with Decision 12/CP.17: *the implementation of the safeguards . . . and information on how these safeguards are being addressed and respected, should support national strategies or action plans and be included in . . . all phases of implementation referred to in decision 1/CP.16 . . .* Decision 12/CP.17 suggests guidelines on how developing country Parties may prove that all safeguards are addressed and respected. The points on safeguard information provision suggest that they be transparent, consistent, accessible and regularly updated. They should be flexible enough to allow improvements over time, be country-driven, nationally implemented and build upon existing systems as appropriate.

Decision 2/CP.17 (Paragraphs 63 and 64) links the Cancun safeguards to results-based payments under any type of funding mechanism for REDD+ (*regardless of the source or type of financing*). Conditionality appears in Paragraph 64 when it recalls that for developing country Parties *to obtain and receive results-based finance, these actions should be fully measured, reported and verified . . .* Paragraphs 63 and 64 show that developing country Parties' REDD+ readiness shall include national strategies and plans developed consistently with the safeguards. The safeguards are to be implemented, monitored and reported on throughout the lifetime of REDD+ activities. Decision 9/CP.19 (Warsaw 2013) links safeguards reporting explicitly to conditional payments: *developing countries seeking to obtain and receive results-based payments . . . should provide the most recent summary of information on how all of the safeguards referred to in decision 1/CP.16, appendix I, paragraph 2, have been addressed and respected before they can receive results-based payments*.

Many developing country Parties in Asia, Africa and Latin America are now establishing country safeguards systems in line with their national circumstances, sovereignty and in keeping with relevant international conventions and agreements. The safeguards, as REDD+ itself, must be contextualised in each developing country Party. This challenging process is summarised as per Figure 1 below. A PLR gap analysis has become a key part of the UNFCCC safeguards approach because of the UNFCCC request that the safeguards "are all being *addressed and respected*." This means in practice that the country Parties should show how the safeguards are an integral part of the policy, legal and regulatory framework of the respective country. In general, the country safeguards systems should have two major parts to be UNFCCC compliant:

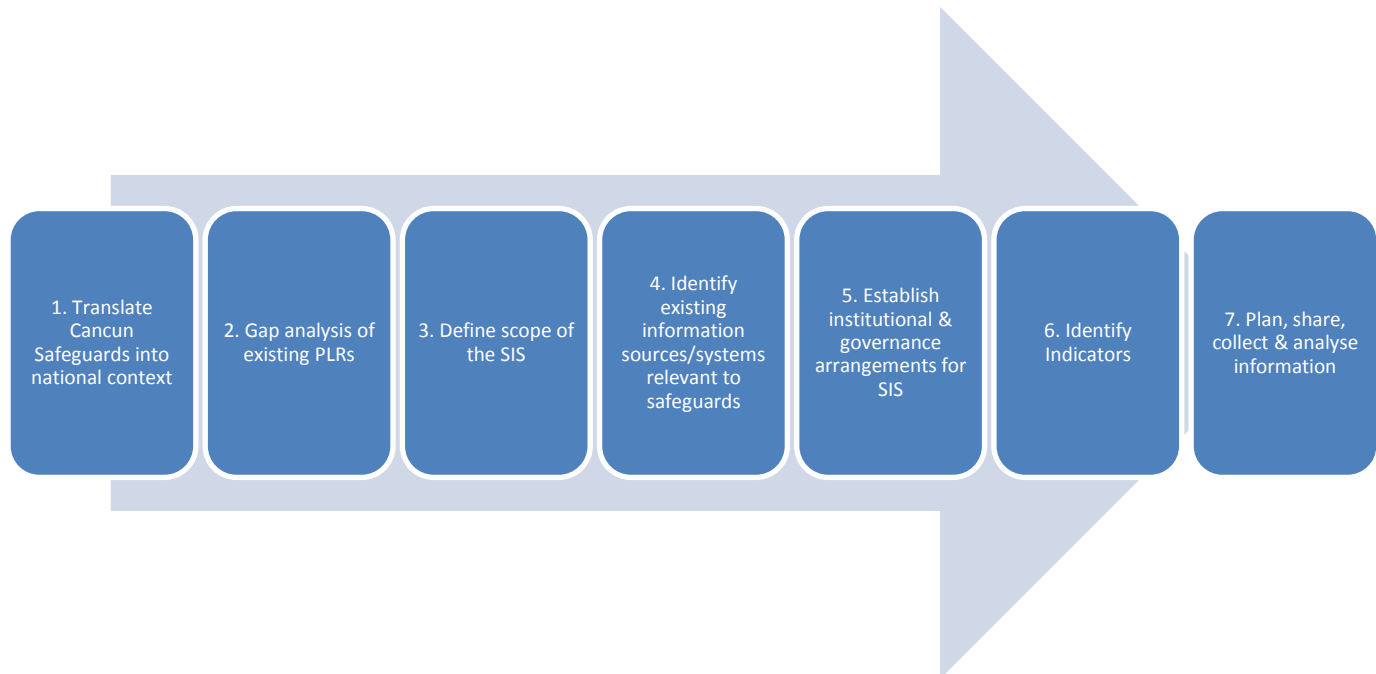
1. Addressing and respecting safeguards through implementing relevant PLRs which establish the "content" of the safeguards (what needs to be adhered to in the implementation of REDD+ activities);
2. SIS: the collection and provision of information on how REDD+ safeguards are being addressed and respected throughout implementation of REDD+ activities.<sup>10</sup>

<sup>9</sup>This safeguard description has an added footnote: *Taking into account the need for sustainable livelihoods of indigenous peoples and local communities and their interdependence on forests in most countries, reflected in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).*

<sup>10</sup> From Judith Walcott, 2014 for UN-REDD, REDD+ Academy, presentation on Safeguards and Safeguards Information System. Document accessed at UN-REDD.net

Figure 1 below shows the process or steps required to achieve an SIS. The steps may not have to be taken in the exact order shown, but some steps logically would have to be completed or mostly completed earlier than others. This study, for example, provides inputs for stages 1 and 2 in the Figure, and also provides some preliminary inputs for stage 4.

**Figure 1:** General Process and Steps Toward a Country Safeguards System, Including SIS<sup>11</sup>



## 1.2 Overview of the Legal Framework in Laos

Laos is in the process of establishing a comprehensive legal and policy framework that would, among others, cover the issues most relevant for the implementation of REDD+ and the UNFCCC safeguards. The legal and policy framework in Laos is based on a hierarchy starting with the Constitution, then laws, resolutions, Presidential ordinances, decrees, orders and decisions as under the “Law on Making Legislation” passed in 2012 (see Box 1 below). There is now an online Lao Gazette, where all national laws, resolutions, decrees and so forth must be posted in order to be considered “official.”<sup>12</sup> The Lao PDR is still striving towards the “rule of law.” The 8<sup>th</sup> Draft National Socio-Economic Development Plan (NSED) mentions rule of law as part of the vision for 2030. The GoL is conducting training and education sessions to further advance the rule of law at all levels of its administration.

Despite the more formalised legislation process in Laos, there is still a tendency towards issuing PLRs in the land and forest sectors that may overlap or even contradict each other.<sup>13</sup> This may cause confusion and leave room for interpretation at local level. District and provincial authorities may not be familiar with the content of individual pieces of legislation and not know what to do in cases of contradiction. For REDD+ and the Cancun safeguards, consistency among the PLRs of different sectors, including consistent implementation or enforcement, will remain a challenge.

The ownership of all land, including forest land, is officially by the entire people of Laos as represented by the State. This is enshrined in the Constitution of 2003 (Article 17). The State manages land on behalf of the people and is the ultimate decision-maker over its classification, reclassification and allocation, as provided for under various PLRs. Nonetheless, with the aim of promoting Foreign Direct Investment (FDI)

<sup>11</sup> Adapted from Judith Walcott, *op cit*.

<sup>12</sup> Accessible at <http://laoofficialgazette.gov.la/>

<sup>13</sup> Noted in the FS2020 Assessment.

in Laos, the issues of land lease and “ownership” are changing to make it easier for the private sector to gain control of land—the Draft Land Law/Policy (2014) makes it possible for the State to expropriate land from local communities for *both* public *and* private purposes.

**Box 1****Hierarchy of Legislation in the Lao PDR (Law on Making Legislation, 2012)<sup>14</sup>**

- *The Constitution;*
- *Laws;*
- *Resolutions of the National Assembly;*
- *Resolutions of the Standing Committee of the National Assembly;*
- *Ordinances of the President of the Republic;*
- *Decrees of the Government;*
- *Resolutions of the Government;*
- *Orders and Decisions of the Prime Minister;*
- *Orders, Decisions and Instructions of the Minister, Minister-Equivalent and Head of a Government Authority;*
- *Orders, Decisions and Instructions of the Provincial Governors and Capital Governor;*
- *Orders and Decisions of the District and Municipality Chiefs;*
- *Village Regulations.*

*If the provisions of existing legislation and newly adopted legislation are inconsistent with the provisions of international conventions or treaties that Lao PDR is party to, the provisions of the international convention or treaty prevails. Where a contradiction exists, legislation of the higher level shall be applied. If a contradiction of legislation at the same level exists, the later legislation shall be applied. If legislation at the same level contradicts each other, the provisions of specific [as opposed to general] legislation shall hold.*

**2 REDD+ Readiness and Safeguards Implementation**

The Lao PDR has received support from various donors since around 2008 to help it achieve REDD+ readiness. Momentum on REDD+ was gained from 2008 to 2011, with MAF having submitted an R-PP to the FCPF in 2010. The R-PP included a safeguards approach although it would need updating to conform to the Cancun safeguards. From 2011 to early 2015, REDD+ readiness processes slowed. There was a reorganisation of responsibilities for the Lao PDR’s forest estate between two ministries: MAF and the newly created MONRE. Conservation (including National Protected Areas - NPAs) and protection forests were delegated to MONRE, and Production Forest Areas (PFAs) left with MAF.<sup>15</sup> While the REDD+ Office was established under the Department of Forestry (DOF) in 2008, the creation of MONRE and DFRM led to a reorganisation of responsibilities. Under PM435/2011 MONRE has overall responsibility for climate change.<sup>16</sup> Thus, it took over responsibility of REDD+, and a new REDD+ Division was set up under DFRM. The DOF REDD+ Office maintains the lead for the FCPF Grant since MAF is the project holder.

<sup>14</sup> Source: Lao Gazette at <http://laoofficialgazette.gov.la/index.php?r=site/display&id=356>

<sup>15</sup> These forest categories are defined in the Forestry Law, 2007. The draft Forestry Law (2014) shows that the three categories will be maintained. MAF may have responsibility for “unclassified” forest areas and village forest areas, but is unclear because of the way forest land is allocated within village boundaries. Some MONRE documents show that it is responsible for village protection and conservation forests.

<sup>16</sup> See PM435/2011 Articles 2 and 3: Article 3.14 states that MONRE is “To be a focal point for the implementation of the strategy on climate change in conjunction with the strengthening of adaptation with climate change, reducing various impacts and greenhouse gas releases . . . in order to increase forest coverage to absorb carbon . . . ; [Unofficial translation.]

DOF's REDD+ Office still has the staff with the most exposure and experience on REDD+, while DFRM's REDD+ Division needs more staff trained on REDD+ and the safeguards. A REDD+ Task Force (TF) was established under the auspices of MAF, but a new TF was established in October 2013 with a DFRM Chairperson and DOF Deputy Chairperson. There are 22 members from different government departments and mass organisations, but no members from outside of government. The TF does not yet have a clear mandate and programme of action and Technical Working Groups under the TF have yet to be established as of June 2015. REDD+ thus requires greater organisational clarity in Laos.

An urgent need is for major stakeholders in Laos to develop a common vision for REDD+, and based on that vision, a clear strategy. The GoL has yet to clarify how and where REDD+ fits with its overall vision of socio-economic development. In other words, what are the national circumstances that will determine REDD+'s direction and implementation? What is the role of REDD+, essentially a payment for environmental services (PES) scheme, in the overall economic development trajectory of the Lao PDR? These major questions do not yet have an answer; REDD+ is still associated with a vision of eradicating shifting cultivation and the ambitious goal of achieving 70% forest cover by 2020.<sup>17</sup>

Although movement towards REDD+ readiness in Laos has proceeded slowly of late, safeguards are already included in the forestry sector. The World Bank and ADB both have safeguards requirements. The SUFORD-SU programme with both World Bank Forest Investment Programme (FIP) and Government of Finland funding has a set of stringent safeguards. The safeguards implemented so far, however, may be considered project "add-ons." Some of them are implemented on a broad scale, but PLRs have not necessarily been amended to accommodate them. This is an important difference between the Cancun safeguards and project-triggered safeguards: a country receiving results-based payments under REDD+ has to prove the effective and long term implementation of the safeguards through its PLRs.

SUFORD actively implements Free, Prior and Informed Consent (FPIC) with participating villages. CliPAD also started a process of FPIC in a few villages in Houaphan Province. A Japanese-supported project (PAREDD) implemented for five years in Luang Phabang Province (five villages) also used FPIC. SUFORD, CliPAD and PAREDD include livelihood support measures that should reduce people's dependence on forest resources, or help cover people's opportunity-costs in changing their land use patterns. CliPAD and SUFORD use the Village Development Fund (VDF), essentially a revolving fund, as a main livelihood support modality. CliPAD makes "up front" payments to villages to support REDD+. Governance safeguards have figured to a lesser extent in the three projects mentioned, but do include organisational development and capacity building support.

### 3 Risks, Drivers and PLRs: Contextualising the Cancun Safeguards

The most straightforward way to contextualise safeguards in an individual country is to start with a risk analysis. The risks point the way to both the level and type of safeguarding that is required. In the REDD+ world, there are two types of risks to factor into the safeguards equation:

1. Those that may result in REDD+ failure (i.e., underlying risks arising from the current situation if they are not changed; examples would be uncontrolled natural forest conversion through concessions and illegal logging);
2. Those that may arise from REDD+ implementation (i.e., villagers suffer restrictions on forest use that adversely impact their livelihoods).

Stakeholders need to develop consensus on the risks that either will affect REDD+ or possibly arise from REDD+. This should also be based on a consensus on both the drivers *and* underlying drivers of

<sup>17</sup> This goal is written in all major PLRs, including the Draft 8<sup>th</sup> NSEDP. However, as the assessors of the FS2020 wrote in 2014 (Part III: 6): *According to the latest available information, there is no indication that the forestry sector is successfully reversing the trend of declining forest cover. . . . It seems unlikely that the target of 70% forest cover will be achieved by 2020.*

deforestation and forest degradation (see Chapter 3.3). Many of the direct and underlying drivers of deforestation in Laos arise outside the forest sector. As MAF's R-PP stated (Summary): *The drivers of deforestation and the potential solutions are largely outside the control of the forest sector . . .* Similarly the Forestry Strategy 2005 – 2020 (FS2020) Assessment (2014, Part II: 50) stated: *[M]arket-oriented economic development including agriculture, mining and infrastructure development are increasing in the whole country. Those activities are likely to lead the causes of deforestation and forest degradation. Coordination with other sectors is much more important for REDD+ implementation . . .*

Different sectors, and the PLRs governing them, must have consistent environmental protection elements if the goal of increasing forest cover is to be met. The GoL has been pursuing economic development based on resource extraction and natural forest conversion. Mining and hydropower have been promoted as the motors of the Lao economy, while large scale plantation concessions (rubber) have fuelled forest conversion for mono-cropped plantations.<sup>18</sup> Rapid declines in biodiversity in certain areas are the result, including the non-timber forest products (NTFPs) needed for nutrition, household purposes and income generation. Forest cover seems not to increase. The development course a government chooses is part of its defined national circumstances, but “planned deforestation” may be far more predominant in certain parts of the country than “unplanned deforestation” caused by smallholder farmers. The Finland Futures Research Centre, commenting on REDD+ developments in Laos up to 2012 (Luukkanen et al. 2012: 4), noted with concern, “the research finds that the focus of Laos REDD+ is surprisingly strong on shifting cultivation and deforestation caused by the poor, possibly creating additional land use limitations for communities with food security challenges.”

### 3.1 Forest Governance: A Major Challenge

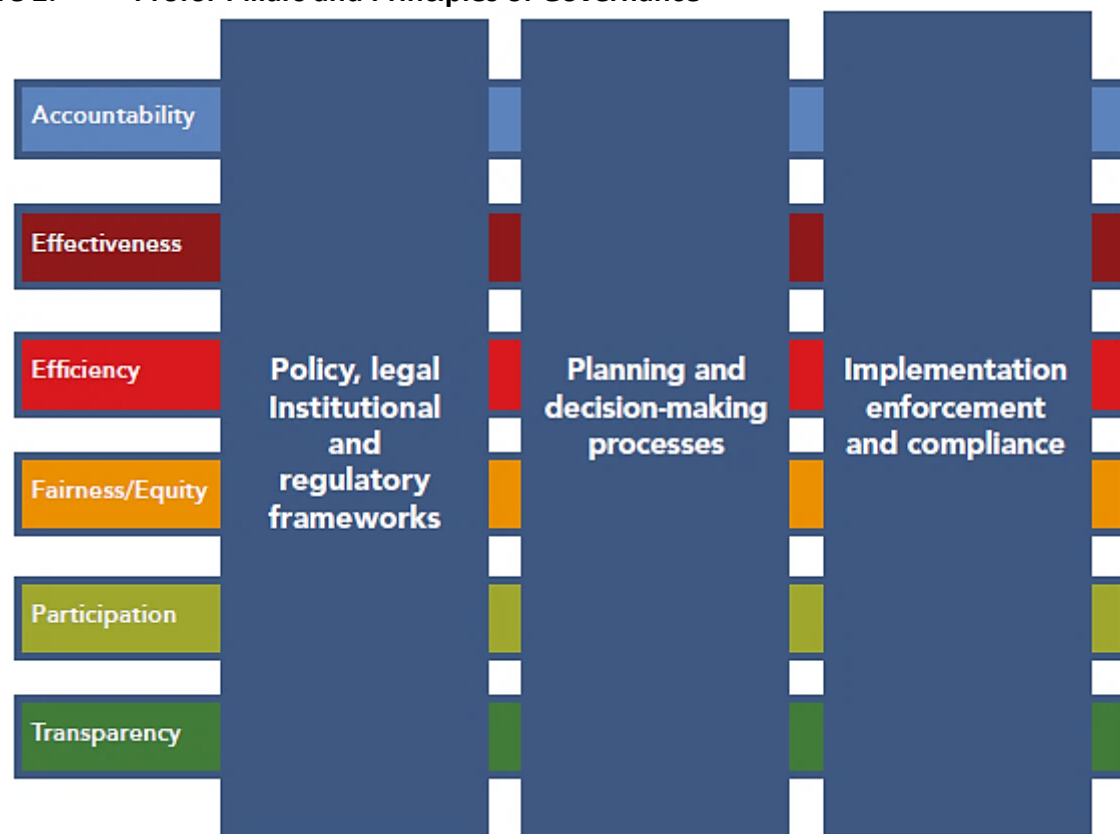
Risks to REDD+ in the Lao PDR arise particularly from governance challenges. This means that the gaps between the PLRs and their implementation are often larger than the content gaps (wording) between the PLRs and the UNFCCC safeguards. Decentralised forest management can only work well when all parties, including local communities, understand their rights and obligations within an appropriate PLR framework. The Profor (2012: 3) definition of forest governance states: “Forest governance includes the norms, processes, instruments, people, and organizations that control how people interact with forests.” Figure 2 below from a 2011 Profor publication on Forest Governance shows the “Pillars and Principles of Governance.” These six “pillars and principles” provide a good overview of the requirements for the Cancun safeguard on “effective and transparent forest governance.” They apply at every part or stage of governance processes, and correspond with the UNFCCC safeguards. UN-REDD’s Social and Environmental Principles and Criteria (SEPC)<sup>19</sup> include six criteria under the principle of “democratic governance.” Five of the six criteria broadly overlap with the Profor principles; the sixth, “ensuring rule of law, access to justice and effective remedies” is highly relevant for Laos.

The state of governance, including shortcomings and challenges, was assessed in Laos with a workshop on forest governance in October 2014. Additionally, the FS2020 was evaluated mid-last year, including many points on forest governance. Both evaluations, with participation and inputs of MAF and MONRE, highlight risks and challenges for the Cancun safeguards if not adequately addressed. They show that significant forest governance reforms are required. Some of the major points from these assessments, set against the Profor principles, are at Annex 6. Challenges on forest governance from a community perspective are presented under 3.2

<sup>18</sup> There are no exact figures, but the Review of the Forestry Strategy 2020 (FS2020) (2014 Part II: 20) states that “Concession for tree plantation was issued for more than 700,000 ha already, including 467,804 ha for rubber plantation.”

<sup>19</sup> UN-REDD’s SEPC has a total of seven principles and 24 criteria.



**Figure 2: Profor Pillars and Principles of Governance**

There have been discussions in senior Lao government circles as to the effectiveness of forest management since its split between the two Ministries. As mentioned by a senior government official at a Forestry Sub-Sector Working Group (FSSWG) meeting in 2014, all forestry-related departments may be re-merged under one Ministry, or even that a new Forestry Ministry may be created. These discussions highlight concerns that forest governance in the Lao PDR has weakened rather than strengthened with the bifurcation of forestry responsibilities.

### 3.2 Safeguard Challenges and Risks: Examples from Practice

In this section, the author draws in part on her own, extensive field experience in Laos. The first sub-section below on governance draws attention to the interfaces between local communities and governmental structures that determine forest, biodiversity and livelihood outcomes. The sections follow the order of the Cancun safeguards. Safeguard a) on national sovereignty and conformity with international conventions is not included. The Cancun safeguards should be embedded in disseminated PLRs, but also in practice. The examples below show that implementation gaps in PLR frameworks will need as much attention as the adjustment (in words) of the PLRs themselves.

#### 3.2.1 Safeguard b) Transparent and Effective Forest Governance

In this sub-section six examples highlighting one or more of the Profor governance criteria are provided; relevant PLRs are listed at the end of each example.

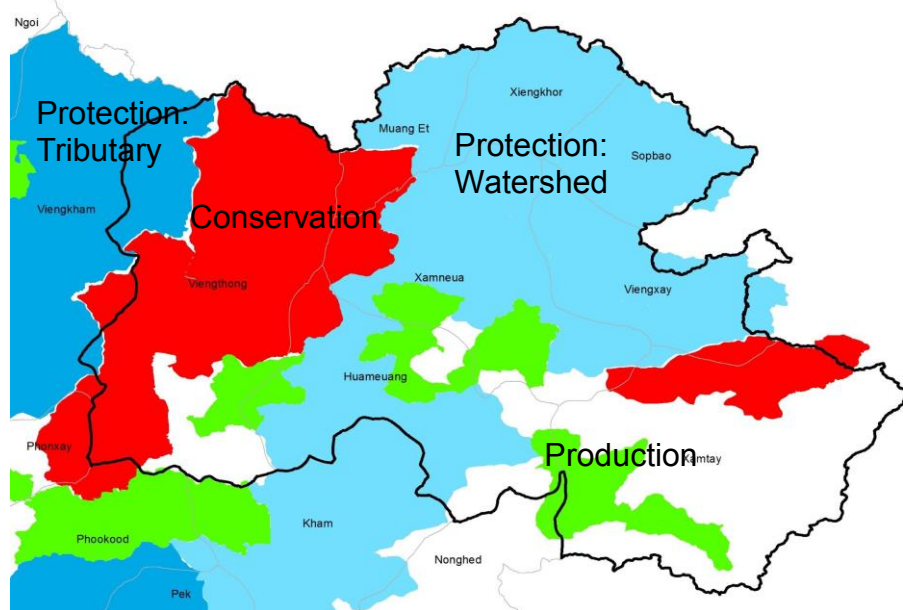
**Example 1. Categorising Forest: Transparency and Participation, Fairness/Equity.** The forest estate is broken into three major categories, reduced from five under the 1996 Forest Law: conservation forest,<sup>20</sup>

<sup>20</sup> Most of the conservation forests (now corresponding to National Protected Areas) were delineated in 1993, based on PM164/1993.

production forest and protection forest. These forest areas have not been demarcated through prior discussion with local communities. Entire community lands may lie within production, conservation or protection forests although the communities may be older than the forest categories. Villagers have their own forest “zones” such as areas for NTFPs, grazing areas, areas to protect streams, hunting areas, spirit forests, etc. Insistence in the past to categorise “bush fallows” (*pa lao*) as “regeneration forest,” has been a main cause of difficulties for indigenous land management patterns based on shifting cultivation.

More than half of Houaphan (Figure 3 below) appears to be classified as protection forest, followed by conservation forest. Yet these forest areas are home to thousands of villagers. This could have restrictive impacts on village forest land allocation because of forest use regulations. With major inconsistencies between nationally determined forest categories and ground realities, the National Assembly (NA) issued Notification 273 in August 2014 to resurvey these categories. The NA wants MAF and MONRE to remove those areas already converted for other purposes.

**Figure 3: National Forest Categories, 2010: Focus on Houaphan Province**



Based on an indicative forest categories map from DOF.<sup>21</sup> The white areas mean they are unclassified. Dark lines are the provincial boundaries.

**Example 2. NTFPs: Access to Information and Participation.** NTFPs are an important pillar of rural livelihoods. Officially, NTFPs may only be sold if a quota has been set for an area, based on village forest management plans (VFMPs). In practice, NTFP quotas are issued to traders without reference to VFMPs, not the least because the VFMPs are seldom done. Districts may issue quotas regardless of real supplies; or quotas are not issued, but the traders purchase NTFPs anyway. Villagers do not know which traders have quotas. These practices lead to overharvesting, as traders buy up NTFPs with a high resale value. Protection and Conservation Forest zones within village boundaries do allow villagers to collect NTFPs for domestic use, but they are seldom consulted on sustainability. NTFPs are reducing drastically and forests are no longer “supermarkets” to ensure local food security.

**Example 2, Relevant PLRs:** MAF Decision 54/1996 and MAF Guideline 377/1996 on Customary Use of Forest Resources; MAF Regulation 535 on Village Forest Management, 2001; NBSAP, 2004; Forestry Law, 2007, Ministry of Finance Guidelines 92/2009 on Managing the collection of revenue from the sale of Timber and NTFPs

<sup>21</sup> With assistance from Mike Dwyer who provided this map focussing on Houaphan (based on a DOF map from 2010, and presented by DG Silavanh in Japan in 2011).

**Example 3. Logging to Repay Debts and Pay for Infrastructure: Transparency and Access to Information, Accountability.** Decisions made to log certain areas, either for infrastructure or other purposes such as repaying old debts, are made without reference to forest land allocations in the villages.<sup>22</sup> Areas may get logged because of a district, provincial or even national decision that has not been made with reference to how local people are using the same area. Accountability to village or local stakeholders is low, and the possible consequences for local communities' livelihoods are not taken into account. Villagers may only learn of the decision once the logging crew has come to their forest area.

**Example 3, Relevant PLRs:** There are two sources for PLRs on "Turning Trees into Capital:" Ministry of Finance (MOF) Guideline 92 for Managing the Collection of Revenue from the Sale of Timber and NTFPs, 2009; Lists of Timber Quotas that mention debt repayment. Since these quotas continue to be issued after the PFA logging moratorium in 2012, it means logging goes on in all types of forest.

**Example 4. Concessions: Transparency, Access to Information, Accountability, Effectiveness.** Mining and plantation concessions, especially for rubber, are generally agreed upon between government authorities and would-be investors without involvement of villagers (despite more recent legislation pertaining to Initial Environmental Examination (IEE), and Environmental and Social Impact Assessment—ESIA). There are countless villages in Laos where villagers have lost access to lands because of concession agreements. The Centre for Development and Environment (CDE) stated (2014: 4) "CDE's spatial analyses suggest a massive transfer of land access away from small-scale farmers and in favour of foreign investors." Moreover, the written agreement may not coincide spatially with the actual plantation locations (see Figure 4 next page). The FS2020 assessment deemed the plantation concession situation "uncontrollable." This has done serious harm to villagers' livelihoods and would constitute a serious risk to REDD+ activities.<sup>23</sup>

**Example 4, Relevant PLRs:** Land Law, 2003; Forestry Law, 2007; PM 135 on State Land Lease or Concession, 2009; The draft Land Law and Forestry Law may bring changes to the rules and procedures on concessions; there is currently a moratorium (PM 13/2012) on mining, rubber and eucalyptus concessions in effect since June 2012 to last until December 2015. Two earlier moratoriums on land concessions of over 100 ha were issued in May 2007 and in 2009, but seem to have been relatively ineffective.

**Example 5. Benefit-Sharing in the Forestry Sector: Transparency, Fairness/Equity, Accountability, Access to Information.** Benefit-sharing dates back to the FOMACOP<sup>24</sup> project in the late 1990s when villagers participating in forestry management and timber harvesting were able to sell timber legally. Since then, payments for villagers from timber harvesting in production forests have not only plummeted, they have become less transparent than before; villagers are not clearly informed as to what their entitlements should be.<sup>25</sup> Matters are not helped by the lack of quotas and the lack of harvestable timber in PFAs. According to President Decree 1/2012, most of the moneys (88%) shall go to the State Treasury (partly for the Forest and Forest Resource Development Fund (FDF); 12% is to be shared in unspecified ways among stakeholder villages by payments into VDFs to be supervised by local officials. The question may be raised as to whether 88:12 represents "fair" sharing.

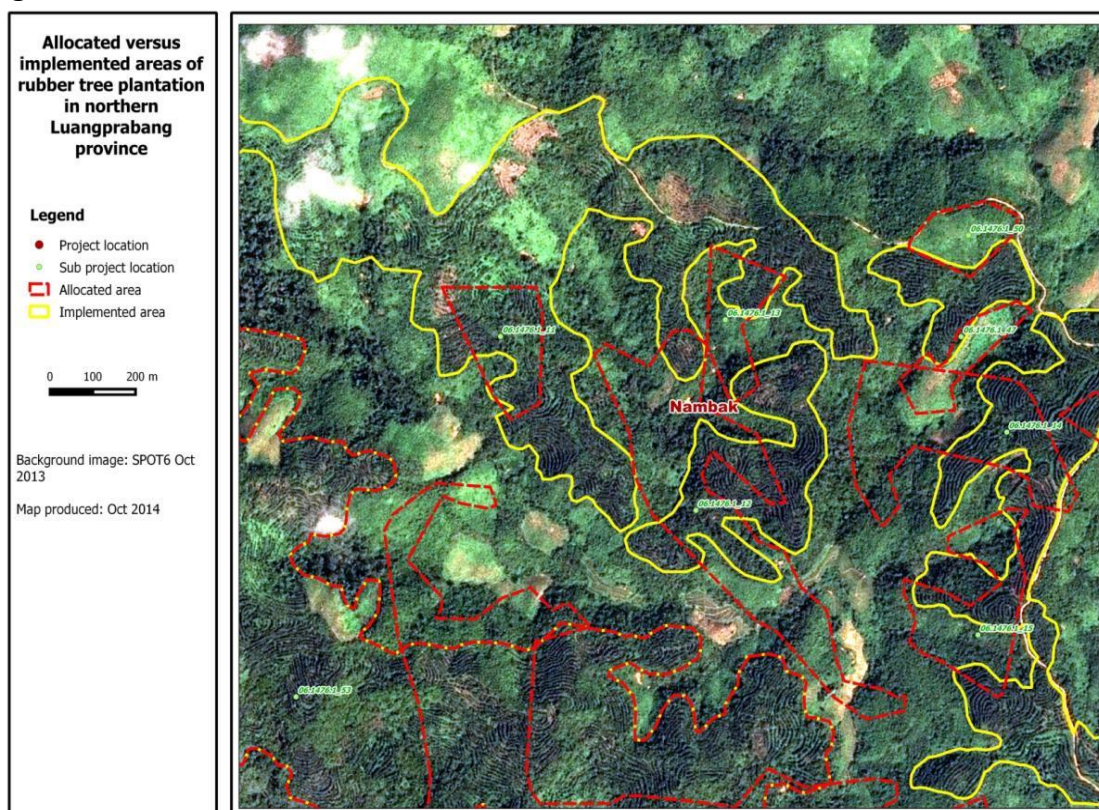
**Example 5, Relevant PLRs:** There are few PLRs that regulate benefit-sharing mechanisms or PES. Greatest clarity exists for PFAs that have requisite management plans with President Decree 01 on Revenue Sharing from Timber in PFAs, 2012. The Environmental Protection Law (2012) mentions the possibility of PES (Article 49), as does the Draft (2014) Forestry Law.

<sup>22</sup> The National Forestry Conference, 2012 (signed off with PM 32/2012) has said that debt repayments with timber should stop forthwith.

<sup>23</sup> CDE 2014 "Policy Brief on Land Issues in the Lao PDR" mentions that 45% of concessions impact directly on small-scale agricultural landscapes (using land cover data from 2002).

<sup>24</sup> FOMACOP = Forest Management and Conservation Project.

<sup>25</sup> This allows an element of siphoning to creep in when accounts are not clear for all relevant stakeholders, including local communities.

**Figure 4: Allocated and Actual Rubber Plantation Concession Areas, Nambak District**

*This map was produced by the CDE and presented to the Land Issues Working Group in January 2015. The areas allocated (in red) and the areas actually used (in yellow), show surprisingly little overlap. If there were REDD+ project activities in the area, results-based payments could not be made since the activity of the concessionaire has not been controlled.*

#### **Example 6. Land Allocation and Zoning: Accountability, Access to Justice and Effective Remedies.**

Villagers may not always be in agreement with the results of land allocation and zoning exercises, but they have little recourse to appeal decisions. Conflicts are known to occur both within and between villages, especially if relocation or unwanted concessions are involved. The Forest Governance Assessment authors reported that grievance and redress mechanisms are not in place. Normally, the villagers' main redress is "administrative," meaning they have to appeal to the "relevant" administrative unit that had decided against their perceived interests. Legal redress is hardly available since the only accessible mechanism is the Village Mediation Unit (VMU) with no power beyond the village. District Courts have been closed in favour of "regional" courts because of too few judges.<sup>26</sup> Some villagers use the NA Hotline as a grievance mechanism but it is only open while the NA is in session. There should be NA Member Constituency Offices but they are still few.

**Example 6, Relevant PLRs:** NA 07 Law on Handling Petitions, 2005; PM 46 on Local Grievance Mechanisms, 2009; with Ministry of Justice Guidelines on VMUs, 2010. (Both the land law and the forestry law mention the possibility of administrative redress, but not with any independent mechanism mentioned.) There is a special grievance procedure and mechanism to handle complaints arising under the resettlement programme at the Nam Theun 2 (NT2) Hydropower Dam that might be applicable elsewhere. On relocation see, for example, PM 36/2009 on "how to solve problems related to disorganized migration linked to permanent resettlement and livelihood issues of various ethnic groups."

### **3.2.2 Safeguard c) Knowledge and Rights of Indigenous People and Local Communities**

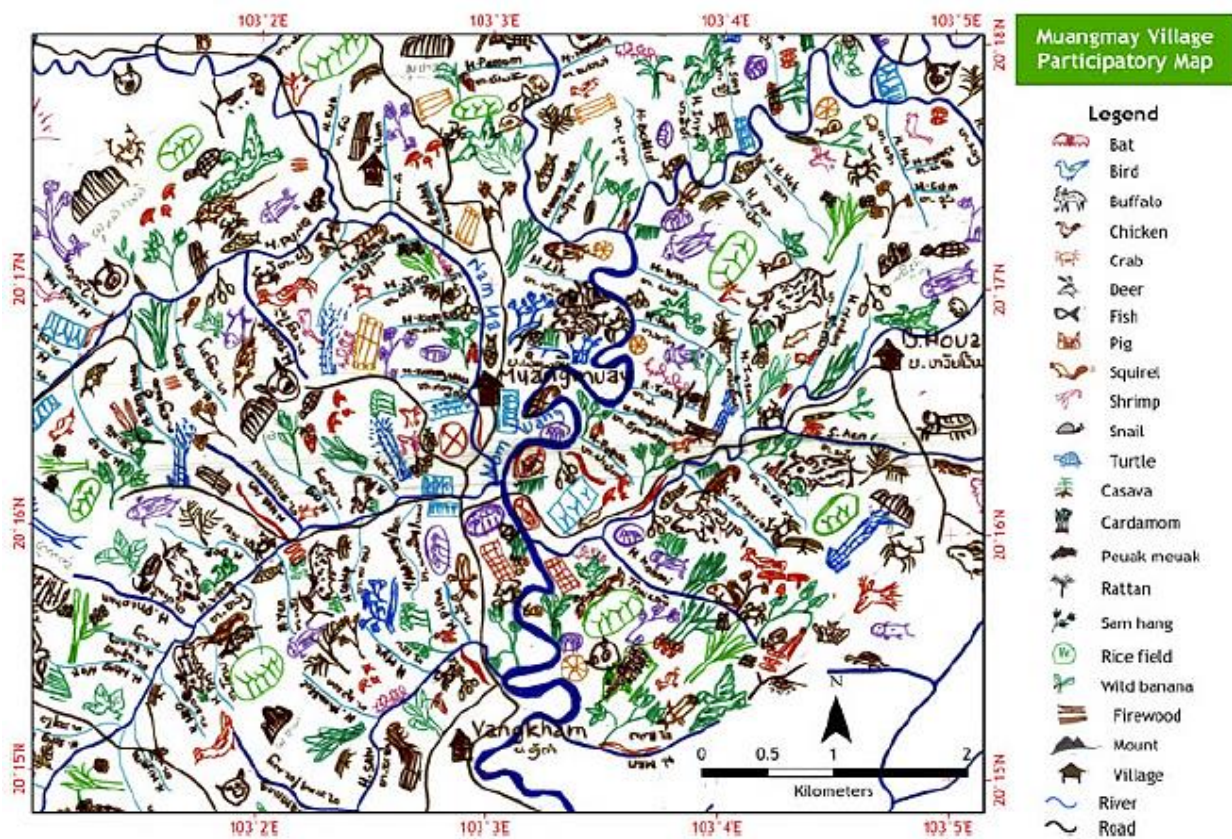
<sup>26</sup> See the UNDP (2011) Study on the Access to Justice in the Lao PDR: *In the past, there was meant to be a first instance court in each district - although, in practice, in 2010, there were only courts in 102 of 143 districts, due to a shortage of judges - these district courts have now been consolidated into 39 area courts.*



Respect for the knowledge and rights of indigenous people and local communities is bound with the human rights conventions. Laos is a Party to all the core human rights conventions, voted in favour of UNDRIP in 2007 and signed the Voluntary Guidelines on Responsible Governance of Tenure (FAO and Committee for Food Security: 2012). The GoL does not acknowledge that Laos has “indigenous peoples” although there are ethnic groups with strong attachment to their ancestral lands.<sup>27</sup> (More details on PLRs and Ethnic Groups are at Annex 7.)

Despite good intentions, PLUP and land zoning processes normally only consider the forest categories of the Forest Law,<sup>28</sup> although PLUP may include spirit and cemetery forest.<sup>29</sup> Local people’s more nuanced definitions of forest types and uses are lost in the need for conformity, *and* the GoL priority to stop shifting cultivation. Figure 5 from M. Boissière et al (2014: 156)<sup>30</sup> captures some of the complexity with which villagers see the natural world.

**Figure 5: Participatory NTFP and Biodiversity Map by Khmu Villagers in Luang Phabang**



*This is a participatory map of natural resources, NTFPs, biodiversity and land use of Khmu women and men in Luang Phabang Province. The map shows a degree of complexity that cannot be achieved with the simplified land categories used during PLUP exercises.*

<sup>27</sup> The United Nations, including World Bank, define local communities as “indigenous” when certain criteria are fulfilled (see UN-REDD SEPC, Glossary, p. 11 and World Bank OP.10, Indigenous People).

<sup>28</sup> The Agro-Biodiversity Initiative (TABI) project also does a type of Land Use Planning called ‘Participatory Forest and Land Use Planning, Allocation and Management’ (FALUPAM), but the three forest categories are not used as a starting point. In this way, the project captures biodiversity, forest types and different forest uses as perceived by local people.

<sup>29</sup> PM88/2008 on implementing the Land Law and PM333/2010 on Protection Forest contradict each other. Under PM88 Protection Forest may not be titled, but PM333 includes “spirit forest” under Protection Forest; spirit forest should be eligible for community title.

<sup>30</sup> “Can We Make Participatory NTFP Monitoring Work? Lessons Learnt from the Development of a Multi-Stakeholder System in Northern Laos.” *Journal of Biodiversity Conservation*.

Customary rights remain rather vaguely defined and ill-protected in Laos, although they are included under PLRs.<sup>31</sup> Timber harvest as a “customary practice” is not recognised (MAF 535, 2001 allows 5m<sup>3</sup>/family/year for domestic use if approved by village and district authorities). All PLRs issued since 1996 allow the State to unilaterally revoke a customary practice. Customary forest practices are to be included under officially sanctioned VFMPs and thus must fit to State-defined forest types. Legal recognition of customary land rights has not led to a widespread push for community<sup>32</sup> land titling that would provide villages with somewhat more tenure security than at present.<sup>33</sup> SUFORD-SU plans to support community titling for Village Use Forest in PFAs. The Land Management and Decentralized Planning Project of GIZ is currently also supporting communal land titling.

Government officials have held rather negative attitudes towards shifting cultivation since 1996 and before (FS2020, 2005: 3). The 6<sup>th</sup> Party Congress (1996) aimed to eradicate shifting cultivation by 2010,<sup>34</sup> although it is the chosen form of agriculture by the majority of ethnic groups in the highlands. The FS2020 (2005: 39) authors gave more acceptance for shifting cultivation when the distinguished between pioneering and rotational shifting cultivation: *Rotational upland cultivation<sup>35</sup> on allocated plots or within agreed areas, without encroachment upon new forest areas, is an accepted alternative . . .* MAF Decision 051/2009 emphasised using shifting cultivation fallows for forest regeneration,<sup>36</sup> but recent discussions in DOF suggest that bush fallows (*pa lao*) may be termed “agro-forestry” areas.

The GoL has long pursued rural relocation policies. While there may be sound reasons for this, there have been negative consequences, as described in the Draft 8<sup>th</sup> NSEDP (2015: 14).<sup>37</sup> The Committee for the Convention on the Elimination of all forms of Racial Discrimination (CERD)<sup>38</sup> made several recommendations (CERD/C/LAO/CO/16-18, 2012: Paragraph 18) to the GoL: *The Committee . . . call[s] on the State party to consider all possible alternatives to relocation and to pay attention to the cultural ties of certain ethnic groups to their land. Moreover, the Committee recommends that the State party provide opportunities for smaller ethnic groups to define development in their own terms . . .* [Bold in original CERD Committee text.]

**Relevant PLRs:** No laws give special place for smaller ethnic groups or provide for FPIC. Relevant PLRs include MAF Decision 054 on Customary Use of Forest, 1996; MAF Regulation 022/2010 to Prepare for Complete Stop of Shifting Cultivation; PM 88 on the Land Law, 2008; PM Order 36 on Internal Migration and Resettlement, 2009; National Adaptation Programme of Action to Climate Change, 2009 (has project proposal on “eradicating shifting cultivation.”); MAF Decision 051 on Forest Regeneration, 2009; LPRP Central Committee Instruction No. 03 /PBP, on transformation of villages into development units and large villages into small towns in rural areas, 2011.

### 3.2.3 Safeguard d) Full and Effective Participation

<sup>31</sup> Customary rights are mentioned under MAF Decision 054/1996 and MAF Guidelines 377/1996.

<sup>32</sup> The word “communal” has been replaced by “community” from older to most recent land PLRs (was not possible to check Lao versions).

<sup>33</sup> Nakai is the only district where there has been systematic registration of permanent individual and community titles, but that only in the NT2 resettlement area.

<sup>34</sup> In fact, the 1995 Draft of MAF 054/1996 included shifting cultivation as a legitimate customary practice. The 1996 Party Congress decision to eradicate shifting cultivation resulted in the changes between the 1995 Draft and the 1996 final version.

<sup>35</sup> By this the FS2020 authors meant a rotation of seven to twelve years.

<sup>36</sup> Calling upland fallows “regeneration forest,” means that people are not allowed to return to these fallows for agricultural purposes.

<sup>37</sup> The NSEDP authors (p. 14, Paras 44 and 45) blame mainly poorly planned resettlement whereby appropriate services, “production areas,” and adequate infrastructure are unavailable for resettlers.

<sup>38</sup> The Lao PDR became a Party to this Convention in 1974.

People's abilities to participate fully and effectively in different processes and procedures are determined by a large number of factors. Local people's perceptions of those who come to their villages may affect how they participate and what they agree to. People may agree to things they don't understand or don't really want because they worry they will otherwise forego some kind of benefits. PLRs in Laos acknowledge the need for participation, but are essentially top-down in substance with ill-defined procedures that are yet to provide adequate space for local communities. PLRs tend to define local communities' restrictions more clearly than rights, but without having consulted the affected communities *before* defining the restrictions. Local communities' resource management skills are generally accorded less priority than official forest management plans.

Full and effective participation is predicated on people having adequate information on the “pros and cons” of what is under discussion. Women of smaller ethnic groups—with lesser Lao language skills—are at high risk of not receiving full information on issues that affect them. Some projects and/or government staff do work in local languages, but there are no PLRs requiring this. Do villagers receive enough information, for example, to understand the full implications of a PLUP/zoning process? Under the current Land and Forest Laws (see PM88/2008), villagers cannot get community land title for any forest type except “Village Use Forest.”<sup>39</sup> If villagers do not negotiate the forest categories based on full information they may end up with degraded forest zoned as “Village Use Forest” which may force them to “encroach” elsewhere.

Village Forest Management (VFM) is one of the most important concepts with positive interlinking features with REDD+.<sup>40</sup> Although VFM was piloted many years ago,<sup>41</sup> the current status of VFM in Laos is restricted to a reintroduction of VFM piloting mainly under SUFORD-SU. To minimise the risk of inadequate participation and promote clear benefits for the villagers, including permanent forest land titles, VFM should be more widely piloted again, leading eventually to full scale rollout. It would be a major step forward in securing adherence to the Cancun safeguards.

**Relevant PLRs:** PLRs do not foresee villagers at large as decision-makers. The “*Sam Sang*” Directive (3 *Builds*) refers to the village as a “development unit” without decision-making. Several PLRs refer to villager participation, such as PM 59/2002 on PSFM and PFAs and, in more recent years, MONRE Regulations on IEE and ESIA (8029 and 8030). The PLUP Manual, 2010 and the latest version of the Local Development Planning Manual, 2012 (issued by the Ministry of Planning and Investment) both highlight the importance of villager participation.

### 3.2.4 Safeguard e) Enhanced Social and Environmental Benefits

The fifth Cancun safeguard looks at incentivising the protection and management of natural forests while ensuring forest ecosystem services *plus* social and environmental benefits for local communities, making it a complex “multiple benefits safeguard.” There are still few clear PLRs in Laos that promote benefits for households and communities from timber, NTFPs and forest land generally. In the absence of adequate law enforcement, the illegal timber trade flourishes while the forests are emptied of their highest value flora and fauna. When villagers give up fallow land to natural regeneration and permanent forest, livelihood alternatives may not be sustainable on reduced land. The smallholders of today may

<sup>39</sup> Confusingly, this is also called Village Production Forest in some documents; where village areas overlap with the nationally defined Production Forests, it may result in the villages being allocated poor quality production forest as Village Production (or Use) Forest. The best quality Production Forest is kept as State forest.

<sup>40</sup> VFM, also known as Community Forest Management, should not be confused with a VFMP which is essentially a DOF requirement for a village to harvest NTFPs and domestic timber “legally.” VFM accords much more decision-making autonomy to villagers than current local forestry practices allow.

<sup>41</sup> FOMACOP, with World Bank and Finnish support, was implemented in some 70 villages in Khammouane and Savannakhet Provinces from around 1996 to 2002.

become the landless workers of tomorrow.<sup>42</sup> Experience shows that poorer families, often more forest-dependent than the better off, may hesitate to borrow from VDFs (or elsewhere). The activities they want to conduct may not be profitable, and they will have difficulties to fund viable alternatives.

A major issue in the Global South, and Laos is no exception, is that people hesitate to make long term investments when their land use rights and/or tenure are insecure. Their risk of losses become ever greater if their land is at risk of expropriation, or if they expect to be resettled. Thus, pressure on forest land use will remain high in the local area, as smallholders also seek short term over long term benefits.<sup>43</sup> It is not in their economic interest to forego short term gains to protect natural forest unless there are a) relatively short term gains to be had from this as well, or 2) their tenure security allows them to plan for the long term. This is also a challenge for REDD+ to provide adequate tangible benefits to local people.

At issue as well is the continued awarding of concessions. This has two inherent risks vis-à-vis multiple benefits: 1. The concession itself reduces biodiversity by replacing natural forest areas with monocultures; 2. The concession overlaps with areas that people rely on for forest service needs (NTFPs, wood, maintenance of local water tables), forcing them to go elsewhere.

**Relevant PLRs:** MAF Regulation No. 822 on Land-Forest Allocation for Management and Use, 1996; Land Law, 2003; Forestry Law, 2007; Northern Lao PDR – China Industrial Economic Development and Cooperation Plan 2008 – 2020, 2008; PLUP Manual, 2010; Agricultural Master Plan, 2011 – 2015, 2010; Agricultural Development Strategy to 2025, (presentation from 2014 available); Upland Development Strategy (updated, 2015).

### 3.2.5 Safeguards f) and g) Risk of Reversal, Risk of Displacements

UNFCCC Safeguards f) and g) encompass the carbon aspects of REDD+: the permanence or sustainability of the measures, and the risk that measures undertaken in one area may have negative displacement effects to another (also known as leakage). Plantation concessions represent serious risks to the success of REDD+. Because of intransparent and uncoordinated decision-making processes taking place at different levels (governance issue), community land may be taken for a concession with short notice.<sup>44</sup>

Both national and sub-national/jurisdictional circumstances of the Lao PDR emphasise infrastructure development.<sup>45</sup> In this respect, road construction may allow different parties to exploit land and forest in, or near, “REDD+ areas.” This would, then, cause risks for reversals. Local communities and entities may not exploit forest resources in an agreed REDD+ area, but a new road allows them to exploit the same level of resources in another area (leakage), or a road allows new businesses to enter a “REDD+ area” and exploit forest resources. The same holds true for farmers. If a new feeder road is constructed to reach distant maize fields this may encourage further conversion from *pa lao* to short rotation resulting in reversal or leakage around a designated REDD+ area. Opportunity-costs for villagers to change their current forest exploitation practices will be high, and the risk of reversal will remain. As the FS2020 Assessment (2014: 13) states: *Many areas which in reality are used for agricultural production (mainly shifting cultivation) have been classified as forest areas to be regenerated. Unless the local*

<sup>42</sup> See the Agricultural Census, 2011-2012; there are 49,000 more landless workers in the rural areas from the last census to the current one; mainly due to agricultural concessions e.g. for rubber.

<sup>43</sup> An exception to this is smallholder rubber and teak in northern Laos. Smallholder decisions to invest in these plantations may yield very good benefits, but also carry significant risks such as when the world commodity price drops (rubber). Recent studies (Newby, 2014 and Smith, 2014) show that smallholder teak is often a losing proposition for smallholders for a number of interlinked reasons, including taxation.

<sup>44</sup> The National Forestry Conference, 2012 (PM 32/2012) observed many difficulties for forest management caused by poorly controlled concessions.

<sup>45</sup> The FS2020 Assessment authors (Vol. I: 21) wrote that the FS2020 badly misjudged the continued push for infrastructure development in Laos, especially dams and roads, and the negative impacts these would have on forests.



*population can be offered alternative livelihoods, there is a high risk that forestry investments made in such areas will be lost.*

Provinces and districts pursue development paths that are in line with the approved NSEDPs. Nonetheless, this will not stop environmentally inconsistent development promotion. For example, if local cash crop promotion requires “village protection forest,” for example, to be turned over to cash crops then reversals will occur. The same is also true if a district or province authorises other economic activities that require land clearance and/or forest conversion. In the final analysis, different stakeholders’ pursuit of short term economic gains will almost certainly outweigh REDD+ payments.

**Relevant PLRs:** SEDPs at different levels. No specific PLR addresses permanence and leakage; the (re-)establishment of the Department of Forest Inspection (DOFI) in 2007, shows an intention to improve forest law enforcement. There is also an MOU (2012-2017, signed in 2012) between DOFI and the Vietnamese Forest Protection Department to cooperate on forest law enforcement that may gradually reduce displacement from one country to the other.

### 3.3 A Note on Drivers of Deforestation and Forest Degradation

The chapter above has put the Cancun safeguards in the context of tangible risks. This also raises the issue of drivers, direct and underlying, of deforestation and forest degradation. Understanding drivers and underlying drivers will contribute to developing an MRV and SIS for Laos. The Wildlife Conservation Society (WCS) prepared a driver study on Houaphan Province in 2014 with inputs from CliPAD advisory staff.<sup>46</sup> It provides an overview of the complicated picture of drivers and how difficult it may be to separate individual causes and effects. Lines between planned and unplanned deforestation are often blurred. Many of the drivers mentioned below are difficult to measure and some are more serious or acute than others. Some have their origins with local communities, but most drivers have causal factors far beyond their control.

**1. Infrastructure/“Planned Deforestation.”** Houaphan is keen to develop its infrastructure, including roads, hydropower and transmission lines and an SEZ with new airport. Such infrastructure construction is considered “planned deforestation” and part of “national circumstances.” Planned deforestation, however, may impact villagers’ use areas thus forcing them to use forest resources elsewhere. In Houaphan, major development projects include the creation of new districts which, in turn, require infrastructure construction. The Province and Districts plan to pay for the infrastructure construction by “trees for capital” deals.

**2. Concessions and Larger Scale Contracts.** Houaphan does have a number of mining, and mine survey, concessions that were issued by the central or provincial governments. The mining concessions also involve constructing access and feeder roads, sometimes of quite a substantial scale. Mining concessions would also fall under “planned deforestation;” the question here is whether the deforestation is properly controlled.

**3. Commercialised Upland Agriculture and Short Rotation Shifting Cultivation.** In Houaphan the main commercial crops at present are maize and cassava. Switching over from upland rice cultivation (and maize for local use), has meant a shift to short term (three year) rotations of upland fields. In some areas this includes large scale destruction of forest fallows. Commercialised agriculture is clearly a driver of both deforestation and forest degradation, but the question is whether the policy for agricultural development (that brings about forest conversion) will be counted as “planned deforestation.” Provincial and district authorities still consider shifting cultivation as a driver of deforestation. Short rotation upland

<sup>46</sup> Luck Bounmixay WCS and Sebastian Koch GIZ 2015, Report on the Assessment of Drivers of Deforestation and Forest Degradation in Houaphan Province. Draft, not for quotation.

agriculture devoted to cash crops (characterising much of Houaphan's agricultural landscape) causes more serious forest (and soil) degradation than long rotation shifting cultivation.

**4. Domestic and Transnational Demands for Timber, Including Valuable Timber Species.**

Houaphan is affected by illegal commercial logging for valuable species, but also by "extended logging" in infrastructure or concession areas (the concessionaire logs a larger area than formally allowed, perhaps claiming there aren't enough good trees). Houaphan has very little area declared as production forest. With logging bans in neighbouring Vietnam and China, transnational demands for timber are high; local villagers are sometimes hired to find valuable tree species for selective logging and provided chainsaws by timber smugglers.

**5. Needs and Demands for Firewood/Charcoal.** Local needs and demands for wood, including charcoal, are also increasing with population growth. It seems that the provincial capital of Sam Neua still relies virtually 100% on firewood and charcoal for cooking and heating.<sup>47</sup> Although not formally allowed, poorer rural households cut or collect firewood for sale to urban and peri-urban dwellers. A question remains as to the extent of improved woodstove use in Houaphan and elsewhere in Laos.

**6. Domestic and Transnational Demands for NTFPs and Bamboo.** Drivers of forest degradation and biodiversity losses are directly related to local and transnational demands for NTFPs and bamboo. If NTFPs and bamboo would only be collected for local, non-commercialised use, it would be much easier to manage these resources more sustainably and in ways that do not lead to degradation. In Houaphan, however, there are a number of NTFPs (mushrooms and resins for example) that command high prices nowadays and people are tempted to collect as much as possible of these NTFPs rather than managing them sustainably.

**7. Population Growth and Livelihoods Insecurity.** Around 60% of the Lao population is below the age of 25. A province like Houaphan with a predominantly rural population will certainly have over 60% under 25. With relatively few economic opportunities outside of upland agriculture, all these young people have to find gainful employment. Some of the conversion of forest to agricultural land is the inevitable result of this combination of population growth and lack of opportunities.

**8. Relocation/Resettlement and Internal Migration.** A major GoL policy is to relocate people living in remoter locations and provide them new areas closer to roads and larger living centres. People may also be relocated to make way for development projects. Relocation may cause both deforestation and forest degradation. When people arrive in a new area they must find housing timbers and firewood. There may be no flat land to cultivate, meaning they will have to either open sloping land for agriculture (perhaps converting forest land) or send part of the family back to the "old" area to farm, meaning there will be no net gain of forest cover.

**9. Forest Fires.** There are both planned and unplanned forest fires. It is common practice for farmers to burn off crop residues before they start the next planting season. They may also set fires to promote new grasses for livestock. Such fires occasionally get out of control, and accidental fires also occur.

The primary drivers behind deforestation and forest degradation, including reductions in biodiversity, are often economic development interests associated with infrastructure construction and resource exploitation, poorly controlled plantation development, illegal logging and wildlife smuggling.<sup>48</sup> Poor

<sup>47</sup> It is possible to have smallholder woodlots of *mai tiou* to produce high quality charcoal, but the author is not sure whether this is possible in Houaphan, or if it has been tried.

<sup>48</sup> Although not emphasised here, the Lao PDR is, unfortunately, known as a wildlife smuggling hotspot in Asia. It has had at least two reprimands from CITES, of which it has been a Party since 2004; the most recent reprimand (and trade suspension) came in early 2015 with a required National Ivory Action Plan not submitted on time to CITES.

forest governance and insecure livelihoods also belong to the underlying drivers of forest degradation. People with few alternatives will be receptive to suggestions to harvest valuable timber species, poach wild animals or overharvest valuable NTFPs. Any programme to slow or reverse the trend towards “empty forests” must address livelihoods issues as part of more integrated approaches to REDD+ and climate change.

#### 4 PLR Options and Recommendations

Within the past decade the PLR Framework in the Lao PDR has rapidly evolved. In some cases new laws, decrees and regulations were created (i.e., IEE and ESIA) and others revised to better reflect the Lao PDR’s place in a globalised political economy. With so many changes within a short space of time, however, it is proving difficult for those “on the ground” to keep up. While lawmakers at the highest levels continue to make changes, the implementation gaps between new PLRs and what occurs at local level remain wide. The “rule of law” is a necessary goal that requires a long term perspective; local officials and villagers require much more awareness, knowledge and practice on PLRs, including their relation to international conventions.

Relevant PLRs in Laos do cover some aspects explicit or implicit in the Cancun safeguards. There are no safeguards, however, besides a) that are completely covered by current PLRs. There are several areas with large gaps in both the PLRs *and* implementation. Primary among these are PLRs on PES (basically non-existent), on benefit-sharing (incomplete), on grievance redress (rudimentary), on full and effective participation/FPIC (incomplete), on the status of carbon, including carbon rights and carbon offset projects (incomplete to non-existent), on reversals and on leakages (incomplete to non-existent). DFRM is currently drafting a REDD+ PLR (likely with PM decree status) to take carbon offset projects into account, but this is not ready.<sup>49</sup> Generally, if a village is “allocated” protection and conservation forests, these are still considered part of the State forest estate.<sup>50</sup> The State maintains full rights to the carbon which may negatively impact on subsequent benefit-sharing with communities. The revised Forest Law will likely include definitions and more detailed articles on forest carbon.

To judge whether PLRs conform to the Cancun safeguards, they need to be disaggregated into criteria against which the PLRs may be assessed in detail. At Annex 8 there is a set of 34 criteria used for the PLR gap analysis to create a detailed matrix (also at Annex 8). These criteria are based on an earlier work (2013) by Annandale et al towards a PLR gap analysis in Vietnam, and which drew primarily on the SEPC and Social and Environmental Standards (SES) criteria. The conditions in the two countries have their own particularities, but similarities in the political and legislative systems allow application of the same set of criteria.

Several particularly important PLR gaps vis-à-vis the Cancun safeguards that require high attention and action are as follows:

- Land tenure security, including forest land tenure security and use rights;
- PES and benefit sharing, including VFM;<sup>51</sup>
- Transparency (Information);
- Grievance redress.

<sup>49</sup> A company called New Chip Xeng is cooperating with the GoL in such a carbon offset in south-central Laos involving some 347,000 hectares of two National Protected Areas (Xe Bang Nouan bordering Savannakhet and Salavan and Dong Phou Vieng wholly within Savannakhet); a first in the Lao PDR, but apparently not yet with a supporting legal framework.

<sup>50</sup> Personal communication, DFRM.

<sup>51</sup> References here to VFM are to village or community forest management concepts by which villagers have a maximum of effective participation, including decision-making power over the forests they require for their livelihoods.

Laos is in an early stage of REDD+ readiness, so there are still mismatches between PLR analytical requirements and what is actually available. Most critical is that major laws pertaining to both land and forestry have are still under revision. An overarching Land Policy, to which the latest revisions of the Land and Forest Laws must conform, is not yet ready. There is as yet no Safeguards Working Group to take the lead on the Cancun safeguards. At present, therefore, viable options and recommendations on PLR gap filling are difficult to make. No one knows a) what the institutional landscape vis-à-vis forests and environment will look like twelve months from now, and b) what major, suggested, revisions to the Land Law and Forest Law will be approved.<sup>52</sup> In the final analysis, “gap-filling” would revolve around three major options:

1. Change all relevant laws, decrees and regulations to make them conform with the Cancun safeguards;
2. Create new, specific PLRs to conform with REDD+ and the Cancun safeguards;
3. Change only a very few, current (key) PLRs to have them conform with the Cancun safeguards.

Given the time (around four years if completed within 2015) to revise two major pieces of legislation, it is *not* advisable to try to revise all relevant PLRs. Since it is unknown how far the Land and Forestry Laws are with the revision processes, it does not seem reasonable to propose a revision of even key pieces of legislation. Moreover, it is the gap between PLRs and practice that is more crucial than the gaps in wording between PLRs and safeguards. The Law on Making Legislation (2012) states unconditionally that if there is discrepancy between a Lao law and an international convention to which it is Party, then the international convention takes precedence. Therefore, it may be best to wait until the revised Land and Forest Laws are available, and then work closely with MONRE and/or MAF on clear regulations conforming both to the revised laws and the Cancun safeguards.

In addition to the above, another course of action would be to support MONRE and MAF to formulate new legislation that covers PES and benefit-sharing. Other Ministries need involving on “Freedom of Information” and Grievance Redress. If it is deemed that the Law on Petition (2005) could be revised, for example, then this may involve the Ministry of Justice and a Standing Committee of the National Assembly. Likewise, an overarching “Freedom of Information Law” would probably need sponsoring by a body like the National Assembly and/or, perhaps, the Ministry of Home Affairs.

Four crucial issues needing PLR attention—land tenure security, benefit-sharing, transparency and grievance redress—are discussed below by first reviewing the existing the PLRs (“What’s There?”) followed by recommended revisions (“What’s Needed?”).

## ***Land Tenure Security***

### **What’s There?**

Land titling and registration processes in rural Laos have been slow. The big majority of titled and registered parcels are in urban areas.<sup>53</sup> Village forest lands and resources are often communally managed (including areas under shifting cultivation), but community titling has yet to be prioritised. Under a draft of the revised land law (2014), Article 49 (Amended) states that land use rights to forest land may be granted “to families, villages, groups of villages and organizations for the purpose designed for each forest category by issuing them a certificate for the term as determined by the Government.” The Article states that “individuals and entities” may not receive titles to forest land “unless it is necessary to change the land category from forest land to another land category as per laws and regulations.”<sup>54</sup> There is no definition of the permanence of the certificates.

<sup>52</sup> Development partners have been invited to submit comments to both the Land and Forest Law drafting committees, but it is not known which of the many suggested Articles will be taken up.

<sup>53</sup> Personal communication, LIWG, and Minutes of Land Sub-Sector Working Group on Land Policy and Tenure, February 2015.

<sup>54</sup> This makes it unclear as to the difference in definition between an “individual” and a family. The Lao version of the text was not available.

The Land Policy (Draft, mid-2014) reaffirms the right of *Lao people to use land that is under long, continuous, regular, peaceful and collective possession, protection, development and use with or without a properly certified document . . . provided that such land is not within the state reserved or conserved zones*. Customary land rights are recognised but not accorded real protection under this statement. First, as in previous land PLRs, it mentions “long, continuous” use, but this is not legally defined. Land under shifting cultivation could be omitted because it is not under “continuous” possession and use. Second, customary land rights are not recognised in state-reserved or conserved zones (also not exactly defined). It is not fixed as to how much land of any type may be allocated to a local community. There is some debate as to whether all land in a district should come within village boundaries. Ultimately, the State may repossess land if it is not used in accordance with laws, regulations and plans. This may not happen often in practice, but land expropriation for both public and private purposes is becoming common. Compensation is not clear, especially where local communities do not have official titles or registration. Most rural people only have tax certificates to prove land use, while some have “temporary land use certificates,” only valid for three years if not upgraded to permanent titles.

Under both the existing (2003) and draft (2014) Land Law, Community Land Titles are allowed. Community titles have greater restrictions on them than individual titles in that they are “indivisible” and not saleable. Under the Draft Land Law (Art. 37), land under community title may be given for lease or concession but requires a majority decision. This is a change from the previous National Land Management Authority (now under MONRE) Instruction 564/2007<sup>55</sup> stating that community titled land may *not* be given for lease or concession. There was, therefore, greater protection for communities against unwanted concessions under NLMA 564/2007.<sup>56</sup> SUFORD-SU has recently commissioned a landmark study on the legality of community titles for village use forest areas in PFAs. The findings are that such community titles are legal, also for village forests in villages that are located in “unclassified” forest areas. Whether village forests need to mirror the three forest types for national forests is still under discussion.

### **What’s Needed?**

Land tenure security underlies both REDD+ and the UNFCCC safeguards; it is mentioned under Paragraph 72 on par with the safeguards, as a requirement for REDD+ country strategies and action plans. Since the draft Land Law and Land Policy are not yet finalised, of great importance would be to alter the articles on land expropriation to bring them in line with the international Voluntary Guidelines on Tenure. Titling for forested areas within village boundaries also requires change. Greater clarity on definitions of “village use forests” is needed in PLRs so that these forests may include larger, and better quality, forest areas (worthwhile for villagers to manage under VFM). If larger areas of village use forest are declared, this would also give villagers the chance to have community land titles to larger areas than at present.

### ***Benefit-Sharing and PES, including VFM***

#### **What’s There?**

Developing a workable benefit-sharing mechanism has received attention from both MAF and MONRE. The possibility of PES<sup>57</sup> is included under the Environmental Protection Law (Revised, 2012, Article 49), the Draft Forestry Law, and under the Agricultural Master Plan, 2011 – 2015. PM59/2002 on PFA establishment and management (Article 11.2) states that *log sale decisions* [from PFAs] *shall be based on a transparent method involving participation of concerned parties, including representation of village forestry organizations (VFOs), on an annual basis*. . . PM 17/2008 on Forest Management makes provision for local communities to “participate” in “the management of protection and conservation

<sup>55</sup> The new MONRE 6036, on land titling and registration, an updated Instruction to replace NLMA564, does not have Articles or descriptions on land use rights and obligations as 564 did.

<sup>56</sup> Given the way that information flows in local communities, there is a risk that a “simple majority” could be fraudulently gained.

<sup>57</sup> The 2012 Forestry Conference PM 36/2012 mentions the need for PES and governing regulations.

forests” with “appropriate” benefits “in kind or money.” Presidential Decree (01/2012), based partly on PM59/2002, is on Benefit-Sharing from PFAs using the PSFM modality. The Presidential Decree has not been implemented to date because no timber has been legally harvested from the PFAs since the decree went into effect.

VFM is an important underlying concept for the Cancun safeguards. In Laos, however, poor quality forest tends to be allocated to local communities as “Village Use Forest.” DOF Guideline 2156/2006 on PFAs (Article 6.3.1) states: *The village managed forest area in the sub-forest management area should consist of dry dipterocarp forest, except the forest type which is included in the productive forest area.* Guideline 2156 also defines (5.3) *Non-commercial wood production area: This area consists of village managed forest area . . .* Local communities do not, then, have the opportunity to *legally* harvest mature timber for commercial purposes from natural production forest within their village boundaries, nor from other forest types within their boundaries unless they have planted the trees on a small plantation. As mentioned, MAF 535/2001 gives the right to harvest, on approval, 5m<sup>3</sup> per family per annum for own use.

### **What’s Needed?**

People are willing to protect forest areas, but given livelihood insecurity, this would have to be done with appropriate PES mechanisms,<sup>58</sup> or on a benefit-sharing basis with people having adequate, future harvesting income rights. At issue, perhaps, is less whether people are willing and able to protect forest areas, but if they will have adequate support to do this. Forest types within village boundaries should be urgently addressed to clarify people’s rights under REDD+ in terms of security, carbon and benefits. Poorer local communities will have difficulties with results-based financing modalities. Benefit sharing and distribution systems will need to take *both* “incentive” payments and “performance” payments into account. It may be necessary either to establish a new fund to provide villages with upfront payments, or to amend the Forest Development Fund (FDF) so that it can perform this function.

MONRE in cooperation with MAF would have to sponsor new decrees on benefit-sharing and on PES that are broadly environmentally relevant, covering all forest types. Further analysis will be required to see what is realistic to ensure benefits reach local communities in a timely manner. This may require further study of the FDF and the Environmental Protection Fund: it will be important to streamline payment procedures and make them transparent and accountable. It appears that the tax structure and registration processes related to smallholder timber plantations, for example, could wipe out their profits.<sup>59</sup> Study on tax exemptions for local communities participating in REDD+ projects should be initiated.

A return to VFM would require new regulations from MAF, in cooperation with MONRE, to strengthen the VFM modality and couple it with community land titling. Limited community timber harvesting for commercial purposes, for example, should be allowed. While PSFM is a positive feature in the PFA landscape, VFM would be more in keeping with the Cancun safeguards.

### **Transparency / Availability of Information**

#### **What’s There?**

Making information available to all relevant stakeholders in a timely manner is a big challenge, but required for the Cancun safeguards. PLRs including articles or clauses on provision of information are mainly related to the environment and environmental assessments, such as PM 112/2010 on EIA, the Environmental Protection Law (2012) and MONRE Regulations on IEE and ESIA (8020 and 8030, both from 2013). Additionally, PM 192/2005 on Resettlement (compensation) also provides that information

<sup>58</sup> It may be worthwhile to study PES (PFES) experiences in Vietnam whereby hydropower projects in particular make payments based on certain formulae.

<sup>59</sup> See Hilary F. Smith (2014), Smallholder Teak Plantation Legality in Lao PDR: A Study to Assess the Legal Barriers to Smallholder Teak Plantations and the Associated Timber Value Chain.

reaches affected stakeholders at all levels. The revised Environmental Law and attendant regulations are quite new, and not yet widely applied.

### **What's Needed?**

It would be difficult and time-consuming to make adjustments in the many different specialised PLRs to make them conform to transparency requirements of the Cancun safeguards. Transparency and freedom of information, however, are certainly required to make full and effective participation and FPIC work. An overarching decree or law that promotes “Freedom of Information,” as far as the national circumstances of the Lao PDR would allow it, may be advisable.

### **Grievance and Redress Mechanisms**

#### **What's There?**

There are rudimentary grievance and redress mechanisms in Laos that work best within a single village; i.e., either customary mechanisms such as councils of elders or the VMU. Villagers are discouraged from seeking judicial or administrative redress beyond their villages. They are rewarded for *not* taking cases beyond the village by being declared a “*Ban Pot Kadi*,” essentially a “case free village.” Conflicts involving outsiders, however, (such as concessionaires) cannot be settled by a VMU. Local communities have little awareness as to their rights and entitlements, *and* limited access to justice beyond village mechanisms. There is no independent ombudsman whom people may approach with grievances. The closest that comes to this is the NA Hotline. The Constitution (2003) states under Article 41, *Lao citizens have the right to lodge complaints and petitions* . . . The Law on Petitions (2005), however, provides only for *written* submissions. If the implementation of REDD+ were to cause conflicts or other difficulties as seen by local communities (ex. amount of benefits promised and actually received), effective grievance and redress mechanisms are not yet in place.

#### **What's Needed?**

More accessibility and greater neutrality of grievance procedures and mechanisms beyond the village level are urgently needed. A promising course of action could be to revise the Law on Petitions, 2005 so that it includes, for example, oral petitions. Another course of action would be to establish ombudsman's offices, perhaps with assistance of the National University of Laos, Faculty of Law and the Lao Bar Association. Village Focus International (an INGO) has developed materials for use at local level on land and forest laws and rights that could be more widely distributed. The persons who operate the NA Hotline should be consulted. There may be a need to involve and/or support the NA Standing Committee on the issue.

## **5 Towards a Safeguards Information System<sup>60</sup>**

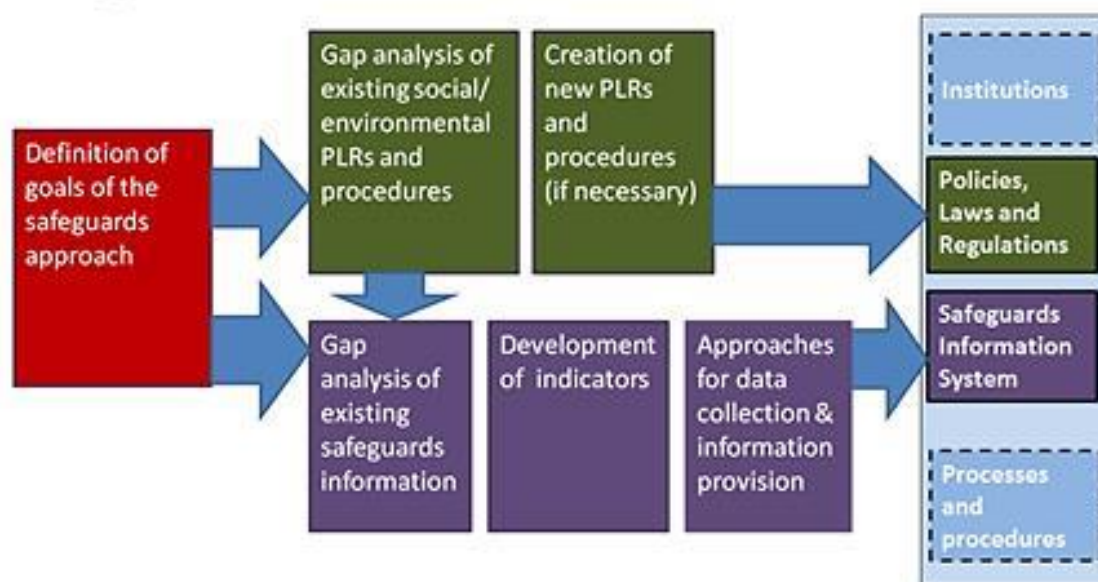
Decision 1/CP16 strengthened and clarified UNFCCC's position on safeguards, while reporting on them gained in clarity at Durban (CP17, 2011) and Warsaw (CP19, 2013). CP17 elaborated the first elements of an SIS, but the “guidelines” that emerged from Durban and Warsaw are extremely broad. Indeed, there are no harmonised guidelines on either the safeguards themselves or on “adequate” reporting formats. The issue of guidance from the UNFCCC on SIS development is a contentious one; some country Parties are for this and others against. (See Table on indicative UNFCCC requirements at Annex 9).

For a country safeguards system, an SIS needs to be based on a PLR gap analysis that in turn is based on a contextualised analysis of how and where the safeguards fit in the particular country strategy and plans. In the chapters above, the safeguards have been contextualised by linking them with different types of likely risks. Based on the PLR gap analysis the next step should be to perform a similar gap analysis on the

<sup>60</sup> On the general aspects of SIS development and reporting, the author is indebted to a UN-REDD presentation, “REDD+ Safeguards and Safeguards Information System” accessed at the UN-REDD.net website. The presentation was made by Judith Walcott, 2014.

existing information systems that could serve as the foundation for an SIS. An overview of these steps is provided in Figure 6 below, taken from UN-REDD's website. Some initial ideas under 5.1 below are provided on some of the challenges (gaps) and starting points for an SIS in the Lao PDR.

**Figure 6: Flowchart—From Safeguards Goals to PLRs and SIS**



### 5.1 Challenges for SIS Development and Some Starting Points

The FCPF Grant does not include a major activity, or set of tasks, to establish an SIS in Laos (represents a readiness gap), although it will work toward an MRV and monitoring of “co-benefits.” Since the Cancun safeguards require that Parties provide information on what actions they are taking against reversals and displacements of emissions, parts of an SIS would draw on an MRV and vice versa. As there is yet no consensus on how the Cancun safeguards should be implemented in Laos, it is too early to discuss details of an SIS. Without national agreement on how to break the safeguards into principles and criteria, it is also not yet possible to develop indicators for an SIS. Nonetheless, an SIS is a *necessity* for all REDD+ countries to receive funds via *any* mechanism related to the UNFCCC. It will be crucial for any sub-national/jurisdictional projects such as CliPAD to work actively with the FCPF grant project to support the development of a safeguards/SIS system managed at national level.

The mid-term assessment of the FS2020 (2014) determined that monitoring, data collection and analysis to be one of the most serious problems in the forestry sector. A number of programme areas in the FS2020 could not be properly assessed because of a lack of data, or a lack of good quality data. Likewise, the Forest Governance Assessment (2014: 39) observed, *The quality of much of the available forest-related information across different aspects and agencies is low and there are large information gaps. . . . There are substantial inconsistencies in data arising from within and between different agencies.*

Despite various efforts in the forestry sector to develop and implement monitoring systems, the standard of data collection and analysis required for a credible SIS (or MRV for that matter) remains low outside project frameworks. The overall situation pertaining to data management in the country indicates that a slow, step-by-step approach will be the way to create a workable SIS/MRV. . A useful starting point to develop indicators and monitoring methodologies for biodiversity aspects (Cancun safeguard e.) has been drafted by WCS for use by CliPAD in Houaphan. It is entitled, “Biodiversity and Ecosystem Services Safeguard Approach for the Houaphan Jurisdictional REDD+ Program.” Using SES criteria, the WCS authors have devised a number of stages, steps and levels for biodiversity and ecosystem monitoring and reporting.



SIS reporting may be seen in a similar vein to regular reporting requirements under the conventions to which a State is Party. This is somewhat problematic for the Lao PDR, as it has not often met all reporting requirements under the human rights and environmental conventions. Under the CBD it has yet to update its Action Plan (was only to 2010); CITES made a recent recommendation to suspend all trade (ivory) with Laos because it did not develop a required National Ivory Action Plan. The Ramsar Convention reporting format is quite simple and may offer some useful SIS starting points (for format).

Although starting points are available, the GoL stakeholders will need assistance from different development partners to ensure that the safeguards are reported on as per UNFCCC requirements.<sup>61</sup> Of greatest importance is that the UNFCCC does not expect REDD+ countries to start from scratch in developing an SIS – they should build from existing systems. Some inputs on this are provided at Annex 10 which also includes a more detailed account of biodiversity monitoring starting points in Laos.

## 6 Conclusion

It is hoped that through discussions and dialogue on the Cancun safeguards there is greater exposure of key government staff to safeguards concepts. This will reap positive benefits for Laos during the implementation of the FCPF Readiness grant. The acceptance of Lao PDR's Emission Reduction Program Idea Note (ER-PIN) into the FCPF Carbon Fund pipeline will hopefully be a major catalyst for REDD+ readiness strategies, plans and activities. REDD+ readiness, however, requires two precursors in Laos: a clearly designated REDD+ implementing or coordinating body and a clear vision. That REDD+ should be used to eradicate shifting cultivation because it is "the" driver of deforestation still needs major revision.

The quality of data and monitoring processes in the Lao PDR is a major cause of concern. A credible SIS should be based on the country's existing data collection, management and monitoring systems. In Laos, however, such systems remain embryonic, despite serious efforts by the GoL to improve them. Many districts in the country have inadequate and/or unskilled staff, and poor or no computer facilities, to collect and manage data. Moreover, these would be the very districts where REDD+ type of activities would most likely be implemented: poorer, remoter areas where there is more forest but which are severely under-budgeted and understaffed. This applies as much to the forestry and general environmental sector as to every other sector in the country.<sup>62</sup>

Overall, the Lao PDR has a challenging road ahead to reach REDD+ readiness, including a country safeguards system. There will have to be serious decisions and trade-offs on the overall path of economic development and environmental protection. REDD+ will not be effective if it is "business as usual" in Laos with illegal logging and forest conversion for large scale concessions. If smallholders are the only ones who must change their economic behaviour to become REDD+ "compliant," then REDD+ in Laos will have an uncertain future. Underlying drivers of deforestation and forest degradation from different sectors need to be urgently addressed. Implementation of the Cancun safeguards needs to balance economic and forest cover goals, while ensuring secure land tenure through PLUP and land zoning. There are some ways forward; the Cancun safeguards must be grounded in the rule of law with appropriate grievance mechanisms, full participation and the means to ensure transparent, fair benefits for local communities of all ethnic groups. Genuine VFM is an excellent mechanism for this.

<sup>61</sup> Reporting requirements for LDCs are less stringent than for other countries. While Laos is still an LDC, it plans to have graduated by 2020-21, meaning it will then have to conform to all FCCC reporting requirements, including the required periodicity (for SIS – means submitting a report concurrently with any application for funding).

<sup>62</sup> A recent International Monetary Fund Report 15/45 (2015: 59) on Laos states: *Data provision has serious shortcomings that significantly hamper surveillance, especially regarding national accounts, government finance, monetary and financial and external sector statistics. These shortcomings are mostly due to lack of capacity . . .*

In the immediate future the REDD+ Division and revitalised REDD+ Task Force should be assisted to start discussing and coordinating on the PLR gaps and the necessary gap filling measures. Drafting new legislation or revising existing legislation comprise one method of gap filling, but in Laos a long, hard look will have to be taken to see the gaps between PLRs in support of the Cancun safeguards and what actually happens on the ground. The REDD+ Division will need to do this in close collaboration with MAF, but also involving other State actors and local communities of all ethnic groups. All key development partners will have to cooperate to ensure that the Cancun safeguards and necessary SIS development are brought to the centre of the REDD+ landscape.

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	provincial REDD+ framework and REDD+ planning processes. At the local level, mitigation activities are piloted and pro-poor REDD+ mechanisms and sustainable financing models are developed. As part of the REDD+ Readiness process, CliPAD aims to support the Lao Government in the development of a Safeguards Information System (SIS). Meeting the requirements of the UNFCCC Cancun Safeguards, a Policies, Laws and Regulations (PLR) Gap Analysis would be the first step in developing a National Safeguards implementation Roadmap for Lao PDR.
<b>Organization:</b>	The service provider reports to the CliPAD-TC Programme Director. The service provider will possibly need assistance with REDD+ expertise and Lao translation for forestry terms provided by the project.
<b>Tasks:</b>	<p>The service provider will:</p> <ul style="list-style-type: none"> <li>○ Submit a detailed implementation proposal/outline on how to conduct this assignment (including timeframe and budget)</li> </ul> <p><b>Package 1:</b></p> <ul style="list-style-type: none"> <li>○ Prepare an overview of international requirements for addressing REDD+ Safeguards under consideration of recent UNFCCC developments</li> <li>○ Review policies, laws and regulations in Lao PDR regarding UNFCCC Cancun Safeguards by desk study as well as interviews with key stakeholders</li> <li>○ Prepare <b>detailed outline</b> of and conduct the <b>stakeholder consultation workshop</b></li> <li>○ Prepare the PLR Gap Analysis report for Lao PDR</li> </ul> <p><b>Package 2:</b></p> <ul style="list-style-type: none"> <li>○ Conduct a stocktaking of existing approaches to monitor environmental and social aspects/criteria in Lao PDR</li> <li>○ Prepare an overview and suggest possible methodological approaches for monitoring social and environmental safeguards (for environmental safeguards with help of the sourcebook for biodiversity monitoring for REDD+)</li> <li>○ Prepare detailed outline of and conduct the stakeholder workshop on safeguard monitoring, implementation and responsibilities</li> <li>○ Develop a summary report that formulates recommendations and necessary steps for the development of a national SIS in Lao PDR</li> </ul>
<b>Work Place and Organisation:</b>	Desk study including stakeholder consultation in Vientiane / workshops in Thalat, Vientiane Province

**Annex 2:****Excerpts from Presentation of FCPF Development Objective and Task Areas, as provided at FCPF Project Launch December, 2014**

(Phase: 2014 – 2017, with Mid-Term Review in 2016: if successful, then another USD 5 million in addition to committed 3.6 million will be possible).

(Following is from a scanned document—thanks to Nelson Gapare, SNV for providing it.)

**Project Development Objective:** *is to contribute to Laos ' efforts to design and implement a sound national REDD+ strategy.*

- Tasks and Activities of the Project would be mostly related to analytical work and REDD+ Readiness Process including the development of the REDD strategy and relevant legal and regulatory frameworks, capacity development including training and workshops, as well as stakeholder consultations (eg. on planning how to achieve REDD+), communication campaigns and awareness raising.

*Task 1: Readiness Process Management and Stakeholder Consultation*

- **Task 1.1:** Establishment of operational REDD+ offices at the national level and in selected provinces, and establish protocols for coordination between these offices.
- **Task 1.2:** Assessment and alignment of REDD+ strategy and activities with the national policy legal and regulatory framework. *individual*
- **Task 1.3:** Establishment of a stakeholder participation working groups, updating of the stakeholder participation and consultation plan, development of an effective communication and outreach strategy, to ensure and facilitate participation of relevant stakeholders in REDD+ Readiness Preparation *individual*

*Task 2: REDD+ Strategy Development*

- **Task 2.1:** Carrying out of an assessment of the existing policy and regulatory framework to further develop and finalize the REDD+ strategy.
- **Task 2.2:** Carrying out analytical studies on land and natural resources tenure, rights, access and use, and development of participatory land use planning and REDD+ strategy options.
- **Task 2.3:** Carrying out of the SESA (Strategic Environmental and Social Assessment) and develop of the ESMF (Environmental and Social Management Framework).

**Task 3: Implementation Arrangements**

- **Task 3.1:** Establishment of the necessary institutional, regulatory, and financial arrangements for supporting the REDD+ preparation process. — FC
- **Task 3.2:** Carrying out of analytical studies on revenue management and benefit sharing mechanism, establishment of a benefit sharing working group, and development of benefit sharing arrangements..
- **Task 3.3:** Conduct of an assessment of existing feedback and grievance redress mechanism, and reinforcement and/or development, as appropriate, such mechanism to address the needs of relevant REDD+ stakeholders.
- **Task 3.4:** Assessment of the needs and development of options to build capacity in information and knowledge management of relevant institutions for the REDD+ preparation process. —

**Task 4: Reference Emission Level and Monitoring Systems**

- **Task 4.1:** Development of reference emission levels aligned with REDD+ strategy.
- **Task 4.2:** Design of a system to monitor, report and verify the forest carbon stock and co-benefits of REDD+.
- **Task 4.3:** Establishment of a carbon registry, which can be used for both carbon and non-carbon requirements of REDD+

**The FCPF Grant and its Relation to the Cancun Safeguards**

<b>Specific Objectives, Tasks and Expected Results of FCPF Grant Project*</b>	<b>Relation to Cancun Safeguards</b>
To develop or enhance socially and environmentally sound policies and programmes to reduce deforestation and forest degradation	a) and especially b) on Effective Forest Governance.
To enhance and increase participation of all stakeholders (particularly local communities) in forest management.	d) Full and effective participation of all stakeholders, especially indigenous people and local communities.
To build institutional capacity in the forestry sector, and to improve information and data management and other related activities.	b) Transparent and Effective Forest Governance.
1.2 Assessment and alignment of REDD+ strategy and activities with the national PLR framework.	Relates to all safeguards in the sense that a PLR gap analysis will highlight where the national PLR framework may need adjustments.
1.3 Establishment of stakeholder participation working groups, updating stakeholder participation & consultation plan, development of an effective communication and outreach strategy to ensure and facilitate participation of relevant stakeholders in REDD+ readiness preparation.	d) Full and effective participation of all stakeholders.
2.1 Carrying out of an assessment of the existing PLR framework to further develop and finalise the REDD+ strategy.	Similar in scope to 1.2
2.2 Carrying out analytical studies on land and natural resources tenure, rights, access and use, and development of participatory land use planning (PLUP) and REDD+ strategy options.	Relates to Decision 1/CP.16 Para. 72 plus the safeguards c) Respect for rights and knowledge of indigenous people and local communities, d) on Participation and e) on multiple benefits.
3.2 Carrying out analytical studies on revenue management	Relates to b) Transparent and Effective

and benefit-sharing mechanisms, establishment of a benefit sharing working group, and development of benefit sharing arrangements.	Forest Governance and to e) Incentivise protection and conservation; enhance other social and environmental benefits.
3.3 Conduct an assessment of existing feedback and grievance redress mechanisms to reinforce or develop as appropriate, such mechanisms to address the needs of relevant REDD+ stakeholders	Relates to b) Transparent and Effective Forest Governance, and to d) on Full and Effective Participation; would also relate to c) on respect for rights and knowledge (i.e., if people feel their rights not respected, they should have redress mechanism at their disposal.
4.2 Design of a system to monitor, report and verify forest carbon stock and co-benefits of REDD+	This partly relates to an SIS, but does not go far enough, as “co-benefits” only relate to safeguard e). Forest carbon stock could relate to safeguards f) and g) on Reversal and Leakage.
Strategies to address drivers of DD in place.	Relates especially to f) and g) on Reversal and Leakage. Also relates to b) and e).
REDD+ institutional framework designed and validated nationally, including an ESMF.	Relates to b) Governance and the ESMF will relate to all other safeguards.
Social inclusion mechanism in REDD+ at the national, provincial, district and community levels.	Relates to c) and d), and also relates to Decision 1/CP.16 Para. 72 that explicitly mentions gender considerations.

**Table Notes:** \*Numbered items are listed as tasks in the FCPF Grant; the first three items are Specific Objectives, the last unnumbered items are Expected Results.



**Annex 3****Mission Schedule, including Persons Met**

<b>Date</b>	<b>Location</b>	<b>Activity/Person(s) Met</b>
Early Feb.	Berlin	Arranging persons to meet in Vientiane, preliminary reading on REDD+ legal framework in Laos.
19.02	Vientiane	International travel and arrival Vientiane
20.02	Vientiane	Meetings with Esa Puustjaervi CTA SUFORD-SU and Edwin Payuan, Village Forestry Advisor. Arranging further meetings.
21.02	Vientiane	Internet research and document study
22.02	Vientiane	Internet research and document study
23.02	Vientiane	Briefing with Jens Kallabinski, TL CliPAD TC. Meeting with Ralf Küpper, GIZ FLEGT (support for NPAs).
24.02	Vientiane	Meeting with Steeve Daviau, SUFORD Ethnicity and Gender Advisor. Discussion with Thongsoune, CliPAD TC Coordinator. Meeting with Hanna Saarinen, LIWG Coordinator. Meeting with Dietmar Bräutigam, CTA CliPAD FC.
25.02	Vientiane	Meeting with Savanh, Head of DOF REDD+ Office. Meeting with Richard Hackman from FERN. Meeting with Mr. Scott Stanley and Mr. Sean McNamara from WCS.
26.02	Vientiane	Meeting with Robert Davis, World Bank (TTL FCPF). Meeting with Nelson Gapare, REDD+ Advisor SNV. Meeting with Mr. Khamsene, Deputy DOF REDD+ Office. Meeting with Mr. Gabriel Eickhoff, Director of Forest Carbon Ltd.
27.02	Vientiane	Prepare letter of intro for other government partners, finalise list of interlocutors, arrange further meetings with other development partners. Meeting with Paula Williams, M&E Advisor at SUFORD SU. Meeting with Chris Flint, CTA at TABI.
28.02	Vientiane	Document Study.
1.03	Vientiane	Document Study.
2.03	Vientiane	Discussion with Steeve Daviau and Edwin Payuan, SUFORD; get more references from them.
3.03	Vientiane	Debriefing presentation of Kay Kallweit, REM GIZ, Meeting with Heiko Woerner, GIZ FLEGT, Meeting with Katharina Földi, Deputy Development Cooperation at German Embassy, Discussion with Sebastian Koch CliPAD.
4.03	Vientiane	Meeting with Colin Moore, Forest-Carbon Ltd; Meeting with Sebastian Koch; Meeting with Mirjam de Koning, GIZ Project Director of Hin Namnor Project).
5.03	Vientiane	Reading and analysis of PLR documents; arranging further meetings.
6.03	Vientiane	Study of PLR documents. Meeting with Mrs. Akiko Inoguchi, FAO REDD+
7.03	Vientiane	Internet research, study PLR and safeguards documents.
8.03	Vientiane	International Women's Day.
9.03	Vientiane	Internet research, study PLR and safeguards documents.
10.03	Vientiane	Meeting with Mr. Saysamone Phothisat, Deputy DG DFRM/MONRE,

Date	Location	Activity/Person(s) Met
		Meeting with Mr. Phonsavanh, DFRM Head of CliPAD PMU, Ms. Miehlau, Mr. Jahnsen-Gutierrez: Senior Advisors to Lao National Assembly Committees.
11.03	Vientiane	Meeting with Jukka Pekka Tolvanen, SUFORD.
12.03	Vientiane	Meeting with Ms. Syphavanh, DFRM REDD+ Division Acting Head. Mr. Jens Laugen, THPC on PES.
13.03	Vientiane	Mr. Khamphone Mounlamai, NAFRI. Meeting with Mrs. Phaengphan Head of LFNC Training Division (under Training and Dissemination Dept.) and FPIC Training Team. Mr. Sengrath Phirasack, DG of Village Forestry and NTFP Management Division, DOF. Dr. Vongdeuane, DG of Land Use Planning and Development Division, MONRE.
14.03	Vientiane	Consolidation of documents studied.
15.03	Vientiane	Meeting with Nelson Gapare, SNV MB-REDD
16.03	Vientiane	Discussion with Jens Kallabinski on FCPF Grant. Meeting with Dr. Kinnalane, DOF REDD+ Office Deputy.
17.03	Vientiane	Go to NAFRI (but correct person unavailable). Discussions with CliPAD, Sebastian Koch. Meeting with Mike Dwyer, CIFOR.
18.03	Vientiane	Consolidating information from different PLRs.
19.03	Vientiane	Consolidating information from different PLRs.
20.03	Vientiane	Meeting with Micah Ingalls, MONRE PEI project.
21.03	Vientiane	Studying CliPAD documents related to PLUP and Drivers of DD
22.03	Vientiane	Workshop preparation.
23.03	Vientiane	Presentation workshop preparation.
24.03	Vientiane	Presentation consolidation. Presentation and discussion of findings.
25.03	Vientiane	Final debriefing and wrapping up.
26.03	Departure	International travel back to Berlin
27.03 – 16.04	Berlin	PLR Report Drafting.

## Annex 4

## Chart of PLRs Included for Gap Analysis

Constitution and Laws	Policies and National / Sub-National Strategies
Constitution, Amended 2003	Land Policy (Draft, 2014)
Land Law, 2003	NSEDP, 7 <sup>th</sup> (2011-2015) and 8 <sup>th</sup> Draft (2016-2020)
Law on Local Administration, 2003	Climate Change (2010)
Law on Submitting Petitions, 2005	Forest Strategy to 2020 (2010)
Amended Penal Code, 2005	Agricultural Development
Forestry Law, 2007	Northern Uplands Strategy, 2016 – 2020
Wildlife and Aquatic Animals Law, 2007	Export Strategy, 2011 – 2015
Law on Making Legislation, 2012	National Biodiversity Strategy and Action Plan to 2020 (Action Plan to 2010), submitted in 2004.
Environment Protection Law 2012	Northern Industrial Development Plan, to 2020
Draft Forestry Law, 2014	
Draft Land Law, 2014	
Presidential Decree and NA Notifications	PM Decrees
President Decree 01/2012 on Benefit-Sharing in PFAs with PSFM.	PM 164/1993 on establishment of Conservation Forest (NBCAs)
NA Notification 0273 on Resurvey of Three National Forest Categories, 2014.	PM 59/2002 on the establishment of PFAs
	PM 38/2005 on creation and purpose of Forest Development Fund.
	PM 146/2005 on creation and purpose of Environment Protection Fund.
Directives Regulations and Guidelines (not MAF or MONRE)	PM 192/2005 on Compensation for Loss of Assets or Resettlement arising from Development Projects
Resolution of Politburo No.3/2012 on Formulation of Provinces as Strategic Units, Districts as Comprehensively Strong Units and Villages as Development Units ( <i>Sam Sang</i> )	PM 17/2008 on Strengthening the Forest Management , Protection and the Coordination and management of Forest and Forestry Business
LPRP Central Committee Instruction No. 03 /PBP/2011, on transformation of villages into development units and large villages into small towns in rural areas,	PM 88/2008 on Implementing the Land Law of 2003
Ministry of Finance, Guideline 92/2009 on Managing Collection of Revenue from Sale of Timber and NTFPs	PM 36/2009 on “how to solve problems related to disorganized migration linked to permanent resettlement and livelihood issues of various ethnic groups.”
Ministry of Justice, Advice/2010 on Resolving Village Disputes.	PM 46/2009 on Local Grievances (VMU)
	PM 135/2009 on Concessions
	PM 112/2010 on Environmental Impact Assessment
	PM 333/2010 on Protection Forest
Ministerially-Approved Manuals	PM 111/2011 on National Defence Strategic Zones (include “protection” forest areas);
Participatory Land Use Planning, 2009 (MAF and NLMA)	PM 435/2011 on the Establishment and Responsibilities of MONRE
Participatory Planning Manual, 2012 (MPI)	PM 13/2012 on Moratorium of Mining, Rubber and Eucalyptus Concessions
	PM 32/2012 on Adopting Minutes of National

	Forest Conference
	PM 262/2012 on Functions and Organisation of MAF
<b>MONRE and its Predecessors: Regulations</b>	<b>MAF Decisions, Regulations and Guidelines</b>
NLMA 564 on Land Titling and Registration, 2007	MAF 054 on Customary Use of Forest, 1996
MONRE 6036 on Land Titling and Registration, 2014	MAF 377/1996 Guidelines on Customary Use of Forest Resources;
MONRE 8029 on IEE, 2013	MAF 822/1996 on Land and Forest Allocation for Management and Use
MONRE 8030 on ESIA, 2013	MAF 535 on Village Forests and NTFPs, 2001
MONRE 8056 on Projects requiring IEE or ESIA	MAF 204 on PFA Establishment, 2002
	MAF 360 on NBCAs, 2003
	DOF Guideline 2156/2006 on PFAs and their Management.
	MAF 051 on Forest Regeneration, 2009
	MAF 022 on Eradication of Shifting Cultivation, 2010

Note: Some of these documents are available at the Lao Gazette website (rather in Lao than English), some of the Laws are available at the Lao National Assembly website. Some are available in the LaoFAB Repository. Others are available with colleagues from SUFORD and FLEGT. CliPAD colleagues should also have some.

## Annex 5

### Safeguards in International Discourse

Affirming the importance of the safeguards with regard to biodiversity and indigenous people/local communities, the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA) for the Convention on Biodiversity (CBD) made a series of recommendations on safeguards at its sixteenth meeting in May 2012.<sup>63</sup> Likewise, the Forest Stewardship Council (FSC) also includes social safeguards as part of its list of principles and criteria if a forest manager wishes to gain Forest Stewardship certification.

There are a number of variations on safeguards that have been developed under different organisations, whether in relation to REDD+ readiness or other programmes and projects. The World Bank and the Asian Development Bank (ADB) both maintain safeguards policies in connection with projects that may have potentially negative impact, for example, on indigenous people/ethnic groups, such as by causing involuntary relocation or loss of assets. For the World Bank and ADB the safeguards are “triggered” if there is a chance of harm (social or environmental) that may arise from the implementation of the project.

The FCPF includes a SESA that shall lead to an EMSF as a condition of providing support for REDD+. The SESA is to create a platform for discussion among different stakeholders that results in minimised social and environmental risks resulting from the implementation of REDD+ (as elaborated in the EMSF). The FCPF is, however, aligned with the Cancun safeguards when it states “Information should be consistent with applicable World Bank and/or other Delivery Partner safeguard policies . . . as well as relevant UNFCCC guidance on safeguards.” The Carbon Fund, administered by the World Bank, also requires partner country adherence to the Cancun Safeguards. A major private initiative, the Verified Carbon Standard (VCS) and its Jurisdictional Nested REDD+ (2014, Point 3.7.2), also refers explicitly to the UNFCCC Safeguards: *Jurisdictional programs shall comply with all UNFCCC decisions on safeguards for REDD+ and any relevant jurisdictional (national and subnational) REDD+ safeguards requirements.*

For REDD+ preparation, then, it makes most sense to maintain close sight of the Cancun safeguards. The UNFCCC is the overarching body on climate change. Both the FCPF and the Carbon Fund are interim funding sources established to help developing country partners achieve REDD+ readiness. After the Climate Change agreement takes effect from 2020, then it could be reasonably expected that most of the developing country Parties to the UNFCCC would be REDD+ ready and be eligible to receive funds via a consolidated and operational Green Climate Fund. This fund would also have to operate according to the Decisions reached by the UNFCCC Conferences of Parties.

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<sup>63</sup>See SBSTTA 16 Recommendation XVI/7 at [www.cbd.int/recommendation/sbstta/?id=13056](http://www.cbd.int/recommendation/sbstta/?id=13056)

## Annex 6

**Summary of Forest Governance Issues in Laos: Two Recent Evaluations**

(Forest Governance Challenges Set Against Profor Criteria relevant for Cancun Safeguard b) Effective and Transparent Governance)

<b>Profor Principle or SEPC Criterion</b>	<b>Forest Governance Assessment* (quotes from report)</b>	<b>FS2020 Assessment** (quotes from report)</b>
<b>Accountability</b>	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. Pg. 39	Review [of] the funding strategy focusing on the financial flow of timber revenue derived from PFAs and the suspected leakages of the revenue (indicates lack of financial accountability and/or suspected corruption). In spite of moratorium of logging quota in PFA since 2011/12, exports of wood products are skyrocketing. (indicates wood from illegal sources). V.1, p.21
<b>Efficiency</b>	Institutional arrangements are still in flux and the 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. Pg. 25	Overlaps and ambiguities of demarcation in responsibilities of offices remain unaddressed (on law enforcement). V.1, p.37 Responsibilities for forest management and inspection are overlapped and unclear among MAF, MONRE and MOIC (logging and sales). V.1, p.74 Introduction of forest management to local levels has not been continuously undertaken. V.1, p.74
<b>Effectiveness</b>	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. Pg. 55 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. Pg. 56	There are big gaps between the present institutional capacity and needed capacity; Human capacity of local staff is insufficient. 7 Number of staff and budget are insufficient. V.1, p.37 Coordination and information sharing with climate change department under MONRE and forestry sector are still weak. V.1, p.50
<b>Fairness/Equity</b>	The report also mentions that benefit-sharing should happen under PFAs, but that villagers are not allowed to harvest timber for sale (exception, plantations). Pg. 19	Mention of benefit-sharing with local people in PFAs, but that little timber actually harvested from PFAs. V.III, p.71
<b>Participation</b>	Planning and implementation processes, and mechanisms for their [communities] participation have not been adequately defined yet. Pg. 43 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. Pg. 51 ...participatory forest management approaches are just evolving at present. What participation actually means, and the	The forestry sector has not moved forward to the direction for achieving sustainable forest management. V.I, p.15 Positive mention of villagers participating in decentralised Forest Management Units (but lack of timber quotas in PFAs).

	participation process, roles, responsibilities and benefits for different stakeholders still need to be ironed out in most forest areas. Pg. 37	
<b>Transparency</b>	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. Pg. 39 Public information databases and documents are very limited at present. Concession agreements are confidential. ESIs are supposed to be public but they are also difficult to access. Pg. 40	Political interventions for controlling the sector responding to the emerging issues and the significant changes in external circumstances not happened possibly due to <u>lack of reliable information for decision making</u> . (Note that the authors actually don't know the real reasons.) V.I, p.16 Lack of reliable and updated information on sector performance makes it impossible to identify the appropriate responses to the changing circumstances in a timely manner; V.I, p. 16 Timber royalty has decreased year by year. Timber quota is mainly allocated for debt payment by provinces or other barter arrangements. V.I, p. 27. (How can this be controlled?)
<b>Rule of Law</b>	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. 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. Pg. 38 – 39.	Many key articles of laws and regulations are reported not properly enforced (for forest law enforcement). V.I, p.61 Legislations were not well formulated and have not been strictly implemented (on protected forests/watersheds). V.1, p.69

**Table Notes:** \* Direct quotes, some slightly altered, from the DRAFT Forest Governance Assessment Report sent for stakeholder comments in December 2014.<sup>64</sup>

\*\*Direct quotes from different pages of the FS2020 Assessment, some slightly altered; any comments in brackets are from the author of this report.

<sup>64</sup> An informant at the World Bank said that by March 2015, there had not been any comments provided by stakeholders on the content of the report, so that it could be considered final. It's available here: <https://www.forestcarbonpartnership.org/sites/fcp/files/2015/June/Forest%20governance%20assessment%20for%20REDD%2B%20implementation%20in%20Lao%20PDR%20through%20application%20of%20the%20PROFOR%20forest%20governance%20tool.pdf>

## Annex 7

### PLRs and Ethnic Groups in Laos

The Constitution of 2003 proclaims the Lao PDR as a multi-ethnic society; Article 8 of the Constitution says that the State strives to promote unity and equality of all ethnic groups, with no act of division or discrimination to be tolerated. Thus, the Constitution of Laos recognises the equality of all ethnic groups before the law. The LFNC made an officially recognised list of 49 different ethnic groups living in the Lao PDR in time for the Population Census enumeration of 2005. These 49 ethnic groups (including 160 sub-groups), of which by far the largest are the Lao, followed by the Khmu and the Hmong, are broken into four ethno-linguistic groups of which the Lao-Tai are in the majority with some 65% of the population. There is no legal recognition of any group being indigenous to Laos, or of having any special characteristics. Special indigenous/ethnic relationships, or rights, to land and forest are not recognised. All the forest- and land-related legal documents, apply equally for all people in Laos, whether they are a member of the Lao-Tai majority or one of the other three ethno-linguistic groups in the country.

Laos has acceded to the key international human rights treaty relevant for indigenous people/ethnic groups: the International Covenant on the Elimination of Racial Discrimination (CERD). The Convention on Biological Diversity (CBD) of 1992 to which Laos is a Party since 1993 has a clause that emphasises indigenous people—8(j): *respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge . . .* This clause is consistent with Cancun safeguard c) on respect for knowledge and rights of indigenous people and local communities.

Laos was one of 144 countries that voted “yes” to adopt UNDRIP during the General Assembly session held in September 2007. UNDRIP is not, however, legally binding, although its content with a focus on indigenous people generally reflects articles already included under the core international human rights treaties and covenants (of which Laos is also Party). Article 26 of UNDRIP relates to indigenous people’s land rights such as their *right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.*, but it would be difficult to reconcile this Article with Article 17 of the Lao Constitution of 2003 which states: “Land is a national heritage, and the State ensures the rights to use, transfer and inherit it in accordance with the laws.” Article 3 of the Land Law 2003 also does not recognise special rights: Land of the Lao PDR is under the ownership of the national community as prescribed in Article 17 of the Constitution in which the State is charged with the centralized and uniform management [of land] throughout the country and with the allocation [of land] to individuals, families and economic organisations for use, lease or concession. .

Therefore, ethnic peoples’ traditional or customary ownership and management of forest and forest land are not clearly acknowledged. The only partial exception is scattered references to “customary use,” such as under Article 42 of the Forestry Law 2007. But even this states *Customary utilization of forest and forest products shall be practiced in accordance with a designed plan and with village regulations and laws and regulations on forests.* Although not stated under Article 42, it is implied that the “designed plan” would need to be approved by the correct authority.



**Annex 8: Criteria Used for Detailed PLR Gap Analysis and PLR Gap Matrix****34 Criteria Used for PLR Gap Matrix**

<b>Cancun Safeguard</b>	<b>Interpretation Criteria Used to Assess PLR Gaps</b>
a) [REDD+] Actions complement or are consistent with the objectives of national forest programmes and relevant international conventions and agreements	<p>1 Objectives of National Forest Strategy. Goals stated in NSEDP.</p> <p>2 Lao PDR's accession and/or ratification of relevant international conventions and agreements and statements within locally relevant legislation that link to these.</p> <p>3 Statements of commitment to national poverty reduction strategies, national biodiversity conservation policies/action plans, and other sustainable development strategies.</p>
b) Transparent and effective national forest governance structures, taking into account national legislation and sovereignty	<p>1 Clear and coherent institutional structures and mandates for forest management.</p> <p>2 Clear and coherent jurisdictional (sub-national) laws and institutional mandates for forest management.</p> <p>3 Clear system for environmental <i>and</i> social assessment of potential impacts emanating from policies, plans, programmes, and projects that may affect forest resources.</p> <p>4 Clear system for appraisal and approval of policies, programmes, plans, and projects that may affect forest resources.</p> <p>5 Transparency and accountability towards other stakeholders impacted by national forest governance structures.</p> <p>6 Participatory procedures for decision-making on, and implementation of, forest management and benefit sharing.</p> <p>7 Access to information on ownership and use rights, decision-making processes and recourse mechanisms.</p> <p>8 Transparent rules on converting or alienating forests, including for sale, land use planning, easements and concessions.</p> <p>9 Legislative fines, penalties and prosecutions that appropriately address deterrence.</p>
c) Respect for the knowledge and rights of indigenous peoples and members of local communities, by taking into account relevant international obligations, national circumstances and laws	<p>1 Incorporation of traditional knowledge into forest management and governance.</p> <p>2 Statements promoting and enhancing gender equality, gender equity and women's empowerment.</p> <p>3 Rules to obtain and protect FPIC.</p> <p>4 Dispute resolution and grievance redress mechanisms that are equitable, transparent, accountable, independent, confidential and affordable (or free), and that respect customary justice systems of indigenous peoples and local communities.</p> <p>5 Reinforcement of capacity of the judiciary for alternative dispute resolution, including expanding adjudicators, arbitrators or mediators to include administrative bodies and representatives of local communities.</p>
d) The full and effective participation of relevant stakeholders, in particular indigenous peoples and local communities.	<p>1 Clearly defined and enforceable rules on levels, timing and mechanisms for stakeholder participation in decision-making.</p> <p>2 Incorporation of culturally sensitive, traditional and community structures for decision-making, including representatives chosen by themselves in accordance with their own procedures.</p> <p>3 Broad public consultations at various levels of project <u>design</u> and implementation (i.e. public notice and open comment periods)</p> <p>4 Accessible and enforceable "access to information" rules for all applications.</p>
e) That actions are consistent with the conservation of natural forests and biological diversity, ensuring that REDD+ activities are not used for the conversion of natural forests, but are instead used to incentivize the protection and conservation of natural forests and their	<p>1 Rules for the entitlement to benefits, and how benefits will be distributed among investors, landowners, government, local communities and indigenous peoples and persons engaged in forest management (i.e. for opportunity costs, traditional knowledge, employment, management, royalties).</p> <p>2 Pricing tools, value addition and other incentives to promote alternative and sustainable livelihoods, for instance from NTFPs or ecotourism.</p> <p>3 Clear and defined rights to forests and carbon ownership, use and transfer.</p> <p>4 Clear and accessible legal framework supporting and protecting attribution of entitlements for land tenure, including for customary, freehold, leasehold,</p>

ecosystem services, and to enhance other social and environmental benefits.	<p>concessions, leases and public ownership, use, management and transfers of interests.</p> <p>5 Rules on the alienability and acquisition of lands, including compensation or resettlement.</p> <p>6 Coordination of land tenure with forest governance objectives and other land use planning.</p>
f) Actions against risk of reversals.	<p>1 Action plans to deal with force majeure events (i.e. fires, extreme weather events, droughts).</p> <p>2 Statements indicating an awareness of the risk of reversals of REDD+ achievements, including potential future risks to forest carbon stocks.</p> <p>3 Rules for risk mitigation mechanisms such as title registration, insurance, bonds, liens, guarantees and buffers or carbon pools.</p> <p>4 Risk management tools for monitoring and enforcement.</p>
g) Actions to reduce displacement of emissions.	<p>1 International or regional treaties on displacements.</p> <p>2 Information systems that report on how displacements are being addressed.</p> <p>3 Statements indicating the need to avoid or minimize adverse impacts on carbon stocks, other ecosystem services and biodiversity of non-forest ecosystems.</p>

*Cancun Safeguards and PLR Gap Analysis – Lao PDR*  
**Annex 8, continued**

**PLR Gap Analysis Matrix**

<b>Cancun Safeguard</b>	<b>Interpretation Criteria</b>	<b>Compliance with Safeguards</b>	<b>Gaps <i>Both PLR and Implementation</i></b>	<b>Remarks <i>Including on Reporting and Monitoring</i></b>
a.) [REDD+] Actions complement or are consistent with the objectives of national forest programmes and relevant international conventions and agreements;	a1 Objectives of National Forest Strategy. Goals stated in NSEDP.	Main objective of GoL is to achieve 70% forest cover by 2020, and is repeated in all relevant PLRs, including Draft 8 <sup>th</sup> NSEDP. Future REDD+ actions would both complement and be consistent with this major objective.	No major gaps in terms of formal statements and commitments to forest and environmental protection. “Gap” lies more in interpretation and implementation of PLRs in Provinces and Districts, and in inter-sectoral inconsistency.	There are no regular or clear monitoring procedures on how objectives of the Forest Strategy should be reported on; 2014 assessment of progress indicated a big challenge related to data collection on virtually all forest-related indicators. 70% forest cover by 2020 considered unattainable.
a) Objectives of national forest programmes, cont’d.	a2 Lao PDR’s accession and/or ratification of relevant international conventions and agreements and statements within locally relevant legislation that link to these.	Laos is a member of UNFCCC. Laos ratified the CBD in 1996; As part of its CBD commitments, Laos did formulate an NBSAP in 2004. Laos joined Ramsar Convention in 2010. According to Law on Making Law (2012), “If the provisions of existing legislation and newly adopted legislation are inconsistent with the provisions of international conventions or treaties that Lao PDR is party to, the provisions of the international convention or treaty prevail.”	The NBSAP had a workplan to 2010 which is yet to be updated; Laos is yet to fulfil reporting requirements to the CBD. Laws and policies do not generally explicitly refer to Laos’ obligations under the international conventions. Laos has yet to develop a clear “climate change” policy framework, but it does have a 2009 Climate Change Strategy (not updated). Recent report (2015) to Ramsar CP12 states there is ongoing work to bring Lao PLRs into conformity with Ramsar Convention.	As above, major challenges in the Lao PDR to conduct regular, adequate data collection for monitoring and action to meet its timely reporting requirements under conventions on environment and human rights.  Generally, few specific linkages between existing laws and the international treaties and conventions, although some have been altered to make them more compliant. (ex. Penal Code).
a) Objectives of national forest programmes, cont’d.	a3 Statements of commitment to national poverty reduction strategies, national biodiversity	There are no gaps on this, re: poverty. Most policies and strategies explicitly refer to the overarching goal of poverty	Biodiversity is not clearly mentioned cross-sectorally (only forest cover goals). Sustainable development is not so clearly	A lot of regular, countrywide monitoring on poverty, but quality is a question: tendency to report only successes, and based on now outdated

## Cancun Safeguards and PLR Gap Analysis – Lao PDR

<b>Cancun Safeguard</b>	<b>Interpretation Criteria</b>	<b>Compliance with Safeguards</b>	<b>Gaps Both PLR and Implementation</b>	<b>Remarks Including on Reporting and Monitoring</b>
	conservation policies/action plans, and other sustainable development strategies.	reduction and exiting from LDC status by 2020.	defined in various policies and plans.	(not adjusted for high inflation rates) per capita income figures. Biodiversity conservation is underreported, whether flora or fauna (including large fauna).
b.) Transparent and effective national forest governance structures, taking into account national legislation and sovereignty	b1 Clear and coherent institutional structures and mandates for forest management.	<p>Division of responsibilities between DFRM and DOF essentially to have production forests and forest law enforcement under DOF and protection/conservation forests under DFRM. Enforcement responsibilities are split between the two ministries, but DOFI under MAF appears to be lead on this.</p> <p>FDF established in 2005, and an Environment Protection Fund (EPF). FDF predates EPF by a few months.</p>	<p>Previous institutional arrangement with all Forest-related Divisions and Departments under MAF seems to have been clearer than the post-division of responsibilities. Many forest laws and decrees passed prior to institutional reorganisation and not brought up to date.</p> <p>Gap is especially large at local level where allocated village forests should theoretically be taken care of by two different departments.</p> <p>Coordination difficulties exist at Central level which causes some slow-downs at other levels in terms of leadership and management.</p> <p>Various factors, including moratorium on timber harvesting from PFAs have caused FDF to have inadequate funds.</p> <p>According to EPF no other environmental funds should exist but it is predated by FDF.</p>	<p>Discussion has apparently been re-opened as to the institutional arrangements for forest management; this indicates that internal assessments are not so favourable regarding the current set-up.</p> <p>There is a Division of Village Forestry and NTFP Management, but its role in creating, for example, VFMPs is unclear beyond assisting the provinces; it was only established in 2012 (apparently, there are only 10 VFMPs in the country done with the lead of this Division).</p> <p>The FS2020 Review deemed the FDF “inadequate” to contribute to the funding of forest management in Laos.</p> <p>Village forests are a “loose category” institutionally in that they may include forest types that are under the responsibility of MONRE or MAF.</p>
b) Governance cont’d	b2 Clear and coherent jurisdictional (sub-national) laws and institutional	Yes. General policies such as <i>Sam Sang</i> and on Development Planning show clear enough	The mandates for different levels are clear enough on paper, including for example	Example of Village Forest Committees (or similar); have been sanctioned for many years, but still today there is

## Cancun Safeguards and PLR Gap Analysis – Lao PDR

<b>Cancun Safeguard</b>	<b>Interpretation Criteria</b>	<b>Compliance with Safeguards</b>	<b>Gaps Both PLR and Implementation</b>	<b>Remarks Including on Reporting and Monitoring</b>
	mandates for forest management.	mandates from provincial down to village level.	land ceilings they are authorised to lease for concessions, but the interpretation at sub-national levels means that clarity and coherence may be diluted. Lack of capacities at jurisdictional levels always major issue.	only a tiny minority that actually functions.
b) Governance cont'd	b3 Clear system for environmental <i>and</i> social assessment of potential impacts emanating from policies, plans, programmes, and projects that may affect forest resources.	Fairly recently promulgated Environmental Law (2012), and MONRE EIA regulations 8029 on IEE and 8030 on ESIA and 8056 on types/sizes of development projects requiring IEE or ESIA (all issued Dec. 2013). These laws and regulations provide for consultation of all key stakeholders and “affected persons.”	No gaps on paper, but many projects started before the three key MONRE regulations issued in 2013. Capacities are big issue, as is willingness to fully involve all relevant stakeholders in IEE or ESIA	Main issue here lies in local staff's abilities to understand and support IEE or ESIA, and adequate coordination with other agencies.
b) Governance cont'd	b4 Clear system for appraisal and approval of policies, programmes, plans, and projects that may affect forest resources.	If the National Assembly does not exercise oversight during its sessions, there is no other “clear system” to double-check how various policies, etc. may affect forest resources.	Large gaps here what with ongoing “timber for capital” and “timber to repay debts” deals. Logging from infrastructure development areas is not well-regulated or controlled.	A major issue here lies in inter-sectoral coordination, and allowing “timber for capital” measures that are so destructive of forests. Forest Conference 2012 resolved to stop this practice.
b) Governance cont'd	b5 Transparency and accountability towards other stakeholders impacted by national forest governance structures.	The Forest Law and FS 2020 mention “participation” of different stakeholders. This includes local people. At Central level there is accountability to Ministerial level; Laws do set out tasks and responsibilities of all levels, including their accountability.	There is limited downward accountability in the forest governance structures; generally upward reporting based on fixed targets. Many important decisions taken at Central level without reference to conditions at local levels (ex. determination of boundaries of production,	No policy or regulatory statements that would support “freedom of information” in terms of how decisions are made; this includes financial matters related to benefit-sharing. At local levels, people often only know of decisions taken at higher level when the “bulldozers move in.”

## Cancun Safeguards and PLR Gap Analysis – Lao PDR

<b>Cancun Safeguard</b>	<b>Interpretation Criteria</b>	<b>Compliance with Safeguards</b>	<b>Gaps Both PLR and Implementation</b>	<b>Remarks Including on Reporting and Monitoring</b>
			protection and conservation forest).	
b) Governance cont'd	b6 Participatory procedures for decision-making on, and implementation of, forest management and benefit sharing.	Various PLRs mention that “participation” of communities is a requirement (PM59/2002 on PSFM, for example). FS2020, 3.2.3.3 “To strengthen the role of forestry in poverty eradication, . . . villagers in production forest areas. . . should participate in forestry planning and operations at the field level and should share in the derived proceeds.” President Decree 1/2012 describes benefit-sharing in PFAs with PSFM.	Big gaps here. Even “customary use rights” are circumscribed by need to follow plans and regulations which is a contradiction in terms. Unequivocal procedural elements are missing for participation. Local communities are not recognised as decision-makers under current legislation, and have no voice in benefit-sharing.	There is too little transparency in existing forest legal documents re: benefit-sharing mechanisms. Local communities have certain rights, but they are inevitably determined from higher levels and villagers must always follow plans and regulations determined elsewhere.
b) Governance cont'd	b7 Access to information on ownership and use rights, decision-making processes and recourse mechanisms.	Use rights are set out in PLRs like Land and Forest Laws, Recourse mechanisms to administrative authorities are also mentioned in these same Laws and in the Environmental Law. Right of petition is provided as under the 2005 Law on Petitions. NA Hotline during NA sessions.	Right of appeal of major decisions such as a village being located within a protection forest does not seem to exist. Actual access to information is limited; if local people feel aggrieved they complain to Village Headman in first instance. Their information on other recourse mechanisms seems limited.	In many local communities, people simply carry on with their livelihood activities until told otherwise; it is not based on an understanding of existing PLRs unless there has been a dissemination campaign. Information on petitions, grievances made through NA Hotline, and their outcomes, is not known, and unlikely that any data are systematically collected on this.
b) Governance cont'd	b8 Transparent rules on converting or alienating forests, including for sale, land use planning, easements and concessions.	Land Policy (2014 revision) and Land Law (2003) and Forest Law (2007) make clear that only “barren” or “degraded” forests may be converted for other uses, turned into concession areas, etc. PM 135/2009 on Concessions	There is an “out” clause stating that forests may be converted if in the “public” interest (no rights of appeal on this) Another issue is that “degraded” or “barren” are not clearly defined so that local communities could protect their	No data on how much “extra” forest has been lost to infrastructure development in Laos.  No clear data on how much so-called “barren” forest land was in fact part of village use land and lost to concessions.

## Cancun Safeguards and PLR Gap Analysis – Lao PDR

<b>Cancun Safeguard</b>	<b>Interpretation Criteria</b>	<b>Compliance with Safeguards</b>	<b>Gaps Both PLR and Implementation</b>	<b>Remarks Including on Reporting and Monitoring</b>
		also says “barren” forest land may be given in concession.	defined use forests. Logging in infrastructure areas inadequately defined.	
b) Governance, cont’d.	b9 Legislative fines, penalties and prosecutions that appropriately address deterrence.	PLRs which mention deterrence normally mention warnings, re-education and fines. The Penal Code of 2005, Art. 139 mentions up to five years prison and unspecified fines for illegal logging.	The main laws do not specifically mention the amount of fines for levels of infraction, and at local level it is not sure how a system of fines would be implemented. It seems the law does not provide a credible deterrent to illegal logging.	Very little information available on warnings and fines in Laos, and what effect, if any, they might have. Have heard of “shifting cultivators” getting fined for cutting trees in areas they apparently were not supposed to.
c) Respect for the knowledge and rights of indigenous peoples and members of local communities, by taking into account relevant international obligations, national circumstances and laws	c1 Incorporation of traditional knowledge into forest management and governance.	Forest Law 2007, and Land Law 2003 both recognise “customary rights,” but without giving them precedence or special status. The 2007 Law on Wildlife and Aquatic Animals also recognises “customary rights,” but not knowledge (this law doesn’t include flora). Laos is Party to the Nagoya Protocol which acknowledges traditional knowledge and rights to genetic resources.	This is an area where there are major gaps; “traditional” knowledge has no special status in law, there are no means so far of incorporating it in law, and ethnic groups are “equal” but also without special status (starting from the Constitution).	Traditional knowledge in Laos is not incorporated in general into laws; people have customary rights but restricted to “following the laws and regulations” that have not included their knowledge! There is no regular reporting by either MONRE or MAF on how customary rights are respected in different aspects of forest and biodiversity management. The GoL has difficulties to meet its regular reporting requirements, for example, to the CERD, CEDAW, CESC and CBD Committees.
c) Knowledge and rights of local communities, cont’d.	c2 Statements promoting and enhancing gender equality, gender equity and women’s empowerment.	The Land Law (Draft) and MONRE Regulations on land say there is “gender equality” on land rights and titles.	No major legal documents related to Forestry or Environment specifically mention equal gender rights, or acknowledge any special role of women in forest management (for example)—it remains a major gap.	Reference would have to be made to the National Committee on the Advancement of Women and the latest National Plan for the Advancement of Women.
c) Knowledge and rights of	c3 Rules to obtain and protect	There are a number of laws and	There are no PLRs in Laos that	Different donor-supported projects in

## Cancun Safeguards and PLR Gap Analysis – Lao PDR

<b>Cancun Safeguard</b>	<b>Interpretation Criteria</b>	<b>Compliance with Safeguards</b>	<b>Gaps <i>Both PLR and Implementation</i></b>	<b>Remarks <i>Including on Reporting and Monitoring</i></b>
local communities, cont'd.	free, prior informed consent.	regulations that call for “consultation,” such as the Environmental Law, 2012 and the MONRE Regulations 8029 and 8030 on IEE and ESIA.	go so far as to include necessary “consent” of ethnic groups or local communities. This is a major gap as they do not “protect” FPIC. There are also no specific provisions or guidelines for conducting consultations with different ethnic groups in ways the groups consider appropriate.	the forestry sector are piloting FPIC measures, generally with either the LFNC or LWU or both of them together. There is little systematic reporting on the success, or otherwise, of FPIC from the affected groups’ points of view.
c) Knowledge and rights of local communities, cont'd.	c4 Dispute resolution and grievance redress mechanisms that are equitable, transparent, accountable, independent, confidential and affordable (or free), and that respect customary justice systems of indigenous peoples and local communities.	There are grievance redress mechanisms (see b7), but access to justice is limited; VMUs are encouraged but can only handle intra-village conflicts (VMUs may well rely on traditional dispute resolution mechanisms even though they are recognised in law).	Grievance redress mechanisms are not clear enough beyond village level (VMUs, traditional elders only within the village). The rule of law does not extend to rural areas in sense of people being able to make appeals should they feel their legal or human rights have been violated. Law on Petitions (2005) does not make special provision for remote areas or for people who may have trouble to write.	There is no systematic monitoring or reporting on how grievances are handled in the Lao PDR, unless specific projects such as NT2
c) Knowledge and rights of local communities, cont'd.	c5 Reinforcement of capacity of the judiciary for alternative dispute resolution, including expanding adjudicators, arbitrators or mediators to include administrative bodies and representatives of local communities.	The Ministry of Justice encourages Village Mediation Units (VMUs) to resolve village-level disputes. Ministry of Justice Advice/2010 on Resolving Village Disputes.	Basically, there are limited means for dispute resolution beyond village level; people with serious grievances call the NA Hotline during its sessions. Few provisions for dispute resolution that go beyond “administrative procedures” that villagers cannot understand well.	Local legal system is still too weak in Laos to support different alternatives on dispute resolution. The weakness is reflected in district promotion of “case free villages” that dissuade villagers from taking disputes beyond the village level. There is no reporting on the number of grievances, nor their resolution, in Laos.
d) The full and effective participation of relevant	d1 Clearly defined and enforceable rules on levels,	Encouragement for stakeholder participation in planning, forest	With an administrative system based on upward accountability,	Participatory planning exercises may happen as “one off” events (once in



## Cancun Safeguards and PLR Gap Analysis – Lao PDR

<b>Cancun Safeguard</b>	<b>Interpretation Criteria</b>	<b>Compliance with Safeguards</b>	<b>Gaps Both PLR and Implementation</b>	<b>Remarks Including on Reporting and Monitoring</b>
stakeholders, in particular indigenous peoples and local communities.	timing and mechanisms for stakeholder participation in decision-making.	and/or land management is provided for in: PSFM for production forests, PM59, 2002, PLUP Manual, 2010; Participatory Planning Manual, 2012 MPI; MONRE Regulations 8029 and 8030 on IEE and ESIA. Poverty Reduction Fund Implementation Manual has strict provision and procedures for participation.	the procedural aspects of participation are not well-defined and followed in the absence of donor-supported projects. Timing is also not clear.	several years) that local communities may later have no memories of; they are invited to make inputs, but what happens to these inputs at higher levels may be unknown to them because no feedback mechanism. Manuals do not have the “force” of law or of ministerial regulations.
d) Full and effective participation, cont’d.	d2 Incorporation of culturally sensitive, traditional and community structures for decision-making, including representatives chosen by themselves in accordance with their own procedures.	N/A	There are no PLRs in Laos that go this far in support for local participation and decision-making.	There are no provisions in any PLRs for this although it may happen informally or on an ad hoc basis. It should actually become part of a REDD+ SIS, with local representatives included in providing reports.
d) Full and effective participation, cont’d.	d3 Broad public consultations at various levels of project <u>design</u> and implementation (i.e. public notice and open comment periods)	Environmental Protection Law and regulations 8029 and 8030 do provide for public consultations.	Public consultations should take place, but they are dependent on the project holder carrying them out. If local authorities not so aware of IEE and ESIA regulations, they may not insist on full consultations.	Reporting on public consultations is sketchy at best; information as to what has taken place is seldom reported on or made public.
d) Full and effective participation, cont’d.	d4 Accessible and enforceable “access to information” rules for all applications.	N/A	Free and enforceable access to information is next to impossible in Laos.	
e) That actions are consistent with the conservation of natural forests and biological diversity, ensuring that	e1 Rules for the entitlement to benefits, and how benefits will be distributed among investors, landowners, government, local	Benefit-sharing is mentioned in President Order No. 1/2012 but only for PFAs, and only in relation to “sustainable forest management.”	Benefit-sharing is not clearly legislated for in Laos. No legislation on PES.	President Decree 1/2012 came in when there were no quotas for PFAs, so there are few recent examples of actual benefit-sharing in Laos, and it’s not been reported on.

## Cancun Safeguards and PLR Gap Analysis – Lao PDR

<b>Cancun Safeguard</b>	<b>Interpretation Criteria</b>	<b>Compliance with Safeguards</b>	<b>Gaps <i>Both PLR and Implementation</i></b>	<b>Remarks <i>Including on Reporting and Monitoring</i></b>
REDD+ activities are not used for the conversion of natural forests, but are instead used to incentivize the protection and conservation of natural forests and their ecosystem services, and to enhance other social and environmental benefits.	communities and indigenous peoples and persons engaged in forest management (i.e. for opportunity costs, traditional knowledge, employment, management, royalties).	There is a draft REDD+ decree on carbon offset projects which may address some of these points.		Past payments that were to reach villages, based on timber revenues sometimes did not reach village bank accounts because of unclear procedures of releasing funds from higher levels. No data available on villager level of satisfaction with benefit-sharing mechanisms under PFAs in the past.
e) REDD+ multiple benefits, cont'd.	e2 Pricing tools, value addition and other incentives to promote alternative and sustainable livelihoods, for instance from NTFPs or ecotourism.	N/A for the most part. Ecotourism is seen as a possible income earner for local people in Laos: The Forestry Law, 2007 Article 43 is one of a number of PLRs that allows or encourages tourism in natural forests.	GoL policies vis-à-vis rural dwellers are geared to commercial agriculture and having local communities less reliant on forest resources; positive incentives to promote local, agro-forestry livelihoods less common.	
e) REDD+ multiple benefits, cont'd.	e3 Clear and defined rights to forests and carbon ownership, use and transfer.	Rights to forests have been getting defined since the 1990s, but still not clear for local communities because State's not relinquishing de facto control of most forest land in Laos. People do have rights to trees (carbon) they planted on barren forest land (Forest Law, Art. 4).	Carbon ownership use and transfer is not yet clear under any law (concept newer than recent laws).	Community land title to Village Use Forests is possible but quality, quantity and adequacy of such forests may be a question mark.
e) REDD+ multiple benefits, cont'd.	e4 Clear and accessible legal framework supporting and protecting attribution of entitlements for land tenure, including for customary, freehold, leasehold, concessions, leases and public	Land Law 2003 covers some of the topics clearly, but under Draft Land Law 2014, State is allowed to expropriate land for both public and private purposes.	At issue is that local communities often unaware of their land use rights; Land expropriation for private purposes is allowed in Laos which makes local tenure much less secure.	Land grabbing in Laos, especially in the South, appears widespread, but is not systematically monitored, documented and reported.

## Cancun Safeguards and PLR Gap Analysis – Lao PDR

<b>Cancun Safeguard</b>	<b>Interpretation Criteria</b>	<b>Compliance with Safeguards</b>	<b>Gaps <i>Both PLR and Implementation</i></b>	<b>Remarks <i>Including on Reporting and Monitoring</i></b>
	ownership, use, management and transfers of interests.		Land titles would at least give people more chance for adequate compensation, but most rural people do have registered titles. Validity or legality of 3-year Land Use Certificates never tested.	
e) REDD+ multiple benefits, cont'd.	e5 Rules on the alienability and acquisition of lands, including compensation or resettlement.	Partly compliant. Rules on compensation and resettlement contained in PM192/2005 in the case of "development projects." Land Law (Draft) sets compensation depending on land type and whether expropriated for public or private purpose.	Draft Land Law (2014) makes it possible for the State to expropriate land for private purposes;	In the past Community Land was unavailable for concessions/leases; under Draft Land Law, requires only a simple majority to agree; Land has become a contentious, conflicted issue in Laos but little data are available on conflict resolution and the like.
e) REDD+ multiple benefits, cont'd.	e6 Coordination of land tenure with forest governance objectives and other land use planning.	Yes, there is some coordination to protect both people's tenure and forest resources: people may live with forest but are restricted in what they may exploit; resource use rights are mentioned in both Forest Law and Land Law.	Rural land tenure security remains problematic in that very few rural land parcels have been titled and registered for "permanent titles."	
f) Actions against risk of reversals.	f1 Action plans to deal with force majeure events (i.e. fires, extreme weather events, droughts).	Action plans yet to be developed, but orders on vigilance against fire are made (not put in frame of an action taken to mitigate risk of reversal). Adverse climate events and disaster mitigation, also affecting forests, starting to become part of policy dialogue.	Few provisions.	
f) Risk of reversals, cont'd	f2 Statements indicating an	N/A	No provisions	

## Cancun Safeguards and PLR Gap Analysis – Lao PDR

<b>Cancun Safeguard</b>	<b>Interpretation Criteria</b>	<b>Compliance with Safeguards</b>	<b>Gaps Both PLR and Implementation</b>	<b>Remarks Including on Reporting and Monitoring</b>
	awareness of the risk of reversals of REDD+ achievements, including potential future risks to forest carbon stocks.			
f) Risk of reversals, cont'd	f3 Rules for risk mitigation mechanisms such as title registration, insurance, bonds, liens, guarantees and buffers or carbon pools.	N/A	No provisions	
f) Risk of reversals, cont'd	f4 Risk management tools for monitoring and enforcement.	N/A	No provisions	Systematic and accurate monitoring is the weakest link in the governance system.
g) Actions to reduce displacement of emissions.	g1 International or regional treaties on displacements.	There is no treaty as such but an MOU 2012 – 2017, between the Forest Protection Department, Vietnam and DOFI, Laos on cooperating on law enforcement between the two countries.	No provisions as such, but MOU does mention international agreements both countries have signed up to, including REDD+.	The existing MOU between two Forest Departments could be used as a beginning point for further, more specific MOUs to encourage FLEGT and displacements reductions.
g) Displacement of emissions, cont'd.	g2 Information systems that report on how displacements are being addressed.	N/A	Large gap on this, as no clear concepts under any laws yet as to how displacements should be addressed besides “regular” law enforcement activities which are fairly inadequate.	Since there is no clear picture yet on multiple drivers, there is also no information system possible on how to address leakage.
g) Displacement of emissions, cont'd.	g3 Statements indicating the need to avoid or minimize adverse impacts on carbon stocks, other ecosystem services and biodiversity of non-forest ecosystems.	N/A	No provisions.	

N/A = Not Available

## Annex 9

## SIS Elements and Providing Safeguards Information: An Overview of UNFCCC Requirements

CP Decision 12/17 Wording	SIS Descriptor
Be consistent with Cancun guidance.	Conform to contents of Cancun safeguards
Provide transparent and consistent information that is accessible by all relevant stakeholders and updated on a regular basis.	Publicly accessible information, periodic (regular) reporting
Be transparent and flexible to allow for improvements over time.	Adjust and improve the system over time
Provide information on how all of Cancun safeguard elements are being addressed and respected.	Comprehensive
Be country-driven and implemented at the national level.	Country steered and managed
Build upon existing systems, as appropriate.	Utilize existing systems
<b>Providing Safeguards Information</b> (from CP17 and CP19)	
<b>What</b> is to be Reported?	Summary of information on how all of the Cancun safeguards are being addressed and respected throughout the implementation of REDD+ activities.
<b>How</b> is it to be Reported?	To be included in National Communications or communication channels agreed by the CP. The summary of information can also be provided via the web platform on the UNFCCC website on a voluntary basis.
<b>When</b> is it to be Reported?	Periodic submission of information. Provision of safeguards information is to start at the time of implementation of REDD+ activities <i>and</i> to follow the same frequency as the submissions of the National Communications.

## Annex 10

## Starting Points for SIS and Biodiversity Monitoring in the Lao PDR

Cancun Safeguard	Possible Existing Reporting or Monitoring Frameworks	Decisions to be Made (indicative)
a) National forestry frameworks, REDD+ consistency with these.	None, but should be a relatively straightforward exercise with reference to a few key national policies and strategies like FS2020 (and beyond) and NSEDPs.	Should this be the REDD+ Division's task?
b) Transparent and effective forest governance	If regularly undertaken, the Forest Strategy reviews and any updates to governance assessments may provide necessary information.	What indicators to use. Who to carry this out? The Forestry Sub-Sector Working Group? What to report on to UNFCCC? How to share information within the country?
c) Respect for indigenous people and local communities	Lao PDR has reporting obligations under the various international human rights conventions to which it is Party: CERD, ICESCR, CEDAW. Overlaps with Cancun safeguard reporting requirements should be studied.  Reporting on areas that might overlap with FSC-forests may also include useful data.	What indicators to use. Who to collect and analyse data where it is not already available as part of the international conventions' reports? How will local communities be involved in providing inputs? Obviously not only the task of a REDD+ Division or Safeguards Working Group.
d) Full and effective participation	A large scale project like SUFORD-SU could provide a starting point on monitoring and reporting on participation. The Poverty Reduction Fund (PRF) is another large scale project that reports on participation.	What indicators to use. Who to collate and/or compile necessary data? How will local communities be involved in providing inputs?
e) Incentivise natural forests, multiple-benefits of REDD+	On Biodiversity, Laos has reporting commitments to the CBD, to CITES and for the Ramsar Convention. If it is paying attention to the CBD Aichi Targets, indicators for these would also help. Different organisations like WCS are also developing biodiversity monitoring guidelines in the Lao context (cooperation with KfW and GIZ). WCS draft monitoring guidelines include participatory methodologies for assessing changes in local ecosystem services. It will be worthwhile to look up Biodiversity M&E field methods that were developed 15 years ago as most were very simple. SNV will be working on multiple benefits for REDD+ in Laos, and may also be able to contribute. On Livelihoods, the PRF may be able to share data in that with its broad coverage, it may have data for villages included under REDD+ activities.	Biodiversity aspects come under MONRE/DFRM, but what indicators to report on for UNFCCC? How will local communities be involved in providing inputs (benefits, their observations of biodiversity changes in their areas)?  Baseline surveys would need to capture local communities' living conditions before, during and after implementing REDD+ activities. The PRF has some of these data, but who should try to access the data, who should decide on their validity? Who should carry out additional surveys?
f) Risk of reversals	Some existing reporting / monitoring formats related to forest cover monitoring,	Who is responsible at what level? Is it primarily FIPD to collate and

	and obviously bound together with MRV	analyse data? Will “reversals” be on both deforestation and degradation? What time frame to use, especially in areas where shifting cultivation is practiced.
g) Risk of displacement	No existing reporting/monitoring formats but obviously bound together with MRV. Some ongoing work on concessions by CDE <sup>65</sup> may help with monitoring indicators.	Who is responsible at what level? Is it primarily FIPD to collate and analyse data? What indicators to use at ground level to verify there has <i>not</i> been leakage? How to demarcate areas to assess for leakage?

### Biodiversity Monitoring: Starting Points in Laos

Biodiversity monitoring in Laos has not become part of the institutional landscape despite many years of support from development partners. Biodiversity monitoring has, in fact, a history that goes back to the 1990s in Laos after the initial National Biodiversity Conservation Areas were established in 1993. The Government of Sweden (SIDA) provided many years of support to NBCA management, including management and co-management modalities. An evaluation conducted by the Lao-Swedish Forestry Management Programme in 2001 of 20 NBCAs, showed that the biggest challenge was “information management and monitoring” with it being non-existent to poor in 19/20 NBCAs. This situation has hardly changed over the past 14 years.

As early as 2000, WCS published a manual entitled: *NBCA Biodiversity Monitoring, Part One: Monitoring Manual\** by S. Ling. The manual includes six mostly low-cost and simple monitoring methods: Patrolling, Village Discussions, Joint Monitoring Team Logbook (village level), Monitoring of Ecologically Sensitive Sites, Fishery Monitoring and Photo Points. A WCS-implemented project at Xe Pian NBCA additionally included a seventh point on local wildlife trade monitoring by observing markets and restaurants. Poulsen et al (2005) reported on the biodiversity monitoring that took place under the life of project at Xe Pian. While monitoring proceeded well during the project life, it turned out that as soon as the donor funding for it came to an end, so did virtually all the monitoring activities, with the exception of some patrolling. An instructive point here is that the monitoring methods chosen for use at Xe Pian were simple and low cost but were not taken up as part of the government’s management approach to the NBCAs. This issue remains relevant for biodiversity monitoring under any REDD+ scheme.

More recently, Boissiere et al. (2014) published their results on participatory monitoring for NTFPs. The team also developed very simple and low cost methodologies, but villagers lost interest in them when they discovered other more important sources of income generation. Of interest as well is Finn Danielsen’s et al (2013) work on community-based forest monitoring for REDD+, as it includes discussions on participatory monitoring in both Vietnam and Laos (Houaphan): *Community Monitoring for REDD+: International Promises and Field Realities*. All these works, from the early NBCA monitoring to these recent action researches show that low cost, local community-centred monitoring methodologies are valid in the Lao context.

GIZ has cooperated with the London-based Zoological Society to produce a comprehensive and detailed sourcebook: Latham, J.E., Trivedi, M., Amin, R., D’Arcy, L. (2014) *A Sourcebook of Biodiversity Monitoring for REDD+*. It may be worthwhile for GIZ in Laos (CliPAD) to cooperate with WCS on some of the issues in this sourcebook especially related to participatory monitoring, for example. The Sourcebook, owing to its complexity, would need at least several months of expert time just to contextualise it for a country like Laos

<sup>65</sup> Centre for Development and Environment, Bern University but with an office in Vientiane.

that has serious personnel and budgetary constraints, especially at local levels. Many of the biodiversity monitoring methods discussed in the Sourcebook are either too complicated or too expensive, or both, to fit the situation in Laos. As noted above, even the simplest and low cost methods for NBCA (now NPA) biodiversity monitoring proved unsustainable. It also must be kept in mind that biodiversity monitoring is only one aspect of a more comprehensive SIS; thus, utmost importance needs to be placed on keeping monitoring as low cost as possible given the many unknowns in the volume of REDD+ payments that might be made in Laos.

\*Unfortunately, not available on the internet.





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