



## BASELINE STUDY 2, LAO PDR: Overview of Forest Governance, Markets and Trade

July 2011

## FLEGT Asia

### Background

The European Commission (EC) published a Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan in 2003. FLEGT aims not simply to reduce illegal deforestation, but in promoting good forest governance, aims to contribute to poverty eradication and sustainable management of natural resources.

The European Forest Institute (EFI), an international research organisation with its headquarters in Finland, conducts, advocates and facilitates forest research networking at the pan-European level. Under its Policy & Governance programme, the EFI assists in the EU's implementation of the FLEGT Action Plan. In 2007, the EU FLEGT Facility was established, hosted and managed by the EFI. The Facility supports the bilateral process between the EU and tropical producing countries towards signing and implementing "Voluntary Partnership Agreements" (VPAs) under the FLEGT Action Plan.

In November 2008, the EFI signed a contribution agreement with the EC on a "Regional Support Programme for the EU FLEGT Action Plan in Asia". The FLEGT Asia programme is part of EU FLEGT Facility and is executed by the Facility. A FLEGT Asia Regional Office (FLEGT Asia) of the EFI's EU FLEGT Facility was formally established in October 2009. FLEGT Asia seeks to collaborate and build synergies with existing regional initiatives and partners in Asia.

The EU FLEGT Facility is managed and implemented by the EFI in close collaboration with the EU.

### Goal of FLEGT Asia

The goal of the FLEGT Asia Regional Programme is the promotion of good forest governance, contributing to poverty eradication and sustainable management of natural resources in Asia, through direct support of the implementation of the EU's FLEGT Action Plan.

### Strategy

The strategy to achieve this goal focuses on promoting and facilitating international trade in verified legal timber – both within Asia and exported from Asia to other consumer markets. In particular, it aims to enhance understanding of emerging demands in key timber-consuming markets and promote use of systems that assist buyers and sellers of Asian timber and timber products to meet these demands.

### Work Programme

The work programme to achieve the Programme's goal has three phases:

1. **Information Collection**

Baseline information (trade statistics, product flows, future scenarios, stakeholder identification and engagement strategies), applied to countries in the region. Information on producers, processors, consumers, and to major consumers of exports from this region will be collected and collated. It will then be used to develop training and communication materials; to further define the nature of the capacity building to be undertaken (who are the target beneficiaries and what the training needs are) and form the baseline for monitoring the progress of the programme over the 3 years duration of the programme.

2. **Capacity Building**

The second phase is the strengthening of key institutions (companies, trade associations, NGOs, government agencies, customs etc.) for improved forest governance in each country and across the region to meet the identified market needs. This will consist of training (at individual level, training of trainers, workshops, pilot studies e.g. on individual supply chains and for Timber Legality Assurance); information dissemination and communications (roadshows, seminars, communication materials, website etc).

3. **Customs & Regional Collaboration**

The work to support trade regionally, and to invest in customs capacity in accordance with market requirements will be undertaken in collaboration with other programmes in the region.

FLEGT Asia financed this report because it is part of phase 1 and 2 activities. The objective of final report is to present all major public outputs. Final report has summary of the work to include an overview of trade, trends and forecasts (using graphics with supporting data in an annex) and key findings and proposed next steps.

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# BASELINE STUDY 2, LAO PDR: Overview of Forest Governance, Markets and Trade

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Forest Trends  
For FLEGT Asia Regional Programme  
July 2011



The research of this report extends up to the end of 2010. Developments that emerged in 2011 are not covered in this report.



**Forest Trends** is a Washington, DC- based international non-profit organization whose mission is to maintain, restore, and enhance forests and connected natural ecosystems, and life-sustaining processes, by promoting incentives stemming from a broad range of ecosystem services and products. Specifically, Forest Trends seeks to catalyze the development of integrated carbon, water, and biodiversity incentives that deliver real conservation outcomes and benefits to local communities and other stewards of our natural resources.

## ACKNOWLEDGMENTS

The authors wish to thank James Hewitt for significant contributions to the understanding of international wood products trade data, Michael Jenkins and the rest of the Forest Trends staff for their support, in particular Christine Lanser for her research assistance, and Anne Thiel for her editorial and design assistance.

Cover Photos: Keith Barney, 2010.

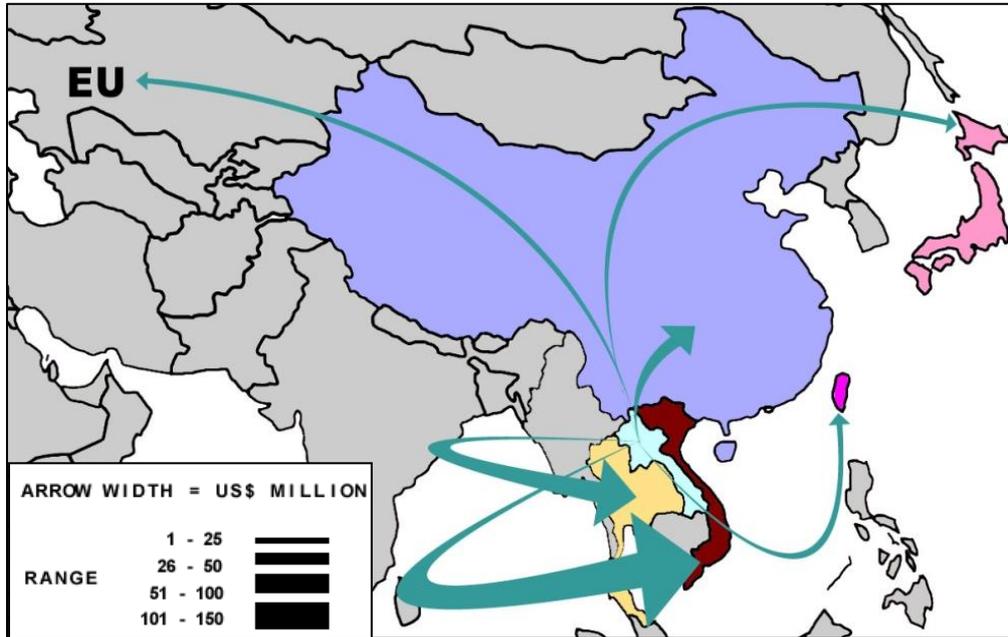
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## ACRONYMS

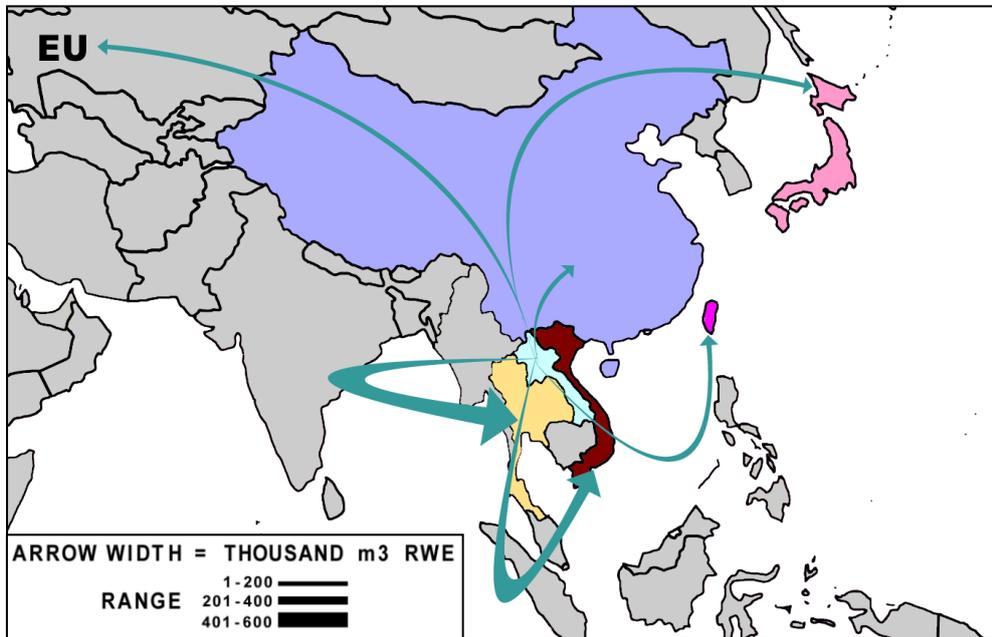
ADB	Asia Development Bank
ADT	Air-Dried Tonnes
AFD	Agriculture and Forestry Department
APMP	Alkaline Peroxide Mechanical Pulp
BHKP	Bleached Hardwood Kraft Pulp
BPKPD	Bolisat Patthana Khet Doi (Mountainous Areas Development Company)
CoC	Chain of Custody
DAFI	Department of Agriculture and Forestry Industries
DoFI	Department of Forest Inspection (Ministry of Agriculture and Forestry)
FIP	Forest Investment Program (World Bank)
FLEG	Forest Law Enforcement and Governance
FLEGT	Forest Law Enforcement, Governance and Trade
FOMACOP	Forest Management and Conservation Program
FSC	Forest Stewardship Council
GoL	Government of Lao PDR
LFAP	Land and Forest Allocation Program
MAF	Ministry of Agriculture and Forests
MoIC	Ministry of Industry and Commerce
NAFES	National Agriculture and Forestry Extension Service
NLMA	National Land Management Authority
NT2	Nam Theun 2
NTPC	Nam Theun Power Company
PFA	Production Forest Area
PMO	Prime Minister's Office
PLUP-	LA Participatory Land Use Planning and Land Allocation
PSFM	Participatory and Sustainable Forest Management
REDD+	Reduced Emissions from Deforestation and Degradation
SPCP	Stakeholder Participation and Consultation Plan
SUFORD	Sustainable Forestry for Rural Development
SUFORD AF	SUFORD Additional Financing
T-LUC	Temporary Land Use Certificate
VFA	Village Forestry Association
VLO	Verification of Legal Origin
WWF	World Wildlife Fund
UNFCC	United Nations Framework Convention on Climate Change

**Map 1: Laos Forest Product Exports by Value (US\$ million), 2008**



Source: European Forestry Institute data, as compiled by James Hewitt (2008)

**Map 2: Laos Forest Product Exports (thousand m<sup>3</sup> RWE), 2008**



Source: European Forestry Institute data, as compiled by James Hewitt (2008)

## 1. INTRODUCTION AND SIGNIFICANT FINDINGS

Over the past decade in Lao PDR, new regulations and policies related to logging and timber exports have aimed to conserve existing natural forests and promote a shift towards participatory, sustainable forest management. These are welcome developments – the question is whether the reforms will be implemented effectively. Despite the Government of Laos' official commitment to the sustainable management of the nation's forest ecosystems and the forest communities that depend on them, many concerns remain regarding the country's forest management and governance situation (e.g., Hodgdon, 2006, 2008; To Xuan Phuc, 2009; Baird, 2010a). There are issues regarding how the burgeoning trade in timber products (including wood furniture) involving neighboring countries such as Vietnam and Thailand, is impacting the Lao forest sector. Key problem areas for Lao forest management include unsustainable harvesting levels associated with large infrastructure and mega-project forest conversions, illegal and over-quota logging, logging outside of legally designated zones, plantation concession governance and international forest-land grabbing, insufficient local participation in decision-making and forest-land management, inadequate benefit-sharing with local communities, a lack of value added timber manufacturing within Laos, and corruption involving government officials. The underlying drivers for some of these issues lie outside of the Lao forest sector, a situation which compounds the regulatory challenges.

In addition, over the past five to six years, considerable foreign direct investment has moved into Laos' forest-land sector, in the form of agribusiness plantations (rubber, pulp, and agricultural staples). Perhaps to a greater extent than in neighboring Cambodia, many of these agribusiness proposals are actually moving forward, and Laos has been able to attract a number of more reputable multi-national firms to invest in this important sub-sector. However, forest frontier areas in Laos are still highly unstable from a regulatory perspective, and many interests have been staking claims to land in a quasi-legal or even a speculative manner. State institutions, in partnership with a number of international agencies, are currently moving to exert more coordinated and transparent authority over the land investment process. However, given the financial incentives and regional demand pressures, and the limitations in governance capacity within Laos, this is proving to be a complex and difficult task.

### Key messages of this report:

- **“Conversion timber” is the predominant source of timber in Laos:** Laos' forestry-land sector is in the midst of a transformation from the harvesting and export of unfinished or semi-finished natural forest products (especially logs and sawnwood), towards the establishment of commodified, intensively managed plantations of industrial tree crops, and more highly capitalized forms of export-based agriculture and forestry production. This shift is being accompanied by large expansions in resource concessions, plantations, as well as in mining and hydropower projects. Large-scale agri-business projects for cash crops or tree plantations (often 10,000 - 50,000 hectares), mining, hydropower and road infrastructure development projects play a large role in the availability of wood from Laos' natural forests. Commercial timber must be harvested from the land prior to project implementation, although the conduct of logging in these areas is difficult to control, and illegal or quasi-legal timber often enters into Lao timber supply chains. According to the Forestry Law, plantation concessions must not be located in areas of high natural forests but in degraded forest areas, or on barren land. However, the practical definition of degraded forest and barren land is still unclear.

Plantation companies can obtain significant benefits from securing land concessions from the Lao government, harvesting the timber from land allocated for development, and then potentially selling the land and concession lease rights onwards to a third party. The original development project may or may not ever be implemented. Resource concessions can thus become a means to justify logging outside of the normal logging quota system and outside of National Production Forest zones. The social and ecological impacts of such projects have generated considerable concern and attention in recent years.

**Table 1: Estimated Government Timber Revenue by Type of Harvesting Based on Logging Plan, 2006/7**

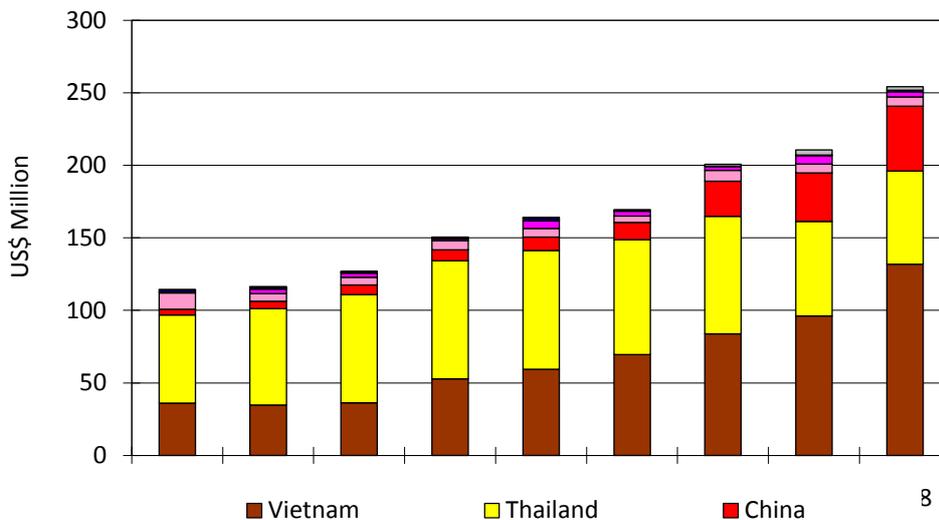
Type of Harvesting	Harvesting Volume			Government Revenue	
	m <sup>3</sup>	%	\$/m <sup>3</sup>	Total (\$)	%
Clearing of infrastructure sites	532 444	82.0	88	46 855 072	82.1
Dead trees	63 032	9.7	88	5 546 816	9.7
Harvesting in Production Forest Areas total	54 214	8.3		4 679 752	8.2
<b>Total</b>	<b>649 690</b>	<b>100.0</b>		<b>57 081 640</b>	<b>100.0</b>

Source: MAF, 2007 as cited in Puustjarvi, 2007.

- Timber sales account for roughly 12% of overall government revenue (2006):** The annual revenue accruing to the government budget from nation-wide timber sales (including from Production Forestry as well as timber from infrastructure development) appears to be in the range of US\$57 million (Puustjarvi, 2007) – roughly 12 percent of overall government revenue in 2006<sup>1</sup>.
- Laos' forest product export markets are dominated by Vietnam and Thailand:** While bilateral trade statistics are not published by the Government of Laos, importing country statistics indicate that Thailand, Vietnam and to a lesser extent China are the dominant markets for Lao timber products (Figure 1). Vietnam imports a mix of logs and sawnwood; Thailand mainly sawnwood; and China mainly logs.

<sup>1</sup> This figure was as high as 34% in 2001. It is likely that this figure will decline in the next decade as timber stocks decline and the Lao PDR economy diversifies, with mining and hydropower exports gaining in importance.

**Figure 1. Laos's Timber Products Exports, by Country (US\$ Million)**



Source: European Forest Institute, as compiled by James Hewitt.<sup>2</sup>

- Poor quality of harvesting and trade data:** Data collected for this report came from a variety of sources. Even acknowledging for variations in methodologies, large discrepancies between quotas, harvesting and export data alone highlight the need for improved data. Accurate harvesting figures are difficult to confirm. Southavilay (2008) notes that there is very little information available on the National Production Forest Areas outside of those currently being managed by the World Bank-supported SUFORD project: "From what is known, the fragmentation has increased, density has decreased drastically and areas dominated by large trees and big pole size trees have decreased, while areas containing only small trees have increased. In general, it appears that the rate of deforestation is high and seems to be accelerating." Official quotas for national harvesting have been falling, from upwards of 600,000 m<sup>3</sup> per year in the early 2000s to 150,000 m<sup>3</sup> in 2008/9. Yet, mirror data from importing countries indicate Lao export volumes of 800,000 m<sup>3</sup> to 1.1 million m<sup>3</sup> per annum between 2001 and 2007 (see Figure 2, below). These volumes far exceed the national annual allowable cuts or the national level quotas, as well as MAF-estimated harvested volumes of 650,000 m<sup>3</sup> in 2006/7 (Table 1).

**Strong historical, political and market links with Vietnam:** The Lao timber sector, especially in southern Laos, is closely linked with Vietnam's forest products manufacturing industry. Within Laos, Vietnamese firms and a Vietnamese labor force play an important role in the logging, timber processing and wood export sectors. Lao timber is at times bartered in exchange for official Vietnamese development support or used for official

<sup>2</sup> All trade statistics compiled by James Hewitt for the European Forestry Institute, unless otherwise noted. The Government of Lao PDR does not publish bilateral statistics. Importing country statistics have been used to assess Laos' exports. The sources of the trade statistics used are General Administration of Customs of the People's Republic of China (for China), Eurostat (for imports by EU member states), Japan Customs (for Japan), Korea Customs Service (for South Korea), Ministry of Agriculture and Forestry (for New Zealand), Tradeline Philippines (for the Philippines), Directorate General of Customs (for Taiwan), Customs Department of the Kingdom of Thailand (for Thailand), United States International Trade Commission Dataweb (for the USA) and UN Comtrade. Vietnam has not published bilateral statistics for the years 2000 and 2007 - so data have been estimated for those two years.

debt-repayment purposes using special permits (Baird, 2010a). These types of special logging permits often allow for exemptions from value-added processing requirements prior to export (To Xuan Phuc, 2009; Baird, 2010a).

Many forest harvesting and wood processing companies are joint-ventures between Vietnamese and Lao investors, although often just on paper. Vietnamese investments of US\$1 to US\$5 million are common, sometimes as high as US\$20 million. Most forestry companies in southern Laos use predominately Vietnamese labor at the different stages of their operations (To Xuan Phuc, 2009).

The exact volume of Laos exports to Vietnam is contested. While some Vietnamese official statistics estimate that Laos exports approximately 350,000 m<sup>3</sup> (2008) to Vietnam, the Environmental Investigation Agency (EIA) and Telapak (2008) estimated that number at about 600,000 m<sup>3</sup> of wood per year. If this estimate is accurate, Lao timber would account for 16-25% of Vietnam's annual wood imports.

- **Market requirements for legality:** Lao's main export markets in turn are significant re-exporters of manufactured forest products, to countries which increasingly require legal verification. United States, Japan and the European Union continue to be the main export markets for furniture and other wood products made in Vietnam, Thailand and China. Together, these three major markets capture more than 50% of China's export market, 80% of Vietnam's market; and almost 50% of Thailand's export market (by value of forest product exports).

In all three of these major final consumer markets, over the past ten years, there has been a rapid increase in demand for products that meet varying environmental and socially responsible requirements. In the wood products sector, international buyers increasingly require proof of legality or sustainability for their wood products – and this proof must be third-party verified.

The degree to which Lao timber products are vulnerable to these new demands will depend on whether these timber products are ultimately exported to the US or Europe, or elsewhere. Certain Lao hardwoods, such as Lao rosewood (*Dalbergia spp.*) retain special attraction and attract price premiums in regional East Asian markets and are likely to be used for high quality, expensive indoor furniture for Chinese markets and elsewhere in Asia.

With little in the way of mature, fast-growing plantations ready for harvest, currently Laos is less important for Vietnam's outdoor wooden furniture industry. This industry segment comprises the bulk of Vietnam's wood exports to Europe, and uses largely uses plantation timbers, sourced regionally from countries such as Malaysia and further afield including New Zealand, Brazil, Sweden, and South Africa, some of which is FSC certified. There are significant market opportunities for Laos to develop and expand legal-verified and sustainable natural forest and plantation timber resources.

- **Unclear definition of legality and complex permitting requirements:** Due to loopholes in the legal forestry framework, it is not always clear whether logging is legal or illegal in Laos (Global Development Solutions, 2005). Discretionary and special quota systems, as well as logging associated with infrastructure development complicate attempts to define legality. Many key legislative documents relevant to the Lao forestry sector contain clauses

such as: “unless approved by the government” or “unless determined in special cases to be in the interest of the national community”. This leaves significant room for selective interpretations in the application of the legal framework in Lao forestry (FAO and The Nature Conservancy, 2008; see also Bestari *et al.*, 2006).

- **Complex permitting system:** The permission process in Laos is extensive, with numerous permits required for obtaining logging quotas, and during the harvesting, sorting and transport operations. Each of these provides a potential opportunity for bribes to be given to facilitate the process (To Xuan Phuc, 2009; Baird, 2010a). Although Lao forestry legislation Article 22.4 of the Lao Prime Minister’s Order No. 30 (17/08/2007; on the Enhancement of Forest and Timber Business Management) appears to uphold the ban on the export of roundwood and sawn-wood, and “semi-finished products” sourced from natural forests, under economic agreement arrangements most companies strive to obtain special logging permits which allow for an exemption from this ban.
- **Forest certification in Laos is limited but has potential:** FSC certification is developing in natural forest management and with plantation teak (and potentially, pulpwood and rubber). Until late 2010, the development of the FSC system in Laos was limited by the lack of a domestic manufacturer with a Chain-of-Custody certificate (the Lao log export ban meant that no logs derived from FSC certified forest management units could be traded internationally while maintaining the Chain of Custody). There are efforts underway to better link certified forest management areas to domestic wood processors. Certification costs to date have been covered by donor programs, although there are future opportunities behind certification of larger areas of production forests, as well as plantation teak, eucalyptus and rubber (some of it smallholder-based), that would build economies of scale.
- **Uncertainty about the status of border delineation and management planning for the majority of the 51 legal Production Forest Areas (PFA).** Without the ability to trace the source of wood products back to a territorially-defined original PFA of harvest, at this time it is not possible to demonstrate legality of natural forest timber exported from Laos, with the exception of the timber derived from the donor-funded SUFORD project areas that have completed PFA territorial demarcation and sustainable management planning.
- **Relative autonomy of provincial actors:** Historically, provincial governors in Laos maintained relative autonomy to pursue their own trading, budgetary policies and even border controls and diplomatic relations with neighboring countries. In many cases provincial governors still approve logging and wood export operations and sign large investment and development agreements directly with external actors. Numerous land concessions appear to have been granted by provincial authorities and other levels of government under non-transparent circumstances that may be circumventing legal processes (NLMA-GTZ, 2009; NLMA *et al.*, 2009).
- **Community land tenure and forest zoning remain contested and unclarified:** On the whole, land and forests in Laos are open to discretionary intervention by powerful actors, and local communities have had very little political recourse to defend their rights. Land conflicts are a growing problem. The law holds that the State is responsible for determining how land can be used by individuals and organizations, which often conflicts with villagers’

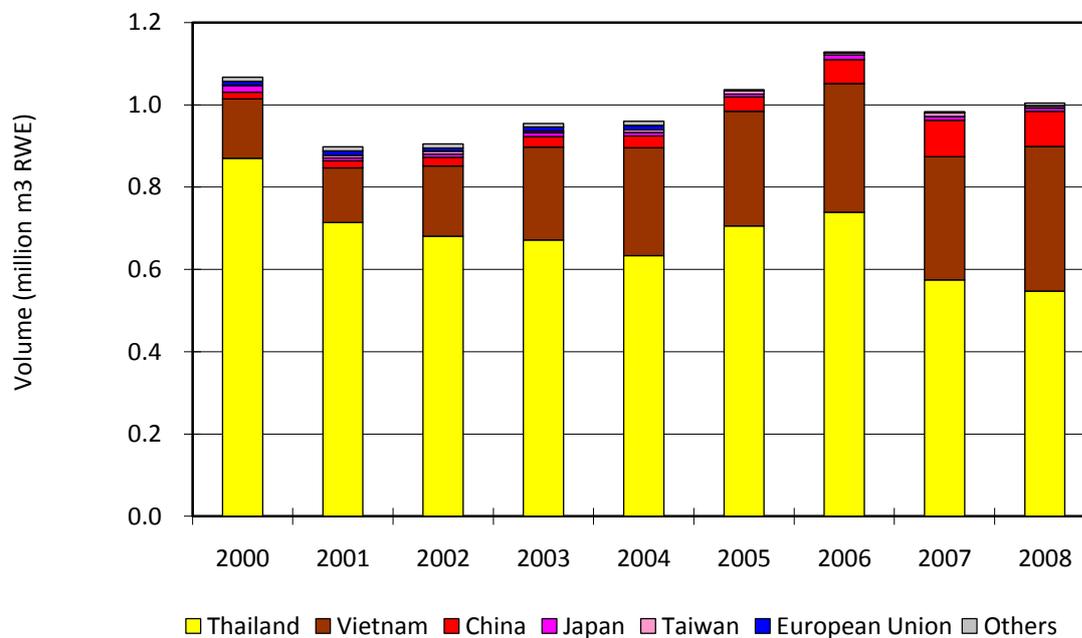
notions of their customary rights to determine how land should be used and by whom (GTZ, 2007) Donor support projects to promote collective tenure models for rural communities remain at the pilot stage.

- **Limited but growing room for civil society involvement:** Civil society organization on land and forest issues in Laos lags behind what can be observed in Thailand and Cambodia, and there is no independent domestic media. Political dissent of even a limited kind (e.g., critical political study groups, small peaceful public demonstrations) has in the past been suppressed by the Lao state. Consultative processes fostered by major donor programs such as the World Bank have arguably been a step forward, but have also been subject to criticism from external observers. However, the opportunities for public debate on land issues are growing – with policy dialogues on land governance occurring in the National Assembly. A recent 2009 Decree (No. 115/PM) on Non-Profit Associations (NPAs) has opened the door for domestic civil society groups to become more involved in resource management issues in Laos.

## 2. EXPORTS

Over the past decade, Laos' wood export markets have been dominated by Vietnam and Thailand, with China representing a growing destination, albeit from a small base. While bilateral trade statistics are not published by the Government of Laos, importing country statistics clearly show Thailand, Vietnam and to a lesser extent China as the dominant markets for Lao timber products (Figure 2). Vietnam imports a mix of logs and sawnwood; Thailand mainly sawnwood; and China mainly logs. The Lao wood processing industry has difficulties competing against established, advanced secondary and tertiary manufacturing centers in Vietnam and China. Therefore, export of secondary or finished products from Laos is extremely limited despite log and sawnwood export bans.

**Figure 2. Laos's Timber Products Exports, by Country (million cubic meters RWE)**



Source: European Forestry Institute, as compiled by James Hewitt.

Exports of 800,000 m<sup>3</sup> to 1.1 million m<sup>3</sup> per annum from Lao forests far exceed the national annual allowable cuts or the national level quotas which currently stand at 150,000 m<sup>3</sup> per year. Much of the exported timber now comes from infrastructure conversion areas, which are not included within these national quota limitations. There is little transparency regarding the allocation or extent of infrastructure clearance quotas for hydropower, mining, plantation, or highway development, which makes an evaluation of their implementation extremely difficult.

According to MAF data presented in Puustjarvi (2007), the annual revenue accruing to the government budget from nation-wide timber sales (including from Production Forestry as well as timber from infrastructure development) appears to be in the range of US\$57 million – roughly 12 percent of overall government revenue in 2006. Drawing upon Ministry of Industry and Commerce information, Sugimoto (2009: 8) indicates that the overall total value of wood and wood products

exported from Laos ranged between US\$67 to \$97 million between FY 2001/02 to FY 2008/09. This estimate likely misses wood exported directly by provincial governments outside of the national regulatory framework, timber exports for debt repayment or timber bartered for infrastructure development.

Debt-repayment logging quotas have been designed to facilitate loan repayments to former or present socialist allies. As Baird (2010a: 13-14) notes, “Lao officials sometimes feel pressured to arrange deals in appreciation for the support provided. They often feel they do not have much room to negotiate when it comes to these agreements with the Vietnamese, as they do not want to be seen as being unappreciative of the Vietnamese contribution to the revolution.” Through “development logging quotas,” logs are traded for development support, such as the building of infrastructure, and are based upon economic agreements between provincial governments and Vietnamese companies.

Estimates on the exact volume of Laos timber exports to Vietnam vary. Vietnamese official statistics estimate that Laos exported approximately 350,000 m<sup>3</sup> to Vietnam in 2008; the Environmental Investigation Agency (EIA) and Telapak (2008) estimated that number at about 600,000 m<sup>3</sup> of wood per year. If this estimate is accurate, Lao timber would account for 16-25% of Vietnam’s annual wood imports. The release of the EIA/Telapak report triggered significant debate in the forestry sector in Vietnam. Vietnamese policy makers criticized the report, accusing the authors of using incorrect data. Some Vietnamese scientists joined forces with the policy makers, questioning the accuracy of method used to collect data.<sup>3</sup>

Southavilay (2008: 28) suggests that for most sawmills, only 5 to 10 per cent of their production is targeted at domestic markets, due to lower market prices within Laos than in the neighboring countries. Wooden furniture is the exception; most production of these commodities in Laos focuses on domestic markets, with some notable exceptions. In terms of plantation exports, Sugimoto (2009) cites that approximately 95 per cent of the teakwood harvested from Luang Prabang province was exported. The total value of teak wood exports is listed at US\$560,000, with projections rising to US\$2.5 million in 2010 and US\$8.4 million in 2020 (Midgley *et al.* 2007: 17-18). The export of wooden furniture products and other fully finished wood products from Laos is very minor, and has not shown any significant increase in recent years yet represents a clear economic for Laos in the future.

The permission process for legal wood exports in Laos is extensive, with numerous permits required for obtaining logging quotas, and during the harvesting, sorting and transport operations. Each of these provides a potential opportunity for bribes to be given to facilitate the process. In a Forest Trends study, To Xuan Phuc (2009) estimates that, on average, extra payments made to officials at various levels amounted to about US\$13/m<sup>3</sup> of timber exported to Vietnam. For species like *Anisoptera cochinchinensis* (*Vên Vên* in Vietnamese, or *May Bac* in Laos), this is equivalent to 16.5% of the wood price. If Laos exports about 300 - 600,000 m<sup>3</sup> to Vietnam, the minimum payments to Lao state officials would approximate US\$ 3.8 to 7.8 million per year.

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<sup>3</sup> Vietnam’s responses to the 2008 EIA/Telepak report can be found on the website of the Vietnam Trade Office in the US in the article “Vietnam: wooden industry sourcing illegal wood” (<http://www.vietnamustrade.org/index.php?f=news&do=detail&id=92&lang=english>; 3 July 2008). Another article was published online by Vietnamese Net Bridge: “Vietnam denies using illegal timber” (<http://english.vietnamnet.vn/social/2008/04/778688/>; 16 April 2008)

### 3. DOMESTIC PRODUCTION

The current national forest estate adds up to approximately 12.5 million hectares, or about 52 per cent of territorial Laos, and is divided into three main categories:

- Production Forest Areas (PFAs): 3.1 million hectares, with 51 legally established PFAs. A much smaller number of the PFAs have been actually delineated on the ground. As of 2009, only the 8 PFA's under the World Bank project SUFORD management had been demarcated and had the required management plans completed. The current SUFORD-Additional Financing project will expand this number of regulated PFAs by an additional eight. These 16 PFAs which are or will be under the management of the SUFORD–AF project accounts for 1.3 million hectares. The plan by the Department of Forestry is to complete national inventories and to develop sustainable management plans for all 51 national PFAs by 2013, but little information on progress towards this goal was found during this research.
- Conservation Forest Areas: 21 National Conservation Forests (formerly called National Biodiversity Conservation Areas, NBCAs) and 2 Corridor areas have been officially established, with total area of 3.5 million hectares. Provinces and districts have also established their own Conservation Forest areas, totaling 211 sites and 1.1 million hectares.
- Protection Forest Areas: A total of 262 State Protection Forest areas, covering 4.758 million hectares were declared at the end of September 2009, most of which are not yet delineated on the ground. A World Bank report (2010: 35) stated that “the potential area of 4.2 million ha [of National Protection Forest] are already identified and agreed with local authorities, but still [sic] waiting for issuance of PM Decree for official establishment and management.”

The majority of these forestland claims by the Lao state have not been accompanied by actual ground delineation, leaving large areas with ambiguous tenure authority. Within these mapped but not delineated state production, protection, conservation forests, there are also thousands of local communities, whose claims need to be reconciled with this national-scale forest zoning.

In Laos, control over access to logging areas, such as through the logging quotas, has shifted back and forth between central and provincial governments, the military and external actors for decades. By the late 1990s, responsibility for the allocation of logging quotas was shifting away from the military and back to the provinces, with direction from the central Ministry for Agriculture and Forestry. Recently, southern provinces such as Xekong and Attapeu, with increasingly close economic relations to Vietnam, have granted extensive logging concessions to Vietnamese companies (Cornford, 2006; Hodgdon, 2006, 2008; To Xuan Phuc, 2009).

The annual revenue accruing to the government budget from nation-wide timber sales (including from Production Forestry as well as timber from infrastructure development) could be in the range of US\$57 million (Puustjarvi, 2007) – roughly 12 percent of overall government revenue at that time. Accurate harvesting figures are difficult to confirm through Lao data. Official quotas for national harvesting have been falling from upwards of 600,000 m<sup>3</sup> per year in the early 2000s to 150,000 m<sup>3</sup> in 2008/9 (see Table 2).

**Table 2: National Harvesting Quotas, 2008/9**

Forest Category	Quota (m <sup>3</sup> )
Production Forest Area (PFA)	66,270
Development projects approved by Prime Minister's Office	48,890
Development projects approved by Provincial Governor	17,840
Plantation development areas	17,000
<b>Total</b>	<b>150,000</b>

Source: MAF, DOF, SUFORD, 2009:11.

While the above chart provides the official national quotas for 2008-2009, there are also other forms of harvesting occurring, including forest clearance for infrastructure development. The table below provides the MAF's estimates for overall removals for 2006-2007, about 650,000 m<sup>3</sup>. Clearing for infrastructure development projects is shown as, by far, the primary source of timber.

**Table 3: Estimated Government Timber Revenue by Type of Harvesting Based on Logging Plan, 2006/7**

Type of Harvesting	Harvesting Volume		Government Revenue		
	m <sup>3</sup>	%	\$/m <sup>3</sup>	Total (\$)	%
Clearing of infrastructure sites	532 444	82,0	88	46 855 072	82,1
Dead trees	63 032	9,7	88	5 546 816	9,7
Harvesting in PFAs total	54 214	8,3		4 679 752	8,2
- SUFORD	8 280	1,3	77	637 560	1,1
- other	45 934	7,0	88	4 042 192	7,1
<b>Total</b>	<b>649 690</b>	<b>100,0</b>		<b>57 081 640</b>	<b>100,0</b>

Source: MAF, 2007 as cited in Puustjarvi, 2007.

Another source forwards an estimate for the total commercial timber harvest in Laos (including processed wood for domestic and export markets, and round log exports) at 1,360,000m<sup>3</sup> for 2008/09 (Sugimoto, 2009:22).

Southavilay (2008) notes that there is very little information available on the National Production Forest Areas outside of those currently being managed by SUFORD: "From what is known, the fragmentation has increased, density has decreased drastically and areas dominated by large trees and big pole size trees have decreased, while areas containing only small trees have increased. In general, it appears that the rate of deforestation is high and seems to be accelerating." If the current rate of deforestation and forest degradation is high in the ex-SUFORD PFAs, this would also certainly limit future GoL revenues from timber sales.

### 3.1 Conversion Timber from Resource Concessions

The overall magnitude of the move towards land, hydropower and mining concessions in the past few years in Laos has been striking. Large-scale agro-business projects for cash crops or plantations (often 10,000-50,000 hectares), mining, hydropower and road infrastructure development projects, play a large role in the availability of wood from Laos' natural forests. According to various statistics, conversion timber represents the largest source of timber in the country.

There is no national-level data for the total areas that have been ceded to agribusiness investors by different levels of the Lao state. Indications come from two provincial level inventories (in Vientiane and Lung Nam Tha), which have been conducted by the regulating authority, the National Land Management Agency (NLMA). The NLMA aims to have a national land concession inventory completed by late 2010.

Commercial timber must often be harvested prior to such development projects. Plantation companies, many of them Vietnamese, can obtain significant benefits from harvesting the timber from land allocated for development and then selling the land and concession lease rights to a third party (To Xuan Phuc, 2009). The original development project may or may not ever be implemented. In these cases, the land concession has become a legal means to justify logging outside of the normal logging quota system and outside of national Production Forest zones.

#### 3.1.1 Concessions, 'Degraded Land', and Links to Livelihood Impacts

Laos' forestry-land sector is in the midst of a transformation from the harvesting and export of unfinished or semi-finished natural wood products (especially logs and sawnwood), towards the establishment of more commoditized, intensively managed plantations of industrial tree crops, and highly capitalized forms of export-agricultural-forestry production. This shift is being accompanied by a parallel political transition, from a system dominated by decentralized, provincial and military-led forms of territorial-resource control centered upon extractive logging, towards a more centralized arrangement, based upon regional-global directed foreign investment into capital intensive plantations, mining and hydropower projects, often organized into concession-based territorial enclaves.

Large agribusiness concessions are being overlaid upon (or often, being established in advance of) an evolving legal land tenure framework. In practice, concessions are carved out communal lands including swidden lands that have been left under rotational fallow (e.g., Barney, 2007). These areas often represent an essential basis for villager's current agricultural and food production requirements. Plantation concessions are only supposed to be sited upon degraded forestland, and must not be located in areas of high natural forests. However, the practical legal definition of degraded forest is unclear and is subject to debate and interpretation.

### 3.2 Plantations

The national target for industrial tree plantations as stated in the Forestry Sector 2020 strategy is for 500,000 hectares by 2020. According to Sugimoto (2009: ii), the areas planned for tree plantation development by investors was already projected to reach 438,000 ha by 2010, including 228,000 ha of rubber and 151,000 ha of industrial timber species (eucalyptus, acacia, teak). In other data, the total area of rubber in Laos (both investors and smallholders) was said to have

reached 140,000 hectares by the end of 2008, with projections of 250,000 hectares by 2010 (Manivong, 2009). NLMA *et al.*, (2009: 3) notes: “A survey by the Ministry for Commerce in 2007 found that 40 companies have come to grow rubber in Laos in a total area of 182,900 ha This does not include areas where rubber is planted by local capital and smallholder farmers, as clear figures for small scale plantations are not available.” The most current estimates, from the Ministry of Planning and Investment, place the total area of rubber in Laos at 400,000 hectares in 2010 (Vientiane Times, 2010).

The social impacts of these plantation programs have generated considerable concern and attention in recent years. A number of recent local-level studies have identified the displacement effects and livelihood problems which have resulted from the plantation boom in Laos (See *inter alia*, GTZ, 2007; Barney, 2007; Shi, 2008; NLMA *et al.*, 2009; Baird, 2010b; Thongmanivong *et al.* 2009; Kenney-Lazar, 2010). If plantation projects were to be financed by institutions that have voluntarily adopted the Equator Principles, there may be issues related to criteria that plantations should not be developed on land with high conservation value forests cleared expressly for that purpose.<sup>4</sup>

Key foreign investors currently operating in the Lao plantation sector include the following and are either in process or have been proposed:

- Oji Lao Plantation Forestry Ltd. (Japan): 50,000 hectares, US\$ 49 m
- Oji Lao Plantation South (Japan): 30,000 hectares
- CITYLAND Resources (Malaysia): 3,500 hectares, US\$ 11 m
- Daklak Rubber (Vietnam): 10,000 hectares, US\$ 30 m
- Viet-Lao Joint Stock Rubber (Vietnam): 10,000 hectares, US\$ 22 m
- Paksong Highland (Thailand): 26,000 hectares, US\$ 8 m
- Agarwood Lao Group (Thai/Lao): US\$ 10 m
- Mitr Lao Sugar Co. Ltd. (Thailand): US\$ 22.5 m
- Savannakhet Sugar Corp. (Thailand): US\$ 10 m
- Birla Lao Pulp & Plantations Co. Ltd. (India): 50,000 hectares, US\$ 350 m
- StoraEnso (Sweden/Finland): 35,000 hectares
- Shandong Sun Paper (Saen Taven) (China): 100,000 hectares
- Hoang Anh Attapeu Agriculture Development Company rubber project (Vietnam): 10,000 hectares

For plantation zoning to be legally approved, the land in question must be degraded, unstocked or barren forest-land. Laos is no exception, although in practice the legal framework is often not applied. Forests are often not surveyed according to legal requirements, and sections of the legal framework leave the process open to discretionary decision making. There is also the situation whereby extractive logging leads to such heavy damage that the land becomes ‘suitable’ for conversion into plantations.

A key governance issue in the plantation sector is that many of the external plantation investors have signed deals directly with provincial or even local administrations, without the knowledge or approval of the relevant central ministries. Despite the creation of a National Land Management

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<sup>4</sup> See: <http://www.equator-principles.com>.

Authority in 2006, provincial, even district authorities still hold considerable power in allocating and negotiating land concession deals with external investors (e.g., see GTZ, 2006; NLMA *et al.*, 2009). The reverse also holds, with central actors at times approving investment deals without the knowledge of provincial levels of government (e.g., GTZ, 2006, Annex 11).

According to Article 75 in the 2007 Lao Forestry Law, concessions up to 150 ha on degraded forest land may be approved by provincial administrations; land concessions between 150 and 15,000 ha may be approved by the National Land Management Authority and the Ministry of Agriculture and Forestry; land concessions of 15,000+ ha requires approval from the National Assembly. However, numerous reports document that despite a 2007 Prime Minister's ban on land concessions over 100 ha, concessions have been allocated under questionable, non-transparent circumstances, and likely circumventing the legal process (see NLMA-GTZ, 2009; NLMA *et al.*, 2009).

An inventory of concessions conducted in Vientiane province by NLMA and GTZ (2009) revealed a number of concerning trends. The NLMA-GTZ survey team found that not less than 237 land lease and concession projects were active in Vientiane province alone, including 25,104 hectares for rubber; 20,386 hectares for jatropha, and 10,000 hectares of mixed plantations (eucalyptus, jatropha and rubber). However the NLMA—the national regulator of land concessions—could only locate documentation for 148 of the 237 active projects. For 89 projects, the relevant agencies at the provincial and district levels did not possess any documentation at all, while only 12 concession projects had concession maps with proper coordinate points. The results of the survey indicate a basic lack of knowledge about what is occurring where, in what has become a chaotic land sector, as well as reiterating that the GoL is likely under-pricing access to forest-land by investors.

### 3.2.1 Pulpwood

The current harvest of pulpwood in Laos has been estimated at about 10,000 m<sup>3</sup> annually (Sugimoto, 2009), although this figure will increase rapidly as the first industrial plantations from major projects such as Oji LPFL come on line in the next few years. Major Thai pulp firms including Phoenix Pulp and Paper, and Advance Agro currently send supply trucks into border districts to purchase Lao eucalyptus and acacia, although there is little data on the current extent of this trade.

The China-based pulp and paper industry is a major new driver of pulpwood production in Laos. A series of Chinese “mega paper mills” is driving the demand for new fast growing plantation timber sources not only in China but in neighboring countries including Indonesia and Laos (see Table 3).

**Table 3: Chinese Pulp and Paper Projects with Plantation Expansion Plans in Laos**

China-based Company/ Location of Expansion Project	Production Capacity	Associated Pulpwood Plantation Investment in Laos
<b>Oji Paper (Nantong, near Shanghai)</b>	700,000 Air Dried Tonnes per year Bleached Hardwood Kraft Pulp mill project US\$1.95 billion investment	Oji-Laos Plantation 50,000 hectares, central Laos
	400-800,000 tonne / year fine paper mill (by 2015)	Oji-Laos South 25-30,000 hectares, southern Laos
<b>Shandong Sun Paper (Shandong province) Joint venture with International Paper (USA)</b>	400,000-tonne/yr cartonboard mill	Sun Taven Company, Savannakhet province. 100,000 hectares (including 30,000 hectares of company-leased plantation area and 70,000 hectares of outgrower / contract farming arrangements)
<b>Stora Enso (Guangxi province)</b>	Proposal for a 1.2 million tonne / year BHKP pulp mill	Stora Enso Laos 35,000 hectares, Savannakhet and Salavane provinces
<b>Asia Pulp and Paper (APP) Jinhai (Hainan Island)</b>	Largest single line pulp production facility in the world	Gold East Company Survey stage, requested 9,000 hectares, Salavane province
	1.3 million ADT / year BHKP pulp mill, which could expand to 2.2 million ADT/year	
	New proposal for Guangxi greenfield pulp mill of 1.2 million tonne/year BHK pulp line and two 300,000 tonne/year APM pulp lines	

Source: Keith Barney, 2010: personal communication.

### 3.2.2 Rubber

In terms of the plantation rubber sector, there are very limited volumes of over mature rubberwood being harvested in Laos. The rubber boom in Laos has picked up only in the past decade, so it will be a couple of more decades before these holdings are ready for replacement planting. Unlike in Cambodia and Vietnam, in Laos there was little rubber planted prior to or during the Indochina Wars. The upper estimates for the current area of rubber in Laos are about 400,000 hectares (Vientiane Times, 2010).

### 3.2.3 Teak

The majority of teak planting in Laos is smallholder based (1 hectare or less). Luang Phrabang is the centre smallholder teak planting activity in Laos, but there are also areas being planted in Vientiane, Oudomxai; and Bokeo provinces in the north, and Champassak in the south. Sugimoto (2009) estimates the current harvest of teak in Laos at about 7,000 m<sup>3</sup> annually. However teak production is projected to increase to 18,000m<sup>3</sup> in 2010, and up to 60,000m<sup>3</sup> by 2020 (Midgley et al. 2007:17). Most of the plantation teak produced in Laos is targeted for export (the Lao log export ban does not apply to plantation timbers).

### 3.2.4 Other Smallholder Production

The \$15.4 million ADB Industrial Tree Plantation Project (ITTP), which ran from 1994-2003, sought to establish some 11,000 hectares of smallholder and medium scale eucalyptus plantations through a subsidized loan and plantation extension scheme. Very few of these smallholder plots have turned out to be commercially viable. Due to a number of factors which undermined growing efforts, the project resulted in loan defaults and increased indebtedness for marginal smallholder borrowers. The ITTP significantly undermined the financial position of the entire Lao Agricultural Promotion Bank, which likely required recapitalization by the Bank of Laos (see Barney, 2008). The project was rated by the ADB as ‘unsatisfactory’.

Smallholder teak and rubber have had more success in Laos, as noted above. There is no updated nation-wide survey data on the situation with smallholder rubber development in Laos, but it is significant. Notably, three northern provinces (Luang Namtha, Bokeo and Oudomxai) have developed policies to promote only smallholder-based rubber development, as opposed to large-scale concessions. It appears that this decision was made in response to problems experienced in the second half of the past decade with regulating large concessionaires around land management issues. At times however these provincial policies have been overridden by the central government, which has issued large rubber concessions to Chinese investors in these provinces.

## 3.3 Production Forest Areas (PFAs)

According to the Lao Forestry Law (2007) and as stipulated in the 2002 Prime Ministerial Decree 59 on Production Forest Management, and Prime Minister’s Order (PMO) No. 17, commercial logging can only occur within the territorial boundaries of Lao’s 51 National Production Forest Areas (PFAs), with approved pre-harvest inventory and sustainable forest management plans in place. In reality, only 8 PFAs in Laos, covering 657,000 hectares, have completed inventories and sustainable management plans— those which are managed through the World Bank Sustainable Forestry and Rural Development (SUFORD) project. An additional 8 PFA’s are in the process of developing sustainable management plans through the SUFORD-Additional Financing project, which runs from 2008 to 2012. It is worth noting that there is likely some hesitation on the part of the Ministry of Agriculture and Forestry (MAF) to conduct full and expensive forest inventories in all PFA locations, when some of the forests in question are slated for conversion for infrastructure or other resource development projects (hydropower, mining, etc.).

However, MAF, DOF, SUFORD (2009: 11) notes that the restriction of commercial logging to PFAs with completed pre-harvest inventories and approved management plans, is contradicted by other legal documents, specifically: “PMO No. 30 (Section 12), which only requires a logging survey in advance of harvesting development areas, and PMO No. 25 (Section 1/3), which only requires government endorsement. All three orders referred to are apparently in force.” If this interpretation remains accurate, this would have significant implications for legality tracking mechanisms. In the absence of the ability to track timber in the chain back to the specific PFA from where it was harvested, currently there is little way to verify that the timber being processed and exported came from a PFA with a pre-harvest inventory and an SMP. From a legal supply chain perspective, in a situation where logging can proceed basically anywhere in the country as long as there is “government endorsement”, any criteria concerning sustainable forest management becomes lost within a system of discretionary intervention. The exception to this would be those forest

management units with full FSC accreditation, which are required to maintain a strict separation of certified timber from all other timber supply streams.

Thus, National Production Forest demarcation is clearly a key first step for implementing legal, sustainable forest management in Laos. Demarcation of the forest estate is being facilitated through the Lao Forest Development Fund, which is drawn from stumpage fees on logs harvested from natural forests. First established in 2005, the budget of the Forest Development Fund was about US\$ 1.5 million in 2009 (Sugimoto, 2009). The stated plan by the GoL is to complete national inventories and to develop sustainable management plans for all of the national PFAs by 2013.

### 3.3.1 Sustainability

The total volume of sustainable harvesting from the PSFM areas in Laos (basically, the SUFORD forest management areas) is about 20,000 m<sup>3</sup> per year, which corresponds to a harvesting intensity of about 4 m<sup>3</sup>/ha/year (Puustjarvi, 2007). The lack of processing facilities in Laos which could handle the less preferred and less valuable species limits the commercial harvest volumes which could take place in the SUFORD sites, as does the roundwood export ban. Puustjarvi estimates that the harvesting intensity could be increased to 10 m<sup>3</sup> per hectare if markets and processing technologies could be developed to handle the less valuable species. In addition: "There are indications that timber buyers, especially abroad, could become more interested in less preferred species, if forests were certified... In this case, the total harvesting volume would be about 50,000 m<sup>3</sup> per year" [i.e., from the 8 core SUFORD PFAs, in Khammouane, Savannakhet, Salavane and Champassak].

If the PSFM model were to be extended to all 51 national PFAs, Puustjarvi estimates the total sustainable harvest in Laos could be maintained at approximately 97,000 m<sup>3</sup> annually, increasing up to about 244,000 m<sup>3</sup> per year under the more intensive commercial harvest scenario of 10 m<sup>3</sup> per hectare per harvest cycle. This would net the GoL between \$7.5 million to \$18.7 million annually, assuming state revenues of \$77 per m<sup>3</sup>. This amount is significantly lower than current GoL revenues from timber sales, estimated at \$57 million for 2006-2007, but which are based upon highly unsustainable rates of extraction.

### 3.3.2 Lessons Learned from Past Donor Programs

Over the past decades, a number of important donor projects and state policies have sought to transform the Lao production forestry sector. Their experiences have lessons of relevance for the emergence of verified legality and due diligence processes in Laos forest sector.

The FOMACOP (Forest Management and Conservation Programme) (1995-2000) was a US\$20 million sustainable forestry initiative in Laos, funded and organized through the World Bank and the Finnish program FINNIDA. FOMACOP was conceived as the first of several sequential operations that would pilot approaches to decentralized forest management, which could later be institutionalized and up scaled to the national level.

Hodgdon (2010) argues that in 1995, there appeared to be considerable government support at the central level to implement FOMACOP's vision of participatory village forestry. The Lao government adopted specific policies meant to facilitate the development of village forestry in FOMACOP sites, including an Interim Prime Ministerial Forestry Land Use Management Decree,

as well as other new land and forestry legislation (some of which was passed as a conditionality of project financing).

Under FOMACOP, there were relatively minor re-allocations of timber revenues between villages and the central government. In terms of the pre-FOMACOP distribution of taxes and royalties from village forestry logging operations in Savannakhet province, 95 per cent went to the central government, 4 per cent to the province; and 1 per cent to the district (Litz, 2000). The proposed distribution of revenues under FOMACOP from 'second landing' timber sold by Village Forestry Associations (VFAs), was 84 per cent to the GoL, and 16 per cent to the villagers. This 16 per cent of revenues would be utilized in community projects, including schools and potable water. In Savannakhet, Hodgdon notes that for 1998-99, the net FOMACOP revenues for individual villages ranged from US\$2,100, to US\$20,000.

As Hodgdon notes, after a few years of project implementation, conflicts emerged between the FOMACOP project and the GoL. Questions surrounding the roles of villagers in timber harvesting and sales ultimately led to disagreement, with the World Bank noting "excessive intrusion into the management and commercial practices of VFAs", and "aggressive rent-seeking and preferential treatment of favored local timber purchasers at significant cost to the economy and intended project beneficiaries." In 2000, FOMACOP was discontinued by GoL, and the project administration dismantled.

Via the network of access roads built with project funds, reports indicate that FOMACOP village forestry areas were subsequently heavily logged out in the two seasons after the project was stopped, to the extent that it is no longer possible to harvest timber from many of the production forest sites (Hodgdon, 2010). After the project, timber sales from FOMACOP sites proceeded through the traditional "preferred buyer networks" that the project had attempted to reform (Hodgdon, 2010). Phanthanousy and Sayakhoummane (2005: 66) argued that: "The industry [was] engaging in a race to deplete the forest resources of production forest areas before they [could] be officially declared and put into participatory sustainable forest management."

**The Sustainable Forestry for Rural Development Project (SUFORD)**, a World Bank – FINNIDA project, represented a second attempt to institutionalize villager participation in production forestry in Laos. The project activities led to: (a) establishment of the National Production Forest Area system; (b) the enactment of national legislation governing the establishment and management of these areas; and (3) the launching of the SUFORD project as a means to implement the national legislation in four important timber-producing provinces (Hodgdon, 2010). As part of the project loan and grant facility, the Lao government agreed to a fixed timetable for achieving Forest Stewardship Council (FSC) certification of at least 60,000 hectares in the former FOMACOP sites (now part of the SUFORD area).

An overall national system of Production Forest Areas (PFAs) has since been mapped (if not demarcated on the ground) in Laos. There are 51 PFAs at present, accounting for approximately 3.089 million hectares of state forestland.<sup>5</sup> In accordance with the Constitution of the Lao PDR and

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<sup>5</sup>The actual number and extent of Production Forest Areas in Laos has been the subject of some recent confusion. The Forestry Sector Strategy 2020 document, issued by the MAF (2005: 14), cites a total of 106 PFAs covering 3.207 million hectares. These figures are also forwarded by Southavilay (2008); FAO (2008); Baird, (2010a) and Hodgdon, (2010). Hodgdon (2010) however includes a map which indicates the boundaries of 61 PFAs. Sugimoto (2009: ii)

the Forestry Law (2007), the timber in the PFAs areas are considered the property of the state, but they are to be managed with the participation of local communities whose traditional boundaries extend into the production forest (Phanthanousy and Sayakoummane, 2005).

The PSFM legislative framework in Laos includes specific details concerning the roles and responsibilities of all stakeholders – at the national, provincial, district and village level – and lays out a clear percentage-based breakdown for the sharing of revenues from timber sales (see Box 1).

The SUFORD project, meant to implement the national legislation, has also been met with problems. Management plans are viewed as lacking in technical rigor and adequate villager input, due to questionable implementation efforts on the part of the Lao forestry administration (Jonsson, 2006; Hodgdon, 2010). Some critics believe that key decision makers in the GoL are hostile towards participatory forestry in which villagers receive a significant share of timber revenues. Ambivalence of different actors within the GoL towards PSFM – signed by the Prime Minister as national law – is illustrated by the experience of a WWF-supported project in the southern province of Xekong. After 18 months of implementation, this PSFM project was also discontinued by the provincial partners (Hodgdon, 2010). It appears that while the GoL does not typically refuse donor assistance, if reforms are pushed too far, too quickly, key institutions or actors within the Lao state will ensure that projects are rendered ineffective, dismantling them if required. In fact, the current legal model of World Bank-supported PSFM in Laos does not involve significant revenue sharing with local forest-dependent communities, which reduces the likelihood of any positive effects on local poverty reduction.

The SUFORD project has been extended by the GoL and the donors, for an additional phase between 2008-2012 (called SUFORD Additional Financing, AF). A primary objective of the SUFORD AF is to expand the PSFM model into an additional 8 priority Production Forest Areas, in five new project provinces (Xayabouly, Vientiane, Bolikhamxay, Xekong and Attapeu). The total area under PSFM would be increased, to 16 PFAs covering 1.3 million hectares, involving 600 villages (World Bank, 2008). Options are being explored to make PSFM forestry more effective in addressing local poverty alleviation objectives, through enhanced benefit distribution mechanisms, although this will likely be constrained by the immanent declines in national revenues due to decades of overharvesting.

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states that 51 PFAs covering 3.1 million hectares have been officially demarcated on the ground. REIT (2009) forwarded that there were 59 production forests in Laos, covering 3.6 million ha, of which only 8 [the SUFORD sites] were officially established and operating under management plans: “29 of them have been proposed by provincial authorities and are now under a consideration by the central government, and the rest are under study.” A personal communication with the Faculty of Forestry, National University of Laos indicated that the current correct number of PFAs in Laos is indeed 51 (3.089 million hectares).

### Box 1: Revenue-Sharing under SUFORD

The present mechanism of benefit sharing of timber revenues under SUFORD is governed by PM Degree 59/PM (Article 11), and MAF regulation 0204/MAF (Article 18), and a DoF draft guideline on Timber Sale and Benefit Sharing from State Production Forest Areas.

The timber price is divided into a Floor Price and Additional Revenue. The Floor Price is set each year by the Ministry of Commerce and it represents the minimum acceptable price level at timber auctions. Additional Revenue is the difference between the actual timber price achieved at auctions, and the Floor Price.

The Floor Price comprises the following elements:

- Royalty going to National Treasury
- Tax going to National Treasury
- Tree planning fee deposited in the Ministry of Agriculture and Forestry account and provision for forest inventory and other forest development related activities allocated to the provincial accounts of the Forest Development Fund (FDF); and
- Logging fees allocated to the provincial logging units who then pay the villagers and contractors

The Additional Revenue is shared as follows:

- 30 percent transferred to the national budget as additional royalty
- 20 percent allocated to the Forest Development Fund (Forest Law Article 47)
- 25 percent allocated to the operational costs of implementing the annual operations plan (mainly logistics for staff who go to the field and work with villagers); and
- 25 percent allocated to the Village Development Fund

For 2006, it was estimated that the total value allocated to the Village Development Funds in Savannakhet was as low as \$0.46 per m<sup>3</sup>.

The average village income from SUFORD timber sales (excluding informally applied ‘provincial frees’) is said to be in the range of \$285/village, and as low as \$70/village: “It is obvious that such a low level of revenue is highly unlikely to foster positive perceptions of the advantage of villagers to participate in forest protection and management.” (SUFORD, 2007).

Puustjarvi (2007) notes that under the current PSFM framework, “timber-related income received by villagers is unable to motivate them to actively engage in forest management and protection.” The suggestion is that an average income from timber sales in the range of \$20 per m<sup>3</sup> would be necessary to maintain any villager’s interest (this would represent an average annual village income of US\$1,100 at current logging intensities).

Sources: Puustjarvi, 2007; SUFORD, 2007.

### 3.3.3 Experiences with National Forest-Land Zoning and Allocation

Under the 1991 Lao Constitution (*Art. 17*), and the 2007 Forestry Law (*Art. 4*) all natural forestland, including communal village forestland, is the ultimate property of the national community, which is represented by the Lao state. Forestlands are defined as: all “land plots with or without forest cover, which are determined by The State as Forestlands” (MAF, 2007). Planted forests, located in areas designated for tree planting, become the property of individuals or organizations (2007 Forestry Law, *Art. 4*). The state may also act in allocating forestland for rational usage, to individuals, communities and organizations. Customary utilization is defined as “the use of forest and forest products that has been carried out for a long time in accordance with laws and regulations” (*Art. 42*). Customary utilization of forest and forest products need to be carried out in accordance with the village management plan, in compliance with national laws and regulations (*Art. 42*).

*Article 68* of the 2007 Forestry Law deals with the crucial issue of household allocation of forest-lands:

“Utilization of forestland for household is to use degraded forestland or barren forestland according to households’ availability of labor and fund for forest regeneration, planting trees or NTFP in land area of not more than three hectares per one labor in the household. In the case of need for more area, households have the right to request lease or concession from the State.”

*Article 17* of the Land Law (2003) also stipulates that the state can allocate up to three hectares per adult laborer to grow industrial plants and seasonal vegetables. In addition, adult laborers are eligible for 1 hectare of land to grow rice and raise livestock; 3 hectares for fruit trees; and 15 hectares of denuded or defoliated land to plant grass and graze livestock.

According to this interpretation, individual farming households in Laos hold quite extensive legal access rights to upland forests, up to 22 hectares per laborer. It appears however that these are the clauses in the Forestry Law and the Land Law that relates to the “3 hectare rule”, or the limitation of three hectares of land per adult household member, for the conduct of rotational swidden agriculture. The three-hectare rule was also the system implemented in Laos’ first upland zoning and allocation policy— the Land and Forest Allocation Program (LFAP).

A Prime Ministers Decree (PM/03) was developed in 1996 to facilitate issues of village boundary demarcation, internal zoning of land use, and forest-land allocation through the Land and Forest Allocation program (LFAP). The LFAP was devised with the support of SIDA and implemented by MAF and NAFES (National Agriculture and Forestry Extension Service), through their provincial and district field offices. Until recently the LFAP was the most important land zoning program governing village level forest-land access in the country. The LFAP was centered on two main aspects: (i) allocation of degraded land to households with a temporary land use certificate (TLUC) for crop cultivation, tree plantation and livestock grazing. Titles would be issued after a period of ‘satisfactory performance’ (which was left undefined).<sup>6</sup> (ii) following the village boundary demarcation and the land allocation, forest types would be classified (e.g., protected, community use, rehabilitated, conservation and production), and management agreements would be signed with each village.

Inclusive of where external village boundaries and internal land use zones were mapped in accordance with the LFA system, villagers were awarded only use rights, and ultimate ownership rights over village forest-land and the resources on those lands, including timber, remained with the state. Through this policy, large areas of customary swidden fallow land, located inside village boundaries, could thus be re-allocated for national development programs (such as large industrial tree planting concessions), or for example as conservation forest, in full accordance with the legislation.

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<sup>6</sup> The T-LUCs were not issued in all districts. They could also be revoked if the land had been left fallow for longer than three years, but it does not appear as though this ever occurred. Village forest and NTFP management plans were to be consolidated under five-year renewable agreements signed between the District Agriculture and Forestry Offices and the village committees, but again it is unclear if this was ever implemented.

In its implementation, there were numerous problems with the LFA policy, which are largely related to how the policy was turned into a tool for eradicating swidden agriculture.<sup>7</sup> In areas where it was strictly implemented (mostly in northern provinces and in upland ethnic minority villages), the LFAP led to spiraling feedback cycles of shortened fallow periods, soil fertility declines, weed infestations, increased labor demand, falling rice yields and increased soil erosion. Numerous studies and reports have documented the problems with this policy for local food security and poverty eradication efforts.

Since 2003-2004, the implementation of the LFAP program (including the awarding of temporary titles for upland swidden areas) has basically been shelved, due to a lack of budget support from donors, and a growing recognition of its unintended consequences for village livelihood security.<sup>8</sup>

According to the NLMA (Interview, June 4, 2010), it is hoped that the roll-out of the new forest-land zoning and allocation program, based on comprehensive village-based participatory land use planning and land allocation (PLUP-LA, see MAF-NLMA, 2010) will be completed in Laos within the next 5 years, through funds drawn from land registration fees. The NLMA is also aiming to complete a National Land Use Master Plan, which would delineate state land from village land, and serve as the guiding framework or concession allocation, by the end of 2010. A number of key issues remain open at this point with respect to the new PLUP-LA process, including how PLUP-LA would be conducted in relation to concessions projects, and how PLUP-LA would be rolled out in practice in areas of national production forest, protection forest and conservation forest, or in resettlement areas. It also remains to be seen how the PLUP-LA process would be financed in reality, through land registration fees as proposed by NLMA or whether donor or private sector (resource company) funds would be enlisted to financially support the program. The issue of financing would arise in particular through the proposal to wait three years after the granting of a Land Development Certificate, before the granting of a full Land Title. This increases the complexity of land registration considerably and harkens back to the 3-year Temporary Land Use Certificate (TLUC) system in the previous LFAP system, where the promised upgrading to full titles was never actually implemented. The issue of collective title and its recognition and limitations in practice (for example, would the GoL be required to provide compensation for collective lands requisitioned by the state?) is another major issue that will require clarification.

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<sup>7</sup> Importantly, Fujita and Phengsopha (2008) note that where the LFAP implementation was not supported by donor agencies, the district agencies charged with implementing the policy faced genuine constraints, in funding, staffing levels, and in training.

<sup>8</sup> Full land titles in Laos have only been issued in urban and peri-urban locations, in association with the second phase of a World Bank/AusAID-funded Land Titling Project (LTP II).

## 4. LAO WOOD PRODUCTS INDUSTRY, TRANSPORT AND CUSTOMS

Information on the capacity and actual production of individual processing plants and sawmills in Laos is very difficult to secure. A survey of sawmilling capacity and utilization rates, conducted on behalf of SUFORD by Blakeney in 2005, has not been released into the public domain. As Southavilay (2008: 26) notes, sawmilling and wood processing statistics tend to be seen as 'business secrets' in Laos. This is likely due to a long established culture of non-transparency in the sector.

The vast majority of the larger, export-oriented companies are producing sawn wood and semi-finished products including floorboards (parquets) and wood panels. The overall number of wood processing facilities in Laos was rising mid-decade, increasing from 1,451 factories in 2001, to 2,096 factories in 2006, with total wood industry capacity estimated at between 1-2 million m<sup>3</sup> per year (Southavilay, 2008). This estimate is lower than that forwarded by Sugimoto (2009), who estimates that total operating capacity of wood processing factories except furniture was 1,543,000m<sup>3</sup> per year in 2001 and a stunning 2,754,000m<sup>3</sup> in 2006/07. If these data are even broadly accurate, the Lao forestry sector has embarked upon a program of considerable capacity expansion, at a time when logging volumes are almost certain to decline significantly.

Lao secondary wood processors are small to medium scale, and export-oriented (90-95% of production is reported for export market). Most factories are producing sawnwood, as well as some secondary processing (panels and floorboards, parquets). These would be amongst the key industry segments affected by market demands for legality verification.

Lao wooden furniture industry on the other hand is almost entirely domestic in orientation. The Buprapha company exports small volumes of plantation-based wooden outdoor furniture to the EU, but there are few other examples of export oriented furniture producers. Improvements in the teakwood furniture processing industry in Laos may facilitate the development of new export markets in the future. Smallholder teak plantations in northern Laos are currently being prepared for group FSC-certification.

Southavilay (2008: 26) writes:

Two thirds of the mills suffer from the lack of logs; some are able to get only 50% of their needs. Most have all year shortage of raw material. Only a few of companies reported having enough logs. It is not uncommon to find sawmills with no own log quota at all, but they will operate as contractors to other parties, which have a source of log supply.

In mid 2007, Ministry of Industry and Commerce announced a move to close over 2,000 wood processing facilities, still leaving some 800 in operation [suggesting that the total number of factories in Laos was closer to 3,000 by 2007] with presumably more consistent access to quota wood supplies.<sup>9</sup> There is little indication regarding how this restructuring of the sawmilling and processing sector has moved forward since then. However the creation

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<sup>9</sup> See Vientiane Times, 2007.

of a Wood Industry Association, with 100 approved members, might serve to direct timber supplies to these members to the exclusion of other firms (Southavilay, 2008).

Southavilay (2008) provides the following estimates for overall wood-processing industry structure:

- 174 primary wood processors – most small and medium size with old machinery installation
- 402 secondary wood processors: “Producing plywood, rotary veneer, particle board, flooring wood, parquet, paper and carton... A few factories meet international standards and export their products to overseas markets.”
- 1, 520 tertiary wood processors, “...most of them are in the form of small or household business. The products are common and low quality such as chairs, tables, home accessories, picture frames, carvings...which are generally sold to local customers.”

A listing of some of the larger-scale facilities is included in MAF, DoF, SUFORD (2009), although little specific data is presented.

**Table 4: Examples of Larger-Scale Wood Products Facilities in Lao PDR**

Company	Location	Product	Species
Lao Furniture Industry Factory	Vientiane	Furniture & flooring	Keruing, Balau, Teak & Lagerstroemia
Asia International Co.	Champasak	Flooring, decking & ceilings	Keruing & Yellow Balau
Km 14 Manufacturing	Savannakhet	Flooring & parquet	Any species
Phonesack Group	Khammouane	Flooring	Any species
Luen Fatt Hong	Khammouane	Plywood	Keruing, Mersawa, Mai Si, Vatica & Sindora

Source: MAF, DoF, SUFORD, 2009.

**Table 5: Examples of Larger-Scale Wood-Flooring Companies in Vientiane Area, 2008**

Factory Ranking	Focus of Production	Stated Revenue (US\$)
Mae Nam Kong	Flooring	2,281,725
1 May	Flooring	1,236,671
Vang Arb Sang	Semi-furniture and flooring	794,917
Cheng Savang	Flooring	585,200
Xaiseng	Finished furniture (Khob Houb)	400,000
No.1	Flooring	116,456
Lao-Igeto	Flooring	No data
SMP Enterprises	Finished furniture (Furniture for show)	No data
Challenge	Finished furniture	No data
Khounta	Flooring	No data

Source: Vongvisouk and Khamphilavong, 2008.

Apparently, three remaining state owned enterprises (SOEs) still operate in the wood processing industry, although no data on these enterprises could be located in this research. In many other

cases the ownership is foreign but the company is listed under a Lao partner. There are also joint ventures between the GoL and foreign investors (Southavilay, 2008).

See <http://laoy.com/construction/wood-products/> for a listing of Lao wood companies that maintain a website or weblink.

As Puustjarvi (2007) noted, one of the primary constraints to expanding the volumes of PSFM log supplies in Laos is the lack of capacity and technology to process lesser valued species. The ten primary tropical hardwood species used for sawnwood production are: *merbau (mai tea kha)*, *keruing (mai nhang)*, *mersawa (mai bak)*, *sena (mai dou)*, *pine (mai peak)*, *merawan (mai khen heua)*, *batay (mai deng)*, *resak (mai xy dong)*, *berus (mai peuay)* (Southavilay, 2008: 25).

There are no larger scale pulp mills in Laos, although there are two smaller paper mills in Vientiane, one producing toilet tissue, and printing and writing paper, and one producing bamboo paper for export to Taiwan (Southavilay, 2008: 22).

Southavilay (2008: 24) notes that wood recovery rates for saw millers and wood processors in Laos are low, often below 50 per cent, with a minimum of 25 per cent and a maximum of 60 per cent.

## 4.1 Wood Product Transport and Customs

Southavilay (2008: 25) indicates that typical log transport distances from second landing to sawmill in Laos are about 100 km, but can range up to 350 km. Most logs are processed in the province of harvest, although this can vary. Usually logs are transported by truck but occasionally floating barges down the Mekong might also be used.

At the wood product export stage, the provincial section of the Department of Customs under the Ministry of Finance collects a 30 per cent export tax and forwards this to the Ministry of Finance (Baird, 2010a: 7). The jurisdiction of the MoIC over timber products ends at the export border point, after checking that all documents are in order and all applicable taxes have been levied (in addition to MoIC representatives, border points are staffed by officials from the Forestry Inspection Department, Customs Department, tax officials, and police).

Southavilay (2008: 29) notes that until quite recently, the Lao provincial administrations held control over their own international borders. Before the current system, a provincial Customs group, comprised of provincial representatives from the Forestry, Commerce, Customs and Police services, maintained border management and revenue collection authority in the provinces. According to Sugimoto (2009), at present only 60 to 70 per cent of the custom data collected at the border is being reported back to the central level, despite efforts to centralize border controls under the national Customs Department (located under the Ministry of Finance).

## 5. MEETING THE DEMAND FOR LEGALLY OR SUSTAINABLY HARVESTED WOOD PRODUCTS FROM LAO'S MAJOR MARKETS

Lao's main wood export buyers themselves re-export large volumes of processed timber products to countries which increasingly require legal timber verification. The United States, Japan and the European Union continue to be the main export markets for furniture and other wood products made in Vietnam, Thailand and China. Together, these three major markets capture more than 50% of China's export market, by value, of forest products; 80% of Vietnam's market; and almost 50% of Thailand's export market.

In all three of these major markets, over the past ten years, there has been a rapid increase in demands for products which meet varying environmental and socially responsible requirements. In the wood products sector, buyers are increasingly requiring proof of legality or sustainability – both for domestically produced wood as well as imported – and this proof must be third-party verified. This has been driven by a range of different processes relating to the verified legality of timber sources, increased consumer awareness in these markets and global pressures to mitigate biodiversity loss and climate change through combating illegal logging and associated trade. Major components of this shift include:

- **Increasing retailer purchasing preferences:** The first major sign of changes in demand came more than ten years ago with increased market preference for certified wood products, such as the Forest Stewardship Council (FSC). Buyers from North America, Europe and Japan wanted to show corporate responsibility and minimize risk (reputational risk, supply sustainability, and lately, new risk against prosecution under the US Lacey Act). Major international companies such as WalMart and Carrefour now require suppliers to be able to not only document country of origin of timber sources, but also demonstrate sustainability through third-party verification systems. The UK Timber Federation has established strict purchasing policies for all its members, which resulted in several contracts with Indonesian and Chinese suppliers being cancelled.

While the volumes of certified timber remained small and brought few premiums for sellers, it did help a few forward-looking wood product producers to establish a niche – providing an opportunity to enter new markets. Within a few years of the increased consumer and retailer demand for certified wood, European and Japanese public procurement policies helped to boost the demand for these products (see below). Today, while many private purchasing policies accept legal timber as a minimum, most require progress towards certification. Therefore, while proof of legality is useful, it may not be adequate for those who are requiring proof of sustainability (i.e., certification).

- **European and Japanese Public Procurement Policies:** By the mid 2000s, several European member states and Japan were individually developing and adopting timber public procurement policies which required third-party evidence of legal compliance or sustainability. The UK, Denmark, Germany, France and Spain took early leads. It was estimated that central government purchases accounted for 15-25% of all timber products purchased in most EU Member States, and many local governments were encouraged to follow.

There were additional spill-over effects into private procurement practices as suppliers did not like to keep separate inventories.

The European and Japanese public procurement policy changes provided another opportunity for certified forest products to increase their market share. By 2010, new regulations in the US and Europe are expected to rapidly increase this demand by degrees much larger than seen before (see below).

- **Amendments to the US Lacey Act (2008):** In 2008, the US Congress passed a new law making it unlawful to import, export, transport, sell, receive, acquire or purchase in interstate or foreign commerce any plant taken or traded in violation of the laws of the US, a US State, or relevant foreign laws. The law includes the concept of “due care” which is assessed during any prosecution to determine degree of penalty, and requires a statement of origin, species. The level of penalty is steep – with jail time, forfeiture of goods, or fines depending on degree to which company knew – or should have known – that it was handling illegal products. The first prosecution under the Lacey Act was in 2009.
- **EU Due Diligence Regulation (2010):** The EU Parliament recently passed a law which requires all timber operators to establish “due diligence” systems which will minimize the risk of handling illegal timber. All operators (importers, traders, buyers, sellers) must know the country of origin, species, details of supplier and information on compliance with national legislations (“illegality” is defined in relation to the laws of the country where the timber was harvested).

These new regulations in Europe and the US, in particular, have made retailers realize that they need to buy certified or verified legal products in order to escape possible prosecution or fines. In the US, more retailers (55%) now consider it “essential” that producers be third-party certified – up from 27% in just 2007.

Each of the market signals described above has different specific requirements, but all share some fundamental similarities. These similarities include the demonstration of “due care” or “due diligence,” – a flexible concept that encompasses the efforts that a company should take to ensure that its supply chain is untainted with illegal wood. Virtually all also share the requirement that operators must be able to document the source of origin of the harvested wood.

Industry has complained that it is difficult to comply with all these similar, but different, requirements. While not a guarantee, importing goods certified under a credible and robust certification standard<sup>10</sup> is likely to be given significant weight by United States and European enforcement personnel in any given investigation into (or assessment of the legality of, and any criminal liability related to) any imported goods. By constituting due care and keeping illegal material out of

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<sup>10</sup> No assessment has been done to compare the robustness of the various national and international certification standards. But it is highly likely that those schemes which have a national standard agreed by consensus with major stakeholder groups, based on nationally applicable forest laws, and include thorough physical inspection of forest and supply chain by independent accredited auditors, are likely to be considered more robust than others.

supply chains, credible certification standards implemented appropriately are likely to help protect importers from many penalties.

## 5.1 Market Opportunity or Market Vulnerability for Lao Timber Exports?

As with any market shift, producers and manufacturers can either try to take advantage of new opportunities to gain greater market share, or possibly watch their existing markets dwindle. The EU, US, Japan, and other relatively environmentally sensitive markets in Australia and New Zealand account for 50% of the world's net imports. Yet only 8% of the world's globally traded wood products are certified (FAO 2009) – indicating that those countries which are able to supply these markets first with certified or verified legal product will likely be able to gain market share. Africa has 7 million hectares currently certified by FSC. Seeing the market opportunity in Europe, some African trade associations with their European partners are gearing up to get an additional 5 million hectares certified by 2012. Lao producers and manufacturers can either try to take advantage of new opportunities introduced by these new policies to gain greater direct market share or access to European and North American markets, or possibly watch their existing markets dwindle.

To a large extent, the degree to which Lao timber products are vulnerable to these new demands will depend on the ultimate consumer. It is widely known that certain Laos natural forest species [particularly the rosewood group: *Dalbergia cochinchinensis* (*mai kha nyoung*); *Dalbergia cultrata* (*mai dou lai*); *Dalbergia oliveri* (*mai padong*)] retain special attraction and premiums in regional East Asian markets. With some of the last remaining natural forests in South East Asia, including some of the last remaining stands of rosewood, some Lao forest products are likely to be used for high quality, expensive indoor furniture – destined predominantly for Chinese markets and elsewhere in Asia. It will be very difficult to control the trade in these very high value luxury timber species. Alternatively, with little in the way of mature, fast-growing plantations, currently Laos is less important for Vietnam's outdoor wooden furniture industry. This industry segment comprises the bulk of Vietnam's exports to Europe, and uses largely uses plantation timbers, sourced regionally from countries such as Malaysia and further afield including New Zealand, Brazil, Sweden, and South Africa, some of which is FSC certified. There are however significant market opportunities for Laos to develop and expand legal-verified and sustainable natural forest and plantation timber resources.

## 5.2 Current Lao Forestry Law and Policy Reforms

The National Growth and Poverty Eradication Strategy (NGPES) is the current guiding document for Laos' overall national rural development program. The NGPES presents sustainable forest management as central to both poverty eradication and economic development in Lao PDR (NGPES).

The Forest Sector Strategy 2020 is a second primary policy document relating to the development of forest-lands and resources. The most basic factor behind forest decline is identified as "...widespread poverty and rapid population increase amongst the rural population, who are, as a result, obliged to practice forms of cropping resulting in deterioration or destruction of forest" (p. 13). The secondary contributors to forest decline listed in the FS 2020 lists are: (i) external factors

(rising wood and NTFP demand from neighboring countries), (ii) unsustainable harvesting, and (iii) conversion of forestland for agriculture. Thus official Lao policy still places primary blame for deforestation and forest degradation on marginalized villagers, as opposed to an unsustainable export based forest industry which has captured millions in resource rents over the past decades.

In terms of new legislation on land concessions, recent legislation includes a 2009 Presidential Decree on State Land Leases and Concessions (No. 135/PM, 8 November), which establishes a set of general principles for the granting of leases or concessions of state lands. Filling a significant gap, Presidential Decree/02, November 2009, establishes a guide for land lease rates for concessions in the country. In addition, a new Investment Law, Contract Law and a new Environment Law are in the process of being formulated, all of which will affect the concession system in Laos (NLMA, *pers. comm.*, June 4, 2010). Other recent significant guidelines in the forest-land sector include:

- Prime Minister's Order on the management of forest activities and wood business, No. 25/PM, dated 15/10/2004
- Prime Minister's Order on strict strengthening for forest and wood business management and improvement of finished wood products industry, No.31/PM, dated 23/08/2006
- Prime Minister's Order on strengthening for forest and wood business management, No.30, dated 17.08.2007.
- Instructions of the Ministry of Industry and Commerce concerning the implementation of log royalties in the year 2007-08, No.2203/MIC, dated 05/12/2007
- 2010 NLMA Instruction as regards the implementation of decree on state-owned land approval for lease or concession

## Box 2: List of Relevant Forest-Land Legislation in Lao PDR

1. Forestry and Enterprise Law (2005)
2. Business and Enterprise Law (2005)
3. Tax Law (2005)
4. Environmental Law (1996)
5. Water and Water Resources Law (1996)
6. Land Law (1997; amended 2003)
7. Prime Minister Decree 59 on Sustainable Forest Management of Production Forest Areas (2003)
8. Prime Minister Order 17 on Strengthening Forest Management (2003)
9. MOIC Regulation 51 on Form and Size of Wood Products (2009)
10. MOIC Regulation 1415 on Form and Size of Wood Products (2008)
11. MOIC Regulation 719 on Wood Processing Factories (2009)
12. MOIC Regulation 488 on Wood Quota Application (2009)
13. MOIC Regulation 157 on Timber Business Activities (2008)
14. MOIC Regulation 1976 on Sales of Logs at Field II (2007)
15. MOF Guideline 92 on Revenue Collection of Sales from Wood and NTFP Products (2009)
16. MOIC Regulation 710 on Wood Fees for Small Logs (2008)
17. MOIC Regulation 2056 on Wood Quota Allocation (2008)
18. MOIC Regulation 359 on Timber Products and NTFP Transport and Export (2008)
19. MOIC Regulation 157 on Transport of Logs, Wood Products and NTFP and Export (2008)
20. MOIC Regulation 1963 on Wood Sales (2008)
21. MOIC Regulation 1601 on Transport of Logs, Wood Products and NTFP and Export (2008)
22. MOIC Regulation 97 on Wood Fees at Field II (2009)
23. MAF Regulation 535 on Management of Village Forests (2001)
24. MAF Order 54 on Customary User Rights (1996)
25. MAF Instruction 377 on Customary Use of Forest Resources (1996)

*Source: Smartwood, 2010.*

### 5.3 Legality of Wood Products

Due to loopholes in the legal forestry framework, it is not always clear whether logging is legal or illegal in Laos (Global Development Solutions, 2005). Discretionary and special quota systems, as well as logging associated with infrastructure development, complicate attempts to define legality. Many key legislative documents of the Lao government contain clauses such as: “unless approved by the government” or “unless determined in special cases to be in the interest of the national community”. This leaves significant room for selective interpretations in the application of the legal framework in Lao forestry (FAO and The Nature Conservancy, 2008; see also Bestari *et al.*, 2006).

A FAO and TNC 2008 Country Outlook report states: “...in accordance with the Forestry Law, PM Decree 59, MAF Reg. 0204 and PM Order 30 on the Enhancement of Forest and Timber Business Management (2007-2008) , it is clear that: (1) logging is only allowed in Production Forest Areas (PFAs) that have an approved management plan; (2) forest management must involve local communities in planning and operations, and must give them 17.5% of stumpage (after royalties) for village development; (3) export of roundwood, sawn-wood and “semi-finished products” is prohibited, as is the harvesting of a select list of species . Within these parameters, it can basically be argued that virtually all the timber removed and exported from Lao forests is illegal because: (1) of the 106 PFAs in the country,<sup>11</sup> only 6 have approved management plans in line with new national legislation;<sup>12</sup> (2) villagers are meaningfully involved in forestry and given their legally-guaranteed share of benefits in the sites where the SUFORD [the World Bank Sustainable Forestry and Rural Development] project is working (even in SUFORD sites, actually, compliance is questionable), and; (3) nearly all the exports of Lao timber are in the form of roundwood or sawn-wood. (In fact, most companies in Vietnam will only take roundwood because of the low quality of milling in Lao PDR).”

The vast majority of the larger, export-oriented woods processing companies in Laos are producing sawn wood and semi-finished products, including floorboards (parquets) and wood panels. It is unclear how the apparent ban on export of logs, sawn timber and even semi-finished timber products (Prime Minister’s Order No.30/PM dated 17 August 2007, Clause 22.4) affects the export oriented processing operations. Baird, (2010a: 7) writes that: “In Laos, processed wood is categorized as follows: ‘*mai thone*’ (full unprocessed raw logs), ‘*mai pe houp*’ (altered wood, including boards, planks, and house posts), and ‘*kheung samlet houp*’ (semi-finished) or ‘*mai samlet houp*’ (plywood, furniture, pieces of wood that are connected in some way). In 2008, it was still legal to export some ‘*mai pe houp*’, based on special approval from the central GoL following governor requests for exemptions, but that is apparently no longer the case.”

Illegality and most opportunities for rent capture by government officials are reported to occur during the logging quota allocation process, and during the harvesting and sorting stages (Baird, 2010a). Once logs are transported to sawmills or other processing factories in Attapeu or in Vietnam, any illegally harvested wood has already been laundered and inventoried, thus becoming officially ‘legally harvested wood.’

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<sup>11</sup> Note that there are 51 PFAs in Laos, not 106.

<sup>12</sup> This figure would now be between 8 and 16.

### 5.3.1 Irregularities in Quota Allocation Process

In Laos, there are many different kinds of logging quotas, regulating all types of logging. Quotas range from those associated with subsistence level housing construction, to quotas associated with national logging plans. There are also specific quotas related to government infrastructure development and fundraising, national government debt repayment, military support, the harvesting of deadwood, and plantation development. There are also other 'special quotas'. In Laos, an extensive series of authorizations are required to obtain and implement logging quotas, offering multiple opportunities for government officials to receive bribes or other benefits from interested parties.

Companies generally pay central and provincial government officials for "facilitating" or directly approving logging quotas as they are approved at each stage, and it is estimated that this is probably the largest single expense that logging companies have to make (Baird, 2010a).

### 5.3.2 Irregularities in Harvesting and Transport Stages

Typical steps along timber commodity chain appear to facilitate opportunities for personal benefit. These include (based on Baird, 2010a):

- *Improper survey work facilitating "wood laundering"*: Forestry officials over-state forest inventory, allowing for additional wood from other locations to be harvested;
- *Payment or Conflict of Interest in Obtaining Approvals*: Forestry officials facilitate approvals;
- *Purposeful "laundering" of confiscated wood*: Local people are encouraged to cut down wood illegally but are then reported to officials, who confiscate the wood. This wood can then be legally purchased;
- *Under-reporting wood quantities at storage sites*;
- *Laundering of district quota wood* which has a lower level of oversight;
- *Misrepresentation of "usable" wood*, with unclear delineation between "usable and "unusable";
- *Misrepresentation of species*;
- *Sometimes officials under measure the amount of wood at log storage areas*;
- *Collusion with export authorities*: falsification of documents, such as volume or species reports, and coordinated with officials at the border.

However, it is now apparently more difficult to grossly under measure wood, as there are many places where the wood is checked and measured along the commodity chain.

### 5.3.3 Irregularities at the Manufacturing and Export Stages

Fewer opportunities for irregularities exist once the logs leave the second landing and are transported to the third landing (sawmills, or other processing factories). By this time, any illegally harvested wood has already been laundered and inventoried so as to become officially 'legally harvested wood'. Most sawmill owners interviewed would hesitate to smuggle illegal wood that had not been laundered directly into their sawmills, although it occasionally occurs.

Falsification of border documents can occur, as border officials, both forestry and tax, are often paid a 'per diem' for checking the transported wood. Today, however, an x-ray machine for wood

inspections is available at the Vang Tao/Chong Mek border with Thailand, which is able to identify illegal wood concealed within truckloads of legal wood, as well as the number of shorter and longer pieces of wood which are priced differently (longer wood being generally heavier and more expensive). The x-ray machine is reducing opportunities for smuggling, or at least is increasing opportunities for officials to benefit, since only the officials who use them have access to their findings.

### 5.3.4 Irregularities and Lack of Legal Clarity in the Regulation of Large-Scale Land Concessions

Degraded forests are defined in the Forestry Sector 2020 document and the 2007 Forestry Law (MAF, 2007) as:

“...forests that have been heavily damaged, to the extent they are without forest or barren, that are classified for tree planting and/or allocation to individuals or organizations for tree planting, permanent agriculture and livestock production or other purposes in accordance with national economic development plans.”

The World Bank (2010: 11) provides the following GoL working definition for “forest cover” as submitted to the UNFCC:

- Minimum 20% crown cover
- Minimum 0.5 hectares
- Minimum 5 meter tree height
- Palm trees and bamboo considered not forest

Yet various loopholes still exist in the Forestry Law around the definition of degraded forest. In addition to the above ecological parameters, degraded forest can also be decided through administrative procedures, so that it becomes simply those lands which are classified by the state as ‘degraded’ and available for tree planting.<sup>13</sup> This issue is crucial because degraded forest (and swidden forest) constitute the territories which can be made available for agri-business concessions. The fundamental issue at stake, which persists in recent revisions in the Lao legal framework, is between forest-land classifications based on legal (cadastral) definitions, versus forest-land classifications based on qualities of the vegetation cover, versus local definitions based upon histories of customary use and management (Peluso and Vandergeest, 2001). Loopholes in the legal framework obscure the legal status of land concessions, and open the door to discretionary political intervention. In addition, the actual local monitoring of the practical definition of ‘degraded forest’

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<sup>13</sup> The Lao Forestry Law (2007) Article 3.8, states: “*Degraded forest* is forest areas that have been heavily damaged such as land without forest or barren forestland, which are allocated for tree planting, permanent agro-silvo-pastoral production, or for other purposes in accordance with the socio-economic development plans.” Article 3.11: “*Degraded Forestland* is forestland areas where forest has been heavily and continually damaged causing the loss of balance in organic matters, which prevents natural regeneration to become rich forest again.” Article 3.12: “*Barren Forestland* is forestland areas without trees caused by natural or human destruction.”

The Stora-Enso plantation project in southern Laos uses an ecological definition benchmark of degraded forest as forestland with less than 30 cubic meters of standing timber per hectare, consisting of tree species of more than 15 cm DBH (personal communication, 2010). Oji Paper follows a standard for degraded forest as those areas with less than 20m<sup>3</sup> of standing timber per hectare, but the extent of crown cover and tree height is also taken into consideration. According to the informant from Oji Paper, the practical legal definitions for degraded forest in Laos are not sufficiently clear (Interview, June 9, 2010). An adequate legal definition would also distinguish what degraded forest means in different eco-zones within the country (e.g., in dry dipterocarp forest, lowland evergreen forest, upland pine forest, etc.)

in land concession establishment is typically lacking, as district authorities in Laos do not have the resources to provide effective regulation over concessionaires.

In terms of the implications of these issues involving land tenure and agribusiness concessions for legality verification, it is likely not possible, at the current time in Laos, to clearly verify the legality of plantation timber produced from land concessions, unless the private investor is willing to provide an uncommon amount of transparency and documentation concerning how they have actually gone about securing concession land and how they have differentiated concession land from village land, (for example, as would be required under the FSC certification process). The existing legal code requires a tightening of the physical/ecological definitions used in forest-land zoning and improved participatory/downward accountability mechanisms to address the issue of purely discretionary political intervention in the zoning process.

## 5.4 Initiatives to Promote Verified Legal or Certified Supply of Timber

**Rainforest Alliance Verification of Legal Origin Standard:** Despite the difficulties due to the complexities and loopholes of the Lao legal and regulatory framework, Rainforest Alliance's Smartwood has released a Standard for Verification of Legal Origin (VLO)

**Forest Stewardship Council Certification:** As part of the project loan and grant facility, the Lao government agreed to a fixed timetable for achieving Forest Stewardship Council (FSC) certification of at least 60,000 hectares in the former FOMACOP sites (now part of the SUFORD area).

The annual volumes of timber currently produced out of the original SUFORD PFAs represent approximately 20,000 to 30,000 m<sup>3</sup> roundwood per year. Approximately 3,000 to 7,000 m<sup>3</sup> per year of this SUFORD timber volume is certified by the Forest Stewardship Council, drawn from one certified PFA in Khammouane, and one in Savannakhet. With additional PFAs being incorporated into PSFM through the SUFORD-AF project, the overall volumes of PSFM timber are projected to increase to about 50,000 m<sup>3</sup> per year (Puustjarvi, 2007).

**Chain of Custody:** Certification of wood-processing factories in Laos, that could utilize FSC timber, is being pursued with support from the WWF Global Forest Trade Network and The Forest Trust.

A major hurdle in the sale of certified logs has been at the transfer point of sale from the DOF, the certified entity, to the MoIC, which is not certified, thus breaking the COC. Prime Minister Order's (PMO) No. 25 & 30 explicitly state that DOF are responsible for control of logs until transferred to the buyer, although PMO Order 25 assigns identical responsibilities to both DOF and Provincial Office of Industry and Commerce (POIC). There are doubts that this control is effectively maintained and PMO No. 30 is contradicted by a pre-dated PMO No. 28 (Section 3.3), which specifically assigns responsibility for logs at second landing to POIC. Until this confusion is resolved, there may be difficulty achieving full in CoC in Laos.

Currently, there is only one wood-processing factory in Laos with a CoC certificate. Due to the log export ban, (Prime Minister's Order No 15/PM, 3 August 2001), certified logs cannot be directly exported.

## 6. STAKEHOLDER IDENTIFICATION AND PRELIMINARY ANALYSIS

Despite the Government of Laos' stated commitment to the sustainable management of the nation's forest ecosystems and the forest communities which are dependent upon them, many concerns remain regarding the country's forest management and governance situation. On the whole, land and forests in Laos are open to discretionary intervention by powerful actors, and local communities have had very little political recourse to defend their rights. Land conflicts are a growing problem. The law holds that the State is responsible for determining how land can be used by individuals and organizations, which often conflicts with villagers' notions of their customary rights to determine how land should be used and by whom (GTZ, 2007).

*History of Consultative Processes:* Large-scale natural resource or infrastructure projects supported by major donor programs such as the World Bank have, in the past, been linked with consultation processes. These consultations with local people have extended perhaps above and beyond what the Government would have been comfortable with at the time. The consultations have also been perceived as highly controversial by international observers, particularly the Nam Theun II Power Company Project (NTPC) which triggered the World Bank Groups' Operational Policy on Resettlement, and the Bank's Operational Directive on Indigenous Peoples. There are significant political constraints and power imbalances between local people and the upper levels of the state, based upon structures of political power which extend back to the founding of the Communist Lao People's Democratic Republic in 1975. For peasant villagers to voice direct criticism of major government development initiatives in a state-organized consultation forum would be extremely unusual, if not dangerous. In this authoritarian/paternalist political regime, the concept of civil society advocacy on behalf of the interests of the rural poor is difficult to discuss openly.

The Government of Laos is however experimenting with reforms. Formalized/NGO-based Lao civil society is slowly expanding, and there are an increasing number of domestic organizations applying for Non-Profit Association (NPA) status. In addition, some government agencies, such as the National Land Management Authority, are actively working with NGOs and gaining knowledge and capacity from joint collaborations with international civil society around land management issues. The Government of Laos is increasingly aware of the need for a more equitable and sustainable land management framework, and is developing policies which are aimed at improving upon previous policy constraints and shortcomings. While significant progress has been made in improving land management, overall reforms in the forest and resources sector remain halting. For example, dozens of large-scale hydropower projects are moving forward at a time when social and environmental regulatory capacity is still very weak.

The major issues that appeared to arise from the World Bank consultation processes in Lao PDR have centered around two related critiques: consultation as a guise (manipulation to cover the gap between policy and implementation) and as an imposition (legitimization of decisions already made) (Singh, 2009). While the NT2 project consultations concerned direct project-based impacts rather than more indirect consultations on policy development, a few of the key issues raised during the NT2 consultations are still relevant for potential FLEGT processes in Laos:

- difficulties in enabling local peoples to be involved in consultation processes that are separate or at arm's length from official, government-sanctioned frameworks and forums
- limits on the ability for stakeholder processes to have free and open access to villagers and in creating safe and comfortable environments for villagers to state opinions;
- the restrictive manner in which project externalities were considered during the stakeholder consultations (e.g., in the case of NT2, excluding large numbers of downstream communities).

On the positive side, even many NGOs who were critical of the NT2 project suggested that the World Bank's consultation exercises opened up spaces for dialogue, and increased the overall transparency of the project, as compared to hydropower projects developed in the absence of World Bank operational safeguards and policies. Yet, critics point to the lack of uptake of participatory and environmental safeguards by other non-World Bank-supported hydropower projects, subsequent to the NT2 experience. Lessons learned from these processes, particularly as they relate to the consultation and engagement with ethnic minority groups, will be relevant for any future consultative process in Laos.

In the next few years, several major donor supported programs in the natural resource sector, particularly REDD, will likely be developed with intense efforts at ensuring adequate stakeholder consultation and engagement. For any FLEGT-related stakeholder engagement process, this will present either an opportunity for collaboration and complementarities, or potential for duplication, diversion and confusion. Key processes may include, *inter alia*:

- The World Bank's Forest Carbon Partnership Facility Laos program. The Draft Lao PDR Readiness Preparation Proposal (R-PP) includes a framework for a Stakeholder Participation and Consultation Plan (SPCP)
- World Bank's Forest Investment Program (FIP) includes Laos as a pilot country. Potential activities suggested by the FIP Expert Group in March 2010 included a process for civil society engagement and Indigenous Peoples Organizations (IPOs) to develop a national approach for ethnic communities<sup>14</sup> engagement in REDD+ activities
- REDD National Task Force which could provide an organizational focus for forest governance related issues (and could develop a dedicated REDD-FLEGT sub-working group)

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<sup>14</sup> Note that the term "indigenous peoples" is not commonly used in Lao PDR. The official term used is 'ethnic minorities'.

In addition, the Laos Forest Strategy 2020 (FS 2020), which guides forestry development in the country and developed with assistance from donor programs, aims to provide a platform for an integrated foundation and multi-stakeholder process for forestry development.

## 6.1 Detailed Stakeholder Identification

In Laos, there is a highly complex array of institutional structures and lines of authority, which influence how resources and forest-lands in the country are currently governed, and how market liberalization and state policy reforms are proceeding. The key domestic and international institutional actors are examined below.

### CIVIL SOCIETY

Civil society organization on land and forest issues in Laos lags behind what can be observed in Thailand and Cambodia, and there is no independent domestic media. Political dissent of even the most limited kind (e.g., critical political study groups, small peaceful public demonstrations) has in the past been suppressed by the Lao state. Consultative processes fostered by major donor programs such as the World Bank have arguably been a step forward, but have themselves been subject to intense criticism from external observers. However, the opportunities for public debate on land issues are growing – with policy dialogues on land governance occurring in the National Assembly. The National Land Management Authority is also seeking feedback from civil society groups on forest-land governance issues, and is organizing regional study tours for its members to countries including China.

*The Political Space for Consultative Processes:* A recent 2009 Decree (No. 115/PM) on Non-Profit Associations (NPAs) has opened the door for domestic civil society groups to become involved in resource management issues in Laos. Some see this as a cautious release on restrictions to the development of civil society in Laos (following similar reforms in Vietnam). Most observers, however, still view the space for civil society in Laos to be quite constrained (the establishment of NPAs is still subject to approval from the GoL).

Notwithstanding, the difficulties of trying to ensure representation of dozens of different ethnic groups present in Laos, effective dialogue and networking are hampered by language and cultural issues, as well as structural patterns of discrimination against ethnic minorities in Lao society. Civil society groups are still “testing the waters” of Government acceptance of advocacy and civil society organization. Many, though not all, international NGOs tend towards constraint in any directly critical approach to land and resource sector issues in Laos, as they fear a compromising of their working relationships, and a potential withdrawal of their MoU with the GoL. Quite rarely has the latter actually occurred (although a collective forum of international NGOs was banned by the GoL in 1998, after it raised criticisms of the NT2 project).

### Ethnic Minorities

There are at least 240 different ethnic groups in Laos, classified into four different language groups: Lao Tai, Mon-Khmer, Chinese-Tibetan and Hmong-Mien. Most ethnic minorities live in the rugged mountains that cover around 79 percent of the country. In reality, however, ethnic identities

in Laos are both fluid and relational, and impossible to define in any objective manner. The ethnic Lao dominate the country both politically and economically.

Livelihood systems in rural areas range from swidden farming, wet-rice farming, the collection of non-timber forest products for trade, fishing, animal husbandry, hunting wildlife, etc. Cash crop production is increasingly prevalent through large-scale projects and smallholder entrepreneurialism. Urban or cross border labor market migration is also increasingly common, and is now a major source of financial remittances to rural areas. Many communities, especially in more remote upland areas, still depend to varying degrees on forest products, serving a wide range of subsistence needs and opportunities for income generation.

There are no legal independent collective organizations of ethnic minorities within Laos, outside of government structures. According to some reports, there are still some small pockets of remaining anti-government insurgents, supported by overseas diaspora groups. *The National Assembly* also organizes an Ethnic Groups Committee.

### **Local Communities**

Under the Constitution, the Forestry Law and the Land Law, communities hold various rights to land and local resources. Several donor programs now focus on securing more recognition of customary and common property rights for upland communities through an improved approach to land use planning; experiments with collective land titling; or through improving the understanding and recognition of the existing legal rights to customary land and property as enshrined in the Lao Constitution, and the Forestry and Land Laws (e.g., VFI, 2005; GTZ, 2007; RightsLink Laos project <http://rightslinklao.org/eng/>).

### **National Civil Society Organizations**

NPAs are organized in Laos under the auspices of the National Science Council, facilitated through the Decree on Non-Profit Associations (2009). Since the issuance of the Decree, all NPAs have been requested to re-register with the Lao Government, and this has proved to be a slow process. There is a number of existing registered NPA groups with an interest in forest governance issues, but not as their primary focus. These include the Lao Biodiversity Association, Community Knowledge Support Association, and the Women's Development Association.

In addition, there are a number of other Lao language discussion-based networks which are not registered as NPAs but whose interests are related to forest-land sector issues:

- MIC-MAC (Macro and Micro Economic Linkage): an informal meeting of Lao NGO staff, a Lao language discussion group
- MakPhet is a relatively new group on land issues
- Southern Network

There are other NPA organizations under development that do not yet have a strong program of activities.

## Mass Organizations

Although not strictly NGOs in the usual sense, mass organizations in the Lao PDR participate in development activities and perform some functions of national NGOs in other countries. While closely linked to the Lao People's Revolutionary Party (LPRP), these mass organizations have extensive organizational networks stretching from the top of the party hierarchy down to the village level. To some extent, the mass organizations in the Lao PDR represent, at least in principle, a move from centrally controlled government policy-enforcing bodies to institutions active in traditional civil society.

*The Lao Front for National Construction (LFNC)* is one of five “mass organizations” in Lao PDR. The LFNC is mandated to engage with ethnic minorities in the project of nation-building and promoting development in Laos.

Another key mass organization is the *Lao Women's Union*, which has a membership drawn from the central level down to individual villages.

## International Civil Society Organizations

*Land Issues Working Group (LIWG)*: A number of international NGOs in Laos have formed the Land Issues Working Group as a forum to raise and discuss issues related to land policies and natural resource management issues. Operating as a sub-working group of the INGO Forum, the

LIWG is organized around a common concern regarding villagers' rights to land, raising awareness on land issues and multi-stakeholder conflict resolution processes in Laos. (<http://www.laolandissues.org/about.html>).

*Village Focus International (VFI)*: has forwarded an influential interpretation of Lao land and forestry laws, in arguing the case for increased legal recognition of customary lands in Laos. A current major initiative of VFI is the RightsLink Laos project, organized through MoUs with the NLMA and the GoL, and supported by SDC (Switzerland). Rights Link is aimed at supporting local participation in land management, promoting a better understanding of the legal framework on lands and resource rights in Laos, and building the capacities of local government in addressing land issues, rights and conflicts.

*CIDSE* has been involved in dissemination of legal dissemination to rural communities in Laos through a Village Legal Volunteers program, as an entry point into improved local participation, conflict management, planning and resource governance. A second area of emphasis is upon strengthening local traditional tenure arrangements, through community organizing and the khumban/village cluster scale.

*Japan Volunteer Centre (JVC)*, working in central Laos, is active in land rights issues and participatory land use planning. JVC have been piloting the new PLUP process in association with the NLMA in Savannakhet.



*Global Association for the People and the Environment (GAPE)*: Working primarily in southern Laos, GAPE's purpose are capacity building, community development, environmental conservation and people-centered learning. GAPE is involved in both community-based activities and research.

*WWF* has been involved in work on forest certification and participatory sustainable forest management in Laos. Certification efforts are proceeding through the Global Forest and Trade Network, in association with The Forest Trust. In 2006, WWF's PSFM project in Sekong province was closed early by the provincial government.

*Rainforest Alliance/Smartwood* has been involved in the auditing of FSC forest management certificates associated with the World Bank SUFORD project.

*IUCN* has been involved in project support for the National Protected Areas system in Laos.

*WCS* has focused mainly on protected areas management in Laos, but also upon local forest-based livelihoods for villages located within protected areas.

## **MEDIA**

There is no domestic media in Laos that operates outside of government controls. The state owns all newspapers, television stations, and other broadcast media. Thai television is however ubiquitous in rural areas along the Mekong valley, and, for those few who can afford it, international satellite television is available in the major urban centers. There are attempts by the GoL to monitor the internet, largely in relation to the activities of insurgency groups. According to Freedom House, Lao PDR is listed as amongst the "not free" countries of Asia. In recent years there has been some tentative reporting on provincial level corruption linked to illegal logging in the English language *Vientiane Times*, and there has also been periodic articles written which relate to the issue of land concessions and local tenure conflicts.

## **INDUSTRY**

Laos' domestic entrepreneurial class is still nascent, and the majority of resource sector investment is externally-based. The major foreign investors in Laos are from neighboring countries, led by China, Thailand and Vietnam, and at times these investors will form joint ventures with Lao partners or even the GoL. Foreign investment in Laos is constrained by poor legal protections for investors and a poor record of respect for business contracts. In 2010, the World Bank ranked Laos at the bottom of East Asian and Pacific Countries for 'Ease of Doing Business.' However, the business environment is improving, and some investors suggest that the extent of corruption and problems with doing business in Laos is being overstated in the international rankings. For example, it has been reported that a key problem for investors often relates more to the length of time required for securing official documentations and business licenses from the Lao bureaucracy, rather than corruption (in the form of bribe-seeking by officials) per se.

## Plantations (Rubber, Pulp) and Agribusiness

In the past five to six years, considerable foreign direct investment has moved into Laos' forest-land sector, in the form of agribusiness plantations (rubber, pulp, and other agricultural staples) – and has been another potential source of “special quota” or “conversion” timber. Laos has been able to attract a number of seemingly more reputable multi-nationals into this sector. However, forest-land frontier areas in Laos are still highly unstable from a governance perspective; law and order are short on the ground, and many speculative interests have been staking claims to land in a quasi-legal manner. The rapid increase in plantation projects has highlighted questions about the land allocation process and impacts on rural livelihoods and associated issues relating to the tenure security of rural households.<sup>15</sup> State institutions are currently moving to exert more coordinated and centralized regulatory authority over the land investment process, and, to some extent, improved protections for local communities.

Key foreign investors currently operating in the Lao plantation sector include the following and are either in process or have been proposed:

- Oji Lao Plantation (Japan): 50,000 hectares, US\$ 49 m
- Oji Lao Plantation South (Japan): 30,000 hectares
- CITYLAND Resources (Malaysia): 3,500 hectares, US\$ 11 m
- Daklak Rubber (Vietnam): 10,000 hectares, US\$ 30m
- Viet-Lao Joint Stock Rubber (Vietnam): 10,000 hectares, US\$ 22 m
- Paksong Highland (Thailand): 26,000 hectares, US\$ 8m
- Agarwood Lao Group (Thai/Lao): US\$ 10 m
- Mitr Lao Sugar Co. Ltd. (Thailand): US\$ 22.5 m
- Savannakhet Sugar Corp. (Thailand): US\$ 10 m
- Birla Lao Pulp & Plantations Co. Ltd. (India): 50,000 hectares, US\$ 35 m
- StoraEnso (Sweden/Finland): 35,000 hectares
- Shandong Sun Paper (Saen Taven) (China): 100,000 hectares
- Hoang Anh Attapeu Agriculture Development Company rubber project (Vietnam): 10,000 hectares

In terms of socio-environmental standards in the concession sector, the Stora-Enso pulpwood plantation project has been actively working with the NLMA on meeting (and establishing) Lao legal guidelines and improving the capacities of local land management authorities. Other plantation concessionaires may have met the minimal standard for legality in Laos but have not been working to improve the situation or to meet international best practices. A last grouping of concession operators appear to have taken advantage of the poor governance framework that exists in Laos, using political connections to avoid conducting ESAs, gaining access to village land without proper zoning mechanisms, and securing territory through intimidation, threat, or simply with bulldozers.

The Finland-based Stora-Enso company is a major player in the global forest and paper industry (ranked number 4 in the world, with sales of over US\$16 billion in 2008). The Stora-Enso Laos

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<sup>15</sup> For example, the re-zoning of agricultural and forest land areas by local authorities, reactive land sales by local households, local understanding of the legal concepts of property ownership, etc.

pulpwood plantation project is currently at the trial stage, and is awaiting approval by the company's Board to proceed to the full plantation implementation stage. If this 35,000 hectare project proceeds, it is likely that capital would be raised through international financial markets. The decisions involving this project will thus represent a very interesting test case for understanding the situation with international investment confidence in Laos and in the Government of Lao PDR.

### Infrastructure

The Government of Laos holds joint venture interests in a number of major hydropower, mining and plantation investments – industries with high impact on forest resources. Infrastructure projects are also the source for approximately 80 per cent of the harvested timber in the country, through the special quota on conversion timber. Revenues and royalties from these infrastructure projects are channeled into the Treasury through state-holding companies.

### Wood-Processing Industry

Foreign investment into wood processing is present, but has been constrained by unreliable access to timber, as the Lao government, as well as provincial governments, maintains discretionary powers over the allocation of annual quotas. To date the country has not been able to extend wood processing up the value chain into value-added production, and (despite a log export ban), logs and sawntimber still represent the vast majority of wood exports.

Only a few sawmilling and wood-processing facilities in Laos, such as Luen Fat Hong Plywood Industry Co. in Lak Xao, Bolikhamxai province, could be considered as large scale. Information on the capacity and actual production of individual processing plants and sawmills in Laos is very difficult to secure. A survey of sawmilling capacity and utilization rates, conducted in four southern provinces on behalf of SUFORD in 2005, has not been released into the public domain. A listing of some of the larger-scale facilities is included in MAF, DoF SUFORD (2009), although little specific data is presented.

**Table 6: Partial Listing of Large-Scale Wood-Processing Industries in Lao PDR (2009)**

Company	Location	Product	Species
Lao Furniture Industry Factory	Vientiane	Furniture & flooring	Keruing, Balau, Teak & Lagerstroemia
Asia International Co.	Champasak	Flooring, decking & ceilings	Keruing & Yellow Balau
Km 14 Manufacturing	Savannakhet	Flooring & parquet	Any species
Phonesack Group	Khammouane	Flooring	Any species
Luen Fat Hong	Khammouane	Plywood	Keruing, Mersawa, Mai Si, Vatica & Sindora

Source: MAF, DoF SUFORD, 2009.

Vongvisouk and Khamphilavong (2008: 17) also list some of the larger wood flooring companies in the Vientiane area.

**Table 7: Partial Listing of Wood Flooring Companies in Vientiane Area (2008)**

Factory Ranking	Focus of Production	Income (US\$)
Mae Nam Kong	Flooring	2,281,725
1 May	Flooring	1,236,671
Vang Arb Sang	Semi-furniture and flooring	794,917
Cheng Savang	Flooring	585,200
Xaiseng	Finished furniture (Khob Houb)	400,000
No.1	Flooring	116,456
Lao-Igeto	Flooring	No data
SMP Enterprises	Finished furniture (Furniture for show)	No data
Challenge	Finished furniture	No data
Khounta	Flooring	No data

Source: *Vongvisouk and Khamphilavong, 2008*

Three remaining state-owned enterprises are said to still operate in wood processing industry, although little information is available on these entities. In many cases the ownership of wood processing companies in Laos is foreign but the company is listed under a Lao partner (To Xuan Phuc, 2009). Joint ventures between the GoL and foreign investors are common for larger scale mills (Southavilay, 2008).

See <http://laoyv.com/construction/wood-products/> for a listing of Lao wood companies that maintain a website or web link.

*National Wood Processing Industry Association* was established with PM Decree 17 (2008). Timber sales from competitive bidding procedures are increasingly to flow into this group of about 100 approved wood processing companies. *The National Chamber of Commerce and Trade* has been given the managerial and supervisory function to ensure that this is carried out (RIET, 2009).

There are two industry associations in Laos related to the forestry sector: the Lao Tree Plantation and Cash Crop Business Owners Association; and the Lao Wood Furniture Association.

At this time, there is one FSC-certified wood furniture producer in Laos: the *Lao Furniture Industry Co.* A number of additional wood processors are also seeking FSC CoC certification.

## DONOR AGENCIES

Donor agencies provide significant support to the country's budgetary position in key sectors such as health, education, forest-land management and rural extension. Development banks are in certain cases involved in the oversight of resource sector revenues (e.g., World Bank and NT2 revenues, managed through the Lao Poverty Reduction Fund). The World Bank has also supported infrastructure projects which have been associated with significant levels of "conversion timber" (e.g., NT2).

*The World Bank* is a key donor agency in the Lao resource sector. In forestry, the World Bank has been the driving force behind the FOMACOP, SUFORD and SUFORD AF (Additional Financing) projects, which seek to implement a regime of sustainable forest management in Laos. SUFORD AF includes support for Participatory Sustainable Forest Management (PSFM) over more than 1.3 million hectares of natural production forests including supporting the improvement of policies related to forest management, benefit sharing, transparent timber sales, and industry structuring. The project further helps to establish monitoring, forest management control, independent forest certification, and forest law enforcement. The World Bank has also been a major donor behind the two Lao Land Titling projects, which were managed through the Department of Lands (formerly under the Finance Ministry, now under the NLMA).

The World Bank's Forest Investment Program (FIP) includes Laos as a pilot country. Potential activities suggested by the FIP Expert Group in March 2010 included a process for civil society engagement and Indigenous Peoples Organizations (IPOs)<sup>16</sup> to develop a national approach for IP engagement in REDD+ activities. The Government of Laos has expressed interest in support from the FIP for improved land/forest zoning, forest management, law enforcement and governance, and promotion of alternative livelihood options. These are important issues to be tackled in Lao PDR as they all contribute to various problem in the forestry sector as well as several other sectors, e.g., land conflict, illegal timber trade across the border, shortened period of fallow and corruption – all issues which underscore the links between FLEGT and REDD-related programs.

*Asian Development Bank (ADB):* The ADB's involvement in Lao forestry and lands sector has been most significant in the (controversial) Industrial Tree Plantation Project (1993-2003). In 2006, an extension of this plantation promotion initiative, in the form of a proposed Forest Plantation Development Project, was approved by the ADB Board of Governors but did not pass the Government of Laos' approval process. This was likely over GoL concerns regarding the ADB's proposal for the establishment of an independently managed, profit-oriented, 'Lao Plantation Authority' which would be responsible for managing the plantation sector. This model for forest plantation promotion and regulation has since been dropped, and the NLMA has emerged as the key regulator of the land concession process.

The ADB's major current work in the area of forest-land governance in Laos has been in the form of the 'Sustainable Natural Resource Management and Productivity Enhancement Project', which is operating in five southern provinces.

Since 2008, the ADB has also been supporting Lao PDR with the preparation of a national strategy and action plan on climate change.

GTZ has been particularly involved in land policy, land sector regulation and reform in Laos, and the development of REDD+, although focusing primarily on protected areas. GTZ also supports the *Forest Sector Strategy 2020* implementation.

JICA has been active in forestry sector policy reform issues and has been moving forward with the REDD process in Laos. JICA is also a primary supporter of the *Forestry Sector Strategy 2020* implementation process.

FINNIDA has been active through support, with the World Bank, of the FOMACOP and SUFORD /AF programs.

*Other donor programs:* The focus for a number of donor institutions is now upon securing more recognition of customary and common property rights for upland communities through an improved approach to land use planning; experiments with collective land titling; or through improving the understanding and recognition of the existing legal rights to customary land and property as enshrined in the Lao Constitution, and the Forestry and Land Laws (e.g., VFI, 2005; GTZ, 2007).

## GOVERNMENT

Resource sector reforms have been halting, and constrained by the institutionally weak, fiscally under-funded, and ineffective organization of the Lao bureaucracy. There is also considerable disconnect between central administrative policy formulation, and its actual implementation in rural areas, in the context of a state in which military, provincial and even district level authorities can maintain considerable independent power. Arguably, provincial administrations in Laos continue to be the “virtual fiefdoms of powerful province governors” (Stuart-Fox, 2006), although at times the central Lao state has entered into investment agreements which are apparently in contradiction with provincial policies (e.g., the efforts by three northern provinces of Luang Namtha, Bokeo and Oudomxai to promote only smallholder-based rubber development has seemingly been undermined by centrally-allocated large scale concessions).

The creation of new institutions and recent reforms involving forestry and land law can be understood in part as a response by the GoL to growing problems with land conflicts, and recognition of previous policy constraints around land registration and allocation.

In Laos, strongly vertical and non-transparent political administrative structures, and a loosely regulated, frontier style of investment and enterprise development, combine to produce an embedded culture of official rent seeking. In contrast to neighbouring Cambodia, however, state institutions in Laos are not dominated by a domestic “rentier class” controlling and directing top decision-making. To date the members of the powerful Lao Politburo and their networks have not formed into an identifiable, rent-seeking or rent-seizing class.<sup>17</sup> In post-war Laos, politically powerful families, while forming the basis of the national elite, have not typically used their position to secure direct shareholdings in key business conglomerates, although this is changing. Patron-client mechanisms, while embedded and quite powerful, do not serve as a ‘conveyor belt’ to funnel financial resources up to the highest levels.

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<sup>17</sup> See Ross (2001) on rent-seeking and rent-seizing in Southeast Asia’s timber sector.

*Military:* In comparison with Cambodia, the Lao military is more disciplined by the central government, and is not involved to as great a degree in their own resource development interests, or in protecting the interests of powerful patrons. Although widely noted as the most powerful actor in Lao forestry through in the 1990s, it is difficult to confirm the extent to which any military-linked resource control remains in place in the southern forest-rich border regions. Based on interviews with forestry officials, Hodgdon (2008: 7) writes that: “Though over the past five years, military companies have become less powerful than they were in the 1990s, the Army still controls all logging and forestry related activities in the border zones, often in joint operations with the Vietnamese military.” However, in their recent studies of the southern Laos timber trade, To Xuan Phuc (2009) and Baird (2010a) do not emphasize the role of Lao or Vietnamese military units in logging operations. For northern Laos, Shi (2008) provides information that at least three large-scale Chinese-backed rubber concession ventures in Luang Nam Tha have linkages to provincial Lao military units.

### **Forest Governance-Framing Agencies**

*The Politburo and the Lao People’s Revolutionary Party:* Significant official power is concentrated in the eleven-member central Politburo, elected by the members of the Central Committee of the Lao People’s Revolutionary Party (LPRP). Almost by definition, to be a member of the Lao government, is also to be a member of the LPRP. Acceptance into the LPRP often represents an opportunity for professional advancement, wealth and prestige. If one wishes to secure higher administrative positions in the public service or with public agencies in Laos, Party membership is almost a requirement. At the present time, 6 out of the 11 Politburo members are drawn from the military. Almost all of the Lao political leadership has received their training in Vietnam.

*The Prime Minister’s Office (PMO)* serves as a staff support group and as a close aide to the Prime Minister, co-coordinating and studying various issues related to the collective work of the government related to the administration and state management of Lao PDR. In the forestry sector, the function of the PMO includes overseeing all directive guidelines for the development and the exploitation of the wood processing industry (RIET, 2009).

The current Prime Minister of Laos, Bouasone Bouphavanh,<sup>18</sup> is said to represent a political leaning towards China as opposed to the traditional political patron—Vietnam. The current Deputy Prime Minister is also Minister of National Defence (Major-General Douangchay Phichit).

In the resource sector, the PMO houses a number of key agencies:

- National Land Management Agency (see below)
- Water Resources and Environment Agency
- National Audit Office:
  - With respect to forestry, the Auditor General carries out an auditing of annual timber sales and royalty collection, as part of the overall annual government audit (SUFORD, 2010). The Auditor General reports to the Prime Minister and the National Assembly.

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<sup>18</sup> Bousaone stepped down/was relieved of his PM duties in late December 2010.

*Ministry of Finance (MoF)* is responsible for channeling the revenue from the sales of the timber and forest products into the national treasury. The MoF also controls disbursements of the government budget to various ministries and agencies. In the natural resources sector, the MoF houses the *Customs Department*, which regulates the flow of imports and exports at some 17 international checkpoints, and is responsible for collecting export and import taxes and fees. The Customs Department assumes controls over timber at the border zone exporting stage. The Lao Customs service maintains a general MoU with neighboring countries regarding general trading, especially for controlling contraband commodities. However the Lao MOUs with Vietnam, Thailand and China are not specific for timber trade regulation.

*Ministry of National Defense:* Lao industrial conglomerates associated with the Lao military (AFD, BPKP and DAFI) played an important role in the Lao logging industry in the 1990s, until their financial insolvency and restructuring. The current Minister of National Defense is Major-General Douangchay Phichit, who is also a Deputy Prime Minister.

*National Assembly (NA):* In recent years, members of the National Assembly have been active on land issues, and have examined the question of state land lease fees from concession agreements signed with investors. The NA has been playing an increasingly assertive role around the issue of land rights and concession agreements.

*Ministry of Justice:* At this time, Laos does not have a constitutional court—the forum in which the consistency between the constitution and legislation may be tested and debated. As Stuart–Fox (2006: 70) notes, “*Even in the Ministry of Justice and among the few professional lawyers, knowledge of the new laws and their application is sketchy...*” Some NGOs such as Village Focus International are developing innovative, mobile community legal information teams, to educate villagers (and rural officials) about the rights and responsibilities of communities regarding land, forests and resource management under Lao law.

**Supreme Court and People’s Court System:** Stuart–Fox (2006: 70) writes: “Whether or not a law is constitutional or an interpretation valid is decided by the Standing Committee of the National Assembly [NA], comprising the president and vice-president, plus the presidents of the six NA commissions. In other words, it is decided by the Party.” The independence of the People’s Court system is compromised in that all judges, at all levels, are appointed by the Standing Committee of the National Assembly, whose members are all members of the Lao People’s Revolutionary Party. Thus, the Party effectively controls appointment of the judiciary.

### **Forest-Land Policy and Management Agencies**

The following includes a list of key institutional actors with direct management responsibilities over forest-land and timber resources.

*Ministry of Agriculture and Forestry (MAF):* The mandate of the MAF is to direct and oversee the implementation of forest development, and the protection, exploitation and management of all jurisdictional forest-lands. The MAF governs the management of

- National Production Forest Areas,
- National Conservation Forest and
- National Protection Forests

In terms of timber commodity and supply chains, the MAF's jurisdiction over natural forest timber ends where and when harvested trees are transferred to the second landing (RIET, 2009), after which the Ministry of Industry and Commerce assumes legal control.<sup>19</sup>

Currently, there is institutional jockeying between the MAF and the National Land Management Agency in the Prime Minister's Office over which agency will control 'degraded' forest lands, and thus the revenues coming from the forest-land concessions system and land lease agreements.

The MAF houses a number of key agencies:

- *Department of Forestry (DOF)*, along with NAFES, through their line offices at provincial and district levels, was responsible for implementation of land use planning and land allocation under the previous Land and Forest Allocation System. The current framework of Participatory Land Use Planning (PLUP) is being implemented through the provincial and district levels of DoF and the NLMA. DoF, through its provincial and district lines, manages the key jurisdictional state forests. DoF is the lead agency in FSC certification through PSFM forest management and houses the World Bank SUFORD project.
- *Department of Forest Inspection (DoFI)*: The DoFI has been given wide-ranging powers to inspect all aspects of the timber trade, including logging, wood processing, and wood export operations. The separation of inspection from management responsibilities in the timber trade is a key policy move by the GoL to address embedded corruption and rent-seeking in the Lao forestry sector. In general however, DoFI is underfunded, and is still organizing and training their staff.

*Ministry of Industry and Commerce (MoIC)*: In a major regulatory overhaul of the timber trade, in 2008, through a Prime Ministerial Decree (17/PM 2008), governing authority associated with sawmills, wood processing, and the export timber, was shifted from the Department of Forestry to the Ministry of Industry and Commerce (MoIC). After the second landing, and up to the border export zone, timber control responsibilities are now housed under the MoIC. The MoIC regulates the "transparent, competitive method for sale of harvested timber to wood-processing factories and parties with business license issued by relevant authorities" (SUFORD, 2010: 13).

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<sup>19</sup> Baird (2010a: 7) explains the first, second and third landing system: "Once logs have been harvested, they are moved from the first landing in the forest ('*sanam 1*') to a log storage site for that particular logging operation, called the second landing ('*sanam 2*'). Here, forestry officials record the quantities and species of logs, and ensure that this inventory coincides with the authorized logging quota. Officials then mark the approved wood, which can subsequently be legally transferred to sawmills and factories (called third landing, or '*sanam 3*') for processing once government royalties have been paid. These fees are based on the quantity and species of wood inventoried at the second landing."

However, the MoIC currently appears to lack skilled field staff with the ability to identify species and measure logs. In many districts the DoF still maintains significant *de facto* regulatory control (Baird, 2010a)

*National Land Management Agency (NLMA)*: The creation of the NLMA within the Prime Minister's Office in 2004, and recent reforms involving forest law can be understood in part as a state response to growing problems with land conflicts, and previous policy constraints around land registration and allocation. Responsibilities of the NLMA are for establishing land policy, and forwarding a national program of land use planning, and land administration.

The NLMA is headed by General Kham Ouane Boupna,<sup>20</sup> former Supreme Commander of the Patriotic Neutralist Forces in Northern Laos, and is reportedly one of the few non-Party members in the upper levels of the Lao state. Boupna is a Minister in the Office of the Prime Minister.

Within the NLMA, several important agencies responsible for forest or land management exist:

- *Department of Lands*: Formerly housed under the Ministry of Finance, where it was the implementing agency for the World Bank/AusAID-funded Lao Land Titling Project II (LLTP II, 2003-2009). The DoL was transferred to the NLMA in 2006. The focus of both LLTP I and II was upon issuing titles, resolving land disputes, registering transactions and the general task of establishing a cadastral land administration system. The focus of titling however remained upon urban and peri-urban areas, and land titling was never extended into rural areas or linked with the MAF's Land and Forest Allocation Program. As a result, there are very few permanent titles to land in rural areas of Laos, even as large scale concessions flood the country with new investor claims.
- *Department of National Land Use Planning and Development (DoNLUPAD)*: Responsible for planning in conservation, management and use of land, water and other natural resources.
- *Department of State Assets (DSA)*: Responsible for registering of state assets, including those held in land and property. The DSA is responsible for administering all state lands, other than that which is controlled by other Ministries. The provincial level of the DSA is responsible for collection of natural resource taxes from investment companies leasing state land.
- *Legal Division*: The Legal Division of the NLMA conducts land valuations for the purpose of tax assessments.

*Water Resources and Environment Administration (WREA) (formerly the Science, Technology and Environment Agency)*: Responsible for implementing and regulating the social and environmental impact assessments process in Laos. The WREA maintains provincial offices as well as a

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<sup>20</sup> Boupna has also served in numerous positions in the post-1975 Lao PDR government, as a Vice-Minister of Defense, Vice-Minister of Agriculture, and Vice-Minister of Industry, and from 1992-1998, as Minister of Justice.

headquarters in Vientiane. With respect to ESIA and concession investment projects, Article 11 of the PM Decree No. 135 indicates that: “Anyone who wants to lease state land must create a business feasibility study and a social and environmental impact assessment certified by the concerned sectors.” It is still unclear however if there are area-based or investment size thresholds which would necessarily trigger an ESIA for a land concession project. In any case, many concession projects have proceeded into the implementation phase without any apparent submission of an ESIA document (e.g., the 50,000-ha Birla Lao Pulp & Plantations Co. Ltd. in Savannakhet; and the 10,000 ha Hoang Anh Attapeu Agriculture Development Company rubber project in Attapeu). Other large-scale concession projects, for example the 50,000 ha Oji-Lao Plantation Forestry Ltd. (LPFL) project, technically secured their concession agreement before the 1999 creation of STEAWREA—and thus appear to have been exempt from the requirement to conduct an ESIA prior to initiation of the project. The Lao Water Resources and Environment Administration is currently headed by Mdme. Khempeng Pholsena, a Minister to the Prime Minister’s Office. Pholsena was a former vice-president for the Lao Committee for Planning and Cooperation, and in 2004 was the first woman appointed as a vice-president at the Asian Development Bank.

### **Provincial Administrations**

Provincial as well as district authorities are given the rights to be involved in the whole process of timber harvesting and sale, “... *including forest protection, development and exploitation as well as in the improvement of wood processing factories operated within their provincial or district boundary*” (RIET, 2009). Provincial governors have often held relative autonomy to pursue their own trading and investment programs, which have become very important in border areas (e.g., southern Laos borders with Vietnam). The allocation of logging quotas has been a source of tension between central and provincial governments for decades, with relative powers shifting back and forth. A key determinant of central-local relations is linked to how current, large-scale resource sector projects, especially in mining and in hydropower, concentrate significant revenue streams directly into the national treasury in Vientiane. This provides the central government with increasing financial power, and thus political leverage, over provincial and local governments in Laos. Forest logging is one of the ‘traditional’ resource sectors in Laos, which the central government has difficulty controlling, and is thus a key way for provincial governments to make up for budget shortfalls within the Lao federal system.

### **District Administrations**

The District Agriculture and Forestry Offices were responsible for carrying out land use planning and land allocation devised through the previous land policy program—the LFAP. Responsibilities for implementing the new land reform program—participatory land use planning (PLUP), are now shared between the District Land Management Agency (DLMA) and the District Agriculture and Forestry Office (DAFO). Even district level Governors still wield considerable local political power in Laos, and the central DoFI noted that ‘political considerations’ involving provincial and local governments continued to be a primary challenge in their work (Interview, DoFI, June 8, 2010).

### **Village Administrations**

Elected by popular vote from a list of state-approved candidates, the village leader (*nai ban*) is both the primary representative of the Lao state in the village, and an important representative of villagers' interests to the state. Most, though not all, village headmen are Party members. Today there is some momentum towards re-introducing inter-village, sub district organizations (*khum-ban*) or village associations, which are especially associated with new models of agricultural extension and land use planning reforms.

The approval of the village leader is required for any sale, lease or mortgage of land which falls within a village. Village leaders and a village land committee are also involved in the PLUP zoning programs.

## **RESEARCH AND EXTENSION AGENCIES**

*National Agriculture and Forestry Research Institute (NAFRI)*: A technical department under the MAF, NAFRI is “mandated to undertake integrated agriculture, forestry and fisheries research in order to provide technical information, norms and results which help to formulate strategy in accordance with the government policies.” (see [www.nafri.org.la](http://www.nafri.org.la)).

*National Agriculture and Forestry Extension Service (NAFES)*: NAFES is the primary agricultural extension unit in Laos. In terms of land and forest policy, NAFES was an implementing agency for the previous system of land use planning under the Land and Forest Allocation Program. It was widely noted that NAFES was unable to effectively implement the final steps of the LFAP—extension assistance to local communities to help with a transition to commercial livelihoods, and this became a key pitfall with the agricultural intensification efforts which underpinned land zoning policies. Overall, effective and market-linked agricultural extension has been a key hurdle in promoting agricultural intensification in Laos.

*National University of Laos (NUOL)*: NUOL has a broad mandate to conduct scholarly and applied research on land and forest management issues in Laos, and to inform government policies on these issues. The Faculty of Forestry and Faculty of Environment at NUOL holds the mandate to conduct research that can inform the functioning and decisions of the National Assembly around forest-land sector management issues. This represents a potentially important role for NUOL, which might help to broaden the basis for downward accountability in natural resource policy in Laos.

## **SOCIALIST REPUBLIC OF VIETNAM**

Vietnam and Laos share a border of more than 2,000 km and have long had a close relationship. In the first half of the 2008-2009 fiscal year, Vietnam became the top investor in Lao with 32 new projects totaling approximately US\$1 billion, surpassing even China and Thailand (Lao New Agency, 2009). The focus of Vietnamese investments has been in hydro-power projects (accounting for 55% of all amount invested), cash crop plantation (29%), as well as food processing and mining (The Gioi Vietnam, 2008). Most of these projects are located in central and southern Laos.

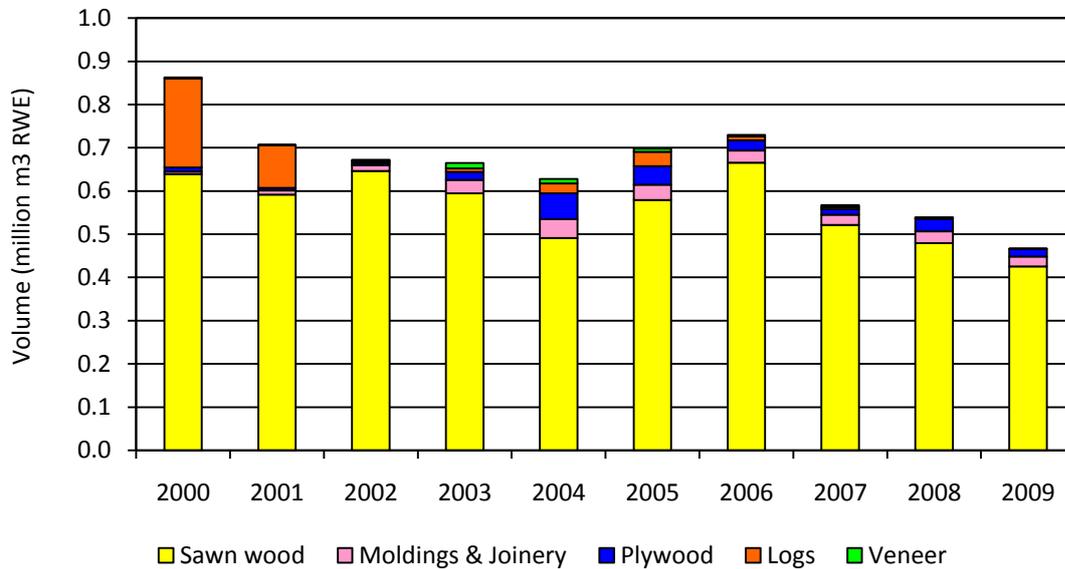


With approximately 11 million hectares of forest, Laos also serves as an important supplier of timber for Vietnam's wood industry.

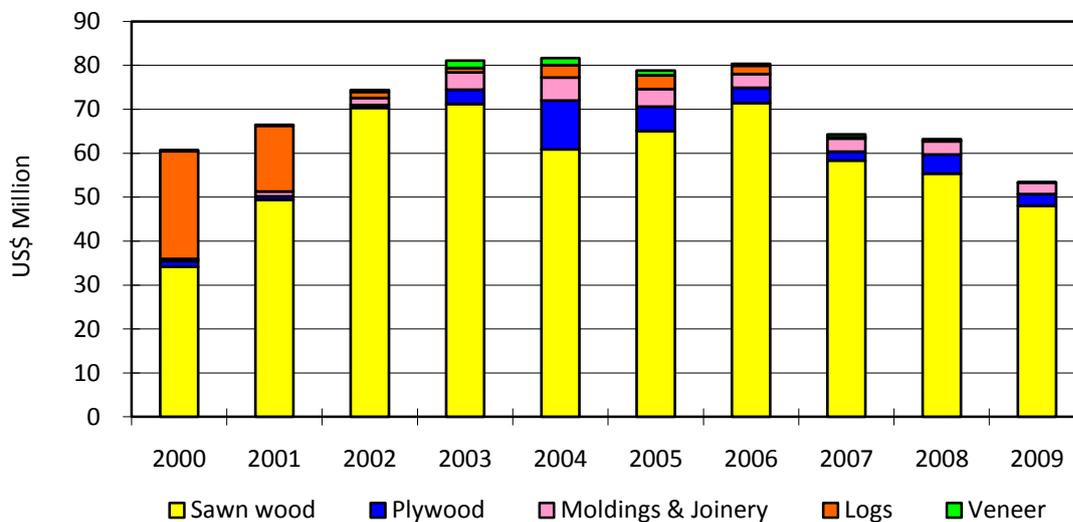
Within Laos itself, Vietnamese firms and a Vietnamese labor force play an important role in the logging, processing and export processes. Lao timber is often bartered in exchange for official Vietnamese development support or for official debt-repayment purposes. Special permits, such as the "debt repayment" and "development permits," are often used in Vietnam-Laos timber trade. The majority of Laos' log exports flow to Vietnam, presumably via these special exemptions to the Lao export ban. In both Vietnam and Laos, provincial governors are given relative autonomy to pursue their own trading and investment partnerships.

## ANNEX 1. DETAILED WOOD PRODUCT TRADE CHARTS

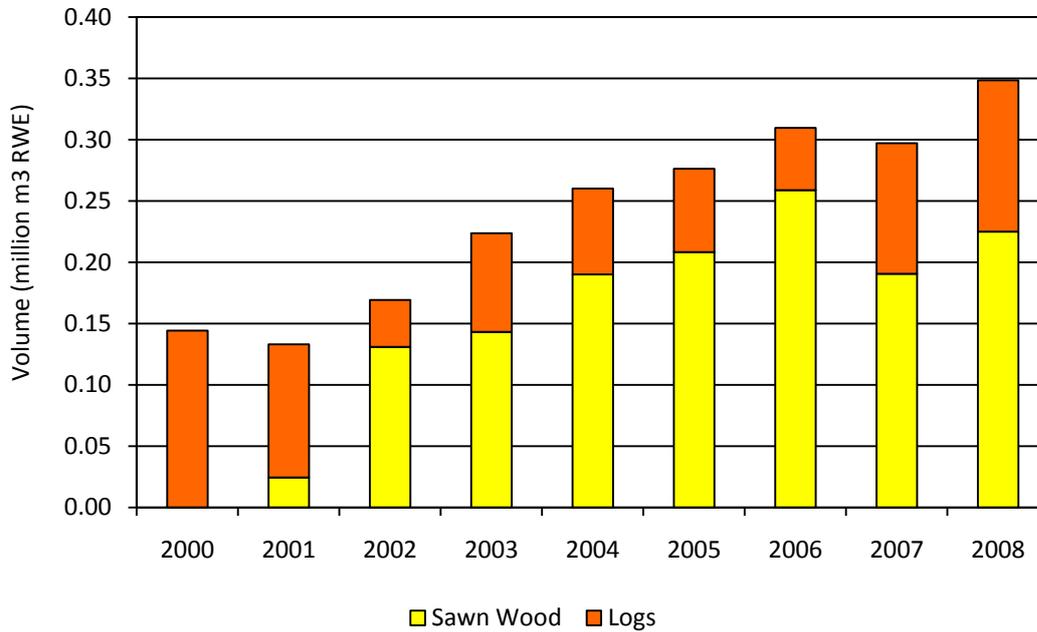
### Lao Wood Product Exports to Thailand by Product (million cubic meters RWE)



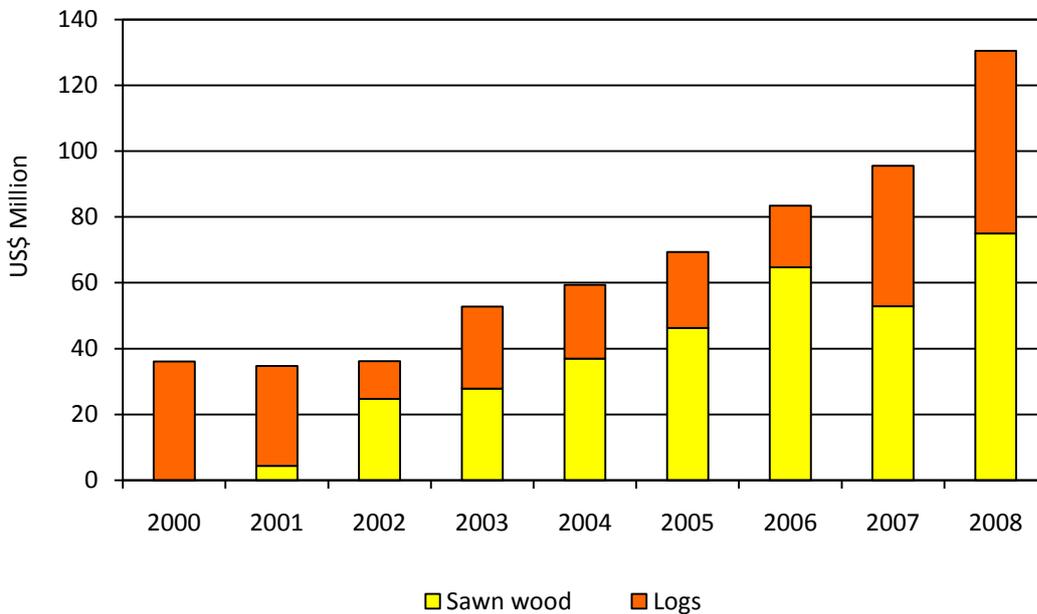
### Lao Wood Product Exports to Thailand by Product (US\$ Million)



### Lao Wood Product Exports to Vietnam by Product (million cubic meters RWE)



### Lao Wood Product Exports to Vietnam by Product (US\$ million)

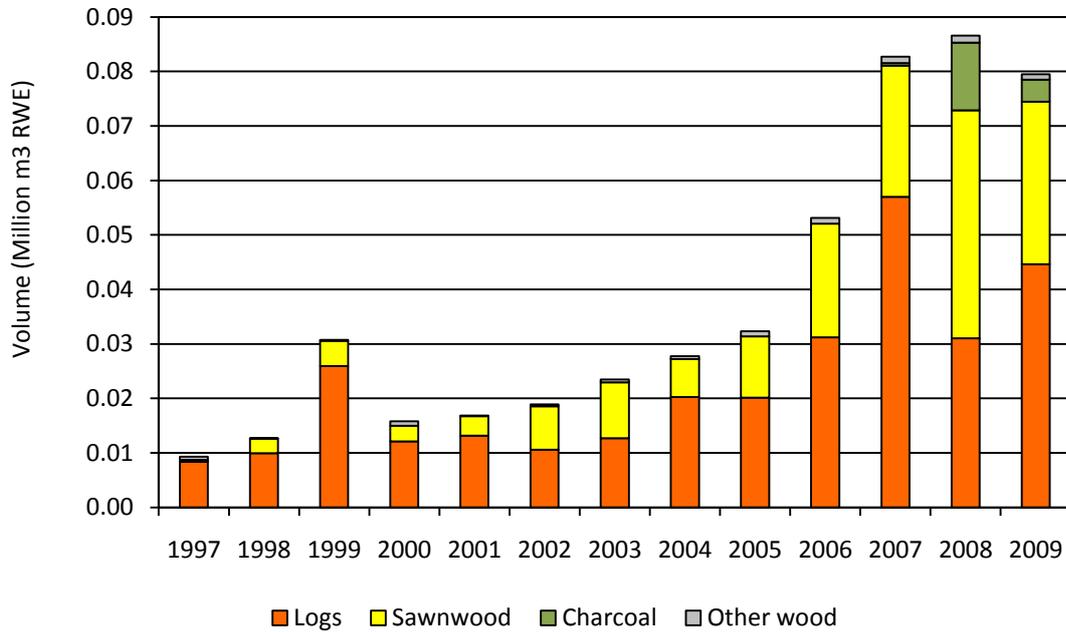


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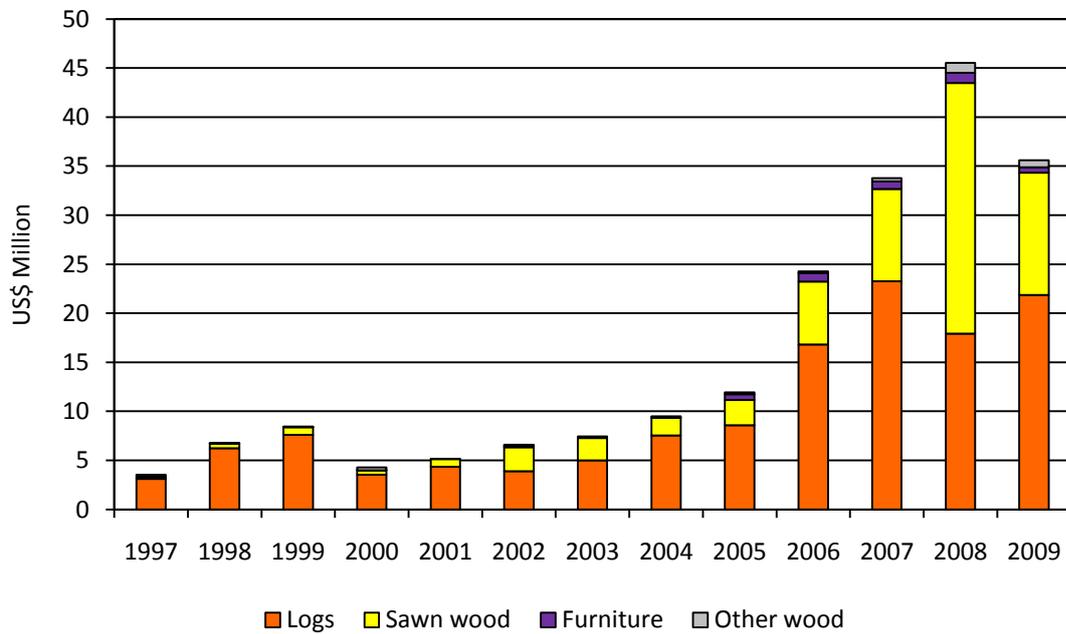
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### Lao Wood Product Exports to China by Product (million cubic meters RWE)



### Lao Wood Product Exports to China by Product (US\$ million)



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