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**Forestry Law Enforcement in Lao PDR:  
Challenges and Options**

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## Acronyms

GOL	Government of Lao PDR
MAF	Ministry of Agriculture and Forestry
NA	National Assembly
PIC	Parliamentary Institute of Cambodia
MAFF	Ministry of Agriculture, Forestry and Fisheries

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## 1. Introduction

As part of their oversight role, the client is seeking to conduct a review of forestry law enforcement in Lao PDR, and to learn from the successful experiences in another country such as Japan.

In 1940, the forest cover of the Lao PDR was 70 percent of the national territory [1] and decreased to about 49 percent in 1982 due to the impact of war, logging and crop expansion by people living in mountainous areas where about 80 percent of the total population is located [2]. After the importance of restoring 70 percent of the national territory to forest cover in order to ensure adequate water for irrigation and dam development, to maintain biodiversity, including for environmental protection was first raised by the General Secretary of the Lao People's Revolutionary Party Central Committee in 1991 [3], the 2020 Forest Strategy was officially adopted in 2005, with the aim of restoring 70 percent of the national territory to forest cover [4]. So far, according to the report of the Minister of Agriculture and Forestry issued to the National Assembly on 10 June 2019, the country's forest cover is 67.2 percent (about 15,915,830 hectares). This includes the three types of forest areas (Protection Forest, Conservation Forest and Production Forest), which represent 15,429,239 hectares, as well as plantation forest, which covers 486,600 hectares. It is therefore crucial to increase forests by 584,170 hectares, or about 2.8 percent, to reach 70 percent by 2020, the target set in the Forest Strategy [5].

The key factor in reaching the target is the Prime Minister's Order number 15 in 2016, which called for the stoppage of wood exports and no more tree cutting in the country. As a result, the amount of illegal logging appears to have decreased significantly and many small-medium sized operations have been closed [6]. The decrease of illegal timber harvesting has in turn lead to a decrease in the degradation of forest land<sup>1</sup> [7] and allowed it to grow under natural conditions [6].

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<sup>1</sup> Forest degradation: Changes within the forest which negatively affect the structure or function of the stand or site, and thereby lower the capacity to supply products and/or service [7].

Japan has experienced forest destruction similar to that of the Lao PDR [8]. However, the area of forest cover in Japan represents about 178 percent of that in Lao PDR and 70 percent of its own national territory, which had been set by the Japanese Government after the Second World War as a target [8, 9, 10].

In 1987, the Lao Forestry Strategy 2020 was adopted to restore 70 percent of the national territory to forest cover [3]. However, although forest cover has increased from 49 percent in 1987 to 67.2 percent in 2019, it appears that it is difficult to reach 70 percent by 2020.

### **1.1. *Research objective***

This briefing note reviews forestry law enforcement in Lao PDR by examining its implementation to achieve 70 percent forest coverage in 2020. This assessment will cover the actions of all relevant actors. It will also discuss relevant expert opinions as well as compare forestry law enforcement in Laos with forestry legislation enforcement in Japan in order to be able to present options for improvements in the application of the Lao PDR law and/or by amending this law.

### **1.2. *Research questions***

To achieve this objective, this research will explore the following questions:

- What are the positive and negative outcomes from the implementation of the forestry law?
- What are the relevant expert opinions to address the remaining challenges in this implementation?
- What improvements can be made in forest law enforcement based on Japanese good practices?

### **1.3. *Research methodology***

This briefing note will review secondary data presented in national, international and expert's reports.

## **2. Government policy and legal framework**

As mentioned above, forests are a priority natural resource. As a result, numerous policies and legislation have been developed and adopted as legal instruments for forest management, such as: (1) Address by the General Secretary of the Lao Revolutionary People's Party on the importance of protecting forests and increasing them to 70 percent; (2) Forest Strategy 2020 to reach 70 percent of forest cover (2005); (3) Forest Management Decree No. 74/PM in 1979; (4) Forestry Law 1996, 2007 and 2019 (approved in principle, but to be revised according to comments of the Members of the National Assembly – it will then take two to three more months for the revision to be signed by the President of the National Assembly); (5) Land Law of 1996, 2003 and 2019 (approved in principle, but to be revised in the light of comments from Members of the National Assembly – it will then two to three more months for the President of the National Assembly to sign); and (6) the National Master Plan on Land Use 2018.

### **2.1. Current policy and strategic plan for forest conservation**

In 1991, at the 3<sup>rd</sup> Central Committee Meeting of the 5<sup>th</sup> Congress of the Lao Revolutionary People's Party Central Committee, the General Secretary of the Lao Revolutionary People's Party Central Committee addressed the direction and the importance of restoring 70 percent of the national territory to forest cover in order to ensure adequate water for irrigation and dam development, maintaining biodiversity, particularly to protect the environment. Since then, in 2005, the Forestry Strategy 2020 was adopted officially to restore 70 percent of the national territory to forest cover.

#### **2.1.1. Forestry strategy by the year 2020**

Forest Strategy 2020 is an official guideline on forest sector management and development issued by the Government in 2005. It maps out a long-term strategy that would allow for proper natural resources planning through the adoption of appropriate policies.

#### **2.1.2. National Master Plan on Land Use**

The National Master Plan on Land Use defines the location and landscape of the country and forest management and protection policies to achieve 70 percent coverage, as well as to de-

termine the land allocation strategy for forest rehabilitation through the restoration of reservoirs and biodiversity conservation areas.

## ***2.2. Parliamentary laws related to forest conservation***

### **2.2.1. Forestry Law 1996**

The 1996 Forestry Law amended in 2007 sets out measures and regulations for sustainable management, conservation, development, use and inspection of forest resources and land. It the need for stable forest resources to ensure the protection of the environment, natural resources, and user rights for citizens. The Law classifies forests into three categories: ***Protection Forests, Conservation Forests and Production Forests***. These categories are differentiated by their use and purposes.

**Protection forests** are areas selected to protect natural resources, such as water, river ecosystems, soil quality, protection from natural disasters and environmental conservation (Article 10) (see Appendix 1). Protection Forests mitigate or prevent the impact of natural hazards, including rock falls, avalanches, erosion, landslides, debris flows or floods on people and their property in mountainous areas.

**Conservation forests** are areas classified for the conservation of nature, the preservation of plants and animal species, ecosystems and other valuable areas of natural, historical, cultural, educational and, scientific importance (Article 11) (see Appendix 1).

**Production forests** are all other natural and planted forests that are classified for use and production (Article 12). These areas are designated as such to support the production of wood and forest products, and to meet the needs of national socio-economic development, where appropriate.

These areas include all types of forests: dense forests, degraded forests, cleared forest land and forests specifically intended for the use by local villages. The Law also details the requirements for the management and use of these areas, and lays down the rights and obligations of operators, including rights of possession and use, benefit responsibilities' and, transfer rules. In addition, lease and concession uses at allocated areas are define by the con-



cerned government agency according to the division of labor among the Central Government, Province and District.

It also contains several prohibited acts as well as the powers and duties of forest management. Under the Law, the Government conducts inspections, and the Law defines the responsibilities of the agencies that undertake them (i.e. Ministry of Agriculture and Forestry, provincial or Vientiane capital agriculture and forestry offices, district or municipal agriculture and forestry offices, and the village forestry units).

### **2.2.2. Land Law 1997**

The 1997 Land Law, amended in 2003, states an important aspect of forest land management. As indicated in Articles 19 to 22, forest land is land covered by forests, or land established as forest land by law. The Ministry of Agriculture and Forest (MAF) is responsible for forest land management and the differentiation between different categories of forest land, and for their protection, development and use. Under the law, individuals and families are allowed to use a maximum of three hectares of forest lands per family. Any area above this threshold must be approved by the State. The allocation of forest use is overseen by municipal and village administrations. User certificates are valid for three years with the possibility of extension if the land has been used in accordance with the Law.

### **2.2.3. Environmental Protection Law 1999**

Article 16 of the Environmental Protection Law adopted in 1999 and amended in 2012 identifies the nature of the area to be conserved and its use, which is the first step in protecting the forest process. This Article also includes preventive protection against any degradation and the promotion of alternative non-destructive activities.

### ***2.3. Government forestry Regulations***

On May 13, 2016, the Prime Minister's office issued an Order on forest management reform to increase control over forest exploitation, entitled "Order to Strengthen the Rigor of Management and Inspection of Timber Transport and Business" (Order No. 15/MP) that plays an important role in updating and strengthening existing laws on prevention, opposition and resolution of issues in the forest sector. This new Order is based on the 1997 Forestry Law.

This Order provides that all relevant ministries and authorities shall make greater efforts to perform their duties (Article 1), which means that more time and attention shall be devoted to the monitoring of all timber related activities.

All extraction of timber for domestic purposes, such as infrastructure, development or other, must be declared and registered for approval before implementation (Article 2), and all existing exports of timber and wood products harvested from natural forests<sup>2</sup> [7] shall be halted until they are approved (Article 3). To this end, international border checkpoints must be strictly guarded (Article 4).

#### ***2.4. Challenges in implementing the current policy and legislation***

A recent report from Minister of Agriculture and Forestry [5] points out that the Forest Strategy 2020 for 70 percent forest cover has been followed by numerous legal instruments: 62 texts under the Forest Law, including four decrees and eight ministerial orders on forest management, as well as 47 technical guidelines, have been issued.

Despite this abundance of legislative and regulatory texts, in practice, some challenges have been highlighted in the report such as [5]: inadequate staffing levels in the three types of forests [5]; insufficient budget allocation for the forest sector in particular, financial support for development projects (mining and hydropower) as indicated in the Concession Agreement has not been provided as planned [5]; and some villages located in, and near, the borders of the three types of forests are not yet properly resettled [5].

According to a report published by civil society [11], Lao PDR experienced a decrease of 191,031 hectares of forest in 2014, more than twice the area lost in 2008. Another report in the same year indicated that the vast majority of illegally logged timber is destined for exports to China and Vietnam [11]. These reports were released before the issuance of Order No. 15/PM in May 2016, after which the amount of illegal tree cutting decreased dramatically, as confirmed by the percentage of exported wood to Vietnam - illegal timber exports to Vietnam in 2016 decreased by nearly 90 percent compare to 2015 [6].

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<sup>2</sup> Natural forest: A forest composed of indigenous trees and not classified as forest plantation [7].

### **3. Options for overcoming the challenges**

#### ***3.1. Expert opinions***

In order to evaluate the Forest Law and relevant enforcement laws, numerous reports by international experts and international organizations have been reviewed. The main perspectives from them are:

Even though improving forest management will take time and resources, the Lao Government could commit to undertaking certain steps for long term sustainability. Given the amount of information on forests in Laos, forestry practices could be adapted to international standards [12].

Among these, measures to control illegal logging could include:

- prohibiting licensing of new wood processing plants and carrying out regular checks on existing ones (Prime Minister’s Order No. 10/PM/2000);
- creating a unit especially for illegal logging monitoring purposes;
- stopping the promoting excessive wood processing;
- putting a limitation on wood extracted per industry;
- increasing monitoring at all border crossings to prevent illegal log exports.

#### ***3.2. Lesson learnt from Japan***

Japan has one of the highest percentages of forest cover among developed countries: 70 percent of its total land area is covered by forests, with 40 percent (or 10.35 million hectares) of it being planted forests. This was made possible by a number of measures that the Government of Japan has taken to protect its forests [10] including:

Classifying forests into three categories: National Forests (protected), Public Forests (accessible to public) and Private Forests (still taxable), with each forest operated under different regulatory bodies to ensure that each are managed according to their specific needs [10].

Administrative Agencies which manage National Forests at different levels were established: Regional Forest Office/District Forest Office, Forestry Agency, Ministry of Agriculture, Forestry and Fisheries (MAFF) [10].

Money from the general budget was allocated specifically to address funding needs for forests [10].

A clear structural forest plan and national forest management plan were developed (see Appendix 2) to manage Private and National Forests for both the short and long term [10].

National Forests are categorized by functions, allowing forest operations and protection to be conducted in an appropriate manner. For instance, nature preservation forests have the purpose of preserving the ecosystem of forests and protecting rare animals and plants, which only allows operations that allow forests to be left to nature, without cutting trees unless necessary [10].

Untouchable “forest reserves” have been established to protect and preserve the ecosystem, wildlife and biogenetic resources [10].

A “Green Corridor” has also been put in place to promote a network centered on “forest reserves” that would form a migratory path linking the habitats of wildlife across the country. This also helps the protection of species and genetic diversities [10].

#### **4. Conclusion**

Based on the review of the existing policy and legislation since 1975, it can be concluded that the key to achieving 70 percent of forest cover is due to: (1) the strong and sustained support from the Central Committee of the Lao Revolutionary People’s Party and; (2) the Government’s continued development and implementation of a forest strategy and relevant legislation, for example, the PM Order No. 15 issued in 2016 halted the development of illegal tree cutting and others activities that have a negative impact on forests; (3) the clear identification of three types of forests (conservation, protection and production forest) and forest plantation to facilitate the development of the management plan and the allocation of responsible units; and (4) a sound environment to stimulate natural forest growth in the country.

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## Appendix 1

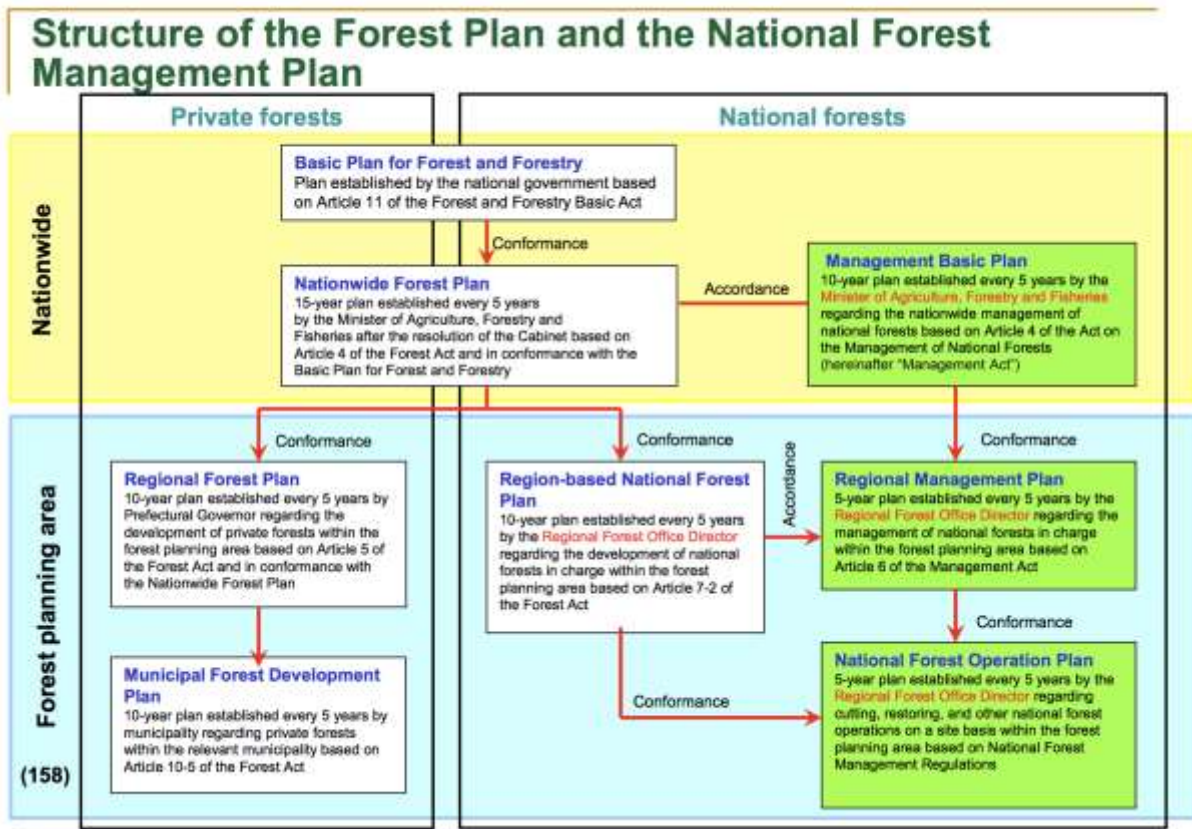
*Table 1. Conservation areas in Lao PDR*

Category	Units	Area (ha)
District conservation forests	144	503,733
Provincial conservation forests	57	931,969
District protection forest	52	55,713
Provincial protection forests	23	461,410
<b>Total</b>	<b>276</b>	<b>1,952,825</b>

*Source: National Biodiversity Conservation Areas (NBCAs) in Lao PDR*

## Appendix 2

### Structure of the Forest Plan and the National Forest Management Plan



Source: Planning Officer National Forest Department Forestry Agency, 2017