

Briefing Note 5 – Tenure Security in Forestland

Relevant to Article 41 of the draft Land Law and articles of the Forestry Law

Background

Lao PDR has two prominent policy directives on forests, aiming to (i) restore **forest cover** to 70% of the country and (ii) allocate/zone 70% of the land as **forestland**. In relation to forestland, the 2018 National Land Master Plan on Land Allocation (NLMPLA) - now approved by the National Assembly – affirms the Party land policy and has zoned 70% of the country as forestland.

Top-down zonation and mapping of 70% of the country as forestland results in almost 3,000 villages being located “inside” these forestlands, including residential, agricultural and other lands. Bottom-up zonation of land excludes such lands from forestlands, thereby falling short of the 70% forestland requirement.

In order to resolve this issue, clarification in the legal framework (the draft Land Law and the draft Forestry Law) of the scope of activities allowed in forestlands, and, legal tenure arrangements in forestlands is required.

Implications

Titling in forestlands. Unclear division of labor and mandates between the land and forestry sector negatively affect local land tenure security. Whereas the draft Land Law does not make an exception of forestland from being subject to land titling, the draft Forestry Law only speaks of forest and forestland “allocation”.

At the same time, the Forestry Law is not specific in mentioning the means to register the allocated forestland. Currently, land use plans and village forest management plans are often the only documented basis of land tenure in forestlands. Such land use plans may be registered, but, legal power of a land use plan is limited.

Insecure land tenure for the villages located in forestland means that there is the risk that villages may lose their land and their livelihoods excluding them from contributing to the socio-economic development of Lao PDR.

Recommendations

To address the issue of tenure insecurity associated with forestland, the Land Law and/or Forestry Law should clarify the types of legal land tenure arrangements possible on forestlands. Specifically, can forestlands be titled (under the Land Law)? And when a forestland is allocated, how is this registered (under the Forestry Law)?

Accommodating **multi-purpose use of land** is the key to achieving the two Government policy directions on 70% forestland and forest cover. It is already clear that forest cover occurs outside forestland and can count towards the 70% forest cover target. For the 70% forestland zonation

objective, forestlands should accommodate other land use objectives when done in line with forest management objectives. Tree plantations and rotational shifting cultivation are such examples, which can be accommodated to follow sustainability standards.

Article 41 of the draft Land Law (April 2019)¹ should clarify the meaning of *Jat San Kuen Mai* for good implementation of the law. The same Article 41 mentions that land use certificate could be issued inside forest land, however the certificate is defined as temporary land use certificate. It should be expanded to ensure that people living in forestland are eligible to receive long term tenure security that could include the issuance of titles.

¹ Article 41 (new) Use of Forest Land (previous Art 38): Forest land is used for public benefit, family and business purposes without negative impacts on forest, soil quality, socio and natural environment. State acknowledges people's use of land, in which they have lived and conducted production inside the forest land before such land is classified as forest land. MAF, MONRE, other concerned Ministries and concerned local administration agencies conduct survey and information collection, and newly allocate such land inside forest land, then issue land use certificates to individuals or households in accordance with laws.