

Briefing Note No 7 : Land Titling

Background:

Governments seek social stability and sustainable economic performance for their countries and their people. A framework of land and property laws that both recognizes the rights and duties of the individual and the shared concerns of the wider communities is essential to meet these aspirations. An efficient, effective and fair system of land titling implemented via a transparent land registration system is a key component towards achieving sustainable development and social harmony.

According to the UNECE¹ the benefits of an effective land registration system are that it will:

- Guarantee ownership and security of tenure, reduce land disputes, and guarantee the result of judicial procedures including with respect to rights of land repossession.
- Serve as the basis for land and property taxation, while also providing security for credit
- Develop and monitor land and mortgage markets, while producing statistical data for social and economic development
- Protect State lands, facilitate land reform and promote the improvement of land and buildings
- Facilitate reliable land use records and improve urban planning and infrastructure development
- Support environmental management

Land registration and titling is conducted either sporadically (at the request of the landowner), or systematically (by initiative of the land administration with the aim to cover entire administrative areas, e.g. village). Sporadic registration is usually connected to higher fees for the landowner.

Current status and plan of land titling in Laos:

To date, roughly 1.2 million land titles have been issued nationwide, out of an estimated total of 3.0 to 3.5 million land plots:

- 650,000 titles issued by the World Bank land titling project 1999-2010, a further 550,000 by government (mainly sporadic registration) and GIZ support project (systematic in rural areas)
- Most land titles are issued in urban and semi-urban areas, most rural areas have no titles to date
- Estimates are between 1.8 to 2.5 million titles are not yet issued
- Approximately 700,000 parcels are estimated inside national state forestland (conservation, protection and production forest)

The GoL plans according to the 8th NSEDP and vision 2030:

- to complete land titling in priority areas by 2020
- to issue 400,000 new land titles by 2020, and a further 800,000 titles by 2025.
- Funding programs prepared by World Bank and KfW to support GoL in land titling

Challenges in Land Titling:

Since the first World Bank funded Land Titling Project in the late 1990s, systematic land registration focused on urban and peri-urban areas, where the 'land market' and economic

¹ UNECE The Benefits of Good Land Administration (2nd Edition)

<http://www.unece.org/fileadmin/DAM/hlm/documents/Publications/benefits.landadmin.pdf>

activities are most active. Titling in rural areas however is slower, costlier and more challenging. Land Registration carried out by the government is usually connected to collecting a registration fee to cover expenditure, which is often unaffordable for poor families and farmers in rural areas. In many countries, first-time land registration is considered a government investment – not a revenue generation activity. For example, in Cambodia, the government invests around US\$5 million every year for first registration, while generating state revenue through fee collection in sporadic registration and collection of land tax and land transaction taxes.

GIZ supported the GoL in systematic land registration and titling in rural areas since 2009. The experience in the pilot regions, where more than 40,000 titles have been issued to date, confirm that registering lands in rural areas is a much costlier, labor and time intensive, compared to urban areas. Difficulties include remoteness and inaccessibility, high ethnic diversity, a range of different land issues and conflicts. Lack of capacity among local government technicians is also a challenge. At the same time, titles are essential for rural communities, especially in areas where domestic or foreign investors create pressure on land resources. In areas granted for investment projects, expropriation is often compulsory and, even for titled land, compensation is below market rates. In addition, a lack of overall, independent government inspection systems have led to numerous instances of titling for illegal economic purposes.

Many communities in rural areas of Laos cultivate and use land collectively under customary practices. The current Land Law of 2003, as well as the draft Land Law of May 2019, are unclear about the type of formal tenure provided for these types of land areas, especially for the case of villages inside the national state forest, where poverty rates are also high. Rotational agricultural land is often classified as forest, despite their actual land use. The recognition and formalization of collective land and issuance of land titles for those remains a big challenge in the legal framework.

Proposals to address the challenges:

- Set clear objectives of land registration – not only for revenue generation, but also for tenure security in remote areas and the completion of a cadastral system.
- Establish an independent land inspection body that reports directly to the Prime Minister
- Allocate sufficient resources (investment) for systematic land registration and titling, especially in remote and rural areas and poor villages.
- Reduce registration and titling fee for poor households to a minimum, while recovering cost in high value land
- Clarify and ensure provisions in the Land Law to allow individual titles within state forest areas
- Improve the Land Law to allow registration and titling of collective land (especially land used for rotational shifting cultivation), including inside national state forest areas²
- Ensure special recognition of gender aspects in the Land Law³
- Ensure that lands customarily used lands, such as for rotational cultivation, are classified as agricultural lands rather than forests
- Improve safeguards for expropriation and grievance mechanisms in the land law, to better protect holders of land rights and land titles and ensure that compensation is at the market rate⁴.

² see also Briefing Notes 1 and 5

³ see Briefing Note 4

- As titling coverage is and will remain slow, consider upgrading the legal status of interim measures for tenure security such land use plans, land certificates, etc.

⁴ see Briefing Notes 2 and 6