

Land Issues Working Group

Communal Land Titling and Registration Policy

Recommendations - Lessons from the Field



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Introduction

The Land Issues Working Group (LIWG) is a member of the INGO Network in Laos, nearly 40 different organizations are represented in its core membership and a further 30 organizations in its supporting membership. LIWG members have been working extensively in rural areas of Laos in partnership with local government to support rural development. The group works on issues related to land and the rural people who depend on it for their livelihoods. The LIWG believes that communal land titling in Laos presents an opportunity to increase the tenure security of rural communities, to improve community management of natural resources, and to increase productive use of village land as a key poverty reduction strategy. . With this will come: the benefits of greater food security and better health, increased opportunities for income generation from local enterprises and investment, and greater overall community participation, ownership and unity.

To support this effort, the LIWG, lead by CIDSE-Laos, has carried out an extensive internal round of member consultations and analysis to address the details of communal titling. The recommendations from our members are based on lessons learned from their extensive experience working in partnership with local government on land issues in Laos. The LIWG membership was called upon to share their experiences, detailing what they have learned and what challenges they and their local government partners face when working towards communal titling. Case studies were then compiled that give examples of the key issues experienced and a policy analysis undertaken; the policy analysis lead to a report entitled “A policy Overview of Communal Registration and Titling”. Based on these, a set of recommendations have been identified and agreed by the group. The recommendations are presented below with rationales showing how they were drawn from the case studies. Through this the LIWG is pleased to be able to present important information to assist in policy development towards communal titling and registration in Lao PDR.

Summary of policy recommendations based on LIWG case studies

Based on the field experiences gained in the following communal land titling case studies, members of the LIWG have been able to identify important issues and to learn practical lessons. These lessons are shared below as recommendations which are supported by rationale for the recommendations. By doing this, assistance is offered in creating a legislative and technical platform for which communal land titling can further develop in Laos. Following recommendations 1-7 and 9, links to a particular case study from which the recommendation originated from is provided. Recommendations 8 and 10 come from in-depth discussion and agreement by LIWG members.

1. Recommended Policy:

- Communal Land Titles can be issued as a result of either:
 - i) a PLUP process for an entire village or group of villages; or
 - ii) a land use plan specifically for the area to be designated for a communal land title.

Rationale:

- In some cases natural resources (land and water) have been approved by local government through a land use plan only for the area specified as communal; these resources have defined communal management rules and are endorsed by local government thus should be eligible for communal land titles

See GAPE case study challenge 1.

See SNV case study lesson learned 1.

2. Recommended Policy:

All plots delineated during land use planning are eligible to be registered as communal land except zones subject to exclusions falling under individual and state lands

Rationale:

- Following this approach to communal land registration would build strong community ownership and become an incentive for households to comply with the land use plan.

See CIFOR case study challenge 4.

See GAPE case study challenge 4.

See CIDSE case study challenge 2.

3.Recommended Policy:

- Eligibility for communal land titling shall include rotational cropping agricultural land zone and all forest types (covering village conservation forests, village utilization forests and village protection forests) as noted in NLMA Instruction 564 Section 4.11, Category 2.

Rationale:

- Land use of this type (rotational cropping agricultural land zone) represents most of the area classified as agricultural land in the uplands of Laos. However the DLMA needs guidance from central policy and instructions on how to allow this land to come under communal title.
- These areas are critical for communities' food security

See TABI case study challenge 2.

See CIFOR case study challenge 3.

4.Recommended Policy:

- Communal Land Titles and the areas and boundaries they represent are to be permanent but the use rights of the land (as defined in the communal title plan) can be revised with the consent of the village with the support of government authorities. Revisions to the communal title plan must have instructions to define equitable and participatory methods for doing so. The instructions shall take into account local decision making and governance mechanisms.

Rationale:

- A short communal land titling period equates the title with leasing or land renting. Titles are a permanent legal right and therefore short period use should not fall under titling. A permanent title with the opportunity to change use rights with the joint consent of the entitled community has the advantages of providing immediate and stronger tenure security and allows for future changes. Permanent titles do not need additional resources for renewal. It is therefore most cost effective to issue permanent titles with options for amending through internal community decision making.

See SNV case study challenge 2.

See GAPE case study challenge 1.

See CIDSE case study challenge 3.

See GRET case study challenge 1.

5. Recommended Policy:

The tax regime for land needs to be reviewed in view of the various types of communally title lands that are to be defined.

It is proposed that:

- Tax would not be applicable to any of the village forest lands or village wet lands :
- A tax regime for communally registered agricultural land needs to take in to account the differing income levels in rural villages.

Rationale:

- Ensuring food security is a high priority and should be considered in the tax regime. .
- Forest and wetlands are crucial for food security and conservation. Villagers conservation of forest and wetland ‘areas, ecosystems and watersheds’ is actually a service provided to the local, regional and national wellbeing, and thus tax not applicable, as payment for this service

See SNV case study challenges 1 and 2.

See GAPE case study challenge 5.

See GRET case study challenge 4.

6. Recommended Policy:

- Communal Land Titles shall only be registered in the name of a village, for which all village members share equal rights however; the use rights can be given to specific groups as shown in the communal title plan¹. In all cases a management committee must be appointed by an election of the village to represent them. The definition of "village members" and "village" must be outlined in the communal land title plan. Changes to use of communal land must be agreed or delegated by all "village members".

Rationale:

- Presently, there are no clear guidelines, these are required to clarify what qualifies as a “group” or “community” which, are eligible for communal land titling and which people will be included in the group entitled to a communal land title.
- Once groups are defined the legal status of the group which is most suitable for communal land titling needs to be clarified (village, produce groups, association, cooperative).

¹ Communal Tenure and the Governance of Common Property Resources in Asia, Kirsten Ewers, FAO, 2011

- There are no criteria on how to accommodate, or not, new persons coming into the village who would like access to the communal land.

See TABI case study challenge 3.

See SNV case study challenge 4.

7. Recommended Policy:

- Regarding water bodies and small island, PLMAs shall follow the 2003 amended Land Law and Decree 88 (June 2008) as their guide. Article 11 of the Land Law lists 8 categories of land. One of these includes Water Bodies. Decree 88 includes islands. Islands and Water Bodies shall be included in communal land titles.

Rationale:

- For local authorities, it is unclear if communal land titles should be issued for community managed natural fish ponds or river fish conservation zones. Clarification of this would formalize communal management of an important income and food source.
- Water bodies are often used as communal resources and need to be protected in the interests of communities.
- Communities should be able to define and support rules on usage of these water bodies.
- Riverbanks and lake banks are statutorily state land, and also subject to erosion. Nonetheless, as they are used for dry season community cultivation, this should not be a reason to exclude water bodies from communal titling.

See GAPE case study, challenge 2

8. Recommended Policy:

- Persons who have been registered and have lived in the village for over three years or with recognizable customary rights (as defined by the village themselves and set out in the communal title plan) to the land will have access to the resources included in the communal land title.

Rationale:

- To minimize the risk of outsiders - or others who lack legitimate or recognized access to the communally titled resource - exploiting the resource.

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9. Recommended Policy:

- In the event that a land concession is cancelled by the government or investor or when a concession agreement expires and is not renewed, that land will revert back to the village and the land made eligible for communal land titling dependent upon the village.

Rationale:

- Returning these areas back to communal management will contribute to an overall improvement in village livelihood conditions.

See CIDSE case study lesson learned 1

See GAPE case study challenge 7

10. Recommended Policy:

- When it is clear that the line agency (Education, Health etc) cannot fund maintenance then (especially in small villages) the assets shall be included in the communal land title. However, in larger villages (kumbans, etc.) where a clinic may be established, such an asset may have alternative funding and shall be excluded from the communal land title.

Rationale:

- Communal land titling of education and health facilities in small villages will create a sense of shared responsibility in maintaining them. This is however a financial burden for villagers which should be transferred to the state when conditions are suitable (i.e. large villages).
- Such conditions under which the original title could be automatically transferred to the state may include when a village increases beyond a certain number of persons or households.

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Case Study: CIDSE – Participatory Land Use Planning in Khammouane Province.

Location: Ban Natouanjai is one of Hai village cluster of Yommalath District, Khammouane Province which is located along the main road No.12B to Vietnam. The GPS coordinate of Natouanjai village's location is X:0546324 and Y:1936512.

Description of villages: Originally Natouanjia was near the Xe Bang Fai River where it existed as two villages Phavong and Phonyang but they moved 4km after many people became ill. In 1996, in their new location, the district combined Phavong and Phonyang villages into one village, Natouanjai Village. The total of population of the village is 389 people, 210 women and 89 families. There are 2 ethnic groups, Ka Leung and Ma Kong in the village but they identify closely Lao Loum culture.

Description of land use in the village and surrounding area

Although now combined into one village in terms of structural administration, for management of natural resources they still have separated tenure systems. The villagers use their own customary knowledge to preserve communal land and forest. For instance, forest areas for conservation area are closely related to spirits which reside in the area. Livelihood practices of the villagers are closely associated with natural resource and include: paddy, animal raising, NTFP collection, wildlife hunting, gardening, swidden, basket weaving, etc. Bamboo related activities offers potential for village economic growth.

Description of land use planning and land registration undertaken to date

Prior to CIDSE, there has been no formalised management systems introduced in the village such as Land Use Planning and Land Allocation (LUPLA). CIDSE completed PLUP in June 2011 when more clear land and forest zoning was done through a participatory process with villagers. The village level PLUP process was completed in two weeks. The first week introduced the purpose of PLUP and negotiated village boundary. The second week was to identify land and forest zoning through group discussion among village authority and men and women. This was followed by group field walks to check actual boundaries and survey and collect GPS point marks for use on Google Earth maps.

CIDSE is working towards communal land titling as it may help ensure preservation of resources and help secure them for the village. This is very important as there are a number of companies actively seeking land for concessions in the district.

Lessons learned

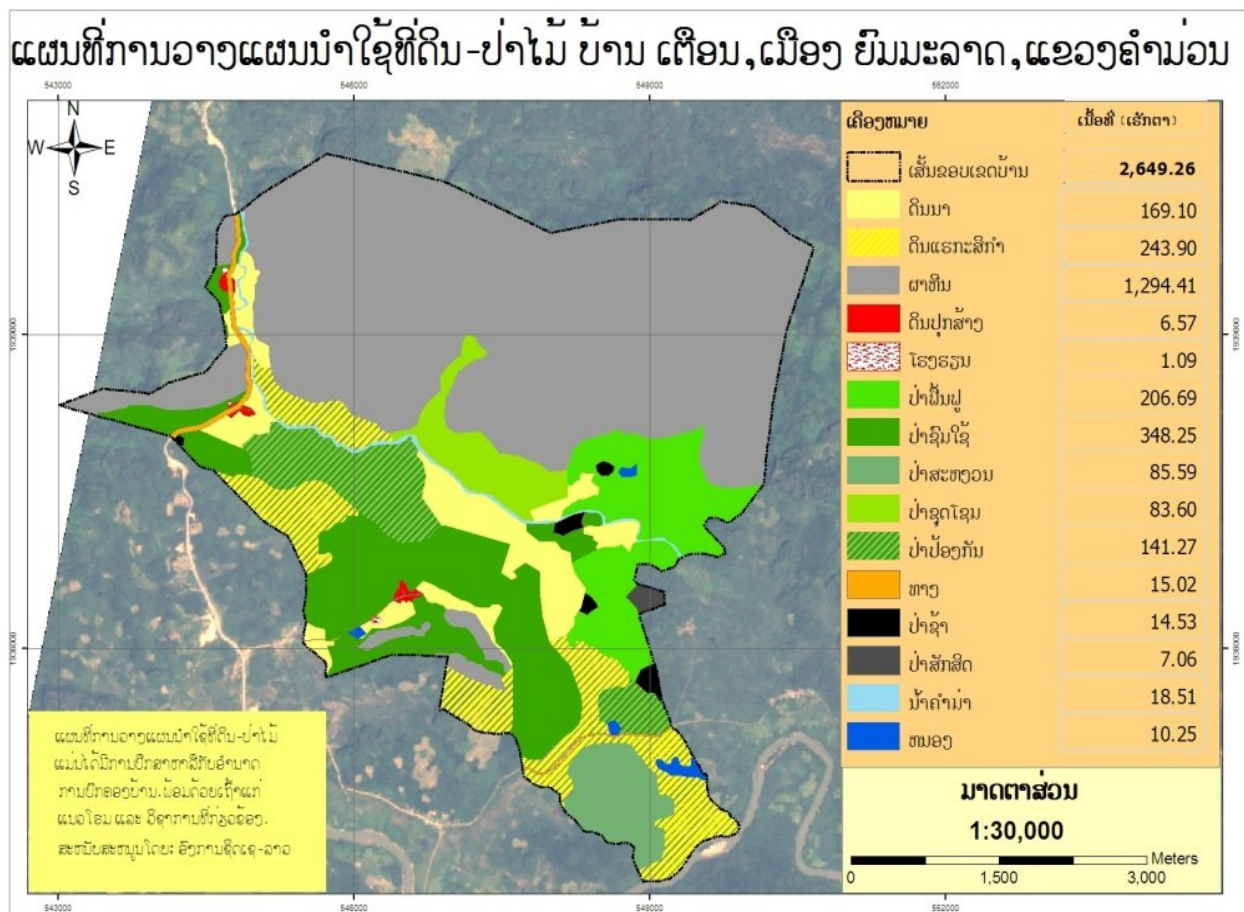
1. CIDSE has also done PLUP in Illan and Nasouk villages; these villages have eucalyptus tree plantations on their land, the land concessions for these are for 35-50 years and the contract agreed between the concession company and the villagers is that after the concession period this land would revert back to be village land which they previously used for cattle raising, wildlife hunting, tree planting etc, However without laws specifically enforcing this, CIDSE is as yet unsure of what would actually happen once the concession period is completed.

2. There is low understanding and limited capacity within the PLMA and DLMA to conduct communal land titling. Central level guidance on CLT policy and procedures is required as are staff training and support for related equipment.
3. Increased financial resources are needed at the central level to support provincial and district level land offices to meet the expected demand for CLT.

Challenges for future communal land titling

- 1) Villagers and CIDSE are keen to issue CLT of their conservation and production forest as they are concerned it could be taken from them through external land grabbing. But, there are no government instructions on how to implement communal land titling.
- 2) The villagers would like CLT for all areas in their village other than those specifically used as individual land (rice fields and houses) but are unsure if this acceptable to present land policy.
- 3) The present status of communal land titling does not stipulate permanent titles. This needs to be confirmed in order to secure communities' tenure over land. Temporary titles are vulnerable to cancelation and possible future land concession request.

Map



Natouanjai Vilalge, Hai Village Cluster of Yommalath District, Khammouane Province

Case Study: CIFOR-IRD – Communal Land Titles in Viengkham District, Luang Prabang Province



Location: Muay village cluster, Viengkham District, Luang Prabang Province. The village cluster (kumban) is comprised of six villages, Pak Lao, Bouammi, Donkeo, Muang Muay, Huay Kone, and Vangkham.

Description of villages:

The area is mountainous with elevations of 1,000 to 1,400 masl populated by the Hmong ethnic group. The upland areas with elevations ranging from 600 to 1,000 masl are populated by the Khmu and Lao ethnic groups in almost equal proportions, Bouammi village has 92% ethnic Lao and 8% ethnic Khmu, while Muangmuay village has 80% ethnic Khmu and 20% ethnic Lao. Population data for the six villages in the kumban is summarized in the table below. In six villagers there are 462 families and total population of 3043 people.

Description of land use in the village and surrounding area

In all villages traditional land tenure systems prevail. There are three broad agro-ecological zones within Viengkham District: 1) Mountainous areas with high slopes, 2) Upland areas with medium slopes and 3) Lowland areas. The mountainous land use system is based on upland rice and large livestock grazing, and maize production, with some diversification into other crops such as vegetables. Collection of NTFPs is significant in the livelihood system. The land use systems in upland areas with medium slopes and lowland areas are comprised of rotational upland rice with limited areas of lowland rice, and other crops, (i.e. annual food crops and vegetables), cash crops (maize, cucumber, watermelon, and leafy vegetables), and perennial commercial tree crops (teak, agarwood, tea, fast-growing trees, and rubber), large livestock (buffaloes and cattle) and small livestock. The collection of NTFPs is also an important component of the livelihood system. There are no active land concessions in the village cluster.

Description of land use planning and land registration undertaken to date

- LUPLA was conducted in 2006 by the Lao-American Development Project in some villages and limited to very basic village boundary and land use zone delineation and sketch mapping. The project aimed at eradicating opium cultivation and enhancing food security.

- 2008 to 2010 the National Agriculture and Forestry Research Institute (NAFRI) implemented the Landscape Mosaics project in collaboration with CIFOR-IRD and partner institutions. Land use planning (LUP) action research looked specifically for an improved integration of biodiversity conservation and development needs.
- Follow-up activities were implemented in 2011 in partnership with DAFO and the EU funded Agrisud project on food security. Beside extension activities, a team of district agents from both DAFO and DLMA was trained to the innovative PLUP method that was then implemented in 21 other villages in the district with the financial support of EU-Agrisud project.

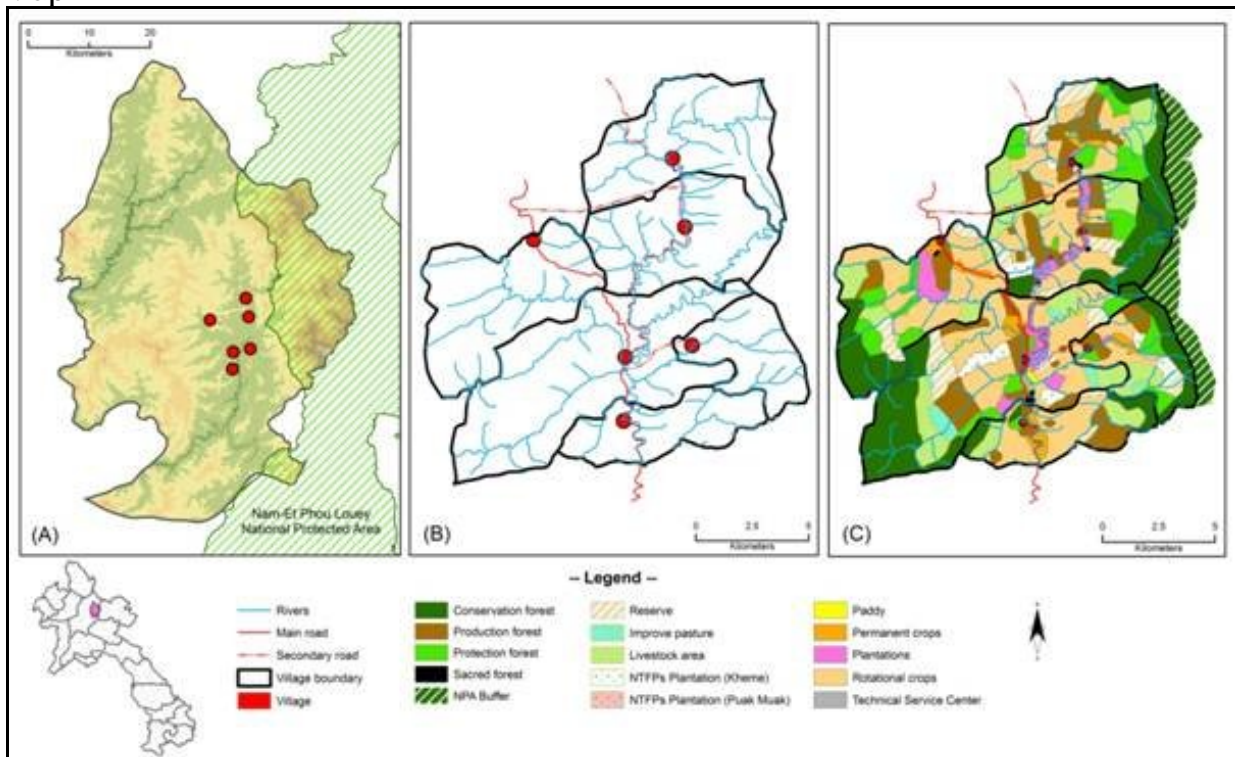
Lessons learned

1. The land management rules and grievance mechanisms should be those described in both the PLUP Agreement and in the Communal Land Registration form.
2. Land under rotational crops (shifting cultivation) need to be eligible for CLT as they represents most of the area classified as agricultural.
3. CLT would become one more incentive for households to comply with the land use plans.

Challenges for future communal land titling

1. Viengkham DLMA has not yet registered any land (communal or private). Limited expertise and resources have been a recurring constraint on land allocation of both types.
2. Subsistence farmers cannot afford to pay the cost of individual plot registration, therefore if fees for communal land titles are needed this will deter farmers from becoming involved.
3. Land use of this type represents most of the area classified as agricultural land. The DLMA needs guidance from central level policy and instruction land titling on how land under rotational cropping systems can be given community title.
4. To prevent the risks of land grabbing by external investors, a nested-land registration system is proposed, the system consists of registering all plots delineated during the land zoning process as communal land. The different zones would be officially recognized as managed by the village under the authority of the Village Land Management Committee (VLMC) and village head.
5. Dedicated projects interested in land use planning and communal land titling are needed to work in the district.

Map



Muang Muay village cluster, Viengkham District, Luang Prabang Province

Case Study: The Global Association for People in the Environment (GAPE) – Community forests and fisheries in Pathoumphone District, Champasak Province.

Location: The village of Lao Nya is located in the District of Pathoumphone in the Champasak Province, 87 km from the capital of the province, Pakse, along Route 13 on the way to Cambodia. The GPS coordinates for the village are: Map coordinates N 14° 52' 44.2' ±8 m E 106° 05' 08.3". The village was established in 1920. It is located in the Biodiversity Corridor between the Xepian and Donghouaxao National Protected Areas.

Description of village

The first 48 km from Pakse to Lao Nya are paved and the remaining 39 km are dirt road. The village is ethnically Lao with a population of 617 (304 female; 313 male) coming from 110 households and 124 families. The villagers subsist mainly on lowland rice cultivation, supplemented by collection of NTFPs and finding work outside the village.

Description of land use in the village and surrounding area

Village agricultural systems consist mainly of lowland paddy with small and scatter areas of upland/dry rice fields. Cash cropping has increased over the last 10 years with areas of maize, cashew but and cassava grown. NTFP (malva nut, cardmom, yellow vine and rattan) are import income sources and traditional medicines are collected and used by villagers. Agricultural and tenure systems are largely family based and passed on to following generations. Land rentals from non-community members do occur.

“Dong Done Kang Community Forest” is a dense forest located in the Lao Nya village boundaries. It gets its name, which means “dense forest on the middle highland” from the fact that it is on a high spot rising out of the surrounding flat land. It is surrounded by two streams: Houay Mak Nao that runs from Ban Som Souk and Houay Lao Lai located at the north end of the village. It forest areas measures 1,500 m x 5,000 m and has an area of approximately 750 ha. Wildlife such as deer, wild pigs and many types of birds exist in the forest. In the past the only formal rules for managing these resources came from government other than that the area was regarded as open to other villages.

Description of land use planning and land registration undertaken to date

Land Using Planning and Land Allocation was done in 1996. Most people do not remember LUPLA or that rules were established. No permanent land titles of any type have been issued. In 2005 GAPE began discussing with villagers on ways to manage and protect the forest. The following steps were followed:

- i) the village authorities consulted with the villagers to discuss their interest in the establishment of the community forest and to agree on the boundaries, draft rules and fines;
- ii) the villagers wrote a proposal with GAPE to the District Agriculture and Forestry Office to ask for assistance and permission to establish community forest;
- iii) many meetings were held in Lao Nya which were attended by surrounding villages, DAFO and facilitated by GAPE;
- iv) surrounding villages were visited where the rules of use for the forest were discussed;
- v) the forest was surveyed and the boundaries marked;
- vi) the proposed rules and size of the community forest were sent to the District Governor on May 5, 2005. The District Governor then sent his comments back to GAPE. GAPE incorporated the Governor's comments, retyped the rules and regulations and sent them back to the village for checking.

After several more revisions, on December 12, 2008 the Governor issued a declaration consisting of 4 articles which formalized the community forest:

Article 1: It is agreed that the village of Lao Nya has formally establish a community forest for managing and using NTFPs according to the information below:

- a. Location: North bordering on "na nong hai", South bordering on "na sen soke", East bordering on "thong dern" and West bordering on "pak houay khop"
- b. Area: Length 5km Width 1500 m Total Area 750 ha

Article 2: The village authorities and villagers living in the village of Lao Nya are assigned to strictly and effectively administer and implement the rules and regulations for managing and using the forest resources and NTFPs.

Article 3: The village authorities and villagers of nearby villages and other villages must cooperate and assist the village of Lao Nya in the administration and implementation of the rules and regulations in order that a high degree of success is achieved.

Article 4: This agreement is valid from the date it signed: Soulivanh Savaththasin, Governor of Pathoumphone District

As of 2012 GAPE has successfully facilitated a several similar processes for community forests and fish conservation zones in Pathoumphone and other districts in Champasak Province.

Lessons learned

1. For Lao Nya Village the approval of draft rules and regulations took 3 years which is too long. Quicker approval is needed to maintain villagers' interest.
2. It is best to facilitate several community forests and submit documents for approval simultaneously rather than having several community forest application at different stages of approval.

3. Villagers need to actively patrol and enforce the rules of the community forest; approval by the Governor is not enough to deter others from using it in an unsustainable manner.
4. Community forest areas need to be mapped by villagers using GPS. Maps need to be used to support village claims and disseminated.

Challenges for future communal land titling

1. As a result of the high number of land concessions granted, GAPE and the people of Lao Nya and other villages are interested in having CLT issued for community forests. Although there was a land use planning process followed to delineate the community forest, PLUP was not followed for the entire village. It is unclear if CLT issuance is possible for forest not included as a formal PLUP process.
2. The rules and regulations have already been approved and there is no time limit on the present management agreement, so it is unclear if communal land titles can now be issued
3. It is unclear if CLT be issued for community managed natural fish pond?
4. Can a CLT be issued in the name of several villages which manage forests or ponds collectively?
5. It is not known if CLT will give villages the power to enforce and maintain rules of use over forest and aquatic resources if non-villagers (other villages or concessions) infringe on them (i.e. are they stronger than the approval of the District Governor?).
6. The community titled forest is exempt from any tax collection but it is unclear how this may apply to fisheries or agriculture areas. A tax exemption for these is preferable.
7. Villages that have had land concessions granted within their village boundaries on communal land do not know if the land will be returned to them at the end of the concession period. If it is the would like it returned to communal status and receive a communal land title.

Case Study: GRET – Village PLUP and Communal land titling on bamboo forests in Houaphan Province

Location: 4 villages targeted during initial phase – Ban Napho, Ban Eun (Viengxay District) and Ban Piengxay, Ban Napheung (Sobbao District), Houaphan Province.

Description of villages:

Viengxay District is a plateau area, characterized by a karstic landscape, near 900 - 1000m, mainly dedicated to paddy field, and permanent and rotational agriculture (rice, cassava, corn, makao). Sobbao District is a large valley of the Nam Mâ river and its tributaries, ranging from 200 to 1000 m asl, dedicated to few paddy fields in the deep valleys, and rotational agriculture on steep slopes (rice, corn, cassava). Both districts have a direct border with Vietnam.

The four villages are of the Thai Deng ethnic group with a total of 62, 74, 65 and 48 household per villages (same order). The villages are not accessible by paved road.

Description of land use in the village and surrounding area

Lowland paddy fields are managed either communally (na luom) or individually (na ti). The access to na luom paddy fields is managed by the head of village, who allocates the plots to the families according to their number of members and labor. The allocation is revised periodically, every 1 to 5 years, depending the intern policy of the village,, giving access to families who are interested. All families of the village can have access if they wish. This land could pretend to a CLT. The na ti paddy fields are built and individually appropriated by some families. Not all families have na ti. In both na luom and na ti, paddy is cultivated during the rainy season, followed by free range pasture of livestock or sometimes vegetable cultivation (when water is available). In Sobbao, the temperatures are higher and some farmers recently started to grow a first cycle of paddy before the rainy season.

Most of the farmers do not have enough low land paddy field for ensuring food security, and have to cultivate up land rice on a rotational system including one or two years of cultivation, followed by a regeneration period used for pasture and NTFP collection. Allocation of these lands is also ensured by the head of village and, in a sense, can be seen as under communal management. The families usually keep their customary right on the allocated plots, and may lose it if forest regeneration fully covers the plots.

Maize and cassava are part of the landscape since a few years, mainly cultivated on the down slopes lands, located near the paddy low land. Maize is sold to Vietnam traders, cassava is mainly used for animal feeding. These down slope lands are also used by the well of families for plantations, mainly bamboo, teack, mackaen and makao. Most of these lands are managed individually and farmers generally pretend to individual land use certificate / title. Some of these lands are also temporarily managed collectively. In that case, a group of families in the village have access to an area, but the area is actually subdivided in individual plots, and the beneficiaries generally expect to eventually have an individual land use certificate/title.

The livestock (buffaloes, cattle, goats) customary pastured in the up land forests and rotational regeneration lands during the paddy lowland cultivation season, and are then

let in free ranging in the lowland paddy fields during the dry season. The development of cash crops and plantations in the down slope or middle lands induces changes in the livestock management. Fencing is a heavy work, and in some villages, it has been decided that to responsabilize the animal owners for the damages caused to the crops.

Bamboo natural forests are an important source of NTFP (shoots, stems) for the villagers, particularly the poorest ones. In the four villages, the families tend to develop trade oriented use of these NTFP, according to species available, the villagers' skills and the trade opportunities: nor hok and nor khome bamboo shoots in Ban napho, mai kouane stems for handicraft and a stick factory in ban Eurn, mai xang stems for furniture and a paper pulp factory in ban Piengxai and Ban Napheung.

The 4 villages have established "forest management plans" for having access and make sustainable market oriented use of the bamboo forest, in plots ranging from 2 to 400 hectares. The bamboo forest plots have been agreed by the district governors, delineated by GPS, and inventoried. The access to the forest plots is managed "communally" by the head of village, and every family of the village is allocated a certain number of bamboo clumps.

Description of land use planning and land registration undertaken to date

- 1979–1982: Collective land and work on lowland and upland rice paddy (cooperative).
- 2009/10: LUP/LA by DLMA& DAFO in Viengxay (including 2 targeted villages)
- 2010: forest plots delineated and agreed by the Districts for implementing forest management plans, in the 4 targeted villages (with support of Bamboo Project)
- 2011: forest LUP in the 4 target villages by PAFO, DAFO and DLMA
- 2011: training of DAFO, DLMA, PAFO, PLMA staffs in Vengkham on NAFRI/IRD/CIFOR PLUP method (with support of bamboo Project)
- 2012 (March): adaptation of the method and training of DAFO, DLMA, PAFO, PLMA staffs (with support of bamboo Project)
- No land certificate has been registered yet in the four villages.

Updating of Land Use Plans (LUP) in the villages is a key component of the Bamboo Project, which aims at supporting the Houaphan Province in developing trade oriented sustainable use of bamboo resource by the villagers, through natural bamboo forest management and bamboo plantations. The project is implemented by GRET (resource management) in partnership with SNV (community enterprises and market) and provincial government, reaching 40 villages in 3 districts. One main objective is to facilitate a multi-stakeholders' approach for promoting, supporting and monitoring the bamboo sector in the Province (villagers, provincial and district governments heads and technicians, traders and investors).

Participatory Land Use Planning (PLUP) exercise is the opportunity for villagers to analyze the current evolution of agriculture systems in the villages, and to propose how these agriculture systems should evolve, including bamboo activities. By bamboo activities, we mean trade oriented management of natural forests and plantations, linked with different

kind of value chains like bamboo shoots, sticks, handicraft, furniture, mats. The up-dated LUP should include the managed forest areas and the plantations areas in the “right zones”. PLUP and approved LUP prepare the conditions for future land registering or land titling of managed bamboo forest plots (communal land title) and of bamboo plantation plots (individual or collective land titles). The importance of LUP is clearly illustrated by the “successful” case of Ban Napho, where the demarcation and use of a trade oriented forest management plan for bamboo shoots induced a conflict with a neighboring village, willing to access the resource and questioning the village boundaries.

PLUP is seen as the first stage before communal land registration and titling on bamboo forests used by the villagers.

Hypothesis

- CLT on bamboo forests with forest management plan is expected to secure exclusive land access and land use rights for the families of the village. This is a particularly relevant issue in the current context of development of “2+3 cooperation agreements”.
- CLT is expected to guarantee long term rights on the forest for the village. This is a sound incentive for sustainable management by the villagers, since the implementation of a management plan is a huge investment (in time) and a long term activity.
- CLT is also expected to keep the communal forest under decision making, control and for the benefit of the whole village. Benefits for villagers may be in kind (for domestic use), in income generation (for trade oriented activities), in services (through communal taxation on products – bamboo, feeding a village fund). The purpose and the modalities of access and use of the communal forest resources are built on customary practices and uses. Villagers have a sound interest to manage and control their communal forest.
- CLT is also expected to create confidence of traders and local investors for sustainable supply of the resource (bamboo), opening market opportunities for the villagers.
- Hence, CLT is expected to promote sustainable use of the bamboo forests by the villagers, and contribute to reduce deforestation.

Challenges for future communal land titling

Experience shows the following challenges for CLT implementation:

1. CLT should be long term titles.
2. To avoid confusion and clarify the difference between “communal” (= the whole village) and “collective” (= 1 group of villagers) land titles.
3. To create the conditions for “communal” (= the whole village) decision making, control and management.
4. To create mechanisms which encourage the district governments to issue and manage CLT.
5. To inform province and district relevant authorities and administrations (PAFO, PLMA...) about CLT
6. What would be the best way to provide tax benefits and/or raise tax obligations over communal land? How to balance the need for incentives for local communities to

Case Study: SNV – The first Communal Land Titles in Laos, Sangthong District, Vientiane Province.

Location: Sangthong district 60 km west of Vientiane Capital

Description of villages: Na Po, Wang Mar, Xor, and Ban Khouay. A total of 726 families live in the 4 villages, consisting of 3,821 persons, of which 1,850 women (Houay Hang Village include later). Villages consist of two ethnic groups, Kmuhu and Lao. Historical migration into and out of the villages has been common.

Description of land use in the village and surrounding area (could include history, concessions, etc)

The area is characterized by large tracts of natural bamboo forest. From 1997-2002 many families settled here, coming from other provinces. Much of the bamboo forest was converted into agricultural land for upland rice farming. Presently, several companies have been given land for concessions to plant rubber, cassava and jatropha and a gold mining concession is currently at the exploration phase.

Bamboo handicraft production is organized through an association of bamboo producers, there are bamboo groups in each village. Some 306 women from 121 families are engaged in bamboo handicraft production. Each village has specific areas demarcated as bamboo production areas. In total these areas amount to 535 ha (Ban Na Po 50 ha, Ban Wang Mar 85 ha, Ban Xor 337 ha and Ban Kouay 60 ha). These areas are proposed to be registered as communal land.

Description of land use planning and land registration undertaken to date

- 2007 – 2008 all four villages have participatory land use planning and land allocation implemented by the District Agriculture and Forestry Office (DAFO).
- May 2010, delineation of bamboo harvesting areas and plans for the bamboo handicrafts producer groups in the four villages.
- October 2011 first communal land titles to 4 villages district land authorities.

Lessons learned

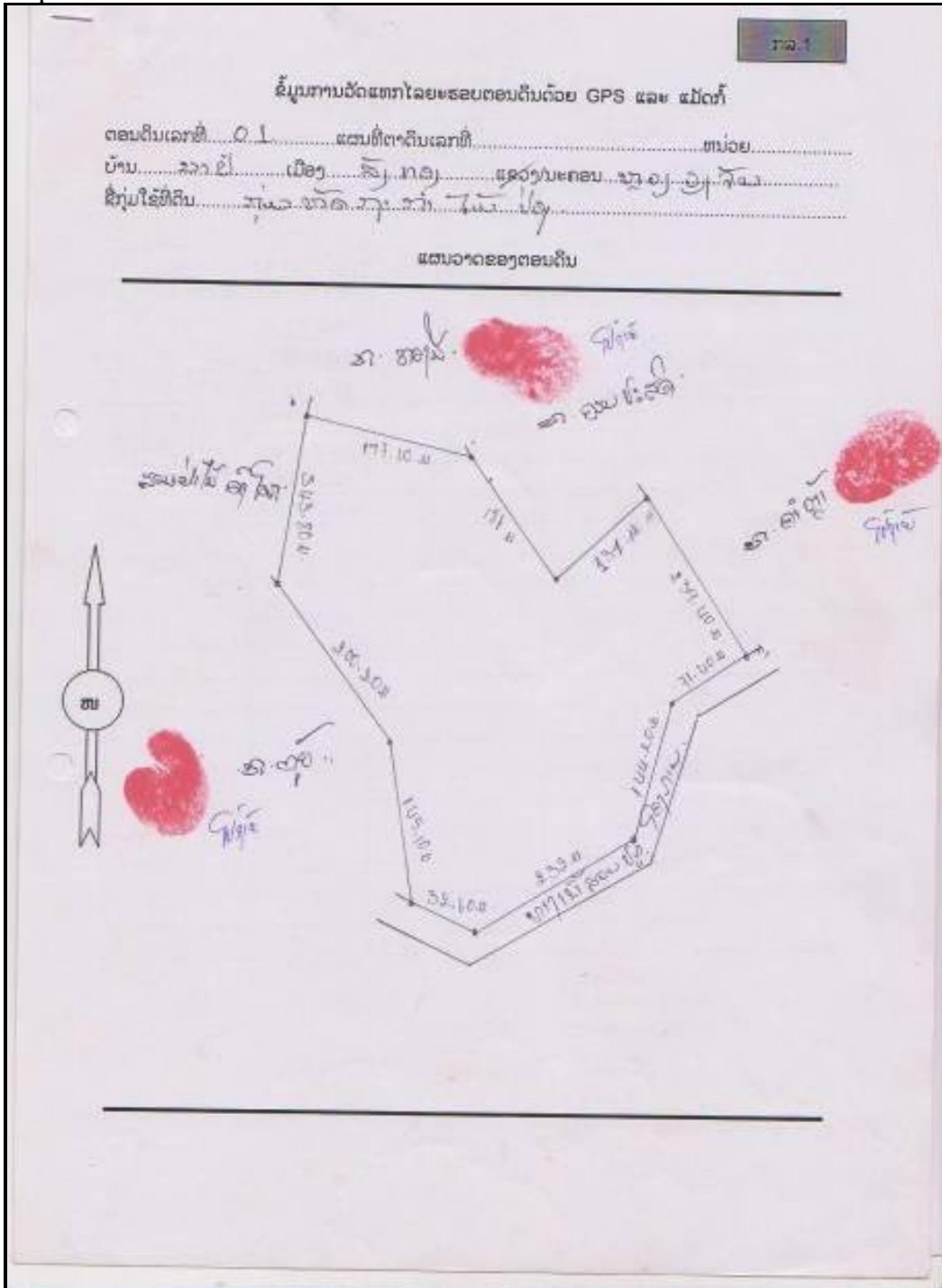
1. Public lands such as temples, schools are usually well protected already by customary rules. It is more important to focus on larger common areas such as forest or community agricultural (shifting cultivation).
2. Communal land titles would be a feasible way to ensure community rights to common pool resources, in this case of bamboo forests. It is crucial that clear guidelines emerge for scaling up elsewhere in the country and Sangthong is a good example.
3. In case of forest resources (bamboo) like Sangthong district, suitable areas in production forest need to be identified and a NTFP inventory and forest management plan are required leading towards the communal land title.
4. Communal land titles have a direct impact on income generation through bamboo user groups, forest management plans, sustainable bamboo harvesting plans and

maps delineating common pool bamboo forests. These ensure a supply of bamboo to the handicraft groups for commercial trade.

Challenges for future communal land titling

1. Tax on communal land areas should not be imposed when the land is being used for subsistence purposes but if cash cropping or production for the purpose of sales is done tax collection is acceptable.
2. District authorities (land, finance etc.) need clear guidelines on how to apply tax rules to communal land. Particularly on how groups (opposed to individuals) pay taxes and on what system (product, production etc).
3. A short CLT period equates the title with leasing or land renting. A permanent title makes it difficult to change the use of the land but these offer immediate and stronger tenure. Permanent titles with options for amending are needed.
4. CLT are should only be issued in the name of a community rather than groups to ensure equity and access to for all people. However, if there is to be issuance to “groups” these need to be clarified..
5. Once groups are defined the legal status of the group needs to be clarified (village, produce groups, association, cooperative).
6. The process of approving communal land titles still not fully worked out. There is no clear step by step process explaining who is responsible (district and province) and expected time frame and costs.
7. Procedures regarding changes of land status (communal land – private – communal), group membership and taxation are not available.
8. Communally titled bamboo forests were delineated in 2010 but PLUP was complete in 2007-08. It is unclear if communally titled areas must be part of a PLUP or not but it was done successfully without it.

Map



Communal land area and boundary in Na Po Village, Sangthong District

Case Study: TABI in Luang Prabang and Xieng Khouang Forest & Land use Planning for Communal and Individual registration and titling:

1: Location: Ponsai District, Luang Prabang Province, and Phoukods District Xieng Khouang Province

2: Description of villages:

Ponsai District: 8 villages of Sopjia Goomban. Mainly Khamu ethnic group. Most villages have either been (i) relocated from within the District, or (ii) accepted households relocated from other village.

Phoukods District: 6 villages of Kheung LongHang Goomban, 2 on the edge of the Xieng Khouang plains and 4 in the watershed of the Nam Khan, a mixture of Kham and Phouan ethnic groups.

3: Description of land use in the villages and surrounding area

- i. Most village land use (except Phoung Mun and Khueng) is dominated by upland rice and bush fallow, due mainly to the step topography.
- ii. Relatively little “never cleared forests” occur in Ponsai villages, but significant amount in the Phoukods villages.
- iii. Cattle raising, as typical, is important, but lack of cattle management makes it difficult to develop more ‘stabilized’ land uses.
- iv. There is very little wet rice area in Ponsai, but more in Phoukods villages near the plains area.
- v. There is little development of tree or plantation crops.
- vi. Almost no land concessions, except for a cassava concession of village (and army) land to Koreans in Phongmun and Kheung. Improved, all season roads are now being developed, so pressure from ‘land grabbers’ is expected to increase.

4: Description of land use planning and land registration undertaken to date

- i) LUPLA was undertaken in some villages in 2002, but was not officially endorsed by the District or used by the villages, and documentation and maps either lost or not used.
- ii) The Districts often issues ‘land use’ instructions and a schedule of fines (based on the shifting cultivation eradication policy) which are usually not practical or implemented.
- iii) In 2011, the DLMA undertook ‘Chulapark’ land use planning, the results/maps of which are not correct or useful.
- iv) Three projects in the district are currently re-doing LUP - TABI, NUDP and PARRED
- v) TABI pFLUP began in November 2010, is ongoing, and aims to:
 - a) first develop a good understanding of current forest cover, land use and land tenures.

- b) stabilise and develop upland rotational agriculture and fallow in annual ‘zones’ (see maps) which will (a) be the unit of community land titling, (b) assist in forest fire control, and (c) provide a focus for agricultural extension and development.
- c) clearly identify forest blocks or zones which have defined boundaries and simple/basic management plans – and thus also easily transferred to a CLT
- d) Identify and survey permanent agricultural lands – which could be provided individual and tiles

A summary of land use planning is provided below, and illustrated in 3 attached maps.

	village	hh	Total village area	Areas of Forest blocks		Agricultural land areas/zones				
				%	Wet rice	Hai/bush fallow zones/blocks	No. years rotation	Pasture blocks	other	
Sopjia Goomban										
1	Huameuang	81	1,658	840	51%	??	820	5 yrs	1	
2	Sopjia	81	911	351	39%	??	575	4	-	0
3	Phakhok	76	3,772	2,774	74%	?	1,012	6	-	0
4	HuayJia	49	1,515	830	55%	??	501	6	-	68.5
5	HuayDong	84	2,615	1,386	53%	??	820	7	105	328.9
6	Donsai	76	2,186	1,250	57%	??	784	7	38	81.6
7	H. Singuoa	92	5,139	2,984	58%	??	1,607	6	-	545
8	Thathong	73	3,410	1,532	45%	?	1,627	7	127	103.4
Kheung Kinghang GB										
9	Vangthong	42	5,341	4,050		???	1,249	6 yrs	-	-
10	Lang jong	147	10,085	6,874		???	3,138	5	-	-
11	Long hang	109	7,900	4,738		???	2,651	7	-	375.9
12	Mien	59	6,937	4,996		???	1,879	7	-	-
13	Kheung	83	4,082	1,929		???	553	-	884	187.5
14	PhoungMun	75	2,308	1,103		???	-	-	664	60.4

5: Lessons learned

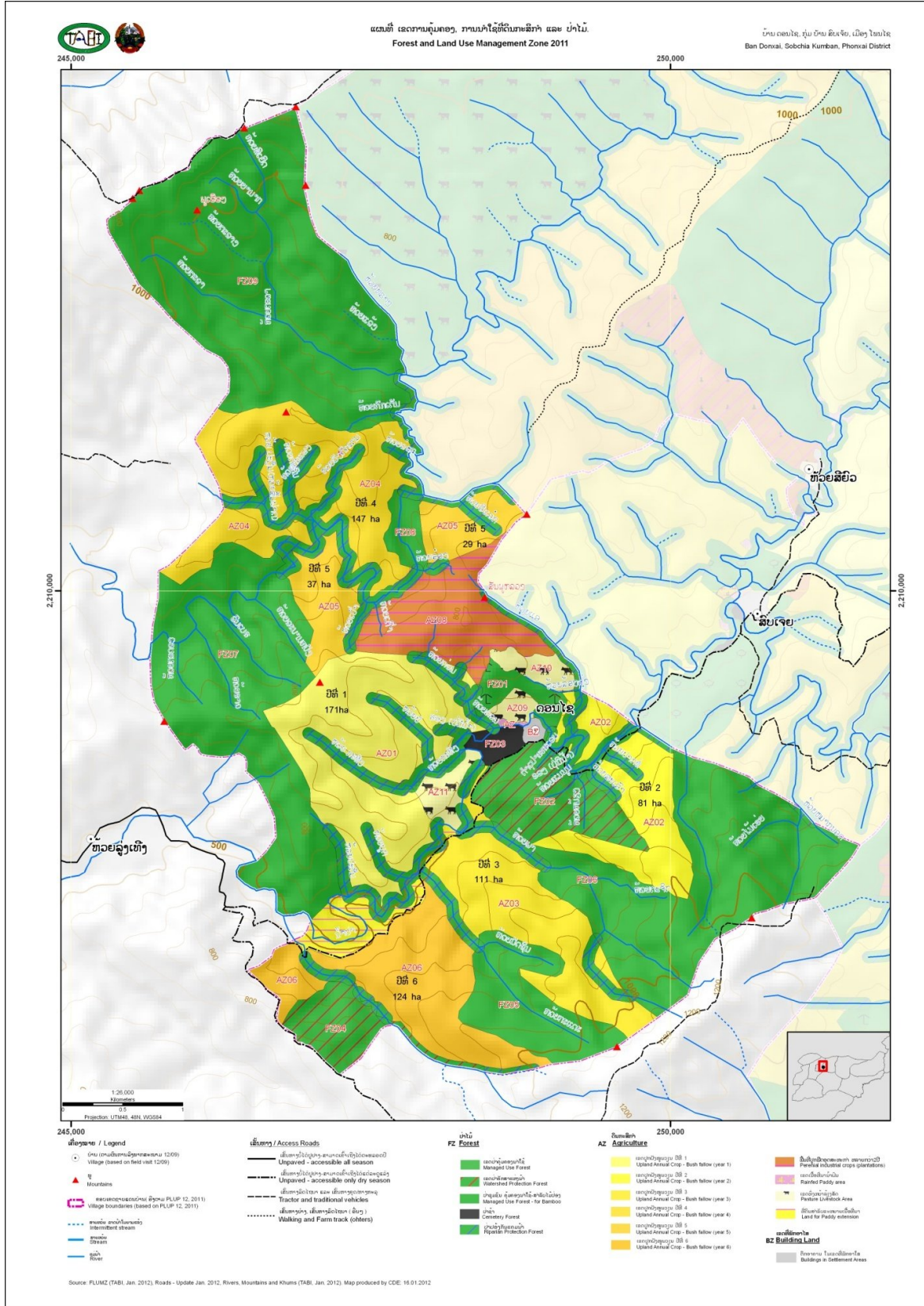
1. Land use planning can focus on identifying and map (a) individual, fixed agricultural land and (b) community agricultural land, and (c) village forests.
2. Some villages want to maintain community ownership of even fixed agricultural fields such as wet rice fields, not individual or households land title, most likely to avoid sale to outsiders
3. No need to use the ‘3 forest types’ at village (or Goomban) level
4. The unclear tax regime for communal land is the major constraint to planning for community land registration and titing

5. The most practical title may be “Bai PaanTi Din” or “Land registration Maps”, not a “Baidta din”, as the former can be issued based on handheld GPS land parcel boundary mapping

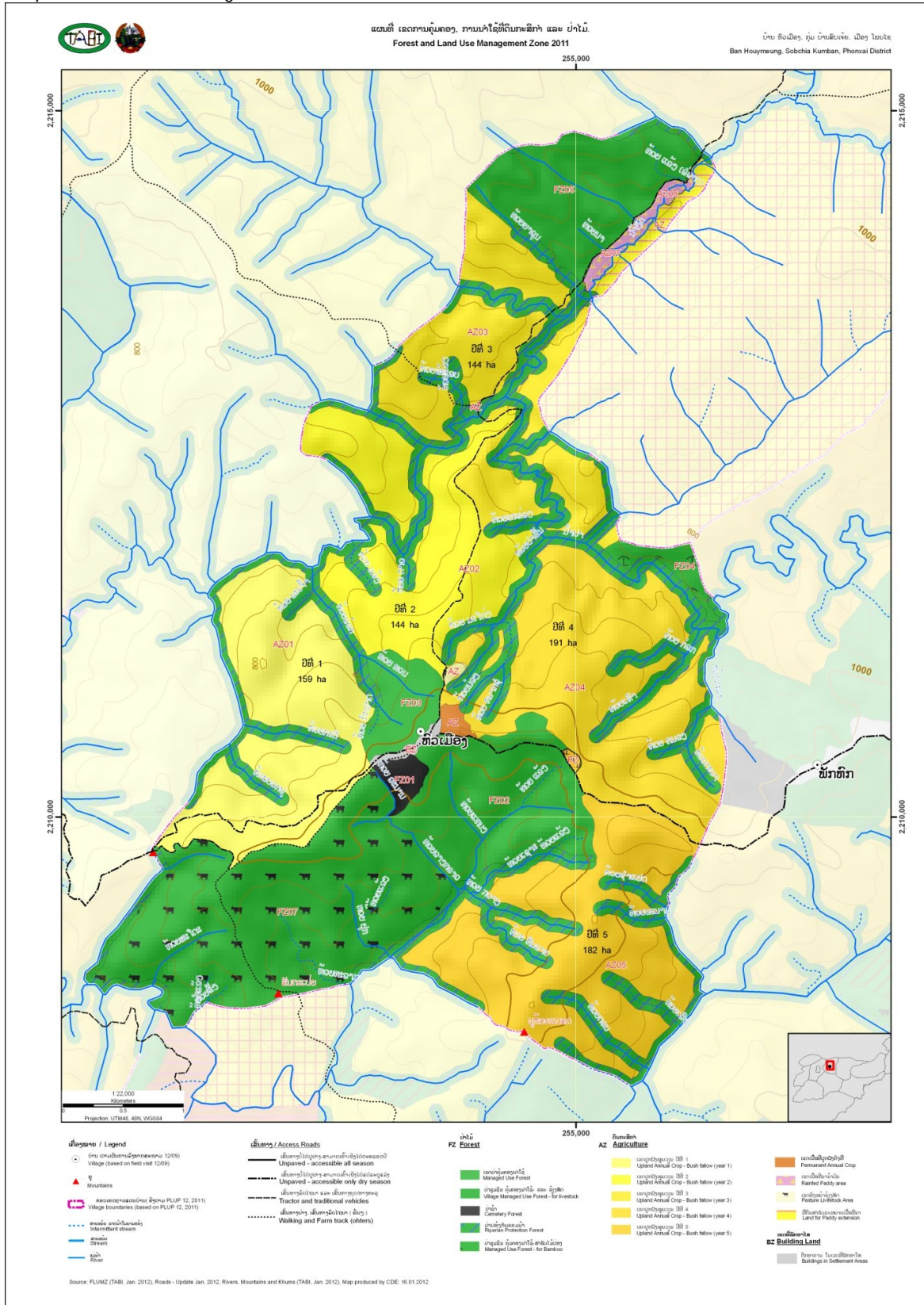
6: Challenges for future communal land titling

1. District authorities (land, finance etc.) need clear guidelines on how to apply tax rules to communal land, or should develop new tax regimes for the full range of Communal Lands.
2. TABI is proposing for the rotational upland crop land zones, 30,000 kip/ha for current cropped land and 10,000 kip/ha for fallow land. (currently it is 30,000 and 40,000 kip/ha respectively)
3. CLT are only issued in the name of a village but clear guidelines are required regarding the “group” or “community” eligibility for use right, and which people will be included in the group entitled to the resource . The issue of how to accommodate, or not, persons coming into the village also requires verification.
4. Once groups are defined the legal status of the group needs to be clarified (village, produce groups, association, cooperative).
5. The main challenge is how to permanently mark the boundary/corner of CL in the field.

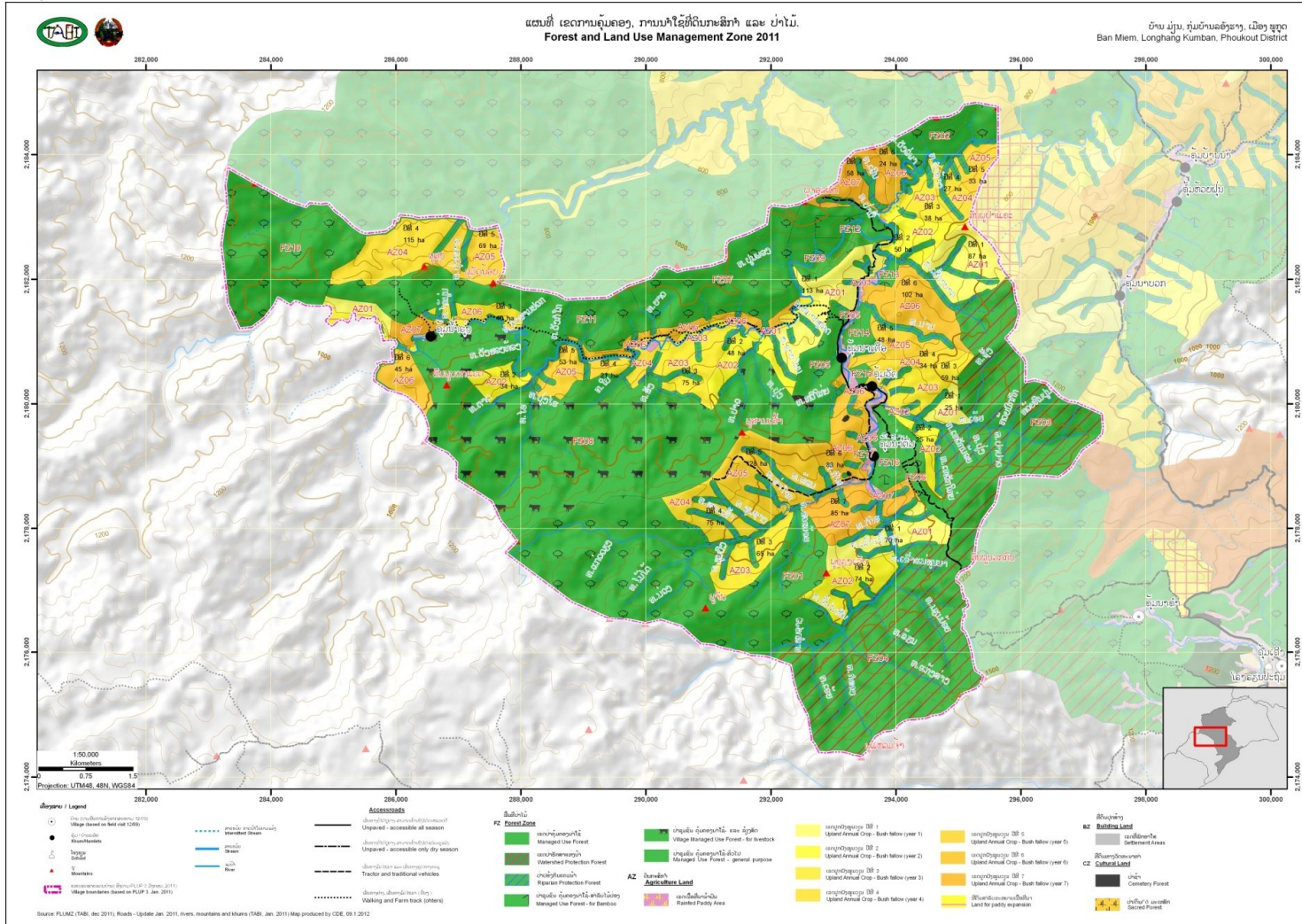
Map 1: Ban Donexai, Ponsai District



Map 2: Ban Houameuang, Ponsai District



Map 3: Ban Mien, Phoukodd District



Map 4: Ban PhoungMun, Phoukoldt District

