Supporting REDD Implementation in Laos

Through the Design of a REDD-compliant Benefit Distribution System

Rapid Study supported by a small grant from by the Swedish Environmental Secretariat for Asia (SENSA)

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1 BACKGROUND

Lao PDR (Laos) is climate change-vulnerable, because of its high dependence on natural resources, and its low adaptive capacity as a developing country. On the other hand, Laos has a large forest area (especially per capita), and relatively high per capita emissions (including from fuel wood). While globally deforestation and forest degradation account for ca. 20% of greenhouse gas emissions, in Laos it is 72%.

The main drivers for deforestation and forest degradation are (i) encroachment / conversion into tree or agriculture crop plantations (e.g. rubber), (ii) commercial logging (according to unofficial estimates ca. 900,000m3 per year, with >50% illegal), (iii) hydropower dams ("salvage logging", which then

2 LEGAL AND INSTIUTIONAL FRAMEWORKS RELEVANT TO ESTABLISHING A REDD+ BENEFIT SHARING MECHANISM IN LAOS[1]

2.1 Overview and Analysis of Primary Legislation

State Assets Law (2002)

The State Assets Law defines the different types and outlines the management responsibilities for assets of the State such as forest-lands and the trees occurring naturally on them (as opposed to plantation forests, where the trees are owned by the plantation developers). This law is critical and should form the basis of any REDD+ legal analysis in the Lao PDR. since this piece of legislation goes directly to the heart of the question, “who owns the carbon?”

According to this law, State assets are owned by the national community and centrally controlled, though access, use and management of these assets may be granted to organizations and individuals (Article 3). State assets with natural features such as forestlands are classified in the law as “Public Assets” (Article 4), and while these assets must be used for the good of the public and are still owned and held in trust by the State, they can be granted to individuals and organizations through a lease or concession (Article 13).

Article 13 in this law is of particular importance for the creation of REDD+ benefit sharing arrangements in the future, as it provides room for designing creative approaches while using the already existing legal framework in the country, such as the creation of carbon forestry concessions, whereby local groups could be granted access, use and management rights over an area in order to gain a particular set of defined incentive benefits in exchange for sustainably managing the area granted over an extended period of time. Article 13 is essentially the basis mechanism by which the SUFORD village production forest concessions are authorized (Sustainable Forestry and Rural Development project supported by Government of Finland and World Bank) and is also the foundation of support for the recent eco-tourism conservation concessions that are now being authorized in the country (Nam Lik, Bokeo Gibbon Project, etc.).

State Budget Law (2006)

The State Budget Law provides the legal framework for the management and expenditure of all State revenues, which are to be centrally controlled by the National Treasury. All State revenues are to remain in the overall State budget system, though special State funds may be established with proper authorization (Article 6). According to this law, special State funds can be created with the authorization of the government for specific purposes as outlined through regulation (Article 3). The

While natural forest and forestlands are considered as property of the State (with the possibility of various access and use rights granted to individuals and organizations), trees that are planted in designated areas are considered the property of those that planted them (Article 4). This provision is important in terms of answering the question of who owns the carbon sequestered by forests, and how benefits resulting from carbon credit sales should be distributed, depending on how broadly such a provision might be interpreted by the GoL.

The Forestry Law promotes the concept that local people should be involved in the sustainable management of forest resources in the country, and they should be able to benefit from such involvement (Article 6). Building upon this idea, the Law mandates that regulations should be implemented to create incentives that encourage households and individuals to be involved in the regeneration of forests and forestlands (Article 34). These provisions could form the basis and justification for creating a performance based REDD+ benefit sharing system in the country. Additional support for creating such a system exists in the mechanism for allocating production and non-production forestlands to villages, thus allowing them to legally access, use, manage and benefit from these areas (Articles 3 & 82). The Law also allows the Government to grant forestlands to households, individuals and organizations as a lease or concession, which could create additional opportunities for the development of REDD+ performance based benefit-sharing arrangements in the country if properly utilized (Article 85).

In addition to the above, the Forestry Law provides the legal basis for the Forest and Forest Resource Development Fund (Articles 37 & 38). Unfortunately the Law states that use of these funds are limited to activities relating to the conservation, rehabilitation and management of forests and forest lands, and it does not appear that it can be used as a mechanism to provide non-forest management as production forest areas or forestland areas for tourism, may be granted through a lease or concession from the government (Article 21).

In addition, the Law includes provisions that outline the authority of the National Land Management Authority and the Ministry of Agriculture and Forestry (Articles 10, 20 & 78).

Contract Law (1990)

The Contract Law defines the parameters of contractual arrangements in the country, which is important since REDD+ arrangements could not occur without contractual agreements being recognized in the Lao PDR; REDD+ is ultimately a contractual agreement between parties, where payment for a particular specialized service is being made (Article 1).

The Law lists the possible parties to a contract, including the State, individuals, legal entities and collective organizations (Article 2). Collective organizations could be broadly defined or interpreted to include a community group or organization. Contracts under the Law may be between multiple parties, such as an international organization, the State, and a community group or organization (Article 4). This ability to have multiple parties to a contract could be very important in the REDD+ context in Laos.

GoL Authority to Grant Awards Supports REDD+ Performance Based Benefit Sharing

There is a peculiar legislative tradition in the Lao PDR where very similar language provisions can

2.2 Analysis of the Prime Ministerial Decrees that have been enacted for the Establishment of the (three) existing State Funds

The following analysis is based solely on the black and white in the legal text within the Prime Ministerial Decrees that were enacted to establish the three funds examined in this report, with the goal of attempting to determine whether they match up with what would be needed legally for a REDD+ fund in the Lao PDR in the future (basically, does the language contained in these legal instruments meet what are generally agreed upon as minimum requirements for such mechanisms by the international community under future REDD+ protocols; things like transparency, civil society involvement, relevance to management issues in the sector, etc.).

2.2.1 Forest & Forest Resources Development Fund (FFRDF)

The primary strength of the Prime Ministerial Decree that establishes the FFRDF is that it is focused on the development of forestry sector and forest resources in the country (highly relevant to REDD+, as it is primarily concerned with forest sector governance issues). In addition to this, the fund management council includes representatives from institutions not directly linked to the forestry sector (Director General from the Environment Department within WREA, Director General of Department of State Assets within the Ministry of Finance, and the Director General for Planning and Land Development within the Prime Minister's Office). There are also important provisions relating to

2.2.3 Poverty Reduction Fund (PRF)

As with the EPF, a real strength of the PRF being that the Administrative Board is led by a non-ministerial representative (deputy Prime Minister), and that Civil Society representatives are not only included as members, but that a Civil Society Member is appointed as second vice Chair to the operation of the fund.

strategies or action plans and, as appropriate, sub-national strategies that could further involve capacity building, technology transfer and results-based demonstration activities. Phase 3 would include results-based actions that are fully monitored, reported and verified. The timeframe for implementation of such activities should depend on national circumstances, capacities and capabilities.

Financing REDD+ is an essential feature and will be strongly related to the overall outcome and success of REDD+ in Lao PDR – flexibility is the most important element for financing REDD+ in Lao PDR. At this stage, Lao PDR prefers to build readiness for REDD+ with bilateral relationships with donors, given the extensive capacity building, which is required within the readiness phase. As a participating country within the Forest Carbon Partnership Facility (FCPF), Lao PDR also supports multilateral approaches for financing. In the hope to keep financing flexible, particularly within the UNFCCC, Lao PDR supports the hybrid approach to financing which means financing REDD can come from both funds and market based approaches. Lao PDR is also interested in opportunities within the voluntary market to support sustainable project based approaches to REDD+."

The text from the following section of this document is also relevant (Section 8.3: *Outlook 2010, An Experts View*):

"With regard to financing REDD projects through carbon markets…a new possibility may emerge. The US, together with e.g. Colombia, is pushing strongly to keep sub-national approaches inside the REDD text and intends to allow sub-national REDD offsets for its domestic cap and trade system from a range of developing countries for a time window of 8 to 15 years (up to 2017, possible extension to 2025 max). Countries eligible for selling emission reductions from projects or distri5(m) e5i/-pTv017r vohybries

Project-based funding: The private sector is directly involved in REDD – PLUS projects on the ground, which generates credits.

REDD - PLUS fund within the government administration: A national fund that is established within existing structures of the state administration, with representatives from various national stakeholder groups on the board." [3]

2.3.2 Options for the Development of a REDD+ Fund

Taking into account the background information above, It is suggested as an option that a legal enabling document is drafted and enacted in the near future that will create a special State fund for the purpose of pooling and distributing monies being made available from the international community for REDD+ support activities, including donor funds that are earmarked for the implementation of the REDD+ Strategic Plan that is scheduled to be drafted and approved this year. The fund can then be modified as necessary over time in conjunction with the nested phased approach that the GoL has decided is the best way forward in the Lao context.

In addition to financial resources contributed by donors in support of REDD+ activities, a portion of the revenues generated from the various sub-national private sector/voluntary carbon market or future cap & trade related sub-national projects could also be fed directly into the fund in order to ensure that monies generated from these projects go directly back to the local communities that are associated with the forest resources where the carbon credits were generated. These revenues, while located within the same REDD+ State fund as the financial resources contributed by various donors, could be placed into a specially created financial window that is designed specifically to handle such revenues and earmark their use to supporting the communities associated with the forest resources as already mentioned.

The key to this option is that it will combine various financial resources into one fund in order to ensure the performance-based linkages actually exist. In addition, the more money that can be placed into the same fund, the easier it will be to manage and monitor successfully, and the greater likelihood of there being actual performance based payments that reach local communities in the country. Why should the GoL seriously consider taking such an approach? Because in the Lao context, the forest resources that will be generating carbon credits will most likely be claimed or classified as State property by the GoL that are being held in trust for the entire country.

The two following scenarios help to illustrate how this option might work and be justified in the Lao context:

Example 1: SUFORD Project FSC certified commercial production forest areas are likely contenders for generating carbon credits. Do the villages actually own these forest resources? No, definitely not. Under the regulatory framework that was created to support this project approach to forest resource

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[3] The analysis here does not include the "REDD-Plus fund outside the State Administration," as the authors of this study felt that this option was not approoca7 iiin the 8(h)5.etu5 -are lSimilar, a5.2(")he

management in the country, it is clear that the villagers can get a portion of the proceeds from the commercial timber sales, but the production forest lands and the natural forest on those lands belong to the GoL, even though they are within village administrative boundaries. The same is true for non-commercial production, conservation, and protection forest areas within village administrative boundaries. The villagers may have access, use, and management rights (they create their own rules and regulations), the forest resources are still owned de-facto by the GoL. The forest resources include the carbon in the trees, so the carbon credits would most likely be considered as property of the GoL.

With this being the case, the option is being presented that a percentage of the proceeds from carbon credit sales go directly into the REDD+ special State fund, specially earmarked in a specific financial window within the fund for the benefit of the village or Koumban (cluster of around three to five villages) from which the carbon originated (basically utilizing the financial model that the Poverty Reduction Fund already uses, which is based on the needs and desires of the community in question), thus avoiding being lost forever in the National Treasury after the Ministry of Finance (MoF) takes possession, which, in accordance with the State Budget Law, is where the proceeds from carbon credit sales would otherwise be transferred.

Example 2: After the NLMA (district level land management offices) rezone village forest areas in cooperation with members from the Department of Forestry (DoF, including the Provincial / District Agriculture and Forestry Offices, PAFO and DAFO) in accordance with the Land Law, Forestry Law and the new Participatory Agriculture and Forest Land Use Planning Manual, and proper follow up village forest management extension services are provided, it is quite likely that non-commercial village production forest areas, village protection forest areas, and village conservation forest areas could generate carbon credits.[4] Again, under the option being presented, a portion of the proceeds from carbon credit sales should go directly into the REDD+ fund, specially earmarked for the benefit of the villages/Koumbans from which the carbon originated.

Note on Allocation of Carbon Credit Sale Proceeds

For examples 1 & 2 above, it is suggested that an actual portion of the carbon credits be allocated to villages/Koumbans, with 100% of the proceeds from those carbon credits sold going directly into the REDD+ fund. Each time carbon credits are sold from the area in question, the agreed upon portion of carbon credits allocated to the villages/Koumbans are apportioned in the sale along with any other parties (portion belonging to the carbon credit project developer/financier, portion belonging to GoL, etc.). This will avoid scenarios where carbon marketing contracts between the financier and the GoL are written in such a way that, for example, proceed from the first 100,000 carbon credits sold go to the financier, proceeds from the next 200,000 carbon credits sold go to the GoL, and the last 50,000 sold go to the community, which may never see any proceeds since those final carbon credits are the most speculative (the carbon stocks may never reach the estimated amounts reflected in the project contract documents). This arrangement also limits the risk that proceeds may end up being much lower than anticipated for some reason, as has been the case with the share of proceeds to communities in relation to commercial timber auctions conducted through the SUFORD project.

[4] The carbon credit sales in examples 1 and 2 should most likely be associated with Koumbans, or groupings of Koumbans linked to the carbon credits generated, due to the fact that members of villages with poor forest resources have a tendency to go into other village forest areas to extract the resources they cant find closer to home.

2.3.3 Options for the Development of a Legal Enabling Document for a REDD+ Special State Fund

In terms of creating a REDD+ Special State Fund with the options for phased development and operation presented in the section above, The GoL can decide to either create an entirely new fund, or it can adopt the option of modifying an already existing State Fund in order to maximize governance efficiency and to ensure the utilization of already existing knowledge and capacity that exists in the country. This would entail modifying one of the Prime Ministerial Decrees that established an already existing fund in order to incorporate the various REDD+ funds into its operation, or drafting and enacting a new Prime Ministerial Decree in order to create an entirely new fund.

On of the problems with creation of a new fund is that Article 17(4) of the Prime Ministerial Decree establishing the Environmental Protection Fund already expressly prohibits the creation of any new funds that deal with environmental protection or natural resources management issues in the country. It would appear that this provision would inherently block the creation of a standalone REDD+ fund as a possible option in the Lao context.

Regardless of the option ultimately chosen by the GoL, there are certain boilerplate provisions that should be incorporated into a Prime Ministerial Decree in order to ensure that the fund mechanism ultimately chosen will meet minimum standards and protocols of the international community that is ultimately supporting such a fund. The following are general examples of what these boilerplate provisions should contain.

1) Organizational Makeup: The fund management should have participation from all relevant government institutional organizations, private sector representatives, donors, civil society and local government.

2) Transparency: Financial data and planning documentation should be readily available for public review.

3) Use of funds: REDD+ Fund resources should be able to be used for natural resources management and conservation activities in the forestry sector, governance capacity building and also community development/poverty reduction activities.

2.4 Overview of Institutional Authorities Relevant to REDD+ Revenue Sharing Arrangements (other than State Funds)

The following chart provides an overview of the GoL institutions and authorities, other than the three State funds discussed in Sections 2.3 and 3.

National Steering Committee for Climate Change (NSCCC)

National Land Management Agency (NLMA)
The NLMA, located under the Prime Minister's office, is the lead Government entity responsible for the drafting of policies, strategic plans and legislation in relation to land management and development in the country. The NLMA is essentially responsible for taking the lead role in land classification or zoning and land use planning activities mandated by the Land Law in coordination with other government entities from the local to the central level. NLMA is also primarily responsible for managing construction land throughout the country, including issuing regulations on the management, protection, development and use of this land.

Sub-National Entities
At the sub-national level, provincial land authorities, district land authorities and village land units are to be established throughout the country. The provincial authority is in charge of registration and issuing titles or land survey certificates, district in charge of conducting surveys, zoning of village land and putting together necessary documentation for registration, and village units in charge of gathering data/evidence for land files and assisting with conflict resolution at the grassroots level.

Ministry of Agriculture and Forestry (MAF)
Primary responsibility over management of forest, agricultural and water lands, including drafting and enforcement of legislation and regulations related to these lands. Primarily responsible, in coordination with other sector entities, for categorizing different agriculture and forest land types at national, provincial, district and village levels.

Key Departments or Divisional Entities Within MAF
Department of Forestry: Responsible for managing forest lands and forest resources in the country in coordination with other line ministries, including National Protected Areas.

Department of Forest Inspection (DoFI): Responsible for investigating and bringing for prosecution possible violations of law relating to the use and management of forest resources in the country, including issues relating to National Biodiversity Conservation Areas and wildlife trade.

National Agriculture and Forestry Research Institute (NAFRI): Responsible for carrying out scientific research on issues relating to agriculture and forestry resource use in the country.

National Agriculture and Forestry Extension Service (NAFES): Responsible for handling extension services in relation to agricultural and forestry issues throughout the country.

Sub-National Entities
Provincial & District Agriculture and Forestry Offices (*PAFO & DAFO)*: Oversight over Village Forest Management Units for planning and management of local forest resources. Also responsible for forest-land allocation of degraded forest lands, in coordination with NLMA at provincial and district level, to both individuals and organizations.

National Protected Areas: NPAs are generally staffed and managed by the relevant PAFOs/DAFOs. The most common arrangement is for the NPA Head to be assigned from the PAFO, and his core staff drawn from a mix of PAFO and DAFO staff.

Ministry of Information and Culture
Responsible for managing the cultural land throughout the country, such as National Heritage sites, including issuing regulations on the management, protection, development and use of this land.

Ministry of Industry and Commerce
Responsible for managing industrial land throughout the country, including issuing regulations on the management, protection, development and use of this land. This Ministry is also responsible for monitoring and regulating wood processing enterprises in the country.

With regards to forest resources in the country, the Ministry of Industry and Commerce is

Water Resources and Environment Agency (WREA)
Formerly the Science, Technology and Environment Agency (STEA), which was established under the Prime Minister Office in 1993, includes the Department of Environment (DoE) and the Environmental Research Institute (ERI). WREA is the principal Government agency for formulating and guiding environmental policy in the country. These two departments are the national focal points for environmental management, including the development of strategies, policies, regulations, programs and projects, implementing Government responsibilities in environmental impact assessment, environment monitoring, and research and training activities. WREA responsible for ensuring that the Law on Environmental Protection is complied with, including being responsible for ensuring provisions within the law relating to Environmental and Social Impact Assessments (ESIAs) are properly prepared and complied with. This would include projects that impact on land resources such as various types of concessions (hydropower, plantation, mining).

Local Administration (province, district, village)
The Local Administration Law spells out very broad mandates for the various levels of local
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Following the example from Vietnam (Cam Duc Phat, 2010, pp. 106-107), a fourth element of costs – the REDD+ rent – is also included in the REDD+ costs. The rationale is that REDD+ payments should not only cover the costs but also generate some incentive for the stakeholders, particularly the local community, for avoiding deforestation and forest degradation.

REDD+ Rent

In economic terms, "REDD rent" is similar to the concept of producer surplus – the difference between what a producer is paid for a good or service and what it costs them to supply it.

Not all REDD+ costs can be expressed in purely monetary terms. Some will be felt as the loss of non-monetary benefits or of non-marketed goods and services. The opportunity costs of avoided deforestation are not limited to a reduction in income. They may also be felt as losses of un-marketed goods and services (such as traditional healthcare products, wild meat or emergency foods) or through a decline in social wellbeing or other indicators (such as a decline in nutritional standards). Along similar lines, the cash returns to different land and resource uses are not the only factors motivating forest degrading activities – and therefore monetary payments are unlikely, by themselves, to add up to a sufficient incentive package to persuade people not to deforest.

For this reason, there is broad consensus that local payment mechanisms to compensate REDD+ opportunity costs must usually consider the provision of both cash and non-cash benefits, which will balance the monetary and non-monetary losses that forest land and resource users incur. These BDSs must, in addition to covering costs, provide positive incentives for avoiding deforestation and forest degradation.

3.3 Review of approaches for allocating and retaining conservation payments in Lao PDR

Currently there are three major national State Funds related to forest resource management in Laos: the Poverty Reduction Fund (PRF), the Environmental Protection Fund (EPF) and the Forestry and Forest Resource Development Fund (FRDF).

3.3.1 The Poverty Reduction Fund

The Poverty Reduction Fund (PRF) is a financially autonomous organization, legally set up by the Decree No 31 / PM dated 31st May 2002 and operated in accordance with Decree No 222 / PM dated 29th September 2006. The main objectives of the PRF are to finance small-scale infrastructure and services and to strengthen local capacity in respect to village development.

Currently the main funding sources are from the World Bank (the International Development Association, IDA), and Swiss Development Cooperation (SDC), plus some revenue from e.g. the sale of PRF products such as T-Shirts).

PRF now works in all 17 provinces, in 47 districts out of the total 72 districts that have been officially classified as "poor". The organizational structure of PRF reaches from the national down to the village levels.

Figure 1: Organizational structure of the Poverty Reduction Fund
(Source: PRF Finance and Administrative Manual)

PRF Structure

Executive Director

Deputy Executive Director

Engineering Unit

Monitoring & Evaluation Unit

Finance & Administration Unit

Koumban Facilitators

* 1 of the 4 Koumban Representatives

PRF Staff

Volunteers

community team leader, Koumban facilitators, a Koumban implementation and maintenance team, a Koumban procurement team, and Koumban representatives. At the village level, there are village representatives working with the Village Implementation and Maintenance Team (number of team members depending on the number of sub-projects in a village). Staff of PRF at the national (except for the executive director and his deputy who are civil servants), provincial and district levels are on the pay-role of PRF. At Koumban and village levels work is undertaken on a voluntary basis.

Funded activities focus mainly on road access, agriculture, public health (e.g. wells), education (school buildings), and income generation. Activity planning under PRF starts at village level where villagers meet to agree on priorities. Normally each village can propose around three "sub-projects". After that, there is a meeting at the Koumban level where priorities for the whole Koumban are prepared and submitted to the district level, where all submissions by Koumbans in the district are reviewed. Results of the review are presented at a meeting, and decisions made whether a proposed activity will be funded or not. Usually, there are not more than three sub-projects funded each year per Koumban, with the funds not exceeding US$30,000 per sub-project per annum.

All the planning, management and fund allocation activities follow detailed manuals / guidelines prepared at the national level to meet the requirements of the donors:

The *Manual of operations* provides detailed guidance on all operational aspects at all levels.

The *Finance and administration manual* describes financial and accounting policies and procedures, budget preparation, delegation of authority to project staff, disbursement procedures, internal controls, etc.

The *Social and environmental guideline* stipulates policies and procedures to avoid or minimize adverse environmental and social impacts of sub-projects and to ensure that they meet the World Bank' safeguards policies.

At central level, PRF has three separate bank accounts in US$ for IDA and SDC and other sources, and one additional account in KIP for other sources (**Error! Not a valid bookmark self-reference.**). At the provincial level, all funds are converted into KIP and held in separate accounts: accounts for operational costs and development activities, and accounts for subprojects. Bank accounts are set up at the Koumban level but not at the village level.

The current separate bank accounts for the World Bank and for SDC are supposed to be a temporary arrangement until an agreement is reached that all funds can be pooled into one single Special Account.

Figure 2: The Poverty Reduction Fund's bank account system
(Source: PRF Finance and Administrative Manual)

SDC

World Bank

US$ Account
at the Bank of Laos

US$ Account
at the Bank of Laos

US$ Account
at the Bank of Laos

KIP Account
at the Bank of Laos

National Level

KIP Accounts
Subprojects' Exp.
SDC

KIP Accounts
Subprojects Exp.
WB

KIP Accounts Operating Exp.

Provincial Level

Koumban Teams' Bank Accounts

District and Koumban Level

Figure 3: Fund disbursement for PRF sub-project activities

SUBPROJECT DISBURSEMENT CYCLE

Step 1: Final

3.3.2 The Environmental Protection Fund

Similar to PRF the Environmental Protection Fund (EPF) is an autonomous organization set up by the Government of Laos (Prime Ministerial Decree No 146, dated 6 June 2005). EPF aims to strengthen environmental protection, sustainable natural resource management, biodiversity conservation and community development in Lao PDR.

The EPF's organization consists of two bodies at national level (with no branches at sub-national level):

> Board of Directors: chaired by the Deputy Prime Minister, with members such as ministers of MOF and WREA, and representatives mass organizations, chamber of commerce, research institutes or civil society organisations.
>
> Executive Office: headed by an executive director, with four units, including a Window Management Unit (WMU) for the Special Financing Windows (SFW).

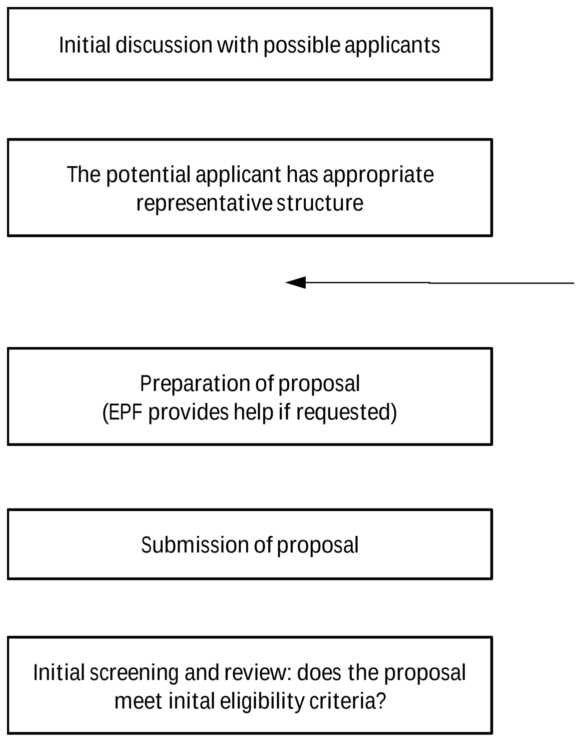
The main sources of funding are the Asian Development Bank (ADB) through the Environment and Social Program Loan (US$ 5.7 million), and the World Bank (WB), providing US$ 4 million through the Lao Environmental and Social Project (LEnS) (EPF Five Years Strategic Plan, 2007).

Funding from EPF is provided through grants in five Special Financing Windows (SFW). Two SFW are financed by the World Bank and the other three by ADB:

Table 1: EPF's Special Financing Windows Budget in 2009/2010
(Source: EPF Five Years Strategic Plan, 2007)

Special Financing Windows	Date of establishment	Donor
1. Policy Implementation and Capacity Enhancement (PICE)	2005	WB

Figure 4: Fund application for activities under CBI window
(Source: EPF Guidelines on preparation of proposals
for Community and Biodiversity Investment Financing Window)



3.3.3 The Forestry and Forest Resource Development Fund

The Forestry and Forest Resource Development Fund (FRDF) was set up in 2005, following the Prime Minister's Decree No 38/PM dated 21 February 2005, as a body under the Ministry of Agriculture and Forestry (MAF). FRDF aims "to generate and aggregate financial resources from national and international agencies to be used for implementation of forest development activities, especially, management of Protected Forest Areas and National Biodiversity Conservation Forests, plantation establishment, maintenance and regeneration of degraded forests and forest lands, watersheds, environmental protection, wildlife conservation, dissemination of and training in forest development policies, forestry laws, forest management techniques and other policies related to forest and forest resources management" (Article 2 of Decree 38/PM).

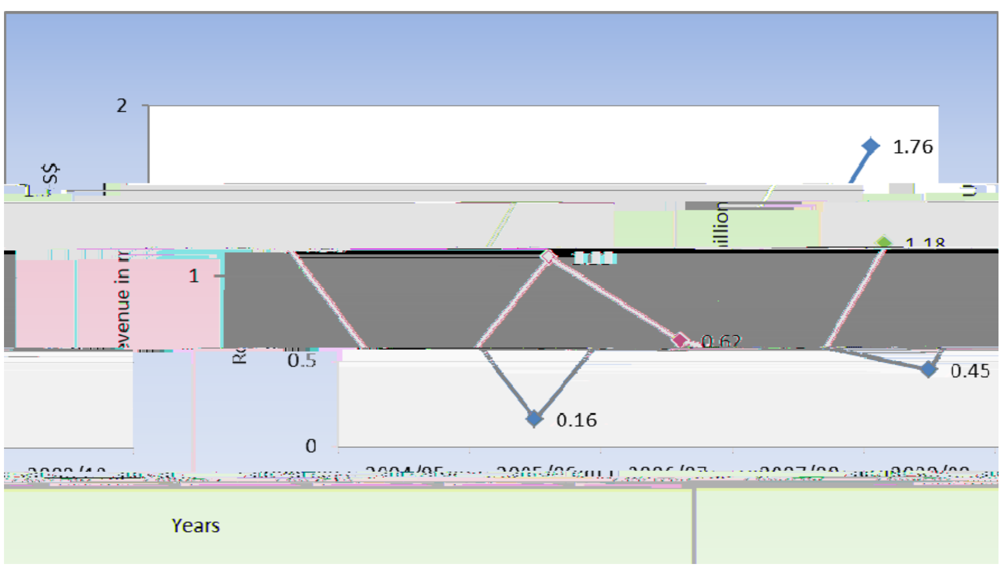
The Board of Directors (BOD) is chaired by MAF's Deputy Minister, with members from relevant MAF departments, Ministry of Finance (MOF), Office of the Prime Minister, and the Department of Environment, Science and Technology. A "Secretary Committee" supports the BOD and undertakes day-to-day fund management.

Funding sources for FRDF are supposed to be:

- royalties and fees for forest land and forest resources
- fees for timber and NTFPs harvested from plantations
- fees for forest, forest land and forest resource inventories
- contributions from national and international organisations including non-profit organisations
- the additional revenue from competitive log sales
- interest on bank deposit.

Nevertheless, so far only fees collected from timber and NTFP harvests contribute to the fund! Funding has been highly volatile ever since the date of its establishment.

Figure 5: FRDF Budget over time
(Source: Kyophilavong, P.: Sustainable National Protected Area Management (SuNPAM), 2010)



FRDF finances forest management activities such as forest inventories, plantations, regeneration, harvesting (?!), processing, protection and stabilization of shifting cultivation. Eligible have so far only been state agencies at the national (NAFRI and departments under MAF) and provincial (PAFO / DAFO) levels. So far, funding has been approved for 13 programs with a total budget of 15 billion Kip or ca. 1.76 million USD - Table 2. This represents only 44% of the total budget requested (34 billion Kip).

Table 2: **Budget by programs under Forest Resource Development Fund in 2009/2010**
(Source: Kyophilavong, 2010)

	Proposed budget		Approved budget	
	Million Kip	% over total	Million Kip	% over total
Agriculture and forestry land use planning at district level	2,000	5.7%	1,300	8.7%
Monitoring and evaluation of agriculture and forestry land uses	600	1.7%	500	3.3%
Eradicating shifting cultivation and providing permanent jobs for people living in in three forest types	2,000	5.7%	1,600	10.7%
Management of production and plantation forests	2,000	5.7%	500	3.3%
Forest inventory and planning	10,000	28.6%	2,900	19.3%
Forest and forest resources regeneration for economic and environmental purposes	500	1.4%	2,000	13.3%
Biodiversity conservation, forest conservation and wildlife protection	7,000	20.0%	3,000	20.0%
Dissemination of forest policy, law and regulation	800	2.3%	500	3.3%
Management of forest and forest development fund at national level	100	0.3%	900	6.0%
Forest and forest resource inspection and protection	300	0.9%	1,000	6.7%
The NTFP management and preservation	50	0.1%	350	2.3%
Forestry research project	0	0.0%	0	0.0%
Projects which replace projects associated with credits and loan	0	0.0%	0	0.0%
The project for monitoring and evaluation of forest and forest resource management	5	0.0%	450	3.0%
	25,355		15,000	

First, the applicant organization prepares an expenditure plan, based on Fund guidelines. In general, the proposed activity has to come under the list of programs identified by FRDF. FRDF reviews the activities and budgets, feasibility and priority of submitted projects and submits them to the Fund Committee for approval. Approved projects and budgets are sent to Ministry of Finance (MOF), who will inform the concerned provinces when the funds are available. MOF transfers the budget directly to the recipient organisations.

Costs for administration of the FRDF are bourne by the state budget, i.e. not taken from the FRDF. For the year 2009/10, 900 million Kip has been approved for the administration of the fund at national and provincial level, which is around 6% the amount of the budget approved for projects.

4. CONCLUSIONS AND RECOMMENDATIONS

4.1 Recommendations for REDD+ Fund Development

Taking into account the background information and deliberations above, it is suggested that a **legal** enabling document is drafted and enacted in the near future that will create a **REDD+ Special State Fund** for the purpose **of pooling and distributing** monies being made available from the international community for REDD+ activities, including **donor funds** that are earmarked for the implementation of the REDD+ Strategic Plan that is scheduled to be drafted and approved later this year. The fund can then be **modified as necessary** over time in conjunction with the nested (local\province\national) and phased approach that the GoL has already decided is the best way forward in the Lao context.

In addition to financial resources contributed by donors in support of REDD+ activities, a portion of the revenues generated from the various sub-national **private sector/voluntary carbon market** or future cap & trade related sub-national projects could also be fed directly into the fund in order to ensure that monies generated from these projects go directly back to the **local communities** that are associated with the forest resources where the carbon credits were generated. These revenues, while located within the same REDD+ State fund as the financial resources contributed by various donors, could be placed into a specially created financial window that is designed specifically to handle such revenues and earmark their use to supporting the communities associated with the forest resources as already mentioned.

The key to this option is that it will **combine various financial resources into one fund** and to ensure the performance-based linkages actually exist. In addition, the more money that can be placed into the same fund, the easier it will be to manage and monitor, and the greater the likelihood of performance based payments that reach local communities.

In the Lao context, the forest resources that will be generating carbon credits will most likely be claimed or classified as **State property** by the GoL that are being held in trust for the entire country. The two following scenarios help to illustrate how this option might work:

Example 1: SUFORD Project FSC-certified commercial **production forest** areas are likely contenders for generating carbon credits. Do the villages actually own these forest resources? No, definitely not. Under the regulatory framework that was created to support this project approach to forest resource management the villagers *can* get a (relatively small, if any) portion of the proceeds from the commercial timber sales, but the production forest lands and the natural forest on those

set a flat rate for management costs at 10% of the total budget; of which 0.7% is for national level, 1.3% for provincial level and 8% for the project developers[6]. The PES Pilot payment scheme set a rate of 19% of the total revenue to be used to cover administration costs (10% at the provincial and 9% at the district level). In Latin America, the National Programme for Hydrological Environmental Services in Mexico and the National Fund for Forest Financing in Costa Rica have a ceiling of 4% and 7%, respectively. In Indonesia, levels are specified by law, and allow between 10% and 50% of the total to be retained by government; of which 40% is remitted to central, 20% to provincial and 20% to district governments (Cao Duc Phat 2010). Nevertheless, fixed percentages risk leading to a situation where some entities cannot cover their costs, and may encourage inappropriate expenditures by others. It is, therefore, advisable that the rate be based on **real costs**.

A third issue is the incentive for the government to take part in REDD+ payment system. As discussed

Fund management ***agency***: although the goals of all three existing funds are relevant to REDD+, PRF would seem to have the most adequate set up to manage REDD+ revenues. It has established management structures from the national down to village levels, and developed procedures to meet the strict requirements from international donors. Nevertheless, even the PRF is not yet ready to take over the specific requirements of REDD+ fund management.

Beneficiaries: which types of resource users should receive REDD funds? For Lao PDR where most of forests are still legally owned by the **State**, the important issue is how local communities can benefit from future REDD+ revenues. In the short run, **local communities** can be contracted to protect the