

Working Paper 02

**Review and Analysis of Existing Documentation
on Policies, Rules and Regulations Related to
Watershed Management within the four
Member Countries of the Mekong River
Commission**

Consultancy Report
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Watershed Management Component



Introduction:

A firm knowledge and understanding of existing policies, rules and regulations related to watershed management within the four member countries of the Mekong River Commission (MRC) is essential. Existing policies, rules and regulations represent a set of tools for the proper management of the resource in question, and having a firm knowledge of what is in existence and how they operate is key to further development of this set of tools.

In light of these facts, a review and analysis of what documentation currently exists on the policies, rules and regulations related to watershed management in the four member countries has been conducted. This report gives an overview of the primary documentation that is available on the subject, assesses the adequacy of said documentation as it currently exists, and makes recommendations for further development of documentation that would be truly useful in the context of watershed management.

Overview of Existing Primary Documentation:

The following is a description of relatively recent documentation that examines the policies, rules and regulations related to watershed management that has been reviewed for this report, including an analysis of the strengths and weaknesses contained therein.

Water Resources Law in Thailand (DEDP, JICA, JIID, March 1999):

This document contains one chapter on irrigation development in Thailand and one chapter on water resources laws in Thailand. In addition, the document includes the full text of the laws related to water resources in existence at the time of writing.

The Chapter on irrigation (40 pages) focuses on the history of irrigation development in the country without much depth in terms of legal analysis; the chapter is primarily an overview of the laws in existence. The chapter on laws related to water resources (40 pages) does not have any focus on watershed management as a concept, and gives a very broad overview of fourteen focus areas such as underground water sources, control of hydraulic structures and legislation on economic and financial aspects of water resources. The inclusion of the full text of laws related to water resources makes this document a good reference tool, but the various focus areas are not interlinked with the laws in a useful manner.

National Water Sector Profile, Kingdom of Cambodia (MOWRAM, ADB, July 2001):

Unfortunately this document only gives a very brief overview of the laws related to water resources management within Cambodia (2 ½ pages), with much of this information being out of date due to the passage of new legislation over the past two to three years

(Land Law, Forestry Law, etc.). In addition, this document does not have a focus on watershed management.

Strategy Study on the Development of the Watershed Management/Forestry Sector in the Lower Mekong Basin (MRC, January 2000):

This document gives only a very brief description of the policies, laws and regulations on the forestry sector as it relates to watershed management (less than five pages).

BDP Planning Process Draft Working Paper: National Development Policy Review; Relevant Laws and Regulations; Decision Process (MRC, September 2002)

This document does contain a very good overview of the relevant policies, rules and regulations related to watershed management within the four member countries. The listing of relevant rules and regulations, though in some instances already out of date, is quite good as a reference resource. Unfortunately, it lacks any meaningful depth in the legal analysis, which precludes it from being a useful tool for that purpose.

Assessment of National Legal and Institutional Frameworks of MRC Member Countries (MRC 2001):

This document gives a relatively brief overview of the relevant policies, rules and regulations related to watershed management within the four member countries, but it is inconsistent in its coverage by country and does not list some key pieces of legislation such as the Land Law in Cambodia.

(Draft) Relevant Laws and Regulations (MRC BDP, May 2002):

This unpublished document gives an overview of existing rules and regulations within the four member countries, though it fails to mention some key pieces of legislation that were in existence at the time of writing.

Working Document: Draft Strategy for Navigation Development and Coordination in the Lower Mekong Basin (MRC, FCM/DAW, December 2002)

This working document contains a good in-depth overview of the policies, rules and regulations that impact navigation within the Mekong basin, including international laws and conventions. The focus of this document is much more broad than just an analysis of policies, rules and regulations that affect this sector of watershed management, but information contained within it could be an excellent start for a document that gives an in-depth and useful analysis on a specific area within the realm of watershed management as defined by the MRC.

Report on the Appraisal Mission of Watershed Management in the Lower Mekong Basin, Volume 2: Country Reports (GTZ, March 2002)

This document gives an excellent overview of existing policies, rules and regulations within the four member countries. It does not, however, go into any great depth in analyzing the existing policies, rules and regulations in terms of how they impact upon the various components of watershed management.

NMC Papers Assessing the National and Institutional Framework in Each Member Country

These papers were unavailable for review during the preparation of this report. It is assumed that each of these documents gives a general overview of the policies, rules and regulations within each member country without going into detailed legal analysis on a sector basis within the realm of the MRC's definition of watershed management.

Conclusion and Recommendation:

Though there is good overview documentation on the policies, rules and regulations related to watershed management within the four member countries, there does not appear to be any in depth sector analysis that would act as a useful tool in actual management activities and the development of further legislation. The definition of watershed management is quite broad and covers a number of sectors such as forestry, navigation, irrigation and hydroelectric generation.

What would be useful is an in depth analysis of the policies, rules and regulations that affect a specific sector of watershed management within the four member nations. In this way there would be created a truly effective resource that can be used in actual management activities and can help to drive the development of effective policies, rules and regulations in the future.

This effort can be approached one step at a time, starting with a specific sector, such as forestry, as it relates to watershed management. The policies, rules and regulations which impact directly on this sector could then be compiled, analyzed and placed into a useful format for use by those that need it. It would take time, but it is conceivable that there could be such analysis documents for multiple sectors, which once created, could be relatively easily updated.

Annex 1: Proposal for an in-depth Review and Analysis of Policies, Rules and Regulations related to specific Sectors within the Realm of MRC Watershed Management

Introduction:

As identified in the review and analysis of existing documentation on policies, rules and regulations related to watershed management within the four member countries of the Mekong River Commission (MRC), there is a need for in depth review and analysis of the existing policies, rules and regulations within the member countries. As this task would be far too great to undertake under the broad definition of watershed management, it would make sense to break this project down into a sector approach, with one sector having an in depth analysis and review at a time. The order in which this would be done would presumably be based on priority need.

Proposal:

It is proposed that this project begin with an in depth review and analysis of the policies, rules and regulations in the forestry sector as they relate directly to watershed management within the four member countries. This effort would involve the collection of relevant documents, review of said documents, extrapolation of provisions relevant to watershed management within the forestry sector, analysis of those provisions and creation of a final report that reviews and compares the policies, rules and regulations within the four member countries. The final report will point out where there are gaps, inconsistencies or conflicts between the member countries, and can make recommendations for further development of policies, rules and regulations so there is ultimately more effective watershed management within the forestry sector.

During the preparation of the report, drafts will be sent out to relevant stakeholders for review and comment. In addition, a workshop can be held after the report is finalized to review the findings therein.

In terms of extrapolation of the relevant provisions, these would be included in an annex for easy reference by country. A model of what the format of the annex would look like is attached to this document (Review of Legislation on Village Forestry in the Lao PDR). The beauty of this model is that it not only gives the relevant provisions from specific policies, rules and regulations, but it also explains their significance within the sector analyzed.

Upon completion of this initial review and analysis, it will be decided whether to continue such an effort into other sectors within the realm of watershed management. This will largely depend on how useful a tool the sector analysis is.

During the process of review and analysis, the consultant working on the project will meet to give a progress update at least once every two weeks. In this way, it can be assured that the project is heading in the right direction and any pressing needs can be identified.

Gathering of Relevant Documents

It is unknown at this point in the development of this proposal if in-country visits will be necessary in order to ensure that all relevant policies, rules and regulations have been properly compiled for the review and analysis. It may be likely that all documentation can be made available at MRC headquarters in Phnom Penh.

Duration of Project

Though not entirely certain now as this is merely a draft proposal, such a project should take approximately 30 working days spread over two to three months. The time frame of the project largely depends on the availability of all relevant policies, rules and regulations from the four member countries.

Annex 2: Review of Legislation on Village Forestry in the Lao PDR

DOCUMENT	DATE	ISSUING BODY
Constitution	15/08/1991	Constitution Committee
Forestry Law	11/11/1996	National Assembly
Water and Water Resources Law	02/11/1996	National Assembly
Land Law	04/12/1997	National Assembly
Environmental Protection Law	26/04/1999	National Assembly
PM Decree 102 Organization and Administration of Villages	05/07/1993	Prime Minister
PM Decree 59 Sustainable Forest Management of Production Forest Areas	22/05/2002	Prime Minister
PM Instruction on the Expansion of Land Management and Land and Forest Allocation	25/06/1996	Prime Minister
MAF Regulation 196 on the Development and Promotion of Sustainable Tree Planting	15/08/2000	Minister of MAF
MAF Regulation 535 Management of Village Forests	18/06/2001	Minister of MAF
MAF Order 54 Customary Rights and Use of Forest Resources	07/03/1996	Minister of MAF
MAF Instruction 377 Customary Use of Forest Resources	17/04/1996	Minister of MAF
MAF Instruction 822 on Land-Forest Allocation for Management and Use	02/08/1996	Minister of MAF

DOCUMENT	TEXT	RELEVANCE
Constitution Article 15	The State protects the rights of ownership and ensures the right to use, transfer and inherit land owned by the national community.	Constitutional right to own property. Ownership rights for land shall be determined by implementing legislation.
Article 17	All organizations and citizens must protect the environment and natural resources – land, water, forests, fauna and atmosphere	Everyone must follow laws that protect natural resources and the environment.
Article 34	All Lao citizens must respect the Constitution and laws	Duty of citizens to follow legislation.
Article 63	Province governors, mayors and District chiefs must implement legislation and abolish local legislation in conflict with State	Mandate to officials to implement laws and repeal those in conflict.
Article 64	Village heads must implement legislation passed by the State	Mandate to villages to implement laws.
Forestry Law Article 5 Ownership of Forests and Forest Lands	...Individuals and organizations shall have the right to possess and use any tree, natural forest and forest land provided that they receive approval from the relevant authorized authority. Trees and forest which individuals or organizations have planted or have rehabilitated by their own labors or funds, with the acknowledgement of the State, shall be considered the property of the planter or rehabilitator who then has the right to possess and use, receive the benefits from, right to transfer and inherit according to laws and regulations.	Individuals and organizations may own forests and forest lands upon approval from the relevant authority. Trees planted or forest rehabilitated may become the property of those that planted the trees or rehabilitated the forest. The State must acknowledge the activity and it must be in compliance with relative laws and regulations.
Article 11 Administrative Planning	...Local authorities, with reference to the Government's general plan and actual local circumstances, shall make an administrative and a use plan for forests and forest lands in their localities and shall thereafter submit such to higher authorities.	Village authorities should come up with management plans for use of forest resources.
Article 12 Assign Forest Land to Local Authorities to Administer, Use	After allocation and division of forest types and determination of forest areas and forest lands, the Government shall assign rights to local authorities, from there to the Province to assign to the District to assign to the Village to be responsible.	Outline of distribution/decentralization of rights and responsibilities of government authorities down to the village level.

DOCUMENT	TEXT	RELEVANCE
<p>Forestry Law (contd.) Article 13 Assign Forest Types to Individuals and Organizations</p>	<p>The State assigns the rights to use degraded forest land to individuals and organizations according to their labor and financial capacity to plant and rehabilitate forests. For individuals, allocated areas shall not exceed three ha for each laborer in a family. In case more is needed, the individual has the right to lease more from the state. For organizations, reference is made to actual production capacity.</p> <p>Individuals and organizations may not plant trees in dense or reed natural forest that can grow as natural forest without assistance.</p>	<p>State shall allocate degraded forest land to organizations or individuals for tree planting based on capacity. Limit to 3 ha per family member, though additional land may be leased from the State.</p> <p>Allocation to organizations is made based on production capacity of the organization.</p> <p>No planting of trees in natural dense or reed forests that are regenerating on their own.</p>
<p>Article 23 Undertaking Forestry Activity</p>	<p>Individuals or organizations may undertake forestry activities provided that approval has been received from the relevant forestry administration agency.</p>	<p>Must receive approval to carry out forestry activity from the forestry administration.</p>
<p>Article 25 Exploitation of Wood and Forest Derived Products</p>	<p>...exploitation of forest derived products (i.e. mushrooms, roots, bulbs, vines, sprigs, shoots, leaves, flowers, fruits, bark, oils, sap, etc.) shall be performed according to specific regulations issued by the relevant authorized agency.</p>	<p>NTFP collection and use shall be done in accordance with regulations issued by the relevant authority.</p>
<p>Article 28 Village Use of Forest Resources</p>	<p>...Harvesting forest derived products for family consumption shall be pursuant to village regulations as adopted by the District Agriculture and Forestry Office.</p>	<p>Collection and use of NTFP's for families shall be carried out in compliance with regulations written by the village and approved by DAFO.</p>
<p>Article 30 Customary use of Forests and Forest Lands</p>	<p>Customary use of forests and forest lands is the use...which has been undertaken for a long period of time and is recognized by society or by law including the harvesting of non-prohibited wood types to make fences or to use as firewood, harvesting forest derived products, hunting and harvesting marine animals which are not prohibited for family use and other customary uses. Such customary use shall not cause damage to forests or forest resources...</p> <p>The customary use of forests, forest lands and forest derived products must be undertaken according to regulations...issued by village administrative authorities in compliance with...Article 63 of this law.</p>	<p>Definition and outline of customary rights. Customary rights may be defined/limited by law.</p> <p>Gathering NTFP's is considered a customary use.</p> <p>Customary use, such as the gathering of NTFP's shall not cause damage to the forests or forest resources.</p> <p>The village shall issue regulations on customary use, which are approved by DAFO (see Article 28 above).</p>

DOCUMENT	TEXT	RELEVANCE
<p>Forestry Law (contd.) Article 49 Rights of Those who Possess and Use Forest Land</p>	<p>The possessor of forest and forest land has right to possess, use, usufruct, transfer and pass through inheritance forest and forest land. State organizations have the right to manage, use and protect forest according to regulations.</p>	<p>Rights of possession listed represent full spectrum of possible rights. Can only have all rights listed if possessing actual title. For example, individuals possessing forest land with a TLUC only have the right of protection, right of use and right to transfer through inheritance during the term of the TLUC. Administrative organizations must manage and use forests and forest lands in accordance with rules and regulations.</p>
<p>Article 50 Assignment of Right to Possess and Use Forest</p>	<p>Assignment is the decision of the competent agency to assign forest and forest land to individuals and organizations for possession and long term use according to the contract and specific regulations.</p>	<p>Assignment by the competent agency depends on the type of forest land and to whom the assignment is made.</p>
<p>Article 53 Right to Transfer Forest and Forest Lands</p>	<p>The transfer is the delivery of possession of the forest and forest land that one has developed to other person to benefit the advantages that one has created. The transfer shall be notified the relevant authorities and shall undertake new registration and pay the fees according to regulation.</p>	<p>Forest and forest land may be transferred to other persons.</p>
<p>Article 54 Right to Succeed to Forest and Forest Land</p>	<p>The succession, possession of the forest and forest land is the succession of the said rights to the children, nephew, nieces, father, mother or the relatives after the possessor of the forest land was dead. The succession must be notified the relevant authorities and shall undertake new registration and pay the fees according to the regulations.</p>	<p>Forest and forest land may be transferred to other family members through inheritance.</p>
<p>Article 56 Lease of Forest and Forest Land</p>	<p>Forest and forest land may be leased or licensed to individuals and organizations for planting, conservation, and extraction activities and to use by a relevant agency according to regulations.</p>	<p>The State may lease or license forest lands to individuals and organizations.</p>
<p>Article 63 Rights and Duties of Village Administrative Authorities</p>	<p>Village Administration Authorities duties include: (2) Implement the assignment of village forests and forest land for individuals and inter-village organizations, administer, conserve, regenerate, plant, propagate and make effective use according to contract, plans and approved regulations from DAFO. . .</p>	<p>Village administration authorities have a large role to play in the allocation of forest land to individuals and village organizations, as well as ensuring that forest lands are properly managed in accordance with existing rules and regulations.</p>

DOCUMENT	TEXT	RELEVANCE
<p>Water and Water Resources Law Article 29 Protection of Water and Water Resources</p>	<p>Individuals, government agencies and organizations are obligated to preserve water and water resources...there are strict obligations to preserve, rehabilitate and maintain forest resources and forest lands in water catchment areas. The Government shall determine protected and reserved areas to preserve water resources.</p>	<p>Preservation of forests are inextricably linked to the protection of water resources within the Lao PDR. Individuals and villages have a role to play.</p>
<p>Article 31 Prohibitions</p>	<p>For water and water resource preservation to be effective, it is absolutely prohibited for any individual, government agency or organization to: ...Cut trees within water origination protected areas or around water sources...</p>	<p>Prohibits the cutting of trees surrounding water sources and water origination protected areas. Limits village rights in these areas.</p>
<p>Land Law Article 3 Land Ownership</p>	<p>Land is owned by the national community as stated in Article 15 of the Constitution where the State is responsible for:</p> <ul style="list-style-type: none"> • management in a coordinated and uniform manner throughout the country; • allocation to individuals, families and organizations (economic, military, state, political and social) for effective use; and • lease to foreigners and persons with no nationality in Lao PDR. 	<p>State owns land, including forest and forest resources.</p> <p>State allocates land to Lao individuals, families and organizations, such as villages, through temporary land use certificates, title and management agreements.</p>
<p>Article 5 Protection of Land Use Rights</p>	<p>State protects legal interest of holders of land use rights by allowing effective, peaceful, long-term use of land by ensuring protection right, use right, usufruct right, transfer right and inheritance right.</p>	<p>Land use rights may be long-term. State protects the legal interests in land.</p>
<p>Article 6 Protection of Land and Environment</p>	<p>All individuals and organizations shall have the obligation to protect the land in order to keep it in good condition in which there is no soil erosion, land slip or soil degradation, and in a quality that is suitable to each category of land, and to ensure the area of each land category has not decreased without authorization.</p>	<p>There is a clear duty to protect forest land and forest resources in the Land Law (see also Environmental Protection Law). This includes villages and villagers.</p>
<p>Article 13 Lease of Land</p>	<p>The State gives the authorization to Lao citizens to lease land for a maximum period of not over thirty years; period may be extended depending on each case... The actual determination of the lease period shall be made on the basis of the characteristics and size of the operation...</p>	<p>Villages and villagers may lease land from the State. Limits on lease periods may be extended based on activity and size.</p>

DOCUMENT	TEXT	RELEVANCE
<p>Land Law (contd.) Article 21 Scope of Forest Land Use Rights</p>	<p>State may allocate to individuals and families the long-term and efficient use of degraded forest land not over 3 ha per labor force in the family.</p> <p>Any person has the right to apply to lease a larger area of degraded forest land from the State.</p>	<p>Actual allocation of forest land is limited to 3 ha per labor force of the family. Individuals may apply to the state for leasing additional land if needed. Only degraded forest land is allocated.</p>
<p>Article 22 Allocation of Use Right of Forest Land</p>	<p>District Administrative Authorities, in coordination with Village Authorities, are responsible for decisions on allocation of use rights on forest land under their jurisdiction to individuals and organizations by issuing Land Certificates. Land Certificates are valid for 3 years. During this period, if the land has been used in conformity with objectives and regulations and there are no outstanding land use conflicts, then the holder of the Certificate may apply for issuance of Land Title for long-term land use right to the Land Management Offices in the Provinces, Municipalities and Special Zones.</p>	<p>District Authorities make the decisions on issuance of TLUCs. TLUCs may lead to issuance of permanent Land Title after 3 years. The provincial level of the Department of Land issues title.</p>
<p>Article 42 Use of Water Area Land</p>	<p>The administrative authority of the village where the water area land is located is charged with making the study and proposal to the district administrative authority concerning the allocation of such land to individuals or organizations for appropriate protection and use...</p>	<p>Water area lands may be allocated to individuals and organizations for protection and use. Village authorities make the study regarding allocation of such land.</p>
<p>Article 48 Land Certificate</p>	<p>Land certificate is an official document securing the provisional use right of agricultural or forest land issued by the District Administrative Authority to an individual or organization. It includes the right to inherit for the term of the Certificate, but not to transfer, share use, to lease or as collateral.</p>	<p>Land certificates issued by the District authority designate provisional use rights of individuals and organizations (villages and villagers) for agricultural and forest lands.</p> <p>Certificates may be inherited during their term, but may not otherwise be transferred, leased, used as collateral for loans, etc.</p>
<p>Article 49 Land Title</p>	<p>Land title is the one document as evidence of permanent land use right. It is copied from the Land Registration Book and handed to the land owner to keep as evidence for a long-term until a change in conditions according to the Law.</p>	<p>Land Title is proof of ownership of land. Land Title shall be modified to reflect changes in the condition of ownership. Villagers may get title.</p>

DOCUMENT	TEXT	RELEVANCE
Land Law (contd.) Article 56 Land Usufruct Right	Right of usufruct from developed land is the right to collect the usufruct from land by the person who has the land use right, such as: from land leasing, or from using developed land as a share or guarantee.	Villagers may lease developed land to others or use as collateral.
Article 57 Right to Transfer Land Use Right	Land use rights shall only be transferred to another person for land that has previously been developed and put into production.	User rights for natural forest or regeneration forest land may not be transferred to a third party by villages or villagers.
Article 59 Rights of State, Political and Socio-Economic Organizations	State, political and socio-economic organizations, being assigned land for use and protection, have only the management, use and protection rights...they do not have transfer right, lease right, or rights to use land as a share or guarantee.	Villages allocated land may not transfer or lease their rights, nor may they utilize their rights as collateral. They only possess the rights of protection and use as outlined in Articles 53-58 of the Land Law.
Article 60 Obligations of Land User	Land user has several obligations...including the payment of land tax, transfer tax, income tax from lease, inheritance tax and various fees.	Taxes and fees must be paid in a timely manner by villagers using land.
Article 64 Land Lease by Foreigners	If foreigners want to lease land from Lao citizens, the local administrative authority shall submit proposal to the Ministry of Finance.	It is possible for foreign investors to lease land directly from individuals and families that possess the usufruct right. Individuals with TLUC's do not have usufruct rights.
Article 70 Compensation for Loss of Land Caused by Land Requisition	When it is necessary to use the land of any individual or organization for public purposes, the State or concerned authority shall pay suitable compensation for the loss to the owner of the requisitioned land...	Compensation for lands taken for public purposes shall be made either in a monetary form or with the granting of other land rights in a different location (relocation). See also MAF Recommendation 377.
Environmental Protection Law Articles 3 & 4 Environmental Protection- Obligation to Protect	Environmental protection consists of all activities that contribute to the protection of the environment. The government supports a strict adherence to environmental protection. Environmental protection is a priority, with mitigation and restoration secondary but important activities. All persons and organizations have the obligation to protect the environment.	There is a firm commitment under law to protect the environment, including forest lands and forest resources. (Article 13 states that all persons and organizations have the obligation to protect natural resources). Villages and Villagers have a duty to protect natural resources and the environment.

DOCUMENT	TEXT	RELEVANCE
PM Decree 102 Organization & Administration of Villages Article 3 Village Organization	The organization and delineation of village limits are approved by the province governors on the basis of proposals made by the chiefs of districts...	The outline of village areas approved at the provincial level and proposed at the district level. This will be the case with villages in NBCA's and production forest areas as well.
Article 8 Duties of Village Chief	...Management, maintenance and preservation of land, forests, streams, aquatic and wildlife; protection of the environment...and other public assets located within the area of their villages.	Village chiefs are responsible for the management and preservation of forests and forest lands in their village areas.
Article 11 Village Committee Duties	Economic Committee is in charge of mobilizing and encouraging...forestry activities including forestation, preservation of forests, forest reserves and forests at the sources of streams.	Economic Committee in villages has a duty to conserve and protect forest resources.
PM Decree 59 Sustainable Development of Production Forests Article 2 Objectives	2.1 To enhance and implement provisions of the Forestry Law covering forest areas intended to produce wood and forest products to support national socio-economic development and improve the livelihoods of local communities through the sustainable production forests management system. 2.3 To create a framework for sustainable management of PFA's based on the participation of villagers in forest management planning, management and receipt of revenues.	PM Decree 59 sets up a system where commercial timber and NTFP's can be gathered by villagers in quantities greater than customary use within production forests. Villagers will actively participate in planning and management, and will also receive revenues from the sale of the timber and NTFPs.
Article 3.5 Definition of Village Forestry Organization	Village Forestry Organization (VFO) means an organization of villagers established in a village, chaired by village chief(s), to participate in the management of forests under the village's responsibility.	VFO's fall under the Village Economic Committee, and are in charge of managing production forests under their responsibility, including the timber and NTFP's therein.
Article 8 Organization of Production Forest Management	8.4 Village Forestry Organizations shall organize the villager's participation to implement all sustainable production forest management activities within the scope of their capacity with Forest Management Units (FMU's) under outlined instructions and regulations. Such activities include demarcation, land-use planning, pre-harvest inventories and tree marking, management planning, monitoring and control, harvesting activities, sales and receipt of revenues and other activities consistent with forest management agreements and plans.	Villagers actively participate in the management, use and financial benefit from production forest areas, including the commercial exploitation of timber and NTFP's. The VFO's organize the villagers' participation.

DOCUMENT	TEXT	RELEVANCE
<p>PM Decree 59 (contd.) Article 9 Exploitation of wood and forest products</p>	<p>Harvest of wood and forest products shall be conducted only in demarcated management areas under officially approved management plans focusing on sustainable management and based on regeneration rates and baseline data of pre-harvest data.</p>	<p>Commercial harvesting of timber and NTFP's can only occur in demarcated management areas within production forest areas. Officially approved management plans must exist before harvesting can take place.</p>
<p>Article 10 Restrictions in Production Forest Areas</p>	<p>It is prohibited to conduct activities not included in the officially approved annual operation plan or any other activities in violation of the forestry law and implementing regulations concerned with forestry.</p>	<p>Appears to say that if customary use of timber or NTFP's is not included in the annual operation plan (only commercial harvesting of timber and NTFP's is considered), then customary collection and use of timber and NTFP's cannot be carried out in production forest areas (PFAs). The actual intent of this provision is that it ONLY applies to commercial activities, not customary use.</p>
<p>Article 11 Log and Forestry Product Sales</p>	<p>The sale of wood and forest products from PFAs shall be made to processing plants under competitive prices based on market-oriented and transparent methods to receive higher prices above the prices set by the government in order to maximize revenue for the government and villagers.</p>	<p>Commercial sale of timber and NTFP's from PFAs shall be to processing plants at market-based rates.</p>
<p>PM Instruction 3 Land Management & Forest Land Allocation Section B.6 Land Rights</p>	<p>To build confidence in investment for land development and livelihoods of people, the State acknowledges the following land rights:</p> <ul style="list-style-type: none"> • Possession; Use; Usufruct; Transfer; inheritance and compensation for condemnation by State. • State and social organizations with rights to use and preserve land shall not be entitled to transfer, lease, grant as concession or use land as collateral for loans. <p>Right to use land by foreign investors shall be acknowledged by the State under the form of a lawful lease or concession agreement only.</p>	<p>Land rights acknowledged (clarified and updated in the Land Law passed in 1997).</p>
<p>Section B. 7 Activities</p>	<p>The Ministry of Agriculture & Forestry shall coordinate with local authorities to further promote afforestation and forest preservation in combination with land-forest allocation policy. Afforestation shall concentrate on bald land, grassland and degraded forest land.</p>	<p>Land allocation of forest land for individuals and villages will focus on degraded land as opposed to conservation or protected forest land.</p>

DOCUMENT	TEXT	RELEVANCE
MAF Regulation 196 Tree Planting Article 1 Purpose	Regulation and development of sustainable tree planting aims to reduce dependence on timber from natural forests and promote investment of planting at all levels for maximum economic, social and environmental benefits.	Policy statement for establishment and promotion of tree planting.
Article 5 Tree Planting on Private Lands	Individuals and organizations wishing to carry out tree planting on their own land, including land which is not prescribed for agricultural development...can do so directly without any permission, but must follow correctly the provisions of Article 3 of this regulation.	No GOL permission necessary for tree planting on private land or allocated land that is classified as degraded forest land. This would include allocated land to villagers.
Article 21 Plantation Inheritance	Individuals and organizations have the right to hand over or inherit their planted trees or plantations in accordance with Article 53 and 54 of the Forestry Law.	Right to inherit and transfer applies to planted trees and plantations. See articles 53 and 54 of the Forestry Law above.
MAF Reg. 535 Management of Village Forests Article 1 Objectives	Encourage the population of villages ...linked to the forests to...participate in the management, preservation, rehabilitation of forest resources and benefit from the use of these resources in a sustainable manner...educate villagers on their status as representatives of the Government in preserving forest resources...	Objective of the regulation is to have villages and villagers actively participate in the management and preservation of forest resources and benefit there from.
Article 2 Definitions	...Village Production Forests are forests and forest land allocated for customary use of forest resources as described under Article 28 of the Forestry Law, which authorizes the exploitation of non-restricted wood species and gathering of forestry products for family consumption...in a sustainable manner...	Village production forests are allocated to villages for customary use of NTFP's.
Article 7 Ownership in Forest Management	7.1 ...The government does not authorize persons or entities to undertake commercial wood exploitation, but allows households within a village to exploit wood for the purpose of house construction and repair and household consumption as provided in Article 8. 7.2 Trees planted and regenerated by persons or entities on the basis of their own funds and labor with the acknowledgment of the Government are their property and such persons or entities have the right to possess, use, benefit, transfer, hand over and inherit such forests. 7.3 Forest products in natural forests may be gathered for commercial purposes, provided such activities are performed by a group or association based on sustainable management rules and plans endorsed by DAFO and approved by the District Governor.	No commercial exploitation in production forest areas for villagers. This is overturned by PM Decree 59. Individuals within a village or village organizations may create and own plantation forests with full ownership rights including usufruct and inheritance. Village groups or associations may harvest NTFP's if done in compliance with rules and management plans.

DOCUMENT	TEXT	RELEVANCE
<p>MAF Reg. 535 (contd.) Article 8 Benefit from Preservation and Management of Village Forests</p>	<p>8.1 Persons and organizations within a village may make use of the forests and forest land...according to tradition (customary use)...which total volume may not exceed 5 cubic meters of lumber per family. Forestry products may be gathered from natural forests for commercial purposes, such as mushrooms, bamboo shoots, sticklak, benzoin, cardamom, palm fruit and others to generate additional household revenues...must be done in strict compliance with Article 22 of MAF Regulation 221 on the Harvesting of Wood and NTFP's.</p> <p>8.2 Repair and construction of schools, hospitals, temples and other places of public utility within a village shall be considered as special cases by head of DAFO...</p> <p>8.3 Persons and organizations within a village may use degraded forest land, vacant land or barren land within Village Forests according to their labor and financial capacity to grow trees and conduct integrated agro-forestry production over an area not exceeding 3 hectares per labor in the household.</p>	<p>Wood gathered in production forest areas limited to 5 cubic meters per family per year.</p> <p>NTFP's gathered pursuant to regulation.</p> <p>Wood gathering for public purposes approved by DAFO.</p> <p>3 hectares per labor force in a household may be allocated to a family for the purpose of establishing a tree plantation.</p>
<p>Article 11 Rights and Duties of Village Forest Units</p>	<p>11.1 Assist...in outlining rules for the management and preservation of forests, water sources, wildlife, and the natural environment within Village Forests...</p> <p>11.2 Strictly implement instructions...in relation with the preservation and management of forests, forestland and village forest activities.</p> <p>11.3 Coordinate with DAFO and other parties concerned in planning the management of Village Forests by type of forest from time to time...</p> <p>11.4 Propose the establishment of groups or associations of forestry produce users to conduct forestry activities...</p> <p>11.5 Manage, preserve, protect and regenerate forests and forest resources to achieve ecological balance and sustainable use.</p> <p>11.6 Patrol, monitor and control activities in Village Forests, such as: restriction of hunting, illicit trade of...wildlife, exploitation of wood and forestry products...</p> <p>11.7 Restrict activities negatively affecting forest resources, water resources and the environment.</p> <p>11.8 Provide mediation and education...</p> <p>11.9 ...seize evidence, impose fines and detain offenders violating regulations...</p> <p>11.10 Record and report management activities...</p> <p>11.11 Fight forest fires...</p>	<p>Village Forest Units are organizations belonging to the Village Economic Committee.</p> <p>Village Forest Units play a role in management, protection and conservation of forest resources, including enforcement of rules, regulations and instructions, plus other activities.</p>

DOCUMENT	TEXT	RELEVANCE
MAF Order 54 Customary Rights and Use of Forest Resources Articles 2 Customary Rights	Customary rights are those rights and obligations held by an individual, group or household that have their root in custom and accepted by law, and are generally not written. Customary rights are nonetheless true rights that exist on their own merit. Thus they have the force of law...	Legal acknowledgement of customary user rights.
Article 3 Custom	Custom is the result of practice and use that are constant, repeated, for one generation or more, widespread throughout group and viewed as creating rights and responsibilities among themselves	Definition of custom.
Article 4 Customary Rights to be Exercised Freely	Customary rights regarding the use of...forest products are to be exercised freely by their holders within the bounds set by custom and controls by law such as collection of NTFP's for household use...and other uses that are not in conflict with the law...	Customary rights can be exercised freely as long as they do not conflict with the law (right may be limited by law).
Article 6 Limitation of Customary Rights	Customary rights can be recognized, limited, expanded or otherwise affected by the following means...explicit agreement by the holder of the right to limit, expand, exchange or abandon the right...	Customary rights may also be limited through agreement, such as the Village Forest Management Agreement.
Article 10 Customary Rights on Use of Forest Resources Within Village Forests	Right to harvest forest products (NTFP's) for the households own needs such as the collection of firewood, mushroom, leaf, bamboo shoot, medicinal plants and other forest products not on the prohibited list as specified in the village forest management contract. Right to harvest for sale such types of forest products as specified in the District forest management contract...	Right to harvest NTFP's for customary household use tied to the village forest management contract. Commercial harvest tied to District forest management contract.

DOCUMENT	TEXT	RELEVANCE
MAF Order 377 Customary Use of Forest Resources Preamble	Tenure and protection of customary use of forest resources is necessary since over 90% of Lao citizens rely on forest for livelihoods with a long standing tradition of gathering NTFP's that shall continue indefinitely in rural areas	Policy statement of importance to protect customary rights.
Article 2 Extension	...explanation and dissemination (by PAFO & DAFO) shall emphasize the customary rights which can be freely exercised by the...population, namely the proper scope of forest products gathering...in accordance with outlined rules and laws that do not give the right to act at will...any customary right...inconsistent with policy guidelines or law should be limited.	PAFO and DAFO must inform villages of rights and ensure the compliance by all parties with laws and regulations that limit customary rights.
Article 6 Rights of Use	The right to use forest resources within the village area includes: -The right to gather forest products for family consumption as necessary...shall abide by...forestry regulations. -Gathering various types of forest products available in substantial amounts...for commercial purposes...such gathering shall require approval from PAFO and DAFO.	Customary rights listed similar to MAF Regulation 54. Exercise of customary rights limited by forestry regulations. Clearly states that customary rights include the sale of non-restricted NTFP's for commercial purposes with approval from provincial and district authorities.
MAF Instruction 822 Land Forest Allocation for Management and Use Section 1(A)(2) Objectives	Objectives: To terminate shifting cultivation by developing permanent agriculture-forestry system and occupation to raise the livelihood of ethnic populations, particularly shifting cultivation families and poor families...	Elimination of shifting cultivation through the creation of permanent agro-forestry systems via land allocations is a major focus of Government policy. Elimination of shifting cultivation is a major driving force behind the program.
Section I (B)(5) & (6) Targets	Targets: 5. To establish a uniform system for the management of land, primarily agricultural and forestry land all over the country, allowing easier monitoring on the use of land, particularly the implementation of the government's policy on land tax. 6. Each Province must implement plan to reduce shifting cultivation in coordination with plan for food and commodity production by making land and forest allocation and forest protection a top priority to complete by the year 2000.	Goal of land allocation is to establish management system of land for agriculture and forestry allowing easier monitoring of use of land and to implement the land tax policies. Provinces shall utilize land and forest allocation as a primary means for reducing shifting cultivation.

DOCUMENT	TEXT	RELEVANCE
<p>MAF Instruction 822 (contd.) Section II, (A)(1) General Principles</p>	<p>Degraded forest land shall be allocated to families, villages, and collectives resulting from land use planning at the village level.</p> <ul style="list-style-type: none"> • Degraded forestry land suitable for agricultural land shall be allocated for commodity production; • Degraded forest land not suitable for agriculture shall be allocated for tree planting; • Land with forest cover shall be classified into three categories, protection forest (watershed protection), conservation forest, and production forest, then allocated to villages to protect in the form of a VFMA. 	<p>Allocation for degraded land via TLUCs and allocation of land with forest cover via VFMA.</p> <p>When DAFO officials carry out land-forest allocations, there are essentially three options: 1) Degraded land suitable for agricultural or commodity production should be utilized as such (agricultural land shall not be used for tree planting); 2) Degraded forest land not suitable for agriculture shall be allocated for tree planting/reforestation activities; and 3) Land with forest cover shall be classified into the three categories and allocated to the village communities for protection and preservation.</p>
<p>Article II(A)(2) General Principals</p>	<p>Land-forest allocation shall focus on land that does not bear permanent production for those who do not have production land or for tree planting. Those already possessing permanent production land that is acknowledged by the State should be given title to the land immediately...</p>	<p>Land allocation should focus on issuing TLUCs for degraded land to individuals that do not currently possess permanent production land and tree planting/reforestation.</p> <p>Individuals who possess high quality permanent production land that possess a Land Survey Certificate should be issued permanent title.</p>
<p>Article II(A)(6) General Principals</p>	<p>Land-forest allocation must be completed from village to village with the participation of the local population using simple and effective methods with the understanding and consent of the population...</p>	<p>The land-forest allocation process shall be a well coordinated consultative process utilizing active input from those involved at the local/village level in order for it to be effective.</p>
<p>Article II(A)(7) General Principals</p>	<p>When the land-forest allocation is completed, temporary land use certificates should be granted and valid for 3 years and then reviewed. If anyone complies correctly with the certificate, the land management office of the district must issue permanent land title. On the other hand, if anyone does not comply, the State shall withdraw the management and use right.</p>	<p>General restatement of the provision in Article 22 of the Land Law. It should be noted that title is actually issued at the provincial level, not the district level.</p>
<p>Article II (C) Persons having access to land/forest allocation</p>	<p>All families have the right to the allocation of agricultural land and degraded forest land for agricultural production, forest rehabilitation and tree planting...</p>	<p>Individuals and families can only be allocated degraded forest land, not protection forest land or conservation forest land</p>

DOCUMENT	TEXT	RELEVANCE
Article II (C) (contd.)	Villages have the right to allocation of forest which may include protection forest, conservation forest, buffer zones and regeneration forest on the basis of a contractual agreement and the management regulations specific to each forest type and zone...	Villages may be allocated areas of protection and conservation forest for access and use. This is accomplished by a contractual agreement with the government and is unlike other forms of land allocation that can lead to title.
Article III Steps for implementation	Through the actual practice in the past, the steps for implementation can be summed up into 8 steps as follows: 1) Preparatory step... 2) Consultation with the villages... 3) Actual data collection... 4) Hold open discussion meeting for the entire village... 5) Actual field measurement... 6) Conclusion... 7) Extension... 8) Monitoring and evaluation...	Outlines a clear process to be followed for land-forest allocation to villages that is based on the actual procedures that have been in use since before the passage of 822.