

## Policy Brief #2: Rural Land Management and Land Administration

This policy brief has been prepared for the Sub-working group on Uplands Development, to contribute to an understanding of the main land issues, trends and opportunities that should be considered in a program based approach to uplands development program, having a focus on livelihoods, poverty, agricultural production and natural resources management. The brief identifies the drivers of change in rural land use in the northern uplands, the main relevant government policies and programs and key land issues and challenges. Recent land management initiatives from government, donors and the private sector have been identified to help describe options for policy improvement and recommendations for capacity building to support improved policies.

### **1. Background**

The current land management environment is characterised by several factors including, high levels of local and foreign capital investment in agriculture, mining and hydropower. Although positive steps have been taken to assert control over management of various land categories, e.g., the moratorium on agricultural land concessions in May 2007, actions are not yet well co-ordinated between the relevant government institutions. Policy design in the land management area is also not clear and there is divergence between the intended outcomes of policies and the reality on the ground.

Government institutions responsible for land management are struggling to define their respective roles and responsibilities. In this environment, areas of duplication and even competition have been observed. In regard to the allocation of land for agricultural uses, the appropriate functions of the relevant technical agencies are being under-utilised by administrative decision making organs at the national, provincial and district levels.

The volume of investment requests places a large burden on the current institutional set-up which is not yet properly equipped to deal with the situation, leading to uncoordinated management of land issues among provincial government agencies. Provincial authorities have been seen to exceed their authority in granting agricultural land concessions.

The technical agencies at the lower level are actually facilitating the acquisition of land for investment companies, without properly assessing the land requirements for village livelihoods. This is hampered by the lack of expertise and tools, such as Geographic Information Systems (GIS) and land information systems at the operational levels, and a situation where accurate land data bases with which to exert stronger management control are not yet in place.

Along with the problems related to land concessions, other key issues include insufficient access to land provided to the population, the lack of tenure security, the lack of awareness on legal rights to land and natural resources as well as the lack of linkage between land use planning and land allocation and land registration. Finally, some key government programs such as shifting cultivation elimination, village consolidation /re-location, village cluster development, and increasing forest cover impinge on land availability at the village and village cluster levels.

### **2. Identification and Description of the Main Drivers of Change**

There are two main drivers of change in land management and use in the northern uplands. One referred to as the “pull factor” relates to market demand for agricultural and commercial tree crop commodities required in neighbouring countries, and to other investments requiring large tracts of land such as hydropower and mining developments. The other referred to as the “push factor” relates to various government policies and programs that are driving land use practices and uses within a variety of farming systems.

#### **2.1 Pull Factor**

The principle driver of change in the transformation of land use is large influxes of regional investment from China, Thailand and Vietnam for large scale industrial projects such as hydropower and mining. In addition cross-border trade and markets have become critical factors, as regional and domestic traders are taking advantage of the strategic position of the northern uplands as a production base for agricultural products in demand (Zola 2008). This trend is reflected in an increasing diversification away from upland rice and specialization into a limited number of marketable annual and perennial cash crops such as maize and rub-

ber and other commercial tree crops. The transition to these crops has introduced changes in land use practices some of which are detrimental to the environment, and also to soil and water quality, ie, mono-cropping, increasing use of pesticides/herbicides, and down-slope cultivation. There are also implications for food security as the dependency on cash crops increases and traditional upland rice cultivation decreases<sup>1</sup>.

## **2.2 Push Factor**

The government introduced a number of land related policies and programs between 1989 and 2007 which support the successive National Socio-economic Development Plans. They are the government's main pillars for poverty alleviation within the agriculture and natural resources sector. Each of these policies and programs, is now embedded in Ministry of Agriculture and Forestry's (MAF) 4 goals and 13 measures strategy promulgated in 2006-07. The World Bank (May 2008) contends that these policies and programs, have made a substantial contribution to the land use changes occurring in the northern uplands.

## **3. Main Issues and Policy Options**

As shown in Table 1, the government adopted a "centralist" role to assert control over land use. The un-

<sup>1</sup>A detailed description of the "Pull" factors is provided in the Policy Brief "Improving Upland Farming Systems for Poverty Alleviation", and are therefore not elaborated in this document.

derlying theme adopted was to introduce sedentary forms of agriculture to replace shifting cultivation in convenient and suitable areas (focal sites). This entailed the movement of the people from more isolated areas to accessible ones to provide services. In the current period of transition where land use change is being driven by rapidly increasing investments and the market, it will be necessary for the government agencies to adopt different strategies and approaches to manage and administer rural lands. It is envisaged that this would entail a move away from a position of exerting central control to one of facilitation with villagers and investors. Policies will clearly have to address the issue of lack of land tenure security in rural areas and the very limited awareness of the rural population on their legal rights to land and natural resources.

A variety of positive and potentially beneficial land management initiatives have emerged in the last few years from government, donor projects and the private sector development activities. These provide opportunities for adoption and scaling up within an adjusted land management and land administration policy framework.

### **3.1. Agricultural Land Concessions and Contract Farming**

In the northern uplands rubber is the main commercial permanent crop on which attention is being focussed as China seeks to supply an expanding need for natural rubber. Unlike the southern prov-

**Table 1: Key Policy Programmes related to Land Management**

Policy Program	Purpose/Objectives	Approach Adopted
1995-96: The Focal Site Strategy (Rural Development Programme)	Poverty alleviation in remote rural areas, food security, commercial agricultural production, eliminate shifting cultivation, and improve access to development services.	Consolidate scattered and remote villages to areas where services could be better provided, typically the lower lying areas with road access
1989: Village re-location and Consolidation	Poverty alleviation in remote rural areas, food security, commercial agricultural production, eliminate shifting cultivation, and improve access to development services.	Prepare district re-location plan, eg, Phonesay District in Luang Prabang 72 villages to 41 by the year 2005; merge villages to a size of 50 HHs; provide services at new sites
1989: Shifting Cultivation Stabilisation - Elimination Program	Eliminate shifting cultivation practices (recent focus on "pioneer" SC cultivation); poverty reduction in focal zones of 47 poorest districts; environmental protection	Forest and land allocation; promotion of "permanent occupations"; commercial cropping integrated with upland rice based systems
1995-96: Village Land Use Planning and Land Allocation	Allocate forest and agricultural land for villagers use; contain and reduce shifting cultivation; stabilise agricultural practices	Delimit village boundaries; delineate land use zones, allocate family agricultural parcels, land use contracts, prepare village land use agreements
2007: The Program for Sustainable Forest Management	Increase forest cover from 41% to 53% by 2010 and 70% by 2020; sustainable forest use and management; protect wildlife, protect watersheds	Integrated Watershed Management approach; Programs and actions under the Forest Strategy to 2020; classifying National Conservation, Production and Protection forest areas nation-wide

**Table 2: Summary of key issues and policy options**

Areas	Issues
<b>Agriculture land concessions &amp; Contract farming</b>	<p><u>Concessions</u></p> <ul style="list-style-type: none"> <li>▪ No accurate information on extent of land concessions</li> <li>▪ Lack of provincial capacity to manage</li> <li>▪ Insufficient capacity to manage</li> <li>▪ Poor investor-village relationships</li> <li>▪ Reduces village land use options</li> <li>▪ Lack of coordination between sectors</li> </ul>
	<p><u>Contract Farming</u></p> <ul style="list-style-type: none"> <li>▪ Lack of clear models and guidelines</li> <li>▪ Increasing land disputes and land grabbing</li> <li>▪ Unclear contract arrangements; villagers not well informed</li> <li>▪ Unclear marketing arrangements</li> </ul>
<b>Land Classification and Land Zoning</b>	<ul style="list-style-type: none"> <li>▪ Duplication and competition between NLMA and MAF</li> <li>▪ Land suitability maps and soil surveys are inadequate land use planning tools; need more socio-economic input</li> <li>▪ No evaluations of zoning methods</li> </ul>
<b>Land and forest allocation</b>	<ul style="list-style-type: none"> <li>▪ Reduction and access to agriculture land</li> <li>▪ Systems for data record keeping inadequate</li> <li>▪ Land certificates not adequate for registration purposes</li> <li>▪ Monitoring focused on enforcement</li> <li>▪ Programme under-resourced financially and staff wise</li> </ul>
<b>Shifting Cultivation Stabilisation-Elimination</b>	<ul style="list-style-type: none"> <li>▪ Inadequate guidelines and planning procedures</li> <li>▪ Misinterpretation of policy intentions</li> <li>▪ Inadequate extension support</li> <li>▪ Increased degradation of lands due to permanent agriculture</li> </ul>
<b>Rural Land Tenure</b>	<ul style="list-style-type: none"> <li>▪ Temporary land use certificates did not provide adequate security</li> <li>▪ Land titling programs have not assisted rural poor to date</li> <li>▪ Communal land agreements are not recognized when approving land concessions</li> </ul>
<b>Village Re-location and Consolidation</b>	<ul style="list-style-type: none"> <li>▪ Inequities in land distribution among different ethnic groups</li> <li>▪ Village land conflicts and boundary disputes increased</li> <li>▪ Out migrations of original residents</li> </ul>
<b>Land Information Systems</b>	<ul style="list-style-type: none"> <li>▪ Inadequate land information systems for effective management</li> <li>▪ Information scattered between various agencies and levels</li> <li>▪ Lack of staff capacity to develop and utilize land information systems</li> </ul>
<b>Institutional Relationships Between MAF and NLMA</b>	<ul style="list-style-type: none"> <li>▪ Unclear roles and responsibilities and duplication of effort</li> <li>▪ Technical agencies being under utilized in making decisions on land investments by administrative authorities</li> </ul>

ences, there are considerably fewer concessions than contract farming arrangements. Contract farming is more significant in the north because there was official consensus reached in October 2005 among three northern provinces to avoid concessions and promote smallholder contract farming. In addition, smallholder rubber planters wishing to retain access and control over agricultural lands, resisted becoming involved in concessions (Weiyi Shi 2008).

### **3.1.1 Concessions**

**1. Information:** Accurate land data bases with which to exert stronger management control are not yet in place (GTZ 2008). Surveys by the NLMA and NAFRI have found that knowledge of location, size, purpose and other concession details is difficult to collate because information is scattered between agency offices at various levels (NAFRI 2007). Currently a sec-

ond pilot project is under preparation by the LNRIRC/NLMA with support by GTZ to establish a detailed and up-to-date concession inventory for Vientiane Capital City and Vientiane Province.

**2. Provincial Capacities:** The ability of provincial and district authorities to manage the situation is hampered by the lack of expertise and tools, such as GIS and land information systems at the operational levels.

**3. Co-ordination and Roles:** Clear guidelines for managing concessions have not been developed at the central level and actions and decisions are not well co-ordinated between national and provincial levels. This includes the lack of a standardised concession agreement (contract) format to be used at all levels permitting provincial authorities to develop their own independent arrangements with investors which have resulted in provinces exceeding their level of author-

ity in granting concession areas often without proper technical and social assessments. District technical agencies and village officials are by default required to facilitate the acquisition of land for investment companies while assessments of village land requirements are not adequate.

**4. Investor-Village Relationships:** Concessions are desired by companies as it enables them to gain control over land. In the absence of land use plans, detailed maps and data on land suitability, investors are very often left to search for and survey their own concession areas. Consultation with villagers is minimal, and they are excluded from decision making, while concessions crowd out other alternatives for commercial cropping that are available to villagers or eco-tourism as an alternative additional source of income. “Informal concessions” have also emerged involving land acquisition by local government associates.

**5. Land Use Issues:** The advent of concessions which require large blocks of land has resulted in village use and village protection forests being allocated for agriculture. Villager land is “tied up” for the long term, and land is limited for diversification into other agro-forestry alternatives. Mono-cropping has environmental implications.

**6. Hydro-power and Mining:** In the broader perspective, hydro power and mining industries are rapidly expanding, i.e., 24 hydropower schemes in various stages of planning in the north. Policy and planning dialogue between the agriculture and natural resources sector and the industrial sectors has not been adequately integrated. However, high level ministerial consultations have been initiated indicating that this process is evolving.

#### **Options and recommendations**

The assessment of agricultural land concessions which NLMA and GTZ initiated should be further supported. The assessment could entail a complete survey and inventory of agriculture and other land concessions in the northern uplands, developing a detailed data base, creating an inventory of relevant documents and the production of concession area maps. This could be accompanied by a program to either put in place and /or upgrade GIS and mapping skills within PAFO.

To improve provincial and district effectiveness in dealing with investors clear guidelines for the consideration and approval of concessions based on the provisions of the Land Law should be promulgated by the

government. Included in this should be information to establish a consultative process to improve investor and village relationships as at present villagers are not included in the process.

#### **3.1.2 Contract Farming**

**1. Models and Guidelines:** While the preferred government contract model is the (2+3) model clear guidelines are not available from the government; while all Chinese companies prefer the (4+1) by taking over management of plantations for the first several years. (Weiyi Shi 2008)<sup>2</sup>. Higher level contracts become tools of coercion and negotiation at the lower levels

**2. Land Issues:** There is inconsistent interpretation between investors and the Lao government about land allocation. Land disputes and land grabbing occur because of overlapping land designations. A study by NAFRI in 2007 revealed the main land issues arising from the expansion of rubber were increasing land conflicts, decreasing forest cover, and reduction in livestock grazing land areas. Land suitability guidelines were also not being applied for both farmer and company plantings.

**3. Contracts:** The approval process for contract farming and the roles of concerned offices and agencies in the process is confusing. Villagers are ill-informed about the conditions in concession and farming contracts (GTZ 2007). Understanding between contracting parties is unclear and inconsistent and villagers are dissatisfied with the contract sharing distribution given them. In numerous cases contracts have been drafted in Chinese language. No standard contracts in Lao language and following the stipulations of the Lao Laws are available to District or Provincial Authorities and line agencies.

**4. Technical Issues:** No clear marketing channel arrangements have been defined for the long term crops. Villagers possess relatively low levels of technical knowledge and limited knowledge transfer is occurring. Villagers are “driven” by the market to utilise steeper sloping lands for commercial tree planting (rubber) and annual cash crops (maize).

#### **Options and recommendations**

The study completed by Weiyi Shi in 2008 advocated a number of measures to improve contract farming arrangements, including:

<sup>2</sup> 2+3 model: Villagers provide land and labour; investors provide technology, planting material and marketing. 1+4 model: Villagers provide land; investors provide labour, technology, planting material and marketing.

- The temporary suspension of new large contract farming projects,
- Negotiations to improve conditions for villagers who are already locked in to contract arrangements,
- Refinement of contracts and the contracting process, thorough village consultation and provision of mediation support to villagers.

The Rubber Contract Format prepared by the GTZ Rural Development Program to guide staff and villagers when considering entering contracts with investors could also be adopted *and applied* by the government and provincial authorities in the consultation and mediation support process.

### **3.2 Land Classification and Land Zoning**

In the agriculture and natural resources sector, MAF established National Biodiversity Conservation Areas (NBCAs) now National Protected Areas (NPAs) (PM Decree 164 1995), while National Production Forests have progressively been delineated since 1997. In 2002 MAF introduced the integrated watershed management concept and articulated a process for watershed and sub-basin based planning. Prime Minister (PM) Agreement No.25, 2007 enabled the delineation of national watershed protection forests which are currently being surveyed and mapped by the Forestry Inventory and Planning Office (FIPD) of the Department of Forestry (DoF) Delineation of the eight categories of land at national, provincial and district levels has yet to be undertaken although the NLMA is currently developing a National Land Policy Document, (GTZ 2008) in accord with Article 9 of the Land Law (2003), and within that policy framework will progressively develop multi sector spatial Land Use Master Plans at the various levels (i.e. national, regional, provincial and district levels) (NLMA, 2008).

**I. Macro Level Classification Issues:** A challenge is to ensure that with the recent establishment of the NLMA and the responsibilities of the various Ministries for land management as defined in Articles 9 and 10 of the Land Law, are understood and respected so that duplication and competition are avoided. The zoning and allocation of large areas of the three categories of national forest lands (conservation, protection and production forests) is one mechanism for achieving increased forest cover, 53% by 2010, and 70% by 2020. It is important to ensure that this process does not conflict with the need to provide adequate land for village livelihood purposes, taking into account population distribution and densities.

**2. National and Provincial Zoning:** Land/crop suitability zoning maps have been under-utilised by provincial and district agencies and therefore have not been effective land use planning tools. Experience has shown that land zoning using physical parameters needs to be balanced with participatory methods and socio-economic information. Detailed soil surveys and analyses are probably not appropriate tools for land use decision making at village level as there is much variability in soil types at the farm level, and villagers have their own indigenous means of identifying soil-crop suitability.

**3. Evaluations of Zoning Methods:** No evaluations have been done on land/crop suitability and detailed soil analysis to assess their appropriateness, value and benefit as tools for land use planning, eg, have these tools been adopted by research and extension systems, and have they benefited villagers and the poor.

### **Options and recommendations**

Existing approaches to land use planning at the national, provincial and district levels have been based on land - crop suitability zoning and soil surveys and mapping. This work has been undertaken at the former Land Classification and Soils Survey Centre at NAFRI. Maps have been prepared in consultation with provincial agencies and provided for provincial and district land use planning purposes. Similarly, numerous soil survey reports have been prepared for provincial and district projects for planning purposes. It is understood that the value and benefit of these tools have not been evaluated. It is recommended that the MAF initiate an evaluation of these programs to determine how the information has been utilised by implementers including an appraisal of alternatives that might be considered with a view to making information more appropriate and accessible to district staff and villagers.

NAFRI has piloted other tools that may be appropriate for planning at these levels, including Indigenous Soil Classification methods with different ethnic groups and agro-ecological zoning and ecosystems analysis (AEZ-AEA). These are undertaken with the end users and have an orientation towards bio-physical and socio-economic characterisation of target areas and problem-opportunity identification, i.e., they have more relevance at the local level.

Within an Integrated Watershed Management approach, basin and sub-basin models have been piloted in a number of areas over the last five years with a view to assimilating lessons and expanding the meth-

odology. One such example is the Nam Ko watershed in Oudomxay Province. The Strengthening Environmental Management Project (SEM II) within the Water Resources and Environmental Administration (WREA) has completed participatory multi-sector integrated planning exercises in several districts in Oudomxay. The Mekong River Commission (MRC) Research Capacity Building Program based in the Prime Minister's Office has built a Social Atlas and developed a comprehensive database of spatial information covering the country, including poverty distribution and demographic-land use relationships. All these initiatives have potential for further assessment and development within the framework of a future northern program.

### **3.3 Land and forest allocation**

The objectives of the Land and Forest Allocation Programme (LFAP) were to allocate forest and agricultural land for village use, contain and reduce shifting cultivation and stabilise agricultural practices by "arranging permanent occupations". Some key issues have resulted which should be addressed in future programs:

**1. Access to Agricultural Land:** In supporting shifting cultivation reduction, the LFAP has restricted family access to agricultural land with fewer parcels allocated than were used in traditional fallow systems (World Bank 2008; Participatory Poverty Assessment 2006). In many Northern provinces the so-called "3 parcel strategy" was applied, allocating only 3 plots per family and thereby restricting fallow periods to only 2 years. Probably a more critical issue is that, implementing staff have zoned rotational fallow land into forest regeneration and protection categories, (LSUAFRP, 2007) which has further reduced farming land areas.

**2. Record Keeping:** Systems for keeping and retrieving Land and Forest Allocation (LFA) data have been inadequate, which has resulted in the loss of valuable information such as land parcel allocations, land zoning maps, and land use agreements. In the current period of intense competition for land for investment, such information is either not available or not referenced effectively by government officials and investors.

**3. Land Use Rights:** The Temporary Land Use Certificates (TLUCs) and accompanying maps issued to families for agricultural land parcels were not converted to permanent land right documents and are now not adequate for registration purposes. Earlier in the program land use contracts were issued to restrict farmer land uses on allocated land. There was hardly any monitoring of the LUP/LA program carried out by

DAFO due to lack of funds. In those few cases where monitoring of the program was conducted, this tended towards enforcement rather than a tool to improve the approach and procedures.

**4. Resources:** The program was ambitious particularly with regard to agricultural land parcel allocation. In fact, with some provincial exceptions, land allocation was done in very few villages, while staff focussed on boundary delineation and land zoning, eg, Phonesay District in Luang Prabang, a total of eight villages out of 72.

### **Options and recommendations**

The previous approach of allocating limited agricultural land to contain shifting cultivation and increase forest area is no longer appropriate. A consensus is emerging in MAF and NLMA that village and village cluster land zoning to enable improved management of village forests and development in agricultural zones is a more appropriate approach and land allocation to individual households should be discontinued. This will be incorporated in revised and improved procedures currently under development by NAFES in partnership with NLMA. With regard to the allocation of agricultural parcels, NAFES has commenced pilot work with NLMA to transfer responsibility for land parcel survey and registration to the District Land Management Authority after land use zoning has been completed. This is very important to protect villager rights to land in rural areas, which the urban land titling activity does not support. This will also require the issuing of collective/communal land titles to rural communities, user groups and associations.

It is also recommended that the purpose and focus of the program should change from supporting the stabilisation of shifting cultivation to resolving land use conflicts and facilitating sustainable development in critical areas, ie, commercial cropping areas, particularly where there are concessions and contract farming arrangements (maize-rubber), and National Production, Conservation and Watershed Protection Forests. This is regarded as a matter of high priority. The third issue that should be addressed is record keeping of land use planning information. With pressure on provincial and district staff to react to requests for land from investors they need to have ready access to village and village cluster land use planning data with which to make informed decisions about land availability (or unavailability), in particular current land use maps.

In future, only land clearly identified and classified as state land through participatory land zoning activities

should be used for allocation of concessions (no communal land and for individual land only contract farming arrangements are proposed). Furthermore, increased focus has to be given to awareness creation and legal education of villagers to fully understand their legal rights to land and natural resources use.

### **3.4 Shifting Cultivation Stabilisation/Elimination**

The Discussion Paper prepared by MAF in 2005 indicates the key issues associated with this program.

**1. Planning and Guidelines:** Before 1995 there was inadequate planning, lack of guidelines for implementing staff, a focus on decisions and orders, and lack of co-ordination among leading agencies.

**2. Policy Interpretation:** In the period 1995 to 2000 a simplistic approach was adopted by implementers, ie, upland rice would be eliminated and replaced with cash crops and commercial livestock. The intention to focus on pioneer shifting cultivation was misunderstood. Vague targets, ie, 4 - 5% of total area to be stabilised were common with no consideration of how this would be achieved.

**3. Extension Support:** The program has suffered from lack of uplands extension input from an under developed and ineffective extension system and crops were introduced without secure markets. Provinces of high priority for eliminating shifting cultivation had insufficient resources and donor programs generally were not located in focal development and priority shifting cultivation areas.

**4. Strategy Contradictions:** Problems emerging from the “permanent occupations strategy were inappropriate cultivation techniques, soil erosion, and loss of productivity from mono-cropping practices, ie., maize in northern provinces” (MAF 2006)

#### **Options and recommendations**

The MAF assessment report of this program (2005) indicates that it has been successful in reducing shifting cultivation from 118,900 hectares in 2001 to 29,400 hectares in 2005. It also reports that the “permanent occupations” strategy in the uplands has led to inappropriate cultivation techniques, soil erosion and yield decline. Another promising approach is the classification of rotational shifting cultivation areas as communal land and to strengthen community land management by issuing communal titles for such remaining areas.

However an encouraging policy shift has emerged where the focus is on eliminating the “pioneer” form of shifting cultivation, containing areas of rotational fallow cultivation to current levels and encouraging sustainable conservation farming practices such as minimal tillage, crop residue retention (no burning), relay cropping with legumes and agroforestry combinations. This approach warrants replication in future programs, while the “permanent occupation” strategy is more suited in areas with access to extension services and markets. A strategy of “grafting” appropriate improvements onto existing farming systems is more appropriate in the more isolated areas which have limited market access and risk aversion is very important in village livelihood systems.

However a contradiction to the conservation farming system strategy has emerged where commercial mono-cropping has taken hold. Forest and steeper sloping areas are being converted to agriculture, and accelerated soil erosion is increasing. It is in such areas where land use planning and land allocation is a priority (see section 3.3) to rationalise land uses and provide a “base” for extension activities.

### **3.5 Rural Land Tenure**

The LFAP was the government’s key program from 1995 to 2007 to formalise land use rights for rural people. Activity on this program has been curtailed by budget constraints since 2001 and more recently by the fact that an improved approach to village and village cluster level planning is being developed.

**1. Individual Land Use Rights:** The TLUCs issued under the LFAP were inherently weak in securing tenure rights over family agricultural land (which was not their main purpose anyway) because, they are not legally recognized as providing the right to mortgage, sell or transact the land, are not given much consideration in the land registration process and are only of temporary nature. The land titling programs I and II while being effective mechanisms in urban and peri urban areas, have not assisted the rural poor with improving their tenure rights to permanent and non-permanent agricultural land.

**2. Communal Land Use Rights:** Land use and management agreements and land use zoning maps for the various categories of village forest and agricultural land prepared under the LFAP have been virtually disregarded in the process of approving concessions and contract farming arrangements (LIWG Group, 2008). These agreements while being valuable tools for village management purposes will not have official recognition

in any future registration of communal land areas such as village use forest or village protection forests (see Decree No. 88 on the Implementation of the Land Law).

LFAP has not lead to a clear distinction (based on a standardised classification system) on what areas are considered state land, collective/communal land or private land.

### **Options and recommendations**

Current government land tenure programs favour the urban and peri-urban areas while the main mechanism for rural areas, land use planning and land allocation, was not able to deliver secure land use rights for rural people. The GTZ Land Policy Development Project (2005 - 2009) has been proactive in addressing this issue by implementing a pilot project with NLMA on land registration in rural areas, in which Land Survey Certificates (LSC) were issued in five districts of Sayabouly Province. A policy shift since then has rescinded the issue of LSCs in favour of land titles. NLMA Decree No 564 enables the issue of land titles for village land of three types, individual, collective or community, and state.

A second pilot project funded by GTZ with NLMA is under preparation, in which rural land titles for individual and collective/communal land will be issued for the first time in Sayabouri and Luang Namtha Provinces. This type of titling can only be conducted in areas where prior to the land registration local and participatory land use planning has already been conducted.

An opportunity therefore exists for the future program to assist rural families acquire land titles for individual and communal land parcels, meaning that land zoning agreements and maps from LFA program could be used as verification documents for titling village community forest areas other than those that are state property.

### ***3.6 Village Re-location and Consolidation***

The concentration of populations in more accessible areas as a result of relocation has led to a variety of land use issues which are adequately documented in research reports and studies, eg, Uplands Research Development Program (URDP), 2007. Some key issues have emerged since this policy and supporting programs were initiated.

***1. Land Use Rights Issues:*** Inequities exist in land distribution between different ethnic groups and confusion over land occupancy have been observed. A GTZ study in 2007 found that rural villages experience

several land related problems, ie, compensation for village relocation from industrial and agricultural concession locations is inadequate, authorities are not able to find solutions for village land conflict claims, and village resettlement results in inter-village boundary conflicts.

***2. Social Issues:*** Out-migration of original residents to other provinces due to pressure from new settlers. Less market orientated ethnic groups are very vulnerable to relinquishing land to the better resourced and commercially minded ethnic groups.

***3. Environmental Issues:*** These include, reduced fallow cycles, encroachment of subsistence and commercial cropping into forest areas, reduction in village protection forest areas, reduction in NTFP availability, deforestation of irrigation water sources, and decline in soil quality and soil erosion (URDP, 2007).

### **Options and recommendations**

The stated objectives of this program are poverty alleviation in remote rural areas, food security, commercial agricultural production, eliminate shifting cultivation, and improve access to development services. Access to land is the central consideration. Research and other studies have found that planned or induced re-location has had positive effects in connecting families to better services, however undesirable land, social and environmental consequences have occurred where planning has not been adequate prior to the movement of people (URDP 2007). Besides induced movements voluntary migrations of villagers to more accessible areas is common, villagers being drawn by education and other opportunities Upland Development and Poverty Alleviation Program (UDPAP 2007).

However there is also uncontrolled villager movement of large populations from northern provinces to more favourable locations as is occurring in Ban So and Ban Vang Ma in Sangthong District. This induces land use problems for local administrations, and can be a cause of conflict with the original residents. It is desirable that a serious reassessment of the re-location program be considered. Is it necessary to maintain a policy of re-location when "development" is facilitating it? It would be desirable if the emphasis was placed on being pro-active in anticipating unauthorised and voluntary migration and working with the communities concerned to identify coping mechanisms, such as land capability assessments, land use planning, and public services requirements. Similarly, alternatives to village consolidation can be also considered. This includes building access tracks so that villagers can still

use their traditional farming lands to decrease pressure on the lowlands.

### **3.7 Land Information Systems**

Land information systems have emerged in various agencies in response to their project and/or program needs, for example, the MAF Information Centre, the Forest Inventory and Planning Office (FIPD) of DoF, the Land Management Division of NAFRI, the Irrigation Department and in NLMA. Some attendant issues are:

**1. Inadequate Systems:** Information systems are inadequate to support effective management of land. The effort by the Land and Natural Resources Information and Research Center (LNRIRC) in NLMA to develop a data base on concessions through-out the country, while a good initiative, has to date not been very successful and it does not facilitate adequate management control over land concessions.

**2. Fragmentation:** The fragmentation of information in various locations makes information sharing and use very difficult

**3. Capacity:** Lack of staff capacity at provincial level in use of GIS and other tools is a constraint recognised by provincial technical agencies such as the Provincial Agriculture and Forestry Office (PAFO) in Oudomxay

#### **Options and recommendations**

Land information systems for decision making and monitoring purposes have not been given adequate attention in past programs, eg, in the LFAP a massive effort in implementing the program over a decade was not complemented with development of a proper filing information storage and retrieval system.

Effort should be devoted to developing land information systems within the NLMA to continue the initiative supported by GTZ, and to consider the feasibility of extending the systems to provinces to give provincial authorities more leverage in the management of concessions, contract farming arrangements and to store land use planning data. Careful consideration should be given to the level of complexity of such a system to ensure it is adequate but manageable. Consideration could also be given to developing a system of data base sharing between agencies and assigning each a clearly specified role and responsibility. Coordination between NLMA and NAFRI and regular updating of datasets will be crucial.

### ***3.8 Institutional Relationships Between MAF and NLMA***

Prior to the Land Law (revised 2003), MAF was responsible for all aspects of agricultural and natural resources land classification and planning. Articles 9 and 10 of the Land Law, 2003, provide the NLMA with the authority to implement sector-related zoning and to co-ordinate country-wide land management planning. In latest developments, NLMA is taking steps to be converted into a “Ministry of Lands and Natural Resources” by a) drafting a new Law on Land and Natural Resources, b) developing a policy on land and natural resources and c) preparing a strategy on the conversion of land and natural resources to capital. Currently, MAF still retains the responsibility for management of the agriculture and natural resources sector lands. Some issues need further clarification:

**1. Roles and Responsibilities:** Under the recent arrangements mentioned above confusion over roles and responsibilities exists, eg, in developing an improved LFA approach and manual for village and village cluster level planning. Areas of duplication, and possible conflict need to be addressed by improving co-ordination and transparency

**2. Technical Functions:** At the provincial and district levels the relevant technical agencies of MAF are being under-utilised by the administration offices. Decisions on investments in land are often made in administration offices without adequate reference to the PAFOs and District Agriculture and Forestry Offices (DAFOs).

#### **Options and recommendations**

To enhance the effectiveness of land management generally the roles and responsibilities of the two agencies need to clarified and the contradictions and overlaps in the Land Law and various decrees and regulations issued by MAF. Co-operation will be improved if opportunities are taken to work together on joint programs, eg, the program for developing an improved approach to village and village cluster land use planning, where MAF and NLMA are jointly developing a manual for country-wide application. Another example is the piloting of agricultural land surveys and land parcel registration procedures by the Land and Natural Resources Research and Information Centre and Lands Office of NLMA in land use zones delineated by NAFES and DAFO in Sangthong District. The establishment of consultation units in sector Ministries to facilitate the development of Land Use Master Plans by NLMA is a constructive initiative.

At the provincial level where the decisions on land concessions and contract farming are made, the technical agencies need to participate in the decision making process along side the administrative arm of government.

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### About the SWGUp Policy Brief Series

The purpose of the policy briefs is to initiate dialogue among SWGUp members around key livelihood issues related to agriculture and natural resources management, with the aim of reducing poverty in the Northern Uplands. It is expected that the policy briefs will contribute to enhancing GoL policies to be addressed by the interventions under the future programme based approach to be developed. Three policy briefs that will be developed over the next three months include: 1. Improving upland farming systems for poverty alleviation; 2. Sustainable land and natural resource management 3. Supporting institutional arrangements and government services.

This policy brief was produced on behalf of the Sub-Working Group on Uplands Development. The views expressed in this document are the views of the consultants at this stage and do not necessarily reflect the views of the SWGUp itself or the Ministry of Agriculture and Forestry.