ASSESSING FOREST GOVERNANCE IN LAO PDR

IDENTIFYING KEY CHALLENGES AND INTERVENTIONS TO STRENGTHEN GOVERNANCE

Policy brief

Summary

Lao PDR is facing numerous challenges as well as opportunities regarding the governance of its forests. This is particularly important considering the country's high levels of forest cover, rural poverty, and biodiversity. Governance is a sensitive topic in the country, adding to the challenges facing the forest sector. However, the Lao government is working to improve forest governance, as outlined in the Forest Strategy 2020 and the revisions to the 2007 Forest Law, ongoing at the time of writing. RECOFTC – The Center for People and Forests, working with civil society partners as part of the European Union-funded Voices for the Mekong Forests (V4MF) project, is seeking to better understand the governance challenges and opportunities in Lao PDR's forestry sector, as well as putting forward a programme to address these through the empowerment of non-state actors (NSAs). To this end, a participatory forest governance assessment was carried out in late 2017 and early 2018. The participants in the research, including from government, civil society, and local communities felt that the policies and legislation in place provided a strong foundation; however, systematic issues in the implementation, enforcement and compliance undermined the state of the forests in the country. The recommendations outlined in this brief include a need to improve the monitoring of forest landscape governance, and to strengthen the knowledge and skills of civil society on technical issues. The project partners will work with various stakeholders, particularly civil society, to implement a programme to address the challenges and opportunities identified.

Lao PDR's forest sector

Lao PDR has one of the highest levels of forest cover in Southeast Asia, with steady growth in coverage in recent decades, according to the UN's Food and Agriculture Organization (FAO) (Table 1). But this masks conflicting stories, which illustrate the challenges facing the country's forests, including that the country's natural forests face numerous threats.

Table 1. Forest cover change in Lao PDR 1990-2015[1]

	1990	2000	2005	2010	2015	Change from 1990 to 2015
Primary forest (million ha)	1.59	1.44	1.36	1.28	1.19	-25.2%
Planted forest (million ha)	0.00	0.02	0.03	0.07	0.11	n/a
Naturally regenerated forest (million ha)	16.05	15.07	15.48	16.47	17.45	8.7%
Total forest cover (million ha)	17.64	16.53	16.87	17.82	18.76	6.3%
Total forest cover as % of land area	76.4%	71.6%	73.1%	77.2%	81.3%	n/a

The main drivers of deforestation and forest degradation in Lao PDR are land conversion for infrastructure and development such as hydropower dams, mining and agri-business expansion. It is important to understand the larger reasons behind the deforestation and degradation. Lao PDR is one of the poorest countries in Southeast Asia, and is battling to address poverty and strengthen forest governance. Its efforts are undermined by limited capacities, particularly in government offices, and by unclear, often contradictory legislation. This, coupled with the international demand for the country's natural resources such as timber, rubber, food, electricity and minerals, places a great deal of pressure on its forests.[2,3]

The importance of good governance is underlined by the fact that an estimated 80 percent of the population are heavily reliant on the forest for their well-being.[4] In other words, the management of the nation's forests must reflect their needs. This is recognized by most civil society and development organizations, researchers, and government officials.

The government's aim to improve forest governance is outlined in the Forest Strategy 2020 and the 2007 Forest Law (under revision at the time of writing), as it recognizes the importance of good governance in creating an attractive environment for investors. A renewed effort (Prime Minister Order 15) to clamp down on illegal logging has been regarded by many stakeholders as positive and in line with ongoing international agreements, namely the EU Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan, and the UN Programme on Reducing Emissions from Deforestation and Forest Degradation (REDD+).

With regards to the FLEGT, Lao PDR is pursuing its negotiation with the European Union (EU) on a Voluntary Partnership Agreement (VPA), a process initiated in 2012. The country has been encouraged by the progress made by neighbouring Viet Nam on its own VPA. Several initiatives at national level are based around the FLEGT-VPA, including the Lao Civil Society Organization (CSO) FLEGT Network, and the Pro-FLEGT programme of the German international development agency GIZ (Deutsche Gesellschaft für Internationale Zusammenarbeit), which works to improve awareness and strengthen the participation of CSOs and forest communities in the FLEGT-VPA countries.

1--FAO, 2015. Global Forest Resources Assessment. Rome: FAO.
2--Koch, S., 2017. The struggle over Lao PDR's forests: New opportunities for improved forest governance? Pacific Geographies, Volume 47, pp.4-13. Hamburg: APSA and Hamburg University. Ministry of Environment, 2016. Cambodia National REDD+ Strategy 2017-2026
3--Mustalahti, I., Cramm, M., Ramcilovic-Suominen, S. and Tegegne, Y.T., 2017. Resources and Rules of the Game: Participation of Civil Society in REDD+ and FLEGT-VPA Processes in Lao PDR. Forests, Volume 8(2), 50. Basel: MDPI. Ministry of Environment, 2016. Sub-decree No. 69 on the Transfer of the Protected Forest, Forest Conservation and Production Forest Areas, and Economic Land Concessions, from the Ministry of Agriculture, Forestry and Fisheries to the Ministry of Environment.
4-- Ministry of Agriculture and Forestry, 2005. Forestry Strategy to the Year 2020.

REDD+ is also potentially important. The Lao REDD+ Programme has been supported since 2007 through various initiatives such as readiness grants, forest investment programmes and an upcoming carbon fund, as well as pilot projects in the north with a focus on improving forest governance, livelihoods, and cross-sector and institutional coordination.[5] The pilot projects include some in the forest landscape of Xayaboury, one of two covered in this study.

Assessing forest governance in Lao PDR

RECOFTC – The Center for People and Forests, working with the World Wide Fund for Nature (WWF) and the Lao Biodiversity Association (LBA), conducted a forest governance assessment to better understand the challenges and opportunities for strengthening forest governance in the country and the Greater Mekong Subregion as a whole. The work was carried out as part of the EU-funded V4MF project. Based on this increased understanding, the project is putting forward a programme for addressing the identified issues.

The assessment used the Enabling Environment Assessment Tool (EEAT) developed by WWF, based on the PROFOR Framework for Assessing and Monitoring Forest Governance[6]. This framework assesses a series of indicators, divided among six cross-cutting principles and three pillars of governance (Figure 1).

Figure 1. Forest Governance Assessment and Situational Analysis Framework[7]
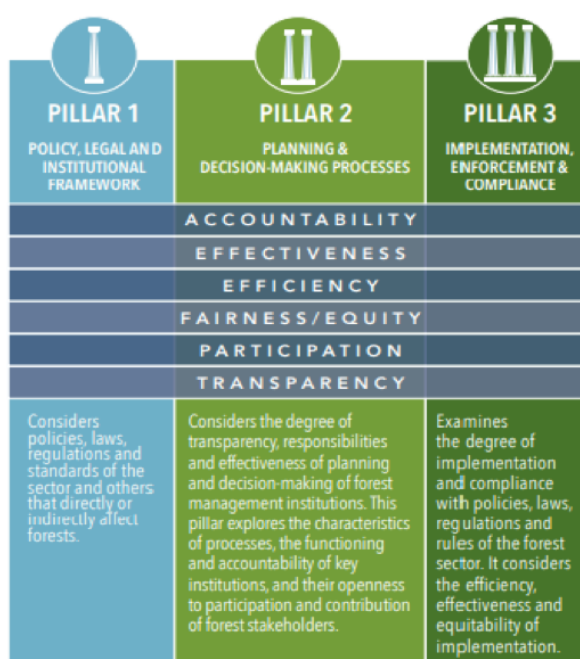
First, the assessment team reviewed the indicators and tailored them to the situation of forestry in Lao PDR, in particular in light of ongoing REDD+ and FLEGT developments. Then the team conducted the assessment by collecting inputs from various stakeholders. These consisted of representatives from government departments (Ministry of Agriculture and Forestry, Ministry of Industry and Commerce, Department of Forestry, and Department of Forest Inspection), CSOs active at national level and at the level of provincial landscapes (namely Xayaboury in the northwest, and Attapeu in the south of the country), and representatives from local communities as well as from local academic institutions.

Participants were asked to give their perception of the strength or success of various institutions, frameworks, policies and implementation measures connected to forest governance, on a scale of 1 to 5, where 1 is "failing", 2 is "weak", 3 is "fair", 4 is "good" and 5 is "close to best practice". Qualitative comments were also collected.

Following this, the capacity development needs of relevant institutions were assessed. The challenges and opportunities identified were then used as the basis for a capacity development programme, with a focus on NSAs, mainly, CSOs and local communities.

More than 250 individuals participated in the research. Emphasis was on a participatory and consensus-based process. This aimed to create an environment of shared understanding for the research, and also to secure stakeholder buy-in for the subsequent capacity development programme.

5--Mustalahti, I., et al., 2017. Resources and Rules of the Game: Participation of Civil Society in REDD+ and FLEGT-VPA Processes in Lao PDR. Forests, Volume 8(2), 50. Basel: MDPI.
6--PROFOR and FAO, 2011. Framework for Assessing and Monitoring Forest Governance. Rome: FAO.
7--PROFOR, 2017. Assessing Forest Governance in Mozambique: Identifying Key Challenges and Interventions to Strengthen Governance.

Results

General findings across pillars

The participants generally agreed that forest governance is a challenging and sensitive subject in Lao PDR. Landscape-level actors and CSOs said assessing forest governance was at times problematic because being negative or critical could create challenges for them in the future.

National government agencies as well as landscape stakeholders and CSOs view the Lao legal forest framework as a solid foundation for managing and governing the nation's forests, with Pillar 1, "Policy, legal and institutional framework", receiving an average score of 3 or more out of 5, or a minimum of "fair" (Figure 2). This is in line with the findings of a WWF-led workshop in Lao PDR in 2018 on forest management and timber trade, which showed the same view from the private sector[8].

All stakeholders gave the lowest scores to Pillar 3, "Implementation, enforcement and compliance", with the slight exception of the national level government. Again, the literature confirms this perception that the legal framework is strong and that the challenges lie in implementation[9].

Figure 2. The average score for the three pillars of governance
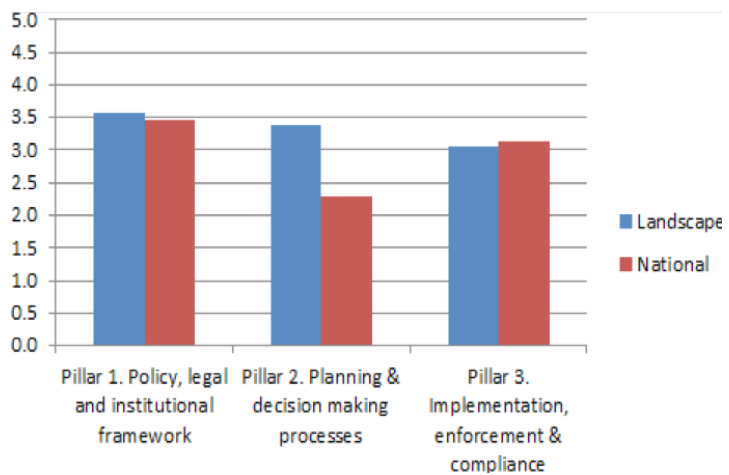
Pillar 1: Policy, legal and institutional framework

Stakeholders agreed that policy, legal and institutional frameworks provided a solid foundation. Some participants felt there was sometimes a lack of specificity, for example in the guidelines facilitating participation (Figure 3). Attapeu landscape stakeholders considered the institutional framework as the most challenging pillar. This is linked to the view that they are endowed with a wealth of natural resources, such as forest products, coal, gemstones and fertile agricultural lands, and that the mandate over these is claimed by various departments.

Figure 3. Average score per component of Pillar 1
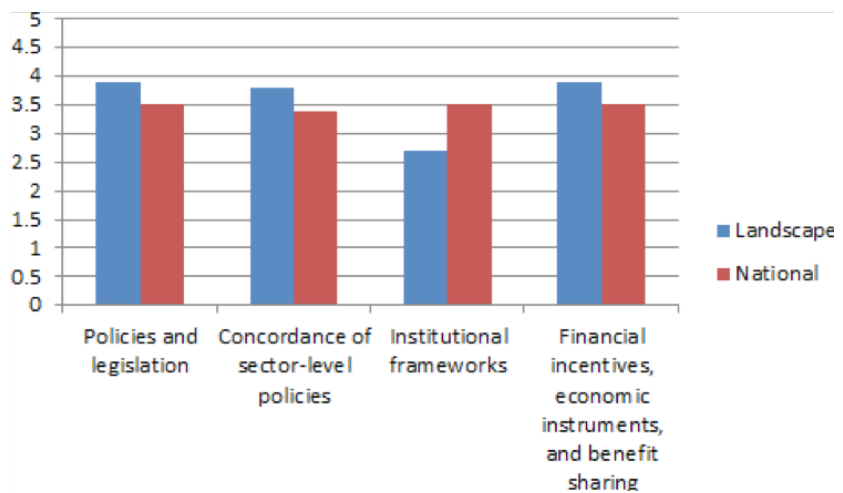
8--Chanthavong, S., and Hollands, M., 2018. Consultation workshop on the Gap Analysis and Strategy. WWF Laos, pers. comm.
9--USAID LEAF, 2015. Drivers of Forest Change in the Greater Mekong Subregion: Lao PDR Country report.

Policy and legislation

Revised legislation is more inclusive: Stakeholders agreed that the revision process for policies and laws is increasingly participatory; it is no longer only centrally developed, but now involves provinces and districts as well as local communities who are consulted and can provide information to use in re-drafting laws. The guiding Lao Forestry Strategy 2020 is a key policy for the forestry sector towards achieving the sustainable management of the nation's forests. The Strategy also emphasises the importance of participation of key stakeholders. Subsequent laws and regulations including forest laws are being aligned with the Strategy.

Concordance of sectoral-level policy

Broadly satisfactory concordance, with some discontents: While all groups had a broadly positive perspective regarding this component, , there was some divergence between stakeholder groups as they are differently affected by new policies and their communication. Some participants also mentioned that the three forest categories recognized by law - production, protection and conservation forest areas - are each governed through a different ministry with its own set of laws and regulations, which impacted this component.

Financial incentives, economic instruments, and benefit sharing

Effective and fair incentives: Stakeholders believe there are good provisions for financial incentives, economic instruments and benefit sharing. For example, the Village Forest Management rules allow local villages to use forest timber for house construction, whereas commercial timber harvesting is not legally permitted. The government has reduced the approval rate for large-scale concessions due to sustainability concerns and seems to be emphasising more on sustainable forestry investments from reputable companies.

Pillar 2: Planning and decision-making processes

Within Pillar 2, the most positively viewed component was "stakeholder participation". Efforts from the government to improve planning and decision making are recognized but the feeling was that their impacts vary (Figure 4).

Figure 4. Average score per component of Pillar 2
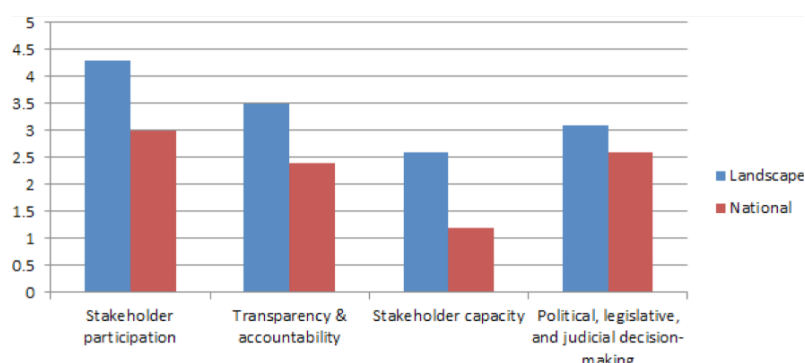
Stakeholder participation

Poor local-level implementation of participation guidelines: Stakeholders strongly stressed that the process of turning laws and policies into effective plans is still problematic, in particular due to a lack of resources and capacities, including for facilitating multi-stakeholder processes at local levels. There is a sense of lack of clear delegation between the national, provincial and district levels of authority. This hampers an appropriate and transparent planning process, with decision making still limited to a few main government institutions. Also, good laws may not be translated into effective action involving stakeholders if the capacities, skills and attitudes of staff in provincial and district forestry offices are not matching the requirements.

Transparency and accountability

Limited access to information: Access to good information about forest boundaries, land and forest product licensing is limited, participants said, undermining efforts to increase transparency and accountability.[10] Regarding the media, reporting on forestry sector activities and problems has increased, but the media's capacity still needs to be strengthened.

Uneven sustainability efforts by business: Some private-sector actors are increasingly applying international certification standards, such as the Forest Stewardship Council (FSC) and Programme for the Endorsement of Forest Certification (PEFC). But these are being undermined by other investors who do not apply such standards to their operations.[11]

10--Kenney-Lazar, M., 2012. Plantation rubber, land grabbing and social-property transformation in southern Laos. Journal of Peasant Studies, Volume 39(3-4), pp.1017-1037.

11-- Kenney-Lazar, M., 2012. Plantation rubber, land grabbing and social-property transformation in southern Laos. Journal of Peasant Studies, Volume 39(3-4), pp.1017-1037.

Political, legislative, and judicial decision making

Poor access to justice for local stakeholders: Concerning conflict resolution, there was a reported feeling that support from line agencies is limited, with court access for local people being particularly problematic. This is in line with the findings of a 2014 Forest Governance Assessment focusing on REDD+ that used a similar approach[11]. Also, ensuring cross-sector synergies, interactions and collaborations across levels is still challenging.

Pillar 3: Implementation, enforcement and compliance

Pillar 3 on "implementation, enforcement and compliance", was the most challenging according to stakeholders, in particular for CSOs. The findings for national government were slightly more positive, but challenges persist (Figure 5).

Figure 5. Average score per component of Pillar 3
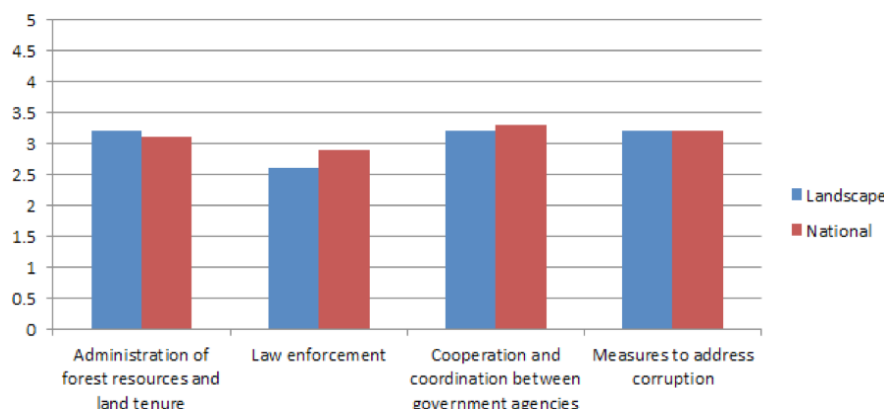
Poor implementation due to a range of challenges: Pillar 3 reflects how well policies and planning tools, implemented properly, can lead to tangible benefits for society. Participants said action plans were, in many cases, not appropriate and difficult to implement, leading to unintended delays or excluding any full and meaningful participation of local people. They agreed that overall implementation and enforcement of the laws is challenging, and that little transparent and effective monitoring or evaluation process is in place. Causes mentioned included insufficient staffing in relation to personnel numbers, skill levels, or even awareness of policies and planning processes.

Priority issues and suggested interventions

Numerous opportunities and challenges were identified to strengthen forest governance in Lao PDR.

Integrate participatory sustainable forest management in the development of policies and plans

- Conduct a systematic forest inventory in partnership with key stakeholders, especially local community members. This needs to be coupled with investment in improving and harmonizing databases across agencies in the medium term, and securing the rights on forest lands and boundary demarcation in the long term.
- Engage local people in participatory sustainable forest management and build capacities for improving forest-related livelihoods through, for example, non-timber forest products, agroforestry and ecotourism.
- Support provincial authorities to develop a strategic plan for each of the landscapes. This should include the development of a common understanding of sustainable natural resource management, involving a wide variety of departments, and stakeholders.
- Adapt international guidance and standards (e.g. certification) into localized, context-specific versions to be more easily applied by local authorities, CSOs, and private-sector actors operating in the country. This will firstly require investment in ensuring that these stakeholders have a deep understanding of the country's legal and regulatory frameworks before applying international guidance and standards.
- Improve the capacity of local government officials to evaluate potential land investments linking with the FAO's Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security.
- Build local authorities' knowledge and capacity for mediating and supporting fair negotiations between communities and investors. Implementation and enforcement of investment laws and regulations also needs to be strengthened.

12--Chokkalingam, U., and Phanvilay, K., 2014. Forest Governance Assessment for REDD+ Implementation in Lao PDR Through Application of the PROFOR Forest Governance Tool. Washington, DC: FCPF and World Bank.

Clarify mandate and improve cooperation between actors of the forest sector
- Promote a more effective collaboration among involved departments and ministries associated with FLEGT-VPA and REDD+ processes for improved communication and coordination. The established working groups in both arenas might provide for an entry to establish such collaboration.
- Emphasise the need for a joint FLEGT and REDD+ CSO Network to support the government in furthering the forest sector and to ensure community benefits can be achieved.
- Develop partnerships and networks to strengthen collaboration between government, CSOs and responsible private sector in sustainable forest landscape management.
- Support the implementation of a strategic plan among involved government agencies, ensuring that a landscape approach is employed.

Improve stakeholder participation
- Actively facilitate multi-stakeholder platforms at national and landscape levels, encouraging the involvement of government agencies and CSOs involved in REDD+ and FLEGT-VPA processes.
- Develop a capacity development programme for stakeholders aiming to effectively engage in forest governance (with focus on FLEGT-VPA and REDD+), linked to a grant mechanism to pilot innovative forest governance approaches.
- Develop stakeholder facilitation skills (e.g. communication and listening) to effectively participate, formulate informed opinions and negotiate in meetings, workshops, training events as well as coaching.
- Strengthen the secretariat facilitated by the Lao Biodiversity Association to prepare and facilitate a CSO forest governance network (including CSOs involved in FLEGT-VPA and REDD+ processes) to coordinate, for example, communication and capacity building.

Improve processes related to land use planning and land allocation
- Improve coordination among projects and government agencies and advocate for transparency in landuse planning and land allocation processes concerning project landscapes at the district level, integrating the principles of free, prior and informed consent.

Secure forest tenure
- Advocate for land and forest rights for local communities to encourage their active and sustainable investment in land and forest management and forest-product trade.
- Based on secured land tenure, encourage fair and more equitable partnership modalities between local communities and private sector.

Review forest products value chain and licensing
- Carry out research on chains of custody and on processes of sustainable forest-product trade, market access and product promotion.
- Improve business management practices and increase the sector's understanding of regulatory requirements, to ensure compliance and demonstrate legality and sustainability of practices.

Improve forest law enforcement
- Strengthen capacity and cooperation of forest law enforcement agencies, notably the Department of Forestry Inspection and partner members of the Lao Wildlife Enforcement Network (WEN), by establishing an environmental law enforcement training curriculum, training and workshops, and establishing Provincial WENs in the medium-term.
- Roll out training for local communities to recognize their land rights, build their capacity to negotiate fair local agreements, and create space for sharing experiences of investments amongst communities to promote collective bargaining power. This should be based on the Village Rights Guidebook on Land and Natural Resources by Village Focus International (VFI). Additional guiding materials may be needed, such as on legal timber trade and illegal logging.
- Develop training programmes on how local communities can effectively carry out forest patrolling to monitor, identify and investigate criminal forest activities. This should be followed up by tracking subsequent prosecution.
- Engage with the public prosecution office, and understand the information needs of law enforcement agencies from central to district levels. Educate villagers on their rights and responsibilities and create a public informant network. Support a process that enables third parties (CSOs, paralegals) to contribute.
- Build a common vision and direction by designing and implementing consistent and coordinated Terms of Reference, Standard Operating Procedures and environmental law enforcement strategy for all Lao-WEN law enforcement partner agencies, in line with the Lao-WEN strategy.

Foster forest information exchange and forest monitoring activity
- Increase CSO awareness of the current legislative, monitoring and inspection systems, starting with the articles in the Forestry Law. Knowledgeable CSOs can then better gain access to information and request increased participation in monitoring and inspection.
- Advocate for government and other stakeholders to collect and share aggregated data on contract farming arrangements as a step towards greater transparency, which is necessary for informed decision-making.

Scale up human resources, materials and technology

- Enhance CSOs' knowledge of key forest governance subjects, in particular related to FLEGT and REDD+ and their impacts on local communities and their natural resources. This will enable them to support governance initiatives in the landscapes. Such knowledge enhancement should be applied e.g. to technical and legal aspects of timber trade, carbon assessment, and forest management.
- Assist CSO networks to develop a programmatic vision that can secure long-term engagement in forest governance processes, independently of a singular project or source of funding.
- Invest in building operational, management and business skills for both government officials and CSOs.

Audit and evaluate performances

- Develop and implement a robust monitoring and reporting system on forest governance by civil society actors that will effectively inform progress in the landscapes. Ensure synergy with a government-led forest monitoring system.
- Design a safe mechanism to collect and use forest governance-related feedback from civil society and local communities.

Support anti-corruption drive

- Develop relationships with the customs office, economic police, anti-corruption agency, state inspection, people's courts, etc. Explore how civil society and local communities can support them and play a role in improving forest governance.

Promote non-state actors as forest stewards

- Identify and elevate forest governance CSO champions from existing networks and support them to actively engage with relevant government agencies and in forest governance-related events.
- Draw up a governance strategy for these CSOs including guidance on how to develop plans and proposals.

The Voices for Mekong Forests (V4MF) is a 5-year project funded by the European Union that aims to strengthen the voices of non-state actors (NSA) to improve the governance of the forests in the Mekong region, particularly in the context of FLEGT-VPA and REDD+ processes. V4MF is implemented by RECOFTC – The Center for People and Forests with eight regional and national partners in three trans-boundary landscapes across the five Mekong countries.