

**Management of investments in natural
resources in the provinces**

and

**operational linkages between the Poverty
Environment Initiative (UNDP/MPI) and the
Sustainable Natural Resource Management and
Productivity Enhancement Project (IFAD/ADB)**

1st of July – 31st of July 2009

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July 2009

Lao Executive Summary

ບົດສະຫຼຸບຫຍໍ້

ການພັດທະນາຢ່າງວ່ອງໄວຂອງ ບັນດາກິດຈະກຳການລົງທຶນຢູ່ໃນ ສປປ ລາວ ແມ່ນ ໄດ້ອີງໃສ່ສິ່ງແວດລ້ອມ ແລະ ຊັບພະຍາກອນທາງທຳມະຊາດເພີ່ມຂຶ້ນ ອັນເນື່ອງມາຈາກ ການດຳລົງຊີວິດຂອງຊາວຊົນນະບົດສ່ວນຫຼາຍຍັງອາໄສທຳມະຊາດເປັນຫຼັກ. ປັດຈຸບັນ, ການ ລົງທຶນປະເພດນີ້ ໄດ້ກວມເອົາການປູກພືດກະສິກຳ, ການຂຸດຄົ້ນບໍ່ແຮ່, ພະລັງງານໄຟຟ້າ, ການຂຸດຄົ້ນໄມ້ ແລະ ຜະລິດຕະພັນໄມ້, ໂຄງລ່າງພື້ນຖານຫຼັກ ແລະ ໂຄງການການພັດທະນາອຸດສາຫະກຳ.

ເພື່ອສະໜັບສະໜູນ ຄວາມພະຍາຍາມຂອງລັດຖະບານ ສປປ ລາວ ໃນການແກ້ໄຂບັນຫາຄວາມທຸກຍາກ-ສິ່ງແວດລ້ອມທີ່ທ້າທາຍ, the Poverty Environment Initiative (PEI) ຂອງ UNDP-UNEP, ໂດຍການຈັດຕັ້ງປະຕິບັດຂອງອົງການ MPI ແລະ WREA (ອົງການຊັບພະຍາກອນນ້ຳ ແລະ ສິ່ງແວດລ້ອມ) ທີ່ໄດ້ ຮັບການສ້າງຕັ້ງຂຶ້ນ. ເຊິ່ງມີຜົນໄດ້ຮັບ ຕົ້ນຕໍ 4 ຢ່າງ ແລະ ໄດ້ຊຸມໃສ່ການສ້າງຂັດຄວາມສາມາດທີ່ເຂັ້ມແຂງໃຫ້ແກ່ເຈົ້າໜ້າທີ່ຂອງສູນກາງ ແລະ ບັນດາແຂວງເປົ້າໝາຍ ເພື່ອເຊື່ອມໂຍງບັນຫາຄວາມທຸກຍາກ-ສິ່ງແວດລ້ອມທີ່ສົນ ໃຈ ແລະ ບັນດາໂອກາດທີ່ຢູ່ໃນຂັ້ນຕອນສຳຄັນຂອງແຜນ ການພັດທະນາ. ຢູ່ໃນຂອບເຂດຂອງຜົນໄດ້ຮັບທີ 2 ຂອງ PEI (ການລົງທຶນໃນ ສປປ ລາວ: ການຫຼຸດຜ່ອນຜົນກະທົບທາງສັງຄົມ ແລະ ສິ່ງແວດລ້ອມໃຫ້ໜ້ອຍທີ່ສຸດ), ບົດລາຍງານສະບັບນີ້ ໄດ້ສະເໜີ ການປະເມີນຂະບວນການຈັດການການລົງທຶນໃນແຂວງສະຫວັນນະເຂດ (ໜຶ່ງໃນ ບັນດາແຂວງທີ່ຖືກເລືອກ ໃນການຈັດຕັ້ງປະຕິບັດຂອງ PEI) ແລະ ແນະນຳສຳລັບການດຳເນີນງານຕໍ່ລະຫວ່າງ ຜົນໄດ້ຮັບທີ 2 ຂອງ PEI ແລະ “ໂຄງການບໍລິຫານຊັບພະຍາກອນທຳມະຊາດ ແບບຍືນຍົງ ແລະ ການເພີ່ມຜະລິດຕະພາບ” ຂອງ ADB/ IFAD.

ພາກທຳອິດ ກ່າວເຖິງການຈັດການກັບບັນດາສະຖາບັນທີ່ມີຢູ່, ບັນດາຂັ້ນຕອນ ແລະ ການໃຫ້ນະໂຍບາຍທີ່ກ່ຽວຂ້ອງກັບການຄຸ້ມຄອງການລົງທຶນ ຢູ່ແຂວງສະຫວັນນະເຂດ. ຫຼັງຈາກທີ່ມີການໃຫ້ຄວາມຄິດເຫັນຕີຊົມຕໍ່ກັບຂັ້ນຕອນການຄຸ້ມຄອງການລົງທຶນ. ໃນພາກນີ້ ໄດ້ຄົ້ນພົບ ບັນດາພາລະບົດບາດຂອງແຂວງ ແລະ ຜູ້ທີ່ມີສ່ວນຮ່ວມ ວ່າມີຄວາມແຕກຕ່າງກັນ, ກ່ອນທີ່ຈະສຸມໃສ່ຜົນກະທົບທາງສັງຄົມ ແລະ ສິ່ງແວດລ້ອມ ຂອງຊຸມຊົນຢູ່ໃນທ້ອງຖິ່ນ. ສຸດທ້າຍ, ໃນພາກນີ້ແມ່ນໄດ້ສະແດງໃຫ້ເຫັນບາງຄຳແນະນຳ ເພື່ອເຮັດໃຫ້ລັດຖະບານ ແລະ ຊຸມຊົນຢູ່ໃນທ້ອງຖິ່ນ ໄດ້ຮັບປະໂຫຍດສູງສຸດຈາກການລົງທຶນ. ຂໍ້ແນະນຳທີ່ສຳຄັນມີຄື: (1) ໃຫ້ຄວາມກະຈ່າງແຈ້ງຕໍ່ ພາລະບົດບາດຂອງບັນດາອົງການທີ່ມີສ່ວນຮ່ວມໃນການອອກໃບອະນຸຍາດໃຫ້ສຳປະທານດິນ; (2) ເພີ່ມການສຳໜັບສະໜູນໃນການຮ່ວມມື

ແລະ ບັບປຸງຂໍ້ມູນ ລະຫວ່າງ ບັນດາຜູ້ທີ່ມີສ່ວນ ຮ່ວມ (ລວມທັງບັນດາຂໍ້ມູນພາຍໃນ ແລະ ພາຍນອກກະຊວງ); (3) ພະຍາຍາມສ້າງຂີດຄວາມສາມາດໃຫ້ຫຼາຍຂຶ້ນ ເພື່ອຊ່ວຍເຫຼືອ WREA/WREO ໃນການປະເມີນຜົນກະທົບທາງສິ່ງແວດລ້ອມ ແລະ ສັງຄົມ (ESIA); (4) ພັດທະນາຍຸດທະສາດໃຫ້ຢັບເຂົ້າໃກ້ການຄຸ້ມຄອງການລົງທຶນ; ແລະ (5) ເພີ່ມທະວີການຕິດຕາມປະເມີນການດຳເນີນກິດຈະກຳຂອງນັກລົງທຶນ.

ພາກທີ 2 ຂອງບົດລາຍງານນີ້ ແມ່ນເບິ່ງກ່ຽວກັບພື້ນທີ່ທີ່ເປັນໄປໄດ້ໃນການຮ່ວມມື ລະ ຫວ່າງຜົນໄດ້ຮັບທີ 2 ຂອງ PEI ແລະ ENRMPEP. ມີໂອກາດຫຼາຍໃນການສຸມໃສ່ ແລະ ຈັດຕັ້ງປະຕິບັດຕາມແຜນການທີ່ໄດ້ບັບປຸງຕາມຄຳແນະນຳໃນໄລຍະຕໍ່ມາ. ການຮ່ວມມືເບິ່ງຄືວ່າກ່ຽວຂ້ອງກັບ (1) ສ້າງຂີດຄວາມສາມາດໃນການປະເມີນການລົງທຶນ (ສິ່ງແວດລ້ອມ, ສັງຄົມ ແລະ ເສດຖະກິດ); (2) ຮວບຮວມໄລຍະການວາງແຜນພັດທະນາ ແລະ ເພີ່ມຄວາມເຂົ້າໃຈ; (3) ພັດທະນາຮູບແບບພາຍໃຕ້ໂຄງການ ແລະ ການລົງທຶນຕາມສັນຍາ. ຜົນທີ່ຈະເກີດຈາກການປະສານງານກັນທີ່ຖືກຮັບຮູ້ ນັ້ນຄວນຍອມຮັບວິທີທີ່ມີປະສິດທິພາບ ແລະ ມີຜົນໃນການຈັດຕັ້ງປະຕິບັດບາງຂໍ້ສະເໜີຂອງຜູ້ຂຽນລາຍງານ, ເພື່ອສ້າງຂີດຄວາມສາມາດຂອງລາວໃນການຄຸ້ມຄອງການລົງທຶນໃນຊັບພະຍາກອນທຳມະຊາດໃຫ້ເຂັ້ມແຂງ.

English Executive Summary

The rapid development of investment activities in Lao PDR's is putting increasing pressure on the environment and on the natural resource base upon which many rural people rely for their livelihoods. These investments currently include agricultural plantations, mining, hydropower, wood and wood products as well as major infrastructure and industrial development projects.

In order to support the efforts of the Government of Lao PDR in addressing poverty-environmental challenges, the Poverty Environment Initiative (PEI) of UNDP-UNEP, implemented with MPI and WREA, has been designed. It has four main outputs and focus on strengthening capacity of targeted central and provincial authorities to integrate poverty-environment concerns and opportunities in key development planning processes. Within the scope of output 2 of PEI ("Investment in Lao PDR: Minimising the Social and Environmental Impacts"), this report presents an assessment of the investment management process in Savannakhet province (one of the chosen province for implementation of PEI) and suggestions for operationalising linkages between PEI output 2 and the ADB/IFAD "Sustainable Natural Resources Management and Productivity Enhancement Project".

The first section deals with existing institutions, processes and incentives related to investment management in Savannakhet province. After providing a critical review of the investment management process, it explores the roles of different provincial and district stakeholders, before focusing on social and environmental impacts on local communities. Finally, it highlights some suggestions to maximise benefits from investments, for both the government and local communities. The main recommendations are: (1) a clarification of the role of the different agencies involved in granting concessions; (2) increased support for coordination and improved information flow between the different actors (including inter and intra ministry information flow); (3) significant capacity building efforts to support WREA/WREO for ESIA; (4) the development of a strategic approach to investment management; and (5) the strengthening of monitoring of investors' activities.

The second part of the report looks at possible areas for collaboration between PEI output 2 and the SNRMPEP. Many opportunities have been highlighted and subsequent implementation schedule modifications suggested. Collaboration seems especially relevant in (1) investment evaluation capacity building (environmental, social and economic); (2) integrated spatial planning awareness raising and development; (3) development of model sub-projects and investment contracts. The synergies identified should also permit a more efficient and cost effective approach for implementing some of the author's recommendations to strengthen the capacity of Lao PDR to manage investments in natural resources.

Acknowledgements

The author would like to extend his heartfelt thanks to the Government of Lao People's Democratic Republic and to the United Nations Development Programme of Lao PDR for their trust and support during his assignment.

I would, in particular, like to mention the Deputy Director General of the Investment Promotion Department of the Ministry of Planning and Investment, Mr. Manothong Vongsay, without whom this mission would not have been impossible.

In addition, I would also like to name my counterparts in the Investment Promotion Department, Mrs. Souphaphone Saignaleuth and Mr. Syvongxay Thavisack who provided much appreciated help and companionship during time spent both in the department and in Savannakhet province.

I am forever grateful to all members from provincial line agencies, staff from private companies and representatives from Lao associations and Overseas Development Agencies in Savannakhet province for the time they willingly spent answering my numerous questions.

Finally, I feel indebted to UNDP Lao staff: Mrs. Linda Norgrove (Head of UNDP/UNEP Environment Unit) for her astute guidance during my work, Mr. Vichit Sayavongkhamdy (Programme Analyst) and Mr. Rico Tuor (UNV – Environment Specialist) for providing extensive administrative support and coordination assistance.

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Acronyms and Abbreviations

ADB	Asian Development Bank
AWPB	Annual Work Plan and Budget
CEO	Company Executive Officer
CPMI	Committee for Planning and Management of Investment
D	Director
DAFO	District Agriculture and Forestry Office
DD	Deputy Director
DIC	Department of International Cooperation (of MPI)
DICO	District Industry and Commerce Office
DPI	Department of Planning and Investment (provincial)
DoP	Department of Planning (of MAF)
DPO	District Project Office
ESIA	Environmental and Social Impact Assessment
GoL	Government of Lao People's Democratic Republic
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit GmbH
IFAD	International Fund for Agricultural Development
IPD	Investment Promotion Department (of MPI)
Lao PDR	Lao People's Democratic Republic
LWU	Lao Women Union
M&E	Monitoring and Evaluation
MAF	Ministry of Agriculture and Forestry
MEM	Ministry of Energy and Mines
MEMO	Ministry of Energy and Mines Office
MOIC	Ministry of Industry and Commerce
MPI	Ministry of Planning and Investment
MPWT	Ministry of Public Works and Transport
NAFRI	National Agriculture and Forestry Research Institute
NLMA	National Land Management Authority
NLMO	National Land Management Office
NSEDP	Lao PDR National Socio-Economic Development Plan
NTFP	Non-Timber Forest Products
ODA	Overseas Development Aid
OSU	One Stop Service Unit
PAFO	Provincial Agriculture and Forestry Office
PEI	Poverty Environment Initiative
PICO	Provincial Industry and Commerce Office
PFO	Provincial Finance Office
RRP	Report and Recommendation of the President to the Board of Directors on a proposed loan and a technical assistance grant to

	the Lao People's Democratic Republic (for the Smallholder Development Project)
SNRMPEP	Sustainable Natural Resource Management and Productivity Enhancement Project (of IFAD/ADB)
SNV	Netherland Development Organisation
SSEZ	Savan-Xeno Special Economic Zone
SVK	Savannakhet
TOR	Terms of Reference
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
WREA	Water Resource and Environment Administration
WREO	Water Resource and Environment Office

1. Introduction

1. The Consultant was contracted by UNDP Lao to perform 15 days of work on an intermittent basis from the 1st to the 31st July 2009 in Lao PDR. He acted as an expert in Investment and Agriculture and was hosted by the Investment Promotion Department of the Ministry of Planning and Investment.

2. The mission took place within the framework of the upcoming “Investment in Lao PDR: Minimising the Social and Environmental Impacts”, a project supporting the Investment Promotion Department under UNDP Lao Poverty Environment Initiative. It aims at gaining an understanding of the management of investment in natural resources in Lao PDR and at developing operational linkages with the new ADB/IFAD project implemented in the 5 southernmost provinces of Lao PDR by the Department of Planning of the Ministry of Agriculture and Forestry, the “Sustainable Natural Resource Management and Productivity Enhancement Project” (SNRMPEP). A detailed TOR for the assignment can be found in appendix 1.

1.1. *Savannakhet: a complex investment “scene”*

3. Although PEI focuses on two provinces in the South and two provinces in the North of Lao, Savannakhet was chosen as representative of investment management in the South for its exceptional dynamism and ability to attract both domestic and foreign investments. Additionally, this province is rich in natural resources (“Savannakhet” comes from two *pali* terms and literally means “the land of gold”¹) and has long been one of Lao PDR key rice producing zones. It is also the best endowed Lao province in terms of mineral ores. Together with excellent road connections to Thailand, borders with Vietnam and an aggressive investment promotion, the aforementioned makes the management of investment in natural resources in Savannakhet one of the most complex in Lao PDR (maybe only rivalled by the one in Champasak province). The Author is led to believe that conclusions from the present report will in no doubt prove to be useful for the full geographical extend of the PEI.

4. Out of the 15 working days, 4 were spent interacting with senior staff from the Investment Planning Department at national level. The remaining 11 days were occupied by a field trip to Savannakhet province, during which the Consultant interacted with most provincial government agencies involved in managing investments, with private investors, with local and international associations, with staff from government agencies in 1 district (Phine) and with inhabitants of several villages where investments are located in 2 districts (Phine and Atsaphangthong). A detailed schedule can be consulted in appendix 2. During the field trip, all activities were conducted jointly by the Consultant and an Officer from IPD, Mr. Syvongxay Thavisack.

1.2. *Slight re-focus of the mission*

5. After the first week of the mission, the Consultant met with his UNDP Supervising Officer, Mrs Linda Norgrove to discuss the result of his preliminary investigations. The following conclusions were agreed upon by both parties:

¹ Souvanna for gold and khet for land.

- A wealth of literature is available on the granting and extend of land concessions in Lao PDR and the Supervising Officer requested that, rather than rewriting existing materials, more emphasis should be put on the impact of investments on local communities.
- Several meetings and documents led to the conclusion than Savannakhet Savan-Xeno Special Economic Zone was dysfunctional and did not attract investments in natural resources. This was further compounded by a meeting during the field trip and only little attention will be given to the Special Economic Zone in the rest of this document.
- The Supervising Officer required the Author to pay special attention to DPI's capacity building needs in order to ensure that the assignment would be a useful building block for the upcoming PEI.

2. Investment Management in Savannakhet

2.1. Methodology

2.1.1. Classification of investment

6. With respect to his TOR, the Author felt that precisions were needed regarding the proposed classification of investment. These comments have been circulated to UNDP during the first week of the Consultant's mission (inception report), and, as no comments were received, he had to assume that they were regarded as valid.

2.1.1.1. Private, foreign and ODA investments

7. The main distinctions between foreign² and domestic investments made under Lao Law and by MPI are: (1) a slightly different incentive structure, although net benefit tax rebates by investment zones are similar; (2) different delays for obtaining licenses³; (3) licensing of Lao businesses not requiring concessions is managed by MOIC, while all foreign investments are managed by MPI.

8. At the time of writing, a new law is being discussed at the Lao National Assembly and it involves the suppression of the distinction between foreign and domestic investors (until now they were managed by separate decrees, domestic investors by Decree PM/300 and foreign ones by Decree PM/301). This will not affect foreign and domestic investors requiring lease/concessions as they both still need to refer to MPI/DPI, and thus this should have little impact on the Author's work.

9. All ODA investments are managed by MPI DIC at national level and permission is issued or revoked by DIC, which coordinates with relevant line agencies. DPI in the provinces is mandated to monitor ODA projects, with support of WREA/WREO for ESIA. However, following interviews with the Director of DIC, it appears that DIC requires support to set-up relevant structures in the provinces so that monitoring of ODA projects can be realized in a more systematic manner.

10. Based on the above, the consultant would like to suggest that differentiation between domestic and foreign investments might not prove very useful for the PEI and for fulfilling his TOR. Thus, he will not use it in the present report.

2.1.1.2. Sectors

11. Two sectors are being promoted by the GoL for investment (open to foreigners and open to foreigners with restrictions; similar categorisation for domestic) with different tax and concession incentives granted for each sector. A third sector, that includes timber exploitation, is forbidden to foreigners and to most Lao investors, being the reserved to State-run companies. It is interesting to notice that the two sectors aforementioned are

² Foreign investors take three forms in Lao PDR: business cooperation by contract, joint-venture and 100% foreign-owned (Law No 11/NA on the Promotion of Foreign Investment).

³ Although Laws and corresponding Decrees mention different delays for obtaining the 5 licenses necessary for operating a business, it seems that, in practice, these delays are neither observed, neither enforced due to (1) lack of resources in the different ministries involved; (2) very little information sharing; (3) inefficiency of the One Stop Service Unit (not even established in the provinces yet); (4) fuzziness of legal framework on investment (e.g. the need for ESIA is left to the appreciation of the OSU Director).

further split into two groups, investments requiring lease/concession and others. This is a more appropriate distinction for the work being undertaken by the Consultant⁴ and this study will focus on investments requiring concessions/leases.

2.1.1.3.Sizes of investment

12. Investments in Lao PDR are classified by their monetary value and/or by the acreage of land they require, either from the state (concessions) or from private owners (leases). Provinces can allocate concessions up to 300 ha, ministries up to 30,000 ha, National Assembly over 30,000 ha.

13. Provincial authorities (CPMI chaired by Governor) can issue investment licenses under 3 million USD or 5 million USD (for the four most economically active provinces, including Savannakhet).

14. The lack of correlation between the monetary value of the investments managed by the provinces and the acreages that they may allocate is (obviously investing 4 million USD on a plantation is going to require more than 300 ha), in the opinion of the Author, one of the main causes of inconsistencies between the legislation and the practice of the allocation of concessions. In some instances, cases have been reported of multiple small-scale concessions awarded at provincial level to the same investor.

2.1.2. General approach

15. The decrees on the promotion of foreign investment (PM/301) and on the promotion of domestic investment (PM/300) are the main legal instruments regulating the granting of investment licences. However, for investment in natural resources, the legal framework is more complicated as, according to the type of investment, different ministries or line agencies can be involved (MOIC for granting factory operation permits; MPWT for construction permits; MAF for concessions survey; NLMA for concession licences; MEM for mining rights, hydro-electric resources exploitation and production of bio-fuel).

16. Both decrees and other laws of Lao PDR (Land on Agriculture 01-98/NA, Land Law No 04/NA 2003, Regulation on Environment Assessment in Lao PDR No 1770/STEA 2000, Forestry Law No6/NA 2007, Mining Law No 04-97/NA) were used by the Author as guidelines to try and map:

- The main steps involved in obtaining an investment licence for an economic activity involving the use of natural resources (entry regulations).
- Monitoring of investment and associated dispute resolution and enforcement mechanisms.
- Incentives for investors.
- Actors involved in investment granting, monitoring enforcement at provincial and district level.

⁴ This definition of natural resources is restrictive and does not take into account “public good” and use of freely available resources induced by all human activities.

- Impact of investments in natural resources on local communities (economic, social and environmental), with a disaggregated perspective taking into account gender and the “resource-poor”.

17. The result of the analysis of investment management along the line presented above is then leading to recommendations for improving provincial investments management capacities, with a specific attention being given to DPI.

2.2. Investment management

18. While the whole investment process is regulated and described by the legal system of Lao PDR, most of the officials met during the course of field work were forthcoming in recognising that the law was sometimes not fully complied with and identified several reasons justifying this: (1) provinces and districts lack both capacity and manpower to implement and enforce laws whereas national level lacks the financial and human capacities to effectively strengthen these; (2) each law or decree is bound to a specific ministry and contradictions can be found between different laws; (3) information does not always flow smoothly between the different strata of government (central, provincial, district, villages); (4) budgets and facilities are insufficient at all levels; (5) the power of investors (networks, access to capital) makes it difficult for underfunded government agencies who may be grappling with lengthy and unclear administrative procedures, to act as regulators; (6) investment is a relatively new concept in the provinces (started in 1992 in Savannakhet) and the State’s apparatus is not yet fully adapted to meet the challenges it brings.

2.2.1. Entry regulations for investment

19. The process presented in this paragraph is a synthesis of the understandings of the different stakeholders involved in granting permission for investment⁵. At this stage, it is of particular importance to notice that the different actors had different understandings about their role and that of others. It was especially noticeable concerning the role of NLMA, which is still unclear for many because of the recent creation of this organisation and because of an unclear institutional arrangement between MAF/PAFO (traditionally in charge of granting concession agreements) and NLMA/NLMO (newly in charge of this task).

20. To be able to invest in Savannakhet, the following authorisations need to be obtained:

- Investment licence (MPI/DPI) (issued with Business Registration Licence from PICO and Tax License from PFO)
- Company seal (Ministry of Security)
- Factory license, if necessary (PICO)
- Business operating license (from the relevant line agency, i.e. PAFO for businesses operating in plantations, MEMO for mining enterprises...)
- Import/export license (PICO)

⁵ In Doing Business 2009 - a co-publication by the World Bank, the International Finance Corporation, and Palgrave - Lao PDR is ranked 162 out of 181 for ease of doing business, and it takes 103 days on average for opening a business in Lao PDR (at least double this time can be estimated for investment in natural resources, which are subject to more regulations than other types of businesses).

- Concession agreement (NLMO)
- Authorisation from Provincial Governor and District Governor

21. Other licenses (“downstream licenses”) might be necessary, such as work permit.... The situation is very variable from one province to another and a study from GTZ⁶ reports that, in 2006, seven licenses were necessary to invest in Savannakhet while only four were needed in Saravane.

22. In Savannakhet, MEMO only grants licences for exploitation of quarries (or dredging) of gravel or sand⁷. Exploitation of other mineral (gypsum), ores (gold, iron, manganese...) or hydro-electricity is managed by central authorities. This includes the granting of licence for surveying, for exploration and for exploitation. The environmental and social impact of gravel and sand quarrying seems to be minimal and the Author feels that this can be ignored in comparison to the challenges posed by the use of other natural resources. Granting of national level concessions is out of the scope of this study.

23. For investments in commercial agricultural activities requiring concessions, licences can be obtained at either national or provincial level⁸. The Law stipulates different thresholds of investment value and of land concession/leasing acreage to determine the appropriate level of government in charge of providing the necessary licences. In practice, this seems to be respected, with:

- Investment under 5 M USD and/or requiring less than 150 hectares of degraded forestland (or less than 300 ha of barren forestland⁹) to be approved at provincial level (DPI, NLMO and PAFO) in Savannakhet.
- Investment over 5 M USD and/or requiring between 150 ha and 15,000 ha of degraded forestland or between 300 ha and 30,000 ha of barren forestland to be approved by national level (MPI, NLMA and MAF).
- Investment requiring more than 15,000 ha of degraded forestland or 30,000 ha of barren forestland to be approved by National Assembly.
- Investor engaging in contract farming with individual farmers can do so at the provincial level providing that no single contract is over 150 hectares and that the total investment is below 5 M USD (this is for example the case of Chaiyo AA Lao Co. Ltd with eucalyptus)

24. At the time of writing, NLMA has submitted a draft master plan to the Government, pushing for a moratorium on the granting of land concessions involving village lands¹⁰ at

⁶ Schumann, G. et al. (2006). Study on State Land Leases and Concessions in Lao PDR – Land Policy Study No 4 under LLTP II. GTZ, Vientiane, Lao PDR.

⁷ MEMO is also responsible for granting the right to operate bio-fuel transformation plants. At the time of study, only one company is active in this area in Savannakhet (Jatropha) and the plantation of crops for bio-fuel is regulated like all other commercial crops requiring leases or concessions.

⁸ Practice of granting small concessions (under 3 hectares) by districts has been reported to the Author, but could not be investigated and is not mentioned in the Forestry Law or the Law on the Promotion of Investment.

⁹ The Forestry Law defines degraded forestland as areas where forests have been heavily and continually damaged and degraded causing the loss of balance in organic matter, which may not be able to regenerate naturally or become a rich forest again; and barren forestland as areas without trees caused by natural or human destruction.

National level, but no clear answer could be obtained as to whether this was effective in the provinces. The granting of large-scale concessions (more than 150 hectares) has resumed in June 2009 after a moratorium in effect since 2008¹¹. Anyhow, investors having obtained concessions licenses before the moratorium are entitled to claim allocated land from the GoL.

25. The law highlights the creation of One Stop Service Unit at national level and in the provinces. However, Savannakhet DPI reported that this has not yet been implemented in the province and that obtaining an investment licence could take up to 18 months. This is due to (1) a lack of personnel; (2) difficulties in respecting delays by the different line agencies at provincial level; (3) the non-application of the clause for automatic positive opinion from a line agency after 10 days. While slowing the process, (3) provides a safeguard that ensures that the local government has sufficient time to carefully consider investors' proposals.

26. The process currently leading to the effectiveness of an investment in natural resources is as below (focus on plantation, which is the main type of investment in natural resources managed at provincial level):

- 1) Submission of application form to DPI, including feasibility study/business plan.
- 2) Distribution by DPI, after verification of document completeness, to all concerned line agencies (if land concessions for agriculture is needed, PAFO and NLMO are contacted; if mining is involved, investors are asked to submit their applications at national level).
- 3) First meeting between line agencies to discuss the investment (usually with a month or two of submission). At this stage, line agencies can ask for further clarifications and the investor will be contacted to provide additional documents if needed¹². This will of course lengthen the approval process. If participants to the meeting are satisfied that the investment is appropriate, a report is issued and the investor is advised to search for suitable land. In that case, DPI facilitates a meeting of the investor with PAFO.
- 4) Together with PAFO (and DAFO) and NLMO, the investor searches for suitable land and signs an agreement with the relevant Village Heads and District Governors¹³.
Local authorities do not yet have the necessary capacity to assign land to investors because of (1) unclear or non-existing maps of natural resources and land suitability; (2) lack of ministerial instructions on land allocation; (3) low level of information sharing between agencies (maps and other necessary technical information are not always shared between PAFO, NLMO and MEMO).

¹⁰ Times Reporters, "Land authority to monitor implementation of land policy", Vientiane Times, p. 3, Monday 04/05/2009.

¹¹ Ekaphone Phouthonesy, "Government resumes land concessions", Vientiane Times, Monday 16/06/2009.

¹² Documents have to include an ESIA conducted by the investor and reviewed by WREO.

¹³ The process is simplified in the text. For most concessions, there are in fact two stages: first, the investor is granted a general concession agreement, then, during the survey, land available is identified and finally a leasing agreement is concluded. This is especially true for concessions awarded at national level (e.g. 10,000 ha for company X in Savannakhet) for which provinces have to provide land. This is not always possible and all investors met reported that less than 20% of land award by the general concession agreement could be effectively leased.

- 5) PAFO coordinate a survey and delimitate land (financed by investor) with NLMO. At this stage, the Department of Forestry of PAFO marks trees to be logged by/for the Government.
- 6) Investor brings the land survey to NLMO for obtain the official concession map and rights to use the land. The fee for leasing land is fixed by the Prime Minister Decree on State Land Leases and Concessions at 6 USD/hectare for the first 10 years of the lease (it then increases by 1 USD every 10 years). However, this fee is mostly applied for large concessions and it seems that smaller concessions can be rented at a different fee with no clear valuation method being applied¹⁴.
- 7) Investor submits the concession agreement to DPI that then organises a meeting (CPMI) to discuss the investment and take advice from all line agencies.
- 8) The result of the meeting is sent to the provincial governor who takes the final decision (very few cases where the Governor did not endorse the CPMI recommendation were reported).
- 9) The investor can then sign a lease agreement, obtain the investment licence and all other licences (tax...).

2.2.2. Monitoring investment: a non-proactive, “fire-fighting approach”

27. Every provincial line agency questioned about monitoring of activities of investors (PAFO and NLMO for land use, DPI for respect of investment licence, MEMO for compliance with survey, exploration or exploitation licence; and WREO for respect of environmental and social GoL’s regulations) reported the same approach: monitoring is viewed as a way of solving problems once they arise, not as a continuous, proactive activity.

28. This praxis negates the essence of monitoring which is to detect problems to devise corrective actions, based on a clear baseline analysis. Moreover, it shifts the burden of problem identification to an undefined body referred to as “the people” or “society”. 

29. During his investigation, the Consultant pursued deep questioning at all levels of provincial authorities to understand the perspective that governs monitoring. The result is as follows:

- Provincial line agencies expect district line agencies or “local people” to report problems.
- District line agencies expect Village Head (through weekly reporting to Head of Kum Ban) or “the people” to report problems.
- When a problem is reported at district level, officers are not in a position to act as, in most cases, agreements for investments in natural resources are signed between companies and provincial officials, and they are seldom provided with a copy of the contractual documents and maps¹⁵.

¹⁴ Hanssen C. H. (1997). Lao Land Concessions, Development for the People? In Proceedings: International Conference on Poverty Reduction and Forests, Bangkok, September 2007.

¹⁵ DAFO, NLMO and DPI in districts reported that they did not possess copies of feasibility studies or concession maps for the activities of investors in their district and that most problems are directly handled by provincial authorities, bypassing district authorities.

30. The case of DPI Savannakhet is exemplary of the process described above. Provincial DPI expects district DPI to monitor investors' compliance with their investment licence. When asked if district DPI were provided with a copy of the licence, provincial DPI explained that they did not send a copy themselves but advised the investor to do so. Checks in the districts showed that this happened only on rare occasions. The non-payment of tax or problems reported by investors in mandatory yearly reports to DPI seemed to be the event that usually triggers a monitoring activity by DPI: either calling the investor to visit DPI's office or visiting the investor's site (a 3-days notice is necessary).

2.2.3. Dispute resolution and enforcement

31. The lack of baseline and weakness of monitoring described above implicitly ensures that issues which could be solved satisfactorily with a fair outcome for both investors and the GoL if tackled at an early stage (for example ensuring that promised compensation is provided to villagers; or preventing a company to burn valuable timber before collection by the GoL) often end-up being resolved in the interest of private investors. Indeed, investors act, problems arise and then the only options for the GoL are to either (1) negotiate with investors for compensation of the GoL or of farmers or (2) confirm actions of investors and encourage villagers to accept problematic situation as necessary for the greater good of the country¹⁶.

32. Together with many of the GoL officials interviewed, the Author believes that the development of investment can, with appropriate monitoring and contractual arrangements¹⁷ in place, prove beneficial to Lao PDR as a whole and to the communities impacted.

33. Additionally, discussion with DPI showed that instances of fining investors for non-compliance with contracts and revoking of licences are very infrequent, and only one investment license was reported to have been revoked since the opening of Savannakhet province to foreign investments in 1992.

2.2.4. Incentives

34. Main incentives for investment in natural resources activities in Savannakhet are presented in table 1.

Table 1 – Main incentives for investment in natural resources in Savannakhet

0% import duties on production vehicles, machinery, equipment and raw materials
0% export duty on finished products
7 years profit tax exemption and then 10% profit tax in zone 1 ¹⁸
5 years profit tax exemption, then 3 years with profit tax of 7.5%, and then 15% profit tax in zone 2 ¹⁹
2 years profit tax exemption, then 2 years with profit tax of 10%, and then 20% profit tax in zone 3 ²⁰

¹⁶ During the visit of Savannakhet, a special task force lead by DPI was visiting villages where land use conflict had arisen between villagers and private investors to ensure they understood that investments were beneficial to the country as a whole.

¹⁷ Most villages agree to investments on village land (officially GoL's land) under the promise of compensations by investors, in the form of either money or infrastructure(s). However, contractual arrangements do not mention compensations, but only the acceptance by villagers to concede common land for exploitation. In the four villages visited, none of the compensations promised had been given.

¹⁸ Zone 1 districts: Nong, Sepone, Phine, Vilabouly, Thapanngthong, Phalanxay, Xonnabouly.

¹⁹ Zone 2 districts: Outhomphone, Champhone, Atsaphangthong, Atsaphone, Sayphouthong, Saybouly.

35. Incentives are not linked to any particular conditions in term of capital repatriation (or at least this is not enforced) and cases of abuses have been reported, such as investors repatriating all their capital as soon as tax incentives ceased. For tree plantations, the profit tax exemption period starts from the time a company starts making a profit. This is a very unclear definition and ought to be clarified. The notion of profit seems to be very much left to the appreciation of local authorities and DPI staff in Savannakhet, when asked if a eucalyptus plantation was starting to make profit when the first harvest was possible, had different opinions.

36. Savannakhet has created the Savan-Xeno Special Economic Zone (SSEZ) to gain advantage from the East-West Corridor under the socio-economic development framework of the Greater Mekong Sub-region ADB initiative. SSEZ is composed of two separate sites covering 670 ha. Aside from including a free trade zone, it aims to develop activities in export processing, services (tourism, banking) and logistics. The SSEZ offers special incentives to investors in the sectors aforementioned with exemption of leasing fees during 12 years if leasing is over 30 years, exemption of turnover tax and use tax for goods importation, temporary tax exemption in the industrial sector and 10 years tax holidays for companies from the service sector with a registered capital over 2 million USD²¹. The SSEZ is very much in its initial stages of development²² and is not yet successfully attracting investors or targeting companies investing in natural resources.

2.3. Stakeholders at provincial level

2.3.1. Governmental stakeholders

2.3.1.1. The Department of Planning and Investment

37. DPI (20 staff) is in charge of obtaining advice from each line agency about proposed investments and issuing the ensuing report for consideration by the Provincial Governor. Although DPI is mandated to ensure that investors contribute to an environmental fund and provide guarantees to the GoL, this is not put in practice as it is perceived as contrary to the agency's mandate, **which is to attract investors.** Additionally, there is little screening and economic appraisal of investments by DPI, while MPI has divisions to fulfil both those roles at national level. DPI relies mostly on other line agencies for these tasks.

2.3.1.2. The Water Resource and Environment Office

38. WREO reviews feasibility studies of investors (environmental and social impact assessments). However, WREO's resources in Savannakhet are very sparse with 15 staff in the provincial office, only 1 or 2 representatives in each district (within the District Governor's Office), no scientific equipment and no department dedicated to environmental and social impact of investments (only 3 departments: hydrology, meteorology and administration). The

²⁰ Zone 3: only the provincial capital district: Kaisone Phomvihan.

²¹ Mekong Law Group (2007). Lao legal & investment guide. Mekong Law Group, Vientiane, Lao PDR.

²² Ekaphone Phouthonesy, "Savan-Xeno special economic zone to revise management system", Vientiane Times, p. 7, Friday 17/07/2009.

office does not have the capacity to review the content of environmental and social impact assessments, but only to ensure that investors provide assessments that follow the guidelines established by the Regulation on Environmental Assessment (No 1770/STEA 2000).

2.3.1.3.The Provincial Agriculture and Forestry Office

39. PAFO is the key agency involved in identifying suitable land for investments in commercial agriculture / tree plantation. According to the law, PAFO should find suitable land for investment. In practice, investors look for land themselves or with the assistance of the districts and villages. They then visit PAFO to map the land in collaboration with NLMO (it seems that NLMO does not always have the resources to participate). The Department of Forestry is in charge of deciding if the land is suitable for establishing commercial plantations. Legally, only degraded forestland (or barren forestland) can be to be granted to an investor for development. However, only about 5% of the land earmarked for concession is usually reviewed, which means that, sometimes, land with sizable track of production forest (or village protection forest) is included in concessions. The Department of Forestry is also responsible for marking trees to be logged by the government.

2.3.1.4.The National Land Management Office

40. NLMA is a new organisation, established to deal with all land related issues²³ and located within the Prime Minister's Office. NLMO is the provincial representation and executive office of NLMA. It issues the final land concession to investors and collaborates with PAFO during the concession survey. It is responsible for all cadastral activities and the provincial office was observed to be very busy with this activity during the Consultant's visit. The provincial office was well staffed, while district offices were grossly understaffed and under-resourced (no computer available). The role of NLMO in resolving land disputes, while it should be predominant, is marginalised as most villagers do not own land use certificates (issued at district level, a kind of "light" land title), neither private, nor communal (provided for in the Ministerial Instructions on Adjudications Pertaining to Land Use and Occupation for Land Registration and Titling, No. 564/NLMA, 2007, article 4.11). Low district-level capacity means that, in practice, DAFO and PAFO very much lead the land concession surveying and marking process with NLMO mostly issuing concession agreements based on maps provided by PAFO.

2.3.1.5.The Provincial Industry and Commerce Office

41. PICO reviews investments in commercial operations and issues business licences (after a foreign investor obtains an investment licence, he has to apply for a business licence from PICO – domestic investors can apply for the business licence straight away if they don't need access to natural resources²⁴). The main documents reviewed for issuing a business licence are (1) details about a proposed factory if appropriate (location, layout, machinery set-up); (2) environmental impact assessment (advice from WREO); (3) feasibility

²³ NLMA is to give instructions, establish policies, survey and coordinate on land use planning. It is also in charge of land titling, land taxation, land tenure, cadastre and associated regulations

²⁴ At the time of writing, the two decrees on the promotion of investment (domestic and foreign) are being discussed at the Lao National Assembly and it seems that a common decree will be established. A first draft obtained by the Consultant does not show many changes for investor in natural resources, but will facilitate investment in industrial activities (investment licences for foreign investors may be issued directly by MOIC or its representatives in the provinces or districts, PICO and DICO).

study/business plan; and (4) curriculum vitae of investor. No clear answer could be obtained as to the variables used to assess the business plan. All documents are to be provided by the investor and it seems that little checks are conducted on the calculation and assumptions presented by the former. A business license can be obtained in about a week once the investment licence has been issued by DPI.

2.3.1.6. The Provincial Finance Office

42. A dual role is given to this agency: (1) the verification of an investor financial solvability (funds on an account with a Lao commercial bank); (2) the issuing of tax and custom licences. (1) consists of obtaining a letter from the bank stating that the investor has a certain amount of money in a bank account. There is no provision to ensure that this money is to remain in Lao for a certain time, and the case of rogue investors - leaving the country after (a) stripping large tracks of land from their timber, (b) not respecting labour laws, or (c) at the end of the tax exemption period - has been reported. (2) is very much an automatic process that is based on the business plan.

2.3.1.7. Provincial Governor's Office

43. The provincial Governor is the final authority when it comes to investments at provincial level. She/he has the prerogative of overturning advice from the CPMI meeting, but very seldom does so. During meeting with the author, it was very clear that Savannakhet leadership had taken the full measure of the threat posed by uncontrolled investments and is working on the reinforcement of the province's capacity to manage investments for the interest of the poorest and of the communities most affected by environmental damages and negative social impacts (rural development units have been set-up in District Governor's Offices to that effect, although their relationships with DPI and DAFO are not fully clarified). The Provincial Governor's Office is planning the establishment of a specialised environmental unit within WREO.

2.3.2. Private investors

44. Private investors in Savannakhet province are a very heterogeneous group, with major international companies²⁵, such as Minerals and Metals Group, Birla Lao Pulp & Plantations Company Ltd, Stora Enso or Oji Paper Company Ltd; regional investors from Vietnam (Quasa – Geruco Joint Stock Company...) and Thailand (Savannakhet Sugar Corporation, Mitr Lao Sugar...), and domestic investors. During meeting with four investors, the same points were raised: they had been promised land by either the provincial or the national authorities and they have not obtained this land. **During private conversation, some of the major investors hinted that they might have to withdraw from Lao PDR, despite significant investments in processing facilities, if they could not obtain land rapidly to ensure sufficient supply of raw materials.**

45. Associated to this concern was the fact that, in some cases, the same plot of land is allocated to two different investors. It seems to be the result of a lack of coordination between districts and provinces (due to the sensitivity of the topic, no clear explanation could be obtained).

²⁵ A list of investor in Savannakhet province is available in appendix 3.

46. Every investor met asked for clarification of the process necessary to obtain access to land. Although the law states that PAFO and NLMO should find land for investors, in practice, this does not happen due (1) to a lack of staff in these agencies and (2) to the absence of precise land use maps (NLMO uses 1/100,000 scale maps). Investors granted large concessions at national level, usually have to look for land to lease with, and sometimes without, the assistance of authorities and spend a considerable amount of time and money identifying available land. In some cases, only about 10% of the acreage of the concession can be obtained through lease.

2.3.3. Local communities

47. This paragraph deals mainly with the opportunities for local communities to take part in the decision making process for granting investment on village common land (legally property of the GoL).

48. Despite the effort of many government officials and concerns at the highest level of the GoL, communities seemed to have little say about the attribution of concessions, decided either at provincial or national level. In some instances, the first land survey involving investor and provincial government officials was conducted without the knowledge of communities (or with minimal involvement). Once the survey had been conducted, villagers would then be asked if they agreed to give up some of their common land to a private investor, generally in exchange for either financial compensation or common facilities (school, road, electricity...). In virtually all cases, they accepted as they felt they had no alternative. District officials seemed to be of the same opinion, saying that investments were being facilitated by the provincial or national level, with their role being merely to facilitate implementation.

49. When given appropriate support, by the Government (through request for help at provincial or national level – a complaint can be raised with the National Assembly) or by an International Development Partner, villagers are in a position to refuse companies' investment, at least on "booked land"²⁶ and village protection forest. This seems to require significant strength from a community and a high level of integrity from a Village Head (who is the one signing agreement with the investor). Aggressive marketing tactics are employed by investors to obtain Village Heads' approval (all Village Heads visited had benefited from gifts²⁷ from investors and some were salaried up to 600,000 kip/month to "guard" plantations) and to wear out villagers' resistance (some villages had been visited up to 6 times by representatives from the same company).

50. In a bid to secure their land, some villagers are actively using their common land. "Yarn Bong" (incense tree) plantation seems to be a common strategy to "occupy" land and thereby securing it.

51. In case of conflict with an investor over payment of salary, encroachment on land, size of buffer zone between rice field and plantation or between river and plantation, delays in paying compensation for private or common land, villagers reported that complaints to district authorities had little effectiveness (district authorities recognized this fact and insisted that, most of the time they were not signatory to the agreement between villagers and

²⁶ Booked land is land that is not used but reserved by a family for future use. This land has very often been looked after by the family for several generations.

²⁷ Bicycles or motorbikes.

investor, but that provincial line agencies were). Complaints raised at higher levels of government seem to also have little effect due to administrative bottlenecks.

2.4. Environmental and social impact

52. The field trip allowed the team lead by the Consultant, always working with district officials, to visit four villages²⁸ impacted by investments (sugar cane plantation, eucalyptus plantation and rubber plantation). The allocation of land to companies is a very delicate process, as the quasi-totality of villagers does not have any official proof of land ownership (land title or land use certificate). Most information on land use is kept by Village Heads with a record of village common land (officially GoL's land) and individually used or "booked land". While the law on land prescribes maximum areas to be used or "booked" by a family (there can be several families per household), many smallholders have "booked" larger areas of land and are paying tax on this land. In that case, when land is needed for concession, the compensation arrangements do not follow any standard practices and are the result of a negotiation process between investors, villagers and the GoL line agencies: compensation ranged from nothing to half the unused land in the four villages visited.

2.4.1. Diminished access to common land

53. Land allocated to investors is GoL's land, part of village common land. In most cases, this is forested land (considered degraded or barren, although cases of village protection forests being allocated to concessions have been reported) that was traditionally used by villagers to gather NTFP. In all villages visited, alternative land was available for villagers to gather NTFP, but it always was further from the village, thus increasing the amount of time necessary to obtain the same resources. This is of particular concern, as in Lao PDR, women and children are usually the ones gathering NTFP. Many sources cite NTFP gathering as a significant contribution to livelihood of the poorest (the excellent *NTFP in the Lao PDR: A manual of 100 commercial and traditional products* -produced in 2007 by the National University of Lao PDR, NAFRI and SNV - is enlightening in this respect).

54. Most companies, encouraged by Government Officials, have a policy of providing compensations for the use of villages' common land, either as a price per hectare of common land, either as benefits to villages (electricity, road, school). In the four villages visited by the Author, only one case of an investor respecting its promise of compensation could be found (and only partially). However, it is not clear whether this situation is the result of local power groups taking advantages of villagers or is a deliberate attempt by companies not to respect their commitments.

2.4.2. Reduced parcels sizes

55. Several officials expressed concerns about a future balkanization of land with smaller and smaller parcels being inherited by each generation ("booked land" was traditionally given as inheritance).

2.4.3. Decreasing bio-diversity

56. Most land used for investment is completely cleared and planted with industrial crops or used in open-pit mining or hydropower generation. On these plots of land, no biodiversity

²⁸ Exact names of villages are given in the trip schedule, in appendix 2.

remains (in the case of plantation, herbicides are often used). Moreover, unexpected side-effects on bio-diversity have been observed: former dense forest are used for NTFP and wildlife hunting, roads built for exploitation provide avenue for logging, aquatic fauna seems to be declining (this needs to be properly evaluated) because of the use of herbicides and fertilizers (eutrophication).

2.4.4. Exposition of villagers to chemicals

57. In one visit, villagers working on a eucalyptus plantation reported using glyphosate (“Roundup”) without any protection. Additionally, they complained about the spraying of eucalyptus during the rainy season that, according to them, polluted the river (observed to receive most of the run-off) from which they are not using water anymore. Another case was that of a Village Head reporting the up-coming construction of a small-scale rubber processing facility close to the village. No warnings had been given about the nauseabond smell generated during rubber processing, well known in the north of Lao PDR.

2.4.5. Migratory workers

58. In addition to recruiting local villagers, most natural resource-based businesses import outside labour, from Lao PDR (recruiting as far a Boulikhamxay for sugar plantation) or from abroad. No conflicts were reported between local population and migratory workers, but an increase in the numbers of nightclubs was observed, together with the arrival of sex-worker from the North of Lao PDR. The practice of migratory workers taking “small-wife” or “second-wife” in surrounding villages was also reported. This phenomenon could not be quantified during the field visit, but should not be overlooked in future assessments.

2.4.6. Employment opportunities

59. Inhabitants from four villages were interviewed about employment with investors in natural resources. In 2 villages, employment was provided by a rubber plantation (in start-up phase) with a salary of 25,000 kip/day (from 08:00 to 17:00) or with a task-based salary that could be as much as 100,000 kip for about 2 days of work. A truck was used to bring villagers to and from the field and there seemed to be many opportunities for paid labour. Payment of salary was administered by the Village Head in conjunction with the investor. Some villagers reported that they were not interested (surprisingly describing themselves as “lazy”, which could lead one to presume that work on the plantation is much harder than other livelihood options) or not able to work with the investor (old villagers described themselves as too weak for the tasks required). Work on rubber plantations during rubber harvesting takes mostly place at night or during the very early morning and it remains to be seen if villagers can adapt to these culturally inappropriate working hours.

60. In the third village, a eucalyptus plantation provided intermittent employment for villagers with about 5 days a month per villager able to work (salary of 20,000 kip/day – 08:00 to 16:00). Villagers reported that it was hard for them to know when the company would need them and that the only solution was to wait for the company’s truck. On arrival of the truck, usually half the villagers waiting would be employed. In this village, a problem of delays in the payment of salary (more than 2 weeks) was a general complaint and it seems that a local staff from the company might be taking advantage of the villagers, probably without the head office knowledge. Villagers carried on working despite delayed payments, as they feared the company might employ workers from outside the village if they stopped

doing so. Local authorities have been looking at the issue for a number of months after it escalated to a point when villagers destroyed a eucalyptus plot.

61. The fourth village is located next to a sugar cane plantation and a new processing factory. Inhabitants reported that very little work was available with a heavy use of machinery on the plantation and the need for skilled labour in the factory. They reckoned that work provided is equivalent to 10 full-time jobs (for 200 households), with a rotation amongst villagers wishing to work. Once again, villagers expressed concerns about delays in salary payments. The company tried to promote contract farming and cost-benefit analysis with the farmers led the Consultant to believe that the model was mutually beneficial. However, no credit being provided, only the best-off smallholders, able to hire necessary extra labour, could participate in the scheme. This information could not be crosschecked, so subsequent verifications are advised.

62. The overall impression is that villagers gain little from investments in natural resources, with three villages out of four generally estimating that they were worse-off after the creation of the concession than before.

2.5. Recommendations

63. Management of investments in natural resources seems to suffer from a lack of global direction. This systemic issue needs to be addressed at all levels of government, building on (1) a clear strategy spelling out what the GoL is expecting from investments in natural resources in terms of overall economic return, localised social and economic benefits (this of course would imply a set of decisions regarding the level to which local communities and stakeholders' groups can be involved); (2) a subsequent refinement of the overall legal framework to ensure that there are no incoherence between laws governing the work of the different ministries; (3) precise ministerial instructions, to be issued after publications of laws and decrees, to guide the work of local staff; (4) detailed and formalised processes for flow of information between ministries at all levels (inter and intra ministries), supported by computerised systems to record investments and concessions; and, of course, (5) appropriate institutional capacity building initiatives to operationalise the 4 preceding points.

64. The paragraphs below address some of the issues that appear to impair the investment management process in Savannakhet the most. They have to be considered in the light of the more systemic issues highlighted above.

2.5.1. Clarification of responsibilities and coordination between agencies for land allocation

65. NLMO and PAFO are both involved in allocating land for investors, but the two agencies have very different views of their respective roles: for PAFO, NLMO just certifies the land marked by PAFO/DAFO; for NLMO, they have to be part of the entire process leading to land allocation. In addition, MEM allocates land at national level for hydropower exploitation and mining. Given the fact that there is no comprehensive and centralized mapping system, some plantations are located on future mineral exploitation sites, which means that in the future a company may have to accept the destruction of part of a plantation for making way for a high voltage electricity transmission line, for an open-pit mine or for a reservoir.

66. It is considered critical that the **role of NLMA/NLMO is clarified** (the Law on Land is sometimes not coherent with the Law on Forestry or the Law on Agriculture) and that corresponding decrees and instructions are issued.

67. Coordination of agencies involved in natural resources management will only be feasible if land use maps are shared. An ideal situation would be for NLMA/NLMO to hold a common GIS data repository. However, institutional capacity assessments under the SNRMPEP seem to indicate that this institution does not currently have the capability to fulfil that role. Legal provisions need to be made so that **investors, MAF, NLMA, MEM and MPI share maps at all levels**, including districts. This would involve agreements on common metadata and the design of an appropriate mechanism. A central repository where each ministry would update data under its responsibility and consult information might fulfil that role, although different designs should also be investigated, such as highly distributed applications or a mix of centralised and distributed mechanisms.

2.5.2. The One Stop Service Unit for investment

68. DPI Savannakhet recognized that this unit has not yet been implemented and that delays to obtain an investment license to exploit natural resources at provincial level could be up to 18 months. Several reasons were evoked for this state of affairs: (1) lack of staff; (2) insufficient office space; (3) lack of precise legal framework (ministerial instructions) clarifying responsibilities of the different agencies; (4) non-respect of the 10 days delay to give an opinion by the different agencies; (5) frequent absence of high level staff to attend national or international meetings.

69. The delay in implementing the OSU is symptomatic of a key issue affecting the overall investment management process in Savannakhet (and likely in other provinces): a chronic lack of qualified staff and resources in all line agencies at provincial level. Although capacity building may go some way in solving this problem, this needs to be complemented by an **increase of the number of staff** (only 5 staff in charge of monitoring investment in Savannakhet DPI with no budget for travelling!) and by a **significant increase of budget**.

2.5.3. Environmental and social impact of investment

70. WREO has difficulties in fulfilling its role. Urgent needs are: (1) the **approval of the new ESIA decree at national level** together with the design and dissemination of **clear technical and procedural guidelines for ESIA of different types of investments**; (2) creation of a **division specialized in ESIA at provincial level**; (3) the **provision of scientific materials** for environmental analysis (water analysis by WREO is not possible in Savannakhet, where the largest mine of Lao PDR is located) to be used to establish baseline assessments and for regular monitoring; (4) recruitment or training of **specialists in environmental impact assessment**; (5) **recruitment or training of social impact assessment specialists**; (6) **creation of an environmental fund** financed by private investors (this is provided for by law but ignored as it is perceived as having the potential to discourage investors); (7) **possibility for WREO to veto** an investment if risks are assessed as too high (for now, it is referred by WREO to WREA, which itself is not in a position to oppose provincial or national investment decisions).

71. The recommendations above are to be discussed further with the Office of the Governor of Savannakhet as it is well aware of the challenges described and it has initiated the creation of a provincial environmental facility.

2.5.4. Economic appraisal of investments

72. While MPI has a division specialized in screening investment proposals and assessing their economic viability, this is not the case at provincial level. Economic appraisal is crude and consists of assessing the financial guarantees of investors by verifying that they have sufficient capital in a bank account and by checking their “reputation” (sic). This is left to the responsibility of PICO in the province and there seems to be no in-depth analysis of the feasibility study/business plan of investors.

73. The Law on the Promotion of Investment gives this responsibility to DPI and a significant amount of training (with additional recruitment) needs to be conducted on the following topics (amongst others):

- **Business plan evaluation** (including sensitivity analysis, discounted accounting)
- **Employment opportunities evaluation**

2.5.5. Strategizing investments

74. Decisions on investment in Lao PDR (at both national and provincial level) are mostly made on a case-by-case basis. Savannakhet DPI reported that provincial granting of investment rights were not linked to provincial investment plans. In view of the dwindling natural resource base, it is critical that a strategic approach to investment is taken. This would involve:

- conducting a **detailed baseline assessment of the natural resources left for investment (and of those to protected) with their suitability for different uses (length of utilisation should also be considered) taking into account social, economic and environmental factors;**
- ensuring that **investments are in line with the NSEDP, provincial investment plans and with directions provided by the Party Congresses;**
- creation of a **mechanism to rank investments** according to (a) economic benefits for Lao PDR; (b) potential for poverty reduction; (c) social and environmental impacts. course, such a mechanism would imply a redesign of the One Stop Service Unit with a **yearly or by-yearly round of investment rights attribution.** This approach is completely coherent with the one piloted by the IFAD/ADB SNRMPEP. After a phase during which Lao PDR has attracted investments aggressively, it seems that this would permit a clearer attribution of investment rights (thus also benefiting investors) with more readable delays and conditionalities. It would also discourage rogue investors (GoL is now in a position of choosing investors in natural resources, rather than the contrary).

2.5.6. Vertical flow of information

75. During several conversations in the province, it came as a surprise that provincial line agencies do not seem to relay information on investment to districts. NLMO, DPI and DAFO all reported that they were not given documentations (feasibility studies, concession maps)

relative to investment in their districts, thereby were not in a position to monitor investors' activities or resolve disputes between investors and local communities. DPI Savannakhet has confirmed this information and is only advising private investors to share documentation with district authorities. This often does not happen and, therefore, investors have considerable freedom in the districts. It is critical that **every district agency should be informed directly by the relevant provincial line agency (itself informed by the appropriate ministry) of all investment activities in its district** (in some cases, only Offices of the District Governors seemed to possess the information). This could be facilitated through the development and approval of a detailed information sharing protocol.

2.5.7. Monitoring and enforcement

76. In a previous paragraph, the ad-hoc approach to monitoring followed by provincial line agencies has been described. Should vertical flow of information be improved, a system of **on the spot random monitoring of investors' compliance** with their investment license and concession rights could be implemented. This would require: **(1) ensuring that a baseline assessment of the state of the natural and social environment is available before start of resources exploitation; (2) clarification and reinforcement of the role of district line agencies to include monitoring activities (they are the ones who receive local communities' complaints); (3) training of both provincial and district staff; (4) strengthening of legislation to allow spot checks;**

77. Savannakhet DPI reported only one case of an investor's license being revoked since the opening of the province to foreign investment. Private conversations with officials led the consultant to believe that rogue investors would usually just commit their deeds and leave the country, without losing their concession rights (in some cases, their plot of land might be allocated to somebody else, but they retain the right to ask for land). There are legal provisions for fines and revocation of investment licenses and the reasons behind their rare application seem to be: (1) the fear that punishing rogue investors might discourage other investors; (2) local interest groups benefiting from activities of rogue investors; (3) the lack of legal instructions; and (4) difficulties to enforce contractual agreements at a different level than the one at which they have been signed (for example, if a district line agency is not signatory to a concession agreement, they have no power to act).

78. The Consultant would like to suggest that ministerial instructions need to be issued to ensure that investment licenses, business licenses or concession rights are revoked and fines imposed when necessary. It might be advisable to give enforcement responsibilities to a **provincial body able to coordinate the activities and monitoring results from different line agencies, such as the Provincial Office of the National Assembly or the Governor's Office**, with direct reporting duties to central authorities, including the National Assembly.

2.5.8. Ensuring local communities' benefits

79. The main complaint of local communities is that investors usually do not respect their commitments to provide benefits. In Lao PDR, agreements signed by a Village Head, an investor and provincial authorities to grant access to land do not include any mention of what the investor will provide to the community, therefore making it very difficult to enforce purely oral commitments. The Author would like to recommend that **benefits for local communities needs to be included in the contractual arrangement** and that, as this is

the case in Vietnam, an investor should only be able to access natural resources once it has complied with its commitments to the local community.

3. Suggestions for operational linkages with the IFAD/ADB project

3.1. Opportunities for cooperation

80. The RRP of the SNRMPEP states that

“ [SNRMPEP] expected outcome will be an enhanced institutional capacity at national and provincial levels to manage natural resource utilization in a sustainable manner, resulting in poverty reduction and enhanced market linkages. “

while output 2 of PEI framework is

“ capacities of national and provincial authorities to plan and manage investments for poverty reduction and sound environmental management increased “

81. SNRMPEP focuses on the five southernmost provinces of Lao PDR: Sekong, Saravane, Savannakhet, Attapeu and Champasack and PEI on two southern provinces: Saravane and Savannakhet and two northern provinces: Oudomxay and Phongsaly. The thematic focus of the two projects is very similar with a slight bias towards market linkages in the IFAD/ADB project and a stronger focus on poverty reduction and environmental management for the PEI. IPD of MPI is the executing agency for output 2 of PEI and Department of Planning of MPI is part of the steering committee for the SNRMPEP (the executing agency is the Department of Planning of MAF).

82. Following discussions with UNDP project staff, assumption is made that implementation of output 2 of PEI (“Investment in Lao PDR: Minimising the social and environmental impact”), originally planned for quarter 3 and 4 of 2009, will take place with approximately 3 months of delay. The IFAD/ADB project will be fully operational at the beginning of quarter 4 (October 2009, first international advisers expected to join in September 2009) with project operational strategy to be finalised during the first 2 quarters of implementation (from October 2009 to March 2010²⁹).

83. Based on the latest PEI draft work plan and SNRMPEP draft implementation schedule (respectively in appendix 4 and 5), table 2 below presents activities from PEI output 2 which would benefit the most from collaboration with SNRMPEP over the first 3 years of implementation (2009-2011).

²⁹ Discussion with the project manager on the 23/07/2009.

Table 2 – Operational linkages between PEI output 2 and the SNRMPEP

Activities from PEI output 2	Original PEI schedule	Linked activities in SNRMPEP	Expected SNRMPEP schedule	Operational linkage/ or comment	Proposed schedule for collaboration
Action 2.1.1. Review investment process and MPI's role; undertake a capacity needs assessment of Investment Promotion Department; and review project AWP & RRF accordingly	Y1	N/A	N/A	N/A	N/A
Action 2.1.2. Support consultation events aimed at the development of regulations under the new Investment Law - in line with the support from the WB - to effectively consider social (including gender) and environmental impacts of investments	Y1+Y2	The output of action 2.1.2 should inform the policy work to be done in the latter phase of SNRMPEP (similar to action 2.1.3.). It can also guide the development of better training on safeguards and of better selection procedures for sub-projects.	Y3	Comment: support also needs to be provided for the issue of ministerial instructions relative to the new decree. This is essential to guide the work of both national and provincial staff. Similar comments to 2.1.3.	Y3
Action 2.1.3. Support the development of a national investment strategy with information on social and environmental impacts and appropriate policy and fiscal measures (including tax incentives)	Y1+Y2+Y3	Policy development support for investment in natural resources	Y3	The work done by PEI will most likely prove a useful framework for the more focused policy work of the SNRMPEP, which plans to focus on agricultural development (trade) and policies related to land concessions. It is critical that a dialogue should be established by the 2 projects for this matter in order to avoid future inconsistencies in the policies guiding the work of MPI and MAF.	Y3
Action 2.1.4. Support the preparation and implementation of model contracts for different types of agriculture-related investments that incorporate best practices for monitoring and evaluation, environmental and social obligations, and which can be adapted to the provincial context (activity to be undertaken together with MAF, WREA, NLMA, MEM)	Y1+Y2+Y3	Training in safeguards in the provinces (environmental, social, gender, ethnic) for PAFO and related agencies. Integration of model contracts in provincial sub-projects.	Y2+Y3	MPI/PEI should take part in the training that will then enhance the capacity to develop model contracts. The Consultant would suggest a reschedule of action 2.1.4 to end of Y2, beginning of Y3 in order for PEI to benefit from the training of SNRMPEP before developing the model.	End of Y2+Y3
Action 2.1.5. Develop and disseminate policy, technical briefs and guidance that apply existing analysis and research on the environmental and social costs and benefits - of which at least one includes a specific gender analysis - of investment choices	Y1+Y2+Y3	Training in evaluation methodology (social and environmental impacts, economic evaluation)	Y2+Y3	The policy documents and technical briefs developed under PEI should inform the development of the training activity of SNRMPEP. It would be best if the 2 projects could re-schedule so the work of PEI is well under way before	2.1.5 to be conducted as early as possible, possibly in Y1 and Y2 only to feed into the training of

Activities from PEI output 2	Original PEI schedule	Linked activities in SNRMPEP	Expected SNRMPEP schedule	Operational linkage/ or comment	Proposed schedule for collaboration
				trainings are conducted by SNRMPEP.	SNRMPEP
Action 2.1.6. Support appropriate arrangements to populate, launch and maintain a publically accessible online database in Lao and English of concessions in Lao PDR (together with WREA, NLMA and MAF)	Y1+Y2+Y3	Mapping of concession in the 5 provinces (not yet in the work plan but expected to start in 2011 and be finished by 2013) and production of an online web site of concession.	Outside of PEI schedule	There is no unified database of concessions or natural resource use in Lao PDR and data sharing inter (amongst ministries) and intra (between ministries and their respective line agencies) ministries has proven very problematic in the past. The budget allocated by PEI for this task is felt to be largely insufficient and the consultant would like to recommend that PEI do not engage in this activity if no more funds can be made available. The GIS committee (to be established under SNRMPEP) may be a key resource if this activity is maintained.	2013 by the SNRMPEP
Action 2.1.7. Undertake training events for key government staff at the national level to support better informed investment management through the use of integrated spatial planning (ISP) resources in accordance with the Investment Law including (i) raising awareness of existing spatial planning resources available; (ii) interpreting land use suitability maps and other spatial planning resources; and (iii) managing investment decisions through spatial planning (drawing on existing WREA, NLMA and other concessions databases)	Y1+Y2	N/A	N/A	See above. This action might be difficult to implement because of the lack of geo-referenced data covering the provinces. Of course, training to raise awareness about the possibilities offered by ISP can take place with incomplete datasets, although the consultant is unsure about the need for such activities if skills acquired during trainings are not applied shortly after the end of the trainings.	N/A
2.1.8. Conduct training workshops to improve coordination with WREA, MAF and other line ministries and to support the implementation of the new ESIA decree and Investment Law	Y1+Y2+Y3	N/A	N/A	Invite representatives from SNRMPEP and ensure that institutions set-up for project evaluation under the SNRMPEP are fully involved	N/A
Action 2.1.9. Document and promote good practices in the private sector related to minimizing social and environmental impacts i.e. corporate social responsibility, together with MIC, Lao Chamber of Commerce, and other development partners	Y1+Y2+Y3	Implement sub-projects	Y2+Y3 + outside of PEI frame	There is a good potential for synergy as the SNRPEP is developing model sub-projects that could provide very good material for best practice documentation. Collaboration and information sharing in this area would also prove beneficial to the SNRPEP by establishing a de facto basis for the	Y2+Y3

Activities from PEI output 2	Original PEI schedule	Linked activities in SNRMPEP	Expected SNRMPEP schedule	Operational linkage/ or comment	Proposed schedule for collaboration
				future Project Completion Report and supporting the development of an efficient monitoring and evaluation system.	
Action 2.1.10. Facilitate two South-South learning events to support planning and management of investment (i) lesson-sharing event and (ii) dissemination of lessons-learnt through knowledge management networks	Y1+Y2+Y3	Implement sub-projects	Y2+Y3 + outside of PEI frame	See above. Lessons from sub-projects implementation by SNRMPEP might prove very good materials.	Y2+Y3
Action 2.2.1. Review existing institutions, processes and incentives related to investment management (including resulting social and environmental impacts, and mechanisms for community consultation / dialogue, see activity output 2.5) at Kumban, District and Provincial levels, considering opportunities for participation of both men and women in the analysis	Y1+Y2	Disseminate call for proposals, identify and screen sub-projects	Y2+Y3	The output of action 2.2.1 should inform the fine-tuning of the sub-project component of SNRMPEP, adding a focus on community consultation.	Y2+Y3
Action 2.2.2. Strengthen coordination mechanisms on investment at the Provincial level to minimize environmental and social impacts (including key stakeholders such as Governors' Offices, DPI, WREO, PAFO, Lao Women's Union, etc. and in collaboration with key development partners)	Y1+Y2+Y3	Disseminate call for proposals, identify and screen sub-projects	Y2+Y3	The screening and ranking of sub-project could provide an appropriate forum for testing and developing improved coordination mechanisms.	Y2+Y3
No action 2.2.3. for output 2 in PEI work plan for 2009-2011	N/A	N/A	N/A	N/A	N/A
Activity 2.2.4. Realize two fair trade expos to promote existing pro-poor and pro-environment investment structures in coordination with PAFO and key development partners (one in the North and one in the South)	Y1+Y2+Y3	Call for proposal of small-scale subprojects	Y2+Y3	The small-scale subprojects (20,000 to 100,000 USD) to be developed under the SNRMPEP would gain a good exposure through the expositions.	Y2+Y3
Action 2.2.5. Support the development of Provincial Investment Strategies within the framework of national investment strategy in four provinces (2 in yr 2, 2 in yr 3) that incorporate environmental sustainability and minimize social and environmental impacts (in close coordination with key development partners)	Y2+Y3	Training in evaluation methodology. Disseminate call for proposals, identify and screen sub-projects	Y2+Y3	Comment: ideally, this action would be scheduled after training in suitability mapping and spatial multi-criteria analysis under SNRMPEP, which would develop capacity of provincial authorities to participate in the Provincial Investment Strategy. The process for selecting sub-projects	Y3

Activities from PEI output 2	Original PEI schedule	Linked activities in SNRMPEP	Expected SNRMPEP schedule	Operational linkage/ or comment	Proposed schedule for collaboration
				(by SNRMPEP) should be embedded within the Provincial Investment Strategies for Saravane and Savannakhet.	
Action 2.3.1. Undertake an assessment of provincial and district level technical capacity needs for appraising, locating and negotiating investments including (i) integrated spatial planning; (ii) ESIA; (iii) village and kumban consultation (see activity output 2.5, in collaboration with key development partners); and (iv) review AWP accordingly	Y1+Y2+Y3	Training need assessment with focus on PAFO, MPI and MoF capacity for appraising project; PAFO GIS capacities	Y1	For Saravane and Savannakhet, it is suggested that the TOR for TNA be prepared jointly by the 2 projects and co-financing arrangements found	Y1
Action 2.3.2. Undertake training event for Governors' Office, DPI, PAFO, WREO, DEM, and others from 4 provinces (2 in yr 1, and 2 in yr 2) to promote the use of integrated spatial planning resources in accordance with the Investment Law including (i) raising awareness of existing spatial planning resources available; (ii) interpreting land use suitability maps and other spatial planning resources; and (iii) managing investment decisions through spatial planning (drawing on existing concessions databases)	Y1+Y2	N/A	N/A	See comment on 2.1.6 and 2.1.7.	N/A
Action 2.3.3. Provide joint technical advisory and capacity building to provincial officials to screen and negotiate investments to minimise social and environmental impacts including strengthening agreements on investor-financed monitoring requirements for ESIA's in future contracts (with key development partners)	Y1+Y2+Y3	Training in safeguards in the provinces (environmental, social, gender, ethnic) for PAFO and related agencies. Training in evaluation methodology (social and environmental impacts, economic evaluation)	Y2+Y3	The training in Savannakhet and Saravane should be given conjointly by the 2 projects. Rescheduling of the PEI or a 2-phased training schedule are advisable (initial training by PEI and advanced training with SNRMPEP).	Y2+Y3
Action 2.3.4. Review and raise awareness amongst provincial authorities of the legal context guiding the investment approval and management process in accordance with the anticipated new Investment Law	Y2+Y3	N/A	N/A	N/A	N/A
Action 2.4.1. Undertake an assessment of	Y1+Y2	N/A	N/A	N/A	N/A

Activities from PEI output 2	Original PEI schedule	Linked activities in SNRMPEP	Expected SNRMPEP schedule	Operational linkage/ or comment	Proposed schedule for collaboration
monitoring and enforcement requirements at provincial and district levels for investment contracts, including an analysis of technical capacity needs (in collaboration with key development partners); and (iv) review AWP accordingly					
Action 2.4.2. In conjunction with key line agencies at provincial and central levels, facilitate the development of a coordinated monitoring and enforcement plan for selected provinces (2 in yr 2, and 2 in yr 3), which would include (i) clarifying roles and responsibilities of monitoring offices; (ii) supporting information sharing across offices; (iii) encouraging use of relevant tools to verify compliance of investment activities; (iv) preparing baselines; (v) implementing mechanisms for monitoring activities (to be financed by investor)	Y1+Y2+Y3	Screening of sub-project	Y2+Y3	Baselines from PEI would prove very useful in fine-tuning the development of the sub-project screening procedure, by providing insight into potential implementation problems and unforeseen impacts.	Action 2.4.3 to feed into SNRMPEP as soon as possible.
Action 2.4.3. Support implementation of provincial monitoring and enforcement plan through the development of checklists / guidelines to monitor and enforce investors' compliance with conditions of investment and relevant legislation	Y1+Y2+Y3	Implementation of sub-projects.	Y2+Y3	Guidelines from PEI can be used to monitor sub-projects implementation.	Y2+Y3
Action 2.4.4. Support implementation of provincial monitoring and enforcement plan through targeted technical training that strengthens capacities of provincial officials to monitor and enforce investors' compliance with conditions of investment and relevant legislation	Y1+Y2+Y3	N/A	N/A	N/A	N/A
Action 2.5.1. Facilitate the development of mechanisms for local people (both men and women) to provide input to decision making processes on proposed investments, together with the Lao Front, Lao Women's Union, Provincial National Assembly Offices, and other relevant institutions	Y1+Y2+Y3	Identification and screening of sub-projects	Y2+Y3	This action seems to be underfunded, as this is a very delicate and political undertaking. PEI may be able to use the investments promoted under the sub-project fund of the SNRMPEP to pilot the development of community consultation process	Y2+Y3
Action. 2.5.2. Expand mechanism developed under output 2.5.1. for local people (both men and women) and government (village-kumban-district)	Y1+Y2+Y3	As above	As above	As above	As above

Activities from PEI output 2	Original PEI schedule	Linked activities in SNRMPEP	Expected SNRMPEP schedule	Operational linkage/ or comment	Proposed schedule for collaboration
to provide feed-back on performance of existing investors to relevant local officials and central authorities, together with the Lao Front, Lao Women's Union, Provincial National Assembly Offices, and other relevant institutions					

3.2. Mechanism for cooperation

84. Most high-ranking government officials are overwhelmed by responsibilities and are members of several committees, and, also a formal approach with the establishment of a joint project committee might be reassuring to the donors, in the Consultant's experience, such bodies tend to have very little efficiency if not focused on a very specific task.

85. The Consultant suggests that collaboration between the 2 projects be assured by:

- Review of table 2 above by PEI/MPI and SNRMPEP/MAF and coordination of comments from MAF Department of Planning, MPI Department of planning, MPI Investment Promotion Department, ADB, IFAD and UNDP Lao. Process to be coordinated with the Department of International Cooperation of MPI by UNDP Lao (full-time representation in Lao PDR) and to be completed by end of August 2009.
- Establishment of a schedule for common activities by the Project Manager from PEI and the National Project Director from SNRMPEP to be completed by the end of September 2009.
- Monthly meeting between the Project Manager and the Project Director during the whole life of the PEI project.

86. The TOR of the Project Manager for PEI and of the National Project Director for SNRMPEP might be modified to reflect this new responsibility, with the addition of a simple task such as "Participate in a monthly coordination meeting between SNRMPEP and PEI output 2. Issue of a joint brief minute of the meeting (less than one page) to all stakeholders." Corresponding guidelines for quarterly reporting might need to be issued by each project, together with modification of TOR for technical advisors if necessary.

4. Conclusion

87. In this report, the Author aimed to provide a useful input to prepare the implementation of output 2 of PEI “Investment in Lao PDR: Minimising the Social and Environmental Impacts”. Additionally, he explored opportunities for synergies between this project and the starting ADB/IFAD “Sustainable Natural Resource Management and Productivity Enhancement Project”.

88. Input on PEI output 2 focused on reviewing the existing institutions, processes and incentives related to investment management in Savannakhet province, one of the chosen provinces for implementation of both PEI and SNRMPEP. After providing a critical review of the investment management process, it explored the roles of different provincial and district stakeholders, before focusing on social and environmental impacts on local communities. Finally, the first part of the report suggests some improvements that may be considered to ensure that benefits from investments, for both the government and local communities, are maximised. Amongst those: (1) a clarification of the role of the different agencies involved in granting concessions; (2) increased support for coordination and improved information flow between the different actors (including inter and intra ministry information flow); (3) significant capacity building efforts to support WREA/WREO for ESIA; (4) the development of a strategic approach to investment management; (5) the strengthening of monitoring of investors’ activities.

89. The second part of the report looked at possible areas for collaboration between PEI output 2 and the SNRMPEP. Many opportunities have been highlighted, and it is the Author’s belief that such collaboration is perfectly in line with the Vientiane declaration, which calls for more integration of development initiatives under the leadership of the Government of Lao PDR. Collaboration seemed especially relevant in (1) investment evaluation capacity building (environmental, social and economic); (2) integrated spatial planning awareness raising and development; (3) development of model sub-projects and investment contracts.

90. During meetings with the highest level of government in Savannakhet and with MPI’s leadership in Vientiane, the Consultant was impressed by the dedication displayed in managing investor’s pressures on Lao PDR natural resources. This confirmed his opinion that Lao PDR is now ready for a pro-active approach to investments and natural resources management. The suggestions presented in this report, once reviewed and amended by the GoL, should help fulfil the overall aims of both projects: protecting natural resources while ensuring economic benefits to the country and to smallholders. Most importantly, it is hoped that they will assist the Government of Lao PDR in reaching its objective of eradicating poverty by the year 2020.

Appendix 1 - Terms of Reference

International Consultant: Specialist in Investment and Agriculture

Introduction

Lao PDR is situated at the heart of the Greater Mekong Sub-region (GMS) bordering all the other five GMS countries (Cambodia, People's Republic of China, Myanmar, Thailand and Viet Nam). Lao PDR is currently classified as a 'Landlocked and Least Developed Country' (LLDC) and is considered by the international community to be one of the poorest countries in the world. With an estimated per-capita income of US \$580, a population of around 5.7 million, and a land area of 236,800 km², Lao PDR has significant natural resources, including forestry and minerals, as well as hydropower potential. In spite of a declining share, agriculture is still the largest sector in the Lao economy, contributing 42 percent to the country's Gross Domestic Product (GDP) in 2006 and employing nearly 80 percent of the labour force. At the national scale, natural resources contribute to three quarters of the per capita GDP, more than 90% of the employment, almost 60% of exports and foreign exchange earning, just under a third of government revenues and nearly half of foreign direct investment inflows.

Lao PDR harbors a rich natural diversity, lying at a convergence of three centres of mega-diversity— India, China and Southeast Asia. It hosts globally significant biodiversity - such as the evergreen forests of the Annamite Mountains and their foothills, the limestone karst of central Indochina, the wetlands and dipterocarp forests of the Mekong Plain, and the Mekong River itself. Although the floristic diversity of Lao is poorly known and only a fraction of its species has been recorded, these include over 8,000-11,000 plant species, 166 reptile and amphibian species, 700 bird species, 500 fish species and over 100 species of large mammals. Over 1,000 globally threatened species are found in the Lao PDR. The people of Lao PDR make use of the biodiversity on a daily basis, particularly in rural livelihoods where agro-biodiversity is a critical to food security and household nutrition.

Agriculture makes up about 40.7% of the GDP of Lao PDR, whilst the overall contribution of biological resources to GDP is estimated to be over 66%. Over 70% of the Lao population is dependent upon agriculture, fisheries and other biodiversity for their livelihoods. The majority of biodiversity resources utilized at the household level are derived from the agricultural landscape, wetland and adjacent forest areas.

Lao PDR is currently faced with key environmental challenges including deforestation, biodiversity loss, depleting fish stocks, inadequate access to clean water and sanitation to rural populations, inappropriate use of chemicals and climate change and natural disasters. The Millennium Development Goals 2008 Mid-Term Report for Lao PDR indicates that MDG7 is unlikely to be met by 2015 without significant and substantial efforts on behalf of the Government of Lao PDR and donors. Given the close linkages between environmental health and poverty, levels of malnutrition, health, income and others, sustainable natural resource management is critical for the Lao PDR to achieve the MDGs.

The recent rapid influx of Foreign Direct Investment has been an important source for government revenues and force for accelerating economic growth. In 2008, USD 2,807 million of FDI has been implemented with a further USD 659 million approved over a combined 146 projects. The increasing demand from other countries for Lao PDR's abundant natural resources is further accelerating the pace of the exploitation of these resources frequently, with many associated challenges. This rapid development of investment activities is putting increasing pressure on the environment and the natural resource base upon which many rural people rely for their livelihoods. These investments currently include agricultural plantations, mining, hydropower, wood and wood products as well as major infrastructure and industrial development projects.

In order to support the efforts of the Government of Lao PDR in addressing these poverty-environmental challenges, the Joint UNDP-UNEP Poverty Environment Initiative (PEI) will focus on strengthening capacity of targeted central and provincial authorities to integrate poverty-environment concerns and opportunities in key development planning processes. The Initiative is not one stand-alone project but has been designed primarily to provide targeted support to ongoing programmes. The PEI Framework outlines four outputs to achieve the expected outcome of PEI Lao PDR. Firstly, PEI will strengthen poverty-environment linkages in the 7th NSEDP, supporting evidence-based and policy relevant research in a manner that places environmental sustainability at the core of the government's development planning practices. Secondly, support will be provided to the Investment Promotion Department of the Ministry of Planning and Investment (MPI) and provincial authorities to manage investments in a manner that seeks to minimize social and environmental impacts. Thirdly, a programme of support to the Water Resources and Environment Administration (WREA) will seek to strengthen Environmental and Social Impact Assessment (ESIA) processes. Finally, PEI will target the National Assembly to enhance their awareness of poverty-environment issues and to strengthen the capacities of National Assembly members to actively integrate poverty-environment considerations when reviewing policies and legislation. The proposed timeframe for PEI Lao PDR is 30 months: July 2009 to end December 2011.

Under the overall guidance of Director General of the Investment Promotion Department of MPI, the International Specialist in Investment and Agriculture will realize an assessment of investment processes and the development of operational linkages between the Southern Natural Resource Management and Agricultural Productivity project being developed by the Ministry of Agriculture and Forestry and the Poverty Environment Initiative.

Timing and duration

Third Quarter of 2009 with approx. 15 working days allocated during this period, with possibilities for extension.

Reporting

The day-to-day work of the consultant will be guided by the Director General of the Investment Promotion Department of MPI to enhance national ownership and results. However, the management of the consultant's performance assessment will remain the responsibility of the UNDP/UNEP, working in consultation with MPI and other stakeholders

Specific Objectives

- 1. Support the development of operational linkages between the Southern NRM Project and PEI at the national level (if agreed upon by MAF)**
 - 1.1. Support the development of the launching workshop for the Southern NRM Project and ensure that linkages between the SNRM and the PEI Project are elaborated (if the dates of the national workshop fall within the timeframe of this consultancy).
 - 1.2. Elaborate a concrete proposal for the development of linkages (both institutional and activity) between the AWP of PEI (Output 2) and the SNRM project at national and provincial levels (if agreed upon by MAF).
 - 1.3. Raise awareness of both projects and their linkages.

- 2. Review the existing institutions, processes and incentives related to investment management in one of the two pilot PEI provinces in the south (Saravanne or Savannakhet) (NB. if time allows, the evaluation will be realized in two provinces)**

- 2.1. Review existing institutions, processes and incentives related to investment management (including resulting social and environmental impacts, and mechanisms for community consultation / dialogue, see activity output 2.5) at Kumban, District and Provincial levels (one PEI target province in the South; one village, one kumban and one district), considering opportunities for participation of both men and women in the analysis. This assessment will include encompass:
 - 2.1.1. a comprehensive stakeholder analysis
 - 2.1.2. investments in renewable natural resources
 - 2.1.3. investments in non-renewable natural resources

and will be differentiated according to investment type, size, sector, investment funding source (ODA, private; domestic, foreign), formal / informal processes, and any other important and determining characteristic. If Savannakhet is selected, also assess the Special Economic zone.
- 2.2. To the degree possible, realize a capacity needs assessment for strengthening investment management processes in the selected province, including the establishment of a baseline and identification of indicators.
- 2.3. Review the project AWP according to the findings of the assessment, as necessary.

Approach

In conducting the consultancy, the consultant is expected to:

- Review relevant literature, including documents, reports, reviews, etc.
- Meet with relevant stakeholders, which will include Government, private sector, international non-governmental organizations, local communities, and others.
- Organize and conduct workshops with all relevant stakeholders, to build partnerships and collaboration and raise awareness, as needed.
- Organize and realize field visits.

Expected outputs

i. Inception Report

A short document should be prepared at the beginning of the consultancy that includes: an outline of the methodology to complete the tasks; any proposed revisions to the TOR's; timetable; schedule of field visits (if any) and proposed list of interviewees.

ii. Interim Report

The first interim report should include the following (findings, analysis and recommendations):

- i. A description of the operational linkages to be possibly developed between the Southern NRM and the PEI Project and an outline of the complementarities of the capacity building component of the two projects in one southern province.
- ii. A detailed assessment of investment approval and management processes in one southern province (see specific objective two above).
- iii. Capacity needs assessment for one southern province in investment approval and management.

iii. Final Report

The final report will be delivered in English, with the summary in English and Lao. The final report will include, but not be limited to:

1. Introduction
2. Identification of linkages between SNRM and Agricultural Productivity project (institutional, activity, individual, etc.)
 - a. National level
 - b. Provincial and District levels
3. Detailed description of Provincial, district, kumban and village level investment approval and management processes
 - The description will be based on the analytical work conducted in one province and on feedback obtained during a national workshop, if possible. It should encompass:
 - a comprehensive stakeholder analysis
 - investments in renewable natural resources
 - investments in non-renewable natural resourcesand will be differentiated according to investment type, size, sector, investment funding source (ODA, private; domestic, foreign), formal / informal processes, and any other important and determining characteristic.
4. Identification of key capacity issues and needs for investment approval and management.
5. Suggested revisions to project AWP for 2009 and to AWP of MAF
6. Conclusions

Qualifications & experience of international market expert

- Higher degree qualification and at least 6 years relevant experience
- Proven and extensive international experience in agricultural development, marketing and investments
- Experience in institutional assessments related to agriculture and investments in south-east asia
- Experience in project design and implementation
- Builds strong relationships with clients, focuses on impact and result for the client and responds positively to critical feedback; consensus-oriented
- Highly develop inter-personal, negotiation and teamwork skills, networking aptitude, ability to work in multi-cultural environment
- Regional knowledge is desirable
- Excellent in English report writing and communication skills

Appendix 2 - Mission schedule

Date Location	Activity
Monday 29/06 MPI	<p>Start work in MPI. Introductory meeting. Meeting with counterpart (temporary, a different member of IPD will be assigned for the field trip) Travel arrangement to Savannakhet Review of Investment Guide Book to Lao PDR Review of Decree PM/301 on Promoting Foreign Investment</p>
Tuesday 30/06 MPI	<p>Review of Law on Promoting Domestic Investment Meeting with Dr Ramon Bruesseler (advisor to LNCCI) and Dr Manfred Matzdorf (GTZ coordinator for Sustainable Economic Investment) Meeting with Deputy Director of Promotion Division (IPD) Review of Land Law</p>
Wednesday 01/07	<p>Meeting with Florian Rock (GTZ land policy advisor) Meeting with Ian Thomas from Earth System Laos Meeting with Director of Aid Effectiveness Division (IPD) Review of GTZ Study on State Land Lease and Concessions</p>
Thursday 02/07	<p>Meeting with Director of One Stop Service Unit (IPD) Meeting with Director of Project Screening Division (IPD) Inception report + planning of field trip</p>
Friday 03/07	<p>Meeting with SNV coordinator SVK. Setting of meetings in Province following reception of translated list of foreign and domestic investor in SVK.</p>
Saturday 04/07	<p>Meeting with UNDP project officer: study to focus more on community involvement and possibly TNA. Meeting with Glenn Hunt (JVC Savannakhet – Community Forestry) – Identification of village to visit where conflict of interest arose between villagers and companies (Nakanorn, Phine District, SVK)</p>

Sunday 05/07 holidays	"Forced" holidays as MPI arrangements are modified and counterpart not available.
Monday 06/07	Travel to SVK
Tuesday 07/07	Meeting with DD DPI SVK (MPI). Meeting with DD PICO (MOIC) Preparation of schedule. Meeting with Smallholder Development Project to arrange for UNV to visit project. Meeting/dinner with NORMAI (Lao Association working on community development): discussion on issues between communities and companies.
Wednesday 08/07	Meeting with PAFO (Head of Cooperation and Investment Unit and DD) to discuss selection of land for investment and monitoring. Meeting with D of Energy and Mine Workgroup (walkthrough investment proposal) with DPI officers from M&E, promotion and planning sections. Meeting/dinner with SNV to identify most interesting companies to visit. <i>UNV visit Special Economic Zone and World Vision.</i>
Thursday 09/07	Meeting with DD and D NLMA + responsible of section on investment. Meeting with WREO (D and DD) Meeting with Birla Lao (Asstt Vice President). Phone meeting with National Project Director of SNRMPEP to discuss inception. Setting up of coming week meetings. Review of UNV meetings with SSEZ and World Vision. <i>UNV visit 2 farmer groups of Smallholder Development Project.</i>
Friday 10/07	Meeting with D of DPI – Authorization to travel to villages in Phine and Atsaphangthong district. Meeting with Vice-Governor. Meeting with Chaiyo AA Lao Co Ltd (Assistant to CEO). Travel to Savannakhet Sugar Corporation: meeting with Assistant Managing Director and visit of factory and nearby plantation. Informal discussion with villagers (and identification of villages affected by plantation in Atsaphangthong district).
Saturday 11/07	Travel to Phine and meeting with Governor. Visit to villages impossible as not arranged as discussed. Setting up of meetings with line agencies in Phine for Tuesday 14/07 and with villagers for Monday 13/07.

Sunday 12/07	Rest. Review of planning and of previous week interviews. Travel to Phine District.
Monday 13/07	Visit to villages in Phine District (Kum Ban Napokham) with DAFO officer: - Ban Sonsahat (rubber plantation): meeting with village head + representant of LWU. - Ban Nakanorm (rubber plantation): meeting with village head and 4 households. - Ban Naphokham.
Tuesday 14/07	Meeting with line agencies in Phine: - DAFO (Head) - DPI (DD) - NLMO (D) - DICO (Officer) - MEMO (D) - Impossible to meet WREO's representant hosted in the District Governor's Office due to schedule incompatibility. Meeting with Quasa-Geruco Joint Stock Company (General Director) Travel to Atsaphangthong.
Wednesday 15/07	Meeting with Head of Cabinet of District Governor of Atsaphangthong District. Visit to villages in Atsaphangthong District with Officer from District Governor's Office: - Ban Khokong [Kum Ban centre] (eucalyptus plantation): meeting with 2 households and village head. - Ban Liengxay (sugar cane plantation): meeting with 2 households. Travel to SVK. Preparation of meeting with DPI.
Thursday 16/07	Meeting with DPI (DD) to cross Check findings. Travel to Vientiane.
Friday 17/07	Review of project AWPB. Identification of linkages with SNRMPEP.
Sunday 19/07 to Wednesday 22/07	Draft report and conversation with ADB Officer in charge of SNRMPEP (21/07).

Thursday 23/07	Meeting with National Project Director of SNRMPEP and IFAD Officer in charge of SNRMPEP. Finalisation of report.
Friday 24/07	Preliminary presentation of findings to MPI/IPD (Mr. Manothong Vongsay, DDG and Mrs. Souphaphone Saignaleuth, Officer) and UNDP (Mr. Vichit Sayavongkhamdy and Mr. Singha Ounniyom, Programme Analysts; Mr. Rico Tuor, UNV)

Appendix 3 - Investors in Savannakhet (foreign)

Source: Planning and Investment Division of Savannakhet

Measure In USD

Name	activity	Value of investment	Registered capital	Forms of Investment	Duration	Source Country	Share percentage (%)		Remark
							Lao	Foreign	
2	3	4	5	6	7	8	9	10	12
Industry Sector		61,198,353	32,747,334						
LaoCE China -HONGTA Good Luck Tobacco Co.,Ltd	Planting and manufacturing tobacco	1,500,000	1,500,000	JV	20	China	9	91	
Savanaket Gament Co.Ltd	Garment	307,268	40,000	JV	15	France	-	100	
VannavitCP CO.,LTD	Electricitornic tool	400,000	200,267	JV	15	Thailand	50	50	
Savan Agricultural Progress CO.,LTD	Oil processing	200,000	131,200	WF	20	Thailand		100	
LaoCE China -Metal producing CO.,LTD	Construction Material	300,000	250,000	JV	15	China	55	45	
Auto World (KOLAO Developing) CO.,LTD	Vehicle Assemble	19,900,000	8,133,410	WF	15	Korea		100	
LaoCEvietnam wood processing Factory	manufacture of Furniture	220,000	220,000	JV	15	Vietnam	40	60	
Wire and Cable Factory	manufacture of electrical wire	363,889.02	125,000	JV	25	China	49	51	Stop business
GLOVE Industry CO.,LTD	manufacture of socks	900,000	699,847	WF	15	Japan		100	
MAXNUM OXYGEN CO.,LTD	manufacturing and selling Oxygen	603,000	603,000	WF	10	Thailand		100	Stop business
Branch of LOTUS CO.,LTD	Collecting data on mining, construction...	70,500	20,500	WF	1	Thailand		100	Thailand's branch
SAVANNAKET Contianing gas Factory	Contianing and selling gas	503,000	150,000	JV	15	Thailand	20	80	
MAXNUM manufacture of fertilizer Factory	manufacture of fertilizer	2,638,456	1,881,870	WF	15	Malaysia		100	
Manufacture of Metal hoop Factory	Manufacturing and selling Metal hoop	500,000	500,000	WF	3	Hongkong		100	
PVC pipe INTER PLASTIC Factory	Manufacturing and selling PVC pipe	2,384,740	2,384,740	JV	15	Thailand	70	30	
Lao-Viet cooperation Cable CO.,LTD	Manufacture of electrical wire and telephone wire	5,500,000	5,500,000	JV	30	Vietnam	20	800	

Savannaket ceramic CO.,LTD	Manufacturing and selling handicraft	200,000	200,000	WF	20	Thailand		100	
LAO METAL and LPP CO.,LTD	manufacture of electrical equipment	20,000,000	6,000,000	WF	15	Korea		100	
Spin small wood factory	spin small wood for export	500,000	500,000	WF		Vietnam		100	
TUI NAN Manufacture of brick CO.,LTD	Manufacturing and selling brick	1,000,000	1,000,000	WF	30	Vietnam		100	
Savannaket DDK Manufacture of roofing gypsum CO.,LTD	Manufacturing and selling roofing gypsum	500,000	500,000	WF	25	China		100	
Southren part manufacturing white coal CO.,LTD	Manufacture of white coal for export	300,000	300,000	JV	20	Japan, Laos	30	70	
PHETCHALEUN CO.,LTD	spin small wood	500,000	500,000	JV	3	Thailand,USA,Laos	30	70	
ENOVA LAO INTERNATIONAL CO.,LTD	Manufacturing and selling coal	907,500	907,500	WF	20	Singapore		100	
KP-NISEI MISUKI(LAO) CO.,LTD	Electrical equipment assembly	1,000,000	500,000	JV	30	Thailand	35	65	
Energy and Mine Sectors		358,600,000	60,080,566	-	-				
LANE XANG MINERALS LIMITED	Mineral servay	316,000,000	44,490,566	WF	20	Australia		100	
SALAMANDER ENERGY (LAO) CO., LIMITED	Petroleum and Gas servay and extraction	11,300,000	3,390,000	WF	30	England		100	
LAO-KOREA Manufacturing Salt for export CO.,LTD	Manufacture of Idodien salt for export	300,000	300,000	JV	30	Korea, Laos	30	70	
DMC VTS Cooperation CO.,LTD	Exploring and Servaying Barium	3,000,000	900,000	WF	2	Vietnam		100	
LAO KAI YAUN MIMING Co.,Ltd	Exploring and Servaying Phosphorus	5,000,000	3,000,000	WF	4	China		100	
International Cooperation LAO-Vietnam Extraction of mining Co.,Ltd	Exploring and Servaying Iron	20,000,000	6,000,000	JV	4	Vietnam	20	80	
VINAGOMIN LAO Chemical salt Co.,Ltd	salt servay	3,000,000	2,000,000	WF	3	Vietnam		100	
Agriculture and forestry Sectors		540,494,623	73,654,401	-	-				
Savan Agricultural Development Co.,Ltd	Crops growing and animal farming	300,000	55,148	JV	15	Taiwan	30	70	Stop business
DC WA Trading Co.,Ltd	Export forest product	210,281	210,281	WF	15	Thailand		100	Vientiane's branch
SAI YO AA LAO Co.,Ltd	Planting, promoting and buying eucalyptus	1,800,000	1,000,000	WF	30	Thailand		100	
Small factory for obstructing ຜູ້ນຳແຂມ	extraction, buying and obstructing ຜູ້ນຳແຂມ for export	164,977	164,977	WF	10	China		100	
SAVANNAKET GODANANG FOODING Co.,Ltd	Planting cassava	6,000,000	1,800,000	WF	30	Vietnam		100	
Mitr Lao Sugar Co.,Ltd	Planting sugar cane and manufacturing sugar	50,000,000	15,000,000	WF	40	Thailand		100	
Savanaket Sugar Co.,Ltd	Planting sugar cane and manufacturing sugar	25,000,000	10,000,000	WF	30	Thailand		100	

HEI NAN TIANE KAUN Enterprise Co.,Ltd	Planting cassava and manufacturing cassava product	6,000,000	1,800,000	WF	20	China		100	
TENG HUI trading Co.,Ltd	Planting cassava and manufacturing cassava product	1,200,000	360,000	WF	20	China		100	
Birla LAO Pulp and plantations Co.,Ltd	Planting eucalyptus and manufacturing paper dust	350,000,000	125,000	WF	75	India,Thailand, Indonesia		100	
LAO-YEDAO AGRICULTURE DEVELOPMENT Co.,Ltd	Cassava planting	500,000	200,000	WF	30	China		100	
LAO-THAI HUA Rubber Co.,Ltd	Rubber planting	34,500,000	10,350,000	WF	50	Thailand		100	
BOUALAPHA Agriculture-forestry Co.,Ltd	Planting eucalyptus	170,000	170,000	JV	15	Sweden	10	90	Vientiane's branch
KOUASA SERUKO Co.,Ltd	Rubber planting	18,730,370	7,500,000	WF	30	Vietnam		100	
YONG XIENG LAO Rubber Development Co.,Ltd	promoting and planting rubber	799,300	799,300	WF	49	China		100	
LAO-YEDAO AGRICULTURE DEVELOPMENT Co.,Ltd	Cassava planting	25,000,000	8,000,000	WF	30	China		100	
SF LAO Co.,Ltd	animal farming	300,000	300,000	WF	15	Thailand		100	
KUANG DA-LAO Co.,Ltd	planting and extending rubber's seeds	800,000	800,000	WF	30	China		100	
SUAN SAVAN Co.,Ltd	producing prawn, plant crop and flower	100,000	100,000	JV	15	Thailand, Laos	51	49	
KHOUN SAVAN-LAO Co.,Ltd	planting and extending rubber's seeds	500,000	500,000	WF	30	China		100	
CHIN DONG TA VEN manufacturing Lao paper Co.,Ltd	Creating acacia seeding garden	3,000,000	3,000,000	WF	30	China		100	
MekongCE LAO Co.,Ltd	Creating rubber's seeding garden	400,000	400,000	WF	30	China		100	
DONG SENG VIET---CELAO Partnership Co.,Ltd	promoting and planting cassava for selling	900,000	900,000	WF	31	Vietnam		100	
TURN FUK LING Agriculture Development Co.,Ltd	planting and manufacturing jatropa	4,919,695	4,919,695	WF	30	Vietnam		100	
Branch of CP Co.,Ltd	animal breeding and growing crop for sell			WF		Thailand		100	branch
Branch of Golden One Enterprise Co.,Ltd	planting eucalyptus and acacia			WF		China		100	branch
LAO Sustainable venture Co.,Ltd	Promoting, buying and distilling petroleum from ພາກເຢົາ	100,000	100,000	WF	30	Malaysia, England		50,50	
LAO-KOREA JOINT DEVELOPMENT Co.,Ltd	Planting rubber, eucalyptus, acacia and teak	8,000,000	4,000,000	JV	30	Korea	10	90	
TAI HUA -LAO Rubber Co.,Ltd	rubber seeding garden	300,000	300,000	WF	30	Vietnam		100	
YUIBAO Partnership Agriculture Development Co.,Ltd	planting (rubber, cassava...) animal farming (buffalo...)	800,000	800,000	WF	35	Vietnam		100	
		64,379,015	40,780,384						
Service Sector									
SAVANNAKET CITY DEVELOPMENT Co.,Ltd	Marketing	4,302,199	3,367,199	WF	15	Singapore		100	

MEKONG HOTEL	Hotel	77,331	5,000	JV	10	Vietnam	25	75	
NAN HAI HOTEL Co.,Ltd	Restaurant and hotel	3,650,000	3,650,000	WF	15	China		100	
MEKONG DEVELOPMENT GUEST HOUSE	Guest house	720,000	660,000	JV	10	Finland	30	70	stop business
SAVAN- -Œ NAN HAI PARTNERSHIP TRADING Co.,Ltd	Service	268,838	148,838	JV	15	China	5	95	
SAVANNAKETŒMOUKDAHAN WATER TRANSPORT Co.,Ltd	Service	320,000	220,000	JV	20	Thailand	20	80	
SAVANNAKET CABLE TV Co.,Ltd	Service	760,000	760,000	JV	10	China	15	75	
SPEED INTERNATIONAL TRANSPORTATION Co.,Ltd	Transportation	2,000,000	1,500,000	JV	15	Thailand	51	49	
KP NISSERI Co.,Ltd	Maintenance and repair of motor vehicles	350,000	250,000	JV	20	Thailand	51	49	
EUROPE CONTINENT Co.,Ltd	Import and sell medical equipment			WF		France		100	Vientiane's branch
HOST MINING Co.,Ltd	Copper and gold extraction	3,000,000	100,000	WF	15	Australia		100	
SAVANVEGAS HOTEL AND CASINO CO.,LTD	HOTEL, NIGHTCLUB AND CASINO	25,000,000	7,500,000	JV	50	Korea	70	30	
MIT TA PHAP SERVICE PROVIDING Co.,Ltd	Market service	5,000,000	5,000,000	WF	50	China		100	
MANIXAY OCENTEC Co.,Ltd	Servay and design company	500,000	130,000	JV	15	Australia	51	49	
JONG JIEN (BOWLING) Co.,Ltd	Bowling	840,000	149,000	WF	15	China		100	stop business
LAO DEUM RESTAURANT	Restaurant, drink and travel boat	300,000	100,000	WF	15	Newzealand		100	
Branch of PUBLIC BANK	Banking	5,000,000	5,000,000	WF	15	Malaysia		100	Branch
MAMMOTH LAO Co.,Ltd	International and domestic transportation	2,410,300	2,360,000	JV	15	France	20	80	Branch
LAO-THIA SPEED INTERNATIONAL Co.,Ltd	Goods Transportation	3,000,000	3,000,000	JV	15	China, Laos	20	80	
VAVA SANJMR HUMAN RESOURCE DEVELOPMENT CENTER	Building training center to develop labour	100,000	100,000	WF	30	Malaysia			
Paksong Muong Songkone Market	Market service	1,000,000	1,000,000	WF		China			
Branch of TOKOJAKA LAO INSURANCE Co.,Ltd	General Insurances and life insurance			JV	30	Malaysia	20	80	branch
Branch of KRUNGSRI AYUDHYA Bank Co.,Ltd	Banking	5,780,347	5,780,347	WF		Thailand		100	branch
		1,024,671,991	207,262,685						

remark:

Œ (JV) :(A joint Venture) has 30 companies

Œ (WF) :(A wholly foreign owned enterprise) has 54 companies

Œ Total investment from 17 countries: China= 23; Thailand= 20; Vietnam= 13; Korea= 5, France= 3 ; Australia= 3 , Malaysia= 5 , Japan= 2, Singapore = 2, Finland, India, Hong-Kong, Taiwan, Sweden, New-Zealand, England and USA: each has 1 company

Appendix 4 - PEI Output 2 draft workplan 2009-2011

PEI WORK PLAN

Project number: 00054344

Project Name: Poverty Environment Initiative (PEI)

Period: 2009- 2011

EXPECTED CP OUTPUTS and indicators including baseline and annual target	Key Activities (List all the activities to be undertaken during the year towards stated output)	TIMEFRAME			RESPONSIBLE PARTY	PLANNED BUDGET					
		Y1	Y2	Y3		Source of Funds	Budget Description	Amount- USD 2009	Amount- USD 2010-2011	Grand Total	
Output 2: Capacities of national and provincial authorities to plan and manage investments for poverty reduction and sound environmental management increased											
Activity Result 2.1. Strengthen capacity of national officials to minimise social and environment impacts through improved investment management											
2.1 Targets: Year 1: 1. Assessments of investment process, institutional arrangement and capacity needs undertaken (2.1.1.) 2. Regulations under the new Investment Law reflect social and environmental considerations (2.1.2) 3. Model investment contract for concessions prepared (2.1.4) 4. Technical briefs and guidance materials developed (2.1.5) 5. Proposal for a inter-sectoral online database	Action 2.1.1. Review investment process and MPI's role; undertake a capacity needs assessment of Investment Promotion Department; and review project AWP & RRF accordingly	X				TRAC/00011	71199	International TA for capacity needs assessment (short-term expert)	15,000	-	15,000
	Action 2.1.2. Support consultation events aimed at the development of regulations under the new Investment Law - in line with the support from the WB - to	X	X			TRAC/00012	71200	International TA (full time advisor)	6,000	30,000	36,000

<p>developed (2.1.6)</p> <p>6. Targeted national level government staff trained in the use of integrated spatial planning for sustainable investment management (2.1.7)</p> <p>7. Recommendations for the cross-sectoral coordination mechanism developed and agreed (2.1.8)</p> <p>8. One training workshop on the ESIA and Investment Law (2.1.9)</p> <p>Year 2-3:</p> <p>1. Regulations under the new Investment Law reflect social and environmental considerations (2.1.2.),</p> <p>2. Inputs on social and environmental impacts provided for the development and implementation of a National Investment Strategy (2.1.3.),</p> <p>3. Model contracts revised and implemented in PEI pilot provinces (2.1.4.),</p> <p>4. Online database of national concessions, designed, produced and operating in Lao and English (2.1.6.),</p> <p>5. Continued training support to national staff in the use of integrated spatial planning for sustainable investment management (2.1.7),</p> <p>6. Inter-ministerial coordination mechanism established and targeted national staff trained for the implementation of ESIA decree and the new Investment Law (2.1.8/9),</p> <p>7. Private sector investment's social and environmental best practices documented and disseminated (2.1.10),</p> <p>8. Two PEI South-South events featuring component on using integrated spatial planning held in Lao PDR (2.1.11)</p>	effectively consider social (including gender) and environmental impacts of investments					PEF	71400	Project office operations	9,500		9,500
	Action 2.1.3. Support the development of a national investment strategy with information on social and environmental impacts and appropriate policy and fiscal measures (including tax incentives)	X	X	X		TRAC/00012	71200	International TA (full time advisor)	6,000	30,000	36,000
	Action 2.1.4. Support the preparation and implementation of model contracts for different types of agriculture-related investments that incorporate best practices for monitoring and evaluation, environmental and social obligations, and which can be adapted to the provincial context (activity to be undertaken together with MAF, WREA, NLMA, MEM)	X	X	X		TRAC/00012	71600	Travel and DSA (consultations - environment and social impact aspects of new investment regulations)	6,000	3,000	9,000
						TRAC/00012	73100	Workshop	9,000	5,000	14,000
	Action 2.1.5. Develop and disseminate policy, technical briefs and guidance that apply existing analysis and research on the environmental and social costs and benefits - of which at least one includes a specific gender analysis - of investment choices	X	X	X		TRAC/00012	71200	International expert(s)	-	25,000	25,000
						PEF	71300	National Consultant (full-time)	3,000	12,000	15,000
						PEF	73100	Cost benefit workshop	15,000	18,000	33,000
						TRAC/00012	74200	Printing (including communication material for 2.1.3 and 2.1.5)	5,000	10,000	15,000
	Action 2.1.6. Support appropriate arrangements to populate, launch and maintain a publically accessible online database in Lao and English of concessions in Lao PDR (together with	X	X	X		PEF	72100	Launching and populating Database	-	14,000	14,000
						TRAC/00012	73100	Rent and Maintenance	1,300	6,100	7,400

					PEF	73100	Rent and Maintenance	-	4,820	4,820
					PEF	72300	Maps and materials	1,000	2,000	3,000
					PEF	74500	Miscellaneous	1,500	2,500	4,000
					PEF	73100	IPD, WREA, ESIA workshops	14,000	16,000	30,000
					ISP	74200	Training Materials and printing	500	1,000	1,500
					PEF	73100	Workshop	4,000	12,000	16,000
					PEF	72300	Training Materials and printing	1,000	3,000	4,000
2.1. Indicators										
1. Extent to which environmental and social consideration are reflected in the Investment Law Regulations	X	X								
2. Model investment contract for concessions launched in selected provinces and the extent of their use										
3. Number of guidance materials produced										
4. Online database traffic figures and user feedback										
5. Number of staff trained in sustainable investment management with gender balanced participation										
6. Number of cross-sectoral interactions reported on the ESIA decree and new Investment Law										
7. Number of best practices on ISP and private sector investment shared										
8. Number of social and environmental measures included in the National Investment Strategy										

2.1 Baselines: 1. Few training opportunities for national staff in integrated investment management 2. No online concession database exists 3. Model contracts do not specifically address the agricultural sector and are not widely used 4. Limited ISP best practices shared in Lao PDR and among neighbouring countries 5. Limited dissemination of communication material on spatial planning tools 6. No National Investment Strategy	Action 2.1.9. Document and promote good practices in the private sector related to minimizing social and environmental impacts i.e. corporate social responsibility, together with MIC, Lao Chamber of Commerce, and other development partners	X	X	X		PEF	73100	Workshops on CSR, etc.	5,000	10,000	15,000
	Action 2.1.10. Facilitate two South-South learning events to support planning and management of investment (i) lesson-sharing event and (ii) dissemination of lessons-learned through knowledge management networks	X	X	X		PEF	71600	Travel and DSA (South South workshops)	-	19,000	19,000
Sub-total Activity Result 2.1.									104,800	231,420	340,220
By funding sources 2.1.						PEF			54,000	119,320	167,820
						TRAC			50,300	111,100	161,400
						ISP			500	1,000	1,500
Activity Result 2.2. Strengthen institutions and processes to minimize social and environmental impacts of investment in selected provinces											
2.2. Targets Year 1: 1. Investment management institutions and processes reviewed at sub-national levels 2. Proposals for enhancing inter-sectoral coordination at the provincial level developed Year 2-3: 1. Inter-sectoral coordination enhanced at the provincial level 2. Two fair trade expos organized 3. Provincial investment strategy launched in PEI pilot provinces	Action 2.2.1. Review existing institutions, processes and incentives related to investment management (including resulting social and environmental impacts, and mechanisms for community consultation / dialogue, see activity output 2.5) at Kumban, District and Provincial levels, considering opportunities for participation of both men and women in the analysis	X	X			TRAC/00012	71200	International TA (full-time)	6,000	60,000	66,000
						PEF	71300	National Consultant (full-time)	3,000	12,000	15,000
						PEF	71600	Travel and DSA	3,000	7,000	10,000

	Action 2.2.2. Strengthen coordination mechanisms on investment at the Provincial level to minimize environmental and social impacts (including key stakeholders such as Governors' Offices, DPI, WREO, PAFO, Lao Women's Union, etc. and in collaboration with key development partners)	X	X	X		TRAC/00012	73100	Rent and Maintenance (Training Workshop)	7,000	10,000	17,000
2.2 Indicators 1. Number of policy and technical recommendations for improving investment management institutions and processes at sub-national levels with due consideration for gender sensitive investment policy 2. Number of social and environmental criteria and measures included in Provincial Investment strategies 3. Number of fair trade investment proposals submitted to provincial authorities particularly those that encourage economic participation of local women	Activity 2.2.4. Realize two fair trade expos to promote existing pro-poor and pro-environment investment structures in coordination with PAFO and key development partners (one in the North and one in the South)	X	X	X		PEF	71300	National Consultant to work on logistics for trade expo		6,000	6,000
						TRAC/00012	73100	International TA for overall logistics and realization of the expos	30,500		
						PEF	71300	National Consultant (accountant support)	3,000	12,000	15,000
						PEF	72100	Fair trade Expos		60,000	60,000
2.2. Baselines 1. Low provincial capacity in social and environmental management of investment approval process 2. No Provincial Investment strategy with adequate social and environmental safeguards 3. Limited fair trade investment activity in provinces, although some has been initiated by development partners and private companies in the south	Action 2.2.5. Support the development of Provincial Investment Strategies within the framework of national investment strategy in four provinces (2 in yr 2, 2 in yr 3) that incorporate environmental sustainability and minimize social and environmental impacts (in close coordination with key development partners)		X	X		PEF	71300	National consultant to support provincial investment strategies	5,000	10,000	15,000
						PEF	71600	Travel and DSA for Workshop on provincial investment strategy	7,500	12,180	19,680
						PEF	73400	Transportation for Workshop on provincial investment strategy	1,000	2,000	3,000
						PEF	73100	Rent and Maintenance for Workshop on provincial investment strategy	1,000	3,000	4,000

Sub-total Activity Result 2.2.										67,000	194,180	230,680	
By funding sources 2.2.										PEF	23,500	124,180	147,680
										TRAC	43,500	70,000	83,000
										ISP			
Activity result 2.3. Strengthen provincial level capacities to appraise, locate and negotiate investment contracts to minimise social and environmental impacts													
2.3 Targets Year 1: 1. Sub-national level capacity needs assessed for investment appraisal, location and negotiations 2. 2 training sessions undertaken for 2 pilot provinces 3. Technical inputs on social and environmental management through investment contracts provided to 2 pilot provinces Year 2-3: 1. 2 training sessions on the use of ISP undertaken for 2 pilot provinces,	Action 2.3.1. Undertake an assessment of provincial and district level technical capacity needs for appraising, locating and negotiating investments including (i) integrated spatial planning; (ii) ESIA; (iii) village and kumban consultation (see activity output 2.5, in collaboration with key development partners); and (iv) review AWP accordingly	X	X	X		PEF	71600	Travel and DSA (workshop in 4 provinces) and Field based training	16,000	11,500	27,500		
						PEF	73100	Rent/Maintenance (workshop in 4 provinces) Field based training	5,500	5,000	10,500		
						PEF	72400	Communication (workshop in 4 provinces) Field based training	700	900	1,600		
						TRAC/00012	71200	International TA	14,000	60,000	74,000		
						PEF	71300	National Consultant (full-time)	3,000	12,000	15,000		
						ISP	74200	Training Materials and printing	400	1,700	2,100		
	Action 2.3.2. Undertake training event for Governors' Office, DPI, PAFO, WREO, DEM, and others from 4 provinces (2 in	X	X										

2. Provincial capacity improved in investment screening and negotiation for social and environmental safeguards,

<p>yr 1, and 2 in yr 2) to promote the use of integrated spatial planning resources in accordance with the Investment Law including (i) raising awareness of existing spatial planning resources available; (ii) interpreting land use suitability maps and other spatial planning resources; and (iii) managing investment decisions through spatial planning (drawing on existing concessions databases)</p>					ISP	74500	Miscellaneous for Workshop in 4 provinces and Field based training	2,080	3,800	5,880
<p>Action 2.3.3. Provide joint technical advisory and capacity building to provincial officials to screen and negotiate investments to minimise social and environmental impacts including strengthening agreements on investor-financed monitoring requirements for ESIA's in future contracts (with key development partners)</p>	X	X	X		PEF	73400	Travel and DSA	2,500	2,500	5,000
<p>Action 2.3.4. Review and raise awareness amongst provincial authorities of the legal context guiding the investment approval and management process in accordance with the anticipated new Investment Law</p>		X	X		ISP	71600	Travel and DSA		2,500	2500

2.3 Baselines:

- 1. New Investment Law being drafted
- 2. Adverse social and environmental impacts of investment observed in pilot provinces
- 3. Surge in number of natural resource based investment proposals in pilot provinces

Sub-total Activity Result 2.3.								44,180	99,900	144,080
By funding sources 2.3.						PEF		27,700	31,900	67,580
						TRAC		14,000	60,000	74,000
						ISP		2,480	8,000	2,500

2.4. Strengthen provincial level authorities capacity to monitor and enforce investment compliance

2.4. Targets Year 1: 1. Provincial capacity needs assessed for monitoring and enforcement of social and environmental safeguards 2. A monitoring and enforcement plan developed Year 2-3: 1. Monitoring and enforcement plan implemented through technical inputs and training in PEI pilot provinces		X	X			ISP	71600	Travel and DSA		2,000	500		2,500	
	Action 2.4.1. Undertake an assessment of monitoring and enforcement requirements at provincial and district levels for investment contracts, including an analysis of technical capacity needs (in collaboration with key development partners); and (iv) review AWP accordingly													
2.4 Indicators: 1. Number of capacity development measures proposed in the needs assessment 2. Number of provincial officers trained in monitoring and enforcement of investor compliance, with gender balanced participation 3. Number of social and environmental monitoring activities carried out and follow up measures taken		X	X	X		ISP	73100	Workshop		4,000			4,000	
	Action 2.4.2. In conjunction with key line agencies at provincial and central levels, facilitate the development of a coordinated monitoring and enforcement plan for selected provinces (2 in yr 2, and 2 in yr 3), which would include (i) clarifying roles and responsibilities of monitoring offices; (ii) supporting information sharing across offices; (iii) encouraging use of relevant tools to verify compliance of investment activities; (iv) preparing baselines; (v) implementing mechanisms for monitoring activities (to be financed by investor)						PEF	71600	Travel and DSA			4,000		4,000
							PEF	73100	Workshop			6,480		6,480
							ISP	71600	Travel and DSA	3,520				3,520
2.4. Baselines: 1. Few investments effectively monitored and enforced in pilot provinces	Action 2.4.3. Support implementation of provincial monitoring and enforcement plan through the development of checklists / guidelines to monitor and enforce investors' compliance with conditions of investment and relevant legislation	X	X	X		PEF	71600	Travel and DSA (workshop in 4 provinces)	15,500		15,500		31,000	
						TRAC/00012	73100	Rent/Maintenance (workshop in 4 provinces)	10,000		9,000		19,000	
						TRAC/00012	72400	Communication (workshop in 4 provinces)	1,000		500		1,500	
						TRAC/00012	71200	International TA (full-time)	9,000		60,000		69,000	

	Action 2.4.4. Support implementation of provincial monitoring and enforcement plan through targeted technical training that strengthens capacities of provincial officials to monitor and enforce investors' compliance with conditions of investment and relevant legislation	X	X	X		TRAC/00012	71300	National Consultant (short-term)	2,700	9,200	11,900	
						TRAC/00012	72100	Commission research on environmental baselines in 4 provinces	15,000	-	15,000	
						PEF	72100	Commission research on environmental baselines in 4 provinces	-	18,000	18,000	
						TRAC/00012	74200	Training Materials	3,000	1,000	4,000	
						PEF	74500	Miscellaneous	4,000	2,000	6,000	
Sub-total Activity Result 2.4.									69,720	126,180	195,900	
By funding sources 2.4.						PEF			19,500	45,980	65,480	
						TRAC			40,700	79,700	120,400	
						ISP			9,520	500	10,020	
Activity 2.5. Strengthen role of community consultation (at district-kumban-village level) to inform investment decisions, management and monitoring												
2.5 Targets: Year 1: 1. Recommendations presented for appropriate mechanisms for strengthening community consultation to inform investment decisions, management and monitoring (institutional and informing) (2.5.1.-2.5.2.) Years 2-3: 1. Piloting consultation mechanism in 2 districts per province in 2 provinces (2.5.1.-2.5.2.) 2. Potential for replication of pilot mechanism assessed, modified and replicated in additional 2 districts per province in 2 provinces	Action 2.5.1. Facilitate the development of mechanisms for local people (both men and women) to provide input to decision making processes on proposed investments, together with the Lao Front, Lao Women's Union, Provincial National Assembly Offices, and other relevant institutions	X	X	X		TRAC/00012	71200	International TA	9,000	60,000	69,000	
						TRAC/00012	71300	National Consultant (short-term)	2,700	9,200	11,900	
						TRAC/00012	71600	Travel and DSA (workshops in 4 provinces) and Field based training	19,800	30,000	49,800	
		Action. 2.5.2. Expand mechanism developed under output 2.5.1. for local people (both men and women) and government (village-kumban-district) to provide feed-back on performance of existing investors to relevant local officials and central authorities, together	X	X	X		ISP	72300	Materials e.g.GPS,Maps etc	4,000	2,000	6,000
							ISP	73100	Rent/Maintenance (workshops in 4 provinces) Field based training	1,000	1,000	2,000

2.5 Indicators:

1. Number of investments endorsed by concerned local populations in pilot provinces
2. Number of consultation meetings held
3. Number of community complaints about investor activity addressed
4. Gender balanced participation in local consultations

with the Lao Front, Lao Women's Union, Provincial National Assembly Offices, and other relevant institutions

2.5 Baselines:

1. No effective mechanism for consistent local participation in investment approval and management processes

PEF	73100	Rent/Maintenance (workshops in 4 provinces) Field based training	4,700	5,000	9,700
PEF	72400	Communication (workshops in 4 provinces) Field based training	520	500	1,020
PEF	74500	Miscellaneous	3,280	3,020	6,300

Sub-total Activity Result 2.5.

			45,000	110,720	155,720
By funding sources 2.5.	PEF				17,020
	TRAC		8,500	8,520	130,700
	ISP		31,500	99,200	8,000
Total: Act.2.1+Act2.2+Act2.3+Act2.4+Act2.5:			330,700	762,400	1,093,100

	133,200	329,900	463,100
Fund From TRAC:	180,000	420,000	600,000
Fund From ISP:	17,500	12,500	30,000

Appendix 5 - SNRMPEP draft implementation schedule

