

A NOTE ON THE FSC CERTIFICATION OF FORESTS IN LAOS

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A recent article by Chris Lang entitled “Laos: FSC Certified Timber is Illegal,” published on the World Rainforest Movement website, details the findings of a report that describes illegal logging inside a certified forestry operation in central Laos. The article provoked strong responses from the Forest Stewardship Council (FSC), the Rainforest Alliance’s SmartWood program, and the Tropical Forest Trust (TFT), all of which criticized the tack taken by Mr. Lang while noting that there was indeed cause for concern. A SmartWood auditor was dispatched to Laos to investigate further the claims raised in the report. No details on the results of this mission are available at the time of writing.

While the article by Mr. Lang and the responses from the FSC, SmartWood and TFT all raise important points, they all also fail to explain several more fundamental issues related to forestry in Laos that are critical to understanding the current problems with the certified operations. This note explores the history of “village forestry” in Laos, the current (and significantly different) system of “participatory sustainable forest management,” and the developments that led to FSC certification of the two groups in Khammouane and Savannakhet provinces. In so doing, this paper highlights how the current crisis with the certified operation reflects deep-rooted and systematic problems in Lao forestry sector as a whole. In closing, several fundamental challenges to making certification work in Laos over both the short and the long term are discussed.

Basic background points

I begin with some basic points that must be clarified before considering the current debate concerning the certified forests.

- **“Village Forestry,” as all the releases refer to the system certified, no longer exists in Laos.** The term “village forestry” (*pba may ban*) was introduced by the World Bank/Finnish government-supported Forest Management and Conservation Program (FOMACOP) in the 1990s. This system was piloted in two central provinces – Khammouane and Savannakhet – during 1995-2000. “Village forestry” under FOMACOP covered 145,000 hectares and 60 villages (including those later certified), and was piloted in areas that were collectively deemed a “Special Zone” by the Prime Minister. In “village forestry,” production forests were to be delineated and **allocated to villagers** for them to manage in cooperation with state forestry agencies. The model was piloted as a state-of-the-art and very progressive community forestry project, which put a high premium on villager control over all aspects of forest management. The spirit of this model was summed up by a FOMACOP document published in 1997: **“Whoever manages decides. Whoever decides plans. Whoever plans collects the needed information. This means that the villagers, who are the forest managers, formulate and implement the long-term management plan and annual operations plan, and make all**

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management decisions” (Phanthanousy and Bonita 1997). When FOMACOP was discontinued in 2000², so was “village forestry.”

- **“Village forestry” has been replaced by “participatory sustainable forest management (PSFM)”** (*kaan jut sun pba may bep nyeung nyong*), which the newer World Bank/Finland government-supported Sustainable Forestry for Rural Development project (SUFORD) is tasked with implementing in the four most important timber-producing provinces in Laos: Khammouane, Savannakhet, Salavanh and Champasak. This new system of PSFM is the result of negotiations between the World Bank, the Government of Finland and the Lao government that took place during 2001-2003. The PSFM system is different from “village forestry” in several important ways, most notably in that **villager control is significantly reduced**. In PSFM, **production forest is not allocated to villagers**. Instead, a **nationwide system of Production Forest Areas** has been delineated, which belong to the state. In essence, villages whose boundaries extend into or adjacent to these PFAs are given the right to be involved in forestry activities and to share in the profits from log sales (17.5% of stumpage). The main elements of PSFM are laid out in two legal documents: Prime Minister Decree 59 (2002) and Ministry of Agriculture and Forestry Regulation 0204 (2003). In comparison to the letter and spirit of the “village forestry” system introduced by FOMACOP, **“PSFM” in general allows significantly less villager control over forestry planning, management, benefit sharing, and the use of timber revenues**. As villager control has been eroded, **malfeasance of the kind detailed in the SUFORD timber control report has become widespread and systematic**, returning to practices that are lamentably the norm in the production forests of Laos.
- **SmartWood certified operations utilizing management plans that were developed in the 1990s under “village forestry,” not PSFM**. The auditing process supported by WWF and TFT got underway after “village forestry” had been dismantled, but before the new system of PSFM had been fully developed and enshrined in national legislation, before SUFORD began its work to implement PSFM, and before the FOMACOP management plans were revised to reflect the national PSFM legislation. The SmartWood audits thus evaluated a “village forestry” management plan, whose basic tenet – that villagers should be granted control over decision-making in forestry and benefit sharing – had been undermined by policy shifts. In SmartWood’s defense, the preconditions laid out after its Certification Audit (May 2003), and the follow-up points raised during the Precondition Audit (August 2004), highlighted the concerns of the auditors that villager participation had eroded significantly since FOMACOP. Both audits noted that villagers were not being given as much input in forestry operations as “village forestry” held they should, and that they were not receiving their fair share of logging revenues. In the end, it was decided that since “village forestry” no longer existed, and since the management plans had not yet been updated to reflect the new PSFM system, the operations should be judged against the FSC Principles & Criteria, not the “letter and spirit” of the FOMACOP management plan. So once the government proved it had transferred all funds owed to the villages from its latest harvest, the operations were

² TFT’s press release says Mr. Lang’s article is misleading in saying that FOMACOP “collapsed,” asserting instead that it merely came to the end of its life. Mr. Lang is closer to the truth. FOMACOP was in fact planned to last 15 years, and it was discontinued by the World Bank and the Finnish government due to dissatisfaction with the Lao government over villager participation in harvest contracting, log sales, and benefit sharing (see Katila 2000 and World Bank 2000).

certified (January 2006). **The old system, on paper, was certifiable; the new system, as evidenced by what is happening on the ground now, appears not to be.**

- **The whole process of FSC certification – and indeed the development of PSFM and its enabling legislation – does not enjoy widespread support among central and provincial-level government officials.** The PSFM system is openly opposed by much of the forestry bureaucracy – including some of the most powerful individuals in the country – because it represents a threat to a major source of personal income for government officials, and because it runs counter to the dominant political philosophy in Laos. **PSFM and certification was only accepted because the World Bank tied acceptance of certification, PSFM and the SUFORD project to its guarantee of the Nam Theun II hydropower project loan.** After FOMACOP was discontinued in 2000, the World Bank published a harsh review of the Lao forestry sector (World Bank et al. 2001). Shortly thereafter, negotiations began on the development of a forestry reform program. Many high-level officials in the government did not like FOMACOP, feeling that it gave villagers too much control in forestry decision making. During 2002-2003, the shape and scope of what would become PSFM and SUFORD were laid out by a project preparation team (led by INDUFOR, the Finnish firm which had implemented FOMACOP). In the end, a package was developed that included the SUFORD project, the PSFM model, the enabling legislation (Prime Minister Decree 59 and Ministry of Agriculture and Forestry Regulation 0204³), and a timetable for the FSC certification of at least 60,000 hectares of production forest. The Lao government agreed, but only because **the Bank tied guarantee of the Nam Theun II hydropower dam – the government’s top-priority development project – to acceptance of the package, including certification.**

These are basic points that need to be understood before an informed analysis of the certification issue in Laos can commence. Because they are sensitive and confusing, they are not widely discussed, nor are they mentioned in any of the articles that have recently come out about the certified forests.

What this means for certification in Laos

With the above points given as background, we can now move to a more rounded assessment of the current problems with certification, and a consideration of its implications for success over both the short and the long term.

The first point that bears noting is that certification is supposed to be a voluntary system, but in this case it is not. It was forced on the government. It was coerced, along with the whole PSFM model, and SUFORD as well, with the Nam Theun II loan used as leverage. This is not the way that certification is supposed to come about. It can only work if all stakeholders voluntarily agree to go for certification.

³ These major pieces of legislation were initially drafted in English by Bank consultants, only later to be translated into Lao. In the field, almost no forestry officials know these very important pieces of national legislation (not to mention villagers), supposedly meant to guide the management of the country’s production forests. Indeed, in the author’s experience, several high-level officials have claimed that this national legislation is only “pilot law,” for implementation only in the SUFORD sites, and that only the World Bank can implement it.

That is not to say that it would not be good for Lao forestry. It is also certainly not to say that villagers don't support certification. Most of those that the author has talked to who understand it naturally do support it, since it works to increase their rights in forestry. Even some provincial-level foresters – the best of the bunch – support it. But the fact remains that many officials in the government, at both the provincial and central levels, do not support certification. In a country with a political system like that which exists in Laos, they are (alas) the most important stakeholders if certification is to work. If they want it to work, it has a shot. If they want it to fail, it will.

Laos is not a democracy. It is a single-party, authoritarian state, where all decision making authority is concentrated with the Communist Party, from the center all the way down to the village level. Certification, in stark contrast, is a tool that leverages transparency and democracy in decision making over one of the few big cash-generating resources in the country. The success of certification, and the success of PSFM more broadly, means doing real forestry. It demands transparency in the timber business, invites international scrutiny, and requires that profits from logging be shared equitably.

This is not attractive to many government officials involved with forestry. Outside the old FOMACOP forests, no areas are under sustainable management⁴. If management plans exist, they are substandard and based on unreliable inventory data. Even if management plans are sound, they are not followed, and effective monitoring and control regimes are not in place. Local communities are usually excluded from playing any role in forestry activities and/or benefit sharing, beyond leading foresters or timber traders to good trees and being paid a pittance for the trees within their boundaries⁵. In fact, the term “forestry” cannot aptly be used to describe the state of management in most Lao forests; it is better termed “timber mining.” In short, as the World Bank stated bluntly on page one of its review of the forestry sector after FOMACOP in 2001, the Lao forestry sector is in “disarray.” It has not changed since then, except possibly to get worse, as the Vietnamese wood processing sector continues its enormous growth.

There are very powerful incentives to keep Lao forestry in disarray. Timber mining requires no planning, no investment, no transparency, and no sharing with local communities. It benefits a small minority of the most powerful players who remove the most accessible and most valuable trees quickly and keep all of the profits for themselves, minus a few payoffs to villagers and some ceremonial royalty fees paid (in accordance with the almost meaningless quotas prescribed by the government annually).

Certification, with its emphasis on planning, scientific forestry, low-impact harvesting, competitive bidding, and benefit sharing, requires a lot of hard work, investment and reduced profits for the most powerful players. It benefits a large majority of the stakeholders, but few of them have any real power in the political system in Laos. The small minority with all the power in Lao forestry are, unsurprisingly, unwilling to give any of it up. Though proponents of certification like to claim that it is a ‘win-win’ proposition, in fact there are always winners and losers. And in this case, with certification, the losers will be at the top.

⁴ Even the old FOMACOP forests – as Jonsson's report makes plain – are being logged unsustainably, right under the nose of the Bank project.

⁵ Villagers are usually paid the equivalent of between US \$1 - \$2.50 per cubic meter for the trees removed. This is the going rate for all commercial species harvested in Lao, whether the price at the mill gate is \$200/m³ (for low-to-medium-grade species like *Dipterocarpus alatus*) or \$700/m³ (for high value species like *Pterocarpus macrocarpus*). In many cases villagers are not compensated at all. When they are, it often accrues to only a few individuals in the village, such as the village chief and his deputies.

So it should come as no surprise that many government officials have resisted certification from the very start. Anyone who has been involved in certification in Laos on the ground knows this. The government sees certification as an international stamp of approval on a type of forestry they do not like, and which they thought they had shut down with the close of FOMACOP. Moreover (and this is certainly not unique to Laos) they see it as an affront to their sovereignty, and a regulatory invasion by Westerners into a sector that has always been the sole realm of the state. To reiterate, the only reason certification, PSFM and SUFORD were ever accepted is because of the Nam Theun II project. There is no genuine buy-in.

Evidence of this abounds. The report of the SUFORD consultant Tomas Jonsson – released by Chris Lang via his article – chronicles but one part of the “total system failure” that is Lao forestry, despite all the investment by SUFORD and others over the past decades. The performance of the SUFORD project to date indicates that the management plans being produced are lacking in both technical rigor and adequate villager input. The author has been in SUFORD production forests along with foresters charged with doing inventory who have not been trained in basic map and compass use, not to mention the more technically challenging tasks of field forestry. In one case, foresters were sending villagers off to do inventory without even *having* compasses. The reason given was that they had not arrived from the central-level authority yet. This was in 2004, a full year after the \$9.9 million project got off the ground. This is not an isolated case.

In Laos, SUFORD is widely ridiculed by both foresters and villagers for its inefficiency⁶. A whole raft of consultant reports like the one produced by Tomas Jonsson, as well as the Bank’s own “Aide Memoirs” produced during regular monitoring visits back this up. Reading these – to say nothing of going out and working in the “coal face” of forest conservation, as TFI’s Scott Poyton puts it – one sees a consistent pattern of what can only be concluded is deliberate malfeasance on the part of the central government. Indeed, the National Project Coordinator first picked to head SUFORD on the Lao government side was widely known to have been selected for his well-known dislike of the FOMACOP project, and his reliability in toeing the Party line. While in this highly influential position, this individual did everything in his power to make problems for the project, to slow it down, and to block the ascension of those foresters in the provinces trained under FOMACOP and keen to get to work⁷. It is hard to avoid the conclusion that officials in the government don’t want SUFORD (not to mention certification) to succeed, and are doing their best to sabotage it.

It appears to be working. Villager input into the development of the management plans that SUFORD is writing has been substandard, as is also document in Jonsson’s report. The lack of buy-in from villagers is a direct result of the new philosophy laid out in the PSFM model: all land belongs to the state. Villagers are given the right to be involved with forestry, but really only as laborers. They do not have the sort of decision-making power that they were granted under FOMACOP, which was the main reason many in the government did not like “village forestry.” As a top-level official stated bluntly at the

⁶ The running joke is to pronounce the acronym “SUFORD” as “*sut feud*” which in Lao language means “extremely inefficient.”

⁷ This individual was ultimately removed from his position, after considerable arm-twisting by the World Bank, and replaced by old head of FOMACOP in 2006. There was hope that this would signal a shift towards success in SUFORD’s implementation.

final meeting of the “Pilot Forest Certification Project” in October 2004 – jointly supported by WWF and TFT – “You are trying to certify the old system here, the FOMACOP system. FOMACOP was a pilot. It is finished. It was shown not to work. Villagers can be involved in forestry work, but they should not be involved in the timber business. In reality, village livelihoods have very little to do with forestry. Why should they be involved?”

This statement sums up succinctly the government view: villagers can be laborers, but not decision makers. They can be paid to do the work of inventory and harvesting, but they can’t make decisions about management or log sales. That is the role solely of the state. The idea that villagers – in many cases ethnic minorities – should have decision making power over a valuable resource like timber, and that they should be given a significant share of the profits, is anathema to the political culture that dominates in Laos.

The new system of PSFM is closer to what is acceptable to the Lao government than FOMACOP’s model. PSFM delineates all areas with good standing timber as Production Forest Areas which belong to the state, not communities. Unsurprisingly, villagers are increasingly reticent to get involved. Changes in the legislation – not to mention the way logging actually takes place on the ground – now mean that their involvement in forestry as “all work and no benefits,” as one villager in Khammouane put it to the author in 2005.

The current debate

One of the releases written in response to Chris Lang’s article – that of Scott Poynton, writing on behalf of the TFT – quotes a villager from Khammouane who lists all the benefits that have accrued to his village through forest management. What Poynton fails to note is that all these benefits – the road improvements, the school, the electricity – were generated during the old FOMACOP project. With the change to SUFORD, the whole system has been altered, most notably in terms of villager participation and village benefits. In fact, no legal harvesting has taken place in that village since 2001. Illegal logging in the area, of the kind described in the SUFORD consultant’s report, has gone forward annually. In these cases, little money, if anything, goes to the village.

This is what is happening in the operations that have been certified. They are broken, and they have been broken since the end of FOMACOP. SmartWood itself was unsatisfied with the operations when it undertook its audits. Even its pre-condition audit expressed concern that all pre-conditions related to villager participation and benefit sharing had not really been closed out. The groups were only certified with the understanding that improvements would be made. Those improvements clearly have not been made.

What is happening on the ground, as detailed in Jonsson’s report, is not a small mistake that can be taken care of by a quick audit, and the closing out of some new conditions. It is a reflection of the resistance to certification on the part of the government, which prefers to keep engaging “business-as-usual” logging. In releasing the SUFORD report, Mr. Lang has helped draw attention to a serious problem that was being overlooked. He should be applauded. Instead he was excoriated for “maligning” villagers as illegal loggers. Such attacks, using villagers as cannon fodder, are not only shameful, but reveal a deep misconception of how Lao forestry works. Villagers are not currently “managing

their forests.” That is the problem. Villagers are the ones who are suffering at the hands of illegal logging companies and the state agencies that back them. The fact that this is going on in a certified operation is making a mockery of certification. It is in the interest of all who want to see Lao forestry improved for there to be an honest and open assessment of not only “chain-of-custody” in the certified operations, but of the forest management system as a whole now dominating in Laos.

A few closing technical points

These last points are more technical in nature, perhaps tangential and certainly of secondary importance compared to the political dynamics discussed above. However, they bear noting because they highlight issues that must be dealt with if certification is ever to work in Laos, even if genuine government support does materialize.

As Scott Poynton rightly points out, Mr. Lang is incorrect in saying that “FSC timber is illegal.” In fact, no harvesting or sale of timber carrying the FSC logo took place this past logging season, the first season since the certificate was awarded. But that is a little strange. How often has this happened? A newly certified operation doesn’t even harvest in the first year that it is able to sell certified wood? Why not?

Unfortunately, the buyers didn’t want what was on sale, and they are unlikely to in the future in any certified operation in Laos. The certified forests are typical semi-evergreen tropical forests – mixed-species, multi-age stands that require a low-impact selection silvicultural method in order for harvesting to be sustainable. That means low volume harvests, once a year. FSC requires that a diversity of species (including almost non-commercially viable ones) be harvest, in order to maintain stand structure and composition. Additional requirements related to High Conservation Value Forests zone off some of the most productive forest areas from harvesting. This means that the certified operations, if they follow their management plan, will harvest low volumes of a diversity of species, most of them of low-to-medium grade, and some with no market at all. This is what will be on sale.

Increasingly, however, the major players in the global wood trade – especially those leading the way with certification, like TFT’s members – demand exactly the opposite. They want large volumes of single species, and consistently, all year round. Add to this the fact that the Lao government has a roundlog export ban, and there are further problems. No company wants wood that has been sawn in Laos, due to the low quality of milling there (which is partly why the roundlog export ban is flagrantly violated year in and year out). But a certified operation will have to follow the law, further crippling the FSC operations.

But these problems are secondary. They can be got around. Niche markets can be found, if the government is willing to let the certified operations work right and sell their timber freely. Unfortunately, as the points raised in this paper make clear, the Lao government seems unlikely to do this. On the contrary, they seem bent on ensuring the failure of the certified operations.

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