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# Criminal Justice Response to wildlife and forest crime in Lao PDR

October 2014





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## ACRONYMS

ASEAN	Association of South East Asian Nations
CITES	Convention on International Trade in Endangered Species
DCCMI	Department of Criminal Case Monitoring and Inspection
DFRM	Department of Forestry Resources Management
DoFI	Department of Forest Inspection
DoNRE	District Office of Natural Resources and Environment
EcPD	Economic Police Department
EnPD	Environmental Police Department
GoL	Government of Lao PDR
Lao-WEN	Lao Wildlife Enforcement Network
MAF	Ministry of Agriculture and Forestry
MOF	Ministry of Finance
MoFI	Metropolitan Office of Forest Inspection
MoNRE	Ministry of Natural Resources and Environment
MoPS	Ministry of Public Security
NPA	National Protected Area
OPP	Office of Public Prosecutor
OSPP	Office of Supreme Public Prosecutor
PoFI	Provincial Office of Forest Inspection
PoNRE	Provincial Office of Natural Resources and Management
UNODC	United Nations Office on Drugs and Crime
WB	World Bank
WCS	Wildlife Conservation Society
WWF	World Wildlife Fund



## INTRODUCTION

Laos is a landlocked country of about 5.7 million people made up of 49 broad ethnic groups. Approximately eighty per cent of the population is located in rural areas and many depend on agriculture and natural resources for survival. The country is bordered by China, Vietnam, Cambodia, Thailand and Myanmar. It is governed in the framework of a single socialist political party, the Lao People's Revolutionary Party (LPPR).

Laos is a land rich in biological diversity and home to unique and rare species of flora and fauna. Many of these species are listed under Appendices I, II and III of the Convention on International Trade in Endangered Species (CITES). These flora species include high value timber species such as *Aquilaria crassna* and *Aquilaria baillonii* commonly known as Argarwood (*Appendix I*) and *Dalbergia cochinchinensis* commonly known as Siamese Rosewood (*Appendix III*) and rare orchids such as the *Paphiopedilum appletonianum* commonly known as Appleton's Paphiopedilum (*Appendix I*). Some of the better known CITES listed fauna species found in Laos include the Tiger (*Appendix I*), Leopard (*Appendix I*), Clouded Leopard (*Appendix I*), Elephant (*Appendix I*), Sun Bear (*Appendix I*), Asiatic Black Bear (*Appendix I*), Pangolin (*Appendix II*) and several turtles including the Indochinese Box Turtle (*Appendix I*).

Despite their protection under CITES and National Laws, Lao forests have undergone extensive commercial logging over the last 30 years with forest cover dropping from 75% in 1979 to 40% in 2009.<sup>1</sup> In 2014 a government initiated planting program has increased forest cover to just over 50% but the country has a long way to go to reach its goal of 65% cover by 2015 and 70% by 2020.<sup>2</sup> There is growing evidence that transnational organised crime groups are contributing to a significant degree to forest exploitation and the Lao government has come under harsh criticism for its failure to control the illegal logging of its forests.

Many of Laos' fauna species have fared no better and continue to be subjected to illegal trafficking to feed markets in neighbouring China and Vietnam.

The objective of this study therefore is to determine what role the criminal justice system in Laos is playing in the struggle against the illegal trade in timber and wildlife. It is based on a field visit to Laos<sup>3</sup>, a review of the available primary and secondary data, interviews with key interlocutors and a roundtable meeting of senior officers from the key government departments, IGO's and NGO's held in Vientiane in September 2014. During the meeting in September the current version of the report was circulated to all participants both in Lao language and in English to solicit comments and feedback. The presentations of the senior officers at the September meeting were eventually incorporated into what has become the final version of the report.

Interviews were mainly conducted with key players of the criminal justice systems such as prosecutors, police, customs and environment/forestry officials involved in law enforcement.

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<sup>1</sup> European Forest Institute, *Study for Understanding Timber Flows and Controls in Lao PDR*. [accessed online 17 June 2014] <http://www.euflegt.efi.int/publications/-/document/25520>

<sup>2</sup> Vientiane Times, *Reaching Forest Cover Target "A Challenging Task" Minister Says*, [accessed online 17 June 2014] [http://www.vientianetimes.org.la/FreeContent/freeCont\\_Reaching%20forest.htm](http://www.vientianetimes.org.la/FreeContent/freeCont_Reaching%20forest.htm)

<sup>3</sup> Conducted in May 2014. UNODC is grateful for the openness in which the discussions were held with government and criminal justice officials.

Whenever possible interviews were conducted at the level of Departmental Head or Deputy. All interviews were facilitated by external interpreters hired by UNODC.

For the purposes of this report “Wildlife and Forest Crime” refers to the taking, trading (supplying, selling or trafficking), importing, exporting, processing, possessing, obtaining and consumption of wild fauna and flora, including timber and other forest products in contravention of national or international law. This study has simply analysed the framework of responses to crime as defined by national laws<sup>4</sup>.

The political commitment to use criminal justice resources to target the illegal exploitation and trade in timber and wildlife crime is one of the starting points for this country analysis. Criminal justice systems deal with multiple crimes and face considerable public and political pressure on a range of issues. Prioritising interventions is in practice the mechanism that criminal justice actors use to meet large demands with limited resources.

While criminal justice systems are designed in theory to respond to all crimes, the purpose of this report is to map out as far as possible the processes in which wildlife and forest crimes are detected, investigated and prosecuted – and by whom. The latter question is critical: wildlife and timber crimes falls in the purview of multiple departments in Laos and effective coordination between them is crucial for success. The recommendations of the report are aimed at national policy makers, but also at generating a wider discussion as to how criminal justice interventions could play a more effective role in curbing the illegal exploitation and trafficking of wildlife and timber in Laos.

The opening section examines the extent of the illicit timber and wildlife trade in Laos and some of the challenges that have been associated with controlling them. It then introduces briefly the legal framework of environmental law in Laos. It then provides a short overview of the key issues and mechanisms through which criminal justice systems could play a more important role in the response to these illicit trades. It also identifies the key enforcement agencies, how these agencies interact and their capabilities to undertake complex investigations. It concludes with a number of short and midterm recommendations.

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<sup>4</sup> International Consortium on Combating Wildlife Crime. *Wildlife and Forest Crime Analytic Toolkit*.

# 1. CRIMINAL JUSTICE PRIORITIES TO RESPOND TO WILDLIFE AND FOREST CRIME

Two recent publications have pooled together the available experience and lessons learned in tackling crime in the wildlife and forest sector. The World Bank’s *Justice for Forests: Improving Criminal Justice Efforts to Combat Illegal Logging* has been a key marker in the debate.<sup>5</sup> A consortium of organisations, including CITES, INTERPOL, the World Trade Organization, the World Bank and the United Nations Office on Drugs and Crime, which make up the International Consortium on Combatting Wildlife Crime, have also developed and recently published a *Wildlife and Forest Crime Analytic Toolkit*.<sup>6</sup> From these 2 reports a number of initial points and responses to wildlife and forest crime should be noted when considering each individual country review

<p><b>Labelling wildlife and forest crime as organised crime:</b> Recognise that many wildlife and forest crimes require a high level of organisation to achieve and retain significant profits. Political leaders should treat them as such and say so publicly. Such crimes will require a sophisticated response from state law enforcement institutions involving advanced investigation methodologies.</p>	<p><b>Making justice a priority:</b> Prioritize criminal justice responses to the issue of wildlife and forest crime. As in other crimes, particularly in the economic sector, with a complex set of responsibilities shared by many players, there is a danger of the effective investigation and prosecution of wildlife and forest crime “falling through the cracks” between organisations.</p>
<p><b>Defining a clear set of crimes:</b> Provide a clear legal framework to investigate and prosecute wildlife and forest crimes is essential, through common templates outlining specific charges. A number of different pieces of legislation may apply and it may be difficult for investigators and prosecutors to make choices as to what offences should in fact be prosecuted.</p>	<p><b>Moving from reactive to proactive:</b> Investigations need to be moved from a reactive mind set to a proactive mind set. Intelligence-led investigations focussed on those individuals who have access to both upper and low echelons can assist in mapping and subsequently dismantling transnational criminal organisations.</p>
<p><b>Acting symbolically:</b> When a form of crime may be so widespread that it is difficult to prosecute all cases, the importance of “symbolic prosecutions” must be borne in mind. A limited number of high profile prosecutions which are thoroughly investigated and well prosecuted send a powerful message to everyone engaged in similar forms of criminal activity</p>	<p><b>Measuring the response:</b> Develop a common set of approaches to data collection, analysis and presentation so that different agencies contribute to and use the same data set in order to measure progress. Wildlife and forestry crimes may involve prosecutions under a variety of offences and may be recorded differently by different institutions within the justice system and outside of it.</p>
<p><b>Targeting the profits:</b> Criminal networks are most vulnerable when their profits are targeted and cut off. Using money laundering and asset recovery legislation offers great opportunity to hit the controllers of the trafficking operations. Amongst others, this requires that wildlife and forestry crimes are predicate offence for money laundering charges</p>	<p><b>Strengthening controls procedures at the border:</b> When preventive measures have failed, border check-points become crucial to break the link between supply and demand of illegal timber and wildlife. Multi-agency and cross-border cooperation is crucial for the effective interception of timber smuggling and for intelligence gathering.</p>
<p><b>Establishing networks to fight networks:</b> International cooperation on legal matters in all cases of trans-boundary movement of illegal goods must be a priority. Agreements must be forged with neighbouring countries, those with which offenders or networks may have strong links, and those who are the final market for the illicit goods. Without these networks criminals will continue to operate with impunity.</p>	

<sup>5</sup> Marilyne Pereira Goncalves, Melissa Panjer, Theodore S. Greenberg and William B. Magrath, *Justice for Forests: Improving Criminal Justice Efforts to Combat Illegal Logging*, The World Bank, Washington DC, 2012.

<sup>6</sup> International Consortium on Combatting Wildlife Crime, *Wildlife and Forest Crime Analytic Toolkit*, United Nations, New York, 2012.

## 2. LEGAL FRAMEWORK FOR INVESTIGATION AND PROSECUTION

There are many pieces of legislation. Presidential and Prime Ministerial decrees in Laos that cover the investigation and prosecution of Wildlife and Forest Crimes. Some of these include;

- The *Wildlife and Aquatic Law, 2007*;
- The *Forestry Law, 2007*;
- The *Penal Law 2005*;
- The *Customs Law of 1994*;
- The *Environmental Protection Law, 1999*;
- The *Anti-Corruption Law of 2005*;
- The *Decree on the Implementation of the Land Law, Number 88 of 2008*;
- The *Decree on Forest Strategy to the Year 2020, Number 229 of 2005*;
- The *Decree on the Management of Sustainable Management of Production Forest Areas, Number 59/2002*.

However, the main legislation used to investigate and prosecute wildlife and forestry offences in Laos and those which will be examined in more detail include the:

- The *Wildlife and Aquatic Law, 2007*;
- The *Forestry Law, 2007*;
- The *Penal Law 2005*.

Neither the *Wildlife and Aquatic Law, 2007* or the *Forestry Law, 2007* defines what's a minor or major offence. These definitions are found in the *Penal Law of 2005*. A minor offence is one that is punishable under the law by public criticism. A major offence is one that is punishable by re-education, deprivation of liberty, fines, and imprisonment from three months to ten years. Interestingly, 'Crimes' are a separate definition under the Penal Law and these offences are punishable by imprisonment up to five years or life.<sup>7</sup>

In Laos the anti-money laundering framework is limited to a decree, which has not generated any significant investigations so far. With support of the international community, the Lao Government is working on a new anti-money laundering law that should be approved within 2014. At the time of the writing of this report, the existing translated draft of the new Law is said to include wildlife and forestry offences among the predicate crimes calling for anti-money laundering charges.

### **Forestry Offences**

The main legislation used to investigate forestry crime in Laos is the *Forestry Law, 2007*. This legislation defines forest lands as:

“All land plots with or without forest cover, which are determined by the state as forestlands.”

The act also defines forest resources as:

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<sup>7</sup> Lao PDR Government. *Penal Law, 2005*. [accessed 20 June 2014]  
<http://www.wipo.int/wipolex/en/details.jsp?id=5795>

“Various resources both living and non-living consisting of soil, plant, trees, water, aquatic life, wildlife and all other things existing in the forestland areas.”<sup>8</sup>

Prohibited species and special trees include; May Dou Lai or Paduak (*Pterocarpus macrocarpus* sp.), May Kha Nhoung or Siamese Rosewood (*Dalbergia cochinchinensis*), May Padong (*Shorea hippocras*), May khamphi or Burmese Rosewood (*Dalbergia bariensis*), May Longleng or Chinese fir (*Cunninghamia Sinensis*) and May Champa Pa or Champak (*Michelia Champaca*).

Forests in Laos are divided into three categories.

1. Protected Forests
2. Conservation Forests
3. Production Forests

Protected forests are forests classified for the function of protecting water resources, river banks, road sides, preventing soil erosion, protecting soil quality. Strategic areas for national defence, protection from natural disasters, environmental protection and so on.

Conservation forests are forests classified for the purposes of conserving nature, preserving plant and animal species, forest ecosystems and other valuable sites of natural, historical, cultural, tourism, environmental, educational and scientific research experiments. Conservation Forest areas lay at the Provincial, District and Village levels as described in the specific regulation.

Production forests are natural forests and planted forests classified for the utilization purposes of areas for production, and wood and forest production businesses to satisfy the requirements of national socio-economic development and peoples living.

Article 49 of the Act stipulates that the government allows logging and harvesting of forest products only in the Production Forest areas.

Article 52 of the Act stipulates that the Government is the only authorised body to grant permission for export of natural logs and planted trees of prohibited species, sawn timber, tree stumps and trees. Planted trees that are not listed for prohibition and special species can be exported in compliance with the related regulations.

Articles 100, 101, 102, and 103 of the Act identify prohibitions for civil servants, forestry offices, businessmen, individuals and for organisations and other individuals in relation to conduct and actions pertaining to logging, bribery, violence and document forgery, to name a few.

Articles 122 to 128 of the Act outlines penalty provisions ranging from educational, disciplinary, fines, civil measures and penal measures.

Article 127 of the Act addresses penal measures for cutting trees or cleared forest not in compliance with the forestry regulations, burning or destroying forest by any methods, harvesting NTFP not in compliance with laws and regulations, give the log stamp hammer to someone who does not have authority/responsibility, unauthorized cut, traded or transport natural timber of protected and

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<sup>8</sup> Lao PDR Government. *Forestry Law, 2007*. [accessed 20 June 2014]  
[http://www.lexadin.nl/wlg/legis/nofr/oeur/arch/lao/forest\\_law\\_official%20translation.pdf](http://www.lexadin.nl/wlg/legis/nofr/oeur/arch/lao/forest_law_official%20translation.pdf)

special species which are close to extinction without permission, suppressing justice procedures on forestry cases, granting an approval of natural forest conversion or issued the permission of unlawful logging. These offences are punished in accordance with Articles 139 and 143 of the *Penal Law, 2005*.

Article 139 of the *Penal Law, 2005* carries a penalty of six months to 2 years imprisonment and a fine of 100,000 and 3,000,000 kip. Article 143 of the *Penal Law, 2005* carries a penalty of 3 months to three years imprisonment and a fine of 500,000 to 5,000,000 kip. If the offence is committed with the use of force, weapons, torture, indecent words or acts affecting the honour or reputation of the victim then the penalty increases to three to five year's imprisonment and a fine of 2,000,000 to 7,000,000 kip.

There is no money laundering provision in the *Forestry Law, 2007* however Article 128 addresses additional punishment to offenders which includes confiscation of assets, vehicles and equipment related to the offences, suspension or revocation of permits or revoked rights to use the forest, forestland and forest resources. It is unclear how far the provisions of this Article can reach when it comes to organised crime groups involved in the illegal timber trade.

There is no direct reference to CITES within the *Forestry Law, 2007*. Articles 8 and 51 discuss international agreements but do not specifically mention CITES.

There is also no specific provisions dealing with arrest, search or seizure. There are also no reference to conspiracy, accessories or attempts. These matters are covered by the *Penal Law, 2005*.

### **Wildlife Crime**

The main legislation used to investigate wildlife crime in Laos is the *Wildlife and Aquatic Law of 2007*. This legislation defines wildlife as:

“Wildlife are all species of wild animals that generate in the nature or are taken for captivity such as: Elephants, Tigers, Bears, and Deer, Barking deer, Monkeys, Snakes, and Birds etc.”<sup>9</sup>

The act also defines parts of wildlife and aquatic as:

“Parts of Wildlife and aquatic life are body parts or organs of animals such as: head, leg, foot, hide, meat, blood, horn, ivory or tusk, teeth, bone, gall bladder, bile, oil, fat, scales, shell, feather, claw, tail and other parts.”<sup>10</sup>

Wildlife is divided into three categories.

1. Prohibition
2. Management
3. Common or General

The Act lists tigers, elephants and rhinoceros as part of the Prohibition Category of animals. Despite being in this category the possession and trade of these species is authorised under the Act.

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<sup>9</sup> Lao PDR Government. *Wildlife and Aquatic Law, 2007*. [accessed 18 June 2014  
[http://www.lexadin.nl/wlg/legis/nofr/oeur/arch/lao/wildlife%20law\\_official%20translation.pdf](http://www.lexadin.nl/wlg/legis/nofr/oeur/arch/lao/wildlife%20law_official%20translation.pdf)]

<sup>10</sup> Ibid

Article 40 addresses the trade in wildlife from husbandry activities. In relation to the prohibited category of wildlife specimens, these can be traded from the second generation and subsequent generations. The first generation or breeding stock cannot be traded.<sup>11</sup>

Article 52 of the Act deals with general prohibitions and prohibits individuals, local organisations and international organisations that are in the Lao PDR from;

- Taking wildlife and aquatic life in the prohibition category list including carcasses, parts and organs of such animals from its habitat or to have it in the possession.
- Illegal catching, hunting, trading and possession of the wildlife without the required permission.<sup>12</sup>

Article 70 of the Act stipulates that damage to wildlife or aquatic over 200,000 Kip (Approx. US \$25) shall be fined double the damage committed against the wildlife and aquatic. In the case that the violation is a second times or many times of committed offences shall be fined triple of the caused damage to wildlife and aquatic in the prohibition category; double for the wildlife and aquatic in the management category, and once for wildlife and aquatic in the common or general category. Unlawful earning properties shall be seized to the State.

Article 71 of the Act identifies offences and stipulates a penalty of between 3 months and five years for the offences of:

- The hunting of natural wildlife of the prohibition category; including elephant, tiger and rhinoceros.
- To use tools or methods of hunting that cause depletion of the aquatic or wildlife
- To encroach the habitats and feeding zones of the aquatic and wildlife.
- To steal aquatic and wildlife of the prohibited category, carcasses or parts and organs of such animals for trade or have in possession.
- To import, export, re-export or tranship and transit aquatic and wildlife unlawfully with regulations.
- To bribe, falsify or forge documents and stamps.

There is also no specific provision dealing with arrest, search or seizure. There are also no reference to conspiracy, accessories or attempts. These matters are covered by the *Penal Law, 2005*.

There is no money laundering provision in the *Wildlife and Aquatic Law of 2007*. Article 70 addresses unlawful earning properties shall be seized to the State but it unclear how far the provisions of this Article can reach when it comes to organised crime groups involved in the illegal wildlife trade.

The legislation appears to need clarification in a number of areas. One such area does not distinguish between private premises and business premises for the purpose of inspection or search. Another is the issue of Ivory sales.

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<sup>11</sup> Lao PDR Government. Wildlife and Aquatic Law, 2007. [accessed 18 June 2014  
[http://www.lexadin.nl/wlg/legis/nofr/oeur/arch/lao/wildlife%20law\\_official%20translation.pdf](http://www.lexadin.nl/wlg/legis/nofr/oeur/arch/lao/wildlife%20law_official%20translation.pdf)]

<sup>12</sup> Ibid

Several recent reports have identified a large market for the sale of ivory in Laos. In August 2011 a TRAFFIC survey identified 2,493 pieces of ivory including jewellery, name seals and raw tusks openly on sale in 24 retail outlets. The prices listed for these items were in US dollars and Chinese Yuan indicating the target market were foreigners.<sup>13</sup> An additional study undertaken in 2013 identified 1,929 ivory pieces for sale in 11 locations in Vientiane and Luang Prabang.<sup>14</sup>



**Figure 1 - Ivory for sale in Vientiane (Source: TRAFFIC)**

Although this report clearly stipulates that the trade in ivory is illegal in Laos conflicting viewpoints were identified during the assessment. In discussions with the Environmental and Economic Police departments both indicated that the sale of Ivory was illegal. During discussions with DoFI advice was received that the trading of ivory from second generation captive bred elephants was legal.

The GoL banned the capture of elephants from the wild for domestication in the late 1970's and became signatory to the CITES convention in 2004. Accordingly the trade and international sale of this globally endangered species is subject to regulation. The *Wildlife and Aquatic Law of 2007* makes reference to CITES or other international conventions that Lao PDR is a signatory in Articles 3, 6, 9, 18, 34, 43, 50 and 58.

Although the trading of second generation animals of the prohibited category is permitted under Article 40, Articles 52 and 70 indicate that the possession of these animals or animal parts would seem to be an offence without permission from the Government. It does not make any reference to second and subsequent generations in these sections. Clearly the GoL regards adherence to CITES and other international conventions as important and yet there is a grey area as to the sale of animals and animal parts from this and other CITES listed species.

This issue is one that can be addressed quite easily:

- If the legal interpretation is that the trading of body parts of second generation animals is legal then no change is needed to the legislation. Confirmation as to the status or origin of the parts is a different matter altogether.
- Should the trade of body parts of second generation animals be deemed illegal then an amendment to the legislation is required. In the short term a Presidential Decree may suffice pending a change in legislation or alternatively, the Lao Supreme Court could rule on the matter and create precedence. This small and relatively easy step would go a long way to reducing the wildlife trafficker's easy access to a lucrative market and removing the incentive to launder illicit ivory stockpiles through Laos 'grey' domestic market.

<sup>13</sup> Traffic. *Traffic Survey Highlights Lao PDR's dark trade in Ivory*. [accessed 18 June 2014] <http://www.traffic.org/home/2012/7/9/traffic-survey-highlights-lao-pdrs-dark-trade-in-ivory.html>

<sup>14</sup> Lucy Vigne. *Recent findings on the ivory and rhino-horn trade in Lao Peoples Democratic Republic*. [accessed 18 June 2014] <http://www.pachydermjournal.org/index.php/pachy/article/view/350>

Irrespective of the legal determination there is confusion amongst law enforcement officers about the sale of ivory and this should be addressed.

Whilst being the main legislation used to investigate and prosecute wildlife crime, the *Wildlife and Aquatic Law of 2007* is not the only legislation used. Article 142 of the *Penal Law, 2005* addresses hunting issues and carries a penalty of between 3 months and 2 years imprisonment and/or a fine.

Article 161 of the *Penal Law, 2005* also addresses the forging of documents, signatures or seals or adding or deleting words to a document. The penalty for this matter is a period of 3 months to two years imprisonment and a fine of 200,000 kip to 2,000,000. If the forgery or use of forged documents causes substantial damage the offender shall be punished by two years' imprisonment to 5 years imprisonment and a fine of 500,000 kip to 10,000,000 kip.

### 3. COMPETENT LAW ENFORCEMENT AUTHORITIES

Lao PDR has several specialist law enforcement bodies responsible for the enforcement of wildlife and forestry laws. This study has analysed the following:

- Department of Forest Inspections, Ministry of Agriculture and Forestry;
- Environmental Police Department, Ministry of Public Security;
- Economic Police Department, Ministry of Public Security;
- Customs Department; Ministry of Finance;
- Department of Inspection, Ministry of Natural Resources and Environment;
- Ministry of Natural Resources and Environment, Park Rangers;
- Office of the Supreme People’s Prosecutor
- The Government Inspection and Anti-Corruption Authority is responsible for investigating cases of corruption across government, including those related to the forestry sector.

#### 3.1 Department of Forest Inspections – Ministry of Agriculture and Forestry

DoFI was established in 2008 and is the primary government response to continuing problems associated with illegal logging; land encroachment, smuggling of timber and wildlife and forest related corruption.<sup>15</sup> DoFI operates at the central level whilst PoFI operates at the provincial level and MoFI operate at the metropolitan level. For the purpose of this report a reference to DoFI is a reference to all three levels of the organisation.

DOFI was formed from the Forestry Department and in six years has made significant progress in the establishment of an effective investigations policy and has a sound framework for risk management, resource allocation and training. DoFI also recognises the importance of intelligence-led law enforcement and is in the process of developing an intelligence database, the Information Management System. DoFI has been fortunate to have the services of a very experienced international adviser and former Royal Canadian Mounted Police officer to assist them in developing these systems and procedures.

DoFI is composed of five divisions, namely;

- Administrative Division
- Planning Division
- the Forest Inspection Division
- Wildlife Inspection Division
- Investigations Division.

The Provincial and Metropolitan DoFIs operate under the same structure as the Central DoFI.

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<sup>15</sup> Department of Forest Inspection, 2013. “*The Forest Resources Inspection Strategy Action Plan.*” 18 February 2013.

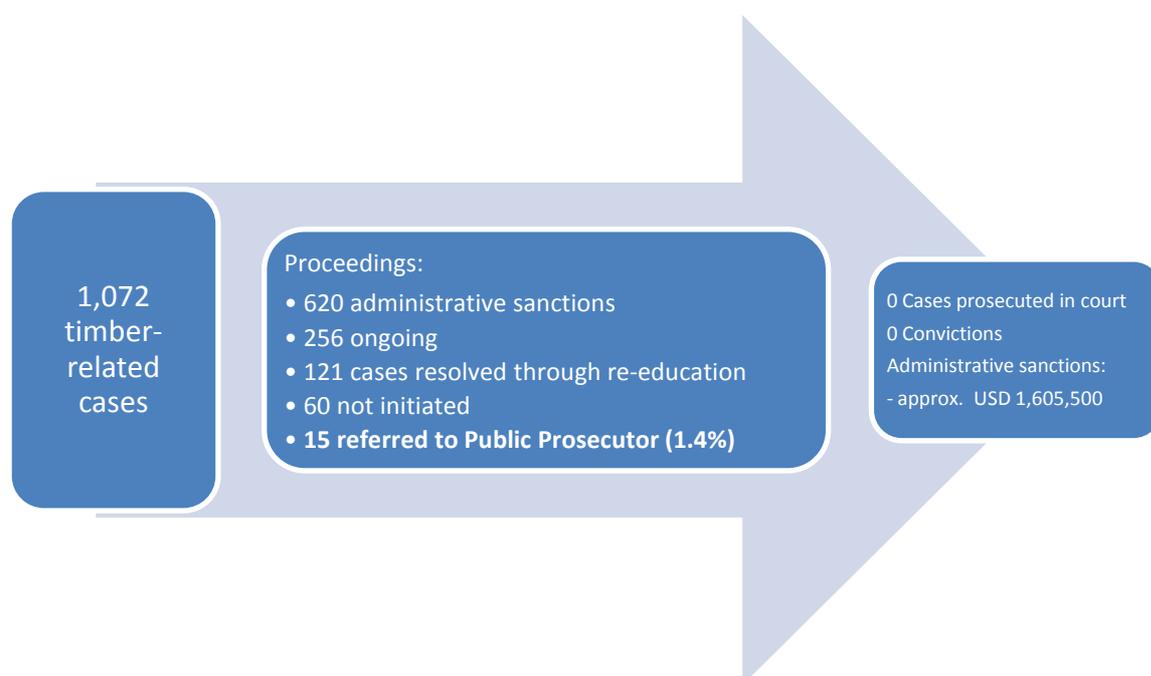
DOFI is the largest dedicated environmental regulatory agency in Lao PDR with approximately 530 sworn and contracted staff. These staff are divided between seventeen provinces with the largest concentrations being Savannakhet (95), Bolikhamaxi (68), Khammouan (47) and Champasak (39).<sup>16</sup>

DOFI are empowered to conduct forest control operations, investigate illegal logging, make arrests and pursue prosecutions in Court.<sup>17</sup> DoFI also has the chairmanship of the multi-agency LAO-WEN (Wildlife Enforcement Networks).

Between 2011 and 2014 DoFI investigated a total of 1,121 cases of which;

- Timber related – 1,072
- Wildlife Related – 18
- Non-Timber Forest Products – 31<sup>18</sup>

Figure 2 illustrates what action these departments took in relation to those 1,072 timber related cases:



**Figure 2: Resolution of Forestry Cases undertaken by DoFI, PoFI and MoFI over 2011-2014**

Where there is sufficient evidence to proceed with a case DoFI is obliged to pursue the most appropriate penalty provision within the limits of the national legislation. This could include re-education, administrative sanctions or referring the matter for prosecution.

An analysis of the available data indicates that DoFI overwhelmingly favours re-education and administrative sanctions rather than referring cases for prosecution. There may be many reasons for this, such as the fact that the gravity of the offence warrants this response; the environmental

<sup>16</sup> DOFI. *Staffing Levels 2014*. Provided to UNODC during assessment.

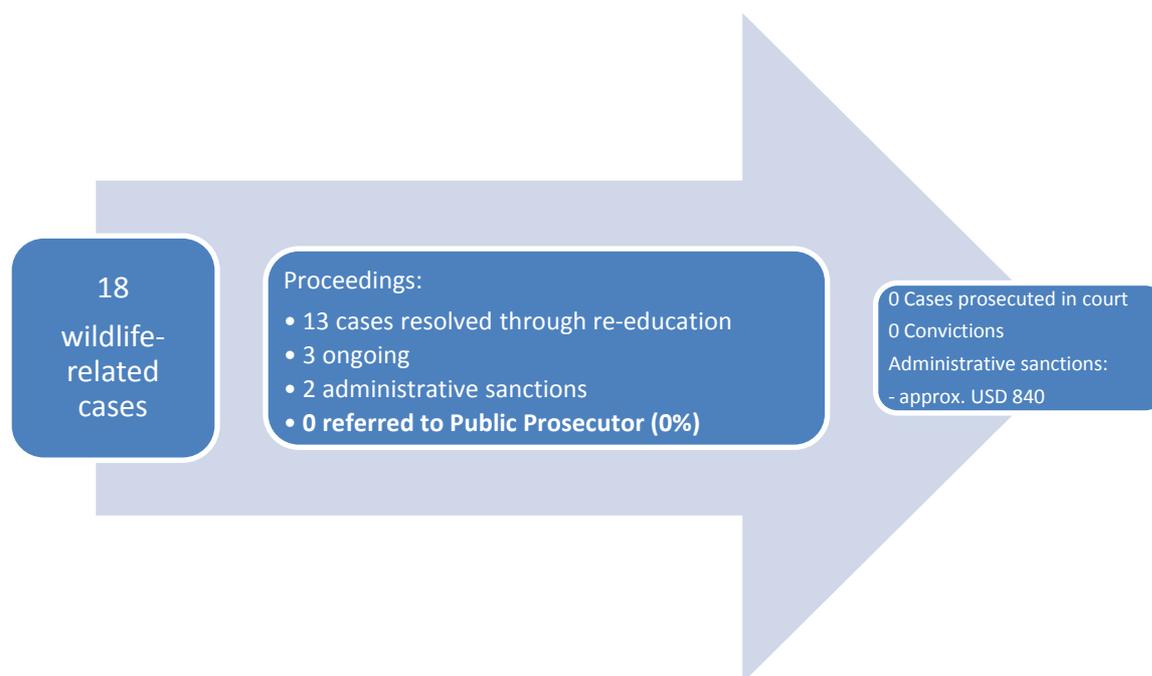
<sup>17</sup> Department of Forest Inspection, 2013. *"The Forest Resources Inspection Strategy Action Plan."* 18 February 2013.

<sup>18</sup> Figures provided by DoFI to the September 2014 meeting of interested parties in Vientiane.

damage procured is minimal; or the offenders have shown remorse. The low prosecution referral may be indicative of an enforcement culture that favours expediting matters rather than undertaking a full and comprehensive investigation, or that there is a certain reluctance to refer matters to the Public Prosecutor. It may also suggest that the current legal framework needs to adopt more extensive provisions for the criminalization of these offenses.

Notwithstanding these factors a referral rate of less than 1.4% for prosecution is very small for an organisation that is seen as the primary government response to countering problems associated with illegal logging, land encroachment, smuggling of timber and wildlife and forest related corruption.

Where DoFI appears to be in need of significant improvement is in the area of wildlife crime investigations. Figure 3 illustrates DoFI's wildlife investigations between 2011 and 2014:



**Figure 3: Resolution of wildlife related cases undertaken by DoFI, PoFI and MoFI over 2011-2014**

According to DoFI in three years a total of 18 cases were investigated by the three branches of DoFI, PoFI and MoFI. Given that each branch contains a dedicated Wildlife Inspection Division and an Investigations Division the results in this area seem inadequate.

It should be noted that the accuracy of the data provided by DoFI (or by the GoL as a whole) is dubious by their own admission. Several factors affect the collection of data in Lao PDR including; the transformation from a paper record system to a computer based system; a reluctance of provisional offices to report revenue or seizures to the central government and a general lack of expertise in data collection. These are matters that can and should be remedied.

Where DoFI shown considerable success is its application of the provisions of Article 70 to seize equipment used during the commission of forestry offences. These items include vehicles used to transport illegally logged timber and machinery used to cut it down. In the three years 2011 to 2014 DoFI seized over 90 vehicles and over 70 chainsaws. It is unknown what items have been sold and the proceeds recouped by the GoL, what items have been kept by DoFI or returned to the owners

once legal proceedings have been completed or disposed of because they were of little monetary value.

DoFI faces several issues that affect the ability of organisation to fulfil its role in the prevention, detection and suppression of environmental crime. DoFI is only six years old and the officers that work for it come from a forestry background and not from a law enforcement one. Most of the staff had to be trained whilst simultaneously investigating and enforcing the laws.

Another issue faced by DoFI is that it is a law enforcement agency reporting to an agency whose core business is not law enforcement. DoFI receives its budget from the Department of Forestry. This can cause issues in obtaining funding to purchase equipment or conduct enforcement operations.<sup>19</sup> It is unfair to judge an enforcement agency for its shortcomings when it is controlled by an agency that may not fully understand or appreciate its roles and responsibilities.

DoFI has achieved some good results in such a short period of time. It has had several notable successes and has developed a comprehensive framework for which the organisation can move forward. But as the lead agency in both wildlife and timber crime its preferred methods of finalising cases through re-education and financial sanctions do not pose a significant deterrent to transnational organised crime. It is a case of too much carrot and not enough stick.

### **3.2 Environmental Police Department, General Police Department, Ministry of Public Security**

The Environmental Police Department (EnPD) is part of the General Police Department and operates under the Ministry of Public Security (MoPS). The EnPD was created as a Department in 2012 having previously been a section of the Economic Police Department. The EnPD consists of approximately 40 staff dispersed between Vientiane and several of the major provinces.

The EnPD has the duty of preventing, suppressing, investigating and arresting offenders who commit crimes related to natural resources and the environment. The EnPD shares jurisdiction over these crimes with other regulatory agencies across Lao PDR and participates in joint investigative teams if the need arises.

The majority of the Department's staff have received basic police training whilst ten are trained investigators. The Department has a basic intelligence capacity and shares this intelligence on an ad-hoc basis with other regulatory agencies. The Department is poorly equipped and staffed in comparison to other regulatory agencies, however it is expected to grow in size over the next two years.<sup>20</sup> The agency operates a centrally recorded informant management system and has a limited capability to undertake advanced investigative techniques.

The Department have not recorded a prosecution for a wildlife or forestry crime offences in the two years since its inception.

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<sup>19</sup> Department of Forest Inspection, 2013. *"The Forest Resources Inspection Strategy Action Plan."* 18 February 2013. Department of Forest Inspection, Vientiane, Laos.

<sup>20</sup> Interview with Senior EnPD officer, May 2014.

### **3.3 Economic Police Department, General Police Department, Ministry of Public Security**

The Economic Police Department (EcPD) is part of the General Police Department and operates under the Ministry of Public Security (MoPS). The EcPD consists of approximately 300 staff dispersed between Vientiane and the seventeen provinces.

The EcPD has the duty of preventing, suppressing, investigating and arresting offenders who commit economic related crimes including those pertaining to natural resources and the environment. The EcPD has jurisdiction over these crimes across Lao PDR and participates in joint investigative teams if the need arises. The EcPD is also the delegated agency responsible for investigating money laundering offences.

In 2013 the EcPD registered a total of 559 cases. This represents an increase of 311 or 61.22% over 2012. Of these cases 257 or 45.97% were related to the illegal trading of timber. Some 326 offenders involved in the cases were reported as detained and 263 offenders including were successfully prosecuted.<sup>21</sup> The exact figures of successful prosecutions for the illegal trading of timber have not been disclosed. From these cases, the EcPD recovered cash amounting to more than 4.4 billion kip (including substantial amounts of Thai baht and US dollars), and seized 20 vehicles, 671,000 cubic metres of processed wood, 4.5 million cubic metres of logs, 15 chain-saws and three motorbikes.<sup>22</sup>

The majority of the Departments staff have received basic police training whilst the exact number of trained investigators was not provided. The Department has a basic intelligence capacity and shares this intelligence on an ad-hoc basis with other regulatory agencies. The agency operates a centrally recorded informant management system and has a limited capability to undertake advanced investigative techniques. The Department is well staffed but poorly equipped.

Given the prevalence and monetary values associated with the illegal timber trade there has been a greater focus by the EcPD on this crime type than on the illegal trade in wildlife.

### **3.4 Customs Department, Ministry of Finance**

The Lao Customs Department (LCD) is responsible for revenue collection from dutiable goods imported into Laos. It is also responsible for identifying and seizing contraband smuggled to and from Laos. This includes illicit wildlife and timber trafficking. The LCD operates at twenty two international checkpoints and has a strength of approximately 950 staff. Yet, this is considered insufficient to cover the over 5,000 km's of land borders. The LCD has no dedicated investigation or intelligence units however there are plans to form a dedicated anti-smuggling unit in 2014/15 which will need to be trained on modern interdiction techniques.<sup>23</sup>

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<sup>21</sup> Vientiane Times, (2014). Illegal Timber Trade the Focus of Economic Police, [accessed online 10<sup>th</sup> June 2014], [http://www.vientianetimes.org.la/FreeContent/FreeCont\\_Illegal%20timber.htm](http://www.vientianetimes.org.la/FreeContent/FreeCont_Illegal%20timber.htm)

<sup>22</sup> Ibid.

<sup>23</sup> Interview with Senior Officer Lao PDR Customs Department.

The LCD has made several seizures of illegally smuggled timber including 145 cubic metres seized in Champassak province in December 2013 by a mobile customs team.<sup>24</sup> The LCD has made very few seizures in relation to the illegal smuggling of wildlife also at airports.

LCD staff receive minimal training in the identification of wildlife, wildlife parts and timber. Staff rely on experience and anomalies in paperwork to identify potential illicit shipments. The LCD is reasonably staffed but like other law enforcement agencies in Laos is poorly equipped. The Department operates only 8 X-Ray machines, of which 6 are portable, to cover the twenty two international checkpoints. There is also a deficiency of computers, internet connectivity, radios and vehicles.

The LCD has a good working relationship with its national law enforcement counterparts involved in investigating environmental crime and exchanges information and intelligence on a case by case or ad-hoc basis. It also co-operates in joint agency investigations and case referrals, particularly with DOFI and the Economic Police. The LCD is strengthening its ties with surrounding countries and in July 2014 expects to sign a Memorandum of Understanding (MOU) with their Vietnamese counterparts. This MOU will allow the exchange of information and intelligence for law enforcement purposes and will incorporate wildlife and timber smuggling.<sup>25</sup>

Further MOU's are in the discussion phase with the Cambodian and Thai Customs departments. It is also envisaged that similar discussions will be conducted in the future with China. Minimal operational interaction is experienced with Myanmar Customs.<sup>26</sup>

### **3.5 Department of Inspections Ministry of Natural Resources and Environment**

The Ministry of Natural Resources and Environment (MoNRE) was created in 2011 by merging the Water Resource and Environment Administration (WREA) with departments of the National Land Management Authority (NLMA) and portfolios of other ministries including the Geology Department, and the Forest Conservation and Divisions within the Ministry of Agriculture and Forestry (MAF). MoNRE is the agency with responsibility for administratively managing CITES in Laos.

The Department of Inspections Unit is still in the formation stage and awaiting finalisation of its regulatory powers. There are no statistics available of investigation numbers, arrests or prosecutions.

### **3.6 Park Rangers - Ministry of Natural Resources and Environment**

In 2012 MoNRE established the Department of Forest and Resource Management (DFRM), which employs on average 15 forest rangers in each of the 24 protected areas. These rangers undertake basic law enforcement roles within these protected areas including patrolling, surveillance and

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<sup>24</sup> Lao Newsagency (2014). Illegal Timber Seized in Champassak. [accessed online 10<sup>th</sup> June 2014], <http://www.kpl.net.la/english/news/newsrecord/2014/Jan/06.01.2013/edn1.htm>

<sup>25</sup> Interview with Senior Officer Lao PDR Customs Department, May 2014.

<sup>26</sup> Ibid

interacting with suspects. Should they detect an offence they hand the suspects over to the PoFI/DoFI or local police.

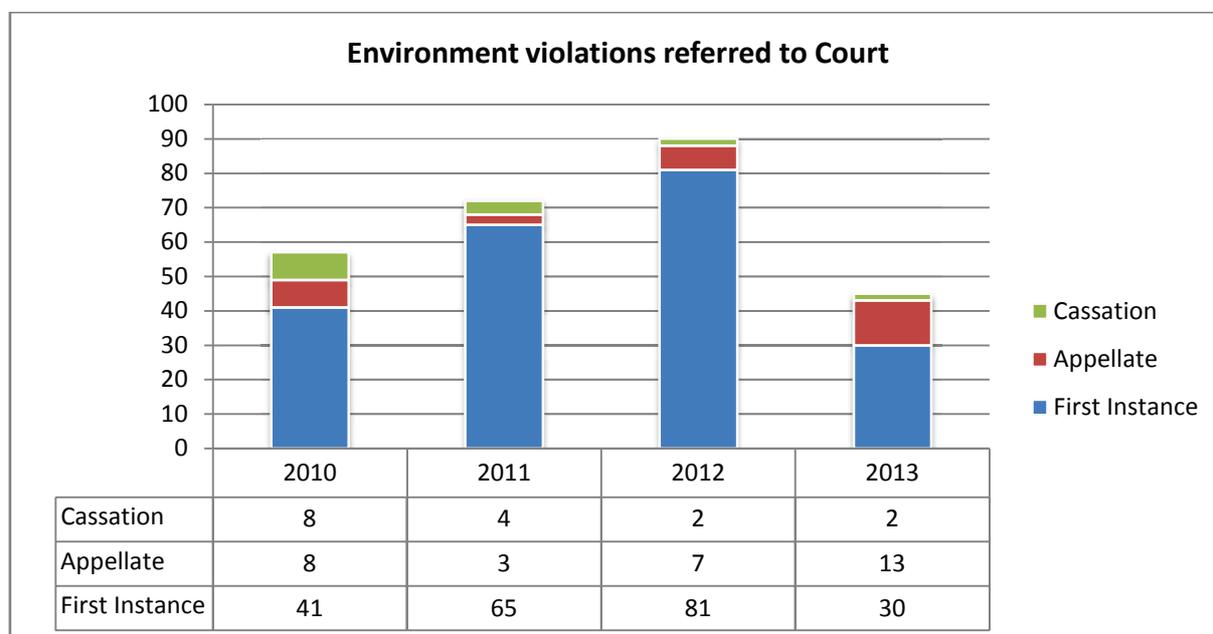
These rangers undertake basic law enforcement training although several have benefited from advanced training from NGO's such as the Freeland Foundation, WWF and Wildlife Conservation Society. No data was provided in relation to the law enforcement activities of these rangers.

### 3.7 Office of the Supreme People's Prosecutor

The OSPP does not have a specific unit that is devoted to the prosecution of environmental crimes. The allocation of individual cases is determined by the penalty that the matter attracts. If the crime carries a period of imprisonment that is between one and three years it is dealt with at the District level. If the penalty is greater than three years imprisonment it is dealt with at the Provincial level. Only the most serious matters are dealt by the OSPP which also has a role of reviewing the decisions made by the District and Provincial Courts.

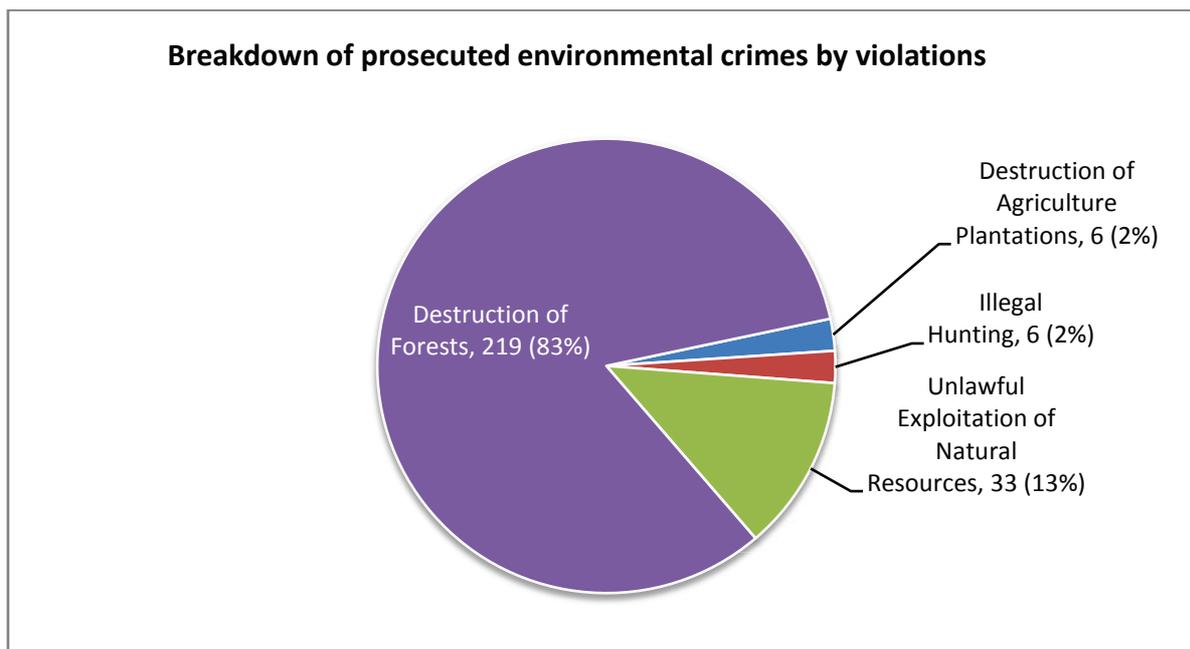
According to the Department of Criminal Case Monitoring and Inspection (DCCMI) no person has ever received a custodial sentence for a wildlife or forestry related offences in Lao PDR. Those matters that do proceed to prosecution are viewed as mildly punishable minor offences which can be overlooked or punished in accordance with Articles 139 or 141 of the Penal Law, 2005 which deals with re-educating and managing violators.<sup>27</sup>

Most prosecutions of environmental offences are dealt with at the Provincial level. Figures 4 and 5 provide a summary of the prosecutions on forestry and wildlife crime cases that took place between 2010 and 2013.



**Figure 4: Prosecution of Wildlife and Forestry Crime. Source: OSPP**

<sup>27</sup> Report of the Director General of the Department of Criminal Case Monitoring and Inspection to the meeting of interested parties, Vientiane, September 2014.



**Figure 5: Number of offences prosecuted by OPP by type over 2010-2013. Source: OSPP**

Overwhelmingly the majority of offences that proceed to prosecution relate to the destruction of forests. Interestingly the data provided by OSPP does not correlate with the data provided by DoFI, which instead reports the referral of 15 cases only over 2011-2014 (See par. 3.1). Obviously the OSPP data includes cases referred by other agencies including the Police, Customs and possibly Forest Rangers but it would be expected that DoFI be the main agency to commence prosecutions for forestry related offences. This once again highlights the problem with data collection in Lao PDR.

In March 2014 the Prosecutions Department held joint meetings with DoFI and Customs where methods to improve investigative procedures were discussed.

The Prosecutions Department identified a lack of skilled investigators and technical capabilities as major barriers to effective prosecutions of wildlife and timber crimes.<sup>28</sup>

### 3.8 Government Inspection and Anti-Corruption Authority

The Government Inspection and Anti-Corruption Authority was established in 1982 to investigate a range of specialised offences and complex crimes and has significant powers to be able to do so. In 2013 the Authority investigated 211 cases of which it initiated 123 cases and 88 were referrals or requests for assistance. The majority of these cases were of State officials involved in illegal logging.<sup>29</sup> Several other departments or authorities in Lao PDR have an anti-corruption role. This includes the Party Central Control Committee; Supreme Audit Authority; Police Department;

<sup>28</sup> Interview with Senior Officer Lao PDR Prosecutor, May 2014.

<sup>29</sup> Vientiane Times (2014). Logging, tax avoidance top 2013 corrupt activities. [accessed online 13 June 2014], [http://www.vientianetimes.org.la/FreeContent/FreeCont\\_Logging.htm](http://www.vientianetimes.org.la/FreeContent/FreeCont_Logging.htm)

Prosecution Department; Public Administration and Civil Service Authority and the national Assembly.

For brevity the capabilities of Lao environmental law enforcement agencies to use advanced investigative techniques is illustrated in Figure 6.

	<b>DoFI</b>	<b>Env. Police</b>	<b>Ec. Police</b>	<b>MoNRE</b>	<b>Customs</b>
<b>Use of Controlled Deliveries</b>	No	No but has some capability	No but has some capability	No	No
<b>Forensic Capacity including telephone or computer</b>	No (Relies on Police)	Yes	Yes	No (Relies on Police)	No (Relies on Police)
<b>Availability of informants database</b>	No	Yes	Yes	No	No
<b>Availability of linked case database</b>	No	No	No	No	No
<b>Intelligence database</b>	Developing	Yes	Yes	No	No
<b>Surveillance capacity</b>	Minimal	Minimal	Minimal	Minimal	Minimal
<b>Undercover operation capacity</b>	No	Yes	Yes	No	Yes
<b>Telephone Intercept Capability</b>	No	Yes*	Yes*	No	No
<b>Tracking or Listening Devices</b>	No	Yes*	Yes*	No	No

**Figure 6: Advanced investigative capabilities by agency. \* Not confirmed**

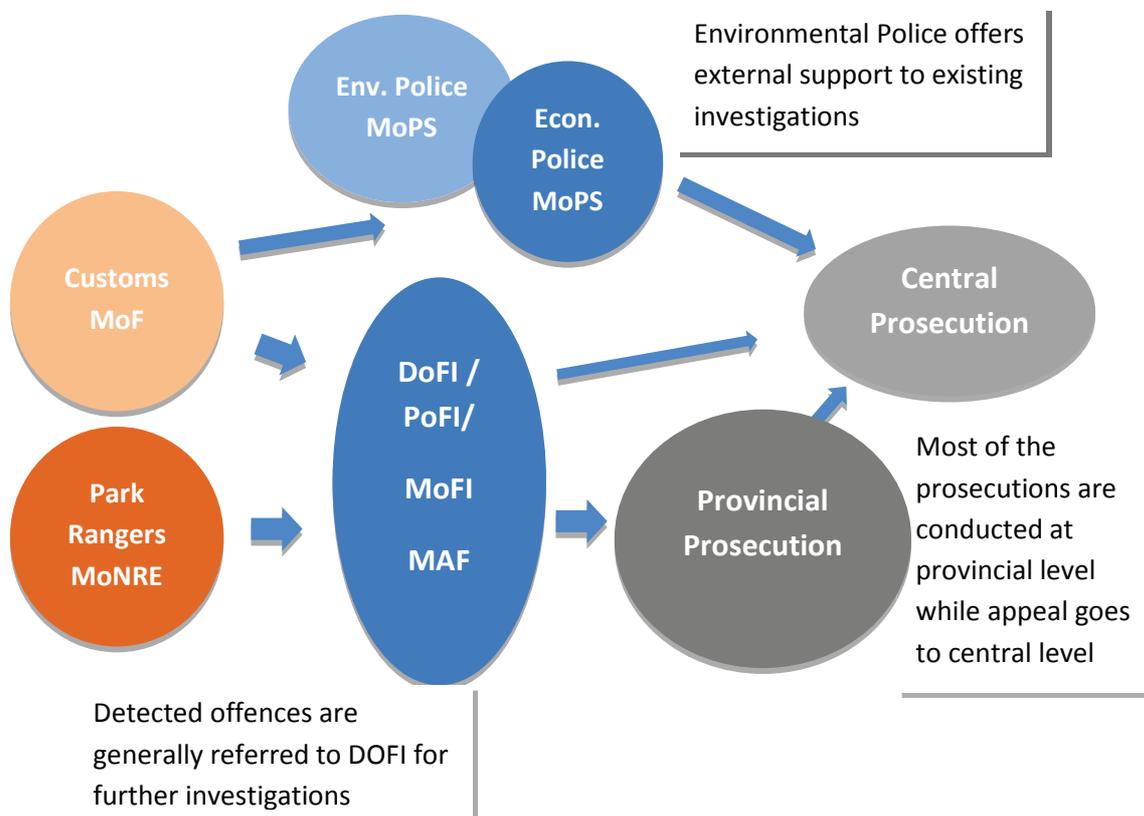
Many advanced investigative techniques, including the interception of communications devices such as telephones or computers, the use of tracking devices on people or objects, and the use of covert recording devices are standard practices when investigating serious or organised criminal activity throughout the world. These methods offer several benefits to law enforcement agencies including real time monitoring of a suspects conversations and movements.

The capabilities of environmental investigation agencies in Laos to use these methods are restricted to the Environmental and Economic Police Departments and even that is in a very limited capacity.

## 4. INTER-AGENCY COOPERATION

Despite their resource limitations agencies that investigate wildlife and forestry crime in Laos maintain a good working relationship with each other. All of the agencies spoken too talked of interagency meetings, the free exchange of information and intelligence and – if a case required it – mutual assistance. These relationships seem to be more ad-hoc than formalised although DoFI is seeking to solidify their relationships through the establishment of MoU’s.

Given its mandate DOFI appears as the lead agency for the majority of investigations into wildlife and forestry offences. The Economic Police Department is the main agency responsible for investigating offences under the penal code and money laundering offences. Illustrated in Figure six is the current workflow for detecting, investigating and prosecuting offences under the *Forest Law, 2007* and the *Wildlife and Aquatic Law, 2007*.



**Figure 7: Workflow in the detection, investigation and prosecution of offences under the Forestry Law and the Wildlife and Aquatic Law**

## 5. STRENGTHS AND WEAKNESSES OF ENVIRONMENTAL LAW ENFORCEMENT AGENCIES

Agency	Strengths	Weaknesses	Recommendations
<b>DoFI and PoFI</b>	<ol style="list-style-type: none"> <li>1. Strong mandate as lead agency for wildlife and forestry investigations.</li> <li>2. MoU's on information sharing with Thailand and Vietnam.</li> <li>3. Upper leadership structure is supportive of change</li> <li>4. Relatively well-staffed at central and provincial level</li> <li>5. Sound organizational framework and developed risk management systems</li> <li>6. Well advised and supported by international agencies, NGO's and advisers.</li> </ol>	<ol style="list-style-type: none"> <li>1. Reporting to a non-Law Enforcement agency</li> <li>2. Not a standalone Department</li> <li>3. Poorly resourced</li> <li>4. Poor background on law enforcement</li> <li>5. No operational intelligence system</li> <li>6. No centralised informant management system.</li> <li>7. Lack of experience with advanced investigative methods</li> <li>8. Relies on police for forensic capability</li> <li>9. Poor data collection capability</li> </ol>	<ol style="list-style-type: none"> <li>1. Improve law enforcement capabilities to conduct major investigations</li> <li>2. Second police investigators for 12 month periods</li> <li>3. Provision of computers for Intelligence Management System and data collection capability</li> <li>4. Increased training including joint courses with other agencies on a wide range of basic and advanced investigative techniques</li> <li>5. Provision of vehicles with sirens, warning lights etc.</li> <li>6. Establishment of a joint environmental crime hotline with Lao-WEN</li> </ol>
<b>Environ. Police</b>	<ol style="list-style-type: none"> <li>1. Dedicated law enforcement agency with managers who possess a law enforcement mindset.</li> <li>2. Access to international law enforcement agencies i.e. INTERPOL</li> <li>3. Informant Management System</li> <li>4. Access to undercover operatives</li> <li>5. Access to basic surveillance assets</li> <li>6. Access to analysts and an intelligence system</li> <li>7. Sound organizational framework</li> <li>8. Staff have all received basic law enforcement training</li> </ol>	<ol style="list-style-type: none"> <li>1. Newly established and no clear mandate in the investigation of cases</li> <li>2. Yet to establish its presence as a leader in environmental crime investigations</li> <li>3. Short staffed</li> <li>4. Poorly resourced</li> <li>5. Lack of experience with advanced investigative methodologies</li> <li>6. Poor data collection capability</li> <li>7. Limited forensic capability</li> <li>8. Poor GIS capability</li> <li>9. Poor at identifying emerging crime trends and developing systems or strategies to counter them</li> </ol>	<ol style="list-style-type: none"> <li>1. Take on greater responsibility as lead agency for investigating serious, transnational and organized Environmental Crime</li> <li>2. Lead the formation of joint task forces with other agencies</li> <li>3. Establish a unit to investigate the supply of body parts of CITES listed species in markets, shops, hotels or online</li> <li>4. Increased capabilities by provision of IT equipment and training</li> <li>5. Establishment of a full time surveillance unit</li> <li>6. Provision of equipment and training for surveillance unit, including GIS and forensic</li> <li>7. Establishment of a joint environmental crime hotline with Lao-WEN</li> </ol>
<b>Econ. Police</b>	<ol style="list-style-type: none"> <li>1. Dedicated law enforcement agency with managers who possess a law enforcement mindset</li> <li>2. Access to international</li> </ol>	<ol style="list-style-type: none"> <li>1. Its mandate is not limited to environmental crimes so it will constantly need to balance priorities.</li> <li>2. Lack of experience with</li> </ol>	<ol style="list-style-type: none"> <li>1. Contribute to the formation of joint task forces on wildlife and forest crimes</li> <li>2. Seconding trained investigators to DoFI and MoNRE to assist those</li> </ol>

Agency	Strengths	Weaknesses	Recommendations
	<p>law enforcement agencies i.e. INTERPOL</p> <ol style="list-style-type: none"> <li>3. Previous experience with investigation of environmental crimes</li> <li>4. Informant Management System</li> <li>5. Access to undercover operatives.</li> <li>6. Access to basic surveillance assets.</li> <li>7. Access to analysts and intelligence system.</li> <li>8. Sound organizational framework.</li> <li>9. Staff have all received basic law enforcement training</li> </ol>	<p>advanced investigative methodologies</p> <ol style="list-style-type: none"> <li>3. Short staffed</li> <li>4. Poorly resourced</li> <li>5. Lack of experience with advanced investigative methodologies</li> <li>6. Poor data collection capability</li> <li>7. Limited forensic capability</li> <li>8. Poor GIS capability</li> <li>9. Poor at identifying emerging crime trends and developing systems or strategies to counter them</li> </ol>	<p>agencies in investigation serious crime especially in relation to Anti Money Laundering</p>
<b>Supreme People's Prosecut.</b>	<ol style="list-style-type: none"> <li>1. Well-staffed</li> <li>2. Well trained staff on legal matters</li> </ol>	<ol style="list-style-type: none"> <li>1. Poorly resourced</li> <li>2. Very limited experience with cases related to environment offences</li> <li>3. Poor data collection capability</li> </ol>	<ol style="list-style-type: none"> <li>1. Greater involvement of Prosecutors office in major crime investigations in relation to environment offences</li> <li>2. Increased capacity of prosecutor to prosecute environment offences in relation to Anti Money Laundering too</li> </ol>
<b>Customs</b>	<ol style="list-style-type: none"> <li>1. Dedicated regulatory agency with managers who possess a law enforcement mindset</li> <li>2. Access to international law enforcement agencies ie WCS.</li> <li>3. MoU for Information sharing with Vietnam.</li> <li>4. Relatively well-staffed</li> </ol>	<ol style="list-style-type: none"> <li>1. No computerized risk based profiling system used to identify suspicious cargo</li> <li>2. No dedicated anti-smuggling unit</li> <li>3. Poorly Resourced.</li> <li>4. Its mandate is not limited to environmental crimes so it will constantly need to balance priorities.</li> <li>5. No computerised intelligence System.</li> <li>6. No centralised informant management system.</li> <li>7. Lack of experience with advanced investigative methodologies.</li> <li>8. Poor data collection capability</li> </ol>	<ol style="list-style-type: none"> <li>1. Establish a new anti-smuggling unit and build the related investigative capacity through training and equipment</li> <li>2. Establish a computerized risk profiling system to identify suspicious cargo</li> <li>3. Finalise MoU's with Cambodia, Thailand, China and Myanmar</li> <li>4. Provide computers for Intelligence Management System.</li> <li>5. Improve data collection capability.</li> <li>6. Establish centralized informant management system.</li> <li>7. Establishment of a joint environmental crime hotline with Lao-WEN.</li> </ol>
<b>MoNRE Invest. Unit</b>	<ol style="list-style-type: none"> <li>1. Unclear, due to the lack of a regulatory statute</li> </ol>	<ol style="list-style-type: none"> <li>1. Not a traditional law enforcement agency</li> <li>2. Still developing frameworks and policies.</li> <li>3. Extensive need of training</li> </ol>	<ol style="list-style-type: none"> <li>1. Identify a clear mandate and cooperation mechanism with other key agencies described above</li> <li>2. Establishment of a joint environmental crime hotline with</li> </ol>

Agency	Strengths	Weaknesses	Recommendations
		and equipment	Lao-WEN.
<b>MoNRE Park Rangers</b>	<ol style="list-style-type: none"> <li>1. Good knowledge of working area and capacity to identify crime hotspots</li> <li>2. Well-developed local informant network.</li> <li>3. Well advised and supported by international agencies and NGO's.</li> <li>4. Some parks are well supported through GIS software provided by NGO's.</li> </ol>	<ol style="list-style-type: none"> <li>1. Not a traditional law enforcement agency</li> <li>2. High turnover of staff</li> <li>3. No computerised intelligence system.</li> <li>4. No centralised informant management system.</li> <li>5. No system to identify offenders who have been spoken to, warned, cautioned or arrested in other Parks.</li> <li>6. Lack of experience with advanced investigative methodologies.</li> <li>7. Poor data collection capability.</li> <li>8. Relies on police for forensic capability.</li> <li>9. Lack of information on outcomes of arrests etc. provided by other agencies.</li> </ol>	<ol style="list-style-type: none"> <li>1. Continue to build the capacity of rangers through Provision of basic training</li> <li>2. Provision of GPS systems, satellite telephones and radios.</li> <li>3. Provision of trail cameras to monitor illegal encroachment into protected areas.</li> <li>4. Provision of equipment and training for confirming identities of suspects ie fingerprinting and photographing.</li> <li>5. Creation of a linked intelligence system, or access to DoFI's IMS to identify crime trends across different parks.</li> <li>6. Creation of a linked offender data based enabling confirmation of a suspect's previous interaction with law enforcement agencies.</li> <li>7. Seek funding for the development of a pilot project for the use of surveillance drones to monitor illegal logging, poaching and wild fires within protected forests</li> </ol>

## 6. CONCLUSIONS AND RECOMMENDATIONS

The GoL has made a concerted effort to address the issue of illegal logging and is developing strategies to address the issue of wildlife and forest crime. Unfortunately the enormous amounts of money generated by the illegal wildlife and timber trade and the limited capabilities of the mandated agency to address these issues have made Laos attractive to transnational organised crime groups.

Despite encouraging signs of improvements, the key player in this field – the Department of Forest Inspection – is still developing its capabilities and is not yet in a position to challenge effectively the most serious forms of these crime groups. It is still building its investigative, intelligence and forensic capabilities and the Ministry of Agriculture of Forestry – where DoFI is placed – does not have the law enforcement background to effectively handle this level of criminality.

DoFI's current strategy of relying on administrative sanctions and re-education is designed to combat small offenders – e.g. rural villagers – and small-medium size logging companies. This strategy has resulted in sanctions worth USD 1.6m in 4 years for timber-related cases while the fight on wildlife crimes has earned very meagre results. As DoFI further develops its investigative skills the above results may significantly increase. Nonetheless the rates of referral to the Public Prosecutor for serious offences remain dramatically low both in cases of illegal timber movements (1.4%) and in the case of illegal wildlife trade (0%). Unless the GoL is prepared to adopt a harder line that addresses higher-level offenders through financial and anti-corruption prosecutions Laos will remain tragically exposed to serious forms of transnational environmental crimes.

The GoL also needs to place a greater emphasis on the investigation of wildlife crime. This is one area where it needs to improve. The formation of a joint task force comprising officers from several agencies operating under the auspices of Lao Wildlife Enforcement Network (WEN) will go a long way to improving the current situation. DoFI should continue to play a key role in the law enforcement framework, but it should be dealing with crimes that it has the capabilities to investigate. In the short term an injection of experienced investigators on secondment from the Economic Department and the Environmental Department of the Police may assist DoFI in this role.

At the same time - following the examples of other countries in the region like Thailand and Viet Nam – serious crimes could be referred to the Police, and specifically to the Environmental Police Department. As a support and/or complement to DoFI's investigations, the GoL could consider elevating the status of the Environmental Police Department and mandating it as a relevant agency on serious wildlife and illegal logging crimes. The Environmental Police Department should be sufficiently staffed and equipped so it can begin meeting the challenges posed by transnational organised crime in these areas.

The GoL should also consider expanding the capacity of the Economic Police Department and the Prosecutor's Office through the provision of additional equipment and intensive training to address the financial aspects of the illegal wildlife and timber trade. This will enable the identification of those individuals and organisations truly responsible for these crimes and profiting the most from them. By removing the financial incentive the GoL can make Laos less attractive to these transnational organised crime groups.

As previously mentioned in this report it takes a network to defeat a network. Nationally the co-operation between law enforcement agencies has been good but this co-operation has not necessarily been reflected in an enhanced capability to address the problem. Despite their best intentions information silos remain. The GoL should consider the establishment of multi-agency investigations teams and/or to strengthen the role of the Lao WEN. This will not only help to remove these silos but will enable a more co-ordinated and focussed approach to investigations. This investigations team should be sufficiently staffed to enable it to operate reactively and proactively to target transnational organised crime groups.

The GoL should also consider increasing law enforcement cooperation with its neighbours. The problems faced by the GoL in combatting transnational organised crime are not unique to Laos. Their neighbours face similar problems and have similar issues. Increased Information sharing and joint operations will enhance each nation's capacity to address transnational organised crime and will be mutually beneficial. The only people benefitting from a lack of cooperation are the criminals.

There are several actions that the GoL can undertake that will have an immediate effect on the investigation and prosecution of wildlife and timber crimes. Other recommendations will take longer to implement so accordingly the recommendations have been broke down into two areas, short and midterm.

## Short Term Recommendations

- Those offences within the *Forestry Law, 2007*; *Wildlife and Aquatic Law, 2007*; and *Penal Law, 2005* that attract penalties of four years imprisonment or more should be viewed as Serious Crimes by senior political leaders, politicians and criminal justice officials. This may need an adjustment of the definition of Crime in the penal law.
- Review of existing Laws, regulations and special Acts with a view to clarify grey areas in relation to legality and compliance. If necessary, issue directive/circulars acting as guidance notes in relation to particularly sensitive commodities such as rose wood and ivory
- The formation of investigative Task Teams on serious wildlife and forest offences drawing on the expertise of all relevant agencies, including the Prosecutor's Office, with the express purpose of targeting selected high level and symbolically important illegal timber and wildlife trading operations. (Discussed in Section 5.3.2 of the Decree on Forest Strategy to the Year 2020, No 229 of 2005)
- The provision of equipment and training to the Economic Police Department and Prosecutor's Office to enhance their capability to investigate and prosecute money laundering and financial crimes attached to violations of Forestry and Wildlife Laws.
- Promote the development of DoFI law enforcement capacity by secondment of trained law police investigators.
- Establishment of a Customs Anti-Smuggling unit equipped and trained to identify illegal wildlife and timber.

- The establishment of a computerised data base to record verbal warnings, cautions, arrests and prosecutions that can be accessed by all regulatory agencies involved in the detection, suppression and investigation of the illegal trade in timber and wildlife, the Prosecutions Department and the Government Inspection and Anti-Corruption Authority.
- Increased training for border officials, park rangers and police focussing on the detection of potential offences, basic surveillance techniques, the collection and preservation of evidence, interview techniques and preparing for and appearance in court.
- The formation of a unit within the Environmental Police Department responsible for investigating the sale of CITES protect species such as ivory, rhino horn, bear gall and tiger parts from markets, businesses and online notice boards and forums within Lao PDR.
- The provision of computers, printers and internet connectivity to enable DoFI to implement its Information Management System (IMS). This hardware supply must be complemented by tactical and strategic analysis training to maximise the benefits of the IMS.
- The provision of vehicles to DoFI equipped with sirens and warning lights.
- The provision of equipment and training to create a dedicated environmental surveillance team based in Vientiane. Additional training should be provided to selected staff from provincial areas who can undertake basic surveillance duties or assist the Vientiane-based units on major cases.
- The provision of equipment and training to increase the capabilities of all environmental crime agencies to use geospatial intelligence systems.
- The creation of an environmental hotline to be managed by the Environmental Police Department.
- The provision of equipment and training to assist in confirming the identities of persons arrested within protected forests.

## Mid Term Recommendations

- The creation of an Environmental Court where Judges can develop a specialised knowledge of the impacts and consequences of these types of crimes and develop an in-depth understanding of the laws governing them.
- Introduction of specific laws on organised crime, such as criminalising participation in a criminal group and the use of sophisticated investigative techniques within the framework of the rule of law, as laid down in the United Nations Convention against Transnational Organised Crime. The illicit trade in timber, wildlife and other forest crimes must also be specifically included within the purview of “serious crime” as defined by the Convention as an offence which receives a sentence equivalent to four years imprisonment or over.

- Data to measure criminal justice responses must be standardised across departments.
- Provision of a computerised risk assessment system for use by the Lao Customs Department to identify suspicious cargo.
- Greater criminal justice cooperation must be developed in the region on the illicit timber and wildlife trade. This must be the starting point, bearing in mind that the legal framework for cross-border judicial cooperation must be in place.
- Money laundering and anti-corruption legal regimes within Lao PDR is relatively new and has not yet been used to trace and seize the assets acquired from the illegal timber and wildlife trades. This is a critical tool in the hands of governments. Forest crime and wildlife trafficking must be made a predicate offence for money laundering in a region where the profits derived from these activities may well rival drug trafficking as a source of illicit income.
- The establishment of a computerised intelligence system that can be accessed and updated by all regulatory agencies involved in the detection, suppression and investigation of the illegal trade in timber or wildlife.
- The establishment of unit responsible for creating and maintaining a DNA data base for all CITES Appendix 1 listed fauna species held in captivity in Lao PDR. This data base will provide the Lao PDR government with the capability to confirm the parentage of the prodigy of captive species and will assist in identifying any wild caught specimens that have been used to replace deceased or traded specimens. The provisions for this already exist under Article 51(6) of the *Wildlife and Aquatic Law, 2007*.
- The establishment of a pilot program in a protected forest to measure the effectiveness of utilising small surveillance drones to combat poaching, illegal logging and wildfires.

Criminal justice responses to the illegal exploitation and trade in timber and wildlife will remain an important challenge for Lao PDR. Indeed, it is likely to be a challenge that grows in scale given that a much stronger legal and regulatory regime is now in place to protect the region's timber resources, remaining natural forests and wildlife. The protection of individual protected timber species (such as rosewood, teak or yang) or the trade in CITES protected wildlife species such as Tigers, Rhino, Elephant and Pangolin which are in short supply and for which there is an increasing demand must be tackled in a more sophisticated way.

The formation of a multi-agency investigations team will give the GoL the ability to target transnational organised crime groups for the first time. Combined with greater international co-operation, information sharing and joint operations the GoL will be in a much better space when it comes to addressing the illegal wildlife and timber trades.





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