

The Jungle Crook

Environmental corruption in Laos

19 November 2018

In the heart of the jungle

Land-linked Laos is located in a strategic geographical position. ¹ Bordering Thailand, Vietnam, Myanmar, Cambodia, and China, Laos' neighbors have traditionally played a role in its economy, with China currently the largest contributor to Laotian foreign investment (with a primary focus on real estate).

Looking to benefit from its advantageous location, the Laos government has emphasized its commitment to attracting further foreign investment. It has developed successful policies to facilitate this, including the introduction of a five year plan (2016-2020) which prioritizes the promotion of investment and economic growth. The World Bank reports that GDP growth averaged 7.8 per cent over the last decade, and despite flooding earlier this year, economic growth for 2018 is expected at 6.7 per cent.²

A significant barrier to such development is corruption, and it is an oft-overlooked form of corruption that represents the major hurdle. In Laos and globally, environmental corruption – the exploitation for advantage of flora and fauna – is under-discussed, and slamming the brakes on the potential of burgeoning economies.

Environmental corruption and your business goals

Corruption, no matter the nation, skews development priorities and successes. It is accepted that environmental corruption displaces communities, enriches a small cabal of asset-controlling elite, and diverts funds from socio-economic initiatives. Businesses cannot afford to neglect the environment where they invest; the setting for billion-dollar infrastructure projects; the habitat of the workforce; and the risks if it all goes wrong.

Businesses seek to operate in an environment where they can be confident of legally obtaining licenses and land. Shareholders increasingly care about corporate social and environmental governance; and the significant ramifications of dealing with shadow actors, corporates, or illicit interactions with government officials are financial and reputational. From our position in the region, we monitor each nation's bribery and corruption framework. Such frameworks are invariably correlated with a business' appetite to invest within that specific state's borders. Advising businesses – with bottom-line and boardroom pressures – requires taking note of the

¹ Laos: Anti-Corruption Laws Key to Economic Development - GIR Asia-Pacific Investigations Review 2019

² World Bank Report on Lao PDR

corruption environment. We advocate due diligence on behalf of investors, lenders, sponsors, and state authorities to examine commercial, technical, and corruption risks.

The trail to expect

Laos has made significant anti-corruption efforts in recent years. In 2016 the Laotian government undertook investigations in relation to 71 government officials³; in 2017 the State Inspection Authority (SIA) announced that it had arrested 25 individuals on allegations relating to corruption⁴; and in 2018 a provincial court sentenced five government officials and party members to jail terms for corruption.⁵ Notwithstanding the Laotian government's enforcement activities and Laos' march up Transparency International's anti-corruption rankings over the last decade, in the last two years Laos dropped 12 places in Transparency International's ranking; it is currently ranked the 135th least corrupt nation out of 180 (previously it was 123rd).

This article navigates the key environmental resources vulnerable to corruption, and charts flora and fauna framework protections and developments within the jungle state. Protections that will accelerate Laos' development and the health of the ASEAN economy.

The agony and the ivory

Following a ban in China on the sale of ivory in late 2017⁶, Laos has become the fastest growing ivory market in the world.⁷ China's ban has only served to facilitate the trade, with vast numbers of Chinese tourists crossing the border to buy ivory goods, accounting for up to 80 percent of sales in certain regions.⁸

From 2004-2014, Laotian authorities did not report any ivory seizures. 2015 saw a solitary report.⁹ A recent survey conducted by "Save the Elephants" found that local vendors anticipate that business will continue to boom unless the approach to law enforcement changes.

Generally originally sourced from Africa, ivory travels across Vietnamese and Thai borders to make its way to Laos. The specific trade route and success of this illicit trade illustrates a theme that pervades all facets of corrupt activity: geographical and political dynamics matter. In addition to the ban in China, increasing levels of regulation in Thailand and Vietnam towards this practice have primed Laos to become the major market for this trade.¹⁰ A coordinated and consistent regional approach is required in order to successfully combat corruption and environmental devastation, even if the barriers to access in neighboring countries have been strengthened.

Seeing the wood from the trees - Illegal logging and land grabs

Regional ties are a driving factor in another environmental issue that plagues Laos: the destruction of its forests. Land grabs and the trade in timber provide a rich incentive for individuals seeking to make a profit. Reports of deforestation indicate that the country's forest cover has decreased from 71 percent of total land mass in 1960, to about 40 percent in 2010. The impact of illegal logging cannot be overstated: in addition to displacement of entire communities, destruction of the habitat of a plethora of endangered species and significant contribution to the

³ Laos investigates 71 officials for corruption in 2016: report

⁴ Little Laos tackles big corruption

⁵ Lao Government Launches New Push Against Corruption

⁶ Illicit Ivory Trade Through Laos Thrives Despite China Ban

⁷ Laos is 'world's fastest growing' ivory market

⁸ Ibid

⁹ The ivory trade of Laos: Now the fastest growing in the world

¹⁰ Ahead of a ban, China's illegal ivory market has moved to Laos

emission of carbon dioxide into the atmosphere, it has been estimated that governments around the world lose at least US\$5 billion in revenue from criminal deforestation.

A leaked WWF report from 2015 revealed that a vast proportion of the timber derived from this practice ends up in Vietnam and China.¹¹ In 2013 alone, 1.4 million cubic meters of timber were exported to these countries.¹² According to Yale's *Global Forest Atlas*, in the last 10 years China has accounted for approximately half of the world's illegal timber imports.¹³

It is not just the illegal logging industry that has contributed to the diminution of Laos's forests. Land grabs are notorious. Vast proportions of Laos' land mass has been granted in concessions or leases to foreign investors; a significant proportion of whom are Vietnamese or Chinese, for an array of different projects and industries, notably including rubber production. This can have devastating consequences on both the livelihoods of local communities, as well as on the preservation of Laos' natural resources.

Laos is acknowledging this. Laos is making changes. In May 2016 Sisoulith enforced a moratorium on timber exports in the hope of combatting the widespread practice of illegal logging.¹⁴ A 2017 report by Washington D.C. based *Forest Trends* suggests that this ban has had some impact on the timber industries of China and Vietnam¹⁵, with the study suggesting that there has been a 26 percent decline in exports to those countries as compared with 2014 levels.¹⁶ Production forests must now submit forest management plans; project developers are no longer allowed to use timber to finance infrastructure projects and the government's aim is to increase forest cover to 8.2 million ha (70 per cent of the country's surface) by 2020.¹⁷ An ambitious goal to attain 1960 levels of forest cover. Since Sisoulith came to power, two provincial governors have also been dismissed as a result of their involvement in the illegal timber trade.¹⁸

The dark web of fauna flows - Animal trafficking

When illegal logging was common-place, elephant trainers had a steady source of revenue: they would train elephants to assist in the logging process. Tightening regulations and greater efforts to obscure the activity have eroded this practice, often leaving elephant trainers without a vocation and compelling them to alternative means to generate an income. The demand in China for elephants has provided stakeholders with a new avenue for income: wildlife tourism.¹⁹ *The Independent* has estimated that in the last year alone, China has imported at least 80 live elephants from Laos.²⁰

As a result, not only is Laos a center for the ivory trade, but a hub for live elephant trafficking.²¹ The combination of the two practices has seen the number of elephants in Laos decline, from 3000 elephants to as few as 300 in 30 years.²²

Elephants are the tip of the trunk of wildlife at risk in Laos. As recently as March 2018, authorities uncovered three endangered Asiatic black bears in the northern Laos Bokeo province.²³ Bear parts are viewed as a valuable commodity by traffickers, as they are sold off to

¹¹ [With its Environmental Crisis, Is Laos Missing the Forest for the Trees?](#)

¹² [Leaked WWF report on illegal logging in Laos: "A worst-case scenario"](#)

¹³ [Illegal Logging](#)

¹⁴ [New Lao Prime Minister Issues Ban on Timber Exports](#)

¹⁵ [Impacts of the Laos Log and Sawnwood Export Bans](#)

¹⁶ [Ibid](#)

¹⁷ [UNDP - Circular Economy Strategies for Lao PDR - a metabolic approach to redefine resource efficient and low-carbon development](#)

¹⁸ [Impacts of the Laos Log and Sawnwood Export Bans](#)

¹⁹ [Illegal trafficking of baby elephants to China and Dubai for tourism must be stopped, say activists](#)

²⁰ [Ibid](#)

²¹ [Ibid](#)

²² [Ibid](#)

²³ [Rescue of endangered bears highlights Laos' uphill fight against wildlife trade](#)

the highest bidder and are generally used for medicinal purposes. Tigers, leopards, rhinos, pangolins, helmeted hornbills, snakes are all victims to smuggling, trade, and trafficking through Laos' network where demand, corruption, and riches reward those engaged in the practice.

On 29 October 2018, the State Council of China announced a partial reversal of a ban on the trade of tiger bones and rhino horn.²⁴ China had prohibited this trade in 1993, removing these products from officially approved lists of Chinese medicine. Last week, China stated that parts from rhinos and tigers can be used for scientific, medical research or cultural exhibitions.²⁵ Traditional Chinese medicine has valued animal parts in healing ailments and critical illnesses but the reversal of the ban will likely proliferate trade across the region and be fatal to endangered rhinos and tigers.

Bribery across borders – Special economic zones and regional dynamics

It is clear that the ban on ivory in China has done little to reduce wildlife trade and last week's announcement will only enhance demand. This will only serve to enhance Laos's thriving shadow economy. Special economic zones in Laos, such as the one where the infamous Kings Romans Casino²⁶ reigns, capitalize on Laos's unique geographical position and nascent anti-corruption controls to facilitate a lucrative transnational crime business. Hundreds of Chinese tourists purportedly cross the border to gamble at the casino each week.²⁷ Though the United States recently imposed sanctions on the casino and four key individuals associated with it²⁸, Kings Romans remains open for business.

The state of play and the case for Laos' anti-corruption and wildlife protection framework

A joint United Nations Development Programme and Ministry of Energy and Mines LAO PDR report forecasts a circular, sustainable future built on Laos' environmental riches.²⁹ Laotian development depends, like most transitional economies, on an integrated perspective. Tackling corruption, particularly that in the environmental space, will facilitate development.

An example not yet mentioned is the government of Laos' bar on issuing new mining concessions, and compliance enforcement on substandard mining operations; such government activity will attract foreign investment and preserve Laos' natural resources to generate diverse economic growth such as ecotourism. Most of Laos' tourists are in the southern and central parts of the jungle state, within or close to natural parks. Retaining the natural qualities of the state – (its flora and fauna –helps rural economies and boosts the number of visitors.³⁰

Businesses' environment, social governance, and corporate social responsibility programmes increasingly crave landscapes to operate in where shareholders and consumers are content in responsible business practices. Companies like Mars, Unilever, and Nespresso have made worldwide commitments to Rainforest Alliance. This is not a charitable donation, but a business choice. Investing in Rainforest Alliance helps tackle supply chain threats like climate volatility, land degradation, and resilience to drought and humidity.³¹

In the last 15 years, Laos ratified the United Nations Convention against Corruption in 2009, and has implemented a number of laws that seek to address corruption, including the *Anti-*

²⁴ Reversal in China of 25-year old rhino and tiger part ban

²⁵ China to control trade in rhino and tiger products - 29 October 2018 announcement

²⁶ U.S. Slaps Sanctions on Network Run Through Laos Casino

²⁷ The 'lawless' playgrounds of Laos

²⁸ US imposes sanctions on Australian man working for 'Sin City' casino in Laos

²⁹ UNDP - Circular Economy Strategies for Lao PDR - a metabolic approach to redefine resource efficient and low-carbon development

³⁰ Ibid

³¹ Harvard Business Review - The Comprehensive Business Case for Sustainability

Corruption Law No. 27 (2012), the *Penal Law No. 142/PO (9 November 2005)*, and the *Law on Anti-Money Laundering and Counter-Financing of Terrorism No. 012/PO (4 February 2015)*.³² These laws address corruption in the public sector but could do more for the private sector.³³

According to a report by the United Nations Office on Drugs and Crime (UNODC), the main laws relied upon to prosecute wildlife and forestry offences are the *Wildlife and Aquatic Law, 2007*, the *Forestry Law, 2007*, and the aforementioned *Penal Law*.³⁴ Amendments made to the *Penal Law* in 2016 and 2017 enhanced the legislative protections for wildlife by introducing a number of new offences, and increasing the fines and penalties associated with wildlife crime.

A new order, issued by Prime Minister Sisoulith, does suggest that a stronger tone and approach to enforcement against wildlife crimes may be in the works. Prime Minister Order No. 5³⁵, issued in May 2018, instructs officials and regulators to take a strict approach against wildlife crime, with directions to inspect key areas of vulnerability (including notorious areas such as special economic zones), and to investigate and prosecute those found to be trading in illicit wildlife goods.³⁶

The rhetoric suggests optimism. Perceived public disapproval has likely been the catalyst for much of the strong government rhetoric on targeting corruption³⁷, both generally and in the environmental space. However, economic motivators will persuade Laos and its neighbors to continue to implement and enforce anti-(environmental)-corruption charters. Environmental degradation and associated corruption are not issues that can be considered as local-only problems, with local-only solutions.³⁸ The fate of the region's flora and fauna depends on awareness and enforcement, otherwise the outlook remains perilous and nefarious corrupt activity will be safeguarded.

For businesses operating in, or interested in investing in Southeast Asian nations like Laos, we recommend

- monitoring your supply chains closely;
- assessing, and instructing counsel to investigate, your relationships with contracting parties, agencies and government bodies;
- understanding the corporate culture of your contractual counter-party; and
- communicating and correlating bribery and corruption reviews with transactional aims so that your business can be well-informed and prepared when entering into lucrative transactions.

Like many resource-rich nations, the opportunities for economic development and strategic investment in Laos are ample, though there is a need to ensure that million dollar projects aren't followed by billion dollar penalties.

³² Laos: anti-corruption laws key to economic development

³³ Ibid

³⁴ Criminal Justice Response to wildlife and forest crime in Lao PDR

³⁵ Lao Prime Minister's Order Gives New Hope for Wildlife

³⁶ Ibid

³⁷ BTI 2018 | Laos Country Report

³⁸ Leaked WWF report on illegal logging in Laos: "A worst-case scenario"

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