

FAIR FINANCE ASIA POLICY BRIEF RIGHTS AND RISK-BASED DUE DILIGENCE IN FINANCING THE ASEAN AGRICULTURE SECTOR

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FAIR FINANCE ASIA

PREFACE

Understanding Financial Flows to Agriculture,¹ a 2020 briefing paper published jointly by Fair Finance Asia (FFA) and Gender Transformative and Responsible Agribusiness Investments in South-East Asia (GRAISEA), assessed financial flows in the agribusiness industry² from 2014 to 2020 in member states of the Association of Southeast Asian Nations (ASEAN) and three other countries where FFA works: Japan, India, and Pakistan.

The report argued that as transboundary agricultural investments in ASEAN increase, particularly from banks and investors in Japan, Singapore, and Malaysia, it is imperative to develop a legally binding regional agreement

that: (1) promotes the adoption of inclusive and responsible regional investment standards and guidelines; and (2) ensures that the ASEAN Comprehensive Investment Agreement (ACIA) is up to date and reflects recently adopted policy frameworks and provisions to mitigate the adverse impacts of cross-border investments, particularly for women in the food and agriculture sector.

Meanwhile, the March 2022 FFA-GRAISEA report, *Harvesting Inequality: The Social Impact of Financial Institutions' Investments in Asia's Agribusinesses*,³ concluded that, despite government regulations on labor rights and gender equality, workers, smallholder farmers, and communities in the food and agriculture sector are still subjected to unequal working and living conditions, especially women.

In October 2022, FFA and GRAISEA submitted a joint policy brief to the Royal Government of Cambodia, the 2022 ASEAN Chair. Titled, *Enabling Stronger Due Diligence in the ASEAN's Financial Sector*, the brief detailed recommendations tailored to the Cambodian context, and drew on key findings and recommendations from the reports mentioned above.

This follow-up policy brief offers regional insights and policy recommendations at the ASEAN level.



SOURCE: OXFAM IN CAMBODIA

FINANCIAL DUE DILIGENCE: WOMEN'S RIGHTS ARE HUMAN RIGHTS

Women's economic empowerment (WEE) occurs when women enjoy the right to control and benefit from resources, assets, income, their own time, and all other human rights. WEE is critical to women's ability to move and stay out of poverty, and is supportive of gender justice, racial justice, and the transformation of economic systems.^{4,5}

To achieve WEE, which FFA and GRAISEA recognize as full equality and equity among all genders in all spheres of life, gender-transformative improvements are needed in legislation and policy, as well as in the structures, norms, and values underpinning them.⁶ *The Fair Finance Guide International (FFGI) Methodology*,⁷ citing the Gender, Business and Human Rights (BHR) Reference Group for the Office of the High Commissioner on Human Rights (OHCHR), emphasizes that gender-neutral approaches to policymaking render important gender issues invisible and marginalize women's experiences.⁸

The FFA-GRAISEA *Harvesting Inequality report*, which assessed the sustainability policies of 54 banks active in financing the agriculture sector in the ASEAN region, found that nearly 90% did not disclose information on how gender issues and women's rights were addressed in

their engagement with corporate clients or the companies in which they invested in. Of these banks 72%, or 38 were headquartered in ASEAN Member States (AMS), while the remaining were based in India and Japan. Moreover, most of these banks did not consider human rights issues in their transactions, and all banks were silent on conflicts over land rights. None of the banks included a living wage or cap on maximum working hours in their due diligence with clients despite evidence that both are salient human rights issues in the agriculture sector in Asia.

For example, field research by FFA coalitions on monocrop plantations in the Philippines and Indonesia revealed evidence of human rights violations that widened the inequality gap by pushing workers, smallholder farmers, and local communities into poverty, especially women.⁹ Banks may enable such violations when they continue to provide credit to agribusinesses without strong policies on human rights, women's rights, and labor rights, allowing problematic practices and processes to persist. Embedding indicators in policies is vital to enabling inclusive, sustainable, responsible, and gender-transformative financing in the food and agriculture sector in the ASEAN region.

In addition, Oxfam's new policy brief on *human rights due diligence (HRDD) in the seafood and palm oil industry*, highlighted that human rights violations and problematic supply chain practices continue to heighten the risk of trade bans, import restrictions, and other normative sanctions by governments, particularly the United States and European Union member states. This may result in economic losses for the private sector, and potential loss of jobs

and livelihoods for farmers and agricultural workers, which will disproportionately impact vulnerable groups, including women.¹⁰



SOURCE: STOCK PHOTO



SOURCE: STOCK PHOTO

THE AGRICULTURE, FORESTRY, AND FISHING SECTORS SUPPORT AT LEAST 25% OF ALL LIVELIHOODS AND EMPLOYMENT IN MOST ASEAN MEMBER STATES¹¹

As of 2021, approximately 563 million men and women across Asia Pacific were employed in the agriculture industry, many as low-productivity smallholder farmers. Around 36.1%, or 203 million, are women who continue to experience significant gender inequalities as workers and smallholder farmers. These include barriers to access and ownership of agricultural assets, access to education, and access to markets.¹²

In Asia, there are approximately 350 million smallholder farmers. About 100 million¹³ live in Southeast Asia, producing around 80% of all food consumed in Asia.¹⁴

According to the 2021 ASEAN Statistical Yearbook,¹⁵ the agriculture sector accounts for a significant share of gross domestic product (GDP) in most AMS (except Singapore and Brunei Darussalam), ranging from 6% in Thailand (2020) to 22% in Myanmar (2020).

The Yearbook also reports that in 2019, 31.5% of the land area of the ASEAN region (more than 139 million hectares) is dedicated to agriculture.

According to modelled estimates of the International Labour Organization (ILO),¹⁶ the percentage share of employment in the agriculture, forestry, and fishing sectors in AMS can be broken down as follows (Table 1).

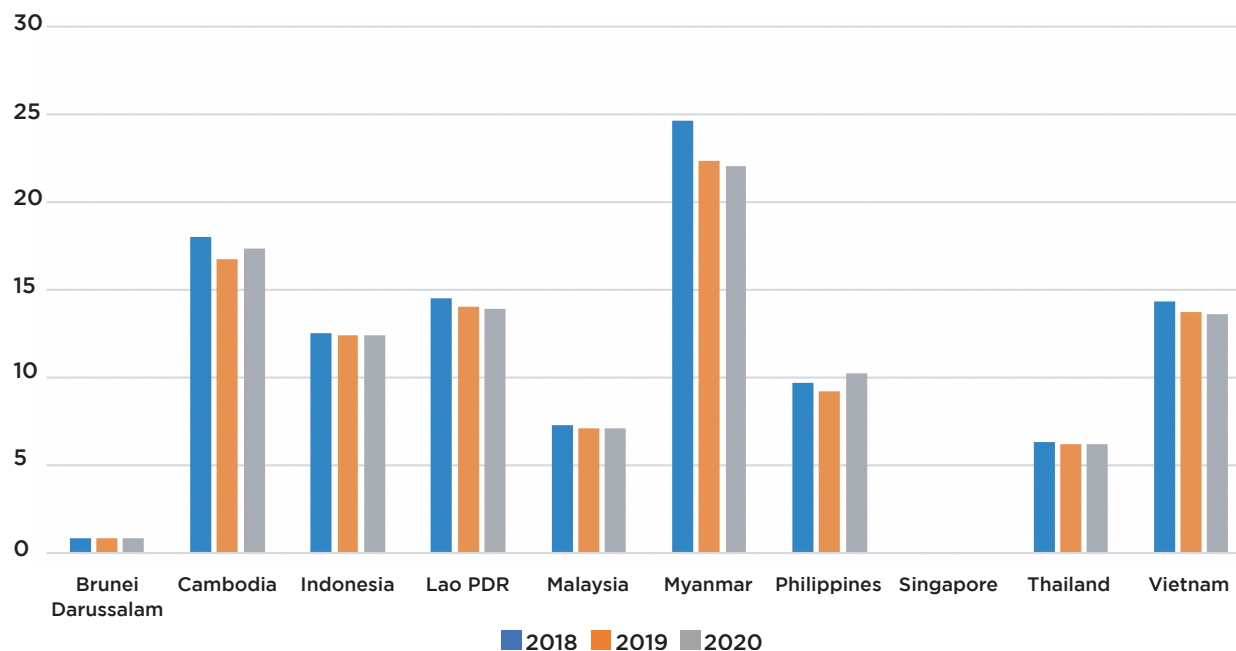
Table 1: Percentage share of employment in agriculture, forestry and fishing in ASEAN in 2021, by male, female and total employment

Country	Share Of Total Employment	Share Of Male Employment	Share Of Female Employment
Brunei Darussalam	1.30%	1.70%	0.60%
Cambodia	38.90%	38.40%	39.30%
Indonesia	29.00%	31.00%	26.00%
Lao PDR	58.10%	56.50%	59.80%
Malaysia	9.60%	12.10%	5.70%
Myanmar	45.90%	50.10%	39.40%
Philippines	24.30%	30.40%	14.80%
Singapore	0.30%	0.40%	0.20%
Thailand	31.60%	34.70%	28.00%
Vietnam	29.00%	29.30%	28.70%

The labor estimates in AMS are consistent with the overall trend and findings by the ILO that more men than women are employed in the agriculture sector in Asia-Pacific. The ILO reports that, in general, women's lower labor force participation is due to competing roles as primary carers, discrimination, and cultural and social norms. It should also be noted that due to high rates of informality in the agriculture sector, it is challenging to capture and present a complete and updated statistical snapshot of the sector.¹⁷

According to a 2021 Oxford Economics report, in 2019, the food and agriculture sectors of Indonesia, Philippines, Thailand, and Vietnam alone contributed USD 717.5 billion to GDP and supported the livelihoods and employment of more than 126 million people. This translates to almost one in every two livelihoods in those countries.¹⁸ This is consistent with data from the ILO's Asia-Pacific Employment and Social Outlook 2022,¹⁹ which shows that the food and agriculture sector remains the largest employer in the ASEAN region.

FIGURE 1: Percentage share of GDP of the ASEAN agriculture sector, 2018–2020



The so-called “ASEAN advantage” has continued to attract investment and spur the growth of agribusinesses in the region. Between 2014 and 2020, financial flows to agribusinesses included more than USD 45 billion in loans and underwriting, as well as USD 13.9 billion in investments from financial institutions in the region.²⁰

However, this sustained growth has come with increased scrutiny from international investors, consumers, the media, and civil society on the social impacts of complex food and agriculture value chains, particularly for women. Governments and regulators have responded to these challenges by developing sustainability frameworks, such as the Gender Guidance

for the UN Guiding Principles (UNGPs) on Business and Human Rights (BHR) and the ASEAN Guidelines on Promoting Responsible Investment in Food, Agriculture and Forestry (ASEAN RAI). In Asia, the governments of Thailand (2019), Japan (2020), and Pakistan (2021) launched their respective National Action Plans (NAPs) on BHR. Recently, on 14 July 2023, Vietnam launched its NAP on Promoting Responsible Business.²¹ The governments of India, Indonesia, and Malaysia are in the process of developing NAPs on BHR or have committed to developing one. However, these frameworks and NAPs are voluntary and have limited or no enforcement and monitoring mechanisms.



GALVANIZING SUSTAINABLE AND RESPONSIBLE FINANCING IN THE ASEAN FOOD AND AGRICULTURE SECTOR



Through credit and investments, financial institutions can exercise significant influence over the practices and policies of the companies they invest in. However, when banks do not consider the potential or actual adverse impacts (e.g., low wages, unsafe working conditions, discrimination) on people and local communities, they can contribute to gender-based and human rights violations and be exposed to significant financial and reputational risks of their own.

Over the past two decades, pressure has been mounting on financial institutions to integrate environmental and social risks in their business operations. This has led to the introduction of various standards and regulations for sustainable financing and environmental, social, and governance (ESG) practices.

Despite existing frameworks and legislation in AMS that aim to protect labor rights and promote gender equality in the food and agriculture sector, human rights violations are widespread, such as exploitative working conditions for workers and smallholder farmers, land grabbing, and gender-based discrimination and violence.

The FFA-GRAISEA Harvesting Inequality report concludes that women, Indigenous Peoples (IPs), migrants, informal workers, persons with disabilities, and ethnic and religious minorities are disproportionately affected by the business-as-usual conduct of agribusinesses in the ASEAN. Women workers and smallholder farmers continue to experience low wages (e.g., gender pay gap); sexual harassment and violence;

employment discrimination (e.g., women are restricted to certain roles due to perceptions that they are physically weaker and passed over for management and leadership positions due to their reproductive roles); time poverty and the triple burden (i.e., duties at work, household management and care work, especially childcare); and the lack of health and safety measures that raise serious concerns especially for pregnant women on farms and plantations.



RECOMMENDATIONS

Financial institutions can, therefore, leverage their lending power to influence borrowers, both public and private, to enable women's economic empowerment; safeguard agricultural labor rights and human rights; transform informal economies; support micro, small, and medium-sized enterprises (MSMEs) and inclusive and responsible agribusinesses to address environmental (e.g., deforestation, biodiversity loss, water and soil degradation, and pollution) and social (e.g., labor issues and lack of social protections) risks; and establish grievance mechanisms that comply with international standards.

A rights-based and risk-based approach is fundamental to ensuring that financial institutions prioritize the actions, decisions, and policies that have the most impact and are most relevant to their core business and across their operations. To enable these, the following recommendations are offered for the consideration of AMS and the financial sector.



For Financial Institutions:

- Comply with international conventions on respect for labor rights (ILO Declaration on Fundamental Principles and Rights at Work) and women's rights (Convention on the Elimination of All Forms of Discrimination Against Women), and integrate sustainability standards and regulations across policies and due diligence processes.

The financial sector is encouraged to build internal capacity to embed and implement these conventions and standards in corporate structures. Financial institutions should ensure that their business practices comply with national, regional, and international standards by screening their clients and the companies they invest in on social criteria that reflect the content of these standards.

- Develop sector-specific policies for industries associated with significant environmental and social risks, particularly in the food and agriculture sector. In agriculture, policies that address risks to the health and safety of workers and smallholders, land use and resource management, biodiversity and others, should comply with international conventions and standards that have clear and measurable goals and procedures. These policies should be publicly disclosed and compliance to them should serve as a precondition for financing and investment. Investee companies, such as agribusiness, that integrate and address these risks in their policies and practices also stand a better chance at successfully obtaining industry certifications that increase their long-term profitability and stability of their supply

chains. This translates to lower operational and reputational risks for financial institutions in the long-term.

Financial institutions are encouraged to refer to the 2023 Fair Finance Guide International (FFGI) Methodology to identify the main environmental and social issues and indicators associated with the food and agriculture sector.

- Adopt a gender-responsive approach to Human Rights Due Diligence (HRDD) that adequately addresses the disproportionate impact of investments, both past and future, on women and girls, affected communities, and vulnerable groups, such as migrant workers and Indigenous Peoples. In the agriculture industry, examples of recurring human rights abuses to be addressed include economic exploitation of smallholder farmers through unfair production contracts; violation of labor rights, including the right to collective bargaining, peaceful assembly, and association; and gender discrimination and gender-based violence.

In the ASEAN region, this could include clear definitions, policy measures, monitoring mechanisms that track gender-disaggregated data, and public access to information. Capacity building on gender and HRDD is needed for financial institutions, policymakers, and implementing stakeholders to ensure the development of sound policies that translate into best practices.

- Enable access to remedy for those impacted by financing and investments, particularly for high-risk sectors and projects, and commit to cooperating with non-judicial state-based

platforms, such as the OECD National Contact Points and other mechanisms, that could enable remediation and mitigate the escalation of risks on the ground.

Financial institutions are encouraged to develop gender-responsive operational grievance mechanisms for financing activities to high-risk sectors/projects. This will support constructive dialogue between banks, their corporate clients, and affected stakeholders, such as local communities and civil society organizations (CSOs) advocating for the respect of human rights. This will require building the capacity of both communities to access remediation and ground-level staff to roll out the remediation mechanism.

- Collaborate on regional platforms and initiatives that promote responsible investment and best practices in inclusive and responsible agribusiness to collectively address environmental and social issues in the region.

Financial institutions should also encourage their corporate clients and investee companies to participate in these platforms through active engagement strategies.

- Support and promote the adoption of binding legislation, national laws, and regulations that ensure responsible financing includes Business and Human Rights (BHR) at the national and regional level, particularly in the food and agriculture sector. This will help to improve profitability by attracting better investments.

In the ASEAN region, this will drive long-term business value for the financial sector, as incorporating environmental and social

risks in lending and investment practices will prevent and mitigate reputational risks, improve the stability and resilience of supply chains, and increase operational efficiency. This, in turn, will help lower long-term risks and negative impacts for financial institutions, their corporate clients and investees, and the communities affected by their operations.

For ASEAN Member States:

- Adopt a binding sustainable finance taxonomy that will uphold human rights and social standards, consider the rights and challenges of vulnerable and marginalized communities, and address gender inequalities.

For the ASEAN agriculture sector, taxonomies should go beyond a focus on environmental issues (e.g., land use, resource management, and biodiversity) and the transition to a low-carbon economy (e.g., use of low-carbon agricultural technologies and soil and agricultural management)²² to consider social issues and the fundamental human rights and needs of workers, smallholder farmers, and communities. Policy tools like sustainable finance taxonomies are critical to clarifying which activities can be labeled as “sustainable” and avoiding greenwashing. They are also vital for developing an enabling sustainable finance policy environment that defines food and agriculture sector-specific best practices and standards for the financial sector at national and regional levels. The ASEAN Taxonomy Board (ATB) needs to ensure that there is meaningful and deliberate engagement with CSOs in future taxonomy updates and discussions at the ASEAN level.



SOURCE: STOCK PHOTO

- Adopt national HRDD regulation for the private sector and financial institutions in accordance with the UN Guiding Principles (UNGPs) on BHR and OECD Guidelines for Multinational Enterprises, with a strong safeguarding mechanism for human rights defenders. A multi-stakeholder approach that meaningfully engages with communities, CSOs, workers, and other marginalized communities in the food and agriculture supply chain is needed to develop realistic, practicable, clear, and measurable indicators for HRDD regulation.

In the ASEAN region, consider risk-based, gender-responsive HRDD as a minimum requirement in the ASEAN Taxonomy for Sustainable Finance for investments in the food and agriculture sector, especially from international financial institutions. The financial sector is also encouraged, at both national and regional levels, to

monitor, evaluate, and communicate policies and practices on the implementation of these safeguarding mechanisms, including disclosure of assessment and progress reports.

- Strengthen enforcement mechanisms to ensure that regional (e.g., ASEAN RAI Guidelines) and national guidelines are fully adopted, and that compliance is monitored, evaluated, and reported. National guidelines should draw on global frameworks and principles, such as, but not limited to, the Principles for Responsible Investment in Agriculture and Food Systems of the Committee of World Food Security (CFS-RAI Principles); Voluntary Guidelines on the Responsible Governance of Tenure of Land; Fisheries and Forests in the Context of National Food Security (VGG); and the UNGPs on BHR.

In the ASEAN region, the establishment of a regional, non-judicial grievance mechanism for remediation is proposed to enable CSOs and local communities to issue complaints when agribusinesses and financial institutions breach guidelines and facilitate dispute resolution. This platform will improve collaboration among AMS as well as the monitoring of the implementation of the ASEAN RAI.

- Improve women's financial literacy and access to credit and financial products by providing business development support and offering incentives for financial institutions to do so; removing discriminatory requirements; promoting affirmative action for women-led MSMEs; and setting national gender goals on procurement and commerce.



In the ASEAN region, this is specifically recommended to enable access to financial services for women farmers and women-led and women-owned enterprises; support financial and digital literacy for women and girls; and strengthen social protections and benefits for women-led MSMEs. It is also recommended to enable women and girls to pursue personal, career, and educational growth opportunities by recognizing, reducing, and redistributing²³ unpaid care and domestic work responsibilities. This could be achieved through policies that address barriers to paid labor and investments that support time and labor-saving infrastructure, technologies, and/or practices, which, in turn, help address the societal norms and structures underpinning them.



ENDNOTES

¹ FFA and GRAISEA. (2020). *Understanding Financial Flows to Agriculture: Toward Inclusive and Responsible Investments in the ASEAN Region*. <https://fairfinanceasia.org/blog/2020/12/15/understanding-financial-flows-to-agriculture-toward-inclusive-and-responsible-investments-in-the-asean-region/>

² “As far as possible, the company selection included companies that accounted for 75% of the market in each of the countries or, in the absence of this information, company revenue. Additionally, since agriculture is a very diverse sector with multiple commodities, this research selected the most important companies as reported by relevant industry reports.” See pp. 5–6, *Understanding Financial Flows to Agriculture: Toward inclusive and responsible investments in the ASEAN region*, <https://fairfinanceasia.org/blog/2020/12/15/understanding-financial-flows-to-agriculture-toward-inclusive-and-responsible-investments-in-the-asean-region/>

³ Laplane, J., E. Achterberg, W. Warmerdam, and F. Muna. (2022, March), *Harvesting inequality: The social impact of financial institutions' investments in Asia's agribusinesses*. Profundo, Fair Finance Asia, GRAISEA. See pps. 13, 130–144 which references case studies on banana farmers in the Philippines and a case study on palm oil plantations in Central Sulawesi, Indonesia.

⁴ Kidder, T., S. Romana, C. Canepa, J. Chettleborough, and C. Molina. (2017). *Oxfam's Conceptual Framework on Women's Economic Empowerment*. <https://policy-practice.oxfam.org/resources/oxfams-conceptual-framework-on-womens-economic-empowerment-620269/>

⁵ Oxfam. (n.d.). Women's Economic Empowerment. <https://policy-practice.oxfam.org/womens-economic-empowerment/> (accessed on 30 May 2023)

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⁷ Laplane, J., L. van Loenen and J.W. van Gelder. (2023, February), *Fair Finance Guide Methodology 2023*, Amsterdam, The Netherlands: Profundo.

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⁹ J. Laplane, E. Achterberg, W. Warmerdam and F. Muna. (2022, March), *Harvesting Inequality: The social impact of financial institutions' investments in Asia's agribusinesses*: Profundo, Fair Finance Asia, GRAISEA. See pps. 13, 130–144 which reference case studies on banana farmers in the Philippines and a case study on palm oil plantations in Central Sulawesi, Indonesia.

¹⁰ Oxfam. (June 2023). *Policy Paper on Human Rights Due Diligence by Companies in the Seafood and Palm Oil Sectors in Asia*. <https://asia.oxfam.org/latest/publications/policy-paper-human-right-due-diligence>

¹¹ Please see Table 1 for more specific data. The more developed economies in the ASEAN namely, Brunei Darussalam, Malaysia, and Singapore are exceptions to this statistic.

¹² International Labour Organization. (2022). *Asia-Pacific Sectoral Labour Market Profile: Agriculture*. https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/briefingnote/wcms_863302.pdf

¹³ Climate Focus. (2021). *Unlocking Smallholder Finance for Sustainable Agriculture in Southeast Asia*. <https://climatefocus.com/publications/unlocking-smallholder-finance-sustainable-agriculture-southeast-asia/#:~:text=An%20estimated%20100%20million%20smallholder,includin%20rice%2C%20wheat%20and%20maize>

¹⁴ *Ibid.*

¹⁵ ASEAN. (2021). *ASEAN Statistical Yearbook 2021*. https://www.aseanstats.org/wp-content/uploads/2021/12/ASYB_2021_All_Final.pdf

¹⁶ The ILO modelled estimates series provides a complete set of internationally comparable labour statistics, including both nationally reported observations and imputed data for countries with missing data. <https://ilostat.ilo.org/resources/concepts-and-definitions/ilo-modelled-estimates/>

¹⁷ International Labour Organization. (2022). *Asia-Pacific Sectoral Labour Market Profile: Agriculture*. <https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/>

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¹⁹ International Labour Organization. (2022). *Asia-Pacific Employment and Social Outlook: Rethinking Sectoral Strategies for 2022 Human-Centred Future of Work*. https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_862410.pdf

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²¹ The Danish Institute for Human Rights has an English information page on Vietnam's NAP: <https://globalnaps.org/country/vietnam/>

Vietnam's NAP on Promoting Responsible Business in Vietnamese: <https://vksndtc.gov.vn/KND/TT/Lists/TinTuc/Attachments/11437/Quy%E2%80%A2t%20dinh%20843.pdf>

²² United States Environmental Protection Agency. (n.d.). Sources of Greenhouse Gas Emissions. <https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions#agriculture> (accessed on 30 May 2023).

²³ SIDA. (n.d.). Quick Guide to What and How: Unpaid Care Work – Entry Points to Recognise, Reduce and Redistribute. <https://www.oecd.org/dac/gender-development/47565971.pdf>

ABOUT FAIR FINANCE ASIA

Fair Finance Asia (FFA) is a regional network of Asian civil society organizations that are committed to ensuring that the business decisions and funding strategies of financial institutions in the region respect the social and environmental well-being of the communities in which they operate. Civil society coalitions from ten countries within the region are participating in FFA: Bangladesh, Cambodia, Japan, India, Indonesia, Laos, Pakistan, Philippines, Thailand, and Vietnam.

ABOUT GENDER TRANSFORMATIVE AND RESPONSIBLE AGRIBUSINESS INVESTMENTS IN SOUTH-EAST ASIA

The Gender Transformative and Responsible Agribusiness Investments in South-East Asia phase two (GRAISEA 2) program aims to transform opportunities for small-scale producers in the rice and shrimp value chains. The programme achieves this by acting as a catalyst for the emergence of inclusive value chains and responsible business practices that respect human rights and drive women's economic empowerment and climate resilience.

GRAISEA 2 works simultaneously on three levels (producer, private sector and government) and across three thematic priorities: women's economic empowerment, inclusive and responsible business, and climate change resilience.

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