

FOREIGN DIRECT INVESTMENT IN AGRIBUSINESS IN CAMBODIA

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ACRONYMS

ADHOC	Cambodian Human Rights and Development Association
ASDP	Agricultural Sector Strategic Development Plan
CCCCMC	China Chamber of Commerce of Metals, Minerals & Chemical Importers & Exporters
CDC	Council for the Development of Cambodia
CSO	Civil Society Organisation
CSR	Corporate Social Responsibility
EIA	Environmental Impact Assessment
ELC	Economic Land Concession
EMP	Environmental Management Plan
FDI	Foreign Direct Investment
FEIA	Full Environmental Impact Assessment
FPIC	Free, Prior and Informed Consent
FSC	Forest Stewardship Council
GDA	General Directorate of Agriculture
GDP	Gross Domestic Product
HA	Hectare
HAGL	Hoang Anh Gia Lai
HCS	High Carbon Stock
IDP	Industrial Development Policy
IEIA	Initial Environmental Impact Assessment
ITC	Institut de Technologie du Cambodge
JICA	Japan International Cooperation Agency
KOTRA	Korea Trade Investment Promotion Agency
MAFF	Ministry of Agriculture, Forestry and Fisheries
MEF	Ministry of Economy and Finance
MLMUPC	Ministry of Land Management, Urban Planning and Construction
MME	Ministry of Mines And Energy
MOE	Ministry of Environment
MOI	Ministry of Interior
NGO	Non-governmental Organisation
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the United Nations High Commissioner for Human Rights
PAP	Project Affected People
PMIS	Provincial-Municipal Investment Sub-Committee
PPP	Public Participation Plan
QIP	Qualified Investment Project
R&D	Research and Development
SEZ	Special Economic Zone
SLC	Social Land Concession
TOR	Terms of Reference
UNGP	United Nations Guiding Principles on Business and Human Rights
UK	United Kingdom of Great Britain and Northern Ireland
US	United States of America
VAT	Value Added Tax
VGGT	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forestry in the Context of National Food Security

01

EXECUTIVE SUMMARY

01

FDI IN AGRIBUSINESS: CAMBODIA

Foreign Direct Investment (FDI) has been a major source of development funding for Cambodia. The Royal Government has successfully created an open investment environment which has resulted in substantial increases in FDI. If conducted and regulated responsibly, FDI is widely recognised as a source of economic development, modernisation, income growth and employment. However, it can also bring about significant negative impacts if poorly managed, with issues such as land disputes, cultural loss and environmental degradation possible.

Agriculture remains a key driver of the Cambodian economy. In 2017, 78.8% of the country's total population lived in the countryside, agriculture represented 26.7% of total employment¹, and contributed 23.4% of Cambodia's GDP². Foreign investors have recognised the importance of the sector. From 1994 to 2017, foreign companies have invested over US \$34.6 billion into the country,³ of which approximately 11.45% was directed into the agricultural sector⁴. Much of the FDI into Cambodia's agricultural sector has taken the form of 267 Economic Land Concessions (ELCs)⁵.

Cambodia's policies relating to ELCs have changed frequently since their introduction – and this report recognises that they are still being improved. Perhaps the most notable change was Order 01 of 2012 on the Measures Strengthening and Increasing the Effectiveness of the Management of Economic

Land Concessions, which placed a moratorium on new ELCs being granted, and called for a review of those already issued. The Royal Government is now working to improve legislation related to agricultural FDI in sub-fields such as Environmental Impact Assessments (EIA), public consultation, compliance auditing, and monitoring and evaluation of ELC projects by relevant government entities.

GAPS IN FDI POLICY AND PROCESS

Although in general Cambodia's past policies offered protection throughout the FDI process, actual implementation led to challenges across all stages; both for investors, as well as the community members investment projects may affect. This report reveals gaps at each stage of the investment process that could lead to negative environmental and social impacts, and that could be addressed in future changes to legislation:

1. Preparation and Approval

- **ELC Size Limit Excesses:** Despite the 10,000 hectare limit set by the 2001 Land Law and the 2005 Sub-Decree 146 on Economic Land Concessions, there are well known cases of conglomerates holding several ELCs totalling well over this limit. Legislation does allow this in certain circumstances.

¹ World Bank. (2018). Employment in agriculture (% of total employment) (modelled ILO estimate)

² World Bank. (2018). Agriculture, forestry, and fishing, value added (% of GDP). Available from: <https://data.worldbank.org/indicator/NV.AGR.TOTL.ZS>

³ The Council for the Development of Cambodia. (2018). Investment Trend.

⁴ The Council for the Development of Cambodia. (2018). Analysis of Capital by Sector Approved from 01.08.1994 to 31.12.2017.

⁵ NGO Forum of Cambodia. (2015). Statistical Analysis of Economic Land Concession in Cambodia.

- **Initial Environmental Impact Assessment (IEIA)**
Criteria: An IEIA is currently described as preliminary assessment based on secondary data. In practice this means that many ELCs are granted purely based on secondary data, removing a crucial opportunity for community participation.

2. Land Acquisition

- **Lack of Project Affected People (PAP) Compensation Standards:** There are no laws, regulations or standards for compensation paid to PAP who have to relocate as a result of ELC implementation.
- **PAP Consultation often does not occur until after the ELC has been granted**
- **Lack of PAP Consultation Standards:** Until the 2016 Revised Guideline on Public Participation in Environmental Impact Assessment (which has yet to be ratified as law), there were no standards defining what constituted meaningful public participation.
- **Lack of functional official dispute resolution mechanisms:** Dispute mechanisms available to PAP could be more efficient.

3. Implementation

- **EIA Criteria:** Current EIA regulation means that the land acquisition phase can be undertaken based just on an IEIA. Full Environmental Impact Assessments (FEIAs) do not need to be undertaken until much later in the FDI process, and after implementation has begun.
- **EIA Monitoring:** Monitoring of progress against EIA Environmental Management Plans (EMPs), is sometimes sporadic.
- **ELC Monitoring:** Monitoring of progress against master plans is sometimes sporadic. This is an issue for compliant companies who wish to demonstrate good practises, and a loophole for non-compliant companies to continue operating despite poor progress against their master plans.

4. Closure and Phasing Out

- **Company acquisition process could be improved:** The process for acquiring an ELC holding company or transferring an ELC could be clarified – current regulations defining the process do not directly include obligations to notify PAP.

5. Cross Cutting

- **Lack of uniform standards for information sharing throughout the ELC process:** There is a lack of clear regulations stating what information should be shared with PAP and other relevant stakeholders and when it should be shared. This can raise the possibility of abuse by those with prior or insider knowledge of the ELC.

NOTABLE PRACTICES TOWARDS IMPROVEMENT

In Cambodia, the policies and regulations governing investment into agribusiness are improving, however gaps remain. For now, foreign investors committed to investing responsibly into Cambodia cannot rely entirely on the existing legal framework to ensure their projects cause no harm. Instead, their role presents an opportunity to drive improvement and set new standards for responsible business in the country.

Within the context of Cambodia's policy environment and FDI process, case studies were identified assessing the attempts of profit focused, yet arguably well-intentioned foreign companies to navigate the FDI process, whilst maintaining amicable relationships with PAP.

Key notable practices included:

1. Proactively seeking out international certification for major crops
 - International certification bodies such as Bureau Veritas and FSC hold companies to higher standards of environmental protection, social protection, and set more extensive rules for community consultations.
2. Proactively publishing information relating to business activities and sustainability activities
3. Proactively establishing external grievance procedures, in collaboration with NGOs, Civil Society Organisations (CSOs) and multilaterals to effectively engage with community members.
4. Establishing internal sustainability, environmental and social protection departments to mitigate environmental and social impacts and promote Corporate Social Responsibility (CSR) campaigns and activities.

RECOMMENDATIONS

Based on an analysis of FDI data, policy gaps and the practises and common barriers faced by case study companies, 19 recommendations have been developed to lower the risks of negative social and environmental impacts associated with agribusiness investment.

Recommendations for the Cambodian Government

1. *Establish detailed guidelines for how community consultations should occur.*
2. *Encourage Full Environmental Impact Assessments at the earliest stage possible, or the incorporation of primary data into Initial Environmental Impact Assessments.*
3. *Develop template documents for private sector companies to follow in order to monitor and evaluate progress against their Environmental Management Plans (EMPs).*
4. *Provide more extensive guidance on calculation methods for compensation payments to lower the risk of PAP being under-compensated in situations where they are forced to relocate.*
5. *Encourage learning exchanges between MOE accredited EIA firms and international firms that can demonstrate international best practises or remove restrictions on foreign EIA firms being able to operate in Cambodia.*

Recommendations for Private Companies Seeking to Improve Business Practises

6. *Conduct aerial surveys of prospective ELC areas as early as possible.*
7. *Proactively seek out and acquire international quality certification for relevant crop types.*
8. *Proactively establish internal grievance procedures and publish them amongst affected PAP, relevant stakeholders and peer businesses.*
9. *Publish IEIAs and FEIAs.*
10. *Continue to adopt and perfect the “Leopard Skin” approach to ELCs*

Recommendations for Foreign investors’ home Governments

11. *Incentivise the uptake of CSR activities abroad, recognise and reward companies that are implementing these successfully.*
12. *Encourage regional guidelines for public consultations, compensation payments, EIAs and CSR activities that can be applied to all ASEAN countries.*
13. *Possibly move towards the establishment of regional institutions for conducting EIAs across ASEAN.*

Recommendations for Future Interventions by NGOs and CSOs

14. *Disseminate best practices in agribusiness to ELC holders in the form of a “best practice guidebook” that details and promotes better practises across all phases of the FDI investment process.*
15. *Establish multi-stakeholder platforms for NGOs/CSOs, local and provincial authorities and companies with similar crops in major provinces for learning and sharing on better community engagements.*
16. *Publish list of international certification programs for major crops in Cambodia and promote their uptake and use.*
17. *Establish platforms to reward and incentivise excellence in CSR activities.*
18. *Conduct research on “best practices for EIAs” and work with local EIA firms and relevant ministries to increase the uptake of those practices.*
19. *Continue to assess the efforts of firms operating in Cambodia to lower environmental and social impacts against an agreed set of criteria.*

02

INTRODUCTION

02

FDI IN AGRIBUSINESS: CAMBODIA

The purpose of this report is to inform the Royal Government of Cambodia, foreign investors from the private sector, civil society organisations, and non-government organisations on responsible and inclusive FDI practices in agriculture. This project had four key objectives:

1. To provide updated data on FDI in Agriculture in Cambodia
2. To analyse and map the FDI application process
3. To develop case studies on notable practices or initiatives towards more responsible and inclusive investment
4. To develop policy recommendations for responsible and inclusive investment

Few studies have been undertaken on how the negative impacts of large-scale agribusiness investment arise, and how they can be mitigated against. Fewer still have attempted to understand: 1) the role the private sector can play in proactively mitigating against these issues; and 2) the barriers that profit focused, yet arguably well-intentioned companies face in navigating the FDI process, whilst maintaining amicable relationships with affected communities. This project attempts to fill this gap.

CHAPTER 2 provides an introduction to the project and project methodology. The chapter then describes the agricultural sector in Cambodia, the importance of the sector today, and government plans and policies to develop the sector.

CHAPTER 3 provides an overview of the trends affecting FDI into Cambodia, as well as FDI specifically for agriculture. The chapter then provides an overview of FDI through ELCs – the largest source of FDI into agriculture – before finishing with a discussion on the potential benefits and negatives of large-scale agricultural investment.

CHAPTER 4 comprises an in-depth analysis of the government policies influencing FDI into the agriculture sector. The chapter is divided into four parts: Investment Incentives, ELC Policies, Land Titling Policies and Environmental Impact Assessment (EIA) Policies.

CHAPTER 5 demonstrates how the policies described in Chapter 4 are implemented by investors, in the form of a complete FDI Process Map. The Process Map is divided into five stages: Preparation and Approval, Land Acquisition, Implementation, Closure and Phase Out, and Cross-Cutting. For each stage, the process is described and key issues that can arise at each stage are identified and explained.

CHAPTER 6 details case studies of noteworthy investment practices currently being employed by ELC holders in Cambodia. Case studies were selected based on their current adherence to the World Bank's seven *Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources*⁶.

CHAPTER 7 provides the key conclusions from each previous chapter. Key gaps in policy that can lead to social and environmental issues are identified

⁶ World Bank. (2010). Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources. Available from: http://siteresources.worldbank.org/INTARD/214574-1111138388661/22453321/Principles_Extended.pdf

and described. Relevant to those gaps, practises exhibited by case study companies to address those gaps are described, as are common barriers case study companies face in navigating the FDI process.

CHAPTER 8 provides 19 recommendations that have been developed based on an analysis of FDI data, policy gaps and the practises and common barriers faced by case study companies to lower the risks of negative social and environmental impacts associated with agribusiness investment. Five for the Cambodian Government, Five for Private Sector Companies, Three for Foreign Governments, and Six for Non-Government Organisations (NGOs) and Civil Society Organisations (CSOs) operating in the sector.

CHAPTER 9 consists of relevant appendices that supported the conduct of this study.

2.1 PROJECT BACKGROUND

The Cambodian economy presents somewhat of a paradox. On the one hand, it has recorded two decades of consistently high economic growth. The Kingdom has enjoyed an average GDP growth rate of 7.6% in the 1994-2017 period⁷. Successful export-oriented industries such as garments, agriculture and tourism have been established, and the Kingdom's GDP per capita has more than tripled over the past ten years. On the other hand, there is a need for significant diversification of Cambodia's economy to reduce its vulnerability to external shocks, such as the decline in the global price of rice, or the potential of economic sanctions that could slow down export growth in the garment sector.

Foreign Direct Investment (FDI) has been a major source of development funding for Cambodia. The Royal Government has successfully created an open investment environment for foreign capital which has resulted in substantial increases in FDI, in turn contributing to significant social and economic benefits to the Cambodian population. In 2016, GDP per capita surpassed the World Bank threshold of US \$1,045 (2013 constant US dollars) which saw

Cambodia formally reclassified from 'least developed country' to 'lower-middle income country', a successful milestone on Cambodia's transition to a free market economy.

If conducted and regulated responsibly, FDI is widely recognised as a source of economic development, modernization, income growth and employment⁸. FDI enables technology transfer between nations, contributes to international trade integration, introduces new skills to the labour force, and can create a more competitive business environment. In the best cases, FDI can also lead to improved environmental and social conditions in the country – via the introduction of cleaner technologies, more responsible business practices, and an increased awareness and practice of Corporate Social Responsibility (CSR) initiatives that can mitigate the potential negative impacts of agribusiness operations.

Despite the benefits of FDI into emerging economies, it does not come without risks. This is particularly true with FDI into agriculture, which typically requires the use of large tracts of land and abundant natural resources. Cambodia has made large areas of land available for both foreign and domestic investors, which have been granted as concessions to investors for crops such as rubber, maize, cassava, cashew nuts and sugar cane, as well as forestry products such as teak and acacia. Typically, these areas have been awarded as agricultural Economic Land Concessions (ELCs), which now make up approximately 8.5% of Cambodia's total landmass⁹.

Although these investments have been lauded as examples of Cambodia's rapid and sustained economic growth, in some cases they have brought investors into conflict with community members who previously relied on the land for their livelihoods. Indeed, Cambodia has not been exempt from the global land loss problem, whereby state-owned, but previously un-demarcated (and often populated) land is acquired and developed to the detriment of the communities who used to live there.

⁷ Trading Economics. (2018). Cambodia GDP Annual Growth Rate 1994-2018.

⁸ OECD. (2002). Foreign Direct Investment for Development: Maximising Benefits, Minimising Costs.

⁹ NGO Forum of Cambodia. (2015). Statistical Analysis of Economic Land Concession in Cambodia.

There is growing concern for the social and environmental impacts FDI projects can have on affected areas, with conflicts and the negative impacts of agricultural investment being increasingly covered by the media¹⁰. Today, there are signs that lessons have been learnt from these conflicts. For the first time in Cambodia, certain companies are taking steps to proactively manage social and environmental impacts of their business activities, and in some cases are publishing those steps for others to learn from. At the same time, there is a nascent movement towards CSR initiatives.

Despite this, very few studies have been undertaken on how these issues arise, and how they can be mitigated against. Fewer still have attempted to understand: 1) the role the private sector can play in proactively mitigating against these issues; and 2) the barriers that profit-focused, yet arguably well-intentioned companies face in navigating the FDI process, whilst maintaining amicable relationships

with affected communities. This report attempts to fill this gap. The objective is not to answer whether practices are “good” or simply “better” than those employed previously, but to highlight noteworthy initiatives employed by investors that attempt to mitigate against potential negative social and environmental impacts to affected communities.

2.2 PROJECT OBJECTIVES

Within this context, the purpose of this report is to inform the Royal Government of Cambodia, foreign investors from the private sector, civil society organisations, and non-government organisations on responsible and inclusive foreign direct investment practices. The report and supporting workshop aimed to enable all stakeholders to play an active role in preventing conflicts and issues at the earliest possible stages of investment.

The project had four key objectives:

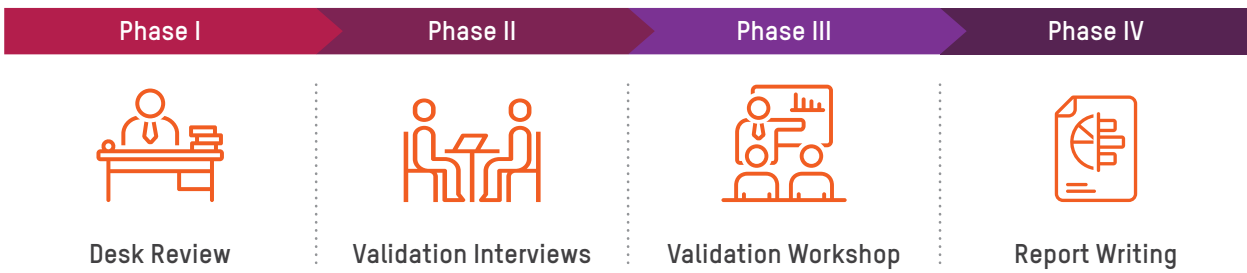
TABLE 1 Project Objectives

#	Objective	Components
1	Provide updated data on FDI in Agriculture in Cambodia	<ul style="list-style-type: none"> Investment projects Investment locations Investment size Project status
2	Analyse and Map the FDI application process	<ul style="list-style-type: none"> Analyse existing policy framework Map investment process Identify risks and bottlenecks in the investment process and in implementation that could lead to potential or actual social and environmental impacts.
3	Develop case studies	<ul style="list-style-type: none"> Identify case studies on notable initiatives/practices employed by the private sector that attempt to mitigate social and environmental risks of agricultural FDI
4	Develop policy recommendations for responsible investment	<ul style="list-style-type: none"> Recommendations to the Royal Government Recommendations to the Private Sector Recommendations to promote community involvement Recommendations for Oxfam programming

¹⁰ Oxfam. (2016). Vietnamese Agricultural Investment in Cambodia and Laos: Benefits, Impacts and Challenges.

2.3 PROJECT METHODOLOGY

To achieve the four objectives, research was conducted in four phases between August and October, 2018:



While the study provides an overview of the policy environment and investment process for agriculture in Cambodia, due to the limited timeframe, it cannot claim to be comprehensive. However, clear trends and challenges were identified. Findings were obtained based on the following inputs:

- a. Secondary research of relevant literature
- b. Official requests for data from relevant ministries and departments
- c. Qualitative validation Interviews with relevant experts
 - Private Sector Investors
 - Academic Institutions
 - Non-government Organisations (NGOs) working closely with affected community members
- d. Qualitative validation workshop with relevant stakeholders

2.3.1 SELECTION CRITERIA FOR CASE STUDIES AND APPROACH TO INTERVIEWS

Case studies of notable practices in investment projects were selected based on their adherence to the World Bank's seven *Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources*¹¹:

Selection began with an initial screening based on a desk review of companies holding an Economic Land Concession (ELC). Sources for such information (non-exhaustive) included the NGO Forum, JICA, Open Development Cambodia, Khmer Times, Phnom Penh Post, CDRI and other online sources. Operational ELC holding companies that exhibited at least some better practices were identified.

Potential case study companies were assessed against the seven World Bank principles (explained later in the report) initially by the study team via desk review, and subsequently via a “self-assessment” methodology whereby companies were sent a pre-filled assessment grid (detailing the desk review assessment), and asked to comment or add to the assessment. The final stage was an interview with the company to validate information gathered.

This three step “Self-Assessment” methodology was employed to encourage private sector participation in the study, which in previous studies has been limited. The study team were fully transparent in sharing the aims and objectives of the study with private sector participants, and shared the Terms of Reference (ToR) with private companies when requested. The finalised case studies were shared with participating companies prior to publication. Companies were also asked to detail the steps they took to acquire their ELC, and provide feedback on the FDI process map.

The team made direct interview requests to nine companies: SOCFIN, SIAT, Grandis Timber, Vietnam Rubber Group, Hoang Anh Gia Lai, Bambusa Global Ventures, CJ Cambodia, SK plantation and Chhun Hong Rubber Group. After sending the request, the team spent 2-4 weeks following up with the companies in order to respond to enquiries. Five companies accepted a request for interview and agreed to participate as case studies: SOCFIN, SIAT, Grandis Timber, CJ Cambodia and Bambusa Global Ventures. Although a very promising example of how ELCs can be managed in the future, Bambusa Global Ventures was at too early a stage of development to be included

¹¹ World Bank. (2010). Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources. Available from: http://siteresources.worldbank.org/INTARD/214574-1111138388661/22453321/Principles_Extended.pdf

as a current case study. SK Plantation, Vietnam Rubber Group and Chhun Hong Rubber Group declined to take part in the study. Hoang Anh Gia Lai exchanged information via phone call; but declined a face to face interview. In total, we obtained sufficient information to develop four case studies: SOCFIN, SIAT, Grandis Timber, and Hoang Anh Gia Lai.

2.3.2 RESEARCH LIMITATIONS

Economic Land Concessions are a particularly sensitive topic in Cambodia. Throughout the study, certain stakeholders were reluctant to share information, and those that did were wary of potential backlash.

Access to Official Data / Government Participation

To obtain recent data and to verify certain regulations, the study team sent official requests for information to relevant government bodies. At the end of the research period, the team obtained FDI data from the Council for the Development of Cambodia (CDC), but were not able to contact a representative of the Ministry of Agriculture, Forestry, and Fisheries (MAFF). In the absence of government validation, the team communicated with NGOs and law firms to fill remaining knowledge gaps.

There is no public online database that lists all ELCs in Cambodia. Information about ELCs, ownership and business activities was obtained from online sources, such as the NGO Forum and the Cambodian League for the Promotion and Defence of Human Rights (LICADHO).

Access to the Private Sector: particularly Chinese and Vietnamese Companies

It proved exceptionally challenging to engage with Chinese and Vietnamese companies, which represent approximately 37% of the ELC holding businesses in Cambodia¹². We used several approaches to reach out to relevant companies, including directly via their websites, and indirectly via the Chinese Chamber of Commerce as well as the NGOs and CSOs working with some of them, such as the American Friends Service Committee. These approaches met with limited success. Some declined the request for interview after being explained the methodology and objectives of the

study. Others could not be reached because there was no hotline, phone number or website with which to contact them. Language barriers proved another challenge, in particular in accessing Chinese speaking entities.

Self-Assessment Methodology

The study team employed a self-assessment methodology whereby company representatives had direct input into how their organisations were presented in this report. This approach was well received by the private sector, and encouraged private sector participation - but it does introduce the likelihood of selection bias towards better performing initiatives. Companies were less likely to mention the negatively perceived impacts of their investment projects. To mitigate against this risk, whenever possible the study team asked for documentation (SOPs for permit systems, evidence of CSR activities etc.) to back up claims made in the self-assessment.

Community Involvement

The purpose of this study was to highlight better investment practises currently being employed in Cambodia, and it focused primarily on the private sector. Primary data collection with community members affected by large scale agricultural investment did not occur. Instead, the study team relied on relevant literature, the validation workshop, and secondary data from organisations such as the NGO Forum, LICADHO, and Oxfam itself to include the perspectives of affected community members.

2.4 AGRICULTURE IN CAMBODIA

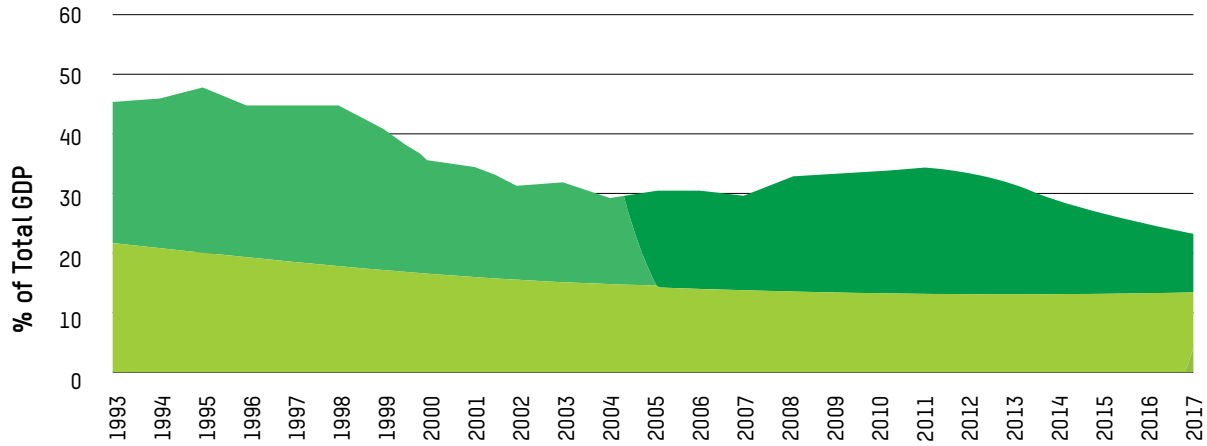
Agriculture remains a key driver of the Cambodian economy. In 2017, 78.82% of the country's total population lived in the countryside, down from 81.41% in 2000. From a socioeconomic perspective, agriculture is crucial to the livelihoods of most households in the countryside, as well as to the nation's food security. Ninety percent of the rural population is thought to depend on agriculture as their primary source of food and income¹³. Urbanization is increasing relatively slowly, at

¹² JICA. (2013). Cambodia Investment Guidebook.

¹³ Royal University of Phnom Penh (RUPP). (2017). Chinese Agricultural Investment in Cambodia: Opportunities and Challenges for Poverty Reduction.

2.73% annually, and although the share of agriculture to national GDP is expected to continue to decrease, it remains high (23.4% in 2017)¹⁷. By 2025, it is expected to represent 23% of GDP¹⁵.

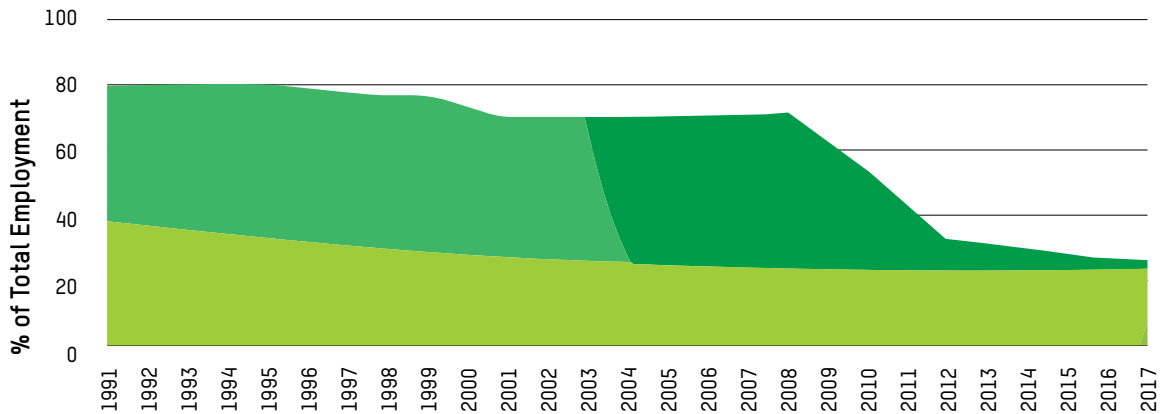
FIGURE 1 Agriculture’s contribution to Cambodia’s GDP (1993-2017)



Source: World Bank. (2018). Agriculture, forestry, and fishing, value added (% of GDP).

The proportion of the total workforce engaged in agriculture decreased to 26.7% in 2017, down from 73% in 2008¹⁶. Agriculture remains at the core of the development strategy of Cambodia, with the “Promotion of the Agriculture Sector” being defined as the first side of the fourth rectangle “Inclusive and Sustainable Development” in the Kingdom’s rectangular strategy (Phase IV)¹⁷.

FIGURE 2 Agriculture’s share of total employment in Cambodia (1993-2017)



Source: World Bank. (2018). Employment in agriculture (% of total employment) (modelled ILO estimate)

2.4.1 MAJOR AGRICULTURAL PRODUCTS

Cambodia’s main crops are typical of a tropical Asian country, including paddy rice, rubber, cassava, maize, sugar cane as well as various fruits and vegetables.

¹⁴ World Bank. (2018). Agriculture, forestry, and fishing, value added (% of GDP). Available from: <https://data.worldbank.org/indicator/NV.AGR.TOTL.ZS>

¹⁵ Kingdom of Cambodia. (2015). Industrial Development Policy 2015-2025.

¹⁶ World Bank. (2018). Employment in agriculture (% of total employment) (modelled ILO estimate). Available from: <https://data.worldbank.org/indicator/SL.AGR.EMPL.ZS>

¹⁷ Royal Government of Cambodia. (2018). Rectangular Strategy Phase IV.

Rice

Paddy rice is by far the Kingdom's main agricultural product, accounting for over 3 million hectares of harvested land in 2015 and yielding on average 3.09 tons of rice per hectare¹⁸. Despite the importance of rice to the Cambodian economy, rice yields per hectare remain amongst the lowest in ASEAN, and there is potential to increase production by improving land productivity.

Subsidiary and industrial crops

Other significant crops include rubber, maize, cassava, sweet potato, vegetables, mung bean, soybean and sugar cane. Cambodian fruits (in particular mangoes, cashew nuts, longans, jackfruits, papayas, rambutans) are also popular export products, being increasingly recognised for their quality and diversity.

TABLE 2 Main subsidiary crops in Cambodia

Product	Harvested area (Ha) 2015	Yield (tons/Ha) 2015	Production 2015 (tons)
Maize	104 157	3.84	399 963
Cassava	546 406	24.34	13 299 522
Sweet potato	5 743	7.91	45 427
Vegetables	47 285	8.58	405 705
Mung bean	53 962	1.10	59 358
Peanut	15 487	1.62	25 089
Soybean	66 606	1.46	97 245
Sesame	24 673	0.72	17 765
Sugar cane	19 243	36.85	709 105
Jute	155	0.56	87
Tobacco	6 520	1.24	8 085
Product	Harvested area (Ha) 2014	Yield (tons/Ha) 2014	Production 2014 (tons)
Rubber	357 809	1.181	97 054

Source: Ministry of Agriculture, Forestry and Fisheries (MAFF)

2.4.2 MAJOR AGRICULTURAL EXPORTS

The progressive integration of Cambodian agriculture into the international market implies that Cambodian farmers are more directly affected by international crop price variations. One result of this is that reliance on rice production is a less viable model for farmers, especially when subsidiary and industrial crops can offer a better rate of return¹⁹. For this reason, most FDI into agriculture is for the production of export-oriented crops.

Statistics from the General Directorate of Agriculture (GDA) point to strong export growth in a number of major crops, in particular cassava, rice, rubber, soybean and maize²⁰. In addition to these crops, the forestry sector (not mentioned in the table below) - and articles of wood and wood charcoal - make up a substantial portion of overall agricultural exports: 21.3% in 2014²¹.

¹⁸ Ministry of Agriculture Forestry and Fisheries. (2015). Annual Report 2015-2016.

¹⁹ Based on interview with Managing Director of European Agribusiness Company. (2018).

²⁰ Goletti, F, S. Sin . (2016). Development of Master Plan for Crop Production in Cambodia 2030. Final Report. Prepared for Ministry of Agriculture Forestry and Fisheries (MAFF), Tonte Sap Poverty Reduction and Smallholder Development Project (ITSSD).

²¹ Goletti, F, S. Sin . (2016). Development of Master Plan for Crop Production in Cambodia 2030. Final Report. Prepared for Ministry of Agriculture Forestry and Fisheries (MAFF), Tonte Sap Poverty Reduction and Smallholder Development Project (ITSSD).

TABLE 3 Growth in Major Cambodian Agricultural Exports in tons from 2004-2014

Crop	2010	2011	2012	2013	2014
Cashew Nut	93	1,238	12,038	81,209	270,696
Cassava	0	203,004	126,267	1,269,653	1,419,142
Crude Palm Oil	8,423	6,202	21,200	19,827	12,211
Groundnut	135	180	286	2,866	3,528
Milled Rice	55,301	201,899	207,717	378,856	387,061
Natural Rubber	575	217	34,915	297,840	134,157
Pepper	23	184	133	679	1,159
Sesame	583	56	1,951	644	11,661
Soybean	0	297	8,516	63,362	128,940
Tapioca Starch	93	1,757	48,874	1,920	15,325
Tobacco	702	3,173	7,345	83,468	8,088
Vegetables & Fruits	0	29	1,140	1,687	1,138
Yellow Maize	0	4,229	32,807	184,746	106,682

Source: General Directorate of Agriculture (GDA)

2.5 ROYAL GOVERNMENT STRATEGY

The Government of Cambodia recognises the importance of agriculture to the country's economic growth, health, and food security. Cambodia's agricultural policies are currently detailed in the Rectangular Strategy Phase IV; the Agricultural Sector Strategic Development Plan (ASDP) 2014-2018; the Industrial Development Policy (IDP)

2015-2025; as well as the Draft Master Plan for Crop Production by 2030. These policies will likely shape the future of FDI into the sector. In particular, Cambodia is likely to see increased productivity of its major crops through improved mechanisation, modernisation and increased use of agricultural inputs. The increased productivity will be seen in particular with export-oriented crops such as rubber, cassava and cashew nut.

TABLE 4 Agricultural Policies in Cambodia

Policy	Time frame	Drafted by
Rectangular Strategy Phase IV	2018 -	Prime Minister of Cambodia
Industrial Development Policy	2015 - 2025	Royal Government of Cambodia
Agricultural Sector Strategic Development Plan	2014 - 2018	Ministry of Agriculture, Forestry and Fisheries (MAFF)
Draft Master Plan for Crop Production	By 2030	Ministry of Agriculture, Forestry and Fisheries (MAFF)

The objectives of these policies can be summarised into five categories:

TABLE 5 Royal Government Strategy towards Agriculture

#	CATEGORY	DETAILS
1	Improved Agricultural Productivity	<ul style="list-style-type: none"> Increased use of agricultural inputs Increased mechanisation Improved research and development into major crops Promotion of sustainable business practices
2	Crop Diversification	<ul style="list-style-type: none"> Decreased reliance on rice
3	Increased Agro-processing Capability	<ul style="list-style-type: none"> Increase value added to agricultural exports
4	Improvements to the Investment Environment	<ul style="list-style-type: none"> Investment Incentives Increased government staff capacity Improvements in ELC management
5	Enhanced Logistics for the Agricultural Sector	<ul style="list-style-type: none"> Agro-processing zones Infrastructure improvements along major economic corridors

The Rectangular Strategy Phase IV²²

With respect to agriculture, Phase IV of rectangular strategy (Rectangle 4, Side 1) seeks to strengthen the role of agriculture in generating jobs, ensuring food security, and developing rural areas through 10 key priorities:

1. Developing the “Master Plan for Agriculture Sector Development towards 2030” and “Agriculture Sector Strategic Development Plan 2019-2023”
2. Further promoting the enactment of “Law on Plants Protection and Sanitary and Phytosanitary Standards” as well as the “Law on Contract Farming”
3. Improving productivity, diversity and quality of crops through increased research and development into high value add crops
4. Upgrading the agro-processing industry
5. Promoting vegetable farming to substitute imports and establishing vegetable wholesale markets
6. Promoting agricultural commercialisation through improved sanitary and phytosanitary standards, and establishing better quality laboratory testing facilities to boost international exports
7. Fostering the growth of the livestock and aquaculture sectors

8. Strengthening the management of economic land concessions
9. Investing in irrigation systems and better maintaining irrigation infrastructure already in place
10. Improving infrastructure at the rural level to better enable communities to access clean water, electricity, sanitation services - enabling communities to play a more active role in agricultural value chains.

Industrial Development Policy 2015-2025

The IDP 2015-2025 builds on the rectangular strategy. The IDP promotes economic diversification, strengthening of competitiveness and increasing productivity via the modernisation of agriculture. The IDP aims to promote the export of processed agricultural products (rubber, seafood, furniture and food) such that they represent 12% of all exports by 2025 (from 8% in 2015), as well as to enhance productivity such that Cambodian agricultural products can supply both domestic and export markets²³. The policy aims to promote agro-processing zones and develop the associated logistical infrastructure to make those zones attractive investment destinations.

²² Kingdom of Cambodia. (2018). Rectangular Strategy Phase IV.

²³ Kingdom of Cambodia. (2015). Industrial Development Policy 2015-2025.

Agricultural Sector Strategic Development Plan 2014-2018

Built around five key programs, the ASDP 2014-2018 is consistent with the IDP 2015-2025 and rectangular strategy:

- Program 1: Enhance Agricultural Productivity, Diversification and Commercialization.
- Program 2: Promote Animal Production and Animal Health.
- Program 3: Promote Sustainable Fisheries Resources Management.
- Program 4: Promote Sustainable Forestry & Wildlife Resource Management
- Program 5: Strengthen Institutional Capacity, enhancing efficiency of supporting services and Human Resource Development.

(Draft) Master Plan for Crop Production by 2030

A Master Plan for Crop Production by 2030 is being developed by MAFF. Preliminary diagnostic studies suggest prioritise 8 strategic value chains based on an assessment of past trends and expected future growth²⁴. These value chains may be drivers of FDI in the next 12 years. The aim of the master plan is develop a modern agricultural system around these value chains, capable of generating higher value added products, increased employment opportunities and export growth.

In order of priority, the 8 value chains are listed below. Of interest, rubber is not selected.

TABLE 6 Prioritised Value Chains in Crop Master Plan 2016-2030

RANK	VALUE CHAIN	2015 PRODUCTION (USUS \$ MILLION)	VISION FOR THE CROP BY 2030
1	Rice	3,134	Cambodia is one of top 3 rice exporters in the world
2	Maize	118	Cambodia is a consistent supplier of feed grains to the ASEAN region
3	Cassava	770	Cambodia is a sustainable supplier of cassava starch to Asia
4	Mungbean	76	Important crop for crop rotation and increasingly in demand
5	Mango	334	Cambodia is one of top 5 mango exporters in the world
6	Cashews	110	Cambodia is the world leader in organic cashew production
7	Pepper	95	Kampot pepper globally recognised as one of the world's best
8	Vegetables	199	Cambodia is largely a self-sufficient producer of safe vegetables

Source: Goletti, F, S. Sin. (2016). *Development of Master Plan for Crop Production in Cambodia 2030. Final Report. Prepared for Ministry of Agriculture Forestry and Fisheries (MAFF), Tonle Sap Poverty Reduction and Smallholder Development Project (TSSD).*

²⁴ Goletti, F, S. Sin. (2016). *Development of Master Plan for Crop Production in Cambodia 2030. Final Report. Prepared for Ministry of Agriculture Forestry and Fisheries (MAFF), Tonle Sap Poverty Reduction and Smallholder Development Project (TSSD).*

03

FOREIGN DIRECT INVESTMENT (FDI)

Even by regional standards, Cambodia is a fast-growing economy. Economic and demographic dynamism, combined with a welcoming business environment, a stable political situation, competitive labour costs and preferential trade agreements have made Cambodia an attractive destination for FDI. The increase in FDI was made possible by the enactment of the Law on Investment in 1994. Among other items, this law ensures non-discrimination for foreign businesses in the Kingdom, the possibility of 100% ownership for foreign ventures as well as unrestricted rights to transfer profits abroad. Since 1994, foreign companies have invested over US \$34.6 billion into the country²⁵. Moreover, the government of Cambodia is actively committed to attracting investment through tax and investment incentive schemes, such as the Qualified Investment Project (QIP) classification, as well as via the promotion of Special Economic Zones (SEZ).

To detail FDI into Cambodia, this section is broken down into four-subsections:

- FDI into Cambodia
- FDI into Agriculture
- FDI through Agricultural ELCs
- Benefits and Negatives of FDI into Agriculture

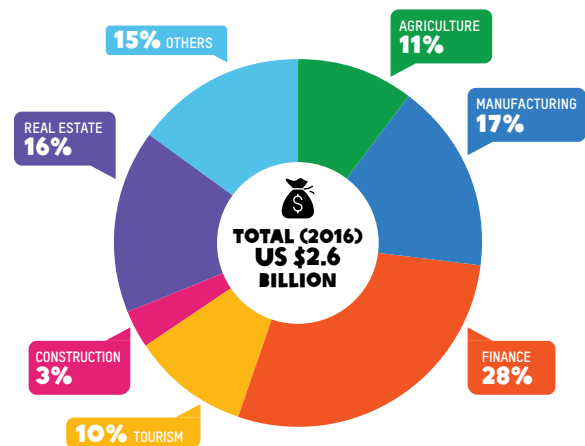
3.1 FDI INTO CAMBODIA

3.1.1 FDI BY SECTOR

According to the Council for the Development of Cambodia (CDC), the kingdom enjoyed US \$2.6 billion

worth of FDI inflow in 2016, amounting to 10.7% of the country's GDP. 2016 saw a shift in the sectorial composition of FDI - with investments increasingly focused on finance, and away from manufacturing. In 2016, Finance enjoyed the largest share of foreign direct investment, whereas traditionally it falls behind manufacturing, real estate and agriculture. Investments in real estate and leisure activities (hotels, entertainment) are on the rise, indicating a progressive diversification of foreign investments, away from garment factories. Agriculture represented 11% of FDI inflow in 2016.

FIGURE 3 Cambodia's FDI inflows by sector (2016)



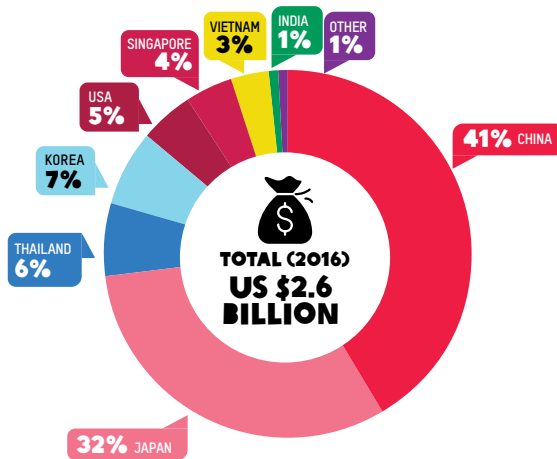
Source: National Bank of Cambodia. (2018). Council for the Development of Cambodia CDC.

²⁵ The Council for the Development of Cambodia. (2018). Investment Trend.

3.1.2 FDI BY ORIGIN

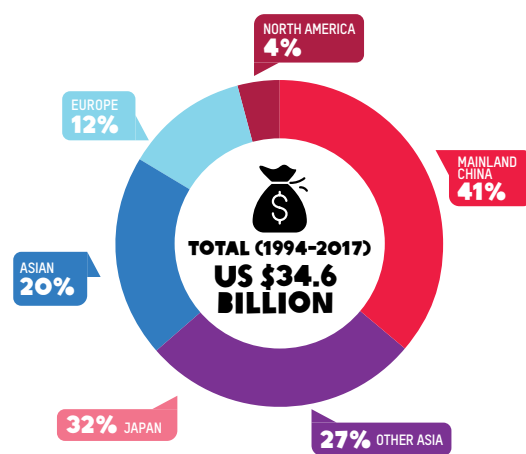
Asia accounted for 84% of FDI inflow into Cambodia between 1994 and 2017, with China representing the largest investor. Each source economy has a different area of focus. Investments from mainland China and Hong Kong tend to focus on energy, mining, garments and the agro-industry; but also construction, especially on the coastline. Investments from Korea and Malaysia focus on tourism, garments, agro-industry and bio-energy. Investments from Thailand and Vietnam are more concentrated in the agro-industry and the garment sector. A noticeable trend over the past few years is the increase in Japanese investment, which in 2016 represented 32% of total FDI²⁶, up from just 2.7% of FDI in 2015.

FIGURE 4 Cambodia's FDI inflows by origin (2016)



Source: CDC. (2018). Investment Trend.

Cambodia's FDI Inflows by origin (1994-2017)



Source: Data provided by CDC upon formal request

Ten countries invested more than US \$1 billion in terms of fixed assets from 1994 to 2017. China, ASEAN and North-East Asian states are well represented. The United Kingdom is a surprisingly large investor, although a significant portion of this figure is thought to originate from companies moving funds through UK overseas territories.

TABLE 7 FDI Inflow and Total Investment into Cambodia (1994 - 2017)

#	SOURCE ECONOMY	FIXED ASSETS(US \$ MILLIONS)	% OF TOTAL FIXED ASSETS INVESTED
1	Mainland China	US \$12,601	36.4%
2	Korea	US \$4,651	13.4%
3	United Kingdom	US \$3,027	8.7%
4	Malaysia	US \$2,728	7.9%
5	Vietnam	US \$1,762	5.1%
6	United States	US \$1,362	3.9%
6	Hong Kong	US \$1,334	3.9%
7	Singapore	US \$1,225	3.5%
8	Japan	US \$1,211	3.5%
9	Taiwan	US \$1,208	3.5%
10	Thailand	US \$1,097	3.2%
11	Other	US \$2,418	7.0%
Total FDI		US \$34,625	100%

²⁶ The Council for the Development of Cambodia. (2018). Investment Trend. Available from: <http://www.cambodiainvestment.gov.kh/why-invest-in-cambodia/investment-environment/investment-trend.html>

CATEGORY	FIXED ASSETS (US \$ MILLIONS)	% OF TOTAL FIXED ASSETS
Total FDI into Cambodia	US \$34,625	55.6%
Domestic investment in Cambodia	US \$27,621	44.4%
Total	US \$62,246	100%

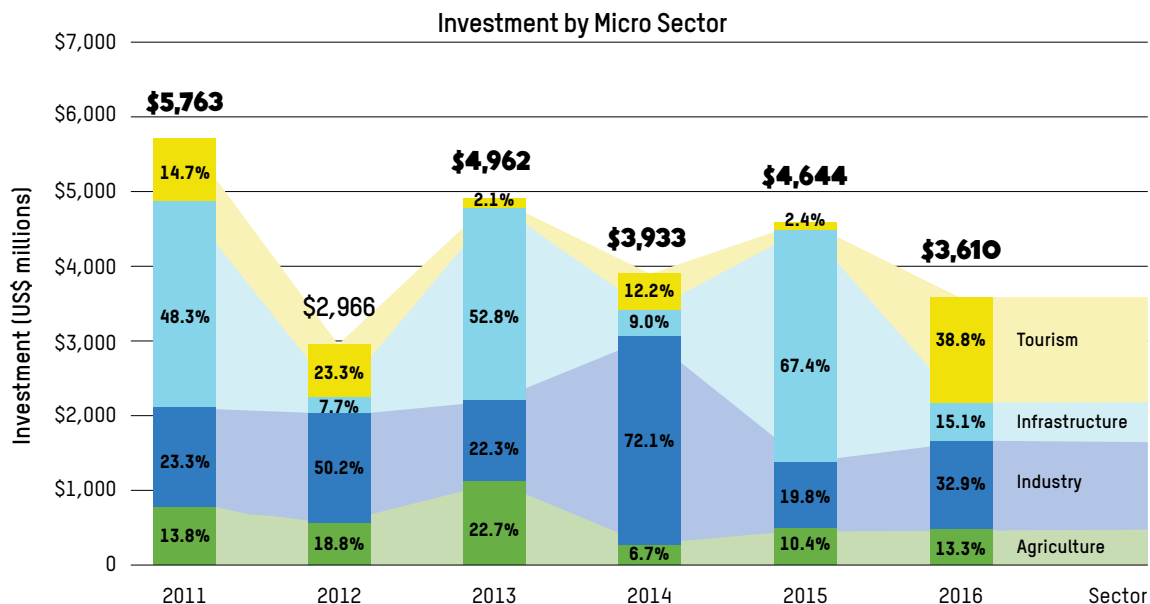
Source: The Council for the Development of Cambodia. (2018). Investment Trend.

3.2 FDI INTO AGRICULTURE

The government of Cambodia has been actively courting investment into agriculture. Agricultural development remains a catalyst for economic growth, and from 1994-2017, the sector absorbed 11.45%²⁷ of approved foreign investment into the country²⁸. This investment is largely in the form of at least 267 Economic Land Concessions granted since 1994²⁹.

From 2011-2016, approximately 14% of approved investment (both domestic and foreign) in Cambodia has been for agriculture, 30% for industry, 35% for infrastructure and 9% for tourism³⁰. Investment into agriculture in this period amounted to US \$3.7 billion dollars. Investment into agriculture has decreased since 2012 and 2013 following Order 01 of 2012 on the “Measures Strengthening and Increasing the Effectiveness of the Management of Economic Land Concessions”, which placed a moratorium on the granting of new ELCs.

FIGURE 5 Approved Investment by Macro Sector (2011-2016)



Source: The Council for the Development of Cambodia. (2018). Investment Trend.

Note: this figure represent total Investment - including domestic investment from Cambodia.

²⁷ Note: 11.45% figure obtained by dividing total foreign investment into agriculture (US \$ 4 billion, Table 9) by total foreign investment into Cambodia (US \$ 34.6 billion, Table 7)

²⁸ The Council for the Development of Cambodia. (2018). Analysis of Capital by Country, Projects Approved from 01-Aug-1994 through 31-Dec-2017.

²⁹ NGO Forum of Cambodia. (2015). Statistical Analysis of Economic Land Concession in Cambodia.

³⁰ The Council for the Development of Cambodia (2018). Investment Trend

TABLE 8 Investment into Agriculture, US \$ millions (2011–2016)

SECTOR	2011	2012	2013	2014	2015	2016	TOTAL	%
Agriculture	794.5	556.6	1,128.80	264.7	482.6	478.3	3,705.50	14.32%
Industry	1,340.80	1,489.70	1,106.70	2,835.60	919.3	1,186.30	8,878.40	34.31%
Infrastructure	2,782.30	227.8	2,620.80	353.5	3,129.80	544.3	9,658.50	37.32%
Tourism	845.6	691.5	106	479.6	111.9	1,400.80	3,635.40	14.05%
Total	5,763.2	2,965.6	4,962.3	3,933.4	4,643.6	3,609.7	25,877.80	100%

Source: The Council for the Development of Cambodia. (2018). Investment Trend.

Note: the figures in this table represent total Investment - including domestic investment from Cambodia.

From 1994 to 2017, CDC approved 257 investment projects for agriculture. The fixed assets associated with these projects totalled US \$6.1 billion, approximately two thirds of which came from foreign investors. CDC categorises agricultural projects into nine subsectors. Although the definitions of some of these subsectors are unclear and could overlap, the majority of projects were for agro-industry, rubber, rice and plantations.

TABLE 9 FDI into Agricultural Subsectors (1994–2017)

SUBSECTOR	PROJECTS	FIXED ASSETS (US \$)	% OF FIXED ASSETS
Agro-Industry	98	3,537,035,284	57.97%
Rubber Plantation	67	1,643,469,505	26.94%
Rice mill	27	551,735,783	9.04%
Plantation (other)	41	212,052,208	3.48%
Other	10	95,220,556	1.56%
Animal Farming	9	48,313,940	0.79%
Flour	3	6,641,400	0.11%
Fishery	1	4,951,325	0.08%
Tobacco	1	2,164,800	0.04%
Total	257	6,101,584,801	100%

Source: The Council for the Development of Cambodia. (2018). Analysis of Capital by Sector Approved from 01.08.1994 to 31.12.2018.

Note: Categories are provided by CDC, and there is some overlap. No clarification was provided on the definitions of “agro-industry”.

3.3 FDI THROUGH AGRICULTURAL ELCs

As of 2015, the NGO Forum of Cambodia estimated that there were 267 ELCs granted covering 1.54 million hectares, representing 8.5% of Cambodia’s total landmass³¹. As demonstrated in the table below, it is difficult to obtain accurate and consistent data on the number of ELCs granted, to whom they are granted, for what crops, and how much state revenue has been raised. It is harder still to know at what stage each of the ELCs that have been granted is at. Nevertheless, a figure we will refer to throughout the rest of the report is the widely accepted 267 ELCs described by the NGO Forum of Cambodia, 2015.

³¹ NGO Forum of Cambodia. (2015). Statistical Analysis of Economic Land Concession in Cambodia.

TABLE 10 ELC Land Estimates 2012-2016

#	ELC LAND SIZE	# ELC HOLDING CO.	YEAR	INVESTMENT	SOURCE
1	2.2 million hectares	274	2016	Agriculture Industrial-agricultural	LICADHO, 2016
2	1.54 million hectares	267	2015	Agriculture Industrial-agricultural	The NGO Forum of Cambodia, 2015
3	1.9 million hectares	230	2015	Agriculture Industrial-agricultural	Chea, 2015
4	1.3 million hectares	122	2014	Agriculture	MAFF, 2014
5	1.5 million hectares	117	2013	Agriculture	Thach, 2013
6	2.6 million hectares	N/A	2013	Agriculture Industrial-agricultural	ADHOC, 2014
7	2 million hectares	N/A	2012	Agriculture Industrial-agricultural	Subedi, 2012

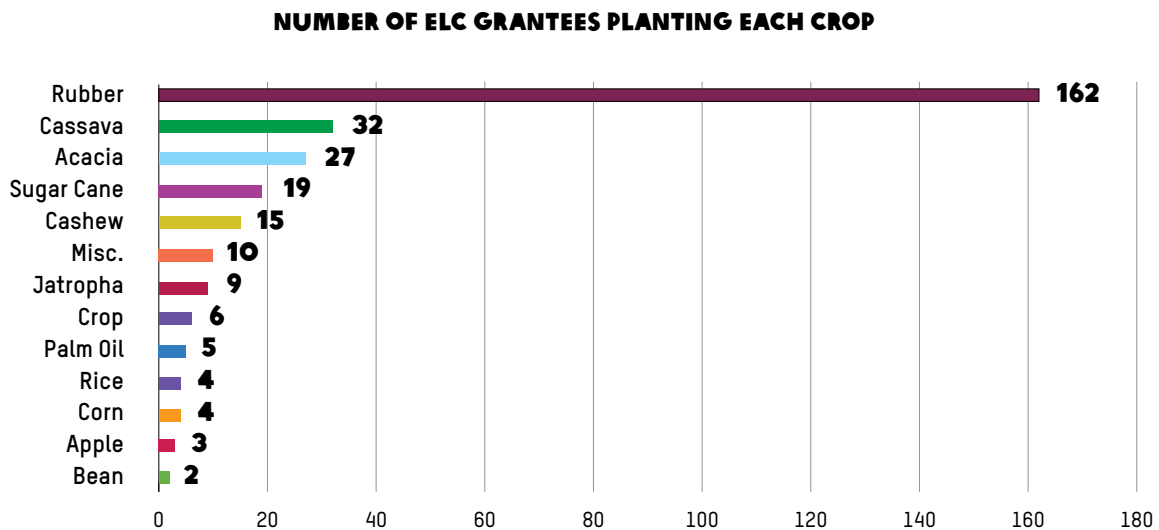
Source: Royal University of Phnom Penh. (2017). *Chinese Agricultural Investment in Cambodia: Opportunities and Challenges for Poverty Reduction*.

Note: Sub-Decree 146 on Economic Land Concessions states that ELCs can be granted for either agricultural or industrial-agricultural purposes.

3.3.1 AGRICULTURAL ELCs BY CROP

298 crops were planted in the 267 ELCs documented by the NGO Forum of Cambodia³². The most popular crop for ELC holders was rubber, followed by cassava, acacia, sugar cane and cashew nut - all important export products for the Cambodian economy.

FIGURE 6 ELC Distribution by Crops



Source: NGO Forum of Cambodia. (2015). *Statistical Analysis of Economic Land Concession in Cambodia*.

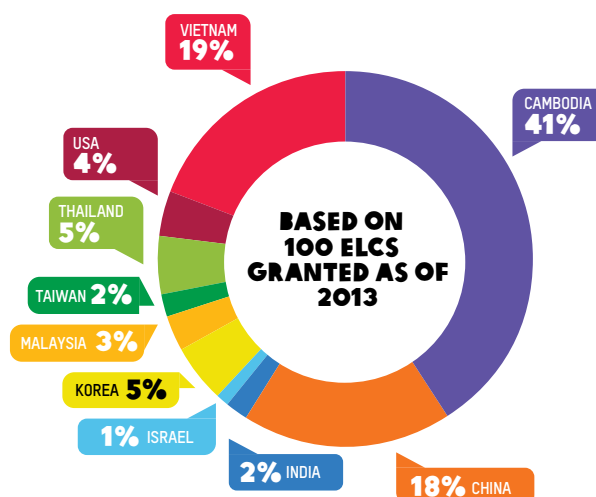
*Note: Some ELCs were granted to plant more than one crop, which is why 267 ELCs have been granted to plant 298 crops.

³² NGO Forum of Cambodia. (2015). *Statistical Analysis of Economic Land Concession in Cambodia*.

3.3.2 AGRICULTURAL ELCs BY SOURCE ECONOMY

Data describing where ELC holding companies are from is limited. Based on data compiled by JICA and CDC in 2013³³, it can be inferred that the majority of ELC holding companies are from Cambodia (41%), mainland China (18%), and Vietnam (19%), with smaller investing nations including South Korea, Malaysia, Thailand and the USA. Although this dataset is based on 100 ELC holding companies, the trend will remain similar for the 267 ELCs described by the NGO Forum³⁴.

FIGURE 7 ELC Distribution by Source Economy



Source: CDC & JICA. (2013). Cambodia Investment Guidebook.

3.3.3 AGRICULTURAL ELCs BY LOCATION

Sixty-five percent of the land awarded as ELCs was in five provinces: Kratie, Pursat, Monduliri, Preah Vihear and Ratanakiri³⁵. These areas represent the poorer and more sparsely populated provinces of Cambodia, which are home to many of Cambodia’s remaining indigenous communities.

TABLE 11 ELC Distribution by Location

NO.	PROVINCE	GRANTED ELCs	ELC LAND SIZE (HA)	% OF TOTAL LAND ELC AREA
1	Kratie	54	277,600	18.1%
2	Pursat	4	244,032	15.9%
3	Monduliri	28	177,745	11.6%
4	Preah Vihear	23	143,811	9.4%
5	Ratanakiri	27	139,572	9.1%
6	Stung Treng	18	116,537	7.6%
7	Kampong Thom	28	101,102	6.6%
8	Kampong Speu	18	83,015	5.4%
9	Oddar Meanchey	15	56,586	3.7%
10	Siem Reap	10	49,439	3.2%
11	Koh Kong	10	46,383	3.0%
12	Kampot	4	20,904	1.4%
13	Tboung Khmom	7	19,281	1.3%
14	Svay Rieng	4	14,761	1.0%
15	Sihanoukville	6	14,682	1.0%
16	Banteay Meanchey	6	12,165	0.8%

³² NGO Forum of Cambodia. (2015). Statistical Analysis of Economic Land Concession in Cambodia.

³³ JICA. (2013). Cambodia Investment Guidebook

³⁴ NGO Forum of Cambodia. (2015). Statistical Analysis of Economic Land Concession in Cambodia.

³⁵ NGO Forum of Cambodia. (2015). Statistical Analysis of Economic Land Concession in Cambodia.

NO.	PROVINCE	GRANTED ELCs	ELC LAND SIZE (HA)	% OF TOTAL LAND ELC AREA
17	Kampong Cham	3	10,545	0.7%
18	Battambang	2	4,616	0.3%
Total		267	1,532,783.65	100%

Source: NGO Forum of Cambodia. (2015). *Statistical Analysis of Economic Land Concession in Cambodia*.

3.4 BENEFITS AND NEGATIVES OF FDI INTO AGRICULTURE

If regulated and conducted responsibly, FDI into agriculture can be a significant net positive for affected countries and communities. By following strict rules of implementation and actively including all stakeholders, the benefits of increased capital inflow can be distributed in terms of access to jobs, finance, technology and improved infrastructure, as well as through improved health and social development.

If not regulated or conducted responsibly, the opposite is true. The benefits of FDI may be enjoyed disproportionately by investors, and the negative impacts are borne by the poorest and most vulnerable – and the forest ecosystems surrounding them. The risk of negative impacts is particularly high in emerging economies. Governments often welcome and promote large foreign investor projects before regulation, policy and capacity to evaluate and enforce policy has had time to catch up. In what could be said to be a case of “too much, too soon”, Cambodia has witnessed several examples of this³⁶.

TABLE 12 Positive and negative impacts of foreign investment in agribusiness

POTENTIAL BENEFITS	POTENTIAL NEGATIVES
<ul style="list-style-type: none"> • Technology transfer & innovation • Financially inclusive business models • Introduction of international best practices • Access to larger markets • Value chain development • Access to foreign currency • Economic development • Economic spillover • Job opportunities • Improved Infrastructure • Improved food security • Improved gender equality 	<ul style="list-style-type: none"> • Loss of biodiversity • Loss of culture / indigenous communities • Land speculation • Land loss & disputes • Resettlement • Unfulfilled job promises • Overuse of agricultural inputs • Pollution • Loss of livelihoods & rural income • Loss of conservation areas • Reduced food security • Reduced gender equality

Source: Author Analysis

Looking forward, Cambodia has learnt from past investment projects and is now working towards improving its policy and regulatory environment. At the same time, there are notable initiatives from major investing countries, such as China and Vietnam, to promote responsible business activities abroad. A key example includes the 2017 “Guidance for Sustainable Natural Rubber” published by the

China Chamber of Commerce of Metals, Minerals & Chemical Importers & Exporters (CCCME). The guideline aims to improve the standards of Chinese Rubber companies operating abroad³⁷. Worldwide, agribusiness companies involved in primary production are at increasing risk of losing business from downstream players if they are seen to be in significant violation of international standards³⁸.

³⁶ Oxfam. (2016). *Vietnamese Agricultural Investment in Cambodia and Laos: Benefits, Impacts and Challenges*.

³⁷ China Chamber of Commerce of Metals, Minerals & Chemical Importers & Exporters. (2017). *Guidance for Sustainable Natural Rubber*.

³⁸ Radio Free Asia. (2015). *Forest Management Group Strips Vietnamese Rubber Company of Certification*. Available from: <https://www.rfa.org/english/news/cambodia/forest-management-group-strips-vietnamese-rubber-company-of-certification-10272015153144.html>

In Cambodia, the policies and regulations governing investment into agribusiness are improving but incomplete. For now, foreign investors committed to investing responsibly into Cambodia cannot rely entirely on the existing legal framework to ensure their projects cause no harm. Instead, they should see their role as an opportunity to drive improvement and set new standards for responsible business in the country.

3.4.1 BENEFITS OF FDI INTO AGRICULTURE

The potential benefits of FDI into agriculture can be divided into three categories: economic, infrastructure related and employment related.

Economic

Foreign investment, if conducted responsibly, can be a primary means for international best practises and technologies to be diffused within emerging countries. As Cambodia pushes towards increased productivity within its major crops, international expertise and technology will become increasingly important.

Areas surrounding ELCs may also benefit from indirect economic spillover, benefiting from the inflow of capital into previously rural areas and creating opportunities for small businesses such as restaurants, input suppliers and logistics companies³⁹. The benefits of economic spillover are particularly tangible when financially inclusive business models are implemented by investors - and an appropriate share of the profits are spent in developing the communities in which projects are based.

Infrastructure

ELCs are most often located in rural areas that would not otherwise see an influx of FDI. Local infrastructure is often weak and undeveloped, and investors may develop roads, bridges and telecommunications, power and storage facilities in order to implement their ELC business plans. These infrastructure upgrades can also be beneficial for local communities, increasing their mobility and access to markets and information.

Many companies also develop houses, medical facilities and schools to improve the health, education and living conditions of their workers and local community members.

Employment

Agribusiness projects often require a large labour force of skilled and unskilled workers. As a result, if local hiring is prioritised, companies running ELCs can provide employment and training opportunities for local community members, and the opportunity for them to receive a stable monthly income⁴⁰. Improved infrastructure and access to job opportunities can cause profound social changes, such as improved food and nutrition security, and gender equality via the provision of jobs to women.

3.4.2 NEGATIVES OF FDI INTO AGRICULTURE

Foreign Direct Investment into agriculture can also bring about significant negative impacts if poorly managed. Although the introduction of ELCs has increased FDI into Cambodia, it can also lead to land disputes, cultural loss and environmental degradation. The potential negatives of FDI into agriculture can be divided into three categories: environmental, social and economic.

Environmental

ELCs are mostly granted to commercially grow between one to five crops in previously natural forest areas. This will almost always cause habit loss and be detrimental to biodiversity within the area. Although to some extent this is unavoidable, companies can exacerbate the issue by failing to accurately assess, quantify and monitor the environmental impact of their investment projects. Further risks include poor water quality from agricultural run-off, soil erosion, pollution, and decreased food security for Project Affected People (PAP) due to loss of access to foraging land⁴¹. In general Cambodia's EIA policies have been perceived as incomplete by private investors in the past, and cases of illegal large-scale deforestation have been reported in ELC areas⁴². These policies are discussed in the next section.

³⁹ The World Bank. (2017). The Impact of Larger Scale Agricultural Investments on Local Communities.

⁴⁰ The World Bank. (2017). The Impact of Larger Scale Agricultural Investments on Local Communities.

⁴¹ The World Bank. (2017). The Impact of Larger Scale Agricultural Investments on Local Communities.

⁴² Open Development Cambodia. (2015). Deforestation drivers.

Social

Negative social impacts of ELCs can include involuntary resettlement, loss of land, loss of rural livelihoods, and ongoing land disputes. In Cambodia, there are common conflicts between the investor, holding formal land rights, and community members holding informal land rights⁴³. Negative impacts are particularly likely if local communities are not effectively involved in decision making, not informed of major developments, and if meaningful participation of stakeholders is not strictly enforced by relevant authorities⁴⁴. In Cambodia, these problems are worsened due to a lack of formal guidelines for compensation payments, and limited or inefficient conflict resolution mechanisms for community members to raise concerns⁴⁵.

Economic

ELCs can have negative economic impacts if investors fail to use the land as expected, fail to deliver on promises related to employment and social benefits, or fail in becoming financially or operationally viable⁴⁶.

These scenarios create lose-lose situations for all stakeholders - and are more likely in countries where the pace at which investments are approved is greater than the pace at which the government can pre-screen, monitor and regulate those investments. In Cambodia, there have been several cases of ELCs being granted with limited monitoring, that failed to adhere to their approved plans at significant detriment to PAP⁴⁷. Cambodia has also seen cases where the absolute income of PAP declined following the implementation of an ELC. An extensive quantitative study conducted in Kampong Thom, Kampong Speu and Kampot provinces revealed a decline in household total income, environmental income, cultivable land, as well as increased travel distances required to reach forest areas⁴⁸.

⁴³ NGO Forum of Cambodia. (2015). Statistical Analysis of Land Disputes in Cambodia.

⁴⁴ Cambodian Centre for Human Rights. (2013). Cambodia: Land in Conflict An Overview of the Land Situation.

⁴⁵ Cambodian Centre for Human Rights. (2013). Cambodia: Land in Conflict An Overview of the Land Situation.

⁴⁶ The World Bank. (2017). The Impact of Larger Scale Agricultural Investments on Local Communities.

⁴⁷ S Milne. Critical Asian Studies. (2015). Illicit Logging in the Shadow of Transnational Governance and Investment.

⁴⁸ Xi Jiao et al. University of Copenhagen. (2015). Rural household incomes and land grabbing in Cambodia.

04

POLICY OVERVIEW: FDI INTO AGRICULTURE

04

FDI IN AGRIBUSINESS: CAMBODIA

For the purpose of this report, policies affecting FDI into agriculture, and relevant for the mitigation of environmental and social impacts have been divided into four categories:

- Investment Incentives - drivers of FDI into the country
- ELC Policies - regulations governing the grant and assessment of ELC applications
- Land Titling Policies - regulations governing land rights and titling processes
- Environmental Impact Assessment (EIA) Policies - determining the timing and quality of EIAs

The Council for the Development of Cambodia (CDC) is the main authority governing foreign investment in the country, and the Ministry of Agriculture, Forestry and Fisheries (MAFF) is responsible for overseeing investment into the agriculture sector.

In Section 4, policies relevant to FDI in Agriculture are described in detail. In general, Cambodia's policies and processes are fairly robust. Weak implementation of these policies in the past, and to a lesser extent currently, remains the primary cause of negative environmental and social impacts. These issues are discussed in Section 5: FDI Process Map.

4.1 INVESTMENT INCENTIVES

The enactment of the Law on Investment in 1994, together with its subsequent amendment in

2003, intends to create favourable conditions and investment incentives for domestic and foreign investors. The law appoints the Council for the Development Cambodia (CDC) as the main authority to approve foreign direct investment in Cambodia. The Royal Government has taken a proactive approach in courting foreign investment and has introduced incentives such as the Qualified Investment Project (QIP) scheme, the creation of Special Economic Zones (SEZs) to facilitate easier business operations within the Kingdom, and the promulgation of improved laws related to contract farming.

TABLE 13 FDI Policy/Law

FDI POLICIES / LAWS		
Policy/Law	Date	Key Stakeholders
Law on Investment ⁴⁹	1994	CDC, MEF

4.1.1 QIP & TAX EXEMPTION

Under the Law on Investment (1994) and the Law on the Amendment to the Law on Investment 2003 - which together form the Consolidated Law on Investment (2003) - foreign investors can apply to have their project treated as a Qualified Investment Project in order to benefit from investment incentives. Qualified Investment Projects (QIP) in the area of agriculture and agro-industry may obtain incentives in the form of a priority period of tax exemption on profit for three (3) years⁵⁰.

⁴⁹ Kingdom of Cambodia. (1994). Law on Investment of the Kingdom of Cambodia. Official English translation available from: http://www.cambodiainvestment.gov.kh/law-on-investment-august-05-1994-and-law-on-the-amendment-to-the-law-on-investment_030324.html

⁵⁰ Kingdom of Cambodia. (2005). Sub-Decree on the implementation of the law on the amendment to the law on investment in the Kingdom on Cambodia. No 111. Official English translation available from: http://www.cambodiainvestment.gov.kh/wp-content/uploads/2011/10/Sub-Decree-111-on-Implementation-L01_050927.pdf

To obtain a QIP status the company has to submit an investment proposal to the Council for the Development of Cambodia (CDC) or the Provincial/Municipal Investment Sub-Committee (PMIS). The Council shall issue the Applicant a Conditional Registration Certificate or a Letter of Non-Compliance within three working days. A Final Registration Certificate shall be issued within 28 working days of its issuance of the Conditional Registration Certificate.

TABLE 14 QIP Policy / Law

QIP POLICIES / LAWS		
Policy/Law	Date	Key Stakeholders
Consolidated Law on Investment (QIP Law) ⁵¹	2003	CDC
Sub-Decree No. 111 on the implementation of the law on the amendment to the law on investment in the Kingdom on Cambodia ⁵²	2005	CDC

QIP eligible activities in the agriculture and agribusiness sectors include crop and livestock production, fisheries, food processing, paper production, as well as the manufacture of leather, rubber, plastics and agricultural inputs⁵³. There are strict size and investment criteria within each of these subsectors to determine eligibility.

Other regulations supporting investment in agriculture include:

- **Prakas 312 MEF**, which sets a VAT exemption on import and supply of agricultural inputs;
- **Prakas 313 MEF** provides VAT incentives to contractors who supply paddy rice or support services to rice exporters;
- **Prakas 779 MEF**, which sets a 0% VAT rate for rice supply;
- **Prakas 495 MEF**: Considers unprocessed agricultural products as non-taxable supplies; and finally:

- **Policy Document on Promotion of Paddy Rice Production and Export of Milled Rice** aims to increase paddy rice productivity and export, improve logistics and provide accessible credit to rice producers.

4.1.2 SUB DECREE ON CONTRACT FARMING

The Sub-Decree on Contract Farming set the conditions for contract-based agricultural production, and established a mechanism for resolving issues. The Royal Government of Cambodia initiated the implementation of contract-based agricultural production through the Sub-Decree on Contract Farming. The objective of this Sub-Decree is to enhance agricultural production through trusted framework between producers and buyers with support from the authority. The Sub-Decree specifies that Ministry of Agriculture, Forestry and Fisheries is the lead body in communicating, coordinating, monitoring and providing suitable environment to the development of contract farming.

TABLE 15 Contract Farming Policy / Law

CONTRACT FARMING POLICIES / LAWS		
Policy/Law	Date	Key Stakeholders
Sub-Decree on Contract Farming ⁵⁴	2011	MAFF

4.2 ELC POLICES

According to the Law on Investment, CDC is the sole and one-stop authority overseeing investment proposals in the Kingdom. However, MAFF is also involved in the approval process for investments into agriculture⁵⁵. MAFF is currently responsible for approving ELCs with a total area of 1,000 hectares or more. ELCs with size smaller than 1,000 hectares stated ones are under the responsibility of relevant provincial/municipal governor. The Ministry of Environment (MOE) had jurisdiction to grant ELCs in

⁵¹ Kingdom of Cambodia. (1994). Law on the Amendment to the Law on Investment. Official English translation available from: http://www.cambodiainvestment.gov.kh/law-on-investment-august-05-1994-and-law-on-the-amendment-to-the-law-on-investment_030324.html.

⁵² Kingdom of Cambodia. (2005). Sub-Decree on the implementation of the law on the amendment to the law on investment in the Kingdom on Cambodia. No 111. Official English translation available from: http://www.cambodiainvestment.gov.kh/wp-content/uploads/2011/10/Sub-Decree-111-on-Implementation-LOI_050927.pdf

⁵³ Kingdom of Cambodia, Ministry of Agriculture, Forestry and Fisheries. (2017). Guidebook for Investors in the Agricultural Sector

⁵⁴ Kingdom of Cambodia. (2011). Sub Decree on Contract Farming. Unofficial English translation available from: http://www.kuratapepper.com/Contract_Farming_Law.pdf

⁵⁵ Kingdom of Cambodia. Ministry of Agriculture, Forestry and Fisheries. (2016). Sub-decree on Transfer of the Protected Forest, Forest Conservation and Production Forest Areas, and Economic Land Concessions between MAFF, and MoE.

the past, although dual responsibility was abolished under Sub-decree No. 69 in 2016 - and 73 ELCs were transferred from MOE to MAFF.

TABLE 16 ELC Policy/Law

ELC POLICIES / LAWS		
Policy/Law	Date	Key Stakeholders
2001 Land Law ⁵⁶	2001	MAFF, MLMUPC
2005 Sub-Decree 146 on Economic Land Concessions ⁵⁷	2005	MAFF, MLMUPC
2007 Sub-Decree 114 on the Mortgage and Transfer of the Rights over a Long-Term Lease or an Economic Land Concession ⁵⁸	2007	MAFF, MLMUPC
Order #01, Measures to Strengthen and Increase Effectiveness of Economic Land Concession Management ⁵⁹	2012	MAFF, MLMUPC
Inter-ministerial Prakas No. 177 on Strengthening Economic Land Concession Management ⁶⁰	2014	MAFF, MOE
2016 Sub-decree No.69 on Transfer of the Protected Forest, Forest Conservation and Production Forest Areas, and Economic Land Concessions between MAFF, and MOE ⁶¹	2016	MAFF, MOE

The 2001 Land Law and Sub Decree 146 of 2005 on Economic Land Concessions define the conditions for ELCs.

4.2.1 SUB-DECREE 146 ON ECONOMIC LAND CONCESSIONS

According to Sub-decree 146, ELCs can be legally granted only on state private land for uses consistent with the land-use plan adopted by the Provincial-Municipal State Land Management Committee. Relevant articles of Sub Decree 146 are included in the appendix.

2005 Sub Decree 146 - Article 4: Criteria for Granting of ELC

- The land has been registered or classified as state private land
- A land use plan has been adopted that is consistent with the land-use plan adopted by the Provincial-Municipal State Land Management Committee.

- An Environmental and Social Impact Assessment (EIA) has been completed.
- The land has solutions for resettlement issues in accordance with the law.
- No involuntary resettlement associate with the land occurs
- Access to private land shall be respected
- Consultations with the public have been undertaken with regards to the project plan and proposals.

The Land Law states that land concessions cannot exceed 10,000 hectares, and that “*the issuance of land concession titles relating to surface areas that are greater than [10,000 hectares] in favour of one specific person or several legal entities controlled by the same natural persons is prohibited*” - in short, that the same person or legal entity cannot hold several concessions that total more than 10,000 hectares⁶². In practice, there are well known cases of conglomerates holding several ELCs totalling well over this limit, sometimes adjacent to one another.

⁵⁶ Kingdom of Cambodia. (2001). Land Law. Unofficial English translation available from: <http://faolex.fao.org/docs/texts/cam27478.doc>

⁵⁷ Kingdom of Cambodia. (2005). Sub-Decree 146 on Economic Land Concessions. Unofficial translation available from: http://www.cambodiainvestment.gov.kh/sub-decree-146-on-economic-land-concessions_051227.html

⁵⁸ Kingdom of Cambodia. (2007). 2007 Sub-Decree 114 on the Mortgage and Transfer of the Rights over a Long-Term Lease or an Economic Land Concession. Official translation available from: http://www.cambodiainvestment.gov.kh/sub-decree-114-rgc-on-the-mortgage-and-transfer-of-the-rights-over-a-long-term-lease-or-an-economic-land-concession_070829.html

⁵⁹ Kingdom of Cambodia. (2012). Order #01, Measures to Strengthen and Increase Effectiveness of Economic Land Concession Management. No translation available.

⁶⁰ Kingdom of Cambodia. (2014). Inter-ministerial Prakas 177 on Strengthening Economic Land Concession Management. No translation available.

⁶¹ Kingdom of Cambodia. (2016). Sub-decree No.69 on Transfer of the Protected Forest, Forest Conservation and Production Forest Areas, and Economic Land Concessions between MAFF, and MOE. No translation available.

⁶² Kingdom of Cambodia. (2001). Land Law. Unofficial English translation available from: <http://faolex.fao.org/docs/texts/cam27478.doc>

Sub-decree 146 reiterates this 10,000 hectare limit, but in article 39 introduces conditions by which an ELC may exceed the 10,000 hectare limit, namely if:

- The concession was granted prior to the effective date of the Land Law of 2001;
- A reduction in the holdings would impact the on-going business operation when the Land Law comes into force. Tree cutting or shrub burning for land clearing purpose shall not be considered as the start of business operation or a demonstration of meeting land development requirements under the concession contract.

4.2.2 2007 SUB-DECREE 114 ON THE MORTGAGE AND TRANSFER OF THE RIGHTS OVER A LONG-TERM LEASE OR AN ECONOMIC LAND CONCESSION

The 2007 Sub-Decree 114 sets the principles and conditions for the transfer of ELCs between investors. Although the Sub-Decree states that an investor “cannot transfer or mortgage their rights over an economic land concession which has not been developed in conformity with the conditions of the economic land concession agreement”, it does not specifically mention the obligations of an ELC holder to notify PAP of the transfer of an ELC⁶³.

4.2.3 ORDER #01, MEASURES TO STRENGTHEN AND INCREASE EFFECTIVENESS OF ECONOMIC LAND CONCESSION MANAGEMENT

In May 2012, the Royal Government issued order 01 of 2012 on the Measures Strengthening and Increasing the Effectiveness of the Management of Economic Land Concessions, which placed a moratorium on new ELCs being granted, and called for a review of those already issued. If a concessionaire does not comply

with the legal requirements, then the concession can be cancelled.

ELC evaluations that followed order 01 have resulted in at least 23 cancellations⁶⁴ - these were focused on dormant ELCs, rather than those involved in land disputes. The NGO Forum of Cambodia reported that as of 2015, 162 of the 267 ELC holding companies were evaluated by MAFF and MOE, and 138 of these were allowed to continue their activities. In total, 78 companies in 15 provinces had their ELC areas reduced, particularly in Preah Vihear, Ratanakiri and Kratie provinces.

4.2.4 INTER-MINISTERIAL PRAKAS NO. 177 ON STRENGTHENING ECONOMIC LAND CONCESSION MANAGEMENT

The regulations put forward in Order 01 were further strengthened by the 2014 Inter-ministerial Prakas 177 on Strengthening Economic Land Concession Management. The prakas formalised the “Leopard Skin” policy established in Order 01, and set conditions for the enhanced collaboration of government, technical officials and PAP during the land clearing process. According to the prakas, if conflict arises, the investment process must be suspended until resolved. Finally, the prakas assigns responsibility to the investor to prevent logging in conservation areas associated with the ELC, and states that ELC holders must keep and record any forest by-products for tax purposes.

4.3 LAND TITLING POLICIES

Private land ownership was re-established in Cambodia in the 1993 constitution, following the abolition of private property by the Khmer Rouge.

⁶³ Kingdom of Cambodia. (2007). 2007 Sub-Decree 114 on the Mortgage and Transfer of the Rights over a Long-Term Lease or an Economic Land Concession. Official translation available from: http://www.cambodiainvestment.gov.kh/sub-decree-114-rgc-on-the-mortgage-and-transfer-of-the-rights-over-a-long-term-lease-or-an-economic-land-concession_070829.html

⁶⁴ NGO Forum of Cambodia. (2015). Statistical Analysis of Economic Land Concession in Cambodia.

TABLE 17 Land Titling Policy / Law

ELC POLICIES / LAWS		
Policy/Law	Date	Key Stakeholders
2001 Land Law ⁶⁵	2001	MAFF, MLMUPC
2002 Sub-Decree No:47 on the Organization and Functioning of the Cadastral Commission ⁶⁶	2002	MAFF, MLMUPC
2009 Sub Decree on procedures of registration of land of indigenous communities ⁶⁷	2009	Council of Ministers, MOI, MLMUPC
Order #01, 7 May 2012 Measures to Strengthen and Increase Effectiveness of Economic Land Concession Management ⁶⁸	2012	MLMUPC, MAFF

4.3.1 LAND LAW

The 2001 Land Law introduced a comprehensive framework for land tenure and administration in Cambodia. The law extended ownership rights to residential and agricultural land; and introduced a categorisation system for land ownership, consisting of: State-Public Land, State-Private Land, Private Land and Indigenous-Communal Land⁶⁹. Of relevance to this study, the Land Law also established the regulations for the issuing of land concessions for economic purposes (ELCs), and for livelihood purposes in the form of Social Land Concessions (SLCs).

- 1. State Public Land:** Comprises all lands that have a public interest value
- 2. State Private Land:** Comprises property that belongs to the state but with no public interest value
- 3. Private Land:** Comprises property legally owned or possessed by a person or company
- 4. Indigenous Communal Land:** Property available to indigenous communities

Of note, state public land can be converted to state private land if “public properties lose their public interest use”⁷⁰. This is important as only private property of the state - state private land - can be

granted as a land concession. The Law states that total land concessions granted to a legal entity should not exceed 10,000 hectares, and that concessions granted for industrial cultivation must be exploited within 12 months, or risk being cancelled.

In an effort to remove uncertainty over land ownership, following the introduction of the 2001 Land Law, the government began to classify and register all land parcels into the four ownership categories. In 2002, “Sub-Decree No:47 on the Organization and Functioning of the Cadastral Commission” established a cadastral commission to resolve land ownership disputes emerging during land registration⁷¹ - the commission included a commitment to improve distribution of land to the poor⁷².

4.3.2 SUB DECREE ON PROCEDURES OF REGISTRATION OF LAND OF INDIGENOUS COMMUNITIES

Although the Cambodia government recognises indigenous community land rights, the process of registering communal land titles has been slow⁷³. Land titling for indigenous communities was strengthened in 2009. All pieces of indigenous community land are registered as a collective title on a single cadastral

⁶⁵ Kingdom of Cambodia. (2001). Land Law. Unofficial English translation available from: <http://faolex.fao.org/docs/texts/cam27478.doc>

⁶⁶ Kingdom of Cambodia. (2002). Sub-Decree No. 47 on the Organization and Functioning of the Cadastral Commission. Unofficial English translation available from: [http://www.sithi.org/admin/upload/law/Sub-decree%20No%2047%20on%20the%20Organization%20and%20Functioning%20of%20the%20Cadastral%20Commission%20\(2002\).ENG.pdf](http://www.sithi.org/admin/upload/law/Sub-decree%20No%2047%20on%20the%20Organization%20and%20Functioning%20of%20the%20Cadastral%20Commission%20(2002).ENG.pdf)

⁶⁷ Kingdom of Cambodia. (2009). Sub Decree on procedures of registration of land of indigenous communities. Unofficial English translation available from: https://thereddesk.org/sites/default/files/sub-decree_on_procedures_of_registration_of_land_of_indigenous_communities.pdf

⁶⁸ Kingdom of Cambodia. (2012). Order #01, Measures to Strengthen and Increase Effectiveness of Economic Land Concession Management. No translation available.

⁶⁹ Oxfam. (2016). Vietnamese Agricultural Investment in Cambodia and Laos: Benefits, Impacts and Challenges.

⁷⁰ Kingdom of Cambodia (2001). The Land Law. Chapter 2. Article 16. Unofficial English translation available from: <http://faolex.fao.org/docs/texts/cam27478.doc>

⁷¹ Kingdom of Cambodia. (2002). Sub Decree 47 on Organization and Functioning of the Cadastral Commission.

⁷² Oxfam. (2016). Vietnamese Agricultural Investment in Cambodia and Laos: Benefits, Impacts and Challenges.

⁷³ Cambodian Centre for Human Rights. (2016). Access to Collective Land Titles for Indigenous Communities in Cambodia.

map⁷⁴. Due to the fact that community land is a collective ownership, those who wish to leave the community may get an appropriate piece of land or compensation based on an agreement between with the community.

4.3.3 ORDER 01: MEASURES TO STRENGTHEN AND INCREASE EFFECTIVENESS OF ECONOMIC LAND CONCESSION MANAGEMENT

Order 01 of 2012 was issued to bring about smallholder land reform. Aside from marking the beginning of the moratorium on new ELCs, the order urges authorities to effectively implement ELC related policies, as well as the “leopard skin” policy of regularisation of PAP, rather than eviction - in an effort to mitigate adverse environmental and social impacts⁷⁵.

Following an increase in the number of ELCs being granted, and a subsequent surge in land disputes related to them, the order had a particular focus on returning land to people living in ELC areas. The order was largely implemented by student volunteers, who received a three-day training course on how to measure land using GPS technology, and grant land titles.

Order 01 facilitated the return of around 330,000 ha of ELC areas to people living in project affected areas⁷⁶, but was not without its faults. For example, Alison Rabe reported in 2013 that communal land titling was made more challenging under this Directive, with some indigenous families in Ratanakiri

reporting that they risked losing all land rights if they did not accept private titles⁷⁷. It was also reported that the period for implementation was too short and that there was not enough time for communities to file complaints about boundary inaccuracies, which in turned caused land disputes in some cases.

4.4 EIA POLICIES

The Royal Government itself recognises that the legal framework for conducting EIAs is incomplete. However, Cambodia has made noticeable improvements towards its EIA policy in recent years. These culminated in the draft 2016 Prakas on Public Participation in Environmental Impact Assessment Process, along with the Guidelines on Public Participation in Environmental Impact Assessment. These documents laid out detailed instructions to facilitate meaningful and effective participation of PAP - although as of January 2019, neither been established as law.

To improve EIA implementation in the future, the draft “Code of Environmental and Natural Resources of Cambodia” is under review - a compilation of all regulations related to environment and natural resources⁷⁸. The code will incorporate new EIA procedures. The 11th round of review for the code occurred in April 2018.

Cambodia’s current policies towards EIAs are described in five primary regulations.

⁷⁴ Open Development Cambodia. (2015). Communal land. Available from: <https://opendevelopmentcambodia.net/topics/communal-land/>

⁷⁵ Syff Association. (2014). How the Leopard Got Its Spots: Gender Dimensions of Land Reform in Cambodia.

⁷⁶ ADHOC. (2014). Land Situation in Cambodia 2013.

⁷⁷ Rabe A. (2013). Directive 01BB in Ratanakiri Province, Cambodia: issues and impacts of private land titling in indigenous communities’, in collaboration with the Ratanakiri Communal Land Titling Working Group.

⁷⁸ Open Development Cambodia. (2018). Environmental impact assessments. Available from: <https://opendevelopmentcambodia.net/topics/environmental-impact-assessments/>

TABLE 18 EIA Policy / Law

ELC POLICIES / LAWS		
Policy/Law	Date	Key Stakeholders
Law on Environmental Protection and Natural Resource Management ⁷⁹	1996	MOE
Sub-Decree on the Implementation of Environmental Impact Assessment Process ⁸⁰	1999	MOE
Prakas on General Guidelines for Developing Initial and Full Environmental Impact Assessment Reports ⁸¹	2009	MOE
Draft Prakas on Public Participation in Environmental Impact Assessment Process ⁸²	2016 (Draft)	MOE
Draft Guideline on Public Participation in Environmental Impact Assessment ⁸³	2016 (Draft)	MOE

4.4.1 LAW ON ENVIRONMENTAL PROTECTION AND NATURAL RESOURCE MANAGEMENT

Chapter III of the Environment Law requires that an environmental impact assessment (EIA) be conducted for projects likely to have an impact on the environment, whether they are funded by the public or private sector.

4.4.2 SUB-DECREE ON ENVIRONMENTAL IMPACT ASSESSMENT PROCESS

The sub-decree on EIAs states that the EIA process should “encourage public participation in the implementation of the EIA process and take into account their input and suggestions in the process of project approval,” but does not elaborate on the level or nature of public consultation that is required.

Environmental Impact Assessments (EIAs) are required for certain projects depending on their type and size - the conditions for each are listed in the Sub-Decree on the Implementation of Environmental Impact Assessment Process.

According to the sub-decree, project owners must submit an Initial Environmental Impact Assessment (IEIA) and a pre-feasibility study to the MOE and Project Approval Ministry/Institution. Full Environmental Impact Assessment (FEIA) reports and pre-feasibility studies must be submitted if a project is deemed to have a severe impact on environment and public welfare. Upon submission of an IEIA or FEIA report, the MOE will provide findings and recommendations to the Project Owner and Project Approval Ministry/Institution within 30 working days. Project owners are also required to contribute a donation to the Environment Endowment Fund. The MOE, in cooperation with other line ministries, has the authority to halt ongoing projects that fail to implement the Environmental Management Plans (EMP) stated in the EIA report. In the case of misconduct, the MOE can file a complaint against the project owner.

Based on their perceived impact to the environment and public welfare, the following list of agricultural / agro-processing projects are officially subject to EIA.

⁷⁹ Kingdom of Cambodia. (1996). Law on Environmental Protection and Natural Resource Management. Unofficial English translation available from: <http://www.cambodia-redd.org/wp-content/uploads/2013/05/LAW-1296-36-96-Environmental-Protection-Natural-Resources-Mgt-E.pdf>

⁸⁰ Kingdom of Cambodia. (1999). Sub-Decree on the Implementation of Environmental Impact Assessment Process. Official English translation available from: http://www.cambodiainvestment.gov.kh/sub-decree-72-anrk-bk-on-environment-impact-assessment-process-pdf_990811.html

⁸¹ Kingdom of Cambodia. (2009). Prakas on General Guidelines for Developing Initial and Full Environmental Impact Assessment Reports. Unofficial English translation available from: <https://www.ajne.org/sites/default/files/resource/guides/7205/prakas-on-general-guideline-for-conducting-iee-and-eia-reports-376-2009-en.pdf>

⁸² Kingdom of Cambodia. (N/A). Draft Prakas on Public Participation in Environmental Impact Assessment Process. No English translation available.

⁸³ Kingdom of Cambodia. (2016). Draft Guideline on Public Participation in Environmental Impact Assessment. Unofficial English translation available from: <http://www.sustainatgreen.com/uploads/document/Public%20Participation%20Guideline%20Eng.pdf>

TABLE 19 Agricultural / Agro-processing projects subject to EIA

PROJECT	CAPACITY
Food processing and canned	≥ 500 Tones/year
All fruit drinks manufacturing	≥ 1,500 Litres / day
Fruit manufacturing	≥ 500 ones/year
Orange Juice manufacturing	All sizes
Tobacco manufacturing	≥ 10,000 Boxes/day
Tobacco leave processing	≥ 350 Tones/ year
Sugar refinery	≥ 3,000 Tones / year
Rice mill and cereal grains	≥ 3,000 Tones / year
Fish, soy bean, chili, tomato sources	≥ 500,000 Litres/ year
Rubber factory	≥ 1,000 Tones /year
Saw mill	≥ 50,000m3/year (log)
Plywood	≥ 100,000m3/year(log)
Paper factory	All sizes
Pulp and paper processing	All sizes
Concession forest	≥ 10,000 Hectares
Logging	≥ 500 Hectares
Land covered by forest	≥ 500 Hectares
Agriculture and agro-industrial land	≥ 10,000 Hectares
Flooded and coastal forests	All sizes
Irrigation systems	≥ 5,000 Hectares
Drainage systems	≥ 5,000 Hectares
Fishing ports	All sizes

4.4.3 PRAKAS ON GENERAL GUIDELINES FOR DEVELOPING ENVIRONMENTAL IMPACT ASSESSMENT REPORTS

This prakas defines Environmental Impact Assessment (EIA) as the assessment of the physical, biological and socio-economic environment as well as the resources within or surrounding the project site.

The prakas describes the process for a preliminary assessment based on secondary data for the Initial Environmental Impact Assessment (IEIA), and a detailed assessment based on primary data for Full Environmental Impact Assessment (FIEA).

To complete an IEIA or FEIA, project owners must use a qualified consulting firm registered at Ministry of Commerce and recognised by the MOE.

The Department of Environmental Impact Assessment Monitoring and Review within MOE, or concerned Provincial Departments of Environment can conduct

a site visit to decide whether an IEIA or FEIA is needed.

All agricultural ELCs should in theory require both an IEIA and FEIA, and ELC holders must request a review of these assessments from the Department of Environmental Impact Assessment Monitoring and Review, or concerned Provincial Departments of Environment. On paper, the review procedure takes 30 working days and is fairly robust:

The four-step process at the ministerial level includes:

- Visit and comments made by technical officials of Department of Environmental Impact Assessment Monitoring and Review at the project site (10 working days)
- Comments made by relevant departments of the MOE (5 working days)
- Comments by the management of the MOE (5 working days)



- Comments at multi-stakeholder meeting chaired by the Minister of MOE with representation from relevant government ministries/ agencies, local authorities, non-governmental organisations, and other stakeholders concerned with the investment project (5 working days)

The three-step process at the provincial level includes

1. Visit and comments made by technical officials of Department of Environmental Impact Assessment Monitoring and Review at the project site (15 working days)
2. Comments by the management of the provincial Department of Environment (5 working days);
3. Comments at multi-stakeholder meeting chaired by the Director of provincial Department of Environment with representation from relevant provincial departments/agencies, local authorities,

non-governmental organisations, and other stakeholders concerned with the investment project (5 working days)

If an IEIA or FEIA is approved, a second review will be made by the MOE or Provincial Department of Environment within 30 working days. The Department of Environmental Impact Assessment Monitoring and Review or provincial Department of Environment has the responsibility to follow up, monitor and take appropriate measures to ensure that the project is compliant with the Environmental Management Plan (EMP) stated in the approved IEIA or FEIA. Project owners are also required to make payment to Environmental Endowment Fund following the agreement.

The content of the IEIA and FEIA report is stated in the prakas as follows:

TABLE 20 EIA Table of Contents

CHAPTER	TITLE	DESCRIPTION
	Executive Summary	
1	Introduction	Project overview, objective of the report and methodology of the study.
2	Legal frameworks	Laws, regulations and policies related to the project shall be stated.
3	Project Description	The description includes project background, site, type and activities, as well as the work plan and activities program.
4	Description of Existing Environment	This chapter describes natural environment and socio-economic aspects within the surrounding area of the project.
5	Public Participation	This part describes all discussion involving related stakeholder and their feedback.
6	Environmental Impacts and Mitigation Measures	The section illustrates positive and negative environmental and socio-economic impacts of the project as well as measures to alleviate those impacts.
7	Environmental Management Plan (EMP)	The Environmental Management Plan (EMP) is a part of company’s operation where the owner must allocate funds to run the program that monitors environmental quality in collaboration with relevant authorities.
8	Economic Analysis and Environmental Value	This chapter highlights the value of damage caused by the project
9	Conclusions and Recommendations	

4.4.4 DRAFT PRAKAS ON PUBLIC PARTICIPATION IN THE ENVIRONMENTAL IMPACT ASSESSMENT (EIA) PROCESS

This draft prakas sets guidelines on public participation in the EIA process with the aims to promote public participation and access to EIA information. The prakas covers key principles such as:

- The Principle of Access to Information
- The Principle of Public Participation
- The Principle of Access to Social Justice and Effective Remedies
- Principle of Gender Equality in Public Participation
- The Principle of Promoting Indigenous People in Public Participation

The prakas states that the first stage in conducting an EIA is to “conduct meetings, interviews and consultations with PAP...in accordance with the procedure of public participation directed by MOE”, but does not detail how, or how extensive these meetings are. The prakas also makes little differentiation between FEIA and IEIA, leading to confusion as to if or how public consultations should occur with IEIAs. The draft prakas has yet to be promulgated as law.

4.4.5 DRAFT GUIDELINE ON PUBLIC PARTICIPATION IN ENVIRONMENTAL IMPACT ASSESSMENT

In support of the draft prakas, the 2016 draft guideline acts as an ideal, best case scenario for public participation in the EIA process. The guideline, like the prakas, has also not been promulgated as law.

The guideline states that the public should have appropriate access to information such as proposed projects, project activities and harmful material within the communities. The start of the EMP and EIA process should be announced as soon as possible in order to increase opportunities for public participation. PAP should also take part in decision making through informed, timely and meaningful input. Gender

equality is also promoted in this guideline - women are included in decision making at all levels and their welfare is assessed in the EIA and EMP.

The guideline incorporates the vulnerability of indigenous people and calls for a proper mechanism whereby their participation and concerns are taken seriously. In the case of violation, infringement of EIA process or compliant issues related to EMP, the public shall have access to effective remedies both formal and informal to solve the issues on time. The responsible party for developing this “proper mechanism” is not assigned; it often the investor itself establish these grievance procedures.

The procedure of public participation in EIA states that a Public Participation Plan (PPP) which identifies PAP, relevant authorities and stakeholders is integral. The PPP will also provide details of how and when information about the project is disseminated to PAP and stakeholders. To provide better access to the public, project proponents or EIA consultants shall provide updated information about the project such as plan, permits and compliance reviews on a dedicated website.

The EIA authority has to ensure that final EIA report and EMP are made publicly available. Before any construction works, if necessary, there should be a meeting or more with PAP to provide more details on the construction. PAP and stakeholders should be consulted and involved in the EMP when the project reaches closure or decommission. The guideline also introduces the principle of Free, Prior and Informed Consent (FPIC) - ideally if the project lacks the support of the PAP, then it does not proceed, and the indigenous community is empowered to either approve or reject the final project proposal.

The guideline follows the International Association for Public Participation (IAP2) Spectrum of Public Participation where participation is categorised in an ascending level of detail: inform, consult, involve, collaborate and empower. The public participation guidelines are listed in the table below:

TABLE 21 Public Consultation Process for EIAs

STEP IN THE EIA PROCESS	LEVEL OF PUBLIC PARTICIPATION EXPECTED	TIME
<p>Screening</p> <p>Determine whether a project is subject to IEIA or full EIA</p>	<p>Inform (minimum)</p> <ul style="list-style-type: none"> Establish relationship with stakeholders and authorities Inform PAP of the project proposal Collect initial feedback 	at least one meeting
<p>Scoping</p> <p>Identify problem and link with assessment</p>	<p>Consult (minimum)</p> <ul style="list-style-type: none"> Inform PAP / stakeholders of the project proposal Inform PAP and stakeholders of the EIA process Obtain feedback from PAP and stakeholders Set Public Participation Plan (PPP) Draft TOR, present and seek feedback 	7- 15 days' notice prior to a scoping meeting Duration may vary
<p>Project Investigation and Preparation of the EIA Report</p> <p>consultation on draft EIA report EIA report finalization</p>	<p>Consult and Involve (minimum)</p> <ul style="list-style-type: none"> Inform PAP of project proposal, PPP and TOR of EIA investigation Enable PAP and stakeholders to contribute their knowledge and comments Inform PAP and stakeholder of investigation findings, potential impact, analysis and measures to address impacts Enable PAP and stakeholders to comment on the findings and analysis Present draft EIA report, compensation and benefits for PAP Provide PAP and stakeholder an opportunity to respond to draft EIA Present final EIA report including EMP 	Duration may vary (3 to more than 6 months)
<p>Review of the EIA Report</p> <p>internal review among ministries, civil society, national and international experts</p>	<p>Consult (minimum)</p> <ul style="list-style-type: none"> Consult with local affected communities, relevant authorities and civil society organisations 	3-5 days
<p>Decision-making on the EIA Report and EMP</p> <p>Report to the Minister of Environment on project approval condition</p>	<p>Inform (minimum)</p> <ul style="list-style-type: none"> PAP and stakeholder are notified of the decision of the Minister 	Within 7 days of the decision
<p>Construction, Operation, Monitoring, and Compliance</p>	<p>Anywhere on the spectrum, depending on the project (prioritised projects)</p> <ul style="list-style-type: none"> In accordance with the EMP and the commitment of Project Proponent 	Duration may vary
<p>Closure, Decommissioning and Post Closure Steps</p>	<p><i>Project proponent should involve PAP and stakeholders in EMP for closure and decommissioning of the project.</i></p>	<i>Duration may vary</i>

05

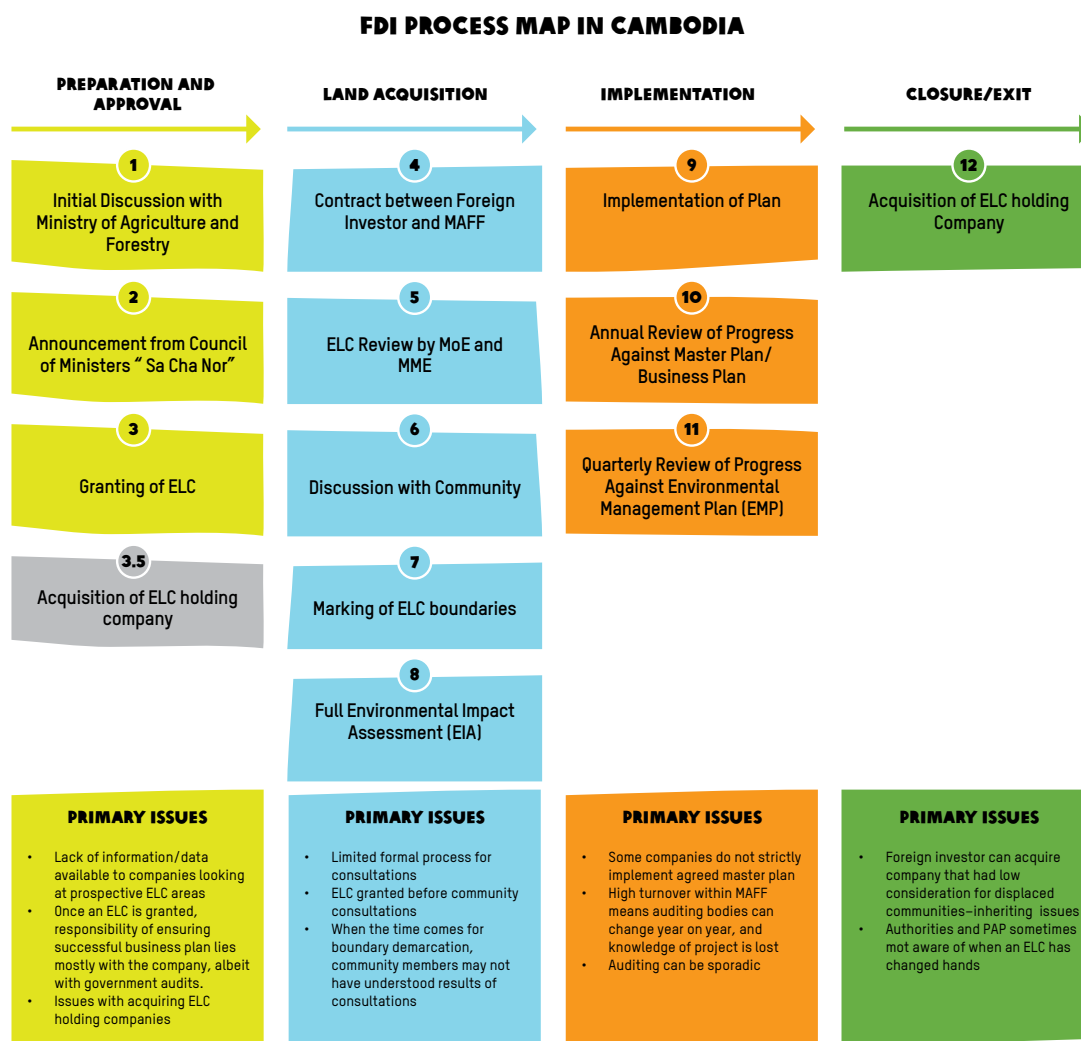
FDI PROCESS MAP

05

FDI IN AGRIBUSINESS: CAMBODIA

Although In general Cambodia’s policies offer protection throughout FDI process, the implementation of relevant policies and processes can lead to challenges across all stages; both for the foreign investor, as well as the community members investments may affect. This section will detail the FDI process in practice, identify the risks present at each stage, and assess why those risks exist (or existed in the past). This does not represent an official process map, and is instead built upon primary and secondary analysis. Of note is that many of the issues described below arose due to implementation of past processes, and several measures have been undertaken by the Royal Government of Cambodia to prevent their repetition.

FIGURE 8 FDI for Agribusiness Process Map in Cambodia



Source: Author Analysis, based on primary interviews with ELC holders, NGOs and CSOs and secondary literature review.

5.1 PREPARATION AND APPROVAL

Steps 1, 2 and 3: Granting of the ELC

At the earliest stage of the FDI process, issues arise that can create social and environmental impacts. The process for initially applying for an ELC remains unclear, in terms of the fees required, and the stakeholders involved. Interviews revealed Stage 1 as a negotiation with various members of MAFF, towards the eventual aim of obtaining an official announcement, or “Sor Chor Nor” (ស្រជំណ) from the Council of Ministers.

Although Article 8 of the ELC sub-decree No.146 specifies the documents required for the initiation of an ELC proposal, the documents required can be unclear. For example, Article 8, item 3 states that “Any necessary actions required to be completed by the concessionaire prior to undertaking the economic land concession activities” should be included. At the same time, although Article 7 of the ELC sub-decree No.146 states that an IEIA is a key process in obtaining an ELC, neither Article 8 nor 12 list the IEIA as a required document for the application - leading to a lack of understanding as to when and if they are required in the preparation and approval stage.

In most circumstances, an IEIA has been conducted prior to the ELC being granted. However, it is important to note that IEIAs are based on secondary data, providing limited opportunity for public participation prior to the ELC being granted - even if the 2016 “Guideline on Public Participation in Environmental Impact Assessment” are strictly applied⁸⁴.

The lack of primary data collection at this stage has also led to ELCs being granted based on out of date,

or inaccurate secondary data. This can create challenges for the investor, the government, and PAP themselves. The true environmental and social impacts are rarely known until implementation begins. In turn the EMPs to mitigate these impacts may not reflect the reality.

Once the Announcement, or “Sor Chor Nor” (ស្រជំណ) has been made, an ELC is officially granted to one company, and the development of that ELC is then mostly in the hands of the foreign investor, although monitored and audited by MAFF.

Step 3.5: Company Acquisition

Order 01 of the Royal Government on the *Measures Strengthening and Increasing the Effectiveness of the Management of Economic Land Concessions* placed a moratorium on new ELCs being granted. Although this order resolved some of the issues associated with ELCs, it created new ones. For example - with no new ELCs, foreign investors must acquire companies already holding the ELC. In many cases, the acquiring company also inherits the legacy issues of the acquired company.

Although 2007 Sub-Decree 114 on the *Mortgage and Transfer of the Rights over a Long Term Lease or an Economic Land Concession*⁸⁵ sets the principles for the transfer of ELCs, the process for acquiring an ELC holding company could be further clarified, and expanded to include conditions to notify PAP⁸⁶. In some cases, acquisitions occur without the knowledge of all levels of relevant government authorities, as well as PAP. In the past, this has led to examples of PAP being unaware of which company holds an ELC, leading to issues for dispute resolution⁸⁷.

⁸⁴ Kingdom of Cambodia. (2016). Draft Guideline on Public Participation in Environmental Impact Assessment. Unofficial English translation available from: <http://www.sustainatgreen.com/uploads/document/Public%20Participation%20Guideline%20Eng.pdf>

⁸⁵ Kingdom of Cambodia. (2007). 2007 Sub-Decree 114 on the Mortgage and Transfer of the Rights over a Long-Term Lease or an Economic Land Concession. Official translation available from: http://www.cambodiainvestment.gov.kh/sub-decree-114-rgc-on-the-mortgage-and-transfer-of-the-rights-over-a-long-term-lease-or-an-economic-land-concession_070829.html

⁸⁶ Kingdom of Cambodia. (2007). 2007 Sub-Decree 114 on the Mortgage and Transfer of the Rights over a Long-Term Lease or an Economic Land Concession. Official translation available from: http://www.cambodiainvestment.gov.kh/sub-decree-114-rgc-on-the-mortgage-and-transfer-of-the-rights-over-a-long-term-lease-or-an-economic-land-concession_070829.html

⁸⁷ Based on interview with Development and Partnership in Action. (2018).

TABLE 22 FDI Process Map: Preparation and Approval

#	PROCESS	AUTHORITY	PROCESS	ISSUES
1	Initial Discussion with Ministry of Agriculture, Forestry and Fisheries	MAFF	<ul style="list-style-type: none"> • Discussion with MAFF on planned investment, crop and area • MAFF and foreign investor generate plan for submission to Council of Ministers • IEIA conducted by MOE approved firm • IEIA review conducted by MOE • Documents defined as of Article 7 and 8 in the ELC sub decree • Description of land • General land use plan (crop) • IEIA 	<ul style="list-style-type: none"> • The process, stakeholders, documentation and fees required for this phase are unclear. • Only an Initial EIA is required at this stage. IEIAs are based on secondary data. • Lack of data available to companies looking at prospective ELC areas - meaning ELCs are granted based on outdated figures and secondary data.
2	Announcement from Council of Ministers “Sor Chor Nor” (ស្រឡាវ) (ស្រឡាវ)	Council of Ministers	<ul style="list-style-type: none"> • MAFF takes plan to the Prime Minister’s Office for signature • If approved, Prime Minister Hun Sen signs announcement of ELC (maximum 10,000 hectares per company) 	<ul style="list-style-type: none"> • Many companies under the same umbrella corporation can apply for the maximum 10,000 hectare ELC, leading to conglomerates with over 10,000 hectares of concession land. • Announcements of ELCs were not always published by the government or the investor, in some cases leading to land speculation by players with insider knowledge.
3	Granting of ELC	MAFF	<ul style="list-style-type: none"> • MAFF upholds ministerial announcement and grants ELC of up to 10,000 hectares to the foreign investor 	<ul style="list-style-type: none"> • <i>No new ELCs are being granted, so foreign investors must have already acquired an ELC through this process, or otherwise acquired a company that had already been granted an ELC.</i>

#	PROCESS	AUTHORITY	PROCESS	ISSUES
3.5	Acquisition of ELC holding company	MAFF, MEF	<ul style="list-style-type: none"> Foreign investor reviews business and master plan of company to be acquired, and adapts it to new ownership Foreign investor develops assessment report MAFF reviews report, and if approved, 80-90% of share ownership passes to the acquiring foreign investor <hr/> <ul style="list-style-type: none"> Acquiring foreign investor must track acquired companies compliance to their ELC contract (taxes, MAFF fees paid, EMP etc.) Compliance audit undertaken by MEF. If audit is passed, foreign investor obtains 100% ownership 	<ul style="list-style-type: none"> Foreign investor can acquire company that had low consideration for displaced communities – inheriting legacy issues of the acquired company, including: <ul style="list-style-type: none"> » Poor implementation of master plan » Land disputes » Ongoing social issues » Environmental degradation In some cases acquisition occurs without informing all levels of government and /or PAP. <i>Non-transparent fees attached to the compliance audit</i>

Note: Issues specific to the private sector are highlighted in blue and in italic

5.2 LAND ACQUISITION

Land acquisition is often the most contentious stage. It is the one most likely to result in conflict between investors and PAP. There are several root causes triggering conflict, the most common of which are overlapping land claims, and a lack of meaningful consultations with PAP in the initial stages - leading to low awareness amongst PAP of when, where and if the area they reside has been granted as an ELC. Ideally, PAP should be aware of the relevant project, and Identification of land boundaries should be conducted before an ELC is granted; however, in practice both most often occur after⁸⁸. Often, projects only become apparent to PAP once the investor begins to demarcate their ELC boundaries.

Steps 4 and 5: Contracting and Concession Discussion

Once an ELC has been granted by “Sor Chor Nor” (ស៊ីណូ), a contract is signed between the investor

and MAFF, incorporating the business plan, master plan, and other relevant documents. This contract represents a leasing agreement whereby MAFF grants the land to the investor for a period of 50 years.

Investors must then consult with the MOE and the Ministry of Mines and Energy (MME) in order to determine whether the approved plot overlaps any areas designated for conservation, or prospecting. Most commonly, the ELC area applicable for actual investment has to be reduced at this stage⁸⁹.

Steps 6 and 7: Land Demarcation

It is largely the responsibility of investors to reach amicable arrangements with community members in the form of relocations of the village and/or compensation. There are no standard rates or procedures for compensation offers, and compensation is usually ad hoc and determined on a case to case basis⁹⁰. In some cases, they may adhere to international standards such as the International Finance Corporations

⁸⁸ Oxfam. (2016). Vietnamese Agricultural Investment in Cambodia and Laos: Benefits, Impacts and Challenges.

⁸⁹ Based on interview with Senior Representative of Agribusiness Company. (2018).

⁹⁰ Oxfam. (2016). Vietnamese Agricultural Investment in Cambodia and Laos: Benefits, Impacts and Challenges.

(IFC) standards on Land Acquisition and Involuntary Settlement⁹¹, but in others may be vastly unsuitable.

Lack of transparency and communication about the ELC can lead to conflicts between investors and PAP in relation to overlapping claimed land and common natural resources. In some cases, PAP and local authorities are not aware of the ELC until investors arrive to demarcate their land. In other cases, those with prior knowledge of an ELC will either settle on ELC lands, create new fields (notably for fast growing crops such as banana), or buy up vast tracts of land from PAP before reselling it to the ELC holder.

A key issue in this phase is land registration, or lack thereof, of PAP. There are cases of households in areas where ELCs operate, whose land is not officially recorded in the land registration system. These households are protected under possession rights (paukeas) instead of the stronger legal category of ownership rights (kamaset). Only legal possessors have the right to become owners - which creates issues for these households within ELC areas - which are by definition state private land⁹². In general, companies will offer compensation to those with both possession rights and ownership rights, but the level of compensation is lower for those without the latter.

Issues at this stage are further exacerbated by the absence of effective mechanisms for conflict resolution, which prolong the land acquisition process and can lead to conflict between investors and PAP⁹³.

Financial institutions have a surprisingly large role to play in how companies undertake the land acquisition process. In some cases, the extent to which public consultations occur are set by the institution financing the project, rather than by policy or government entities⁹⁴. For example, some European banks such as the European Investment Bank, will not grant a loan to a company unless they commit to certain acts of social responsibility and levels of public consultation⁹⁵.

Although weak public consultation remains an area of controversy, the 2016 revised "Guideline on Public Participation in Environmental Impact Assessment Process" demonstrates a marked improvement to how public consultations will occur in the future⁹⁶. Once established as law, perhaps in the draft environmental code, it may pave the way for improved public consultation moving forward.

Step 8: FEIA

Cambodian policy related to EIAs is currently incomplete, although improving. In the past many ELCs were granted with only an IEIA, and even today many companies that have been implementing for years have yet to have an FEIA approved. As an IEIA is only based on desk research and secondary data, it removes a crucial opportunity for meaningful public participation in the EIA process. The FEIA is only conducted following the review of the ELC by MOE, MME, and after multiple rounds of negotiation with PAP - the FEIA is conducted on the land remaining to the ELC holder following these stages.

⁹¹ International Finance Corporation. (2012). Environmental and Social Performance Standards, Land Acquisition and Involuntary Resettlement. Available from: https://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/Sustainability-At-IFC/Policies-Standards/Performance-Standards

⁹² Oxfam. (2016). Vietnamese Agricultural Investment in Cambodia and Laos: Benefits, Impacts and Challenges.

⁹³ Cambodian Centre for Human Rights. (2014). The Failure of Land Dispute Resolution Mechanisms.

⁹⁴ Based on interview with Senior Representative of Agribusiness Company. (2018).

⁹⁵ European Investment Bank (2006). Environmental and Social Safeguards. Available from: <http://www.eib.org/en/infocentre/press/news/all/environmental-and-social-safeguards.htm>

⁹⁶ Kingdom of Cambodia. (2016). Draft Guideline on Public Participation in Environmental Impact Assessment. Unofficial English translation available from: <http://www.sustinatgreen.com/uploads/document/Public%20Participation%20Guideline%20Eng.pdf>

TABLE 23 FDI Process Map: Land Acquisition

#	PROCESS	AUTHORITY	PROCESS	ISSUES
4	First Contract Signed Between Investor and MAFF	MAFF, MEF	<ul style="list-style-type: none"> Formal contract is drawn up that includes as annexes: <ul style="list-style-type: none"> » “Sor Chor Nor” (សជ័ណ្ណ) » Business Plan » Master Plan » IEIA » Detail of Fees to be paid MAFF is granted Power of Attorney over land, then signs contract with investor. Fees are based on the business and master plans, and set by MAFF, but paid to MEF The State Private Land is leased to the investor by MAFF for 50 years. MEF provides receipt of payment to MAFF, and implementation can begin 	<ul style="list-style-type: none"> Master Plan and Business Plan follow generic templates, and are drawn up for a high fee. Sometimes state public land that is deemed to have lost its public interest value is reclassified as state private land in order to be granted as an ELC⁹⁷. <i>Land never owned by Foreign Company, instead leased from MAFF.</i>
5	ELC Review by MOE and MME	MOE	<ul style="list-style-type: none"> Investor consults with MOE to determine whether any of the ELC area overlaps protected / conservation areas. 	<ul style="list-style-type: none"> This takes place after the ELC approval has been granted <i>ELC areas granted (up to 10,000 hectares) can often end up far smaller after review.</i>
		MME	<ul style="list-style-type: none"> Investor consults with MME to determine whether any of the ELC area overlaps areas designated for mining or energy. 	
6	Discussion with Community	Investor, Land Office, MLMUPC	<ul style="list-style-type: none"> Foreign investors hold community consultations and negotiate amicable arrangement / resettlement terms Formal ELC area is marked out and agreed with Land Title Department 	<ul style="list-style-type: none"> Investor is responsible for coming to amicable arrangements with community members Community members may not hold official land titles This is often the first time PAP are formally consulted Limited formal process for consultations In the past, it was mostly at discretion of investors as to how extensive these consultations are.

⁹⁷ Kingdom of Cambodia. (2006). Royal Decree No.339 on Provisional Guidelines and Principals Regarding the Reclassification of the State Public Properties and of Public entities.

#	PROCESS	AUTHORITY	PROCESS	ISSUES
7	Marking of ELC boundaries	Land Title Department, MLMUPC	<ul style="list-style-type: none"> Formally mark out ELC area with concrete posts, fences and /or trenches according to the formal ELC area agreed with Land Title Department Land Title Department checks the boundaries, and approves if the area matches and existing issues are resolved. Approval of ELC area by the Land Title Department 	<ul style="list-style-type: none"> When the time comes for boundary demarcation, community members may not have understood results of consultations
8	Full Environmental / Social Impact Assessment (FEIA)	MOE	<ul style="list-style-type: none"> Foreign Investor uses MOE approved company to undertake full EIA on actual area of ELC (reduced from initial “Sor Chor Nor”(ស្រដៀង)) 	<ul style="list-style-type: none"> FEIA occurs late in the process, in many cases long after resettlement packages, compensation agreements have been made. Only Cambodian firms pre-approved by MOE can conduct EIAs. One of two industries for which there is discrimination against non-Cambodian companies (the other being legal)⁹⁸. In some cases, the FEIAs are of low quality, and not compliant with international best practice.

Note: Issues specific to the private sector are highlighted in blue and in italic

5.3 IMPLEMENTATION

Step 9: General Implementation

At the implementation stage, issues again arise regarding the awareness and legal understanding of the concession agreement. Although the company has already set up boundary demarcations, residents may still not fully understand the result of consultations until implementation begins. With weak conflict resolution mechanisms, investors and villagers may again have to renegotiate resettlement / compensation at this stage, which

may delay the implementation of the master plan for the ELC. Additionally, since most ELCs also cover forest areas, third parties such as illegal loggers (often external to those designated as PAP) can also pose a challenge to investors.

Employment and human resource issues can also arise during the implementation phase. From the side of community members, NGOs report that local people tend to boycott companies due to intense land conflicts⁹⁹. Unfavourable working conditions such as short term contracts and the low wages

⁹⁸ EuroCham. (2017). White Book 2017.

offered by some companies also discourage people from working for investors¹⁰⁰. However, on the other hand, private investors report that companies prefer to hire workers on longer term contracts that hold employees to certain working hours, whereas local workers often prefer to be paid daily, allowing them the flexibility to work as and when available, as opposed to for set working hours¹⁰¹. This makes long term contracts difficult to implement, and lowers the incentive to build the capacity of the local workforce.

A final issue is companies are simply not following the business and master plans - either exploiting the land for short term gain, or holding the land for future resale¹⁰².

Steps 10 and 11: Compliance Audits by MAFF and MOE

The Ministry of Agriculture, Forestry and Fisheries will then review progress against the business and master plans on a quarterly basis, and set the annual fee based on investor progress. The official fees are paid to the Ministry of Economy and Finance in order for implementation to continue for another year.

The MOE also conducts quarterly audits against investors EMPs, although on occasion these are not strictly enforced, and there is no template for investors to follow when reporting against progress against EMPs.

TABLE 24 FDI Process Map: Implementation

#	PROCESS	AUTHORITY	PROCESS	ISSUES
9	Implemen- tation of Plan	Investor	<ul style="list-style-type: none"> Establish formal business operations as per business and master plans Implement arrangements made with the community Hire labour force 	<ul style="list-style-type: none"> When the time comes for implementation, community members may not have understood results of consultations Illegal use of concession land by third parties (illegal loggers, for example). Few companies have transparent dispute resolution mechanisms. Official dispute resolution mechanisms unclear and time consuming. Some ELC holders do not follow the approved business or master plans. <i>Long term workers preferred over short term day-workers</i>

⁹⁹ Oxfam. (2016). Vietnamese Agricultural Investment in Cambodia and Laos: Benefits, Impacts and Challenges.

¹⁰⁰ Royal University of Phnom Penh. (2017). Chinese Agricultural Investment in Cambodia: Opportunities and Challenges for Poverty Reduction.

¹⁰¹ Based on interview with Senior Representative of Agribusiness Company. (2018).

¹⁰² Based on interview with Representative of Cambodian CSO. (2018).

#	PROCESS	AUTHORITY	PROCESS	ISSUES
10	Annual Review of Progress Against Master Plan / Business Plan	MAFF	<ul style="list-style-type: none"> Each year MAFF will review progress against business and master plan, and set the annual fee based on progress against those plans. Fees paid to MEF, upon receipt of payment, implementation can continue for another year 	<ul style="list-style-type: none"> Business / Master plans not strictly enforced. High turnover within MAFF means auditing bodies can change year on year, and knowledge of project is lost.
11	Quarterly Review of Progress against Environmental Management Plan (EMP)	MOE	<ul style="list-style-type: none"> MOE conducts quarterly audit of progress against EMP. 	<ul style="list-style-type: none"> Cases where review of EMP does not occur quarterly EMPs not strictly enforced by MOE, audits are sporadic and sometimes not based on primary data No template for investors to follow to fulfil EMP reporting requirements

Note: Issues specific to the private sector are highlighted in blue and in italic

5.4 CLOSURE AND PHASE OUT

Step 13: Company Acquisition

It is not clear whether the country has any system monitoring companies whose contract ends or is terminated, although the process for a company wishing to be acquired by another for the purpose of transferring the ELC is documented. The same issues arise in step 12 as in step 3.5.

TABLE 25 FDI Process Map: Closure and Phasing Out

#	PROCESS	AUTHORITY	PROCESS	ISSUES
12	Acquisition of ELC holding company TBC	MAFF, MEF	<ul style="list-style-type: none"> Foreign investor reviews business and master plan of company to be acquired, and adapts it to new ownership Foreign investor develops assessment report MAFF reviews report, and if approved, 80-90% of share ownership passes to the acquiring foreign investor <hr/> <ul style="list-style-type: none"> Acquiring foreign investor must track acquired companies compliance to their ELC contract (taxes, MAFF fees paid, EMP etc.) Compliance audit undertaken by MEF. If audit is passed, foreign investor obtains 100% ownership 	<ul style="list-style-type: none"> Unclear fees associated with the compliance audit Foreign investor can acquire company that had low consideration for displaced communities – inheriting legacy issues of the acquired company, including: <ul style="list-style-type: none"> Poor / no implementation of master plan Ongoing social issues Environmental degradation In some cases acquisition occurs without informing the government and /or Project Affected People (PAP). Non-transparent fees attached to the compliance audit

Note: Issues specific to the private sector are highlighted in blue and in italic

5.5 CROSS CUTTING

Two issues that appear throughout all phases of investment process are transparency of information, and weak compliance with Cambodian laws and regulations.

Data regarding the number of ELCs granted is not publicly available, neither are important project documents such as the business plans, masters plans, IEIAs, FEIAs and EMPs. As mentioned in the previous section, local authorities and residents are often unaware of when and where an ELC has been granted, which means they are not well prepared when it comes to consultations, compensation and relocation negotiations. These issues continue from land acquisition to implementation.

Other cross-cutting issues include:

- High turnover of MAFF staff means knowledge of individual ELC projects is often lost during audits
- It is unclear at what stage the FEIA is required
- Fee structures exist at all levels and could be published to improve transparency
- Community members are often only consulted after ELC has been granted
- In general, social rather than environmental issues are prioritised by companies and government

06

CASE STUDIES

06

FDI IN AGRIBUSINESS: CAMBODIA

Within the context of the policy environment and investment process described in Chapters 4 and 5, case studies have been selected on notable initiatives/practices employed by the private sector that attempt to mitigate social and environmental risks of agricultural FDI.

Case studies were selected based on current adherence to the seven World Bank Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources¹⁰³:

TABLE 26 Seven World Bank Principles for Responsible Agribusiness Investment

#	PRINCIPLE
1	Existing rights to land and associated natural resources are recognised and respected.
2	Investments do not jeopardise food security but rather strengthen it.
3	Processes for accessing land and investments are transparent, monitored, and ensure accountability
4	All those materially affected are consulted, and agreements from consultations are recorded and enforced.
5	Investors ensure that projects respect the law, reflect industry best practice, and are viable economically
6	Investments generate desirable social and distributional impacts and do not increase vulnerability
7	Environmental impacts due to a project are quantified and measures taken to encourage sustainable resource use while minimizing the risk/magnitude of negative impacts and mitigating them.

These case studies may not achieve or represent better practices on all seven principles, but in each case represent gradual improvements towards achievement of some of them. For each participating company, there were at least some better practices employed currently that lowered the risks of negative social and environmental impacts associated with their projects¹⁰⁴. Case study companies agreed to partake under their own volition, in an attempt to improve investment processes in the future.

As detailed in section 2.2: Project Methodology, notable practices were identified in a three step process:

1. Desk review of publicly available documentation
 - a. Company policies
 - b. Annual / bi-annual reports
 - c. CSR / sustainability reports
 - d. External reports and documentations mentioning case study companies

¹⁰³ World Bank. (2010). Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources. Available from: http://siteresources.worldbank.org/INTARD/214574-1111138388661/22453321/Principles_Extended.pdf

¹⁰⁴ Note: Case study companies were selected on the basis of their current practices. Many better practices were established in response to poorer ones in this past. This report makes no comment on the weaknesses of those past approaches.

2. Self-assessment by the company themselves on efforts to achieve each world bank principle
3. Verification of claimed activities by interview and / or request for supporting documentation

Case studies are presented in two parts:

1. Summary, highlighting better practices employed
2. Full assessment against the seven principles

6.1 CRITERIA FOR SELECTION

The seven World Bank *Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources*¹⁰⁵ were selected for their ability to cover the majority of issues associated with large scale agricultural investment. They are also complementary to other frameworks for assessing Environmental and Social Performance Standards - such as the IFC's Environmental and Social Performance Standards¹⁰⁶.

TABLE 27 Criteria for case study selection

#	PRINCIPLE	WHY IS IT IMPORTANT?	SUB-CATEGORIES
1	Existing rights to land and associated natural resources are recognised and respected.	<ul style="list-style-type: none"> • Land is a key productive asset, source of food, water and acts as a safety net to land owners. • Ancestral lands hold additional significance 	<ul style="list-style-type: none"> • Recognition and demarcation of land rights • Use of expropriation involves fair compensation • There are clear and transparent mechanisms to transfer land rights
2	Investments do not jeopardise food security but rather strengthen it.	<ul style="list-style-type: none"> • An agricultural project may decrease the area available for primary food production, or generate food products not relevant to PAP or the immediate area (e.g. biofuel crops) 	<ul style="list-style-type: none"> • N/A
3	Processes for accessing land and making investments are transparent, monitored, and ensure accountability	<ul style="list-style-type: none"> • Lack of transparency deprives relevant stakeholders of the possibility to resolve problems before they escalate 	<ul style="list-style-type: none"> • Information is easily available to relevant actors • Incentives to investors are clear and effective • Business, legal and regulatory environment is appropriate
4	All those materially affected are consulted, and agreements from consultations are recorded and enforced.	<ul style="list-style-type: none"> • Lack of consultation is likely to lead to projects having a harmful impact on PAP • Full and open consultation can lead to strategies that spread benefits and mitigate the negative impacts of projects 	<ul style="list-style-type: none"> • Meaningful consultation and representation is practised • Large ventures are embedded into local development plans, and vice-versa • Meaningful and enforceable agreements are made

¹⁰⁵ World Bank. (2010). Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources. Available from: http://siteresources.worldbank.org/INTARD/214574-1111138388661/22453321/Principles_Extended.pdf

¹⁰⁶ International Finance Corporation. (2012). Environmental and Social Performance Standards. Available from: https://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/Sustainability-At-IFC/Policies-Standards/Performance-Standards/

#	PRINCIPLE	WHY IS IT IMPORTANT?	SUB-CATEGORIES
5	Investors ensure that projects respect the law, reflect industry best practice, and are viable economically	<ul style="list-style-type: none"> Economic viability is a precondition for the generation of benefits that can be distributed amongst stakeholders If projects are not environmentally or technically viable, or not implemented responsibly, all stakeholders are likely to be negatively impacted 	<ul style="list-style-type: none"> Adherence to high standards or business practice Adherence to high ethical standards There are cost effective processes to continually assess viability and compliance with laws and regulations
6	Investments generate desirable social and distributional impacts and do not increase vulnerability	<ul style="list-style-type: none"> Even economically viable projects may have negative social consequences if not implemented responsibly, or if benefits bypass vulnerable groups and are captured by local elites 	<ul style="list-style-type: none"> Fair compensation is provided to PAP Benefits are shared amongst all stakeholders in terms of jobs, profits, capital inflow etc. Gender equality is promoted
7	Environmental impacts due to a project are quantified and measures taken to encourage sustainable resource use while minimizing the risk/magnitude of negative impacts and mitigating them.	<ul style="list-style-type: none"> Investors may have little financial incentive to invest in costly programs to maintain the environment If negative effects are not measured or mitigated against, large scale agriculture can lead to long term land degradation and resource depletion 	<ul style="list-style-type: none"> Environmental Impact Assessments are undertaken to a high degree of quality, and Environmental Management Plans are followed closely

6.2 GRANDIS TIMBER

INTRODUCTION

Grandis Timber is Cambodia's leading private commercial reforestation company. Grandis Timber focuses on the establishment of timber plantations on previously deforested land. Grandis Timber signed a contract with the Ministry of Agriculture, Forestry and Fisheries for a period of 50 years on an ELC in 2009.

The company claims that during the last six years, 4,825 ha of timber have been planted. As part of its ELC agreement, Grandis Timber is also legally responsible for a 2,256 ha Conservation Area adjacent to the ELC.

HISTORY

- In June 2009, Grandis Timber submitted an Economic Land Concession (ELC) proposal to the Ministry of Agriculture, Forestry and Fisheries.
- In December 2009 Grandis Timber signed an ELC agreement (soft title) for 9 820 ha.
- In December 2010, Grandis Timber conducted an IEIA and submitted the Master Plan and Business Plan, each approved by the relevant authorities.
- In March 2013, the final demarcation of the ELC started. The company did not require people to move off their existing land, and is seen as exemplary of the "leopard skin" policy in action.
- In August 2015, following a consultation period, State-Public Titles for 17 land parcels are issued.
- In August 2016, sub-decree 175 was issued to permit the conversion of the land titles to State-Private (Hard Titles) and the final Certificates of Possession are issued to Grandis Timber.

BUSINESS ACTIVITIES

Grandis Timber is growing Teak and other timber species in the country's south-western province of Kampong Speu. The company also established three nurseries, sugarcane plantations and is involved in the development of a cattle project.

BETTER PRACTICES

The complete assessment of the company is provided in the table below. Better practices drawn from this assessment are summarised below.

- The company practised the "leopard skin" policy of ELC management - whereby most villages within the ELC could be left mostly untouched, foregoing the need for extensive relocation arrangements.
- The company set up a permit system that grants local community members access to ELC lands for natural resource collection, and offers training to permit holders to maintain their safety.
- The company indicates the areas to collect natural resources within the ELC.
- The company states publicly its challenges to achieve its sustainable development strategy towards the stakeholders.
- Grandis Timber sought certification that assesses different components of the CSR strategy and holds the company to higher social and environmental standards. The FSC (Forest Stewardship Council) certification aims to ensure positive economic, environmental and social impacts.
- Documentation on company practices was made available to relevant stakeholders.

- Investments in infrastructures and medical facilities.
- Several types of contract can be proposed to local workers. This flexibility aims to fit the availability of the workers since many do not want to be committed to long term contracts with the company.

TABLE 28 Grandis Timber Assessment

#	PRINCIPLE	ASSESSMENT	BARRIERS TO ACHIEVING
1	Existing rights to land and associated natural resources are recognised and respected.	<ul style="list-style-type: none"> • Grandis Timber became the first forestry company in Cambodia to receive Forest Stewardship Council (FSC) certification in 2012. 	<ul style="list-style-type: none"> • Speculative land grabbers appeared during the land demarcation process, who bought up land from PAP in the ELC area before Grandis could begin negotiations. • When the company started to build supporting infrastructure, people started to occupy lands along the road.
2	Investments do not jeopardise food security but rather strengthen it.	<ul style="list-style-type: none"> • The strategic CSR programme embraces food security. • The company implemented a permit system to grant continued access to the ELC area, enabling local community members continued access to natural resources. 	<ul style="list-style-type: none"> • Food security is seen as a low priority issue in EIA reports.
3	Processes for accessing land and investments are transparent, monitored, and ensure accountability	<ul style="list-style-type: none"> • The FSC certification history is available online. From the pre-audit in December 2012 to the 5th surveillance audit in April 2018. • The company has an internal land dispute resolution mechanism 	<ul style="list-style-type: none"> • Order 01 and the student demarcation campaign was not perfect, some PAP who should have been granted titles did not receive them, and vice versa. • Since the implementation of the ELC, the company faced 48 land rights cases; 28 have been resolved and 20 are pending.
4	All those materially affected are consulted, and agreements from consultations are recorded and enforced.	<ul style="list-style-type: none"> • FSC certification sets higher standards for community involvement which had to be reached and proven. 	<ul style="list-style-type: none"> • Aside from the FSC requirements, there were no Cambodian standards for community consultations during the investment process.

#	PRINCIPLE	ASSESSMENT	BARRIERS TO ACHIEVING
5	Investors ensure that projects respect the law, reflect industry best practice, and are viable economically	<ul style="list-style-type: none"> In all cases Grandis Timber made the utmost effort to remain compliant to Cambodian law and policy. FSC certification is awarded only to businesses that reflect commercial reforestation best practise. Grandis Timber follows the master plan closely, which was based on a viable economic plan. 	<ul style="list-style-type: none"> The legislation is well designed but changes to legislation can impede economic viability, and lead to companies being temporarily non-compliant with new legislation. Complex procedures to obtain forest clearing permits from MAFF prevented Grandis from reaching agreed production targets. There are few government guidelines for best practises.
6	Investments generate desirable social and distributional impacts and do not increase vulnerability	<ul style="list-style-type: none"> Grandis Timber implemented a strategic CSR programme to: <ul style="list-style-type: none"> » Uphold Community Relations via regular meetings with communities » Maintain conservation » Strengthen land tenure The company proactively commits to the development of affected communities. Social support focuses on improved health, economic empowerment and education, such as building schools and clinics. 	<ul style="list-style-type: none"> The company has to identify relevant stakeholders itself to maintain a constant dialogue with PAP.
7	Environmental impacts due to a project are quantified and measures taken to encourage sustainable resource use while minimizing the risk/magnitude of negative impacts and mitigating them.	<ul style="list-style-type: none"> Grandis Timber contributed to this process by undertaking an IEIA for its concession. Grandis Timber is legally responsible for a 2,256 ha Conservation Area adjacent to the ELC. The company implements a sustainable forest management \ approach based on the FSC certification. The company has to use pesticides in some restricted areas. Therefore the company gives indication through local staff to local community's members to indicate the accessible territories. 	<ul style="list-style-type: none"> The IEIA is only a desk review requiring limited in-depth site visits. The MOE does not provide any template to the company to report progress on the EMP. The process to obtain the FEIA has been laborious, and to this date it is still pending. The quality of certified EIA firms in Cambodia could be improved. The Impacts of external stakeholders inside project boundaries are difficult to quantify and measure. This includes illegal deforestation of conservation areas, forest fires, and charcoal kilns.

Note: Assessment of Grandis Timber completed via desk review and face to face interview with Grandis Timber staff.

6.3 SOCFIN

INTRODUCTION

SOCFIN Cambodia is part of the SOCFIN Group, a European based company specialised in the development and management of oil palm plantations and rubber tree plantations. The SOCFIN Group is present in 8 West and Central African countries and 2 countries in Southeast Asia, managing a total of 15 agro-industrial projects.

In Cambodia, SOCFIN is implanted through 2 companies, SOCFIN-KCD and Coviphama, managing rubber estates in Bousra Commune, Pech Chreada District, Mondulkiri Province. SOCFIN-KCD and Coviphama operate under the same management and are referred to as “SOCFIN Cambodia”.

SOCFIN Cambodia focuses on responsible business with a commitment to protect the environment and support local communities. In recent years SOCFIN Cambodia has developed publicly available sources of information on its activities such as its Facebook Page (@SOCFINCambodia), or the yearly Sustainability Report - which is available online in order to increase transparency, and inform on management practices.

HISTORY

- SOCFIN entered Cambodia in the early 2000s through partnership projects with smallholders.
- SOCFIN holds three ELCs under two company names: SOCFIN KCD and SOCFIN Coviphama
- SOCFIN KCD was established in 2007, holding two ELCs: Varanasi (2009) and Sethikula (2010)
- SOCFIN acquired the Coviphama ELC in 2013

BUSINESS ACTIVITIES

Both SOCFIN KCD and Coviphama manage rubber plantations over the areas of 3,897 hectares and 3,300 hectares respectively (planted areas). SOCFIN KCD started producing rubber in 2015 and Coviphama in 2018. In 2017, SOCFIN KCD produced 1,150 tonnes of rubber. To develop its production chain, SOCFIN Cambodia built its own rubber processing factory in 2017, which will become operational in Q4 of 2018.

BETTER PRACTICES

- The SOCFIN Group publishes annual Sustainability Reports covering all its activities worldwide,

following the GRI Index. SOCFIN Cambodia publishes an additional annual sustainability report specific to its operations in the Kingdom

- SOCFIN Cambodia has developed an external grievance procedure, in consultation with external stakeholders such as the UN OHCHR Cambodia, which is specific to the local situation, culture, and communication channels available.
- SOCFIN Cambodia has an internal Sustainability department dedicated to social and environmental aspects and CSR activities.
- SOCFIN Cambodia established the Phnong Administration (an in-house department composed of 4 employees from the local Phnong Community to facilitate communication and the sharing of information with the local villagers) and the Tripartite committee (an external platform of dialogue composed of elected representatives from five local Phnong villages, local authorities and the company to ensure a fair and open dialogue between the local stakeholders of Bousra Commune. This platform is monitored by the UN OHCHR.

- The SOCFIN Group and SOCFIN Cambodia respect the right of Indigenous people and local communities to give or withhold their Free, Prior, and Informed Consent (FPIC)
- Zero Deforestation Commitment developed with external third-parties and publicly available and implementation of the High Carbon Stock (HCS) policy at the Group and local level
- SOCFIN Cambodia contributes to research and development for the Cambodian rubber sector in partnership with the Cambodian Rubber Research Institute.
 - SOCFIN is developing a large-scale bud wood garden of twenty-eight different types of certified clones, which are due to enter field production by the end of 2018.
- SOCFIN Cambodia is part of a working group of rubber plantation owners in Monduliri province, aiming to share best practises with similar businesses and develop a sustainable rubber market in Monduliri. This platform is initiated and supported by an environmental NGO.
- Socfin Cambodia has developed a smallholders program aiming to bring a long-term and stable income to PAP. For the 52 participants, the company provides land in its concessions, land preparation, planting, training, and technical assistance. A specific team is dedicated to the daily follow-up of this program. 136 hectares are currently dedicated to this program.
- The company's newly opened rubber factory is designed to absorb the company's production as well as the production from local smallholders (participants in the company's smallholders program but also external smallholders), thus opening a local market for them and aiming to guarantee participants a long-term income.

TABLE 29 SOCFIN Assessment

#	PRINCIPLE	ASSESSMENT	BARRIERS TO ACHIEVING
1	Existing rights to land and associated natural resources are recognised and respected.	<ul style="list-style-type: none"> • SOCFIN Cambodia now publicly states its recognition of the rights of indigenous people. • Communal land such as sacred forests, spirit forests and cemeteries inside the ELCs have been identified, mapped and protected in collaboration with traditional representatives of the indigenous communities since the beginning of the operations of the company. 	<ul style="list-style-type: none"> • Speculative land grabbers appeared during the land demarcation process, who bought up land from PAP in the ELC area before SOCFIN could begin negotiations. • Current land speculation increases pressure on areas of protected land within the ELC (e.g. protected riverbanks). • Rapid change of ownership of land in the surrounding community • Lack of clear information regarding past/current and future projects regarding ownership of land

#	PRINCIPLE	ASSESSMENT	BARRIERS TO ACHIEVING
2	Investments do not jeopardise food security but rather strengthen it.	<ul style="list-style-type: none"> • Infrastructure and capital inflow into previously isolated area may have improved food security of PAP. • Water resources in the plantations are protected from potential impacts through preservation of natural vegetation. Soil quality is protected through cover crops and biological control of pests. • Creation of jobs in multiple departments (administration, agronomy, factory, workshop etc.), guaranteeing a long-term, fix income, following a clear salary scale in addition to other benefits (housing, health enter, family rice allocation etc.). 	<ul style="list-style-type: none"> • Food security is seen as a low priority issue in EIA reports. • Impact of other projects in the area (pepper farm, cassava fields) and illegal deforestation of natural areas also impact the quality of local natural resources • Land speculation in the area incites local communities to sell their land for cash quickly, which, once spent, does not provide the long-term sustainable livelihood they benefited from when cultivating fields
3	Processes for accessing land and investments are transparent, monitored, and ensure accountability	<ul style="list-style-type: none"> • SOCFIN Cambodia contributed to this process by undertaking IEIAs for all its concessions which were made available for public consultation. • Full EIAs are currently being processed by the relevant authorities for validation. SOCFIN Cambodia provides full transparency of its operations through availability of certain aspects such as concessions permits, boundaries of ELCs and supply chain information. • When relocation was required, SOCFIN agreed compensation payments in consultation with the IFC. Compensation negotiations were conducted by a dedicated team speaking the Phnong language and recruited from the local communities 	<ul style="list-style-type: none"> • The quality of certified EIA firms in Cambodia could be improved. • There is a lack of clear information on EIA standards and process by government authorities

#	PRINCIPLE	ASSESSMENT	BARRIERS TO ACHIEVING
4	All those materially affected are consulted, and agreements from consultations are recorded and enforced.	<ul style="list-style-type: none"> The company has an External Grievance Procedure which is used to report concerns raised by stakeholders and work with relevant departments to address them. SOCFIN respects the right of Indigenous people and local communities to give or withhold their Free, Prior, and Informed Consent (FPIC) to activities having an impact on land and resources entitled legal, community or customary rights. SOCFIN Cambodia has set up a Phnong Administration and Tripartite committee to facilitate interaction with involvement of government, Phnong representative and company representative. The company communicates with OHCHR and aims for compliance with UN guidelines on Business and Human Rights and UN declarations on the Rights of Indigenous Peoples. 	<ul style="list-style-type: none"> Some community members may not understand the formal external grievance procedure, and may prefer a more direct, informal route to air grievances. Due to the specific context of the Indigenous communities present, it is difficult to find representatives that are universally recognised (they are different for all villages – 7 villages in one commune. Elected Khmer representatives like the commune chief or village chiefs are not always representative of the cultural reality of the community, or recognised to represent the various indigenous communities present. Depending on the representatives involved, agreements are often later questioned by individuals after they have been enforced depending on the changes within the communities and individual interests.
5	Investors ensure that projects respect the law, reflect industry best practice, and are viable economically	<ul style="list-style-type: none"> SOCFIN Cambodia adheres to all applicable local, national and international laws and regulations applicable to its activities. The company monitors all changes to the regulations and constantly adapts its processes and activities to comply with the latest standards. Adheres strict compliance with the agreed ELC masterplan. Provides support to regular audits carried out by MAFF, MOL, MOE etc. SOCFIN Cambodia participates in the Mondulkiri Rubber platform, initiated by WWF, facilitating dialogue on best practices at the provincial level. 	<ul style="list-style-type: none"> The legislation is well designed but changes to legislation can impede economic viability, and lead to companies being non-compliant with new legislation. For example, adapting to rapid changes in the labour law.

#	PRINCIPLE	ASSESSMENT	BARRIERS TO ACHIEVING
6	Investments generate desirable social and distributional impacts and do not increase vulnerability	<ul style="list-style-type: none"> The company supports local development by providing public infrastructure such as schools, hospitals, roads, wells etc. Employment prioritises local people, and HR statistics are published yearly. 40% of employees are women. All SOCFIN Cambodia staff are hired under fixed contracts, and registered with the labour department and NSSF 	<ul style="list-style-type: none"> The Busra commune is populated by both indigenous people and Khmer settlers. Infrastructures supported / donated by SOCFIN have to benefit the whole community. Identifying stakeholders and projects that do not benefit only a small group of individuals has to be done by the company. More information on local development plans (from commune, district, province and land management) would be beneficial to the ensure durability of these projects. Adaptation of local habits of the communities to company work and organisation
7	Environmental impacts due to a project are quantified and measures taken to encourage sustainable resource use while minimizing the risk/ magnitude of negative impacts and mitigating them.	<ul style="list-style-type: none"> SOCFIN follows EIA regulations, Zero Deforestation Commitment and implementation of the High Carbon Stock (HCS). SOCFIN Cambodia is committed to protection of ecosystems through the principle of “No Conversion, No Degradation, and Restoration”. 	<ul style="list-style-type: none"> The quality of certified EIA firms in Cambodia could be improved. EIAs obtained from MOE certified firms are not always recognised internationally There is no official framework / template for monitoring and reporting of environmental impacts / areas as part of company EMPs The Impacts of external stakeholders inside project boundaries are difficult to quantify and measure. This includes illegal deforestation of conservation areas, and the impact of farms implanted in preserved areas. Further government support could assist the enforcement of environmental law enforcement inside the ELC (against logging, deforestation, land grabbing etc.)

Note: Assessment of SOCFIN completed via desk review and face to face interview with SOCFIN staff.



6.4 SIAT

INTRODUCTION

SIAT stands for “Société d’Investissement pour l’Agriculture Tropicale” (Investment Company in Tropical Agriculture). SIAT is an agro-industrial group of companies specialised in the establishment and management of oil palm and rubber plantations. SIAT is headquartered in Brussels and operates in Belgium, Nigeria, Ghana, Gabon, the Ivory Coast and Cambodia.

HISTORY

- SIAT was founded in 1991.
- In 2016, SIAT acquired Swift Rubber Ltd. in Cambodia, a 3,500 ha rubber plantation at Banlung in the province of Ratanakiri, including a crump rubber and latex processing facility.
- SIAT also acquired a 5,800 ha ELC in Preah Vihear.

BUSINESS ACTIVITIES

Worldwide, the group owns 40.000 hectares of oil palm plantations, 22.000 hectares of rubber plantations and a cattle ranch with 5.000 animals all over the world. SIAT factories produce palm oil for the food manufacturing industry and rubber for the tire manufacturing industry.

BETTER PRACTICES

- SIAT provides accurate data per site on its global annual sustainability report
- SIAT established a grievance mechanism involving a dedicated internal team within the company
- SIAT finances CSR projects based on the profit and the turnover collected on site
- SIAT Implements both internal (conducted by the wider SIAT group) and external sustainability audits
- The company established a gender equality committee which promotes the employment of women, addresses women’s concerns and implements a complaints mechanism to mitigate against inappropriate behaviours. SIAT also publishes gender statistics related to its ELCs publicly.

TABLE 30 SIAT Assessment

#	PRINCIPLE	ASSESSMENT	BARRIERS TO ACHIEVING
1	Existing rights to land and associated natural resources are recognised and respected.	<ul style="list-style-type: none"> • The company publicly commits to respecting the law related to land rights. • Implementation of ISO certifications about management system. 	<ul style="list-style-type: none"> • Speculative land grabbers appeared during the land demarcation process, who bought up land from PAP in the ELC area before SIAT could begin negotiations.

#	PRINCIPLE	ASSESSMENT	BARRIERS TO ACHIEVING
2	Investments do not jeopardise food security but rather strengthen it.	<ul style="list-style-type: none"> This is not assessed. 	<ul style="list-style-type: none"> Food security is seen as a low priority issue in EIA reports.
3	Processes for accessing land and investments are transparent, monitored, and ensure accountability	<ul style="list-style-type: none"> The company publicly commits to respecting the law related to land rights. Publication of sustainability report which provides figures and data about the investments per country. 	<ul style="list-style-type: none"> There is a lack of clear processes to follow for accessing land granted as an ELC.
4	All those materially affected are consulted, and agreements from consultations are recorded and enforced.	<ul style="list-style-type: none"> SIAT states that it practises Free Prior Informed Consent (FPIC). The company developed an external grievance procedure, including dedicated staff to work on the communication process between affected communities and the company. 	<ul style="list-style-type: none"> Available information on EIA standards and process on what constitutes meaningful consultation lacks clarity.
5	Investors ensure that projects respect the law, reflect industry best practice, and are viable economically	<ul style="list-style-type: none"> SIAT has a multiple stakeholder approach that includes the government to ensure compliance with the law. Compliance with the law is achieved via internal and external audits from MOE and MAFF, and is reported through reports, audits and seminars. 	<ul style="list-style-type: none"> The legislation is well designed but changes to legislation can impede economic viability, and lead to companies being non-compliant with new legislation.
6	Investments generate desirable social and distributional impacts and do not increase vulnerability	<ul style="list-style-type: none"> Employment prioritises local people SIAT provides an allowance to affected communities of 0.5% from the turnover and 0.5% of the after-tax earnings go towards financing social projects in site areas. SIAT publishes statistics about gender among its employees and has made a commitment to reaching gender parity. Currently, 45% of SIAT employees are women. 	<ul style="list-style-type: none"> The company has to identify relevant stakeholders itself to maintain a constant dialogue with PAP.

#	PRINCIPLE	ASSESSMENT	BARRIERS TO ACHIEVING
7	Environmental impacts due to a project are quantified and measures taken to encourage sustainable resource use while minimizing the risk/magnitude of negative impacts and mitigating them.	<ul style="list-style-type: none"> • SIATs environmental policy is based on two pillars: respect for local legislation and certification from third parties. • The methodology involves internal and external audits. • SIAT undertook IEIAs both of its concessions. 	<ul style="list-style-type: none"> • The process to obtain the FEIA has been laborious, and to this date it is still pending. • The quality of certified EIA firms in Cambodia could be improved. • The Impacts of external stakeholders inside project boundaries are difficult to quantify and measure. This includes illegal deforestation of conservation areas, and the impact of farms implanted in preserved areas.

Note: Assessment of SIAT completed via desk review and face to face interview with SIAT staff.

6.5 HOANG ANH GIA LAI



INTRODUCTION

HAGL has a controversial history in Cambodia but has made substantial improvements in business practises over the past three years.

HAGL was founded in Vietnam as Hoang Anh Pleiku Private Enterprise in 1990. The company initially focused on furniture production before diversifying into financing a professional football club, and launching investments in the agribusiness and real estate sectors.

HAGL is headquartered in Pleiku, Vietnam. The company was introduced to the Ho Chi Minh Stock exchange in 2008 and the London Stock Exchange in 2011 - the first Vietnamese company to be listed in the UK.

HISTORY

- In 1990, the firm started in furniture production.
- In 1993, the company established its first wood processing factory in Vietnam and changed its name to Hoang Anh Gia Lai.
- In 2011, HAGL signed for ELCs in Laos and Cambodia to expand its overseas investments, and continued raising capital from international equity markets by listing on the London Stock Exchange.
- In 2014, the company announced the construction of a palm oil plant with a capacity of 45 tons of fresh fruits bunches per hour in Cambodia.
- After negotiations to address conflict with local communities, in September 2015 HAGL reached an agreement with 14 indigenous communities and 11 ethnic minority villages affected by its Ratanakkiri operations to commit to better practices and return approximately 10,000 hectares of undeveloped land and forests.
- In 2017 HAGL agreed to return nearly 20 community "Spirit Mountains", restore streams filled or polluted by its activities and repair roads and bridges.

BUSINESS ACTIVITIES

HAGL's agribusiness activities involve rubber, sugarcane and oil palm production as well as cattle management. In Cambodia the company runs oil palm (22,446 ha) and rubber (23,588 ha) plantations in Ratanakiri province.

BETTER PRACTICES

- HAGL made substantial Investments into supporting infrastructure such as roads, bridges, power systems, wells, around 3,000 houses for the workers and affected community members.
- HAGL prioritises employment and training for local community members
- The company obtained high-level international certification (Bureau Veritas) to implement social and environmental protection strategies, and applied the ISO 9001:2008 quality management system which commits to higher standards of environmental protection.
- HAGL implements CSR activities such as charity programs to provide food, finance, medical examinations and free treatments.
- HAGL established an internal Environment Department to mitigate against environmental damage

- The company responded to complaints through the IFCs Compliance Advisor/Ombudsman (CAO), reaching an agreement with 14 indigenous communities and 11 ethnic minority villages affected by its Ratanakiri operations. The agreements (made in 2015 and 2017) included the following:
 - > The return of ~10,000 hectares of undeveloped land to indigenous communities
 - > HAGL agreed to only use chemical products that comply with environmental regulations;
 - > HAGL agreed to repair roads and bridges that villagers use and were affected by HAGL’s operations;
 - > The parties agreed to conduct a joint visit, along with other stakeholders, including NGO advisors, CAO and local authorities, to each of the eleven affected villages in order to identify the boundaries of HAGL’s plantations and the boundaries of the affected villages for the purposes of demarcation;
 - > If through the joint visits it is ascertained that HAGL has cleared and developed customary lands and resources of the communities, then the company committed to (a) offer compensation for this land; and (b) if the villagers do not accept the compensation, return the land to the community.
 - > HAGL agreed to support villagers in securing titles to their land.
 - > HAGL agreed to adopt an operational grievance mechanism in Cambodia

TABLE 31 HAGL Assessment

#	PRINCIPLE	ASSESSMENT	BARRIERS TO ACHIEVING
1	Existing rights to land and associated natural resources are recognised and respected.	<ul style="list-style-type: none"> • Certification by Bureau Veritas on natural resources preservation. 	<ul style="list-style-type: none"> • In the past HAGL activities bought them into conflict with community member. HAGL was reactive to issues rather than proactive.
2	Investments do not jeopardise food security but rather strengthen it.	<ul style="list-style-type: none"> • HAGL’s community development program provides food support through donations 	<ul style="list-style-type: none"> • Food security is seen as a low priority issue in EIA reports. • Details of the “community development” program are not available online
3	Processes for accessing land and investments are transparent, monitored, and ensure accountability	<ul style="list-style-type: none"> • HAGL releases press releases, an annual report and financial statements detailing how investments are allocated. 	<ul style="list-style-type: none"> • There is a lack of clear processes to follow for accessing land granted as an ELC. • Inconsistent land ownership titles for community members
4	All those materially affected are consulted, and agreements from consultations are recorded and enforced.	<ul style="list-style-type: none"> • HAGL established a grievance mechanism for receiving and responding to feedback. • The company actively participated in conflict resolution mediated by the IFCs watchdog mechanism CAO. 	<ul style="list-style-type: none"> • HAGLs efforts to mitigate against social and environmental impacts were implemented late in the investment process. They were reactive to issues rather than proactive.

#	PRINCIPLE	ASSESSMENT	BARRIERS TO ACHIEVING
5	Investors ensure that projects respect the law, reflect industry best practice, and are viable economically.	<ul style="list-style-type: none"> HAGL publicly commits to remaining compliant to Cambodian law and policy. The HAGL sustainability report details efforts to maintain compliant to environmental and social laws in the countries in which it operates. 	<ul style="list-style-type: none"> HAGL holds around 45,000 hectares of land in Cambodia. Considerably higher than the 10,000 permitted in the ELC sub-decree. Legislation is well designed but changes to legislation can impede economic viability, and lead to companies being non-compliant with new legislation. For example, adapting to rapid changes in the labour law.
6	Investments generate desirable social and distributional impacts and do not increase vulnerability	<ul style="list-style-type: none"> Investment in infrastructure (schools, hospitals, roads, houses). Priority employment to PAP and local community members. HAGL provides free treatment and medical examinations for PAP. 	<ul style="list-style-type: none"> Past project implementation brought HAGL into conflict with community members regarding indigenous land.
7	Environmental impacts due to a project are quantified and measures taken to encourage sustainable resource use while minimizing the risk/magnitude of negative impacts and mitigating them.	<ul style="list-style-type: none"> HAGL obtained ISO 9001:2008 quality management system certification HAGL obtained approval of FEIA reports for 3 projects in Cambodia HAGL established an internal environmental department. 	<ul style="list-style-type: none"> The FEIA and IEIA reports are not available online The quality of certified EIA firms in Cambodia could be improved.

Note: Assessment of HAGL completed via desk review and telephone discussion interview with HAGL staff. HAGL declined to hold a face to face interview.

07

CONCLUSIONS

07

FDI IN AGRIBUSINESS: CAMBODIA

Objectives

The purpose of this report was to inform the Royal Government of Cambodia, foreign investors from the private sector, civil society organisations, and non-government organisations on responsible and inclusive foreign direct investment practices.

This project had four key objectives:

1. Provide updated data on FDI in Agriculture in Cambodia
2. Analyse and Map the FDI application process
3. Develop case studies of notable practices
4. Develop policy recommendations for responsible investment

Foreign Direct Investment

Foreign Direct Investment (FDI) has been a major source of development funding for Cambodia. The Royal Government has successfully created an open investment environment for foreign capital which has resulted in substantial increases in FDI, in turn contributing to significant social and economic benefits to the Cambodian population. From 1994 to 2017, Cambodia has enjoyed US \$ 34.6 billion of FDI, of which 11.45% flowed into the agriculture sector¹⁰⁷.

If conducted and regulated responsibly, FDI is widely recognised as a source of economic development, modernisation, income growth and employment¹⁰⁸. FDI enables technology transfer between nations, contributes to international trade integration, introduces new skills to the labour force, and can

create a more competitive business environment. If not regulated or conducted responsibly, the opposite is true. The benefits of FDI may be enjoyed disproportionately by investors, and the negative impacts are borne by the poorest and most vulnerable, and the forest ecosystems surrounding them. In Cambodia, the policies and regulations governing investment into agribusiness are improving but often perceived as incomplete, and the country has enjoyed both significant benefits of FDI, but substantial negative impacts have also been observed.

Few studies have been undertaken on how the negative impacts of large scale agribusiness investment arise, and how they can be mitigated against. Fewer still have attempted to understand: 1) the role the private sector can play in proactively mitigating against these issues; and 2) the barriers that profit focused, yet arguably well intentioned companies face in navigating the FDI process, whilst maintaining amicable relationships with affected communities. This project attempts to fill this gap.

Gaps in FDI Policy and Process

Although in general Cambodia's past policies offered protection throughout the FDI process, actual implementation led to challenges across all stages; both for investors, as well as the community members investment projects. This report reveals gaps at each stage of the investment process that could lead to negative environmental and social impacts, and that could be addressed in future changes to legislation:

¹⁰⁷ The Council for the Development of Cambodia. (2018). FDI Inflow and Total Investment into Cambodia (1994 - 2017).

¹⁰⁸ OECD. (2002). Foreign Direct Investment for Development: Maximising Benefits, Minimising Costs.

1. Preparation and Approval

- *ELC Size Limit Excesses:* Despite the 10,000 hectare limit set by the 2001 Land Law and the 2005 Sub-Decree 146 on Economic Land Concessions, there are well known cases of conglomerates holding several ELCs totalling well over this limit. Legislation does allow this in certain circumstances.
- *IEIA Criteria:* According to EIA law, and the relatively recent 2013 Prakas on General Guidelines for Developing Environmental Impact Assessment Reports, an IEIA is described as preliminary assessment based on secondary data. In practice this means that many ELCs are granted purely based on secondary data, removing a crucial opportunity for community participation. The lack of primary data collection at this stage has also led to ELCs being granted based on out of date, or inaccurate secondary data for key statistics such as population. The result is that the true environmental and social impacts are rarely known until implementation begins, and in turn, the EMPs to mitigate these impacts may not reflect the reality.

2. Land Acquisition

- *Lack of PAP Compensation Standards:* There are no laws, regulations or standards for compensation paid to PAP who are asked to relocate as a result of ELC implementation. Compensation offers are usually ad hoc and on a case to case basis¹⁰⁹. This provides a key loophole for less scrupulous companies to exploit, and leaves PAP vulnerable to coercive tactics.
- *PAP Consultation often does not occur until after the ELC has been granted*
- *Lack of PAP Consultation Standards:* Until the 2016 Revised Guideline on Public Participation in Environmental Impact Assessment (which has yet to be ratified as law), there were no standards defining what constituted meaningful public participation. There are no standards or targets for how extensive community consultations must be throughout the land acquisition process.
- *Lack of functional official dispute resolution mechanisms:* Dispute mechanisms available to

PAP are inefficient. This can create a gap for companies who do not wish to establish their own dispute resolution mechanisms to exploit.

3. Implementation

- *EIA Criteria:* Current EIA regulations mean that the land acquisition phase can be undertaken based just on an IEIA. FEIAs do not need to be undertaken until much later in the FDI process, and after implementation has begun.
- *EIA Monitoring:* Monitoring of progress against EIA Environmental Management Plans (EMPs), is sometimes sporadic. This is an issue for compliant companies who wish to demonstrate good practises, and a loophole for non-compliant companies to continue operating despite poor progress against their EMPs.
- *ELC Monitoring:* Monitoring of progress against master plans can also be sporadic. This is an issue for compliant companies who wish to demonstrate good practises, and a loophole for non-compliant companies to continue operating despite poor progress against their master plans.

4. Closure and Phasing Out

- *Company acquisition process could be improved:* The process for acquiring an ELC holding company or transferring an ELC could be clarified - current regulations defining the process do not appear to include obligations to notify PAP. In some cases, acquisitions occur without the knowledge of all levels of relevant government authorities, as well as PAP. In the past, this has led to examples of PAP being unaware of which company holds an ELC, leading to issues with dispute resolution.

5. Cross Cutting

- *Lack of uniform standards for information sharing throughout the ELC process:* Without clear regulations stating what information should be shared with PAP and other relevant stakeholder, and when it should be shared, can leave the ELC process open to abuse by those with prior or insider knowledge.

¹⁰⁹ Oxfam. (2016). Vietnamese Agricultural Investment in Cambodia and Laos: Benefits, Impacts and Challenges.

Better Practices & Common Barriers

Within the context of the policy environment and FDI process, case studies were identified assessing the attempts of profit focused, yet arguably well-intentioned foreign companies to navigate the FDI process, whilst maintaining amicable relationships with PAP. Case studies of better practice investment were selected based on their current adherence to the seven World Bank *Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources*¹¹⁰.

Each case study company demonstrated notable initiatives (as reported by the companies) that if applied by all ELC holding companies, could mitigate the potential risk of negative social and environmental impacts associated with agribusiness investment. A limitation of this study is that detailed primary research with affected community members was not undertaken to verify all claims. Key better practises include:

1. Proactively seeking out international certification for major crops
 - International certification bodies such as Bureau Veritas and FSC hold companies to higher standards of environmental protection, social protection, and set more extensive rules for community consultations.
2. Proactively publishing information relating to business activities and sustainability activities
3. Proactively establishing external grievance procedures, in collaboration with NGOs, civil society organisations and multilaterals to affectively engage with community members.
4. Establishing internal sustainability, environmental and social protection departments to mitigate against environmental and social impacts and promote CSR campaigns and activities.

TABLE 32 Summary of better practices employed by case study companies

GRANDIS TIMBER	SOCFIN	SIAT	HAGL
Actively sought FSC accreditation	Publishes Annual Sustainability Reports specific to Cambodia	Publishes an annual sustainability report is specific to Cambodia	Procurement of high-level certification (Bureau Veritas and ISO 9001:2008)
Key proponent of the “Leopard Skin” approach	Takes part in the Mondulkiri rubber producers group, sharing best practises with peers	Obtained international certification on plantation management	Implements an IFC supported complaints mechanism
Implemented a permit system to grant villagers access to ELC land safely	Implements Zero Deforestation Commitment and High Carbon Stock (HCS) policy	CSR campaigns financed based on profit and turnover	Published sustainability report detailing CSR campaigns
Active CSR Campaigns	Active CSR Campaigns	SIAT implements a grievance mechanism for issues specific to gender equality	Established an internal environmental management department
Public documents detail challenges faced in navigating the ELC process	Supporting R&D in Cambodia (SOCFIN research)		Provision of support to PAP in acquiring land titles

¹¹⁰ World Bank. (2010). Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources. Available from: http://siteresources.worldbank.org/INTARD/214574-1111138388661/22453321/Principles_Extended.pdf

Common Barriers

Similarly, analysis of case study companies reveals several common barriers to achieving the seven World Bank Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources.

TABLE 33 Summary of barriers case study companies face in achieving each World Bank principle

1	2	3	4	5	6	7
Existing rights to land are respected	Food security considered	Transparent investment & land acquisition processes	Public consultations occur	Projects respect the law and are economically viable	Projects generate desirable social benefits	Environmental impacts are assessed and managed
<ul style="list-style-type: none"> • Unclear and sometimes rapidly transferred and ownership titles • Speculative land brokers with prior knowledge of ELCs buying out land • Land set aside for conservation by ELC later developed 	<ul style="list-style-type: none"> • Food security is not assessed formally, minor part of EIAs 	<ul style="list-style-type: none"> • Unclear land ownership titles • Negotiations and compensation agreements made on ad-hoc basis • Rapid transfer of ownership rights • No standard rates for compensation paid to PAP 	<ul style="list-style-type: none"> • No consistent process or standards for community consultations 	<ul style="list-style-type: none"> • Adapting to rapidly changing legislation that can temporarily affect profitability & legal compliance • Lengthy dispute mechanisms prevent implementation of Master Plans / Business Plans 	<ul style="list-style-type: none"> • In the past, incomplete guidelines to follow for EIAs • IEIAs are of reportedly low quality, and mostly relative based on secondary data • EIAs based on primary data, but occur late in the process 	<ul style="list-style-type: none"> • Cambodian accredited EIAs reported to be of low quality • IEIAs based on secondary data • FEIAs based on primary data, but occur late in the process • No template to report on progress against EMPs • Inconsistent auditing of progress against EMPs by MOE.

08

RECOMMENDATIONS

08

FDI IN AGRIBUSINESS: CAMBODIA

Based on an analysis of findings, policy gaps and the notable practices and common barriers faced by case study companies, 19 recommendations have been developed. These recommendations build on recommendations from previous studies, and could lower the risks of negative social and environmental impacts.

Recommendations for the Cambodian National and Sub-national Government

1. *Establish detailed guidelines for how community consultations should occur:* This would improve community participation in the FDI process. For example, minimum standards of how many PAP need to be consulted, the percentage of the affected community that needs to be sampled, the gender breakdown of consultations etc.
2. *Encourage Full Environmental Impact Assessments at the earliest stage possible or the incorporation of primary data into Initial Environmental Impact Assessments.* In practice many ELCs are granted based only on IEIAs which are purely based on secondary data, removing a crucial opportunity for community participation.
3. *Develop template documents for private sector companies to follow in order to monitor and evaluate progress against their Environmental Management Plans (EMPs).* Private companies stated a key barrier in reporting against EMPs was unclear guidance on the content of EMP progress reports.
4. *Provide more extensive guidance on compensation payments to lower the risk of PAP being under-compensated in situations where they are forced to relocate. Adequate compensation in line with domestic laws and international standards on involuntary resettlement¹¹¹ could mitigate adverse impacts on the local communities.*
5. *Encourage learning exchanges between MOE accredited EIA firms and international firms that can demonstrate international best practise, or remove restrictions on foreign EIA firms being able to operate in Cambodia.* The quality of service that MOE accredited EIA firms are able to deliver could be improved. Opening the industry to international companies could facilitate transfer of international expertise and lead to higher quality EIA reports.

¹¹¹ For example, International Finance Corporation (IFC)'s Performance Standard 5: Land Acquisition and Involuntary Resettlement, which can be accessed at https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/performance-standards/ps5.

Recommendations for Private Companies Seeking to Improve Business Practises

6. *Conduct aerial surveys of prospective ELC areas as early as possible* - accurate aerial surveys will mitigate against opportunistic land brokers and speculators, and could ensure compensation only goes to those eligible for it.
7. *Proactively seek out and acquire international quality certification for relevant crop types.* International certification bodies such as the FSC often have higher quality auditing capacity than that available locally. Obtaining the certification demonstrates a commitment to higher standards of business practice.
8. *Proactively establish internal grievance procedures and publish them amongst affected PAP, relevant stakeholders and peer businesses.* This could occur in collaboration with a third-party organisation such as the IFC. An effective operational-level grievance mechanism should be in line with international standards including the United Nations Guiding Principles on Business and Human Rights, i.e. being predictable, equitable, legitimate, accessible, transparent, rights-compatible, a source of continuing learning, and based on engagement and dialogue. The mechanism should be able to facilitate effective remedies to communities regarding any type of complaints they may have related to the investment.
9. *Publish IESIAs and FEIAs* – these are difficult to access and rarely shared - decreasing transparency and making it difficult to understand shortcomings in the EIA process, and in the capacities of firms certified to undertake EIAs in Cambodia.
10. *Continue to adopt and perfect the “Leopard Skin” approach to ELCs as deemed appropriate* – regularisation of local populations rather than eviction seems to be overall a less harmful approach to ELC management, although it is particularly well suited for commercial timber. Adopt permit systems to allow, but moderate community members access to ELC land.

Recommendations for Private Companies Seeking to Improve Business Practises

11. *Incentivise the uptake of CSR activities abroad, recognise and reward companies that are implementing these successfully.*
12. *Encourage regional guidelines for public consultations, compensation payments, EIAs and CSR activities that can be applied to all ASEAN countries.*
13. *Possibly move towards the establishment of regional institutions for conducting EIAs across ASEAN: where best practices relevant to all ASEAN member states are decided, and where the credentials and quality of these are recognised by each ASEAN country.*

TABLE 34 Summary of recommendations from previous studies

CAMBODIAN GOVERNMENT	PRIVATE COMPANIES	INVESTING COUNTRIES / REGIONS
Increased clarity / public availability of Information related to ELCs and their operations would increase trust in the process.	Companies should maintain a good relationship with local authorities and residents and create a platform for consultations with authority, affected communities and relevant third parties	Foreign governments should enforce Foreign Investment Laws, including: <ul style="list-style-type: none"> • Vietnam: <ul style="list-style-type: none"> > 2014 Investment Law¹¹² • China: <ul style="list-style-type: none"> > 2006 Nine Principles on Encouraging and Standardizing Foreign Investment¹¹³ > 2017 Measures for the Administration of Overseas Investment of Enterprises¹¹⁴
Clearer fees at all stages of the investment process would improve investment transparency	Clearer fees at all stages of the investment process would improve investment transparency	Agricultural Ministries should develop Investment Guidelines for Agriculture by Country, or adopt those already set by multilaterals (World Bank)
Encourage EIAs to be conducted in a transparent manner prior to the implementation of the project, and with participation from stakeholders and affected population.	Investments should be transparent, compliant and responsible with minimal impact on environment and communities.	Encourage financial organisations (both private and state owned) to screen for environmental and social risks before granting subsidies / grants for overseas projects <ul style="list-style-type: none"> • China: 2012 Green Banking Credit Guidelines¹¹⁵
A greater emphasis on food security could be promoted by Investment regulations and MAFF	Investors should be accountable to adjacent communities and develop sound corporate social responsibility strategy plans.	Pressure financial organisations (both private and state owned) to screen for environmental and social risks before granting subsidies / grants for overseas projects
To demarcate ELCs, the authority in charge should consult with local authorities, relevant institutions and communities.	Companies should conduct full environmental and social impact assessments in advance with meaningful participation of relevant authorities, concerned stakeholders and wide participation of affected community – according to the principles of FPIC.	Set guidelines for CSR activities in overseas agricultural investments and encourage their uptake

¹¹² UNCTAD Compendium of Investment Laws. (2014). Translation of the Viet Nam Law on Investment. Available from: <https://investmentpolicyhub.unctad.org/InvestmentLaws/laws/152>

¹¹³ State Council of the People’s Republic of China. (2007). Nine Principles on Encouraging and Standardizing Foreign Investment.

¹¹⁴ State Development and Reform Commission of the People’s Republic of China. (2017). Measures for the Administration of Overseas Investment of Enterprises.

¹¹⁵ China Banking Regulatory Commission. (2012). Notice of the CBRC on Issuing the Green Credit Guidelines.

Strengthened monitoring and conflict resolution mechanisms would lower the risk of negative social impacts	Investors should contribute to the development of the community through support of infrastructure improvement and employment opportunities.	Encourage uptake of international guidelines such as the UN Guiding Principles on Business and Human Rights, OECD guidelines and the UN FAO Voluntary Guidelines of Tenure of Land, Fisheries and Forests
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Sources: Oxfam. (2016). *Vietnamese Agricultural Investment in Cambodia and Laos*; CDRI. (2012). *Foreign Investment in Agriculture in Cambodia*; Michael B. Dwyer, Emily Polack and Sokbunthoeun. (2015). 'Better-practice' Concessions?

Recommendations for Future Interventions by NGOs and CSOs

14. *Disseminate best practices in agribusiness to ELC holders in the form of a "best practice guidebook" that details and promotes better practises across all phases of the FDI investment process.* There is currently no widely available document specific to Cambodia. This could build on regional documents such as the 2017 "Guidance for Sustainable Natural Rubber" published by the China Chamber of Commerce of Metals, Minerals & Chemical Importers & Exporters (CCCMC).
15. *Establish multi-stakeholder platforms for NGOs/ CSOs, local and provincial authorities and companies with similar crops in major provinces.* There is a vast mix of technical capacity in investor firms, yet few platforms for them to share and disseminate better practices. Notable exceptions include the Mondulkiri rubber producers' group, but similar groups for cassava, biofuel crops, sugar cane etc. could facilitate information transfer.
16. *Publish list of international certification programs for major crops in Cambodia, and promote their uptake and use.* International certifying bodies often have stronger auditing functions than MAFF or MOE. A document notifying ELC holding companies of international certification programs available for their crops (such as FSC certification), including the basic steps to obtaining certification and the benefits of doing so could encourage companies to shift towards certifications that demand higher standards of environmental and social protection. This could also be a step to enabling Cambodian producers to sell to more international markets that demand higher quality standards.
17. *Establish platforms to reward and incentivise excellence in CSR activities.* In the last decade or so in Cambodia, there has been a shift by some agricultural companies towards CSR type campaigns. However, the costs of CSR campaigns need to generate a financial, social or reputational return for the company. Establishing a CSR platform or reward system would incentivise companies to undertake CSR activities and provide a means to share those CSR activities with a wider audience.
18. *Conduct research on "best practices for EIAs" and work with local EIA firms, MAFF, MOE to increase the uptake of those practices.* EIAs in Cambodia are often regarded as expensive and relatively low quality by the private sector, and are often not recognised internationally. Understanding the shortcomings in the current EIA process, and working with EIA firms to fill identified gaps could substantially improve: 1) outcomes for PAP and their participation in the process; 2) the perception of EIAs by the private sector; and 3) the reputation of Cambodia as a high quality investment destination.
19. *Continue to assess firms operating in Cambodia against an agreed set of criteria, such as the seven World Bank best practices, and potentially continue to use the self-assessment methodology.* In a particularly sensitive area, private sector stakeholders generally responded positively to this approach. More data would reveal further better practises and common barriers weight to survey findings.

09

APPENDIX

09

FDI IN AGRIBUSINESS: CAMBODIA

9.1 INVESTMENT BY COUNTRY INTO CAMBODIA (1994-2017)

By continent and nation and in descending order in terms of fixed assets (US \$) invested.

CONTINENT	INVESTING NATION	REGISTERED CAPITAL (US \$)	FIXED ASSETS (US \$)
Africa	The Seychelles	5,000,000	24,138,275
North America	United States	100,104,000	1,362,085,848
	Canada	71,349,900	124,676,019
South America	Argentina	300,000	245,385
ASEAN	Malaysia	1,619,782,473	2,728,285,096
	Vietnam	766,170,300	1,762,140,483
	Singapore	266,249,200	1,225,080,316
	Thailand	274,267,350	1,096,673,118
	Indonesia	55,955,500	68,978,312
	Brunei	9,000,000	16,822,216
	Philippines	1,300,000	1,339,575
	Cambodia	2,725,120,822	27,620,986,926
Europe	United Kingdom	352,737,800	3,026,982,989
	Russia	18,750,000	619,747,234
	France	45,880,450	308,840,531
	Belgium	5,425,000	34,951,189
	Denmark	9,200,000	29,478,450
	Netherlands	15,940,750	20,981,999
	Norway	3,370,000	16,645,630
	Switzerland	8,200,000	15,781,595
	Sweden	4,000,000	15,003,780
	Luxembourg	8,400,000	8,400,000

CONTINENT	INVESTING NATION	REGISTERED CAPITAL (US \$)	FIXED ASSETS (US \$)
	Cyprus	950,000	7,345,286
	Belgium	3,040,000	6,557,987
	Portugal	5,550,000	4,264,722
	Italy	1,050,000	3,778,694
	Germany	1,768,800	3,325,230
	Spain	1,000,000	3,169,800
	Austria	1,000,000	3,021,450
	Bulgaria	250,000	520,778
Other ASIA	China	1,409,441,678	12,601,208,247
	Korea	326,331,000	4,650,947,879
	Hong Kong	367,259,252	1,333,833,784
	Japan	226,336,200	1,210,963,050
	Taiwan	604,931,970	1,208,314,599
	Israel	4,300,000	307,444,093
	Samoa	53,800,000	213,310,065
	Australia	60,927,750	162,558,016
	Saudi Arabia	24,160,000	131,200,000
	India	16,795,000	112,607,710
	Kazakhstan	1,750,000	64,170,347
	Nepal	250,000	20,713,496
	Kyrgyzstan	970,000	18,928,032
	North Korea	500,000	17,057,399
	Macau	6,265,680	11,293,436
	Mauritius	3,950,000	10,875,496
	Mongolia	1,800,000	4,328,423
	Turkey	450,000	2,652,291
	New Zealand	559,800	1,461,085
	Uzbekistan	30,000	585,403
Pakistan	250,000	540,597	
Sri Lanka	250,000	280,000	
Unknown	0	0	
Total Investment		9,492,420,675	62,245,522,362
Total FDI (Excluding Cambodia)		6,767,299,853	34,624,535,436

Source: The Council for the Development of Cambodia. (2018). Investment Trend.

9.2 KEY ARTICLES FROM SUB-DECREE 146 ON ECONOMIC LAND CONCESSIONS

2005 Sub Decree 146 - Article 4: Criteria for Granting of ELC

- The land has been registered or classified as state private land
- A land use plan has been adopted that is consistent with the land-use plan adopted by the Provincial-Municipal State Land Management Committee.
- An Environmental and Social Impact Assessment (EIA) have been completed.
- The land has solutions for resettlement issues in accordance with the law.
- No involuntary resettlement
- Access to private land shall be respected
- Consultations with the public have been undertaken with regards to the project plan and proposals.

2005 Sub Decree 146 - Article 7: ELC Proposal Process

- Develop initial project documents proposing an Economic Land Concession project in a form established by the Technical Secretariat, including information specified in Article 8 of the sub-decree.
- Send the initial project documents to the Technical Secretariat for preliminary study and recommendations.
- Consult with relevant Provincial Land Use and Allocation Committee and Regulatory Institutions regarding the economic land concession project.
- Arrange for the conduct of an initial environmental and social impact assessment (IEIA) of the proposed economic land concession project.
- If the IEIA indicates a medium or high degree of adverse impact, arrange for the conduct of a full environmental and social impact assessment.
- Prepare a complete set of project documents, which shall include all of the recommendations and reports from the steps enumerated above.

2005 Sub Decree 146 - Article 8: ELC Proposal - Initial Documents Required

- Description of the proposed land, such as location, size, type, reference to the parcel number in the

Land Register, and general information about the area in which the land is located.

- General land use and development plan for the concession project.
- Any necessary actions required to be completed by the concessionaire prior to undertaking the economic land concession activities.
- Any necessary actions required to be completed by the Contracting Authority or any ministry or institution prior to undertaking the proposed economic land concession activities.
- State obligation or state guarantee required for the economic land concession project.

2005 Sub Decree 146 - Article 12: ELC Proposal - Details to be Included

- A business plan detailing the planned use for the land, the investment plan, expenditure and revenue planned for the land development, and the sources of capital to support the proposed concession project;
- A description of the labour needs for the concession project and the source of the labour;
- Information about technology, equipment, machinery, fertiliser, pesticide, use plan for types of priority crops;
- Indication of the environmental and social impacts of the proposed investment activity and preventive or reduction measures the proposer will take;
- A description of any linkages and mutual support between social land concessions and economic land concessions;
- A description of any linkages to processing of raw materials which are domestic harvests;
- The proposer's land use fee offer to the state;
- Disclosure of any land concession holdings by the proposer as provided under article 59 of the Land Law; and
- Any guarantee sought by the proposer from the State.

2005 Sub Decree 146 - Article 39: ELC Proposal - Exceptions to the 10,000 Hectare limit

- The Council of Ministers may grant an exemption from the requirement to reduce economic land concession holdings of over 10,000 (ten thousand) hectares in the following situations:
 - The concession was granted prior to the effective date of the Land Law of 2001;

- › A reduction in the holdings would impact the on-going business operation when the Land Law comes into force. Tree cutting or shrub burning for land clearing purpose shall not be considered as the start of business operation or a demonstration of meeting land development requirements under the concession contract.

9.3 INTERVIEW GUIDES

The study team employed a simple semi-structured interview to obtain information from relevant stakeholders. Our interviews were focused on two main pillars:

1. The Seven World Bank Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources.
 - Companies were questioned on specific efforts they had made to achieve each principle, the barriers they faced in achieving each principle, and for recommendations on changes that would improve their ability to achieve each principle.
 - NGOs and CSOs were asked to provide a general assessment on whether each principle was being achieved in Cambodia, and to highlight examples demonstrating their assessment. NGOs and CSOs were also questioned on the reasons they see organisations fail to achieve each principle, and possible recommendations to improve the investment environment so that more of them are achieved.

2. The FDI Process Map.

- Companies were questioned on the accuracy of the FDI process map, the issues they faced along each stage of the investment process, and the reasons those issues arose.
- NGOs and CSOs were questioned on the accuracy of the FDI process map, the issues they observed at each stage of the investment process, and the reasons they believed those issues arose.
- Companies and NGOs / CSOs were asked to make recommendations on possible improvements to the FDI process.

The desk review phase was used to identify the provisional FDI process map. In each subsequent interview, we asked for feedback on that process map, and adapted the process map in between each interview to reflect the most up to date version.

Potential case study companies were assessed against the seven World Bank initially by the study team via desk review, and subsequently via a “self-assessment” methodology whereby companies were sent a pre-filled assessment grid (detailing the desk review assessment), and asked to comment or add to the assessment. The final stage was an interview with the company to validate information gathered.

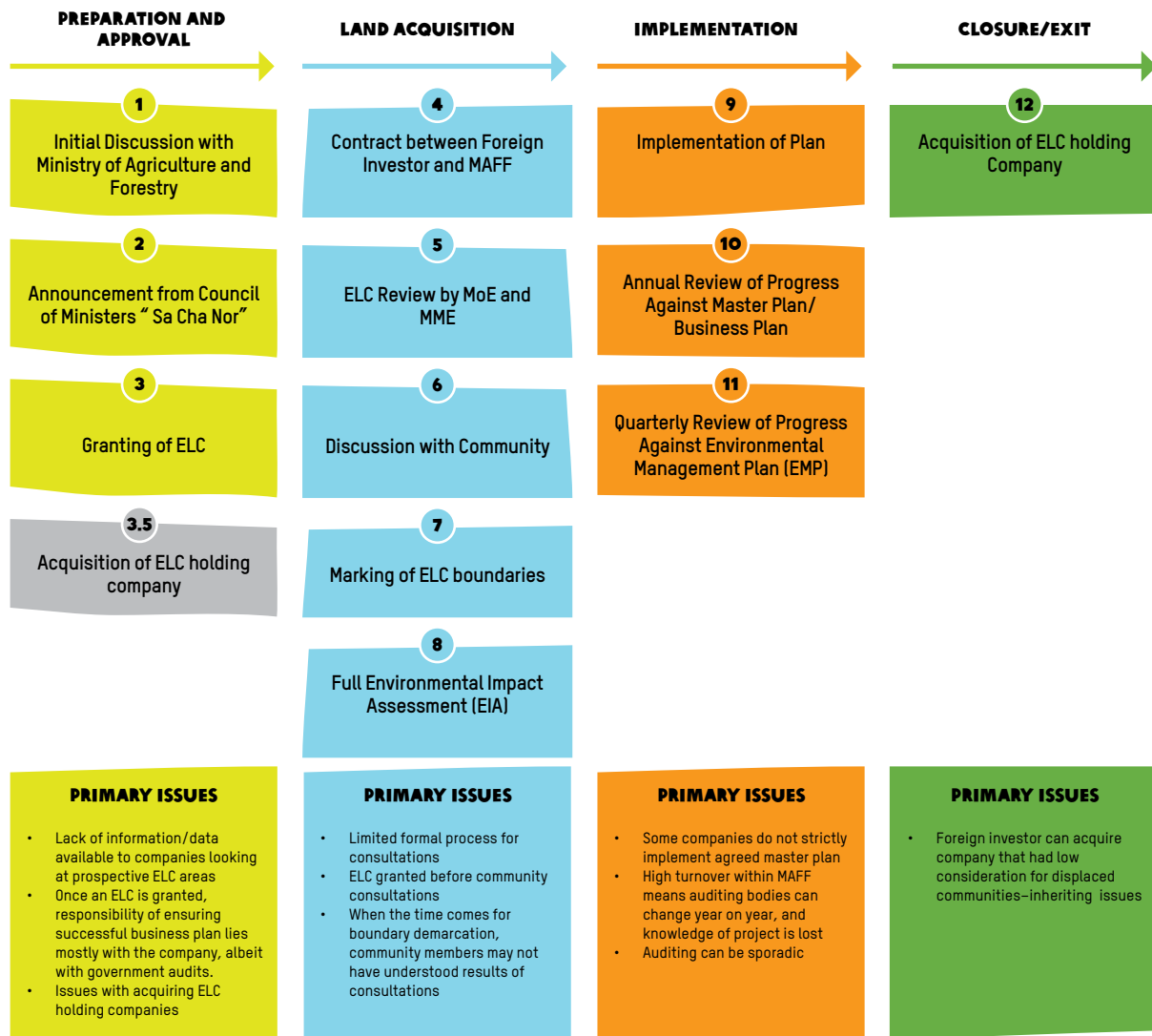
This three step “Self-Assessment” methodology was employed to encourage private sector participation in the study, which in previous studies has been limited. The study team were fully transparent in sharing the aims and objectives of the study with private sector participants, and shared the Terms of Reference (ToR) with private companies when requested. The finalised cases studies were shared with participating companies prior to publication.

9.3.1 INTERVIEW GUIDE FOR PRIVATE SECTOR COMPANIES

- Please describe your business activities
- Please describe the Issues you faced in investing / community engagement

PRINCIPLE	PLEASE DESCRIBE YOUR COMPANY'S EFFORTS TO ACHIEVE EACH PRINCIPLE	PLEASE DESCRIBE THE KEY BARRIERS FACED IN ACHIEVING EACH PRINCIPLE
1 Existing rights to land and associated natural resources are recognised and respected.		
2 Investments do not jeopardise food security but rather strengthen it.		
3 Processes for accessing land and investments are transparent, monitored, and ensure accountability		
4 All those materially affected are consulted, and agreements from consultations are recorded and enforced.		
5 Investors ensure that projects respect the law, reflect industry best practice, and are viable economically		
6 Investments generate desirable social and distributional impacts and do not increase vulnerability		
7 Environmental impacts due to a project are quantified and measures are taken to encourage sustainable resource use while minimizing the risk/magnitude of negative impacts and mitigating them.		

FDI PROCESS MAP IN CAMBODIA



Preparation and approval

- Is the process map described above accurate?
- Can you provide an overview of how your organisation approached this stage?
- What were the major issues you encountered at this stage?

Land acquisition and compensation

- Is the process map described above accurate?
- Can you provide an overview of how your organisation approached this stage?
- What were the major issues you encountered at this stage?

Implementation

- Is the process map described above accurate?
- Can you provide an overview of how your organisation approached this stage?
- What were the major issues you encountered at this stage?

Closure and phasing out

- Is the process map described above accurate?
- Can you provide an overview of how your organisation approached this stage?
- What were the major issues you encountered at this stage?

Cross cutting

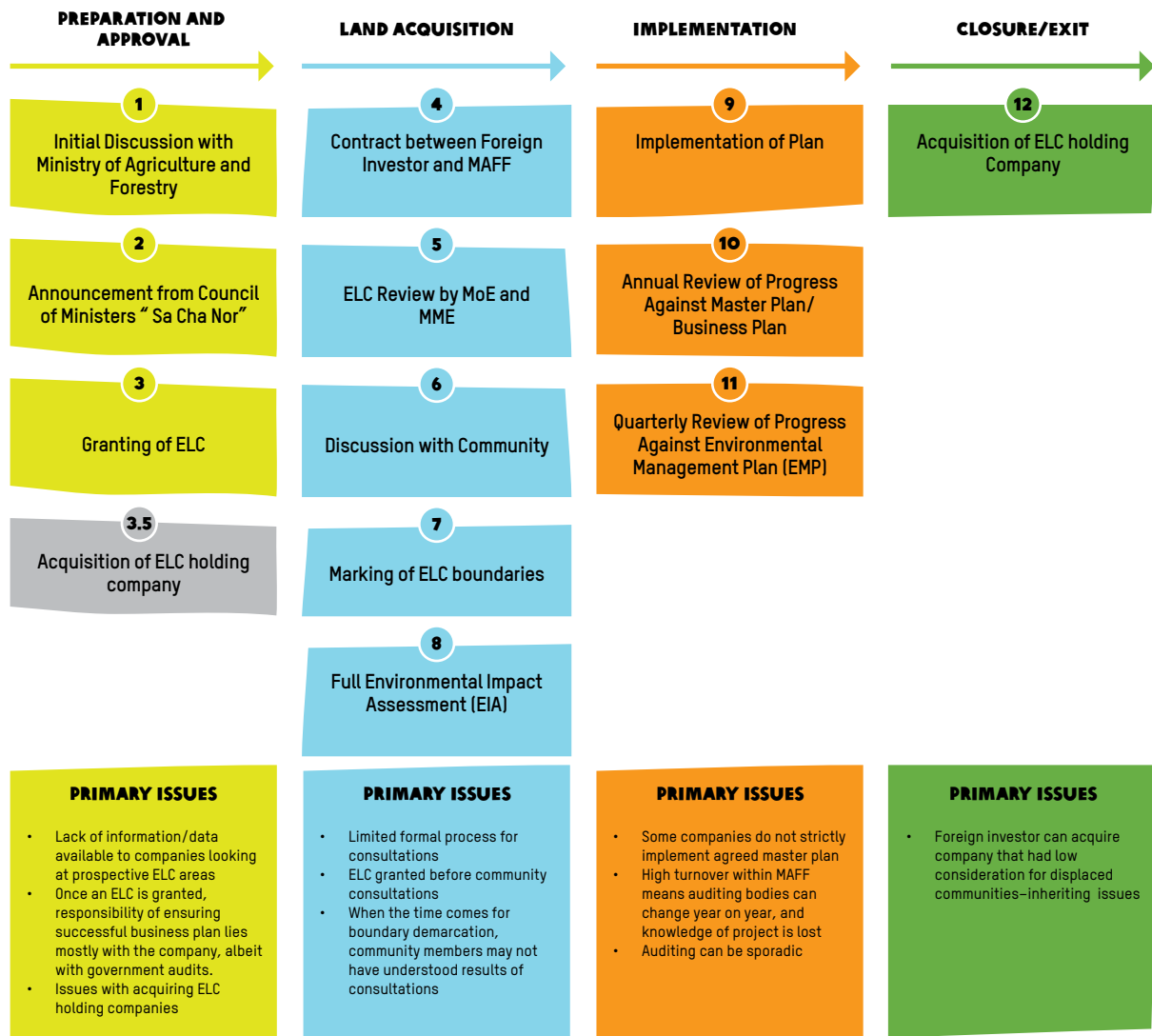
- What were the major issues you encountered at this stage?

9.3.2 INTERVIEW GUIDE FOR NGOS / CSOS

- Please describe your business activities
- Please describe the Issues you faced in investing / community engagement

#	PRINCIPLE	PLEASE DESCRIBE YOUR ASSESSMENT OF WHETHER THIS PRINCIPLE IS CURRENTLY ACHIEVED IN CAMBODIA	PLEASE DESCRIBE THE KEY BARRIERS FACED IN ACHIEVING EACH PRINCIPLE IN CAMBODIA, HOW COULD PRACTISES BE IMPROVED TO ACHIEVE EACH PRINCIPLE?
1	Existing rights to land and associated natural resources are recognised and respected.		
2	Investments do not jeopardise food security but rather strengthen it.		
3	Processes for accessing land and investments are transparent, monitored, and ensure accountability		
4	All those materially affected are consulted, and agreements from consultations are recorded and enforced.		
5	Investors ensure that projects respect the law, reflect industry best practice, and are viable economically		
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FDI PROCESS MAP IN CAMBODIA



Preparation and approval

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Closure and phasing out

- Is the process map described above accurate?
- What are the major issues you encountered at this stage?

Cross cutting

- What are the major issues you encountered at this stage?

9.4 INTERVIEW LIST

The study team conducted 22 interviews with representatives from 14 relevant organisations.

#	COMPANY
1	American Friends Service Committee
2	Bambusa Global Ventures
3	Development and Partnership in Action (DPA)
4	Grandis Timber
5	JBAC
6	JETRO
7	JICA
8	Kotra
9	Mekong Timber Plantation
10	NGO Forum
11	Office of the United Nations High Commissioner for Human Rights
12	Oxfam Cambodia
13	SIAT
14	Socfin

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