

Discussion Note

January 2017

Guiding Principles Towards Responsible Agricultural Investment in Lao PDR

Introduction

In December 2015, a multi-stakeholder group comprising government, civil society and private sector embarked on the inaugural Responsible Agricultural Investment Study Tour. The Study Tour was organised by the Responsible Agricultural Investment (RAI) Working Group, a Learning and Alliance initiative. The RAI Working Group is coordinated by Village Focus International and the Land Issues Working Group and supported by MRLG. The group brought together stakeholders with a common interest in promoting responsible agricultural investment in Laos.

Background: A new multi-stakeholder dialogue amongst private sector, government and civil society

Large-scale agribusiness investment continues to expand in Laos and across the Mekong region. Ensuring that land-based investments are managed in a sustainable way, and that their benefits are shared equitably, remains a key challenge. The two agribusiness investors visited on the Study Tour obtained large scale land concessions between 2007 and 2010. They are working to ensure socially and environmentally responsible business principles are embedded in their business practices. However many other investors in Laos do not follow internationally recognised standards of responsible business (known as Corporate Social Responsibility, or CSR, for example: Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT); Principles for Responsible Investment in Agriculture and Food Systems; ISO 26000 Guidance on Social Responsibility, and others. Many investors in Laos either ignore or view CSR as a "non-mandatory concept", and consider that adhering to national laws is sufficient. Although understanding of CSR is nascent in Laos, there is a growing interest amongst government, civil society and the private sector of the shared value it can bring to all stakeholders in land use decisions.



The Study Tour aimed to document 'on the ground' realities both challenges and opportunities of implementing responsible agribusiness investment in Laos. Study Tour participants from the Ministry of Agriculture and Forestry, Ministry of Planning and Investment, members of the Land Issues Working Group, International Financial Institutions, agribusiness companies, and Development Partners visited operations of two agribusiness investors in southern Laos – Stora Enso Laos (SEL) and Outspan Bolovens Limited (OBL). The Study Tour held interviews and focus group discussions with company representatives, communities, and provincial and district authorities. SEL and OBL facilitated these discussions, as well as completing a background questionnaire to provide a pre-tour briefing for participants. The Study Tour gathered information under four key areas: (1) land acquisition, (2) compensation and benefit sharing, (3) community engagement, and (4) grievance mechanisms. Case studies examining each of these four topics are documented in a longer version of this Discussion Note, titled "Experience of Agribusiness Investment in Lao PDR". This Discussion Note presents a summary of these case studies, and a synthesis of the key lessons learned.

¹ Readers should note that these case studies document real experiences of agribusiness investment in Laos, but do not pretend to present "perfect" examples of responsible investment, nor intend to make direct comparisons between the two investors.

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Study Tour participants, local government and villagers talk about benefit sharing during a focus group discussion in Paksong District, December 2015

Common Ground

A key objective of the RAI Working Group is to develop greater awareness and common understanding of responsible investment, in line with the concept of 'shared value' – that is, creating economic value in a way that also creates value for society. This Discussion Note aims to stimulate further cross-sector dialogue and promote adoption of responsible practices by agribusinesses, especially those affecting smallholder farmers.

Experiences of Agribusiness in southern Laos

SEL is a local subsidiary of global paper and packaging company Stora Enso. SEL has been operating a commercial pulpwood agroforestry project in Laos since 2007. The company's predominately eucalyptus plantations covers approximately 3,000 hectares involving 47 villages in Savannakhet and Salavan provinces in southern Laos. The Study Tour learned that after clearing and preparing the land – including clearing unexploded ordnance (UXOs) – SEL converts degraded forest into plantations using an intercropping model. SEL plantations uses a 9-by-1 meter spacing that allows villagers to plant rice for household consumption between tree rows up until year two. In the remaining years until harvesting in year seven, some villages use the intercropping area for livestock grazing, while others are testing the potential for growing other crops (pineapples, cassava, rattan, etc.).

OBL is a local subsidiary of Olam International, a global processor and trader of agricultural and food products. OBL has been operating on the Bolovens Plateau in Paksong District, Champasak Province since 2009. OBL operates plantations in five locations covering 2,500 ha. (1,200 ha. currently planted) involving 12 villages.

OBL's initial land acquisition processes led to a protracted grievance resolution process with communities who were using lands that were allocated to and cleared by the company. OBL has subsequently made several improvements to its global policies. OBL currently supports coffee farmers through its Outgrower program, and has plans to expand the program. In addition to growing and processing its own coffee (OBL's first crops are expected to be produced in 2016), OBL will continue to purchase, process and export certified green coffee beans from smallholder coffee farmers. OBL aims to produce high-quality specialty and certified coffee with UTZ, Rainforest Alliance and 4C certifications for international export.

Both companies recognise the importance of obtaining a 'social license to operate' from local communities. Examined below are agricultural investment experiences of SEL and OBL, and key lessons learned by the Study Tour participants and the investors.

Key Lessons Learned

Land Acquisition

⇒ **Knowledge of the land acquisition / land allocation process in Laos is limited and confusing for all actors in the process**

The ability of different line Ministries and agencies to grant land to investors creates confusion and leads to unclear responsibilities of key actors.

There is a need for a streamlined approvals process, as well as improved land acquisition guidelines and follow-up monitoring to ensure quality of investments is maintained.

⇒ **Investors need to go beyond compliance with national laws**

Due to differences between national and international standards, and plurality of legal norms in Laos, as well as difficulties to implement the law,

companies need to strive to meet international standards when acquiring land. For example, in OBL's experience, relying on local government to conduct Environmental Social Impact Assessment (ESIA), land surveys, and consult with and obtain land users' consent resulted in conflict with communities who were using land that was allocated to and cleared by the company. OBL has since acknowledged the importance of conducting independent due diligence and engaging with communities directly, and has since improved its global policies on land acquisition, social impact assessment and community engagement.

⇒ **Communities need to participate in land acquisition processes**

Investors should apply Free, Prior and Informed Consent (FPIC) principles by providing full and accurate information in a way that communities can understand, holding ongoing two-way consultations, and seeking broad-based consent from communities prior to beginning the project.

Compensation and Benefit Sharing

⇒ **A successful benefit sharing arrangement is one which creates shared value**

The Study Tour learned that each investor seeks shared value in different ways. SEL shares land with communities for household food production using an agroforestry model and trains local workforces to maintain eucalyptus plantations. OBL through its Outgrower scheme supports and trains coffee farmers to improve crop yields and quality to increase household incomes while ensuring a regular supply of high quality coffee.

⇒ **Investors should negotiate agreements that go beyond monetary compensation to address long-term development goals**

As stipulated under Lao laws on compensation (PM Decree 192, since replaced by 84), communities affected by investment projects should never be worse-off due to a project. SEL administers a Village Development Fund (VDF), paying an in-kind amount (\$350USD per hectare) to support village infrastructure, education, food security, and income generation activities. A VDF is mutually beneficial as it can address communities' development needs and help investors secure a 'social license to operate'.

Community Engagement

⇒ **Communication is key**

The Study Tour learned that building trust between investors and communities requires comprehensive engagement and consultation prior to the project beginning. Communications should be prioritised as an ongoing, two-way process grounded on FPIC principles. Civil society organisations can play a role in strengthening company-community engagement.

⇒ **Community participation needs to be inclusive and equitable**

Investors should ensure that information is delivered to communities in a culturally appropriate manner by adequately qualified staff, and verify that risks, benefits and long-term impacts are understood. More gender-responsive approaches are needed by both investors to facilitate women's participation, especially those from ethnic groups.

Grievance Mechanisms

⇒ **A well-designed grievance mechanism is essential for any project**

At the time of the Study Tour, both investors resolved grievances within the government system – communities brought grievances to district, provincial and central agencies depending on the type of complaint. Both investors prioritise resolving grievances locally before escalating to higher levels. SEL is now developing a multi-channel grievance resolution process as part of the company's advisory services agreement with the International Finance Corporation (IFC). OBL's initial difficulties in Laos led to a global review of Olam's internal systems, including a revised grievance resolution process that provides training for staff and village representatives on lodging, registering and resolving complaints.

⇒ **A well-designed grievance mechanism should be:**

resolved as far as possible at village level first; timely with rapid feedback to people who submit a grievance; developed in cooperation with host communities and government; publicised so communities know how to access it; available at no cost to communities transparent; and prioritised according to severity of complaints.

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Towards Responsible Agribusiness Investment: Synthesis of Key Lessons

- ⇒ **A multi-stakeholder approach is beneficial**
Dialogue is required to strengthen responsible investment in Laos, and issues are best addressed using a collaborative approach
- ⇒ **Government plays a key role in promoting and setting standards for responsible investment**
Encouraging responsible companies to invest in Laos requires an enabling business environment with clear and enforced sustainability requirements.
- ⇒ **Engaging with communities early and continuously is key to investments success**
Companies who adhere to 'shared value' principles and build mutual trust with communities reduce their business risks and ensure long-term viability.
- ⇒ **Deeper knowledge is required by all stakeholders**
Better knowledge and understanding is needed especially on four core topics: land acquisition process, compensation and benefit sharing, community engagement and grievance mechanisms.

This discussion note series aims to synthesize and disseminate policy relevant messages and suggestions that have emerged from research based multi-stakeholders dialogues on issues concerning smallholder farmers land security in the Mekong Region. It is produced by the Mekong Region Land Governance Project, operating in Cambodia, Laos, Myanmar and Viet Nam since April 2014, with the support of SDC and the German cooperation. For more information on MRLG, please visit www.mrlg.org

For further information

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