



# Responsible Large-Scale Agricultural Investments in the Mekong Region: **An Online Dialogue**

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## Summary Report



# **The Mekong Region Land Governance (MRLG) project and the Land Portal co-facilitated an online dialogue on "Responsible Large-Scale Agricultural Investments in the Mekong Region" between 09th and 27th October 2017.**

Full online dialogue available on Land Portal website [here](#)

## **Rationale**

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Since the 1990s, a new wave of large-scale land acquisitions for agricultural investments has emerged world-wide and in the Mekong region, in particular.

Land grants for agro-industrial concessions are not new and can be traced back to the colonial era. However, the convergence of the food, financial and energy crises in the mid-2000s has intensified interest in large-scale forms of agriculture to unprecedented levels. In the Mekong region, significant areas of land have been granted to companies for agro-industrial investments, ie in Cambodia (2.1 M ha), Myanmar (2 M ha), Laos (0.4 M ha) and Viet Nam (0.25 M ha). This has been expected to generate Foreign Direct Investment in the agricultural sector, boost productivity and spur modernisation, and increase government revenues in countries that were thought to be “land-abundant.”

In reality, the trend has proved problematic, principally due to impacts on smallholder farming systems, limited return to local economies, and overlaps of land claims leading to conflicts and evictions. Government, investors and international and national organisations have been increasingly involved in designing and implementing mechanisms to limit large-scale land acquisitions and better regulate agro-industrial investments. In the case of Cambodia and Lao PDR, governments established moratoria on large concessions.

More than two decades down the road, it is critical to learn from these developments, especially given that national governments have become increasingly aware of the limitations of the agro-industrial model and the problems associated with its implementation. It is timely to:

- review the positive and negative impacts on rural smallholder farmers, as well as the concessionaires;
- examine the effectiveness of regulatory frameworks put in place by governments;
- learn from the experiences of engagement between the private sector and rural communities; and
- explore alternative forms of agricultural development that are likely to be more inclusive of smallholder farmers.





## The Online Dialogue

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This dialogue provided a way for the land community to collaboratively explore challenges and opportunities related to Large-Scale Land Acquisition and alternative forms of agricultural investments. Through this dialogue, we aim to collaboratively explore challenges and opportunities related to the responsible large-scale agricultural investments in the Mekong region in order to identify issues of common interest, contrast country and regional contexts and strategies, and generate a regional-level synthesis of key challenges and opportunities to contribute to solutions. An online venue was used to increase information exchange between participants inside and outside the region.

The online discussion facility proved effective. At the close of the dialogue, 40 comments had been made by 25 individuals, including both nationals and expatriates in the region, as well as experts from abroad, and activists from other parts of Asia. The debate has been visited 1,524 times by 1,123 different people, who stay on the page for 4:33 minutes.

However, as a caveat it must be observed that the participation from governments or the private sector has remained quite low. This might be explained by the fact that the topic still appears to be “hot” at the national level. Other mechanisms will be needed to develop a dialogue with these other crucial stakeholders.

This online dialogue was organised two weeks ahead of a regional multi-stakeholder workshop on Responsible Large-Scale Agricultural Investments, held on 15-17 November in Vientiane, Lao PDR. Lessons from the online dialogue will be brought into and further discussed during the regional workshop, where policy recommendations will be formulated. The key outcomes of the regional workshop will be summarised in a document available at the MRLG website: <http://mrlg.org/publication>.

# A synthesis of key messages

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The dialogue has been a useful way to reach a relative consensus among participants about the role of large-scale land investment in the Mekong region and the need to discipline the process towards more responsible investment and true engagement with affected local communities.

Following the sequence of the questions set out to frame the debate, we have moved from a stock-taking discussion on 20 years of the current large-scale agricultural development model to an exploration of alternative models that are more inclusive of smallholder farmers.

## Twenty years of large-scale land investment in the Mekong Region: contested outcomes

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A new wave of land allocation (in the form of concessions) for Large-Scale Land Agriculture initiated in the 90's, came in full swing between 2007 and 2011. It has reconfigured the agrarian structure of countries in the Mekong region, namely Cambodia, Laos and Myanmar. Substantial areas of land were allocated for large-scale investment to companies that were recognised (at least at the policy level) as the new engine of rural development, despite the prevalence of smallholder farmers in the national labour force.

Yet, the idea of granting land to companies was rooted in a misleading view that land for large-scale development was available in the first place. In fact, many discussants have argued that land granted as agro-industrial concessions was already being utilised by communities who depend on it for their livelihoods and managed under different forms of customary tenure arrangements (private and collective). The overlap of land claims between concessionaires and rural communities has been a fundamental cause of conflicts, which is seen as a tremendous social cost of the large-scale agriculture movement of today.

On the other hand, large-scale land-based investments offer mixed results. The level of implementation of concession is very limited (15% of allocated lands developed in Myanmar, 20% in Cambodia, according to recent estimates). The trickledown effects on the local economy, for instance through job creations, did not materialise or are not as expected. The relevance of the taxes and royalties paid by concessionaires as a contribution to the national revenue and GDP - one of the main tenets of the concession model - was questioned by one discussant, who pointed to the lack of transparency in national budget management. Other discussants suggested the actual share of smallholder farmers to GDP is largely underestimated, and biases the appreciation of land concession contribution to the national economy.

Participants also agreed that the rules and guidelines put in place to regulate the investments were most often not strictly followed, and noted the general lack of transparency revolving around the management of these large-scale land deals. They also pointed at the weak coordination of authorities – across sectors and across levels – to approve and regulate land deals. Protective measures for smallholders such as the recognition of local land use plans, access to grievance mechanisms, or proper compensation were observed to be mostly inefficient. Additionally, there are important environmental trade-offs as land targeted for agro-industrial investment provides essential ecosystem services that maintain watersheds and enhance tropical biodiversity. This dimension has often been ignored by large scale model proponents.





## State Monitoring of land concession: a contrasted view

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The Mekong Region governments and administrations have become increasingly aware of the shortcomings of the large-scale model. In Laos and Cambodia, moratoria of new concessions were established in 2012. In Laos, the government has initiated several evaluation processes of on-going concessions efforts. With support from the Swiss government, the Lao administration has tried to establish an integrated information system on concessions to examine the quality of investments in land. With technical assistance from GIZ, the Lao Ministry of Planning and Investment has also engaged in the design of a system to monitor the quality of the investment. In conjunction with the new Lao investment law, regulatory guidelines are also being developed.

In Cambodia and Myanmar, both governments are actively engaged in revoking or reducing some concessions, and have committed to returning some unused land to smallholder farmers. Despite good intentions, some discussants have questioned the political will behind these declarations, arguing that governments are also considering reallocating land to other companies or to other State projects. In Cambodia, due to the lack of clear

guidance on how the return of land should take place, the status quo either benefits concessionaires who have retained control over land, or a cohort of new opportunistic 'farmers' or smaller agribusiness entrepreneurs who have massively encroached inside cancelled concessions.

## Improving laws, regulations, monitoring .... and beyond

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Current efforts by governments in the region have contributed to the intensification of laws, guidelines and monitoring systems to regulate investment projects with a view to maximising the positive benefits for all parties and reducing negative impacts on farmers. These efforts for improving investment frameworks in Laos and other countries towards more responsible investments are seen as a move into the right direction.

But a number of discussants have also pointed out the need to go beyond just more rules and regulations. To them, it is equally important to provide more direct and proactive support to enable smallholders to compete and negotiate with larger investments and reduce their dependence and vulnerability vis-à-vis agrobusiness lobbies.



### **Mapping land concessions: a useful tool to solve conflicts once it is embedded in multi-stakeholder dialogue**

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An experiment piloted in Myanmar with support from the One Map project comprises a spatially explicit land use assessment of concessions areas, namely oil palm in Tanintharyi. Equipped with high-quality spatial data and time-series land use maps, the pilot aims to establish a process by which stakeholders could identify which part of the concession land could be returned to farmers or claimed back by the government. However, maps elicit tensions between stakeholders, which is particularly vivid in a country like Myanmar, characterised by legacy conflicts. To address these tensions, the methodology put in place has turned out to be much more effective when enabling a process wherein different stakeholders have a say in designing data collection protocols. In highly conflict-prone environments, this is seen as a necessary condition for discussions, negotiations and compromises to take place in a constructive environment. Maps and spatial data have turned to be great tools to facilitate the process, once these initial conditions were met. These are important lessons learned for countries in the region which are also involved in land reallocation.

One discussant called for more spatial transparency and wide public disclosure of data and information, to allow for impartial assessment of the economic, environmental and social consequences of such investments.

### **The CSO interface between investors/ companies and local communities: a variety of approaches**

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The engagement of the private sector with rural communities is subject to heated discussions and controversies. A largely shared view amongst discussants is that companies are not behaving responsibly with communities. They usually fail to adhere to their responsibility of due diligence and impact assessment, incumbent upon them by international human rights standards and national laws. Instead, companies usually pass the blame onto governments for failing to conduct proper land identification and Free Prior and Informed Consent (FPIC).

In this context, three engagement approaches between private sector and rural communities were presented and discussed, in particular with regard to the role that Civil Society Organisations (CSOs) play in bridging the interests or negotiating the positions of both stakeholder groups:



i) when convergence between the objectives of companies and civil society partners exists (which is often not the case), a CSO can facilitate the incorporation of smallholders in the production scheme of the companies. This can be done by providing information about the investments and engage in meaningful FPIC before the investment begins.

ii) If such agreements can't be found *a priori* between a CSO and a company, it is essential to raise awareness of investors and encourage engagement in responsible agricultural investment practices and discourage irresponsible agriculture investments. An important element of the approach is to make sure communities have access to environmental and social impacts assessment reports (and have the capacity to understand them) to directly negotiate with Company and State representatives.

iii) In order to address power asymmetries and level out the playing field between communities and companies, a third approach involves supporting communities to map out the upstream segments of the investment (identifying financiers) as well as downstream segments (identifying buyers and customers). This would allow communities to access high-level complaint mechanisms that provide independent services for fair negotiation between both parties.

## Towards more inclusive agricultural development models?

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Contract farming, nucleus/out-grower schemes or land leases arrangements offer better prospects than large-scale land concessions, particularly as smallholders retain control over their land and other means of production. These models are promoted on the premise that greater efficiency and equity can be achieved by combining the assets of investors (capital, access to market, technology) with those of smallholders (labour, land, knowledge of local environment).

In a number of cases (eg Myanmar or Cambodia), such alternative models have emerged as a result of conflicts revolving around

unregulated large-scale land concessions or because of the inability of companies to meet production quotas set by the government.

Discussants have suggested that in theory, these models offer more viable and inclusive alternatives. However, they have pointed out that contract farming is not necessarily a panacea; its outcomes very much depend on the terms of the contract/agreement signed between the companies and the smallholders. This relates to the distribution of the value added, the prices offered, the management of the credit scheme associated with contracts, the role of local authorities, and how the environmental costs are accounted for. Given the asymmetry of information between companies and farmers, particularly regarding market and price of inputs and outputs, it is important to level the playing field and make sure the exclusion from land - that characterises the large-scale land acquisition does not turn into market-based exclusion. One case of contract farming in Shan State shows how monopolistic control of a contract farming scheme can quickly lead to debt-related land dispossession amongst the peasantry.

## Putting the State [back] on centre stage to support alternative models of development

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Some discussants reconsidered the central role that states should play in regulating but also in supporting alternative models of agricultural development, which are more sustainable and more inclusive of smallholder farmers.

There is little doubt that the role of the State is important in infrastructure development, provision of market information, and extension services, as well as in enabling policies to effectively integrate smallholders in primary production. But the State is also pivotal in the direct support of smallholder communities, and has the power to help processes actually work better. The case of Ban Hat Nyao in northern Laos illustrates this argument very well. In this region located in the northern part of Laos, communities have organised themselves, acquired technical experience and skills to grow rubber, and sought out access to markets,





to become well-managed smallholder rubber production schemes. Yet, some key elements, directly provided by the State, were crucial to make this endeavour a success: a soft loan by a provincial bank to establish a plantation, the recognition of a locally-produced land use plan at district level, and the enhancement of an institutional environment enabling the communities to use the plan to effectively prevent the land from being allocated to outsiders.

Beyond the particular situation of Ban Hat Nyao, this case provides two important lessons: 1) State supports that catalyse smallholders' efforts for more efficient agricultural production, access to international market and organisational autonomy can turn out to be a high-return investment and 2) the recognition and securing of land tenure create conditions for investors to negotiate responsibly with communities and allow the investment to materialise in real production, and not only in speculative control over land.

### **A platform to discuss regulatory environment: building trust and seeking solutions**

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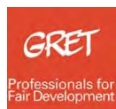
An effective platform where the regulatory environment of agricultural investments can be discussed between the government and the private sector is essential. And building trust among stakeholders is a prerequisite to that. In such a platform, there is a key role for facilitators to play, this would be to ensure each of the participants in a multi-stakeholder dialogue feels comfortable and willing to engage in constructive two-way communication.

Without a doubt, sharing of experience and lessons learned, and building mutual understanding is an important aspect of such a discussion. However, one discussant has insisted on the need to offer a space where in-depth and specific issues are addressed in ways that generate tangible outcomes or concrete action points for which the participants are then responsible and accountable to.

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