



ACHIEVING EFFECTIVE
AND INCLUSIVE
COMMUNITY
ENGAGEMENT
FOR RESPONSIBLE
AGRICULTURAL AND
FORESTRY INVESTMENTS
IN LAO PDR



A MANUAL FOR
INVESTORS AND
RAI PRACTITIONERS

Foreword

When it comes to investments in land, engaging with communities and other stakeholders is crucial for the success of a business. This is especially the case where the national legal framework is still weak or insufficient. In Lao PDR, national laws and regulations already require engagement with communities affected by investments in land. Investors must comply with these laws and regulations, and they should also take into account international standards on community engagement.

This serves to avoid conflict with communities affected by land investments, and it enables issues to be addressed in an adequate and timely manner. Investors who operate in a socially and environmentally responsible way avoid reputational and financial risks, many of which can lead to delays in becoming operational or even to termination of the investment agreement.

Investors must always consult with, and obtain the consent of, local communities that may be affected by the operation of land-based investments. And the investors must continue to engage with them throughout the business cycle: from approval, during implementation and right up to closure. Experience has shown that in many cases, investors' engagement with local people has been insufficient. In general, investors appear to have little knowledge on how and when to engage with potentially affected local communities and other stakeholders. This is mainly because investors have so far not been provided with sufficient guidance on how to comply with national policies and legal frameworks or with international principles.

This guide compiles laws, principles, regulations, and requirements related to local community engagement. It also includes tools to assist investors in achieving systematic and adequate community engagement across the complete investment cycle. It is one of five investor guides and manuals on responsible agricultural investment developed within the Responsible Governance of Investments in Land (RGIL) project, commissioned by the European Union and the German Federal Ministry for Economic Cooperation and Development (BMZ). The guides and manuals provide in-depth knowledge on investing in land responsibly, engaging with the community effectively and inclusively on environmental and social safeguards, and establishing company-based grievance redress mechanisms.

It is my hope that this guide will provide valuable guidance and tools to investors who want to establish or expand land-based investments in the agricultural sector in Lao PDR in an environmentally and socially responsible manner. I would like to take this opportunity to sincerely thank the stakeholders from the government, civil society organizations, the private sector, and the RGIL project teams from GIZ and NIRAS, who contributed to the development of this investor manual. Finally, I would like to thank the EU and BMZ for their financial support.

Minister


Khamjane VONGPHOSY

Preface

Access to land and secure long-term tenure rights are essential conditions for rural development, food production and security, and social peace. The distribution and use of land is also connected to specific thematic areas of the Sustainable Development Goals, such as the achievement of SDG 5 on gender equality. As land is a limited resource, its distribution is often disputed by various actors. The competition for land may be further aggravated by commercial agriculture and forestry investments. Such investments are often intended to generate value, both for the overall economy (via land revenues and taxes) as well as for local communities (by improving livelihood and job opportunities and enabling the transfer of know-how). But if investments do not follow internationally agreed principles and guidelines as well as the national legal framework, they run a high risk of having negative consequences for communities and the environment alike. Investments may lead to land use disputes, expropriation, and displacement. They may also lead to environmental degradation, worsening the socio-economic situation of already disadvantaged groups.

Population growth, climate change, and global supply chain disruptions for agricultural inputs and staples are some of the drivers of food insecurity, poverty, and hunger. Investments in land, when carried out in a sustainable manner – considering ecological responsibility, social equity, and economic performance – can contribute to tackling these challenges. To ensure that investments in land are beneficial not only for the investors, but also for other actors, certain aspects must be considered when designing sustainable and profitable investments in land.

This is where the Responsible Governance of Investments in Land (RGIL) project, commissioned by the European Union and German Federal Ministry for Economic Cooperation and Development (BMZ), comes in. Implemented by GIZ in Laos, Ethiopia, and Uganda, the project aims to ensure that investments in land are productive, that they contribute to sustainable land management, and that they respect the rights and needs of local populations, in particular vulnerable groups and women. RGIL works together with target communities, political partners, and investors – as well as with civil society organizations, academia, and investor associations – on the implementation of good land governance based on international principles such as the VGGTs and the CFS Principles on Responsible Agricultural Investment (RAI).

A series of guides and manuals were developed and validated in a participatory and iterative process with stakeholders, after assessing capacity development needs and analysing existing international and national guidelines, regulations, and training materials. They combine important elements from existing products and training events, and apply them specifically to the process of land-based investments and in relation to identified problems in each country. The various guides and manuals complement each other thematically and can be used both as individual products and as a complete toolkit in the respective country-specific context.

The present manual aims to provide practical guidance for investors on how to engage with local communities that may be affected by a planned or operational land-based investment. For all investment phases concrete steps and tools are illustrated.

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List of abbreviations

ADB	Asian Development Bank
AIPP	Asia Indigenous Peoples Pact
ASEAN	Association of Southeast Asian Nations
BMZ	German Federal Ministry for Economic Cooperation and Development
CFS	Committee on World Food Security
CSO	Civil Society Organizations
DPI	Department of Planning and Investment
ECO	Environmental Control Officer
EMMP	Environmental Management and Monitoring Plan
EIA	Environmental Impact Assessment
ESIA	Environmental and Social Impact Assessment
ESMMP	Environmental and Social Management and Monitoring Plan
ESMO	Environmental and Social Management Office
FAO	Food and Agriculture Organization
FAF	Food, Agriculture and Forestry
FPIC	Free, Prior and Informed Consent
FS	Feasibility Study
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
GRM	Grievance Redress Mechanism
IEE	Initial Environmental Examination
LNCCI	Lao National Chamber of Commerce and Industry
MAF	Ministry of Agriculture and Forestry
MoIC	Ministry of Industry and Commerce
MoNRE	Ministry of Natural Resources and Environment
MoLSW	Ministry of Labour and Social Welfare
MPI	Ministry of Planning and Investment
MRLG	Mekong Region Land Governance
PAFO	Provincial Department for Agriculture and Forestry
RAI	CFS Principles for Responsible Investment in Agriculture and Food Systems
REDD+	Reducing Emissions from Deforestation and Forest Degradation in Developing Countries
RGIL	Responsible Governance of Investment in Land
SMMP	Social Management and Monitoring Plan
SCO	Social Control Officer
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
VFI	Village Focus International
VGGT	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security

1. Introduction

Land-based investments have great potential to contribute to the economic and social development of Lao PDR. However, these investments can have negative impacts on local resources and threaten human well-being in the targeted areas, if not planned and implemented in a socially and environmentally responsible manner. They can lead to the degradation of land and water, and to a decline in biodiversity. Investments can also cause conflicts over land or labour with local communities, as social and environmental impacts can harm community livelihoods. Therefore, effective and inclusive community engagement is required in investment planning, implementation, and closure (e.g. land and environmental rehabilitation), to avoid and minimize adverse effects on people and nature.



Figure 1: Damage to land and forest areas that have been cleared by investors can threaten the well-being of local communities downstream

Community engagement should also be in the interests of the investor: if done properly, it reduces the risks to the investor's business, as environmental damage or conflict with the local community can lead to financial losses, reputational damage, or even early project termination. Evidence clearly shows that land-based investments operating without adequate, effective, and inclusive community engagement encountered environmental and social problems. These problems in turn led to hidden costs, for example in the form of compensation for labourers and communities. Environmental and social problems have also led to several investment projects being terminated before the end of the concession agreement (see Box 1).

Box 1: Moratorium on banana plantations in Bokeo Province

In 2015, the Governor of Bokeo Province issued the “Order on Tackling the Problems of Banana Plantation on Paddy Field and Irrigation Area” in Bokeo Province (No.1238/GOV.BOKEO; dated 16 July 2015)¹. This order was issued because many investors did not follow legislation on land-based investment, leading to severe environmental and social harm. Investments that caused negative impacts, especially on paddy fields and the irrigation system, had to be terminated.

© Friis, C. (2018)



Figure 2: A paddy field cleared for banana plantations in Luang Namtha Province.

This manual provides guidance for investors across all investment phases on how to engage with local communities that may be affected by an agricultural or forestry investment. In the planning phase, the communities must be included in the process of land acquisition and in the conduct of feasibility studies and social and environmental impact assessments. In the implementation phase, communities must be engaged in the negotiation of contracts, land allocation, compensation and clearing, social development programmes, impact monitoring, and conflict resolution. Finally, investors must engage with affected communities during the investment closure phase, particularly in regard to land restoration and the handover of land.

¹ <https://laoofficialgazette.gov.la/kcfinder/upload/files/ຄຳສັ່ງແກ້ໄຂບັນຫາບຸກກ້ວຍຫອມ.pdf>

2. Effective and inclusive community engagement

Community engagement is a continuous process of interaction and exchange between investors, communities, and other stakeholders such as government agencies or civil society organizations (CSOs). It consists of activities and approaches that form a part of the preparation and operation of investments. The local population must be informed and included, in a participatory manner, in decisions related to investment design, implementation of the business operation, and mitigation measures. Local communities must also be informed about possible benefits and opportunities resulting from the investment (Clause 54 – Safeguard Policy Statement, ADB, 2009). The engagement must be done in a gender-sensitive and inclusive way². This involves specifically addressing the concerns of marginalized groups, such as women, youth, the elderly, people with disabilities, ethnic minorities, and other vulnerable people.

2.1 Effectiveness

The investor must consult with the communities on a regular and continuous basis, starting from the design of the investment right up to its closure. The principle of free, prior and informed consent (FPIC) must be applied in the consultations, so that communities can make their own informed decisions on whether they want to accept or reject the proposed investment. The investor must allow adequate time for the affected communities to discuss the proposed investment.

Box 2: FPIC

FPIC states that any investment affecting the land or resources of indigenous peoples should not proceed without the free, prior and informed consent (FPIC) of those affected by the proposed investment. It gives local communities a veto – the right to say no – to a project being implemented in their territory. This power may extend over the lifetime of the project if the nature or scope of the investment changes over time.

FPIC is a principle based on international human rights standards on the self-determination of people. It is backed by the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the Convention on Biological Diversity, and the International Labour Organization Convention 169.

² For more details on gender-sensitive and inclusive community engagement, please see “OXFAM and IISD’s Enabling Voices, Demanding Rights: A guide to gender-sensitive community engagement in large-scale land-based investment in agriculture – Community Guide, 2017”. Available at: <https://policy-practice.oxfam.org/resources/enabling-voices-demanding-rights-a-guide-to-gender-sensitive-community-engagem-620474/>

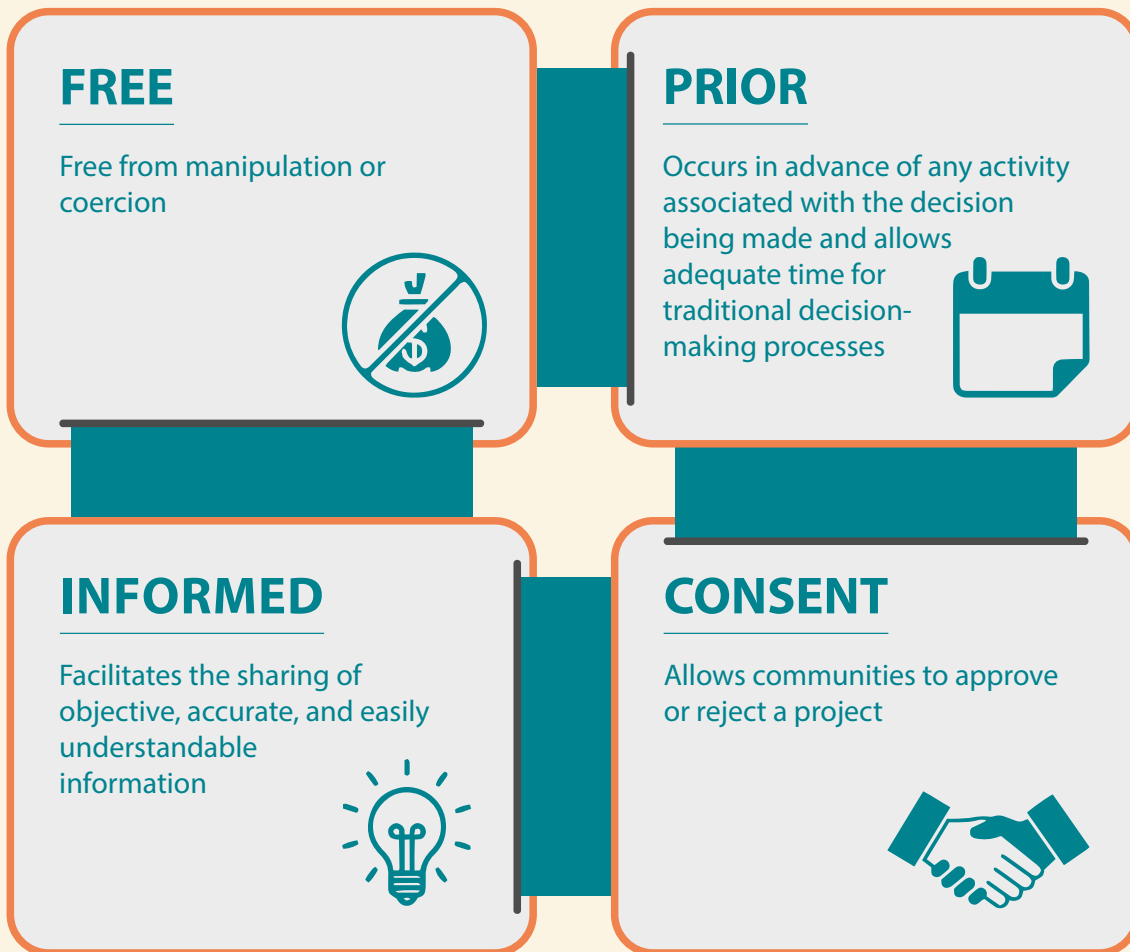


Figure 3: Four key elements of FPIC

Source: Adopted from Landportal.org

The four elements of FPIC can be summarized as follows:

Free. Those deciding whether to consent to an investment should do so without coercion, intimidation, or manipulation.

Prior. Consent must be sought well before the authorization or start of investment activities. The timetable must allow sufficient time for culturally appropriate consultation and for completion of local decision-making processes.

Informed. People likely to be affected by the project must receive all relevant information about the investment and its potential impacts, both positive and negative. The information provided must be objective, accurate, and presented in a manner or form that is understandable to those receiving it.

Consent. The people have agreed to the activity that will take place on their land. The right to consent includes the right to say no to the investment or to offer to consent only under certain conditions.

Source: (FAO, 2014). Guidance for conducting FPIC is available at: <https://www.fao.org/3/i6190e/i6190e.pdf>.

2.2 Inclusiveness

Investors must ensure that representatives of all community groups, especially the most vulnerable, are well informed and have participated adequately in the consultation process. This means ensuring that the needs and interests of women, youth, the elderly, people with disabilities, ethnic minorities, and other marginalized groups are specifically addressed and included. Different individuals and groups will be affected by the investment in different ways, so the consultation should involve all affected people in a participatory manner (LNCCI, 2021).



Figure 4: Community members participating in a consultation meeting in the village

3. Implications and importance of effective and inclusive community engagement

3.1 The need for effective and inclusive community engagement

It is vital for businesses to engage with local communities and operate their investments in a responsible manner. Aligning the expectations of investors and communities creates the necessary environment for mutually beneficial outcomes. Implementing effective and inclusive community engagement will help to build trust between the communities and the investor, reduce delays and risks, avoid conflicts, provide transparency, and prevent damage to the company's reputation.

Poor engagement with the local community can:

- Lead to a loss of trust between communities and investors
- Stir conflict between communities and investors
- Create additional costs for the investor and delay the schedule
- Result in early termination of a project
- Harm local communities and land users through preventable negative impacts caused by the investment
- Undermine the sustainability of mutual benefits

The Government of Lao PDR considers effective and inclusive community engagement a key element of all phases of preparing and implementing an investment, including during the land acquisition process and the Environmental and Social Impact Assessment (ESIA). The government emphasizes that local communities have the right to be involved throughout the investment cycle, and that involvement should be organized in a participatory manner. To avoid unforeseen conflict in the future, investors should promote the self-determination of affected people and communities (especially of minority groups) throughout the investment cycle. Self-determination means that all people have the right to decide on their future and remain in control of their resources³.

³ International instruments protecting the right to self-determination are available on the website of Minority Rights Group International: <https://minorityrights.org/law/self-determination/>

Both Lao legislation and several international standards require effective and inclusive community engagement. The following table summarizes relevant national legislation and international standards.

Table 1: Legislation related to community engagement in land-based investments in Lao PDR

Legislation and legal framework	Key provisions	Source
LAO PDR: Environmental Protection Law (2013 Ed.) (Law No. 29/NA of 2012)	In this law (Article 48 in particular), community engagement is mentioned several times, e.g. in the sections on the integrated spatial plan, strategic environmental assessment, environmental action plan, social and natural environmental impact assessment, environmental management and monitoring plan, and pollution control.	https://na.gov.la/wp-content/uploads/2021/11/104Environmental-Protection-Law.pdf
Prime Minister's Decree No. 389/GoL, dated 20.10.2022, on Environmental and Social Impact Assessment	Provision on investors' obligations to engage with potential affected local communities and other relevant actors throughout the environmental protection processes including environmental and social impact assessment, development of environmental and social impact management, and impact monitoring during the implementation of investment.	The link to the amended decree No.398/GoL, 2022 is currently not available online. The older version (decree No.21/GoL, 2019) is available at: https://laolandinfo.org/wp-content/uploads/2019/10/Decree-021-on-EIA-2019_Lao.pdf
MPI instruction No.0457/ MPI, dated 27.02.2019, on Investment Approval and Land Management Mechanism for Leasing or Concession to Cultivate Crops	This instruction relates to participation: how to communicate with the community and provide for gender equality in the use of information, maps, brochures, posters, or videos, to promote a common understanding on the project's benefits and disadvantages. It demands that the consent of a community be obtained based on a majority vote and a legally written memorandum. In other words, the investor must have consent from the landowner holding the official land document (i.e. title). This is a prerequisite before the investor can obtain approval from the government.	https://laolandinfo.org/wp-content/uploads/2019/09/MPI-Instruction-on-Cultivation-Investment-Land-Management-Lease-or-Concession.pdf
Prime Minister's Decree No. 135/PM, dated 25.5.2009, on State Land Leases and Concessions	Article 27 states that investors must develop an operational plan on promoting community participation.	http://lsp.moic.gov.la/index.php?r=site%2Fmeasureview&id=110

Table 2: International standards and guidelines

Guidelines and standards	Key provisions	Source
ADB Safeguard Policy Statement (ADB, 2009)	Safeguard policies that seek to avoid, minimize, or mitigate adverse environmental and social impacts.	https://www.adb.org/documents/safeguard-policy-statement
World Bank Environmental and Social Framework (World Bank, 2017)	The World Bank Environmental and Social Framework sets out the World Bank's commitment to sustainable development, through a Bank Policy and a set of environmental and social standards that are designed to support Borrowers' projects, with the aim of ending extreme poverty and promoting shared prosperity.	https://thedocs.worldbank.org/en/doc/837721522762050108-0290022018/original/ESFFramework.pdf
ASEAN Guidelines on Promoting Responsible Investment in Food, Agriculture and Forestry (IISD, 2019)	The primary purpose of the Guidelines is to promote investment in food, agriculture, and forestry (FAF) in the ASEAN region. Investments shall contribute to regional economic development, establishing favourable conditions to attract responsible investment in FAF sectors through a clear policy and regulatory framework and a more coherent approach across the ASEAN region; all stakeholders in responsible investment in FAF are to be considered as part of an ecosystem, which needs to be carefully nurtured.	https://www.iisd.org/publications/guide/asean-guidelines-responsible-investment-food-agriculture-and-forestry
Committee on World Food Security Principles for Responsible Investment in Agriculture and Food Systems (CFS-RAI)	These principles describe responsible investment in agriculture and food systems while respecting, protecting, and promoting human rights in line with the Universal Declaration of Human Rights, including the realization of the right to adequate food in the context of national food security.	https://www.fao.org/3/au866e/au866e.pdf
Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT) (FAO, 2022)	These guidelines promote responsible investments and address the core elements of what makes investment in agriculture and food systems responsible, to improve livelihoods of communities and mitigate risks to food security and nutrition. They serve as a framework to guide the actions of all stakeholders engaged in agriculture and food systems.	https://www.fao.org/3/i2801e/i2801e.pdf
Training manual on Free, Prior and Informed Consent (FPIC) in REDD+ for indigenous peoples (AIPP, 2012)	This manual is aimed at equipping indigenous peoples with knowledge and understanding of FPIC and REDD+; it provides a general guide to communities on the application of FPIC in REDD+ activities while upholding their rights, interests, and welfare.	https://www.forestpeoples.org/sites/fpp/files/publication/2012/10/fpic-manual-web21.pdf

3.2 How to ensure community engagement

To ensure effective and inclusive community engagement, investors should regularly communicate with communities and other stakeholders, applying the following steps:

- **Set the stage**
 - Invite stakeholders and communities to a conversation on the vision of the investor.
 - Outline the purpose and process of the conversation.
 - Define and present issues need to be discussed, and why it is important.
- **Gather the facts and brainstorm**
 - Create a discussion environment in which people are comfortable asking questions.
 - Gather and explain the facts related to the investment and its impacts.
 - Clarify the investment's alignment with the community's culture, values, ethics, and vision. Establish common ground on which conversations will be based.
 - Brainstorm and gather alternative solutions.
 - Select the best practice/solution.



Figure 5: Community members participating in land use zoning and allocation in the village

- **Plan and Review**
 - Write an action plan for implementation of the investment, including evaluation procedures.
 - Discuss a specific issue with appropriate stakeholders, specifically seeking for a common understanding, a response to their concern, and consent.
 - Use the feedback to assess and revise the plan.
- **Implement and evaluate**
 - Implement the plan.
 - Continuously evaluate the impact of the investment.
 - Report the status to the community and gather feedback.

4. Process of effective and inclusive community engagement

Figure 6 presents the main steps that investors should consider for community engagement in the planning, implementation, and closing phases of the investment.

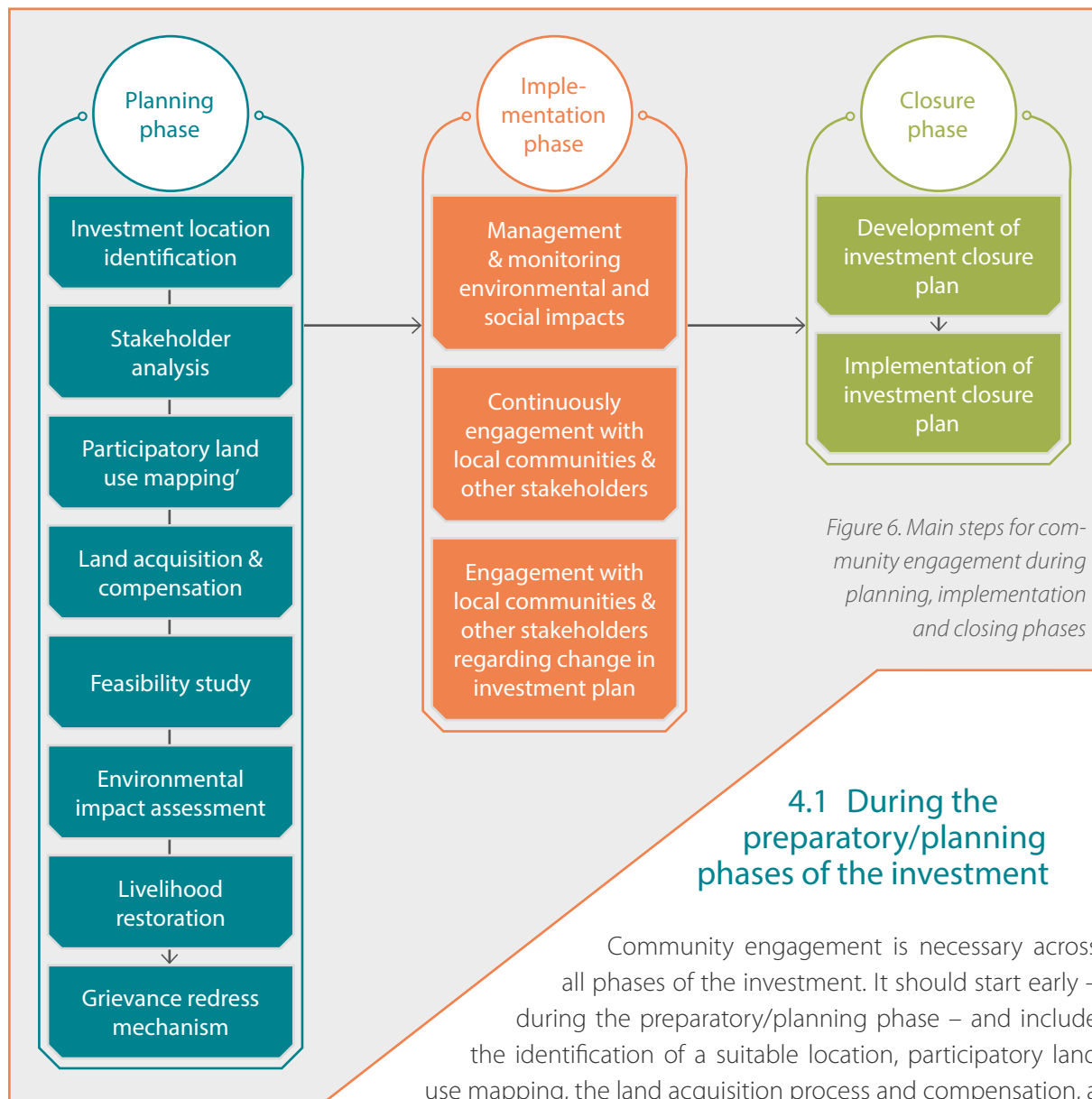


Figure 6. Main steps for community engagement during planning, implementation and closing phases

Community engagement is necessary across all phases of the investment. It should start early – during the preparatory/planning phase – and include the identification of a suitable location, participatory land use mapping, the land acquisition process and compensation, a feasibility study, an ESIA, livelihood restoration, and negotiations on the establishment of a grievance mechanism. Aligning the expectations and understanding of investors and communities creates the necessary environment for benefits to be mutual.

4.1.1 Identifying a location for the investment

At this stage, the investor should organize a meeting with representatives from the district authority, village authority, and community, to identify a potential location and propose the concept and scope of investment.



Figure 7: Representatives of community members helping to identify available and suitable land for investment

4.1.2 Conducting a stakeholder analysis

A stakeholder analysis helps investors identify actors that are relevant to the investment; such an analysis can also help to build a relationship with these stakeholders. Not only can this help to avoid future conflict – it can also contribute to the success of the investment and its implementation.

The process of stakeholder analysis should be as follows:

- Develop a list of stakeholders involved in the investment.
- Identify the roles of each stakeholder and their specific rights.
- Determine the needs of each stakeholder.
- Identify areas of cooperation and coordination with each stakeholder.
- Create a strategic plan for communication with each stakeholder to ensure their participation and involvement in the investment.

Stakeholders include the relevant government agencies, community representatives and members, CSOs, and other companies that may affect or be affected by the investment. All stakeholders should participate in all investment phases, to be well-informed and to clearly understand the investment. This creates trust in the investment and ensures transparency.

Please also see the following manuals in this series:

- “An Introductory Guide to Responsible Land-based Investment for Communities, Government and Investors”
- “Incorporating Responsible Land-based Investment Principles into Investor Policies and Practices: A Manual for Investors”
- “Promoting, Facilitating and Regulating Responsible Land-based Investment: A Manual for Governments”
- “Achieving Responsible Land-based Investments: A Manual for Communities”

Local communities

Stakeholders from the local communities include:

- The village authority and local committees such as the Village Mediation Committee and Resettlement Committee
- Land users and smallholder agricultural production groups (e.g. in livestock raising, fisheries, handicrafts, and forest product collection)
- Women and other vulnerable groups such as young people, old people, people with disabilities, and ethnic minorities

Rights and obligations of local communities

The Guidelines on Public Participation in the Environmental and Social Impact Assessment (ESIA) Process of Investment Project (MoNRE, 2013) state that local communities and the public:

- Have the right to receive detailed and accurate information about the investment project, a copy of the retention contract, information on the Initial Environmental Examination (IEE) or Environmental and Social Impact Assessment (ESIA), as well as related management plans, feasibility studies, business plans, and community development agreements.
- Should be involved in communication and public relations on the investment, including on how to access information and share ideas/comments on the endorsed IEE or ESIA reports and EMMP/SMMP.
- Must be given the opportunity to raise concerns and offer opinions on solving problems and controversies arising from the investments.
- Must participate in the baseline survey by providing data/information; must be able to provide input to the feasibility study, the IEE and ESIA reports, and the EMMP and SMMP.
- Must be aware of the impact of the investments and be informed on rights to compensation, relocation, and rehabilitation.
- Must be aware of the benefits of the investments and the opportunities people might have to improve their lives, such as health care, infrastructure, income generation, etc.

In addition, the guidelines state that all decisions and community consensus should be based on a majority vote and be recorded in written form.

Government agencies

Government agencies are relevant line ministries that have the right to screen and approve, monitor and evaluate, as well as terminate the investments. Therefore, investors must include these line ministries (or their departments at provincial level/district offices at district level) in all activities throughout the investment cycle.

The roles of the government ministries are summarized in Table 3 (provincial and district offices follow the ministry guidelines).

Table 3: Relevant government agencies, summary of their role, and contact information

Government agency	Role	Contact information
Ministry of Planning and Investment (MPI)	MPI is the institution to which investors submit their investment application form. MPI then coordinates with all relevant sectors regarding the review of the investment application. MPI signs the MoU, negotiates and signs the contract, and monitors the investment.	Tel: +856 21 217012 Fax: +856 21 215491 Email: ipd-mpilaos@investlaos.gov.la Website: www.investlaos.gov.la
Ministry of Agriculture and Forestry (MAF)	MAF is responsible for reviewing and endorsing the technical and economic feasibility study (FS) of the proposed investment. MAF also has the mandate to monitor the implementation of the investment according to the FS.	Tel: +856 21 911654 Website: www.maf.gov.la
Ministry of Natural Resources and Environment (MoNRE)	MoNRE conducts land surveys and allocates land to an investment. It reviews the EIA report and issues the environmental compliance certificate. It is also responsible for monitoring the land development and all environmental impacts.	Hotline number: 1514 Tel: +856 21 263799 Fax: +856 21 263799 Website:
Ministry of Industry and Commerce (MoIC)	MoIC has a mandate to approve uncontrolled general investment activity such as contract farming and individual land leases.	Tel: +85621 453493 Website: www.moic.gov.la
Ministry of Labour and Social Welfare (MoLSW)	MoLSW is responsible for labour management, including approving the import of foreign labour and monitoring the use of labour and labour practices in an investment area.	Tel: +85621 2130 03 Website: https://www.molsw.gov.la

Other stakeholders

Other stakeholders are investors who have their investments adjacent or close to the proposed investment. Failure to include them might result in conflicts during the implementation stage of the investment cycle, e.g. if their investment is affected in terms of access to water, use of infrastructure, or employment of workers. Under the Prime Minister's Decree No. 389/GoL on Environmental and Social Impact Assessment (2022), the investor must carry out a cumulative impact assessment⁴.

Furthermore, investors should also consult CSOs, as the proposed investment might affect the livelihoods of the people they work with or represent. As many of the people and communities likely to be affected may not know their rights, CSOs can help to raise awareness among local communities on their rights as well as on the benefits investments can have.

Both CSOs and existing investors must have the opportunity to comment on the feasibility study, ESIA report, ESMMP, and other relevant information.

⁴ According to the Prime Minister's Decree No. 389/GoL on Environmental Impact Assessment (2022), the cumulative impact assessment should be included in the ESIA report.

4.1.3 Participatory land use mapping

Once the location and the geographical scope have been approximately identified, the investor must develop a participatory land use map. The map serves to identify the land areas to which people have the right of use, either through official tenure including a land title, or through customary tenure⁵. The investor must consult with the communities and jointly survey and map the way the land is being used. The mapping process will help to identify where the proposed investment site will overlap with current land use practices of communities.



Figure 8: Community members participating in land use planning in the village

For participatory land use mapping and land acquisition, the investor should apply the following process:

- Organize a meeting with the district authorities, village authorities, and local community to propose the planned investment and explain the purpose of participatory land use mapping.
- Conduct a preliminary survey of the land area.
- Gather information about the land use of local communities from the district and village authorities. In other words, all information on residential areas, paddy fields, shifting cultivation and fallow areas, grazing areas, areas for orchards and gardens, short and long-term cash cropping land, sacred areas, cemeteries, forest areas, water bodies, and other types of natural resources must be collected. All information on customary tenure must be documented. Compensation for people with customary tenure must be equal to the compensation for people with official documents and land titles.
- Investors should also gather information on uninhabited areas of land, as this land may be used by communities for natural resource collection and use.
- Create a preliminary map of the land, e.g. using existing land use planning maps or a high resolution orthophoto.

⁵ Customary tenure refers to traditional community rights on the use of land and natural resources. While customary tenure is not formalized in written documentation or law, it is nonetheless recognized officially in Lao PDR. Customary tenure exists among all ethnic groups throughout rural Lao PDR. It guides the use and management of a range of land types including residential areas, paddy fields, shifting cultivation and fallow areas, grazing areas, areas for orchards and gardens, short and long-term cash cropping land, sacred areas, cemeteries, forest areas, and water bodies (Mekong Region Land Governance, 2017).

- Carry out a transect walk on the land with the village authorities and local people (including the landowner and the owner of the adjacent land), to collect information about land use and forest cover.
- Create a map showing land use cover and natural resources.
- Organize a meeting with village authorities and the local community (including women, youth, the elderly, people with disabilities, ethnic minorities, and other vulnerable groups) to validate information and identify the areas that may overlap with the investment area. If women and other vulnerable groups are left out of the meeting, as sometimes occurs, then the investor should organize a separate meeting focusing on these groups.
- Conduct a survey to demarcate local land use that may be affected by the investment.
- Organize a meeting with district/village authorities and the local community to negotiate and seek consent on the land to be acquired by an investor.
- The investors must not proceed with their investment or activities if the local community does not give their consent. If consent is not given, the investor must find an alternative model or location.

Understanding land use rights is essential to ensuring that the investment area allocated by the Lao government is ready for investors to use⁶. Investors should pay attention to community land use, also of uninhabited land, as people may access the area to collect natural resources. According to CFS-RAI principles on tenure rights, investors should focus not only on the land that the investor wishes to use, but also on land that might be blocked for access by the investment project⁷. Understanding communities' patterns of land and natural resource use can help investors design their projects in a way that minimizes impacts on the livelihoods of community members.

More information on this topic can be found in another guide in this series: "An Introductory Guide to Responsible Land-based Investment for Communities, Government and Investors".

4.1.4 Land acquisition and compensation

Investors must ensure adequate community engagement and obtain consent from local land users in the land acquisition process. This may require several consultations, surveys, and rounds of data collection. The process applied by Burapha Company as presented in Figure 9 has been perceived as good practice in Lao PDR by many CSOs. If expropriation of individual land and resources is unavoidable, the compensation for a piece of land should be payment in cash or substitution with another piece of land. Investor acquisition of the land may lead to indigenous people and local communities having no choice but to change their livelihoods, as the land may be their main resource for cultivation and generating an income. This is why it is crucial that the people and local communities affected be involved in the land acquisition and compensation process.

The investor must collaborate with the relevant organizations at all levels to identify and collect information on the people that must be compensated. The investor should formulate a detailed compensation plan as a part of the social and environmental impact management and monitoring plan during the operation of the investment.

In carrying out the compensation activities, the investor must collaborate with the compensation committee at the local level to monitor and certify the correctness and completeness of the compensation plans.

⁶ Investors should be aware that if there is no detailed national land use plan, investors must engage with district authorities and the local community to conduct a detailed land survey to identify suitable and available land for investment.

⁷ See CFS Principles for Responsible Investment in Agriculture and Food Systems, available at: <https://www.fao.org/3/au866e/au866e.pdf>

The investor must follow this process of land acquisition and compensation:

- Organize a meeting with the affected people to explain and plan the process of a land survey. Such a survey will identify the assets and number of trees and plants that will be affected.
- Base the compensation plan on the State Decree on Compensation and Resettlement of People from Development Project No. 84 /GoL
- Calculate compensation based on the rules for compensation
- Arrange a meeting to report on the compensation calculation
- If the person affected does not accept the proposed compensation, the compensation must be calculated again; if the person still does not accept it, the investor can enter into the dispute resolution process through a company- or government-based grievance mechanism;
- For those who accept the compensation, a memorandum of understanding must be signed between the investor and the person affected: The MoU needs to be endorsed or acknowledged by the village and district authorities as well as by the provincial or central level. After that, a ceremony should be organized to officially pay the compensation or hand over the substitution.
- Establish a database on land acquisition and compensation for use in monitoring the implementation of compensation and dispute resolution.

The land acquisition process of the company

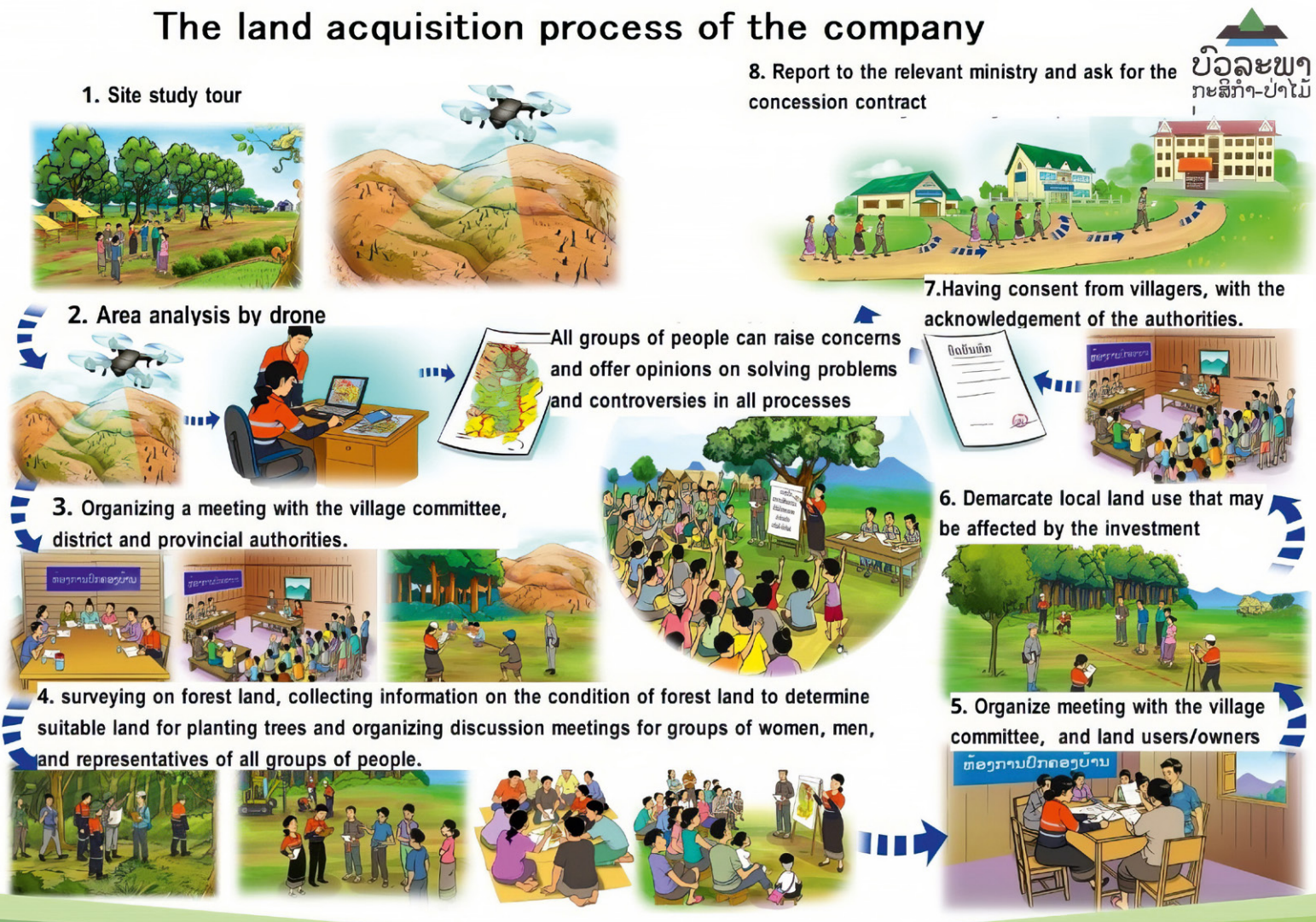


Figure 9: The Burapha approach to land acquisition, used for state land concessions for industrial tree plantation in Lao PDR

4.1.5 Conducting the feasibility study

All investments require a feasibility study before implementation⁸. To conduct a feasibility study, investors should follow this process:

Preliminary data collection with community members and local authorities

- Investors must organize meetings to introduce their investment plan to stakeholders, such as district authorities (including Lao Women's Union, Lao Front for National Construction, Land Management Committee, etc.), village authorities, CSOs, villagers, and vulnerable and marginalized groups (such as women, youth, the elderly, people with disabilities, ethnic minorities). All stakeholders must understand the purpose, activities, scope, and duration of the investment.
- Investors must explain the potential impacts – both positive (i.e. benefits) and negative (i.e. risks) – of the investment on the communities.
- Investors must collect preliminary data and present a feasibility study. The information collected must contain details on the condition of the investment site and the socio-economic conditions in the region, including statistical data and other information provided by the community and the district authorities.
- Investors must conduct a survey to understand the opinions and concerns of all groups of people (women, men, youth, the elderly, people with disabilities, ethnic minorities, and other vulnerable groups). Information should be collected through methods such as interviews or focal group discussions.
- Investors must allow community members to participate in, and comment on, the feasibility study.

Dissemination of information of the feasibility study

- After completing the feasibility study, the investors should organize a meeting to present the results of the study to the community.
- Specifically, the investors must clearly state the impacts – both positive and negative – of the investment on the community.
- All community members should participate in the meeting, to learn about and comment on the benefits and risks of the investment, and to accept or reject the planned investment activities.

Respect the stakeholders' final decision

Stakeholders, especially communities, have the right to accept or reject the proposed investment. If a collective decision is made not to proceed with the investment, investors should respect the decision and must not try to convince the community to change it. A "collective decision" means that the decision was taken by all groups of people in the community, including marginalized or vulnerable groups as listed previously. Respecting the community's final collective decision, whether consent is given or not, relates to the C in FPIC (VFI, 2018; LNCCI, 2021).

⁸ According to Article 8 of the Law on Environmental Protection (No. 29/PM, 2012).

Box 3: Tools and methods for community engagement

A) Organizing consultation meetings

To organize a consultation meeting, the investor should invite the local authorities (the relevant provincial authorities, district authorities, and heads of village), CSOs, other investors whose investments are adjacent or close to the proposed project, and all groups of people in the local community. It is essential that all affected people – including women, men, youth, the elderly, people with disabilities, ethnic minorities, and other vulnerable groups – are included in the meetings, not only the heads of household or the village administration. This thorough engagement will ensure that all affected people have equal voice and rights. Investors should make special effort to host separate consultations for each at-risk group. This will help investors understand how the investment may affect them differently and what resources may be needed to ensure that each group benefits equally.

The facilitator who hosts the meetings can use tools such as maps, posters, LCD projectors, brochures, or other documents to explain the scope of the investment as well as its potential impacts. They can also ask for people's opinions.

B) Data collection through surveys, interviews, and questionnaires

To collect data, the surveyors can conduct interviews or focal group discussions with target group members (in some cases, target groups can fill out prepared questionnaires). The investor should follow this process:

- Organize a meeting with the community to discuss the objectives of the data collection (i.e. for the feasibility study or environmental and social impact assessment), and the community's involvement in the assessment.
- Organize a field survey team with representatives from the community to assess the area that will be affected; identify households that will be affected; and identify properties, trees, and plants that people will lose because of the investment development.
- Organize a field survey team with representatives from the community and local authorities to collect physical and biological data;
- Organize a survey team with representatives from the community and local authorities to collect socio-economic information by interviewing local authorities and local people.

C) Dissemination of information

Several tools can help provide easy access to information to the people directly affected by the investment and to other stakeholders. For example, the investor can choose to distribute brochures, put up posters and bulletin boards, send out newsletters, develop websites, social media e.g. Facebook, or establish information centres.

- **Newsletter:** can be used to present information about the activities of the investment project or other information that is of interest to stakeholders and the people affected by the project.

- **Notification letter:** can be used to inform about events or activities that may affect the people or the environment. In some cases, investors must obtain permission from the relevant authorities before sending out notifications.
- **Dissemination of information through mass media:** can be used to make sure that information reaches a larger audience. Nevertheless, investors should consider local conditions to decide whether it is appropriate to use mass media to disseminate their message. The dissemination of information through mass media can take place via print media, television, radio, websites, etc.
- **Media release:** can be used to disseminate important news about an investment project, especially if of public interest, through media, internet, via loudspeakers, etc.
- **Social media:** for instance, Facebook and WhatsApp are the most popular channels that people share or receive information these days in Lao PDR.
- **Information/public relations centre:** can be a place to disseminate information and accept feedback or complaints from the public.
- **Village bulletin board:** Investors can put the necessary information (both written or infographic) on the board to draw the attention of local communities. This is an effective, low-cost tool to disseminate information.
- **Village meeting:** This is a common practice and powerful approach to disseminate important information and to get immediate feedback, responses, and agreements.

4.1.6 Conducting the environmental and social impact assessment

Once the feasibility study report has been submitted and approved by a project screening committee of the Ministry of Agriculture and Forestry⁹, the investors must conduct either an IEE or an ESIA, depending on the scale and nature of the investment (see Investor Guide on Environmental and Social Safeguards in this Toolkit). This must be done with the support and participation of the community and approved by MoNRE¹⁰.

The process for a participatory environmental and social impact assessment is as follows:

Data collection for IEE/ESIA

- The investor should organize a meeting with the community to discuss the objectives of the IEE/ESIA and the community's involvement in the assessment.
- Organize a field survey team with representatives from the community to collect data on the land and environment, as well as on socio-economic information through interviewing local authorities and local people.
- Specify the number of households and the size of the land area affected by the project.

⁹ The project screening committee is set up by the Department of Planning, Ministry of Agriculture and Forestry.

¹⁰ See also: Chansomphou et al., 2023. Guide on Environmental and Social Safeguards in the Context of Agriculture Land-Based Investments in Lao PDR

Dissemination of IEE/ESIA results

- Organize meetings to present and disseminate the results of the IEE/ESIA, the Environmental Management and Monitoring Plan (EMMP), and the Social Management and Monitoring Plan (SMMP). The investor must ensure that everyone is able to attend, including district authorities (including Lao Women's Union, youth, Lao Front for National Construction, etc.), village authorities, other state and CSOs, and all groups of people in the village, including women, youth, the elderly, people with disabilities, ethnic minorities, and other marginalized and vulnerable groups.
- Conduct consultations to listen to the opinions of all people affected by the project, as well as other stakeholders who might be affected by the investment in the future. This serves to take all opinions and concerns into consideration when revising and updating the IEE/ESIA, EMMP, and SMMP.
- To ensure that the opinions of all groups of people are obtained, the investor should hold separate meetings for those who might not speak out in large meetings for cultural reasons (such as gender issues) or because of power imbalances. A specific coordinator should be assigned by the investor to deal with these concerns.

4.1.7 Restoring the livelihoods of people affected by the investment

If people are relocated, their livelihoods must be restored. In this case, the following principles should be considered:

- Document the community's traditional way of life and occupation prior to relocation.
- Conduct an analysis of the production potential of the relocation sites.
- Analyse affected people's occupations before the relocation and the potential occupations they could have after the relocation (taking into account the potential of the relocation sites).
- Provide training on income generation from occupations in agriculture, handicrafts, trade, and services (based on suitability of the relocation sites).
- Establish access to market mechanisms that require joint planning between stakeholders, communities, CSOs, and investors.
- Continuous monitoring and evaluation of livelihood restoration as well as identification of indicators that reflect all aspects of sustainable development, such as economic stability and household income, access to basic education, access to health care and sanitation, access to infrastructure.

4.1.8 Grievance Redress Mechanism

Investors must establish a Grievance Redress Mechanism (GRM) right at the start, during the planning phase of the investment. The GRM should provide the community, especially those most affected, with a clear and practical mechanism to express their complaints and concerns about the investment's social and environmental performance.

The GRM will allow the investors to receive and address any issues related to land acquisition and compensation. The GRM mechanism will also allow the investors to address complaints from people living nearby and people who may be affected by the investment activities (such as land clearance, transports, pesticide use, etc.).

The GRM will allow issues to be raised in a timely fashion and include a mechanism designed to resolve disputes in an impartial manner. The GRM should be based on the local community organization and be culturally appropriate and understandable for the people affected.

Grievance mechanisms are described in detail in a separate manual, "Responsible Agricultural and Forestry Land-based Investments: How to set up Company-based Grievance Mechanisms: A Manual for Investors and RAI Practitioners".

Individuals or groups of people who are affected by the investment project must be able to express their views and concerns on the implementation of the investment in various ways:

- By sending comments to the investor or relevant government organization by email or post etc.
- By sending complaints and petitions to the investors and relevant government organizations on investment impacts that are considered inappropriate and unfair based on laws and regulations.
- Investors should establish a mechanism to receive comments, complaints, and petitions of the people affected by the investment, as well as to find remedial measures and inform the people and relevant government organizations.
- For government agencies, there must be a committee to receive opinions, complaints, and grievances of the people affected by the investment, as well as to find remedial measures with accuracy, transparency, and fairness to the people.

It must be noted that a GRM should be operational throughout the complete investment cycle.

4.2 During implementation of the investment

Continuous stakeholder management is crucial in the engagement and investment implementation processes. Investors must be aware that any changes resulting from the investment will need consent by the communities and other relevant stakeholders. The communities should be empowered to advocate for their own interests and act accordingly.

During the implementation phase, community engagement should be organized as follows:

- The investor shall establish an Environmental and Social Management Office (ESMO) or two positions – an Environmental Control Officer (ECO) and a Social Control Officer (SCO) – to ensure the efficient implementation, management, and monitoring of the environmental and social impacts of the investment, and to communicate with the external stakeholders effectively regarding all information about the investment operation.
- Through this ESMO (or ECO and SCO), the proposed investment must regularly conduct environmental and social monitoring (as specified in the EMMP and SMMP). In these monitoring activities, the investor should form a team that includes staff from ESMO (or ECO and SCO), DONRE, and community representatives.
- The investor must coordinate with relevant stakeholders, local authorities, and local communities, to make public all investment activities to stakeholders and local communities, and to inform continuously on potential social and environmental impacts. To ensure that the people affected and other stakeholders have easy access to information, the investor should employ communications tools (e.g. establishing information centres and producing brochures, photos, bulletin boards, newsletters, and websites).
- Investors must facilitate and ensure that people or groups of people who are affected by the investment, as well as other stakeholders, have access to information on the implementation of environmental and social safeguard and mitigation measures, and on the implementation of the environmental and social management and monitoring plan in each period.

- In the case of changes in business operation or expansion of the investment, investors should:
- Organize a meeting to inform about the objectives and scope of the changes in business operation or expansion. The investor must ensure that all groups within the local community are represented at the meeting and are allowed to voice their opinions and concerns regarding the new investment activities.
- The investor must conduct a site analysis and participatory land use mapping and land acquisition, following the processes specified in Section 4.1.2 and 4.1.3 respectively.
- The investor must ensure that the FPIC principles are applied throughout the process of investment expansion.
- The investor must conduct additional environmental and social impact assessments and revise the EMMP and SMMP based on the scope and specified activities.

4.3 During closure of the investment

Investors must coordinate with the relevant stakeholders and local authorities to inform the public about the timing and plan to close the investment. They must also announce the activities to be carried out after the investment closure.

For each investment, the investor will need to present an investment closure plan. The investment area must be rehabilitated in consultation with the affected people, the local authorities, local communities, and other stakeholders.

Before implementing the closure, the investor must revise the plans in accordance with the comments of the consultation and with the actual situation.

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RGIL Responsible Governance of Investments in Land

Published by:

Ministry of Planning and Investment and Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH

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Design, layout and illustrations:

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This publication was produced as part of the Responsible Governance of Investments in Land (RGIL) project, with the financial support of the European Union and the German Federal Ministry for Economic Cooperation and Development. Its contents are the sole responsibility of GIZ and do not necessarily reflect the views of the EU or the Federal Ministry for Economic Cooperation and Development.

RGIL is implemented under three country projects (S2RAI in Ethiopia, ELTeS in Laos, RELAPU in Uganda) within the Global Programme Responsible Land Policy as part of the German Special Initiative "Transformation of Agricultural and Food Systems" of the German Federal Ministry for Economic Cooperation and Development (BMZ). RGIL is co-funded by the European Union and BMZ.

The project aims to ensure that investments in land are productive, contribute to sustainable land management, and respect the rights and needs of local populations in particular vulnerable groups and women.

GIZ is responsible for the content of this publication

Bonn, June 2023



Co-funded by the European Union



Implemented by

