

# Master's Thesis

Faculty of Philosophy and Science of University of Berne  
Centre for Development and Environment (CDE)

## KEY FACTORS INFLUENCING DECISION-MAKING ON LARGE-SCALE LAND ACQUISITIONS IN CAMBODIA



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The pictures on the title page were taken by the author during the field research in Kampong Thom, Cambodia. The pictures on the left and on the right were taken at the concession site of Tan Bien. The picture in the middle shows the cleared area of the CRCK 1 concession.

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## ABSTRACT

This thesis analyses the decision-making process on large-scale land acquisition (LSLA) in the context of Cambodia. The literature prevalently uses the term “land grabbing” to denounce the social and environmental impacts related to this type of investment. Reports about the negative impacts of LSLAs on affected Cambodian people’s livelihood are abundant, but few studies have been able to crack open the black box of how land-granting decisions actually work. Wiesmann’s (2011) Human-Actor Model provides a suitable approach to capture the complexity of action, looking beyond simple cause-effect explanations to analyse the rationales behind actions. By presenting three case studies of Vietnamese companies developing rubber plantations, the study shows the ways in which economic land concessions (ELCs) are granted, focusing specifically on the roles different actors play. It further examines the companies’ rationales to lease land in Cambodia and points out socio-economic and biophysical factors influencing the spatial distribution of concessions. Despite the strongly hierarchical political structure of the Royal Government of Cambodia and the centralization of power on a national level, local authorities and villagers are included in the analysis to provide a holistic view across different political levels. Since 1996, between 2 and 2.7 million hectares land were granted to domestic and foreign companies investing in the agro-industrial sector. Around half of them were allocated to domestic companies, followed by Chinese and Vietnamese ones. The three case studies provide evidence of a widespread disregard of the national legal framework, including the lack of an adequate environment and social impact assessment process, unsatisfactory consultations with affected villagers, and violations of the legal limit of 10,000 hectares per concessionaire. The author has doubts whether the granted land was state private land (the type of land that is legally grantable to investors under Cambodia’s legal system); whether the ELCs in question conformed to district land use plans; and whether the concerned state institutions were capable of fulfilling their regulatory assignments. Furthermore, the study expresses concerns regarding the handling of land as a resource, given the apparent channelling of profits from leasing agreements into the pockets of a few powerful key players. The shortage of land in Vietnam and the alleged abundance of available land in Cambodia were mentioned by the corporate sector as key drivers of decisions to invest in Cambodia. The latter argument is questioned here by referring to the limited data availability on land ownership and by deconstructing the blurry concept of “land availability”. Instead, the thesis shows the importance of forests in site selection, as well as other factors which influence the spatial distribution of ELCs. In an environment of widespread corruption within the state apparatus and pervasive patron-client networks dominantly related to the Cambodian People’s Party, a “culture of opacity” prevails and imposes many uncertainties on the outcome of the research project.

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## LIST OF ABBREVIATIONS

ADB	Asian Development Bank
ASEAN	Association of Southeast Asian Nations
CA	Contracting Authority
CCV	CCV Co., Ltd.
CDC	Council for the Development of Cambodia
CNRP	Cambodia National Rescue Party
CoMs	Council of Ministers
CPP	Cambodian People's Party
CRCK 1	CRCK Rubber Development Co., Ltd. 1
CRCK 2	CRCK Rubber Development Co., Ltd. 2
DD	Deputy Director
D/K	District/Khan
D/KDoE	District/Khan Department of Environment
D/KFA	District/Khan Forest Administration
D/KSLWG	District/Khan State Land Working Group
ELC(s)	Economic Land Concession(s)
ESIA(s)	Environmental and Social Impact Assessment(s)
EX	Expert
EWMI	East-West Management Institute
FA	Forest Administration
FDI	Foreign Direct Investment
IESIA(s)	Initial Environmental and Social Impact Assessment(s)
Gold Foison	Gold Foison A/C Import Export Construction
ha	Hectare(s)
HH	Household
LICADHO	La Ligue Cambodgienne pour la Promotion et la Défense des. Droits de l'Homme
LOFCM	Law on the Organisation and Functioning of the Council of Ministers
LSLAs	Large-Scale Land Acquisitions
Ltd.	Limited
MAFF	Ministry of Agriculture, Forestry and Fisheries
MARD	Ministry of Agriculture and Rural Development
MEF	Ministry of Economy and Finance
MLMUPC	Ministry of Land Management, Urban Planning and Construction
MoE	Ministry of Environment
MSc thesis	Master's Thesis

NGO	Non-Governmental Organisation
NTFP	Non-Timber Forest Products
ODC	Open Development Cambodia
PLCN	Prey Lang Community Network
PM	Prime Minister
P/M	Provincial/Municipal
P/MDEF	Provincial/Municipal Department of Economy and Finance
P/MDLMUPCC	Provincial/Municipal Department of Land Management Urban Planning, Construction and Cadastre
P/MDoA	Provincial/Municipal Department of Agriculture
P/MDoE	Provincial/Municipal Department of Environment
P/MFA	Provincial/Municipal Forest Administration
P/MISC	Provincial/Municipal Investment Sub-Committee
P/MSLMC	Provincial/Municipal State Land Management Committee
REDD	Reduced Emissions from Deforestation and Degradation
RGC	Royal Government of Cambodia
SEZ	Special Economic Zones
SLC	Social Land Concession
SLT	Structure Laying Techniques
Tan Bien	Tan Bien Kampong Thom Rubber Development
TS	Technical Secretariat
UN	United Nations
US\$	US Dollar(s)
VRG	Vietnam Rubber Group
WB	World Bank



# 1 INTRODUCTION

## 1.1 Research Focus

Large-Scale Land Acquisitions (LSLAs) are not a new phenomenon. During the period of 1990 to 2007, land under cultivation expanded worldwide by 1.9 million hectares (ha) per year, resulting in a total sum of 1.5 billion ha of cultivated land (Deiniger & Byerlee, 2011). This increase in land under cultivation mainly occurred in developing countries (+ 5.5 million ha per year); e.g. Sub-Saharan Africa, Latin America, the Caribbean and Southeast Asia, whereas in industrialized countries and countries in transition, a decline is evident (-2.1 million, respectively -1.3 million ha).<sup>1</sup> The food price crisis of 2007-2008 led to a dramatically boosted interest in agricultural land as a potential investment. According to various publications, “foreign investors expressed interest in approximately 56 million ha of land globally in less than a year” (Ibid., 32). For the future, it does not seem plausible for the expansion of cultivated land to diminish. Key drivers such as population growth, rising incomes and urbanization will continue to increase the demand of certain food products: above all oilseeds, livestock and its related feed, as well as industrial products. A conservative prediction estimates that in developing countries, 6 million ha of additional land will be brought into cultivation each year until 2030 (Ibid.). Although data is spotty, there is a general consensus that the new wave of transnational LSLAs in the first decade of the 21<sup>st</sup> century differs from previous LSLAs in scale and intensity (Anseeuw et al., 2012).

The issue of LSLAs is discussed in the international debate under the term “land grabbing”. According to the Tirana Declaration (International Land Coalition, 2011), LSLAs are defined as land grabs when one or more of the following criteria is applied to the land allocation process: “(i) in violation of human rights, particularly the equal rights of women; (ii) not based on free, prior and informed consent of the affected land-users; (iii) not based on a thorough assessment, or are in disregard of social, economic and environmental impacts, including the way they are gendered; (iv) not based on transparent contracts that specify clear and binding commitments about activities, employment and benefits sharing, and; (v) not based on effective democratic planning, independent oversight and meaningful participation.” The term land grabbing is not used in this thesis in order to avoid a prejudiced approach on the topic. The author tries not only to disclose negative but also positive impacts related to these land deals.

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<sup>1</sup> The sources of the additional +0.2 ha per year, which is required to complete the sum, are not mentioned in the report.

To have a better understanding of the research focus and the problems addressed, it is necessary to take a quick look at the general drivers of the current land rush. In her article, Zoomers (2010) enlists seven processes contributing to the “foreignisation of space”. Those drivers include international and internal forces that are formed at different administrative levels.

To start, she mentions Foreign Direct Investment (FDI) in food production. “Food-insecure” governments who need to import food to feed their populations are outsourcing their domestic food production by leasing large areas of farmland abroad. Zoomers sees the causes of this increasing demand for food in constraints on agricultural production related to shortages of water and arable land, in bottlenecks in storage and distribution, in the expansion of biofuel production competing with the food production, in the increasing urbanisation rates and in changing diets (an increasing consumption of meat in transition and developing countries). These investments in poor countries by richer countries are contested since there is often a shortage of food in the targeted countries. Therefore, these investments might be regarded as ethically incorrect.

The second reason comprises the increased FDI in non-food agricultural commodities and biofuel. This is related to the speculation of rising rates of agricultural products and the rising land value itself. The promotion of biofuel through financial incentives in order to achieve government consumption targets – which are interrelated to the oil price and the reduction of CO<sub>2</sub>-emissions – is a key driving force. Jatropha, soya, sugar cane, and oil palm trees are the crops cultivated primarily for this reason.

Development of protected areas, nature reserves, ecotourism and hideaways is the third process contributing to the foreignisation of space. Private individuals, international organisations and governmental officials have become actively involved with the demarcation of large areas for nature conservation or ecotourism. A lot of projects, e.g. Reduced Emissions from Deforestation and Forest Degradation (REDD), are striving for the protection of the biodiversity and the preservation of forests. Such projects are therefore acquiring large tracts of land.

The fourth driver contains the creation of Special Economic Zones (SEZs) and their infrastructure. According to the website of the Non-Governmental Organisation (NGO) Open Development Cambodia (ODC), “a SEZ is a geographically distinct area that is usually physically secured, or fenced-in. A SEZ will tend to have a single management or administration, streamlined investment procedures, and in many cases a separate customs area providing duty-free benefits.” After formally being introduced in 2005, there are 22 approved SEZs in Cambodia at the end of 2012.

The fifth process is the building of large-scale tourism complexes. The Koh Kong Island – situated next to the east coast in Cambodia – is almost entirely for sale and many hotel

complexes are appearing across the island. There even are plans to link the island to the mainland. Consequently, in anticipation of this plan, land prices have multiplied.

Another driver for the current land rush is the augmentation of retirement migration. Many retired people are looking for a comfortable dwelling in a cheap country. Such migration streams are most notably occurring among people from the USA migrating to countries in Central and South America, but these trends are also evident in other countries.

The last process discussed in her article is the migrant's purchases of land in their maternal countries.

Ben White et al. (2012) added two other trends leading to an accumulation of land to her essay: the "creation of new financial instruments" and "rules, regulations and incentives provided by the international community". The introduction of new financial instruments was implemented in order to reduce market risk and to enable third party investors to benefit from widespread concerns of food shortage. In this context, they refer to private equity groups, which deal with a range of different investments including land investments in foreign territory. Furthermore, they argue that through the emergence of rules, regulations and incentives provided by the international community, the number of land deals augmented significantly. They point to international agencies such as the World Bank (WB) and USAID but also to bilateral investment treaties, through which individuals or companies are able to enforce their claims of governments by international tribunals.

After having drawn a broad picture of processes underlying the global land grabbing, the focus now lies on the national context of Cambodia. The focus on the Southeast Asia region was chosen due to research team's experiences as well as the lack of knowledge about this region. In the edition of the 10th and 11th March 2012, the Cambodia Daily Weekend (Vrieze & Naren, 2012) cites that private firms possess concessions to use 3.9 million ha of land. This sum is based on calculations of the human rights group LICADHO, and it corresponds to 22% of Cambodia's total surface area. This land is divided up into areas controlled by agro-industrial companies on 2 million ha, and by mining companies, who have the right to extract gold, iron ore, copper, and other precious minerals, on 1.9 million ha of land. Current figures (Global Witness, 2013, 2) even speak of 2.6 million ha of land allocated to agro-industrial companies of which 80% ha are allegedly used for rubber plantations.

A report on land grabbing in Cambodia (Saracini, 2011, 8) concludes that "the most extensive land grabbing is due to Economic Land Concessions (ELCs)". In this Master's thesis (MSc thesis), only ELCs are considered. According to article 2 of its Sub-Decree, "ELC refers to a mechanism to grant private state land through a specific ELC contract to a concessionaire to use for agricultural and industrial-agricultural exploitation." Further, this article states that industrial-agricultural exploitation includes the cultivation of food or non-

food crops, the upbringing of animals and aquaculture, and the construction of infrastructure (plant or factory and facilities) for processing domestic agricultural raw materials.

Related to these concessions, Mr. Mathieu Pellerin, a consultant for LICADHO, expresses concerns in the Cambodian newspaper (Vrieze & Naren, 2012) about environmental and social impacts as well as the political process of allocation. He notices that in many land conflicts, the rights of native populations are undermined and the government doesn't follow its legal procedures – such as the public consultation with the effected communities or the evaluation of an environmental impact assessment – before granting a concession. These concerns are shared by numerous other scholars, NGOs, civil societies and foreign governmental institutions. In the human rights report of the United Nation (2010, 13), it is reported that “provincial and district land offices continued to follow pre-2001 land registration procedures, which did not include accurate land surveys and opportunities for public comment. The Cadastral Commission failed to implement the identification and demarcation of state land, leading to land conflicts, arbitrary evictions, and ill-defined, uncontrolled state development. Land speculation, often in the form of land concessions, continued to fuel disputes in every province and increased tensions between poor rural communities and speculators. Urban communities faced forced eviction to make way for commercial development projects.”

As indicated above, there are many problems with the terms of granting, implementing, and reviewing ELCs. These processes are indeed very complex and non-transparent, and the land questions have become inscrutable: “Land questions are increasingly complex matters of competing claims between various groups of local and long-distance actors; in addition to national and local governments, private individuals, NGOs, financial institutions and the real estate sector are also involved in the issue” (Zoomers, 2010, 441). The resulting problems of unsolved land disputes have attracted a lot of public attention in the last few years. Partially caused through these land disputes, the Royal Government of Cambodia (RGC) felt impelled to institute a moratorium on new land concession and the review of all existing concessions in May 2012 (O’Callaghan & Birsell, 2012).

While many recently published papers have dealt with the issue of improving the situation of the effected communities, relatively little is known about the investors and their rationales. Who are these investors and how are they organised? According to a study published by the Merian Research and CRBN (2010), there are different financial structures engaged in investing in land, food commodities and biofuel: private equity funds, hedge funds, real estate investment trusts, mutual funds and limited partnerships. The investors are spread all over the world. The list of investments in the agricultural sector of Cambodia is lengthy. For



this reason, a selection of investors had to be made. During a sampling process, Vietnamese companies investing in rubber in the province Kampong Thom were chosen.

Why do investors decide to invest money in the agricultural sector in Cambodia? After the financial crisis started to disperse in 2007, a shift has been remarked from the investment in financial assets and real estate toward other assets, particularly commodities, which are considered to be less risky and more profitable (Merian Research and CRBN, 2010).

The actual FDI in Cambodia has risen by an annual average of 19% over the last ten years. Although the proportion of approved investments in the agricultural sector is relatively small, with around 1% compared to investments in the tourism and service sectors, the contribution is meaningful since about 60% of the population made their living with agriculture and this accounts for 30% of the total GDP. (Üllenberg, 2009)

The study “Foreign Direct Investment in Land in Cambodia” divides foreign investors into two groups: profit-seeking and policy-driven corporations. Although both types’ main motives might be profit-making, there are some important differences. Policy-driven corporations mostly rely on direct governmental support in the form of conducting government-to-government negotiations and/or financial support. Their motives in investing seemed to be more in the improvement of the government’s condition such as the increase of national security and the economic development or international goodwill than ostensible financial returns. But not only foreign investors are interested in land investments. The government of Cambodia also makes its contribution to attract FDI by promoting its “Rectangular Strategy” which is based on four fundamental standards: “enhancement of the agriculture sector, further rehabilitation and construction of the physical infrastructure, private sector development and employment, capacity building, and human resource development” (Ibid., 29-30).

On this account, it is of high relevancy to understand the key factors influencing decision-making on LSLAs in order to steer this development on to a sustainable path. Without reliable information of the reasons behind investor’s actions and the whole procedure of granting ELCs, it is impossible to advise the RGC on how to minimize the risk associated with such investments while profiting on any opportunities. This was also a motivation for the author to get engaged in this project himself. Harmful investments at the cost of the environment and the poor population need to be stopped. In terms of investment in agriculture, he agrees with the WB’s statement that “the need for more and better investment in agriculture to reduce poverty, increase economic growth, and promote environmental sustainability was already clear when there were only 830 million hungry people before the food price rise. The case is even clearer today when, for the first time in human history, over a billion people go to bed hungry each night” (Deiniger & Byerlee, 2011, 13).

## 1.2 Goals and Objectives

This MSc thesis is a component of a bigger research project which aims at making a relevant contribution to the debate on LSLAs and sustainable rural development in Southeast Asia (Gironde, Golay, & Messerli, 2011). The author dealt with the subject of Vietnamese investors and their motivations in investing in Cambodia. Thus, the goals in general are to understand the allocation of land through ELCs as a complex process involving actors across different political levels and from different social classes, and to comprehend the spatial distribution of LSLAs in relationship with socio-economic and biophysical features.

In order to reach these goals, there is a need to determine detailed objectives. According to the “Memo zur Disposition von Masterarbeiten”, a MSc thesis shall be innovative with regards either to content, theory or methodology. This MSc thesis aims to understand the land granting process and consequently pursue objectives with regards to content. The three objectives are:

1. To understand the political decision-making process on land allocation in the Cambodian context
2. To identify all main stakeholders involved in the granting process of ELCs across different administrative scales
3. To understand the decision-making process by distinguishing key-factors influencing stakeholders’ actions and to identify spatial patterns related to those key-factors

The author’s personal objective was to get a first work experience in a NGO abroad. This cooperation enabled to exploit synergies between NGO Forum and the SNIS-project. As for the author’s part, he cross-checked the database of NGO Forum with databases from other NGO’s such as ODC and LICADHO. This means that he supported NGO Forum in updating data on ELCs. On the other hand, the NGO Forum provided the author with data of ELCs and a network of contacts in a politically sensitive environment.

### 1.3 Research Questions

The following figure discloses the composition of the SNIS-project.

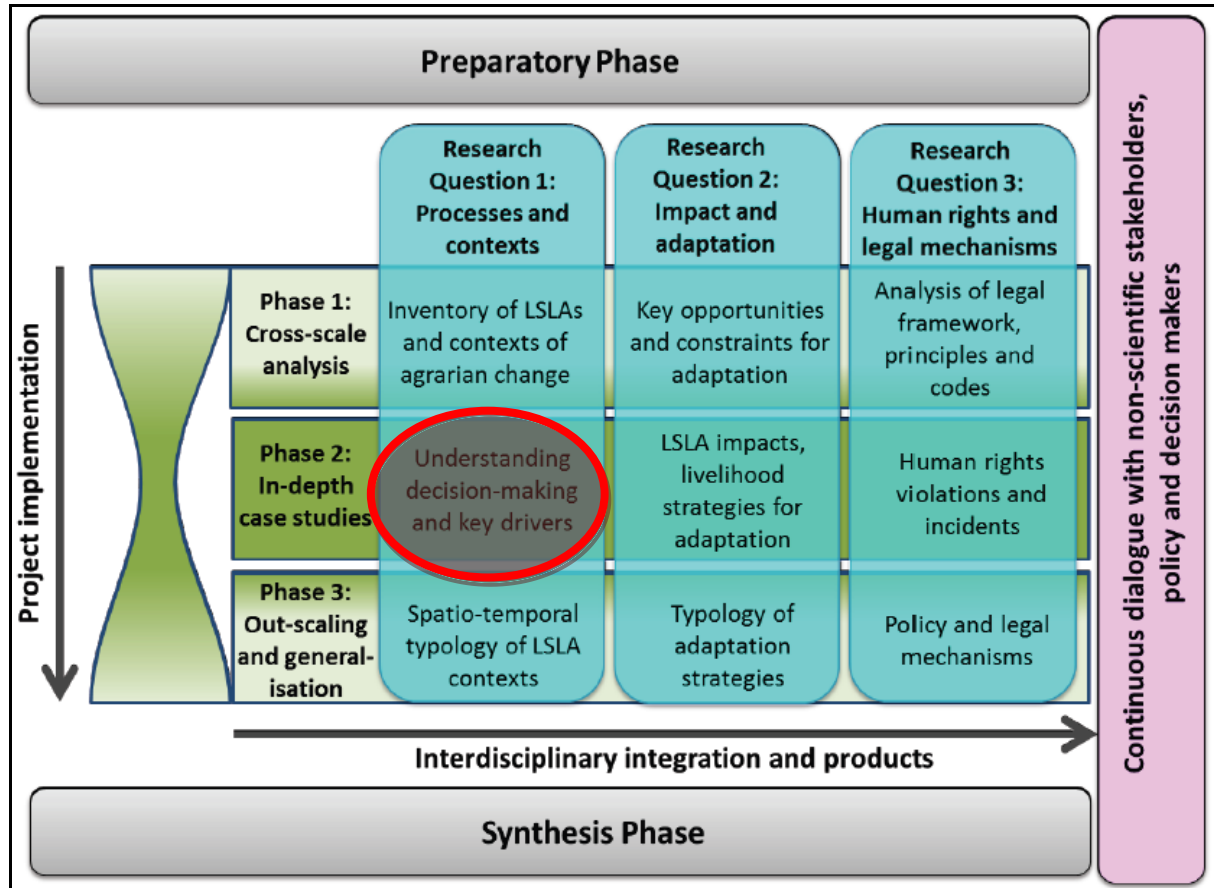


Figure 1: Research Approach SNIS-Project. Source: Gironde, Golay & Messerli, 2011, 9

The SNIS-project is divided up in three research questions (Gironde, Golay, & Messerli, 2011, 3):

1. What are the development contexts and processes among various actors and institutions across different administrative scales that are determining the negotiation and implementation of land acquisitions?
2. What are the impacts of land deals on local populations in terms of livelihood system, vulnerability and resilience, and what are their capacities to adapt to land deal-related agrarian transformation?
3. What role do human rights law and monitoring and judicial mechanisms play in mitigating the tensions related to land investments and protecting the human rights of local populations?

The three research questions were implemented in a sequence of three phases and in a close dialogue with non-scientific actors, policy and decision makers.

This MSc thesis examines research question 1 in phase 2 of the SNIS project. It is composed of three research questions:

### **Research Question 1:**

What did the decision-making process on land allocation and the implementation look like?

- What were the key events in the granting process?
- Did the government and companies follow the legal procedure?
- What did the interactions between actors look like?

### **Research Question 2:**

Who are the main players and institutions across different administrative scales involved in the decision-making process of Economic Land Concession in Cambodia?

- What are their activities, meanings, and assets?
- What is their strategy of action?
- How are they embedded in institutions?
- How do they interpret dynamic political, social, economic, and ecological conditions of action?

### **Research Question 3:**

What role does the specific knowledge of rural landscape, including environmental, socio-economic, and infrastructural features, play in the allocation of land?

- How is it interpreted and weighted by the actors?
- What was its influence on the choice of the place?

The three research questions in this MSc thesis are strongly interlinked and cannot always be strictly separated and thus repetitive information emerges throughout the thesis. A combining and important factor is the actor. The term “actor” is applied in a broad sense including individuals, e.g. as Prime Minister Hun Sen or the provincial governor of Sandan, as well as organisational actors such as Ministry of Environment (MoE) or Council of Ministers (CoMs). The fusion of several individuals into one actor might be a delicate matter due to oversimplification. However, it is a necessary premise to get over the shortage of available information concerning actors and in order to facilitate the comprehension. The

concept used of an actor was not adopted from the mechanistic philosophy, which uses simple cause-effect relations to explain actions, but rather from a humanistic point of view, which is represented in the human-actor model. This model will be further explained chapter 3.4.



## 2 STATE OF RESEARCH

As mentioned in the previous chapter, this MSc thesis is a component of a bigger project called “LSLAs in Southeast Asia”. For this reason it is worth mentioning the motivation, which lies in wake of this big project. The initiators detected three key limitations of academic knowledge (Gironde, Golay, & Messerli, 2011, 3):

1. The missing link between the processes of land acquisitions and the development contexts in which they typically occur: the high heterogeneity of development contexts in terms of economic, environmental, and socio-cultural characteristics leads to dissimilar outcomes of land acquisitions from one place to another, making generalisations and out-scaling of insights very difficult;
2. The insufficiency of empirical material analysing how land deals are implemented across various administrative and jurisdictional scales, accepted or contested by communities and local authorities and to what extent populations have to adapt their livelihoods to LSLAs-related changes;
3. The absence of a human rights perspective despite the fact that several studies show how human rights violations can be immediate consequences of large-scale land deals. Thereby, the right to food and the right to participation, among others, have not received adequate attention.

In the international debate the idea of global “codes of conduct”, or sometimes referred to “voluntary guidelines”, is controversial discussed. These codes of conducts are developed to ensure the recognition of existing land and resource rights, to promote a transparent allocation process and to guarantee food security (Von Brauch and Meinzen-Dick, 2009; Cotula et al., 2009). Zoomers (2010, 442) lists five criteria which are often included in the codes of conduct: transparency in negotiations, respect for existing land rights, sharing of benefits, environmental sustainability and adherence to national trade policies. These criteria are also included in the Sub-Decree on ELCs and the Land Law 2001 as requirements in the granting process. The Sub-Decree is a detailed and official scheme showing how concessions are supposed to be granted and the Land Law 2001 lists general regulations to be fulfilled. Interviewed experts confirmed that the laws were in place, but there was no will and no organization to enforce them.

There exists little literature dealing with the actors involved in the allocation of ELCs in the Cambodian context. Reports about irregularities in the granting procedure are abundant, but most of those simply criticize the government’s position. Few of these papers pay attention to the decision-making process, the rationale behind actions, and the different factors influencing it, and therefore neglect the important questions ‘how?’, ‘who?’ and ‘why?’.

In the dissertation “Political Economy of Land Registration in Cambodia”, So (2009) analyses the difficulties of achieving cadastral sustainability in Cambodia by examining the interests of the ruling elites who play a major role in adopting and implementing the land registration policy. His study (2009) shows that the failure to develop an efficient cadastral registration system can be explained by the corruption within the state bureaucracy as well as the durability of a preceding registration system, referred to as the “quasi-formal” system. Although his main focus is on the systematic land registration program, he briefly touches the topic ELC and by doing so, discloses some contradictions regarding the granting process.

The report “Foreign Direct Investment in Land of Cambodia” written by Üllenberg on behalf of the “Deutsche Gesellschaft für Technische Zusammenarbeit” gives a broad overview of the investment climate in Cambodia. In his summary, he concludes that the granting process generally lacks accountability, transparency and public participation and that it is accompanied by a rent-seeking behaviour of officials and enabled by a weak enforcement of the law.

In their paper “Competing Frameworks and Perspectives on Land Property in Cambodia”, Oldenburg and Neef discuss the legal framework and its implementation in practice. They argue that there is a big gap between the Cambodian statutory framework and the implementation of its land policies and a complete neglect of the customary land rights of indigenous people by Directive 01<sup>2</sup>, resulting in further weakening of indigenous communities. It also observes growing disparities in land ownership and power distribution between politically and economically well-connected elites and poor and vulnerable people in Cambodia, stimulated by widespread corruption and nepotism within the state apparatus.

Dwyer (2013) examines in his study the geography of systematic land titling, the implications of property formalization in terms of vulnerability to land alienation and the political efforts made to legitimize state land in the context of Cambodia. With the help of a map he demonstrates that systematic land titling seldom occurs in immediate proximity to ELCs and offers answers to the question why these disputed areas are avoided. In the second section (Ibid., 14), he concludes that “formalization thus becomes a technology for writing smallholders out of the legal picture, creating a [...] way to overcome a social barrier to commodification”. Finally, he illustrates three sets of processes how the government tries to conjure state land and in doing so justifies the granting of land concessions.

In the paper “From ‘land grabbing’ to sustainable investments in land: potential contributions by land change science”, Messerli et al. (2013) offer an innovative approach to deal with questions about LSLAs. With the help of a sustainability research perspective as a part of land change science, they do not merely critique current land investments but present

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<sup>2</sup> A moratorium on the granting of ELCs, combined with a review of existing ELCs and a new titling scheme



a conceptual framework to identify important knowledge gaps, which is eminent to finding more sustainable investments in land. They consider land use change not only as a consequence of land deals, but also as its cause. In this context, they refer to the extensification of land use in Eastern Europe after political changes, which opened up new opportunities such as land allocations to concessionaires.



### 3 CONCEPTUAL FRAMEWORK AND THEORY

#### 3.1 Political Economy

Political economy integrates the political and economic dimension and examines the interaction between them. Its focal point is the distribution of power and resources, which involves different aspects such as the underlying interests of actors, incentives, rents and rent distribution, historical legacies, prior experiences with reforms, social trends and their effect on change (Poole, 2011). In reference to Weber (1968) power is defined as “the chance of a man or a number of men to realize their own will in a social action even against the resistance of others”. In order to grasp relations and dynamics between different spatial levels, actors, and structures, individuals and groups, Ben White et al. (2012) adopted Bernstein’s (2010) analytical tool in asking simple questions: “Who owns what? Who does what? What do they do with it?” and added two more questions: “What do they do to each other? How do changes in politics get shaped by dynamic economies and vice versa?” These descriptive questions enable to understand the “how” and “why” of specific patterns in a political-economic context. The issue paper published by the Governance and Social Development Resource Centre gives an overview of five approaches:

	Analytical Focus	Research Methods and Framework	Key Outputs and Processes
<b>Power Analysis</b>  Developed by Swedish International Development Cooperation Agency (SIDA)	<ul style="list-style-type: none"> <li>- Macro level</li> <li>- Links between human rights, democracy and poverty reduction; formal versus informal institutions and agents; the importance of process</li> </ul>	<ul style="list-style-type: none"> <li>- Qualitative; primary and secondary research</li> <li>- Broad and flexible framework, not comparative</li> </ul>	<ul style="list-style-type: none"> <li>- Country studies, with the possibility of ongoing shorter reports and workshops</li> </ul>
<b>Drivers of Change (DOC)</b>  Developed by Department for International Development (DFID)	<ul style="list-style-type: none"> <li>- Macro level</li> <li>- Structural and institutional factors that support or impede poverty reduction</li> </ul>	<ul style="list-style-type: none"> <li>- Qualitative; primary and secondary research</li> <li>- Broad and flexible framework, not comparative</li> </ul>	<ul style="list-style-type: none"> <li>- Country studies</li> </ul>
<b>Strategic Corruption and Governance Analysis (SCAGA)</b>  Developed by Netherlands Institute of International Relations	<ul style="list-style-type: none"> <li>- Macro level; local and sector level</li> <li>- Informal and formal aspects of governance; state-society relations</li> </ul>	<ul style="list-style-type: none"> <li>- Qualitative; secondary research</li> <li>- Systematic framework, enables country comparisons</li> </ul>	<ul style="list-style-type: none"> <li>- Short report and two-day consultation workshop;</li> <li>- Set procedure to integrate analysis into Multi Annual Strategic Plans</li> </ul>
<b>Poverty and Social Impact Analysis (PSIA)</b>	<ul style="list-style-type: none"> <li>- Macro, meso and micro levels; focus on specific reforms</li> <li>- Distributional impact</li> </ul>	<ul style="list-style-type: none"> <li>- Qualitative and quantitative, focus on secondary with some primary research</li> </ul>	<ul style="list-style-type: none"> <li>- Reports and stakeholder engagement</li> </ul>

Developed by World Bank	of policy interventions; the particular focus on poor and vulnerable; structures of society and power relations	- Multi-disciplinary methods, types of data, tools and perspectives	
<b>Problem-Driven Political Economy Analysis (PGPE)</b>	- Macro level; local and sector level; specific policies or projects - Challenges and opportunities of reforms; why reforms have succeeded or failed	- Reliance on available sources	- Framework is mainstreamed into World Bank work; no stand-alone study
Developed by World Bank			

**Table 1:** Overview of Different Approaches in Political Economy. Source: Haider & Rao, 2010, 5-6

Although their methods and analytical lenses differ in some points, there are similarities in their general features: focus on politics, negligence of the normative and concentration on the country’s realities and on ground development strategies in these realities, search for factors which influence and shape the political process, analysing of the institutions to find out about the incentive frameworks that induce patterns of behaviour, and consideration of development agencies as political actors (Haider & Rao, 2010).

In this MSc thesis, none of the above mentioned particular approaches is used. Political economy is rather used as a theoretical foundation, an analytical tool which helps to ask the relevant questions and to steer the research focus into right direction. Applied in the Cambodian context of land allocation, emerging questions might be: What is power and how is it constituted? How is the power distributed inside the Cambodian government? How does PM Hun Sen maintain his power? How are political actors interwoven with the tycoons? To whom does the land belong and how is it justified? How do national politicians interact with local authorities? Even though there are no definite answers to such questions, it’s useful to keep them in mind whilst looking at the procedure of land allocation.

### 3.2 Political Ecology

Similar to the political economy, political ecology focuses on the distribution of power and the distribution of resources. However, it does not only examine the interplay between political, economic, and social factors, but sets these factors in relation with environmental issues and changes. The influence of unequal power relations in the constitution of a politicized environment and the links between conflicts over access to resources and the political and economic control behind it are major subjects in the political ecology. (Bryant, 1998)

The advent of political ecology studies goes back to the 1970s. The article “Ownership and Political Ecology” written by Wolf (1972) is considered to be one of the first studies of the

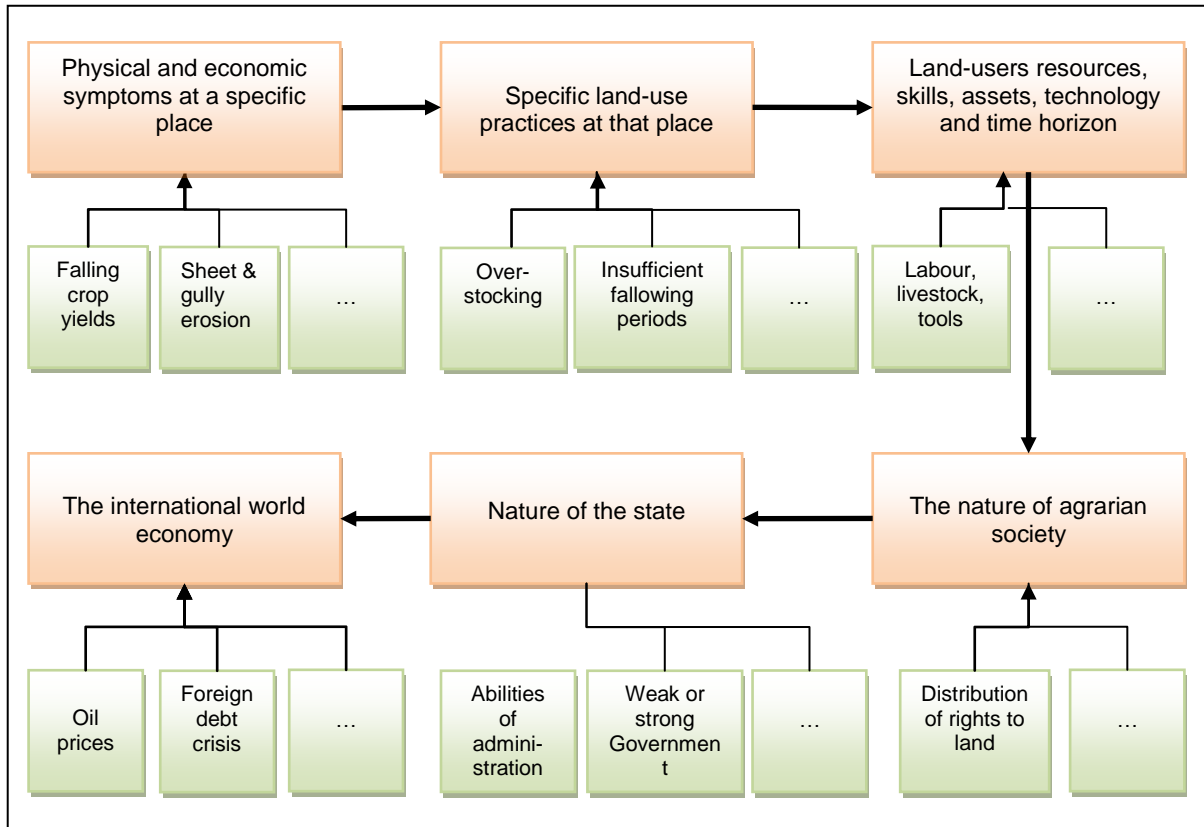
nowadays called third-world political ecology. The origin of political ecology is rooted in the fields of radical development geography and cultural ecology. The initiation of radical development geography dates back to the late 1960s when a large revision of geography took place. At that time, radical development geography criticized the neo-Malthusian's view on dealing with issues of the world's growing population as well as its ecological crisis, bringing into focus the relationship between the political and the ecological dimension. This development was embedded in a larger context of growing anxiety about environmental degradation and the emergency of the concept "sustainable development", which integrated environmental conservation with economic development.

In Bryant's work (1998), he divided the development of third-world political ecology into three phases. During the first phase between the late 1970s and the mid-1980s, scholars based their theories mainly on neo-Marxist ideas, which allowed them to link local social depression and environmental degradation to a wider political and economic context in which themes such as production questions or differentiation of social classes were dominant. Work originating during this phase tended to overemphasize the structural influences and neglected the ability of politically or economically weaker actors to exercise resistance. The deterministic and often simplified view of neo-Marxism led to the initiation of a second phase in the third-world political ecology in the late 1980s. Different scholars introduced a more complex understanding of how power relations effect the human-environmental interaction based on diverse theoretical literature such as neo-Weberian theories. The inclusion of the potential power of marginalised actors can be understood as an effort to connect political ecology to developments in social movements. The third phase started in the mid-1990s and the focus was centred on "poststructuralism" and "discourse theory". The aim was to illustrate ways how various kinds of knowledge are interrelated to power in order to mediate political-ecological outcomes. According to Little (2007, 1) this new "field [of research] is the result of an intensive dialogue between the disciplines of biology, anthropology, geography, history and political science, creating a unique transdisciplinary space within the natural and social sciences."

A common goal of all political ecologists is to comprehend the dynamics and properties of a politicized environment, however the ways they approach this challenge differs. In the study "explanation and policy in land degradation and rehabilitation for developing countries", Blaikie (1989, 23-24) examines four main aspects of land degradation:

- 1) Whether land degradation really is occurring,
- 2) Identification of actors who are negatively affected by land degradation,
- 3) The causes of why degradation is taking place,
- 4) Solutions to fight degradation back.

The essence of these four points is in the task of explanation. There are multiple explanation concerning diverse spatial levels and different factors. The first aspect for example requires not only a physical approach to the definition of land degradation, but also socioeconomic criteria of the judgement. The idea “chain of explanation” has been developed by Blaikie and Brookfield (1987) and illustrates the process of land degradation:



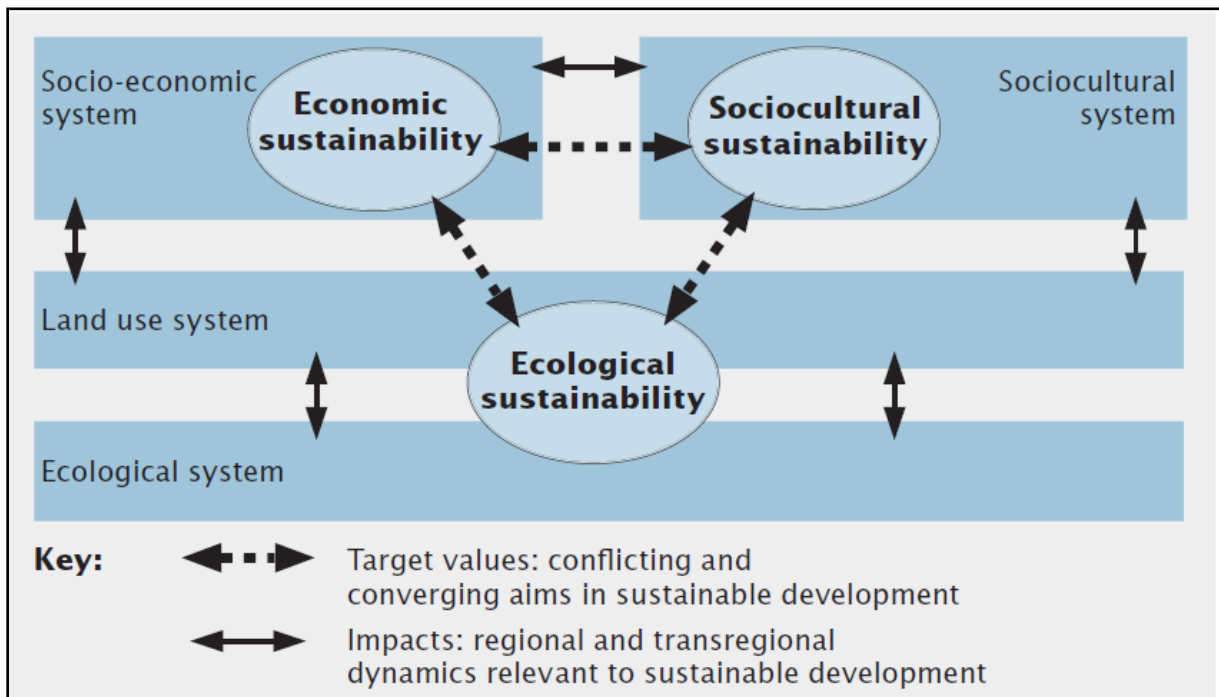
**Figure 2:** Chain of Explanation. Source: Blaikie and Brookfield, 1987, 27

Physical symptoms such as decreasing crop yields and different kinds of erosion mark the beginning of the “chain of explanation”. The task to accurately measure different criteria should not be underestimated. The second box is linked to different kinds of land-use practices, which aggravate the quality of the soil. The third chain link deals with the questions ‘For what reasons do land-users make these decisions?’ and ‘How do they allocate their limited resources?’ There are different approaches to this issue, the one applied in this MSc thesis is the “human actor model” of Wiesmann et al. (2011). His approach also integrates the following three boxes ‘the nature of agrarian society’, ‘nature of the state’ and ‘the international world economy’ under the terms ‘institutions’ and ‘dynamic conditions of actions’. The decision-making process of land-users is not only based on their means and assets, but is influenced through other factors in a broader context. Features of the agrarian society, for instance the informal distribution of land rights, as well as of the state, e.g. ability to enforce the law, have an impact on the process of land degradation or in the case of this MSc thesis on land distribution. Finally, changes in the last box ‘the international world economy’ are also indirectly affecting land degradation, but causal interconnection between

them are usually difficult to prove (Blaikie, 1989). This MSc thesis aims to develop a similar model, adapted to the issue of LSLAs, and in form of a timeline. However, physical symptoms and impacts are neglected in this thesis, since it focuses mainly on actors and the political process of granting ELCs.

### 3.3 Sustainable Development

In order to comply with the overarching research goal of making a relevant contribution to debate on LSLAs and a sustainable rural development in Southeast Asia, it is necessary to define the term “sustainable development”. The most commonly used definition was constituted through the Brundtland Commission, defining sustainable development as a “development that meets the needs of the present without compromising the ability of future generations to meet their own needs” (United Nations, 1987). This definition clearly directs the focus towards the needs of the human being. In a debate about sustainable development in the 1990s, the dimensions of economic, sociocultural, and ecological sustainability were postulated and these three major dimensions were adopted in the scheme of Wiesmann (1998). This conceptual framework of sustainable development is used in the MSc thesis:



**Figure 3:** Conceptual Framework of Sustainable Development. Source: Wiesmann et al., 2011, 22

As described by Urs Wiesmann et al. (2011, 8), behind the concept of sustainable development is “a general conviction that global change and dynamics should not just result in uncontrolled and uncontrollable development, but that development should be goal-oriented.” This implies that the setting of balanced economic, sociocultural and ecological goals (in the scheme the light blue, oval fields) are normative and thus bound to the values of

the actors. The uncontinuous arrows linking the fields not only implicate that there are goals opposed to one another, but also that there are converging goals. In addition, there is also a systemic dimension in the figures containing the ecological, socio-economic, sociocultural and land use systems. Wiesmann et al. (2011, 15) argue that global change can be directed to a sustainable development, and that research ought to contribute to this aim “by developing and applying intercultural, transdisciplinary, and disciplinary conceptual approaches, by finding ways of reducing or avoiding negative processes and impacts of global change, by designing innovative solutions based on multi-stakeholder and multi-level collaboration, and by developing multi-scale applications for fostering positive impacts of global change.”

While the political economy and the political ecology mainly blame LSLAs for harming impacted people and concerned environments, the concept sustainable development tries to look at the issue from a different, more holistic angle. It raises the question what LSLAs must look like in order to make it more sustainable, i.e. adjusted at the local context, respected by local people, and ecologically compatible. The SNIS-project “Large-scale Land Acquisition in Southeast Asia” aims to contribute to more sustainable development. According to Wiesmann et al. (2011), only inter- and transdisciplinary research approaches are suitable to fulfil this task. However, this MSc thesis only touches the question of the sustainability of LSLAs on the surface. Further studies will be required to analyse Cambodia’s current land allocation system in terms of sociocultural, economic and ecological sustainability. Still, the author hopes to make a contribution to sustainable development by providing a data basis for further evaluations.

### **3.4 Human Actor Model**

To understand the rationale behind investor’s actions, the human actor model was selected. This actor-oriented model makes use of various social theories such as the Sustainable Livelihoods Approach or Bourdieu’s Theory of Practice, to name only two. It works as a tool for communication, reflection, and orientation in development-oriented research. Due to its simple applicability for specific actors, its focus on the actors’ actions and reactions and its high heuristic potential in reference with inter- and transdisciplinary research question, it is highly suitable for this MSc thesis. It is built on four nested components (circled numbers):



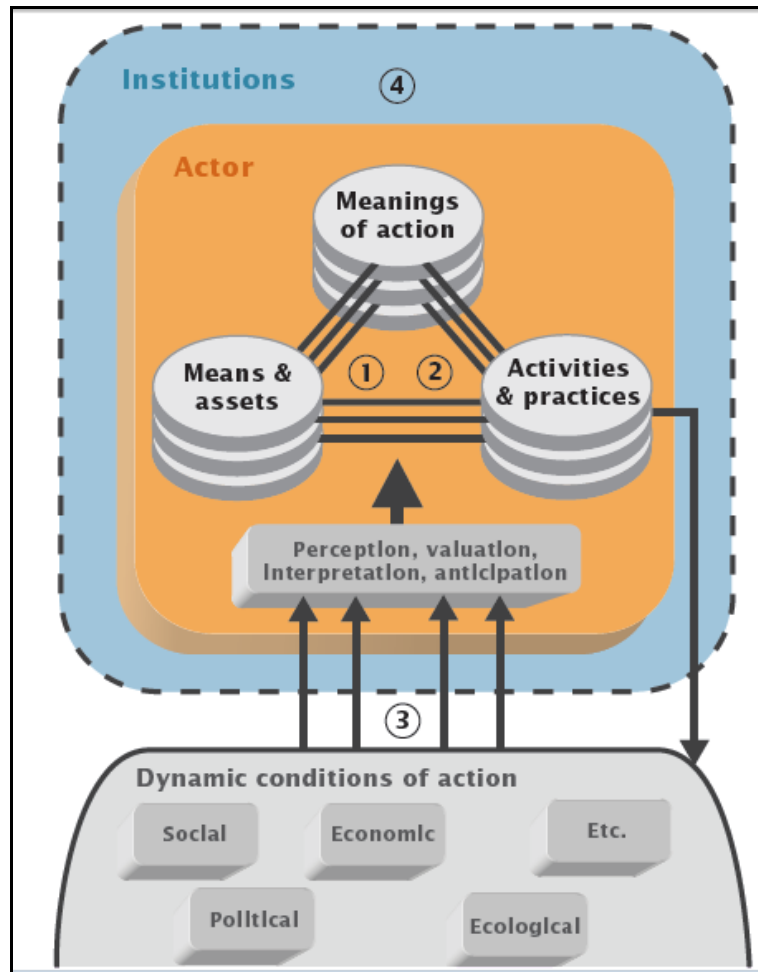


Figure 4: Human Actor Model. Source: Wiesmann et al., 2011, 240

### 1. Action as the Dynamic Interplay between Activity, Meaning, and Means

The term “action” stands at the centre of the model and represents its smallest conceptual unit. Wiesmann et al. (2011, 241) see action as “a dynamic interplay between the activity of an actor, the meaning assigned to this activity, and the means used to perform the activity.” In this context the term “activity” refers to a broad notion including exercise as well as passivity. The term “meaning” is understood as “making sense” from the actor’s perspective and goes beyond rationalised intent. At last, the term “means” includes the material and non-material assets, resources, and capitals in the sense of Bourdieu (1990). The French sociologist distinguishes between four forms of capital: economic, social, symbolic and cultural. The economic capital is constituted by somebody’s wealth and income. Bourdieu attributes it a big importance due to its strong influence on the other capitals. The social capital is determined by the social network of an individual. This capital might be linked to one’s economic capital, e.g. the attendance of an expensive elite university allows establishing ties with powerful people, but it is not exclusively determined by it. Social networks can be built intentionally or by happenstances with limited financial resources in both cases. Symbolic capital refers to the capacity to use symbols for the consolidation and

creation of physical and social realities. The use of symbolic capital is characterised by the power of constitution and the power of revelation and is therefore the political power per se. Cultural capital is determined by “informal social skills, habits, linguistic styles, and tastes that a person garners as a result of his or her economic resources” (Kenneth, 2013, 179-181). To put it more simply, the way a person talks, thinks and acts differentiates him/her from others and is considered to be the cultural capital.

The human actor model doesn't define action as a static term, but rather as dynamic in all its three components. Therefore, there are multi-causal relations between the components, “a continuous process of mutual adaptation [takes place] as a result of differences and tensions between the aim and the – inherently delayed – outcome of action” (Wiesmann et al. 2011, 241).

## **2. Strategy of Action as a Combination of Actions**

Every actor continuously exercises different actions. The total of material and non-material assets available to the individual are being utilized by the activity components of these actions. The actor tries to optimize the allocation of these means within his network of activities. In order to prioritise and balance various different needs, wishes, and visions, a “structure of meanings” is built. The outcomes of action are now measured by the actor against the structure of meaning. Unexpected as well as undesired outcomes may result in a modification of the activity components, but they may also lead to an adaptation of the structure of meanings itself. The dynamic interplay between the network of activities and the structure of meaning forms the strategy of action. The optimisation process follows rules and principles, which are summarized under the term “rationale of action”. This concept of strategy features following benefits: It promotes reflexivity, increases the compassion for actors and stakeholders involved, and it precludes prejudices. But according to Wiesmann et al. (2011, 241-242) the greatest practical relevance for development-oriented research is “the recognition that single actions or sectoral activities [...] cannot be understood and influenced meaningfully without taking into account of how they are embedded in the relevant actors' strategy of action.”

## **3. Exposure of Activities and Means to Dynamic Conditions of Action**

An actor is exposed to dynamic ecological, economic, political, and social conditions, and these changing factors have an impact on the outcome of activities as well as the actor's stock of means. They are able to influence the actor's strategy and become dynamic “conditions of action” under the precondition that they are perceived and interpreted by the actor. The interpretation of these dynamic conditions entails the conclusion that certain conditions are potentials while others are limitations for the realisation of activities. Combined with the structure of meaning, they are the framework for the decision-making of the actor.

However, the influence of the conditions of action on the outcome of activities can only be estimated to a limited degree. For that reason, perception, valuation, interpretation, and methods of dealing with uncertainty of activity outcomes are of enormous importance regarding the actor's strategy of action. The process of finding a balance between adaptation to and modification of the dynamic conditions of action is considered as a creative and innovative act and holds the potential for endogenous development. (Ibid.)

#### **4. Embeddedness of Meanings of Action in Institutions**

Every actor is embedded in a societal context with values and norms. Therefore, the meaning component of action is not only individually constructed, but also co-influenced by institutions such as value and norms. These institutions provide social standards for measuring the meaningfulness of actions and shaping the actor's ability to perceive, evaluate, and interpret the dynamic conditions of action as well as the action themselves. Yet, individual actors are only shaped to a certain degree by these institutions. Wiesmann et al. (2011, 244) concluded that "the resulting interplay between individual and institutional notions of the meaning of action – combined with the analogous interplay involved in the evaluation and interpretation of the dynamic conditions of action – lays the foundation for processes of innovation regarding both the activity component and the meaning component of action." This fourth component of the human actor model raises questions such as how institutions are constituted, mediated, or enforced.

In this MSc thesis, the human actor model takes an important role in analysing actors and looking for reasons why land was granted the way it was done and not in another way. Due to the great quantity of actors involved and the lack of information about them, the application of this model has set limits. Still, rationales behind actions are explained on the basis of this model.



## 4 METHODOLOGY

### 4.1 Introduction

The findings in this study are mainly based on a qualitative data collection made during a research stay undertaken from October 2012 to March 2013. The following table gives an overview of the data collection:

Applied Methods	Interview Partners	Quantity
<b>Expert Interview</b>	International NGO <sup>3</sup>	2
	National NGO <sup>4</sup>	6
	Local NGO <sup>5</sup>	3
	Other Organisations and Specialists <sup>6</sup>	3
	<b>Total Expert Interviews</b>	14
<b>Semi-Standardized Interview</b>	Company Representatives	3
	Community Network Member	1
	National Authorities	2
	Provincial Authorities	7
	District Authorities	4
	Commune Authorities	4
	<b>Total Semi-Standardized Interviews</b>	21
<b>Questionnaire</b>	Village Authorities	13
<b>Group Discussion</b>	Villagers	4

**Table 2:** Qualitative Data Collection in Cambodia

Qualitative data includes 21 semi-standardized interviews, 14 expert interviews, 13 filled questionnaires (cf. chapter 10.6) and four group discussions with villagers. In addition, numerous informal and unrecorded conversations were held with villagers and other informants. The interviews have been configured to gain useful insight into how land is allocated to companies and why foreign investors are motivated to invest in LSLAs in the development context of Cambodia.

The survey in the villages was based on a questionnaire with the aim to standardize the data collection and to make them comparable. Several crosschecks were accomplished with

<sup>3</sup> EX 1 and EX 6

<sup>4</sup> EX 2, 3, 8, 10, 12 and 13

<sup>5</sup> EX 4, 7 and 9

<sup>6</sup> EX 5, 11 and 14

other respondents and reliable printed materials to ensure validity of the information collected.

Expert interviews, semi-standardized interviews and group discussions were recorded with the approval of the informants. After having done a transcription of the records, a qualitative content analysis was exercised as to structure and reduce the textual data to important segments. The code tree is added in the appendices (cf. chapter 10.4).

In order to guarantee the personal safety of informants involved in this study, no names are used. The abbreviation EX1 stands for expert and the added number represents the specific individual. This MSc thesis also contains findings of numerous informal discussions with local officials, villagers and experts. The involved people were aware of my status as a researcher and their statements were only included in this study when the participants of the discussion explicitly agreed. Archival materials used include government's land policy, land laws, newspapers such as the Cambodia Daily, records on websites from related governmental ministries such as the MAFF, and numerous other websites by land related institutions. Drivers and processes of the global land grabbing will be derived from key readings and literature reviews.

## **4.2 Semi-Standardized Interviews**

According to Flick (2009), the semi-standardized interview is a semi-structured method for reconstructing subjective theories. The term subjective theory indicates that individuals have a "complex stock of knowledge" about a certain topic. If asked about a specific topic, e.g. cancer, interviewees might have different explanations and opinions on questions relating to the causes or the possible treatment of cancer. This knowledge is divided up in explicit and implicit assumptions. The explicit knowledge can be expressed immediately and spontaneously in answering an open question. In order to find out more about the implicit assumptions of the interviewee, the interviewer can apply different kind of methodological aids with various types of questions. These means are considered as a measure to reconstruct the interviewee's subjective theory about a topic under study. The interviewer asks questions about several topical areas. Each theme is brought up by an "open question" and ends with a "confrontational question" (Ibid.). In this study, a possible open question to start the conversation might be: "Briefly, could you please tell me how the companies acquire land concessions?" In addition, the interviewer ought to ask "theory-driven questions" in orientation to the scientific literature about the topic and "hypotheses-directed" questions relating to the researcher's theoretical presuppositions. A possible hypothesis-directed question is: "I heard that sometimes companies do not always follow the legal procedure to

receive a land concession, is it true in the case of CRCK Rubber Development Co., Ltd. 1 (CRCK 1)?" These questions contain relations aiming at learning more about the explicit knowledge of the interviewees. The assumptive character of these questions gives the responder the option to take up or to deny the questions in accordance with his subjective theory. The confrontational questions critically take up and re-examine the theories and relations that the interviewee has offered by giving competing alternatives. These alternatives have to be opposed to the expressed statements in order to obviate their integration into the interviewee's subjective theory. (Ibid.)

After having finished the first meeting and its transcription, a rough content analysis and graphic representation of the subjective theory needs to be done. In a second session, which should take place one or two weeks later, the Structure Laying Technique (SLT) should be applied, wherefore the interviewee must be confronted with his/her essential statements written down on small cards. This procedure allows to verify or to modify information in case statements were misunderstood. Following this step, the interviewee gets a quick introduction into the SLT in order to acquaint himself with its rules and the way it functions. The goal is to establish causal relation among concepts, such as "A is a prerequisite for B" or "C is a stimulating condition of D". This process enables the structuration of the subjective theory through a graphic representation. (Ibid.)

Due to the shortage of time during the field trip, the SLT could not be exercised. However, what took place after each interview were debriefings with the interpreter in order to clarify uncertainties and to assess the credibility of certain statements.

### **4.3 Expert Interview**

Expert interviews are considered to be specific forms of semi-structured interviews. The center of attention are not the biographical backgrounds of the interviewees, but much rather their capacities as experts on a certain topic. The opinions on the definition of an 'expert' diverge. In this Master thesis, 'expert' refers to the definition of Bogner et al. (2002, 46) which states that "experts have technical process oriented and interpretive knowledge referring to their specific professional sphere of activity. Thus, expert knowledge does not only consist of systematized and reflexively accessible specialist knowledge, but it has character of practical knowledge in big parts. Different and even disparate precepts for activities and individual rules of decision, collective orientations and social interpretive patterns are part of it." The applied notion of experts in this study comprises NGO employees at national and provincial level, as well as other specialist on land-related issues. Even though national and local officials may also have practical knowledge, they lack the necessary distance to the "event"

for making an objective analysis. According to the author's definition, they do not fall under the term "experts", since their governmental embeddedness and dependency hinders them to be independent specialists. Although NGO employees are biased too, the author considers them as institutionally more independent.

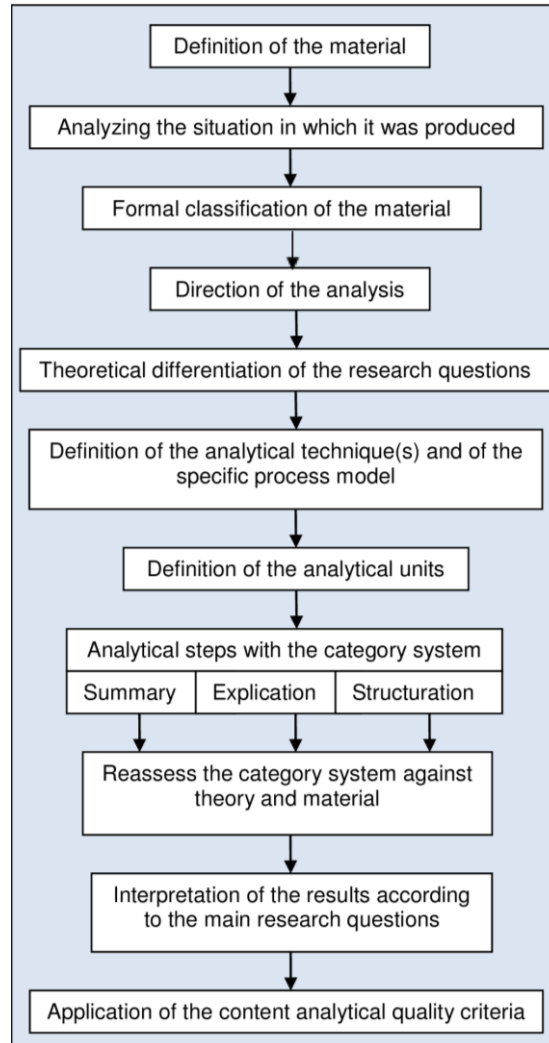
Furthermore, Bogner et al. (2002) developed a typology with three different aims in conducting expert interviews. The "explorative expert interview" assigns a thematic structure to a new field of research and result in hypotheses. The "systematizing expert interview" is designed to gather contextual information to complement findings gained through other methods. The last type, the "theory-generating expert interview", enables the development of a typology or a theory about an issue by reconstructing process as well as context knowledge of several experts. Process knowledge reveals information about a specific process, while context knowledge gives information about the contextual conditions (Flick, 2009). A possible question to generate process knowledge might be: "What are the processes among various actors and institutions across different administrative scales which result in the issuance of ELCs?" For collecting context knowledge, the following question may be posed: "How many ELCs were distributed in the province Kampong Thom during the period 2000-2010?"

Expert interviews are often conducted under time pressure due to the experts' important function in their field. To avoid talking about irrelevant topics, the interview guide must exercise a strong directive function through which he/she shall restrict the interview to the expertise of interest. Bogner et al. (2009, 2) also discerns an advantage under this time pressure because "expert interviews offer researchers an effective means of quickly obtaining results and, indeed, of quickly obtaining good results." Other possible challenges are: selecting the experts, persuading them to give an interview, the requirement of a high level of expertise from the interview guide, and the problem of confidentiality often associated with delicate issues for an organization (Ibid.).

#### **4.4 Qualitative Content Analysis**

Content analysis is a common procedure to analyse textual data. The origin of this textual data might range from media productions to interview collected data. According to Mayring (1983), the procedure of a content analysis has the following shape:





**Figure 5:** General Content Analytic Process Model. Source: Flick, 2009, 324

One of its main characteristics is the utilization of categorizations, which are often adopted from theoretical models in order to reduce the material. By applying the software MaxQDA, codes were added to text passages. The code tree was created before the coding and was mainly derived from different theories and the research questions. In order to enable inductive knowledge generation, new codes were added during the coding process. The code tree is added in the appendices (cf. chapter 10.4).

## 4.5 Case Study

Case studies in international political economy cover a broad range of topics, reaching from market liberalism, policy decision-making process, to economic sanctions and environmental cooperation. However, the methods to examine such phenomena differ. In this essay Odell (2001) presents different types of case studies, which are distinct but not mutually exclusive:

- The “**descriptive case study**” tries to only document one important event without weighting different theories and their implications for their manner of reasoning. These studies may stipulate other scholars to get involved into the topic and create new analytical ideas, but they do not contribute directly to the building of theories.
- The “**preliminary illustration of a theory**” intends to explain an abstract idea by means of a theory, though it does not interpret alternative arguments.
- The “**disciplined interpretive case studies**” use a known theoretical concept to explain a new terrain. The extension of the application area may have an effect on the improvement of the theory itself. However, its application requires a critical examination with a selective reconstruction of an event and the interpretation of different causes. Therefore, a researcher should indicate alternative theories and challenge the theory by considering counterfactual arguments. Would the result have been different, if the cause had been attributed to another value?
- The “**hypothesis-generating case study**” may evolve from an “ordinary” case study. This type is particularly valuable since the new hypothesis could bring forth “fresh lines of investigations”.
- The “**least-likely case study**” tests the plausibility of a theory by selecting an extreme case that is unlikely to prove the theory. If the least-likely case confirms the theory, it is strong evidence that the hypotheses will be valid in most other cases.
- To prove that a theory is invalid, the “**most-likely case study**” is applied. If the theory fails, there is a high plausibility that it fails under less favourable conditions as well.
- If a theoretical concept is already well developed, the comprehension of a “**deviant case study**” with identical causes may deliver useful results. This allows to depict the limitation of a theory and to detect relevant conditions contributing towards the outcome of a cause.
- The “**method of difference**” is a comparative case method. It opposes instances in which a specific phenomenon happens and therefore does not occur in similar conditions.

This introduction is a selection of case studies and the list is not completed. This MSc thesis uses the theoretical concept of the human actor model to explain the process of LSLAs in Cambodia. It therefore refers to a “disciplined interpretive case studies”.

## 4.6 Sampling Process

The sampling process took place in consultation with Amaury Peeters<sup>7</sup> and Oliver Schönweger<sup>8</sup>. The case study selection was primarily based on national concession inventory including investments granted by the Cambodian government to domestic and foreign investors. This inventory, however, contained information from different data sets<sup>9</sup> and cannot be considered as complete and clean due to the limited data availability and time constraints. It was a snapshot in time, still accumulated with duplicates and cancelled concessions. The selection of companies for case-studies was carried out to ensure coverage of the main investing countries, main cultivated crops, as well as the main geographical ‘hot spots’ of investment in Cambodia at present. The following table distinguishes between the nationality of investors, the purpose of investment and the occurrence of the different combinations.

Company's origin	Purpose of Investment	Number of ELCs	Total Size of ELCs (in ha)
Cambodian	Rubber	38	248,901
Vietnamese	Rubber	21	169,670
Chinese	Rubber	8	80,863
Cambodian	Acacia	6	41,561
Chinese	Rubber and Acacia	5	35,200
Thai	Sugar	4	29,436
Cambodian	Sugar	3	28,703
American	Teak Tree	2	19,383
Cambodian	Cassava	2	17,967
Chinese	Pistacia and other Trees	2	17,215
Chinese	Acacia	2	17,000
Cambodian	Oil palm	2	16,463

**Table 3:** Sampling Process in Case Study Research. Source: SNIS Inventory

The table illustrates that most investors cultivate rubber and were from Cambodia, Vietnam or China. Due to reasons of comparability – a similar sampling process has been done by master students in Laos – the decision was made to examine Vietnamese rubber companies.

The identification of hot spots took place by ranking the most targeted provinces: Kratie ranked in the first place followed by Kampong Thom and Ratanakiri. Due to the politically

<sup>7</sup> Postdoctoral research fellow employed at the Graduate Institute in Geneva

<sup>8</sup> Ph.D. student and tutor of this MSc thesis

<sup>9</sup> ODC, LICADHO, NGO Forum, UN

insecure and delicate situation in Kratie and the fact that other master students<sup>10</sup> already conducted studies in Ratanakiri, the decision was made to do research in Kampong Thom.

Further criteria to be considered were:

- Total granted concession size was more than 1,000 ha
- The concessions were located in the agro-forestry sector
- The concession implementation had started a year ago or earlier
- The concessions were a balanced mix of perennial crops and permanent crops
- The concessions had affected villages in remote areas and less remote areas<sup>11</sup>

The last criteria could not be taken into account. Villages were selection on the ground, since there was no information available about the impact on villages by the concessions.

## **4.7 Critical Methodological Reflexion**

### **4.7.1 Data Base**

During the first two months in Cambodia, the author pursued the task to generate an updated national concession inventory for the SNIS-project. This inventory was supposed to be the foundation for the sampling process and also a national analysis examining the link between LSLAs and the developmental context. For that reason, a collaboration with the NGO Forum was initiated enabling the exploitation of synergies between NGO Forum, SNIS-projects and the present MSc thesis. The updating of NGO Forum's data base by comparing it with data sets from other NGOs was found a Herculean task. The received data base from NGO Forum was in poorly maintained shape. It lacked a clear structure and essential features such as the source of information, investor's nationality, and the main purpose (crop). The author was told that most information was retrieved from the MAFF's website<sup>12</sup>, the Royal and Official Gazettes<sup>13</sup>, and other sources such reports and newspapers. For many companies, information related to the name, location, size, and contract date was missing making it impossible to match them with information from other data bases. To complicate matters further, the responsible person for the data base was no longer working for the NGO Forum and was not available to answer emerging questions.

In a second step, the author made contact with other NGOs aiming to obtain their inventory. However, most organisations were not willing to share their complete version of

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<sup>10</sup> Soop-Mai Tang and Marie-Solène Pham

<sup>11</sup> Measured in distance to next district capital

<sup>12</sup> This website has not been updated for many years and is currently not accessible.

<sup>13</sup> These information channels of the Cambodian government publish decision in Khmer.

data base, since they have been making it an effort for years to build and maintain them. A colleague told the author about a competition among NGOs and the local value of this “centerpiece” in their agendas. Nevertheless, the author managed to receive some incomplete versions and tried to cross-check them with NGO Forum’s one by looking at key features such as the name, size, location, and the contract date. This was a hopeless endeavour resulting in a single version with presumably many duplicates and cancelled concessions. To overcome the problem of credibility, a level of confidence was assigned to each company. The scale ranged from one to four<sup>14</sup>, stating whether information about a company was trustworthy and complete.

Most interviewed NGO employees expressed their concerns about the reliability of official documents and criticized the government’s data policy. In their opinions, the government intentionally creates confusion by holding back essential information about the concessionaires such as the name and location, by publishing contradicting data<sup>15</sup>, and by keeping companies’ operation and implementation status secret. The government claimed to have cancelled many concessions due to the inactivity and suspicion of speculation. However, NGOs were not aware of all cancelled concessions. Consequently these concessions were not deleted from their data bases.

#### **4.7.2 Qualitative vs. Quantitative Methods**

In comparing case study methods with statistical methods, Odell (2001, 169) states that “qualitative studies are equal or superior for generating valid theory”. Case studies allow going more into detail with concrete instances of events and behaviours than statistical methods, and they promote the development of new concepts, typologies, and hypotheses. Due to the explorative character of this study, it was important to be open for new ideas and concepts. Odell (2001) considers a second benefit to be in the documentation of processes. For the explication of a phenomenon, the understanding of the process is fundamental and those structural approaches are insufficient. Case studies were adjusted to capture the complexity of the decision-making process by zooming in and looking at specific events and behaviours of actors in the land allocation. A third advantage of case methods is seen by Odell (2001, 170) in its posterior fundament: “Case methods allow stronger empirical grounding for a hypothesis for the cases studied. They allow greater confidence in the validity of the hypothesis [...] than statistical methods can provide for the same cases, naturally.”

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<sup>14</sup> The level of confidence was determined by the frequency of the company in all data bases and the information available related to the name, location, and size.

<sup>15</sup> In some cases, the same company is referred to with different names.

On the other hand, Odell (Ibid.) lists three disadvantages of case methods. The most apparent one is that case studies may be atypical and unrepresentative. Although the least-likely and the most-likely methods are designed to overcome this difficulty, there always remains a certain uncertainty, no matter how many cases are included. Even though evidences in these three case studies suggest the importance of forest cover within the concession area as a selection criterion, it would be a false conclusion that the companies in general target forested areas. In order to answer that question, a national analysis with a bigger sampling is required. Related to this issue, is the second drawback. Most case methods are less appropriate in testing a theory than statistical methods. The claim for a generally valid theory is difficult to fulfil without a representative sample, which is proved to be unbiased. Generalizing and outscaling issues are not part of this MSc thesis. These problems will be addressed by Schönweger's forthcoming dissertation. He creates a spatial-temporal typology of LSLA on the basis of case studies done within the SNIS-project. The third disadvantage mentioned by Odell (2001, 173) concerns the "lesser precision in their descriptions, claims about magnitudes of causal effects, and claims about the relative importance of different causes" provided by qualitatively methods in comparison with statistical methods. In other words, due to quantitative measurable, strictly defined variables and parameters, statistical methods are more accurate in comparing the size of the effects of different causes. At the end of the essay, he concludes that qualitative as well as statistical methods featuring limitations should be both applied as complementary in order to get a better result (Ibid.).

#### **4.7.3 Validity and Reliability**

In qualitative research, the concept validity is used to check whether findings of a study are true and certain. True is used in the sense that research findings accurately reproduce the situation, and certain is used in the sense that findings are drawn from evidence. To test the validity in a study, triangulation is an appropriate method. (Guion, Diehl, & McDonald, 2002)

Concerns about the validity of statements made by interviewees must be addressed thoroughly due to the sensitivity of the topic. Observation done during the data collection such as avoidance of eye contact, hesitation, trembling of the voice or aggression towards the interviewer when asked about certain issues might be indications of false statement, yet do not expose somebody clearly as a liar. In order to assess the credibility of statements, triangulation through multiple sources of evidence has been done. For instance, statements from the district governor were compared to related statements from other involved actors such as villagers and commune chiefs in order to verify or falsify them. Furthermore, issued legal papers, Environmental and Social Impact Assessments (ESIAs) as well as reports were used to cross-check information in terms of the content and the spatial correlation of an

event. When the director of Tan Bien Kampong Thom Rubber Development (Tan Bien) was asked about the overlapping area with villagers' land, his mood changed immediately and he became very aggressive. He denied that any villages were impacted, stood up and left the veranda without saying a word. Evidence delivered by interviews and reports refuted his statement.

Another applied method was to inquire every detail of an event in order to check its plausibility. When the district governor revealed that he had been part of the working team, which had done preliminary assessment of the requested land, further questions were posed about the procedure, composition of the team, and the used instruments. Not being able to reconstruct the event without any hesitation, the level of confidence in the statements decreased<sup>16</sup>.

According to Yin (2003), reliability describes the overall consistency of a measure. It is high when another researcher, by following the same methods and procedures, repeats the case studies and receives the same results. On the author's opinion, this form of testing does not seem to be appropriate in the present case studies. The quality of interviews relies, among others, on the skills of the interviewer to make enquiries and to lead a discussion. Social scientists having several years work experience in the field are better qualified to fulfil this task than master students. Hence, biases and uncertainties in the data collection through interviews are unavoidable, no matter how carefully one carries out research.

#### **4.7.4 Scale Consideration**

This study examines multiple spatial, institutional, and temporal scales within the process of LSLAs. It does not focus on a single scale, but tries to include main scales. Before the research stay, the author engaged himself in an intensive literature review of land allocation in Cambodia in a national context. During this process, a preselection of involved actors and therefore possible interview candidates took place. As indicated in the Sub-Decree on ELCs, the main actors in this process are political institutions on a national level such as the MAFF and CoMs, but also local political actors such as the Provincial State Land Management or the District/Khan State Land Working Group (D/KSLWG) are assigned to play a (minor) role. At arrival in Phnom Penh, it soon turned out that it was very difficult to approach political institutions on national level. In order to get valuable information the right connections to high-ranking officials, who in most cases are only willing to share insider information for bribe money, are required. Not only is it tricky to get in contact with these "leaks", but it is also very dangerous in the Cambodian context, where it has been known to occur that people

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<sup>16</sup> By taking into account that the further an event is dated back, the more the memories are blurry.

objecting the government's position were put to silence<sup>17</sup>. After numerous abortive attempts<sup>18</sup>, the author decided to focus on informants from lower political levels. He managed to interview key informants (representatives from provincial offices from the MAFF; MoE and FA, MLMUPC), but had doubts about the validity of certain statements. Generally formulated, these political authorities described the granting process the way it was supposed to occur according to the law and were not willing to make specification to individual cases.

The application of a bottom-up approach in this MSc thesis appeared to be a reasonable and appropriate method. It explains a phenomenon from the perspective of the village level, goes through the commune, district and provincial level, and finally reaches the national and regional level. This approach bears the problem of losing sight of the wood for the trees. To deal with multiple political scales means to look at the individual scales as well as the relations between them. This results in a very complex conglomerate of different actors across multiple scales being in relationship with each other. Special focus was given to national actors, as they turned out to be the driving forces behind LSLAs.

When investigating a political process, the temporal scale for the empirical and analytical work becomes important. At the beginning, a justifiable decision on when to start had to be made by the author. Before a contract can be concluded, the company and the government are required to do preparatory steps such as the selection of the site, submission of proposal documents or the conduction of an ESIA. According to the Sub-Decree on ELCs, the granting process has a more or less strict order that can not be reversed. In terms of the legality of a concession, it is significant to know whether the company conducted an ESIA before or after it cleared the forest or whether it started the implementation before or after the conclusion of contract. In order to establish a link to the current situation, the examined period lasted from the initiating of a project until the beginning of 2013.

#### **4.7.5 Village Selection**

As indicated in the sampling process, the village selection happened on the ground, partly based on local NGO employees' knowledge and partly based on recommendations from visited village and commune chiefs. Since this selection did not rely on a sampling frame, it is subject to many biases. The dependency on gatekeepers' propositions, a bias and uncertainty was introduced in relation to whom, what and which information the author had

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<sup>17</sup> Cf. report „Environmental Activist Chut Wutty Shot Dead“ in Phnom Penh Post (Titthara & Boyle 2012)

<sup>18</sup> The author tried to arrange appointments with representatives from the MAFF, MoE, MLMUPC and MEF by phone calls and e-mails. After this approach failed, he went straight and unannounced to the offices. Except in the case of the MAFF, he was denied any interviews.



access to. For example, the commune chiefs may have intentionally proposed little impacted villages to visit in order to support the governments' decision.

Data collection from villages turned out to be less fruitful than expected. Villagers were excluded from the process by the majority and partly totally ignorant to what had happened, e.g. some did not know the correspondent's name of the company. Another limiting factor was the time constraint. A day or sometimes only half a day per village<sup>19</sup> appeared to not be enough to gain their trust and have access to useful information. The introductions to village authorities were done by a local LICADHO employee, who was a respected and well-connected person in Kampong Thom. This channel certainly facilitated the introduction. During the interviews, however, the employee removed himself from the scene. He obviously didn't want to be associated with such critical enquiries.

Another problem faced were contradicting statements made by village authorities and villagers. A village chief in the district Sandan denied that his village was impacted by the company, but at the same time admitted that villagers had received compensation for the loss of resin trees. While he asserted that the concerned land belonged to the state, villagers claimed it to be their land. This uncertainty in terms of legal ownership and the lack of land demarcation indeed states a serious problem for villagers, and impedes research in such areas.

The village questionnaire was created in order to examine correlations and causalities between the indicators poverty, ethnicity, accessibility, as well as the distribution of ELCs. According to the national policy ELCs are granted to promote rural development (Sub-Decree on ELC, article 3). Therefore, it was important to know the poverty rate of the impacted villages and whether the concerned villages were selected deliberately by this criterion. Mentioned poverty rates in the villages were either related to the number of households possessing no farming land, house, and cattle or the number of households in debt. Whether or not these definitions make sense is not subject in this study. However, the fact that two different definitions were used to describe poverty impedes a comparison between villages.

Ethnicity was chosen as a criterion to assess the vulnerability of ethnic minorities. It was hypothesized that indigenous communities and other minority groups were more vulnerable to land eviction due to two reasons. First, ethnic minorities have a different cultural background, i.e. they speak another language and lead a different way of live. Therefore, they lack the (linguistical and social) skills and means to defend themselves properly. Second, it was assumed that the government of Cambodia pursued a "civilizing strategy", i.e. it disapproved of customs and habits such as the practicing of shifting cultivation, hence

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<sup>19</sup> Journey back and forth from the accommodation to the impacted villages sometimes took two hour one way.

aimed to civilize them by taking away their land and making them stationary. As none of the selected villages was composed of another ethnicity than Khmer, this may lead to a hasty conclusion that this indicator doesn't play a role at all. However, it must be noted that the sampling is not representative, and there are indeed other ethnicities impacted such as the Kuys inside Prey Lang.

The accessibility of villages was measured by the average duration it took to get to the next market and district town by motorbike. These indicators do not seem to be appropriate, since parameters are influenced by the type of motorbike used, the way of driving, and the ability of the interviewee to make a precise estimation. Furthermore, "market" was not a clearly defined notion and the concept may have differed among village chiefs. These facts seriously put the validity and reliability of used parameters into question.

#### **4.7.6 Level of Uncertainty**

For almost all interviews and discussions during the field trip in Kampong Thom, the author relied on translation from a hired student. During the first trip, the author was supposed to be accompanied by a colleague from the NGO Forum. Due to reasons unknown, the colleague revoked his assignment two days before the start of the field trip. Another translator had to be found immediately since a postponement of the trip was not possible. Finally, another colleague's friend of a friend was employed to do the translation. However, the translations were not satisfactory<sup>20</sup> so in preparation for the second trip job announcements were attached to boards at the Royal University of Phnom Penh (Institute of Foreign Languages) and Paññāsāstra University in order to recruit a qualified translator. The second interpreter spoke a fluent and almost faultless English, however he turned out to be less motivated and reliable. During conversations with village chiefs and local authorities, he tried to speed up the interviews and sometimes refused to dig deeper, especially when interviewees were older people or people holding an office.<sup>21</sup> Conducting an interview with an interpreter inevitably hampered a natural flow of conversation. During the interview with the director of Tan Bien, a second interpreter was required to translate from Khmer to Vietnamese and

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<sup>20</sup> The Cambodian student had difficulties in understanding English and sometimes his translation was incomprehensible. Due to the prepared (semi-)structured questionnaire, he knew the questions, but there was no space for spontaneous questions.

<sup>21</sup> When he was asked why he refused to ask further questions, he replied that one had to show respect towards older people and that he regarded local authorities as redoubtable people. The person's age played an important role in the Cambodian context, as he then explained. Since the companion from the local LICADHO office was older than the author, he was higher in the social hierarchy. This sometimes lead to bizarre arguments when the LICADHO representative and the author did not agree with the course of action. For example, as the group coincidentally passed the Head office of Tan Bien in the middle of the concession, the author proposed to attempt an interview, whereas the LICADHO employee was hungry and wanted to have lunch. It took a lot of effort to change his mind.

another source of potential bias was added. By not using professional interpreters, the risk of mistranslation increased dramatically.

In some cases, there might be a lack of evidence due to the unwillingness of people involved to give interviews or due to other reasons such as deliberately destroyed documents. If this is the case, the researcher needs to acknowledge the low level of confidence in an explanation and the level of uncertainty that remains. Therefore, the research methodology and the results must be presented transparently for others to scrutinize and evaluate them.



## 5 STATUTORY FRAMEWORK AND POLITICAL CONTEXT

### 5.1 Introduction

The procedures for initiating, requesting and granting ELCs are indeed very complex. Companies willing to get ELCs are provided in different ways to secure concession rights. So (2009) discovered three different ways, similar to those mentioned in the Sub-Decree but not exactly the same. The first option is to begin at the bottom and search for potential land in villages before applying at the Ministry of Agriculture, Forestry, and Fisheries (MAFF). The MAFF is authorised to issue leasing agreements once feasibility studies are done and the CoMs has approved them. Another possibility is to write a request to the Council for the Development of Cambodia (CDC), which usually address the MAFF for technical support, prior to asking the CoMs for its approval. Alternatively, companies might send applications directly to the CoMs, which then consult the CDC and concerned ministries before approving the request.

In the legal regulations and literature, there are contradictions about the ministry responsible for the granting of land. Article 29 in the Sub-Decree only mandates the MAFF the power in granting ELCs, whereas the Land Law 2001 (article 53) stipulates that all public entities that own land may grant concession. In the civil code of 2007, concessions can only be granted up to 50 years (article 247). But the Sub-Decree on ELC allows the leasing of land for up to 99 years. Üllenberg (2009, 20) states that only the Ministry of Land Management, Urban Planning, and Construction (MLMUPC) is authorised to allocate ELCs to companies and further describes problems in the abundance of the legal framework: “Other public authorities are acting as legal entities and lease, sell or exchange land, mostly via the Ministry of Economy and Finance (MEF) and the MAFF.” Even the military has been involved when they granted unspecified land area to private individuals for agricultural cultivation. This process is normally accredited by the office of the PM, but seldom reported to the MAFF (So, 2009). If this form of land granting continues to exist, one would not know until this moment. Among national and local authorities, there is consent that only the MAFF and the MoE, which is responsible for the administration of Cambodia’s protected areas (protected area law, article 4), are entitled to assign ELCs in their jurisdictions. Land-related experts generally confirmed that these two ministries were in charge of granting ELCs, but pointed out the eminent roles of the CoMs and the PM in the allocation process.

Another apparent problem is the ambiguous condition of ownership. The government has not yet clearly classified, demarcated, or registered all land in Cambodia, which leads to conflicting claims from multiple different actors (So, 2009). In literature, the proportion of 80%

state land to 20% private land is in wide circulation, despite the widespread acknowledgment that most land remains unregistered. These numbers originate from Land Policy Strategy papers published by the Council for Land Policy (2002), but there is no reference to its calculation. In tracing the original source, Dwyer concludes that apparently the statistics is related to two remotely sensed land cover data sets from 1992 to 1993 and 1996 to 1997. He further assumes that the Cambodian government uses (or rather misuses) this number to justify the leasing of huge land areas to native and foreign companies (Dwyer, 2013). At the time of the field research at the end of 2012 and the beginning of 2013, none of the villagers within the visited villages possessed a land title.

The sections “Political Structure” as well as “Hierarchy of the Statutory Framework”, give a general and short overview of the RGC with its political organs and instruments. The sections “Land Law 2001” and “Sub-Decree on ELCs” more specifically refer to the embeddedness of ELCs in the regulatory framework. The Sub-Decree on ELC came into existence because the Land Law 2001 delegated the adoption of a Sub-Decree to the executive branch, as stipulated by article 60. It finally was adopted by the CoMs on December 16, 2005. All this information is necessary to analyse (main) political actors regarding their function, scope of action and power and to evaluate legal documents in terms of meaning and significance.

In reference to the human-actor model, the legal framework is considered as an institution, which provides social standards to assess whether an action is legitimate. However, as will be demonstrated in this MSc thesis, the legal framework is only one side of the coin, and cannot be considered as an absolute political space, which every actor abides. The other side of the coin is reality, where people are embedded in various (other) institutions and networks with social standards, where people are exposed to the dynamic condition of actions and where every individual’s action is based on a dynamic interplay between meanings, means and activities. Briefly, every individual tries to find a balance between various different needs, wishes, and visions. Taking into account that the law might be interpreted as a limitation for certain actions, it is comprehensible that actors ignore it in favour of pursuing their personal goals. Therefore, people’s actions do not always follow legal orders, especially not in the case of Cambodia, where a poor functioning state and a high poverty rate favour a divergence of the legal requirement and day-to-day practices, as EX1 points out. Therefore, the last section “Political Regime” tries to deconstruct the official version by describing the “true nature” of the Cambodian government.

## 5.2 Political Structure

After two decades of conflict and civil war, Cambodia's process of reconstruction was initiated by the signing of the Paris Peace Agreements in 1991. In 1993, the first national elections took place under the mandate of the UN. Cambodia became a constitutional monarchy with the PM as the head of government and the King as the head of state. The constitution was enacted in 1993, and the reintroduced kingdom has been operating in a framework of a parliamentary, representative democracy. (Cambodian Information Center, 2013)

Article 51 in the constitution declares: "The Kingdom of Cambodia adopts a liberal multi-party democratic policy. Khmer citizens are the masters of their own country. All power belongs to the citizens. The citizens exercise their powers through the National Assembly, the Senate, the Royal Government and the Judiciary. The legislative, executive and judicial power shall be separate."

The government's highest executive organ is the CoMs. The new cabinet was approved by the National Assembly on September 24 in 2013 for the term 2013 to 2018. It is headed by the PM Hun Sen and comprises nine deputy prime ministers, 15 senior ministers, 13 ministers attached to the prime minister, 27 ministers and 179 secretaries of states (Global Times, 2013).

The legislative branch is vested in the two chambers of parliament. The National Assembly, also called the lower house, consists of 123 members, which are elected for a five-year term by proportional representation<sup>22</sup> (Inter-Parliamentary Union, 2013). During the election on July 28 in 2013, the CPP won 68 seats, whereas the Cambodia National Rescue Party (CNRP) received the remaining 55 seats. However, this result was rejected by the opposition party, which asked for independent inquiries (Grudgings, 2013). The senate, the upper house, is composed of 61 members. 57 are popularly elected by electors from provincial and local governments, and the other four members are appointed by the King and the National Assembly for a six-year term. During the election of 2012 the CPP gained 46 seats and 11 went to CNRP (Inter-Parliamentary Union, 2012).

The judicial branch is structured in different courts on various levels. The highest court of Cambodia represents the Supreme Council of the Magistracy. Courts in Cambodia are biased towards the CPP and are considered as corrupt and inefficient. (U.S. Department of State)

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<sup>22</sup> The number of seats appointed to a party is proportionate to the number of votes received.

## **5.3 Hierarchy of the Statutory Framework**

### **5.3.1 Constitution**

This section is mainly based on statements given by EX1 and correspondent legal documents. The constitution is the highest legal order of the Kingdom of Cambodia. It was adopted by the Constituent Assembly in 1993, following the general election organized by the United Nations Authority in Cambodia, but was only officially promulgated in March 2008. All legal instruments must be in conformity with the constitution, otherwise they become null and void. The Constitutional Council is the supervisory organ, which is assigned to review the constitutionality of laws and other executive acts. (Constitution, article 140)

### **5.3.2 Law (Chbab)**

The law is an act that must be passed by the National Assembly, reviewed by the senate and promulgated by the King. It comes into force in Phnom Penh ten days after the date of promulgation, and after twenty days in the other provinces and municipalities. In order to inform the public about new laws or amendments, it is to be issued in the Royal Gazette. (Constitution, article 93)

### **5.3.3 Regulations (Bat Banchea)**

Regulations are an executive act emanating from the CoMs and can be adopted as either Royal Decrees (Preah Reach Kret) or Sub-Decrees (Ankuret). According to EX1, there is no constitutional or legal rule to define the circumstances under which a regulation takes the form of Royal Decree or a Sub-Decree. Both forms must be consistent with the laws and the constitution.

#### **Royal Decree (Preah Reach Kret)**

Article 28 in the constitution stipulates that royal decrees, adopted by the National Assembly and senate, and at the request of the CoMs, is to be signed by the King. According to EX1, Royal Decrees are the highest act in the executive regulatory domain and are published in the Royal Gazette.

#### **Sub-Decree (Anukret)**

Article 13 in the “Law on the Organization and the Functioning of the CoMs” (LOFCM) defines that Sub-Decrees, decisions, and circulars are to be signed by the PM. According to EX1, it is unclear when a certain legal instrument takes shape as a law or Sub-Decree. Sometimes, Sub-Decrees come into existence due to the delegation by the legislature to the executive branch. Anukrets are published in the Official Gazette.



#### **5.3.4 Ministerial Decree or Order (Prakas)**

Article 29 in the LOFCM declares: “The head of an institution shall have the right to adopt Prakas or Sarachor [circular]. Sarachor is a text that clarifies the affairs and provides instructions. Prakas or Sarachor cannot deal with affairs that do not fall within the competence framework of the institution and cannot be incompatible with various legal instruments such as Anukret [...]”. A Prakas is to render details of the law or decree in its implementation. In ESIA related matters, a “Prakas on the General Guidelines for the Reporting on the Preliminary and Complete Environmental Impact Assessment” was adopted by MoE.

#### **5.3.5 Decision (Sechkdei Samareich)**

A decision has no statutory authority in the Cambodian legal framework. It concerns the management of internal matters of an institution and can be adopted by the PM or the head of a ministry. For instance, the MEF issued a decision appointing a sub-commission for the Valuation of Unused Lands in Phnom Penh Capital (Decision No. 036, dated 9 December 2010). The decision is usually published in the Official Gazette.

#### **5.3.6 Circular (Sarachor)**

As pointed out by article 13 and 29 in LOFCM, the Sarachor is a document issued by the PM or minister, which is not legally binding. This document is about a statement given by the head of an institution to provide guidance on certain matters that may not be clear to implementers of provisions of certain laws or administrative acts. A circular is not published in any official organs of the government.

#### **5.3.7 Announcement (Sar Chor Nor)**

A Sar Chor Nor is an announcement of certain information to the public and concerned institutions issued most frequently by the CoMs. High ranking officials sign this non-binding document on behalf of the PM. Since there is no official authority and formality for a Sar Chor Nor, it is very difficult to understand under what circumstances and what matters it can be issued. The document is structured in three parts: object of communication, reference to communication between concerned institution and annotation made by the PM, and the body of text laying down conditions of approval and instructions on the implementation of the decision. Sar Chor Nors have been frequently used as an executing act. Concessionaires just show the document to local authorities and villagers, and pretend that the land in question has already been granted to them. Equal to circulars, Sar Chor Nors are not published.

## 5.4 Land Law 2001

### 5.4.1 Structure

The Land Law was passed by the National Assembly on July 20, 2001 and was finally adopted by the senate on August 13th (Land Law 2001, foreword). Its aim is to “determine the regime of ownership for immovable properties in the Kingdom of Cambodia for the purpose of guaranteeing the rights of ownership and other rights related to immovable property” (Land Law, 2001, article 1). The new Land Law was designed to overcome some shortcomings of the Land Law 1992, such as its inconsistency with the constitution, and improving tenure security. For this reason, a systematic land registration and a cadastral index map, including a Unique Parcel Reference Number (UPRN) for each parcel, were introduced. Moreover, it initiated the issuance of Social Land Concession (SLC) in order to combat the problem of unequal land distribution and increasing landlessness. The new constitution of 1993 and the Land Law of 2001 divide the property into five main categories: private land, state public land, state private land, communal land and indigenous land (So, 2009).

In the following, all 15 articles in the chapter “Land concession” under the title “Acquisition of Ownership” are shortly summed up.

### 5.4.2 Legal Articles Related to Land Concessions

- **Article 48:** A land concession is defined as “a legal right established by a legal document issued under the discretion of the competent authority, given to any natural person or legal entity or group of persons to occupy a land and to exercise thereon the rights set forth by this law”.
- **Article 49:** Land concession shall be issued due to economic (ELC) or social (SLC) purposes. The former form allows the beneficiaries to clear the land for industrial agricultural exploitation of land and the latter to build accommodation facilities and/or cultivate state private land for their subsistence.
- **Article 50:** Other kinds of concessions implying the use of state land are mining concessions, port concessions, airport concessions, industrial development concessions and fishing concessions. The provision of this law does not yet apply not for these concessions.
- **Article 51:** Land concessions are granted to concessionaires against payment of fees, except in the case of SLCs.

- **Article 52:** The created rights are only effective for the term fixed by the concession contract. Ownership rights can only be granted for concessions responding to social purposes.
- **Article 53:** A concession must be based on a legal document. This license must be granted prior to the occupation of the land by the competent authority and must be registered with the MLMUPC.
- **Article 54:** Land concessions must comply with the provisions of this law.
- **Article 55:** In case a concessionaire does not comply with the legal requirements, the government is allowed to cancel it.
- **Article 56:** The rights of a concessionaire during the fixed term are the same rights attributed to an owner, except the right to alienate.
- **Article 57:** A land concession cannot be transferred through alienation. Only competent authorities are entitled to transfer conceded land by drawing up a new concession contract.
- **Article 58:** Only state private land can be granted to concessionaires. The conceded land must exclude roadways, transportation ways, sidewalks, waterways, pools, ponds and water reserves to be used by the people in their daily lives.
- **Article 59:** The area of conceded land is restricted to 10,000 ha per concessionaire. Existing concessions outreaching 10,000 ha shall be reduced. Exemptions might be made if such a reduction would result in the exploitation in progress. The issuance of several concessions in favour of one specific person or several entities under the same natural person, of which the total area exceeds 10,000 ha, is prohibited.
- **Article 60:** The procedure for granting social and economic land concessions shall be determined by Sub-Decree.
- **Article 61:** The maximum duration for a license is restricted to 99 years.
- **Article 62:** ELCs must be exploited within twelve months after the contract was signed. Any failure without proper justification results in the cancellation of the concession.

## **5.5 Sub-Decree on Economic Land Concessions**

### **5.5.1 General Provisions**

According to article 1 the formulated objectives are “to determine the criteria, procedures, mechanisms and institutional arrangements for initiating and granting new ELCs; for monitoring the performance of all ELC contracts; and for reviewing ELCs entered into prior to the effective date of this Sub-Decree for compliance with the Land Law of 2001.” In the

following article, ELC is defined as “a mechanism to grant private state land through a specific ELC contract to a concessionaire to use for agricultural and industrial-agricultural exploitation.” Industrial-agricultural exploitation relates to the cultivation of food or non-food crops, upbringing of animals and aquaculture, and the infrastructure construction (plant or factory and facilities) for the processing of domestic agricultural raw materials. In this Sub-Decree, the term “Contracting Authority” (CA) appears frequently. It refers to the authorities who are empowered by the PM to carry out specific duties (article 2).

Article 3 identifies five reasons for granting ELCs:

- The development of intensive agricultural and industrial-agricultural activities that require a high rate and appropriate level of initial capital investment
- The achievement of a specific set of agreements from the investor to develop the land in an appropriate and perpetual manner based on a land use plan for the area
- The creation of employment in rural areas within a framework of intensification and diversification of livelihood opportunities and within a framework of natural resource management based on an appropriate ecological system
- The encouragement of both small and large investments in ELC projects
- To generate state, provincial or communal revenues through economic land use fees, taxation and related service charges

### **5.5.2 General Conditions for Granting Economic Land Concessions**

Article 4 lists five criteria which all need to be fulfilled for granting an ELC:

1. The land concerned must be registered as state private land
2. A land-use plan must be created and then adopted by the Provincial/Municipal State Land Management Committee (P/MSLMC) and the projected land use must be in agreement with this plan.
3. ESIA's must be conducted with respect to the land use and development plan for ELC projects.
4. Solutions for resettlement issues must be provided. The CA is bound to ensure that there is no involuntary resettlement by lawful land holders and that access to private land is respected.
5. Public consultation with territorial authorities and residents of the locality must be held.

For evaluating ELC proposals, the following criteria must be considered (article 5):

- the increase of agricultural and industrial-agricultural production by using modern technology

- the creation of increasing employment; the promotion of living standards of the people
- the perpetual environmental protection and natural resources management
- the avoidance or minimizing of adverse social impacts
- any linkages and mutual support between SLCs and ELCs
- the processing of raw agricultural materials, to be specified in the concession contract

### **5.5.3 Solicited Proposal**

There are two admissible procedures for initiating an ELC project: either through a solicited proposal in which the CA announces a project for solicitation or through unsolicited proposals where companies submit project proposals to the state for approval (article 6). For the first procedure, the CA may take the following preparatory steps (article 7):

1. Development of project documents regarding a proposed ELC project including the following information (article 8):
  - a. A description of the proposed land including location, size, type, reference to the parcel number in the land register and general information about the area in which the parcel is located
  - b. A general land use and development plan for the proposed project
  - c. Any necessary actions required to by the concessionaire prior to continuing the ELC activities
  - d. Any necessary action required by the CA or any ministry or institution involved prior to undertaking the proposed ELC activities
  - e. requirement of state obligation or state guarantee for the ELC project
2. Forward these initial project documents to the Technical Secretariat (TS) for a preliminary evaluation
3. Consultation with involved Provincial Land Use and Allocation Committee and regulatory institutions
4. Conduction of an initial Environmental and Social Impact Assessment (IESIA)
5. If the IESIA shows a medium or high degree of negative impact, a full ESIA will be required
6. The compilation of a complete set of project documents

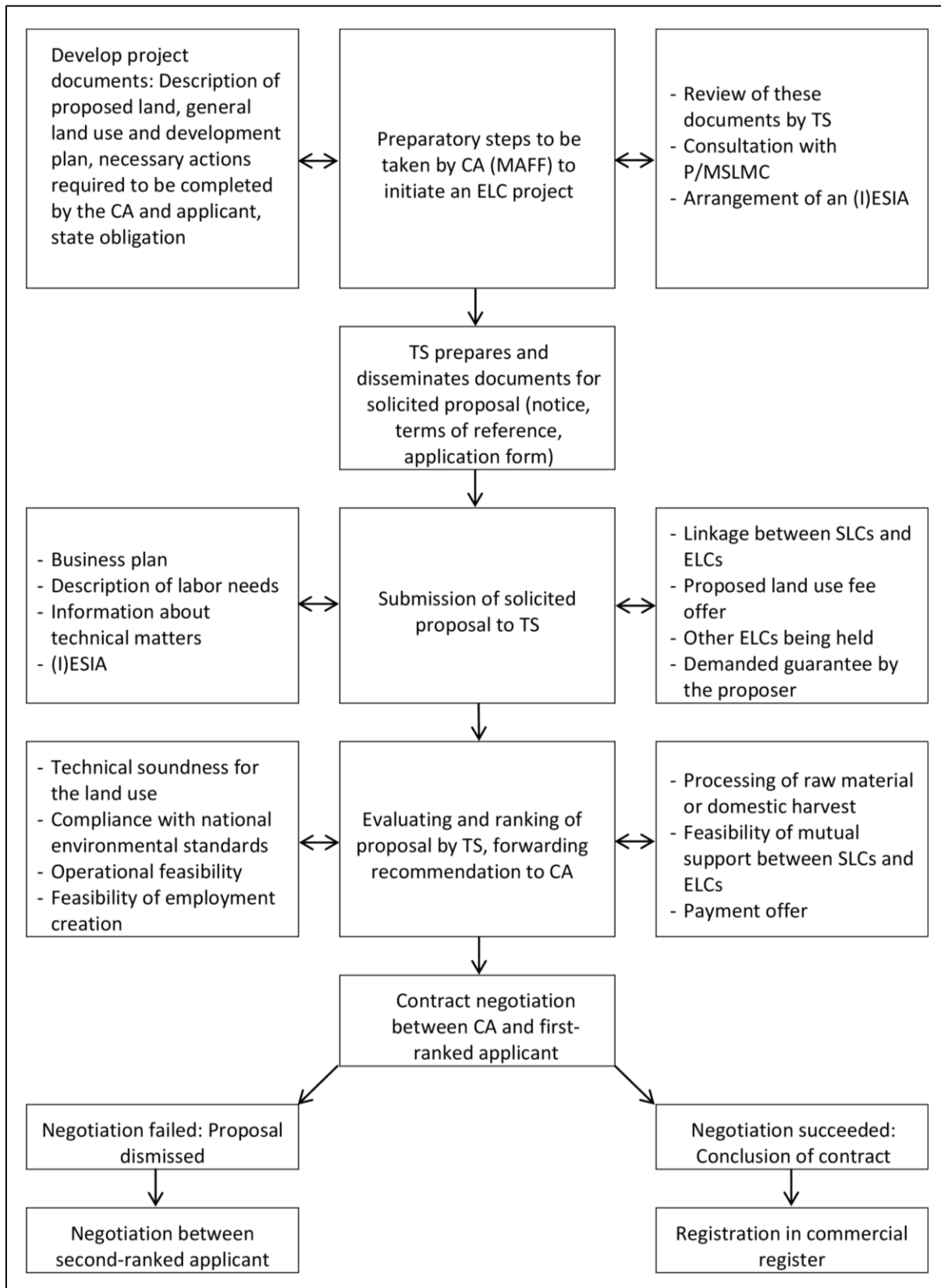
After having received the complete set of ELC project documents from a CA, the TS prepares the documents with solicitation for proposals including notice, terms of reference and the application form (article 9) and dispersion of the notice which shall contain information about the manner, place, and time for submission of proposal (article 10). The terms of reference describes the ELC project, or the criteria for evaluation of the proposal

and the non-negotiable contract terms (article 11). The proposer must submit an application to the TS comprising the following points (article 12):

- A business plan containing details about the planned usage of the land, the investment plan, expenditure, and revenue plans as well as the sources of capital to support the proposed concession project
- A delineation of labor needs for the concession project and the source of the labor
- Details about technology, equipment, machinery, fertilizer, pesticide, and usage plans for types of priority crops
- Adumbration of the environmental and social impacts of the proposed investment activity and preventive or reduction measures of the proposer
- A depiction of any linkage and mutual support between SLCs and ELCs
- A depiction of any linkage to the processing of raw materials that are domestically harvested
- The land use fee offer to the state by the proposer
- Exposure of any land concession holdings by the proposer
- Any guarantee demanded by the proposer from the state

According to article 13, a public meeting for clarifying uncertain points of the solicitation documents must be held 30 days before the deadline of proposal. After having evaluated the proposal based on the criteria in article 14, the TS makes a recommendation to the CA (article 15), who then prepares short-list ranking of the proposal and a report on the evaluation, to be provided to each proposer (article 16). For the concession contract, the highest ranked proposer shall be invited by the CA for negotiation. If there is no agreement in contract terms, the CA is entitled to invite other proposers in the order of their ranking.

The following scheme created by the author illustrates the solicited proposal:



**Figure 6:** Solicited Proposal. Source: Sub-Decree on ELCs, 2005, articles 7-17

#### **5.5.4 Unsolicited Proposal**

The CA prefers to grant ELCs through competitive, solicited proposals. Yet, if the investor is able to provide extraordinary benefits such as the introduction of new technology, strong linkages between SLCs and ELCs or special access to processing and export markets, the CA may consider these profitable ELCs (article 18). For the proposal, the proposer must fill in an application form, including a description of his business and financial background, his investment concept as well as general information about the land size and location. He must then submit this application at the CDC, the Provincial/Municipal Investment Sub-Committee (P/MISC) or at the CA. In case the application is submitted at the CDC or the Provincial/Municipal Investment, the application shall be passed on to the CA who will then consult the Provincial Land Use and Allocation Committee and the regulatory institutions. If the application complies with all conditions specified in article 4 of this Sub-Decree, the proposer then submits a more detailed proposal (article 19) with the same information demanded from a solicited proposal in article 12 and an additional report of an IESIA (article 20). In case the IESIA presages a medium or high adverse impact, a more detailed and full ESIA shall be conducted. After the CA has received the detailed proposal, a copy shall be sent to the TS or to the P/MMLMC for review, recommendations and the verdict of whether or not to accept the proposal for concession contract negotiation (article 21). Moreover, public consultations with territorial authorities and representatives of local residents must take place, where they have the authority to write a report of their review and recommendations within 28 working days after the Commune-Sangkat Council has received the detailed documents. A refusal of the comments of the affected commune shall be based on specific reasons (article 35). The scheduled time for contract negotiations shall not exceed 28 working days (article 22). In case of an agreement, the proposer should register in the commercial register prior to signing the ELC contract (article 23).



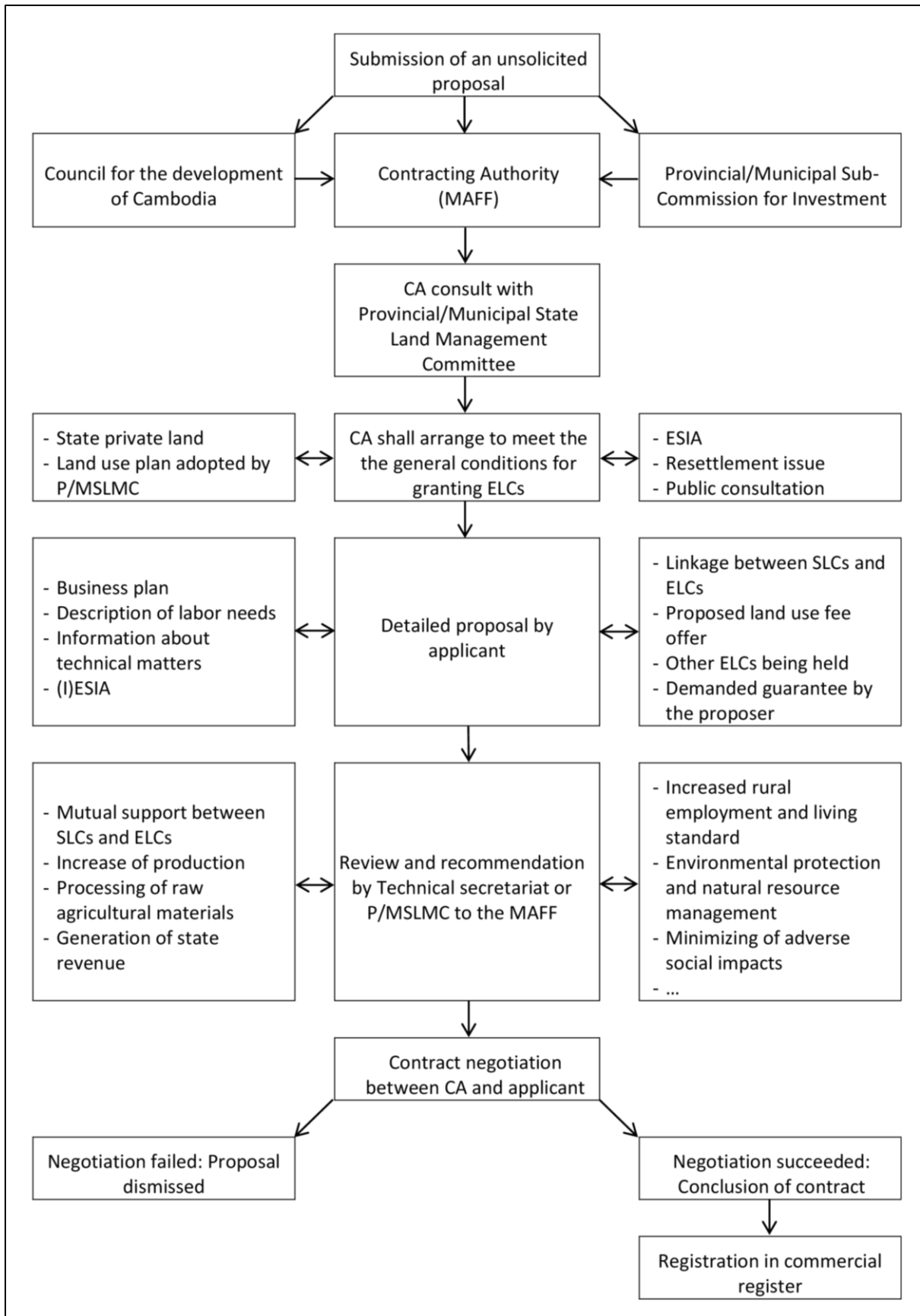


Figure 7: Unsolicited Proposal. Source: Sub-Decree on ELCs, 2005, articles 18-24

### **5.5.5 Management and Amendment of the Concession Contract**

The CA holds the responsibility of ensuring the enforcement of a concession contract by set up mechanisms and procedures for monitoring contract performances. Further, they must inform the MEF and the TS or the P/MSLMC about the contract enforcement. For that reason, the CA needs to be in a constant dialogue with relevant ministries and the concessionaire itself (article 25). The contract terms determine matters of extension, suspension and termination of a contract (article 27) and in case of an amendment of a contract, the CA is obligated to consult with all involved ministries and parties (article 26).

### **5.5.6 Administration and Implementation Mechanism**

The mechanism for ELCs is composed of the CA, TS, P/MSLMC, D/KSLWG, and the Commune-Sangkat Councils (article 28). Prior to the amendment of the Sub-Decree on ELC in 2009, the relevant provincial/municipal governors were authorized to grant ELCs with a total investment sum of less than 10,000,000 riels (around US\$2,500) and an area concerning less than 1,000 ha. This has changed in 2009 due to amendments to the Sub-Decree on ELCs and nowadays the MAFF is responsible for granting all ELCs under its jurisdiction.

### **5.5.7 Review of Existing Economic Land Concessions**

ELCs granted prior to the coming-into-effect date need to be recorded in an ELC Logbook, which shall be established by the TS (article 36). Supported from the TS, the responsible ministry, institution or territorial authority for granting the concerned ELCs shall conduct reviews regarding the contract performance. Furthermore, they shall also give requests for a voluntary reduction of their land size to concessionaires who cultivated a parcel of land bigger than 10,000 ha. (article 37) An exemption from the obligation to return parts of the holdings may take place in two situations: Either the concession was granted before the Land Law of 2001 was adopted or the reduction in land size would lead to a compromise of the current exploitation (article 39). This review process is aiming at land regularization including land parcel adjustments, adjudication of land rights of occupants of land parcels under review, and the demarcation and registration of the land through a formal process (article 42).

## **5.6 Political Regime**

To get a better understanding of the political context in which ELCs occur and their implications on the allocation of concessions, it is necessary to analyse the political regime of Cambodia. The concept of “neopatrimonialism” of Erdmann and Engel (2007) appears to be

appropriate to define the political system in Cambodia. Erdmann and Engel (2007) define neopatrimonialism as a political regime consisting of a supposedly rational state apparatus and a closely interlaced extensive personalized network of patrons. These features are referring to the two Weberian ideals, typical political regimes of rationality, legality, and patrimonialism. According to Bratton and Van de Walle (1997) a modern state makes a distinction between the public and the private realm and imposes impersonal rules on its citizens that determine their rights and responsibilities. A patrimonial state lacks this division and these impersonal rules. Patron-clientele relationships prevail, which implement a reciprocal dependency of patrons offering protection and material incentives to their clients in exchange for their political loyalty and support.

Bratton and Van de Walle (1997) further identify three features of neopatrimonial states: “presidentialism”, “systematic clientelism”, and the exploitation of public resources for personal political power legitimation. The first feature indicates that there is a dictator in control of the entire formal political structure of a state. The second characteristic points to the exploitation of ruler’s positions to favour his supporters and friends such as the appointment of loyal individuals into public positions or the issuance of concessions to extract resources. The third feature suggests the use of public resources such as natural resources and government revenues to cement political power (Ibid.). According to So (2009) the three features are applied to the RGC, although the notion of presidentialism might not be compatible with the political system in Cambodia. Nevertheless So (2009, 64) remarks “the way politics in Cambodia operates increasingly gives power to one leader”. He refers to numerous large patron-client networks in favour of Hun Sen, which are connected to smaller networks that are also supported by patron-client relationships. Un (2004) detected two supra-networks both within the CPP: one linked with the Chea Sim and the other associated with PM Hun Sen.

These widespread patron-client networks have far-reaching consequences regarding the corruption in the state bureaucracy as well as the quality of civil service. The appointing of officials into governmental key positions is rather based on personal connections than on the candidate’s qualification. This system impedes an efficient and transparent handling of the public service and primarily leads to accountability between the patrons and the clients, not to accountability between state officials and the citizens. Furthermore, the complex patron-client relationship entails that policy reforms are only implemented if they are in accordance with the ruling elite’s interest. (So, 2009)

The Global Witness report on “Cambodia’s Family Trees” (2007) revealed that senior officials sold jobs within their ministries and departments for the purpose of self-enrichment. It illustrated that Chan Sarun (Head of the MAFF) and Ty Sokhun (Head of FA) are supposed to have sold around 500 jobs and thereby generated an additional income of 2.5 million US

dollars (US\$). As a direct implication, the hired employees wanted to recoup these expenses by charging extra on services. Consequently, corruption is not only the result of low wages paid to civil servants, but also caused and promoted by these illegal job appointments.

The complex network of patronage penetrates almost every part of political life in Cambodia. Hun Sen and other political figures are maintaining reciprocal relationships throughout the whole political apparatus, from local chiefs to powerful officials, to sustain their power. Because public officials are often poorly remunerated, revenues from corruptions and bribes are considered as a means to compensate officials within the patronage networks. Gains from corruptive activities are seldom retained by one person alone. Rather, portions are shared with the patron, invested in development projects, and offered as gifts at the local level for collecting votes. PM Hun Sen and his wife Bun Rany present themselves as generous donors who are spending large sums of their “private” fortune on schools, Buddhist temples and other development projects. (So, 2009)

So (2009, 190) drew a comparison to modern states: “In contrast to advanced liberal democratic countries, where development projects and the extension of state services are viewed as a public responsibility to the local people and are funded by government budgets derived from various forms of taxes, most development projects in Cambodia are funded from private resources earned through corruption and are used to promote an image of a generous *saboraschon*, or meritorious patron.”

## 6 RESULTS OF CASE STUDY RESEARCH

### 6.1 Introduction

#### 6.1.1 Structure

All three research questions have been examined by means of case studies. As indicated in the Sub-Decree on ELCs, the main actors in this process are political institution on a national level such as the MAFF and CoMs, but still local political actors such as the P/MSLMC or the D/KSLWG are assigned to play a (minor) role. Findings to the political process on subnational level are mainly based on a field research in the province Kampong Thom, which was conducted in two stages. During the first phase, which lasted from December 11 to December 18, three villages impacted by CRCK 1 were visited. The second phase took place from January 9 to January 22. During this period surveys were made in ten villages impacted by Tan Bien, Gold Foison A/C Import Export Construction (Gold Foison), BNA, An Sophy Farming, and CCV Co., Ltd (CCV). The following table provides an overview of the examined villages:

Village	Location (District)	Impacted by	Date of Visit
Srae Chang	Sandan	CRCK 1	14.12.2012
Krasang	Sandan	CRCK 1	14.12.2012
Pum Chas	Sandan	CRCK 1	15.12.2012
Banteay Roveang	Santuk	Tan Bien	10.01.2013
Dang Kdar	Santuk	An Sophy Farming <sup>23</sup>	12.01.2013
Thma Samlieng	Santuk	Tan Bien	13.01.2013
Ta Menh	Santuk	CCV (Gold Foison) <sup>24</sup>	14.01.2013
Trapeang Pring	Santuk	CCV (Gold Foison)	14.01.2013
Sopheak Mongkol	Santuk	CCV (Gold Foison)	14.01.2013
Srae Srama	Santuk	BNA and Gold Foison	15.01.2013
Tumnob	Prasat Sambour	Gold Foison	15.01.2013
Sraeung	Prasat Sambour	Gold Foison	16.01.2013
Thmei	Prasat Sambour	Gold Foison	16.01.2013

**Table 4:** Examined Villages in Kampong Thom

<sup>23</sup> The head of the village didn't remember the names of all companies impacting his village. The only name he remembered was An Sophy Farming.

<sup>24</sup> CCV's concession was transferred to Gold Foison

The survey in the villages was based on a questionnaire (cf. chapter 10.6) with the aim to standardize the data collection and to make them comparable. In addition, interviews were conducted with villagers, either in form of group discussions or individually. Villagers were ignorant and could not provide “hard facts” due to political exclusion in the allocation process for the most part. Still, even this ignorance must be understood as a part of the findings, maybe as the government’s strategy to keep villagers with no means to defend themselves silent, and thus must not be neglected in the analysis. Going up the ladder, involved authorities knew more about the process, but in most cases their willingness to share information decreased.

The first research question deals with the land allocation process. Therefore, findings from the fieldwork in Kampong Thom and from research in Phnom Penh were compared with legal documents<sup>25</sup> and secondary data. Attempts were made to match those different sources, to depict differences in statements and find reasons why those exist, to confirm evidence by triangulation, and finally to make an educated guess how it really took place. This resulted in the creation of a timeline for each case study.

The second research question is closely related to the first. The identified actors were examined carefully in order to understand their rationale of actions. Different sources were used to get a description as precise as possible. In a second step, the author tried to do an actor mapping, where actors were interlinked. This is basically a product resulting from the research questions one and two.

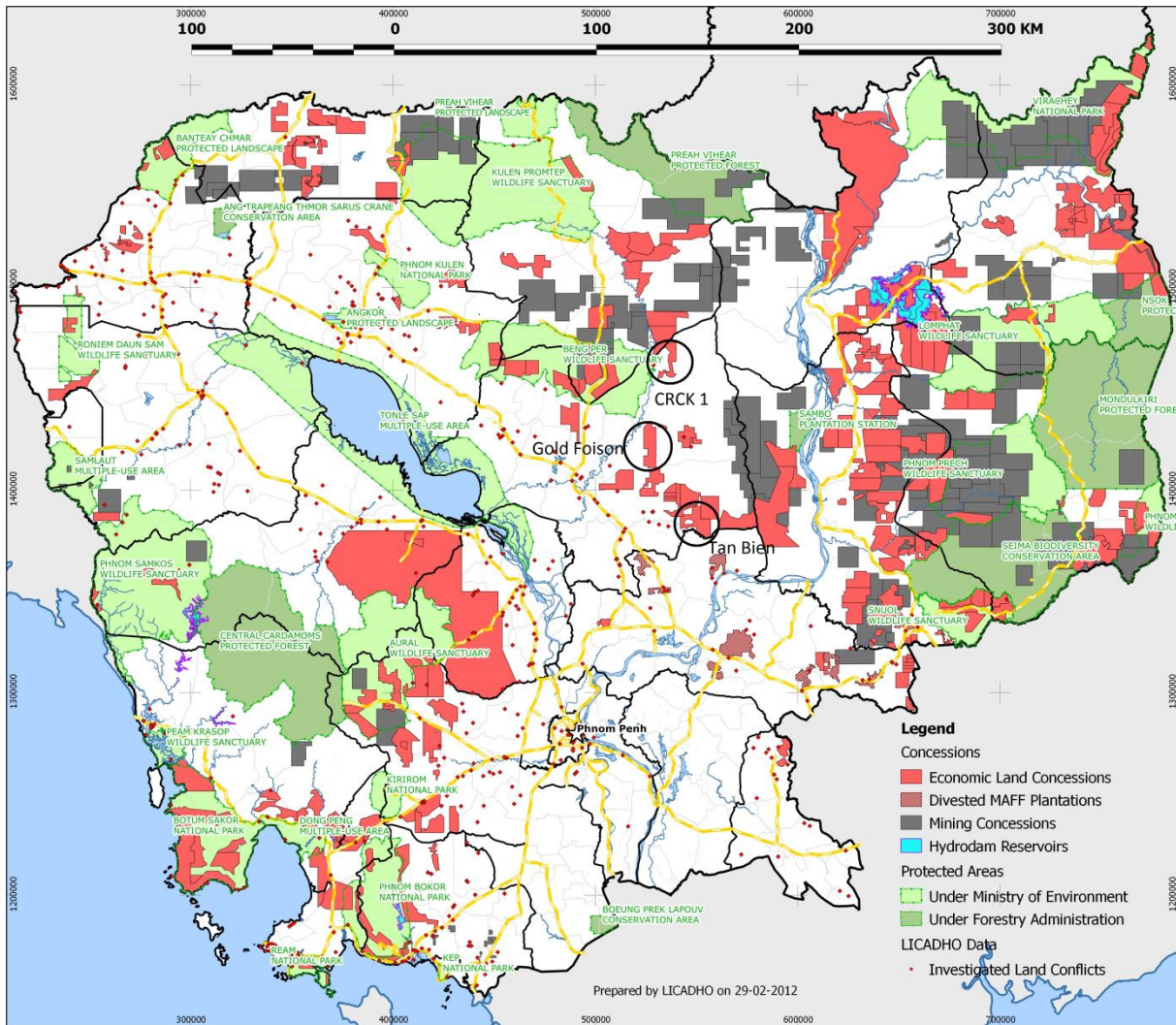
The third research question examined why the three companies decided to invest in Cambodia and on what criteria the selection was based.

In the synthesis, the three case studies were compared in order to identify main steps, actors and parameters. General statements were used as a supplementary source as they provided explanations and scenarios for arising questions. Still, one must clearly distinguish between the different levels of generalisation to avoid false conclusion.

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<sup>25</sup> Legal papers were retrieved from [www.opendevelopmentcambodia.net](http://www.opendevelopmentcambodia.net). The bare lists do not contain any hyperlinks, only blank “titles” with sometimes references to legal documents and dates of issuance. Even though the date of issuance of these documents must not necessarily correlate with the date of determination, it is justified to assume that documents were released in the Royal or Official Gazette at the latest within a month, as EX3 explained. On the website, the legal documents were unsorted and no order was cognizable. To facilitate the comprehension, the author ordered them in a chronological way, and integrated documents with no temporal reference in a logical manner.

### 6.1.2 National Context



**Figure 8:** Distribution of Concessions in Cambodia. Source: LICADHO in Vrieze & Naren, 2012, 8-9

The map was retrieved from the Cambodia Daily Weekend’s edition “Carving Up Cambodia” in 2012 and shows the distribution of different types of concession in Cambodia. This newspaper (Vrieze & Narren, 2012) reports that until the beginning of 2012 1,900,311 ha land have been granted as mining concessions and 2,036,170 ha as ELCs. Mining concession and ELCs together cover 3,936,481 ha land which is equal 22 percent of Cambodia’s surface area. The director of the Department Planning and Statistics at the MAFF confirmed that around 2 million ha land were granted as ELCs by the MAFF (1.2 million ha) and MoE (800,000 ha). The reports further exposes that 346,000 ha ELCs are located inside conservation areas. Global Witness (2013) observed that 70% of ELCs given out in 2012 were situated inside national parks, wildlife sanctuaries and protected forests. Highlighted in the map in black circles are the three concessions of the case studies CRCK 1, Tan Bien and Gold Foison. These concessions are located in the province Kampong Thom in the centre of Cambodia.

The following figure is based on a national database of ELCs. It was the result of a comparison between the three databases from LICADHO, ODC, and NGO Forum. As mentioned in chapter 4.8.1, the author tried to establish national inventory as complete and extensive as possible. His accomplishments were further processed by Dr. Amaury Peeters, a postdoctoral research fellow.

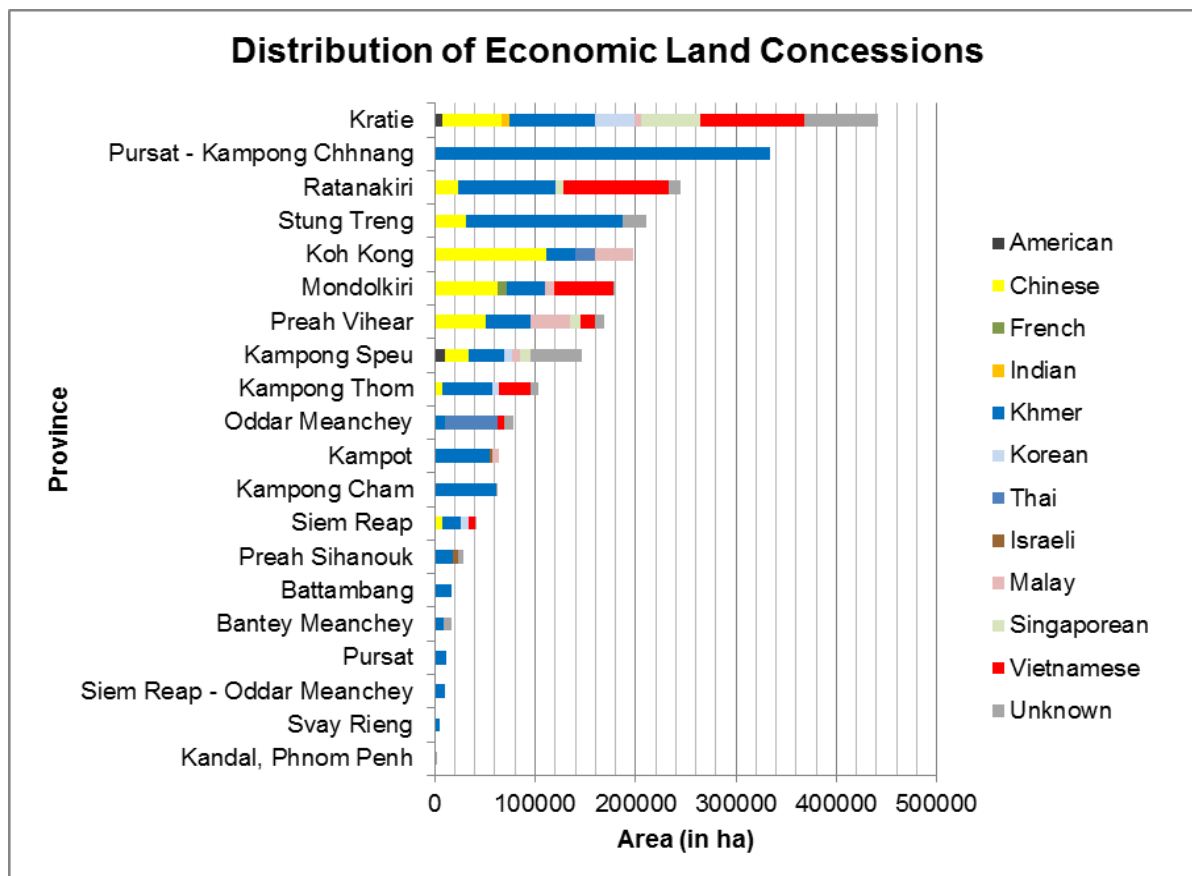


Figure 9: Distribution of ELCs in Provinces. Source: SNIS Inventory

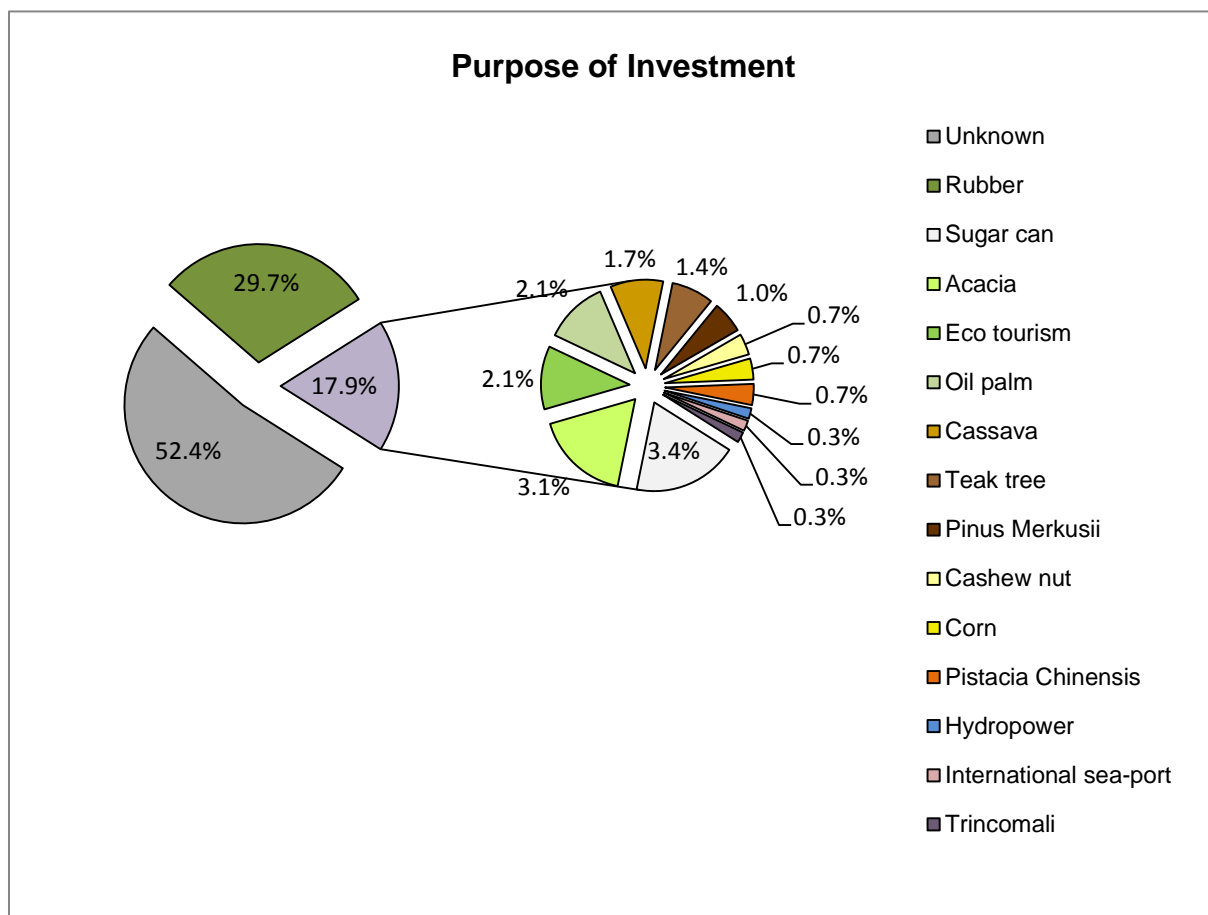
Up to August 2013, 290 ELCs were confirmed in 19 out of 24 provinces. All counted ELCs cover around 2,364,240 ha land, which is equal 13.1% of Cambodia's total surface of 181,035 km<sup>2</sup>. This figure must be considered with cautions since it is related to many uncertainties. As indicated in the table above, Kratie is the province with the highest amount of ELCs followed by Ratanakiri. In Kratie, 63 ELCs cover 441,864 ha land, whereas in Ratanakiri, 31 ELCs encompass 244,989 ha land. The provinces Pursat and Kampong Chhnang share one concession of a total size of 333,327 ha. This concession was granted in 2000 to a local company called Phea Phimex Co. and its main purpose is to plant trees. Kampong Thom accommodates 26 ELCs with a total area of 102,867 ha. In terms of number of ELCs, it is right behind Kratie and Ratanakiri on the third place.

Furthermore, the figure indicates that most concessionaires were domestic companies. Chinese companies are ranked second. They account for 16% of all investments in reference to the granted size. Vietnamese companies were granted 49 concessions with a total size of



328,726 ha land. The remaining concessionaires were mainly from other Southeast Asian countries such as Malaysia, Singapore and Thailand. Companies from Europe and USA only play a very marginal role.

The following figure provides information about the purpose of investments. There is a lack of data concerning the purpose of investments for more than half of the concessions.



**Figure 10:** Purpose of Investment. Source: SNIS Inventory

86 out of 290 ELCs are recorded be rubber plantations. To further complicate matters, some documents only contain unclear information such as “rubber and others”. In those cases, the author only took the named crop into account and neglected the other anonym reference. During the field research in Kampong Thom, the author experienced at first hand that not all data could be trusted: Gold Foison did actually not cultivate acacia as determined in official documents, but rubber. Whether this false information was made intentionally or by mistake could not be figured out. According to government statistics, rubber plantations make up 80% of the total granted area of 1.5 million ha (Lewis & Neou, 2013). Of 49 vietnamese concessions, twelve are classified as rubber and 37 are unknown. Rubber, indeed, is the most cultivated crop in Cambodia, as EX6 confirmed. After rubber, sugar cane and acacia follow with more than 3% each of all concessions granted. For more than half of the concessions the purpose is unknown, since the order cannot really be trusted.

### 6.1.3 Case Studies

<b>CRCK Rubber Development Co., Ltd. 1<sup>26</sup></b>		
<b>General information</b>	<b>Name of the company</b>	CRCK Rubber Development Co., Ltd. 1
	<b>Director's name</b>	Mr. Nguyen Duy Linh, and/or Mr. Le Duc Tanh <sup>27</sup>
	<b>Country of origin</b>	Vietnam
	<b>Shareholders</b>	100% State of Vietnam <sup>28</sup>
	<b>Affiliations</b>	VRG <sup>29</sup> , CRCK Rubber Development Co., Ltd 2
<b>Address</b>	<b>Local office</b>	#92, Norodom Blvd, Sangkat Chaktomok, Khan Daun Penh, Phnom Penh
<b>Total area in Cambodia</b>	<b>Official source</b>	6,155 ha <sup>30</sup>
	<b>Other sources</b>	6,044 ha <sup>31</sup>
<b>Implementation status</b>	<b>Already allocated</b>	-
	<b>Implemented</b>	4,000 ha forest have been logged in September 2012 <sup>32</sup>
<b>Duration</b>	<b>Investment license</b>	70 years
<b>Date</b>	<b>Granting concession</b>	05.05.2010
	<b>Planting</b>	2011 <sup>33</sup>
	<b>Production/harvest</b>	2017/18 <sup>34</sup>
<b>Government level</b>	<b>Contracting authority</b>	MAFF
<b>Location of plot(s)</b>	<b>Province(s)</b>	Kampong Thom
	<b>Districts(s)</b>	Sandan
<b>Documents available</b>	<b>Contract</b>	No
	<b>ESIA</b>	Yes <sup>35</sup>
	<b>Maps</b>	Yes <sup>36</sup>
	<b>Others</b>	No

**Table 5:** Profile of the Company CRCK 1. Source: Primary and Secondary Data

The concession was granted to CRCK 1 in 2010. It is located in the district Sandan, in the middle of the forest Prey Lang. The company is owned by the Vietnamese state.

<sup>26</sup> All data in this table (if not mentioned otherwise) were retrieved from the “Open Data” website <http://www.opendevdevelopmentcambodia.net/company-profiles/>. This online hub compiling freely available data was initiated by the East-West Management Institute and gets funding from different partners such as the USAID. The data are mainly based on official documents published in the “Royal and Official Gazettes” and on ministries’ websites. In the case of companies’ profiles, they adopted the data of MAFF’s website [www.elc.maff.gov.kh/en/profile/](http://www.elc.maff.gov.kh/en/profile/). This website is currently not accessible.

<sup>27</sup> [http://www.vnrubbergroup.com/en/member\\_list\\_detail.php?id=CPkompongthom](http://www.vnrubbergroup.com/en/member_list_detail.php?id=CPkompongthom)

<sup>28</sup> Interview with DD of VRG

<sup>29</sup> Ibid.

<sup>30</sup> This size was the result of a preliminary study, but probably not the final granted size. In general, the MAFF’s website was badly maintained and very much outdated.

<sup>31</sup> According to the ESIA (2012, 23-24), the total granted size was 6044 ha after villagers’ land had been cut out.

<sup>32</sup> Interview with EX5

<sup>33</sup> Estimation made by EX4 during the field research in December 2012

<sup>34</sup> Calculation under the assumption that it takes in average six to seven years from the plantation of the seedlings until the first harvest

<sup>35</sup> The ESIA was published in Khmer and the only hardcopy was found at the office of a local NGO called EHE (Environment, Health and Education).

<sup>36</sup> Presumably mapping the concession’s boundary after villagers’ land had been cut out

<b>Tan Bien Kampong Thom Rubber Development<sup>37</sup></b>		
<b>General information</b>	<b>Name of the company</b>	Tan Bien Kampong Thom Rubber Development
	<b>Director's name</b>	Mr. Duong Quoc Viet
	<b>Country of origin</b>	Vietnam
	<b>Shareholders</b>	100% State of Vietnam <sup>38</sup>
	<b>Affiliations</b>	VRG <sup>39</sup> , Beanheak <sup>40</sup>
<b>Address</b>	<b>Local office</b>	National Road No. 6, Damrey Choan Khla Commune, Stung Sen District, Kampong Thom Province
<b>Total area in Cambodia</b>	<b>Official source</b>	8100 ha
	<b>Other sources</b>	7,600 ha <sup>41</sup> , 5,000 ha <sup>42</sup>
<b>Implementation status</b>	<b>Already allocated</b>	-
	<b>Implemented</b>	The whole area is cleared of 7,000 ha were planted <sup>43</sup>
<b>Duration</b>	<b>Investment license</b>	70 years, 99 years <sup>44</sup>
<b>Date</b>	<b>Granting concession</b>	18.07.2007
	<b>Planting</b>	2007 <sup>45</sup>
	<b>Production/harvest</b>	2013 <sup>46</sup>
<b>Government level</b>	<b>Contracting Authority</b>	MAFF
<b>Location of plot(s)</b>	<b>Province(s)</b>	Kampong Thom
	<b>Districts(s)</b>	Santuk
<b>Documents available</b>	<b>Contract</b>	No
	<b>ESIA</b>	No
	<b>Maps</b>	No
	<b>Others</b>	No

**Table 6:** Profile of the Company Tan Bien. Source: Primary and Secondary Data

The concession was granted to Tan Bien in 2007. It is located in the district Santuk and covers 8,100 ha land based on data released by the government. The company is affiliated to the Vietnam Rubber Group (VRG).

<sup>37</sup> All data (if not explicitly mentioned otherwise) in this table were retrieved from the open data website <http://www.opendevdevelopmentcambodia.net/company-profiles>. On the website, the company's name is spelled "Ta Bien". Since all other sources call the company "Tan Bien", the author decided to adopt the latter version.

<sup>38</sup> Interview with the DD of VRG

<sup>39</sup> Ibid., see also: [http://www.vnrubbergroup.com/en/member\\_list.php?id=lao-cambodia](http://www.vnrubbergroup.com/en/member_list.php?id=lao-cambodia)

<sup>40</sup> Beanheak is referred to as Tan Bien II.

<sup>41</sup> Interview with the commune chief of Kraya

<sup>42</sup> Interview with the DD of the P/MDoA in Kampong Thom

<sup>43</sup> Interview with the director of Tan Bien

<sup>44</sup> According to the commercial register published on MoC's website, the license duration is 99 years.

<sup>45</sup> Derived from the fact that the company expects to harvest in 2013 and the assumption that it takes six to seven years for seedlings to get ready for harvest.

<sup>46</sup> Interview with the director of Tan Bien

<b>Gold Foison A/C Import Export Construction</b>		
<b>General information</b>	<b>Name of the company</b>	Gold Foison A/C Import Export Construction
	<b>Director's name</b>	Mr. Luo Tianging
	<b>Country of origin</b>	China <sup>47</sup> , Cambodia <sup>48</sup> or Vietnam <sup>49</sup>
	<b>Shareholders</b>	Private company, shareholders unknown
	<b>Affiliations</b>	Joint-stock with the Vietnamese company Tran Thai Ltd. <sup>50</sup> Cooperation with VRG about technical matters <sup>51</sup>
<b>Address</b>	<b>Local office</b>	#783 Deo, Monivong Blvd, Sangkat Boeng Trabek, Khan Chamkarmorn, Phnom Penh
<b>Total area in Cambodia</b>	<b>Official source</b>	7,000 ha
	<b>Other sources</b>	12,000 ha <sup>52</sup> , 7,000 ha <sup>53</sup> , 4,700 ha <sup>54</sup> , 700-800 ha <sup>55</sup>
<b>Implementation status</b>	<b>Already allocated</b>	-
	<b>Implemented</b>	-
<b>Duration</b>	<b>Investment license</b>	70 years, 79 years <sup>56</sup>
<b>Date</b>	<b>Granting concession</b>	13.11.2007
	<b>Planting</b>	2009
	<b>Production/harvest</b>	2015
<b>Government level</b>	<b>Contracting Authority</b>	MAFF
<b>Location of plot(s)</b>	<b>Province(s)</b>	Kampong Thom
	<b>Districts(s)</b>	Prasat Sambour & Santuk
<b>Documents available</b>	<b>Contract</b>	No
	<b>ESIA</b>	No
	<b>Maps</b>	No
	<b>Others</b>	No

**Table 7:** Profile of the Company Gold Foison. Source: Primary and Secondary Data

The concession was granted to Gold Foison in 2007. It is located in the districts Santuk and Prasat Sambour. Gold Foison is a private company, but has business ties to the state-owned VRG.

<sup>47</sup> It appears that the company's origin was derived from the director's country of origin.

<sup>48</sup> Source: Vietnam Aujourd'hui, 2009

<sup>49</sup> DD of Gold Foison claimed that the company's origin is Vietnam.

<sup>50</sup> Interview with the DD of VRG; Tran Thai Real Estate Co. Ltd. was founded on 10 September 2001. It operates in the fields: real estate investment business, tourism real estate, hotels and resorts, tourism services, rubber plantations and wood processing, production of building materials construction and furnishing, renewable energy sector. (Buildvietinfo, 2011)

<sup>51</sup> Interview with the DD of VRG

<sup>52</sup> Interview with the DD of Gold Foison. This total size is divided up in two different plots. To the initially granted 7,000 ha in Santuk, roughly 5,000 ha were added in Prasat Sambour (resulting from the cancellation of CCV's concession).

<sup>53</sup> Interview with the commune chief of Kraya

<sup>54</sup> Interview with the district governor of Prasat Sambour

<sup>55</sup> Interview with the commune chief of Sraeung. Even though clearly asked about the concession's total area, he may have referred to the concession area in his specific commune.

<sup>56</sup> Interview with the DD of Gold Foison

## 6.2 Research Question 1: Granting Procedure

### 6.2.1 Timeline: Case Study CRCK 1<sup>57</sup>

#### **In 2009: Improvement of the accessibility in Prey Lang**

Before the company CRCK 1 officially started its operation in 2011, a road was built by a Vietnamese company called PNT in the western side of Prey Lang in 2009. According to EX6, PNT was allowed to grow rubber on 200 metres of each side of the road, which resulted in the displacement of a few families. EX6 had the suspicion that PNT and CRCK 1 were actually the same company acting under VRG. EX6's assumption could not be confirmed for certain. Neither did the membership list handed over by the deputy director (DD) of VRG in Cambodia, nor the list published on VRG's website contain PNT's name. However, evidence that both companies got the concessions granted on the same day and share the same address in Phnom Penh support the hypothesis. During a visit of VRG's head office in Cambodia, only their office was traceable and there was no evidence of other offices within this building.

#### **In 2009: Increase of illegal logging**

The head of Forest Administration (FA) Kampong Thom admitted that illegal logging was still a widespread problem in Prey Lang. He estimated that in 2012 around 3,000 ha had been affected by illegal logging and then qualified his statement by saying that they regained some woods through planting new trees. How are these illegal activities connected to the issuance of ELCs? Although hard to prove, EX5 assumed a systematic approach behind illegal logging activities:

*“The systematic degradation of the Prey Lang forest appears to be completely deliberate. With that change of the description of the land, they can retitle the land [from State Public to State Private] so that it can be sold and given away as land concessions.”*

EX9 agreed and drew a direct connection to the company by accusing it to be a driving force of these intrigues. Since 2007, illegal logging has been increased throughout Prey Lang forest. Originally built for logging concessions<sup>58</sup>, a network of trails, ox-cart tracks and logging roads made Prey Lang relatively accessible and facilitated the transport of illegally cut wood (Michaud, forthcoming in 2014). With the construction of road in the western side of Prey

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<sup>57</sup> The timeline of the granting procedure is based on legal documents (published on the MAFF's and ODC's websites), ESIA (only available in the case of CRCK 1), other sources such as newspaper reports and on conducted interviews with experts, company representatives, national and local authorities as well as villagers. There are still many pieces missing since access to data was impeded or even denied, and due to contradicting statements made from different stakeholders.

Lang in 2009, illegal logging went up rampantly, especially in- and direct outside the later concession area of CRCK 1, as EX6 knew:

*“The main thing that was started then was illegal logging. There were two main logging coupes. A logging coupe is an officially designated area for logging, assigned on an annual basis and bid out to companies. It is supposed to be done sustainably and it is not supposed to be done in the primary forest. We have shapefiles from the logging coupes from an unofficial source, and as far as we can see there was never a transparent bidding on the coupes, nor was there law enforcement. [...] the coupes are supposed to be only taken under one year, but they had been continuously logging in that area. And again, the opinion point who you talk to, they were either legal or not legal. [That was before] CRCK showed up about 2 years ago, in 2010. They started to cut, and were aggressive. PNT also appeared to be cutting in this area.”*

The involvement of logging coupes<sup>59</sup> was confirmed by EX5, who noted that these coupes were first targeting valuable timber such as Beng and Rosewood, but that it soon had reached such a big scale that trees of any significant value were taken. He numbered the price of Beng and Rosewood between US\$7,000 and US\$10,000 per cubic meter, whereas resin trees were sold for US\$300 per cubic meter in Vietnam.

The village representative of Pum Chas confirmed the dramatic increase of logging activities around his village in 2009. When he was asked about the start of the implementation of CRCK 1, he mentioned that they had begun clearing their area in 2009. When villagers from Pum Chas stopped illegal loggers and asked for their letter of approval, they claimed to work for the company, but could neither label the company's name nor present any sort of permission. In his forthcoming report (2014, 49), Michaud stated:

*“The degree of the company's involvement is impossible to tell, however the hundreds of marked logs (many of them resin trees) along the road to the concession suggest that the company may be complicit in illegal activities.”*

In the ESIA (2012), it is determined that the company only has the right to log trees that have been approved by the MAFF. The logged trees must be arranged in separate piles in accordance with their classifications. This facilitates the measurements of the timber's economic value and the calculation of the taxes for the FA and competent authorities, which the company is obligated to pay.

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<sup>58</sup> A preceding form of ELC, but limited to logging activities

<sup>59</sup> Since the suspension of logging coupes in 2002, the so-called annual bidding coupes were developed by the Forest Administration as an alternative to justify the exploitation of forests (Global Witness, 2007).

The report by Global Witness (2013) about “Rubber Barons” further nourishes the suspicion of companies’ involvements in illegal logging activities by giving an example how such a collusion between companies, officials and illegal logging syndicates could look like: Heng Brother, a subsidiary of private Vietnamese company Hoang Anh Gia Lai, received a concession including over 2,000 ha of forest. Heng Brother signed a logging contract with Try Pheap, a company belonging to a politically well-connected Cambodian tycoon. This contract stipulated that Heng Brother was in charge of logging the forest, while Try Pheap paid royalties to the FA and arranged the stamping of the logs. Furthermore, Try Pheap organised the set-up of a sawmill inside the concession by a local business man as well as the transport of the processed timber to Phnom Penh.

A report published in the newspaper Phnom Penh Post (Titthara, 2013) indicates that it may have taken place in a similar way. This report states that CCHR investigators detected huge stockpiles of timber that were allegedly transported between the concessions of CRCK 1 and of the tycoon Try Pheap<sup>60</sup> and which was later trucked to Vietnam. It (Ibid.) further states that Try Pheap was awarded the right to purchase timber for export exploited from every ELC in Ratanakiri. Considering the fact that Ratanakiri is one of the most targeted provinces in Cambodia, this is a huge admission given by the government to Try Pheap. As EX2 pointed out, Try Pheap had high political connections, reaching up to the top:

*“He’s very close to the Hun family. He used to be an official adviser to PM Hun Sen, but lost that title when Hun Sen staged a campaign against illegal logging. [...] there has been many signs telling us his fall from grace wasn’t real.”*

During the field research, the collusion between these two companies could not be verified. Supposing it took place as described by the Global Witness and Phnom Penh Post report, it meant that CRCK 1 cleared the forest mainly<sup>61</sup> on its own, whereas Try Pheap paid off royalties to the FA and organised the sell and export of the timber to Vietnam. But where did the wood get processed after being cut? EX7 knows about a partnership with a local sawmill:

*“CRCK is collaborating with a wood processing company called Seng Saravuth. CRCK cut trees and transport them to the company Seng Saravuth. We have received this information from villagers, who detected illegal activities in the Prey Lang and also the connection between these two companies.”*

The company is located in the commune Mean Ritth, ten kilometres away from the CRCK concession. According to a report published on the NGO’s website Radio Free Asia (Chhin,

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<sup>60</sup> Try Pheap possesses two ELCs. One is located in the province Preah Vihear and the other one in Ratanakiri. However, it is unclear to which of these concessions the logs were transported.

<sup>61</sup> Apart from logging coupes and other illegal loggers occurring before the company’s arrival

2012), a group of around 200 protesters were besetting the alleged sawmill and demanded for documents proving the legitimacy of their activities in March 2012. Even though security guards and police were present, they managed to enter the premises and to do an inspection. What they came across was actually not a saw mill, as presented by district governor Sim Vanna, but a wood storage. There was no processing equipment available, only trucks to transport the wood. The report further states that most of the wood from Prey Lang is smuggled into China and Vietnam, where furniture is produced and exported worldwide. (Ibid.)

Illegal logging and trafficking of timber appears to be done systematically by a collusion of logging syndicates, local authorities, national actors and numerous companies. Global Witness (2007) revealed the high involvement of the Royal Cambodian Armed Forces Brigade 70, a reserve unit for Hun Sen's 4,000 strong bodyguard force, in controlling and organising the timber trafficking in Prey Lang as well as nationwide. Global Witness depicted this smuggling neatly by means of the two cases: Tumring<sup>62</sup> and Phea Phimex<sup>63</sup>. It further declares that a company called Seng Keang is considered to be the most powerful logging syndicate in Cambodia (Ibid.). This syndicate is led by Hun Sen's cousin Dy Chouch, his ex-wife Seng Keang, a friend of the PM's wife Bun Rany, and Khun Thong, brother-in-law of Minister for Agriculture, Forestry and Fisheries Chan Sarun. Furthermore, Seng Keang's brother is an officer in the Brigade 70. This example illustrates how tangled and complex companies are connected to political actors. The direct involvement of Seng Keang and the Brigade 70 in the case of CRCK 1 could not be confirmed during the field research. However, the participation of national and local authorities seems to be indisputable:

*“Local people have already logged small wood before the arrival of CRCK. And then people from other provinces were coming to Prey Lang and started to cut the forest on a bigger scale. This was organised by a group of high-ranking officials from the military and the police of Kampong Thom. They are involved in timber trade and export the wood to other places.” (EX8)*

*“When you look at the officials, the district governor and district police chief and some of the commune chiefs are highly involved in the deforestation. I'd say they are the major driving forces behind the deforestation and they are making every attempt to intimidate the village chiefs so that his village will not demand compensation. The accusations against the district police chief were shocking.*

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<sup>62</sup> Tumring received a concession area of 7,750 ha in Prey Lang.

<sup>63</sup> Phea Phimex leases 333,327 ha land in the provinces Kampong Chhnang and Pursat.



*[...] it has all been taken by this police chief and his family members for themselves.” (EX5)*

*“The valuable wood would be almost certainly going high up. The illegal logger I stopped, they said they were being employed by people in Kampong Thom. My guess is that the valuable wood has been cherry picked by the big officials, where the company was only getting the rest. They know exactly where they find these trees, each of them has been identified. According to the Prey Lang Community, a quarter of a million resin trees has been cut. [...] It is certainly collusion, because there was this FA check post at the end of the road that leads from the CRCK site to an actual real road. So every piece of wood that came past... They knew exactly what came out there. 100% sure, there is no denying in that. FA is obviously involved, because they happily waved past a massive amount of illegal wood without paper work.” (EX5)*

*“After the company’s arrival, the commune chief [from Dong Kambeth] suddenly had a car. The company helped him to clear his farm with their machines. I believe that the commune chief works for the company and gets a salary from it.” (Community Representative of Prey Lang Network)*

The names mentioned most related to these illegal activities were the commune chief of Dong Kambeth Chouy Phat as well as the Sandan district police chief Urng Maly. Villagers in general did not dare to pronounce the names from the very beginning. Only after having gained their trust, they opened up and revealed their views and suspicions. Mr. Urng Maly was perceived as a “dreadful, malicious, and ruthless person”, who has tight connections reaching up to the national level. These findings are consistent with those in Michaud’s report (Michaud, forthcoming in 2014). Additionally, the name of the Sandan district governor Sim Vanna was listed in his report (Ibid.). This name never came up during my visits in villages. However, the fact that an interview with the district governor was denied with the explanation he was occupied, even though we offered to come back another day, and the fact the first deputy governor warned us only to make studies about rubber yield<sup>64</sup> and not to deviate from the topic, do not discharge the district governor and his office from these accusations in the least.

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<sup>64</sup> The MSc thesis’ topic was introduced as an agro-economic study about rubber yield in order to get the research approval. ELC-related issues are still a sensitive topic and therefore it seemed reasonable to make false pretences.

### **First half-year of 2009: Selection of the concession area**

The director of the Provincial/Municipal Department of Agriculture (P/MDoA) in Kampong Thom and the district governor deputy in Sandan asserted that the company was looking for land on its own and after having found a suitable plot, submitted a request to the MAFF. At the beginning of 2009, villagers from Pum Chas observed around five to seven “well-dressed” people equipped with maps inside the later concession area. Whether this has taken place before or after the completion of the road could not be found out. When villagers asked them about their intentions, they were rejected and told that it was a state affair and none of their business. Villagers didn’t recognise any of the “intruders” and further realized that not everybody was speaking Khmer. Even though it seems obvious that these people were doing some sort of assessment of the location, it cannot surely be linked to the selection process of CRCK 1, since they didn’t disclose their intention and their specific client standing behind the project. Thus, it may have been a matter related to another actor and/or another purpose than the selection. Villagers from Srea Chang and Krasang didn’t notice any extraordinary activities occurring during that time period. It’s hardly surprising since these two villages are farther away from the concession area and villagers don’t access the forest on a daily basis, consequently they very well may not have been aware of these activities.

### **June 15, 2009: Unsolicited proposal to MAFF**

In June 2009, CRCK requested the government to grant 10,000 ha of land for the company to plant rubber in the district Sandan. This is called an unsolicited proposal, since there was no announcement of a project advertised by the government and the company was supposedly looking for a suitable area itself (cf. chapter 5.5.4). According to the Sub-Decree on ELCs (article 18), the prioritized method to grant concessions is through solicited proposal. Only when the company is able to provide exceptional advantages<sup>65</sup>, the government may consider an unsolicited proposal.

### **No date specification: Preliminary study conducted by technical team**

According to the ESIA (2012), MAFF then sent out a technical team for a preliminary feasibility study and was forwarding the produced report to the CoMs which had to approve again. Based on this feasibility study the government decided to grant 6,155 ha land to the company. This point remains unclear. Local people didn’t notice a technical team doing a preliminary feasibility study about the demanded area, whereas local authorities tend to be very vague with their responses related to this study. The team met by some villagers from Pum Chas does not fit into that scheme, given the temporal inconsistency.

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<sup>65</sup> The introduction of new technology, exceptional linkages between social and economic land concession and exceptional access to processing or export markets are regarded as exceptional advantages.

### **September 22, 2009: Bilateral agreement between Cambodia and Vietnam**

A “memorandum of understanding” was signed by the Vietnamese Minister of Agriculture and Rural Development Cao Duc Phat and the Cambodian Minister of Agriculture, Forestry and Fisheries Chan Sarun declaring their intention to strengthen the economic cooperation in the rubber sector. Cambodia pledged to provide 100,000 ha to Vietnam for the purpose of rubber plantation by 2012. (Kongea, 2009)

### **September 28, 2009: Issuance of a Sar Chor Nor by CoMs**

According to EX8, a Sar Chor Nor is a notification, a legal instrument below the Sub-Decree issued by the CoMs. It lays down the conditions and the requirements to be fulfilled by the company, but it doesn't give the right to start operating. EX1 acknowledged the importance of the Sar Chor Nor in the Cambodian context:

*“Most Sar Chor Nor tend to lay down conditions similar to the Sub-Decree, but the companies pretend to have a final decision from the government so that they don't need to conduct an ESIA or proper consultation with the local communities.”*

As EX8 pointed out, exactly this happened when villagers affected by CRCK 1 came across local authorities and company representatives, who were obviously measuring the land, and demanded them to display an official permission.<sup>66</sup>

### **November 11, 2009: Demarcation of the boundaries by D/KSLWG**

In a further step the MAFF sent out the D/KSLWG to mark the boundaries of the land and cut out the land with primary forest and the overlapping area with villagers land. The size was reduced from 6,155 ha to 6,044 ha, i.e. 111 ha were cut out (ESIA, 2012). The ESIA doesn't refer to the different types of land which were left out. In none of the examined villages were overlapping areas cut out. In Srae Chang and Krasang, the village chiefs insisted that there was no overlapping zone between villagers' land and the concession, whereas villagers complained to have lost land. It seems that there is a discrepancy in the perception of ownership between villagers and the village chiefs. In Srae Chang, villagers accused the village chief of having colluded with the company. This village chief's intention might be to keep irregularities during the granting process secret, and therefore disclaim an overlapping area. In Pum Chas, the demarcation exercised through the “district research group” took place in 2010, however not in a satisfied manner as mentioned by its representative. According to him, his villages lost 50% of their total area.

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<sup>66</sup> He didn't mention which village they were from. At the time of the first field stay in December 2012, the researcher was not aware of the document's relevance in the granting process and hence didn't asked villagers explicitly about it. Therefore, the question remains open whether CRCK 1 and/or local authorities displayed a “Sar Chor Nor” to villagers from Krasang, Pum Chas and Srae Chang and pretended to have a final agreement.

A staff member of Adhoc (EX8), who tried to provide legal assistance to villagers affected by CRCK 1, described the demarcation process as follows:

*“A group of people saw the company together with local authorities measuring the land. The people got angry, they asked about the documents and they were shown a «Sar Chor Nor». A Sar Chor Nor provides only public information to the people and authorities: The government of Cambodia accept CRCK working in the Prey Lang.”*

Even though the references to “a group of people” and “local authorities” are vague and there is no indication of the temporal aspect when it took place, two important points can be extracted out of the statement. Firstly, together with local authorities the company appeared to have demarcated the land without any villagers’ participation. Secondly, local authorities and the company exhibited a “Sar Chor Nor” to villagers and pretended to have an accredited license.

#### **December 7, 2009: Delegation of the full power to the MAFF**

In this letter, the Cambodian government delegated the full power to the MAFF to sign the contract with the company. This authorisation took place around six months after the company had submitted its application.

#### **May 5, 2010: Approval and contract signing**

During this iterative process, the CoMs had to approve it again and the contract was signed by MAFF and the company on May 5 in 2010 (ESIA, 2012).

#### **During the rainy season<sup>67</sup> in 2010: Public consultation**

During the rainy season in 2010, a consultation with villagers took place. Even though the temporal reference is imprecise<sup>68</sup>, it still indicates that public consultation took place after the contract was signed. 10 people of each village, in total 130 villagers and village chiefs of the Sandan commune, were invited. The meeting took place near the district town Sandan and was held by the district governor and a representative of the company. The invited village chiefs and villagers complained that they weren’t informed about accomplished facts and had no voice in the negotiations.

#### **January 5, 2011: Official start of implementation**

The MAFF and the CoMs signed the contract in Mai 2010. According to a letter issued by the MAFF, the company was only allowed to clear the first zone of the forest at the beginning of

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<sup>67</sup> The rainy season is usually from May to October.

2011. In the same letter, the approval of the company's master plan was promulgated. However, as the field visit exposed, local authorities, presumably in collusion with the company, already started clearing the forest on a high scale in 2009.

### **No date specification: Monitoring**

As expounded by the district governor of Prasat Sambour, the MAFF is in charge of monitoring the company's performance. They usually delegate their task to the P/MDoA or sometimes to the FA. This was confirmed by the DD of the P/MDoA:

*"[...] my department is responsible for monitoring the implementation process of the company and whether it complies with the master plan and the contract. When a company doesn't start their implementation on time, we're obliged to report it to the MAFF, which then initiate necessary steps."*

In terms of frequency of visits, he disclosed that they were instructed to send a report to MAFF every two months, which passed it on to the CoMs. However, this is not in line with the Kraya commune chief's declaration that a team from P/MDoA pays a visit every three months. In the case of CRCK 1, NGO's were excluded from the monitoring process:

*"Some NGOs have visited our commune and monitored the implementation unofficially, but they had to leave since it was not approved by the government. If there is any problem, the local authorities are required to solve the problem."*  
(Commune chief Sandan)

Apparently, the government did not want NGOs to take an active part in the monitoring process. The rationale behind this exclusion seems to be simple: The government did not want anybody external to interfere since they were aware of and most certainly wired in those illegal activities.

### **January 8 and March 21, 2011: Expansion of the concession**

In Kampong Thom, two other concessions were granted to the CRCK on January 8 and March 21 in 2011. Even though the appellation slightly differs in the number of the incorporate company, Ltd. 2 instead of Ltd. 1, a connection between these two concessions is obvious. Under the companies' profiles on the website of the NGO ODC, the same Director, Mr. Nguyen Duy Linh, is enlisted. The head of the provincial P/MDoA confirms that it is actually one company:

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<sup>68</sup> Village chief of Pum Chas did not know the exact date. He only remembered that it took place during the rainy season. Village chiefs from Srae Chang and Krasang only declared it took place in 2010.

*“The same company invested in three different locations. After CRCK 1 has successfully implemented the cultivation in one plot, they asked for an expansion.”*

It must be noted that even in December 2012, CRCK 1 has not yet fully cleared the area, nor has it completed the plantation of rubber. Although the author has visited the concession on site, it is difficult to make an estimation about the implementation status. Huge parts were still covered by wood piles, and in the other parts the seedlings had only recently been dibbled. The reasoning “after successful implementation” seems even more questionable considering the facts that the company received the official permission to start implementation only in January 2011. The total size granted to CRCK Rubber Development Co. amounts to 15,516 ha land. This sum exceeds the legal restriction of 10,000 ha per company (Land Law 2001, article 59) by 5,516 ha. According to EX2, CRCK 1 has not acted as an independent company, but was rather divested in order to achieve a bilateral agreement between the governments of Cambodia and Vietnam:

*“[...] the Cambodian government promised to provide 100,000 ha of rubber to the Vietnamese government. This was a promise from one ruling party to the other - from one state to the other. It is effectively for awarding the Vietnamese state. It orchestrates a fake divestment of rubber interest, but truly I think the state is very much in control of the VRG.”*

The affiliation of CRCK to the VRG was confirmed by the DD of VRG Cambodia. The diversification of CRCK Rubber Development Co. into Ltd 1 and 2 might be a strategy to circumvent the law, as EX4 supposed. The slight difference between the names may give them the scope to argue that it's actually not the same company.

### **In the course of 2011: Protest activities**

According to a Prey Lang Community Network (PLCN) member, the PLCN was founded in 2007 when several communities were hit hard by ELCs. Since then it has participated in as well as organised numerous protest activities in Prey Lang, Phnom Penh and Siem Reap. Furthermore it launched a patrol which ranges the woods once a month for the duration of five to ten days in order to combat illegal logging. The author was invited to participate in such a patrol, but security concerns and the lack of time deterred him from doing so. Several experts, among others EX6 and EX5, acknowledged the network's achievement in raising public awareness of environmental and social issues in relation to concessions inside Prey Lang.

In his forthcoming report (2014), Michaud depicted PLCN's activities. In February 2011, a demonstration attended by approximately 400 community members took place at the CRCK

1 site. The stand-off between protesters and the military, police, and local authorities was finally drawn to a close as protesters were denied access to water. In May 2011, PLCN members along with supporters held a demonstration in Phnom Penh's Freedom Park. Disguised as "Avatars" from James Cameron's film, they attracted a considerable amount of attention from international and national media. Further demonstrations of the Avatars followed in August in Phnom Penh and in December in Siem Reap. In November 2011, there were protests at the CRCK site once again. As protesters detected illegally cut wood piled in a community close to the concession, they didn't hesitate and inflamed it. Provoked by this act, carloads of police and officials arrived headed by Sandan district police chief Urrng Maly and district governor Sim Vanny. Even though several camera teams were present, among them one from Al Jazeera, a scuffle broke out as the police chief commanded his subordinates to seize Chut Wutty from the Natural Resource Protection Group. Unarmed villagers successfully kept the armed police from arresting their leader by wielding sticks. (Ibid.)

Five months later, environmental activist Chut Wutty was shot dead by a military policeman during a field visit in Koh Kong (Titthara & Boyle, The Phnom Penh Post, 2012).

#### **April 6, 2012: Publication of ESIA**

There is a disaccord in terms of the date of publication of the ESIA among interviewed experts. EX9 claims that the ESIA was released in August 2011, meanwhile other experts (EX6, EX5, EX3) asserted that it was published on April 6 in 2012. The most plausible date appears to be April 6 in 2012, since one of the three experts works for the NGO Forum, which was tasked to make a review. They declined its mandate as it was impossible to make a proper assessment of a 300-page long ESIA during the four days with limited human capacity, as the quote below from EX6 confirms. According to EX3, NGO Forum<sup>69</sup> rejected their assignment and sent together with other NGOs sent a protest letter to the MAFF and MoE. EX6 asserted that there was a strategic calculation behind the type of output, the used language, and the date of publication of the ESIA:

*"Usually only a hardcopy, which means that you can't even share it in a useful way, and generally in Khmer, is available, even if it's an international company that would have undertaken the assessment in English. And the reason why that's important is because it is impossible to seek external technical expertise that is beyond what NGOs have here. [...] They released it for comments on*

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<sup>69</sup> NGO Forum is a membership organisation founded in the 1980ies by international NGOs. Its core program is to bring together members of NGOs, and to provide governance, management, and administrative support for all members and their programs. Besides this main task, it pursues four further programs: Development Issue Program, Environment Program, Land & Livelihoods Program and Research and Information Centre.

*Friday afternoon about 5 pm the weekend before New Year [based on the Buddhist calendar]. So at that point, many people had already taken off. And then they scheduled the review for the next Tuesday. It was impossible to engage any community members, and they could not even get a photo copy out to the people and the time available to get comments.”*

Evidently the government’s intention was to distract NGOs from participating in this reviewing process, which finally did not even happen. Even after the expiration of the deadline, none of the NGOs appear to have done a thorough assessment, as all contacted NGOs confirmed. The sole hardcopy found of an ESIA found was available in EHE’s office. EX9 admitted to only having skimmed it, as she has doubts about its credibility:

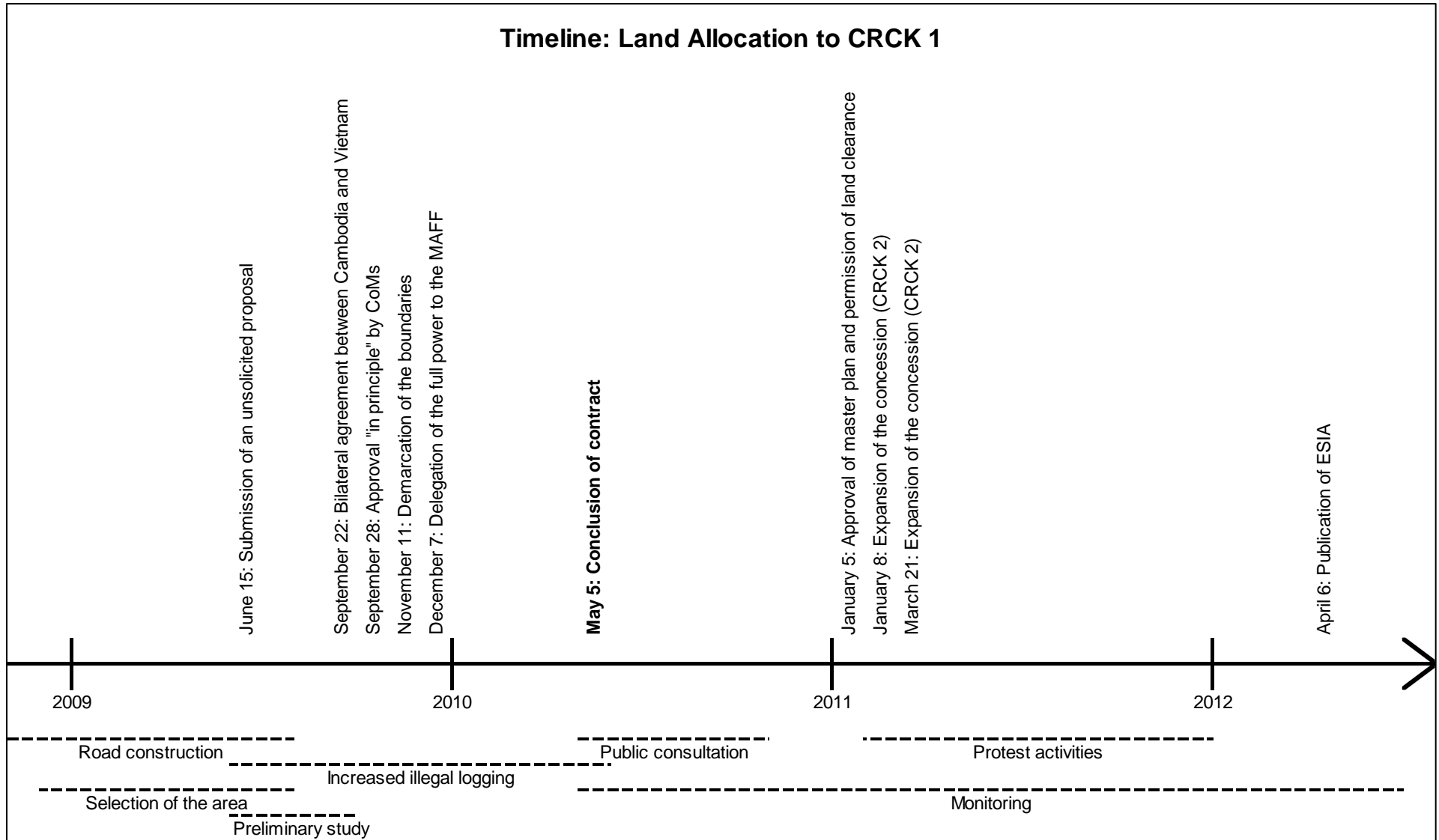
*“They just made up the ESIA report without holding a proper consultation with the villagers”.*

Furthermore, in releasing an ESIA the government wanted to emphasize the concessions legitimacy and “silence noisy voices”, as EX1 affirmed. The most likely self-protective rationale behind its conduction and the reviewing process seriously put the reliability of these data into question, as EX1 and EX9 agreed. A further question arose about the sense of doing an ESIA after the company had already started its implementation. EX5 harshly criticized MoE’s procedure and called it “ridiculous”:

*“[...] they [MoE] said that they are going to conduct an EIA soon, eight months after they started clearing the forest. They have no comprehension what they were meant to be doing, what an EIA was supposed to achieve.”*

Indeed, an IESIA is a prerequisite to grant a concession either through a solicited proposal (Sub-Decree on ELCs, article 7) or an unsolicited proposal (Ibid., article 20). In order to avoid and mitigate negative impacts on environment and affected population, it logically has to occur before the allocation of the concession. In a solicited proposal, the CA is supposed to “arrange for the conduct of an IESIA of the proposed ELC project”. If this IESIA foretells a medium or high degree of adverse impacts, the CA is tasked to initiate a full ESIA (article 7, Section 5). Among the application documents, the company then again has to present an indication of the environmental and social impacts of their project (Ibid., article 12). In an unsolicited proposal, it’s the company’s duty to submit a report on an IESIA, and in cases of severe impacts, it has to arrange a full report (Ibid., article 20). The quote above suggests that the concession was granted through a solicited proposal, since the MoE felt responsible to conduct an assessment. This is highly questionable due to the facts that no announcement was made.





**Figure 11:** Timeline CRCK 1. Sequence of Main Events. Source: Primary and Secondary Data

## **6.2.2 Timeline: Case Study Tan Bien**

### **End of 2006: Selection of the site**

The director of Tan Bien implicitly confirmed that the company didn't apply for an announced project, but in fact initiated the project on its own:

*“Tan Bien made a request to the government mentioning their ideas and desires. After the government had agreed to it, it chose an appropriate plot for us. After that, we had to build the infrastructure to access the granted area.”*

He did not mention whether this “appropriate plot” referred to a district, commune or more precisely to a certain area. When he was asked about their desires and ideas, the director hesitated and only reluctantly responded:

*“Sorry, I cannot answer the question. Before we decided to invest here, VRG had conducted a study about the soil quality. We are members of this federation.”*

This statement implies that the company is not an independent actor, with little voice in the selection process. It further indicates that soil quality is considered as an important criterion by the VRG, or at least that the director wanted the researcher to think so. The director may have wanted to distract from other possible reasons why the company invested in this specific location. Soil quality was mentioned by many interviewees as the main criterion, quasi as an exclusive, preselective condition. However, evidences refuting its importance in the decision-making process are abundant in this MSc thesis, as the cases of CRCK 1 and Gold Foison suggest. Trying to match both statements above, a logic conclusion would be that the government recommended a certain piece of land to the company, but could not provide them with satisfying information about its soil quality and hence VRG had to conduct a study on its own.

### **End of 2006: Submission of an unsolicited proposal**

There is no legal document referring to the submission of an application. Therefore, many questions remain unanswered: When did the company deposit the proposal and to whom? What documents did its proposal contain? Did they conduct an ESIA as stipulated by the law? The DD of VRG explained that its member companies were responsible to conduct an ESIA and that they worked together with local authorities, while VRG cooperated with the government on national level. The director of Tan Bien affirmed that the company had conducted an ESIA, although he could not present any.

### **January 11, 2007: Study and evaluation on 10,000 ha of land**

The minute dated back to January 11 in 2007 revealed that an evaluation of 10,000 ha land took place in the commune Kraya. Correspondent commune chief confirmed that he participated in conducting the study:

*“[...] the MAFF sent out a team along with the provincial, district, and commune authorities to examine whether there are any impacts within the requested site of the company. [...] I joined the national team in conducting a study about the requested site, because it is located in my territory and since I know my commune the best. However, this happened a long time ago and I cannot remember any details.”*

As in the case of CRCK 1, it is still unclear who precisely was involved and what the evaluation looked like. Since the requested site was forested, representatives from the FA most certainly were part of this team.

### **April 11, 2007: CoMs approves “in principle”**

On April 11 in 2007, a letter was issued saying that the CoMs “in principle” approves of the allocation of 8,100 ha. This letter is considered a “Sar Chor Nor”. As EX1 explicated, the contents varied from one Sar Chor Nor to another, but they usually laid down conditions for the companies to fulfil in order to get a final approval.

### **April 19, 2007: MAFF issued a letter**

Due to the closely sequenced issuance to the preceding Sar Chor Nor, the letter might be some kind of response to the Sar Chor Nor. At least, there seems to be a correlation with regards to contents.

### **April 25, 2007: Delegation of the full power to MAFF**

Identical to the cases of CRCK 1 and Gold Foison, the government delegated the full power to MAFF prior to signing the contract.

### **May 13, 2007: Study, identification of boundaries and concerned area**

A study with the goal to identify the boundaries of the concession passed off in May. Villagers from the former village Banteay Roveang<sup>70</sup>, which was split up into Sen Serey and Serey Mongkul, assumed that provincial authorities were demarcating the boundaries, but they were not able to give any details.

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<sup>70</sup> According to EX4, disabled soldier under the “Association of Handicapped Army for Development” founded the village Banteay Roveang in the middle of the forest in the commune Kraya in 2004. There was no official permission given by the government, only commune authorities tacitly agreed upon it. The settlement attracted other migrants and the population expanded to around 2,200 people.

**June 22, 2007: Ministry approved the clearance of 100 ha**

Even before the company signed the contract the “ministry” permitted to clear 100 ha. While the specific ministry is not explicitly stated, it must be assumed that the MAFF, being the CA, is the ministry concerned.

**July 18, 2007: Signing of the contract**

The company signed the contract on 18 July in 2007 with the MAFF.

**No time specification: Paid deposit for contract guarantee.**

According to the head of the Department of Planning and Statistics at the MAFF, every company has to pay a deposit of US\$10 per ha in order to guarantee the implementation. To sum up, the company Tan Bien had to pay US\$81,000 as a deposit.

**In 2007: Start of implementation**

According to the director of Tan Bien, his company along with subcontractors started clearing the forest in 2007:

*“[...] we cleared big parts of the forest on our own. However, since we lacked equipment, we also had to hire other companies to clear the forest.”*

Does the company, which gets the ELC granted, automatically receive the permission to log and sell the forest? Director of FA vehemently negates this conclusion:

*“The company is only authorized to plant rubber. A different company is responsible for logging the forest and it has to pay taxes to the government. So, the company itself does not have the right to log the forest. It is up to the government to invite other companies to bid for logging the forest. The company which bids the most will get the license.”*

The director of the D/KDoA in Santuk explicitly affirmed that the concessionaires commonly also received the license to log the forest, must however pay certain taxes to the government depending on the quality and quantity of the timber. It is hard to identify the loggers, since a complex conglomerate of local authorities, national authorities, concessionaires and domestic companies appear to have a finger in the pie. The case of Tan Bien is yet a further exemplar depicting the wide gap between the law and reality.

**November 4, 2007: Bilateral agreement between Cambodia and Vietnam**

The DD of VRG as well as the director of Tan Bien confirmed that the development project was initiated through a bilateral agreement between the governments of Vietnam and Cambodia in 2007. They referred to a different and precedent bilateral agreement than the memorandum of understanding in September 2009. This treaty is presumably a part of trade

and investment agreements signed on November 4 in 2007 (Runckel & Associates, 2008), and was therefore concluded after the company Tan Bien signed the contract.

### **January 2, 2008: Approval of the master plan**

A letter issued the beginning of 2008, made public that the ministry, presumably MAFF, had approved the master plan. EX11 located several difficulties related to the master plans:

*“This is a critical point, because sometimes it is prepared by a consultant and it needs to be checked by the government. I doubt the ability of the government to review it properly since it lacks technical knowledge of the concerned institution. I have no clue what is written inside the master plan, but a friend told me about the issue. I also doubt that the final decision by the government is based on the criteria determined by the Sub-Decree. I also doubt that the company really intends to follow the master plan.”*

The fact that these documents are kept hidden makes it hard to reckon its relevance in the Cambodian context. On the one hand, there might be some properly conducted master plans existing, but on the other hand, some companies may have not undertaken the master plans in a truthful manner or none whatsoever, as EX3 suspected. Assuming that a company applies for an ELC under the false pretence of investing in rubber, but actually is only interested in the timber, why should they conduct a proper master plan? Examples of companies who instantaneously after having cleared the area proclaimed bankruptcy nourish the assumptions about fraudulent intentions (Üllenberg, 2009). Another critique is that the master plan was approved more than five months after the contract had been signed. As the DD of the P/MDoA stated, the master plan must be accomplished before the concession is granted:

*“Well, the master plan must be conducted before the government decides to grant the concession to the company. It takes about a year to make the master plan. The master plan is made of the study conducted by P/MSLMC.”*

The statement above also broaches the temporal aspect of doing a proper master plan. EX1 argued that following the legal procedures would be a longsome and expensive process for the companies and that was why companies did not comply with the law. All the mentioned aspects above put the earnestness behind master plans into the question.

### **No time specification: Applying for land registration**

According to article 4 in the Sub-Decree on ELCs, only land registered as state private land can be granted as ELCs. The lack of a time specification fuels the suspicion that the

reclassification from state public to state private land did not take place at all. EX11 contradicted this idea:

*“I think in all of the cases, the reclassification took place before the concession was granted, because it's not a big deal for the government to reclassify it. The reclassification doesn't take place all at once, but step by step and must be financed through the company. For the first two years, they may issue only 4,000 ha, and if the company fulfil the requirements they get another 4,000 ha. The government wants to see the capacity of how they do it. They receive a map and a number as a whole, but they get a clearly made schedule to implement.”*

In addition to reclassification process, the company is required to enter the name into the commercial register at the Ministry of Commerce (Ibid., article 23).

### **January 10, 2008: Blockade of road to Banteay Roveang**

On 10 January 2008, armed forces, among them the military, civilian police, military police, and forestry officers, were positioned along the connecting road to the community to barricade the only available access. The intention was to force people to leave their homes and lands by cutting off the food supply and by intimidating them. Still, 180 out of 357 households persisted and protested against their eviction (Asian Human Rights Commission, 2008).

### **In 2008/2009: Negotiation and public consultation**

Before villagers from Banteay Roveang were forced to leave their village, public information took place:

*“The provincial governor and district governor made promises but have never kept them. They informed us about the company when they came to provide some donations to the community about two years ago.”*

Other villagers from Sen Serey and Serey Mongkul confirmed that meetings were held by the provincial governor and district governor, and that they promised to provide farming land in the new founded villages:

*“The company promised to relocate us close-by and to provide 20m x 40m housing land and 1 ha of farming land per household. Later, they started to bulldoze our lands and used armed forces to evict us from the village.”*

The intention behind the gift-giving approach with false promises was obviously to make people more acquiescent in accepting the relocation. When local people did not agree to the relocation, local authorities felt impelled to use to military and police to evict people.

**December 6, 2009: Villagers forced to thumb print documents**

In December 2009, military and local police occupied Banteay Roveang and forced villagers to thumb print documents and to agree to the relocation. Furthermore the military and police blocked the ways to the village, preventing people to enter their village, only allowing them to leave their village. (LICADHO, 2010)

**January 29, 2010 and March 21, 2011: Expansion of the concession**

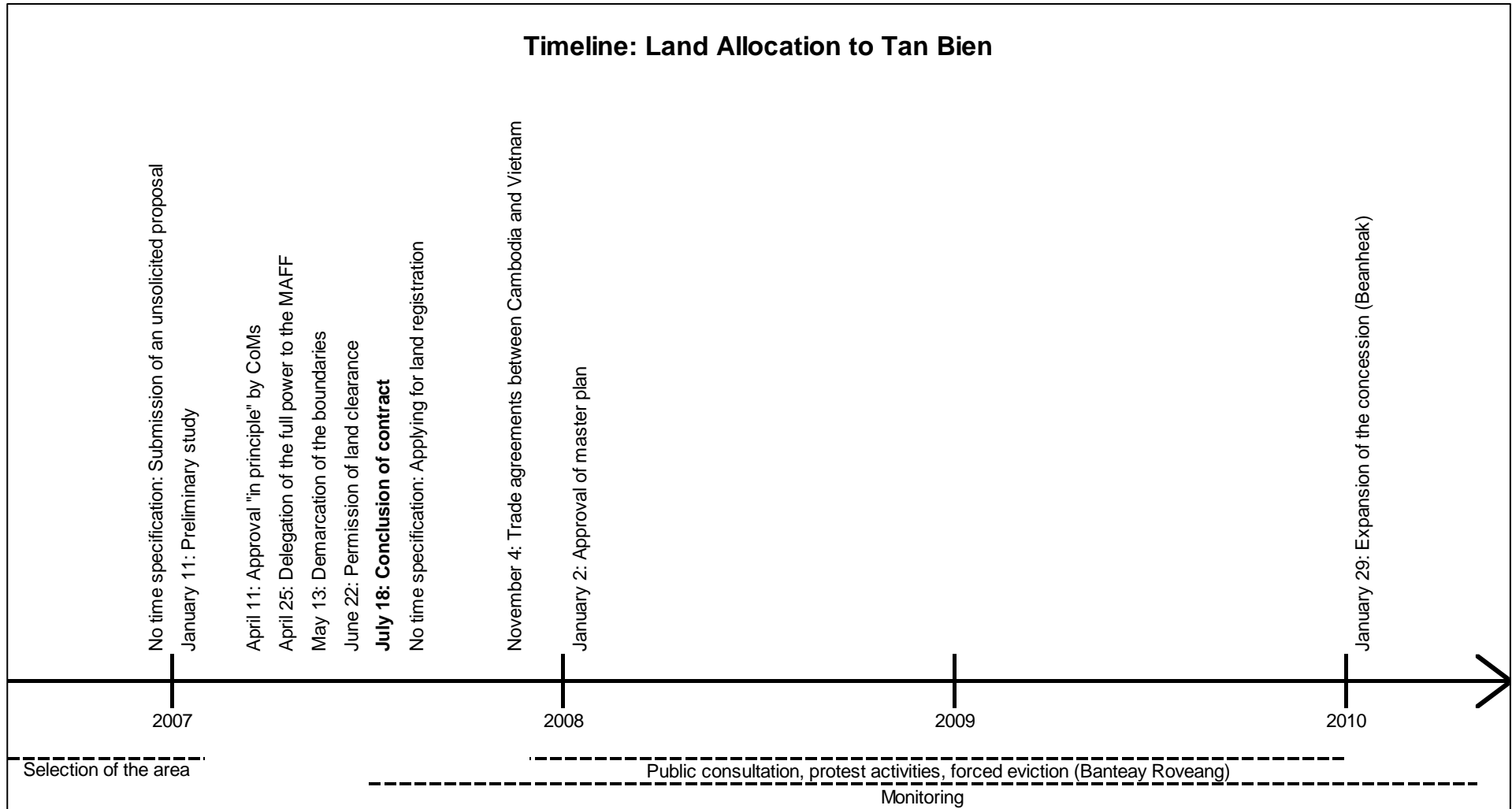
The list handed over by the DD of VRG in Cambodia referred to Bean Heak as Tan Bien II. No further evidence was given to confirm this affiliation.

**March 6, 2010: Open fire on returning villagers**

In order to file a complaint at the office of the land distribution committee, which was set up by the company, over 50 families left their homes. When they arrived at the office, they were rejected and told that the committee had been cancelled. On their return journey, policemen blocked their way and precluded them from returning to their houses. The situation escalated and a policeman shot at villagers injuring three people severely. (Ibid.)

**In January 2013: Around 7,000 ha were planted by rubber**

According to the company's director, rubber trees were covering around 7,000 ha. The first seedlings were set in 2007 and the first yield of latex is expected to happen in 2013.



**Figure 12:** Timeline Tan Bien. Sequence of Main Events. Source: Primary and Secondary Data



### **6.2.3 Timeline: Case Study Gold Foison**

#### **In 2006: Selection of the site**

Before the company submitted an application, it had to look for suitable land to invest in first, as commune chief of Sraeung confirmed. District governor of Prasat Sambour specified:

*“The company was looking for land to plant rubber. Its strategy was to plant rubber on sandy land. After they received recommendations from the MAFF to invest in Sambour district, the company decided to go there.”*

The DD of the Provincial/Municipal Department of Environment (P/MDoE) generalized:

*“The province authorities make a presentation about available land for development when asked by investors.”*

Seemingly, MAFF guided the company to invest in Sambour district, but on what kind of evidence their recommendation was based, could not be found out. EX11 exposed that every district had its own land use maps since 2006. The creation of those maps was mandated to the D/KSLWG under the leadership of the P/MSLMC and the supervision of the MLMUPC (Sub-Decree on State Land Management, article 6). They should contain information related to the location and approximate boundaries of state land, the reason why the land was classified as state land, and information about the type of land as well as current land use. Therefore it seems plausible that provincial authorities used these maps to give proposals. But neither the provincial P/MDoA nor the P/MDLMUPCC attested it or provided an insight into these maps.

#### **September 18, 2006: Application for investment**

An application was submitted in September 2006. Particulars of the request are unknown, but the DD of the P/MDoA and the head of the P/MFA revealed that no public announcement took place, thus it was an unsolicited proposal. According to an issued letter on February 9 in 2007, the MAFF released a response on the request of 10,941 ha, what suggests that the demanded area had the same size.

#### **December 30, 2006: Study and evaluation of the proposed area**

An evaluation of the requested area ought to have occurred at the end of 2006. According to article 21 in the Sub-Decree on ELC, either the TS or the P/MSLMC is authorized to make a review and recommendation. Pursuant to the village chief of Sraeung, “strangers” were repeatedly exercising measurements and taking soil samples from 2007 to 2009. He didn’t know the people who conducted these studies and could not remember what exact date it took place. Villagers from Tumnob and Thmei did not notice any unusual activities around the turn of the year, which does not mean that it didn’t take place, since the concerned area

was over 10,000 ha. District governor of Prasat Sambour distinguished between a preliminary study and a more extensive study:

*“After the requested land has been examined by the commune chief, the district governor and the provincial governor [and the government decides to grant the land based on the received feedback], the government will create a work team, consisting of land-related authorities, such as forestry administration, environmental experts, land experts, etc. The team is led by a national level or inter-ministry officials, such as environmental officials, land management officials, but the team also includes relevant commune chiefs, district and provincial governors. The team is chaired by officials of the MAFF. The team’s task is to review the site requested by the company. This means that the team has to conduct a detailed study on site, since the company only indicates the site on the map but does not conduct studies. [...] I am a member of this team. I have to study whether the requested land accommodates waterways, lakes and farming land of the villagers. Then, I will send this report to the national level.”*

It is not sure whether the published minute on December 30 is about a preliminary study, a detailed study or about both. The conducted study probably resulted in the final granted size of 7,000 ha (cf. CoMs’ principal approval on February 14), and therefore it implies that it was beyond a preliminary survey. 3,941 ha were excluded, but there is no information available as to why this area was cut off. However, the minute dated back on September 17 in 2007 indicates that the identification of boundaries took place later. Consequently the final granted size was set on December 30, apparently without taking villagers’ land into account, and the subsequent identification of boundaries occurring in September 2007 was not supposed to reduce the granted size any further.

The preliminary study appears to be an informal enquiry about the land availability in Kampong Thom, which was then scaled down to the district and commune level. The detailed study was supposed to be conducted by a work team composed of authorities from different levels and departments. This description may refer to the TS, but may also correspond to the D/KSLWG and the P/MSLMC. Therefore, the question remains what the composition of the team looked like and on what kind of criterion their selection was based.

### **Beginning of 2007 and in 2009: Public information**

The villagers from Sraeung and Thmei first heard about the land concession by the commune chief at the beginning of 2007, whereas the village chief from Tumnob stated that they were informed by the district governor in 2009. This raises the question whether the Tumnob’s village chief may have forgotten about an encounter with the commune chief, or if

he didn't forget, whether there were reasons behind the exclusion. A villager from Sraeung described the consultation in the following way:

*“Before the company cleared the land [in 2012], the company had informed us. However, we didn't dare to defend ourselves against the company. We just kept silent, although our land plots were cleared. The company informed us that parts of our land have been granted to the company. They told us that they only recognized the farming land which was under cultivation before 2007. They stole the land, which we cleared after 2007. The company has kept a distance from the village of about 1.5 kilometres.”*

Villagers were only accredited the farming land which was under cultivation before 2007. This means that farming land cultivated in 2007 and later, grazing land for cattle, idle land kept for shifting cultivation, spiritual and community forest, as well as land reserved for future generations were excluded from village land and allocated to the company.

#### **February 9, 2007: Response of the MAFF on Gold Foison's request**

As already mentioned above, the MAFF composed a report on the request of 10,941 ha land. It appears that the review done by the TS and/or the P/MSLMC was handed over to the MAFF, which in turn may have modified some conditions again.

#### **February 14, 2007: CoMs' principal approval for 7,000 ha of land concession**

Concurrent with the granting procedures in the cases of CRCK 1 and Tan Bien, the MAFF forwarded the application documents to CoMs in order to get their consent. Even though the Sub-Decree does not stipulate the involvement of the CoMs which is headed by the PM, EX1 knew that it was a common procedure to ask for their permission and that one man stood above the rest:

*“Cambodia has the structure of a one-party-government and one-man-party. There are no concessions granted unless they are in favour of PM Hun Sen.”*

After having discussed the matter within the executive organ, CoMs approved to grant 7,000 ha to Gold Foison. It is not sure who exactly initiated the reduction from 10,941 ha to 7,000 ha and on what criteria it was based. In all likelihood, it is connected to the study, which was conducted by the TS or the P/MSLMC.

#### **No time specification: Change of the investment crop**

The company changed the purpose of its investment from acacia to rubber plantation. This shift was detected during the field research in January 2013 and was confirmed by the DD of Gold Foison. The specific reasons for the change are unknown.

**March 27, 2007: Delegation of the full power to MAFF**

EX1 explained that before the MAFF or MoE concluded a contract, a letter of procuration was sent by the PM so that these ministries could sign it on behalf of the PM.

**September 17, 2007: Study and identification of boundaries of the concerned area**

District governor of Prasat Sambour admitted problems related to the demarcation process:

*“Since the company was not able to mark the entire border of the granted area, households could not distinguish between land belonging to the company and empty land [which finally resulted in illegal encroachment upon land].”*

The obvious question is: Why couldn't the company demarcate their whole concession? And further questions were raised: Did they lack the technical and/or financial means? Or was it because they did not know where the leased land was located? Shouldn't local authorities be in charge of marking boundaries? Village chiefs from Tumnob, Sraeung and Thmei stated that they were only invited to measure their land with the commune chief and company representatives in 2009 and that they didn't get any compensation for the loss of land. These are all indices that no proper demarcation took place in that particular area, that the company was allocated a more or less arbitrary amount of 7,000 ha land, and that the company together with local authorities had to negotiate the boundaries of the concession step by step with the villagers, nota bene after the granted size was determined. To complicate matters further there is confusion about the size of the granted area. The district governor named 4,700 ha, after the team supposed to have excluded waterways and farming land, the commune chief of Sraeung numbered it “over 1,000” ha, whereas the DD of Gold Foison repeated the official version of 7,000 ha as published on the MAFF's website. A logic explanation regarding the differences in numbers has yet to be found.

**October 8, 2007: Report on study, identification of boundaries of concerned area**

Three weeks after a minute was released, a correspondent report was supposed to be issued. Does this sequence mean that a study has been conducted within three weeks after its initiation through the minute? That would imply that the company and local authorities only had three weeks to sort out boundary-conflicts. According to the district governor of Prasat Sambour, a study about the impacts was conducted in 2007. Considering the temporal aspect, the statement matches the legal document. This “report on study, identification of boundaries of concerned area” may refer to an ESIA, or at least it might be considered as such by local authorities. Commune chief of Sraeung assured that an impact assessment took place:

*“Yes, they did [conduct an ESIA]. They conducted a study about the overlapping area with villagers. The company found out that the forest land, which villagers*

*used to access, was degradable. The study concluded that there was just a small impact on people's livelihood."*

When he was asked whether he could provide an insight into the report, he rejected and said that he was not in possession of a copy. Even if an ESIA was accomplished, the question remains whether this was done in a thorough manner, as EX6 pointed out:

*"We have never seen evidence of these IESIAs and in general we're not hearing of companies undertaking proper social assessments. What seems to be happening is that somebody may be writing something off at a certain level without engagement of either technical experts or communities. And there are rumours that it has been by with simply asking a commune chief on his opinion on something."*

These accusations were repeated by numerous NGO employees. They all emphasized the ESIA's meaningfulness and demanded more transparency in dealing with ESIA's.

#### **After the conduction of the study: Encroachment of the land**

The district governor of Prasat Sambour noticed an encroachment of land within the concession before and after the signing of the contract:

*"By doing this study [ESIA], villagers were alarmed that a company would arrive soon. Before the concession was granted, villagers encroached on the forest land and pretended to be farming the land. Originally, their farming land had the size of 0.5 ha. After the encroachment, the size of their farming land increased to three or four ha for the period of two years. After that time, they had to give it back to the company. [...] Since the company was not able to mark all boundaries of the granted area, households could not distinguish between land belonging to the company and empty land. Moreover, because of their lack of knowledge in terms of the statutory framework – they thought they could still use the idle land within the granted land – they again encroached on the land."*

But the DD also noted the encroachment of the company's land with indignation and denominated it as the biggest challenge they face in Cambodia:

*"We have problems with people encroaching our land in order to grow cassava and other crops. They claim that the land belonged to them. How dare they? That is why our government intervened and talked about the issue with Cambodia. However, these are problems caused by villagers and have no effect to the good cooperation between the two countries."*

On the other hand, there's the perception of villagers claiming that their land had been given away to the company. What does the statutory framework postulates? Article 30 in the Land Law 2001 says that "any person who, for no less than five years prior to the promulgation of this law [in 2001], enjoyed peaceful, uncontested possession of immovable property that can lawfully be privately possessed, has the right to request a definitive title of ownership. In case the granting of a definitive title to ownership is subject to an opposition, the claimant has to prove that he himself fulfils the conditions of peaceful, uncontested possession for no less than five years over the contested immovable property or to prove that he purchased the immovable property from the original possessor or his legal beneficiary or from the person to whom the ownership was transferred, or from their successors." EX3 acknowledged that villagers faced big challenges by applying for titles of ownership. He mentioned corrupt and incapable political institutions, which were not willing to initiate any actions unless applicants pay a satisfying amount of bribe money, but also different interests in the land making it impossible to find consents.

#### **November 13, 2007: Signing the contract with MAFF**

The contract was signed by the company and the MAFF. Further details about terms and condition were not available.

#### **No time specification: Apply for registration on state private land**

Identical to the cases of CRCK 1 and Tan Bien, there is no time reference as to when the company or the local authorities applied for a reclassification of state public to state private land and thus it's questionable if it really took place.

#### **In 2007 or 2008: Start of implementation**

It is unclear when the company started clearing the land. The DD of Gold Foison confirmed that the company was entitled to cut and sell the timber, but immediately added, as if she wanted to explain herself, that the forest was in a bad condition. Village chiefs witnessed logging activities "around" their villages for the first time in 2009, but their lands were left untouched until 2012. The DD only revealed that the company began to grow rubber in 2009, but did not make any hint as to when they actually started clearing the land. Before the company was able to plant their first seedlings of rubber, it must have cleared the forest and prepared the field. The district governor of Prasat Sambour knew more about the implementation process:

*"The company [Gold Foison] has their own master plan. According to the master plan, the company divides the whole granted area into 8 sub regions. 5 sub regions were located in Prasat Sambour [sub region 4, 5, 6, 7 and 8], and the other three in Santuk. They started to clear land from sub region 1 and continued*

*clearing until they reached sub region 8. After the clearance, they started to plant rubber.”*

The examined villages must be located in one of the sub regions four to eight, and were therefore only at a later date impacted by the company’s activities. Out of the statement above, it is not clear whether the company immediately planted rubber after they cleared a sub region or whether they started putting seedlings after the whole concession area had been cleared. However, evidence from the field research suggests that it took place simultaneously. There were still untouched patches of land, whereas big parts of the concession were already cultivated with rubber.

#### **In 2009: Demarcation of village land**

In 2009, the village chiefs of Thmei, Sraeung and Tumnob were summoned individually to demarcate their land together with the commune chief and a company representative. This fact indicates some sort of participation of the village chiefs. Still, it must be noted that the outcome was not satisfying, since claims made by the village chiefs were undermined.

#### **Between 2010 and 2012: “Transfer” of CCV’s concession to Gold Foison**

CCV got its concession granted on 5th May 2010, more than three years after the company submitted an application. The DD of Gold Foison confessed that her company expanded its concession by 5,000 ha, roughly the area which was initially granted to CCV. The expansion was confirmed by the commune chief of Kraya, who mentioned that Gold Foison had two sites: one over 5,000 ha and one around 2,000 ha. During the field research, the author passed the streets, which separated one site from the other. Along the street a huge building lot dominated the landscape. Within the fenced off property, a main building was visible surrounded by what appeared to be modern dwelling houses. On both sides of the road, rubber plantations were pullulating. An estimation of the size could not be done due to the lack of time and security concerns, but its expansiveness was vast. Confiding the DD’s statement, the company now leases 12,000 ha land and therefore exceeding the legal limit by 2,000 ha. Interesting also, the fact that the company finally got what they asked for. The requested 10,941 ha were even outreached by this enlargement, and that raises the question whether there might be a connection between CCV and Gold Foison. Information received from NGO staff members related to these two companies was sparse. The companies appear not to have drawn much interest in the media, though not a single report about them has been found. This does not mean that the concession has been implemented peacefully without occurring conflicts, as examples of examined villages demonstrate. EX8 supposed that the acronym CCV stood for Cambodian Cooperation with Vietnam, a joint-venture company, and did not exclude a bond between these two companies from the very beginning. He emphasized that the assumption was not based on any evidences, yet that it

occurred frequently in Cambodia that the very same company acquires adjacent plots under different company names.

How is it possible that a concession switched its leaser? According to the law (Land Law 2001, article 57), the handover of a concession from one company to another stipulates the involvement of competent authorities: “Conceded land cannot be transferred through alienation. A transfer of conceded land can only result from the creation by the competent authorities of a new concession contract for the benefit of the new concession titleholder.” The company CCV did either voluntarily agree upon the withdrawal of its concession or the concession was cancelled due to noncompliance with terms and conditions set in the contract. Article 62 (Land Law 2001) determines that “any failure to exploit [lasting] longer than 12 months, without proper justification, shall be grounds for cancellation of the concession”. This might be an official explanation of the concession’s revocation. Since no new demarcation process took place and the concession apparently switched its owner, it appears to be appropriate to speak of a transfer of land. In the three examined villages affected by the formerly called company CCV, the village chiefs from Trapeang Pring and Ta Menh were not informed about the alteration of the proprietors and still thought that their villages were impacted by CVV. Only the female village chief from Sopheak Mongkol was aware of it, but she didn’t know what date it had happened, since she only just became the head of the village “last year” in 2012. According to the village chiefs from Trapeang Pring and Ta Menh, the company started clearing the land in 2009, after they had been apprised of the company’s operation by the commune chief, and before the contract was officially signed on May 5th 2010. The DD of VRG in Cambodia declined CCV’s membership in the VRG and handed over a list containing all members operating in Cambodia. The change of concessionaire must therefore have occurred between the conclusion of the contract on May 5, 2010 and the assignment of the new village chief in Sopheak Mongkol in 2012. The reasons behind this handover are unknown. EX10 assumed that the concerned company was not willed to pay enough bribe money:

*“We have noticed during the last few months that some ELCs have been cancelled and granted to new companies. Officially, they don't use the land consistently with the Sub-Decree and the contract, but unofficially we assume it's because they didn't give enough [bribe] money to the government.”*

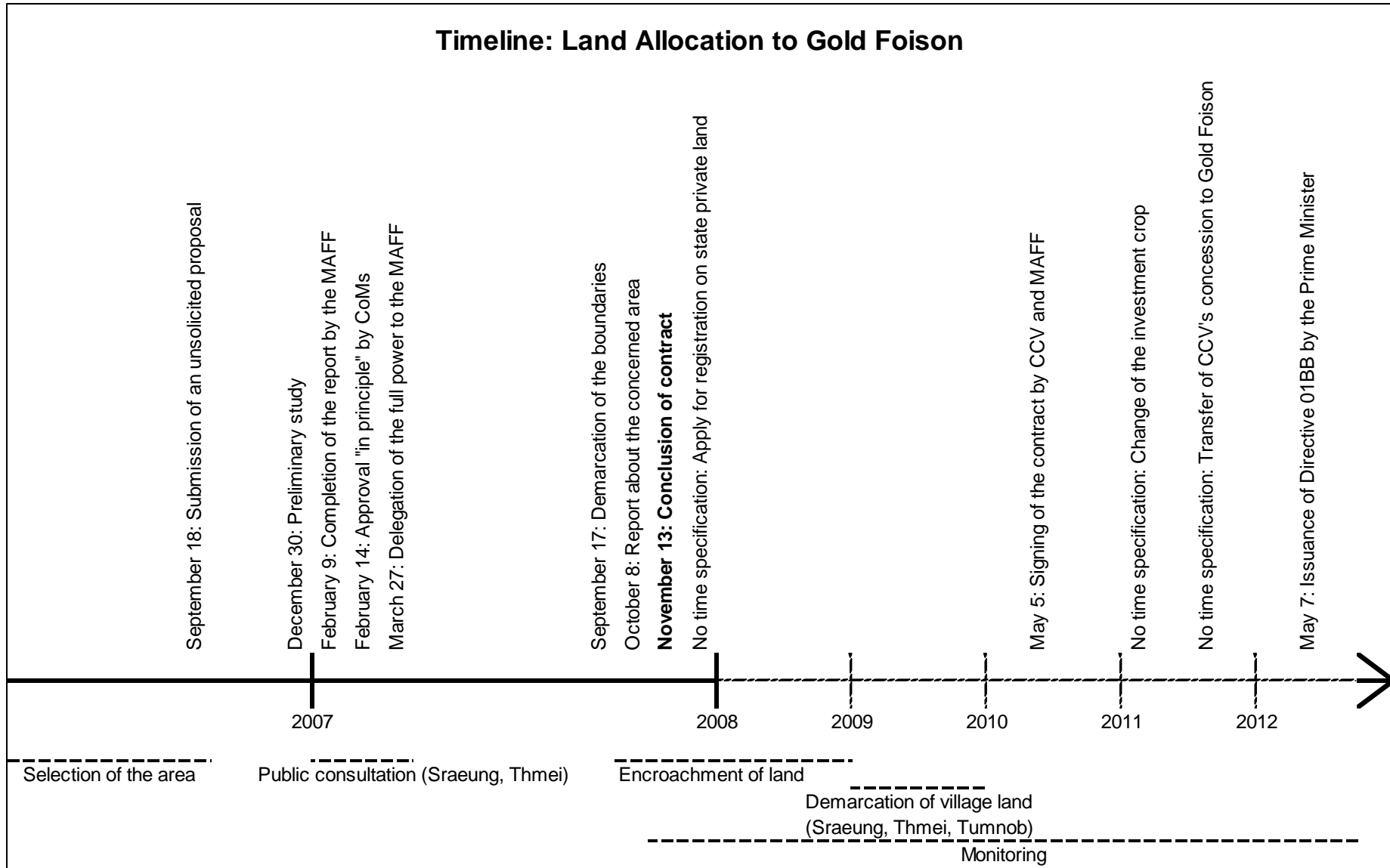
Even though it cannot be excluded, it seems questionable that CCV and Gold Foison were actually the same company. Why should the government and/or the companies make such an effort to veil the companies’ same identity only to fuse both concessions at a later date? Why should the government cancel one concession and expand the other unless these were actually two different companies? Or was the information given by the company’s DD and the



commune chief not meant for the public? Are there still officially supposed to be two companies, whereas in reality there is only one? In that case, their obvious reason would be to hide the infringement of the law, which prohibits the granting of more than 10,000 ha to one entity. But as the case of CRCK demonstrates, the government does not really bother to hide breaches of the law.

**May 7, 2012: Issuance of Directive 01BB**

In 2012, the villages Tumnob, Sraeung, and Thmei were confronted with serious problems when the company began clearing parts of their communal land. At that time, volunteer students sent out by the PM were on site registering land of villagers. This directive includes a moratorium on the granting of ELCs combined with a review of existing ELCs and a new titling scheme (Global Witness, 2013). Since this assignment was issued from the very top, the company was forced to stop its operations and had to renegotiate the borderline of the concession with villagers and students. In retrospect, villagers from Tumnob, Sraeung and Thmei were lucky that the company's implementation went forward tardily and their community forest was scheduled to be cleared as one of the last patches from the concession. Due to these two facts their land was only "under attack" lately and volunteer students were able to come to their help, registering the land and, in doing so, hindering a bigger loss.



**Figure 13:** Timeline Gold Foison. Sequence of Main Events. Source: Primary and Secondary Data

## 6.3 Research Question 2: Involved Actors

### 6.3.1 Involved Actors

#### Prime Minister Hun Sen

PM Hun Sen is the head of the government and chairs the CoMs and the CDC. Before a concession can be granted, the CoMs asks for the PM's procuracy. The way he exercises his power is described by EX2:

*“This guy has the weapons, he threatens everybody, he kills people who oppose him. There is no dissent.”*

Most interviewees shared this opinion. EX3 revealed that spoken words by the PM were over the law, no matter whether they comply with the constitution or not. Directive 01BB, announced in May 2012, is an impressive proof of his overwhelming power. It determines a moratorium on the granting of ELCs, combined with a review of existing ELCs and a new titling scheme. Within the shortest time, he initiated a land titling campaign with the aim to issue over 700,000 titles concerning more than 1.8 million ha of land before the general election in July 2013 (Global Witness, 2013). While other donor-supported, long-established land registration programmes, such as the Systematic Land Registration, failed to achieve cadastral sustainability (So, 2009), the success of Directive 01BB still requires a thorough assessment. EX7 expressed himself cautiously optimistic about the (future) achievements, but at the same time alluded to the issue of non-participation from the civil society side:

*“Yes, there is some improvement if we compare the current situation with the past, because they provided some lands to the people. However, we are not sure whether people are satisfied with the demarcation process. Only after they received the official land titles we'll know more about it. The land titling process through volunteer students took place without any involvement of NGOs. PM Hun Sen threatened the NGO with the abandonment of the process in places where they intervened.”*

Hun Sen's campaign has not only been widely criticized by civil society, also the corporate sector expressed concerns about its implications:

*“[...] the economic climate changed. The PM Hun Sen recently issues a new regulation [Directive 01BB], which allows illegal settlers to get land in our concession. We then have to cut it out for them. What the volunteer students are doing is very hard for us.”*

EX12 and EX5 suspected political motivation behind the land titling campaign:

*“In areas, where land disputes occur, the opposition party gets more votes than in other areas with no land disputes. So the land titling program exercised by the volunteer students is purely politically motivated. PM Hun Sen and the party CPP want to ensure that they win the upcoming election [national election in July 2013].”*

*“PM Hun Sen is probably running the whole thing [granting of ELCs] or he's just taken his job. Whether he is just there as a face for the international community to say what they want to hear. What you've seen since he banned the granting of concessions, but 100,000<sup>71</sup> of hectares has been signed off since. Is he signing those, as a way of saying "thank you" to certain people? Is the patronage system not working? It is interesting when you look at what happened a couple of months up to the election.”*

His statement reveals doubts about Hun Sen's absolute power by indicating dependency towards the international community and other unnamed actors. Cock's article (2010) provides a historical analysis of the dynamic interplay of external and internal factors and its contribution to the perpetuation of the CPP's rule. He concluded that foreign aid depended on external recognition and observed a shift from military and economic Vietnamese and Soviet aid to a sponsorship consisting of international organisations, Western states and increasingly China (Ibid.). He (Ibid., 262) further attested Hun Sen a skilfull handling with international aid donors: “The ruling elite have blocked all efforts by international lenders to control their financial practices. The manoeuvres to do this have been creative, and they have persistently waited out the patience of external actors ever eager for loan dispersal and the completion of the project cycle.”

The shared historical past with Vietnam has been subject to many conspiracy theories, as EX2 noted:

*“There is the xenophobic view that Hun Sen is a puppet of the Vietnamese and that Vietnam controls everything. [...] It's a xenophobia of Cambodians who cannot admit that the worst enemy of Cambodia is Cambodia itself. Does Vietnam have a political leverage over Hun Sen's regime? Absolutely! Is Vietnam favoured by the ruling party because of its political history? Absolutely! Hun Sen,*

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<sup>71</sup> Global Witness (2013, 8) refers to 208,805 ha land, which was granted after the ban. The government justified its action by declaring that those ELCs had already been “in pipeline” before the ban's promulgation.

*Heng Samrin and Chea Sim were all in jails in Vietnam, and when Vietnam wanted to get rid of the Khmer Rouge they used them as the front. [...] the ruling party was very much put in place by the Vietnamese in 1979. [...] But this was a long time ago. History gives Vietnam leverage here, but still Hun Sen is very much responsible for his own acts. He's the master of the machine he crafted."*

An extensive historical analysis of the political relationship between Cambodia and Vietnam and the political career of Hun Sen are outside the scope of the present study. Hence a short summary must suffice. As EX2 stated correctly, Vietnam installed a new regime after the removal of the Khmer Rouge from power in 1979. The new government was composed to an extent on mid-level Khmer Rouge officials such as Hun Sen, Chea Sim, Sar Kheng and Heng Samrin, who had fled to Vietnam earlier to avoid being purged. Together with other Cambodian communists, a new administration called People's Republic of Kampuchea was founded. Hun Sen was made deputy PM and Minister of Foreign Affairs in 1979, and finally became PM in 1985. In 1993, Prince Norodom Ranariddh won the UN-sponsored election, but Hun Sen refused to cede power. In order to avoid an escalation, an agreement stipulating the formation of a coalition government and the degradation of Hun Sen as second PM was imposed by international powers. In a violent coup in 1997, Prince Ranariddh was deposed by Hun Sen and was later found guilty of attempting to overthrow the government. Pardoned by his father King Norodom Sihanouk, the Prince again candidate for election and became president of the National Assembly from 1998 to 2003. (Cock, 2010)

Still, Hun Sen's party CPP won the national election in 2003 and the following in 2008 and 2013. He has been holding on to power since 1985. (Britannica, 2013a)

Cock (2010) has done intensive research on the state-building process in the post-UNTAC context and has identified a complex strategy of action followed by Hun Sen:

- The power was consolidated by the control over the security apparatus.
- The private funding of development projects lead to a "personalisation of power".
- The power was centralised by bringing state agencies, which control key resources, under PM's personal control.
- Foreign aid donations were invested in infrastructure projects such as road construction and plantation developments in order to get in control over the population in peripheral areas.
- Alternative sources of autonomous authority such as the monarchy or the Buddhist clergy were disempowered.
- The political participation was limited to depoliticised civil society organisations.
- Policies were designed to strengthen the economic and political leverage of the leadership and broader ruling class.

The centralisation of power has also been noticed by numerous interviewees. The relationships between the political levels seem to be strictly hierarchized, as EX2 pointed out:

*“[...] there has been a decade of decentralisation fundings to a government who doesn't want to decentralize. Within this decade of decentralisation investment, the power has centralized even more. [...] The political relationship in Cambodia is very easy: The power is centralized on the highest level, and the people below must enforce. Cambodia is a prime example of centralized power into the hands of one man and his followers. If you're not satisfying you get kicked out of the system.”*

This constellation of power can also be observed in the granting process of ELCs. Only governmental agencies on national level are entitled to grant concessions, whereas the lower political levels have to ensure the implementation.

The RGC has been criticized in numerous reports (cf. Subedi 2012) for its national policy on land allocation. EX11, however, pointed out that the government pursues a challenging task:

*“The government has to meet conflicting demands. When the government allows villagers to access the state public land they cannot control it. On one side, they need to demarcate the forest to protect it as is defined in the Millennium Development Goals. At least 58% need to be protected. On the other side you have to allocate ELCs for economic development. It is a very challenging task for the government to find a balance between economic growth and ecological sustainability.”*

According to EX5, the government strongly prioritizes economic goals over ecological ones. As another challenge, he added that the PM was constantly required to keep influential people within the patron-client network happy in order to maintain his grip on power. He considered the formula for his success in Hun Sen's political skills to manipulate the public opinion:

*“Politically, he's a very clever guy. He says all the right things from time to time. It's all about family and friends. I like to believe what he's saying, and that he's genuine and that he's fighting against these things [e.g. corruption]. But it's not what I see.”*

He did not only express doubts about the sincerity of his actions, but also reproached the political elite a greedy and imprudent behaviour:

*Some experts mentioned two or three years ago on TV that the deforestation can cause and increase the problem with flooding and droughts. Hun Sen went on TV*

*the next day and was just laughing and ridiculed them on the national television: «How can it cause both flooding and droughts?» [...] The people on the top have zero education. Everybody is just taking the money fuck the consequences. There is absolutely no understanding of the [environmental and social] consequences.»*

The above mentioned environmental impacts are not recognised as a problem by the PM and have therefore little influence on the components meanings of action and activities.

Hun Sen is reported to maintain close relationships to Cambodia's most influential tycoons. These businessmen financially support the CPP, contribute to economic growth, and invest large sums in charitable infrastructure projects. The tied connections to these tycoons are both symbiotic and self-limiting. On the one hand, their financial support helps to maintain his grip on power. On the other hand, they limit his scope of action, since it brings along obligations towards them (Wikileaks Cable Viewer, 2011). Hun Sen's social capitals and his embeddedness in patron-client networks appear to have a stronger affect on the component meanings of action than the "institution" law does.

### **National Institutions**

On the national level, main actors identified in the granting process were the MAFF, MoE, MEF, MLMUPC, CoMs, and CDC. The director of the Department Planning and Statistics at the MAFF claimed that the ELCs were only granted by the MAFF and MoE, and that his ministry has granted ELCs in the total size of 1.2 million ha to 119 companies and the MoE was responsible for the granting of 800,000 ha land.

The MoE is supposed to play a key role in the approval of development projects. According to the Law on Environmental Protection and Natural Resources Management (article 6), every project requires an ESIA to be conducted. The ministry's task is to review them and to ensure their implementation (Sub-Decree on Environmental Impact Assessment Process, article 1). As EX2 pointed out, it was no secret that ESIA's were not being conducted. He referred to a statement made from a representative of the MoE, saying that two thirds of the investments don't have an ESIA. The three case studies reflect this proportion. There is only an ESIA available from the CRCK 1 concession. It was published about two year after the concession was granted (cf. chapter 6.2.1). Even though local authorities and company representatives from Tan Bien and Gold Foison asserted that ESIA's were conducted, none of them provided an insight.

Besides reviewing ESIA's, the MoE is responsible for the managing of protected areas (Protected Area Law, article 4). EX10 studied this subject and concluded:

*“There is no official list of protected areas. There was a royal decree in 1993 that provided a list of protected areas, but since then it has been revised several times and basically some land has been cut off from protected areas. There is a Law on Protected Areas of 2008, in which several categories are defined and four categories of internal zones within protected areas. In theory, you have core zones, conservation zones, sustainable use zones and community zones. In the first two zones, there should be no commercial activities at all. In sustainable use zones, it's possible to have buildings, infrastructure and business operations. In practice, there is no demarcation between these four zones. What's going on now is that the government grants concession inside protected areas and at the same time demarcates or reclassifies from core and conservation zone to sustainable use zone, or it has not been classified at all and areas which should have been classified as core or conservation zones are in practice sustainable use zones and can be granted to companies.”*

By taking the above mentioned issues into account, there is a strong suspicion that there was no participation of the MoE in the decision-making process prior to the conclusion of contract in the case studies CRCK 1, Tan Bien and Gold Foison.

In all three case studies, the land was allocated by the MAFF, since the concerned land was under its jurisdiction. Is this (official) dominance in the granting process to be equated with power or does the MAFF only act as a puppet exercising commands from a higher level? EX12 didn't have a definite answer, but he had evidence suggesting that the MAFF was not the main player:

*“In many cases they only were required to sign the contract, and the decision had already been made. Sometimes, companies address the PM directly and then start the activities and only later the MAFF gets involved.”*

Many interviewees shared this point of view. EX10 alluded to the non-compliance with the legal requirements and was convinced to know the main actor:

*“There are regulations on ELCs concerning consultations, resettlement issues, ESIA, and so forth which are not respected. Regulations on land demarcation are not respected. The rights of indigenous communities are not respected, because they have a right to collective ownership of land after they are registered as legal entities. But in practice many ELCs encroach on their land. The official process involving the MAFF, MoE, CoMs, and so forth are not respected. We know in practice that it's the CoMs that approves ELCs.”*



The strong involvement of the CoMs has been confirmed by all three case studies. Legal documents suggest that before a contract is concluded, the CoMs is required to approve and issue a Sar Chor Nor. EX1 knew more about this cabinet:

*“It’s an assembly of different ministers. They work collectively, that’s why they have meetings. They rule like a board of directors and the PM is the head of it. If some subject concerns for example the MEF, MAFF, and MLMUPC, they first have an inter-ministerial meeting on their own. Then they pass it to the meeting of the CoMs.”*

The CoMs, chaired by Hun Sen, appears to be the main actor in the granting process. Due to impeded access to information, little is known about the functioning of this inter-ministerial body. The lack of transparency in the national budget enables powerful actor inside the CoMs to withdraw money from formal and informal revenues. A portion of this money is used to further cement the power of the political institution.

The same applies to the CDC. It was established by the Law on Investment in 1994, and was designated the highest authority on private and public sector investments (Law on Investment, article 3). According to the Sub-Decree on the functioning of the CDC (article 1), it is composed of senior ministers from relevant government agencies and headed by the PM. It (Ibid., article 11) further states that all investment projects worth over US\$50 million must be approved by the CDC. The involvement of the CDC in the three case studies could not be confirmed. EX1 put the CDC’s influence in the decision-making process into perspective:

*“The CDC is more often contacted by foreign investors. It may be useful to get a land concession through the CDC, since they can give you a tax exemption. They don’t have any power in the final decision [if a concession is granted or not], but they have some influence. If a concession is in their favour, they might be able to convince MAFF and CoMs to grant it.”*

According to the Land Law 2001 (article 3), the MLMUPC is mandated to the issuance of land titles and the cadastral administration of all types of land. Related to the granting process of ELCs, it is in charge of the regularization of the land, i.e. land parcel adjustment, granting of land titles to occupants of land parcels under review, demarcation of land, and the registration of land (Subedi, 2012). Furthermore, the MLMUPC provides technical assistance to the P/MSLMC and D/KSLWG in doing state land identification and mapping (Sub-Decree on State Land Management, articles 6 and 7). The ministry’s role in the three case studies remains unclear. It may have been involved in the reclassification process from state public

to state private land, as some legal documents with no time specification suggest, and it may have provided technical assistance to local authorities to demarcate the land.

The MEF assists the government in the administration of economy and financial matters (Sub-Decree on the organization and functioning of the MEF). As EX10 explicated, the MEF was sometimes involved in the negotiation process and contract conclusion, though its influence and voice in those negotiation was very little.

### **Local Authorities**

Identifying the involved local authorities was a difficult task. The main actors on a local level were the provincial governor, the district governor and the commune chief. In simplified terms, they had to guarantee and coordinate the implementation in their jurisdictions. The task sharing between those three political heads did not appear to be clearly defined. For instances, inquiries in villages revealed that the public “consultation” took place with various political authorities differing from case to case. Together with other local departments<sup>72</sup>, their main function was the participation in a preliminary study of the requested area, the provision of data to the national institution and the company, the demarcation of the concession boundaries and villagers’ land, the informing of villagers about concessions, to arbitrate conflicts between the company and villagers and the monitoring of the company’s performance. As already discussed under research question one, the thoroughness how these tasks were exercised, must seriously be put into question.

The law mandates the TS, P/MSLMC and the D/KSLWG an important function in the reviewing process. However, it is questionable whether these three institutions exist separately. The district governor of Prasat Sambour admitted to have been part of a “work team”, which conducted a review of the requested land. The description made by him about the work team’s composition suits the composition laid down by the Sub-Decree on State Land Management at first glance. He talked about a team headed by land-related national officials, which is clearly a reference to the TS and about him as a member of the team, a reference to his function as the head of the D/KSLWG. However, when he was asked about further details about its structure and organisation, he avoided the question by saying that all land-related authorities were included and that it depended on the circumstances what the structure looked like and when they had meetings. In his statement, he only brought up one sole team and did not distinguish between the TS, P/MSLMC and the D/KSLWG. When the head of the MAFF’s Department of Planning and Statistic was asked about the TS, he didn’t recognise it. Was this ignorance due to translation difficulties or due to the fact that it doesn’t

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<sup>72</sup> These departments are under the authority of their head ministries such as the MAFF, MoE, MEF, and MLMUPC and therefore follow their policy.

exist? Further evidence contesting its existence was delivered by EX1, who doubted any real existence of the TS as well as the P/MSLMC. He has been working on ELC-related issues for many years, gained lots of experiences in the field and thus his accusations cannot be unfounded. He wondered whether these committees really hold meetings or whether one person, e.g. the provincial governor in the case of the P/MSLMC, decided on behalf of all.

The roles of local authorities have already been broached in the timelines of the three case studies. EX6 and EX2 argued that Cambodia's hierarchical structure of the government concentrated the power on the national level, whereas the powers of local authorities diminish with each level. Furthermore, EX6 stated that despite their fear towards the national level, local authorities still tried to do their own thing and manipulate the system. EX10 delivered a more differentiated view:

*“We cannot generalise on a provincial level, because some provincial officials have influence, others much less. On the district and commune level it's the same thing, there is a huge difference among the district governors and commune chiefs, some enjoy influence and some do not. The communes have some official competences, but in practice, they don't have any resources or means to carry out their duties so they just do what the government wants. 1,592 out of 1,630 are dominated by the CPP, so they don't have any choice and cannot oppose the government's policy.”*

Low paid salaries to local authorities appear to be a main reason for the bad functioning of the political system in Cambodia. The shortage of financial means “force” local authorities to get involved in illegal activities. EX3 portended to the disproportion of the formal income and the standard of living:

*“Local authorities earn around US\$100 to US\$200 per month. Yet still they own an expensive car. That's only possible through informal revenues.”*

EX10 agreed that informal revenues was an important source of income, but relativized the quantity of financial resources distributed to local authorities:

*“Local authorities don't get much profit out of ELCs. For the village chief it might be a motorbike, for the commune chief a car, for the district governor even a bit more... But it still is nothing compared to the amounts involved in ELCs. It's just a normal process of client-patron system. The top level redistributes some of the resources, and it's less and less at each level.”*

This is exactly what happened in the commune Dang Kambeth, where the commune chief suddenly had a car, shortly after the company CRCK 1 arrived. A PLCN member reported

that the company helped him clearing his land and he presumably worked for the company. Furthermore, he pointed out that it was a common procedure for local authorities to participate in illegal activities in order to generate an additional income. Besides the formal and informal revenues from executing an office, they (together with their families) sold timber and trapped animals, cultivated agricultural products, and occasionally even had a restaurant or a grocery store. In doing so, they follow a multi-strategy and distribute their resources to many activities. From the author's impression, their meaning of actions is only influenced to a limited degree by the legal framework. In a political context where corruption predominates and the enforcement of the law is very weak, illegal doings are part of the everyday life. It is questionable whether these activities are even consciously discerned as illegal by the local authorities. More important institutions are the patron-client networks within the CPP. To be part of such a network brings benefits in form of economic, social, symbolic and cultural capital, but also entails obligations and disadvantages. Their scope of action is limited in such a degree that they have to follow the CPP's dictate and obey superior officials' commands. Unless they take orders from higher levels, they are thrown out of the system, as EX2 ascertained.

The lack of access to information and the impotence of local authorities against the corporate sector are expressed in the following statement made from the deputy governor of the district Sandan:

*“If we cooperate with the authority, we have a bigger chance that they share some documents with us, which are otherwise kept hidden. I wouldn't say the company is hiding documents, it's more that they cannot share it with us because this is how it works in Cambodia.”*

Knowledge must be understood as a source of power. All these evidences suggest that local authorities in general play a minor role in the decision-making process. Their behaviours can be regarded as opportunistic rather than dogmatic. In their position, they are submissive to the national level, but superior to villagers. Even though some interviewed authorities disclosed concerns about the impact of ELCs on the environment and society and tried to campaign for the people under their jurisdictions, their scope of action was very limited. The behaviour of local authorities cannot be generalized. Some local authorities apparently tried to keep out of illegal activities whereas some were highly involved.

### **Village Chief and Villagers**

An inquiry was conducted in 13 villages impacted by several companies. Besides the completion of questionnaires with the village chiefs and representatives, numerous conversations were held in form of group discussion and dialogues. It quickly became clear

that villagers were excluded by the majority from the decision-making process. The lack of knowledge about the company's operation and their legal rights limited their scope of action. But also the fear of a further oppression hindered them to take legal action, as a PLCN member pointed out:

*"The affected people are very poorly educated. All villagers [impacted by CRCK 1] are directly or indirectly involved in agricultural activities. Most of them are not willing to protect the forest since they fear retaliation by the government and they somehow manage to survive without these additional incomes."*

Especially for villagers who highly depended on the exploitation of non-timber forest products (NTFP) the impact of ELCs on their livelihood was grave, as villagers from the former Banteay Roveang (impacted by Tan Bien) revealed:

*"We used to do shifting cultivation on forested areas. Nowadays, we face big challenges. We do not know how to express our difficulties. The main challenge is that we do not have farming lands to grow rice or other crops in order to sustain our livings. We do not know what to do, except to earn some money as workers for the company in order to survive. Hence, our lives have become very difficult."*

Even though the impacts differ among the villages, the survey has shown that all villages used NTFP as a source of income. Villagers went in the forest to collect all sorts of foods, medicines and building materials. In the case of the villages Krasang, Srae Chang, and Pum Chas (impacted by CRCK 1), the trapping of resin was an important sideline. In Michaud's forthcoming report (2014), he stated that the average income from the purchase of resin was US\$12.5 per month for one individual, but it may reach up to US\$150<sup>73</sup>. Most villagers pursued a multi-strategy allocating resources from different activities and practicing subsistence farming. Besides the cultivation of the main crops rice and cassava, villagers also grew potatoes and cashew trees, went fishing, raised animals such as ducks, cattle, chickens and pigs, were collecting NTFP and some were working for the companies. Since the focus of this thesis is not laid on the livelihood strategies of peasants, further research is required to assess villager's rationale of action. A promising concept appears to be the "risk-averse peasant" from Wiesmann (1998).

Article 4 in the Sub-Decree on ELCs stipulates the provision of solutions for resettlement issues and the public consultation with local authorities and residents as a prerequisite to grant a concession. The resettlement of the former village Banteay Roveang (cf. chapter

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<sup>73</sup> As EX3 explained, the GNI per capita was less than US\$1,000 a year.

6.2.2) is an exemplar that the government failed to fulfil this first condition. The issue of “consultation” has already been touched in the chapter 6.2. What such a consultation looked like in the case of CRCK 1, is demonstrated by the following statement made by the village representative of Pum Chas:

*“The participating villagers didn’t say anything although they had concerns. These villagers lack education and that may also be a reason why they didn’t raise their voices. I expressed my concerns about the overlapping zone with my village and asked them not to use the land within three kilometres distance from the village. The company asked us why we needed such a large land area and I told them for the cattle and the next generation. But they didn’t care and at the end, the distance between our village and the ELC was only 300 meters. I also told them about my fear that cows and buffalo could possibly enter their site and destroy parts of their plantation. The company threat that in this case, we would get fined.”*

This statement clearly shows that (most) villagers didn’t dare to speak up for their rights. And if people stood up to the company’s plans, their requests were simply refused. The consultation did not take place in a way based on social interaction and mutual appreciation, much rather villagers were informed about accomplished facts. The village representative further stated that local authorities threatened to delete his village from the map unless he accepted the deal.

The Sub-Decree on ELC does not make a reference to paying compensation in case villagers are withdrawn from their ownership, since only state private land can be granted to companies (article 4). However, article 5 in the Land Law 2001 determines that: “No person may be deprived of his ownership, unless it is in the public interest. An ownership deprivation shall be carried out in accordance with the forms and procedures provided by law and regulations and after the payment of fair and just compensation in advance.” This presupposes accredited land titles, what many villagers lack even though they would have legal claims to ownership. Among the three examined villages impacted by CRCK 1, compensation was only paid for the loss of resin trees in Srae Chang and Krasang, but not in Pum Chas which was hit the severest. A reason why villagers from Pum Chas didn’t get compensated at all might be the village’s unregistered and therefore illegal status, making its villagers more vulnerable to eviction and less powerful during negotiation processes, as EX6 stated. In Srae Chang, affected villagers received compensations of 5,000 riel per tree, whereas in Krasang the amount varied between 5,000 and 10,000 riel. The differences in terms of these monetary compensations might be due to local politics:

*“[...] people with the right connections might get some sort of pay-off and people who don't have the right connections don't get anything. That's how things play out on the political level in Cambodia.” (EX6)*

*“It is the attitude of local officials. There are little fiefdoms, these little areas. The local authorities in there think that's their little kingdom and that they can do what they want.” (EX5)*

None of the consulted villagers were satisfied with the compensation. They objected the low amount per tree, as well as the fact that the company didn't pay compensation for the loss of land. Furthermore, the company only paid compensation for a certain number of trees, did not indemnify everybody and used pressure to will villagers, as the following quotes demonstrate:

*“What's happened in Prey Lang is that communities made complaints to the company and asked for compensation for the loss of resin trees. A community member went to the company and asked for compensation of 50 resin trees, the company then agreed to pay the compensation. But when he came back, they had already destroyed hundreds of more resin trees. When he complained again, the company claimed that by law they had already paid him.” (EX5)*

*“When villagers refused to accept 5,000 riel per tree, they weren't paid any compensation at all.” (Villager from Krasang)*

*“The company frightened the villagers [from Banteay Roveang]. In the end, the villagers were forced to agree.” (EX4)*

What this compensation process looked like in detail is not clear and deserves a further study. Affected villagers from Krasang and Srae Chang made complaints to the commune chief who then got in touch with a representative of the company. In a further step, some sort of negotiation must have taken place, but in what specific form was not figured out. A community representative of the Prey Lang network explicated the undermined role of villagers in the negotiation process:

*“The villager's scope of action is very limited. They highly depend on the goodwill of commune and district chiefs.” (Community Representative of the Prey Lang Network)*

In general, complaints often appear in form of protest letters, thumb printed by the initiators and forwarded by the commune chief to the institution or company in charge. However, as

EX4 pointed out, protest letters frequently remained unanswered, either because the commune chief didn't pass it on or the responsible actor just didn't bother to respond. If local authorities do not see a personal benefit in a protest letter, they won't advocate villagers in achieving their request. Therefore, villagers who don't get support from local authorities, face grave difficulties in asserting their claims.

As EX11 observed, concerned villagers are generally inactive and consider themselves as victims when it comes to ELC related issues:

*“There is also a psychological aspect behind it [the passivity of the population]. The population is passive because they think they are low. That's a good sign, but at the same time they may stop asking questions and in doing so do not contribute to solving the problem. Local people often mistrust the private sector or the government and consider themselves to be victims.”*

The role of the village chiefs requires a particular attention due to their special position within the village structure. According to EX5, they had zero influence in the decision-making process. Still, they were in touch with local authorities and in most cases represented the interests of their villagers, as he noted during his field trips.

*“I have more respect for village chiefs after my trip. I always thought that they just follow the party line, but that is not the case at all. Of the six villages I went to, only one village chief was accused by anybody in the village of being corrupt. All the others worried, and were actively or quietly supporting their villages.”*

The author of the present study experienced a similar appreciation from villagers towards their leaders. Only the village chief of Srae Chang appeared to have colluded with the company. A villager confided his suspicion to the author during an informal conversation in Stung Sen far away from the village Srae Chang, where he lives close to the head of the village. As a reason for his suspicion, he mentioned that the village chief tried to stop people from participating in protests in 2011 by threatening them with harsh consequences. The village chief only reluctantly willed to give an interview and seemed to be very tense. During the conversation, he was hedging questions, making contradicting statements and urged the author several times to speed up because he was supposed to go to another meeting. After the interview, he insisted on participating in the group discussion with villagers. Villagers appeared to be uncomfortable by his presence, not disclosing their true feelings.

### **Vietnam Rubber Group**

The VRG is a cooperation of Vietnamese companies, which mainly, yet not exclusively, have investments in the rubber sector (plantation, processing, and manufacturing). It was



established from the Vietnam General Rubber Corporation, a multi-ownership group, and by the PM Nguyen Tan Dung in 2006, and was under his directive until it became affiliated to the Ministry of Agriculture and Rural Development (MARD) during a reorganisation, as the DD of VRG in Cambodia explained. A Global Witness report (2013) stated that the umbrella organisation generated a pre-tax profit of US\$216 million during January to August in 2012, controlled 300,000 ha of domestic rubber plantations, which corresponded to 40% of the national total, and accounted for 85% of the export production. Due to a shortage of available land in Vietnam, VRG expanded its activities abroad, and started its operation in Cambodia in 2007. The DD further explained that Tan Bien was the VRG's first member operating in Cambodia and that it was expected to harvest the first yield in 2013. Besides Cambodia and Vietnam, VRG also operates in Laos, and strives to expand to South Africa (HMH, 2010) and to Myanmar (Vietnam Rubber Group, 2011). According to its website, it furthermore maintains offices in China, Ukraine, Russia and the USA. VRG's membership consists of different types of companies: general companies, state-owned companies with 100% shares owned by VRG, stock companies with more than 50% initial capital, joint-venture companies with holdings less than 50%, and other service companies<sup>74</sup>.

VRG's operations in Cambodia remain blurry. Main activities appear to be related to the exploitation of rubber and timber, and more or less out of good will the building and maintaining of infrastructures such as roads, houses for workers, schools and health centres in favour of affected communities and workers. Before a company is able to plant any rubber seedlings, it must clear (in case the concession is located inside a forested area) and prepare the land. The director of Tan Bien as well as the DD of Gold Foison (not a member of VRG) asserted that their companies were in charge of logging and selling the timber. In the case of CRCK 1, evidences suggest that the company is involved in logging activities and cooperates with local and national authorities as well Cambodian companies (Seng Saravuth and Try Pheap) in order to exploit the valuable timber in Prey Lang. But VRG members do not only draw a profit out of clearing the land before they start planting rubber, they also budget the purchase of rubber trees into their business plan, after they served the purpose of latex dispenser (ESIA, 2012).

Public information about VRG members' performances is scarce. While Tan Bien has already cleared the whole concession area of 8,100 ha and planted around 7,000 ha at the beginning of 2013, CRCK 1 was still busy with logging the forest and simultaneously dibbling seedlings at the end of 2012. The first harvest of latex by a VRG member in Cambodia is expected to take place in 2013 by the company Tan Bien. During the interviews, the director

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<sup>74</sup> On VRG's website, no further information was available concerning the composition and structure of its members.

of Tan Bien revealed that a processing factory in Cambodia was under construction and the DD of VRG announced the ambitious goal that every project would get its own processing factory. The third discovered category of activities concerns the construction of infrastructure including health centres, schools, roads, and houses for workers. The DD of VRG emphasized the importance of improving the local infrastructure, while the director of Tan Bien specifically referred to the company's projects:

*“The positive impacts for the poor in Vietnam must have persuaded him. When we invest in plantations, we build roads, schools, and the houses for the workers. That's why PM Hun Sen has asked PM Nguyen Tan Dung to bring the VRG here.”*

*“We built schools and a health centres. However, before we could do it, we had to make a request to our main company to provide the capital for building such infrastructures. [...] We provide many benefits to the community, but especially to the workers of our company. Moreover, we not only help to build the infrastructure here, but in other places as well.”*

The provision of health services, accommodations, schools, and roads was confirmed by workers of Tan Bien and villagers of Sen Serey (former Banteay Roveang). However, not every village appears to benefit in the same way (cf. chapters 10.2.4 and 10.2.5) and the company apparently favoured workers over normal villagers. Further critical factors that must be taken into account in the impact assessment of the company's operations are the appropriateness and conformity of provided benefits and the opposed negative impacts valued by impacted actors. A villager encountered in the middle of the rubber plantation said that Tan Bien did indeed build a school for his and adjacent villages, but did not compensate for teachers' wages, therefore the school operation was ceased. Interviewed households from Sen Serey and Serey Mongkul all complained about worsened life conditions, despite improved roads and access to education and health services. In the case of CRCK 1, the affected villages Srae Chang, Krasang, and Pum Chas have not (yet) benefited from the construction of schools and health centres, however they have profited from improved road conditions. In order to get a holistic overview of the impacts, further studies must be conducted and the sampling of villages ought to be broadened. The three above mentioned fields of business activities were the only operations of VRG in Cambodia uncovered by the author.

DD asserted that 15 members companies of VRG were investing in 19 projects in Cambodia. He forthrightly admitted that the law's restriction of 10,000 ha per concessionaire was the reason why VRG founded so many companies. In the media, there are various numbers

about VRG’s holdings in Cambodia circulating. During an intense research, Global Witness (2013) came across various depictions ranging from 41,464 ha to 100,000 ha as a total concession area in Cambodia. In this context, the NGO referred to a “culture of opacity” and “corporate secrecy” shrouding its holdings, which enabled it to conceal their beneficial ownership of rubber holdings and to circumvent the Cambodian law (Ibid.). The list published on VRG’s website is no help bringing light into the darkness, since it is incomplete and lacks crucial information about the size and the location<sup>75</sup> of the concessions. EX6 apprehended a purposeful strategy behind VRG’s structure:

*“It’s commonly believed that the spin-off into smaller subsidiary companies is a market strategy that gives the appearance of many different rubber companies when actually there is only one. This enables them to acquire more ha and still appear legal. It also makes it harder for folks to track company details and make complains.”*

During the interview, the DD of the VRG in Cambodia presented a list<sup>76</sup> ostensibly containing all member companies operating in Cambodia. The following table depicts the companies’ names, as they were handed over by the DD, and additional information<sup>77</sup> about the concession’s location and size, the date of contract as well as the company’s director and address:

VRG members operating in Cambodia					
Name	Province	Size (in ha)	Director	Date of contract	Office’s address
TAN BIEN KAMPONG THOM APHIVATH CAOUTCHOUC CO., LTD	Kampong Thom	8,100	Duong Quoc Viet	18.07.2007	National Road No. 6, Kampong Thom Province
CAOUTCHOUC MEKONG CO., LTD (TAN BIEN II)	Kampong Thom	8,000	?	06.05.2010	?
PHUOC HOA KAMPONG THOM APHIVATH CAOUTCHOUC CO., LTD	Kampong Thom	4,502 <sup>78</sup>	?	?	?
BA RIA KAMPONG THOM APHIVATH CAOUTCHOUC CO., LTD	Kampong Thom	4,879 <sup>79</sup>	?	?	?

<sup>75</sup> Concessions located in Laos and Cambodia are unified in one list without any separation.

<sup>76</sup> The original list is added in the annex.

<sup>77</sup> Retrieved from the website [www.opendevelopmentcambodia.net](http://www.opendevelopmentcambodia.net)

<sup>78</sup> Adopted from a Global Witness report (2013), since the information was not in ODC’s list.

<sup>79</sup> Ibid.

– RESULTS OF CASE STUDY RESEARCH –

C.R.C.K II APHIVATH CAOUTCHOUC CO., LTD (CHU SE)	Kampong Thom	9,472 <sup>80</sup>	Nguyen Duy Linh	08.01.2011/ 21.03.2011	?
BEANHEAK INVESTMENT CO., LTD (CHU SE)	Kampong Thom	9,480	Nguyen Quoc Khanh	29.01.2010/ 21.03.2011	?
C.R.C.K APHIVATH CAOUTCHOUC CO., LTD (CHU PAH)	Kampong Thom	6,155	Nguyen Duy Linh	05.05.2010	#92, Norodom Blvd, Phnom Penh
TAY NINH SIEMRIEP CO., LTD	Oddar Meanchey	7,600	?	23.11.2011	?
PHU RIENG KRATIE APHIVATH CAOUTCHOUC CO., LTD	Kratie	6,434 <sup>81</sup>	?	?	?
DONG NAI KRATIE APHIVATH CAOUTCHOUC CO., LTD	Kratie	7,631 <sup>82</sup>	?	?	?
DONG PHU KRATIE APHIVATH CAOUTCHOUC CO., LTD	Kratie	8,141 <sup>83</sup>	Leng Rithy	?	?
VIETNAM (KAMPUCHEA) ECONOMY TRADE AND INDUSTRY CO., LTD (VKETI – LOC NINH)	Kratie	5,059	?	08.01.2010	?
DAU TIENG KRATIE RUBBER DEVELOPMENT CO., LTD	Kratie	6,592 <sup>84</sup>	?	30.12.2010	?
DAU TIENG (CAMBODIA) RUBBER DEVELOPMENT CO., LTD	Kratie	7,972	?	30.12.2010	?
BINH PHUOC KRATIE I RUBBER CO., LTD (CHU PRONG) <sup>85</sup>	Mondolkiri	8,926	?	24.10.2011	#92, Norodom Blvd, Phnom Penh
HOANG ANH MANG YANG K APHIVATH CAOUTCHOUC CO., LTD	Ratanakiri	6,891	Le Dinh Buu	25.09.2009	#92, Norodom Blvd, Phnom Penh
KRONG BUK RATTANAKIRI APHIVATH CAOUTCHOUC CO., LTD	Ratanakiri	6,695	Nguyen Van Thanh	09.04.2010	#92, Norodom Blvd, Phnom Penh

<sup>80</sup> According to Open Development Cambodia, the concession is split up in two areas: 2,183 and 7,289 ha. However, the Global Witness report (2013) refers to 9,235 ha.

<sup>81</sup> Adopted from the Global Witness report (2013), since the information was not in ODC's list

<sup>82</sup> Ibid.

<sup>83</sup> Ibid.

<sup>84</sup> The Global Witness report (2013) refers to 8,892 ha.

<sup>85</sup> The company appears to have more than one name. ODC's website refers to Benh Hoeruk Kratie Rubber 1 Co. Ltd.

CHU PRONG K CO., LTD	?	?	?	?	?
KAUSU EAH'LEO BM JOINT STOCK CO., LTD	Ratanakiri	8,400	Le Van Thuan	05.10.2011	#118B, Phnom Penh

**Table 8:** VRG Members Operating in Cambodia. Source: Primary and Secondary Data

The total size of all members<sup>86</sup> amounts to 130,929 ha. In the list, handed over by the DD, the companies are divided into three regions, highlighted by different types of green in figure 14. Seven companies within the first region are located in the province Kampong Thom, and only one is located in Oddar Meanchey. The second region contains six companies operating in Kratie and one in Mondolkiri, and the third region consists of companies in Ratanakiri. This pattern actually represents the situation with the most targeted provinces<sup>87</sup> in Kratie, Ratanakiri and Kampong Thom on national scale. The director of VRG disclosed that Tan Bien and CRCK 1 were both to 100% owned by the state. In scrutinizing the companies' names, added information in parentheses stands out. Caoutchouc Mekong Co. appears to be affiliated with Tan Bien due to its reference to Tan Bien II, CRCK Rubber Development Co., Ltd. 2 (CRCK 2) with Beanheak (Chu Se), and Chu Prong K Co. with Binh Phuoc Kratie 1 Rubber Co (Chu Prong) by taking these supplements into account. Yet a further point attracted attention: All companies' names contain a spatial reference to a province (Ba Ria, Tay Ninh, Dong Nai, Binh Phuoc), district (Tan Bien, Chu Pah, Chu Se, Chu Prong, Dong Phu, Loc Ninh, Dau Tieng, Many Yang, Krong Buk, Ea H'leo), or commune (Phuoc Hoa, Phu Rieng) in Vietnam. In pursuing this hint, it fell into place that the rubber companies operating in Cambodia are connected to companies operating in Vietnam, and the company's name reveals the concession's location and/or the address of the head office in Vietnam. Other indicators exposing a connection between companies might be the director's name, the date of contract, the address of the local office, and even the location (companies prefer to have contiguous concessions). Considering these criteria, the following possible conglomerates could be distinguished: CRCK 1, CRCK 2 and Beanheak (the former two share the same name, director and Cambodia address, and the latter two got the concession granted on the same day, are contiguous and presumably share the same Vietnamese address though not the same director). Tan Bien and Caoutchouc Mekong (are connected by the clue Tan Bien II). Dau Tieng Cambodia and Dau Tieng Kratie (similar name, same contract date and contiguous concessions). Chu Prong K. and Binh Phuoc Kratie 1 (both associated with the district Chu Prong). Phu Rieng, Dong Nai and Dong Phu (all signed to contract on the same date, the latter two lease contiguous areas and are registered at the same address).

Global Witness (2013, 43) detected other holdings possibly affiliated to VRG:

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<sup>86</sup> Without taking into consideration the company Chu Prong K Co.

Holdings believed to be affiliated with VRG in Cambodia						
Name	Province	Size (in ha)	Director	Date of contract	Office's address	Evidence for Affiliation
<b>Kiri Development</b>	Ratanakiri	807	Chheng Hok	31.07.2009	#103, Street 105, Phnom Penh	Contiguous concessions, share a director with Hoang Anh Mang Yang
<b>Doty Saigon-Binh Phouc</b>	?	6,436	Dang Tanh Tam	18.07.2007	#92, Norodom Blvd, Phnom Penh	Same office address, , reference to member company Binh Phouc
<b>Dak Lak Rubber Company</b>	Mondolkiri	5,113	?	?	?	Mentioned in a VRG report from 2008, subsidiary in Laos
<b>PNT Co. Ltd.</b>	Preah Vihear	7,900	Phan Huu Nam	05.05.2010	#92, Norodom Blvd, Phnom Penh	Same office address, mentioned in a VRG report from 2008, granted on the same day as CRCK 1
<b>Thy Nga Development and Investment Co. Ltd.</b>	Preah Vihear	6,060	Leng Rithy	25.09.2009	#92, Norodom Blvd, Phnom Penh	Same office address, directed by Leng Rithy (VRG representative in Cambodia)
<b>Rithy Granite (Cambodia) Co., Ltd</b>	Preah Vihear	2,036	?	?	#92, Norodom Blvd, Phnom Penh	Same office address, owned by Leng Rithy
<b>Viet Lao K. Co. Ltd.</b>	Kratie	?	?	?	#92, Norodom Blvd, Phnom Penh	Same office address, same director as a VRG member company operating in Laos

**Table 9:** Holdings Believed to be Affiliated with VRG in Cambodia. Source: Global Witness, 2013, 43

By taking these affiliated companies into account, the total area of VRG holdings<sup>88</sup> is raised up to 159,281 ha, which equals sixteen times the legal restriction. The following figure illustrates the connection between different companies and the embeddedness of the VRG in Vietnamese institutions:

<sup>87</sup> In terms of the number of granted ELCs

<sup>88</sup> Not included in this calculation are the companies Viet Lao K. Co. and Chu Prong K Co.

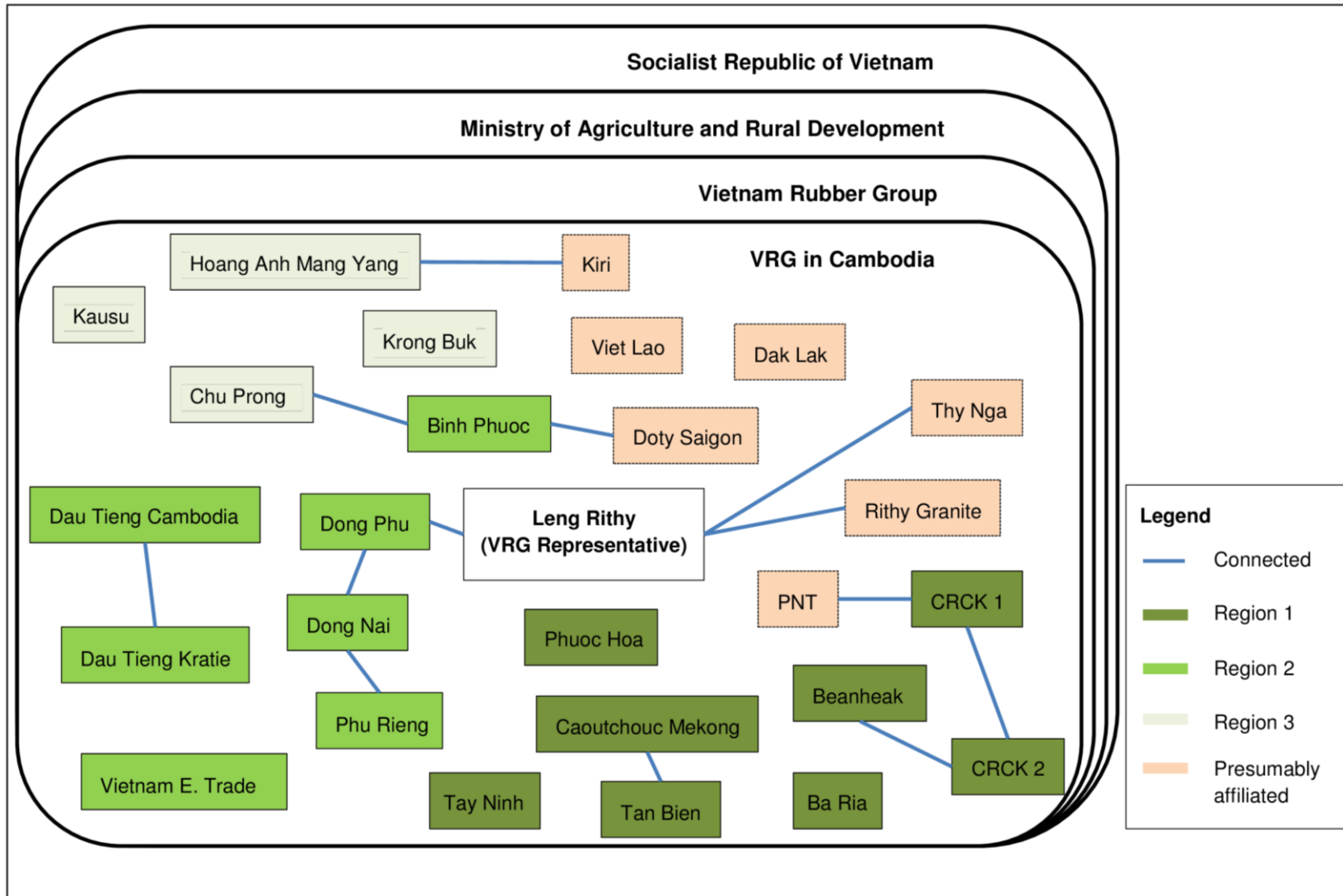


Figure 14: Organization of VRG in Cambodia. Source: Global Witness, 2013, 43

Incorporated into the MARD, VRG appears to be structured hierarchically. The DD of VRG in Cambodia explained the division of responsibilities:

*“Yes, we [VRG] do the budget, the planning, and also the monitoring. When they want to change the director, they have to come to us. To a certain level, they have their own activities. In general, you can say they are responsible for the implementation and for conducting an EIA. [...] Our member companies have to come to us and present their goals for the coming year, and how much money they need. We supervise and direct them.”*

When the director of Tan Bien was asked about the relationship to the parent company, he was scarce in words and only mentioned that all members followed the same purpose and strategy. The DD of VRG revealed what the collaboration between political institutions and VRG looked like:

*“In the province, the company implements and maintain the plantation. They collaborate with the provincial authorities. Our [VRG’s] office here in PP deals with the national level.”*

As determined by the correspondent Sub-Decree, ELCs are nowadays exclusively granted on a national level. Up until 2009, relevant provincial/municipal governors were conferred to grant ELCs under certain circumstances<sup>89</sup>, but none of the VRG members were concerned by this exceptional rule. A Global Witness employee<sup>90</sup> knew more about the structure of VRG:

*“[...] the relationship between VRG and its members can be linked to the relationship between standard government departments. However, this was made slightly more complicated when some of VRG's member companies went through an equitisation process and became partially privately owned, but only a small number have done so [including Dong Phu and Phu Rieng]. However, these are hardly companies which are generating massive profits for their investors. The investors we spoke to who invest in Dong Phu said the investments were very hard to get rid of and they were only holding on to them because they didn't want to sell at a loss. We were also told by these investors that these companies have continued to operate as though they are still 100% state owned, and the percentage ownership which is private is very small, so it doesn't have a significant impact on their everyday operations.”*

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<sup>89</sup> Smaller than 1,000 ha and investment volume less than 10,000,000 riels

<sup>90</sup> Comment by email.

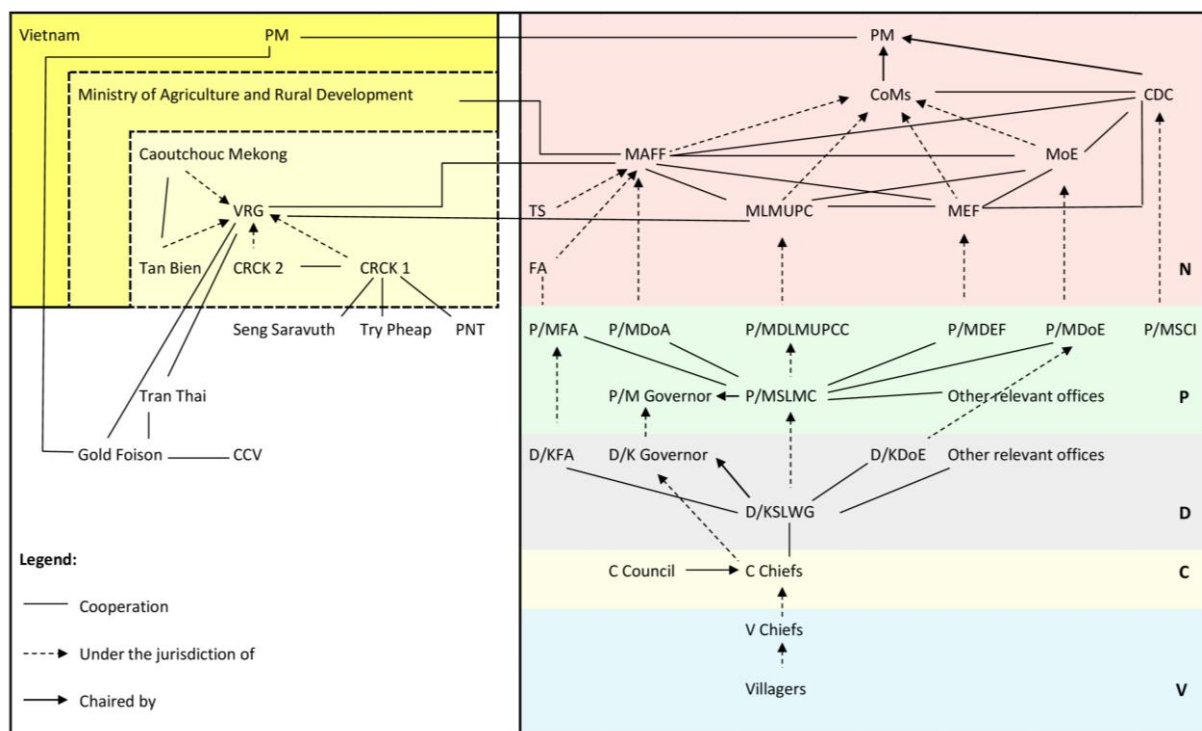


Considering the above mentioned facts cement the strict supervision of VRG over its member companies.

### 6.3.2 Actor Constellation

#### General actor constellation

The following figure gives an overview of involved actor in the granting process. It is a model simplifying complex actor networks.

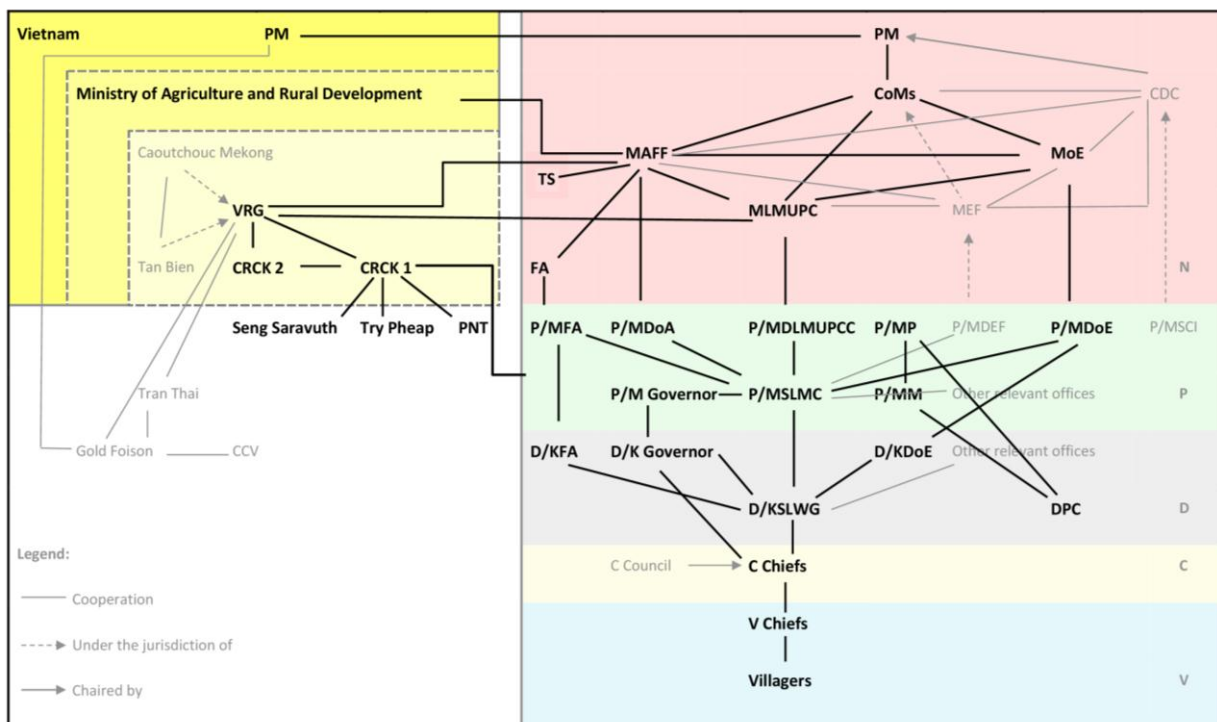


**Figure 15:** General Actor Constellation in the Granting Process. Source: Primary and Secondary Data

The abbreviations “N”, “P”, “D”, “C” and “V” on the right side of the figure stand for the different administrative levels: national, provincial, district, communal and village. The lines and arrows linking the actors show the interrelation between them. The strong hierarchized structure of the Cambodian government centralizes the power on a national level, whereas the political influence of lower levels is diminishing. Cambodia and Vietnam share a long historical friendship. The economic cooperation has been boosted by several bilateral agreements (cf. chapters 6.2.1 and 6.2.2). The constellation of actors does not appear to vary strongly within the three case studies. All three concessions were granted by the MAFF with the approval of CoMs and the procurement of the PM. Since the concerned areas were all covered with forest and were located in the same province, the involvement of national and provincial authorities may not differ strongly. However, due to the different nature of investments – Gold Foison is a private company whereas Tan Bien and CRCK 1 are state-owned companies – the latter two probably received more support of the Vietnamese

government. According to EX12, “Vietnamese, state-owned companies have more power than private companies, since they get support from a domestic government.” This point of view was represented in a similar way by Üllenberg (2009, 29), who distinguished between policy-driven and profit-seeking corporations. Policy-driven companies include state-owned and semi-governmental enterprises, whereas profit-seeking corporations refer to private enterprises. He argued that policy-driven corporation implemented the national policies and strategies, and therefore receive governmental support in form of bilateral negotiations and financial backing, while private companies are on their own, more exposed to risks, and are more benefit oriented. Since CRCK 1 and Tan Bien are both members of VRG, it is highly certain that their domestic government was involved. The concession of CRCK 1 was probably granted within the framework of bilateral agreement determining the provision of 100,000 ha land in Cambodia to Vietnam. Tan Bien’s concession was granted before this memorandum of understanding was signed, and thus the details of the government’s involvement remain vague. Idem applies to the case of Gold Foison. The close political tie to the Vietnamese PM suggests that this joint-stock project may also have obtained informal or formal support from the Vietnamese government, but it lacks specific evidence to prove it.

**Actor constellation CRCK 1**

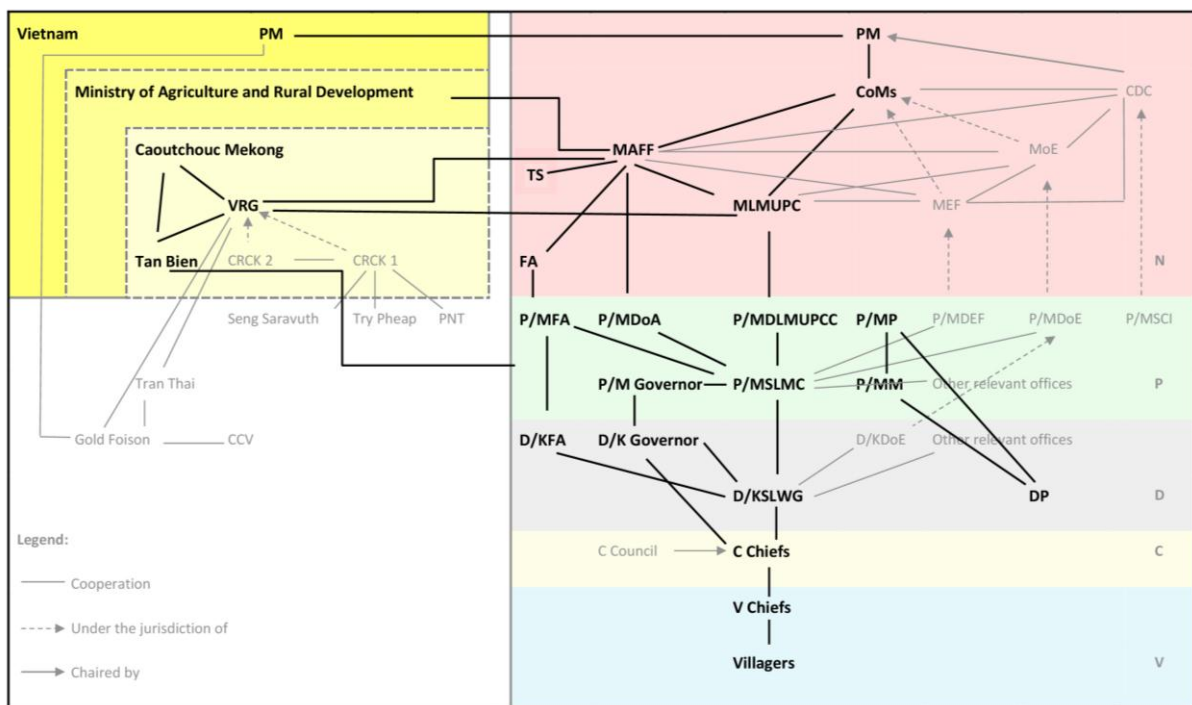


**Figure 16:** Actor Constellation in the Case Study CRCK 1. Source: Primary and Secondary Data

The figure above illustrates the interaction between involved actors by highlighting them in bold and black typeface. Bilateral negotiations were lead between the Cambodian and Vietnamese government and resulted in the signing of a memorandum of understanding in September 2009 (cf. chapter 6.2.1). The national actors detected were the MAFF, MLMUPC,

MoE (presumably got involved after the concession was granted), the CoMs, and the PM. While the VRG was dealing with national actors, CRCK 1 was working together with local authorities, especially on provincial level. The involvement of the local authorities in illegal logging activities has been confirmed by several villagers. Emerging names related to these illegal activities were the commune chief of Dong Kambeth Chouy Phat, Sandan district police chief Urng Maly, and district governor Sim Vanna. Although hard to prove, there is almost certainly a direct link between these illegal activities and the company's operation, as EX6, EX5, and EX9 argued. During protests in 2011, local authorities including Urng Maly and Sim Vanna were supporting the company's interests and the demonstrations were finally violently broken up by the police and military. Furthermore, Michaud accused the FA of colluding with illegal loggers as well as the company. Due to a FA check post in a strategic well placed position, every piece of wood had to pass the check point and an informal fee of US\$20 had to be paid to use the road (Michaud, forthcoming in 2014). The provincial governor's role in the decision-making process is contested. As the head of the P/MSLMC he probably had a voice in the selection of the site. Whether he actively attracted investment in his province or had direct connections to national actors and companies remains unclear.

**Actor constellation Tan Bien**

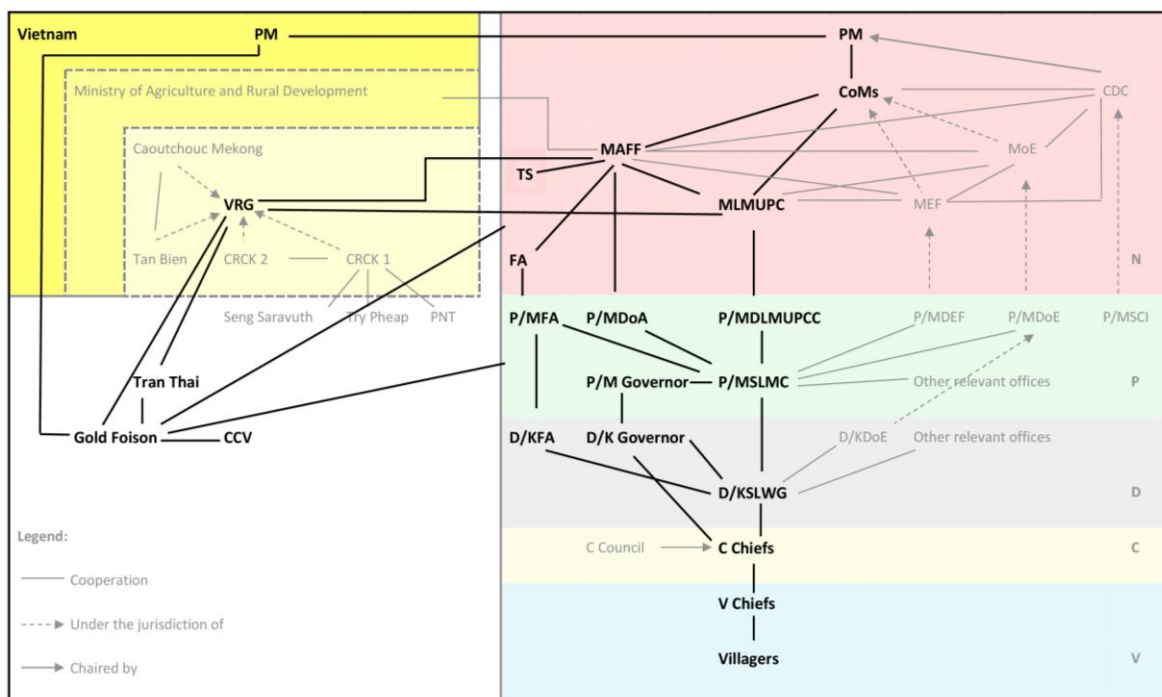


**Figure 17:** Actor Constellation in the Case Study Tan Bien. Source: Primary and Secondary Data

As a member of the VRG, Tan Bien benefited from governmental support. In the figure above, the contour of VRG is dashed to illustrate that not all member companies are completely state owned. Director Tan Bien disclosed that it was initiated through a development project between Cambodia and Vietnam. Since no trace of an ESIA has been

detected, the involvement of the MoE is highly questionable. As in the case of CRCK 1, the company Tan Bien is in contact with local authorities, whereas the VRG deals with the national authorities. Local authorities' main function were the participation in a preliminary study of the requested area, the provision of data to the national institution and the company, the demarcation of the concession boundaries and villagers' land, the consultation with villagers, the arbitration of conflicts between the company and villagers and the monitoring of the company's performance. Further research is required to assess the fulfilment of their tasks.

### Actor constellation Gold Foison



**Figure 18:** Actor Constellation in the Case Study Gold Foison. Source: Primary and Secondary Data

As indicated in the company's profile, there is confusion about its origin. Various sources present different suggestions. During an interview, the DD of the company asserted that Gold Foison was a private Vietnamese corporation. A blog (Vietnam Aujourd'hui, 2009) reported of eleven contracts signed between Vietnam and Cambodia, including "a contract in principle to set up a joint stock company between Vietnam's Tran Thai Ltd Co and Cambodia's Gold Foison A/C Imp Exp & Construction Co on a MDF plank factory project". The report indicates that Gold Foison's operations include the timber extraction within its concession and the export to Vietnam, where Tran Thai processes it to MDF planks. And as a last source, ODC classifies Gold Foison as a Chinese company due to the director Luo Tianging's nationality. No matter what nationality is behind Gold Foison, the tracks are leading to Vietnam through the collaboration with Tran Thai. Furthermore, the DD revealed that the company's director was the brother-in-law of Vietnamese PM Nguyen Tan Dung. Whether she referred to the director of Tran Thai or Gold Foison remains unclear and could not be verified by further

research. This family linkage presumably gives Gold Foison a political leverage in the negotiation process with the Cambodian government and adumbrates a blurry fusion between the private and the public sector of the Vietnamese state, which is a key feature of a neopatrimonial state. Another point worth mentioning is the tie to VRG. On their website (Tran Thai Co.), the company discloses joint-venture companies and list VRG as one of them. But Gold Foison is not only indirectly connected to VRG through Tran Thai, it also maintains a direct relation and shares information with VRG, as the DD of VRG confirmed. Tran Thai's website further displays the involvement in wood processing and rubber planting projects of the size of 17,000 ha in Cambodia, but does not bring up any business activities with Gold Foison. Considering the fact that it possesses two rubber plantations with a total size of around 12,000 ha and under the assumption that the website is up to date, Gold Foison is Tran Thai's main business partner in Cambodia.

The slow implementation process of Gold Foison poses the question of causes behind it. The DD of Gold Foison indicated that the company had some shortage of money and were therefore not able to produce as much latex as desired. As other limiting factors, she mentioned the lack of skilled workers in Cambodia and the illegal encroachment on land within their concession. In order to resolve the latter issue, the company asked the Vietnamese government for support. Due to its intervention the dispute was quickly arbitrated. This example demonstrates that politics and business activities are closely linked in the cases of Cambodia and Vietnam. Another hint of the company's power is the fact that the company was awarded two concessions with a total size exceeding the legal limit by 2,000 ha.

Since there was no report indicating any sort of police or military intervention, these two actors were not pictured in the figure. Apart from that, the constellation appears to be similar to the ones of CRCK 1 and Tan Bien.

## 6.4 Research Question 3: Criteria Site Selection

### 6.4.1 Suitability of Bio-Physical Conditions

The soil quality is regarded as a key criterion in the selection process by numerous local authorities and experts. However, EX5 and EX6 argued that the soil quality is variable in the selection process and had doubts whether an ESIA and feasibility study were conducted before the concession was granted to CRCK 1:

*“[...] some bits are good some bits are bad [in terms of soil quality]. When I went to the CRCK site, there was one area where they had hectares of seedlings in black bags and they were sitting there waiting to plant out. Next to that was another hectare and you could see they had all just been ploughed back in. We were told from local workers that they stopped trying to grow rubber, because it wouldn't grow. Some areas are very damp and that was the reason given by some of the workers that this area was too wet so the trees wouldn't grow. Suitability of soil is a massive issue in the case of CRCK 1. Again this should be under the EIA. That should be the first thing to test. Is the soil alright here? a) Is it [forest] degraded? b) Is the soil any good? c) How is it going to impact everybody else? These are the first things to look at yet it failed in all three points. It seems that some bits are okay, but there has been no samplings taken in those parts yet. Some of the people we interviewed said that they [CRCK 1] were now growing cassava, which is outrageous. If you clear a primary forest just to grow cassava, it's simply beyond belief”.*

*“It's not the best soil for rubber, which suggests that there is a very high interest in harvesting the wood. It is mostly that sandy, acidic lithosol, which doesn't support rubber very well. Maybe for that is why the rubber failed to grow, and we've heard that they have now planted cassava on at least part of it.”*

EX6's statement was refuted by the ESIA (2012), which revealed that acid Lithosol only amounted to 702 ha land (out of 6,044 ha), ranking far behind red-yellow Podsol, Plinthite Podsol and grey Hydromorphics:

Types of Soil in ELC	Size of Land (ha)	Percentage
<b>Acid Lithosols</b>	702.00	11.61%
<b>Alluvial Lithosols</b>	84.00	1.39%
<b>Grey Hydromorphics</b>	1'496.00	24.75%
<b>Plinthite Podzols</b>	1'578.00	26.11%
<b>Red-yellow Podzols</b>	2'184.00	36.14%
<b>Total</b>	6'044.00	100%

**Table 10:** Soil Types within the CRCK 1 Concession. Source: ESIA, 2012, 69

Still, the ESIA attributed all these four soil types as low agricultural potential<sup>91</sup>, thus hardly appropriate to grow rubber on it. The above mentioned reproaches are very severe, considering the fact that ESIA's are supposed to play a key feature in the granting process. The rumour that the company started growing cassava could not be verified during the field research. No cassava plantations were detected, only rubber plants differing in age. To the untrained eye, the rubber plants looked healthy: stem and leaves were green and stable. However, only a small fraction of the total concession area was visited, which makes it impossible to make a reliable statement.

Villagers and local authorities only distinguished between red and white soil. Red soil is usually formed from iron-rich sedimentary rock and is low in nutrients and humus (Britannica, 2013b), whereas white soil refers to sand-rich soil. By the majority, it was agreed that the soil was not suitable to grow rubber, as commune chief of Sandan stated:

*“We don't have the best type of soil in our commune, we call it white soil and to a big part it consists of sand. Usually, they never use the white land to plant rubber but I don't know if the new technology could make or help grow the rubber on white land. I heard that rubber prefers to get planted on the red soil.”*

The soil quality within concerned areas of Tan Bien and Gold Foison was said to be even poorer. According to the director of Tan Bien, the soil fertility was an important selection criterion. His credibility appears to be questionable considering the fact that the concerned area consisted of pure sand land, as the head of the P/MDoA in the correspondent district said. He further revealed that the government had no other alternative but to select unfavourable soil due to the shortage of fertile land. The DD of Gold Foison admitted that the soil quality didn't set a parameter for the selection of the land. This point of view was shared by the author for all three case studies.

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<sup>91</sup> The scale ranged from 1 (good quality) to 4 (poor quality). All four types were classified either as 3 or 4.

EX11, EX2, EX6, and EX1 all agreed that rubber plantations were concentrated in the northern part of Cambodia. EX1 asserted that this spatial pattern was related to topographical conditions:

*“Rubber is mostly cultivated in the northern part of Cambodia, in high areas where no floods occur. In the southern part, rice and other crops are grown. This has not changed since the French colonization and partly reflects bio-physical conditions.”*

In order to plant rubber, some basic bio-physical conditions must be fulfilled. However, as EX1 pointed out, the criterion’s importance must be assessed in a relative sense to the company’s intentions:

*“If they really intend to have a plantation, they probably study [the soil fertility of] the site. But if they only want to have a concession for speculation or for the purpose of logging the forest, they don't need to do that.”*

The field trip revealed that all three companies indeed did plant rubber. Still, evidence suggests that the availability of timber may have been the major selection criterion (cf. chapters 6.4.2 and 10.5). It appears that companies hazarded the consequences of less favourable bio-physical conditions in order to exploit the timber. EX6 further qualified the criterion’s importance by claiming that one could cultivate any piece of land by using fertilizer and as long as some essential requirements were fulfilled. The question of water availability has been neglected in this thesis. Even though it is an important bio-physical factor, it was only mentioned few times during interviews. This point needs further attention.

#### **6.4.2 Land Cover**

All three concession areas were forested prior to the company’s arrival, as all interviewees confirmed. However, the quality of forest varied among the case studies. The forest within the CRCK 1 site was described as primary forest, which was only recently degraded (cf. chapter 6.2.1). EX5 called Prey Lang, especially the part in the Sandan District, the hot spot of biodiversity<sup>92</sup> with the most valuable wood in Cambodia. He further expressed concern that due to the unprotected and unmapped status, the forest may disappear soon. Not only CRCK 1 received former primary forest, but also Tan Bien was granted forest inside Prey Lang, as EX2 argued. The forest within Gold Foison’s concession was described by the district governor of Prasat Sambour as a mixed forest containing sparse and degraded parts. As demonstrated in chapter 6.2.1 and 6.2.2, a complex conglomerate of local authorities,

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<sup>92</sup> Prey Lang has been found to be home to 80% of Cambodia’s most valuable and endangered indigenous tree species (Michaud, forthcoming in 2014).



national authorities, concessionaires, and domestic companies appears to be involved in logging activities. Still, as representatives of Tan Bien and Gold Foison disclosed, the concessionaires were also entitled to log and sell the forest. Therefore, many interviewees ventured the guess that the companies were primarily targeting the forest:

*“The companies investing in Cambodia are looking for the wood. If there is no wood, the company doesn't do anything. After the evergreen forest in Stueng Treng and Kratie province was cut down, no company invested there any longer, and those companies simply moved to other places.” (EX8)*

*“The company's main and only purpose was to log the forest. Planting rubber was a false pretense to get the concession granted. The company [CRCK 1] and high ranking officials are making huge profits by selling luxury timber. In the meantime, local authorities are doing business on a smaller scale; they sell what has been left by the company such as trapped animals or less valuable wood.” (Representative Prey Lang Network)*

*“In some of the instances, it's just about getting their hands on timber. It happened before with other sites, the areas were cleared and then the companies just buzzed off. Nothing more was heard of them. They only paid the small deposit, a few hundred thousand US\$ to MAFF.” (EX5)*

*“[the] rubber [price] is going up and down. It is going up again right now [end of 2012]. Yes, that [the driving forces behind ELCs] may have something to do with it [international resource prices]. But remember the main profit is ever going to come from the trees. Cutting the trees is far more profitable than the rubber is going to be. The forest was hugely valuable. It is one of the highest valued forests in the country. Figuring the price of rosewood, rubber plantations will take a long time to catch up. I mean these resource prices would have to be related to the wood more than to the rubber.” (EX6)*

The role of forest exploitation in Cambodia's history has been thoroughly examined by Le Billon. He (2000, 797) argues that “timber has become a symbol of Cambodia's failed transition to sustainable development and good governance.” He depicts that forest exploitation was related to civil war, corruption, weak tax mobilization, environmental degradation, human rights abuses, poverty, and food insecurity and therefore impeded the peace-building process during the a period of transition between 1989 and 1999. Even with the achievement of peace and political stability, the timber remained a politicized resource. As Un and So (2009) point out, rents from the exploitation of timber and land continue to flow

into the coffers of the CPP and contribute to the consolidation of its power. Even though no clarity exists concerning the distribution of the revenues retrieved from the purchase of timber, it is unquestionable that Cambodian tycoons, national as well as some local authorities get their shares. In addition to this domestic driven exploitation of forest, EX13 observed a “huge” demand of wood in China, Vietnam, and Thailand and concluded that this demand put a lot of pressure on Cambodia’s forest. This issue was backed up by a working paper written by the Forestry Administration (2010, 30) which noted: “In addition to domestic demands for wood, regional wood markets are increasingly growing. Neighbouring Thailand and Vietnam are the two main clients. With limited human and financial resources, as well as huge areas of remote forest, Cambodian forests face a very difficult situation in their protection and development.”

The head of the FA in Kampong Thom did not deny the high congruency of forest areas with concessions, however justified it with the nature of ownership of forest:

*“Concessions are granted within forest areas, because only state public forest can be converted into investment land. The state hasn’t got other land available, since it is owned by individuals. We cannot grant the land owned by individuals to a company.”*

EX6 agreed that the land availability in Cambodia was diminishing, and detected another reason behind this selection:

*“There aren’t too many places left. For one thing, they are really trying to convert forest to rubber, partly because they’re claiming rubber as tree cover. They pledged to maintain 60% forest cover. So, in converting forest to rubber, they’re arguing that it remains forest.”*

EX5 was appalled by this equalisation and emphasized that there were different effects on siltation, flora and fauna, and the water and nutrient cycle between an intact forests and rubber plantations. The DD of Gold Foison didn’t share his point of view and emphasized the goodwill of the company’s operation:

*“We would like to change the forest conditions from degraded forest to good forest [referring to rubber plantation]. People destroyed the forest by cutting trees and burning them afterwards.”*

With good forest, she almost certainly meant a profit-bringing forest in monetary terms, and did not take into account the local value for impacted villages such as Thmei, Sraeung and Tumnob.

The profit from selling the trees, especially in the case of CRCK 1 and Tan Bien, must have been very high, considering the high content of luxury woods (according to EX5, prices for rose and beng wood reach up to US\$10,000 per cubic meter). None of the interviewees knew about the economic value or dared to make an estimation, nor did they know about the division of the profit. In its ESIA (2012), the company did not include the purchase of wood in its profit-loss calculation<sup>93</sup>, apparently trying to downplay the importance of it. The author considers the availability of forest as the primary selection criteria in the three case studies. Forested areas were mainly targeted due to profitability of timber extraction, the land tenure as well as land use of these areas played a less important role. Gold Foison's cooperation with a plank producing company and VRG's operational involvement in the processing of wood products (Vietnam Rubber Group) substantiate this hypothesis. Further research studies including a bigger sampling are required to make generalisation on a national scale.

### **6.4.3 Accessibility**

How to measure the accessibility's influence on the selection process? Shall the reference point be Ho Chi Minh, Phnom Penh, Kampong Thom, a local district market or the next processing factory? It lacked information where the timber and latex was brought to determine an adequate reference point. And then, the question raised is how to measure the parameter, in air-line distance or by taking into account the transport network? By using the transport network, it was important to have detailed data about the network at the time when the decision was made. However, the student lacked this information.

During the surveys in the field, villagers were asked about the average duration it took to go to the next district town and next main market by motorbike in order to get knowledge about the remoteness of the villages. But did it really matter and could there be any connection drawn to the selection of the concession site? The author doubted about the appropriateness of this parameter and therefore did not include the data. Villages were not variables in the selection process, as EX2 among others argued. Furthermore, concerns on the validity and reliability of the data collection arose, since the measurements were influenced by the type of motorbike used, the way of driving, and the ability of the interviewee to make a precise estimation. In the following part, the criteria's influence will be discussed by presenting different perspectives on this subject.

As the case of CRCK 1 demonstrates, the accessibility plays a certain role in the exploitation of natural resources. Even though illegal logging occurred prior to the construction of a road in the western side of Prey Lang in 2009, logging activities (partly related to companies' operations) went up rampantly after the road was built by PNT. The improvement of the

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<sup>93</sup> The examination was done by an interpreter, since the ESIA was written in Khmer.

accessibility can be regarded as a precondition for the land allocation. It enabled capacities to be increased, i.e. wood could be transported out of the location faster and in a higher quantity. The research team did not use this newly built road, since a local NGO employee considered it to be dangerous. The district capital Sandan was reached laboriously by a rural road during a four hour drive on motorbike from the province capital Kampong Thom. The road was in a very bad condition and impassable for vans. The two sites of Gold Foison and Tan Bien were better accessible. They were both reachable within two hours from the junction of national road number six and the side road leading inside the country. The case of CRCK 1<sup>94</sup> illustrates that bad accessibility was not an obstacle hindering the government to grant ELCs in that remote area. Companies were just assigned the construction of roads to grant sites a better accessibility. This entailed the establishment of further concessions in that area, as EX2 knew:

*“We have seen uprising roads leading to a surge of land concessions along these roads. One of the main factors is clearly accessibility. If you look at the province Koh Kong, it's a very difficult terrain with many mountains and therefore there are not many concessions. If you look at Kratie, it is extremely accessible with many concessions granted. If you look at Mondolkiri, the inaccessible parts are left untouched, the accessible parts are sold away. Individually, that's linked with the infrastructure.”*

He further explicated that the government was doing some sort of cost-benefit analysis. The more valuable the concerned land, the less important role the accessibility played. EX13 stated that roads could easily be built in flat areas as Kampong Thom and added that remoteness may even help the company to keep some distance in terms of medial interest. EX11, however, discovered a problem tied to accessibility:

*“To simplify, the more remote an area, the lower the population density is. Having no population for a company is a big disadvantage, because they need the labour force.”*

Companies indeed struggled to find workers, as the DD of VRG and the DD of Gold Foison confirmed. Interviews with local villagers revealed that working for a company was unpopular due to the bad working conditions and the low social acceptance of this kind of employment. Therefore, only few villagers decided to work for the company and external workers needed to be hired.

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<sup>94</sup> Under the assumption that PNT and CRCK 1 were connected

#### **6.4.4 Land Use, Land Tenure and Land Availability**

EX2 pointed out that local communities were disregarded:

*“Local communities, their land ownership, and their land use are not variables in the allocation of land concessions. There are so many conflicts fuelled from the ELCs, so that these factors could not have been taken into proper account. There are concessions that internally overlap official villages, and not only the farm land. The social and environmental impact is not a variable in most of these allocations.”*

The neglect of villagers’ land use in the decision-making process was also observed during the field trip. People claimed not only to have lost communal land used for collecting NFTP, as pasture and for other purposes, but also farming land under cultivation (cf. chapter 10.2.8). Local authorities and representatives of companies within all three case studies denied an overlapping area with villagers’ land or spoke of land encroachment by villagers. They rejected these accusations and affirmed that allocated land concerned degraded forest areas and belonged to the state.

In terms of the land tenure, concerned villagers lacked legal titles, despite most of them (except for the three recently founded villages Pum Chas, Banteay Roveang and Thma Samlieng) having legal claim to ownership under the Cambodian Land Law 2001. Article 30 in the Land Law 2001 stipulates that “any person who, for no less than five years prior to the promulgation of this law [in 2001] , enjoyed peaceful, uncontested possession of immovable property that can lawfully be privately possessed, has the right to request a definitive title of ownership. In case the granting of a definitive title to ownership is subject to an opposition, the claimant has to prove that he himself fulfils the conditions of peaceful, uncontested possession for no less than five years over the contested immovable property or to prove that he purchased the immovable property from the original possessor or his legal beneficiary or from the person to whom the ownership was transferred, or from their successors.” However, villagers faced big challenges by applying for titles of ownership, as EX3 alluded. He mentioned corrupt and incapable political institutions, which were not willing to initiate any actions unless applicants pay a satisfying amount of bribe money, but also different interests in the land making it impossible to find consents. The influence of legal titles on people’s tenure security is not as clear as it may appear at first glance. EX2 had doubts whether land titles really improved villagers’ tenure security, since he experienced cases where legal owners were forced to sell their land.

The DD of VRG revealed that the shortage of available land in Vietnam was the reason why VRG expanded its investment abroad and the DD of Gold Foison disclosed that the

abundance of available land in Kampong Thom was a pulling factor to invest in this province. Immediately, the question arises: How is available land defined and identifiable? When local authorities were asked how they defined “available” land, some referred to “idle” or “unused” land and others to state land. The notions “unused” and “idle” are highly controversial, since they “are manipulated out of existence, sometimes being used to designate land on which many livelihoods depend” (De Schutter, Project Syndicate, 2010). EX11 recognised that the government in Cambodia cannot allocate idle land, since all land is being used by somebody. But also the reference to state land is a contentious issue, since there is no “comprehensive geographical state land inventory” available (Müller, 2012). Dwyer (2013) supplements that despite the absence of mapped state land, the proportion of 80 percent state land (14.5 million ha) to 20 percent private land (3.6 million ha) is widespread. In tracing the original source, he concludes that apparently the statistics are related to two remotely sensed land cover data sets from 1992 to 1993 and 1996 to 1997. Still, it is unclear on what specific evidence this number is based on. The acknowledgement of this number has far-reaching consequences since it partially justifies the granting of land.

At the time of the field research, volunteer students were measuring villagers’ land in order to issue land titles to “occupants”. The PM apparently wanted to address the issue of tenure insecurity by launching Directive 01BB. However, many interviewed experts criticized the exclusion of civil society organisations in the process, put into question the government’s motivation behind it, and referred to many uncertainties of its outcome. To assess the implications of this initiative on tenure security, further studies are required.

#### **6.4.5 Poverty of Villages**

According to the national policy, ELCs are granted to promote rural development (article 3, Sub-Decree on ELCs). The director of P/MMLMUPC and the DD of VRG highlighted the benefits of ELCs such as the provision of employment and infrastructure, and asserted that governmental agencies directed investments to poor and rural areas. In order to test this proposition, it was important to know the poverty rates of the impacted villages and whether the concerned villages were selected deliberately by this criterion. Furthermore, it was important to assess the company’s impact on people’s livelihood and living conditions to examine whether an improvement or aggravation took place and whether the government’s policy succeeded or failed.

Mentioned poverty rates in the villages were either related to the number of households possessing no farming land, house and cattle or the number of households in debt<sup>95</sup>. The assessment of the company’s impact on people’s general living conditions was made by the

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<sup>95</sup> Only one village called Sopheak Mongkul defined poverty as „being in debt“.

village chief or a representative which doesn't necessarily represent the villagers' views. Furthermore, these changes might be directly or indirectly related to the companies' operations, influencing some villagers more than others. All these issues impeded the comparison among the villages. Since the impact on people's livelihood is not a main component of this thesis, further studies are required to gain a detailed insight on this issue.

Village	Poverty status	Impacted by	Impacts <sup>96</sup>
Srae Chang	30%	CRCK 1	Stayed the same
Krasang	24%	CRCK 1	Improved
Pum Chas	78%	CRCK 1	Improved
Banteay Roveang	0%	Tan Bien	Became worse
Thma Samlieng	60%	Tan Bien	Improved
Dang Kdar	70%	Any Sophy Farming <sup>97</sup>	Became worse
Ta Menh	85%	CCV (Gold Foison)	Stayed the same
Trapeang Pring	16%	CCV (Gold Foison)	Stayed the same
Sopheak Mongkol	80%	CCV (Gold Foison)	Improved
Tumnob	70%	Gold Foison	Became worse
Sra Srama	80%	BNA and Gold Foison	Became worse
Sraeung	50%	Gold Foison	Became worse
Thmei	37%	Gold Foison	Improved

**Table 11:** Poverty Status and Impacts on Examined Villages in the Province Kampong Thom

The table does not offer any sort of trend. Poverty rates vary within all three case studies. In the case of CRCK 1, it ranged from 24% to 78%, in Tan Bien from 0% to 60% and in Gold Foison from 37% to 80%<sup>98</sup>. The village chief from the village Banteay Roveang may have romanticized the living conditions in his old village. He claimed that no poverty existed back then, since the forest provided them with all the materials they needed in order to survive.

But also the impacts on people's general living conditions differ significantly among all villages and do not seem to be related to individual companies. An aggravation or improvement of the living conditions was observed in five villages, whereas three village chiefs asserted that no eminent change took place.

Collected data do not show any trend in terms of the poverty rate of selected villages and the impacts on them. Due to numerous uncertainties related to these data, the author renounced to do an elaborate analysis. Further information concerning the villages can be extracted from the annex.

<sup>96</sup> On general life conditions

<sup>97</sup> Impacted by several unknown companies

<sup>98</sup> By not taking villages impacted by CCV into account

EX6 saw a hypocritical justification behind the government's agenda and referred to the negative impacts on concerned communities:

*“Certainly, any forest villages are among the poorest in the country in a monetary sense. Up until recently, we think that most people would describe their life as being relatively okay. While they may be far away, and may not have as much access to health care and education, they had a forest and they were content with little. [...] Through the logging of forests, the communities are pushed to a point where they will not be able to support themselves any longer.”*

In terms of the benefits provided to the communities, EX2 noted that Tan Bien did not hire workers within the area, but employed people from outside the province Kampong Thom. Similar claims were made by EX11 and a PLCN member. These statements refute the official theory that ELCs boost rural development and combat poverty by providing employment to local people. Surveys in the villages and conducted interviews with experts suggest that the villages' poverty did not play a role in the selection process. No correlation or causality was detected between the occurrence of poverty and the distribution of ELCs in the three case studies. Furthermore, the results seriously put into questions the appropriateness of the government's policy to promote rural development by granting ELCs.

#### **6.4.6 Ethnicity of Local Villagers**

The examined villages were all composed of 100% Khmer ethnicity. Since the selection did not appear to be representative, surveys in the villages did not provide useful information about a possible correlation between the distribution of ethnicity and ELCs. According to EX5 though, there are people belonging to another ethnicity than Khmer living inside Prey Lang:

*“The rural population of the four provinces [which included Prey Lang: Preah Vihear, Kampong Thom, Kratie, and Stung Treng] has increased around three times the national average, which is quite worrisome. 60% to 70% of the people who actually live in what I consider to be Prey Lang forest are Kuy, but also a massive amount of Khmer are living there.”*

In the Cambodian context, many ethnic minorities are considered as indigenous people, characterized by their minor status amongst a dominant culture majority (Vicheka, 2012). Article 23 in the Land Law 2001 defined indigenous communities as “a group of people that resides in the territory of the Kingdom of Cambodia whose members manifest ethnic, social, cultural, and economic unity and who practice a traditional lifestyle, and who cultivate the lands in their possessions according to customary rules of collective use.” Cambodia has numerous laws ensuring the rights of indigenous people such as the constitution (cf. articles 31 and 35), Land Law (cf. articles 23 to 28), Forestry Law (cf. articles 15, 24 and 40),



Protected Area Law (cf. article 4), and correspondent Sub-Decrees. All these articles guarantee indigenous people's rights to possess land and manage it in accordance with their needs. According to EX5, defining who falls under the term indigenous people is a difficult task:

*“The lines are blurred there [within communities inside Prey Lang]. You've got the issue that they should have their rights protected as indigenous communities. But then again not everyone is indigenous. And even the communities which say they're Khmer, practice animism and many of the same beliefs, spiritual forests and so forth. Personally, I don't think that's a fair description. Indigenous people are still considered to be retarded and Khmer make insulting remarks towards them. That opposes indigenous people to admitting who they are. People stated that they don't want to admit that they're Kuy, because they are thinking that they're losing rights due to being Kuy.”*

This false conclusion was obviously fostered by local authorities and companies, which persuaded Kuy people to be Khmer in order to circumvent the protected status of indigenous people (Michaud, forthcoming in 2014). He further explained that due to the remoteness of some communities and the different language, the educational standard was very low, which hindered them of comprehending their rights.

The report “ELCs and Local Communities” (Sothath & Sophal, 2012) notes a significant overlapping of indigenous people's land with ELCs due to their conventional land use, but does not insinuate any deliberation from the government's side. According to Subedi (2012), two thirds of the indigenous population of Cambodia live in the north-eastern provinces of Ratanakiri and Mondolkiri<sup>99</sup>. By looking at the distribution of ELCs, it is interesting to observe that these two provinces accommodate 55 ELCs with a total size of 424,038 ha. This area equals 18% of the total granted size. There is obviously a spatial correlation between the distribution of ELCs and the occurrence of indigenous people on the provincial level. However, further analysis with data on a higher spatial resolution would be required to prove any correlations. These data were not available from Cambodia. The question rises whether there is causality behind this correlation. EX10 claimed that the government partly intentionally targeted indigenous people's land, since they are vulnerable and the government does not agree with their way of living. There is no consent among interviewees whether the ethnicity indeed played a role in the selection process – or whether this apparent spatial correlation was more of a coincidence.

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<sup>99</sup> There was only data available from the provincial level.

#### **6.4.7 Political Allegiance of Local Villagers**

According to EX6, not only the ethnicity but also the political allegiance of local communities played a role in the selection process:

*“I’d go beyond that and also say the political identity of the local communities. These communities impacted by rubber plantations are largely indigenous communities, but not completely. In this area, it’s a mix of Khmer and mostly Kuy and other indigenous groups. But this was also an area controlled by the Khmer Rouge for a very long time. If you look around the country and examine the vulnerability of different communities in terms of their vulnerability to eviction, “old Khmer Rouge communities” are right at the top. And they usually are the ones that are least able to resist for a lot of reasons, because they are the least political clout and they also have the weakest documentation. I suspect that in Sandan those mixed communities were influenced by the Khmer Rouge and that’s part of why they are vulnerable. Inside that mix of people, you’d expect to see Khmer Rouge sympathizers and ex-Khmer Rouge soldiers. The government may perceive them as Khmer Rouge, as people that are against them.”*

These communities were known to be active and difficult to bring under control, as she further described. EX2 generally disagreed that the political affiliation played a role in the decision-making process, but offered the option that CPP may try to alleviate some of the negative impacts on fellow people. The influence of the political allegiance of local communities on the decision-making needs further attention.

#### **6.4.8 Cambodia’s Policy and Relationship**

Cambodia’s relationships to Vietnam have been discussed in several chapters so far. EX2 argued that the shared history gave Vietnam a political leverage over Hun Sen’s regime. In 1979, Cambodia was liberated from the Khmer Rouge by Vietnamese troops and a new, pro-Vietnamese government was put in place. The friendship between the two countries resulted in numerous bilateral agreements and treaties (cf. chapters 6.2.1 and 6.2.2) and was a main purpose why Vietnamese companies invested in Cambodia, as representatives from the companies disclosed. According to EX11, the Cambodian government appreciates Vietnam’s high expertise in the rubber sector:

*“Compared to other companies, Vietnamese companies do quite a good performance. They have their own expertise to check the soil. Compared to Korean companies, Vietnamese companies received good soil, which means that they have a good access to information. About half a year ago, we would have*

*said that at least half of the ELCs are inactive, but the concessions leased by Vietnamese companies are all used.”*

A commune council member of Tipo stated that Cambodia’s limited technical knowledge and financial capital was indeed the reason why the government attracted foreign companies. The deputy governor of the district Sandan identified another reason why companies invested in Cambodia:

*“The government attaches importance to warrant the privacy of the companies so that nobody can intervene in their affairs. The company needs to have this protected environment, otherwise they won’t invest in Cambodia.”*

This corporate secrecy combined with the lack of political will and means to enforce the law enable the company to ignore the legal framework and consequently to save costs, as EX1 knew:

*“If you had to follow the law, it would be expensive and it would be a long process to fulfil all criteria such as creating a business plan, ESIA etc. Then you would have to submit all these papers to the Technical Secretariat... And then the papers would go back and forth, assessments and negotiation are supposed to be hold, different actors would be involved. This costs a lot.”*

The political relationship between the two countries and the political context within ELCs appear to be main drivers why Vietnamese companies invest in Cambodia.

#### **6.4.9 Economic Conditions**

The ESIA of CRCK 1 (2012) lists low labour and production costs as main motivations to invest in Cambodia. Surveys in villages showed that the salary ranges between 10,000 and 20,000 riel per day (2.5-US\$5). A worker of Tan Bien revealed that the wages were performance-linked: For clearing the grass of one ha land, which in average takes eight hours, workers were paid 15,000 riel. A villager of Sraeung complained about the harsh working conditions and revealed that only very few accepted a job due to the poorly paid wages and the low social acceptance. EX11 explained that there were two types of workers:

*“[...] one is called a permanent worker when people are bringing along their families and settle down next to or inside the concession site. They get houses and food allowances provided by the companies. They work as a family and receive performance-based output. The permanent workers also try to facilitate temporary workers, the so called season-based workers. Mostly temporary workers are from surrounding villages. Permanent workers always come from*

*outside. When the season comes, the permanent workers try to contact their relatives to come work as well.”*

The distinction of the labor force was confirmed during conversations with impacted villagers and workers. The few villagers working for the company did it temporarily, whereas permanent workers were mostly people from outside the province. Besides the low labour costs, EX14 described the low land leasing fee as an economic condition, which attracted companies. When the DD of VRG was asked about relevancy of the land leasing fee in the decision-making, he qualified its importance by saying that the fee was the same as in Vietnam. EX10 knew more about the amount:

*“Officially there is a [land leasing] fee of 5 to US\$7 per ha and year, which is very low. We know that there are unofficial fees of up to 4 to US\$6 million per ELC, which go to the CPP and PM Hun Sen. Usually, we are not able to trace the official fees to the national budget, so we assume that even some of the official fees go to unofficial channels. Some of the companies don't pay any [land leasing] fees at all or are years late in payment. In addition, companies have to pay formal and informal taxes for land clearing if they cut forested land.”*

The director of the Department of Planning and Statistics at the MAFF disclosed that land leasing fees ranged from US\$0 to US\$10 per ha before 2013 and referred to the MAFF's website where they published a complex calculation of the land leasing fees. Criteria such as the soil type, the province where the concession was located<sup>100</sup>, the availability of infrastructure<sup>101</sup>, as well as the effort it takes to clear the land were variables in this calculation. He admitted that it was very laborious to reckon the fee and that was why they introduced a new scheme. For the first five years, the company does not pay any concession fees. From the sixth year on, the company must pay US\$5 per year and ha with an annual increase of 1%.

In the context of rampant corruption and patron-client networks, the formal land fees only make up a very small part of the total expenses. EX3 explained that the company gets a concession granted as soon as they pay enough bribe money. EX1 declared that bribe money of around US\$500 per ha must be paid in order to get a concession granted. Not included in his calculation are fees for timber extraction, which he rates far higher than the usual informal fees for concessions containing valuable timber.

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<sup>100</sup> It appears the closer a province was located to Phnom Penh, the more the land leasing fee was.

<sup>101</sup> Distance to national roads, railway and waterways

In addition to formal and informal fees, the company was also required to pay a deposit prior to the conclusion of the contract, as the head of the Department of Planning and Statistics alluded:

*“In order to guarantee the implementation of the development project, the company has to pay the ministry bank a deposit of US\$10 per ha. 70% of the deposit will be returned to the company after they have completed their project. The remaining 30% are used for monitoring the execution of the contract, administrative costs, and for offsetting the concession fees at the end of the contract.”*

As a further important economic actor, the DD of Gold Foison mentioned the duration of the contract. In the case of Gold Foison, the license is valid for 79 years, which enables the planning of long-term investments, as she pointed out. The term of agreement has been strongly criticized by EX3, who noted that it didn't comply with 247 in the civil code, which limits the duration to 50 years.

According to a commune council member of Tipo, companies settle down in Kampong Thom due to a pull-effect:

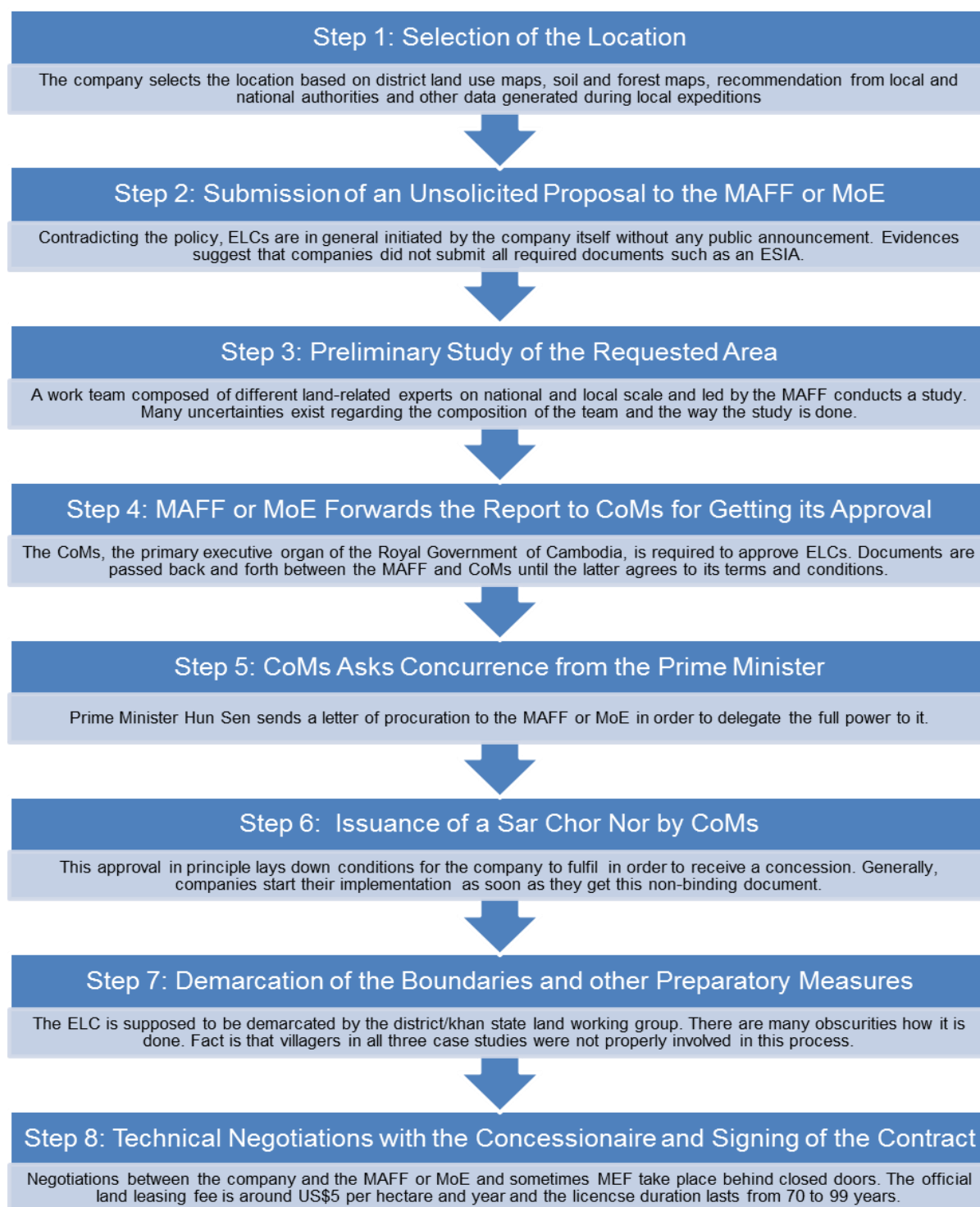
*“They [companies] think that the region promotes favourable economic conditions, since there are many companies investing in this province. So, they think that they can find a good cooperation with other companies around them.”*

Indeed the distribution of VRG members exhibits a certain pattern, respectively accumulations of member companies in four regions. But these member companies did not only collaborate among themselves, they also exchanged information with Gold Foison, as the DD of VRG disclosed.



## 7 SYNTHESIS AND DISCUSSION

The synthesis tries to disclose differences and similarities in the granting process between the three case studies. Even though the courses of action may slightly differ in terms of the chronological order and the characteristic of conducted steps, a general pattern is recognisable within all three cases. This scheme attempts to depict main steps without going into details of the specific cases.



**Figure 19:** Granting Process in Practice. Source: Primary and Secondary Data

### **Step 1: Selection of the Location**

Before the companies submitted proposals to the MAFF, a selection of a requested area had to be done. However, it is hard to grasp how the companies found their plots, since involved actors only reluctantly and cautiously give their views, and villagers generally, with the exception of people from Pum Chas (CRCK 1), did not notice any activities that might be related to the selection process. Within the three case studies, evidence suggests that the availability of timber plays a major role (cf. Weighting of Factors in chapter 10.5). On a national scale, Subedi (2012, 38) observes that “the promotion of private sector investments appear to have taken precedent over compliance with the requirements of the law, resulting in the granting of large tracts of land in protected areas, on the land of indigenous peoples, and in primary forest areas.” All three companies did not propose to an announced project, but initiated the ventures themselves, as it was confirmed from different sources. CRCK 1 and Tan Bien as members of the VRG appear to have had little voicing in the decision-making process due to a government-to-government agreement and the strong supervision by their umbrella organisation in questions related to companies’ operations. DD of VRG affirmed that the group is in charge of the planning, budgeting and monitoring of its members’ activities. But also Gold Foison does not act as a purely independent player. The company is associated by a joint-stock with the Vietnamese company Tran Thai Ltd, a company engaged in diverse fields such as real estate, tourism services, rubber plantations, wood processing, and building furnishings among others. Unfortunately, no further information about their business cooperation could be found. Representatives of Tan Bien and Gold Foison pointed out that they had mentioned their ideas and desires to the Cambodian government and that it had been the MAFF with its local offices that guided them to the area. What this guidance looked like cannot be said for certain. Local authorities in general agreed with the representatives upon the selection process. The director of the Department of International Cooperation at the MAFF, rendered more precisely:

*“Most of the companies directly contact us and request a certain size of land. Most of them already know quite well where they want to invest, others demand data about soil quality and land availability and some companies have no clue as for where they want to invest. To the latter, give recommendations and propositions.”*

The DD of the P/MDoE added that provincial authorities were obligated to present data about the availability of land when requested by the companies. It seems that Tan Bien, respectively the VRG, and Gold Foison asked for the government’s guidance, whereas in the case of CRCK 1, there simply lacks evidence to make any conclusions. Since the Sub-Decree on ELCs does not make a specific reference to the site selection in an unsolicited



proposal, the above mentioned procedure does not contradict the regulatory framework. This leads to a crucial follow-up question: On what criteria and maps is this selection based on? EX11 refers to different types of maps provided to the companies:

*“In general, the investors have some kind of land cover map and maps displaying the soil types. We have soil maps from 1960 drawn by the Americans. Although the scale is big, it gives you a good overview of the soil quality. And then there are maps picturing the different types of forests. The good soil is found where the good forests are located. These are the only two maps they consult. They approach the government by contacting individual officials working for MAFF. This is some kind of informal communication. Contacts and information they get from friends or other previous Vietnamese companies. They also check the website of the MAFF, where they get information about contacts and the requirements for getting ELCs granted. The MAFF then checks the availability of land, negotiates within the government, and makes technical propositions. Since 2006, there are land use maps for every district. The company then comes to Cambodia, undertakes small missions and writes a report describing details about the application.”*

These district land use maps are supposed to be created by the D/KSLWG under the leadership of the P/MSLMC. Whether these maps, as well as the two land-related committees exist “in a real sense” remains unclear. After the company received information and recommendation where (probably on district level) to invest, it usually sent out a research team to examine the soil quality, as the DD of P/MDoA explained. EX1 confirmed that the companies themselves made a study:

*“The companies have their own staff to go around and observe. They then draw a map, but don't know who is living on this land or to whom it belongs. Usually, they consider forest as state land.”*

Whether these studies really took place in the cases of CRCK 1, Gold Foison and Tan Bien could not be figured out. Assuming that the company conducted a study, further questions are raised: Was the research team accompanied by local authorities? What kind of studies did it conduct? On what evidence were their results based?

## **Step 2: Submission of an Unsolicited Proposal to the MAFF or MoE**

There exists a broad consent about the way concessions are granted. Even though the prioritized method for granting ELCs ought to be through competitive solicited proposals (Sub-Decree on ELCs, article 18), all interviewees including political authorities, experts as well as company representatives, confirmed that concessions in general were granted

through unsolicited proposals. The fact that none published announcement whatsoever of a concession was found further consolidates this argument. But how do companies approach the government and where do they submit their applications? Preceding the granting of the concession to CRCK 1, a “memorandum of understanding” between the governments of Cambodia and Vietnam was signed in September 2009. Therein, Cambodia declared their intention to strengthen the economic cooperation by providing 100,000 ha to Vietnam for the purpose of rubber plantations by 2012 (Kongea, 2009). The DD of VRG in Cambodia asserted that PM Hun Sen asked VRG to invest in Cambodia and therefore bilateral negotiations must have taken place before the arrival of the first VRG member Tan Bien in Cambodia in 2007. To what extent the private company Gold Foison profited from those government-to-government agreements can only be estimated. Since the DD of Gold Foison pointed out the good cooperation between the two countries as the main driver why so many Vietnamese companies invest in Cambodia, one can assume that even private companies were supported by the Vietnamese government.

According to law (Sub-Decree on ELCs, article 19), the proposer in a first step must submit a brief description of his business and financial background, his investment concept as well as information to the requested land either at the CDC, the P/MISC, or at the CA. In case the application is submitted at the CDC or the P/MISC, the application shall be passed on to the CA. In a second step, after the consultation with relevant committees and institutions lead to a positive result, the applicant is supposed to prepare a detailed proposal (article 19) containing among other things an IESIA or an ESIA in severe cases. The whole evaluation process takes place behind closed doors, i.e. information about the submitted documents, about the negotiation between different institutions, and the evaluation itself is not available. However, as illustrated under the time lines, in none of the cases was a (I)ESIA conducted in a satisfactory manner. In the light of this deficit, it is questionable whether the companies did in fact comply with the other requirements of the application and whether the responsible institutions have the will, financial means, and technical knowledge to do a proper review of submitted proposals.

Even though several different names of institutions entitled to grant ELCs emerged in the literature, mainly two ministries were mentioned during the interviews: the MAFF and the MoE. The director of the department Planning and Statistics at the MAFF reassured that only these two actors have granted ELCs. In case the requested land by a company is located inside a protected area, it is under the jurisdiction of the MoE (Protected Area Law, article 4). In all other cases, the MAFF is responsible for the issuance of ELCs. Since all three companies lease land outside protected areas, the signatory institution was not the MoE but the MAFF. But it is still uncertain who the companies addressed first and where they submitted their proposals. EX12 pointed out that most companies approached the CoMs

which then forwarded the requests to the MAFF, whereas EX10 emphasized that most companies used well-connected, powerful contacts inside the government no matter what political function they occupy.

### **Step 3: Preliminary Study of the Requested Area**

The district governor of Prasat Sambour distinguished between a preliminary study involving concerned commune chiefs, district governor and the provincial governor, and a more extensive study conducted by a work team of experts. The preliminary study seems to be more of a cursory enquiry of the different political levels whether there is land available in their administrative units. Since the influence of local authorities in the decision-making process is very low, they have little scope of action and must obey the instructions issued from the national level. As indicated by issued legal papers, the detailed study was about the demarcation of the concession's boundaries and was conducted at a later date.

### **Step 4: The MAFF or MoE Forwards the Report to CoMs for Getting its Approval**

According to EX1, the companies' applications along with recommendations made from the MAFF and local authorities are generally forwarded to the CoMs. Even though legal papers do not explicitly allude to this exchange of information, the chronology of issued letters suggests that it did possibly take place. He further illustrated:

*"[The CoMs is] an assembly of different ministers. They work collectively, which is why they have meetings. They rule just like a board of directors and the PM is the head of it. ELC-related matters for example may concern the MEF, MAFF and MLMUPC, which is why they first have an inter-ministerial meeting on their own. Then they passed it to the meeting of the CoMs. The CoMs then reviews all the matters again and makes a decision."*

The director of the MAFF's department, rendered more precisely that the CoMs needs to approve all documents. If some particulars are unclear or if the CoMs does not agree to certain factors, the concerned documents are returned to the MAFF in order to revise them.

### **Step 5: CoMs Asks Concurrence from the PM**

EX1 averred that PM Hun Sen has the last word:

*"There are no concession granted unless they are in favor of PM Hun Sen. Before the MAFF or MoE conclude the contract, the PM sends them a letter of procuration so that these ministries can sign it on behalf of him."*

This evidence was confirmed by the director of the Department Planning and Statistics, EX10, as well as EX3. The latter pointed out that some contracts were even signed and granted by the PM without proper involvement of the MAFF. The PM is assumed to have

made contracts with companies and demanded the MAFF to sign them. Whether this suspicion is true could not be verified.

### **Step 6: Issuance of a Sar Chor Nor by CoMs**

Several experts (EX1, EX12 and EX8) acknowledge the practical importance of a Sar Chor Nor in the granting process of ELCs. The document contains references to communication between concerned institutions, as well as texts laying down conditions of approval and instructions on the implementation of the decisions. The announcement of certain information by CoMs is mainly meant for concerned institutions and the companies. High ranking officials sign this non-binding document on behalf of the PM. In general, companies started their implementations as soon as they received this “approval in principle”, as these three experts asserted. In the three case studies, the time period between the issuance of the Sar Chor Nor and the signing of the contract varies between around three months (Tan Bien) and nine months (Gold Foison). This hypothesis could not be verified through the case studies due to two main reasons. The illegal logging could not be (directly) linked to the company’s activities as in the case of CRCK 1, where a confusing collusion of national and local authorities apparently together with companies organised the deforestation. The second reason is related to the dimension of the granted area. Companies may have started their implementations in other parts than the examined villages’ land was located and therefore remained unnoticed by villagers. Still, the author sees no reason why not to believe the declaration made by experts, who have a longstanding experience in the field.

### **Step 7: Demarcation of the Boundaries and other Preparatory Measures**

The chronological order of issued legal papers indicates that the demarcation process of the concession took place after the “approval in principle” was issued. According to local authorities, the D/KSLWG is responsible to draw up the boundaries. The land demarcation process is a very delicate issue. In all examined cases, villagers felt overlooked and not taken seriously by local authorities and companies’ representatives, while the companies complained about villagers using land within their conceded concession areas. In the case of CRCK 1, villagers were informed during a meeting held by the district governor and a company representative that they could no longer use the forest since it was granted to the company. The meeting had a rather informative than consultative character, and only few villagers dared to speak up (cf. chapter 10.2.3). In the case of Tan Bien, a village called Banteay Roveang was completely relocated and the villagers from Thma Samlieang were told not to encroach on the forest anymore. Possibly as a service in return, the village became officially registered by the government.<sup>102</sup> The demarcation process in villages

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<sup>102</sup> Villagers received housing land but no farming land so far. Still, this is a pure assumption not based on any evidence made from villagers or local authorities.

impacted by Gold Foison occurred a bit different. Village chiefs were admitted to demarcate their land individually with the commune chief and a company representative. However, the outcome of that measurement was disappointing. The overlapping zone between the concession and the 3,000 to 3,900 ha community forest shared by three villages, as well as other parts of villagers' land was considered to be state property and was therefore allocated to the company. Volunteer students emerging in 2012 avoided a bigger loss by acknowledging parts as villagers' land. Yet, the outcome of these measurements must be awaited and the issue requires further examination.

In addition to the demarcation of the land, the company is required to comply with the conditions set by the Sar Chor Nor. Depending on the preliminary activities of the companies, they must complete all requirements and supply them to the MAFF. For instance, those who have not yet conducted a master plan or ESIA must now make it up at this stage. The same applies for the reclassification of the state public land to state private land. In this term EX1 referred to a "reverse order" of duties. Not the legally responsible committee for land development initiates the reclassification<sup>103</sup>, but the companies themselves have to initiate it.

#### **Step 8: Technical Negotiations with the Concessionaire and Signing of the Contract**

Negotiations are supposed to start after the company has completed all conditions set in the Sar Chor Nor. As highlighted by EX11, the offering of incentives to make the political process faster is a widespread method in Cambodia. As described in chapter 6.4.9, the formal land leasing fees were predetermined and non-negotiable. About what terms of contract do companies and concerned political institutions negotiate? Are conditions such as the duration of the license, the location and size of the concession, informal fees, and stipulations about the usage, implementation and monitoring process negotiable? Since details of the contract are kept secret, this question is hard to answer. The Director of the Department of International Cooperation at the MAFF revealed that one of the main reasons companies invest in Cambodia is the fact that the company can negotiate the condition of the contract. When he was asked further questions about these conditions, he blocked and said he didn't know the details. Inferring from his statement, companies have a big scope of action in the contract negotiation. EX14 recognised a problem in the way how a contract is put:

*"[...] the contract duration is too long. But by the law it is actually not bad, since the law just provides a maximum of 99 years. But in reality, when they grant a concession, they can decide whether it is 20, 40, or 99 years. However the stupid thing is that the contract is just a standard one, which usually last 70 or 99 years.*

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<sup>103</sup> To know more about the legal process of reclassification, consult the Sub-Decree on Rules and Procedures on Reclassification of State Public Properties and Public Entities.

*The question arises as to why we have to be so generous? For a rubber concession, only one life cycle would be enough, and this would be 30 years.”*

He contradicted the director's view by suggesting that the government used standard contracts, which indicates that most of the terms of contract were set.

Other questions aroused are related to the participating actors in the negotiation. Who are these actors and how does the power configuration look like? In the cases of CRCK 1 and Tan Bien, they probably were represented by the VRG, since the umbrella organisation is supposed to deal with the national level, as displayed by the DD of the VRG in Cambodia. Since Gold Foison is in joint-stock with Tran Thai Ltd., representatives from both companies may have participated in the negotiations. EX3 explicated that on the side of the government, contracts were usually signed by ministers of the MAFF Chan Sarun and MoE Mok Mareth, and sometimes also by the minister of the MEF Keat Chhon.

## 8 CONCLUSION AND RECOMMENDATION

The three objectives of this thesis were to understand the political decision-making process on land allocation, to identify the main actors and to find key factors influencing the choice of location. All three case studies demonstrate that there is a wide gap between the Cambodian statutory framework and the implementation in practice. Several violations of the Land Law 2001 and the Sub-Decree on ELCs have been registered. Article 4 in the Sub-Decree on ELCs lists five main criteria to grant ELCs: the requested land must be classified as state private land, a land use plan must be adopted and consistent with the ELC project, an ESIA must be conducted, resettlement solutions must be provided to impacted legal land owners and public consultation with local authorities and concerned residents must be hold. There is evidence suggesting that the government and companies did not comply with these conditions.

In order to reclassify state public<sup>104</sup> land to state private land, the former must have lost its public interest of use (Land Law 2001, article 16). However, it is highly controversial as of when, for instance a forest loses its public function. National and local authorities argued that the areas granted to the three companies concerned degraded forest land and some interviewees claimed that an upgrading took place by converting these areas into rubber plantation (cf. chapter 6.4.2). Experts countered that a systematic degradation took place prior to the contract conclusion in order to legitimize the granting of forested areas (cf. chapter 6.2.1). It is questionable whether governmental officials properly understand the ecological, economic, and socio-cultural importance of the forest for the local as well as nationwide population. Legal documents indicate that Tan Bien submitted an application for reclassification after the contract was concluded. A request was handed in by Gold Foison, but with no time reference. In the case of CRCK 1, there is no legal document available indicating a reclassification.

The existence of (district) land use plans has been challenged by EX1. During the field research in Kampong Thom, none of the local authorities could provide an insight in these maps and thus reinforcing the suspicion that they don't exist.

Solely in the case of CRCK 1, an ESIA was released almost two years after the contract was signed. Experts expressed doubts about the validity and reliability of these data. Furthermore, EX6 suspects a strategic calculation behind the type of output, the used

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<sup>104</sup> State public land includes any property that has natural origin (forests, rivers, lakes, seashore), that is especially developed for general use (harbours, airports, railways), that is made available for public use (roads, tracks, pathways, gardens, parks), that is allocated to render a public service (public schools, hospitals, health centers, administrative buildings), that constitutes a natural reserve by the law and that accommodates archaeological, cultural, and historical patrimonies (Land Land 2001, article 15).

language, and the date of publication of the ESIA. The government obviously did not want anybody to make proper reviews.

It is questionable whether the decision-makers knew about the overlapping zone between villages and the concession area, since no information concerning correspondent village boundaries exist. The violent, involuntary resettlement of Banteay Roveang shows that the government took rigorous steps to guarantee the implementation. One could argue that those villagers were not legal land holders and therefore not protected from eviction.

Public consultation with local authorities and villagers took place in all examined villages. However, the outcomes of the meetings were not satisfactory for villagers and “consultation” does not appear to be the correct term to describe those meetings, as numerous discussions with villagers revealed. Some villagers were harassed to thumbprint documents (cf. chapter 6.2.2) and intimidated to accept presented facts (cf. chapter 6.2.1).

Due to the lack of transparency in the decision-making process, many violations of the law remain uncovered. Why do companies not comply with the legal framework? The law might be considered as a limitation for the scope of actions of companies. The company easily bypasses the law by paying bribe money to the government and by using a camouflage. There are numerous records of companies which circumvent the legal restricted size of 10,000 ha by spinning-off into subsidiary companies. Article 59 in the Land Law 2001 prohibits the issuance of land concessions on several places that exceed the set limit to “one specific person or several legal entities controlled by the same natural persons”. On the one hand, national and local authorities lack the financial and technical means to enforce the rule. On the other hand, their embeddedness in patron-client networks puts pressure on them to follow commands from above. The collusion with the company, however, also provides them a chance to take out personal financial gain, as the example of the commune chief in Dong Kambeth suggests. Since public officials are often poorly remunerated, revenues from corruptions and bribes are considered as means to compensate officials within the patronage networks. In this context of rampant corruption and a weak enforcement of the law, the author doubts whether the introduction of “voluntary guidelines” would improve the situation for the affected population. The RGC does not appear to be accountable to the local population but instead tries to create a friendly environment for companies and protect their rights. This environment includes low official taxes, few regulations and high entrepreneurial freedom of action which enables companies to circumvent the law. For instance, companies are not required to conduct sufficient ESIA's and public consultations. Therefore, they may save time and effort.<sup>105</sup> The author argues that this investment climate of corporate secrecy is attractive to certain companies. Furthermore, the adoption of voluntary guidelines would

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<sup>105</sup> However, the amount of bribe money must also be taken into account.



result in an empowerment of the local population on one hand and in a disempowerment of national actors on the other. National elites use their power to get personal, financial profit out of ELCs and it is unlikely that they voluntarily renounce their privileged positions.

Cambodia's hierarchical structure of the government concentrates the power on the national level, whereas the power of local authorities diminishes with each level. Apparently, the only two ministries authorised to grant concessions are the MAFF and MoE. Standing above these ministries are the PM Hun Sen and the CoMs, which are required to approve concessions. Main actors on local levels were the provincial governor, the district governor and the commune chief. They had to guarantee and coordinate the implementation in their jurisdictions. Together with other local departments<sup>106</sup>, their main function was the participation in a preliminary study of the requested area, the provision of data to the national institution and the company, the demarcation of the concession boundaries and villagers' land, the informing of villagers about (forthcoming) concessions to arbitrate conflicts between the company and villagers, and the monitoring of the company's performance.

The shortage of land in Vietnam and the abundance of available land in Cambodia were mentioned by the corporate sector as main drivers to invest in the kingdom. Given that there is no proper land inventory, this argument is highly controversial. Available land was described as "idle" and "unused" and some local authorities denoted available land as state land. State land in turn was associated with forested land, obviously in reference to the official denomination of the Land Law 2001 (article 15). Despite the denial of the companies, the author argues that the availability of timber was a major pulling factor. Timber was obviously extracted by a collusion of concessionaires, local authorities (instructed by national authorities), and domestic companies. Gold Foison's and VRG's ties to wood processing companies substantiate this hypothesis. According to numerous interviewees, there is a correlation between the occurrence of indigenous people and the distribution of ELCs. Examined villages were composed to 100% of Khmer ethnicity and do not support this supposition. However, the author did not make surveys inside Prey Lang, where many indigenous people, mostly from the ethnicity Kuy, live. There is no consent among interviewees whether the government deliberately targets indigenous people's land or whether the apparent correlation is purely accidental. EX10 argues that the government disapproves of their traditional way of living and that the vulnerability of indigenous people is a facilitating factor to take their land. Others presume a more accidental nature of the correlation and argue that most indigenous people live traditionally in the forest. EX6 asserted that besides the ethnicity, the political allegiance of communities played a role. The

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<sup>106</sup> These departments are under the authorities of their head ministries such as the MAFF, MoE, MEF and MLMUPC and therefore follow their policy.

interviewed expert brought forward the argument that habitants of the district Sandan were known to be noncompliant Khmer Rouge sympathizers far away from the government's reach. The importance of the suitability of physical conditions for rubber plantation has been challenged by the case studies. The soil quality within the three concessions does not appear to be favourable for the cultivation of rubber. Still, essential bio-physical conditions were given, since the companies succeeded in cultivating rubber. The influence of the accessibility on the distribution of ELCs must be considered in relative terms. As the case of CRCK 1 illustrates, bad accessibility was not an obstacle to grant concessions within Prey Lang. In order to extract valuable wood, the government committed the construction of roads to concessionaires. An improved accessibility then led to a further concentration of companies in that specific area. Even though the government justifies the granting of ELCs by referring to positive impacts on poverty reduction in rural areas, results from the three case studies suggest that the poverty status of villages was not a variable in the selection process. Surveys in villages do not show a bias towards a particular poor area. The government's strategy to promote rural development by granting ELCs must be further questioned as only five out of thirteen villages reported improved general living conditions related to companies' activities. Political and economic factors are attested an important role by company representatives. They stressed the political friendship between the two countries as a main driver to invest in Cambodia and argued that this political proximity was founded on a shared history. Local authorities revealed that Vietnamese companies do a good performance and hence enjoy a good reputation in Cambodia. But also the favourable economic conditions including low land leasing fees (around US\$5 per ha and year) and cheap labour force (US\$2.5-US\$5 wage for an unskilled worker per day) were identified as key drivers. The author's weighting of factors in the case study CRCK 1 is represented in chapter 10.5.

Political economy and political ecology both focus on the distribution of power and resources. This MSc thesis shows that both power and resources are very unequally distributed in Cambodia. Power is closely linked to the political function of officials and is interlinked to the affiliation to and position within patron-client networks. But also social and family connections play a very important, as the example of the logging syndicate Seng Keang demonstrates (cf. chapter 6.2.1). Within the last fifteen years, political power was almost solely concentrated within the CPP's network. The national election in July 2013 led to a shift in power de jure triggered by the positive result of CNRP. However, the implications of this election are unclear, since the opposition party has not accepted the result up to this day and since it appears unlikely that the PM and his party voluntarily cease the grip on power. Particular attention must be paid to the control over public and natural resources, which is a prerequisite to obtain and maintain power. Within the Cambodian state, there is no strict

distinction between the public and the private realm. There are examples of several senators, who get ELCs granted. The Cambodian tycoon Mong Reththy is one and probably also the most famous among the senators. Power is also related to knowledge. Villagers and local authorities lack basic information about the concessionaires and the way concessions are and ought to be granted. Therefore, their scope of action is limited.

By focusing on the power of the corporate sector, it is crucial to know the ownership of the companies. According to EX12, “Vietnamese, state-owned companies have more power than private companies, since they get support from domestic government.” This point of view was represented in a similar way by Üllenberg (2009), who distinguished between policy-driven and profit-seeking corporations. Policy-driven companies include state-owned and semi-governmental enterprises, whereas profit-seeking corporations refer to private enterprises. He argued that policy-driven corporations implemented the national policies and strategies, and therefore received governmental support in form of bilateral negotiations and financial backing, while private companies are on their own, more exposed to risks, and are more benefit oriented. Since CRCK 1 and Tan Bien are both members of VRG, it is highly certain that their domestic government was involved. The concession of CRCK 1 was probably granted within the framework of bilateral agreements determining the provision of 100,000 ha land in Cambodia to Vietnam. Tan Bien’s concession was granted before this memorandum of understanding was signed, and thus the details of the government’s involvement remain vague. Idem applies in the case of Gold Foison. The close family ties to the Vietnamese PM suggests that this joint-stock project may also have obtained informal or formal support from the Vietnamese government, but it lacks specific evidence to prove so.

Another sign depicting the company’s power and influence is the economic value of the granted land. There was a broad consent among interviewees that the economic value of the land inside the CRCK 1 concession was the highest, followed by Tan Bien and with a big gap by Gold Foison. EX2 attributed a very high “corruption value” to the land inside CRCK 1. He explained that CRCK 1 had to pay a good deal more bribe money to political actors than Gold Foison did, since the revenues from timber extracting were exorbitant and millions of US\$ were at stake. EX5 hypothesized that the more powerful a company was, the more valuable the land it got granted. From the author’s point of view, the Cambodian government surely was aware of the international criticism it would trigger by granting a concession inside the core zone of Prey Lang, but the seduction of short-termed profit combined with political pressure from Vietnam may have been too high to resist.

From the perspective of sustainable development, these land deals are highly controversial. Legal requirements such as the conduction of an ESIA and public consultation are circumvented by companies and governmental actors. These mechanisms were introduced

to protect the rights of the local population and to reduce negative impacts. This study provides evidence that the economic benefits are unequally distributed and limited to very few people. The granting of ELCs does not appear to be an appropriate instrument to combat rural poverty in the current shape. Furthermore, the study delivers proof that this business model is not adapted to the local context as it lacks social acceptance of the concerned population. Only few villagers decided to work for the company, and most of them did it on a daily base as a sideline. Ecological impacts were not examined specifically in this thesis. However, numerous interviewed experts warned of disastrous impacts on the flora and fauna, as well as the water and nutrient cycles by replacing forested areas with rubber plantations. To ensure a more sustainable management of ELCs, the enforcement of the law is indispensable. This includes the strengthening of cross sectorial committees such as the P/MSLMC and the D/KSLWG. These committees are important leverage points to guarantee the involvement of a broader range of actors and to strengthen the local levels. The aim is to decentralise the power and to give local community a voice. The state failure is closely linked to the rampant corruption and penetrating patron-client networks dominantly related to the Cambodian People's Party. In order to make land allocation more sustainable, first priority must have the combating of corruption within the state apparatus. The international community as well as investing countries should exert (higher) pressure on the RGC to enforce the law and to guarantee a transparent decision-making process. Numerous experts pointed out that the laws were actually in place, but a very weak implementation was the key issue. Currently, Cambodia seems to be in a phase of transition. The civil society no longer accepts the suppression of their rights and demands social justice. In this context, CNRP's success in the national election must be considered as a warning shot against the government's policy. It remains to be seen what is going to happen in the near future.

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## 10 APPENDICES

### 10.1 List of VRG Members

NO°	COMPANY NAME
<b>REGION I</b>	
2	TAN BIEN KAMPONG THOM APHIVATH CAOUTCHOUC CO., LTD (8100)
14	CAOUTCHOUC MEKONG CO., LTD (TAN BIEN II) (8000)
5	PHUOC HOA KAMPONG THOM APHIVATH CAOUTCHOUC CO., LTD (4502)
6	BA RIA KAMPONG THOM APHIVATH CAOUTCHOUC CO., LTD (4879)
9	C.R.C.K II APHIVATH CAOUTCHOUC CO., LTD (CHU SE) (9472, 9235)
10	BEANHEAK INVESTMENT CO., LTD (CHU SE) (9480)
12	C.R.C.K APHIVATH CAOUTCHOUC CO., LTD (CHU PAH) (6155)
18	TAY NINH SIEMRIEP CO., LTD (7600)
<b>REGION II</b>	
1	PHU RIENG KRATIE APHIVATH CAOUTCHOUC CO., LTD (6434)
3	DONG NAI KRATIE APHIVATH CAOUTCHOUC CO., LTD (7631)
4	DONG PHU KRATIE APHIVATH CAOUTCHOUC CO., LTD (8141)
13	VIETNAM (KAMPUCHEA) ECONOMY TRADE AND INDUSTRY CO., LTD (VKETI – LOC NINH) (5059)
15	DAU TIENG KRATIE RUBBER DEVELOPMENT CO., LTD (8892)
16	DAU TIENG (CAMBODIA) RUBBER DEVELOPMENT CO., LTD (7972)
19	BINH PHUOC KRATIE I RUBBER CO., LTD (CHU PRONG) (8926)
<b>REGION III</b>	
7	HOANG ANH MANG YANG K APHIVATH CAOUTCHOUC CO., LTD (6891)
8	KRONG BUK RATTANAKIRI APHIVATH CAOUTCHOUC CO., LTD (6695)
11	CHU PRONG K CO., LTD (?)
17	KAUSU EAH'LEO BM JOINT STOCK CO., LTD (8400)

Table: List of VRG Members. Source: Handed over by the DD of VRG in Cambodia

## 10.2 Village Profiles

### 10.2.1 Srae Chang

<b>Srae Chang<sup>107</sup></b>		
<b>General information</b>	<i>Year of settlement</i>	-
	<i>Number of households</i>	133
	<i>Population</i>	571
	<i>Total area</i>	Approx. 100 ha
	<i>Ethnic groups</i>	100% Khmer
<b>Location</b>	<i>Province</i>	Kampong Thom
	<i>District</i>	Sandan
	<i>Commune</i>	Sandan
<b>Poverty status</b>	<i>Data book<sup>108</sup></i>	20-40%
	<i>Village chief<sup>109</sup></i>	30.1% (40 out of 133 HH)
<b>Accessibility</b>	<i>Distance to district town<sup>110</sup></i>	25-30 min.
	<i>Paved road connection</i>	No
<b>Company's activities</b>	<i>Impacted by</i>	CRCK 1
	<i>Overlapping area</i>	Parts of the community forest
	<i>First contact with village</i>	2010
	<i>Start of logging</i>	2010
	<i>Start of planting</i>	-
	<i>Cancelled area</i>	None
<b>Village</b>	<i>Involvement of village authorities in negotiations</i>	None
	<i>Compensation</i>	5,000-10,000 riel per resin tree
	<i>Impacts on general life conditions<sup>111</sup></i>	Stayed the same

Table: Village Profile Srae Chang. Source: Primary Data

571 people live in Srae Chang, all of Khmer ethnicity. The village chief Kuy Yen stated that 40 households were considered to be poor, which meant they had neither cows, nor farmland or house. His information agrees with the data retrieved from the data book at provincial level updated between 2008 and 2010.

Regarding an overlapping zone between the concession land of CRCK 1 and the village Srae Chang, contradictory statements were made. While villagers complained (in absence of the village chief) that the company had encroached upon their community forest, the village chief denied that the company used land in his village, but at the same time he confirmed

<sup>107</sup> Data book at provincial level 2010\_NCDD

<sup>108</sup> ID-Poor 2008-2010, data book at provincial level 2010\_NCDD

<sup>109</sup> His definition of poverty is no cattle, no house, no farming land. This is the common definition among village chiefs, if not explicitly mentioned otherwise.

<sup>110</sup> By motorbike during dry season

<sup>111</sup> Since the company has started operation

that villagers had retrieved compensations between 5,000 and 10,000 riel per resin tree. He perceived this as a fair deal. When he was asked about which of the villagers had lost most, he highlighted that four families were strongly affected, since they depended highly on NTFPs. In terms of the village's size, he estimated around 100 ha, split up in 90 ha agriculture land, 10 ha residence area and 0.5 ha spirit forest. This seems to be a conservative estimation, and raised the question whether he might have excluded the community forest in his calculations. During discussions with villagers, they expressed their distrust towards him and suspected him to have colluded with the company. As a reason for this accusation, a villager mentioned that the village chief had tried to stop people from participating in protests in 2011 by threatening them with harsh consequences. During the interview, the village chief seemed to be cantankerous and reluctantly to share information.

### 10.2.2 Krasang

<b>Krasang</b>		
<b>General information</b>	<i>Year of settlement</i>	A long time ago <sup>112</sup>
	<i>Number of households</i>	196
	<i>Population</i>	993
	<i>Total area</i>	170 ha <sup>113</sup>
	<i>Ethnic groups</i>	100% Khmer
<b>Location</b>	<i>Province</i>	Kampong Thom
	<i>District</i>	Sandan
	<i>Commune</i>	Sandan
<b>Poverty status</b>	<i>Data book</i>	20-40%
	<i>Village chief</i>	24% (47 out of 196 HHs)
<b>Accessibility</b>	<i>Distance to district town</i>	30 min.
	<i>Paved road connection</i>	No
<b>Company's activities</b>	<i>Impacted by</i>	CRCK 1
	<i>Overlapping area</i>	Parts of the community forest
	<i>First contact with village</i>	2010
	<i>Start of logging</i>	2009
	<i>Start of planting</i>	2010
	<i>Cancelled area</i>	None
<b>Village</b>	<i>Involvement of village authorities in negotiations</i>	None
	<i>Compensation</i>	10,000 riel per resin tree
	<i>Impacts on general life conditions</i>	improved <sup>114</sup>

Table: Village Profile Krasang. Source: Primary Data

<sup>112</sup> Several village chiefs did not know when their village had been founded. They referred to ancestors, who had settled a long time ago.

<sup>113</sup> Excluding community forest

<sup>114</sup> Due to the improvement of a road by the government

Krasang is an adjacent village of Srae Chang located in the commune Sandan. Its 196 households mostly make their livelihoods with rice farming. Some villagers occasionally work for the company either as loggers or cultivators. The village chief heard about the companies' project in 2010 for the first time, during a meeting held by a company representative and local authorities such as the head of the P/MDoA. They had invited 10 people of each village, in total 130 villagers and village chiefs of the Sandan commune, as the village chief of Srae Chang and the village representative of Pum Chas confirmed. The meeting took place near the district town Sandan and villagers didn't get consulted, but rather informed about accomplished facts. The company claimed land, where 90% of all households had recently been collecting NTFPs. Nonetheless, the village chief reassured the author that the conflict had been solved since villagers were allowed to use other forest land and compensations of 10,000 riel per resin trees had been provided.

### 10.2.3 Pum Chas

<b>Pum Chas<sup>115</sup></b>		
<b>General information</b>	<i>Year of settlement</i>	A long time ago
	<i>Number of households</i>	90
	<i>Population</i>	579
	<i>Total area</i>	-
	<i>Ethnic groups</i>	100% Khmer
<b>Location</b>	<i>Province</i>	Kampong Thom
	<i>District</i>	Sandan
	<i>Commune</i>	Sandan
<b>Poverty status</b>	<i>Data book</i>	-
	<i>Village representative</i>	77.8% (70 out of 90 HHS)
<b>Accessibility</b>	<i>Distance to district town</i>	60 min.
	<i>Paved road connection</i>	No
<b>Company's activities</b>	<i>Impacted by</i>	CRCK 1
	<i>Overlapping area</i>	50%
	<i>First contact with village</i>	In the first half of 2009
	<i>Start of logging</i>	2009
	<i>Start of planting</i>	2010
	<i>Cancelled area</i>	None
<b>Village</b>	<i>Involvement of village authorities in negotiations</i>	None
	<i>Compensation</i>	None
	<i>Impacts on general life conditions</i>	Improved <sup>116</sup>

Table: Village Profile Pum Chas. Source: Primary Data

<sup>115</sup> Not registered in the data book

<sup>116</sup> Disputable statements made by the village representative. Even though his village is supposed to have lost 50% of its land, the general life conditions improved because of the improvement of road conditions.

According to the village representative Hong Set, the village was founded a long time ago by ancestors. This is inconsistent with EX4’s illustration that people only recently have been settling in this place and that therefore the village has not been officially registered. The village appears to be very poor, with 70 families out of 90 who don’t possess farmland and a house. The main livelihood activities are planting cassava and rice through shifting cultivation. The village was stretched out over three kilometres vertically to the street<sup>117</sup> before the company’s arrival. The company demanded 50% of their land and the expansion of the village is now reduced to 300 meters vertically to the street. These data appear to be vague and unclear, since the reduction to 10% of the original width would induce a loss of 90% of the land size (under the supposition that the length didn’t change). A first contact with representatives of the company may have occurred in 2009, when villagers encountered a “research team”, but was denied information about their intentions and background. To a later date, the company were supposed to have intimidated the village representative, what is demonstrated by the following statement:

*“First a district research group visited our village and they showed me a map of the ELC. I realized that it overlapped with 50% of our total village land and I demanded them to check again. During their second visit, we were shocked because on the map, our village was not shown anymore; they deleted it from the map. After complaints, the company agreed to think about it again, but in the end we lost 50% anyway.”*

Even though his village is supposed to have lost 50% of its land, he assessed the impact on livelihood by a high majority as positive, since they still had enough land to grow rice and cassava. However, he was worried about the future generation and hoped thus that the concession would not be expanded. What is more, he assumed that the company had chosen the plot because of the availability of good quality forest and the good accessibility.

#### 10.2.4 Banteay Roveang

<b>Banteay Roveang<sup>118</sup></b>		
<b>General information</b>	<i>Year of settlement</i>	2004
	<i>Number of households</i>	602
	<i>Population</i>	Around 2,200
	<i>Total area</i>	1,200 ha
	<i>Ethnic groups</i>	100% Khmer
<b>Location</b>	<i>Province</i>	Kampong Thom

<sup>117</sup> He didn’t know the length.

<sup>118</sup> Banteay Roveang is not registered in the data book. The village’s name may vary due to differences in translation.

	<b>District</b>	Santuk
	<b>Commune</b>	Kraya
<b>Poverty status</b>	<b>Data book</b>	-
	<b>Village chief</b> <sup>119</sup>	0% <sup>120</sup>
<b>Accessibility</b>	<b>Distance to district town</b>	140 min.
	<b>Paved road connection</b>	No
<b>Company's activities</b>	<b>Impacted by</b>	Tan Bien
	<b>Overlapping area</b>	100% <sup>121</sup>
	<b>First contact with village</b>	End of 2007 <sup>122</sup>
	<b>Start of logging</b>	2009
	<b>Start of planting</b>	-
	<b>Cancelled area</b>	None
<b>Village</b>	<b>Involvement of village authorities in negotiations</b>	None
	<b>Compensation</b>	Villagers get residence area substituted, but no farming land so far
	<b>Impacts on general life conditions</b>	Became worse

Table: Village Profile Banteay Roveang. Source: Primary Data

According to EX4, Banteay Roveang was built in 2004 by disabled soldiers, who were members of the Association of Handicapped Army for Development. There was no official permission given by the government, only commune authorities tacitly agreed upon it. The settlement attracted other migrants and the population rose up to around 2,200 habitants. Most of these former soldiers came from Phnom Penh and few from other provinces. The settlement attracted other people looking for land and it grew up to 602 households. The disabled soldiers didn't have an official permission, hence the village was not registered and their settlement was considered to be an illegal encroachment of land. The company Tan Bien started its operation in 2007. During the first two years logging coupes hired by Tan Bien were logging forest outside their village boundary and consequently villagers were untroubled by its presence. According to the village chief, all this changed in 2008, when he was approached by provincial authorities and was informed about the resettlement plans for his village. Even though they tried to resist peacefully, they were evicted from their land and had to move to an assigned area outside the concession and two new villages called Sen Serey and Serey Mongkul were founded. Their livelihoods changed dramatically since they were only offered residence areas and no farming land to this day. Before the resettlement each family possessed 2 ha farming land and poverty did not exist. Nowadays, his village

<sup>119</sup> The village chief of the former village Banteay Roveang and the newly founded village Sen Serey

<sup>120</sup> The village chief romanticized that no poverty had existed in the former village.

<sup>121</sup> All villagers were forced to resettle.

<sup>122</sup> The village chief did not remember the precise date when he first met the company, but he stated that it was before the police blocked the road (January 10 in 2008).



Sen Serey is limited to 88 ha residence area for 365 households. Everyone is very poor and struggles to survive. He complained about the fact that some villagers in the neighbouring village Serey Mongkul already received farming land but no one in his village. A villager of Mongkul Serey knew more about the distribution of farming land:

*“[...] every villager has received the same [size of residence area]. However, 20 out of 77 former disable soldiers have received both the housing land and the farming land. [...] They were randomly selected. In fact, former soldiers are the first priority and widows are the second priority [to obtain farming land]. The main reason that the governor is not able to provide farming land to all villagers is the lack of available land.”*

But neither him, nor the village chief had an idea why in one village several farming plots were distributed whereas in the other village no allocation of farming land took place. Another problem the village chief mentioned was that many households were leaving his village, either going to other provinces in Cambodia or even emigrating abroad. In his opinion the only positive impact the company brought was the newly built infrastructure of roads, schools and a health centre, all allegedly funded by the company. Except for that, everything became worse.

### 10.2.5 Thma Samlieng

Thma Samlieng		
General information	<i>Year of settlement</i>	2000
	<i>Number of households</i>	216
	<i>Population</i>	938
	<i>Total area</i>	-
	<i>Ethnic groups</i>	100% Khmer
Location	<i>Province</i>	Kampong Thom
	<i>District</i>	Santuk
	<i>Commune</i>	Kraya
Poverty status	<i>Data book</i>	-
	<i>Village chief</i>	60%
Accessibility	<i>Distance to district town</i>	120 min.
	<i>Paved road connection</i>	No
Company's activities	<i>Impacted by</i>	Tan Bien
	<i>Overlapping area</i>	None <sup>123</sup>
	<i>First contact with village</i>	2007
	<i>Start of logging</i>	2007
	<i>Start of planting</i>	2007
	<i>Cancelled area</i>	None

<sup>123</sup> According to the village chief, some families lost access to the forest. Though, he stressed that the forest did not belong to them.

<b>Village</b>	<b><i>Involvement of village authorities in negotiations</i></b>	None
	<b><i>Compensation</i></b>	None
	<b><i>Impacts on general life conditions</i></b>	Improved

Table: Village Profile Thma Samlieng. Source: Primary Data

Thma Samlieng was found in 2000 by disabled soldier when they illegally encroached upon land in the Kraya commune. In December 2012, the village was recognised by the RGC as an official village and they received housing land (but no farming land). It consists of 216 households with 938 people. The village chief Kem Samen stated that 60% of the villagers were poor, 10% of them severely so. He did not know the villages' size, but revealed that it did not overlap with the company since no villager possessed any farming land. Only few families are supposed to be impacted, since they lost their access to the forest. Most of the villagers plant some crops on their residence areas. In 2007, the commune and provincial authorities informed him about the company's activities. He has a positive attitude towards Tan Bien, since the company has indirectly improved their living condition in terms of average household income, food security, infrastructure, trade as well as the harvest of agricultural products. He explained that the company did not only create direct employment, but that its presence also attracted other businesses, which then triggered a series of follow-up actions. When asked about the reasons as to why the company chose this plot, he assumed that it must be the availability of forest, since the soil quality was not suitable for rubber plantation. Nonetheless the company could overcome this problem, because of their financial capacities and technical knowledge. A glance at the rubber plantation exposed that the company apparently had no problem to deal with the bad soil quality, as the rubber seemed to be healthy and strong.

### 10.2.6 Thmei

<b>Thmei</b>		
<b>General information</b>	<b><i>Year of settlement</i></b>	A long time ago
	<b><i>Number of households</i></b>	231
	<b><i>Population</i></b>	900
	<b><i>Total area</i></b>	600 ha <sup>124</sup>
	<b><i>Ethnic groups</i></b>	100% Khmer
<b>Location</b>	<b><i>Province</i></b>	Kampong Thom
	<b><i>District</i></b>	Prasat Sambour
	<b><i>Commune</i></b>	Sraeung
<b>Poverty status</b>	<b><i>Data book</i></b>	40-60%
	<b><i>Village chief</i></b>	36.8% (85 out of 231 HHs)

<sup>124</sup> Excluding 3,900 ha community forest shared by three villages

<b>Accessibility</b>	<i>Distance to district town</i>	60 min.
	<i>Paved road connection</i>	No
<b>Company's activities</b>	<i>Impacted by</i>	Gold Foison
	<i>Overlapping area</i>	820 ha <sup>125</sup>
	<i>First contact with village</i>	2007
	<i>Start of logging</i>	2012
	<i>Start of planting</i>	Not yet started
	<i>Cancelled area</i>	820 ha <sup>126</sup>
<b>Village</b>	<i>Involvement of village authorities in negotiations</i>	Land demarcation with commune chief and a company's representative
	<i>Compensation</i>	-
	<i>Impacts on general life conditions</i>	Improved <sup>127</sup>

Table: Village Profile Thmei. Source: Primary Data.

Thmei was built a long time ago. 37% of 231 households are considered to be poor. The villagers' main activities are growing cassava, rice, and cashew nuts. The size of the village is approximately 600 ha, divided into 400 ha of farming land and 200 ha of residence area. Not included in this calculation are the 3,900 ha of communal land, which it shares with two villages Sraeung and Tumnob. The village chief first heard about the concession in 2007 by the commune chief. In 2009, he joined the commune chief and representatives of the company on site to indicate where the village's boundaries are. The company denied 820 ha of village land (800 ha of degraded forest, 20 ha of paddy fields) with the argument, that the land belonged to the company and that his village was no longer allowed to let the cows graze and to do shifting cultivation in the forest. Before the company was able to clear the land in 2012, volunteer students came to the village to demarcate their land. They acknowledged the community forest and the company was denied to use it. When the company arrived, villagers began to work harder out of fear to lose their land. They planted more crops and replaced oxen through modern agricultural machines. Their attitude toward work changed significantly. Higher yields and improved living conditions were the results.

### 10.2.7 Sraeung

<b>Sraeung</b>		
<b>General information</b>	<i>Year of settlement</i>	A long time ago
	<i>Number of households</i>	144
	<i>Population</i>	604
	<i>Total area</i>	900 ha <sup>128</sup>

<sup>125</sup> Mainly community forest

<sup>126</sup> Due to the emergence of volunteer students measuring the land

<sup>127</sup> Due to a change of villagers' job involvements triggered by the company's presence, and due to volunteer students who prevented villagers from losing their land.

	<b>Ethnic groups</b>	100% Khmer
<b>Location</b>	<b>Province</b>	Kampong Thom
	<b>District</b>	Prasat Sambour
	<b>Commune</b>	Sraeung
<b>Poverty status</b>	<b>Data book</b>	40-60%
	<b>Village chief</b>	50%
<b>Accessibility</b>	<b>Distance to district town</b>	60 min.
	<b>Paved road connection</b>	No
<b>Company's activities</b>	<b>Impacted by</b>	Gold Foison
	<b>Overlapping area</b>	Around 600 ha
	<b>First contact with village</b>	2007
	<b>Start of logging</b>	2012
	<b>Start of planting</b>	Not yet started
	<b>Cancelled area</b>	"small part"
<b>Village</b>	<b>Involvement of village authorities in negotiations</b>	Land demarcation with commune chief and a company's representatives
	<b>Compensation</b>	None
	<b>Impacts on general life conditions</b>	Became worse

Table: Village Profile Sraeung. Source: Primary Data

There are 144 households in Sraeung and half of them are considered to be poor. 10 households from Kampong Cham have recently moved to their village with the intention to find farming land. It takes one hour to drive to the district town by motorbike. The village's size consists of approximately 700 ha of agricultural land and 200 ha of residence area and in addition they share about 3000 ha<sup>129</sup> community forest with the villages Thmei and Tumnob. End of 2007, he got to know about the company's project. In 2009, he was invited to measure the land concession with the commune chief and company representatives. He was not satisfied with the results, since around 600 ha of the community forest was granted to the company, but he didn't dare to insist any further. To a later date, volunteer students came to demarcate village land. They only allocated community forest to the village which had not yet been cleared by the company. The company didn't pay any compensation. The logging of big parts of their community forest led to a declined livelihood, since villagers were no longer able to collect NTFPs. Furthermore, grazing land for their cows was lacking and they had to sell the cows. As a result villagers took loans, but due to the high inflation rates and a decreasing income, people were forced to sell their remaining land and some of them emigrated. This village seems to be strongly impacted by the company Gold Foison. According to the village chief, the only benefits the company brought were an improved road

<sup>128</sup> Excluding 3,000 ha community forest shared by three villages

<sup>129</sup> This is only an estimation, so it is not surprising that the village chief from Thmei mentioned another figure (3,900 ha) in terms of community forest.

and some jobs. Even though the company provided jobs, only few accepted due to low-paid wages<sup>130</sup> and due to the incoherency with social norms<sup>131</sup>.

### 10.2.8 Tumnob

Tumnob		
<b>General information</b>	<i>Year of settlement</i>	A long time ago
	<i>Number of households</i>	270
	<i>Population</i>	1,404
	<i>Total area</i>	500 ha <sup>132</sup>
	<i>Ethnic groups</i>	100% Khmer
<b>Location</b>	<i>Province</i>	Kampong Thom
	<i>District</i>	Prasat Sambour
	<i>Commune</i>	Sraeung
<b>Poverty status</b>	<i>Data book</i>	40-60%
	<i>Village chief</i>	70%
<b>Accessibility</b>	<i>Distance to district town</i>	120 min. <sup>133</sup>
	<i>Paved road connection</i>	No
<b>Company's activities</b>	<i>Impacted by</i>	Gold Foison
	<i>Overlapping area</i>	70 ha <sup>134</sup>
	<i>First contact with village</i>	2010
	<i>Start of logging</i>	2010
	<i>Start of planting</i>	-
<b>Village</b>	<i>Involvement of village authorities in negotiations</i>	Land demarcation with commune chief and company's representatives
	<i>Compensation</i>	None
	<i>Impacts on general life conditions</i>	Became worse

Table: Village Profile Tumnob. Source: Primary Data

Tumnob is a village located next to Thmei and Sraeung. These tree villages have a communal forest of over 3,000 ha. Its share is 1,360 ha forest. According to the village chief, 70% out of 270 households are considered to be poor, which means they have no farming land and/or no house. The size of the village is around 500 ha, divided up in 300 ha of agricultural land and 200 ha of residence area. Gold Foison started their implementation in 2009. Before, the district governor informed him and other villagers that they should no longer encroach on the forest, since it did not belong to them. A few weeks later, he identified

<sup>130</sup> 15,000-20,000 riel per day

<sup>131</sup> Working for the company was considered as a betrayal.

<sup>132</sup> Excluding 1,360 ha of community forest

<sup>133</sup> The information given by the village chief appeared to be excessive considering the spatial proximity to the neighboring villages Thmei and Sraeung, from which it only takes one hour to drive to the district capital.

<sup>134</sup> 50 ha community forest and 20 ha paddy fields

his land with the commune chief and with representatives of the company and was satisfied that they gave in to not use the villages' land including the community forest. However, the company did not keep the promise and targeted 20 ha of their paddy rice and 50 ha communal land. Before the company could advance any further, volunteer students arrived in the village and demarcated their land. The paddy fields were returned to the villagers, but they didn't get the cleared communal land (50 ha) back. The company had hired villagers for clearing the land, but after the volunteer students appeared, they stopped employing villagers and hired workers from the village Svay. It is unknown why the company stopped hiring people from Tumnob and whether there might be any connection to the students' incident.

### 10.2.9 Srae Srama

<b>Srae Srama</b>		
<b>General information</b>	<i>Year of settlement</i>	A long time ago
	<i>Number of households</i>	200
	<i>Population</i>	770
	<i>Total area</i>	870 ha
	<i>Ethnic groups</i>	100% Khmer
<b>Location</b>	<i>Province</i>	Kampong Thom
	<i>District</i>	Santuk
	<i>Commune</i>	Tipo
<b>Poverty status</b>	<i>Data book</i>	20-40%
	<i>Village chief</i>	80%
<b>Accessibility</b>	<i>Distance to district town</i>	60 min.
	<i>Paved road connection</i>	No
<b>Company's activities</b>	<i>Impacted by</i>	BNA, Gold Foison
	<i>Overlapping area</i>	300 ha (BNA), None (Gold Foison)
	<i>First contact with village</i>	2009 (Gold Foison)
	<i>Start of logging</i>	2009 (BNA)
	<i>Start of planting</i>	2010 (BNA)
	<i>Cancelled area</i>	Over 100 ha (Gold Foison) <sup>135</sup>
<b>Village</b>	<i>Involvement of village authorities in negotiations</i>	None (BNA and Gold Foison)
	<i>Compensation</i>	None (BNA)
	<i>Impacts on general life conditions</i>	Became worse

Table: Village Profile Srae Srama. Source: Primary Data

The village is host to two rubber companies called BNA and Gold Foison. It consists of 200 households with 770 people. The poverty status is around 80% and its size is now 870 ha including 350 ha of farming land and 520 ha of communal land. During a meeting taking

place in 2009, the commune chief informed the villagers about the concession of Gold Foison. The area of BNA overlapped with 300 ha paddy fields used by 100 households. The company “grabbed” their land without paying any compensation to the impacted families, nor did they provide an alternative area in form of a substitution. The site of the company Gold Foison was initially also overlapping with more than 100 ha of community forest, but due to the emergence of volunteer students registering their land, they successfully retained their land. The general life conditions worsened since the company’s arrival. Their land has been measured by volunteer students in 2012, and they now are waiting for their land titles. The village chief stated that he was not sure whether the company had targeted his village deliberately. However, he affirmed that the high poverty status facilitated the “stealing” of their land since villagers couldn’t afford any legal assistance. On the other hand, he didn’t exclude positive impacts which may still occur in the future.

### 10.2.10 Ta Menh

<b>Ta Menh</b>		
<b>General information</b>	<i>Year of settlement</i>	A long time ago
	<i>Number of households</i>	270
	<i>Population</i>	1393
	<i>Total area</i>	1,000 ha
	<i>Ethnic groups</i>	100% Khmer
<b>Location</b>	<i>Province</i>	Kampong Thom
	<i>District</i>	Santuk
	<i>Commune</i>	Kraya
<b>Poverty status</b>	<i>Data book</i>	20-40%
	<i>Village chief</i>	85%
<b>Accessibility</b>	<i>Distance to district town</i>	120 min.
	<i>Paved road connection</i>	No
<b>Company’s activities</b>	<i>Impacted by</i>	Gold Foison (former CCV)
	<i>Overlapping area</i>	200 ha (but got parts of it replaced)
	<i>First contact with village</i>	2009
	<i>Start of logging</i>	2009
	<i>Start of planting</i>	2010
	<i>Cancelled area</i>	None
<b>Village</b>	<i>Involvement of village authorities in negotiations</i>	Compensation
	<i>Compensation</i>	Substitution of lost land in another location
	<i>Impacts on general life conditions</i>	Stayed the same

Table: Village Profile Ta Menh. Source: Primary Data

<sup>135</sup> Estimation made by the village chief

The village was founded a long time ago and consist of 270 households with 1,393 villagers. According to the village chief, 85% of the households are poor and no other ethnic groups than Khmer are living in his village. The main livelihood activities are planting rice and rubber, and some villagers work for companies. He estimated the total village size to be around 1,000 ha composing of 500 ha farming land and 500 ha forest. The first encounter with the company was in 2009, when a meeting was held in the commune and they were informed about the ELC. The company's requested land was overlapping with 200 ha degradable community forest. Though they got some land replaced in a different location. He considered this deal as okay and explained that his village was not severely affected by the ELC. Furthermore he stated that the company had started clearing the land in 2009, before the official contract between MAFF and the company was signed. However, it must be noted that close to his village, other concession had been granted and that he may have confused them with the CCV.

### 10.2.11 Sopheak Mongkol

<b>Sopheak Mongkol</b>		
<b>General information</b>	<i>Year of settlement</i>	1980
	<i>Number of households</i>	230
	<i>Population</i>	1096
	<i>Total area</i>	-
	<i>Ethnic groups</i>	100% Khmer
<b>Location</b>	<i>Province</i>	Kampong Thom
	<i>District</i>	Kraya
	<i>Commune</i>	Santuk
<b>Poverty status</b>	<i>Data book</i>	20-40%
	<i>Village chief</i>	87.0% (200 out of 230 HHs) <sup>136</sup>
<b>Accessibility</b>	<i>Distance to district town</i>	60 min.
	<i>Paved road connection</i>	No
<b>Company's activities</b>	<i>Impacted by</i>	Gold Foison (former CCV)
	<i>Overlapping area</i>	150 ha
	<i>First contact with village</i>	-
	<i>Start of logging</i>	-
	<i>Start of planting</i>	-
	<i>Cancelled area</i>	None
<b>Village</b>	<i>Involvement of village authorities in negotiations</i>	None
	<i>Compensation</i>	None
	<i>Impacts on general life conditions</i>	Improved

Table: Village Profile Sopheak Mongkol. Source: Primary Data

<sup>136</sup> The village chief explicitly noted that these HHs were in debt.



Duch Won is the female village chief of Sopheak Mongkol, which counts 230 households – 80% of them are in debt, meaning poor. She could not remember when she first heard about the land concession, and she didn't participate in any meeting, since she had only recently been elected as village chief. The overlapping zone is estimated to be around 150 ha of degraded forest, which was used by 30 households. Most of them didn't possess any farming land. The poorest households were hit the hardest. The company didn't provide any compensation to villagers. In the conclusion, she mentioned that the concession had a slight impact on Sopheak Mongkul and that people who lost their land got adapted to the circumstances and found another plot to cultivate or another occupation. Further she noted that the general life conditions have gotten better in the past few years due to issued loans and related to this the creation of new jobs within in the village. But the other side of the coin is that more villagers are now in debt.

### 10.2.12 Trapeang Pring

<b>Trapeang Pring</b>		
<b>General information</b>	<i>Year of settlement</i>	1979
	<i>Number of households</i>	159
	<i>Population</i>	903
	<i>Total area</i>	-
	<i>Ethnic groups</i>	100% Khmer
<b>Location</b>	<i>Province</i>	Kampong Thom
	<i>District</i>	Santuk
	<i>Commune</i>	Kraya
<b>Poverty status</b>	<i>Data book</i>	20-40%
	<i>Village chief</i>	16.4% <sup>137</sup> (26 out of 159 HHs)
<b>Accessibility</b>	<i>Distance to district town</i>	120 min.
	<i>Paved road connection</i>	No
<b>Company's activities</b>	<i>Impacted by</i>	Gold Foison (former CCV)
	<i>Overlapping area</i>	200 ha <sup>138</sup>
	<i>First contact with village</i>	2009
	<i>Start of logging</i>	2010
	<i>Start of planting</i>	-
	<i>Cancelled area</i>	200 ha
<b>Village</b>	<i>Involvement of village authorities in negotiations</i>	None
	<i>Compensation</i>	None
	<i>Impacts on general life conditions</i>	Stayed the same

Table: Village Profile Trapeang Pring. Source: Primary Data

<sup>137</sup> Very poor: no house

<sup>138</sup> Due to volunteer students, the village could retain the 200 ha forest.

903 villagers live in Trapeang Pring, 467 of them are female. 26 out of 159 households don't have a house and are considered to be very poor. The commune chief of Kraya invited different village chiefs to a meeting in 2009, where they were informed of the company's intentions. The company demanded 200 ha of degraded forest inside their village boundaries. Luckily, the volunteer students sent by PM Hun Sen arrived to demarcate the land. They cut out the 200 ha land. At the time of the visit, they were waiting for their land titles. Hence his village was not negatively impacted by the company, but rather benefited from an improved road and from job opportunities.

### 10.2.13 Dang Kdar

<b>Dang Kdar</b>		
<b>General information</b>	<i>Year of settlement</i>	A long time ago
	<i>Number of households</i>	585
	<i>Population</i>	1380
	<i>Total area</i>	718 ha
	<i>Ethnic groups</i>	100% Khmer
<b>Location</b>	<i>Province</i>	Kampong Thom
	<i>District</i>	Santuk
	<i>Commune</i>	Kraya
<b>Poverty status</b>	<i>Data book</i>	20-40%
	<i>Village chief</i>	70%
<b>Accessibility</b>	<i>Distance to district town</i>	60 min.
	<i>Paved road connection</i>	No
<b>Company's activities</b>	<i>Impacted by</i>	Gold Foison (former CCV), An Sophy, Farmer, Hean Mean, Siv Gech?
	<i>Overlapping area</i>	the land of 100 HHs
	<i>First contact with village</i>	2009
	<i>Start of logging</i>	-
	<i>Start of planting</i>	-
	<i>Cancelled area</i>	None
<b>Village</b>	<i>Involvement of village authorities in negotiations</i>	Negotiation land compensation payments
	<i>Compensation</i>	400,000 riel (around US\$100) per ha
	<i>Impacts on general life conditions</i>	Became worse

Table: Village Profile Dang Kdar. Source: Primary Data

The 1,380 villagers of Dang Kdar are all Khmer. The village land was targeted by more than one company. He listed An Sophy Farming, An Mardy and BNA, but he wasn't sure if the latter two were correct. Consulting maps, it seems unrealistic that his village has been affected by An Mardy and BNA, since both concessions are far away from his village. It appears to be more plausible that Golden Farming, CCV, Siv Gech, Farmer and/or Heng

Mean were claiming his villagers' land. In 2009, the village chief was involved in identifying village land and negotiating compensations with the company. 100 households were impacted by these companies, but he didn't know the extent of the size. A few of them received 400,000 riel (around US\$100) per ha land, but most of them got nothing. He didn't know why some had received compensation while others had not. The overlapping land was very important to them, because they collected NTFPs, logged trees, planted rice, potatoes and mangoes on it. They cultivated it on a rotational farming scheme. The general life condition aggravated dramatically, since the companies arrived.

### 10.3 CCV Profile

<b>CCV Co., Ltd</b>		
<b>General information</b>	<b>Name of the company</b>	CCV Co., Ltd
	<b>Director's name</b>	Mr. Seng Meng
	<b>Shareholders</b>	-
	<b>Affiliations</b>	-
<b>Address</b>	<b>Local office</b>	#33F, St.5, Sangkat Svay Pak, Khan Russey keo, Phnom Penh
<b>Total area in Cambodia</b>	<b>Official source</b>	5730 ha
	<b>Other sources</b>	5000 ha <sup>139</sup>
<b>Implementation status</b>	<b>Already allocated</b>	-
	<b>Implemented</b>	Some parts are cultivated <sup>140</sup>
<b>Duration</b>	<b>Investment license</b>	70 years
<b>Date</b>	<b>Granting concession</b>	05.05.2010
	<b>Planting</b>	2011/2012 <sup>141</sup>
	<b>Production/harvest</b>	-
<b>Government level</b>	<b>Contracting authorities</b>	MAFF
<b>Location of plot(s)</b>	<b>Province(s)</b>	Kampong Thom
	<b>Districts(s)</b>	Santuk
<b>Documents available</b>	<b>Contract</b>	No
	<b>ESIA</b>	No
	<b>Maps</b>	No
	<b>Others</b>	No

Table: Profile of the Company CCV. Source: Primary and Secondary Data

<sup>139</sup> Interview with the DD of Gold Foison

<sup>140</sup> Observation from the field research

<sup>141</sup> Observation from the field reserach

## 10.4 Code Tree

The following list<sup>142</sup> contains the used categories and main codes during the coding process:

### Actors

- Main actors
- National actors
  - o Prime Minister<sup>143</sup>
    - Power
    - Task and duties
    - Personality
    - Activities
    - Means
    - Embeddedness in institutions
    - Dynamic conditions of action
    - Strategy of action
    - Relationship
  - o Military
  - o CDC
  - o CoMs
  - o MAFF
  - o MoE
  - o MLMUPC
  - o MEF
- Local authorities
  - o Province level
  - o District level
  - o Commune level
- Villagers
  - o Village chief
  - o Villagers
- Companies
  - o VRG
  - o CRCK 1
  - o Tan Bien
  - o Gold Foison
  - o BNA
  - o CCV
- NGOs
- Other countries
  - o USA
  - o Kuwait
  - o China
  - o Vietnam

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<sup>142</sup> The list is not complete, but it gives an overview of the basic structure. For some codes no text segments were found and added.

<sup>143</sup> Codes for the other actors have a similar structure as the ones for the PM.

- Thailand
- Regional actors
  - ASEAN
  - ADB
- International actors
  - World Bank
  - EU
  - Donors
  - UN
- Brokers

### **Land granting process**

- In conformity with the law
- In practice
  - General procedure
    - Monitoring
    - Land demarcation
    - Job announcement
    - Reclassification
    - Registration
    - Masterplan
    - Informal approach
    - Data for site selection
    - Land clearing
    - Implementation
    - Preliminary study
    - Unsolicited proposal
    - Violation of the law
    - Top-down principle
    - Untransparent process
    - ESIA
    - Land selection
    - Consultation with CoMs and PM
    - Issuance of a Sar Chor Nor
    - Deposit
  - CRCK 1
  - Tan Bien
  - Gold Foison

### **Specific site selection**

- Village
  - In general
  - Srae Chang
  - Krasang
  - Pum Chas
  - Banteay Roveang
  - Dang Kdar
  - Thma Samlieng

- Ta Menh
- Trapeang Pring
- Sopheak Mongkol
- Tumnob
- Sra Srama
- Sraeung
- Thmei
- Commune
  - Sandan
  - Tipou
  - Kraya
  - Sraeung
- District
  - Sandan
  - Prasat Sambour
  - Santuk
- Province Kampong Thom
- Cambodia

### **Criteria playing in the site selection**

- Political stability
- Communication and secrecy
- Social network
- Affiliation to CPP
- Profitability of rubber
- Soil quality
- Suitability of climate and topography
- Socio-cultural factors
- Economic factors
- Support poor household
- Financial self-interest of authorities
- Bilateral relationship
- Profitability of land clearing
- Patronage/clientelism
- Land tenure and use
- Land availability
- Availability of infrastructure
- Proximity to markets
- Past wartime
- Reputation of foreign or local companies
- Ethnic identity of local communities
- Land speculation
- Temporal aspect

### **Impacts**

- Tan Bien
  - Access to forest
  - Livelihood

- Infrastructure
- Employment
- Gold Foison
  - Cattle
  - Infrastructure
  - Paying taxes
  - Employment
  - Livelihood
- CRCK 1
  - Land conflict
  - Illegal logging
  - Infrastructure
  - Fish population
  - Abandon of cultural beliefs
  - Livelihood
  - Watershed
  - Employment
- General Impacts

## 10.5 Weighting of Factors

	Bio-physical conditions	Land Cover	Accessibility	Land Availability	Poverty	Ethnicity	Political Allegiance	Political Relationship	Economic Conditions	Score
Bio-physical conditions		-	+	+	+	+	+	-	-	2
Land Cover	+		+	+	+	+	+	+	+	8
Accessibility	-	-		+	+	+	+	-	-	0
Land Availability	-	-	-		+	+	+	-	-	-2
Poverty	-	-	-	-		-	-	-	-	-8
Ethnicity	-	-	-	-	+		-	-	-	-6
Political Allegiance	-	-	-	-	+	+		-	-	-4
Political Relationship	+	-	+	+	+	+	+		+	6
Economic conditions	+	-	+	+	+	+	+	-		4

Table: Weighting of Factors in the Case of CRCK 1



This weighting represents the author's point of view. In order to assess the importance of the different criteria, factors were compared with each other. The results were 36 comparisons and a ranking from 1 (with the highest score) to 9 (lowest score). Having received a "+" means the factor in the left column is considered to be more important than the correspondent factors in the row above. For instance, bio-physical conditions are weighted as less important than the land cover. Evidence suggests that the company CRCK 1 hazarded the consequences of less favourable bio-physical conditions (e.g. poor soil quality) in order to exploit the timber. Due to the lack of information about the concessions Tan Bien and Gold Foison, the weighting was only done for the case CRCK 1.

## **10.6 Village Questionnaire**

### **General profile of the village**

1. Since when does the village exist?
2. How many households/people are living in the village?
3. Which ethnic groups are living in the village? How many households/people for each?
4. Are there any households which have only recently moved to this village? Amount of households? Ethnic background? Place of origin? Reason?
5. What is the poverty status of this village? How many households are considered to be poor?
6. Please rank the 3 main livelihood activities?
7. What are the 3 main produces villagers produce?
8. What are the 3 main products this village sells outside of the village?
9. Was there any Land Use Plan undertaken? When?
10. Which land documents do villagers have? For which land?
11. Since when does the village have a paved road connection? A dirt road connection? Electricity?
12. How long does it take in average to the next district town? To the next main market? By which way of transport?
13. How large is this village?
14. How big is the total agricultural land area?
15. Paddy/upland rice?
16. Protection forest?
17. Conservation forest?
18. Production forest?
19. Other forest areas (e.g. spirit forest)?
20. Residence area?

21. Empty land nobody uses?
22. Other type of land (e.g. pasture)?
23. Are there any boundary conflicts with neighboring villages?
24. Are there any land conflicts within the village?

### **General profile of the investment company**

25. Name of companies investing within your village? Product? Year of commence? Ha granted?
26. When did the company start clearing? Planting? Harvesting? How many ha since then?
27. Please describe the quality of the soil and the potential usage of the area which was given to the company?
28. Who from the company is in charge of this concession here within the village?
29. Who from the village is in charge to deal with this concession on behalf of the villagers?

### **Processes/Key factors**

30. When did you first hear about the company/land concession?
31. Who first informed you about the concession? How were you informed about the concession?
32. At the time you first learned about the land concession, what was already decided? By whom?
33. What was the role of the village authority/committee during the process? Where you involved in any decision making of the following: General agreement process? Negotiating the overall land area size? Allocating and identifying land? Negotiating land compensation payments? Negotiating contractual arrangements and terms of conditions? Implementation of concession-project? Others?
34. If yes, how were you involved?
35. Who approved the concession? Who signed the contract?
36. Why do you think was your village selection for this concession? By whom?
37. Do you think any of the following factors played a crucial role: Accessibility and infrastructure? Poverty status of your village? Ethnicity? Others?
38. How was the land for the concession in your village identified? Who selected the land?
39. Was there any land the company and/or the government wanted for the concession area, but was at the end not granted? Why? How?
40. Which documents (maps, land use plans, etc.) were used to choose the land? Was there any survey done beforehand? By whom?
41. Is the company also using land within neighboring villages? If yes, how many villages and names?

42. If yes, are the general settings (land area, contracts, payments, etc.) similar to how the company is implementing the project within your village? What are the main differences? Why are there such differences?
43. If no, why do you think your village was selected but not the neighboring village?
44. Which documents do you have related to the land concessions? Where do you keep them? Who gave it to you?
45. In which language was the contract written? Do you read or speak this language?
46. What does the contract say in terms of years of project duration? Potential extension? Profit sharing? Compensation payment? Concession fees? Other benefits for the village?

### **Land allocation and impacts**

47. Which type of land was allocated for the concession: Primary forest? Secondary forest? Tertiary forest? Paddy? Upland rice/Shifting cultivation area? Fruit/Vegetable gardens? Pasture? Others?
48. How many households were using which land before?
49. How important was the land for those households?
50. How is the land used now by the households?
51. Is there any land used by the company which was not agreed on to be used?
52. Did individuals receive compensation?
53. If yes, for which land? How much? If not monetary compensation what else was provided?
54. Did the village as a whole receive any kind of compensation for communal land?
55. If yes, for which land? How much? If not monetary compensation what else was provided?
56. What is the general quality of the deal for the company and for the whole village (good deal/ok/not good/really bad/don't know)?
57. Has the concession brought any positive development to the village? Which land?
58. If yes, who profits most? Why is it so?
59. Has the concession brought any negative development to the village? Which kind?
60. If yes, who loses most? Why is this so?
61. Are villagers working for the plantation? Which kind of work? How much do they earn?
62. Are non-villagers working for the concession? Which kind of work? How much do they earn? Where do they stay? Any problems with them? Where are they from?
63. What are the biggest changes for this village since the company arrived?
64. What are the biggest agricultural changes since the company arrived? Did any agricultural activity stop/start because of the concession? Why?

65. Is the company operating any contract farming or smallholder scheme in this village or somewhere else?

**Assessment on livelihood**

66. Since the plantations have started operation has... improved? Stayed the same? Became worse? Is it directly caused by the plantation? Indirectly related to the plantation? Not related to the company?

67. General life conditions?

68. Average household income?

69. Food security?

70. Infrastructure/Road access?

71. Trade/Economic development?

72. Harvest of agricultural products?

73. Rice harvest?

74. Fish catch?

75. Non-timber forest products?

76. Wildlife

## Erklärung

Gemäss Art. 28 Abs. 2 RSL 05

Name/Vorname: Michel Lukas

Matrikelnummer: 07-111-396

Studiengang: Master of Science in Geography

Bachelor       Master       Dissertation

Titel der Arbeit: Key factors influencing decision-making on large-scale land acquisitions in Cambodia

Leiter/-in der Arbeit: Prof. Dr. Urs Wiesmann  
Dr. Peter Messerli

Ich erkläre hiermit, dass ich diese Arbeit selbständig verfasst und keine anderen als die angegebenen Quellen benutzt habe. Alle Stellen, die wörtlich oder sinngemäss aus Quellen entnommen wurden, habe ich als solche gekennzeichnet. Mir ist bekannt, dass andernfalls der Senat gemäss Artikel 36 Absatz 1 Buchstabe o des Gesetzes vom 5. September 1996 über die Universität zum Entzug des auf Grund dieser Arbeit verliehenen Titels berechtigt ist.

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Ort/Datum

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Unterschrift