

Vietnamese Rubber Investments in the South of the Lao PDR

Key factors influencing decision making in large-scale land acquisitions by Vietnamese investors in the agro-forestry sector of the Lao PDR



Master's thesis

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

submitted by

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December, 2013

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Printed by:

Copy centre of the University of Berne, Switzerland

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This thesis was funded by the Swiss Network for International Studies (SNIS) and the Swiss Development Cooperation (SDC). Additional financial and logistic support came from the Centre for Development and Environment (CDE), Bern, Switzerland, the Land Observatory Project, and the Institute of Geography of the University of Berne.

English language editing:

Marianne Gillian Hessey, Juliet Lu, and Mike Dwyer

Layout:

By the author

Cover photo:

Left: rubber plantation in Bachiangchaleunsook (Bachiang) District, Champasak Province. Middle: soil map of Bachiang District. Right: concession site of HAGL Company in Attapeu Province. Zurflueh, 2012



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Acronyms and Abbreviations

ADB	Asian Development Bank
ASEAN	Association of Southeast Asian Nations
CDE	Centre for Development and Environment
CLV-Triangle	Cambodia - Laos - Vietnam Development Triangle Area
CPMI	Committee for Promotion and Management of Investment
DAFO	District Agriculture and Forestry Office
DAKLAORUCO	Dak Lak Rubber Company Limited
DAKRUCO	Dak Lak Rubber Corporation
DLMA	District Land Management Authority
DNREO	District Natural Resources and Environment Office
DoNRE	Department of Natural Resources and Environment
DPI	Department for Planning and Investment
EIA	Environmental Impact Assessment
ELCs	Economic land concessions
FAO	Food and Agriculture Organization of the United Nations
FDI	Foreign direct investments
GERUCO	Vietnam General Rubber Corporation
GIS	Geographic Information System
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
GoL	Government of Laos
HAAC	Hoang Anh Attapeu Company
HAGL JSC	Hoang Anh Gia Lai Joint Stock Company
HCMDCO	Ho Chi Minh City Dairy Cattle Company Limited
HCMYRC	Ho Chi Minh Youth Rubber Company Limited
HDI	Human Development Index
IEE	Initial Environment Assessment
IRSG	International Rubber Study Group
Lao PDR	Lao People's Democratic Republic
LDC	Least Developed Country
LPRP	Lao People's Revolutionary Party
LSC	Land Survey Certificate
LSLAs	Large scale land acquisitions and leases

LTD	Land Tax Declaration
MAF	Ministry of Agriculture and Forestry
MoNRE	Ministry of Natural Resources and Environment
MoU	Memorandum of Understanding
MPI	Ministry of Planning and Investment
NA	National Assembly
NAFRI	National Agriculture and Forestry Research Institute
NGOs	Non-governmental organisations
NGPES	National Growth and Poverty Eradication Strategy
NLMA	National Land Management Authority
NREIC	Natural Resources and Environment Information Centre
NTFPs	Non-timber forest products
OECD	Organization for Economic Cooperation and Development
PAFO	Provincial Agriculture and Forestry Office
PCO	District Planning & Cooperation Office
PLMA	Provincial Land Management Authority
RGL	Royal Government of Laos
SDC	Swiss Development Cooperation
SEA	Southeast Asia
SEZ	Special Economic Zone
SNIS	Swiss Network for International Studies
SLA	Sustainable Livelihoods Approach
UXO	Unexploded Ordnances
VLRC	Viet-Lao Rubber Joint Stock Company
VRA	Vietnam Rubber Association
VRG	Vietnam Rubber Group
WREA	Water Resources and Environment Agency

Foreword

Upon returning to Switzerland in March 2013 having completed a four month field research in the Lao PDR, I was met with a colourful poster when walking through the passengers' hall of Zurich airport. It was the „Ohne Land Kein Brot“¹ campaign by the two oecumenical organisations „Fastenopfer“ and „Brot für Alle“. The poster shows a tasty hamburger with a loupe in the middle visualizing a frightened man with a woman running away from a bulldozer destroying farm lands in the background. Below this image is a hard-hitting statement; “we see the dispossession of peasant families for global meat production and act”. Although, being in Switzerland and far away from these events the poster brought me back to my experiences and knowledge of land acquisition in the Lao PDR and Cambodia.

Despite the Lao PDR being a so-called poor and underdeveloped country, it is rich in natural capital and land. Therefore, effective governance of its natural resources is important to enable a long term sustainable economic growth for the social welfare of its people. The allocation of large-scale economic land concession to foreign investors is considered by the Government of Laos (GoL) as a possible way to modernise the country's economy and to achieve its social development objectives. Nevertheless, the serious increase of foreign land investments in the Lao PDR combined with a missing coordinative national land planning and weak enforcement of regulations have generated concerns, even by the government, about negative implications for the environment, livelihoods of affected villagers, and for national food security in the future.

With this thesis I would like to generate knowledge and insights about how such large-scale land concessions are implemented by Vietnamese investors in Southern Laos, and thus increase awareness about the contexts and processes in which such land deals proceed. In addition, the findings of this thesis shall enable the SNIS project to get statements about potential links between observed impacts on the ground and specific implementation patterns as described in this paper.

¹ No land no bread

Acknowledgements

This master's thesis has been carried out under a project funded by the Swiss Network for International Studies (SNIS) on "LARGE-SCALE LAND ACQUISITIONS IN SOUTHEAST ASIA: Rural transformations between global agendas and peoples' right to food," which was financed by Swiss Development Cooperation (SDC). I am very grateful for the additional financial and logistic support that came from Centre for Development and Environment (CDE), University of Bern, Switzerland, the Land Observatory Project, and the Institute of Geography of the University of Berne for which I am very grateful. I would give thanks specifically to thank Peter Messerli from the CDE and Oliver Schoenweger and Andreas Heinimann from CDE in Laos for accompanying me through the different stages of my thesis, giving me advice and feedback on my data and helping me to organise my very valuable field research in Champasak and Attapeu Province.

The thesis is based on desk research and semi-structured interviews with government officials and land acquisitions experts in Lao PDR. I would like to acknowledge the cooperation of all those who participated in interviews and informal talks in Vientiane and the provinces of Champasak and Attapeu. The gratitude is extended most especially the provincial government offices, such as, the Department of Natural Resources and Environment (DoNRE), Provincial Agriculture and Forestry Office (PAFO), and Department of Planning and Investment (DPI). In addition, I would like to thank Mr. Chanly Silakoun from the Ministry of Natural Resources and Environment (MoNRE) in Vientiane for supporting and assisting me during my talks with the provincial line agencies.

At this point, I would like to thank Mr. Vong Nanhthavong for being such a wonderful interpreter and friend and for giving me a precious understanding of Lao culture – I would have not been able to carry out my field research without your help.

Finally, and most importantly, I want to thank the leaders and the members of the visited villages for granting me to conduct interviews and hosting my team and me during many delicious lunches.

I struggled at the beginning of my stay in Lao PDR trying to organise my everyday life, therefore, I am extremely grateful to have met Ms Ramona Nakhavith as she helped me with a number of things. She showed me the delights of the countless markets with delicious Lao food and she made me feel at home in Vientiane. Thank you!

Abstract

Transnational, large-scale land acquisitions in developing countries have attracted great attention from scientists and international development agencies due to its role in socio-economic change and landscape transformation. In recent years, expanding demands for raw materials by neighbouring countries and the Government of Laos' (GoL) development objectives resulted in the establishment of legal frameworks promoting economic land concessions to foreign investors. As a result, investments in large-scale concessions have greatly increased during the last ten years, shaping the economy and landscapes in the Lao PDR significantly. While there have been many studies about the impacts of land concessions on local villager's livelihoods, there has been comparatively little research conducted about the processes and contexts in which these land deals take place.

This master's thesis, carried out as part of a research project of the Swiss Network for International Studies (SNIS) on large-scale land acquisitions in Southeast Asia, analyses key factors influencing the decision-making on large-scale economic land concessions by using four case studies involving rubber plantations implemented by Vietnamese companies in southern Laos. Companies from Vietnam, together with those from China, are the major investors (when measured by area) in Laos and are, therefore, of special interest. This thesis examines the interaction of the actors and institutions involved in decision-making about Vietnamese rubber plantations in order to generate knowledge about factors determining the implementation and location of concessions in the plantations sector. Furthermore, the study analyses the way villagers are involved in this process and documents the variable outcomes of negotiations between villagers, government, and company representatives in terms of compensation payments and size of plantations. This has been done to help answer the SNIS research question about whether specific patterns in the location of land concessions can be explained by the particular manner in which they were implemented.

The author argues that the four examined Vietnamese rubber plantations were realised in a similar manner owing to the long-lasting political friendship between Vietnam and Laos. Together with other factors, the friendship between the two countries reveals a "Vietnamese pattern", comprising close relations reaching from the national down to the village scale, characterizing the implementation process, and resulting in the thesis that

Vietnamese investors can develop their large-scale plantations more smoothly and quickly than other investors. In addition, the analysis of the point in time Vietnamese investors acquired LSLAs in Laos illustrates that land concessions are mainly regional phenomenon triggered by the Government of Laos' (GoL) policy of promoting foreign direct investment for poverty reduction. Furthermore, the thesis finds that poverty incidence is less important as a factor in the allocation of concessions by location than is suggested by the GoL policy. The findings of this master's thesis can further inform research on the impacts of large-scale rubber plantations elsewhere to see whether certain impacts can be linked to groups of investors and if, in any case, they refer to the prior implementation of the plantation.

1 Introduction on Large-scale Land Acquisitions

1.1 Introduction

Although, private, governmental investors or joint ventures acquiring ownership rights or long-term leases of substantial parts of lands (usually over 1,000 hectares) are not new phenomenon (see chapter 3.4), researchers engaged in analysing these emerging land deals are concerned about the newly erupted rush for acquiring land over the last five to six years (Anseeuw et al., 2012b; De Schutter, 2009; Montemayor, 2009; Von Braun and Meinzen-Dick, 2009; Zoomers, 2010). Large-scale land acquisitions and leases (LSLAs) can be described as long term land leases or land transactions carried out by transnational corporations, foreign governments or domestic investors. The acquired lands are often over 1,000 hectares and are leased on a long term basis (30-99 years – see chapter 3.4), which is why the definition used for land acquisitions in this thesis excludes small- and medium-scale everyday forms of “dispossession by differentiation” described by Araghi (Araghi, 2009). The exact number of land acquisitions differs. Borrás and Franco (Borrás and Franco, 2010a) assume that 20-30 million hectares were transacted between 2005 and mid-2009, while the World Bank (World Bank, 2010) estimates about 45 million hectares between 2005 and 2008. The global research project on “the growing wave of international large-scale investments in land” launched in 2008 by the International Land Coalition (ILC) includes deals reported as approved or under negotiation between 2000 and 2010 amounting in a total of 203 million hectares (Anseeuw et al., 2012b). While the proponents mention the potential for such investment to create “win-win-win” outcomes for the involved countries, local land-users, and investors (FAO - Food and Agriculture Organization, 2009; Woertz et. al., 2008), a growing number of scientific studies and non-governmental organisations (NGOs) underline the threats posed to the livelihoods of local people, thus calling it “land grabbing”² (De Schutter, 2011; Spieldoch and Murphy, 2009; Zoomers, 2010).

While there is an increasing number of a scientist doing research into the impacts and outcomes of LSLAs for the local people by analysing their livelihood and observing

² In this master’s thesis, it has been avoided to use the term „land grabbing“ for land deals in general, as it implies a prior negative labelling, before any research has been conducted. The term “land grabbing” was official defined by more than 150 organisations of around 45 countries in the Tirana Declaration of May 2011. According to this declaration, land deals are considered as land grabbing if they include one or more of the following five conditions: (1) violation of human rights; (2) no prior and informed consent of the affected land-users, (3) disregard social, economic, and environmental impacts; (4) no (transparent) contracts and commitments; and (5) based on meaningful and democratic participation (see Anseeuw et al., 2012b, p. 11).

environment changes, there remains insufficient empirical material on how such land deals are implemented across various administrative and jurisdictional scales, especially in Southeast Asia. There is a need to generate greater knowledge about the involved actors and important factors influencing the decision-making on Large-scale Land Acquisitions enabling us to define and explain uneven processes and variable outcomes by examining the interactions of involved actors, their agency and means. How and why are land acquisitions taking place, and which key factors lead to the observed land cover changes on the ground? In order to address these or similar questions and to better understand detected land use changes in consequence of LSLAs the Swiss Network for International Studies (SNIS) research project on large scale land acquisitions and leases in Southeast Asia (Laos and Cambodia) was initiated in May 2011 (Gironde et al., 2011 – see chapter 1.2).

This master's thesis has been carried out under a project funded by the SNIS, paying particular attention to Vietnamese Rubber Investments in the South of Laos. The SNIS project was designed within a collaborative framework that includes scholars from various sciences as well as international organizations, national and local authorities for the purpose of policy dialogue. At the centre of the research endeavour are the socio-political, economic and environmental potentials and problems characterizing transnational LSLAs. (Gironde et al., 2011) The thesis aims to generate better knowledge about the interactions and factors characterizing the decision-making process of such land deals and thus bring transparency into the blurry and usually arcane LSLAs implementation process in the Lao PDR. For instance, it was reported that some larger land concessions had been approved only at the provincial level without following the legal framework of state land leases and concessions (Baird, 2012).

The beginning of this thesis shall introduce the research focus, the objectives and research questions, and then it will go on to discuss the conceptual framework, the state of the art of current research in this field and the methodology. Afterwards, there shall be a short chapter providing an understanding of the political context of Laos and the legal framework on state land leases and concessions. The country context shall embed the presented results in chapter six in a decision-making process on land deals which should always be analysed in relation to the country context, which in this case are the Lao PDR and the Vietnamese investors. Results are divided into three sections: firstly, the different actors involved shall be analysed by using the human-actor model as a reference; secondly, the "how" and "why" part will try to elaborate on the interactions of the actors by outlining a temporal process flow; thirdly, any additional important criteria which were influencing and guiding the decision-making process will be discussed.

Ultimately, the thesis will have a discussion and syntheses about the “Vietnamese pattern” and the term “available lands” and will end with a conclusion and recommendations.

1.2 Research Focus

This chapter aims to elaborate the research focus of this thesis by integrating this work and the SNIS project on LSLAs in Southeast Asia in a broader development context: in the framework of sustainable development. In order to carry this out, it is necessary to briefly discuss the concept of sustainable development first. A broadly accepted definition of this term was established by the World Commission on Environment and Development (also known as the Brundtland Commission after its chairman, Gro Harlem Brundtland) which defined sustainable development as a “development that meets the needs of the present without compromising the ability of future generations to meet their own needs” (WCED [World Commission on Environment and Development], 1987).

This definition of the WCED does place humans at the centre of sustainable development and implies that “nature” with its resources and animals and plants builds the foundations and thus must not be depleted if it is to remain available for future generations. In the debate on sustainability during the 1990s the concept was added by the following three extents: the sociocultural, economic, and ecological dimension. (Wiesmann and Hurni, eds., 2011) Wiesmann and other scholars put the normative character of sustainable development in the forefront and classified the sustainability concept with an innovative approach that distinguishes between system, target and transformation knowledge (Hurni and Wiesmann, 2004 - see **Fig. 1**). The normative character of the sustainable development concept matches with “a general conviction that global change and dynamics should not just result in uncontrolled and uncontrollable development, but that development should be goal-oriented” (Wiesmann and Hurni, eds., 2011, p. 8). Accordingly, there is not only the need to balance between ecological, economic, and sociocultural objectives but also to discuss and determine values to describe these goals. Hurni and Wiesmann (in: Wiesmann and Hurni, eds., 2011) use the term “target knowledge” (light blue coloured circles in **Fig. 1**) for these values and emphasize that it must be generated in a transdisciplinary negotiation process between scientists and non-scientist stakeholders. While target knowledge does say something about the target status, system knowledge (dark blue coloured rectangles in **Fig. 1**) describes dynamics between the biophysical, socio-economic, and sociocultural system and the linked land use system in between. To steer system and target knowledge together, so that solutions for existing problems resulting from global (land use) change can be formulated, transformation knowledge is needed.

Hurni and Wiesmann (in: Wiesmann and Hurni, 2011, p. 15) “argue that global change can be governed for sustainable development, and that research can 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.” Besides climate change, which is most often perceived as most important process of global environment change, Rockström and co-authors (Rockström et al., 2009) describe other global change impacts including, the rate of biodiversity loss, the nitrogen and phosphorus cycles, stratosphere ozone loss, ocean acidification, global freshwater consumption, atmospheric aerosol loading, chemical pollution and **land use changes and conversion into cropland** [accentuation by the author]. According to Hurni and Wiesmann (2004) such processes of global environment change tend to increase existing disparities and hinder human development.

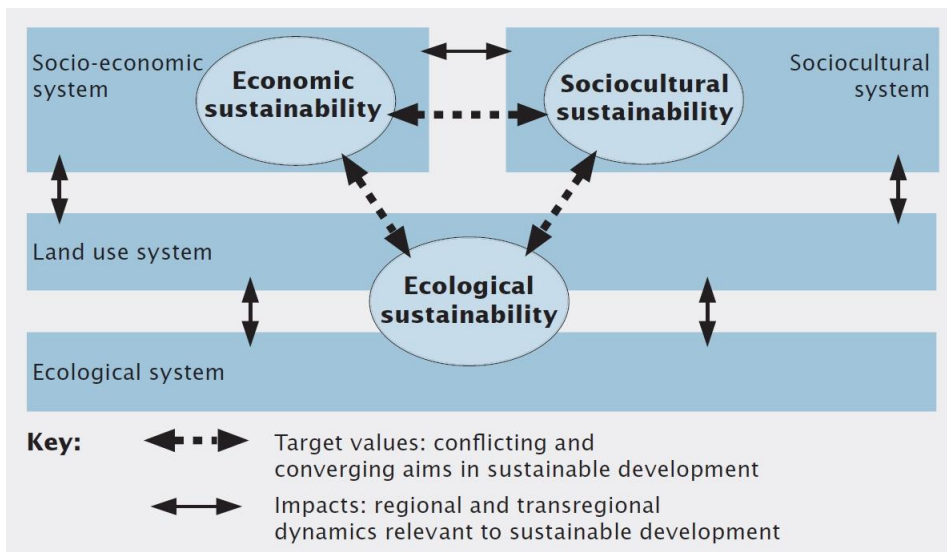


Fig. 1 Conceptual framework of sustainable development (Hurni and Wiesmann, 2004)

The appearance of “land use changes and conversion into cropland” as global change impact leads us to the earlier mentioned SNIS project on large-scale land acquisitions and leases (LSLAs) in Southeast Asia and my involved master’s thesis about key factors influencing the decision making on such land deals in the Lao PDR.

By analysing the current debate on LSLAs the initiators of the SNIS project on LSLAs in Southeast Asia have identified three key limitations of academic knowledge which were influencing the incentives to launch this research project. The project is based on comprehensive case studies in Laos and Cambodia. The focus on Southeast Asia was

decided because this region is under-researched in LSLAs issues when compared to Africa for instance. (Gironde et al., 2011) The three identified key limitations are:

1. The missing link between 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, thus 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 change;
3. The absence of a human rights perspective despite the fact that several studies show that 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.

Key limitation number two is highlighted as this thesis will try to generate knowledge in this specific research area. In order to make a contribution to the debate on LSLAs and sustainable rural development in Southeast Asia and to overcome the three key limitations observed in literature three core research questions have been developed and divided into subordinate objectives (**Fig. 2**):

1. What are the development contexts and processes among various actors and institutions across different administrative scales which are determining the negotiation and implementation of land acquisition?
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 (and what role could they play) in mitigating the tensions related to land investments and protecting the human rights of local populations?

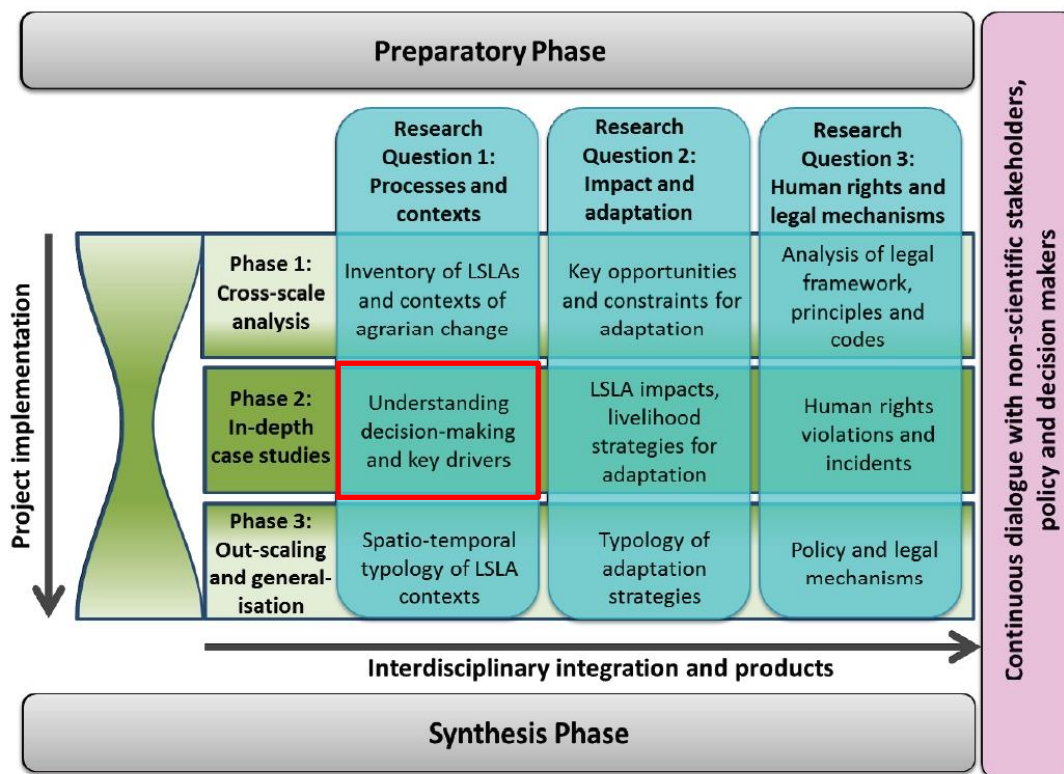


Fig. 2 Research approach of the SNIS project, with the focus area of this master's thesis (Gironde et al., 2011)

This master's thesis makes part of research questions 1 which aims to understand how the decision-making on LSLAs influences agrarian change but also what features of agrarian change influence decision-making. Moreover, research question 1 intends to understand how multi-level and multi-actor decision-making related to LSLAs influences agrarian change. The master's thesis is based on phase 1 of the SNIS project trying to understand the decision-making and key drivers leading to LSLAs in the South of Laos (red rectangle in Fig. 2). Phase 1 is necessary to create an overview of on-going LSLAs at a sub-national level by compiling an inventory. Also, this previous step serves as a basis for defining a representative sample of the subsequent in-depth case studies of this thesis. Furthermore, proximate indicators such as travel time (to the province or district capital) or accessibility to services (certain infrastructure) shall help to advance hypothesis on the investor's incentives.

2 Objectives

2.1 Goal and Objectives

The thesis is aiming to generate a better knowledge about the interactions and factors characterizing the decision-making process of large scale land acquisitions. Current research on land acquisitions tends to privilege the investors role in the process of acquiring land by overemphasising their responses to crisis of food and/or energy and using their assets and means as a main explanation for the circumstances and path of the acquisitions (Anseeuw et al., 2012b; Zoomers, 2010). While addressing the “who” questions is important, it is not sufficient to fully understand and explain the actual processes. Therefore, this thesis is adding the “how” and “why” questions by analysing the interactions of the different actors involved and the resulting power relations leading together with additional factors to a certain outcome of the negotiation process (see chapter 2.2). This shall provide a better understanding of the key-factors influencing the decision-making process of LSLAs in Laos. In connection with the SNIS project the thesis will be helpful for analysing the “Vietnamese pattern” and comparing it with other types of investors allowing balancing reasons to expect a certain process and outcome of land deals in Laos and Cambodia. In combination with the impact assessments carried out by other scholars of the SNIS project it may help to better understand why certain impacts can be observed in a certain area while others not.

By looking at four large scales rubber concession (over 1000 hectares in total in the selected provinces) companies in Southern Laos with same Vietnamese background this thesis has the overall goal to produce insights about the circumstances in which these land deals take place for evidence based decision and policy making. For this reason, it is necessary to be able to determine “key factors” or “indicators/variables” in the decision-making process resulted in the implementation of rubber plantations in Laos. Key factors might be found in the development context (Laos is listed on the United Nations’ list of least developed country [LDC] - see UN-OHRLLS, 2013) or in the negotiation processes (power relations, bilateral relations between Vietnam and Laos) among various actors and decision makers. In addition, there might be also “knowledge-driven” variables such as soil fertility, land tenure and land use and/or spatial proximity of the company to the sought area.

In consequence of these considerations and demands following three objectives were created for this master’s thesis:

1. Determine the main actors involved in the implementation process of LSLAs as well as examine their agendas, strategies, and institutions.
2. Describing the interactions between the various actors involved and trying to explain how they were realized. As a result a graph shall be created to visualize the implementation process on different scales.
3. Understanding which (key) factors/indicators have led in which chronology to the consequence that the land concession is finally located on the actual plot.

2.2 Research Questions and Hypotheses

Based on the three objectives presented in chapter 2.1 three research questions (A-C) were created to support the goals of this master's thesis. They build a logical and chronological sequence which firstly allows us to determine the main actors involved in the decision-making process with their means, assets, and institutions. Secondly, there will be an examination on their interactions and power relations. Combined with their knowledge within the local context this approach shall ultimately generate insights into how the decision-making process leads to a specific land concession in the field.

The three research questions are:

- A. Who are the main players and decision makers involved in the land allocation process for LSLAs? What are their strategies of action, agendas, assets and means, and relevant institutions?
→ **"Who?"**
- B. How did the decision-making process on land acquisitions take place? How do the involved actors interact with each other based on which power relations?
→ **"How and Why?"**
- C. Which key criteria are directing the land allocation in the South of Laos? At what point in the decision-making process do they play a critical role?
→ **"What and When?"**

The overarching hypothesis of the SNIS project is that LSLAs represent a key factor influencing the pathway of current agrarian change between poverty and prosperity. For this master's thesis on Vietnamese investors in the South of Laos the following hypotheses were evolved inductive after a few interviews with different NGO workers which were conducted in November 2012 in Vientiane, Laos. Hypothesis three was developed at the very beginning in the framework of the SNIS project on LSLAs in Southeast Asia.

1. The long established friendship since the Second Indochina War between the Lao PDR and Vietnam is a key factor in influencing the decision-making process and main reason for Vietnamese companies to start investments in Laos.
2. Although the legal framework on state land concessions and leases in Laos does regulate the implementation process and defines the local peoples' rights, villagers are only marginally involved in the negotiation process and thus lack of information about the concession details.
3. Ethnicity, poverty, and accessibility do present important criteria for the allocation of a land concession.

3 Conceptual Framework and Theory

During the introduction part of this thesis the SNIS project was introduced. Its idea is not only to make a relevant contribution to the on-going LSLAs debate but also to pursue a sustainable rural development in Laos and Southeast Asia; as a consequence it makes sense to embed this thesis in the overall framework of sustainable development. Therefore, this chapter is about the main conceptual framework of this thesis, the “human-actor model”. The theories of “political economy” and “political ecology” will be used in addition to create a comprehensive approach for the research (see chapter 4).

3.1 Human-Actor Model³

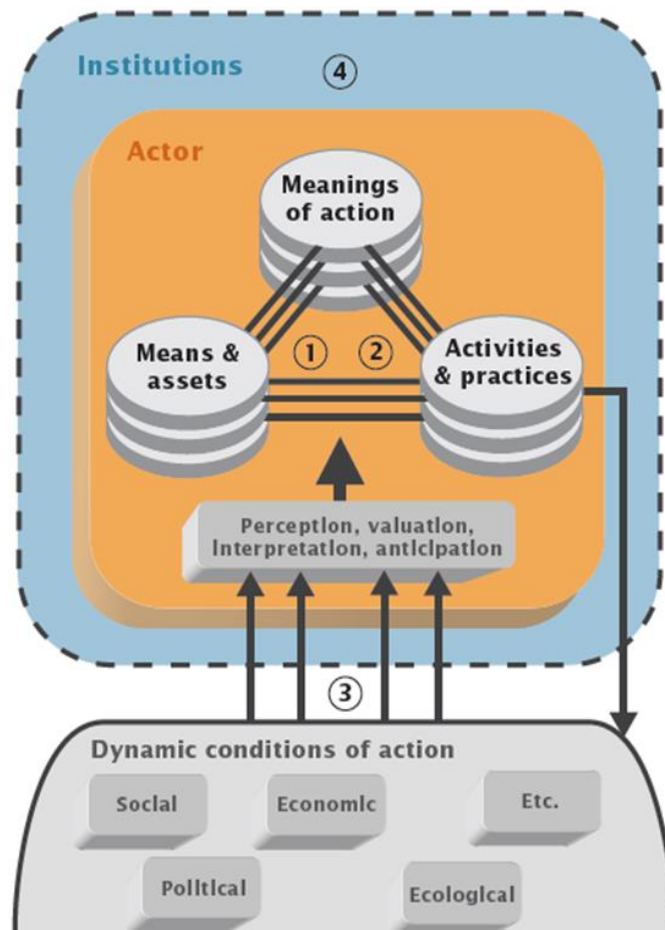
To understand the rationale behind the investor’s action, the human actor model was selected as a framework of this thesis. The human-actor model has influences from various development approaches such as the “Sustainable Livelihoods Approach” (SLA) proposed by the Department for International Development (DFID - Department for International Development, 1999) or Bourdieu’s “theory of practices” which provides concepts for interpreting actions and strategies from an actor and social structured perspective (Dörfler et al., 2003). Therefore, the human-actor model was developed as a conceptual orientation in inter- and transdisciplinary research for sustainable development. It is an attempt to put the actor in the centre of the development because the outcomes of the development efforts depend on actors’ action and reactions. Since the model is formulated at a meta level this offers the possibility of adapting and concretising it for any specific actor category and enables the integration of more specialised theories and concepts (e.g. political economy and ecology). The flexible applicably and adaptively characteristics makes the human-actor model highly suitable for this master’s thesis. In addition, the human actor model allows examining the investors as a juristic person, which is crucial for this work.

The human-actor model comprises of four nested components (**Fig. 3**):

1. **Action** as the dynamic interplay between activity, means, and meaning
2. **Strategy of action** as a combination of actions

³ The explanations on the human-actor model in this section, originate in the “experiences and perspectives from researcher of the Swiss National Centre of Competence in Research North-South (NCCR)”. For more info see: Wiesmann et al. in: Wiesmann and Hurni, eds., 2011, p. 231-256.

3. **Dynamic conditions of action**, to which activities and means are exposed
4. **Institutions**, in which meanings of action are embedded.



- ① **Action as the dynamic interplay between activity, meaning, and means:** a continuous process of mutual adaptation as a result of differences and tensions between the aim and the – inherently delayed – outcome of action.
- ② **Strategy of action as a combination of actions:** dynamic interplay between the allocation of means, the network of activities, and the structure of meanings. *Rationale of action:* underpinning principles of optimisation processes within strategies of action.
- ③ **Exposure of activities and means to dynamic conditions of action:** The multitude of social, political, economic, and ecological conditions become relevant in actions and strategies of action when perceived, valued, interpreted, and anticipated by actors.
- ④ **Embeddedness of meanings of action in institutions:** Institutions determine social standards (values, norms, rules, etc.) for the evaluation of particular actions, strategies of action, and outcomes of actions by actors. However, individual actors are only bound to these standards to a certain, contextually varying degree.

Fig. 3 Human-actor model as conceptual framework for sustainable development (Wiesmann et al. in: Wiesmann and Hurni, eds., 2011)

1. Action as the dynamic interplay between activity, meaning, and means

The term “action” is at the centre of the model and referring owing due Wiesmann et al. (in: Wiesmann and Hurni, eds., 2011, p. 241) to the dynamic interplay between the

activities of an actor, the meaning assigned to this activity, and the means used to perform the activity. Activity in this concept is understood in a broad sense and can include practices as well as passivity. Means refers to material and non-material assets, resources and capital. Meaning can be understood as an act “making sense” from the actor’s perspectives. Activities and means can be observed, although we need to be aware that action encompasses more than that, which points out that the researcher must be able to interpret the rationale behind it. Furthermore, there is no mono-causal relation between meaning and activity, but rather an on-going process of mutual adaptation as a result of differences and tensions between aim and outcome of action.

2. Strategy of action as a combination of actions

Every actor continuously performs a range of actions. The activities of an actor share the material and non-material resources at disposal and form a network of activities which optimises resource use. At the same time, different aims together constitute a structure of meaning or aim which positions the different needs, wishes and visions of an actor. Thus, “strategy of actions” can be designated as the dynamic relationship between network of activities and structure of meaning.

3. Exposure of activities and means to dynamic conditions of action

Dynamic conditions (e.g. ecological, economic, political, and social conditions) of actions influence the outcome of activities and the actor’s means. However, Wiesmann et al. (in: Wiesmann and Hurni, eds., 2011, p. 243) argue “they only become dynamic conditions of action in the sense of being relevant to and influencing the actor’s strategy of action when they are perceived and interpreted by the actor”. Summarized, dynamic conditions of action are perceived as structures, weighted in relation to each other, and interpreted as potentials or limitations for realisation of activities. In combination with the structure of meaning they define the framework for decision-making of actors.

4. Embeddedness of meanings of action in institutions

The meanings and aims of action is not a purely individual construct of the actor’s. They are co-influenced by social values and norms that provide a framework of reference and rules for the actor to evaluate the meaningfulness of actions. The term “institutions” relies on this frame of reference. Although, value systems and social norms determine the social standard of evaluation for particular actions, strategies of action, and outcomes of actions; actors are only bound to a certain degree to them.

The research methods and questions posed by political economy and political ecology complete the human-actor model in an additional way as these disciplines explore questions on how to distribute (natural) resources between different groups in state and society. These questions do also occur in issues about land use rights in Laos; hence, they need to be integrated in the theoretical concept of my thesis.

3.2 Political Economy

Although, political economy is a very old subject it is a relatively young academic discipline mainstreamed in the 1970s. The interrogative on “how does politics affect economic outcomes”, the nature of state and its market relations have been asked of course not only since the emergence of the term “political economy”, but a long time ago. What today is called “economics” was in fact generally referred to as “political economy”. (Hanappi, 1991) Lionel Robbins (Robbins, 2007 [1932], p. 16) gave in his “Essay on the Nature and Significance of Economic Science” a famous definition of economics saying that “Economics is the science which studies human behaviour as a relationship between ends and scarce means that have alternative uses”. However, the field of political economy is not just a resurrection of an earlier approach to economics but begins with the political nature of decision-making and how this will affect economic choices in a society (Hanappi, 1991). The political nature of decision-making includes the term “governance” as an act of governing (e.g. centralisation, decentralisation – see Larson and Ribot, 2004). In case of a business organisation this would refer to consistent management.

Common questions driving political economy are: what contestation and bargaining between interest groups with competing claims over rights and resources are occurring? What economic processes generate wealth or influence how political choices are made? Who are the winners and losers of development strategies and government programs, policies and regulations?

To answer these questions, there is need for research:

- Interests and incentives of different groups in society (e.g. Lao government, Vietnamese investors, local administrative institutions); how do these affect the direction of a nations development
- Formal and informal institutions’ needs and interests, behaviour and agency (e.g. the role of the Lao Ministry of Planning and Investment in the process of granting LSLAs)

- Wider trends in values, ideas and culture, and how these affect political and economic decision making and implementation (e.g. motivation of Vietnamese investors to acquire certain land concessions)
- External drivers (e.g. increasing markets for rubber products, corruption)

In order to understand these variables this thesis aims to examine key factors at various levels of governance with a case study approach (see chapter 4).

3.3 Political Ecology – Landscape Governance

Blaikie and Brookfield (Blaikie and Brookfield, 1987, p. 17) defined political ecology as a “combination of the concerns of ecology and a broadly defined political economy”. The term itself has emerged as a new field of research during the last twenty years bringing together the political economy’s analysis of the structural power relations by focusing on the interrelations between human societies and their respective biophysical environment (Little, 1999a; Sheridan, 1988; Stonich, 1993). The field of political ecology is the result of an intense dialogue between the disciplines of biology, anthropology, geography, history and political science, creating a unique transdisciplinary space within the natural and social sciences (Little, 2007). In conjunction with the paradigm of political economy it explores the relationships between political, economic and social factors relating to environmental issues and change (e.g. several impacts of the global change on the environment – see chapter 1). Relationships do always build the central focus of ecological research and not substantive goals. Common questions driving political ecology are: who uses different resources in what way? when do they use them? for what purposes? at what cost? and what are the impacts?

Bryant and Bailey (Bryant and Bailey, 1997) have proposed three fundamental assumptions regarding political ecology:

- Costs and benefits associated with environmental change are distributed unequally. As a result, political, social, and economic differences result in the uneven distribution of costs and benefits.
- This inevitably either reinforces or reduces existing social and economic inequalities.
- It also shapes and is shaped by pre-existing inequalities and holds political implications in terms of the altered power relationships that result.

According to Little (2007), a political ecology perspective entails the enlargement of the temporal reference of research in order to encompass social and natural temporalities. Therefore, Little (2007, p. 26) highlights the great utility of the “landscape” concept, “since it includes both human and biophysical dimensions and registers climatic, vegetational, faunal and oceanic changes, which only become visible after an extended period of time”. The added “landscape” term allows dealing with the interconnections between socially constructed spaces and “natural” conditions of places. Görg defines landscape in the following way (Görg, 2007, p. 960): “[...], landscapes more likely involve a spectrum of different forms of nature’s socialization: from quasi “nature-like” spaces such as protected nature-reserves (which do not exist, as such, without human intervention), to various forms of agricultural utilizations (whether by small farms or by industrial– agricultural companies), to urban areas or secondary landscapes consisting of industrial or open-pit mining utilizations.” Thus, the idea of using the term “landscape” has the great advantage to cover not only natural lands but also urban areas.

In conclusion, political ecology research does not only contribute to understanding emerging conflicts, but it also gives visibility to marginalised socio-environmental actors, revealing oft-ignored connections and relations of power (Little, 2007). Therefore, applying the concept of political ecology for this thesis shall help to identify and differentiate between the variety of socio-economic factors involved and their trans-level relations. A specific approach to this matter, the “chain of explanation” by Blaikie (Blaikie, 1989) will be explained in chapter 4 on the methodology of this master’s thesis.

3.4 State of the Art

Firstly, this chapter shall give an overview over the global emerging debate on transnational large-scale land acquisitions and leases (LSLAs), their drivers, impacts, and effects on different scales. Secondly, this globally held discourse shall be broken down to the national level of the Lao PDR by giving a short introduction on the history of (economic) land concessions aspects in Laos.

3.4.1 Global

Although LSLAs are not a new phenomenon, numerous scientists from all over the world are highly concerned about the pace and scale of these land deals when comparing them with former waves of large-scale land acquisition in history (De Schutter, 2009; ILC and CDE, 2011; Zoomers, 2010); such as during the colonial era for instance (Hayami, 2001). They are

concerned that the emerging “land rush” could illustrate a turning point in the process of which the industrial corporate sector is taking control of agricultural production in developing countries (Manshard and Morgan, 1988).

Several research sources describe (cross-border) LSLAs as long term land leases or land transactions carried out by transnational corporations, foreign governments or domestic investors (Dwyer, 2007; Zoomers, 2010). The acquired lands have often sizes over 1000 hectares and are leased on a long term basis (30-99 years). The exact number of acquisitions differs. Borrás and Franco (2010a) assume that 20-30 million hectares of land were transacted between 2005 and mid-2009, while the World Bank (2010) estimates about 45 million hectares between 2005 and 2008. The global research project on “the growing wave of international large-scale investments in land” launched in 2008 by the International Land Coalition (ILC) includes deals reported as approved or under negotiation between 2000 and 2010 amounting in a total of 203 million hectares (Anseeuw et al., 2012b).⁴ Although, the investments were made in various sectors, according to Zoomers (2010, p. 433) and ILC and CDE (2011), most of the investments were used for mineral exploitation (including oil and gas), the production of biofuels and food, and the development of infrastructures and services, for example for tourism. Many of these land acquisitions have taken place in low developed and (post) conflict-affected countries (**Fig. 4**) where governments are deemed to ensure contentious tenure for investors (Baird and Le Billon, 2012). Besides, their agricultural lands are seen as being cultivated only sub-optimal and thus, being in need for external investments to increase the yields. This would not only help to recover the national economy of the target country by receiving foreign direct investments (FDIs) but also improve the global food security by increasing the overall agricultural yields.

Literature agrees that the current land rush was primary triggered by the food price crisis of 2007 and 2008 (mainly caused by reduced grain stocks and an increase in oil prices that stimulated a diversion of food stocks to biofuels). This convinced countries lacking farmland and water for domestic agricultural production, and therefore reliant on net food imports, to think about an outsourcing of food production (Cotula and et al., 2009; De Schutter, 2011; McMichael, 2009; Van Der Ploeg, 2010). Zoomers (2010), and in some parts the ILC-Synthesis from 2012 (Anseeuw et al., 2012a), are adding several other drivers for the rise of LSLAs. In addition to the mentioned incentives for off-shore farming to produce food, Zoomers (2010, p. 434-440) describes six additional processes driving the current land rush:

⁴ In its Newsletter of June 2013, the Land Matrix Observatory revised these numbers down to 32.6 million hectares under contract, because many land deals were initially intended, but have been abandoned again or are still under negotiation. (Land Matrix Global Observatory, Newsletter June 2013.)

1. **Demand for biofuel and other non-food agricultural commodities;** mainly driven by the rising fuel consumption and growing concerns about reducing greenhouse gas emissions associated with fossil fuel (also see Anseeuw et al., 2012).
2. **Development of protected areas, nature reserves, ecotourism and hideaways;** in which former productive land is converted into newly created “wilderness” landscapes for nature conservation, ecotourism and reforestation proposes.
3. **Special Economic Zones (SEZs), large-scale infrastructure works, urban extensions;** which is related, according to Zoomers (2010), to the increasing shortage of space around rapidly growing cities owing to effort to achieve economic growths.
4. **Large-scale tourist complexes;** partly owing to attractive investment arrangement in this field.
5. **Retirement and residential migration;** often described as “retirement” migration as not less elderly people are seeking a comfortable existence in a reasonably good price environment.
6. **Land purchases by migrants in their countries of origin;** they usually have been living temporarily or permanently in the United States or in Europe and would use their remittance to be house and land.

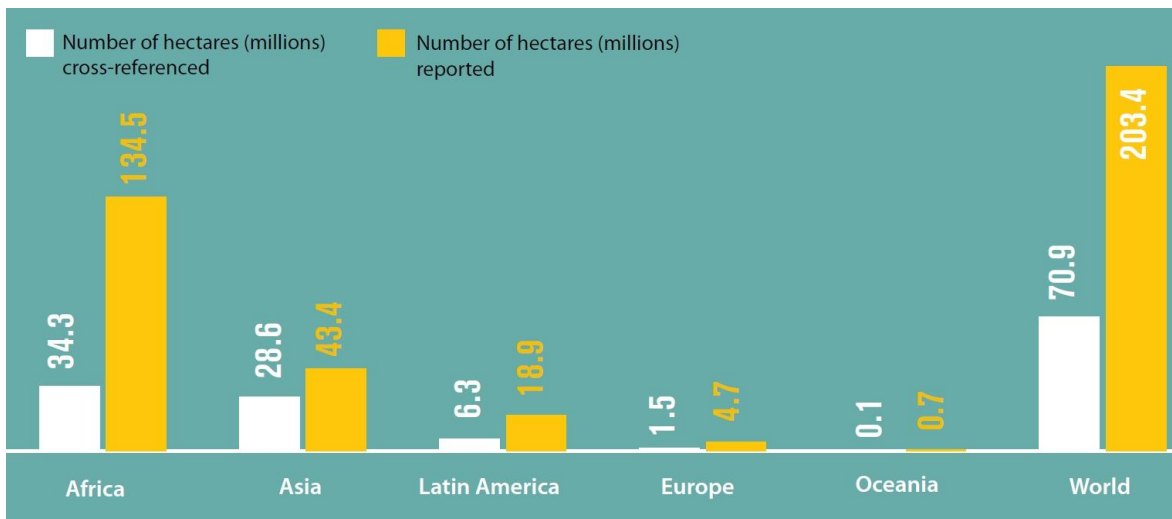


Fig. 4 Regional focus of land acquisitions (Land Matrix Database – in: Anseeuw et al., 2012b)

Although, the actual number have been revised down by the Land Matrix Observatory (Newsletter June 2013), the regional spatial distribution of, as shown in this graph, remains appropriate, because most of the LSLAs are still being implemented in low and middle income countries.

While the proponents mention the potentials of such investment to create “win-win-win” outcomes for the countries, the local land-users, and the investors (FAO - Food and

Agriculture Organization, 2009; Woertz and et. al., 2008); a growing number of scientific studies and NGOs underline the threats posed to livelihoods of local people and the environment, thus, calling it “land grabbing”(De Schutter, 2011; Spieldoch and Murphy, 2009; Zoomers, 2010) and a neo-colonial thread (Diouf, 2008). They blame LSLAs for local communities being dispossessed of or losing access to their lands. Furthermore, such land deals would undermine pre-existing land claims and foster personal financial interests of national or provincial leaders rather than sustainable investments for regional development (Baird and Le Billon, 2012; Gould, et al., 2006). Thus, such investments often have serious impacts for the local’s livelihood because they have normally been used to being self-sufficient and reliant on shifting cultivation and/or collecting of non-timber forest products (NTFPs) (Global Witness, 2013; Spieldoch and Murphy, 2009).

Although many researchers agree on the negative impacts of LSLAs for local livelihoods, their recommendations differ. While some of them would like to ban LSLAs completely and instead support more suitable forms of agricultural investments, such as contract farming⁵ (De Schutter, 2011; Spieldoch and Murphy, 2009; Zoomers, 2010), others emphasize the potential benefits of developing “codes of conduct” for foreign land acquisitions (Cotula and et al., 2009; Dwyer, 2011; Von Braun and Meinzen-Dick, 2009). The initiation of a code of conduct for host countries and foreign investors shall help to control and minimize possible risks caused by foreign land acquisitions. Von Braun and Meinzen-Dick (2009) mention several requirements and key elements being necessary for successfully functioning code of conduct: firstly, transparency in negotiations; local land owners must be informed and involved in negotiation over land deals. In addition, they need to be aware of their rights and instruments for taking part in a fairly played discussion. Secondly, respect for existing land rights; it is important that customary and common property rights are included too as formal land titles are usually missing. Those who lose land should be compensated and being able to continue with an equivalent livelihood. Thirdly, sharing of benefits; local communities shall benefit from investments in agriculture by receiving fees from leases or even better, by implementing participatory business models such as contract farming and thus becoming a partner of the investors. In addition, it is crucial that there is no environmental damage. Environmental impact assessments and actual monitoring are requirements to make sure the project is run sustainably. Furthermore, domestic supply

⁵ When talking about contract farming, as an alternative to LSLAs to strengthen small-scale farmers and raise their production, scholars are usually referring to the “1+4” policy. The “2+3” system is describing a collaboration between the farmer and the investor. The farmer will contribute land (1) while the investor will provide labour, inputs, technical advice and access to markets (4). Another contract farming policy, though less favourable for the farmer, would be the “2+3” system where there farmer is contributing land and labour. (Also see - Fullbrook, 2007)

should have priority when the national market is at risk (e.g. in case of national food insecurity owing to floods or droughts).

In the course of the consideration about the “code of conducts” for LSLAs, the Food and Agriculture Organisation of the United Nations (FAO), in collaboration with the Committee on World Food Security, released the “Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fishery and Forests in the Context of National Food Security” (FAO - Food and Agriculture Organization, 2012). These voluntary guidelines, which have been encouraged by G20, Rio+ 20, and the United Nations General Assembly, aim to “provide guidance to improve the governance of tenure of land, fisheries and forests” (FAO - Food and Agriculture Organization, 2012, p. iv). Therefore, these guidelines shall help to promote food security by securing and protecting the rights of the people of having access to land, fisheries and forests.

Of course, a code of conduct or voluntary guidelines must be more than only institutional arrangements or general statements being vague on requirements and consequences, which is the reason why these ideas have received negative comments (Borras Jr and Franco, 2010b). In the case that rights which were defined prior in the agreement get violated clear sanctions or bribes have to follow to make sure that the code of conduct does not lose its credibility.⁶ Furthermore, these requirements and decisions should not only be formulated in a national law on large scale land acquisition but also be accepted or even implemented internationally in powerful organisations such as the Organization for Economic Cooperation and Development (OECD) or in the case of Laos⁷ the Association of Southeast Asian Nations (ASEAN)⁸. These associations have sufficient enforcement mechanisms and the necessary legal institutions.

3.4.2 Lao PDR⁹

Large scale land acquisitions in Laos are usually referred to as “economic land concessions (ELCs)” and comprise of land allocations for mining exploration, development of

⁶ More on this issue and its handling in Laos will follow in chapter 5.3.

⁷ In this master’s thesis the term “Lao PDR” and “Laos” are used as equal appellations. Historical sources suggest that an “s” was added to the term “Lao” by French and English linguists to transform it into a noun. Therefore, the term “Lao” is and adjective and is used for the country’s official name: Lao People’s Democratic Republic. (Evans, 2002)

⁸ Laos joined the ASEAN in 1997, one year before it was admitted to the World Trade Organisation.

⁹ This section shall only briefly illustrate the current research on land acquisitions in Laos. The political context and the history of land concession, as well as some important background information on the country are analysed in chapter 1.

hydropower dams, and implementation of agro-industrial plantations for flex crops¹⁰ or rubber for the most part by foreign investors. Especially, investments in rubber have increased since the mid-2000s, particularly in the South of Laos, mainly by Vietnamese investors (Dianna, 2007 in: Baird, 2011; Schönweger et al., 2012). ELCs are seen by the Government of Laos (GoL) as instruments to attract FDIs and increase economic growth for national prosperity. The GoL has the Socio-economic Development Strategy (Government of Lao PDR, 2001a) to remove the country from the United Nations' list of least developed country (LDC) by 2020. This shall be achieved through economic growth based on sustainable use of the country's wealth in natural resources. The beginning land commodisation processes became well-known under the term "Turning Land into Capital". Gironde et al. (2001) calculate that FDIs in Lao PDR have reached almost USD 1 billion in between 2001 and 2008, and thus draw the conclusion that FDIs are a key driving force of natural transformation. Besides attracting FDIs several authors (Baird, 2011; Ducourtieux et al., 2005; Kenney-Lazar, 2009) point out that the Government of Laos additionally aims to eradicate swidden agriculture as it is seen as an "unproductive and antiquated" form of cultivation. Hence, it is hoped that land concession granted to foreign investors would not only generate income for the government in form of taxes and land rates, but that such ELCs will also replace shifting-cultivation and provide a labour market for former more or less self-sufficient local people.

Although, economic land concessions have been promoted by the GoL to help erasing poverty by providing jobs and infrastructure to local communities many scholars draw in their works a rather negative picture of land concessions having serious negative impacts on local livelihoods and the environment (Baird and Le Billon, 2012; Baird, 2010; Dwyer, 2007; Hanssen, 2007; Kenney-Lazar, 2012; Luangaramsi et al., 2008; Obein, 2007; Schipani, 2007). Negative impacts and complaints reported by villagers were inadequately or no compensation at all for lost land, unsteady and poorly paying jobs at the plantations, pollution and loss of harvest as well as not being informed by the government prior to the project development (Baird and Shoemaker, 2008; Kenney-Lazar, 2011; Molle et al., 2009; Vientiane Times, 2007a).¹¹

The Lao Prime Minister at that time, Bouasone Bouphavanh, became aware of the raising land conflicts and as a result made an announcement for an indefinite moratorium on large

¹⁰ Flex crops have multiple uses, (e.g. food and fuel) and can be flexibly interchanged. Examples are sugarcane (food and biodiesel), and oil palms. Palm oil is used in food products as well as for biodiesel or industrial production. These crops have the great advantage that the production can be adapted quickly to global market demands. (See Sikor, 2012)

¹¹ Most of these researchers report, about negative impacts of ELCs for local livelihoods, in a manner of speaking about the consequences of such land deals and less about the way they were implemented.

land concessions for industrial trees, perennial plants and mining in May 2007. The Prime Minister explained that there is need to “improve our strategy and address the shortcomings of our previous strategy” (Vientiane Times, 2007b). Although Baird (2011) mentions that the national concession moratorium was never strictly implemented (revoked in mid-2009, reintroduced a few weeks later, though in a more diluted form) he also recognises forces in the National Assembly (NA) who are complaining more and more about economic land concessions (Sengdara, 2010 in Baird, 2011). Dwyer (2007, p. 5) used the apt quotation of Karl Polanyi (1944) to illustrate the governmental discourse on ELCs. Karl Polanyi described in his work “The Great Transformation” (1944) on the socio-economic shifts in Great Britain of the 19th century necessary socio-economic improvements the following: “Improvements are, as a rule, bought at the price of social dislocation. If rate of dislocation is too great, the community must succumb in the process”. Similar as Polanyi, the GoL shares the conviction that certain changes in social structures are necessary for establishing a competitive economy. Sometimes these changes might be for the bad for villagers initially, but eventually will allow prosperity for the Lao Nation.

4 Methodology

4.1 Data Collection

This section discusses the selected methods, which are crucial in order to gain the necessary data for answering the three research questions (RQ) presented in chapter 2.2. Furthermore, it shall be explained how the linkages between the research questions are working (see **Fig. 5.**) and elaborate on the different interview types chosen for this master's thesis.

First of all, it is necessary to study relevant secondary literature, which give an overview of the task yet it will not draw a complete picture about the actors and institutions involved in common land deals. There is the likelihood that this step will provide us with a couple of hints about the actors' agendas, means, and strategies which are expected in terms of ELCs (RQ A – "Who?"). Furthermore, this sensitisation will help to create interview guidelines with specific questions which have to be asked to find out more about important factors influencing the decision making process (RQ B – "How and Why?"). In the same first step of viewing relevant literature one can also start to conduct the first couple of interviews with representatives from non-governmental organisations and researchers to sharpen the picture on the involved actors.

In a second step it is important to undertake field research in the area with the actual affected concession to elaborate on the actors' involvement in the decision-making process of land allocations. In order to gain this information several (semi-structured) interviews were conducted with province and district representatives, with investors holding a certain land concession, combined with questionnaires for village authorities being affected by land acquisitions. It is important to conduct interviews with interviewees representing different scales (e.g. province representatives, district officials, village authorities). This stage of the research shall again sharpen the picture on the involved actors and important factors influencing the decision-making process. One of the main challenges included the difficulty getting in touch with the involved investors for interviews or informal talks.

The third and final step comprises of the evaluation of the data gained in the first two steps to draw possible conclusions about which factors, at what point have directed the land allocations (RQ 3 "What and When?"). It shall allow answer the hypotheses whether the variables of ethnicity and poverty were crucial for the location of the concession.

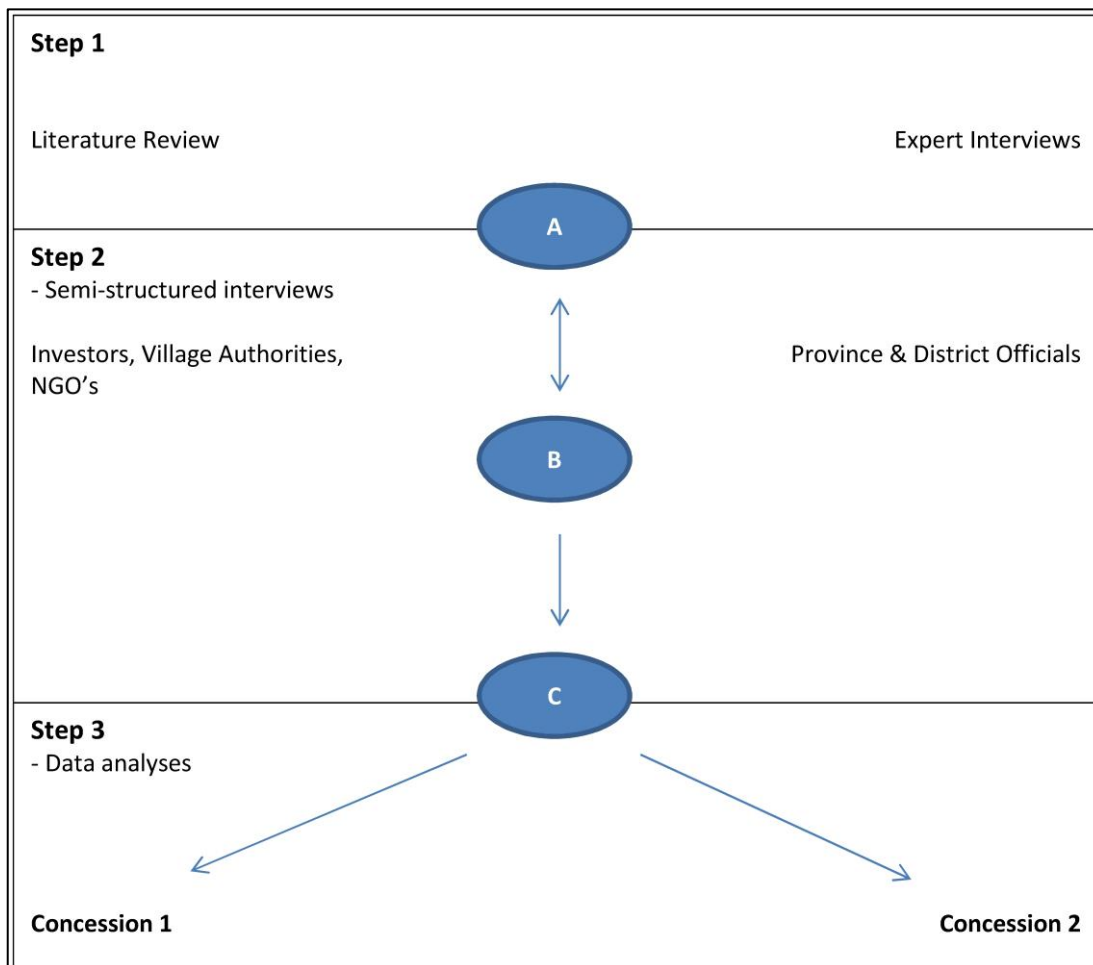


Fig. 5 Research Approach (Zurflueh, 2012)

The blue boxes represent the three research questions: A) Who are the main players and decision makers involved in the land allocation process for LSLAs? B) How did the decision-making process on land acquisitions take place? C) Which key criteria are directing the land allocation in the South of Laos?

There are various existing sampling techniques for conducting interviews. As illustrated in chapter 1.2 this thesis builds up on the inventory of LSLAs in Laos developed in a previous research phase by the local SNIS research team, hence, the sampling for this work was limited in advance by certain criteria: Vietnamese concessions companies acquiring lands bigger than 1,000 hectares in the agro-forestry sector in. Flick calls this a priori “determination of the sample structure” (Flick, 2006). Interviews were conducted with Vietnamese investors, NGOs and researchers, state representatives, and local authorities.

Expert interview: Expert interviews are considered as a specific form of applying semi-structured interviews. In contrast to biographical interviews the interviewees are of less interest as a person than their capacities of being an expert for a certain field of activity. They do not build a single case but are integrated into the study as representatives of a

group (e.g. local NGOs dealing with land resource rights as experts for LSLAs). Much more than in other interviews the range of potentially relevant information provided by the interviewee is restricted. Thus, the interviewer has a stronger directive function rather than in other interview types with regard to excluding unproductive topics. The main challenge is to restrict and determine the interview and the interviewed person to the expertise of interest. (Flick, 2006)

Meuser and Nagel (Meuser and Nagel, 2002) name a series of problems and sources of failing in expert interviews:

- The expert inhibits the conduction of the interview, as it turns out that he or she is not an adequate expert for this subject.
- The expert prefers to talk about on-going internal matters and intrigues in his or her work rather than giving information about the topic of the interview.
- The interviewee changes between the roles of expert and private person. As a result the interviewer will gain more information about the expert as a person than about his or her expertise knowledge.
- The expert gives speech on his or her cognition instead of responding to the asked questions.

According to these potential problems it is important to gain prior knowledge through literature to develop an interview guide, which ensures that the researcher does not present himself as incompetent dialogue partner. The preparation carried out beforehand will also help prevent the interview getting lost in non-relevant topics (Flick, 2006, p. 165).

Semi-structured interview: Semi-standardized interviews were used to ask provincial, district authorities and representatives of Vietnamese companies acquiring lands about the implementation of land concessions for rubber plantations in Laos. Owing to the fact that the interviewees have a complex stock of knowledge about the topic under study the interview guide mentions several topical areas of ELCs: responsibilities of the agency, interviewee; involvement in the implementation process; reasons to promote/acquire land concessions; benefits and disadvantages of such land deals; future expectations. For this different types of questions were used:¹²

- Open questions: “Why do you think this company came to Champasak Province to start business with rubber plantations?” This may be answered

¹² Compare with Flick, 2006, pp. 156–158

on the basis of the knowledge that the interviewee has because of his involvement in the actual decision-making process or his/her experiences.

- Confrontational questions: “You have mentioned the benefits and necessity of having rubber concessions in your province but many NGOs argue that villagers are unhappy with these concessions because of negative impacts such as losing yields. Are these arguments wrong?” These questions try to respond to the theories and relations that the interviewee has presented up to that point in order to critically re-examine these notions in the light of competing alternatives. (Flick, 2006, p. 157)

The interview guide was complemented by short questions to gain evidence about numeric aspects of examined land concession (e.g. starting point of the negotiations, location and size of the concession, crops, investments etc.). This was especially important to see how much the interviewee actually knows about the project and allowed to make easy comparison between the responses of the different interview partners. Furthermore, these data could be compared with the statistical data on large scale land concessions in Laos previously collected by the local SNIS team.¹³

Questionnaires: In order to gain numeric knowledge about the examined villages questionnaires were used as a linking element for qualitative and quantitative research. Following the semi-structured interviews, standardised questionnaires (with short questions allowing “yes or no” or numeric answers; e.g. village authorities were asked about the amount and type of land lost to the concession) shall allow to better compare the visited villages with each other in order to get hints or ideas as to why the negotiation process and outcome of land concessions differs by village or does not.¹⁴

4.2 Case Studies

Transdisciplinary research on sustainable (rural) development relies heavily on qualitative methods, so it is worth discussing the types of contribution case studies can deliver for a collective research framework. Odell (Odell, 2001) describes in his essay on “Case Study Methods in International Political Economy” different types of case studies: the disciplined interpretive case study, the hypothesis-generating case study, the least-likely, most-likely, and deviant case studies. He also references to a “process-tracing case study” emphasizing

¹³ For an overview of the different type of the conducted interviews as well as with whom, please consult annex 10.4

¹⁴ An example of a village questionnaire can be found in the annex 10.6

it should be viewed rather as a “technique involved in writing almost any case study” (Odell, 2001, p. 167). For this master’s thesis process tracing is considered to be important to make causal mechanism comprehensive, hence, this approach will be described more precisely in the following chapter 4.3. Owing to Odell (2011, p. 169 et seq.) case study methods offer several significant advantages relative to statistical methods since they would offer more detailed contact with concrete instances of the events and behaviour. A further advantage after Odell is in the documentation of processes as statistical methods tend to bias theory away from processes toward structures. Although structures are important they are unable to explain changes and variations within the same structure. Cases studies, in contrast, can provide broad knowledge of how those changes come about (ibid, p. 170). As a third advantage Odell names the strong empirical grounding that case methods offer for a hypothesis: “They allow greater confidence in the validity of the hypothesis, for the cases studied, than statistical methods can provide for the same cases, naturally.”

On the other hand Odell (2011, p. 171-173) lists three disadvantages of case studies: firstly, when carrying out research, only a few cases carry the risk of being atypical and having an unknown representativeness which does not permit a general conclusion being drawn for a theory; secondly, hence most case methods without a representative sample are weaker than statistical methods to claim a general valid theory. Thirdly, qualitative methods provide lesser precision in their description, claim about magnitudes of causal effects than statistical methods. These considerations about the advantages and disadvantages of case studies led Odell conclude that best practice, thus, is asking to combine the two approaches in a research project (ibid, p. 173).

4.2.1 Study Area and Sampling

After having discussed case studies as a method for research on sustainable development the following section shall briefly give an overview of the selected “concession companies” for the case studies and the sampling procedure for the villages we visited. All the data on concession size, location, percentage and so forth mentioned in this section derives from the inventory of LSLAs in Laos which was carried out by CDE in Laos in collaboration with the Natural Resources and Environment Information Centre (NREIC) and with financial support by the “Deutsche Gesellschaft für Internationale Zusammenarbeit” (GIZ). The objective was to establish for the very first time an overall picture of “state land concessions and leases”¹⁵ in the Lao PDR on a national level. Contract farming

¹⁵ A definition of “land concessions” and “leases” will follow in chapter 5.3

arrangements were excluded from the data base. First findings of this inventory were presented in the recently released book on “Concessions and Leases in the Lao PDR: Taking Stock of Land Investments” (Schönweger et al., 2012).

According to the “state land leases and concession inventory” 29% or 757 out of 2,596 land deals granted in Laos are taking place in the five provinces of the South including Savannakhet, Saravane, Champasak, Sekong, and Attapeu Province. The total area of these land deals amounts to 314,065 hectares (30%) out of the 1,066,085 hectares of deals nationwide (**Table 1**). With regards to the table below, one could assume that these land deals do only require a small percentage of the country’s overall area, but this is a dangerous and incorrect conclusion as the arable land is being estimated to cover only 4-5 per cent¹⁶ of the country’s surface.

Most investments in land in the South of Laos occur in the agro-forestry sector, with the main country of origin of investors (in terms of number of deals) being Vietnam. Other international investors in this region are from Thailand, India, Singapore, Japan, Sweden and China, but each holds a smaller total area under concession within agriculture and forestry subsectors.

<i>Region</i>	<i>Total Area and % of Lao PDR</i>	<i># Deals</i>	<i>Total Area Deals (ha)</i>	<i>% Total # of all Deals</i>	<i>% Total Area of all Deals</i>
<i>North</i>	9,683,033/42%	802	406,603	31%	38%
<i>Centre</i>	6,911,340/30%	1,037	345,417	40%	32%
<i>South</i>	6,450,855/28%	757	314,065	29%	30%
TOTAL	23,045,228/100%	2,596	1,066,085	100%	100%

Table 1 Overview of investment projects by region (Schönweger et al., 2012)

The graph shows that the distribution of hectares under investment is quite balanced between the North, Centre, and South.

With 276 deals (total areas of 276,350 ha) the agriculture and forestry subsectors represent 37% of the 757 land deals in the South. Foreign investment accounts for 185 (251,507 ha) and Vietnamese companies are ranked first among investor countries based on both the number of deals and area size. Among the 13 countries investing in the South of Laos Vietnam is the biggest investor based on number of deals, Thailand is second and the third is China. Vietnamese investment in the South amounts to 103 deals, constituting 14% of the 757 deals in that region. Vietnamese investments take place mainly in the agricultural and forestry subsectors. In the South, rubber is the dominant crop both in terms of total land

¹⁶ According to the Socio-Economic Atlas of the Lao PDR (Messerli et al., 2008, p. 1). The CIA Factbook indicated the arable land in Laos with 6 per cent (CIA World Factbook, 2013).

deals and area; 78 deals covering 92,342 ha (33%), followed by Eucalyptus with 67,795 ha (25%), acacia with 39,970 ha (14%), sugarcane with 34,278 ha, and coffee with 19,105.

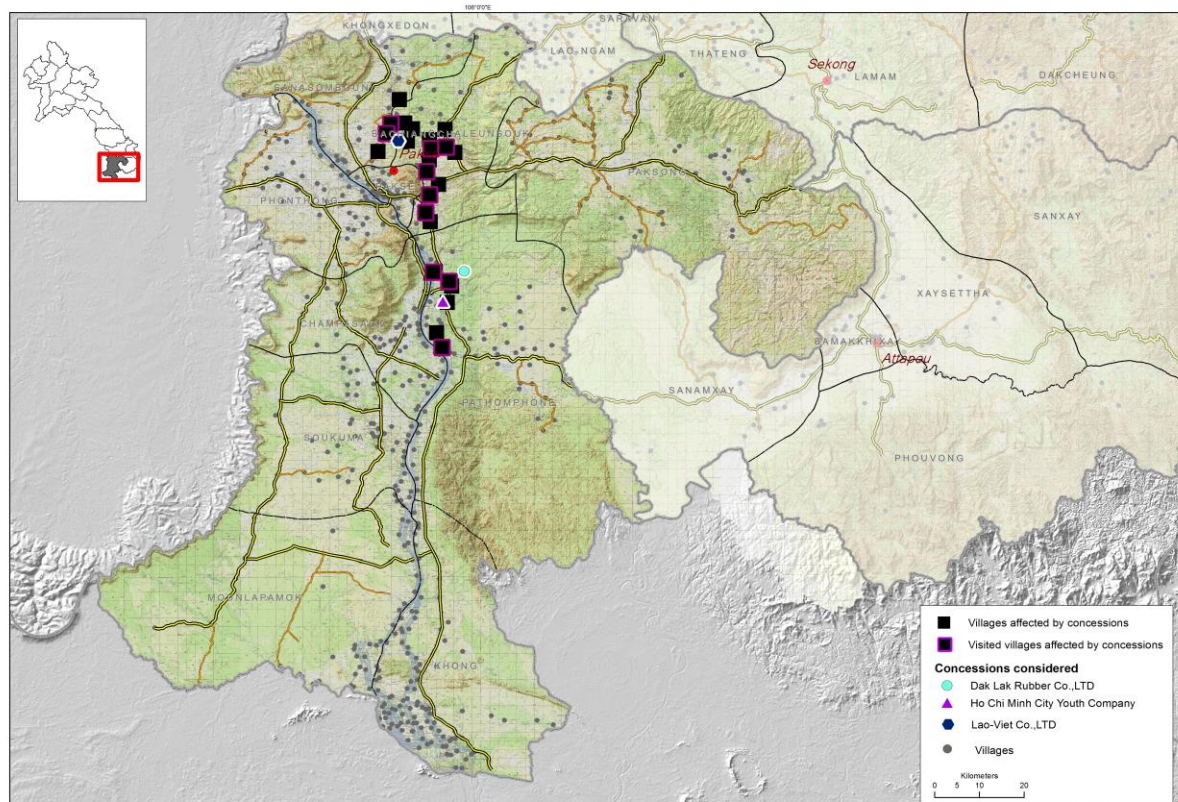


Fig. 6 Vietnamese land concessions greater or equal to 1000 hectares within agriculture and forestry subsectors in Chamapasak Province in the South of Laos (Source: CDE/MoNRE, 2012; Map produced by Heinemann, 2013)

Thanks to this background and the conclusions drawn between the different case studies of the overall SNIS project the following five selection criteria were developed:

- The company with the **total area \geq 1000 hectares** (combine all projects/products)
- Investment within the **agriculture or forestry subsectors**
- Implementation of the project has been **underway already for at least one year**
- Balanced mix between **perennial crops and permanent crops**
- Balanced between **villages affected by land deals in remote and less remote areas** (measured in distance to next district capital by duration of traveling)

On the basis of selection criteria presented above, four Vietnamese companies investing in rubber plantations were pre-selected as case studies for this master's thesis (also see Fig. 6):

Company	Area in hectares		Year ¹⁷	Province Visited	Villages Visited
	Granted ¹⁸	Planted			
Viet-Lao Joint Stock Company (<i>"Vietnam Rubber Group"</i>) ¹⁹	10,000	10,016	2004/05	Champasak (10,016 ha)	- Champhi (1) ²⁰ - Huoaipeun (4) - Phouthongloom (1) - T 1 Paksong - T 10 (1)
Dak Lak Rubber Company Limited (<i>"Dak Lak Rubber Corporation"</i>)	10,000	10,000	2004/05	Champasak (4,000 ha)	- Lomsack-Nua (1) - Nongnamkhao-Yai (4) - Nongpakhet (4) - Pakhouaybanglieng
Ho Chi Minh Youth Rubber Company Limited (<i>"Ho Chi Minh Joint Stock Rubber Company"</i>)	6,000	2,600	2007/08	Champasak (2,600)	- Mouang (Tanpiew)(4) - Tomo-tha
Hoang Anh Attapeu Company (& Hoang Anh - Quang Minh Rubber) ²¹ (<i>"Hoang Anh Gia Lai Joint Stock Company"</i>)	24,000 ²²	24,000	2007 & 2011	Attapeu (20,000 ha)	- Hathsan - Kangyay (4) - Phusai - Saisee - Viengsai (Quang M.) - Wangkheam

Table 2 Selected concession companies for case studies (Zurflueh, 2012)

After the four concession companies have been selected as case studies for this thesis patterns in terms of poverty incidence and accessibility were identified at the village level to develop a sampling method to select potential villages hosting at least one deal to examine further. During phase 1 of the overall SNIS research project a sampling matrix was created in three steps:

¹⁷ Point in time, the companies started with investment in the Lao PDR.

¹⁸ Total area granted by the central government of Laos by MoU.

¹⁹ In brackets and italic are the mother enterprises of the investing companies in Laos.

²⁰ Village sampling number – see Table 3.

²¹ Quang Minh Rubber Company merged with Hoang Anh Attapeu Company in 2011 and became Hoang Anh - Quang Minh Rubber.

²² Area only consisting of rubber

1. Accessibility as measured by a) the travel time from the mean of the area under investment and b) the travel time from a fixed village point to the next district capital was calculated. Three categories were created by subdividing accessibility data into accessible (under 1 hour reachable), semi-accessible (under 2 hours) and remote (above 2 hours) land concessions.
2. Poverty was measured by a) the percentage of poor people out of the total area of all villages “hosting” at least one concession (partially or fully). Three categories were created by subdividing the poverty incidences of villages into not-poor (equal/below 34.7%), poor (above 34.7% and equal/below 50%) and extreme poor (above 50%). For more information on the methods and definitions of this poverty incidence see Epprecht et al., 2008: "The Geography of Poverty and Inequality in the Lao PDR".
3. Based on these categories, a matrix was created with nine main blocks (see **Table 3** below).

Poverty Incidence ↑	7	8	9
	4	5	6
	1	2	3
	→ Accessibility		

1	Not poor, accessible
2	Not poor, Semi-accessible
3	Not poor, remote
4	Poor, accessible
5	Poor, semi-accessible
6	Poor, remote
7	Extremely poor, accessible
8	Extremely poor, semi-accessible
9	Extremely poor, remote

Table 3 Sampling matrix of villages hosting at least one land deal or more (CDE, 2012)

Reading example: A village classified as 1 is accessible (under 1 hour reachable from district town) and not poor.

Based on these categories it was aimed to visit three to five villages per “concession company” representing different blocks from the sampling matrix. The sampling should avoid examining only villages with same characteristic in terms of accessibility and poverty. Due to coordination, financial and logistical reasons the research covered a maximum of two to three districts per province to conduct field research. As Table 2 is showing the main villages selected for this thesis are from block one and four for Champasak Province or do not have any sampling in the case of Attapeu Province. The reason in the case of Champasak Province is simple because there were only villages classified as 1 or 4 whereas for Attapeu there was an interpolation mistake happening during phase 1 which entailed that villages were located in another than the actual district or province. Unfortunately, the research team became only aware of this once the field study had already started.

According to the relevant district authority the villages examined in Attapeu Province can be ranged mainly in blocks four, seven, and eight.

4.3 Data Analyses

The method of “process tracing”²³ was used in this thesis to help develop criteria for how deep we need to scope and how to deal with the problem of equifinality. Equifinality describes the opportunity that there may be multiple paths or combinations of different variables that can deliver the same kind of outcome. (Bennett and Checkel, 2012, p. 2) According to the proverb “Various roads lead to Rome” one may reckon that there are several ways and factors leading to the same type of LSLAs implementations.

The appearance of the term “process tracing” can be traced back to the field of cognitive psychology in the United States of the late 1960s or early 1970s. It refers to techniques for analysing the steps in cognitive mental processes to have a better comprehension of the heuristics through which humans make decisions. By successfully appropriating the term process tracing within case studies to make inferences about historical explanations Alexander L. George proved that it can be also be used to produce evidence on the macro-level (George, 1979 in Bennett and Checkel, 2012). Therefore, the inferences on the implementation process of LSLAs should not only apply to the few cases being studied, but also to other cases similar to the one studied, or even to a broader range of more diverse cases. Bennett and Checkel (2012, p. 7), thus, propose a definition of process tracing that is also valid for this master’s thesis: “We [...] define process tracing as the analysis of evidence on processes, sequences, and conjunctures of events within a case for the purposes of either developing or testing hypotheses about causal mechanisms that might causally explain the case.” This definition comprises the inductive, for theory development, and the deductive, for theory testing, sides of process tracing. The historian Clayton Roberts (Roberts, 1996, p. 66) agrees on this definition when arguing that an “explanation [of a cause] is not simply a detailed description of a sequence of events; rather, it draws on theories to explain each important step that contributes to causing the outcome”. These definitions raise several questions about causal mechanism (Bennett and Checkel, 2012, p. 11): Are causal mechanisms somehow unobservable? Does using them automatically involve a commitment to “methodological individualism”? Are causal mechanisms sufficient to draw conclusion on specific contexts? Faced with these questions the authors are giving reasoned

²³ The explanations in this section, on the term “process tracing”, originate in the abstract of Bennett and Checkel (2012): “Process Tracing: From Philosophical Roots to Best Practices”.

explanations. They admit that causal mechanisms cannot be observed throughout as there will always be any finer level of detail out of scope. Besides, as process tracing is a method of making inferences on causalities there is no need to go down the finest level to have confidence that one explanation is more likely to be true than others. Responding to the third question, Bennett and Checkel (2012, p. 14) are arguing that “the core problem is that even if the world is deterministic, we observe it as probabilistic because of measurement error and specification error, including the omission of important variables from our models”. Notwithstanding, they see process tracing as a powerful method for addressing the mentioned challenges.

To summarise, the process tracing approach emphasises that the conclusive value of evidence relative to competing explanations is more important than the total amount of pieces of evidence. But how can we decide whether value or factor is probative, more probative than other variables? Bennett and Checkel (*ibid*, p. 19 per sequel) are addressing this issue by adopting the terminology of Van Evera. Van Evera operates with four possible combinations of (non-)uniqueness and (un)certainly (Van Evera, 1997, p. 31-32 in Bennett and Checkel, 2012):

1. **“Hoop tests”**: evidence is certain, but not unique
Whereas failing a hoop test disqualifies an explanation, passing it does not highly increase confidence. Van Evra’s testing example: “Was the accused in the state on the day of the murder?” Passing this test means the individual will remain suspect, but not sufficient to convict.
2. **“Smoking gun tests”**: evidence is unique, but not certain
Passing such a test heavily affirms that an explanation is true, but failing it does not imply that the explication is untrue. Van Evra uses the example of a smoking gun in a suspect’s hand right after the murder, which convicts. On the other, an absence of such a smoking gun does not absolve.
3. **“Doubly decisive tests”**: evidence is both certain and unique
In this case the evidence is necessary and sufficient to provide confidence in an explanation. For, instance there was a camera installed that filmed the murderers face.
4. **“Straw in the wind tests”**: evidence is neither unique nor certain; and therefore not sufficient at all.

At this point, there is a need to refer to the heuristic research of “Occam's razor”²⁴, which indicates that when there is the choice of several possible explanations for the very same phenomenon; one shall prefer the one which require the lowest number of hypotheses and thus represents the „most feasible explanation”.

As this thesis contributes to a bigger project this offers the possibility to compare the findings of this work with the results from other participating researchers, which should allow us to draw a general conclusion about the key-factors determining the decision-making and implementing process of LSLAs.

In order to textual material as it is the case in this thesis, qualitative content analysis with its feature of using categories is one of the classical procedures. Categories are brought into the empirical material and are thus not necessary developed from it. Hereby, the overall goal is to reduce the complexity of the material. (Flick 2006, p. 312)

Mayring (Mayring, 2000) has developed a five-step procedure for analysing qualitative content:

1. Defining those parts of the interview that are relevant for answering the research question.
2. Analysing the situation of data collection (e.g. who was residing the interview).
3. Formal characterisation of the material (documentation of the material with a recorder or a protocol; any influence on the transcription of the text?)
4. Defining the direction of the analysing, making interpretation on the data.
5. Defining units – coding the text (either inductive out of the data or deductive out of categories from theoretical models).

For later transcriptions the conducted interviews were recorded digitally. It is taken care of that the transcriptions of the interviews were made as detailed as possible and exactly as the questions were suggesting. Stories by the interviewees diverging from the topic could therefore be left out. The transcriptions were carried out by the audio transcription program “F4”. This program enables to split the interview in different sections, so that they can be listened to separately afterwards. Moreover, the obtained text will be written down continuously into a word doc. By means of the qualitative contents analysis the different interview arcsades were gradually encoded, organised and arranged and finally interpreted

²⁴ Compare with the explanation in Encyclopedia – Britannica Online Encyclopedia, 2012

in categories.²⁵ The analysis was carried out by comparing the statements of the interviewed people among themselves and in relation to the human-actor model.²⁶ Together with the generated data from the interviews this procedure allowed to draw a comprehensive picture on the decision-making processes of economic land concessions in Laos.

4.4 Critical Reflection

This chapter shall address and discuss the research approach of the selected case studies and the sampling for the potential villages of interest for the field research. The theoretical concepts of the methods itself, for instance the pros and cons of case studies, will not be discussed again as this already happened during the presentation of the different techniques. As this master's thesis takes a qualitative approach which allows analysing and documenting the decision-making process of ELCs in Laos, quantitative data (e.g. travel time to next district capital) was only used in addition, to balance between information of different stakeholders and to prior select the four as case studies of Vietnamese rubber companies.

As described in chapter 4.2.1 on the study area and sampling process of the field study, there were only villages selected which host a least one or more land concessions, in this case rubber plantations. This happened by initiative of the SNIS project, with the objective of analysing and comparing the implementation process of land acquisitions in different villages. In addition, it could have been interesting to visit villages which were not affected by any land concessions to analyse reasons why these villagers were able to resist or why their village was not of interest to implement plantations. Maybe, this would have generated additional knowledge on factors which played a critical role during the allocation process of ELCs. Moreover, the examined villages during the field research were often visited only during a day, or sometimes only half a day, as the research team was supposed to meet authorities from another village in the afternoon or used this time to meet with workers from the rubber plantation. Whereas this was an advantage in terms of having more comparable cases it was a disadvantage when trying to outline the role, position, and interests of the village chief in the decision-making process. Another challenge included the difficulty for the interviewed parties, especially on the village level, to recall about the events (e.g. point in time and content of meetings with the company or province) of the

²⁵ An overview of the applied codes can be found in annex 10.7

²⁶ Compare with Meier Kruker and Rauh, 2005

past. It was not easy for the villagers to recall how the concession was approved and the process of granting, because this happened six to seven years ago (compare with **Table 2**).

As explained in chapter 4.2.1, in total four case studies, focusing on four Vietnamese companies being active in two provinces (Champasak and Attapeu), were selected to conduct field research. However, the cases and findings presented in this thesis rely on the three cases of Viet-Lao Rubber Joint Stock Company (VLRC), Dak Lak Rubber Company Limited (DAKLAORUCO), and Ho Chi Minh Youth Rubber Company Limited (HCMYRC) only. The case of the Hoang Anh Gia Lai Joint Stock Company (HAGL JSC) is only used additionally as a comparison, because a lot of research on the history and activities of HAGL JSC in Laos has already been done by Kenney-Lazar²⁷. In his studies, he precisely describes the circumstances in which HAGL JSC acquired land concessions in the South of Laos. Kenney-Lazard examines not only the impacts of such concessions for local livelihoods but also describes the arguments and interactions between the villagers and the company. Therefore, the findings of this thesis draw mainly from the three case studies examined in Champasak Province. The data derived from the field study in Attapeu Province will only be used for additional comparison between the two provinces and to sharpen the Vietnamese course of action in acquiring large scale land concessions in the South of Laos.

²⁷ The author's recommendations for the readers are:

- Kenney-Lazar, M., 2009. Land Concessions, Land Tenure, and Livelihood Change: Plantation Development in Attapeu Province, Southern Laos.
- Kenney-Lazar, M., 2011. Dispossession, semi-proletarianization, and enclosure: primitive accumulation and the land grab in Laos. Presented at the International Conference on Global Land Grabbing 6-8 April 2011 Organised by the Land Deals Politics Initiative (LDPI) in collaboration with the Journal of Peasant Studies and hosted by the Future Agricultures Consortium at the Institute of Development Studies, University of Sussex.
- Kenney-Lazar, M., 2012. Plantation rubber, land grabbing and social-property transformation in southern Laos. *Journal of Peasant Studies* 39, 1017–1037.

5 Land related issues in the Lao PDR

The development of economic land concessions in Laos, and the linked objectives of the Government of Laos (GoL) for the country's prosperity, cannot be understood without knowing some background information on the history, geographical and socio-economic conditions, as well as the political situation. In addition, this chapter aims to elaborate on the legal frame work of state land leases and concessions, and shall provide some definitions helping to distinguish between "land concessions" and "leases". The latter is particularly important when considering of the decision-making process of land acquisitions in the agro-forestry sector of Laos described in chapter 6.2 about the implementation process.

5.1 Background Information on Laos²⁸

Lao PDR, located in the middle of Southeast Asia, is a landlocked country bordering China, Vietnam, Myanmar, Thailand, and Vietnam. Its surface covers 236,800 square kilometres with 6.25 million people distributed unevenly across the 17 provinces (**Fig. 7**). Contrary to its neighbouring countries, Laos is characterized by a low density population.

Its geographical position has not only made it a buffer between neighbouring countries, but also a crossroad for trade and communication.²⁹ Laos is a multi-ethnic state having four major ethno-linguistic groups (Lao 55%, Khmou 11%, Hmong 8%) and over 100 minor ethnic groups (CIA World Factbook, 2013). The main religion is Buddhism, although many ethnic minorities believe in close, ancient, nature inspired religions such as Animism. The Lao PDR lies entirely within the tropical belt of the northern hemisphere, thus, having a monsoonal climate. The topography of the country is largely mountainous, especially in the North with the country's highest mountain, Phou Bia, 2,818 metres above sea level. The landscapes are dominated by steep terrains and narrow river valleys, which have a low agricultural potential. Fertile lands are mainly found along the Mekong River plains. It is estimated that the arable land covers only around 6 per cent of the country's total surface (CIA World Factbook, 2013). The majority of the population, around 67 per cent, are still living in rural areas, dependent on subsistence farming under weak economic conditions.

²⁸ For this section compare with CIA World Factbook, 2013; Messerli et al., 2008; UNDP, 2013

²⁹ This year (2013), Thailand, China, and Laos signed an agreement for a high-speed railway running from China through Northern Laos to Bangkok. This logistical program will cost around USD 730 billion and is mainly financed by the EXIM Bank of China. (Bangkok Post, online 11th April 2013)



Fig. 7 Map of the Lao PDR (Source: NCCR North-South, DOS, LNMCS, 2008; Wikimedia Commons, 2007)

The Lao PDR is still listed on the United Nations’ list of the Least Developed Countries (LDC), and ranked on the Human Development Index (HDI)³⁰ at position 138 out of 186 countries

³⁰ The Human Development Index (HDI) introduced a method to measure development by combining indicators of life expectancy, educational attainment, and income into a composite index. The HDI sets

being categorised in 2013. Together with Myanmar (ranked 149th) and Cambodia (ranked 138th), Laos is still the poorest country in that region (Thailand 103rd, Vietnam 127th: UNDP – Human Development Reports, 2013). Laos' economy is heavily influenced by foreign direct investments (FDI), mainly by China, Thailand, and Vietnam. The Lao PDR is relying on trade and investments from these countries and thus, investments efforts to expand the rather poor physical infrastructure are often dominated by the interest of China, Vietnam, and Thailand in improving the transportation system to have better road connections with Laos.

Although relying on its regional partners, Laos' dependency on international development aid cannot be denied. According to Phraxayavong, this official development aid was towards the end of the noughties, still accounting for 10 per cent of the gross national income (GNI)³¹ (Phraxayavong, 2009). Despite the rather bad economic conditions resulting in poor physical infrastructure and health care services, the Lao PDR's economic development is on the upgrade, with annual GDP growth between 6-8 per cent over the last ten years, making it a good choice for private investors who are interested in placing large sums in the national market (World Bank, 2013).

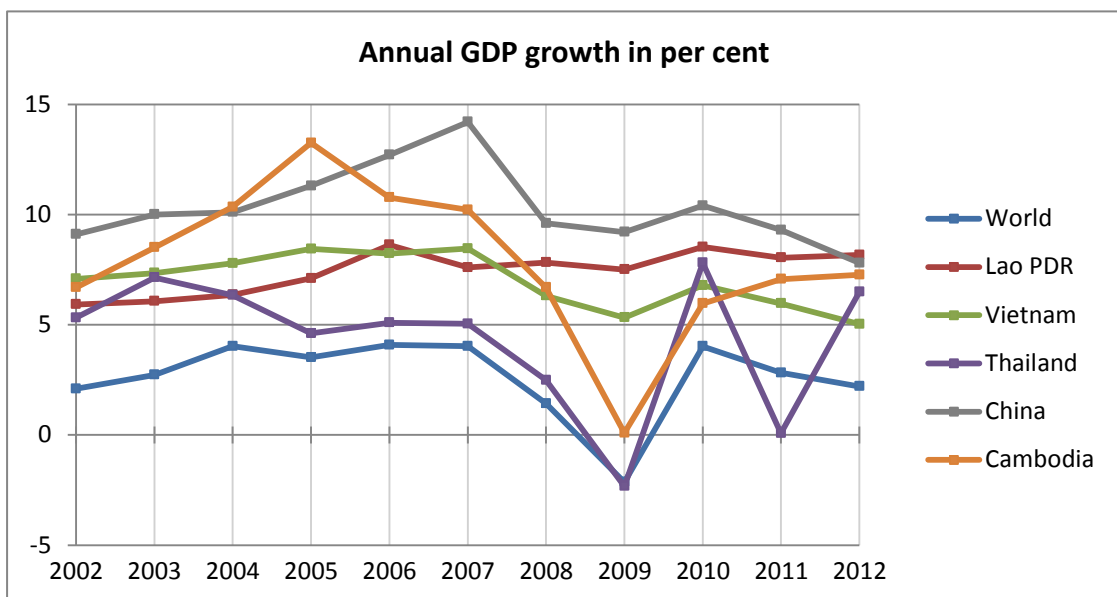


Fig. 8 Annual GDP growth of the Lao PDR and selected neighbouring countries (Source: World Bank/OECD, 2013). The annual percentage growth rate at market prices is based on constant local currency. Aggregates are based on constant 2005 USD.

a minimum and maximum for each dimension, and then shows where the country's performance stands, expressed as a value between 0 and 1 (UNDP – Human Development Reports, 2013).

³¹ In difference with the GDP (Gross Domestic Product), which measures the market value of all services and goods produced within the borders of a nation, the GNI (Gross National Income) is an economic reference for ownership; a value produced by the citizens. (Britannica Online Encyclopaedia)

In conclusion, the mountainous and landlocked geography of Laos has been contributing to the weak socio-economic position of this region for many years. Nevertheless, the country's potential to produce electricity by dam construction, could help Laos to become an important player for services for the entire region.

5.2 History and Political Structure³²

The following section will outline important historical events that have been significant for the political development of the Lao PDR, thus, providing background information to better understand the findings and discussion of chapter 6 and 7.

The history of Laos referred to in government textbooks and common Lao comprehension, starts with the establishment of the ancient Lao kingdom Lan Xang (Hom Khao), “a million elephants under a white parasol”, under the King Fa Ngum in the 14th century. Lan Xang was a Buddhist Kingdom with a feudalistic system. Its influence has extended over two centuries into present-day Cambodia and Thailand, and shapes what is now Laos. It only became weaker with the dissolving into three kingdoms at the end of 17th century after King Surinyavongsa died. The kingdoms were centred on Luang Phrabang, Vientiane, and Champasak in the South. After decades of internal struggles between the three empires, Laos came under the domination of Siam (now Thailand) from the late 18th century, until it became part of French Indochina between the end of the 19th century and the beginning of 20th, by the Franco-Siamese Treaty of 1907, which defines the current Lao border with Thailand.

Being part of French Indochina during the first half of 20th century, Laos experienced only little economic, social or political change. No industry was implemented besides two relatively small mines near Thakhek, and some plantations for commercial crops, mainly coffee and tobacco. Poor infrastructure prevented a successful integration into the economy of overall French Indochina. During World War II, French Indochina was occupied by the Japanese. Although, Lao nationalist declared Laos as independent in early 1946 after Japan surrendered, the French took control again until their defeat during the First Indochina War by communist forces of the Pathet Lao and Viet-Minh in 1953. At the beginning of the Second Indochina War (1954-1975), Laos remained neutral thanks to the second Geneva conference held in 1962. Nevertheless, Laos got roped into the struggles of the Cold War between the United States and Soviet Union. Growing military present of Northern Vietnamese forces in the country induced the U.S. to support the Royal

³² Compare with CIA World Factbook, 2013; Evans, 2002; Stuart-Fox, 2008.

Government of Laos (RGL) to defend communism. The communist Pathet Lao, supported by the Viet-Minh, was strongly against this aid. As the U.S forces sought to destroy the Ho Chi Minh Trail passing through Laos, the country was heavily bombed, making it suffer up today from unexploded ordnances (UXO) and enemies between ethnic groups living in Laos. Eventually, in 1975, the communist Pathet Lao took control of the government with the support of communist Vietnam, instituting a strict socialist regime closely aligned to Vietnam up to present day.

Political Laos is organised by the Lao People's Revolutionary Party (LPRP) other parties are proscribed. Head of the executive government is the Prime Minister, who is nominated by the president and then elected by the National Assembly (NA) for a five-year term, supported by his cabinet. Head of the state is the president, who is also the General Secretary of the Lao People's Revolutionary Party. The NA, being the Legislative branch, is elected by popular vote from a list of candidates selected by the party. Finally, the judiciary consist of NA judges forming the People's Supreme Court.

5.3 State Land Leases and Concessions

5.3.1 Economic Liberalisation and Policy of Economic Land Concessions

After the Lao People's Democratic Republic was established by the Lao People's Revolutionary Party in 1975, the national economy was determined by the national central planning, commonly used by other socialists states. But the limited agriculture cooperatives established after 1975 were a failure, as was the state industrial sector, which was minuscule even compared to other communist countries. Against this background, the Government of Laos (GoL) introduced the "New Economic Mechanism" in 1986 to liberalize its economy, and to open it up for foreign direct investments (FDI). (Evans, 2002)

The transitional process of introducing privatization and the creation of property rights were supported by several international institutions like the World Bank (WB), the Asian Development Bank (ADB) and the International Monetary Fund (IMF). The international donors assisted the GoL in drafting new laws by giving financial support. In the course of this liberalisation process, which started in the mid-80s, Laos became economically connected to the wider region by gaining official membership of the "Association of

Southeast Asian Nations” (ASEAN) in 1997, and then globally linked by applying membership to the “World Trade Organisation” (WTO).³³ (Stuart-Fox, 2005)

In 1994, the Business Law was implemented for promoting investments from Southeast Asia region and global economies. Between 2000 and 2008, the net average FDI inflows in Laos, as a percentage of GDP, increased from 1.3 per cent to 5.8 per cent (Asian Development Bank, 2010). In 2004, the Law on the Promotion of Foreign Investment was introduced, to not only structure and facilitate foreign direct investments, but also to help the GoL Socio-economic Development Strategy (Government of Lao PDR, 2001a) to remove the country from the United Nations’ list of least developed countries (LDC), by 2020, into action. To begin with, the GoL had hoped that small farmers could be the drivers of change, helping Laos to transform from a largely subsistence to an export oriented economy. The farmers were encouraged to expand their capabilities and increase export commodities (Baird, 2011). However, during the early 2000s, while the region was still recovering from the 1997-1998 Asian financial crisis, the government started to change its opinion on how to achieve the prosperity objectives for Laos. More and more, the GoL was hoping to achieve prosperity by giving state land to foreign investors by large-scale concession for exploitations in mining, energy, agriculture and agro-forestry (Voladet, 2009).

In the early 1990s, some foreign companies had already started with the development of large-scale plantation in Laos, although, many of them had to abandon their projects after the outbreak of the Asian financial crisis of 1997-1998 (Lang, 2002 in: Baird, 2011). However, once the economies of countries in mainland Southeast Asia recovered, and Chinas manufacturing power was growing and demanding for commodities again, there was an expanding global demand for raw materials. This demand resulted in higher prices for various commodities such as jatropha, to produce bio-fuel, rubber, and eventually led to the development of new land concessions in Laos. (Baird, 2011) Thus, since the mid-2000s, there has been an increase of approved land investment projects in the Lao PDR (**Fig. 9**).

In particular, rubber plantations largely increased in Laos, along with a rising global demand for rubber (both synthetic and natural).³⁴ The International Rubber Study Group (IRSG)³⁵ is expecting that the global rubber demand will increase from 21.3 million tons in 2006, to 22.2 million tons in 2015 and will reach 31.5 million tons by 2020. The main rubber consumers are China and the USA, followed by India, Japan and Germany, accounting for

³³ Full membership was granted to the Lao PDR in February 2013.

³⁴ With a total of 129,000 hectares, rubber cultivation is the number three in terms of area in the primary sector – see Schönweger et al., 2012.

³⁵ The International Rubber Study Group (IRSG) is an inter-governmental organisation established in 1944, with the purpose of composing rubber producing and consuming stakeholders. It is located in Singapore and currently has 36 member countries; Laos is none of them. (International Rubber Study Group - <http://www.rubberstudy.com>)

56.8 per cent of global consumption. (Hicks et al., 2009) Natural rubber, as processed in Laos, and its form of latex, can be used in many applications and products due to its flexibility and being waterproof. For the most part, it is used for car tyres, or as a sealing material. It is interesting to point out that the Government of Laos did not develop any strategic paper on the promotion of rubber, but that the initiative for rubber cultivation was derived by the provinces of the Lao PDR. Rubber plantations were seen as way to eliminate shifting cultivation, and to replace the opium cultivation and to reduce poverty (Hicks et al., 2009).

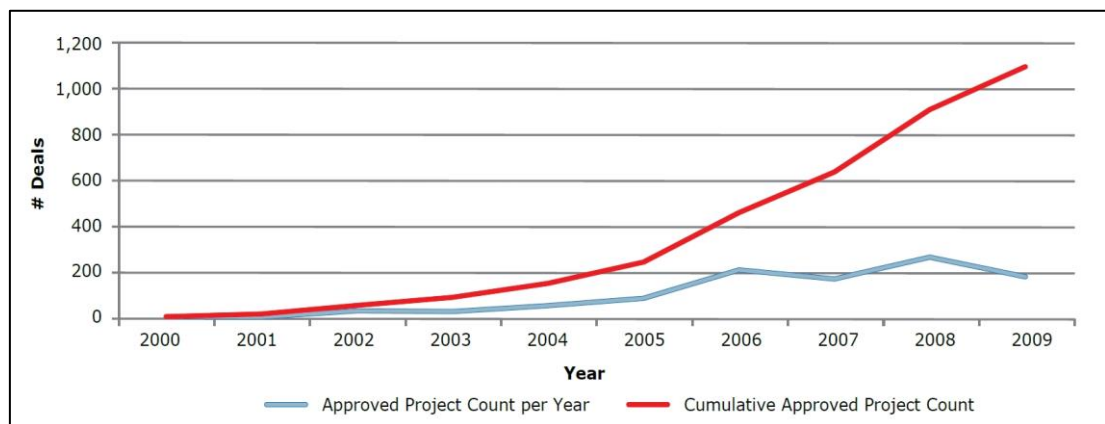


Fig. 9 Increase in Land Investment Projects in the Lao PDR (Schönweger et al., 2012)

As described in chapter 3.4.2, the Prime Minister of the Lao PDR announced an indefinite moratorium on large land concessions for industrial trees, perennial plants and mining in May 2007 in reaction to the cumulative negative arising attitude towards economic land concessions (Vientiane Times, 2007b, 2007c). When the ban was revoked in May 2009 by the Prime Minister's Decree Number 135/PM on "State Land Leases and Concessions" the National Assembly voiced its concerns, whilst many villagers addressed their complaints. Consequently, only one month after the first moratorium was rescinded, the government reintroduced a new suspend on large scale land concessions, though in a more diluted form, as only those less than 1,000 hectares were still permitted, but only with approval from the central government (Baird, 2012). Despite these bans on new plantation concessions, many new land deals have been granted, and have therefore proven that the regulations were far from being effective. As a result, in June 2012, there was an announcement by the GoL that "The government won't consider any new investment proposals in mining or land concessions for rubber and eucalyptus plantations until December 31, 2015" (Government of Lao PDR, 2012; Vientiane Times, 2012).



Fig. 10 Tapping of rubber trees on a plantation in Champasak Province (Zurflueh, 2012)

5.3.2 Legal Framework

The following section shall give a short summary about land use rights and the legal framework of state land leases and concession in Laos, and will thus point out laws and decrees relevant for the implementation process of large scale concessions in the agro-forestry sector. It should be noted that some laws and decrees were implemented only after the examined Vietnamese concession companies launched their projects, and hence were not relevant for the decision-making process.

5.3.2.1 Property Rights

By constitution, all the land in the Lao PDR is property of the state. However, since the market liberalisation process of the mid-1980s, the assignment of permanent land use rights has evolved to allow a land market. According to the land law of 2003, the Lao land use tenure system can be divided into state land and private land (Government of Lao PDR, 2003a). Article 16 of the land law is securing domestic property, as long as it is not clashing with public interest. Communal land rights are only mentioned in Decree Number 88/PM, and have not yet been included into the land law. (GTZ, 2009)

For rural areas, there are six types of land documents defining land use rights known:³⁶

- Probably the most common land document, which is including all rights known in the Lao legislation, would be the **Land Title**. It allows the holder to use, lease,

³⁶ Compare with Government of Lao PDR, 2008, 2003a; GTZ, 2009

sell, and inherit his or her land. In 1997 a national program, in accordance with international organisations, started to assign these titles. Although, the program focused mainly on settlement areas, it was stopped again, and thus has not yet reached every village (see footnote 87).

- Another important document is the **Land Survey Certificate (LSC)** providing official land ownership in rural areas. In addition, it can be used to sell and mortgage land, and is therefore considered to be highest land possession document available in rural areas. It was issued by either the District Land Management Authority (DLMA) or the Provincial Land Management Authority (PLMA), now reorganised into the District Natural Resources and Environment Office (DNREO) and the Department of Natural Resources and Environment (DoNRE). The LSC is usually issued by individual request, and has not been following any systematic approach.
- The **Land Tax Declaration (LTD)** is certifying that its owner is paying the necessary taxes for the lands he or she is using. It only permits using and inheriting the land, and is mainly recognized as a base for compensation of land loss. The issuing, as well as collecting of the taxes, is done by the District Land Tax Division. The LTD is attaching less importance than the two other documents, as it is based on simple estimations or surveying by an officer from the District Land Tax Office.
- A fourth document is issued by the District Agriculture and Forestry Office (DAFO), and signed by the District Governor, saying that the land started to be used in a permanent way: the **Temporary Land Use Certificate**. It is valid for three years, though the land is still considered as state land, and so can therefore not be sold or mortgaged. Also, no compensations are paid. Originally, the idea was that the holders of a Temporary Land Use Certificate would receive a permanent certificate after three years (e.g. land title). However, reality has shown that many temporary rights expired without having been converted into permanent rights, which has caused serious problems to their owners as they do not have any compensation rights in the case of their land being requested for land concessions.
- While the majority of rural land users do not possess a land title, at least most of them own a **Land Tax Receipt**. Land Tax Receipts are mainly given out by local authorities for tax payments trying to evoke a basis for taxation. The Land

Law prohibits any disposal, which means the land cannot be sold to someone else (Government of Lao PDR, 2003a).

- Another document is the **Village Heads Certificates on Land Ownership**, issued traditionally by the village head. Nowadays, this certificate is mainly used as additional proof, in combination with the Land Tax Receipt, when people apply for a Land Survey Certificate to get access to a bank loan.

It has to be said that none of these legal documents for rural areas mentioned above guarantee its holder 100 per cent security against the exclusion from the lands he or she is using. As even Lao lawyers are unsure how far Land Titles enable the owners to enforce a claim by legal action, there is no security of a successful claim in case of government projects or state concessions.

5.3.2.2 Legislation

For the next section, the legal framework of state concessions and land leases shall be elaborated on by listing the main related legal documents in a first step according their year of implementation:

- **Environmental Protection Law (1999)**
- **Law on the Promotion and Management of Foreign Investment in Lao PDR (2001)**
- **Land Law (2003)**
- **Law on the Promotion of Foreign Investment (2004)**
- **Decree on the Compensation and Resettlement No. 192/PM (07/07/2005)**
- Forestry Law (2007)
- Decree on the Implementation of the Land Law, No. 88/PM, (03/06/2008)
- Law on Investment Promotion (2009)
- Decree on State Land Lease or Concession, No. 135/PM, (25/05/2009)
- Decree Number on Environment Impact Assessment No. 112/PM (16/02/2010)
- Decree Number on Cessation for Consideration and Agree to the New Investment Projects for the Mineral Searching and Exploration, the Plantation of Rubber Tree and Eucalyptus at Throughout Nation-wide No. 13/PM (11/06/2012)

The legal documents highlighted in bold are the ones which were already in effect when the examined Vietnamese concession companies started with their activities of implementing several rubber plantations. Nevertheless, the range of Decree Number 192/PM on the Compensation and Resettlement needs to be treated carefully, as the investment activities of the two Vietnamese companies Dak Lak Rubber Company Limited and Viet-Lao Rubber Joint Stock Company had already progressed once the decree was issued.

The Law on Investment Promotion of 2009 is setting the overarching framework for investments in land leases or land concessions (Wellmann, 2012). The law sets out principles, regulations and measures regarding the promotion and management of domestic and foreign investment in the Lao PDR (Government of Lao PDR, 2009a). In distinction, the Law on the Promotion of Foreign Investment of 2004 is only determining principles regarding the promotion, protection and management of foreign Investment, and is not being as precise and detailed in formulation as the Law of 2009. As the Law on Investment Promotion was only implemented in 2009, it was not relevant for the decision-making process of the examined land concessions in this thesis. Therefore, the previous legislation of the Law on the Promotion of Foreign Investment issued in 2004 should be seen as legal basis of land leases and concessions implemented before 2009.

Article 19 of the Law on the Promotion of Foreign Investment specifies the process for any foreign investors applying for concession business: “Foreign investors wishing to invest in the Lao PDR shall submit an application to CPMI at the central or provincial levels with attachments such as copies of passport and resume of the foreign investor; feasibility study or business plan; background information on the investor in the case of a juristic entity; and a Joint Venture Agreement in the case of a Joint Venture” (Government of Lao PDR, 2004). The rights and duties of the CPMI (Committee for Promotion and Management of Investment) at the central level are defined in Article 22. Fundamentally, the main purpose of the meeting is to discuss and decide whether the investigation project application should be pursued or not. It is organised by the Ministry of Planning (MPI), and the Minister or Vice Minister of the MPI is the chairperson at the meeting. Other ministries, including the Ministry of Agriculture and Forestry (MAF) and the Water Resources and Environment Agency (WREA), are participants in this process (Voladet, 2009).

These lead agencies have the responsibility to prevent investments which cause a negative impact on the environment (Article 3). Therefore, by the Environment Protection Law of 1999, every project needs an environmental certificate to proceed (Government of Lao PDR, 1999). The environmental certificate is issued by WREA, and shall ensure that the investors meet their responsibilities. Later, the requirements laid out in different types of certificates, and the exact steps to obtain these records, were being refined by the Prime

Minister’s Decree on Environment Impact Assessment No. 112/PM (Government of Lao PDR, 2010).

Article 17 of the Law on the Promotion of Foreign Investment defines three zones for investment promotion, each having different tax incentives for the investors depending on the existence of infrastructure.

- **Zone 1:** Mountainous, plain and plateau zones with no economic infrastructure to facilitate investments.
- **Zone 2:** Mountainous, plain and plateau zones with a certain level of economic infrastructure suitable to accommodate investments to some extent.
- **Zone 3:** Mountainous, plain and plateau zones with good infrastructure to support investments.

Article 11 of the same law specifies the terms of any investment of a foreign enterprise: “The investment term of a foreign enterprise depends on the nature, size and conditions of the business activities or project but will not exceed fifty (50) years and may be extended with the approval of the Government. However, the investment term of a foreign enterprise shall be for a maximum of seventy five (75) years.”

In the Law on the Promotion of Foreign Investment of 2004 there is not yet a definition of the terms “Land Lease” and “Land Concession”. This only happened in Article 2 of Decree Number 135/PM on State Land Lease or Concession issued in May 2009.

Term	Definition
Land Lease	Land Lease refers to the process of giving authorization to organizations, individuals or juridical entities to have rights to utilize state land based on the conditions and time period specified legally in the terms of the contract.
Land Concession	Land Concession refers to the process of giving authorization to individuals or juridical entities to operate business with the right to use state land based on the conditions and time limit specified legally in the terms of contract.

Table 4 Definitions of the terms “Land Lease” and “Land Concession” (Government of Lao PDR, 2009b; also see: Wellmann, 2012)

Although, this legal definition neither provides an accurate definition, and thus causing difficulties to detect any distinct features between the two terms since they are used in a similar way during the whole decree. Schumann et al. (2006) note that “the legal definitions

given and the criteria used in practice do not always draw a clear line as to the distinction between leases and concessions” (Schumann et al., 2006). According to Schumann et al. (2006), land concessions concern only state land while a lease contract may also be concluded between individuals for private land. In addition, according to article 3 of Decree on the Implementation of the Land Law (No. 88/PM - 03/06/2008), the land concession holder has to pay a concession fee as well as a royalty (Government of Lao PDR, 2008).

The Land Law is further defining the jurisdiction of the different authorities for approving economic land concessions (ELCs) in Laos (**Table 5**).

Land Size	Authority
< 3 ha	District Level
3-150 ha	Province Level
150-10,000 ha	Central Level
> 10,000 ha	National Assembly

Table 5 Jurisdiction of state authorities for granting ELCs in Laos (Government of Lao PDR, 2003a)

Compensations, in contrast, are regulated by Decree Number 192/PM on the Compensation and Resettlement of the Development Project implemented in July 2005. Article 3 is defining compensations as “payment in cash or in kind for an asset to be acquired or affected by projects at replacement cost” in which replacement cost “is the amount in cash or in kind needed to replace lands, houses, infrastructure or assets on the lands (crops, trees) and other assets (income) affected by the development projects. (Government of Lao PDR, 2005)”

Article 4 further says that if “responsible government authorities” conclude that development projects have potential to cause adverse socio-economic impacts, project owners have the following responsibilities:³⁷

- Carry out necessary surveys and field investigations to identify impacts for affected communities. Furthermore, prepare an inventory of the identified impacts by types and degree; determine entitlement to mitigation measures including compensation for affected assets. This must be carried out in collaboration with the concerned government agencies.

³⁷ For the five listed responsibilities please compare with Wellmann, 2012.

- Make every attempt to ensure that displacement is avoided and impacts of projects are minimized.
- Timely provision of adequate budget for planning, implementing, monitoring and evaluating all resettlement and compensation activities.
- Pay particular attention to the needs of the poorest affected people, and vulnerable groups that may be at high risk of impoverishment.
- Ensure that project-affected communities and their existing social and cultural institutions are heavily involved in the resettlement process.

In addition, Decree 135/PM regulates compensation for state land lease and concession covering land plots of people who have a legitimate land use right. Before, there was no common handling on the payment of compensations, thus resulting in an uneven handling by local government authorities.

6 Results

The findings of this master's thesis will be analysed in three sub-chapters on the "Groups of Actors", "Implementation Process", and additional by "Criteria Influencing the Land Allocation Process" in Laos. Moreover, the three sub-chapters in this sequence are referring to the three research questions presented in chapter 2.2, about the main actors involved in the decision-making process ("who?"), how they interacted with each other ("how and why?"), and which key criteria are directing the land allocation process ("what and when?"). Unless otherwise specified, all the findings presented in this chapter derive from the many interviews, meetings, discussions and questionnaires conducted with various interview partners such as company representatives, government officials, village authorities, as well as NGO workers and researchers. In addition, statistical data on the "distance to the next district or provincial capital" and poverty of the examined villages was illustrated in maps by geographic information system (GIS) for sub-chapter 6.3.

6.1 Groups of Actors

This sub-chapter shall provide background information about main players and decision makers involved in the land allocation process for economic land concessions in Laos. It will elaborate on their strategies of action, agendas, assets and means, and relevant institutions, as well as describing dynamic conditions the actors are being exposed to. To this end, the actors were subdivided into three different groups of actors being involved in the decision-making process: the Vietnamese investors, the government agencies from different scales, and finally village authorities which are representing the village. In each category the main players will be introduced first, before the groups of actors are analysed as a representative unit.

6.1.1 Vietnamese Investors

The Vietnamese investors described in this thesis are all have rubber plantations in the South of Laos, and acquired their land plots from 2004 to 2007 authorized by the central government by a Memorandum of Understanding. Furthermore, all four examined

companies are actually subsidiaries of their parent company in Vietnam, and were established with the only reason to start business in the Lao PDR.

Viet-Lao Rubber Joint Stock Company (VLRC)

The Viet-Lao Rubber Joint Stock Company (VLRC) is a branch company of the state owned Vietnam Rubber Group (VRG). VRG was formally established in October 2006 according to Decision 248 by the Vietnamese Prime Minister (Decision No. 248/2006/QD-TTg). The reorganization formed VRG as multi-ownership group, in which dominant capital ownership belongs to the State. (VRG, 2011) Before, VRG was known under the name “Vietnam General Rubber Corporation (GERUCO)”. GERUCO was established in 1995.



Fig. 11 Company logo of VLRC
(www.vnrubbergroup.com)

VRG is mainly active in the industrial proceeding of rubber latex having large-scale plantations of rubber in Vietnam. Furthermore, VRG is producing rubber wood products such as furniture and recently becoming more active in the hydropower business. In April 2012, the Vietnam Rubber Group was honoured with Gold Star Order, the highest national award, by the Vietnamese Prime Minister Nguyen Tan Dung. The company’s means and assets are enormous, making it the biggest rubber enterprise in Vietnam. According to market analysts, the company has developed 300,000 hectares of rubber plantations in Vietnam (40% of the national total) and more than 40,000 hectares overseas. The group’s production is expanding with an average annual rise of 6 per cent in area and 10 per cent in productivity between the years 2001- 2010. (Vietnam Breaking News, 2012) By the end of August 2013 VRG was reporting a pre-tax profit of VND4.5 trillion (around USD 440 million)³⁸ for the first eight months of 2013. In 2012, the company made a VND9.3 billion pre-tax profit on VND32 trillion revenue, and contributed VND3.2 trillion to the Vietnamese state budget (STOXPLUS, 2013). The Vietnam Rubber Group is having more than 36 subsidiaries and 100 affiliates³⁹, mainly in Vietnam, Cambodia, and Laos, and is planning to expand its activities to Myanmar. In 2011, VRG’s five-year business activity plan for 2011 through 2015 was approved by the Prime Minister. The plan drafted an additional growing of 200,000 hectares of rubber trees, with 140,000 hectares in foreign countries, mainly

³⁸ VND 10,000 (Vietnamese Dong) corresponds to USD 0.04. (www.finanzen.ch - May 2013)

³⁹ The term “affiliates” is used in this thesis to describe companies, in which the investor either holds a minority share or is connected by corporate business relationships. “Subsidiaries” are companies in which the parent company owns a majority share.

Cambodia and Laos. Thereby, the group's total rubber area would be 500,000 hectares by 2015. (VRG, 2012)

On institutional side, it is important to mention that VRG and VLRC are both members of the Vietnam Rubber Association (VRA). The VRA, established in the end of 2004, is describing itself as a voluntary organization of enterprises, organizations and individuals operating in sectors related to the Vietnam rubber industry for the purpose of effectively coordinating activities and protecting the legal rights of its members. Regular meetings ensure that its members can exchange views, build networks and discuss difficulties and opportunities in the rubber business. At the end of April 2012, VRA had 141 members. (VRA, 2012)

The Viet-Lao Rubber Joint Stock Company (VLRC) started its investment in the Lao PDR in January 8, 2005, after a Memorandum of Understanding (MoU) was signed between the Government of Laos (GoL) and members of GERUCO. The MoU provided VLRC with a 50-year lease of 10,000 hectares to cultivate rubber in Champasak Province. Originally, VLRC proposed 50,000 hectares and also conducted land surveys in Attapeu, Saravan, and Sekong Province but finally accepted the 10,000 hectares proposal for Champasak. The concession area covers two districts, starting in Bachiangchaleunsook and continuing to Sanasomboun District (one continued plot). According to the VLRC, the total amount of investment by August 2012 is USD 68 million. Initial total investment costs were, as stated by a report of the Provincial Agriculture and Forestry Office (PAFO) in Champasak, USD 29 million (PAFO, undate). According to Lang, the company pays a rent of USD 9 per hectare per year to the Lao government (Lang, 2006).

General Information on VLRC	
Main Office in Laos	Pakse District, Champasak Province
Parent Company	Vietnam Rubber Group (VRG)
Business activities in Laos	2005
Total plantation area in Laos	10,016.56 ha
Time of investment	50 years
Total investment cost	USD 68 million
Province	Champasak -Bachiangchaleunsook, Sanasomboon

Table 6 General Information on Viet-Lao Rubber Joint Stock Company (Zurflueh, 2013)

VLRC could start tapping the rubber in 2011 after the trees grew for about six years. VLRC processes the rubber latex further in its own factory in Bachiangchaleunsook District before the natural rubber will be exported to China and Vietnam. Officials of VLRC in Champasak

explained that the company prefers to have concessions instead of doing contract farming with local villagers, since the Lao farmers have no knowledge and experience about rubber. In addition, the farmers do not have capital and means to share with the company. Hence, VLRC perceives contract farming as high risk business with lots of uncertainties. The Viet-Lao Rubber Joint Stock Company justifies this solo attempt by the manifold benefits that the company would provide to the government and people of Laos: construction of roads, a newly built primary school for Bachingchaleunsook and Sanasomboon, as well as concession fees being an important income for the government. Furthermore, villagers can work with VLRC on their rubber plantations and earn money. Advantages for the company are the good quality of soil in Bachingchaleunsook and Sanasomboon, which is highly suitable for rubber allowing high yields, as well as good supports from the Lao government (VLRC, 2012).⁴⁰



Fig. 12 Pick-up of tapped rubber on a plantation of VLRC for further processing (Zurflueh, 2012)

Dak Lak Rubber Company Limited (DAKLAORUCO)

Dak Lak Rubber Company Limited (DAKLAORUCO) is a branch company of the state owned by Dak Lak Rubber Corporation (DAKRUCO) based in Dak Lak Province in Vietnam. DAKRUCO belongs to the Dak Lak Provincial Government and makes, same as VLRC, part of the Vietnamese Rubber Association (VRA). According to the company's webpage DAKRUCO manages 25,587 hectares of rubber plantations by the end of 2010. The company has more than 20 subsidiaries or affiliates and employs more than 4,860 people (DAKRUCO, 2011). Besides Laos, DAKRUCO is also investing in



Fig. 13 Company logo of Dak Lak Rubber Company Limited (www.dakruco.com)

⁴⁰ More on the “benefits” narrative will follow in chapter 6.2 on the decision-making process of ELCs in Laos.

rubber plantations in Cambodia. More details on annual profits and development goals could not be found. Compared to VRG, there is very little information available on that company, although, DAKLAORUCO was the only company out of all the examined companies in Champasak that could be found in the “Yellow Pages Lao PDR”.

Dak Lak Rubber Company Limited got its licence for a 50 years lands lease from the Government of Laos (GoL) in late 2004 a few weeks earlier than VLRC. Same as with VLRC, the initial project development contract was a MoU. The actual contract was only signed in 2009 with National Land Management Authority (NLMA) once its provincial department conducted the final land survey to measure the area used by DAKLAORUCO. Later on, the official contracts were also signed with VLRC. Dak Lak Rubber Company Limited plants rubber in Champasak (Bachiangchaleunsook and Pathoumphone District) and Saravane (Laongam and Saravan District) Province. Besides, DAKLAORUCO holds a coffee plantation in Paksong Distric (Champasak Province) and a cashew nut plantation in Attapeu Province.

General Information on DAKLAORUCO	
Main Office in Laos	Pakse District, Champasak Province
Parent Company	Dak Lak Rubber Corporation (DAKRUCO)
Business activities in Laos	2004
Total plantation area in Laos	10,000 ha
Time of investment	50 years
Total investment cost	N/A ⁴¹
Province	Attapeu , Champasak, Saravane

Table 7 General Information on Dak Lak Rubber Company Limited (Zurflueh, 2013)

The total area is 10,000 hectares, of which 4,000 hectares are located in Champasak. DAKLAORUCO owns a rubber processing factory in Champasak from which rubber is being exported to China, Thailand, Vietnam and Malaysia. When asked why DAKLAORUCO is mainly having land concessions and not farming collaborations with villagers, representatives of the company explained that their development plan is a big project, for which large area of lands are being used: “The concession is easier to manage, especially the quality of the production. The company realizes that the Lao farmers are lazy, so there is high risk of failure. The concession is less risky than having a contract farming system.” (DAKLAORUCO, 2012) In any cases, the company is confident that the income of the villagers is better than it was before; for instance they can work on the plantation and earn a monthly salary. “Most households have motorbikes; villagers know how to work more

⁴¹ According to Lang, the initial project costs were USD 30 million (Lang, 2006).

actively now. Local people can sell their agricultural products to the workers.”
(DAKLAORUCO, 2012)

Ho Chi Minh Youth Rubber Company Limited (HCMYRC)

In contrast to the three other examined Vietnamese companies, there was nothing to find either in literature or on the internet about the background of Ho Chi Minh Youth Rubber Company Limited (HCMYRC). Neither is an official mailing address available, nor was there any sign with the company’s name in front of the office building, making it look like any other house for private living. Therefore, all the information on this company was received from interviews conducted with Mr. Ong Deuk, the director of HCMYRC, as well as the Department of Natural Resources and Environment (DoNRE) in Champasak.

According to assertions of the company’s representatives, HCMYRC is a branch company of Ho Chi Minh Joint Stock Rubber Company based in Ho Chi Minh City. While HCMYRC only came to Laos to produce rubber, its mother company is also investing in other products in Vietnam including eucalyptus, cashew nut, and livestock raising, such as chicken and pig. That is why the mother company of HCMYRC might be Ho Chi Minh City Dairy Cattle Company Limited (HCMDC) a member of VRA. This would match with statements of HCMYRC that they had met with representatives of Dak Lak Rubber Company Limited and Viet-Lao Rubber Joint Stock Company during meetings of a rubber company association in Vietnam. This “rubber company association” might be the Vietnamese Rubber Association where VLRC and DAKRUCO are listed as official members. According to a village headman in Pathoumphone District, who visited rubber plantations of HCMYRC in Vietnam, the company might be related to the military, as he recognized many military and police officer at the company headquarters.

General Information on HCMYRC	
Main Office in Laos	Pakse District, Champasak Province (<i>no mailing address</i>)
Parent Company	Ho Chi Minh Joint Stock Rubber Company <i>or</i> Ho Chi Minh City Dairy Cattle Company Limited (HCMDC)
Business activities in Laos	2007
Total plantation area in Laos	2,600 ha (granted 6,000 ha)
Time of investment	N/A
Total investment cost	N/A
Province	Attapeu , Champasak

Table 8 General Information on Ho Chi Minh Youth Rubber Company Limited (Zurflueh, 2013)

Ho Chi Minh Youth Rubber Company Limited arrived in Champasak in 2007, after DAKLAORUCO and VLRC had already started with implementing their rubber plantations. Nevertheless, it seems reasonable that HCMYRC also came to Laos because of the same MoU signed between the GoL and Vietnam. The director of HCMYRC explained, during an interview, that they came to Laos because of a MoU signed between Champasak Provincial Government and Vietnam: “[...] the MoU tells about the size of the rubber plantations Champasak wants Vietnam to invest in; then the Vietnamese government allocates its companies to come to invest in Champasak. The Vietnamese government divided the area to several companies” (HCMYRC, 2012). As HCMYRC only arrived in 2007 in Champasak, the suitable soil for rubber in Bachiangchaleunsook and Sanasomboon was already taken by other companies. That is why HCMYRC had to search for its land mainly in Khong district and Attapeu Province. They did so by hiring a consultancy company in Vietnam to conduct a land survey and soil analysis. But as Ho Chi Minh City in Vietnam is located closer to Champasak, HCMYRC decided for the latter. Another reason was that Champasak and Ho Chi Minh City have established a friendship between the provinces: “Champasak is located in the South of Laos and Ho Chi Minh City is also in the Southern part of Vietnam. So, the two provinces decided to establish the friendship” (HCMYRC, 2012).



Fig. 14 Main office of HCMYRC in Pakse, Champasak (Zurflueh, 2012)

So far, HCMYRC could plant around 2,600 hectares out of the 6,000 hectares granted in the contract with rubber trees in **Pathoumphone and Khong District**. In addition, HCMYRC also has a plot of rubber, sized at 100 hectares, in Xanxay District, Attapeu. Currently, HCMYRC is still searching for additional lands for rubber plantations, as it still unable to implement all of the 6,000 hectares granted by contract. Once the company receives the additional lands, a processing factory shall be built in Champasak for exports to China, Vietnam and Europe. **The rubber trees were planted in 2008** and cannot be tapped yet. Yet representatives of HCMYRC are still afraid that there will not be enough workers available once the tapping of the rubber starts. The fact that HCMYRC is facing problems finding enough land, as well as the expected labour shortages, could be reasons that the company is showing more consideration to affected villagers. It seems that HCMYRC pays a higher salary and is willing to negotiate with villagers. “This company is much better than Dak Lak [DAKLAORUCO]; we don’t have conflicts between the workers, land owners and the company like they have. If any livestock would go into the plantation of Dak Lak

[DAKLAORUCO] then they will beat or kill it, but Hochiminh [HCMYRC] will ask the village chief to take to livestock back." (Village Headman in Pathoumphone, 2012)

Hoang Anh Attapeu Company (HAAC)

Hoang Anh Attapeu Company (HAAC) is a branch company of the Hoang Anh Gia Lai Joint Stock Company, in short HAGL Group or HAGL JSC. HAGL JSC is a private, multinational Vietnamese corporation, having diversified business activities which include rubber growth and processing, mining, hydropower, real estate, and sports franchises (HAGL Group, 2012). HAGL originated as a small carpentry business in the Gia Lai Province in 1990, by the current chairman Mr Doan Nguyen Duc. Mr Duc began his work by crafting wooden furniture products for local schools. Profiting from the Vietnamese logging boom that time, Duc's business was steadily growing, and after expanding to become a furniture factory, finally established as Hoang Anh Gia Lai Company in 1993. During the following years, Hoang Anh Gia Lai diversified continuously into timber, granite processing, and real estate, and later also into rubber and mining, before it was converted to a Joint Stock Company and renamed as HAGL JSC in 2006. (Vietnamese Chamber of Commerce and Industry, 2009) To promote the Group's brand name, Nguyen Duc even set up a football club, called HAGL FC, collaborating with Arsenal Football Club in London. After being registered as a Joint Stock Company in 2006, the HAGL group got listed on the Ho Chi Minh City Stock exchange in 2008 (HAGL Group, 2012). Finally, in 2011, HAGL JSC became the first Vietnamese company to be listed on the London Stock Exchange, raising USD 60 million at admission (London Stock Exchange Group, 2011).

By 2012, HAGL JSC had developed into one of the largest private companies in Vietnam with a pre-tax profit of VDN 524 billion in 2012. Being worth VDN thousand 5,373,710,490 (approx. USD 255 million)⁴², of which Nguyen Duc holds 48.32 per cent, making him claiming to become one of Vietnam's first billionaires. The HAGL Group has five branches with 52 subsidiaries, over which the company either owns majority holdings of more than 50% and/or has control (**Fig. 16**). In total, 19,457 employees were working for HAGL JSC in 2012. The five business branches provide HAGL JSC's investment portfolio with rubber, sugar, hydropower, real estate, and mining. By 2012, 43,540 hectares of rubber had been planted in Vietnam, Laos, and Cambodia, with the objective to expand the area to 51,000 hectares by the end of 2013. HAGL JSC is expecting to harvest 127,500 tons of dried latex annually from its plantation, and once the commercial life of rubber trees has ended (25 years), indicated approximate earnings from lumber sales worth USD 430 million shall be

⁴² VDN 10,000 (Vietnamese Dong) corresponds to USD 0.04. (www. finanzen.ch - May 2013)

realised. For this, a latex processing factory with the capacity of 25,000 tons has come into operation in Attapeu Province, Laos. (HAGL Group, 2012)

In their annual reports, HAGL JSC is keen to give its business activities a sustainable image, describing how the company aims to protect the environment and share the benefits that it gained from investments with the community. However, this slightly contradicts with a statement of its founder and chairman Nguyen Duc made in the Forbes Magazine when describing his business strategy: “I think natural resources are limited, and I need to take them before they’re gone” (The Forbes Magazine, 2009).

Hoang Anh Attapeu Company (HAAC) is HAGL JSC’s main subsidiary in the Lao PDR. Another subsidiary is “Hoang Anh - Quang Minh Rubber JSC” (64.66 per cent of the shares hold by HAGL JSC - HAGL Group, 2012). According to a report by Chris Lang Quang Minh signed a contract with the Lao Planning and Investment Committee in December 2006, for a USD 15 million project to plant 4,900 hectares of rubber plantations in Sekong and Attapeu Province (Lang, 2006). In the same year, Quang Minh was allocated 2,667 hectares of lands in Attapeu, but owing to financial problems, Quang Minh was unable to implement any of its concessions. So in 2011, Quang Minh merged with HAGL JSC and became Hoang Anh - Quang Minh Rubber JSC. During an interview with HAAC in Xaysettha the discussion explained that originally, Quang Minh was already a part of the HAGL Group in Vietnam, performing as a subsidiary company. It was tried to separate the company from HAGL JSC and to start business in Laos by its own. But once Quang Minh did not have enough capacity to advance with their projects in Attapeu, it merged once again with HAGL JSC in 2011 (HAAC, 2013).

General Information on HAAC	
Main Office in Laos	Xaysetha District, Attapeu
Parent Company	Hoang Anh Gia Lai Joint Stock Company (HAGL Group)
Business activities in Laos	2007
Total plantation area in Laos	24,000 ha rubber ⁴³ 5,530 ha sugar cane
Time of investment	50 years ⁴⁴
Total investment cost	USD 478 million (by August 2012)
Province	Attapeu , Sekong

Table 9 General Information on Hoang Anh Attapeu Company (Zurflueh, 2013)

⁴³ This data is according to the interview with HAAC in January 2013. Other sources declare HAAC rubber plantations in the Lao PDR with 25,000 hectares (The Saigon Times, 2013).

⁴⁴ 50 years with the possibility to extend for another 25 years.

HAAC has diversified into rubber, sugarcane, palm oil, hydropower, real estate (hotels, airport), mining, logging, and tourism. Future earnings are expected to be derived mainly from rubber, palm oil, electricity, and sugar cane, where the yearly earnings from its rubber plantations, when fully operational, will be highest with around USD 30 million per years.

The representative of HAAC described the good relationships of the past between the Lao PDR and Vietnam, which was one of the reasons for HAGL JSC to start business in Attapeu. According to him, the former presidents of the Lao PDR (Kai Sonphomvihan) and Vietnam (Ho Chi Minh) also emphasized that business relations should be integrated in the friendship of the two countries. Furthermore, he emphasized that these investments of HAGL JSC would also a good income for the Lao Government, enabling it to gain investments in the country's infrastructure; even the national football team of Laos had received a sponsorship of USD 200,000. (HAAC, 2012)



Fig. 15 Headquarters of HAAC in Attapeu (Zurflueh, 2013)
Left: Front view from the national road. Right: Swimming pool at the back of the building

ORGANISATIONAL STRUCTURE

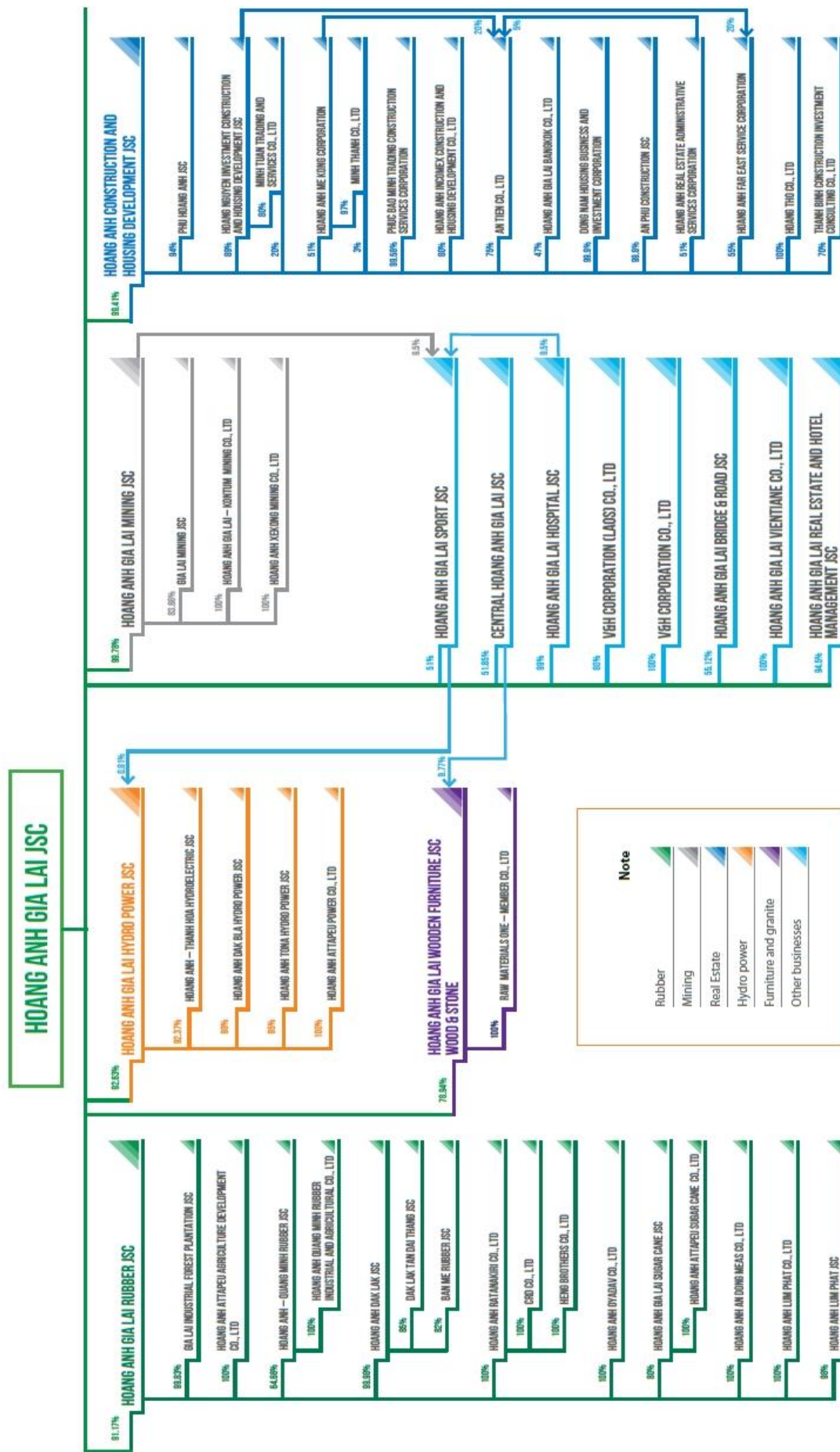


Fig. 16 Organisational structure of HAGL JSC (HAGL Group, 2012)

HAGL JSC operates under the parent-and-sub subsidiary model with five main branches and 52 subsidiaries. The five branches are: Agribusiness (HOANG ANH GIA LAI RUBBER JSC), Hydro power (HOANG ANH GIA LAI Hydro power JSC), Real estate (HOANG ANH CONSTRUCTION AND HOUSING DEVELOPMENT JSC), Mining (HOANG ANH GIA LAI MINING JSC), and Furniture and granite production (HOANG ANH GIA LAI WOODEN FURNITURE JSC WOOD & STONE). In per cent are the particular holdings of HAGL JSC on each subsidiary.

Vietnamese Investors

The dominance and success of Vietnamese investors in the Lao PDR cannot be understood just by looking at the companies' means, assets, and interest as we did during the companies' profile, but must be analysed in the wider context of dynamic conditions and institutions which influence the investors' decision-making. The Vietnamese investors were exposed to several pull and push factors, leading them to acquire large-scale land concessions in the Lao PDR. As described in chapter 5.3.1 on the economic liberalisation process, during the early 2000s the Lao government started to change its opinion on how to achieve prosperity objectives for Laos. Due to the fact that its local farmers were not progressing as expected, the GoL was preparing its law and legal framework to promote FDI (e.g. Law on the Promotion of Foreign Investment 2004). Investors shall be enabled to acquire land concessions for exploitations in mining, energy, agriculture and forestry. With the much needed foreign currency the government was hoping to modernize its infrastructure and to remove the country from the United Nations' list of least developed countries (LDC) by 2020 (Socio-economic Development Strategy by the GoL 2001).

During the same time period, the 2000s, after the 1997-1998 Asian financial crisis, the Vietnamese economy was growing fast, forcing Vietnamese companies to look for investment opportunities. Rubber and jatropha seemed to be particularly successful investments, as the global demand for rubber was increasing that time (see chapter 5.3.1). Since Vietnam, with its population density, made it difficult to find large amounts of lands for investments in rubber, palm oil and other crops, Vietnamese investors were looking for investment possibilities outside of Vietnam. Owing to Vietnam's strong relationships with Laos, and the latter's need for foreign direct investments, the investor found excellent conditions for implementing plantations project in the Lao PDR. Vietnam and Laos do not only have diplomatic relations based on being socialist neighbouring countries, but they share memories from the Second Indochina War (see chapter 5.2). The communist Pathet Lao could not have taken control of Laos without the help of communist Vietnam. The historical past of the two countries is firmly embedded in the mind of today's political leaders, which let them describe their historic relations as a friendship: "The government brought the Vietnamese companies to invest in rubber because Laos and Vietnam have special and good relationship. The government of Laos is confident about Vietnamese companies" (DoNRE Champasak, 2012). The above statement reveals the immense trust that Lao government officials have in Vietnamese investors, preferring them to others. Of course, the Vietnamese are aware of this, and clearly know how to use these relations to get preferred plots of land and investment conditions in a shorter time than investors from other countries

would get.⁴⁵ It is not a coincidence that all interviewed Vietnamese investors praise the good cooperation with the Lao government at every level as a positive aspect of doing investments in Laos.

Furthermore, the Vietnamese companies know that they can also rely on their own government in supporting them in terms of policy, either because they are state owned companies or as one interviewee said, in quasi socialist countries, business and government would always be close to each other.

6.1.2 Government Agencies

As described in chapter 5.3, the Government of Laos (GoL) promotes foreign direct investments as an important component for the development of the national economy (Government of Lao PDR, 2004). In these considerations, the agro-forestry section is viewed by the GoL as one of the key instruments of socio-economic development in the Lao PDR (Voladet, 2009). In its “Industrialisation and Modernisation Strategy” the GoL clearly states that the agro-forestry sector should be industrialised and modernised, so the productivity can be enhanced and the country’s competitive position improved. This modernisation shall be achieved among others through the allocation of economic land concessions.

But who is involved in this land allocation process, and who has which responsibilities and interests? To answer this question, this chapter will focus on the government agencies involved in the implementation of concessions in the agro-forestry sector. There are three core authorities with their provincial and district branches involved:

Core Authorities	
MPI - Ministry of Planning and Investment	Central Level
DPI - Department of Planning and Investment	Provincial Level
PCO - District Planning & Cooperation Office	District Level
MoNRE - Ministry of Natural Resources and Environment (former NLMA - National Land Management Authority and WREA - Water Resources and Environment Agency)	Central Level
DoNRE - Department of Natural Resources and Environment	Provincial Level
DNREO - District Natural Resources and Environment Office	District Level
MAF - Ministry of Agriculture and Forestry	Central Level
PAFO – Provincial Agriculture and Forestry Office	Provincial Level
DAFO – District Agriculture and Forestry Office	District Level

Table 10 Main offices involved in the granting process of LSLAs in the agro-forestry sector (Zurflueh, 2013)

⁴⁵ More on this issue in chapter 6.3 and 7.

Ministry of Planning and Investment (MPI)

The Ministry of Planning and Investment has the mandate to coordinate the Government's line ministries' socio-economic development strategies, and facilitates the implementation of these policies in the Lao PDR. It has the role to promote and implement investments, and is responsible for making final decisions on all prominent investment projects in Laos, and thus is the leading agency in the process of approving proposals for economic land concessions. In this function, the MPI is the main contact agency for the investors in any issue. Furthermore, the MPI and its regional branches are responsible to coordinate and include all relevant sectors in the decision-making process. Finally, it issues the investment license for the company. On the provincial level, the MPI is represented by the Department of Planning and Investment (DPI) and on the district level by the District Planning & Cooperation Office (PCO).

The DPI in Champasak Province described its role and strategy as following: "We are like a business partner or facilitator which helps to coordinate with the district and the central level; also we help if there should arise any problems. [...]. DPI will monitor the implementation process and report each year to the central level [MPI]." (DPI Champasak, 2012) Firstly, this statement shows how DPI officials see themselves as official partners of the investors. This creates the impression that the DPI might acts in the investors' interest, trying to be a good business partner and not risking the company to move to another province. Secondly, it has the role of a coordinator in three directions: vertical, between the district and the central level; horizontal, among the different government sectors; and circular between the investors and government agencies. At the district level, its role mainly stays the same: "In general we act as a coordinator. For instance, if the [province] governor wants to visit the plantations of the company, we will contact the company, and they will accept and then we inform the district governor. Our office is the main partner in dealing with the company." (PCO Pathoumphone, 2012)

During the conducted field research it had been observed, that the MPI's administrative headquarters at all levels in Vientiane, as well as in Champasak and Attapeu, are of a modern appearance, looking agreeable and important compared to other administrative buildings, showing that time has left its marks. This somehow reflects the power, financial means and assets the MPI can rely on.

Ministry of Natural Resources and Environment (MoNRE)

The Ministry of Natural Resources and Environment was created after 2011 by merging the Water Resource and Environment Administration (WREA) with parts of the National Land

Management Authority (NLMA) and the Geology Department, as well as the Protection and Conservation Divisions of the Department of Forestry. As it was only established recently, its functions and roles of its different offices and their sub-coordinates on the province and district level are still being clarified (The REDD Desk, 2013). What can be said is that the MoNRE is mainly in charge of environmental protection and land management. On the provincial level, it is represented by the Department of Natural Resources and Environment (DoNRE), and on the district level by District Natural Resources and Environment Office (DNREO).

Together with the DPI, the DoNRE makes part in the provincial steering committee, being responsible for conducting the land survey and an impact assessment, in collaboration with Provincial Agriculture and Forestry Office (PAFO) at the district level to check which lands can be granted to the company, and if there are any impacts to local villagers and the environment to be expected (see chapter 6.2). “The land use section [of DoNRE] will check about the type of soil and the size, and do the assessment of the environment impact assessment (EIA). Afterwards, everything will be analysed and sent to the central level.” (DoNRE Attapeu, 2013) During another interview, the same agency in Champasak mentioned the problems they were facing when trying to carry out such an assessment for the first companies in 2005 to 2007, because neither were there clear standards on how to conduct an EIA, nor was the land survey team very experienced in this field: “In Laos this was a new issue. Now we have the environmental protection law, but we lack human resources and budget to carry out these tasks. Main issue now is the applying of herbicides. Sometimes this also has effects to villages. But we cannot prove these effects are because of the herbicides because we don’t have the equipment to do such measurements.”

Ministry of Agriculture and Forestry (MAF)

The Ministry of Agriculture and Forestry has the mandate to manage the country’s natural resources, being responsible for the allocation, management, and protection of agricultural land, forestry, conservation and protected forest areas. The MAF’s consent is required for approving land concessions related to the agro-forestry sector. The MAF’s provincial and district offices, the PAFO and DAFO, are together with the DoNRE or former PLMA/WREA in charge of carrying out the land survey. The PAFO has to make sure that large-scale plantations are only granted on “deteriorated forest areas”, usually referred as “unhealthy forest”⁴⁶ and “non-forest areas” such as fallow land. To make sure no other forest types are

⁴⁶ “Unhealthy forest” is not an official term but was used many times by my interviewees to describe deteriorated forest areas and is therefore used in this thesis. In official documents, this area is called “unstocked forests”, referring to previously forested areas which degraded due to logging, shifting cultivation or other disturbances (see: Messerli et al., 2008).

harmful by the plantation, the MAF will issue a development certificate before the company can start implementing the project.

Furthermore, the PAFO is also responsible to carry out a data collection in terms of impacts for the agricultural products of the villagers. This information will be used for compensation calculations. Although, the calculations application in practice usually works only as a reference, or even less just as a confirmation, that the company should pay some compensations to the villagers: “First the company will go and negotiate with the villagers about the compensation. If it’s hard to find an agreement the PAFO will come to help mediate between the two.” (PAFO Attapeu, 2013)

Government Agencies

As described in the section on the Vietnamese investors, it was in the beginning of the 2000s that Vietnamese market was booming again and demanding for commodities for the national economy. Against this background, Vietnamese companies started looking for investment opportunities abroad. In that time, the idea of a development triangle area for Vietnam, Laos, and Cambodia arose during the very first meeting of the three Prime Ministers in Ho Chi Minh City in 1999. During their second meeting in 2002, the “Cambodia - Laos - Vietnam Development Triangle Area” (CLV-Triangle) consisting of 13 provinces, having a connection with the common border between the three countries, was finally established (**Fig. 17**). The objective of the CLV-Triangle was to create a platform for discussions about possible fields and places for investments in Laos, Cambodia, and Vietnam, enabling the 13 provinces to increase their networking and business cooperation. In the Lao PDR, the Southern provinces of Attapeu, Salavan, Champasak and Sekong, having a natural area of about 46,746 kilometres, make part of the CLV-Triangle (CLV -Triangle, 2013). The agenda and fields of cooperation of the CLV-Triangle are under the guidance of the Ministry of Planning of Cambodia, Ministry of Foreign Affairs of Laos, and the Ministry of Planning and Investment of Vietnam.

At the same time, the GoL started to lose gradually its confidence in Lao small-scale farmers being able to modernise the country’s agricultural production. It is hoped that large-scale plantations can be the “engine” for this renewal by replacing the “back-warded” shifting cultivation. These concerns from the GoL are illustrated in an article from the Vientiane Times: “To encourage funding from private and government organisations or domestic and foreign countries and to provide permanent jobs for farmers and villagers, it is essential that a return to slash and burn cultivation is avoided” (Vientiane Times, 2010). Swidden agriculture is seen as a threat for the country, holding it back from reaching its development goals. This opinion on swidden agriculture from the central government can also be observed further down on the provincial level, when some interviewees explained

that shifting cultivation is destroying the forest. In addition, the livelihoods of villagers who are relying on shifting cultivation would be very poor. This is why it is desirable to attract foreign companies which are providing permanent jobs for the villagers in the plantation. In any case, during the interviews, it was shining through that the provincial agencies see their role as being an operator from their head ministries on the central level.

An interviewee who was working together with government agencies in Laos explained that “they [GoL] are obsessed with this poverty reduction. Back to 2006 they had no experience at all in dealing with rubber companies. Vietnamese knew this and used it for their full advantage. So, once Chinese or Vietnamese [investors] come here and present their projects for modern shopping malls, office blocks, or even an airport, the eyes of the Lao would start shining and become blind towards this “super modern” investment plans for Laos”. He added that once the government officials hear about project plans from foreign companies and their budget for the implementation, they would forget about possible future impacts and the general sense of the project. These observations fit with experiences made with interview partners from the provincial level, especially in Attapeu, as, in their voices, was a swinging pride that, of all things, their province was selected by the investors to build a hotel, airport or even a new modern district town.

The district agencies on the other hand are usually the first address for villagers having complaints about the plantations. This sometimes leads the district officials to feel caught between the interests of villagers and regulatory mandates. The main mandate of the district in the implementation process of land concessions is to find land which can be granted to the investing company, based on the agreement in the contract between the central government and the investors. The DAFO and DNREO in particular know best about which lands are used or “unused” by the villagers, which is why they accompany the correspondent departments from the province in the land survey. Afterwards, it is the task of the district to make sure that villagers agree to give the land to the company: “We [the district] are responsible to convince the villagers to give the land for the concession; we explain to the villagers about the advantage of having a concession compared to their current livelihood system on practicing the shifting cultivation” (Interview PCO Sanasomboun, 2012). Due to being closer with the village authorities, the district agencies seem to deliberate the land concession policy more critical as the provincial representatives, thus also mentioning a few negative aspects of having large-scale plantations while the provincial interviewees were predominately speaking in favour of land concessions.

Other important political actors are the provincial governors who have a powerful mandate in their provinces (e.g. the governor has the chair of the steering committee which is responsible for issuing the investment licence for the investing company - see chapter 6.2), being able to avoid control from the central level, at least to a certain degree. But of course this depends on whom it belongs and on the political history of the individual Lao politician. In Champasak, Sonexay Siphandone has been having the post of the governor for the last seven years, taking it over from his father. An interviewee from an international organisation based in Vientiane assumed that powerful provincial governors would not be eager to give away too much of their power to the government in Vientiane, but would prefer to proof concessions by their own.

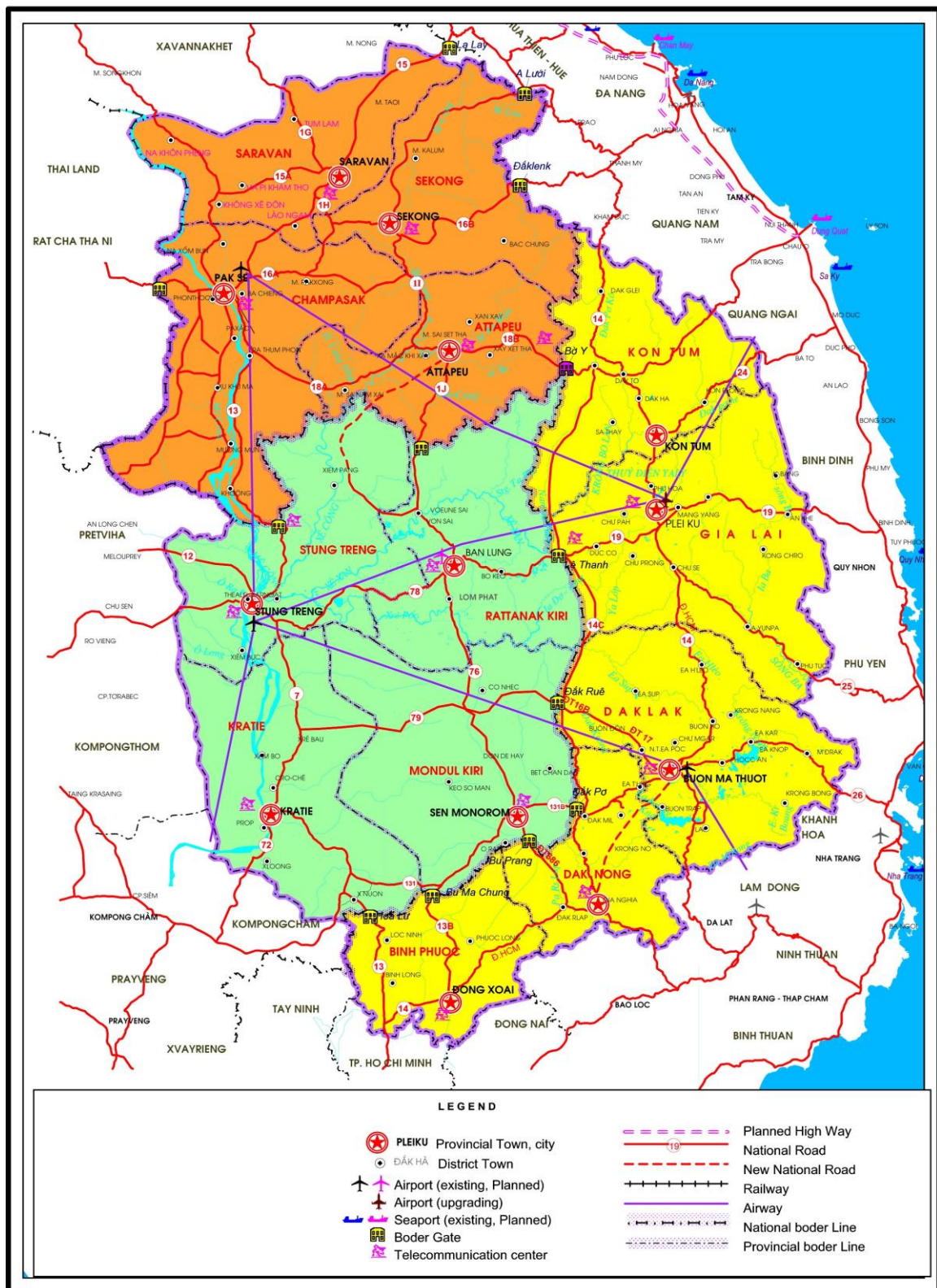


Fig. 17 The administrative map of the Cambodia - Laos - Vietnam Development Triangle Area (www.clv-triangle.vn) The development Triangle Area is constituted by 13 provinces, including in Southern Laos the provinces of Attapeu, Salavan, Champasak, and Sekong (red), in Eastern Cambodia the provinces of Ratanakiri, Stung Treng, Mondul Kiri, and Kratie (green), and in the Central Highlands of Vietnam the provinces of Kon Tum, Gia Lai, Dak Lak, Dak Nong, and Binh Phuoc (yellow).

6.1.3 Village Authorities and Households

This last sub-chapter on the involved participants in the decision-making process of economic land concessions focuses on the third main group of actors: the village authorities and the village households.⁴⁷

Village Authorities

The village authorities are headed by the village chief, in Lao called “nai ban”⁴⁸. The village chief gets elected for three years. Before the actual election starts, the villagers will write down a list with names of people they would like to nominate for the voting (max. 7). Afterwards, these lists will be brought to the district administration which will count the scores and then select the top five for the election in the village. Finally, every villager older than 18 years will vote for one out of the five candidates. This procedure shall guarantee that the elected village will be accepted afterwards, not only by the villagers, but also by the district agencies. If the district is not pleased with the candidates list they have the possibility to add or eliminate candidates for the voting in the village. Between the village head and the district stays the cluster chief. A cluster is an administration unit of several villages (up to nine villages, depending on the size of the villages).

Since the mid-2000s, the GoL has been trying to establish a new organisational unit between the village and the district level with the policy to develop “Information Service Centers” in each cluster, to provide government services, and to stationing district officer closer to the villagers. In official language these clusters are referred to “Village Development Clusters” (“Kumban Pattana”) and are headed by a committee consisting of around seven to eight selected members, which have to be party members. Usually, half of the members are district officials, the other half are village leaders. (Foppes, 2008)

Leader should always be a senior district official, although during the field research we also met village authorities who held the position of a cluster chief.

The “nai ban” is supported by one or two vice-village chiefs, village elderly, head of land tax (responsible for collecting the land tax), village police men, village forest responsible, representative from Lao Women’s Union (LWU)⁴⁹, and heads of household units. The village authorities lead the village, call meetings if necessary to inform or discuss about upcoming

⁴⁷ The role of the cluster chief, the “kum ban chief”, is not discussed in this chapter, because at the time the examined Vietnamese concessions were implemented (2004-2007) the administrative unit of a cluster (“kumban”) was only about to be established.

⁴⁸ The term “nai” means head or chief, and “ban” is the Lao term for village.

⁴⁹ The Lao Woman’s Union was originally established in 1955 to mobilize women for the Lao People’s Revolutionary Party. It was reorganised in 1991, having responsibility for responding to woman’s development needs and promoting the role, status, and unity amongst women in the Lao PDR (www.humantrafficking.org).

events, and work as a conciliation committee for conflicts between villagers. The overall responsibility is for the village chief.

There is no official point in time at which the village authorities need to be informed about the plantation project; though, it is indented they will be included in the accomplishment of the environmental impact assessment (EIA). The village authorities will be informed about the plantation project by the district government, usually by the DAFO and DNREO, and should be included in the data collection for the EIA. However, as chapter 6.2 will reveal, two others approaches could be observed during the field research in several villages. On the one hand, villagers were already informed before the data collection for the EIA was carried out; that is once while the land survey or even before. On the other hand, there were cases of villages in Attapeu which did not receive any prior information at all, but only became aware of the plantation project once external companies had started with the clearing.⁵⁰ Of course, the way the village authorities are informed about the project, combined with their means, interests, and knowledge, is influencing their strategy on how to negotiate with the government and investors.

Village Households

The identity of a village and its people is characterised by several attributes which will play a role when there is a negotiation between the village authorities and representatives of the government and the investing company about to size of the village lands for the concession, amount of compensation and additional support. Influencing attributes could be ethnicity and religion (although not observed during my field stay), knowledge and education, networks and social capital (see Baird and Le Billon, 2012), as well as personal skills of the village chief whether he or she is rather an extroverted than introverted person. Furthermore, these aspects can give some evidence on the question of why two villages in the same district are affected differently by the same investor.

Most of the interviewed village authorities and households were rural farmers. Although non-farming occupations gain increasingly importance, their livelihood is relying on subsistence agriculture doing lowland farming (e.g. paddy rice, maize, cassava, beans, vegetables, etc.) by shifting cultivation or cultivating upland rice in more mountainous area and have some livestock and buffalos for ploughing and fertilising their fields. In addition, some villagers go fishing in nearby rivers for their own need or to sell it to restaurants, work as construction workers, and make handcrafts such baskets or furniture to sell it along the road to the district town or to some middle man once in a while. In one village located in Bachiengchalernsook district, the majority of the households are working in nearby factories as the village is situated near Pakse, the provincial capital of Champasak. Since the

⁵⁰ The implementation process as such is analysed in chapter 6.2.

arrival of Vietnamese companies, many villagers also started to work on the rubber plantations; either because they did not have enough land for cultivation anymore or because they wanted to earn some extra money for their households besides the farming. It was often the case that the village authorities could not give clear information on their village size or agricultural area because they were not sure about the exact size of the area used by them, but only being able to give vague answers like that the area for paddy field is smaller than the forest area for instance. Reasons for this were that the information from the “Land Use Planning and Allocation” (LUPLA) was lost since the village chief has changed many times since then (LUPLA was carried out in the end-1990s) or because the village board map broke or got vanished by the sun. Another reason is the fact that many communities were relocated multiple times during the last five, six decades either because the people had to flee from aerial bombing during the Second Indochina War, or because of new resettlement programs from the GoL relocating them closer to roads to bring services to villagers, integrate the people into the nation state, or to simply reduce shifting cultivation (also see Baird and Le Billon, 2012). This movement of people in the past led to uncertain private and communal tenure rights causing conflicts between villagers.⁵¹ Therefore, villagers affected by land concession projects have to rely on the information provided by the government or the company about the actual size of the area used for the plantation. In addition, if villagers do know about the exact area in use, they often only have customary rights or a land tax certificate for their land plots, but no private land title (see chapter 5.3.2.1) which results in a weak negotiation position making it hard to avoid that land is taken away from the government to use it as concession land. Furthermore, the people in these villages did not know about land issues and their rights, which have prompted many NGO’s to organise trainings so they can learn to negotiate with the government and become aware of the legal framework of economic land concessions.



Fig. 18 Village authorities from Ban Champhi, Sanasomboun (Zurflueh, 2012)

Left: village chief sitting at the table in a blue polo shirt. Next to him are the vice village chief and the land tax responsible. On the left side are two village elderly, in the middle two heads of the households unit, and on the right side at the back the representative from Lao Woman’s Union. Right: village houses

⁵¹ When villagers were being asked about land tenure conflicts with neighbour villages, they reported several times that there were some arguments with neighbouring villages before the LUPLA took place.

At the very beginning, the village authorities did not have any knowledge about concessions or plantation; they could not do anything with it. At the time when the rubber plantations of VLRC and DAKLAORUCO were implemented, there were no past experiences about this issue the authorities could have relied on. Even for most of the provincial governments, this was something new. Therefore, many village authorities believed the promises the district officials made, describing the rubber project as big chance to improve their livelihoods in the future, explaining that the company will provide jobs with good income, so that they can buy motorbikes just as the people have it in Vietnam. These expectations of the villagers only lowered once they could see how the plantations were actually changing their livelihoods and heard about experiences from villages in other districts.

These factors, in combination with the point in time they receive information about the plantation project, highly influence the negotiation between the village authorities and the government and company representatives. The skill of a village chief in Pathoumphone district to speak Vietnamese allowed him to negotiate directly with the company officials, and asking for additional support without relying on interpreter being available. In addition, this village chief seemed to be an extroverted person who was proud of the development of his village. When being asked why his village made a good deal with HCMYRC while other villages did less, he agreed that other villages got less support from HCMYRC “but this is not the fault of the company but the fault of the leadership of the village [talking about Tomo-tha village]. They don’t dare to ask the company. In our village when we asked the company for support we got it. For instance we asked them to build the village office and the company also provided 7 million KIP⁵².” Another interesting example is the case of Pakhouaybanglieng village in Pathoumphone District where the village chief, after he got the information that there exists a government plan to have a rubber plantation overlapping his village’s lands, he organised a village meeting and proposed to do a land survey by themselves, to see how much land would be available for a rubber plantation. The plan was to implement a rubber plantation single-handedly. So during a negotiation with company and government representatives, the village authorities achieved that only half of the area is used as concession lands, and that the other half is used for contract farming sharing the benefits with DAKLAORUCO.

⁵² 10,000 Lao KIP, officially named as LAK, correspond to USD 1.23 in December 2012 (www.oanda.com).

6.2 The Implementation Process of Vietnamese Large-scale Plantations in the South of Laos – A Five-act Play

Now that the actors involved in the implementation process of Vietnamese large-scale plantations have been introduced to the readers, the curtains of the scene shall now be raised for the interplay between the investors, the government, and the villagers. This section will address the second research questions of this master's thesis regarding the implementation process of Vietnamese large-scale plantations in the South of Laos. Interactions between the involved actors will be analysed with a specific focus on their power relations. The chapter shall give evidence as to how the Vietnamese investors have located and found land plots on which to implement their rubber plantations. The story thereby is based on wide ranging events affecting the granting of the first rubber plantations in Champasak to Dak Lak Rubber Company Limited (DAKLAORUCO) and Viet-Lao Rubber Joint Stock Company (VLRC) as reported by a range of people interviewed from the villages, the government, and the investors' side. This provides a detailed picture about the events taking place around the granting of rubber plantations to Vietnamese investors. To reveal differences in the implementation process and the influence of different factors the stories of DAKLAORUCO and VLRC are complemented with the case of Ho Chi Minh Youth Rubber Company Limited (HCMYRC).

In accordance with a classic play and for a better understanding of the different events, the story-line is divided in five acts. The first act addresses the question of how contact between the government of Laos and the Vietnamese investors happened, resulting in the signing of a MoU. As the story goes on, the second act will focus on the searching for suitable lands for the plantations. The third and main act will bring the village authorities and households to the scene, showing how and from whom they received the information about the rubber project and how the negotiations for compensation unfolded. Afterwards, the fourth act elaborates on the company's proposal for an "Importing Plan". Finally, the last act involves the clearing and later monitoring of the future rubber plantations. To get an overview of the background stories of the different acts or phases and the involved actors, a graph was designed showing the overall land concession implementation process of VLRC and DAKLOARUCO in Champasak Province. The illustration can be found on the next page (**Fig. 19**).

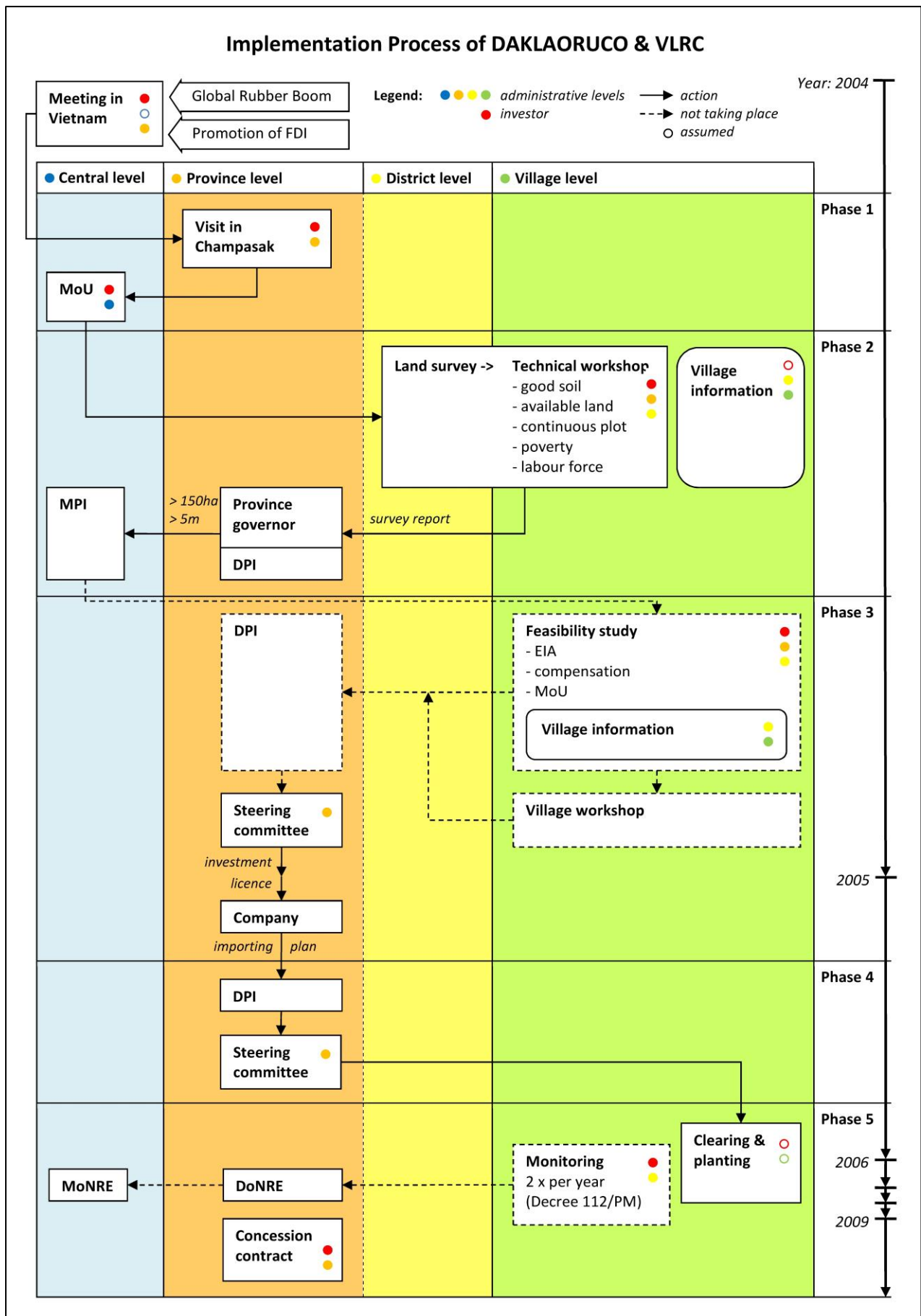


Fig. 19 Implementation process of DAKLAORUCO and VLRC (Zurflueh, 2013)

The coloured dots represent the administrative levels and the investors. Placed on the right side of a box they show which actors take part in an event. An unfilled dot means that the respective actor assumingly took part in the event, but not for sure. A solid arrow represents an action while a dotted arrow stands for an action which did not take place, but should have. The process was divided into five phases, in the text referred as "acts", to provide a clear presentation of the events.

When following the story line of this chapter it is important to keep in mind that the examined land allocations for this thesis were granted between 2004 and 2007. Therefore, parts of the land allocation procedures described in this paper may have changed in Laos meanwhile, because new decrees and laws have been issued.⁵³ Furthermore, some involved ministries and departments have been reorganised or re-named (e.g. NLMA and WREA were merged into MoNRE - see chapter 6.1.2).

6.2.1 First Act: The Approach

In 2004, a delegation consisting of the heads of the Department for Planning and Investment (DPI) and directors from Champasak Province headed by the provincial governor visited Vietnam for a conference where they actively promoted for rubber investments and invited Vietnamese companies to come to Champasak.⁵⁴ The DPI conducted an information campaign advertising the availability of good quality land which is suitable for rubber. It seems reasonable to assume that the campaign was a provincial reaction to the national policy of the Government of Laos (GoL) to promote foreign direct investment and thereby the realisation of the Socio-economic Development Strategy (Government of Lao PDR, 2001a, 2001b) to remove the country from the United Nations' list of least developed country (LDC) by 2020 (see chapter 5.3.1). The political leaders of Champasak sought to capitalize on the new openness of Laos to foreign investment in concessions and aspired to be the first province to invite Vietnamese companies to invest in the rubber sector.

The DoNRE in Champasak explained that the province also wanted to have rubber plantations because this correlates with the central government's strategy to increase national forest cover. In addition, they have heard from other provinces that rubber would be more suitable than eucalyptus for the soil: "Champasak doesn't want eucalyptus and sugar cane because the land will lose its quality". Last but not least, rubber trees are perceived as a sustainable cash crop with a global demand for the rubber latex. Once the trees are big enough to tap, normally after 6-7 years, the rubber latex can be harvested for 20 years and afterwards the wood can be used to produce furniture or as construction material for houses. When asked why Champasak was actively promoting rubber

⁵³ Decree on the Implementation of the Land Law No. 88/PM (03/06/2008). Decree on State Land Lease or Concession No. 135/PM (25/05/2009). Law on Investment Promotion No. 02/NA (08/07/2009). Decree on Environment Impact Assessment No. 112/PM (16/02/2010).

⁵⁴ Interviewees from DPI and DoNRE in Champasak explained that meetings in Vietnam take place once a year to meet the neighbour provinces of Champasak in Vietnam. This could be a reference to a meeting held in the framework of the CLV-Triangle where representatives from the member provinces and the three countries Cambodia, Laos, and Vietnam meet to discuss about investing and development areas. Therefore, it is reasonable to assume that representatives from the central government of Laos and Vietnam were also there.

investments the DNREO in Pathoumphone District replied that "It's the province strategy to attract foreign investment. The reason the companies came here is because the province invites them to start doing investments in Champasak, because we have land... the land is suitable for rubber, but we don't have the necessary capital to do these investments on our own. The way the people use their lands here is not effective. So it's good to have companies that are cultivating the lands more effectively. Of course they will cut some natural forest, but once the rubber grows up everywhere, the forest cover will increase." (Interview DNREO Pathoumphone, 2012) Finally, as a colony of France, rubber has already been planted and exported to Europe. So, there is evidence from the past for any investor that rubber plantations are possible and profitable in Southern Laos.

The reasons why Vietnam was selected by the Champasak delegation for its information campaign are various: first, spatial proximity of Champasak to Vietnam certainly was a factor, and because of this there are already planned annual meetings between the two countries along with Cambodia (CLV-Triangle). A second reason, explained by the Head of the Investment Promotion Sector of Champasak, was that Vietnam was considered to be very experienced in rubber plantation and therefore capable of investing successfully in rubber: "The Vietnamese are better [than other potential investors], because Thai companies are not effective. For instance they plant the rubber in the same years, but the Thai rubber is still not big enough to tap". Finally, the strong friendship and trust between Laos and Vietnam since the Second Indochina War is a significant factor. These good relations and special friendship between the two countries were often mentioned during interviews with provincial officials in Champasak and Attapeu (see chapter 6.1.1).⁵⁵

On his way back to Champasak from Vietnam, the governor was accompanied by representatives from the Vietnam Rubber Group (VRG)⁵⁶ and Dak Lak Rubber Corporation (DAKRUCO), two state-owned enterprises which later established VLRC and DAKLAORUCO as their branch companies in Laos. During their visit to Champasak, the two companies visited possible areas suitable for rubber and conducted an initial small land survey with measurements to determine the quality of the soil and to see if it is suitable for rubber. Representatives from VRG also conducted a land survey in Attapeu, Saravane and Sekong Province as well as in Paksong District in Champasak, but according to a spokesman of VLRC the soil in those areas are not suitable or less suitable for rubber: "The soil in Bachiang [Bachiangchaleunsook] is much better than in Attapeu". Therefore, being one of the very

⁵⁵ Also see: Baird, 2012, Political Memories, Economic Land Concessions, and Landscapes in the Lao People's Democratic Republic.

⁵⁶ That time VRG was called Vietnam General Rubber Corporation (GERUCO).

first companies starting with rubber investments in Southern Laos, allowed VRG to conduct land surveys in various places and to choose locations which offer best soil conditions.

Soon after that meeting a Memorandum of Understanding (MoU)⁵⁷ was signed between the Government of Laos and Vietnam General Rubber Corporation (GERUCO), the state owned parent company of VLRC.⁵⁸ According to the MoU, VLRC was given the right to plant 10,000 hectares with rubber under the directive of a 50-year land lease. Actually, GERUCO requested for 50,000 hectares in Laos, but at the end got “only” 10,000 hectares granted owing to limited land resources available in the South of Laos (Interview VLRC, 2012). The same time, DAKLAORUCO got approval from the central level to develop their project on 10,000 hectares of land under of a 50-year land lease. During the interviews with representatives from the provincial level and the investing companies, it was not possible to obtain any information about the about the rent per hectare the companies need to pay to the GoL. While the companies’ spokesmen claimed only to be informed of the total investment cost of their projects in Champasak or Attapeu and explained that detailed financial information is stated only in the contract held at the headquarters in Vietnam, the province interviewees stated that such selective data is also held by the central level government as the MoU was signed there. Unfortunately, it was not possible for the field research team to conduct interviews at the central level. However, other case study sources, without declaring the origin of their data, write that VRG or VLRC pay USD 9 or 8.5 per hectare per year to the Lao government. Meanwhile, HAGL JSC announced in their 2012 annual report to have a potential annually harvest of 125,000 tonnes of dried latex from its total area 51,000 hectares which equates to 2.5 tonnes per hectare. Taking the global rubber latex price in October 2013 of USD 2.60 per kilogram⁵⁹, which is lower than the two previous years, the company could potentially earn USD 6,500 per hectare per year. Although the net profit for the company as cost for working forces, transportation and processing must be subtracted it can be said that a rental fee of USD 9 per hectare is way

⁵⁷ A MoU works as a letter of intent, expressing a convergence of will between two or more parties, thus it is not a legal commitment as the actual concession contract will follow later (see chapter 6.2.5). Usually, a MoU describes the expected overall size of the concession as well as the duration and the taxes the companies must pay. Therefore, it could be seen as a project development contract or plan. If the size of the total area is more than 150 hectares, the MoU has to be signed by the central government, if it is lower it falls under the provincial authority (Decree 135/PM; Pursuant to the Land Law No. 04/NA, dated 21 October 2003). All four examined Vietnamese companies implemented more than 150 hectares, and thus received their approval from the central level.

⁵⁸ It is reasonable to assume that DAKLAORUCO too, or its province-owned mother company Dak Lak Rubber Corporation (DAKRUCO), might be affiliated with VRG, as DAKLAORUCO started its business the same time as VLRC – also see: Global Witness 2013, Rubber Barons: How Vietnamese Companies and International Financiers are Driving a Land Grabbing Crisis in Cambodia and Laos.

⁵⁹ Data derives from IndexMundi, a portal gathering facts on statistic of different commodities for a global audience (www.indexmundi.com/commodities/?commodity=rubber, accessed 14/10/2013).

too low compared with the potential gains for the investors. Especially, as the processing of the rubber trees for furniture and other goods will raise earnings from the plantation.

Ho Chi Minh Youth Rubber Company Limited (HCMYRC) started its investment in Champasak around three years after VLRC and DAKLAORUCO arrived. Nevertheless, HCMYRC's arrival is likely also related to the visit of the Champasak delegation in Vietnam. During an interview, a representative of HCMYRC explained why the company decided to come to Laos: "First, the Champasak government and Vietnamese government signed the MoU about the development of rubber plantations in Laos; the MoU says for how much land the government of Champasak Province wants Vietnam to invest in rubber. Afterwards, the Vietnamese government allocated its companies to come to invest in Champasak. The Vietnamese government divided the area to each company." HCMYRC wanted 10,000 hectares in Champasak but was only allocated 6,000 hectares for a 50-years land lease.

It could not be verified whether there was actually only one MoU between the GoL and Vietnam or if the representative of HCMYRC was speaking about another MoU effective for Vietnamese companies arriving after an initial MoU was signed with VRG. Making a comparison with the approach of Chinese companies reveals that there could have been a diplomatic agreement between Laos and Vietnam, once VRG and DAKRUCO were showing interest to invest in Southern Laos. Such an agreement was made between Laos and China, saying that Laos wants China to invest in rubber, and afterwards certain state companies of China were introduced to the Lao government and accepted for investing in Laos. Eventually, the Chinese companies went themselves to Laos and negotiated with the Lao government themselves about size and rent of certain concessions, and thus designed their own MoUs. Therefore, one can assume that the representative of HCMYRC was referring to a diplomatic agreement between the Lao PDR and Vietnam being effective for Vietnamese state-owned companies.

6.2.2 Second Act: Land Survey

The process described above applies for VLRC and DAKLAORUCO and is interesting insofar as the leaders of Champasak took the initiative to invite investors. In contrast, literature on LSLAs usually tends to analyse the investors needs for lands making them looking for investment opportunities (e.g. Cotula and et al., 2009; De Schutter, 2011; McMichael, 2009). The interviewees from the provincial level in Champasak and Attapeu clarified, that after VLRC and DAKLAORUCO, the usual way would be that first, the company which wants to invest in the province must go to the Department for Planning and Investment (DPI) to introduce itself, present the planning, objectives and purpose of the project. Afterwards the

DPI will submit the request of the company to the provincial governor. Once the governor receives the company's request letter, he or she will open a technical workshop with the Cabinet to discuss whether this project is beneficial for the province or not, and to check on the company's record. If all agree to have the project, the Province Cabinet will inform the Department of Natural Resources and Environment (DoNRE; formerly the PLMA - Provincial Land Management Authority and WREA - Water Resources and Environment Agency), the Provincial Agriculture and Forestry Office (PAFO) together with the company to assess the availability of land for the project in the province.

District Selection

Searching for suitable lands is done by the DoNRE and PAFO through the land survey process. The main objective of the land survey is to determine to which land can be used to implement the plantation. It is the responsibility of the province (mainly DoNRE and PAFO) to determine suitable districts: "The province has the strategy plan, so we know if the company proposes to plant rubber that of course this will not be in Paksong District. Rubber should be in Bachiang [Bachiangchaleunsook], Sanasomboon, and Pathoomphone. If they propose rice, then it should be in Kong District. We have a zoning on which district is suitable for which crop." (Interview PAFO Champasak, 2012) This land zoning was carried out by the National Agriculture and Forestry Research Institute (NAFRI).⁶⁰ A representative of DoNRE in Champasak explained that additional criteria for the location of a plantation include the economic status of the district, the labour force in this area as well as the "availability of lands" on general. Especially, the criterion of available lands was cited as a priority in determining whether the land was available by most of the interviewed government officials.

Based on the answers of the interviewees, it seems that "availability"⁶¹ consists of natural as well as legal component. When asked in greater depth what available lands actually mean, potential plantation lands were described as fallow lands, sometimes used for shifting cultivation and unstocked forest, a term used for degraded forest areas; furthermore, no paddy rice fields or protected forest area.

During talks with the Vietnamese company representatives, they explained that the main factors for their land selection and also the reason why they came to Champasak were, besides the spatial proximity to Vietnam, the natural conditions such as a suitable climate, good soil, and the right altitude to grow rubber (200-400 meters above sea level). Their

⁶⁰ The interviewee from PAFO was not sure about the scale of the zoning map, but explained that it can only be used to select the suitable districts, but not villages.

⁶¹ On the term "availability of land" itself a paper could be written, but as there is not enough capacity to do so in this thesis, the term is discussed briefly in chapter 6.3.4.

second criterion was the availability of land; they prefer one large, continuous plot for the plantation instead of several small ones which are more difficult to develop and manage.

Technical Workshop

Once the districts are selected, the relevant district governors are invited to a technical workshop in the district to clarify whether they want to have this project in their district or not. The idea here would be to have the plantation in poor villages with underdeveloped infrastructure so that the company can be assigned to build roads, electricity and to create jobs for the poor. When officials from Bachiangchaleunsook District were asked why VLRC and DAKLAORUCO have rubber plantations in their district they replied, “because the land is suitable for rubber and it’s a poor district with large areas of available land, with no private investments before. There’s land villagers don’t use, they practise the shifting cultivation, so they have many plots the company can use. So we decided to take this land and give it to the company [referring to VLRC]”.

That these criteria described by the province and the district actually play a defined role in the selection process of suitable villages is doubtful. Rather, it seems that the companies’ desire for one continuous plot on good soil outweighs such considerations of poverty and development needs.⁶² VLRC, for instance, has planted one continuous plot of 10,000 hectares with rubber trees across both Bachiangchaleunsook and Sanasomboon districts. Certainly, government authorities’ supposed development criteria can also be seen as marginally important, as Pathoumphone and Bachiangchaleunsook were identified as poor districts by the GoL in its National Growth and Poverty Eradication Strategy (NGPES)⁶³ report presented in 2003 (Government of Lao PDR, 2003b).⁶⁴

In some cases, as the DoNRE in Champasak reported, the company developed a clear idea where they wanted to establish their plantation by hiring a broker or Consultancy Company to advise them where to search for land in the province. According to the DoNRE in Champasak, these advisers are usually individuals or Lao companies who have a good network and regional knowledge about which districts have available land which is suitable for a certain crop, for instance rubber. For the three examined Vietnamese companies in Champasak, this was not the case. VLRC and DAKLOARUCO came to Champasak by invitation from the provincial government and thus went together with the provincial agencies to check for suitable lands to grow rubber. HCMYRC was advised by the province in which districts they should search for suitable lands: “The province [Champasak] took the

⁶² In addition, also the role of the district officials in the decision making process seems not be as strong as suggested by the province, because the district agencies usually only support the provincial teams in their field work and do not carry out the survey by themselves.

⁶³ The NGPES are the result of a process, started in 1996, when the 6th Party Congress defined long-term development objectives to remove the country from the list of the least-developed countries (LDC) by 2020 (Government of Lao PDR, 2003b, p. 4).

⁶⁴ More about “poverty” as a selection criterion for land concessions is discussed in chapter 6.3.

company to do the land survey in these districts [Khong and Pathoumphone]. The province selected for us.” For the soil analyses, HCMYRC hired a consultancy company in Vietnam to take samples for examination in their laboratory. HAGL JSC, in contrast, said that they already knew about the area in Attapeu in advance before coming to the province as “this area here was also an army settlement location in the past. This means that there is a lot of unused land available. So, Hoang Anh [HAGL JSC] and Vietnam know this area quite well already.” (HAAC Attapeu, 2013) This statement again reveals the close relationship between the Laos and Vietnam since the Second Vietnam War and furthermore the knowledge the Vietnamese gained about geographical characteristics in the Lao PDR, partly through military ties.

In general, it can be said that the province and the district are responsible for identifying land which is “empty” and available, while the investors check by themselves whether the land is suitable for rubber cultivation or not. All expenditure for the land survey and soil analysis is undertaken by the investor, which offers an interesting dependency of the Lao government on investing companies.⁶⁵

Village Information

As mentioned earlier in this chapter, there was a technical workshop held at the district level after the province decided in which district the rubber plantations should be. The district is responsible to select suitable villages and to accompany and support DoNRE and PAFO staff during data collection in the fields for the land survey. “Suitable” villages are considered by surveying staff as those with lands with good soil for rubber and which are available, referring to “fallow, unused, or unhealthy forest” and state land, thus not private land titles (see chapter 6.3).

After this meeting at the district level, the sub-ordinated offices of DNREO (at that time District Land Management Authority – DLMA) and DAFO in Champasak went to inform authorities of the affected villages about the plan to have a rubber plantation on lands in their village. Sometimes this official notification occurred during the land survey or in one case in Champasak not at all. In that case, villagers were only made aware of the concessions once they saw workers clearing the fields they used for cultivation or as grassland for grazing buffalos. Of the eleven villages visited in Champasak, eight were

⁶⁵ It seems that at the beginning of the land allocation phase in Champasak, the principle of “first come first serve” was used for giving land to investors as a statement from the DPI in Champasak reveals. “The company which came first will have the best land... the company which comes later will have a poorer quality of land. Hochiminh, [HCMYRC] for instance, came later and so has a concession further away from [Pakse] district.” HCMYRC thus complained during the interview that VLRC and DAKLAORUCO already took the lands most accessible and suitable for rubber. This is why HCMYRC had to settle for a concession in Khong District where only small land plots could be found: “Khong is very far away and the soil is low quality with high humidity.” (HCMYRC, 2012) The low quality of the soil is resulting in a higher use of fertiliser by the company, which in turn increases their investment costs.

informed about the project before a detailed land survey took place and two received information during the survey. In Attapeu, the picture was slightly different – of the six villages included in this research, only one received prior information; three were informed during the land survey, and two villages were not provided any details about the rubber plantations at all.

The policy by the government of approaching village authorities, sometimes together with company representatives, during a meeting with the village authorities and later during a village meeting, could be described as “the carrot and the stick” tactic. In the first attempt, government officials, usually the DAFO together with DNREO/DLMA will try to describe the project as a big chance to improve the livelihoods of the villagers in the future, explaining that the company will provide jobs with good income, so that they can buy motorbikes. Moreover, they suggest that the company would build new roads and provide better infrastructure in the village and the district. Often, the portrait created of Vietnam is one of a modern country more developed than Laos, where the people have many more motorbikes and cars than the residents of Laos do. Officials continue by explaining that in Vietnam rubber plantations are common and important long term investments which boost their economy. Vietnam is not only considered by Lao government officials as a special friend, but also on the village level, the Vietnamese are held in a certain high esteem since they fought on the same side as Laos during the Second Indochina War. Furthermore, the province and district officials often explained to the villagers that it is a project from the central government to have rubber plantations. Knowing that the project was approved by the central government and hoping for a better future with jobs in the plantation, the villagers agreed to have the concession; probably also knowing that a rejection would not change anything.

The following are accounts of three villages informed of the concession before, during and after land was granted to the company. In combination, they give the reader some idea of how the meetings took place and were perceived by the villagers.

The first report deals with the case T 10 village located in Bachiangchaleunsook District, Champasak. T 10 village was relocated to its current location during the Second Indochina War in 1971. Since 2007 two villages were combined with T 10 village: T 8 and T 9. There are three ethnic groups represented in T 10 village: Lao-Loum, Ta Oi and Souei. Lao-Loum accounts for one third, Souei accounts for 70 per cent and the rest belongs to Ta Oi. In 2012, 10 households were considered poor, whereas in 2010, there were 83 households registered by the government as poor (out of 136 households). The main livelihood activities include lowland farming (cassava, maize, rice) and working with VLRC (around 95 per cent of all households have at least one member who works in the rubber plantation).

Some villagers also have small shops and raise livestock such as cows and goats, pigs and poultry on the side. Furthermore, some households cultivate cassava and maize to sell it to a middle man.

Representatives from VLRC first came in 2004 to talk to the village chief and his deputies. VLRC told them that if they give the land to the company that the village will become modern, get a school, electricity, and roads. The village chief mentioned at the time, VLRC officials came to see him two-to-three times a day asking him to convince the villagers to give land for the plantation. In early 2005, the DLMA and DAFO came to inform the villagers that VLRC would come to clear the land in the village for the rubber plantation. They/he reaffirmed to them that the company will provide school, electricity and roads. Later that year, representatives from DAFO and DLMA went with the cluster's official and village authorities to the field to conduct a land survey about the size and characteristics of the land to see how much was available. "We agreed to give the land to company if they will provide us such things because we want the development for our village. Everyone in the village agreed to do so because we held a meeting at the village and consulted every household. The land owner's decided by themselves. Some households didn't agree to give the land to company because there were a lot of crops in their land but in some cases the company did not respect this and cleared the land without informing the land owners." (Interview village head in Bachiangchaleunsook, 2012) The village elders further explained that the area which was given to VLRC was comprised of land for teak, agricultural products (chili, eggplant, and vegetables) and upland rice production as well as fallow land; in total 50 hectares.⁶⁶ At the time of research, they had still not received any infrastructure and were unable to pursue legal action as there was no written agreement made. The deputy head of DNREO in Bachiangchaleunsook explained that "Viet-Lao [VLRC] has not provided any such things for this village, but Dao Tien Company provided infrastructure; for example road and facilities like electricity, primary school and water supply to several villages because there was a documented agreement as we had learned from Viet-Lao [VLRC] and Dak Lak [DAKLAORUCO]."

In the second example, the village chief of Nongnamkhao-Yai⁶⁷, located in Bachiangchaleunsook District, tells how they first heard about DAKLAORUCO: "We didn't

⁶⁶ The village total area consists of 1,077 hectares.

⁶⁷ Nongnamkhao-Yai village was moved to its current location around 1946. Villagers from Ban Houaykoi at Km 30 and Ban Thamdin moved here, to be close to the road and the lowlands. The main livelihood activities are working with DAKLAORUCO (around 80 per cent of the households), and doing lowland farming. In addition, there are around 5 per cent of the households which practice upland rice farming for their secondary livelihood income. Before DAKLAORUCO started with its rubber plantations in Nongnamkhao-Yai, the villagers did shifting cultivation, planted coffee, bananas, and sugar cane. The village is reported as not poor since 2010. Before, there were 22 households considered as poor (out of 341).

get any information from the district or provincial government about the company, but when we first saw that there was a team from DAFO conducting the land survey I asked them what they were doing. This was in 2004. They told me that they will give this land to a company, but they did not say to which company they wanted to give the land. They conducted the land survey in December, so at that period we were working on the farm to harvest upland rice. That's why we saw them conducting the land survey. After that, around the end of 2004 or beginning of 2005, we received notification from the district governor that Dak Lak Rubber Company [DAKLOARUCO] would come to clear the lands in our village. Once I received that notification I read that notification to all the villagers. We could not object because the notification of the district governor clearly said that it's a government project, no one can refuse in that case so everyone must give the land to the company."

The third example tells the story of Kangyay⁶⁸ village located in Xaysetha District, Attapeu. The villagers only knew about the concession when they saw a company clearing their lands in 2007. As nobody announced to them that a company would come to use their lands, the affected households approached the village chief who went together with them to see the district. The district told them that the land would be used for a government project on rubber which would support their livelihood and provide jobs. At first the households did not put up much resistance as their livelihood was not threatened at the beginning. But when the clearing continued, the affected households and the village chief went again to see the district government. Together with officials from the province they went to see representatives from HAAC. They explained that they already put chemicals on the cleared area to kill the weeds and thus, these fields cannot be used for cultivation anymore. Therefore, HAAC agreed to pay compensations to the villagers. In 2007 the compensation rate was 12 million KIP for 1 hectare of rice field. During our visit the villagers explained that this was a lot of money for them. But later in 2012, the compensation for lands being cleared later was reduced to only 5 million KIP per hectare for the rice fields; for forest or marked area only 500'000 KIP per hectare.

⁶⁸ Kangyay village was originally created in the 1930s under the name Ban Punhea. In 1986, the village name was changed to Kangyay, as the cluster structure changed. The villagers named the village after Kangyay, the person who was responsible for the cluster that time. The main livelihood activities are lowland farming (paddy rice, vegetables, and bananas), and raising livestock. The products are sold in the village and not on the district market. According to the village chief, the people are too shy to sell their products on a public market. This might be because 95 per cent of the people belong to the ethnic minority of Cheng. In 2012, 44 households were considered as poor; before 2009, 65 families out of 258 households were poor.

6.2.3 Third Act: Feasibility study

Once the land survey has finished the involved teams of DoNRE (before PLMA and WREA) and PAFO will write a survey report and submit in to the DPI and the province governor. If the land under survey is less than 150 hectares the governor can issue one letter for agreement to grant the land to the company, if it is more than 150 hectares the central government has to approve, which was the case for all four examined Vietnamese companies.

Feasibility Study

With the completion of a land survey report, the first half of the implementation process is finished. But before the company can start with the clearing, according to the law, some more obligations need to be fulfilled. To prevent investments which may cause negative impacts on the environment, the Environmental Protection Law makes provision that any company must have an environmental certificate issued by the WREA (now issued by the Environmental Section of the DoNRE) (Government of Lao PDR, 2003a).⁶⁹ This is why after the province or central level has approved the land survey report the investor needs to prepare a feasibility study which consists of an Environmental Impact Assessment (EIA).⁷⁰ The EIA is conducted by an assigned consultancy company which is hired by the company to see if any villagers will be affected by the concession and to make sure they receive compensations as one representative from the Environment Section in Champasak explained: “The Environmental Section is involved in the data collection [for the feasibility study], but more as a facilitator, observer... if they [company with advisers] go to the villages, the field etc. The assessment is not carried out by the company/investor itself but the company has to hire a consultancy company for this. This company is selected by the investor on the condition that the consultancy company must be registered with the government. After the data collection the company has to present the results during a workshop at the village level. The workshop will be organised by the district. If the villagers agree [with the findings of the feasibility study] another workshop will be organised to present the findings from the survey [feasibility study] at the district and later at the province level. As mentioned in the next section there was never held such workshop in any of the examined villages.

⁶⁹ It needs to be noticed that this laws does not necessarily prevent any negative impacts of a plantation project. The law assess the impacts, lays out how those impacts shall be mitigated by the company, and is the basis for government deciding whether the project is too harmful to be worth it for the country.

⁷⁰ If the surveyed area is less than 300 hectares, an Initial Environment Examination (IEE) has to be carried out.

Steering Committee

Once the DPI receives the feasibility study from the company it will send it to the steering committee members of DAFO and DoNRE to add comments before the steering committee will have a meeting altogether to review the project proposal. The provincial steering committee consists of DoNRE, PAFO, DPI, Department of Industry and Commerce, Department of Finance (responsible for the collection of the concession fee and taxes), Province Cabinet, Police Department (has the mandate to check if there are any foreign labours working on the plantation), and the Department of Science and Technology (has the mandate to give advice and expertise about the import of equipment, fertilizer and others). The steering committee, chaired by the governor and vice chaired by the DPI, will make the final decision on whether to issue an investment licence or not. If the steering committee agrees on the proposal, the DPI will issue an investment license. If they do not agree, they will make a note which says what the company needs to improve and modify and send it to the company to review and improve.

The thing is that for none of the four examined Vietnamese companies such a feasibility study was carried out!

”Dak Lak [DAKLAORUCO], Viet-Lao [VLRC], and Ho Chi Minh Company [HCMYRC] have not carried out such assessments (...) because at this time [2004-2007] the environment issue was something new for Laos. It was not clear yet what exactly has to be done to get the licence. The practice was that we granted first and did the assessments later”. (Interview Environment Section of DoNRE in Champasak, 2012)

That the environment issue was something new for the government agencies was insofar true, as the environmental impact assessment was only regulated insufficient and imprecise without naming a clear procedure or measurements to conduct. In article 8 of the Environmental Protection Law, the accomplishment of an environmental assessment is described as the following (Government of Lao PDR, 1999):⁷¹

Environmental assessment is the process of estimating the impact on the environment of development projects and operations. It also identifies methods and measures for mitigating and reducing such anticipated impact on the social and natural environment.

1. **The Science, Technology and Environment Agency shall issue general regulations on procedures and methods for environmental assessment;**
2. **Each sector that is responsible for development projects and operations shall issue its own regulations on procedures and methods for environmental**

⁷¹ Translation endorsed by the Law Committee of the National Assembly of the Lao PDR. The text-passages in bold were highlighted by the author.

assessment, based on the general regulations on environmental assessment issued by the Science, Technology and Environment Agency;

3. Development projects and operations that have or will have the potential to affect the environment shall submit an environmental assessment report in accordance with the regulations mentioned in paragraphs 1 and 2 of this article to the agency in charge of environmental management and monitoring for issuance of an environmental compliance certificate before starting the projects;
4. [...]
5. Environmental assessment shall include the participation of the local administrations, mass organisations, and the people likely to be affected by the development projects or operations.

More precise instructions and definitions on how to carry out an EIA were only established in February 2010 - five years after the plantations of VLRC and DAKLAORUCO were implemented - with the release of decree number 112 on the Environmental Impact Assessment (Government of Lao PDR, 2010).

Another problem mentioned by the same representative was the lack of coordination and consultation: "Sometimes the government agency [referring to DPI] does not understand environmental issues. If they want to grant the land they will just do it".

This statement fits with the explanation of a Lao land rights specialist working for a NGO who said that the main problem, up today, is that the implementation practise does not follow the legislation, and thus it still would happen that a feasibility study already exists after one-two days or within a week which cannot be possible.

The main idea of the EIA is to clarify if there are villagers expected to be affected by the concession. In this case, the DNREO has to make sure those villagers who lost land or crops receive compensations. For VLRC, DAKLAORUCO, and HCMYRC these clarifications either took place during the land survey or once the clearing company had already started with their work. Officially, the company cannot start clearing the lands before the DAFO has defined which landowners have the right for compensation. According to the DAFO in Bachingchaleunsook, there are two types of compensations: "First, land which has an official land document [referring to land tax receipt or declaration]. In this case the compensation will be paid for the land and the product; we call this private land. Second, land without any documents: here the company has to compensate for products only." (Interview PAFO Champasak, 2012)

The main principle, regulated by Decree Number 192/PM on the Compensation and Resettlement of the Development Project, is that the affected households get compensated with alternative land plots for cultivation (Government of Lao PDR, 2005). If this is not possible the financial compensation will be used. Decree Number 135/PM on State Land Lease or Concession clearly says how the compensation for different land types and crops has to be calculated (Government of Lao PDR, 2009b). However, the decree was only issued in May 2009, and thus the negotiation in the examined villages in Champasak and Attapeu was always between the affected households and the investors or the clearing company. Usually, the land owners were offered a certain amount of money for their land and it was up to them to find arguments why the compensation payment should be higher: “The amount of money depends on the negotiation skills of the land owner. If you know how to negotiate with the company you will get a higher compensation than others”. (Interview villager in Bachiangchaleunsook, 2012) In many cases, the villagers were told by the company that they would be better off accepting their first offer; otherwise they would not get any compensation at all. The districts in Champasak and Attapeu were only involved in the compensation payment if they heard from any conflicts and were asked to mediate between the villagers and the investor.⁷² In consequence, the negotiation between the representatives of the companies and the landowners went unequally and varied from village to village, even from landowner to landowner as the following examples reveal:

“The company paid on average two million KIP per hectare for the land with crops but no compensation for empty land and the area used for upland rice. The negotiation was between the land owners and clearance companies. It was not the concession company [VLRC] but a company which was hired to clear the land.” (Village in Bachiangchaleunsook)

“There was not really a negotiation, the district just told us that the company [VLRC] will pay a compensation to villagers who lost land... if not they should not give the land to the company. But in term of the negotiation for the compensation, the negotiation was between the landowners and the company [VLRC]... household by household. Some households received 500'000 KIP. This depends on the crops, not on the hectares, but 500'000 is the minimum. Some households received 2 million KIP, some 5 million. There was made a MoU about the compensation between the company [VLRC] and the landowners who lost land.”⁷³ (Village in Bachiangchaleunsook)

⁷² In Attapeu, the interviewed villagers explained that most of the time, they only received some compensation once the land was already cleared. In some villages, they are still waiting to receive compensation from HAAC.

⁷³ See “Memorandum of Understanding on Compensation Payment” in annex 10.2.

“Yes, the DAFO and the company [DAKLAORUCO] came to measure the land, but in terms of compensation the district left the company to negotiate with land owners. The negotiation on compensation happened once the land was being cleared already.” (Village in Bachiangchaleunsook)

“When the company [VLRC] wanted to clear the land, the company came to the village to talk about the compensation, and they [representatives of VLRC] went go to see the teak⁷⁴ ... together with the DAFO, village chief, landowners, and village tax responsible. For the teak, the company proposed by itself. For the smaller tree, Viet-Lao [VLRC] paid 500 KIP per tree, for the bigger tree 1,000-2,000 KIP [10cm diameter], for big trees 3,000 KIP. We asked for 10,000 KIP. If we sell the teak of 70 centimetres we would receive 70,000 KIP per tree. Furthermore, the company did not count the exact number of trees but only estimated the amount per hectare.” (Village in Sanasomboon)

The DNREO in Bachiangchaleunsook mentioned that “because having rubber plantations of Viet-Lao [VLRC] and Dak Lak Company [DAKLAORUCO] was a new experience for us, there was only a verbal agreement made... so we could not enforce the company to do what they said in the beginning. The companies ask for the contract when we asked them to do so [talking about the promised infrastructure developments for the villages].”

Especially the last example clearly shows there was no knowledge or experience the government agencies could have relied on when guiding the implementation process and working out EIA's of such rubber plantations. Together with a weak and deficient legislative system, this led to a “learn by doing” attitude. Furthermore, as the governor chairs the steering committee, his or her influence and power to make the final decision must not be underestimated. DAKLAORUCO received its foreign Investment license on December 26 in 2004. VLRC was licensed probably on 8th Jan 2005 according to representatives who named it as the date when the company started with its investment in Champasak. In this respect, it is interesting to know that in all four examined villages affected by DAKLAORUCO, the villagers reported that they only received initial information about the plantation project during the first half of 2005.

⁷⁴ Teak is a tropical hardwood, mainly used by the villagers for wood products such as furniture.

6.2.4 Fourth Act: Importing Plan

Once the company receives the foreign investment license, it has to prepare another proposal called “Importing Plan”. In this plan, the investor needs to list any equipment such as fertilizer, trucks, or machines which need to be imported to Laos to develop the plantation. The investor has to send the importing plan to the DPI which sends it to the steering committee members for review. If the steering committee approves the plan, the company can start to import the necessary equipment. At this point, the company officially fulfilled all the requirements and can start developing their lands by planting trees. It could not be verified whether and when VLRC, DAKLAORUCO, and HCMYRC submitted such an importing plan.

Until this step, for all the three examined companies in Champasak, the Memorandum of Understanding between the government and the investor was still the only written agreement. It seems that the final concession contract was only signed once the companies finished clearing their lands. DAKLAORUCO, for instance, signed the final concession contract only in 2009 (see chapter 6.2.5).

6.2.5 Last Act: Clearing and Monitoring

Once the company starts clearing the lands, the district establishes a steering committee called “monitoring steering committee”. According to the PAFO in Champasak, the committee consists of the DNREO (before DLMA), DAFO, and village authorities. The steering committee has the mandate to monitor the development of the land plot by the company. The committee has to make sure that the clearing company only clears the land within the boundary and not outside. Usually, the clearing is not done by the investing company itself but by another company which gets hired only for the clearing. The problem here is that these clearing companies commonly get paid by the area they clear, which of course is an incentive to stub as much land as possible in a short time; probably wilfully accepted by the investing company. “They will come and clear all the land available and afterwards they will check and measure the area. The person who came to clear the land is not from the Viet-Lao company [VLRC]; they hired another company to clear the land. So this company cleared as much as possible, because they want to earn money”. (Villager from Sanasomboon) Other landowners from different villages, and even district officials told similar stories. There was such a case for the DAKLAORUCO plantation in Pathoumphone district, where an area of the national park was enclosed, “[...] the Vietnamese worker did not realize while they cleared that it is actually protected area. Once the district realized, they went to see the province, so the steering committee from the province came to check the land. Later they brought the marked stone to denote the

area which is the national park [...] but whether the company was fined or not, we don't know." (District official Pathoumphone)

After the clearing, the clearing companies left Laos again, as they in many cases foreign companies cleared the lands, usually Chinese or Vietnamese. During a talk with officials from Xaysetha District in Attapeu, they explained that in Attapeu there are several companies doing the clearing: Chinese and Vietnamese companies as well as some companies from Northern Laos. Furthermore, they added that there was a "problem because Hoang Anh [HAAC] paid another company to do the clearing. So, that company just tried to clear as much as they can to earn money."⁷⁵ HAAC on the other hand, clearly stated during the interview that they would do the clearing of the fields by themselves and not hire an external company.

With the release of Decree Number 112/PM on Environment Impact Assessment in 2010, the investing company has to write during the clearing and planting phase a report twice a year for the environmental section of the DoNRE. In this report, the company needs to give account about the progress of the development of the plantation, and the further schedule. Furthermore, the investor has to allocate "sufficient budget for [the] implementation of the environmental management and monitoring activities, during a project's construction, operation and termination period." (Government of Lao PDR, 2010, p. 5 article 3) When the concessions of VLRC, DAKLAORUCO, HCMYRC, and HAAC were implemented, no monitoring guidelines existed. But also when the research for this thesis was conducted the responsible agency in Champasak still seemed to be unsure about the monitoring: "Actually we don't have any plan for monitoring or evaluation, we just act in case of a conflict or complain reported from the villager... then we go and address this conflict. Normally, the conflict will be reported to the organisation [section] which is responsible for. For example if there is a labour conflict between workers and the company, they [villagers working with the company] will report to the Labour, Social and Welfare Office. If there is something about an environmental impact they will report to the natural and environment office [DNREO]. But the main task about the management belongs to the province authorities, and not the district. The district is just involved as part of the province." (Interview District Officials Bachingchaleunsook, 2012)

As already mentioned at the end of chapter 6.2.4, the final concession contract with the actual size of the rubber plantation was made only once the clearing was done and the rubber seedling could be planted. As a representative from DAKLAORUCO confirmed during the interview "the approval from the government in late 2004 was the project development contract or MoU, but the contract signed in 2009 is the concession contract signed with the

⁷⁵ Later on, a representative from DNREO mentioned that HAAC would not follow the rules. But he does not know about the content of the contract at all, as there is no copy of it in the district.

Land Management Authority [PLMA]; this happened after the rubber was being planted. So after this the PLMA conducted the land survey to check the actual land which was planted with rubber. After this, the PLMA issued the state land title to our company and the contract was signed.” (Interview DAKLAORUCO, 2012)

It seems that this was the case for all four examined Vietnamese companies to make sure that actual size of the cleared lands is written in the contract. Thereby, the government authorities are always on the safe side, since sometimes the clearing companies cleared outside the prior agreed boundaries or for the company side if they could, for any reason, not plant the whole area they got allocated. HCMYRC for instance could still not implement the size they got allocated initially in the MoU as the company has not yet found enough suitable and available land.

6.3 Criteria Influencing the Land Allocation Process in the South of Laos

This last chapter of results involves the third research question relating to key criteria which shape the land allocation process in the South of Laos. At what point in the decision-making process do they play a critical role? The sequence and selection of the following eight factors derive from the interviews conducted with company representatives, government authorities, and experts from NGO’s and research institutes when they were being asked about reasons for having agro-forestry investments in the South of Laos.⁷⁶ Of course, these criteria leave some scope for discussion and might look different for different investors being active in other regions of Laos. Nevertheless, the criteria bear an argumentative validation as to why they are arranged in this specific manner.

The criteria for selecting land for concessions appear to be largely based on the activities and procedures influencing the rubber plantation allocation process in the South of Laos. Dynamic social, economic, and political conditions will not be arranged as they were already discussed by means of the human actor model separately for each actor in chapter 6.1 In brief, there could be push and pull factors determined as leading Vietnamese investors come to Laos. On the one hand, the growing economies of Southeast Asian countries after the financial crisis of 1997-1998 has pulled investment into Laos and the squeeze of land in Vietnam has made it difficult to find large amounts of land for

⁷⁶ Most of the time, when the villagers and landowner were asked why they think that exactly their village is affected by a large-scale plantation; they were not sure, or answered that they think it is because of the suitable soil.

investments in rubber and other products, made Vietnamese companies increase the production of commodities for SEA (mainly China) and thus pushed Vietnamese investment abroad. On the other hand, at the beginning of the 2000s, the government of Laos drafted and released several laws to accommodate foreign investments which would ensure economic growth (Government of Lao PDR, 2004, 2003a, 2001b). In combination with the political friendship between Vietnam and Laos, which will be discussed later as having an influence reaching even down to the village scale, the legal framework and the GoL's distrust in its small-scale farmers were pulling factors for the Vietnamese investors.

6.3.1 Geographic conditions

The geographic conditions in Southern Laos which are suitable for rubber trees were mentioned as the top requirement by all four examined companies as well as by government officials and village authorities. These include the quality of the soil, the topography (200-400 meters above sea level for rubber) as well as a sustainable climate guaranteeing certain humidity.

“The company also conducted a land survey in Attapeu, Saravane, and Sekong province as well as in Paksong District in Champasak, but the soil in those areas is less suitable for rubber. The soil in Bachiang [Bachiangchaleunsook] is much better than in Attapeu.” (Interview VLRC, 2012)

“The company conducted the land survey first by gathering information about elevation, humidity, and carried out a soil analysis.” (Interview DAKLAORUCO, 2012)

“They [DAKLAORUCO] came here because of the soil quality. The company did a land quality analysis and found that land is suitable in Bachiang [Bachiangchaleunsook] and Pathoomphone. The company also went to Khong District; land there is also suitable, but the cost of investment is higher than in the other two districts. The cost is because of accessibility [transportation] and the quality of soil [it would need more fertilizer than in Bachiangchaleunsook].” (Interview DoNRE Champasak, 2012)

“[We came here] because the climate and soil is suitable for rubber. [...] Champasak and Ho Chi Minh City have established a friendship between the provinces; Champasak is located in the South of Laos and Ho Chi Minh City is also in the South of Vietnam. So, the two provinces decided to establish the friendship”. (Interview HCMYRC, 2012)

This last statement already comprises another extremely important factor: the political friendship between Vietnam and Laos which could have been observed during the field research on different scales. Bilateral relations were mentioned as a top reason for Vietnamese investment in Laos by interviewed researchers and NGO workers. The reason why “geographic conditions” are listed firstly in this chapter is because they work as a requirement and are a priority. It does not matter how good the relations between Vietnam and the Lao PDR are, if the soils and climate in Laos are not suitable for rubber or any other crop, the Vietnamese investors will decide in favour for a different country, Cambodia for instance. The same applies for the development of mines or the construction of dams; the geographic conditions (e.g. topography) must be a given.

6.3.2 Bilateral relations between Vietnam and Laos

The bilateral relations between these two socialist countries can be described as a “friendship from the past”. As chapter 5.2 and 6.1 have shown, the Lao PDR’s and Vietnam’s political relations and mutual impressions heavily rely on the experiences during and after the Second Indochina War. But there are also other important aspects characterising the political relations. Laos and Vietnam both have a communist one-party system, making the two countries “socialist brothers in spirit” in a world ruled by market economy. Of course, there is another communist brother bordering the two countries in the North, but China’s economic and political power outreaches the ones from Vietnam and Laos by far. That is why Laos and Vietnam do well to maintain good bilateral relations with each other, knowing that there is need for some counterbalance to China. For instance, both countries are member states of the geo-political and economic organisation of ASEAN (Association of Southeast Asian Nations). The ASEAN was founded with the aim to improve the economic, social, and political co-operation between its member states. In addition, especially in recent times, the organisation provides a mean to strengthen Southeast Asian states, for instance against the increasing influence of China.

Besides these considerations, the close bilateral relation between Vietnam and Laos may also derive of the conviction on the same economic system, on a “perestroika without glasnost”. Both countries are about to reorganise their economy, allowing Special Economic Zones (SEZS), and issuing private land titles. Nevertheless, individual rights such as the freedom of expression and information, freedom of speech, political activity, organisation and protest, are still heavily limited.

When asked why there are so many Vietnamese companies in Champasak, the DAFO in Bachingchaleunsook answered that this is “because [of] the friendship between Laos and

Vietnam, it's a special relationship between the two nations. (Interview DAFO Bachiangchaleunsook, 2012)

A representative from HAAC mentioned that in addition to the suitable soil, they came to Laos because of the relation between Vietnam and Laos: "Laos and Vietnam have a good relationship from the past, since the Indochina War. Former presidents of Lao PDR [Kai Sonphomvihan] and Vietnam [Ho Chiminh] also emphasized that business relations should be integrated in the friendship of the two countries" (Interview HAAC, 2012)

It seems that the wish of the first presidents of the two countries of having a good relationship became almost a duty as interviewed partners from the government have so often stated the memories of the past when trying to explain the business relationship with the Vietnamese. In return, DAKLAORUCO, for example emphasised the good collaboration with Lao agencies as a positive aspect of doing business in Laos.

What is astonishing is the fact, and one of the interesting findings of this thesis, that the friendship between Laos and Vietnam is even effected by the village level which determines the behaviour towards Vietnamese investors. An elderly from a village in Attapeu was complaining that they feel as though they do not have any rights and that he wishes the company, in this case HAAC, would respect more the villager's life and pay compensation; otherwise he said the people of this village cannot take it anymore and/or something might will happen: "The reason that we still have not done anything to the Vietnamese people [referring to HAAC] threatening our life is because a long time ago, during the Indochina War, Laos and Vietnam had an extremely good relationship." This man remembers the help Laos received from Vietnam as some of the elderly even fought together with the Vietnamese, side by side, and thus still had patience and trust that the situation will change for the better. These memories, even though they date back almost 40 years, are still present in the people's mind and remain so strong that not only politicians but also common small scale farmers give credit to the Vietnamese people. Probably the villagers of would have stood strong upon their defence a long time ago if it was a Japanese or western company that took their lands to develop plantations.

Furthermore, these circumstances may also be the reason why in the South of Laos there are fewer revolts of villagers trying to stop Vietnamese companies which clear their lands, and against the implementation of large-scale concessions in general, while in Cambodia there are time and again reports about serious fights between villagers and local police forces (BBC Online, 2012; Lichado, 2012).

6.3.3 Proximity to markets

This third factor does mainly play a role on the province and district scale as the Vietnamese companies preferred to have their investments not too far away from their headquarters in Vietnam, where the rubber is processed to sell for global market. This is the reason why most of the Vietnamese investors do business in the South of Laos while Chinese companies are more active in the North close to the border to China. In Laos itself, the company do only have factories to process the raw rubber gained from the rubber trees into blocks, before it can be transported to Vietnam. Usually, the factories are located near the rubber plantations and not too far away from the national roads.

HCMYRC conducted the land survey in Attapeu, but finally decided to have their main plantations in Champasak as travelling from Ho Chi Minh City to Attapeu would take longer. Whether a town or region is considered as proximate is not only defined by spatial distance but mainly by the temporal distance, the accessibility by means of roads, waterways, and aeroplanes. In the south there are a lot of cross roads to Vietnam, most of them only recently built or improved and paid by the Vietnamese state; for instance, the road connection from Attapeu to Vietnam. Nowadays, two airports are being built by HAGL JSC in Laos, one of them in Attapeu where the company's local branch has its main office for the country (Vietnam Breaking News, 2013).

On the district scale, accessibility is less important for the investors. When representatives from VLRC were being asked if they took accessibility and poverty into account for the land selection they replied that main factors were that the land is suitable for rubber and that the district or village can provide large areas of land. But, of course, if they have the option between two plots of the same size and quality, the company will decide for the one which is more accessible.

Although, the PCO of Sanasomboon emphasised that "the area of land we gave the Viet-Lao [VLRC] is a remote area, it was difficult to access. The poorest villages and people were living in that area. So, that's why we decided to give the land in that area for Viet-Lao [VLRC] because it's the aim to improve the livelihood of the people in that area." While this is true for certain examined villages in this district (e.g. Ban Phouthongloun only has a dirt road since 2006; paid by VLRC) the same cannot be said for Bachiangchaleunsook where the villages were easily accessible already before the Vietnamese companies came.⁷⁷ "[...] in some area villages have a poor access, but the main land there is the national land or the

⁷⁷ T 1 Paksong: paved road since 2008 (30 km to district town, around 12 from Pakse); T 10: dirt road since 1972 (12 km to district town, around 8 from Pakse); Houaypheun: along the national road (6 km to district town); Lomsack-Nua: Paved road (national road built by the French, 30km from district town); Nongnamkhao-Yai: paved road since 30 years.

protected forest.” (DNREO and DAFO in Pathomphone explaining during an interview why it is difficult to take accessibility as a criterion for the village selection, 2012)

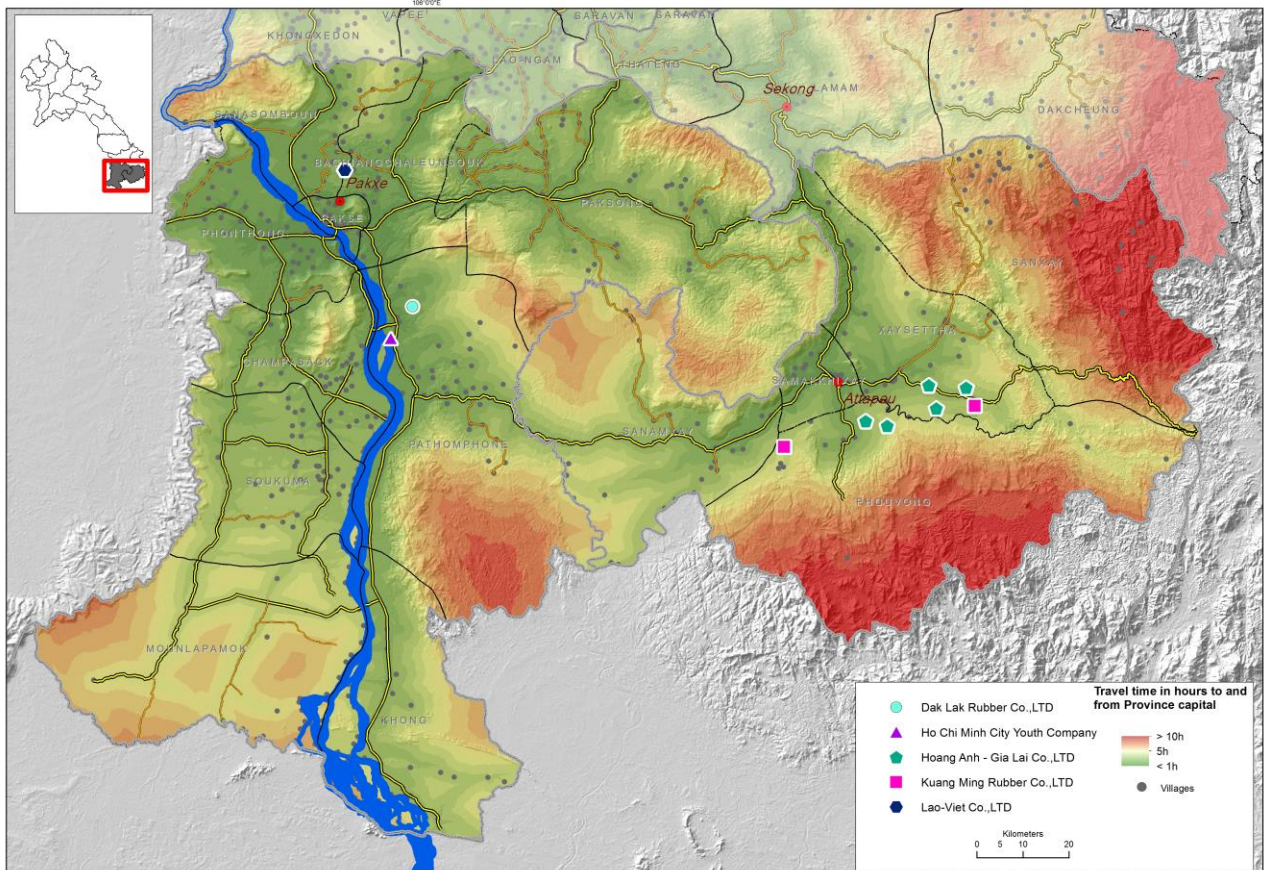


Fig. 20 Average accessibility of examined Vietnamese land concessions over 1000 hectares in the Southern provinces (Source CDE/MoNRE, 2012; Map produced by Heinemann, 2013)

6.3.4 Land tenure and land use

The title here could also be “availability of land” as this was heard most often from government officials when they were asked about criteria of lands to give to the investors. Based on the answers of the interviewees, it seems that “availability” consists of a natural component as well as of a legal component. When asked in greater depth what available lands actually mean, potential plantation lands were described as fallow lands sometimes used for shifting cultivation and unhealthy forest, a term used for degraded forest areas. In addition, an interviewee from DoNRE in Champasak mentioned that “normally in the area we survey [lands for potential rubber plantations], people only have land tax certificates from the village confirming that they pay a tax every year. Usually there is no private land.” This reveals that there is not only a physical but also a legal aspect, and thus land tenure

(legal) and land use (natural) well describes that term. Researchers recognise this and emphasise that local people who used the land granted for large-scale concessions often do not have any formal land rights or access to relevant law institutions for advice (Gordon-Maclean, et al., 2008; Vermeulen and Cotula, 2010). Analysing these narratives, and the following statements from government officials, makes very clear that many Lao politicians consider “available lands” as a type of land which is not fully utilized by rural communities and belongs to the state:

“It was fallow land which the villagers used for shifting cultivation. [...] the land given to concession doesn’t have any land title or official land documents.” (Interview PCO Sanasomboun explaining what type of land was given to VLRC, 2012)

“[...] the main factor is the empty land, available land, and that there is no protected area.” (Interview DNREO and DAFO Pathoomphone, 2012)

“It is fallow land, no residence area, no paddy rice field or unhealthy forest.” (Interview Officials of Phouvong, 2013)

It is important not to think reversely, that all potential available lands are always used by someone as there are actually lands in Laos which are even considered by the villagers themselves as empty or unused: “The 100 hectares for the plantation were used by the villagers. They used it for coffee plantation, bananas, pineapple, and grass land which they cut for the roof... the rest was the empty land.” (Village head in Bachiangchaleunsook) “The most area was grass area, we cut it every year, and we made bunches for the roof and handcraft to sell it [baskets]. Some area is also fallow, the fallow forest, some teak gardens.” (Villager of T 1 Paksong, Bachiangchaleunsook) “Yes, the villagers agreed to give the land, but the empty land only.” (Elderly of T 10, Bachiangchaleunsook)

As a Lao worker of a local NGO, based in Southern Laos and working closely together with villagers to teach them about legal aspects of land law, explained that there are villages which “[...] have lots of land so of course they need to give some land to the company. It also happens a lot that households just claim for lands to get compensation, but they haven’t used the land before. So, such lands can be used more effectively by other projects.”

However, these fallow or empty lands always only made a small percentage of the village lands which were given to the Vietnamese companies.

6.3.5 Continuous plot of land

This fifth factor relates to the preferences of the investors to have one, two, or three big plots of lands to develop their plantations on instead of several smaller ones. The reason for this is easy: one continuous plot of land is easier to manage. VLRC for instance, one of the very first companies coming to Champasak, manages a single, continuous concession of 10,000 hectares as officials from DoNRE in Champasak confirmed.⁷⁸ These preferences are also one of the reasons why DAKLAORUCO officials prefer to have concessions instead of doing contract farming in several villages: “This is a big project and large areas of lands are being used. The concession is easier to manage, especially the quality of the production.” (Interview DAKLAORUCO, 2012) A former project coordinator of Canadian NGO confirmed the investors’ desire for a continuous plot of land. Therefore, the investors would push the government to find lands that are “comfortable” to manage as they do not want to have a concession spread out in multiple areas.

This request of the investors does pose problems for the district and province agencies, which carry out the land survey, making it hard to follow the guidelines of not granting residence areas, paddy rice fields, and protected forest area for plantations: “We have the following criteria for the concession: It should be unhealthy forest; but sometimes it will also involve the healthy forest, because to find 1,500 hectares, for example, we do not have one plot of unhealthy forest, so that’s why it can also enclose villagers land, healthy land.” (Xaysetha Officials, 2013) Whether this demand from the company can be met or not does also depend on the point in time the investors arrived. HCMYRC for instance started with their projects in Champasak almost three years later than VLRC and DAKLAORUCO and thus having several smaller plots in Pathoumphone and Khong District⁷⁹ Nevertheless, the statement of officials in Xaysetha shows that the decision-making process on where to have the concession, or in this case the rubber plantation, is mainly assigned by the investor’s agenda as the province, mainly the DPI, does not want to risk the investing company moving to another province.

6.3.6 Poverty

According to the DoNRE in Champasak the province does take poverty incidence as a criterion to select possible districts for rubber plantations. If this is true in reality must be doubted as the interviewed company representatives explained that the main two criteria

⁷⁸ Unfortunately, there is no geo-reference data available which could have been used to create a map with the concessions of the four examined Vietnamese companies.

⁷⁹ Two plots of the size of around 100-200 hectares in Pathoumphone and around 2,000 hectares in Khong.

for the land selection would be available, large areas of land that are suitable for a certain crop, in their case, rubber. However, also the provincial government of Champasak can show some evidence for their argument to select poor districts. In the National Growth and Poverty Eradication Strategy (NGPES)⁸⁰ report of the GoL, presented in October 2003 in the National Assembly, 72 districts were defined as poor, and, therefore, as high priority districts to take action for enhancing growth, development, and reducing poverty (Government of Lao PDR, 2003b). Criteria used for the poverty incidence were a lack of rice, lack of clothes, lack of shelter, being insufficient to cover the cost of medical treatment, and being insufficient to cover the cost of children's schooling costs. Out of these 72 districts defined as poor, there were also four districts located in Champasak Province, namely Moonlapamok, Patoumphone, and Bachiangchaleunsook and Sukhuma as priority districts (**Fig. 21** yellow circle). The DPI and DoNRE in Champasak were using Bachiangchaleunsook as an example for a district, which is not considered as poor anymore, because of the foreign companies having investments there, namely VLRC and DAKLAORUCO. As the NGPES publication makes part of a 10 year cycle (1992/93 and 2002/03) of data collections on demography and poverty, and is only expected to be published again in the coming year, it cannot be officially verified if Bachiangchaleunsook has yet been removed from the country's 72 poorest district list.

While poverty might be a factor for the selection of suitable districts for the land concession, it does not seem to be important on the village scale. When asked if they take the poverty status of the villages into consideration for the land selection, district officials denied it: "Normally it's not the case... it's based on the available land or not, and if it's suitable for rubber." (Bachiangchaleunsook) "Actually this is not the case, the main factor is the empty land, available land and that there is no protected area." (Pathoumphone)

If poverty does play a role, and if it does, how important that factor can be is difficult to say. Even interview experts being involved in land issue rights and working together with villagers affected from land concessions are sometimes unsure: "[I'm] not sure if the government takes poverty into consideration. But in some cases at default they do in poorer areas, but other cases they would be in quite wealthy villages." Of the eleven examined villages in Champasak, only one village was identified as being poor (in Ban Phouthongloom around 40 per cent of the households are considered as poor) while the rest were considered as not poor, or developed. What is interesting is, that out of this ten villages stated as not poor, five were considered as poor already before the rubber

⁸⁰ The NGPES are the result of a process, started in 1996, when the 6th Party Congress defined long-term development objectives to remove the country from the list of the least-developed countries (LDC) by 2020 (Government of Lao PDR, 2003b, p. 4)..

plantation came to their village, this by reference of the particular village authorities. On the other five, there was no information available as to when they were not poor anymore. Whether this improvement of the villages happened thanks to or despite of the rubber concessions, it can hardly be answered conclusively and would need further research about the impacts of plantations for the villagers' livelihood.

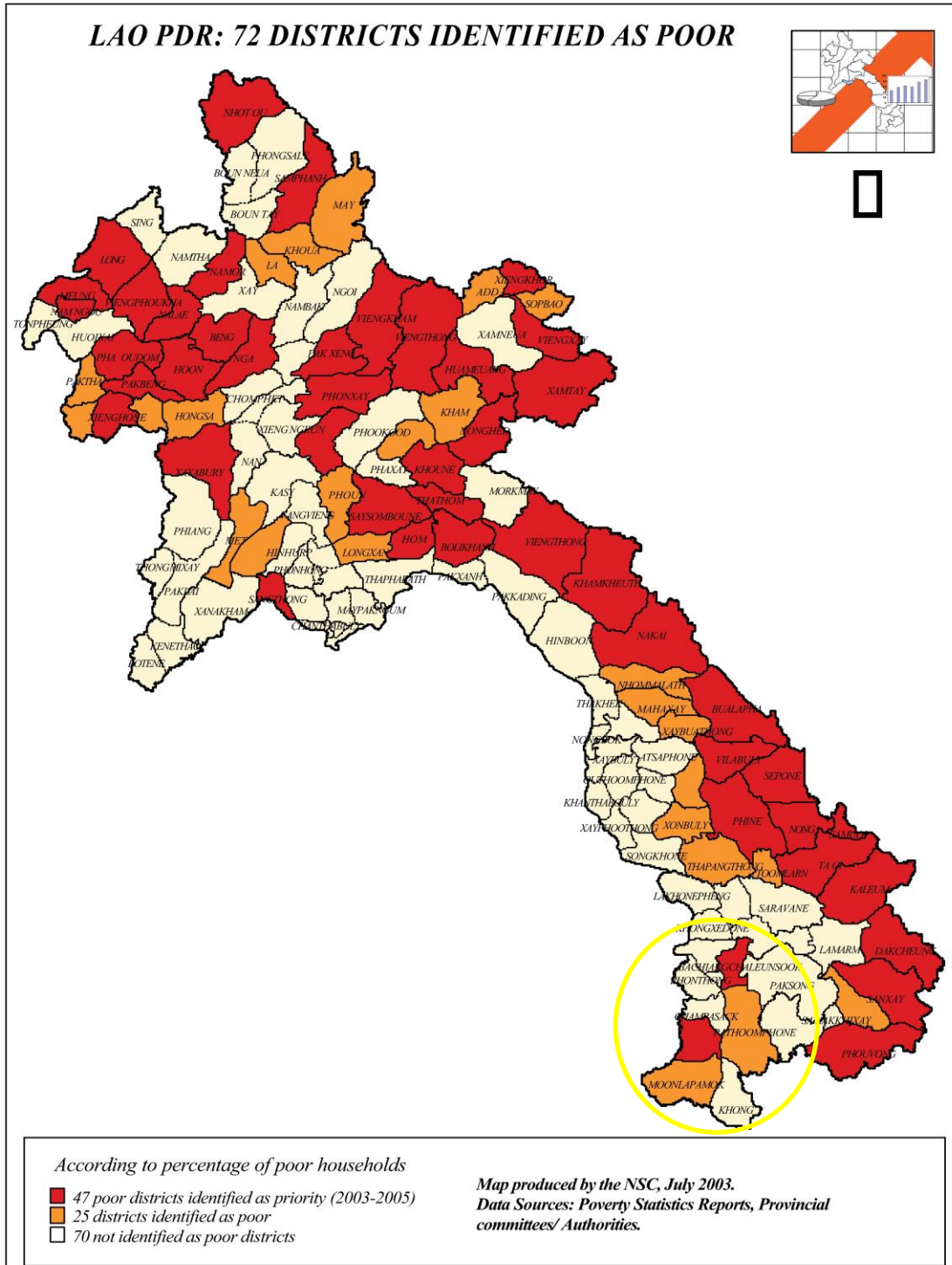


Fig. 21 Districts identified as poor in the Lao PDR (Government of Lao PDR, 2003b)

In Champanasak four districts (Moonlapamok, Patoumphone, Bachiangchaleunsook, and Sukhuma) were identified as poor (yellow circle).

6.3.7 Man force

This penultimate factor for the allocation of the rubber plantations was only mentioned twice; firstly, by the DoNRE in Champasak as an additional criterion for the district selection and secondly, by HCMYRC when replying to the question if the company takes accessibility and poverty into consideration for the land selection: “No, but the main factor we consider is labour force. Rubber plantations need manpower, but Khong District cannot provide enough labour for the company, so we have to bring the workers from Bachiang [Bachiangchaleunsook] district”. (Interview HCMYRC, 2012)

Why the other three interviewed companies did not mention man force as a criterion, while HCMYRC did so, might be because Bachiangchaleunsook, Sanasomboon, and Pathoumphone are more populous than Kong, and furthermore, closer located to Champasak’s provincial capital, Pakse. Another explanation as to why man force was not mentioned as being important for the land selection, could be because in the case of a lack of workers, labour could come from Vietnam to work on the plantations. Although this method is illegal by Lao law, villagers reported more than once that Vietnamese companies employ workers from Vietnam on their concessions. A man from Ban Huoaipeun in Pathoumphone was laughing when he recounted how easily the Vietnamese workers get scared once they see someone with a uniform walking through the plantation: “they will run into the forest”.

6.3.8 Ethnicity

This ultimate “factor” was never mentioned during the interviews conducted with representatives from the companies and the government. Interviewed NGO workers and other experts did not mention it either, only until they were explicitly asked whether ethnicity does play a certain role or not. One explained that ethnicity plays an indirect role as ethnic groups would be more affected by land concessions, because they practise more shifting cultivation than Lao-Loum. He could also imagine that minor ethnic groups are more affected than Lao-Loum, because they might be less aware of their rights and less willing to raise their voice about a government project. Another interviewee explained, that in his opinion “the key factor is the availability of land, whether a certain village can provide land or not. Normally these are remote villages without proper road access. And people in these villages don't know about land issue and their rights; have a lack of information”. When asked about the role of ethnicity, he added that he could observe that minorities in the South would be more affected than Lao-Loum.

Out of the 18 villages we visited during the field research in Champasak and Attapeu, ten are inhabited by a majority of Lao-Loum, while in eight villages other ethnic groups hold the majority. In Champasak, nine of the eleven villages were Lao-Loum. In Attapeu, only one out of six examined villages held a majority of Lao-Loum inhabitants. If this is evidence which allows saying that ethnic minorities are affected more by land concessions than Lao-Loum must be doubted, especially as in Attapeu there are living more minorities compared with other provinces. The statement of a current GIZ project coordinator therefore seems to meet the point. He does not think that the government would link ethnicity: “[the government] does not look at an ethnicity map to choose places. But of course in the South and especially the Bolavan Plateau, there are living many minorities, so it might just happen to be that minorities are affected. In some cases, it might make things easier because indigenous people may be able to put less resistance than Lao-Loum villages.”

Therefore, it would be interesting to have a look at a number of cases between Lao-Loum and indigenous people on a national scale to compare the findings at the end.

7 Discussion and Syntheses

Chapter 6 presented and analysed the different actors using the human-actor model, then examined the five parts of the implementation process, and finally listed and discussed important factors influencing decision-making large-scale concession allocation in the agro-forestry sector. This chapter aims to connect these three parts to further discuss them in a broader context by looking at differences between the case studies and the sometimes different perception of villagers affected by the same company. It ends with a synthesis on the Vietnamese pattern of investment.

The general process described in chapter 6.2 relies unless otherwise explained on the land allocation process of VLRC and DAKLAORUCO. For HCMYRC the process of granting land was almost the same as for VLRC and DAKLAORUCO but still varies slightly and thus results in different perceptions by affected landowners. This is why it is important to discuss the extent to which, the land acquisition processes of HCMYRC was different from DAKLAORUCO and VLRC on the village level.

HCMYRC arrived three years after VLRC and DAKLAORUCO. This is of interest for two reasons: first, the best soil and available lands were already given to VLRC, DAKLAORUCO, and other companies; and second, the villagers in Champasak had in the meantime gained some experience with rubber plantations and knew better what to expect. As HCMYRC arrived only in 2007 in Champasak, the areas in Bachingchaleunsook, Sanasomboon, and Pathoumphone with suitable soil for rubber were already taken by other companies, mainly DAKLAORUCO and VLRC. In consequence HCMYRC had to search for lands to in other districts and had to fall back on less favourable lands in Khong District for its main plantation: “We had to take the land in Khong District, because there were no any other lands available for us. A Thai company had also invested in rubber plantation in that area [Khong District] but all rubber trees died and already in the first year that company moved out” (Interview HCMYRC, 2012) Maybe that was why the company was highly interested to get at least some small land plots in Pathoumphone where the soil attributes are considered more favourable for growing rubber than in Khong District. But in Pathoumphone, DAKLAORUCO and a Thai company already had rubber plantations, and there was not much land left for more. Furthermore, the villagers who were not yet affected from rubber concessions in this area had heard from other villages about the consequences and impacts, both positive and negative, of having a rubber plantation. Moreover, they knew the procedure for implementing a concession, so they were aware that it is important to demand clear allowances from the company and the government

during the first meeting and not to act too passively. As a consequence, HCMYRC pitched the rubber plantation to villagers by offering them the possibility to do contract farming⁸¹. In the case of To-motha village every household was asked to vote for or against the rubber project during a village meeting; the majority decided to have the rubber plantation. It seems that the working conditions under HCMYRC are better than other Vietnamese companies, as there were fewer complaints during talks with villagers, as well as higher wages paid for plantation work. "This company is much better than Dak Lak [DAKLAORUCO]; we don't have conflicts between the workers, land owners and the company like they have." (Interview village chief in Pathoomphone, 2012)

This last point raises the question of how these rubber plantations and the companies developing them are perceived by affected villagers, and why. The perception of the local people towards the Vietnamese companies and their projects varies from village to village, even from landowner to landowner. This refers to the overall satisfaction about negotiation, the way the village was approached and informed about the rubber project, and the outcome of the deal with companies and government representatives. Although it is rarely spoken of, it seems that Vietnamese investors can get away with anything owing to their services during and after the Second Indochina War. Knowing that, it is likely that Vietnamese investors will take advantage of this: a village chief from Attapeu mentioned that "the fact that we still have not done anything to the Vietnamese people threatening our lives is because since long ago during the Indochina war, Laos and Vietnam had a really good relationship". Initially, after hearing about the positive developments with rubber in Vietnam, many villagers believed in a better future when having a rubber plantation on their village lands. Increasing conflicts with Vietnamese investors, however, seem to be slowly changing the villagers' (and also district officials') initial positive perception. A villager from Attapeu told during a talk that he "heard from other villagers about Oji Company [Japanese company investing in eucalyptus and medical plants] which is active in the neighbouring village. I only heard good things: if the villagers need the land because it's important for their livelihood the company will respect this." Also a district official in Xaysetha, Attapeu noted that, "Oji is very good in terms of trying to have a good impact; they built a health care centre, school. They also made a village fund of USD 50. If there is a project which will hit with the local villagers rice field they will avoid this and use other land." Besides, an interviewed Lao staff member from an American development

⁸¹ This is not a contract farming "by the booklet", but mainly the result of the negotiation between the different parties. In consequence, also the benefits sharing are not the same for each village. In general, all the investments are done by HCMYRC and the villagers get a salary if they want to work on the plantation. In To-motha Village, the benefit sharing of the tapped rubber will be ¼, which means that the landowner, who gave the land to the company, will receive one fourth of the returns. In Ban Mouang, there was made a MoU between the villagers who wanted to give land to grow rubber, and the company, saying that the benefit sharing will be 50/50 (see Annex 10.3).

organisation supporting local leadership, decision-making and ownership in Laos and thus also working closely with villages affected from land concessions had the opinion that, in his experience, Vietnamese companies would perform less well, and brought workers from Vietnam to work on plantations as well.

Once the rubber plantations were established in Champasak, the perception of the villagers for a better future started losing ground to reality. However, rubber plantations are not considered absolutely bad by all villagers. A Lao plantation worker explained that since VLRC came to his village, he and his family are better off because he and his two sons can now work with the company and increase the household's income. Previously, they had had insufficient lands for cultivation despite having household labour. Other villagers are less happy, because they lost cultivation land to the company but cannot work with them as they are too old. Another point was made by a local who explained that he used to work with DAKLAORUCO but quit because of the low salary during the weeding and the irregular pay. Sometimes he did not get paid for all the days he was working, but only for half of them. He would like to work again with the company during the tapping season if the salary were higher and the working conditions better (e.g., getting protective clothing if they have to work with pesticides).

As seen above, Vietnamese rubber plantations are perceived differently amongst villagers in Champasak, which raises further questions regarding villagers' resilience and negotiating power. Why did some villages get away quite well, or at least better, than others? Which variables might be influencing the power of negotiation of villagers? These questions shall be discussed in the following section using three variables: first, timing of project implementation; second, company and size of the project; and third, the role of the village chief and authorities.⁸²

⁸² It seems reasonable that the decision making processes also vary by province (and perhaps even by district). Unfortunately, there is not enough data to execute a detailed analysis on this question, although it is reasonable to assume that the budget and human capital of a province or a department, as well as the knowledge and experience of the agencies involved in the decision-making, affect the outcome of the implementation process. The buildings and offices of the different departments the research team visited during our field study in Champasak were more modern, appeared to be more expensive and were also better equipped than the ones in Attapeu. In addition, the author had the impression that the officials he met in Champasak have a better knowledge about the concession details and implementation process (especially on the district level) than their colleagues in Attapeu. Furthermore, an official in Attapeu told us that more than half of the people working in the provincial administration are from outside of the province, having been assigned by the central government.

7.1 Time of Project Implementation

When describing the differences between the VLRC, DAKLAORUCO and HCMYRC cases, it was already mentioned that timing of the project implementation is an important factor influencing the negotiation process on the village level. Actually, there are two components to this: first, the absolute point of time when the concession was implemented, which is indicated by year; and second, the relative timing in relations to other similar plantation projects in the area.

The first point is important because it refers to the overall experience of central and provincial authorities with implementing concessions in the plantation sector. Government authorities in Champasak shared some stories about cases at the very beginning of the land allocation in their province, when land plots were granted to companies which did not have the necessary capital to develop projects further, and instead sold the land to other companies and left: “These problems could occur because the province authority that time did not do enough research about the company's history and account information before they decided to approve the project or grant the land for concession. In Laos this [having land concessions] was a new issue. There was a lack of experiences... [and] no standards we could use for these assessments.” (Interview DoNRE Champasak, 2012) In response to insufficient guidelines and laws defining the requirements before a concession can be granted, along with rising discontent of the Lao population, new orders and decrees were issued in the latter 2000s (e.g. Decree Number 192/PM on the Compensation and Resettlement of the Development Project, issued in July 2005; Decree Number 135/PM on State Land Lease or Concession, issued in May 2009; and Decree Number 112/PM on Environmental Impact Assessment, issued in February 2010).

The second point, which was explained already at the beginning of chapter 6 about the HCMYRC case, refers to (some) villagers' previous experiences with land concessions, and suggests that this can actually strengthen their negotiation power.

7.2 Company and Size of the Project

As with natural individuals, juridical individuals (in this case the Vietnamese companies) also act and negotiate to a certain extent based on different guidelines. Maybe the villages affected by HCMYRC did not only get away better because of the late implementation of the project, but also because of the structure of the company. HCMYRC is the smallest of the four companies examined, and also has the smallest land plots on which to grow

rubber. When a village chief in Pathoumphone district was asked why he is convinced that HCMYRC is performing better than the other Vietnamese companies, he explained that he thinks HCMYRC is acting differently because this company is a government project from Ho Chi Minh City itself: “Workers from Hochiminh [HCMYRC] would be military, government, and police officials representing Vietnam”. Furthermore, it makes a difference whether a company has to manage 10,000 hectares in two or three districts versus only having 400 hectares in a single district. The negotiation and interaction with villagers will not be on the same level in a 10,000 hectare plantation as it can be on a smaller plot only affecting four villages, for instance. On the other hand, this factor might be not that important, given that in one study village (Ban Pakhouaybanglieng)⁸³ in Pathoumphone, the villagers were also doing something like contract farming (foot note 81) with DAKLAORUCO. No such activity was observed in Bachiangchaleunsook, Sanasomboon or Attapeu.

7.3 Role of the Village Chief and Authorities

Affiliated with this last variable are many little factors which form the identity of a village and its people. These attributes play a role when there is a negotiation between village authorities, government representatives, and companies (e.g., about the size of the village area to be conceded, the amount of compensation, and additional support by the company), can help explain why two villages in the same district are affected differently by the same investor. Factors might include ethnicity and religion (although not observed

⁸³ As explained by the former village chief of Pakhouaybanglieng, on 15 October, 2005, the provincial governor of Champasak, Mr Soukanmahalat, and Lao Vice Prime Minister Mr Thonglieum came to visit this area. Mr Thonglieum asked if the village still had some land left, and so, suggested that he should think about using it for a rubber plantation because, he said, rubber investments in the Northern part of the country have proven to be a good business. After this meeting, the village chief came up with the idea to conduct a land survey to check how much land in his village was still available and suitable for rubber. To do this, every household contributed 5,000-10,000 KIP, and with that amount, they asked the district to conduct a land survey. During that time (in 2006), some village authorities went to T14 village in Bachiangchaleunsook District, where Lafi Company had a concession. They went to talk with the workers to ask about their work and income. After this visit, the village authorities of Pakhouaybanglieng thought that if they had their own rubber plantation, the income and living conditions will improve a lot. The villagers agreed to give 400 hectares to DAKLAORUCO because they were afraid that if they want to use all the 750 hectares for contract farming, the company would not want to invest at all. The 750 hectares were not used by Pakhouaybanglieng village, but by people from other villages who did shifting cultivation and planted teak. But according to the land use planning map, in 1997 this land belonged to Pakhouaybanglieng village. The steering committee from the district agreed with the company on the amount of compensation for the teak trees and DAKLAORUCO paid the money to the people who had been using the land. At the beginning, DAKLAORUCO proposed two systems for the contract farming: first, equal (50/50) benefit sharing, with all investment to be paid by the company; second, benefit sharing 20/80. In this case, DAKLAORUCO would manage all the investments, but the villagers would need to pay back USD 2,700 per ha to the company. The payment would start after seven years and then last for 13 years. The villagers agreed on the second proposal, and divided the 350 hectares by the households which wanted take part in the contract farming agreement. DAKLAORUCO started planting in this village in 2007, with tapping to start in 2013.

during my field stay), knowledge and education, networks and social capital (also see Baird, 2012), as well as being an extroverted or introverted person. The ability of one village chief in Pathoumphone district to speak Vietnamese allowed him to negotiate directly with the company officials, and to ask for additional support without relying on the availability of an interpreter. In addition, this village chief seemed to be an extroverted person, being proud of the development of his village. When asked why his village made a better deal with HCMYRC than the others, he said that other villages got less support from the company, “but this is not the fault of the company but the fault of the leadership of the village [meaning Tomo-tha village]. They don’t dare to ask the company. In our village, when we asked the company for support we got it. For instance we asked them to build a village office and the company also provided 7 million KIP.” Another notable example is the case of Pakhouaybanglieng village in Pathoumphone district, whose village chief, after getting the information that there was a government plan to have a rubber plantation overlapping his village lands, organised a village meeting and proposed to do a land survey in order for villagers to see by themselves how much land would be available. The villager’s plan was to run a rubber plantation single-handedly. So during the negotiation with company and government representatives, the village authorities achieved that only half of the area would be used as a concession, and that the other half would be used for contract farming with DAKLAORUCO (see footnote 83).

7.4 Key factors

This section shall make a brief conclusion about key factors and their relative importance for the decision-making process on Vietnamese rubber plantations. To this end, the factors are discussed separately: firstly, in a spatiotemporal category to see what criteria have influenced at what point in time the location of a land concession in the forestry sector, and secondly, additional factors which can influence the decision-making process and outcome of LSLAs. Eventually, this analyse allows to assert that the four case studies bare a certain homogeneity, which could be described as a “Vietnamese pattern”.

Chapter 6.3 mainly focused on spatial criteria which have an influence on where large-scale concessions are actually located. These criteria were evaluated in an order of descending importance, starting with geographic conditions and ending with ethnicity. The criterion of geographic conditions comes up with a certain banality as it is only reasonable to plant rubber trees where the soil and the climatic conditions are suitable. Therefore, this factor is particularly important at the very beginning for the Vietnamese investors to decide in favour of having rubber plantations in Laos and later to search for suitable land plots. Also

an initially important criterion for the location of a rubber plantation is to have short transport distances. Short transfer distances to the companies' headquarters in Vietnam, where the natural rubber is processed in factories for the global market, help to minimize transport costs and the expenditure of time. This is the reason why Vietnamese forestry plantations are located mainly in Southern Laos, while China's land concessions for instance are located predominately in the North of Laos (see annex 10.4). Besides, the availability of land (see chapter 6.3.4) and the investor's wish to have one continuous plot instead of several small plots (see chapter 6.3.5) are additional spatial factors for the selection of the lands in the villages.

It seems that poverty and man force are playing a marginal role, as for instance man power is weighted differently amongst the investors. On the other hand, the factor of poverty seems sometimes to be used as a criterion to select district and village, while other times it is not used.

Factors which influence the process and the outcome of a land concession are the point in time these projects are implemented (see chapter 7.1) and the role of the village chief and the village authorities in general (see chapter 7.3). Both factors play a role on the village scale by influencing the negotiation on the size of the lands which shall be used for the concession and the compensation payments. Research by Baird (2012) furthermore has shown that also personal networks and social capital can heavily influence the outcome of land concessions (Baird, 2012). Eventually, these temporal factors can help to explain why negotiation about economic land concessions differs sometimes not only by company but even by village being affected by the same concession company.

Nevertheless, despite these differences, certain homogeneity in the decision-making process on ELCs can be observed for all four case studies, as they still involve explicit commonalities in terms of political and social relations between the Vietnam and Laos, the speed at which the rubber plantations were developed, and the location of the land concessions (South of Laos). This homogeneity could be described as a "Vietnamese pattern". What appears to characterise the Vietnamese pattern overall are the close and strong relationships with government authorities from the central to the district level; these are clearly recognizable in statements from both sides about having a "special friendship" and "brotherhood" stemming from past experience. The government of Laos is confident about Vietnamese companies, preferring them to others. Of course, the Vietnamese are aware of this and it seems they clearly know how to use these relations to their advantage, getting access to preferred plots of land, and creating the necessary investment conditions in a shorter time than investors from other countries.

This pattern will be even more visible when using the cases of Chinese and international companies for comparison. A colleague studying international companies reported that

Mitr Lao, for instance – a subsidiary of the Thai Mitr Phol Group investing in sugarcane in Savannakhet Province – approached the GoL around 2004 and finally received the investment license in 2006. In contrast, DAKLAORUCO and VLRC also had initial contacts with the GoL in 2004, but received their licenses already in December 2004 and January 2005, respectively. Another researcher of the SNIS project examining Chinese companies acquiring large-scale concessions explained some Chinese companies looked for a year in the north of Laos for suitable areas to implement rubber plantations before moving on to Savannakhet. This example also reflects the strength of the Vietnamese investors' connections, as they were advised and accompanied by the government authorities in Champasak on where to look for suitable and available lands.

The Vietnamese pattern sharpens again when looking at the speed at which plantations were cleared and planted. Between 2005 and 2008, DAKLAORUCO and VLRC first cleared, and later planted, all of their allocated plots with rubber trees. Also HAAC, arriving in 2007 in Attapeu, had planted 8,500 hectares by the end of 2009 (HAGL Group, 2009). On the other hand, the Chinese company Ruifeng, which invested in rubber in Luangnamtha Province, was promised 10,000 hectares by the central government, but each year the district government was able to survey less than 1,500; as a result, each year the company can “only” clear what is surveyed and allocated. This has gone very slowly, with less than 4,500 hectares being surveyed so far after roughly 5 years. Furthermore, the Vietnamese companies know that they can also rely on their own government in supporting them in terms of policy, either because they are state owned companies (e.g. VLRC, DAKLAORUCO, and HCMYRC) or because the Vietnamese government has a general interest in being a leading investor in Laos. As a letter from the secretariat of Vietnam's ruling Communist Party to its Lao counterpart revealed, Vietnam is concerned about not being the leading foreign investor in Laos in near future, given the increase in investments from China and Thailand (Radio Free Asia, 2013).

In conclusion, owing to their close relations with the Lao, the Vietnamese investors are usually able to implement their land concessions more smoothly and in a shorter time than other investors which gives them a comparative advantage.

8 Conclusion and Recommendations

Land issues in Laos are particularly political. This is especially so in the granting and allocation of large-scale land concessions to Vietnamese investors. The strong relationship between the Lao PDR and Vietnam established during and after the Second Indochina War has long influenced political and economic collaboration between the two countries, and thus shapes the decision-making around economic land concessions (ELCs) to Vietnamese companies. Many Lao government officials describe their relationship with the Vietnamese as a brotherhood and friendship that reaches into the past. This thesis showed that the positive thinking about the Vietnamese is not limited to high-level government connections but can also be observed on the village scale in villagers' explanations that they hold back their frustration and hope for the better because Lao and Vietnamese are friends. This all-encompassing shield covers the implementation of Vietnamese plantations in Laos, and is further involved in negotiations about compensations for villagers, promises of infrastructure for communities and the district, even though these were realised only rarely. Along with a lack of knowledge and experience on the part of government agencies in dealing with the allocation of land for large-scale plantations – especially on the province level – the Vietnamese have been able to easily and smoothly implement their concessions in a very short time, not being considerate of the law, as exemplified by the fact that none of the four companies examined here ever had an environmental impact assessment (EIA) carried out. In addition, the implementation process was only weakly documented and not accessible to the public.⁸⁴ Therefore, one can say that the first hypothesis – that the long-established friendship since the Second Indochina War between the Lao PDR and Vietnam is a key factor influencing the decision-making process, and is the main reason for Vietnamese companies to start investments in Laos – is partly true. It needs to be added that place-based attributes such as climate and soil, and proximity to the Vietnamese market are as much as important because less suitable soils and long transport distance will cause higher investment costs and risks of failure.

The second important factor influencing the decision-making process of ELCs in Laos is the government's plans for the country to modernise its economy and get removed from the United Nations' list of least developed countries (LDCs) by 2020. The GoL is driven by the thinking of becoming a modern state with a cash income economy, having an industrial production base, creating permanent jobs, and ending shifting cultivation. Government

⁸⁴ Also the research team only could examine a few documents in Champasak and Attapeu Province, and was given the explanations that some graphs and contracts are only with central authorities in Vientiane or that documents got destroyed during the flood in 2009.

officials often believe that poor farmers relying on shifting cultivation will do better once they can work on the plantations: “Actually before, the livelihoods of the villagers was relying on shifting cultivation and their livelihood was very poor. But since the company came their livelihoods become better. [...] they [villagers] have a lot of labour, based on shifting cultivation, but the return is very little... so now they can work with the company, and now they become richer.” (Interview PCO in Bachiangchaleunsook, 2012) Another high-level official in the Department of Forestry in Vientiane, quoted in Hodgdon (2008: p. 64) explained that “societies develop, and as they do, certain ways of living have to be changed, for the good of the whole nation. It is painful in some cases; but sometimes we have to ask our people to starve for a day, to sacrifice, to make the country stronger” (Hodgdon, 2008, p. 64).

A third key factor highly influencing the decision-making process on large-scale land concessions is the “availability of land”, which refers to land tenure and land use, and was often heard from government officials when they were asked about the criteria for lands to give to investors. Their answers revealed that the term “availability” consists of a natural as well of a legal component. Government officials explained that available lands are considered as a type of land described as fallow, degraded or barren lands, sometimes used for shifting cultivation and unstocked forest.⁸⁵ Further investigation in chapter 6.3.4 has shown that there is not only a physical but also a legal aspect about available lands, with government seeing a type of land which is not fully utilized by rural communities and thus belongs to the state. In contrast to the SNIS framework, ethnicity and poverty do not present important criteria for the allocation of land concessions, while place-based attributes such as climate, soil, and altitude and the availability of lands are key factors. Accessibility does play a certain role, but mainly on a provincial scale, as Vietnamese investors prefer locations being close to their markets and headquarters in Vietnam.

Finally, analysing Vietnamese investors has shown that they operate through subsidiaries in Laos which are strongly connected with their powerful mother companies in Vietnam. The state-owned Vietnam Rubber Group (VRG), for instance, operating in the Lao PDR through the Viet-Lao Rubber Joint Stock Company (VLRC) and five other companies, manages (according to market analysts) around 40 per cent (300,000 hectares) of the rubber plantations in Vietnam, making it a big player with a certain importance for the Vietnamese state budget (Vietnam Breaking News, 2012). Moreover, three out of the four examined Vietnamese companies are state-owned and thus can rely on their government for policy support. On the other hand, the villagers affected by the Vietnamese rubber plantations often lack sufficient support from the provincial government, both during the negotiation for adequate compensation and in the sense of not having any formal land rights or access

⁸⁵ A term used for deteriorated forest areas.

to relevant legal support institutions (see chapters 6.1.3 and 6.2.2). So, hypothesis two – namely, that although the legal framework on state land concessions and leases in Laos does regulate the implementation process and define local people’s rights, villagers are only marginally involved in the negotiation process and thus lack information about the concession details – is predominately true. Nonetheless, it is important to state that the amount of information villagers receive can vary a lot.

Furthermore, the thesis showed that the implementation process varies greatly on the village level. Sometimes village authorities were informed during the land survey; sometimes not at all, with villagers becoming aware of the concessions only when they saw workers clearing the fields they used for cultivation or grazing their buffalos. Of the eleven villages visited in Champasak, eight were informed about the project before a detailed land survey took place and two received information while the survey was in progress. In Attapeu, the picture was slightly different; out of six examined villages only one had received initial information while three got informed during the survey and two got no details about the rubber plantation at all. These uneven processes further result in different perceptions by the villagers about large-scale rubber plantations (see chapter 1).

While this thesis could analyse in detail the granting cycle of the rubber plantations from the province down to the village, the procedures on the central level remain less clear, as the research team could not conduct any interviews with representatives from government agencies in Vientiane. Insights about the central government therefore came from interviews conducted with provincial and district officials, company representatives, development workers from NGOs and international organisations, and from written reports by scientists analysing land leases in the Lao PDR. Furthermore, assumptions about financial self-interests of authorities, often heard as an additional factor for land allocations in Laos, can neither be confirmed nor completely ruled out.

Recommendations

While research on LSLA globally and in Southeast Asia has examined the impacts on local livelihoods, this thesis tried to provide insight about the implementation process by analysing key factors like the Lao-Vietnamese friendship which results in a “Vietnamese pattern” of investment. It seems that Vietnamese companies are able to implement their land concessions more smoothly and in a shorter time than other investors can, thus having a comparative advantage (see chapter 1). As this thesis was carried out in the framework of the SNIS project on LSLAs in Southeast Asia, it will be interesting to use the findings on the Vietnamese pattern to compare it with other types of investors (e.g., Chinese and international companies) in Laos, or with Vietnamese land deals in Cambodia. Furthermore,

additional research about the impacts of Vietnamese, Chinese, and international land concessions is needed. Are there different patterns for impacts by different groups of investors? Are there any connections between the implementation of a concession and the observed impacts? These and other questions will help to better understand why certain impacts can be observed in certain areas, while others not.

A senior government spokesman was recently quoted in the Economist saying that Laos has given concessions on 30 per cent of its land to foreigners (The Economist, 2013). Although uncertainty surrounding such numbers exists, the power of economic land concessions in shaping the country's economy and landscapes cannot be denied. There is therefore need for the GoL to rethink several aspects concerning economic land concessions. First, the creation of independent regulatory and monitoring processes for the management of large-scale concessions is needed. Present-day monitoring seems mainly to rely on reacting on a case by case basis, once villagers complain about negative impacts rather than having clear guidelines and objectives for proactive management. Monitoring should further not be carried out by the company, but by a special review committee consisting of representatives from the National or Provincial Assembly or even of authorities from villages near or affected by the concession, for instance. Of course, to establish such processes government officials from the province and the district need strengthened capacity in the form of relevant technical training and sufficient manpower to enforce the legal framework. In addition, the role of the Ministry of Natural Resources and Environment (MoNRE) and its line agencies in the implementation process of LSLAs should further be strengthened, as currently the Ministry of Planning and Investment (MPI) mainly has the power guide the decision-making process for recruiting investment. The MPI thus sees itself usually as a business partner of the investor while lacking environment awareness and competence needed to decide about a concession.

Against the background of the close relations of the Lao Government with the Vietnamese, the question must be asked to what extent these connections are favourable for sustainable growth and development in the Lao PDR and if such a favourable development can be achieved with voluntary guidelines, so-called "codes of conduct". While such guidelines seem to be the right instrument for western investments to make sure that certain standards and requirements are met, it must be heavily doubted if the same guidelines can help to prevent investments of state-owned Asian companies, especially for companies of quasi-socialist countries, from having negative socio-economic and environmental impacts. The examined state-owned Vietnamese companies, for

example, are highly backed-up by the Vietnamese government, which makes them less likely to respond to international “blame and shame” attempts than western companies may would. Therefore, it might be more effective to ensure that local communities obtain legal land titles for village lands and to teach them about the legislation and land laws, so they become aware of their rights and can better resist unfavourable land concessions.

Finally, relevant land concession documents, maps with boundaries of the concessions, and abstracts of the legal framework on compensation payments should be organised in a database available to the public, and especially to local. For too long, land deals have been conducted free of any transparency considerations.

9 References

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10 Annex

10.1 List of visited villages

All the information in these tables derived from talks and interviews with village authorities and single households or from the national Land Use Planning and Allocation (LUPLA) initiative (see footnote 87 below).

Bachiangchaleunsook District


Name Village Viet-Lao Rubber Joint Stock Company		T 1 Paksong			
Name Village Inventory	none	Sampling Category			
Total Households	140	Population	769		
Poverty Status ⁸⁶	Not poor village since 2010	Accessibility	Paved road since 2008 (30 km to district town, around 12 from Pakse)		
Electricity	1996	LUPLA ⁸⁷	1998		
Ethnic Groups	Lao-Loum	% (or No HH):	65%		
	Lao-Vien	% (or No HH):	20%		
	Alak	% (or No HH):	10%		
	Thae	% (or No HH):	5%		
Religion	Buddhism	% (or No HH):	95%		
	Christianity	% (or No HH):	5%		
Village Total Area * ⁸⁸		Total Concession Area	29 ha		
Residence Area	11 ha	Agricultural Production	around 600 ha		
Arrived: ⁸⁹	2005	Planted:	2006		
Tapping:	since 2011				


⁸⁶ According to the responsible district office (usually DAFO), and in reference with the National Growth and Poverty Eradication Strategy (NGPES).


⁸⁷ The Land Use Planning and Allocation (LUPLA) was a Lao Government's initiative, supported by the Land Titling Project by the World Bank, to increase tenure security and to categorize and map village lands.


⁸⁸ Having a "*" this means that the village authorities were not sure about the exact size of the area, owing to several reasons (e.g. they have lost the information from the LUPLA because the village chief changed many times or the board map got broken etc.). The village total area is without the concession area.

⁸⁹ Point in time the villagers first heard about a planned rubber plantation on their village lands.


Name Village Viet-Lao Rubber Joint Stock Company		T 10		
Name Village Inventory	Thee10	Sampling Category	1	
Total Households	53	Population	289	
Poverty Status	10 HH's considered as poor, before 2010 83 HH's	Accessibility	Dirt road since 1972 (12 km to district town, around 8 from Pakse)	
Electricity	2010	LUPLA	1997	
Ethnic Groups	Souei	% (or No HH):	65%	
	Lao-Loum	% (or No HH):	30%	
	Ta Oi	% (or No HH):	5%	
Religion		% (or No HH):		
		% (or No HH):		
Village Total Area	1,077 ha	Total Concession Area	50 ha	
Residence Area		Agricultural Production	96.82 ha	
Arrived:	2005	Planted:	2006	
Tapping:	since 2011			



Name Village Viet-Lao Rubber Joint Stock Company		Houaypheun (since 2006 combined with Huangtong & Pierlaht)		
Name Village Inventory	Huoaipheun	Sampling Category	4	
Total Households	156	Population	805	
Poverty Status	not poor (only 1 HH considered as poor)	Accessibility	along the national road (6 km to district town)	
Electricity	1993	LUPLA	1998	
Ethnic Groups	Lao-Vien	% (or No HH):	70%	
	Lao-Loum	% (or No HH):	30%	
Religion		% (or No HH):		
		% (or No HH):		
Village Total Area*		Total Concession Area	700 ha (450 ha in Houaypheun)	
Residence Area		Agricultural Production		
Arrived:	2005	Planted:	2006	
Tapping:	since 2011			

Name Village Dak Lak Rubber Company Limited		Lomsack-Nua			
Name Village Inventory	Lomsucknuea	Sampling Category	1		
Total Households	486	Population	3'653		
Poverty Status	not poor (no HH's are considered as poor)	Accessibility	Paved road (national road build by the French, 30km from district town)		
Electricity		LUPLA	1996		
Ethnic Groups	Lao-Loum	% (or No HH):	85%		
	Alak	% (or No HH):	15%		
Religion	Buddhism	% (or No HH):	100%		
		% (or No HH):			
Village Total Area*	7000ha	Total Concession Area	28ha (15ha Lomsack-Nua)		
Residence Area	86.5ha	Paddy field / fruit tree	45ha / 209ha		
Arrived:	2005	Planted:	2006		
Tapping:	2012				

Name Village Dak Lak Rubber Company Limited		Nongnamkhao-Yai			
Name Village Inventory	Namkaonhay	Sampling Category	4		
Total Households	341	Population	1'669		
Poverty Status	not poor	Accessibility	Paved road since 30 years		
Electricity	1997	LUPLA	1997		
Ethnic Groups	Lao-Loum	% (or No HH):	80%		
	Alak	% (or No HH):	15%		
	Nge	% (or No HH):	5%		
Religion	Buddhism	% (or No HH):	100%		
Village Total Area	462.98ha (excluding the concession area)	Total Concession Area	2,000ha (+ 65.2ha contract farming 2+3)		
Residence Area	13.69ha	Paddy field / fruit tree	13.68ha / 54.24ha		
Cash crops (cassava, smallholder rubber plantation)	62.46ha				
Arrived:	2004	Planted:	2005		
Tapping:	2011				


Sanasomboon District


Name Village Viet-Lao Rubber Joint Stock Company	Phouthongloom		
Name Village Inventory	Phouthongloom	Sampling Category	1
Total Households	88	Population	498
Poverty Status	around 40% of the HH's considered as poor	Accessibility	dirt road since 2006 (paid by Viet-Lao)
Electricity	2007	LUPLA	1997
Ethnic Groups	Lao-Loum	% (or No HH):	100%
Religion	Buddhism	% (or No HH):	100%
		% (or No HH):	
Village Total Area*	922 ha	Total Concession Area	285 ha
Residence Area		Agricultural Production	145 ha (paddy field)
Arrived:	2004	Planted:	2006
Tapping:			


Name Village Viet-Lao Rubber Joint Stock Company	Champhi	 	
Name Village Inventory	Champhi	Sampling Category	1
Total Households	124	Population	664
Poverty Status	not poor (only 1 HH considered as poor)	Accessibility	dirt road since 1971 (built by the Americans)
Electricity	1997	LUPLA	2002
Ethnic Groups	Lao-Loum	% (or No HH):	100%
Religion	Buddhism	% (or No HH):	100%
		% (or No HH):	
Village Total Area		Total Concession Area	78 ha
Residence Area	5.84ha	Agricultural Production	
Production forest	324.95ha	Paddy field	163.36ha
Arrived:	2006	Planted:	2007
Tapping:			

Pathoumphone District

Name Village Dak Lak Rubber Company Limited	Pakhouaybanglieng		
Name Village Inventory		Sampling Category	
Total Households	67	Population	373
Poverty Status	not poor	Accessibility	Dirt road (20km from district town)
Electricity		LUPLA	1997
Ethnic Groups	Lao-Loum	% (or No HH):	100%
Religion	Buddhism	% (or No HH):	100%
Village Total Area	950ha	Total Concession Area	750ha (of 750ha 350ha are contract farming)
Residence Area		Paddy field / fruit tree	
Arrived:	2005	Planted:	2007
Tapping:	2013		

Name Village Dak Lak Rubber Company Limited	Nongpakhet		
Name Village Inventory	Namsayloom	Sampling Category	4
Total Households	251	Population	1'557
Poverty Status	not poor	Accessibility	Dirt road (12km from district town)
Electricity	1989	LUPLA	1998
Ethnic Groups	Lao-Loum	% (or No HH):	60%
	Ta-Oi	% (or No HH):	20%
	Nge	% (or No HH):	10%
	Lao-Vien, Catan	% (or No HH):	10%
Religion	Buddhism	% (or No HH):	3%
	Christian	% (or No HH):	97%
Village Total Area*		Total Concession Area	
Residence Area		Paddy field / garden land	27ha / 38ha
Arrived:	2005	Planted:	2006
Tapping:	2013		

Name Village Ho Chi Minh Youth Rubber Company Limited		Tomo-tha			
Name Village Inventory		Sampling Category			
Total Households	92	Population	584		
Poverty Status	not poor (since 2011 no HH's are considered as poor)	Accessibility	Dirt road since 1986 (4km from district town)		
Electricity	1986	LUPLA			
Ethnic Groups	Lao-Loum	% (or No HH):	100%		
Religion	Buddhism	% (or No HH):	100%		
Village Total Area*		Total Concession Area	57ha		
Residence Area		Paddy field / fruit tree			
Arrived:	2007	Planted:	2008		
Tapping:					

Name Village Ho Chi Minh Youth Rubber Company Limited		Mouang (former Tanpiew)			
Name Village Inventory	Tanpiew	Sampling Category	4		
Total Households	47	Population	308		
Poverty Status	not poor since 2009 (before there were 17 HH's considered as poor)	Accessibility	Dirt road since 2008 financed by the world food program (15km from district town)		
Electricity	2012	LUPLA	1991		
Ethnic Groups	Lao-Loum	% (or No HH):	100%		
Religion	Buddhism	% (or No HH):	100%		
Village Total Area*	1150ha	Total Concession Area	210ha		
Production forest & cemetery	50ha	Paddy field / gardening	27ha / 4ha		
Arrived:	2007	Planted:	2008		
Tapping:	2015				

Memorandum of Understanding

on

Compensation Payment (Ban Houaypheuan village)⁹⁰

Today, at the garden of Mr. ***, date: **/08/2005

In which the land is under rubber plantation number 07 of Viet-Lao Rubber Joint Stock Company.

Together with sub-committee on Land Measurement which include:

1. Representative of Committee on Inspection, Propaganda; Mr. Khamsavath
2. Representative of Cluster Office; Mr. Avon
3. Representative of Village; Mr. Khamdy
4. Landowner; Mr. ***
5. Representative of Company; Fy Hai

Conducting the land measurement and found that:

1. The land plot number ** has the area size 5,600 sq meter or 0.56 ha (as show in the map below; 100 meter length and 56 meter is width).

100 meter length and 56 meter width

- The east is...
- The west is...
- The north is...
- The south is...

No:	Type of crop	Unit	Crop classification		Amount ⁹¹	Remark
			Good trees	Bad trees		
1	Coffee	Tree	300			
2	Teak	Tree	200			

We have agreed and give the signature to this MoU and this MoU will be submitted to higher authorities.

Three copies are made:

1. Landowner keeps 01 copy
2. Company keeps 01 copy
3. Committee on Measurement keeps 01 copy

Land owner

Village

Company

Cluster Office

Sub-Committee on Land Measurement

⁹⁰ Unofficial translation

⁹¹ Village chief told, that the company did not allow putting the amount of money in the document.

10.3 Memorandum of Understanding on Rubber Plantation Investment in Contract Farming

- ສ່າກ: ວິໄຊ ດາວໄຫຼ
 - ສ່າກ: ແກ້ວ ພິມພະສັງສີ
 ຫຼັງຈາກທີ່ໄດ້ຕົກລົງເຫັນດີກັນ, ບັນດາຝ່າຍທີ່ກ່ຽວຂ້ອງເຫັນດີເຊັນສັນຍາຮ່ວມ ລົງທຶນປູກ ຍາງພາລາໂດຍມີເນື້ອທີ່ ແລະ ມາດຕາດັ່ງລຸ່ມນີ້:

ມາດຕາ 1: ໄລຍະເວລາ, ເນື້ອທີ່ ແລະ ສະຖານທີ່ຮ່ວມລົງທຶນ.
 - ໄລຍະເວລາຮ່ວມລົງທຶນແມ່ນ 30 ປີ (1 ຮອບວາງອາຍຸຂອງຕົ້ນຢາງ)
 - ເນື້ອທີ່ຮ່ວມລົງທຶນ: 01 ຮຕ (ແນວທີ່ຕິດຈັດພ້ອມ)
 - ທີ່ຕັ້ງ: ຕອນເກີນເລກທີ

ມາດຕາ 2: ວິທີການບັນເທີນເສຍສິດ: ຕະລິດຕະພັນ ແລະ ວິທີການບັນເທີນ ລະອຽດ ຄືດັ່ງລຸ່ມນີ້:
 - ນ້ຳຢາງຈົບໄດ້ຈາກສວນຢາງຮ່ວມລົງທຶນ: ຝ່າຍ ກ 50%, ຝ່າຍ ຂ 50% ຕາມ ປະລິມານນ້ຳຢາງຕາມລາຄາຕາມນ້ຳຢາງຕົບອອງຕາຍຫຼາດ ຫວຽດນາມ.
 - ໄມ້ຢາງພາລາ ຫຼັງຈາກທີ່ສວນໄມ້ຮອດຍາມຊາກລະ (ຕິດຢາງບໍ່ໄດ້ຮັບປະສິດທິພາບ): ຝ່າຍ ກ 50%, ຝ່າຍ ຂ 50% ຕາມປະລິມານໄມ້ຊາຍຕາມລາຄາຕາຍຫຼາດຂອງລາວ.

ມາດຕາ 3: ການິດແບ່ງບັນຊັບສິນມັດຂອງແຕ່ລະຝ່າຍໃນໄລຍະຮ່ວມລົງທຶນ:
 - ຕົ້ນຢາງພາລາຄູ່ສວນໄມ້ຮ່ວມລົງທຶນ, ທາງ ແລະ ຫໍນັກ, ຮ່ອງລະບາຍນັກ, ຮົ່ວ, ພັດກະສິກໍາ, ພັດປູກປົກຫົ່ມດິນ, ຕ້ານເຊາະເຈື່ອນ ... ໂດຍຝ່າຍ ກ ລົງທຶນແມ່ນເປັນ ຊັບສິນມັດຂອງຝ່າຍ ກ.
 - ເນື້ອທີ່ຮ່ວມລົງທຶນ ແລະ ບັນດາຕົ້ນໄມ້ປູກສົບວ່າງໂດຍຝ່າຍ ຂ ລົງທຶນ ແມ່ນເປັນ ຊັບສິນມັດຂອງຝ່າຍ ຂ.

ມາດຕາ 4: ຄວາມຮັບຜິດຊອບຂອງບັນດາຝ່າຍ:
 4.1 ຄວາມຮັບຜິດຊອບຂອງຝ່າຍ ກ:
 + ລົງທຶນ 100% ຫຼືຕາມລະດັບການິດຕ້ານເສດຖະກິດເຕັກນິກ ໂດຍບໍ່ມີສິດກໍ່ສ້າງ ເຊິ່ງຄວນມີບັນດາຄ່າຊັ້ນເບື້ອງລຸ່ມນີ້:
 ບຸກເບີກ, ຕົ້ນເບ້ຍ (ອັງປູກໃໝ່ ແລະ ບຸກຊາໃຕ້ນ້ຳຢາງ), ຝຸ່ນ, ຢາສ້າສັດຕູພືດ, ຝຸ່ນ ກອນອອກແຮງງານ...
 + ຮັບສະໝັກ, ກໍ່ສ້າງ ແລະ ຈ່າຍເງິນເດືອນໃຫ້ກັບມາກອນເຜົ່າປູກ, ຍິດລະບັດ ແລະ ຊຸດຄົ້ນນ້ຳຢາງໃນສວນໄມ້ຮ່ວມກັບປະຊາຊົນ.
 + ຮັບຜິດຊອບທຸກຊັ້ນຕອນເຕັກນິກປູກ, ຍິດລະບັດ, ແລະ ຊຸດຄົ້ນນ້ຳຢາງ.
 + ຮັບສິດເສຍສິດທີ່ໄດ້ເປັນ ໃຫ້ປະຊາຊົນຕາມລາຄາຕາຍຫຼາດຂອງຕາມມາ.
 + ແນວນໍາປະຊາຊົນປູກສ່ວນວ່າງບັນດາພືດທີ່ເໝາະສົມໃນສີ່ອາກຍາງພາລາ.

ສາທາລະນະລັດ ປະຊາທິປະໄຕ ປະຊາຊົນລາວ
 ສັນຕິພາບ ເອກະລາດ ປະຊາທິປະໄຕ ເອກະພາບ ວັດທະນາຖາວອນ

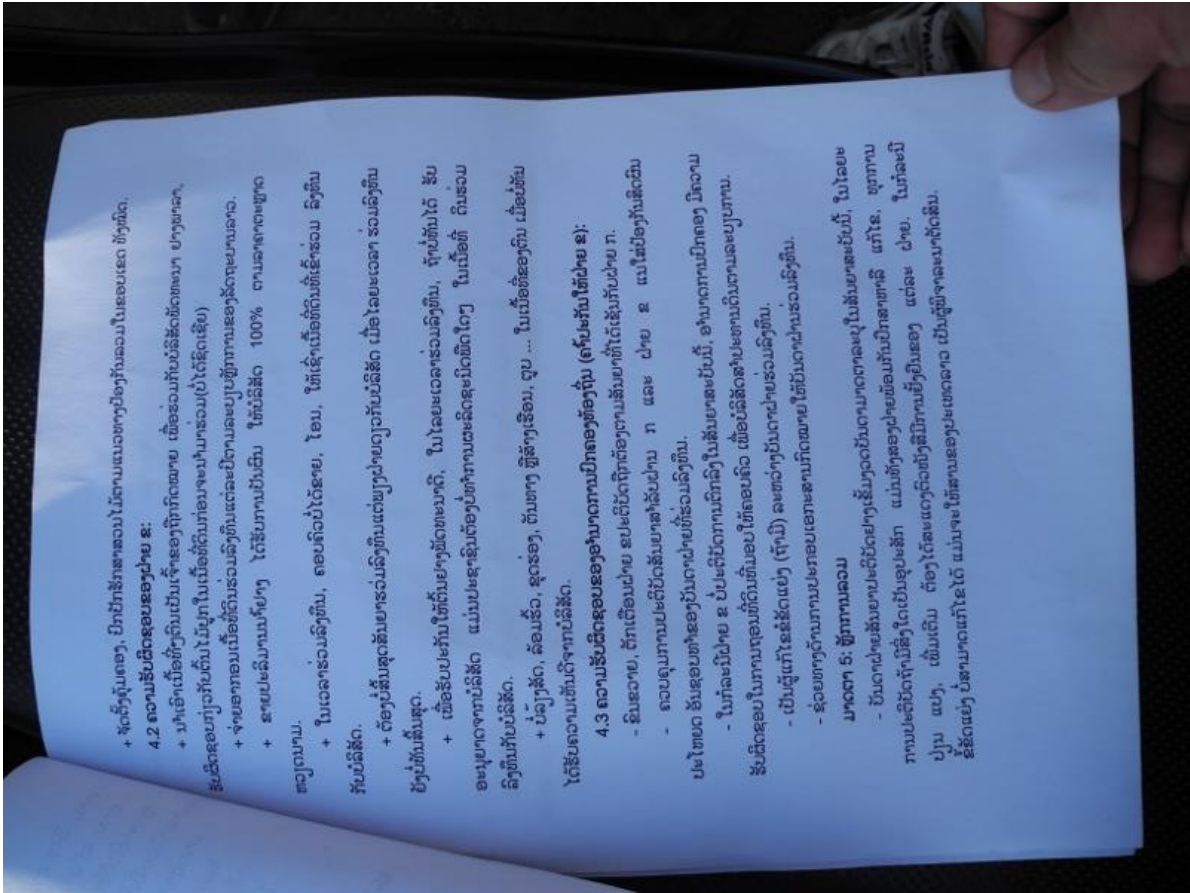
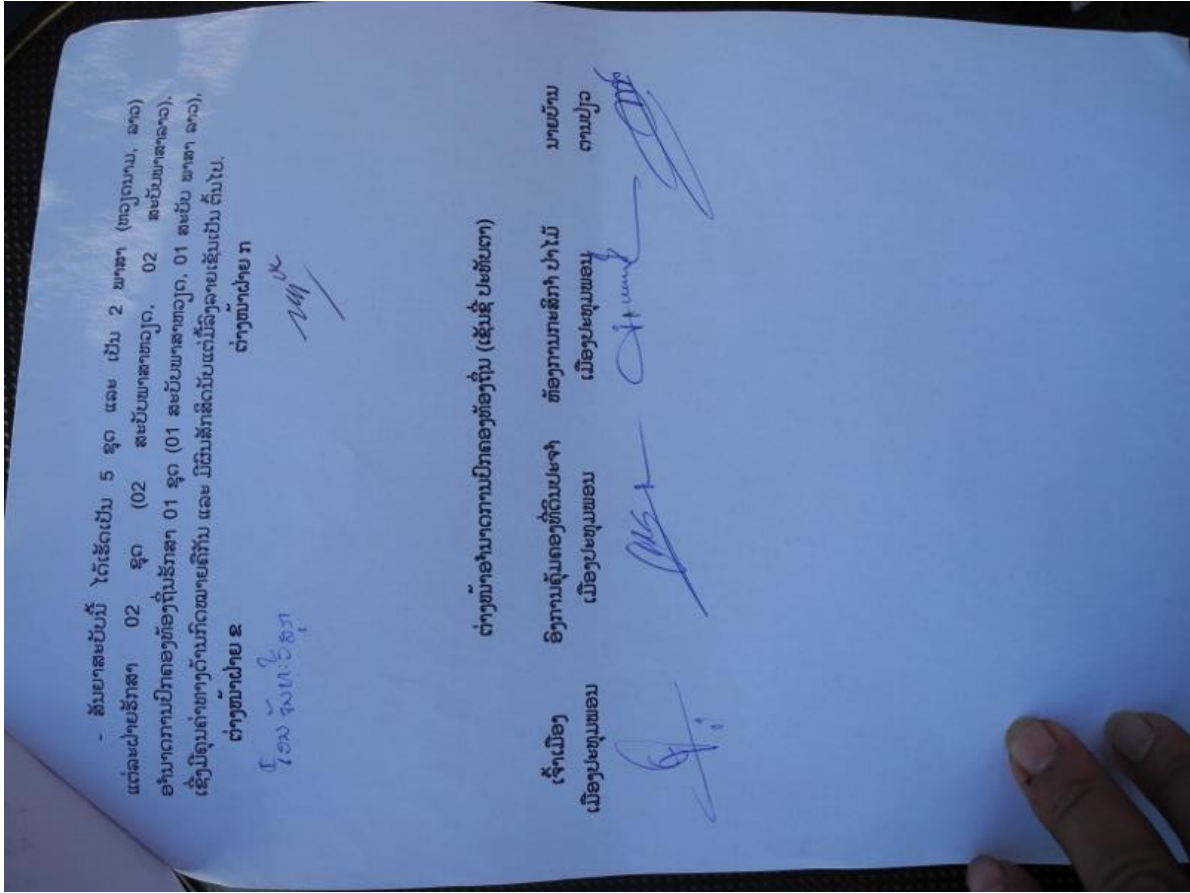
ເລກທີ: ສຍເສດວ-ບສ
 ຈຳປາສັກ, ວັນທີ 13 ເດືອນ 02 ປີ 2009

ສັນຍາຮ່ວມລົງທຶນປູກຍາງພາລາ

- ອົງຕາມໄລຍະຍຸກດາກການລົງທຶນຕ່າງປະເທດ ສະບັບເລກທີ 131-08/ເສກ-ລທ3 ລົງວັນທີ 13/11/2008 ຂອງກະຊວງແຜນການ - ການລົງທຶນແຫ່ງ ສປປ ລາວ ໃຫ້ສະມຸກຄະສ້າງຮັບຜິດຊອບ ຍາງພາລາຄວນເຮັດໃນ ຈຳກັດ, ປູກຢາງພາລາ ແລະ ສ້າງຕັ້ງໂຮງງານ ປູກແຕ່ງ ຕະລິດຕະພັນຈາກຢາງພາລາຄູ່ເຂດບໍລິເວນສັດນ້ຳອ້ອມ ແລະ ເສັດສະຫວັນ ເມືອງໂຊງ ແຂວງຈຳປາສັກ:

- ອົງຕາມແຮງການສະບັບເລກທີ 15 /ກ-ບສ ລົງວັນທີ 13 /10/2008 ຂອງ ບໍລິສັດ ຫຸ້ນສ່ວນ ຢາງພາລາຄວນເຮັດໃນ ຈຳກັດ ຕ້າວິດຍາມະໂຍເກຍຮ່ວມລົງທຶນປູກຢາງພາລາ:
 ມີຄື, ວັນທີ 13 ເດືອນ 02 ປີ 2009, ທີ່ສ້ອງການບັນດາຕາມປຽວ, ເມືອງບໍລິເວນສອນ, ແຂວງຈຳປາສັກ, ສວນເຮົາຄວມມີ:

I. ບໍລິສັດ ຢາງພາລາຄວນເຮັດໃນ ຈຳກັດ (ຝ່າຍ ກ)
 - ທີ່ຕັ້ງ: ຫຼັກ 2 ບ້ານໂພນສະອາດ, ເມືອງບາກເຊ ແຂວງຈຳປາສັກ
 - ໄລຍະສັນ: 031- 254076 - 031-254077 ແຟັກ: 031-254078
 - ໂດຍສ່ວນ: ຫວຽນ ຈຸ່ງ ຈັນ - ຕຳແໜ່ງ: ຜູ້ອຳນວຍການໃຫມ່ເປັນຜູ້ຕ່າງຫາກ,
 - ເລກສັນຍາ: 030.00.11.7.000.410 ທີ່ທະນາຄານຫວຽດ - ລາວ
 II. ຄອບຄົວປະຊາຊົນຮ່ວມລົງທຶນ (ຝ່າຍ ຂ)
 - ຕຳກ: ໂອນ ຈັນທະເວີສາ
 - ວັນເດືອນເປີດ: 11/10/1967
 - ເລກບັດປະຈຳຕົວ:
 - ທີ່ຢູ່: ບ້ານຕາມປຽວ - ເມືອງບາກເຊ - ແຂວງຈຳປາສັກ
 III. ອົງຕາມເປົ້າສອງທ້ອງຖິ່ນ (ຄຳປະກັນໃຫ້ຝ່າຍ ຂ):
 - ສ່າກ: ສຸລິພິນ ສະວະວັດທະພອນ, - ຈຳເປືອງບໍລິເວນສອນ,
 - ສ່າກ: ອ່ອນສາ ເຮືອງແພງດີ - ທົດໝາກອົງການຄຸ້ມຄອງທີ່ດິນເມືອງບໍລິເວນສອນ



Lao People's Democratic Republic
Peace Independent Unity and Prosperity

Ho Chi Minh Rubber
Company Limited

Number:...../CCF-Company
Champasak, date: 13/02/2009

Contract on

Rubber Plantation Investment in Contract Farming System⁹²

- In referencing to Foreign Investment License Number 131-08/MPI3, date 13/11/2008 of Ministry of Planning and Investment of Lao PDR give the permission to establish the Ho Chi Minh Rubber Company Limited, to invest in rubber plantation and build the rubber processing factory in Ban Setnam-Om and Setsavan villages, Khong district, Champasak province.
- In referencing to Notification number 15/company date 13/10/2008 of Ho Chi Minh Rubber Company about policy on contract farming in rubber development.

Today, on 13 February 2009, at Ban Napiew village's office, Pathoumphone district, Champasak province, we including:

I. Ho Chi Minh Rubber Company LTD (here refers to A party)

- Location: Km 2, Phonesa-Ath village, Pakse district, Champasak province
- Tel: 031-254076; 031-254077, Fax: 031-254078
- Company representative: Mr. Nguyen Chiew Chan- the Company Director
- Bank Account: 030.00.11.7.000.410, Viet-Lao Bank

II. Households who join the contract farming system (here refers to B party)

- Mr. *** - Household head-the representative
- Date of birth: **/**/1967
- ID card:
- Residential location: Ban Tanpiew, Pakse district [sic! should be Pathoumphone District], Champasak province

III. Local authorities (guaranteeing for B party)

- Mr. Soulvian Sawatthasin the district governor
- Mr. Onsa Heuangphengdy the head of DLMA
- Mr. Vixay Daolay the head of DAFO

⁹² Unofficial translation

- Mr. *** village chief

All parties has agreed and give the signature on this contract, the contract consists of key contents and articles as follow:

Article 1. Duration, Area size and Location of the plantation:

- The duration of investment is 30 years (this bases on rubber tree cycle)
- Area size⁹³: 01 ha
- Location: plot number.....

Article 2. Product division: the product and method of detail product division as mentions below:

- the raw latex: 50% of income from selling raw latex belongs to A party and B party will get 50%. The price of the raw latex is based on Vietnam market price in that period.
- the rubber trees, once the rubber trees cannot produce the latex: 50% belong to A party and B party will get 50%. The price is based on Lao market price in that period.

Article 3. The division of properties arising from investment:

- The rubber trees planted under contract farming system, road and water tube/pipe, drainage canal, fence, agriculture crops, other crops for soil cover and protecting the erosion etc. which invested by A party are belonging to A party.
- The land used for rubber plantation under the contract farming system and the trees planted mix with rubber trees that invested by B party are belonging to B party.

Article 4. The responsibilities of each party

4.1. The responsibilities of A party:

- Responsible for 100% investment capital which including:
 - o Clearing the land, seedlings (new planting and replacing for the dead ones), fertilizer, pesticide, equipment and etc.
- Employ the workers, provide the training to the workers and pay the salary on planting, caring the rubber trees and tapping.
- Providing the technical advice for planting, caring and tapping
- Buy the rubber latex that divided to villagers bases on the Vietnam market price
- Provide the technical advice to villagers on growing the crops mix with rubber trees
- Manage and protect all rubber plantation

4.2. The responsibilities of B party:

- Provide the legally belonging land to use for rubber plantation under contract farming, the HH must take in charge for the crops in that land (no compensation)

⁹³ Per one household

- Pay the land tax as yearly bases on Lao Laws
- Sell all (100%) the rubber obtained from sharing to company bases on Vietnam market price in that time.
- During the contract farming period, the HH not be allowed to sell, transfer or rent out that land to others.
- Not be allowed to terminate the contract without agreement with company
- To ensure the rubber trees well growth, not be allowed the HH grows any other crops mix with rubber without permission from company.
- Not be allowed to raise the livestock, make the fence, digging the canal, block the road or build the house, hut etc. in that land without get permission from company.

4.3. The responsibilities of local authorities (guaranteeing for B party):

- Encouraging and reminding the B party to follow this contract
- Monitoring the contract implementing and aiming to protect the favourable benefits of both parties
- In case the B party doesn't follow the contract the local authorities has the responsibility to withdraw the land use right of B party and transfer that land to be concession area of company regarding to the Lao regulations
- Have the responsibility to solve all arising conflicts between two parties
- Facilitate in related documentation regarding to the law

Article 5. The General principle

- All the parties has the obligation to follow all the articles mentioned in this contract, all obstacles facing by any party from implementing the contract must be solved through consultation with partner party, if any party wants to change or amend this contract must present the letter to partner party. If any conflict could not be solved by two parties, such case will submit to Lao Court.
- Five copies are made and in 2 languages (Vietnamese and Lao), each party keeps 02 copies (02 Vietnamese and 02 Lao), local authorities keep 01 copy (01 Vietnamese and 01 Lao), both versions are legally equal and this contract can be enforced once the both parties give their signature.

B Party

A Party

Representative of Local Authorities (sign & stamp)

District governor

DLMA

DAFO

Village Chief

10.4 Map of Investment Project Locations in the Forestry Subsector

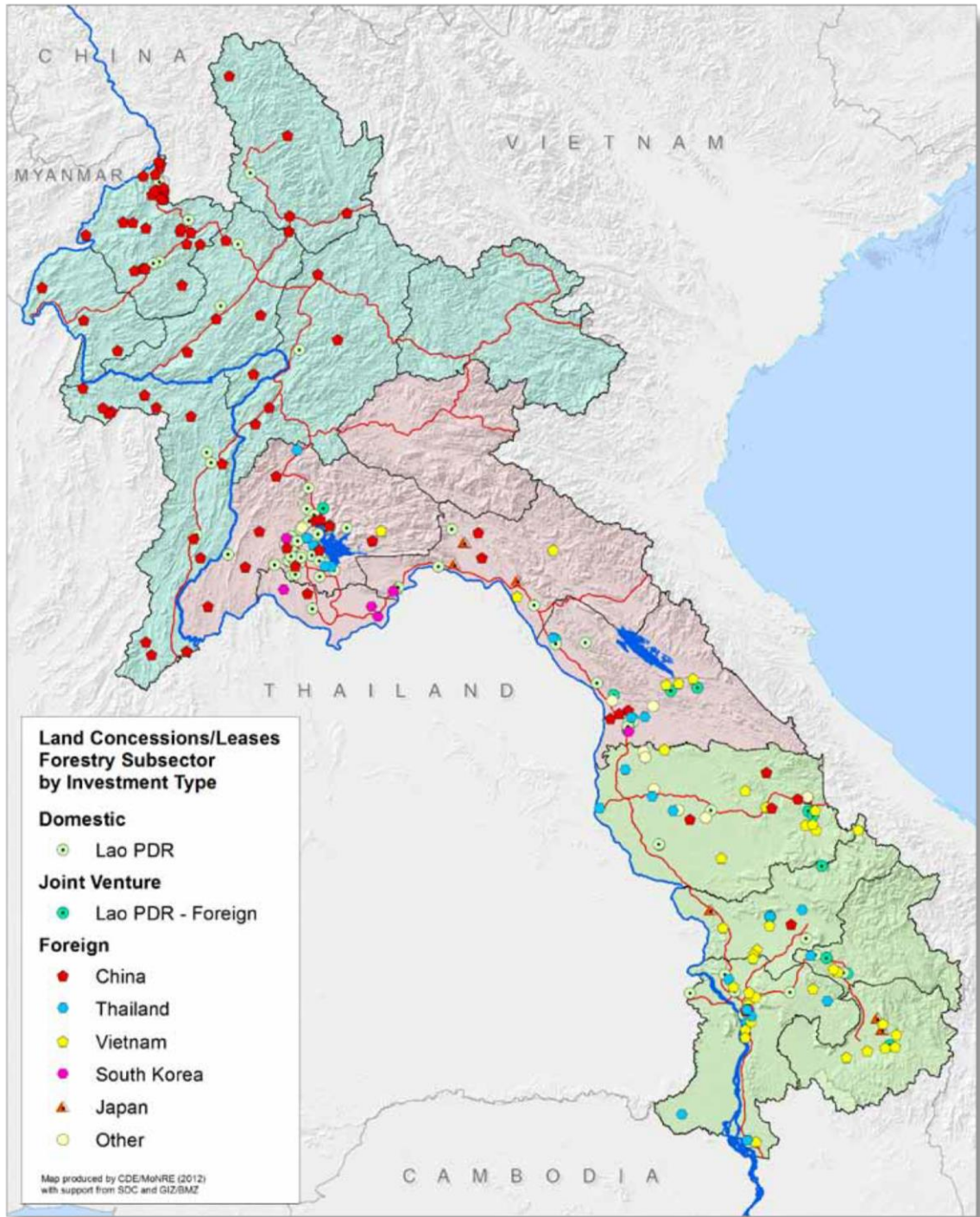


Fig. 22 Investment project location and investor country of origin in the forestry subsector (CDE/MoNRE, 2012)

10.5 Overview of Conducted Interviews

	Politics	Investors	Experts
Central			Researchers and experts from international organisations based in Vientiane ⇒ 5 Interviews
Province	DPI – Department of Planning and Investment DoNRE – Department of Natural Resources and Environment PAFO – Provincial Agriculture and Forestry Office ⇒ 7 Interviews in two provinces (semi-structured)	VLRC - Viet-Lao Rubber Joint Stock Company DAKLAORUCO - Dak Lak Rubber Company Limited HCMYRC - Ho Chi Minh Youth Rubber Company Limited HAAC - Hoang Anh Attapeu Company ⇒ 4 Interviews (semi-structured)	Representatives from NGO's based in Champasak and Attapeu ⇒ 3 Interviews
District	PCO – District Planning & Cooperation Office DNREO – District Natural Resources and Environment Office DAFO – District Agriculture and Forestry Office ⇒ 8 Interviews in five districts (semi-structured)		
Village	Village Authorities and Households ⇒ 25 Interviews in 17 villages (questionnaires and group discussions)		

Table 11 Overview of the conducted interview (Zurflueh, 2013)

The interviews with government officials were usually conducted with the deputy chief of the respective office. In addition, the team conducted interviews with the Environment Section of DoNRE in both provinces. The central agencies could not be approached by the master's students themselves, but only through the official SNIS project representation in Laos, the Centre for Development and Environment (CDE).

10.6 Village Questionnaire for Group Discussions with Village Authorities

Interviewer:	Date:	Village:
Number of Interview participants	()	District:
Name:	Function:	Company interested in:
Name:	Function:	
Name:	Function:	

1) General profile of the village

1.	Since when does the village exist? (e.g. 2001!)	()
2.	How many households/people are living in this village?	() / ()
3.	Which ethnic groups are living in the village? How many households/people for each?	1. HH () 2. HH () 3. HH () 4. HH ()
4.	Are there any Households/Families which have only recently moved (were resettled/regrouped) to this village? Amount of HH/Families? Ethnic background? Place of origin? Reason?	Yes No (please cycle) Number () Ethnicity () Origin () Reason...
5.	What is the poverty status of this village? How many HH are considered poor?	... ()
6.	Please rank the 3 main livelihood activities?	1 2 3
7.	What are the 3 main produces villagers produce? (Rank)	1 2 3
8.	What are the 3 main products this village sells outside of the village? (Rank)	1 2 3
9.	Was there any Land Use Plan undertaken? When?	() Yes () No () year
10.	Which land documents do villagers have? For which land?	...
11.	(if) Since when does the village has	Paved road connection ()

		Dirt road connection () Electricity ()
12.	How long does it take in average to the next district town? To next main market? By which way of transport?	() district town () market
13.	How large is this village?	() ha
14.	How big is the total agricultural land area?	() ha
15.	Paddy / Upland rice	() ha / () ha
16.	Protection Forest	() ha
17.	Conservation Forest	() ha
18.	Production Forest	() ha
19.	Other forest areas (e.g. sacred forest, spirit forest)	() ha
20.	Residence area	() ha
21.	Empty land/nobody uses	() ha
22.	Other type of land (e.g. pasture)	() ha / () ha
23.	Are there any boundary conflicts with neighbouring villages? If yes, please explain:	() Yes () No
24.	Are there any land conflicts within the village? If yes, please explain:	() Yes () No

2) Processes/Key factors

25.	When did you first hear about the company/ land concession? ...	
26.	Who first informed you about the concession? How were you informed about the concession? ...	
27.	At the time, you first learned about the land concession, what was already decided? By whom? ...	
28.	What was the role of the village authority/committee during the process? Were you involved in any decision making of the following:	
	General agreement-process	Yes No
	Negotiating the overall land area size	Yes No
	Allocating and identifying land	Yes No
	Negotiating land compensation payments	Yes No
	Negotiating contractual arrangements and terms of conditions	Yes No
	Implementation of concession-project (e.g. clearing land, planting,	Yes No

	etc.) Others (please specify)	
29.	If yes, how were you involved? ...	
30.	Who approved the concession? Who signed the contract? ...	
31.	Why do you think was your village selected for this concession? By whom? ...	
32.	Do you think any of the following factors played a crucial role? Accessibility/Infrastructure Poverty/Development status of your village Ethnicity Others, please define....	Yes No Yes No Yes No
33.	How was the land for the concession in your village identified? Who selected the land? ...	
34.	Was there any land the company or/and the government wanted for the concession area, but was at the end not used/granted? Why? How ? ...	
35.	Which documents (maps, land use plans, etc.) were used to choose the land? Was there any survey done beforehand? By whom?	
36.	Is the company also using land within neighbouring villages? If yes, how many villages and names?	Yes No ()...
37.	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? ...	
38.	If no, why do you think your village was selected, but not the neighbouring village?	
39.	Which documents do you have related to the land concessions? Where do you keep them? Who gave it to you?	
40.	In which language was the contract written? Do you read or speak this language?	
41.	What does the contract say in terms of a) Years of project duration, b) Potential extension? c) Profit sharing d) Compensation payment e) Concession fees f) Other benefits for the village	a) b) c) d) e) f)

3) Land allocation and impacts

42.	Which type of land was allocated for the concession? How big? 1= Primary Forest 2= Secondary Forest 3= Tertiary Forest/degraded 4=Paddy 5= Up land rice/Shifting cultivation area 6= Fruit/Vegetable gardens 7= Pasture/animal raising land -8= Others, specify.....	Code () () () () ()	Ha () () () () ()
43.	How many HH were using which land before?	()	()
44.	How important was the land for those HH? ...		
45.	How is the land used now by the HH?...		
46.	Is there any land used by the company which was not agreed on to be used?		
47.	Did individuals receive compensation? (circle)	Yes	No
48.	If yes, for which land? How much? (use codes as above) If not monetary compensation what else was provided? ...	Code () _____ LAK per _____ ha Code () _____ LAK per _____ ha Code () _____ LAK per _____ ha	
49.	Did the village as a whole receive any kind of compensation for communal land?	Yes	No
50.	If yes, for which land? How much? (use codes as in 41) If not monetary compensation what else was provided? ...	Code () _____ LAK per _____ ha Code () _____ LAK per _____ ha Code () _____ LAK per _____ ha	
51.	What is the general quality of the deal? 1=good deal 2=ok 3=not good 4=extremely bad 5=don't know For the company? () For the whole village? ()		
52.	Has the concession brought any positive development to the village? Which kind? Yes No ...		
53.	If yes, who profits most/ Who loses out? Why is it so? ...		
54.	Has the concession brought any negative development to the village? Which kind? Yes No ...		
55.	If yes, who loses most? Who loses least? Why is this so? ...		
56.	Are villagers working for the plantation? Which kind of work? How much do they earn? ...		
57.	Are non-villagers (outsiders) 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?		
58.	What are the biggest changes for this village since the company arrived?		

59.	What are the biggest agricultural changes since the company arrived? Did any agricultural activity stop/start because of the concession? Why?
60.	Is the company operating any contract farming or smallholder scheme in this village or somewhere else?

10.7 Overview of Applied Codes

Code	Code Alias
Companies	Statements about the respective concession company
Companies\Viet-Lao	
Companies\Dak Lak	
Companies\Hochiminh	
Companies\HAGL	
Overview	General Information providing insights about the different actors' means, assets, values
Overview\Company	
Overview\Company\Portfolio	
Overview\Company\Concession	
Overview\Company\Investment Plans & Challenges	
Overview\Province	
Overview\District	
Overview\Village	
Overview\Village\History/General	
Overview\Village\Livelihood	
Overview\Village\Area	
Strategy	Strategy, agenda
Strategy\Future	
Strategy\Past	
Land selection	Criteria for the concession land selection on different scales
Land selection\Laos	
Land selection\Province	
Land selection\District	
Land selection\Village	
Land selection\Land plots	
Implementation	Key factors influencing the decision-making on ELC
Implementation\Central	
Implementation\Province/District	
Implementation\Province/District\Land Survey	
Implementation\Province/District\Impact Assessment	
Implementation\Province/District\Improvements/Difficulties	
Implementation\Village	
Implementation\Village\Announcement before land survey	
Implementation\Village\Announcement while survey	
Implementation\Village\No announcement	
Implementation\Monitoring	
Implementation\Special	
Negotiation	Power relations, dependencies
Negotiation\Land allocation	
Negotiation\Land allocation\Type of land	
Negotiation\Compensation	
Negotiation\Requests/Support Company	
Impacts\Negative	Impacts
Impacts\Positive	
Special Information\General	Information of special interest
Special Information\Laws & Decrees	
Special Information\Contract Farming	
Special Information\Working conditions	
Future expectations	

Erklärung

Gemäss Art. 28 Abs. 2 RSL 05

Name/Vorname:	Zurflüh Joel				
Matrikelnummer:	07-121-874				
Studiengang:	Master Geographie (Mono)				
Bachelor	<input type="checkbox"/>	Master	<input checked="" type="checkbox"/>	Dissertation	<input type="checkbox"/>
Titel der Arbeit:	Vietnamese Rubber Investments in the South of the Lao PDR - Key factors influencing decision making in large-scale land acquisitions by Vietnamese investors in the agro-forestry sector of the Lao PDR				
Leiter/-in der Arbeit:	Dr. Peter Messerli Prof. Dr. Urs Wiesmann				

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.

Ort/Datum

.....
Unterschrift