



Enhancing multi-dimensional quality of land based investments in Lao PDR

Investors abandoned land granted for sugarcane plantations in Savannakhet province after only a few years due to declines in soil fertility.
Photo by Vong Nanhthavong, 2021

There is growing global concern that commercial investments in land (CILs) threaten the environment and local livelihoods, and that their contribution to national revenue generation has been less than expected (Vientiane Times 2017a, 2017b, 2019). In this brief, we present results from an assessment of 279 CILs in the agriculture, tree plantation, and mining subsectors across nine provinces in the Lao PDR. The assessment shows that the quality of CILs varies greatly, that there is a significant potential to improve it, but also that there is no *one-size-fits-all* solution. The assessment results support the identification of pathways to improve CIL quality. Key elements of such pathways include a better harmonization of approval processes that integrate provincial, district, and local authorities, as well as a higher autonomy of local authorities to monitor investments.

Method

The assessment of 279 CILs is based on an investment quality index (IQI) that includes 29 indicators relating to four dimensions: environmental, economic, and social impacts, and legal compliance. Each dimension is weighed equally (25%) in the IQI. Quality performance ranges from 0 (very low) to 100 (very high). Analysis was conducted at three levels: (1) the overall quality performance, i.e., an aggregated score for each CIL; (2) performance within each of the four dimensions; and (3) performance for each of the 29 indicators (Hett et al. 2018). Data was gathered from 2014 to 2017 by the Government of Laos (GoL) through interviews with affected villagers, representatives of government authorities (mainly at district level), and investors. Data was collected in nine provinces (Oudomxai, Luang Prabang, Xieng Khouang, Vientiane, Khammouan, Savannakhet, Saravan, Sekong, and Attapeu).

Key messages

- There are over 1,000 commercial investments in land (CILs) in the Lao PDR. Only a small handful perform well; the majority results in negative environmental, social, and economic impacts.
- To mitigate negative impacts and optimize benefits of CILs, systematic assessment and monitoring of investment quality, followed by the enforcement of adequate quality enhancement measures, needs to be a top priority of Lao investment policy.
- However, there are no simple answers and solutions vary greatly across sectors and from one investment to another. Collaboration among government sectors is key to address trade-offs and to achieve balanced outcomes between the various sustainability dimensions impacted by CILs.
- Key improvement priorities include systematic consultation of local communities, greater degrees of technology transfer, better integration and contribution into the local economy, including improvement of local incomes and working conditions, prevention of clearing of valuable land, as well as better reporting and monitoring.

The boom of commercial investments in land

A boom of CILs in Lao PDR's agriculture, tree plantation, and mining sectors has contributed to economic growth, but has also resulted in land dispossession and the loss of access to natural resources, particularly non-timber forest products, that has negatively affected food and livelihood security among local communities (Nanhthavong, et al. 2021). Further, CILs drive environmental degradation through deforestation and forest conversion, leading to loss of biodiversity and natural habitats, and the overuse of agrochemicals is a source of pollution and threat to human wellbeing (Hett et al. 2020; Nanhthavong et al. 2021). In response to the growing evidence of these negative impacts, the GoL introduced a moratorium on tree plantations and some mining activities as early as 2007. Additionally, the GoL initiated an inventory and indepth assessment of the quality of CILs. The present brief summarizes the results of this assessment, which can be used to identify priority areas for policy intervention. It includes recommendations on the lessons to be drawn from well-performing investments and on potential entry points to enhance benefits for all stakeholders, especially the government, local communities, and investors.

Overall quality performance

In general, the performance of CILs in the Lao PDR is mediocre (Figure 1). In 72% of the assessed cases, the CILs had an average overall score between 40 and 60, 10% have a low score (<40), and the remaining 18% have a medium to high score (>60). In other words, while the situation could be worse, it could also be much better. There are a number of variables that influence CIL overall scores, including the sector, geographic location, involvement of local administration, size, and origin of investor.

There are marginal differences in the CIL scores between the three **sectors**. The mining sector had the highest overall score, followed by the agricultural sector, with the tree plantation sector having the lowest score. The performance of the mining investments may be due to greater pressure from international financial institutions to comply with standards. This leads to a longer approval process in the mining sector, and allows investors to better identify the potential impacts of their investment and mitigation mechanisms.

Performance differs significantly depending on **province**, with the highest average score in Luang Prabang (59) and the lowest in Attapeu (42). CILs in the south of the Lao PDR are typically heavily mechanised large-scale investments that cause more land and resource displacement, while generating less employment. Previous, local case studies revealed that CILs often create land conflicts in this part of the country (Baird, 2017; Luangaramsri, 2012; Obein, 2007; Smith, 2012). These results suggest that authorities at provincial level can play an important role in improving land-based investments.

CILs that have been approved at **district** level tend to have better scores than those approved at higher levels. Although these CILs are typically smaller-scale, the approval processes at district level include more indepth consultations and a greater involvement of the impacted communities. This involvement reduces the risk that investors break the terms of the concession, and the proximity of district authorities provides for better monitoring of CILs and intervention in the case of terms violations.

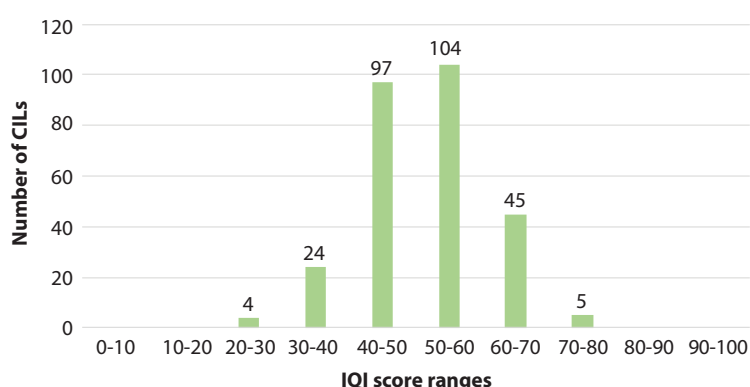


Figure 1: Overall performance of all assessed CILs

Table 1: Performance of the 3 investment sectors along the 29 indicators of the 4 quality dimensions. Numbers indicate the average score per indicator of all investments in the sector. The maximum score per dimension is 25 (overall score of 100 / 4). The maximum scores per indicator are 25 / number of indicators in the dimension, i.e. 3.57 for legal compliance, 3.13 for economic and social impacts, and 4.17 for environmental impacts.

| | | | | | Min Average Max |
|----------------------------------|--|--------|-------------|--------------------|-----------------------|
| | | Mining | Agriculture | Tree plantation | |
| Legal compliance. | Land survey & approval | 2.44 | 2.56 | 2.08 | 0.00 |
| | Adhering to concession boundaries | 3.49 | 3.09 | 2.91 | |
| | Contract violation | 3.37 | 3.33 | 3.30 | |
| | Best average performance: | 1.66 | 2.18 | 1.97 | |
| | Village consultation | 1.75 | 1.69 | 1.45 | |
| | Consent & grievance | 2.67 | 2.13 | 2.38 | |
| Economic impacts. | Project progress | 1.00 | 0.29 | 0.44 | 0.00 |
| | Progress reporting | 2.50 | 2.61 | 2.44 | |
| | Amount of household land lost | 2.42 | 2.33 | 2.14 | |
| | Compensation | 1.71 | 1.15 | 2.61 | |
| | Payment fees, royalties and taxes | 2.77 | 2.54 | 2.41 | |
| | Infrastructure development | 1.77 | 0.77 | 0.77 | |
| Social impacts. | Best average performance: | 1.25 | 1.19 | 1.26 | 1.48 |
| | Importance of cleared land | 2.31 | 2.24 | 1.49 | |
| | Income change | 2.34 | 0.67 | 0.49 | |
| | Changes in natural resources | 1.48 | 2.73 | 2.57 | |
| | Impact on local economy | 0.84 | 1.37 | 1.64 | |
| | Use of foreign labor | 0.80 | 1.18 | 1.05 | |
| Environmental impacts. | Age & gender of labor | 1.85 | 1.92 | 2.34 | 3.13 |
| | Wages | 1.51 | 1.41 | 1.18 | |
| | Labor conditions | 1.67 | 1.73 | 1.44 | |
| | Labor sourcing | 2.35 | 2.31 | 1.80 | |
| | Health & safety aspects | 0.08 | 0.12 | 0.15 | |
| | Impact on food security | 3.14 | 3.56 | 2.44 | |
| Best average performance: | Skills, technology transfer & social development | 3.10 | 2.12 | 1.93 | 4.17 |
| | Types of forest cleared | 2.18 | 0.71 | 0.74 | |
| | EIA | 2.86 | 3.08 | 2.02 | |
| | Environmental monitoring & reporting | 1.54 | 3.05 | 2.20 | |
| | Chemical use & management | 3.60 | 3.67 | 3.26 | |
| | Pollutions | | | | |
| Best average performance: | agriculture and mining sectors | | | | |
| | Livestock impacts | | | | |

Size was also seen to influence CIL performance, with smaller investments performing better than larger ones. This may be due to the flexibility of smaller investments to engage in negotiation and consensus building with local communities compared to large-scale investments. Smaller investments can also more easily be tailored to accommodate existing nearby land uses.

Finally, the **origin of investors** influences quality performance. Domestic and joint ventures have better scores than foreign investments, particularly in terms of legal compliance. This may be due to a better understanding of national regulations and higher degree of commitment to the development of their country (Oya, 2013). Furthermore, domestic deals are often smaller and more often approved at district level than foreign investments.

Performance across sectors and dimensions

A more detailed look at CIL performance within the four assessment dimensions, presented in Table 1, reveals that there are many common tendencies but also significant differences across the three sectors.

Legal compliance: Investors mostly respect the agreed upon concession boundaries and other parts of the investment agreement. However, local authorities claim that they are less likely to accurately report on project activities. Further, there is a serious lack of community consultation and consent seeking, which might be improved by requesting investors to comply with international standards. On average, the legal compliance of mining investments is better, particularly in terms of reporting behaviour and adherence to approved schedules.

Economic impacts: Although scores are consistently medium, there seems to be a genuine effort from several investors to minimize impacts on land holdings of local households or to compensate for these impacts when they occur. Further, while many CILs did not make pledges to contribute to local infrastructure, those that did had mostly delivered on their promises at the time of assessment. On the other hand, CILs contribution to improving local incomes is low and targeting of valuable lands increases pressure and competition. Overall, mining concessions have better scores, as they have a lower impact on economic resources, are more likely to contribute to infrastructure development, and to use local suppliers.

Social impacts: The social dimension is the most problematic, with the lowest average score (1.48) across the four dimensions. Investments fare better in the areas of limitations on foreign human resources and avoidance of impacts on food security. However, they only rarely promote technology transfer and tend to offer sub-standard wages. The mining sector scores lower than other sectors, since the higher skills required for employment do not benefit local communities. The study did not assess other forms of social impact, such as the possible increase of intracommunity conflicts, the loss of traditional knowledge, or other impacts.

Environmental impacts: Investors are making efforts to avoid deforestation, but too few conduct rigorous environmental impact assessments and monitoring. This is notable in the case of tree plantations, which are leading to the largest forest losses. Additionally, the assessment reveals that poor management of the use of agro-chemicals, particularly in the tree plantation sector, as well as other sources of pollution, particularly in the mining sector, often lead to environmental damage and health impacts.

| | |
|--------|---|
| Env 1 | Avoided clearing forests |
| Env 2 | Conducted EIA |
| Env 3 | Conducted environmental monitoring properly |
| Env 4 | Proper chemical use |
| Env 5 | No pollution |
| Env 6 | Minimized impact on livestock |
| Econ 1 | Avoided impact on household land |
| Econ 2 | Paid compensation to impact households |
| Econ 3 | Paid fees |
| Econ 4 | Contributed to infrastructure development |
| Econ 5 | Avoided clearing valuable land |
| Econ 6 | Improved local incomes |
| Econ 7 | Avoided impacting natural resources availability |
| Econ 8 | Contributed to local economic development |
| Soc 1 | Limited the use of foreign labour |
| Soc 2 | Respected legal age & gender equality for workers |
| Soc 3 | Paid fair wages |
| Soc 4 | Provided good labour conditions |
| Soc 5 | Employed workers from impacted villages |
| Soc 6 | Minimized health and safety hazards |
| Soc 7 | Avoided negative impact on food security |
| Soc 8 | Provided technology transfer and social development |
| Comp 1 | Land survey conducted and deal approved prior to clearing |
| Comp 2 | Adhering to land deal boundaries |
| Comp 3 | Respects concession agreement |
| Comp 4 | Inclusive village consultation prior to land clearing |
| Comp 5 | Village consent and grievance mechanisms established |
| Comp 6 | Project progressing according to schedule |
| Comp 7 | Progress reporting |

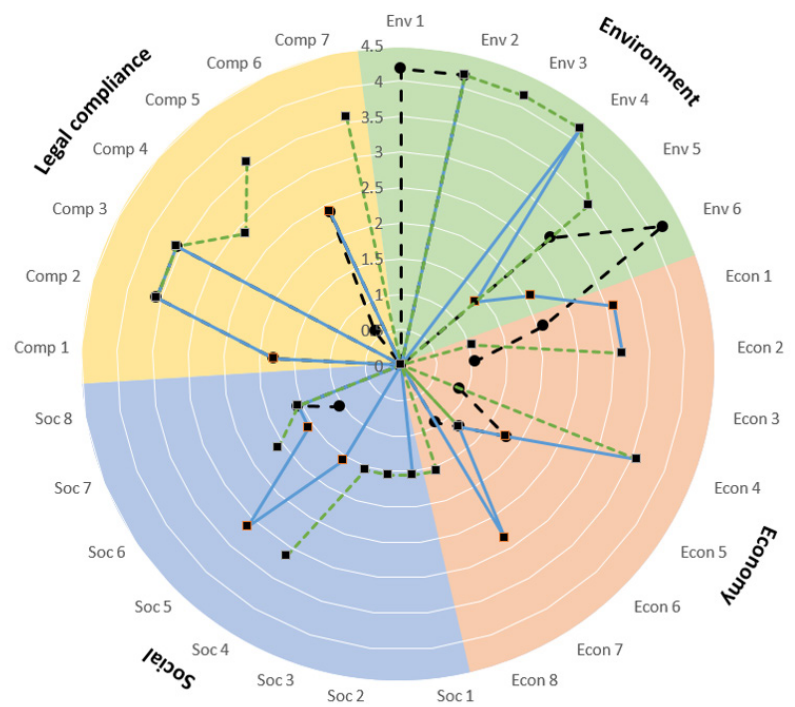


Figure 2: Example of the performance of three iron-mining concessions (green-dotted, black-dashed and blue continuous lines) along all the quality indicators. Dots near the centre of the circle indicate low scores (min. 0), those near the outer edge of the circle show high scores (max 4.5)

Each investment is different

The average values provided in Table 1 tend to mask the fact that, in practice, each CIL is different. Thus, there is no one-fits-all solution to improve the quality of investments in the Lao PDR. Solutions must take into account the concerned investment sector, the characteristics of each individual investment, and of the social, economic, and environmental contexts in which it is implemented. Figure 2 shows the example of three iron-mining concessions. While some scores are identical for the three investments (for example, each of them conducted an environmental impact assessment (Env 2)), other scores differ strongly (for example, the impact on livestock (Env 6), or the one on household land (Econ 1)). Figure 2 also shows data gaps (for example, no data was available on fees paid by the three investments (Econ 3)), which further complicate this kind of comparative analyses. Individual CIL profiles, such as the ones of the three iron-mining concessions, can support the identification and tailoring of solutions towards the improvement of investment performance.

Pathways to improving investment quality

There is substantial potential to improve the quality of investments in terms of legal compliance, as well as economic, social and environmental impacts. Table 1 shows that the **main cross-sectoral priorities are better consultation and consent seeking processes before the start of the CILs, the improvement of technology transfer and skills development, a better contribution of CILs to the local economy, the improvement of local incomes and of working conditions (particularly better wages), avoided clearance of valuable land, as well as a better reporting and monitoring behaviour of investors.**

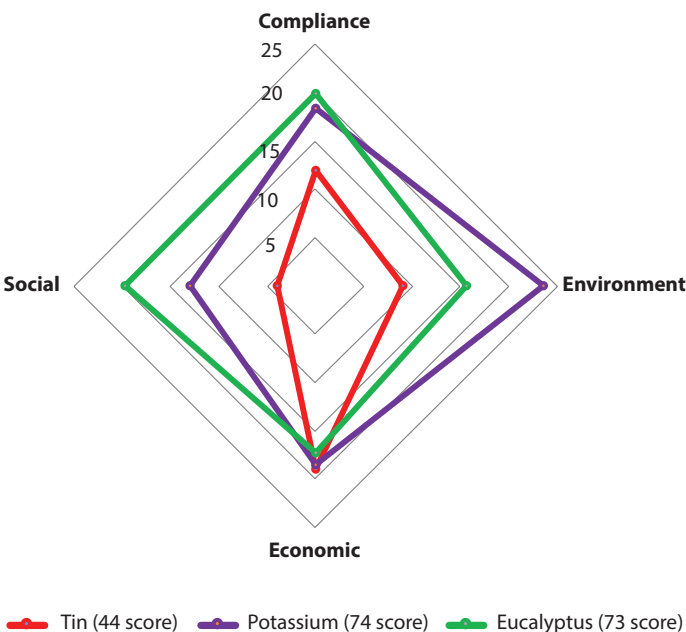


Figure 3: Example of the performance of two concessions with high quality score (potassium and eucalyptus), and one with medium quality score (tin) in four dimensions of quality of investment

Furthermore, the assessment shows that no investment performs well in all four dimensions (Figure 3). For instance, the potassium concession performs well in legal compliance, environmental and economic impacts, but relatively poorly in the social dimension. In contrast, the eucalyptus concession performs better in the social dimension but not so well in the environmental dimension. Although the tin concession has a low overall score, it performs very well in the economic dimension. In these cases, it is critical for the government to have clear priorities that represent the interests of the most vulnerable stakeholders in decision-making, regulation, and management of CILs. Significantly when weighing trade-offs, it is essential to take into consideration the capacities of various stakeholders to absorb adverse and long term impacts.

Policy options

1. **Clarify responsibilities.** Better coordination across sectors and decision-making levels would provide more targeted and efficient guidance to investors and more adequate support to communities. Better coordination would also contribute to greater compliance with existing governmental regulations. Roles and responsibilities should be clear for all administrative levels and development stages of investments, from the approval process, to full operation, and end-of-investment management.
2. **Strengthen the role of local authorities.** Given their proximity to communities and local land use, village and sub-national authorities are particularly well suited to identify land availability and land requirements of different stakeholders. These insights should be leveraged in national planning of CILs through decentralised validation of the suitability of investments in line with the government’s regulations and priorities. This would support enhanced negotiations to balance local livelihood improvement, economic development, and environmental conservation. Local authorities are also in a better position to conduct monitoring of CILs. However, delegation of such responsibilities requires capacity building and allocation of sufficient resources.
3. **Monitor and enforce regulations.** It is important to maintain and even improve the reputation of the investment landscape in the Lao PDR in order to attract high quality investments and to discourage investors with low quality standards from investing in the country. Enforcement of regulations starts with the screening of applicant projects, rejection of those not in the national interest, as well as rigorous and regular monitoring of approved projects. This also includes monitoring and enforcement of labour regulations, such as quotas on the hire of foreign labour and adherence to minimum wages and working conditions to ensure equitable benefits for local communities.
4. **Assess investment quality.** Using simple assessment methods to try identifying ‘good’ and ‘bad’ investments conceals the complex reality of investment quality. A multi-criteria approach for assessment and continuous monitoring is essential to truly capture and understand

the strengths and weaknesses of investments, and to identify areas for targeted intervention by the government.

5. **Encourage knowledge sharing.** Lessons from high-performing CILs can be shared with other investors as well as with affected communities as a basis for developing future strategies and addressing the trade-offs surrounding the development of CILs. A platform accessible to investors would foster such an exchange and support innovative solutions within the sector.
6. **Insist on the transfer of skills.** It is possible for CILs to contribute to rural development if they are also vehicles to build the capacity and skills of local communities. Currently, CILs do not contribute significantly towards local skills development. Their participation in this process

could be enhanced through inclusion and enforcement of regulations on skills transfer and vocational training, career planning, and technology transfer within investment agreements.

7. **Encourage participation.** It is critical that quality targets are clearly defined and identified through the participation of all relevant and impacted stakeholders. This process can identify co-benefits, for example avenues for securing investors' profits while also building skills and boosting the local economy, as well as solutions to trade-offs, such as avoiding the development of a wage economy that endangers food security. Consultation and consent-seeking among local communities is enhancing investment performance and should therefore be encouraged as part of the investment approval process.

Knowledge for Development (K4D)

The K4D project is a collaborative initiative of the governments of the Lao PDR and Switzerland, implemented with the technical support of the Centre for Development and Environment (CDE) of the University of Bern, Switzerland and with financial support from the Swiss Agency for Development Cooperation (SDC). K4D promotes data and information availability and sharing among sectors and administrative levels to foster evidence-based planning and decision-making for sustainable development (www.decide.la).

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