

Chapter 11

Land and Natural Resource Management Reforms

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“Should we not manage land issues in a good manner, we might have to face a farmers’ revolution against the Royal Government....We have to try and find a solution in which our farmers could make real use of land for the sake of increasing production and their livelihood...”. Selected comments of **Samdech Prime Minister Hun Sen**, at the National Forum on Land Management, October 18, 2004.

“As most Cambodians are dependent on agriculture for their livelihoods, access to land and water resources are crucial. But most also have diversified livelihood strategies which involve exploitation of common property resources such as fish and forest products, as well as agricultural production. Sadly, there are significant challenges to ensuring ongoing access to these resources - the pressure on reducing natural resources increases almost daily. The need for swift and decisive action has been highlighted in previous Consultative Group meetings and must be emphasised again today”. Remarks by **Murray Proctor, Assistant Director General, East Asia Branch, AusAID**, at the Consultative Group Meeting in Phnom Penh, December 6, 2004.

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Land and natural resources have also long been on the reform agenda of the government. Many efforts have been taken so far to secure proper land allocation, and to preserve the precious fisheries and forest stock of the country. This chapter will keep track of the current development of reforms related to these areas and present some critical problems for further consideration.

11.1. Land Management Reforms

Initial land reforms began in the late 1980s while Cambodia was in the early stage of reforms towards a market economy. Private ownership of land was encouraged. Ad hoc land law was promulgated by the former state of Cambodia. This decree law had gradually proven inadequate as the economic transactions of land and the nature of ownership became more complicated. As a result, there have been increasing instances of land disputes, land concentration, inappropriate economic land concessions, and mismanagement of state land.

In response, the government has taken some actions to address these problems (Box 11.1 for recent developments). Preparation of new legislation has been under way to fill the gaps of management, and the Council for Land Policy was established to facilitate land reforms. A new Land Law along with the Statement on Land Policy was adopted in 2001, following the interim Paper on Strategy of Land Policy in 2002. In order to implement the law and policies pertaining to solving the concerned land issues, sub-decrees on the procedures for Establishing the Cadastral Index Map and Land Register, on Sporadic Land Registration, and on the Organisation and Functioning of the Cadastral Commission were all approved in 2002. A sub-decree on Social Land Concessions was also adopted in 2003 as a legal framework for land reallocation and distribution to the land poor.

Box 11.1: Recent Development in Land Reforms

Progress	Remained Issues
▪ Adoption of new Land Law, Sub-decree on Social Land Concession, and Land Policy. ▪ Establishment of Council of Land Policy to facilitate land reforms; Cadastral Committees to handle land disputes. ▪ Implementing cadastral mapping, land registration and titling, and land use planning.	▪ Sub-decree on Economic Land Concession has not been adopted and the awards of land concession exceeding the limit of the Land Law are still continued. ▪ Land disputes and concentration are still at large and illegal land grabbing by the powerful are rampant. ▪ Landless and land poor issues have not been duly addressed.

Source: Selected from matrix A2.16 in Appendix 2.

The cadastral commissions were established at the provincial/municipality level to function as a land dispute resolution mechanism throughout the country. Social land concession committees from national to district level have also been organised to implement the pilot project of social land concessions and to study its impact on poverty. The Council for Land Policy, in collaboration with development partners, is now developing Land Allocation for Social and Economic Development (LASED).⁶²

The government has also conducted a training program for its involved staff and managed to set up the Faculty of Land Management and

⁶² Welcome Remarks at the National Land Forum in Cambodia by HE Im Chhun Lim, Senior Minister and Minister of Ministry of Land Management, Urban Planning and Construction and Chairman of Council for Land Policy, Phnom Penh, October 18, 2004.

Land Administration at the Royal University of Agriculture. To speed up land registration and titling, the Ministry of Land Management, Urban Planning, and Construction (MLMUPC) has delegated power to its eight provincial departments to sign on cadastral documents, with the other three being given this power by the end of 2005.⁶³ So far, 293,500 land titles have been issued, of which 280,000 were from systematic land registration in 11 provinces and municipalities, and 13,500 land parcels and condominiums were from sporadic land registration in the whole country. In systematic land registration, about 20,000 statistical data items concerning land parcels are collected monthly by the Ministry.⁶⁴ Master plans for land use and the management of various parts of the country are under preparation.

Noticeably, economic land concessions have been implemented even though the sub-decree on economic land concessions has not yet been finalized. Some agricultural concessions were granted for areas over 10,000 hectares, which is beyond the size limit of the Land Law. And no concrete action has been taken so far to curb land grabbing and land concentration. The state land inventory is unclear and recent reported swaps of state land with private companies have not been done in a transparent manner. Yet land speculations leading to idle and unproductive possessions have not been handled properly.

It would be difficult for the government to deal with land grabbing and concentration since those pieces of land have already been legalised through corruption and other document manipulations. Interestingly, concentration occurs where land has higher commercial value. Poor state land mapping and inventory will eventually pave the way for further land encroachments that could leave potential land for broad socioeconomic development in the wrong hands.

However, with strong determination from the Prime Minister⁶⁵ and following the recent CG7 meeting, there will be immediate actions taken to enforce the Land Law. It is hoped that these will prevent illegal transactions of state land and land grabbing; ensure compliance status of contracts governing social economic land concessions; improve land accession for the poor, and the safety of land titles, land distribution and state land utilization; and provide a conducive environment for investment

⁶³ Idem.

⁶⁴ Intervention of HE Chan Sarun, Minister of Agriculture, Forestry and Fisheries on Natural Resource Management at the Consultative Group Meeting, Phnom Penh, December 6, 2004.

⁶⁵ Samdech Prime Minister Hun Sen's speech, at the National Forum on Land Management with selected comments, October 18, 2004.

in agricultural development. The Prime Minister has also called for “carefully and strictly imposed taxes on unproductive lands to encourage large-scale unused land possessors to divert ownership to people who are willing to produce.” If these all happen, the Prime Minister’s vision to “transform the land into an engine of economic growth and poverty reduction” will become a reality. However, the recent reversion of the Prime Minister’s promise that no new economic land concessions will be granted pending completion of applicable review processes and/or a legal framework has led to serious concerns on the process of land reforms.

11.2. Forestry Management Reforms

Forestry has no longer assumed an important role in the economic development of Cambodia due to over-exploitation and mismanagement in the past, but its sustainability has become more important. Some studies suggest that the commercial values of exploited forestry are estimated at billions of US dollars, but its contribution to socioeconomic development has been minimal. Since the negative impacts of the deforestation have reached an alarming level, the government has made efforts to ensure the sustainable management of the remaining forests (See Box 11.2 for recent developments). It is worth noting that the awarding of forest concessions was done without even an appropriate legal framework. A sub-decree on Forest Concession Management was adopted on February 7, 2000, while the Law on Forestry was adopted on August 31, 2002.

In the first stage of reforms, the government introduced a higher royalty fee for forest exploitation to raise national revenues, but it failed to increase significantly. Seeing a danger of deforestation, the government has ceased to grant new forest concessions since January 2002. The existing concessionaires were requested to submit Strategic Forest Management Plans (SFMP) along with Environment and Social Impact Assessments (ESIA) in September 2002. Consultations with affected communities have been conducted to ensure adequate assessments.

In late 2003, the Department of Forestry was restructured and renamed as the Forest Authority (FA) with a nationwide management structure to undertake forestry sector reforms and to enforce new forest law and regulations. The forest crime monitoring and reporting project also was established and implemented by the FA in conjunction with an independent monitoring agency. To guarantee the accessibility of the poor to forest resources, the long-awaited Sub-Decree on Forest Community Management was adopted on December 15, 2003.

According to the government report, forest concession licences of 17 companies, covering forest land area of around 3.5 million hectares in 24 locations, have been cancelled since 1999, and five other licences of forest concessionaires were cancelled during the reviewing process of the SFMPs. Currently there are only 12 concessionaires, covering a total of less than 3.4 million hectares of forest land, in operation and they are required to ensure the sustainability of the forest management according to international standards. The moratorium on logging by all concessionaires is still in effect, unless the SFPM and ESIA of the concessionaires have been officially approved by the government. The government has continued to take vigorous measures to combat illegal logging operations. In 2004, the government issued Order No. 01BB to prevent, suppress, and eliminate forest land clearing and encroachment. National committees and sub-national committees at the provincial level were established to implement this order.

Box 11.2: Recent Developments in Forestry Reforms

Progress	Remained Issues
▪ Adoptions and enforcements of Law on Forestry and Sub-decree on the Forest Concession Management, and Forest Community Management. ▪ Continued moratorium on logging and requesting Strategic Forest Management Plan and Environment and Social Impact Assessment from existing concessionaires. ▪ Strengthening the newly-established Forestry Administration in forest policy management and controlling forest crimes in cooperation with independence forest crime monitoring agency. ▪ Establishment of community forest management and forest protected areas.	▪ Illegal loggings are still happening in many forest areas of the country. ▪ Forest rehabilitation and preservation continue to be very critical in maintaining balance of ecological system. ▪ Strengthening community forest management is fundamental to livelihood of the poor. ▪ Appropriate forest policy is needed to balance the forest economic benefits and its sustainable management.

Source: Selected from matrix A2.17 in Appendix 2.

Although the results of these reforms seem to be fruitful, illegal logging still prevails (Box 11.2). There are some difficulties in forest management. Among these are lack of financial and human resources, lack

of coordination among government ministries, and corruption.⁶⁶ But at the CG7 meeting, the government promised to maintain the suspension/moratorium on logging and transport of logs, except those which have already been inventoried and for which royalties have been paid in full. Increased transparency of state management of natural resources through immediate public disclosure of existing contracts and compliance status are also emphasized. SFMPs and ESIAs will be further strictly pursued with consultation with local communities. A National Forest Management Plan and National Community Forest Program will be established and implemented in 2005, including the demarcation of forests and protected areas. Forest crime monitoring will be continued and other complementary measures such as research and capacity-building of FA will also be taken. The expectations for the sustainable management of forests to balance both the negative environmental impacts and socioeconomic benefits will be higher and the government must stick to its commitments.

11.3. Fisheries Management Reforms

The management of fisheries has problems similar to those facing other resources. This sector has suffered from over-exploitation and other destructive practices. Faced with a reduction in fisheries yield, the government has taken measures to reform this sector, such as building an up-to-date legal framework, the demarcation of fishing areas, reallocation of fishing lots, preservation, and preventive actions to tackle illegal fishing. Community fishing has also been promoted in recent years (See Box 11.3 for recent developments).

The draft Law on Fisheries was finalised after a number of consultations with relevant stakeholders and is now awaiting adoption by the National Assembly. The draft Royal Decree on the establishment of Community Fisheries and Sub-decree on Management of Community Fisheries has been improved and submitted to the Council of Ministries for approval.

According to the government report, so far 538,522 hectares, equalling 56.46 percent of the total fishing area, has been released for family fishing grounds. Even though legislation governing community fishing has not yet been adopted, 375 fishery communities⁶⁷ were

⁶⁶ According to an Annual Report by the Forest Administration on Forest Management in 2004 and Plan for 2005, January 11 – 12, 2005, and an interview with the Director of Forest Administration.

⁶⁷ Interview with Director of the Department of Fisheries.

established nationwide by the end of 2004, with support from donors and participation from local NGOs.

The government has also taken action to control illegal fishing. Annually, thousands of items of illegal fishing gear have been seized and destroyed. To enhance fisheries research and conservation, the Inland Fisheries Development and Research Institute was established in February 2003. The government has also encouraged farmers to participate in aquaculture and in natural resource protection to increase the stock of natural fisheries.

However, critical issues still remain, such as the illegal use of certain fishing equipment and the violation of community fishing areas by large-scale, armed violators. The demarcations of some community fishing areas are unclear, resulting in some communities having limited access to their own fishing areas.⁶⁸

Box 11.3: Recent Developments in Fisheries Reforms

Progress	Remained Issues
▪ Efforts have been made in laws and sub-decrees governing fishery management. ▪ Restructuring and capacity building of Department of Fisheries. ▪ Fishing lot reforms and establishment of community fisheries. ▪ Long-term strategy and action plans have been prepared. ▪ Promoting aquaculture and continued efforts in combating illegal fishing.	▪ New Laws on Fisheries and Sub-decrees on Community Fisheries are urgently needed. ▪ Demarcations of fishing areas are not clear causing many disputes and violations. ▪ Transparency in awarding large-scale commercial fishing. ▪ Marine fishing is inadequately managed leading to loss in national revenue. ▪ Further support is needed for community fisheries to ensure their effective management. ▪ Fishing violations during banned seasons and uses of destructive fishing gear should be punished.

Source: Selected from matrix A2.18 in Appendix 2.

For the coming years, the government has promised to finalise the Law on Fisheries and Sub-Decrees on Community Fishing. Moreover, a long-term action plan, the “Fisheries Development Action Plan 2005 – 2008” has been prepared, focusing on a priority action plan to accelerate

⁶⁸ Interviews with fishing communities in Kampong Chhang and Pursat provinces.

concrete reforms aimed at the sustainable development of this sector and improving the livelihoods of the rural poor. Nevertheless, large-scale fishing lots must be awarded through open bidding and with regard to the merits of compliance with laws and regulations. For the poor, access to wider fishing areas is critical to increase their income. The government must take tougher action to prevent powerful fishermen from intruding into community fishing areas. Both financial and technical assistance are needed at the initial stage to strengthen the management of the fishing community for the sake of sustainability.⁶⁹

⁶⁹ Interviews with some stakeholders.