

Chapter 9

Land and Natural Resource Management Reforms

Land and natural resources are the main components of income sources for the Cambodian people, given their high dependency (especially the poor) on agriculture, forests and fisheries. Effective management of these resources would contribute to sustainable growth and poverty reduction. Unfortunately, management at this point is poor and is causing problems now attracting the attention of stakeholders. Management and ownership of land is a key reform item, and the sudden recent plummeting of production in the forestry and fisheries sectors has caused serious concern about their sustainability. More results-oriented reforms are necessary.

9.1. Land Management Reforms

According to the World Bank's Land Policy for Growth and Poverty Reduction (2003), land plays a key role in economic growth and poverty reduction. Ownership of land can improve the welfare of the poor by enhancing their asset base and creating incentive for investment. Efforts by the government to facilitate exchange and distribution of land at low cost is central to enabling currently productive but land-poor producers to add to their holdings, and to have enough land to use as collateral in accessing capital for further improvements. Among a government's responsibilities to its citizens is to promote and contribute to socially desirable land allocation and utilization through taxation, regulations, and land use planning.

In recognition of this important role, the Government of Cambodia has taken some measures to tackle land disputes, to ensure the security of land tenure through land titling, and to address social issues arising from landlessness.

Some progress has been made. A new Land Law and other sub-decrees have been adopted in recent years (see matrix on reforms in appendix 2) to provide legal framework for the management and use of state land and real estate. The Council for Land Policy was established to be responsible for the development and implementation of the land reform program. Cadastral committees were formed from the national to local levels to function as land dispute mechanisms and a venue for the issuance of land titles. Likewise, social land concession committees also were set up to manage the government land concession programs. With

international assistance, the capacity of implementing agencies such as the Ministry of Land Management, Urbanization and Construction has been gradually upgraded, particularly in cadastral mapping and computerized land registration, *see matrix 9.1 for recent developments*.

However, there are still many impediments to fair and effective land management. One example: somehow, potential land use plans for specific developments designed by the government always leak to land speculators and the authority itself, causing them to seek to acquire ownerships and then sell them at a higher price. This type of reprehensible practice makes it difficult to impossible for potential developers to afford investing in projects that would lead to high value-added farming, export processing zones (EPZ), industrial zones (IZ), and improved tourism and infrastructure sites. If potential developers cannot afford to invest, the government cannot generate revenue. The result discourages foreign direct investment and deprives the state of its capacity to be a development partner.

Matrix 9.1: Land Management Reforms

Reforms Agenda^(a)	Measures Taken^(b)
- Enacting necessary laws, regulations and implementing guideline	- Land Law, dated 30/08/2001. - Sub-Decree on Social Land Concession, dated 7/03/2003 - Sub-decrees on Economic Land Concession, under preparation.
- Promoting broad participation in the development of land management	- Participatory Land Use Planning is widely applied especially in social land concession.
- Enhancing the capacity of implementing agencies	- National training programs on procedures to resolve conflicts were conducted. - Council of Land Policy was established as focal point to facilitate the formulation of strategy, policy in land management. - Cadastral Committees were established as land dispute settlement bodies.

Source: ^(a) Selected from Governance Action Plan (GAP) 2001.

^(b) EIC compiled from WB, IMF and Government Sources.

Furthermore, lack of government mechanisms to rationalize land ownership, such as a ceiling on total land area permitted to individuals, and a progressive tax on idle land ownership, have encouraged uncontrollable land grabbing, concentration, and speculative land-holding. If immediate actions are not taken to address these issues, the potential contribution to the economy through judicious use of land for agricultural and industrial development will be diminished, and poverty reduction through social land concession programs will be impossible. Landlessness will become more severe, and land concentration will be higher.

Lessons from neighboring countries show that comprehensive land reforms such as land demarcation, land redistribution, land ownership ceilings, and specific terms of tenancy are crucial in ensuring fairer income distribution and maintaining social cohesion⁵⁹.

9.2. Forestry Management Reforms

“There is no way that the state can prevent people from felling the trees. The forest is everything, it is my cooking pot, my hut, my clothes and my family’s daily rice...Don’t stop my oxcart; stop the rich men’s truckloads... But perhaps forest chiefs dare not to speak, because their mouth is already fully stuffed with dollars.” A local logger in Kraya Village expressed his frustration about recent restrictions to logging.⁶⁰

Forestry had long been a main factor in the economic development of Cambodia in term of exports and public revenues. But over-exploitation and mismanagement in recent years have degraded this once-abundant resource to an alarming danger level. The government has made efforts to ensure the sustainable management of forests, but abuses of forest resources continue.

In late 2003, the Department of Forestry was renamed the Forest Authority with a horizontal management structure nationwide to undertake policy reforms of the forestry sector and to enforce new forest law and regulations aimed to halt illegal logging. The forest crime monitoring and reporting project also was established and implemented by FA in conjunction with one independent monitoring agency, formerly Global Witness, and currently replaced by SGS (Société Générale de Surveillance), *see matrix 9.2 for recent developments*.

⁵⁹ Ha-Joon Chang (1998), “The Role of Institutions in Asian Development,” in *Asian Development Review 1998 Vol.16, No.2, p.88*.

⁶⁰ Interview conducted by EIC associate.

Matrix 9.2: Forestry Management Reforms

Reforms Agenda ^(a)	Measures Taken ^(b)
- Bringing logging activities under control at a sustainable level	- Prime Minister Order No.01, June 09, 2004 on Prevention, Repression, and Elimination of Forest Clearing, Firing, Bulldozing, and Grabbing (unofficial translation). - Prakas No.540 KSK, December 13,2002 on Suspension of Forest Concession Logging Activities. -Implemented project on Forest Crime Monitoring and Reporting, with SGS independent monitoring.
- Developing a comprehensive legal framework for forestry development	- Law on Forestry dated 31/08/2002. - Sub-Decree on Forest Community Management, dated 15/12/2003. - Sub-Decree on the Forest Concession Management, dated 7/02/2000.
- Enhancing human resources capacity and material means for forestry management	- Capacity Building Project funded by Japan (JICA) from 2001-2004 (3 years project) - Establishment of Forestry Administration by Sub-decree N.64 September 11, 2003, with horizontal management structure nationwide. - National Committee for the Development and Implementation of the Forestry Policy.

Source: ^(a) Selected from Governance Action Plan (GAP) 2001.

^(b) EIC compiled from WB, IMF and Government Sources.

Once-granted large forest concessions were scaled down and some were cancelled. Ongoing forest concession investments are now required to submit a Forest Concession Management Plan and an Environment and Social Impact Assessment. Moreover, some natural forest areas were designated as protected areas to conserve genetic resources and wildlife. Reforestation is encouraged through “Silviculture Day” and other ceremonies. Forest communities also were established to engage the community in forest preservation.

New Sub-Decrees on Community Forestry and Forest Concession Management have provided an institutional and legal framework for better forest management, and there has been a reduction in illegal logging. Ironically, it was the existing policies and procedures which were a factor behind high forest mismanagement in Cambodia. Uncertain responsibilities as to monitoring, contesting authorities (i.e. Council of Ministers, Forest Authority, Ministry of Environment, etc.), unenforceable contractual obligations and weak enforcement by the government in particular exacerbated the situation. Reasons often alluded to in explanation of the mismanagement have been the complex, extensive, slow and obtrusive bureaucratic procedures characterized by payment of

‘facilitation fees’ at every step from forest to mill yard to export ports, and border checkpoints. These procedures induced concessionaires to go through a ‘shadow system’ to evade taxes and laws. These practices, indeed, fueled the acceleration of deforestation, and stood in opposition of the state’s purported goals.

Apparently, the small and anarchic independent loggers were reduced; however, the ‘local sub-contractors’ and military operators were still doing business secretly with remaining concessionaires. The cancelled concessions have been classified as forest reserve under the management of the Forest Authority. However, the large number of concession cancellations came only after the forests in those concessions had become so depleted and degraded that they no longer contained enough productive timber to maintain those concessionaires’ interest⁶¹.

Even with a strong determination by the government to ban logging abuses, there are reportedly instances of illegal logging and some irregularities in forest concession managements, given the complexity of problems still to be addressed in governance issues. Reform in Cambodia is difficult in an atmosphere where the state is “captured” and manipulated by a group of elite to shape institutions and to control information and media reports in an effort to protect their own benefits at the expense of the social interest. Good forest management tends, as a result, to be less efficient.

Therefore, it is recommended that large scale commercialization of forestry be postponed or continued only in full compliance with technical standards. Activities also must be transparent. Information on forestry management must be open to the public and widely shared among forest stakeholders to promptly respond to irregularities and abuses. The capacity of the Forest Authority should be strengthened and streamlined, financially and technically. Internal and external oversight institutions should be improved. Heavier penalties should be imposed on the main abusers.

A forest inventory must be duly collected and updated for the purposes of planning and development. Participatory management approaches should be encouraged and improved, and more decentralized forest management should be experimented with to seek a suitable management model. A more aggressive awareness campaign on the sustainable use of forest resource should be rigorously undertaken.

⁶¹ Through a recent field visit by EIC associate.

9.3. Fisheries Management Reforms

The sustainability of fisheries resources has come to a turning point given the sudden decrease in fisheries production that has driven their prices to a record high. Blame for this resource decline can be assigned to such factors as a gradual degradation of the environment resultant from deforestation, growth in population, resettlement of population, siltation, and irregular water regimes. The limited efficiency of existing institutions to manage the fisheries resource, and the lack of an appropriate legal framework and harmonized enforcement mechanism also contribute to the mounting problems.

In an attempt to address these shortcomings, the Government has been working closely with donor community to develop an action plan for better management. A new Draft Law on Fisheries is now pending at the National Assembly. A Draft Royal Decree on Establishing Fishing Communities, and draft Sub-Decree on Management of Fishing Communities are to be submitted to the Council of Ministers for approval. These legal documents will provide a foundation for resolving the problems of access rights of different types of fishing activities, demarcation of fishing domains, and permitted fishing gears, *see matrix 9.3 for recent developments*.

Matrix 9.3 Fisheries Management Reforms

Reforms Agenda ^(a)	Measures Taken ^(b)
- Develop comprehensive legal framework	- Draft Law on Fisheries, pending at National Assembly - Draft Royal Decree on Establishing Fishing Communities, submitted to CoM. - Draft Sub-Decree on Management of Fishing Communities, submitted to CoM.
- Capacity building	- 32 staffs received in-country and 185 got oversea training for higher degree including PhDs.
- Curbing excessive exploitation of the resource	- Continuous prevention and repression of illegal fishing gear. - Establishment of Inland Fisheries Research and Development Institute of Cambodia to develop scientific fisheries research.

Source: ^(a) Selected from Governance Action Plan (GAP) 2001.

^(b) EIC compiled from WB, IMF and Government Sources.

The management organization of the Department of Fisheries has been restructured and its mandate revised to strengthen fisheries conservation and monitoring. Aquaculture has been promoted, fishing communities have been established, and fishing lots reforms are ongoing.

The Inland Fisheries Research and Development Institute of Cambodia has been established to develop scientific fisheries research.

However, the reform progress seems to be slow and falls short of satisfaction. As in other state institutions, poor performance incentives of the public servants make law enforcement impossible. Good and bad performances of public institutions are not distinguishable from one another, since there is no reward for better performance and no penalty for mismanagement.

Moreover, a lack of education and dearth of alternatives for the poor to support themselves force them to repeatedly ignore conservation edicts, such as the prohibition against destruction of fish habitats by encroaching inundated forests for cultivation. The use of illegal fishing gear also occurs every year, and violations involving fishing during the banned season are still prevalent. These violations occur with impunity or with only light penalties.

Since the characteristics of fisheries management share similar roots with the forestry sector, the measures taken for improvement are closely related. However, the rehabilitation of fisheries sector can be achieved faster if concrete measures are taken seriously. Those include the total abolishment of illegal fishing gear and the improvement of reproduction techniques and aquaculture. Furthermore, the government should find a solution to siltation and the control of water level. Fisheries habitats should be restored and better preserved. The institutional capacity of the state should be continuously upgraded. The management of fishing communities should be supported and closely evaluated to ensure efficiency and sustainability.