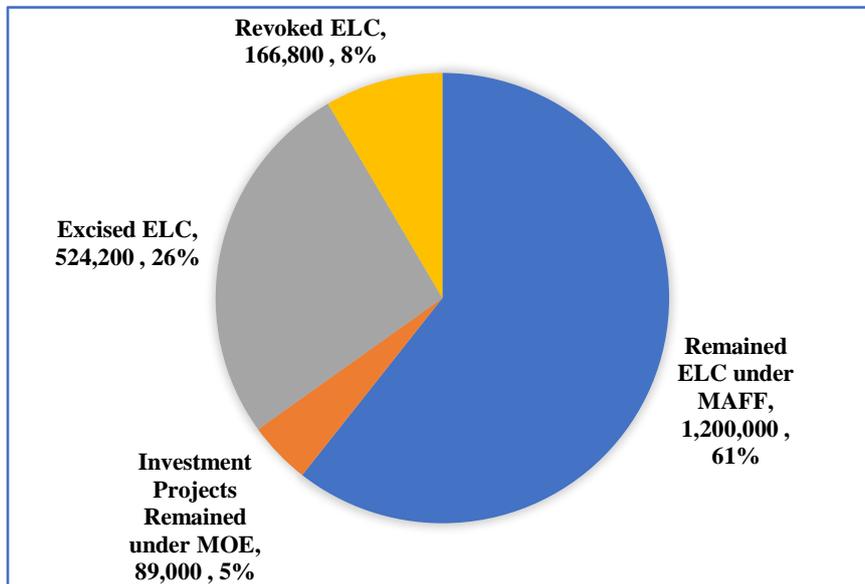


A Search for Available Lands from the Revoked and Excised Economic Land Concessions for Land Allocation for Small and Medium Farms (LASAMF) Programme

Overview of ELC Breakdown after Order-01 Implementation [ha]



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CENTRE FOR POLICY STUDIES



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Disclaimer

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List of Acronyms

CPS	Centre for Policy Studies
ELC	Economic Land Concession
EU	European Union
MAFF	Ministry of Agriculture, Forestry, and Fisheries
MOC	Ministry of Commerce
MOE	Ministry of Environment
PDAFF	Provincial Department of Agriculture, Forestry, and Fisheries
PDLMUPCC	Provincial Department of Land Management, Urban Planning, Construction, and Cadastre
PNCA	Prekleap National College of Agriculture
RUPP	Royal University of Phnom Penh
SLC	social land concession

METHODOLOGY NOTE

This Synthesis Note aims to provide an overall assessment if there are lands available from the ELC revocation and excision undertaken by the government of Cambodia during 2014-2015. The Synthesis Note is drawing findings and data available from three unpublished sources that studied the ELC revocation: 1) A Rapid Assessment of Lands Available from ELC Revocation in Four Provinces by CPS (2017) in cooperation with MAFF; the study was conducted in four provinces: Mondulakiri, Ratanakiri, Stung Treng, and Oddor Meanchey; 2) The Assessment of Economic Land Concessions Cancellation: Case Study from Cambodia's Northern Provinces by Ung, S. (2017), with support from the NGO Forum on Cambodia; the study was conducted in four provinces: Ratanakiri, Stung Treng, Kratie, and Oddor Meanchey; and 3) Options for Effective Management of Revoked Economic Land Concessions in Cambodia by Ngin, C. et al (2017) from RUPP and PNCA; the study was conducted in two provinces: Ratanakiri and Kratie. In addition, the Synthesis Note incorporates available data on ELC excision from other secondary data sources to generate an overall understanding of the land reform. Finally, the Note benefits from the review by the Department of Planning and Statistics of the Ministry of Agriculture, Forestry, and Fisheries.

BACKGROUND

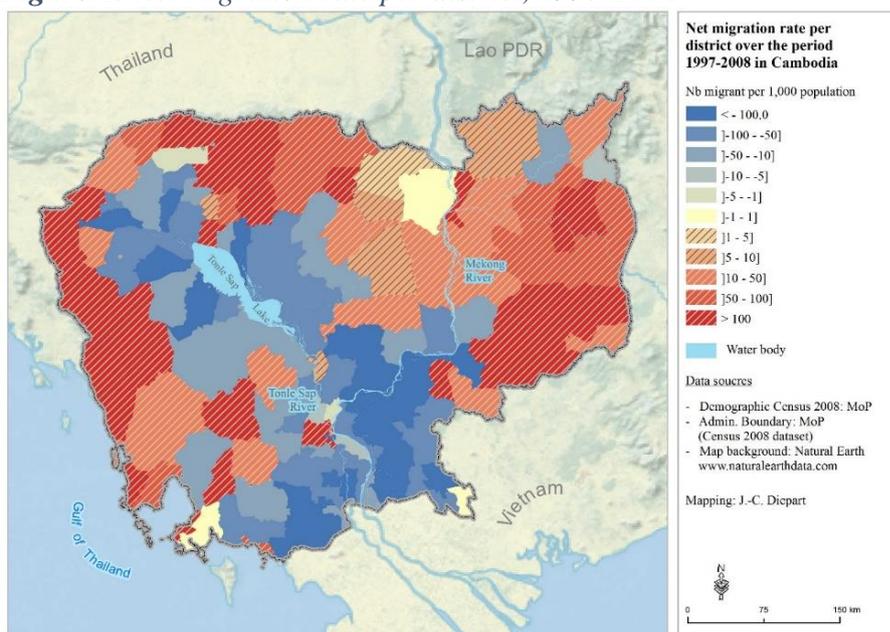
Economic Land Concession:

With the aim of making more productive use of the land and to improve rural employment and livelihoods, the Royal Government of Cambodia has granted large scale land concessions in the form of economic land concessions (ELC) to private companies for agro-industrial development purpose. By 2012, the prevalence of ELC had reached its climax of approximately 2 million ha. The Ministry of Agriculture, Forestry, and Fisheries (MAFF) was responsible 1.22 million ha¹; the other (nearly 800,000 ha) was issued by the Ministry of Environment (MOE). While local communities' land claims which overlapped these ELC were to be cut off under the 'leopard skin' policy², the complexity of land conflicts between ELC and smallholders was further complicated by new settlements of migrants from other parts of Cambodia.

Rural-Rural Migration:

The phenomenon of rural to rural migration in Cambodia was highlighted in the analysis by Jean-Christophe Diepart (2015) based on the 2008 Cambodia population census data. The analysis tried to capture the dynamic of net migration at the district level between 1997 and 2008. As shown in the Figure 1, the trend of migration is very clear. Positive net migration is shown in red, with people moving from lowland plains around Tonle Sap Lake and Mekong delta into forested lands in upper regions around the borders.

Figure 1: Net migration rate per district, 1997-2008



Source: Diepart, J. (2016)

¹ It includes small-scale ELC (<1,000 ha) issued by provincial authorities.

² A policy measure that the government, through the Sub-decree 146 (RGC, 2005), recognizes the existing rights of the local farmers inside the granted ELC and therefore instructs the ELC company to acknowledge their rights and allow them to co-exist within the ELC area. This co-existence of smallholders inside the ELC forms as dots on the leopard skin and thus is dubbed as 'leopard skin' policy.

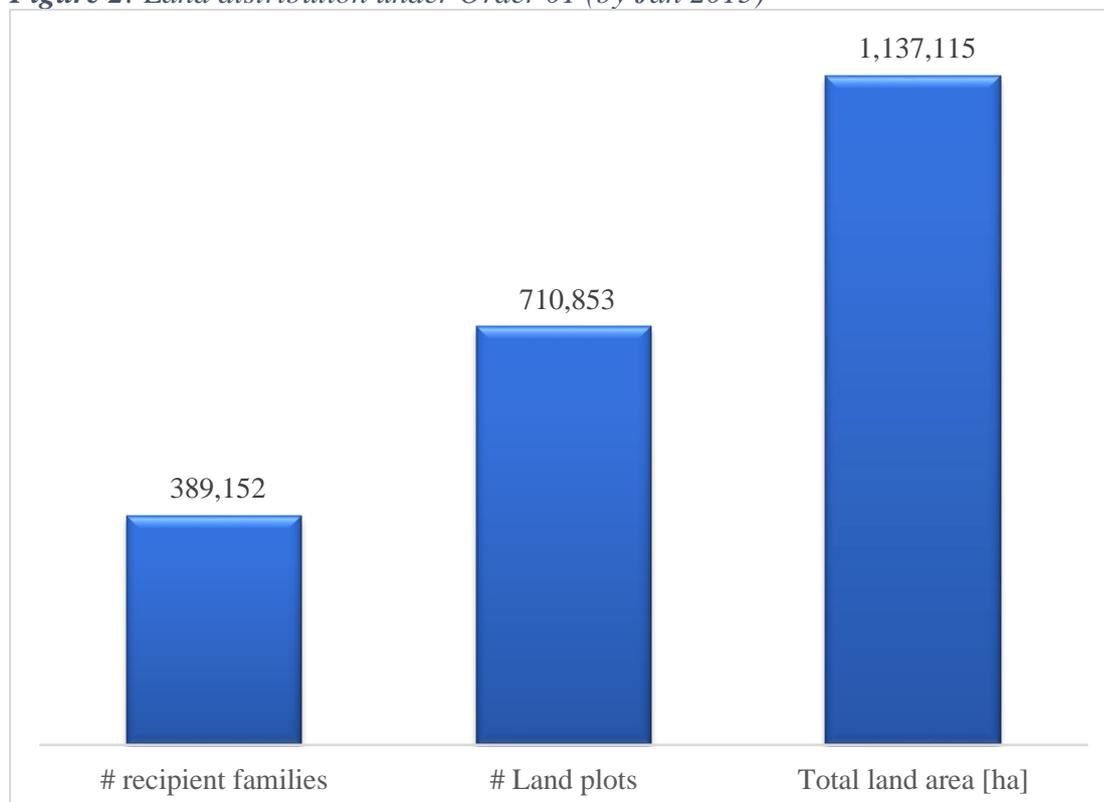
ELC Moratorium:

As a measure to tackle land conflicts between ELCs and smallholders, as well as conflicts on other state lands, in May 2012 the government issued a moratorium commonly known as Order 01, to halt the granting of new ELC. Order 01 also set out a campaign to register land titles for smallholders, and a full review and evaluation of all existing ELC.

Land Distribution:

Through the youth volunteer campaign, the government sent out more than 1,000 students to address land conflicts in 20 provinces in 2012-2013. As result, this campaign measured 1.23 million ha on 721,000 plots for smallholders. Of these outcomes, 710,853 land plots of 1.14 million ha and 389,152 families were released on public display as of January 2015. These land plots were concentrated in Battambang, Kampong Chhnang, Kampong Cham, Kampong Speu, and Pursat. These five provinces are responsible for more than half of the total land plots. As of then (Jan 2015), 87% of the displayed land plots were titled and distributed to the recipient families. On average, a family received 3 ha. Families in the upland region (Ratanakiri, Koh Kong, Oddor Meanchey, and Mondulkiri) benefited from a larger piece of land, 4 ha on average, compared to 1.5 ha for families in a more densely populated lowland regions such as Takeo, Svay Rieng, and Kampong Speu.

Figure 2: Land distribution under Order 01 (by Jan 2015)



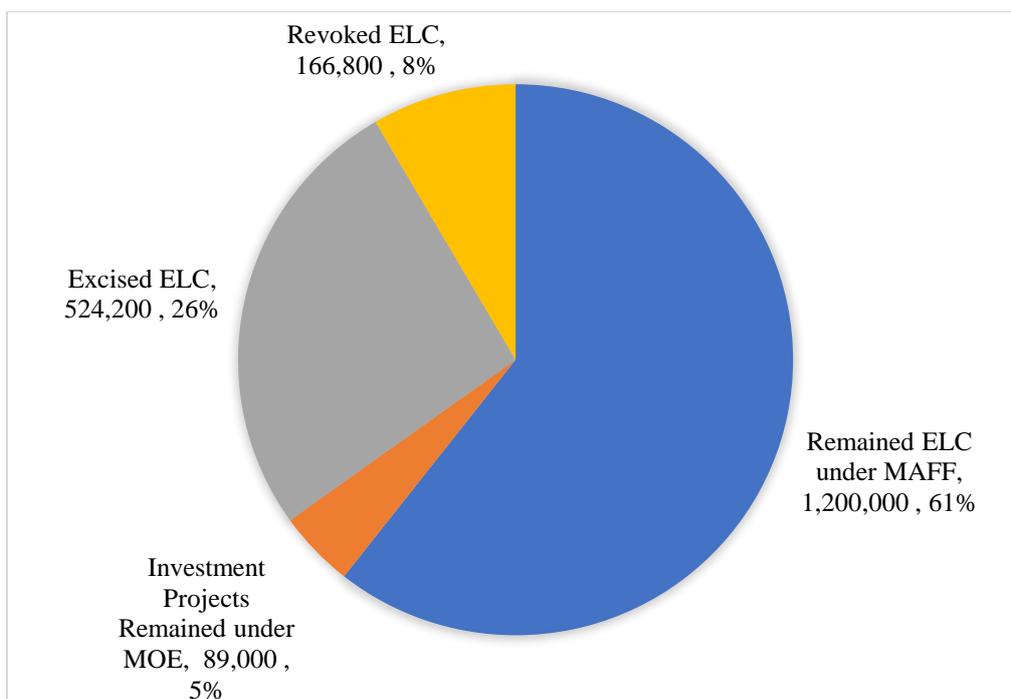
Source: Authors, based on MLMUPC (2018)

ELC Evaluation:

A nationwide review and evaluation of ELC was conducted during 2014-2015. As a result, 37 ELC were completely revoked while all others were excised and/or adjusted for a contract revision to 50 years period. The total revoked ELC area was 166,800 ha. After the evaluation, MOE had transferred 73 ELC to MAFF and has kept 15 projects of eco-tourism on 89,000 ha under its jurisdiction. In effect, MAFF manages a total of 229 ELC³ on 1.2 million ha (MAFF, 2018). This suggests that the overall excision of ELC during the review and evaluation was responsible for 514,200 ha.

In summary, Figure 3 shows the distribution of total ELC area of 1.97 million ha in the aftermath of the Order 01 implementation: the ELC revocation and excision were respectively responsible for 8% and 26%; the other 61% and 5% are ongoing projects under MAFF in the form of agro-industry purpose and MOE in the form of eco-tourism function.

Figure 3: Distribution of ELC, aftermath of Order 01 implementation [ha]



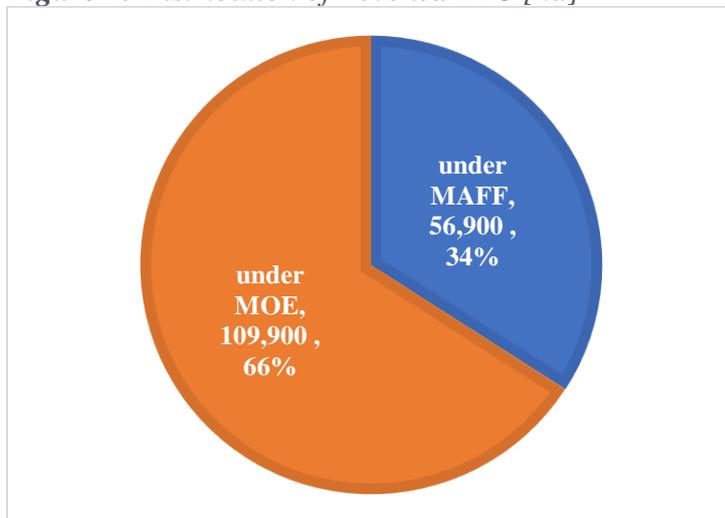
Source: Authors, based Ung, S. (2017, unpublished)

³ 73 ELC were transferred from MOE's jurisdiction.

ELC Revocation:

37 ELC were discontinued and responsible for a total area of 166,825 ha. 26 ELC of 109,907 ha were formerly granted by MOE inside the protected area. The other 11 ELC of 56,918 ha were formerly granted by MAFF. (See Figure 4).

Figure 4: Distribution of Revoked ELC [ha]



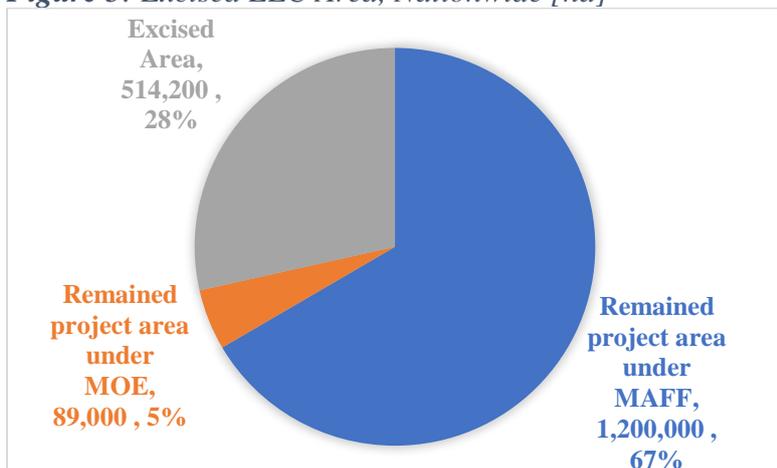
Source: Authors, based on Ung, S. (2017, unpublished)

ELC Excision:

Given the absence of a complete list and detailed information about ELC excision, this section tries to estimate the areas that were actually cut off from the ELC during the nationwide review and evaluation by the inter-ministerial committee.

The revocation of 37 ELC on 166,800 ha has brought the total ELC area down from 1.97 million ha to 1.8 million ha, which includes both 89,000 ha of 15 eco-tourism projects under MOE and 1.2 million ha of 229 ELC under MAFF. As such, it indicates that 514,200 ha (or 28%) were excised from 1.8 million ha. (See Figure 5).

Figure 5: Excised ELC Area, Nationwide [ha]

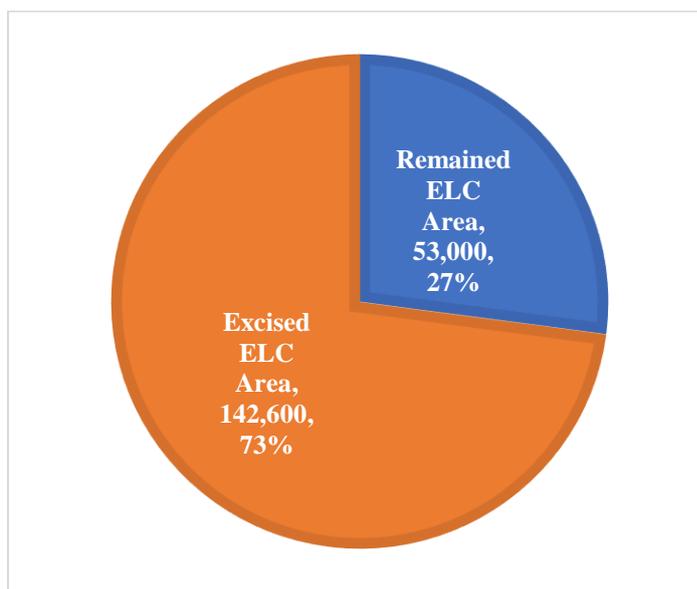


Source: Authors, based on Ung, S. (2017, unpublished)

Figure 6 is presenting the pattern of ELC excision from 16 ELC in four provinces: Ratanakiri, Stung Treng, Kratie, and Oddor Meanchey.

These four provinces are among major provinces in the north and northeastern part of Cambodia with sparse population and that host many ELC projects. The result rather contrasts to the nationwide estimate in Figure 5 (28% were cut off). It reveals that 73% of these 16 ELC areas⁴ were cut off. The other 27% remain as valid ELC areas. This suggests that the extent of ELC excision must be far less in other provinces.

Figure 6: Excised Area from 16 ELC [ha]



Source: Authors, based on Ung, S. (2017, unpublished)

SEARCH FOR AVAILABLE LANDS

Following the revocation and excision of ELC through the implementation of the government's Order 01, the Centre for Policy Studies (CPS), NGO Forum on Cambodia, and The Royal University of Phnom Penh (RUPP) in partnership with Prekleap National College of Agriculture (PNCA) made their separate efforts to commission and conduct studies to assess whether revoked and excised lands are available for reallocation for smallholders.

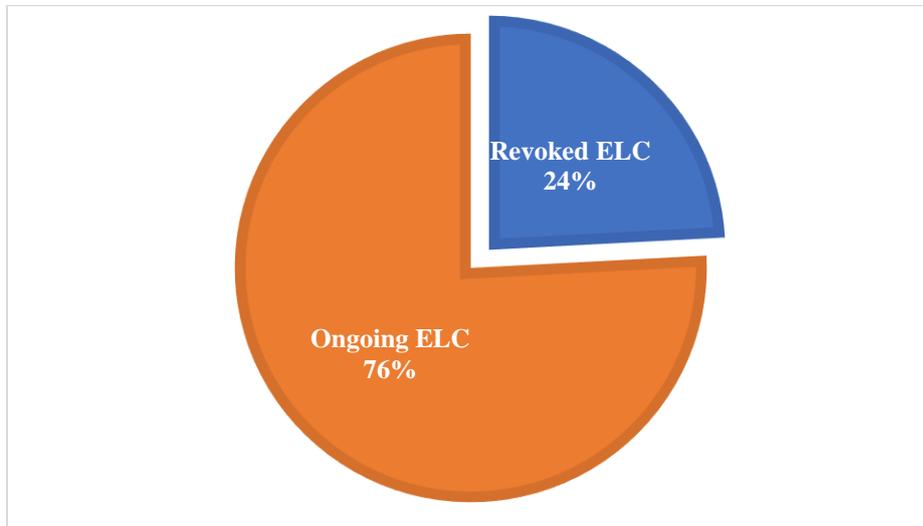
CPS (2017) interviewed provincial authorities, local authorities, and farmers in 4 provinces: Mondulakiri, Ratanakiri, Stung Treng, and Oddor Meanchey. The NGO Forum on Cambodia (2017) visited 4 revoked ELC in 4 provinces: Ratanakiri, Stung Treng, Kratie, and Oddor Meanchey. RUPP and PNCA (2017) studied two revoked ELC in Ratanakiri and Kratie.

Below is a summary of land situation after the revocation and excision of ELC in five provinces: Mondulakiri, Ratanakiri, Stung Treng, Kratie, and Oddor Meanchey.

⁴ It includes a huge excised area from one large ELC in Stung Treng, the Green Sea Agriculture Co., Ltd. which reduces from 100,852 ha to 9,800 ha.

Mondulkiri Province: Following the national review and evaluation of ELC, the number of ELC in the province has dropped from 32 to 25, covering more than 140,000 ha, 36% (50,000 ha) of which have been developed into plantations. Of the 25 ELC, 18 were already registered as state private lands. Seven ELCs were revoked, covering a total of 44,600 ha.

Figure 7: Area of Revoked ELC in Mondulkiri Province



Source: Authors, based on Fieldwork in Mondulkiri (2017)

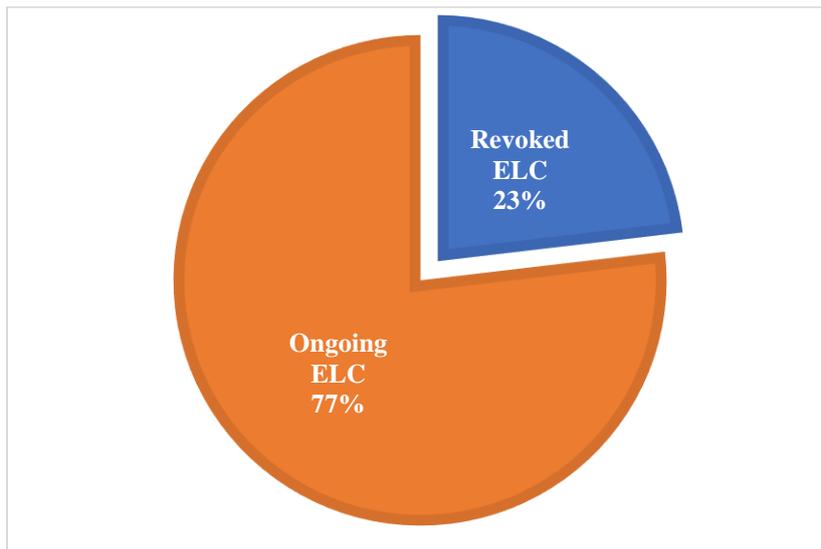
Kasekam Khmer Angkor Co., Ltd is located in Keo Seima Wildlife Sanctuary. It was revoked and is now under jurisdiction of MOE. The revoked lands are cleared and mostly occupied by villagers. The rest is designated for reforestation, and thus there is no available land.

Mondulkiri Resource Co., Ltd. is located in Koh Nhek district, about 60 km from national road. It was revoked because the company did not adhere to the processes and procedures set out in the ELC agreement. The land is reserved for social economic concessions even though some are already occupied by villagers.

Heng Hang Siv Chanthou Transport Co. Ltd. is located in Pou Chry, Pechreada district. It was revoked because the company had internal problems, leaving the land constantly occupied by villagers. The provincial authority indicates that there are some remaining good land that can be reallocated, but it was reported differently on the ground. According to the commune authority, there were about 2,000 ha forest land left from the revocation of Heng Hang Siv Chanthou Transport Co. Ltd., but villagers continuously clear the land although some of them already own about 3-5 ha of land elsewhere. Villagers also confirmed that the lands are all occupied by villagers: some are cleared, and the others are still forest lands.

Rattanakiri Province: In total, there were 28 ELC projects in the province, covering 203,600 ha: 16 ELC managed by MAFF (of which 12 are already registered) and other 12 ELC managed by MOE (of which three are already registered and nine are in the registration process). Six ELC were revoked and four of them are located in the ‘dragon tail’ area of the Virakchey National Park, under the jurisdiction of MOE. All six revoked ELCs cover a total of 47,100 ha.

Figure 8: Areas of Revoked ELC in Ratanakiri Province



Source: Authors, based on Ung, S. (2017, unpublished)

Revoked ELC in Ratanakiri province generally lie near the border. Most of them are occupied by villagers; the others are poor soil quality lands and reserved lands for local communities and ethnic minorities, or lands that are too remotely located, with limited road access.

Heng Heap Investment Co., Ltd., a subsidiary of Men Sarun company, was granted an ELC by MAFF in July 2009 for 7,000 ha in Oyadao district, Ratanakiri province. The size was reduced to 5,657ha in its master plan. Later, it was totally revoked because the company did not comply with the legal requirements such as EIA, registration as state private land, proper consultation with affected communities. According to observations by the local communities, the company was not willing to invest or has faced financial problems as they could only grow rubber and cassava in certain parts, leaving large chunks of the cleared forest land idle. The land available from the revocation of Heng Heap Investment Co., Ltd. is reported as poor soil land that is not suitable for agriculture.

Dai Dong Yeoun Commercial Joint-stock Company was also revoked but is still in the process of resolving a conflict with the Ministry of Commerce (MOC) regarding the already-planted rubber on 700 ha. Available lands are reported as not promising for agricultural production, due to its low fertility and limited water access. Further, there are available lands in the 'dragon tail' area. The lands are generally cleared, but they are at high altitude (700 meters), with limited road access. The lands are not suitable or viable for agricultural production, but have more potential as a mine exploration site.

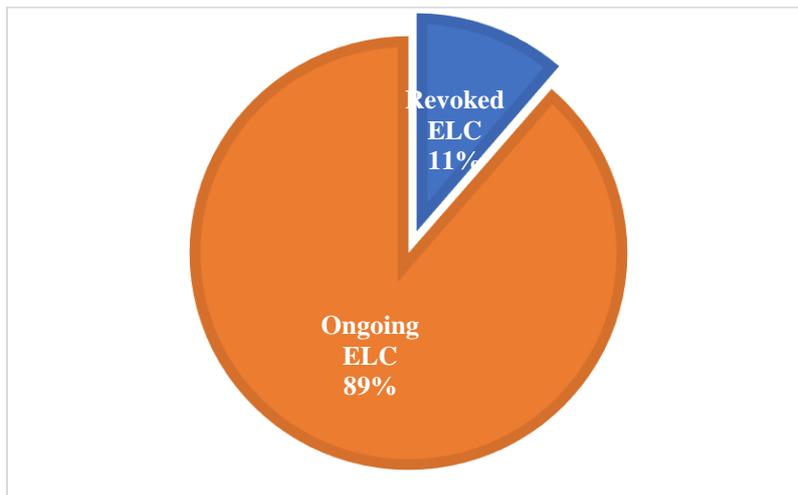
With regard to reduction of existing ELC size, the total ELC size has reduced by 60%, down from 150,000 ha to only 60,000 ha, while the registration has so far been completed on 5,000 ha. As an example, the size of Men Sarun Company's ELC project has reduced by 85%, down from 6,324 ha to only 1,000 ha. Men Chanrith Company finally got only 900 ha (18%) of their 5,124 ha registered.

Some companies are partnering with other investors / companies to develop the land, but are facing management problems. These ELCs are subject to possible revocation, which provide the prospect of land becoming available in the future. It should be noted that Ratanakiri

province has designated 8,000 ha (outside the revoked ELC) for social land concessions, 1,000 ha of which were already allocated and each family received 5 ha.

Stung Treng Province: There are now 9 ELC projects in the province, covering 163,892 ha. Before the review of ELC, there were 12 ELC projects in the province, covering 191,800 ha. Three were revoked while the others were downsized and/or adjusted. The total revoked ELC area was 21,372 ha (7,172 ha from Sok Heng Company Limited in Sesan district; 7,200 ha from Cambodia Research Mine and Development; and 7,000 from Un-Inter Trading and Development Group).

Figure 9: Area of Revoked ELC in Stung Treng Province



Source: Authors, based on Ung, S. (2017, unpublished)

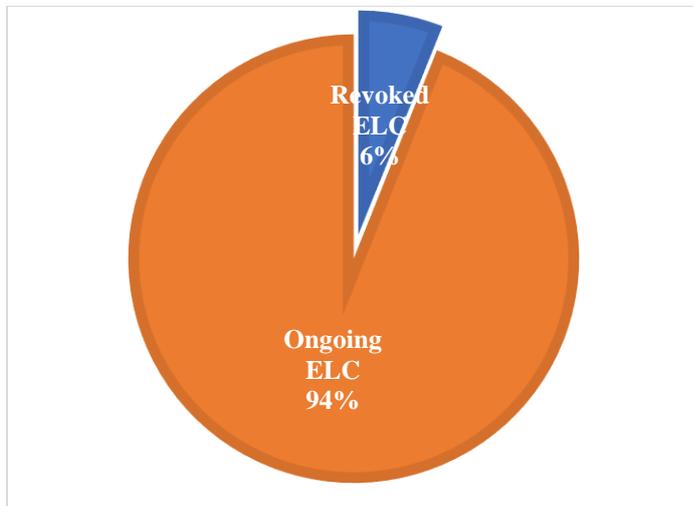
Lands available from Sok Heng Co. Ltd is rocky red soil, about 30 km from the national road. The company has tried cashew plantation on 100 ha, but it has not produced any yield yet. The lands available from the ELC of Cambodia Research Mining and Development Co., Ltd and UN-Inter Trading and Development Group are not fertile. The soil is not so suitable for perennial crops. The company tried rubber plantation, but it did not grow well. The land might be more suitable for seasonal crops like sugarcane plantation.

With regard to the ELC excision, the ELC size of Green Sea Agriculture Co., Ltd. in Siem Pang district was reduced from 100,852 ha to just 9,800 ha. Most of the excised lands are forest lands and were transferred to MOE's jurisdiction. The ELC of GG World Group (Cambodia) development Co., Ltd. was down from 5,000 ha to 2,200 ha. Cassava Flour Manufacturing Co., Ltd. was cut from 7,400 ha to 2,965 ha. However, there is no confirmed information about whether the excised lands are available.

Lands in this province generally has potential for rubbers, cassavas, and cashews. Cashew has the most potential as it can be exported to processing factory in Laos. Nonetheless, most areas of good quality soil are already occupied by existing ELC, local villagers, and migrants. Although many ELC were revoked and excised, there is no clear information about whether the lands are still available. Nonetheless, those lands were generally occupied, or are otherwise poor soil. Most of the lands available from Green Sea Agriculture Co., Ltd. were already transferred to MOE for conservation purpose.

Kratie Province: This province is home to the largest number of ELC compared with other provinces. There are now 49 ELC projects, covering a land area of 239,355 ha. Before the review of ELC, there were 54 ELC projects, covering the land area of 294,000 ha. Most of them were downsized and/or adjusted. Five ELC on 17,700 ha were revoked: CIV Development Agro Industry, Huot Sambath Co. Ltd., Tai Ninh Kratie Sugar, IPD Insten Pro Trading, and Harmony Plantation Co., Ltd. Three revoked ELC in Sambo district were converted into social land concessions.

Figure 10: Area of Revoked ELC in Kratie



Source: Authors, based on Ung, S. (2017, unpublished)

Huot Sambath Co., Ltd was granted an ELC by MOE on 27 July 2010 for rubber plantation and other agro-industry plantations on 6,432 ha for 90 years. The ELC is located in Chrous Chrov Pothisal Village, Pi Thnou Commune, Snoul District and Kratie Province. Through the implementation of land titling under Order 01, 4,998 ha were excised and redistributed as social land concession to 1,791 families in Chrous Chrov Pothisal village, and 305 ha of which were reserved as public state land. In effect, the ELC size had reduced to only 1,434 ha in 2013. Later, the ELC was completely revoked⁵ in March 2015 by the inter-ministerial committee.

Migrants, who had settled in the village, largely benefit from the social land concessions. According to local authority, 70-80% of the villagers in Chrous Chrov Pothisal village came from Kampong Cham, Prey Veng, Svay Rieng and other provinces. This was also echoed by the monk in Pothisal Pagoda, “most landowners/holders in Chrous Chrov village are migrants from other provinces; some villagers cleared the land for sales, not for their own livelihood purpose.”

Smallholders have generally enjoyed the benefit from the ELC revocation and land registration. It improves their land tenure security and thus their livelihoods. People earn good income from their farms.

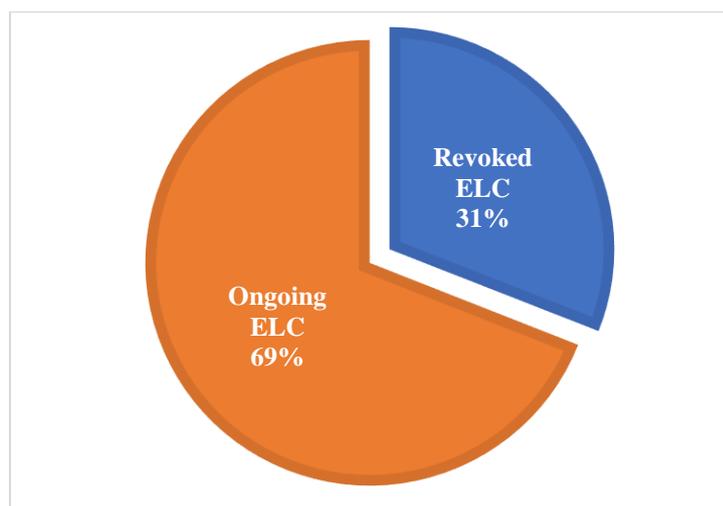
Nonetheless, smallholders also face some failures. Land titles could provide them with collateral for more and cheaper credits from microfinance institutions (MFI) to invest in their agricultural crops such as cashew nuts, rubber plantation, cassava, pepper and sugarcanes.

⁵ RGC, Sar Chor Nar #233 SCHN on 04 March.

Unfortunately, many of them had crops fail due to drought, no technical support, and low market prices. Villagers thus defaulted on the repayment to MFI. As a result, some farmers migrated to neighbouring countries and other regions to search for new livelihood options. According to the villagers, their lands and houses were sold approximately USD 5,000-10,000 per hectare.

Oddor Meanchey Province: There were 15 ELC in the province covering more than 90,000 ha (43,370 ha of which was under MAFF). Four ELC were revoked; the remaining 11 were downsized or adjusted and allowed to continue their operation. Of the ELC under operation, 8 of them covering 51,000 ha were granted in the protected area, Kulen Promtep Wildlife Sanctuary.

Figure 11: Area of Revoked ELC in Oddor Meanchey Province



Source: Authors, based on Ung, S. (2017, unpublished)

The revoked ELC covers 28,900 ha, accounting for 31% of the granted ELC in the province. These include: 1) 6,523 ha from Angkor Sugar Co., Ltd.; 2) 6,618 ha from Tonle Sugarcane Co., Ltd.; 3) 6,600 ha from Cambodia Cane and Sugar Valley Co., Ltd.; and 4) 8,200 ha from Khun Sea Import Export Co., Ltd. The above three revoked ELC are located in Chong Kal and Anglong Veng districts. They are now being registered as state private land. The soil of these three ELC is generally not fertile, with rocks underneath, that is an average quality for sugarcane, mango, cassava, and rice plantation. According to provincial authorities, the company cleared about 3,000 ha and tried sugarcane plantation, but it found the soil not good enough.

There is a strong interest and support from the Provincial Department of Agriculture, Forestry, and Fisheries (PDAFF) and the Provincial Department of Land Management, Urban Planning, Construction, and Cadastre (PDLMUPCC) to pilot the allocation of revoked ELCs for small and medium farms, but the site has become more and more complicated by overlapped claims and competition for lands. MAFF issued a decision to implement reforestation project on the former ELC area.

Meanwhile, PDLMUPCC has allocated 2,000 ha as social land concession (SLC) for the families of veterans and also reserved more than 1,000 ha for the resolution of land conflicts with more than 400 families. Civil society organisations claim that the three revoked ELC

have affected more than 20 villages and that the conflicts are concentrated in 5 villages, and involve more than 500 families. Further complicating matters, the revoked ELC also involves two community forests, Ratanak Sambath and Ratanank Rukha, covering 16 villages. The community forests were established in 2006 with support from the European Union (EU).

CONCLUSION AND WAYS FORWARD

Although there appear to be hundreds of thousands of hectares of land statistically available from the ELC revocations and excisions, good quality and free lands for reallocation to smallholder farmers are hard to find on the ground. This is confirmed by the search for available lands in five provinces (Mondulkiri, Ratanakiri, Stung Treng, Kratie, and Oddor Meanchey) that are homes to many ELC projects. The ELC were revoked because they did not comply with the legal requirements⁶, including no or too limited development on the lands. A few reasons explaining this slow development include poor soil fertility, limited irrigation water sources, capital shortage, and uncertain market prospect.

When the government undertook a massive campaign to review and evaluate the existing ELC across the country, it has led to the revocation and excision of many ELC. It raised the expectation that the revoked and excised lands would be free and available for various reallocation purposes, including a redistribution programme for smallholders. Nonetheless, the reality is mixed. Firstly, the revoked and excised areas are not available because they were already occupied by villagers and other types of holders in the first place. Therefore, the government executed the 'leopard skin' policy to recognise and formalise these existing occupations. Secondly, the available lands are generally not a suitable soil for agriculture or in conflicting demands.

The available lands could generally be classified into two broad types: (1) areas of high biodiversity value, preserved forests, cultural heritage, and community forests that are the subject for conservation; and (2) degraded/cleared forest lands. In the second type, some lands have poor soil quality and too limited irrigation access and thus not so suitable for agriculture; the others are subject to and under competition because of various demands. For example, at the official level, while MAFF has designated these degraded/cleared forest lands for reforestation programmes, social land concession projects have been proposed and implemented on these lands by other institutions and subnational authorities. At the unofficial level, there have been also encroachments by smallholders and other opportunistic groups. In some cases, there are still ongoing conflicts due to overlapped claims. All these have made the management of revoked ELC quite challenging and as a result there are hardly any lands of good soils available for redistribution programmes.

The ELC revocation and excision have generally favoured smallholder farmers as their existing occupations of the lands were acknowledged and formalised by registration under the Order 01 and other means. This has improved their land tenure security and livelihood activities for various crop plantation such as cashew, rubber plantation, cassava, pepper. This is widely the case in Mondulkiri, Kratie, Ratanakiri, and Stung Treng.

⁶ which includes no conduct of environmental impact assessment, no land registration, no settlement with the communities, and no development on the land.

Although the revoked ELC lands are already occupied and reallocated for various functions, there remain some free lands available for piloting reallocation programmes with farmers. Despite its limited fertility, lands are available in Oddor Meanchey and potentially in Stung Treng that are suitable for some crops such as cassava, sugarcane, mangos, and cashews. The available lands in Ratanakiri have fertility too limited for agriculture and generally located too far away from other centres, with difficult access.

As it stands, significant portion of the revoked and excised ELC areas were already redistributed to smallholders through Order 01, but there remain ongoing conflicts of overlapped claims. As such, the following shall be priorities for land management and reform.

- (1) **Inclusive land registration programme as an effective long-term approach for resolving the remaining and future conflicts.** The scale of land conflicts between farmers and investors has significantly reduced because of various measures undertaken by the government in the past mandate. Despite this, the remaining conflicts need to be addressed. There shall be a mechanism to ensure the effectiveness of these efforts and solutions that reduce the likelihood of conflicts re-emerging later on. In this regard, complete registration of all lands is crucial. An inclusive registration approach is to be highly encouraged, whereby all land within a particular boundary parcels, be they state, private, or communal lands, are all cadastred at the same time is highly encouraged and should be implemented. Such an approach would be more efficient because it would reduce the need for multiple site visits and multiple cadastral surveys. It would also be more effective because the boundaries of each parcel would be addressed at the one time, and should thus reduce future conflicts that may emerge from overlapped claims or any new encroachment.
- (2) **Promotion of farmer-investor cooperation.** The best way to develop the available lands is to facilitate cooperation between smallholder farmers and the investors. If lands are allocated to farmers, the farmers will not work on their lands if they do not see the prospect of a market for their produce. Without a successful outcome they not only stand to lose their crops, but will subsequently lose their lands due to debt default.

On the investor's side, ELC are no longer an option for them to get land. Sourcing the agriculture produces from farmers should help eliminate their burden of the recruitment, supervision, and management of workers. The company or investor should try instead to provide necessary supports (be they technical or financial ones) to guarantee the required qualities and standards of produces from smallholder farmers. Therefore, it is wise to explore various agricultural business models that can promote cooperation and mutual interests throughout the value chain. Such models can ensure the highest economic return for both investors and farmers as a win-win solution.

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Centre for Policy Studies

WHO WE ARE

The Centre for Policy Studies (CPS) is an independent, non-partisan, not-for-profit and autonomous think tank to serve the public interest of Cambodia.

OUR VISION

With adherence to the principles of market economy and liberal democracy, Cambodia will continue to maintain peace and stability, undertake gradual transformation, promote equitable and inclusive development, and uphold the rule of law so that she will have a well-educated citizenry and achieve an advanced country status by 2050.

OUR MISSION

CPS conducts policy- and action-oriented research to inform policymaking and enable successful policy implementation for inclusive and sustainable development in Cambodia.

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