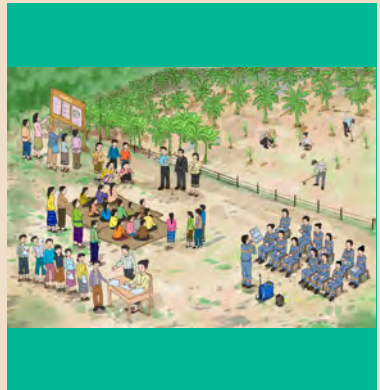




# Guide on Responsible Agriculture and Forestry Investment in Lao PDR

A Case Study for Chinese Investors



# Development Team for the Guide on Responsible Agriculture and Forestry Investment in Lao PDR

## (A Case Study for Chinese Investors)

This guide was jointly developed by a multi-stakeholder team including government, international organizations, and businesses. The Lao National Chamber of Commerce and Industry (LNCCI) and Village Focus International (VFI) took the lead in its creation, with participation of other government stakeholders, including: Ministry of Agriculture and Forestry (Department of Forestry, Department of Agriculture, Department of Livestock and Fisheries, Department of Planning and Finance, Department of Agricultural Land Management, Department of Policy and Legal Affairs), Ministry of Natural Resources and Environment (Department of Land and Department of Environment), Ministry of Planning and Investment (Investment Promotion Department and the Laos-China Cooperation Committee), and Ministry of Industry and Commerce (Department of Internal Trade and Department of Enterprise Registration and Management). International organizations and civil society organizations also contributed their comments to the guide, including: Mekong Region Land Governance project (MRLG), GIZ Laos, Helvetas Laos, and a business representative (Lin Shui Company). The development of this guide was supported by the Wildlife Conservation Society (WCS) Lao PDR program.



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# Abbreviations

CAPIAC	= China Association for the Promotion of International Agricultural Cooperation
CFS	= Committee on World Food Security
ECC	= Environmental Compliance Certificate
EMMP	= Environmental Management and Monitoring Plan
ESIA	= Environmental and Social Impact Assessment
FAO	= Food and Agriculture Organization of the United Nations
FPIC	= Free, Prior, and Informed Consent
GAP	= Good Agricultural Practices
IFAD	= International Fund for Agricultural Development
MOFCOM	= Ministry of Commerce, China
MOU	= Memorandum of understanding
NFGA	= National Forestry and Grassland Administration, China
OA	= Organic Agriculture
OECD	= Organisation for Economic Co-operation and Development
UXO	= Unexploded ordnance
VGGT	= Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security

# Foreword

In recent years, the government of Lao PDR has emphasized attracting both domestic and foreign investment as an avenue for socioeconomic development and livelihood improvement for the Lao people. To deliver these benefits, responsible investments are vital. Investors from many countries invest in Lao PDR, most notably from China, which is currently the largest foreign investor in the country. The agriculture and forestry sector has been of particular interest to foreign investors. Given the investment situation in the past, many projects have encountered issues, especially irresponsible investments that have created significant impacts for both investors and the nation. Although guidelines on responsible investment have been developed by the Chinese government and at the international level, there are not yet any documents that localize these guidelines within Lao PDR, especially in the agriculture and forestry sector. Such guidelines can help investors avoid unnecessary damage to themselves, and to the nation at large.

The Lao National Chamber of Commerce and Industry (LNCCI) aims to promote responsible investments in order to achieve sustainable development, in line with the Lao government's green development strategy. LNCCI has partnered with other relevant stakeholders, such as the Ministry of Industry and Commerce, Ministry of Planning and Investment, Ministry of Agriculture and Forestry, and Ministry of Natural Resources and Environment, to develop this guide as a pathway for investors to implement responsible investments, starting with the largest foreign investment community in Lao PDR – Chinese investors. This guide studied and compiled relevant Lao investment principles, regulations and laws; investment principles from ASEAN and the international level; and Chinese government guidance for investment in agriculture and forestry, so as to create a product that is specific and consistent with the Lao government's socioeconomic development plans. LNCCI recommends that foreign investors in Lao PDR, especially Chinese investors, study this guide. LNCCI believes that this guide can provide beneficial and comprehensive information to attract more investors to Lao PDR, especially those interested in investment that is effective, responsible and sustainable, thus providing an important contribution to the growing development of the nation. If this guide proves successful for Chinese investors, future guides for investors from other countries will be developed.

We hope that this guide will serve as a useful resource to benefit investors in Lao PDR.

Lao National Chamber of Commerce and Industry



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# Section I. Introduction



## 1. Background

Since Lao PDR is a primarily rural and agrarian country, the growth of its agriculture and forestry sector has been essential to its socioeconomic development and to improving the Lao people's livelihoods. It is also a sector that has attracted significant domestic and foreign investment, contributing considerably to the rapid economic development of Lao PDR (hereafter Laos) but also creating negative impacts on society and the environment. These negative impacts include encroachment of natural forest areas; release of chemicals into natural water sources; land grabbing; and labor exploitation. Irresponsible investment practices contributed greatly to these negative impacts, facilitated by minimal investment monitoring and inspection and a widespread lack of implementation of laws and regulations. Investors striving for investment responsibility must not only follow Lao regulations, but also adhere to international best-practice investment standards that avoid creating such social and environmental impacts.

Over the last ten years, China's investments in Laos have increased greatly, and China is now the largest foreign investor in the country. This trend is only increasing, especially in the agriculture and forestry sector, but also in mining and electric power generation. To ensure Chinese investors operate their overseas investments sustainably, the Chinese government has developed numerous guidelines, based on

international standards, that investors may follow to reduce any negative investment impacts. These guidelines, however, are generic and do not provide specific guidance for any one country. Localizing these guidelines for Laos is an important step towards ensuring Chinese investors have accessible information to implement these guidelines, including by adhering to Lao laws and regulations.

Starting from November 2020, the Lao National Chamber of Commerce and Industry, in conjunction with other relevant stakeholders, such as the Ministry of Industry and Commerce, Ministry of Planning and Investment, Ministry of Agriculture and Forestry, Ministry of Natural Resources and Environment, and international organizations Village Focus International and the Wildlife Conservation Society, jointly adapted international and Chinese government guidance on sustainable investments in this sector to apply in Laos. This guide for agriculture and forestry investment also passed through consultation with the private sector (Chinese investors), civil society and other international organizations to be sure these stakeholders provided their feedback and that there was a unified consensus on the guide. As such, this document can be considered a strong cross-sectoral view on how to conduct responsible agricultural and forestry investments in Laos.

## 2. Objectives

This guide aims to provide principles and implementing methods to promote responsible investment in the agriculture and forestry sector in Laos. It seeks to foster sustainable economic and social development in the country by adapting Chinese government guidance on investment to be specific and relevant to the Lao context. Goals include to:

- Provide investors from China and other countries seeking to invest in Laos with a comprehensive tool in planning and operating socially and environmentally responsible investments;
- Assemble various policies, laws and regulations relevant to agriculture and forestry investment in Laos so investors can conveniently and easily access them; and
- Foster trust between investors who use this guide, communities, and the Lao government to reduce investment delays and risks that can arise from misunderstandings.







### 3. Users of this guide

This Guide on Responsible Agriculture and Forestry Investment was developed as a tool for Chinese investors in the agriculture and forestry sector in Laos, although it can also benefit domestic investors and investors from other countries. In addition, it can serve as a useful reference document for government officers, researchers, students, the Lao public, and others who are interested in responsible investment.

### 4. Using this guide

This guide includes five sections: Section I describes this guide's background and its use; Section II identifies principles of responsible investment; Section III outlines implementation of a responsible agriculture and forestry investment, with actions for investors to apply in all project phases. Section IV concludes the guide, and lastly, the Appendices outline relevant Lao laws, regulations and stakeholders in responsible agricultural investment.

Investors can refer to this guide to understand Lao regulations, as well as Chinese and international standards, while planning and implementing an investment, to ensure it is in line with both the Lao and Chinese governments' requirements for sustainable investment. The information compiled in this guide is not meant to be fully comprehensive; there may be other dimensions of investment responsibility that are not addressed. Investors should refer to regional and international guides, as well as the Lao legal framework, for further information on their investment obligations.

## 5. Legal framework and international guides referenced

This guide compiles principles from international guidance, Chinese government guidance, and Lao legislation, as below:



### International guidance:

1. The ASEAN Guidelines on Promoting Responsible Investment in Food, Agriculture and Forestry;
2. Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT);
3. Committee on World Food Security Principles for Responsible Investment in Agriculture and Food Systems (CFS Principles);
4. United Nations Guiding Principles on Business and Human Rights;
5. Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources (World Bank, UNCTAD, FAO and IFAD);
6. Guidance for Responsible Agricultural Supply Chains (OECD and FAO).



### Chinese government guidance:

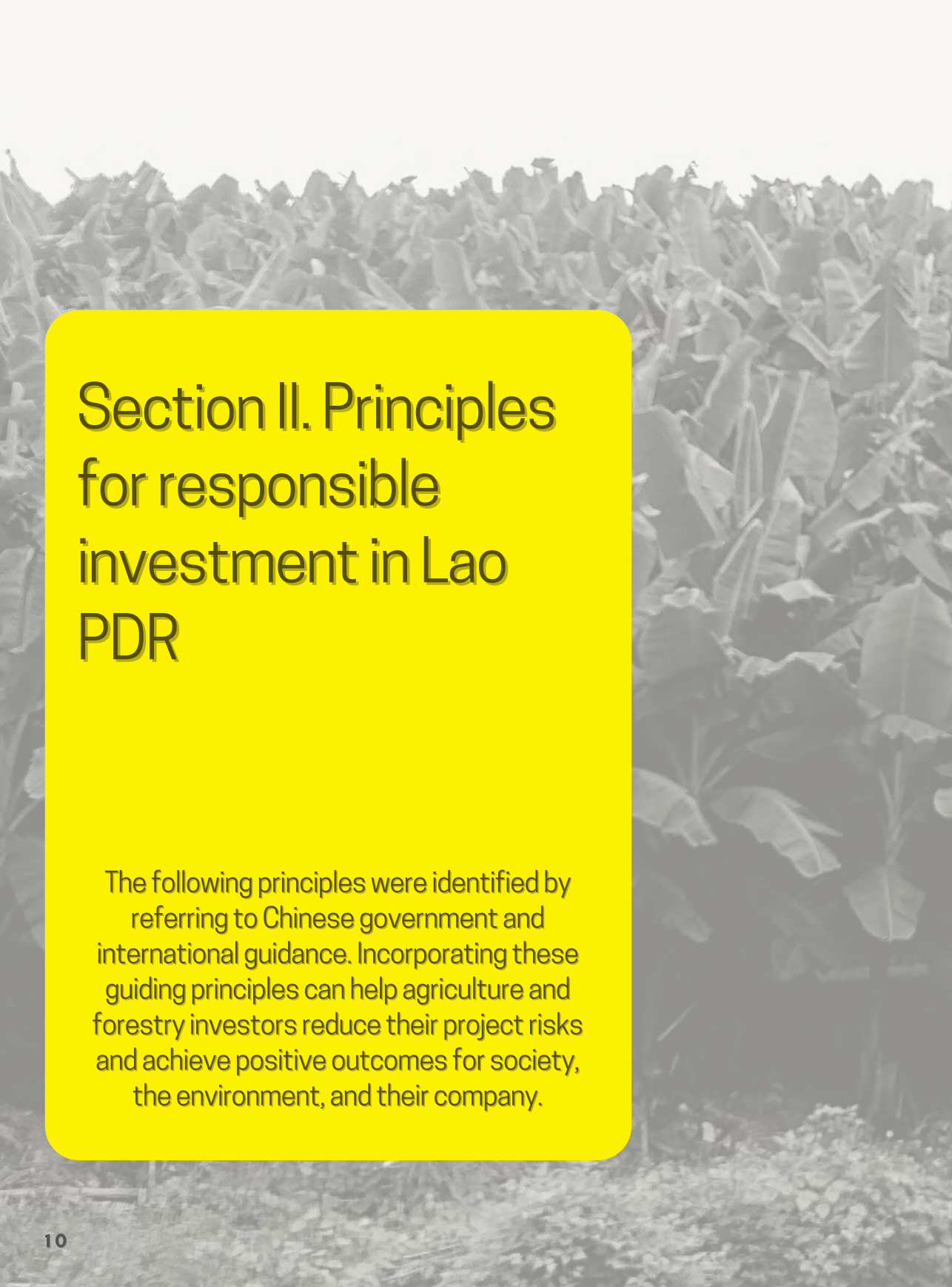
1. Guidelines for Environmental Protection in Foreign Investment and Cooperation (MOFCOM and Ministry of Environmental Protection);
2. Guidelines on China's Sustainable Agricultural Overseas Investment (CAPIAC);
3. Guide on Sustainable Overseas Forest Management and Utilization by Chinese Enterprises (NFGA and MOFCOM);
4. Guide on Sustainable Overseas Silviculture by Chinese Enterprises (NFGA and MOFCOM);



### Relevant legislation in Laos:

Lao legislation includes laws, decrees, orders, instructions, strategic plans, and other documents detailed in Appendix I.





## Section II. Principles for responsible investment in Lao PDR

The following principles were identified by referring to Chinese government and international guidance. Incorporating these guiding principles can help agriculture and forestry investors reduce their project risks and achieve positive outcomes for society, the environment, and their company.



## 1. Consulting with and involving communities

Responsible agriculture and forestry investments in Laos must consult with local communities, in order to obtain consent from project start and continue through all project phases. Involvement of communities is essential and crucial, since communities have claims to the investment area and can be impacted both positively and negatively by investment projects. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP, 2015) states that governments must consult and cooperate with communities in good faith to obtain their free, prior and informed consent (FPIC) for projects that will create impacts on their land, territories, and other resources. Chinese guidance on agriculture calls on investors to use the FPIC process and states that, "It is necessary to make local communities fully understand the effects of the project, its impacts on their lives and the changes it would bring to the local ecology." The FPIC process is widely accepted and applied internationally, not only at the start of a project but throughout its lifetime, to obtain agreement from affected people on project decisions that would impact them. Appropriately implementing FPIC will help reduce social, political and economic risks that may arise for both sides and will help investors maintain their social license to operate. Laos' Decree on Environmental Impact Assessments (No. 21/GoL, 2019) requires the participation of society across all phases of an investment to ensure transparency, justice, and effectiveness.



## 2. Disclosing information and transparency

According to the global “Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources”, a lack of transparency can create distrust among project stakeholders and “depriv[e] relevant actors of the possibility of resolving minor problems before they escalate into large conflicts.” Chinese government guidance on agriculture and forestry investment states that sharing project information publicly can help both government and communities in the host country understand the company, the project and Chinese culture, which enables a project to operate soundly. It calls on companies to release information across a project cycle, starting from before project approval and continuing across implementation, including by publishing reports on a project’s progress and environmental/social responsibility efforts. Laos’ Decree on Environmental Impact Assessments (No. 21/GoL, 2019) also requires investment projects to regularly publish detailed project information to communities and other stakeholders to promote transparency and public participation. Transparency can build trust between communities, the government, and investors to reduce misunderstandings that may create future project risks. All information related to the investment project, such as land and forest concession agreements, environmental and social impact assessments (ESIAs), and project regulations and policies, should be widely distributed in multiple formats – and in local languages – to ensure that everyone has full access to information.



### 3. Respecting people's right to use land, fisheries, forests and water sources

Responsible investments must respect local people's legitimate rights to possess and use land, fisheries, forests, and water sources, including their customary rights. Investors must also recognize the right of local people to give free, prior and informed consent (FPIC) for any investment in land or forest area that they traditionally use. International guidance, including the VGGT, ASEAN's Guidelines and Chinese government guidance, points out the need for investors to recognize the legitimate land rights of local people. Chinese government guidance on silviculture states that: "No infringement of the legal rights of forest and other resources enjoyed by local residents shall be tolerated" and that enterprises should create measures to prevent their investment from "directly or indirectly threatening or impairing the resources or the right of use of the original settlers." Laos' Law on Environmental Protection (No. 29/NA, 2012) and Instruction on the Process of Environmental and Social Impact Assessments for Investment Projects and Other Activities (No. 8030/MONRE, 2013) require investors to assess the social impacts of their project on people holding rights to resources and create measures to reduce potential impacts. This assessment is one component of social and environmental protection, which includes protecting local people's rights to possess and use land, natural resources and water.



## 4. Contributing to social development

All responsible investment projects must contribute to equal, sustainable, widespread, and locally appropriate social development that alleviates poverty. These contributions ensure a project creates fair benefits for local communities and improves their livelihoods. The CFS Principles for responsible investment outline ways for investors to contribute to sustainable and inclusive economic development, including by creating jobs; improving local income; providing public goods and services; empowering local stakeholders; and contributing to food security and nutrition. China's Guidelines for Environmental Protection in Foreign Investment and Cooperation call on Chinese investors to "promote harmonious development between the economy, the environment and local communities." Companies' social obligations are also outlined in Lao law. The Law on Investment Promotion (No. 14/NA, 2016) requires investors to: encourage and promote local businesses; alleviate poverty and develop locally in the project area; contribute budget to social development and infrastructure; promote the use of Lao labor (especially women); develop labor's skills, improve their technical knowledge, and transfer new technologies to them; implement a social security and insurance system for workers; fairly compensate people affected by business operations; and respect local traditions and cultures.



## 5. Using local labor and labor safety

Responsible investment must give importance to hiring laborers locally, especially women and ethnic minorities, and the safety of hired workers. Based on global labor standards from the International Labor Organization (ILO), investors must pay attention to various requirements, such as: promote equal and fair access to work without discrimination; continuously develop labor's ability and skills; provide wages, fair benefits policies, and sustainable social security; ensure safety standards in the workplace and in workers' accommodations; do not support forced labor; do not participate in labor trafficking; avoid child labor; and prohibit all forms of exploitation or labor abuse that create unfair and illegal personal gain. Guidance from the Chinese government on agriculture, forestry and environmental protection calls on investment projects to prioritize local labor, create a safe working environment, and provide opportunities for training and advancement to employees. Developing local human resources is one important method for earning communities' and the government's support of a project. Laos' Law on Investment Promotion (No. 14/NA 2016) and the Law on Labor (No. 43/NA, 2013) require investors and all enterprises to hire domestic labor (especially women and ethnic minorities) and set forth policies and regulations for fair employment.





## 6. Controlling the quality and safety of goods

Controlling product quality and safety is linked to human health. Responsible and sustainable investment must ensure goods are of high-quality and safe. Laos' Agriculture Development Strategy to 2025 and Vision to 2030 has a goal to focus on food security and commercial agriculture production, with an emphasis on green, clean techniques, to guarantee the safety of agricultural products. To do this, the Lao government has set forth technical standards for certification programs, following ASEAN's own standards. These include Good Agricultural Practices (GAP), as outlined in the Agreement on Good Agricultural Practices for Product Quality Standards (No. 0539/MAF, 2011), and organic agriculture standards (OA), as detailed in the Agreement of the Minister of Agriculture and Forestry on Organic Agriculture Standards (No. 1666/MAF, 2005). Laos' agriculture strategy calls on all export-aimed investments to follow such standards in accordance with their project's objectives and goals. Chinese guidance calls on investors to create a system for managing and monitoring quality in all steps of production and encourages investment projects to receive international certifications such as GAP, Hazardous Analysis Critical Control Point (HACCP), or Good Manufacturing Practices (GMP).



## 7. Green development and protecting natural resources and the environment

International guidance on responsible investment, such as the OECD-FAO Guidance on Responsible Agricultural Supply Chains, emphasizes protecting the environment by first avoiding impacts, then, if unavoidable, minimizing them. Chinese guidance on agriculture recognizes the need for long-term, sustainable project development, noting that, since agriculture and forestry investments have long payback periods, short-term gains (which often negatively impact the environment) must be avoided. Responsible and sustainable investments should follow priorities outlined in Laos' National Green Growth Strategy to 2030. The strategy identifies the agriculture and forestry sector as a priority for national development. It lays out approaches for strengthening the sector, including: increasing the efficiency of agricultural production while using less natural resources; developing local producers' techniques and skills; controlling the use of hazardous pesticides and chemicals; minimizing the degradation of biodiversity, soil quality and water sources; promoting clean and organic agricultural production; limiting forestry monocultures; and preventing illegal and unsustainable harvesting, use and export of timber. Minimizing investment impacts to biodiversity, natural resources, and the environment must start by locating projects in areas with the lowest potential impacts. Projects should avoid



## 7. Green development and protecting natural resources and the environment (Con)

investing in Laos' protected areas (PAs). If alternatives are not possible, projects must coordinate with PA authorities to ensure their investment plan strictly follows the Law on Forestry (No. 64/NA, 2019), Decree on Protected Areas (forthcoming), and is in line with PA management plans, land use plans of the PA guardian villages and PA use zone allocation, so as to reduce impacts on biodiversity. Any impacts arising from investments in PAs must be compensated for following Lao regulations, and in line with the mitigation hierarchy (see action 7.1. below). Environmental protection efforts must continue throughout project implementation by following sustainable planting and harvesting practices and rehabilitating any damaged areas post-investment.



## Section III. Implementing a responsible agriculture and forestry investment in Lao PDR

This section includes recommendations for implementing a socially and environmentally responsible agriculture and forestry investment, in line with the seven principles outlined in Section II and the Lao legal framework. Investors can use this section as a guide and reference for all phases of their investment.

In general, investment projects in agriculture and forestry have five phases, as below:

**Phase I. Strategic planning:** Undertake an initial study to understand opportunities for successful investment; analyze the investment context, including local laws and regulations; initiate consultation with stakeholders to identify and choose the type of investment; and create an initial investment strategic plan.

**Phase II. Design and approval:** Refine the initial investment strategic plan to be more comprehensive through an expanded stakeholder consultation process. This step includes earning communities' agreement with the project through the FPIC process and receiving proper investment approval from the government.

**Phase III. Implementation:** Implement investment activities according to the approved business plan, local laws, and any other specific requirements. Ensure the investment adopts adaptive management practices to identify and respond to risks that arise in implementation.

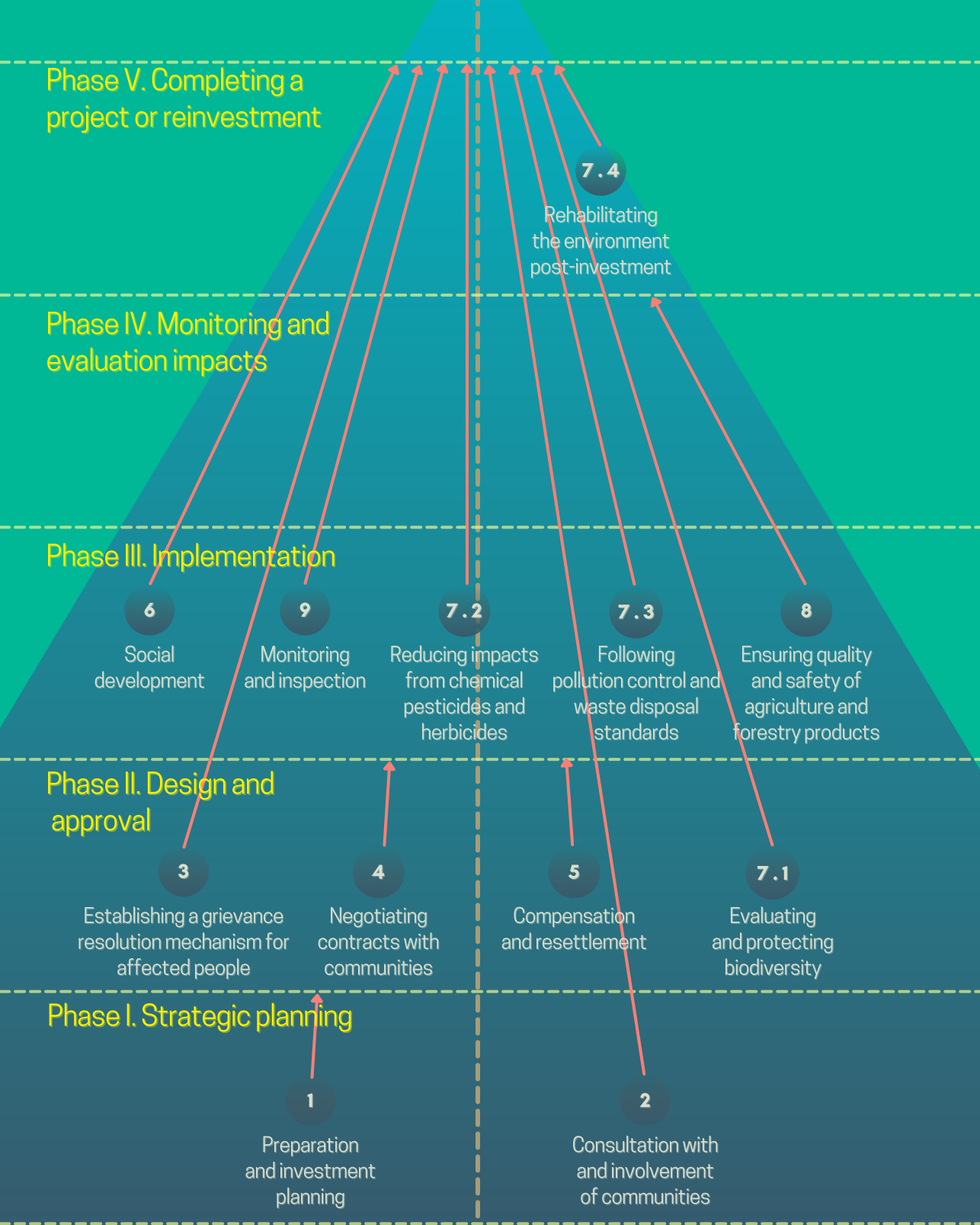
**Phase IV. Monitoring and evaluating impacts:** Investing monitoring must occur from the start of project implementation until completion. Monitoring helps investors understand a project's successes and any negative impacts, so companies can improve their methodologies and strategies in the future. A final project evaluation aims to assess whether activities achieved the project's objectives and goals, in order for companies and government to determine an appropriate future investment plan in Phase V.

**Phase V. Completing a project or reinvestment:** A final investment evaluation can help investors decide whether to end their project, expand it or begin a new investment. If completing a project, investors must create a clear strategy for closing procedures and timeline and make plans to assist relevant local sectors, including through technical and financial support and technology/knowledge transfer.

The recommended actions for implementing a responsible investment outlined later in this section may begin and end at different points in the five investment phases described above. The following diagram and explanatory text visualize where along an investment process these actions may take place:

- In the beginning of Phase I, investors must prepare and plan for their investment (1), including by analyzing stakeholders and studying the investment approval procedure (1.1), studying the Lao legal framework (1.2), and conducting comprehensive assessments (1.3). These processes should be undertaken through consultations with and participation of communities (2), which should be jointly pursued from project start until project closure in Phase V.
- At the start of Phase II, investors must create a grievance resolution mechanism for affected people (3), and operate it through the end of Phase V. From there, investors should negotiate contracts with communities (4), culminating in the signing of written agreements. Compensation and resettlement (5) can then begin. In Phase II, investors must also evaluate and implement measures for protecting biodiversity (7.1), which will continue until project closure in Phase V.

- At the start of Phase III, investors should pursue their social development plans (6) and continue them until project closure in Phase V. Monitoring and inspecting (9) both environmental and social dimensions of the investment must be undertaken concurrently, from the start of project implementation to its end in Phase V. Next, investors must reduce the impacts of chemical pesticide and herbicide use (7.2), follow pollution control and waste disposal standards (7.3) and ensure the quality and safety of their agriculture and forestry products (8). These actions must be continued until project closure in Phase V.
- In Phase V, investors must rehabilitate the environment if their investment is ending (7.4).



# 1. Preparation and investment planning

## 1.1. Understanding relevant stakeholders and the investment approval procedure

Analyzing relevant stakeholders and understanding the investment approval procedure is consistent with the principle “Consulting with and involving communities”, as well as consistent with Chinese guidance on foreign investment in agriculture and forestry, which calls on Chinese investors to identify and analyze project stakeholders pre-investment.



**Stakeholder analysis:** Conducting a stakeholder analysis helps investors comprehensively identify parties relevant to their project, and can foster relationships with those stakeholders to contribute to successful project implementation.

Investors should take time to understand the relevant government agencies (both at the central and local levels), communities, civil society organizations, and other enterprises that may impact, or be impacted by, the investment project. All these stakeholders, including the general public, should participate in all investment phases to create trust, transparency, and shared understanding. (Refer to Appendix II for a list of selected stakeholders and their roles in investment projects.) A stakeholder analysis includes the following components:

1. Create a list of those involved in the project;
2. Identify the rights and roles of each stakeholder;
3. Determine the influence and needs of each stakeholder;
4. Identify areas for cooperation and coordination with each stakeholder;
5. Create a strategic plan for communication with each stakeholder to foster their involvement in the project. The plan should include objectives, people to contact, avenues and modes of communication, timeline, locations, etc.

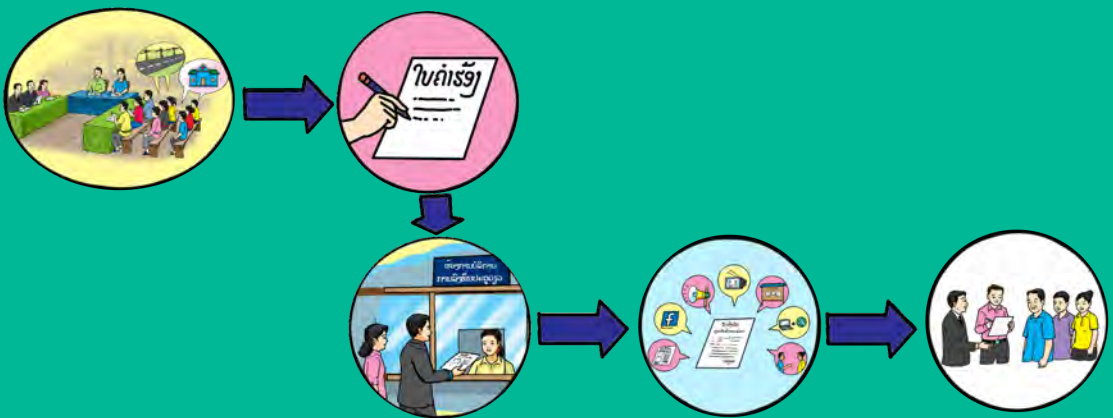


**Investment approval procedure:** Investors must understand the investment approval process in Laos by studying the Instruction on Investment Approval (No. 0457/MPI, 2019), which comprises the following five steps:

- 1 Investors come together with local authorities and communities to study the feasibility of an investment and its potential negative and positive impacts;
- 2 Investors submit relevant documents and an application to the One Stop Service office, including a document certifying local agreement with the investor's planned land use;
- 3 The Investment Promotion and Management Committee considers approving or rejecting the investment. If the committee approves, the investor will sign a memorandum of understanding (MOU) and project management contract with the government, then inform parties in the investment area of the contract;
- 4 Investors coordinate at the local level to inform them of investment approval, sign land rental agreements with land owners, create written labor contracts, deposit money for land restoration, and implement their project following GAP or other high-quality agriculture or forestry principles and standards;
- 5 Investors monitor and inspect investment implementation (including environmental, social and economic dimensions) with the participation of local authorities and communities, then report to relevant parties.



**Note:** Precise steps, financial requirements and approval timelines may differ depending on the type of investment, such as using state land of 150+ hectares, using state land less than 150 hectares, and leasing private land.



## 1.2. Studying the legal framework

When investing in Laos, it is important to understand the Lao legal and regulatory framework related to investment management. Chinese government guidance calls on investors to familiarize themselves with host country laws prior to investing and recommends investors provide legal trainings to their employees to promote legal compliance. In addition, investors should request advice from relevant sectors at the central and local levels to understand the actual legal implementation situation and any gaps. Hiring a legal consultant can be an effective way for Chinese investors to understand the Lao legal framework, especially since most regulations are published only in Lao and English. Investors can begin to review Lao laws and regulations in Appendix I of this guide, as well as refer to the following legal resources for additional information:



- The **Lao Official Gazette** is a repository of regulations in both English and Lao: <https://laofficialgazette.gov.la/>



- The **Investment Promotion Department** and **Lao National Chamber of Commerce and Industry** regularly update their websites with new resources for investors: <http://investlaos.gov.la/> and <https://lncici.la/>



- The **Economic and Commercial Counsellor's Office** at the Chinese Embassy to Laos provides resources to Chinese companies seeking to invest in Laos: <http://la.mofcom.gov.cn/>



- The **Chinese Chamber of Commerce to Laos** provides support and networking opportunities to companies operating in Laos. The Chamber also receives periodic updates and presentations from the Lao government on changes to Laos' legal framework.



- The **Ministry of Agriculture and Forestry** provides resources and news about agriculture and forestry in Laos: <http://www.maf.gov.la>

### 1.3. Conducting comprehensive assessments

Before planning their investment, investors should take time to understand the risks that could delay their project, then create a strategic plan to reduce those risks. Conducting proper monitoring and assessments will help reduce potential investment risks, including conflicts with communities and other stakeholders that can lead to significant financial losses or delays. Comprehensive assessments must be undertaken to be in line with the following principles: “Green development and protecting natural resources and the environment” and “Respecting people’s right to use land, fisheries, forests and water sources.” For investments in agriculture and forestry, evaluating communities’ land tenure status and user rights is a priority.



During these assessments, companies should consult with relevant local stakeholders, including law firms and civil society organizations, who have deep understanding of the Lao legal framework. Comprehensive assessments include the following aspects:

### 1.3.1. Identifying and evaluating communities' land rights and natural resource use rights

The ASEAN Guidelines on Promoting Responsible Investment in Food, Agriculture and Forestry (2018) state that the risk of land conflicts from investment is highest in countries, such as Laos, where land tenure rights are often informal. Understanding affected communities' land rights is foundational to reducing this risk, and to providing accurate and fair compensation to impacted people.

Investors should create a participatory land use plan to identify where people have claims to land that lies within the investment area, either through official documents or customary tenure. Studying local land use is also important in confirming that an investment area allocated by the Lao government is ready for investors to use. Investors should pay attention to community use of the investment area, even if no one lives in it, as people may access the affected area for water sources or collecting non-timber forest products. Understanding land and natural resource use patterns can help investors design their projects in a way that minimizes impacts on communities' food security and livelihoods.



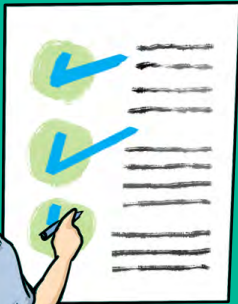
### 1.3.2. Undertaking a feasibility study

A feasibility study is required prior to all investment projects (Article 8, Law on Environmental Protection, No. 29/NA, 2012). Investors must sign a MOU with the Lao government to be able to complete a project feasibility study. The study must include information on the project's location, its timeline, labor needs, land leasing/concession needs, operation plans, and projected benefits sharing arrangements, among other topics elaborated in Article 44 of the Law on Investment Promotion (No. 14/NA, 2016).



### 1.3.3. Conducting an environmental and social impact assessment (ESIA)

An investment's size and intended activities will determine what type of environmental and social assessment will need to be completed pre-investment, in line with the Decision on the Endorsement and Promulgation of the List of Investment Projects and Other Activities that Must Conduct an Initial Environmental Examination or Environmental and Social Impact Assessment (No. 8056/MONRE, 2013). Smaller projects with few projected impacts will complete an initial environmental examination (IEE), while projects with greater potential impacts will conduct an environmental and social impact assessment (ESIA) (Decree on Environmental Impact Assessments, No.21/GoL, 2019). [1]



1] Although regulations in Lao language usually refer to “environmental impact assessments (EIAs)”, this phrase is often translated as “environmental and social impact assessments (ESIAs)” in English, in line with international best practice that emphasizes the necessary social dimensions of these assessments.

An ESIA ensures that legal and appropriate measures are taken to prevent and mitigate impacts on the environment and society. An ESIA must assess social, environmental, health, gender and ethnic group information in an investment area, as well as issues of compensation, resettlement, livelihood restoration, and other impacts arising from the investment (Article 22, Decree on EIA, No. 21/GoL, 2019).

Along with an IEE or ESIA, investors must submit an environmental monitoring and management plan (EMMP) that outlines methodologies for preventing environmental impacts, biodiversity off-setting, reforestation, rehabilitation, and watershed protection. Approval of these documents will result in the issuance of an environmental compliance certificate (ECC) that allows an investment to move forward. As part of the IEE and ESIA process, investors must make plans for public involvement at all stages of the investment and must engage impacted communities in data collection and village-level workshops. The majority of affected people must also agree for an investor to receive an ECC (Article 42, Decree on EIA, No. 21/GoL, 2019).



IEE reports, ESIA reports, EMMPs, and project reports on implementing environmental plans must be published online for public comment, as well as disseminated through newspaper, television, village communication systems, and radio programs (Article 38, Decree on EIA, No. 21/GoL, 2019).

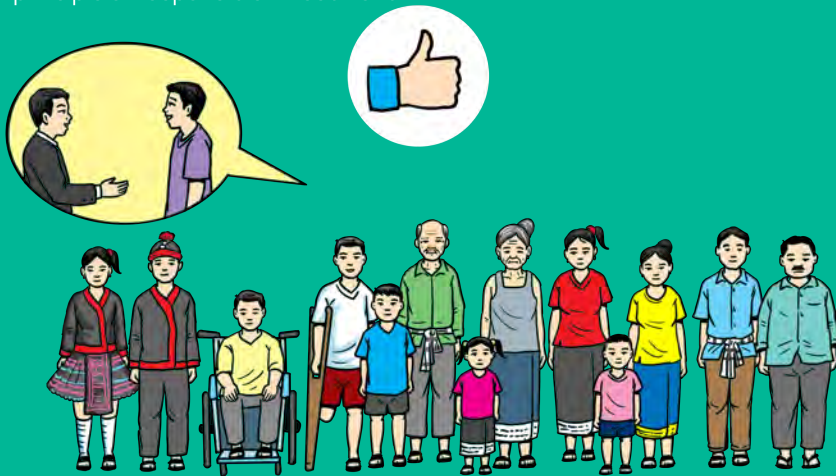
### 1.3.4. Surveying for and removing unexploded ordnance (UXO) from the investment area

Many areas in Laos, especially rural areas, contain unexploded ordnance (UXO) that needs to be removed prior to investment. If not addressed, UXO can seriously threaten employees' and communities' health, as well as stall investment progress. Before beginning a project, investors should survey the investment area for any UXO and remove it.



## 2. Consultation with and involvement of communities

Chinese guidance on agricultural investment calls for project design to be based on the needs of communities to achieve mutually beneficial results for both investors and affected people. Designing a project with communities in mind helps investors earn local support for a project and reduces project risks. A main piece of Lao legislation in this area is the Instruction on the Process of Environmental and Social Impact Assessments for Investment Projects and Other Activities (No. 8030/MONRE, 2013). This instruction stipulates that investors must recognize the right of project-affected people to be consulted with and involved in project decision-making processes, especially during feasibility studies and environmental and social impact assessments. Consultation with and involvement of communities is an essential principle of responsible investment.



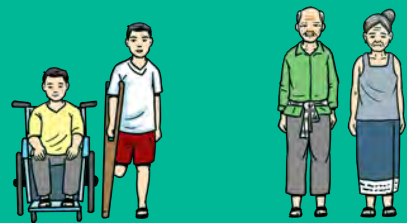
Consultation with and participation of affected people must be regular and continuous, starting from before adoption of project design and continuing until project closure. The Chinese government calls on agriculture investors to use the free, prior and informed consent (FPIC) process in consultations so that communities may make their own decisions, without enterprises imposing ideas upon them. FPIC encourages affected people to make decisions after having received clear, sufficient information prior to investment. It requires investors to provide adequate time for affected people to discuss an investment project among their community in order to decide whether to accept or reject it, free from any coercion or pressure.

**F P I C**



Steps for implementing FPIC include: 1) host a workshop with communities to agree on the objectives and process for pursuing FPIC; 2) encourage all people who will be affected by a project to join consultations; 3) ensure people receive adequate and necessary information to be able to make a decision; 4) facilitate people's access to relevant experts, lawyers, and other technical workers to receive any required technical assistance; 5) host a negotiation workshop to consider accepting the project, free from coercion; 6) give communities adequate time to discuss the decision in their village to be able to freely decide about the project. The consent achieved through FPIC can be a majority or consensus, depending on how a community defines consent. If a decision is not unanimous, investors should pay attention to dissenting voices to determine what conditions or needs might need to be met to achieve widespread agreement from the community.

Each individual and group of people affected by a project will have differing interests and needs, and will receive different impacts. It is therefore essential that all affected people (including women, men, youth, the elderly, people with disabilities, ethnic minorities, and other vulnerable groups) join in consultations, not only heads of household or village administration. This wide participation will ensure that all affected people have equal voice and rights. Hosting separate consultations for each at-risk group will help investors understand how their project may impact them differently and what resources may be needed to ensure each group benefits equally.



In scheduling consultations, investors should pay attention to the participation of women and other disadvantaged groups by clearly encouraging their attendance each time.

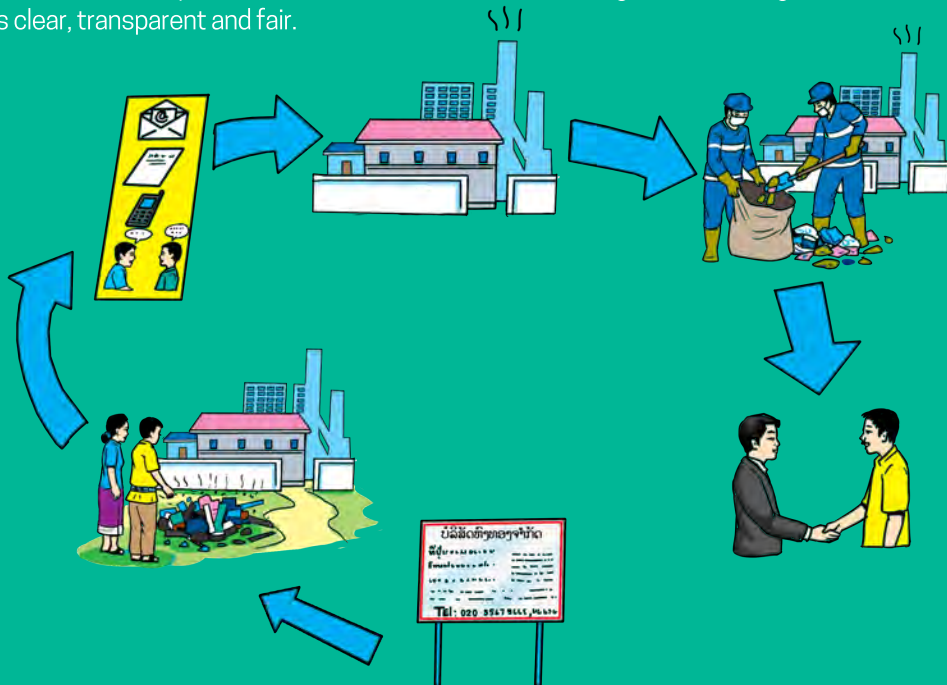


# 3. Establishing a grievance resolution mechanism for affected people

A grievance resolution mechanism is consistent with the principles “Contributing to social development” and “Consulting with and involving communities.” Guidance from the Committee on World Food Security and ASEAN include inclusive and transparent grievance resolution mechanisms as essential to achieving responsible investment. Investors must follow Lao laws and regulations in creating grievance management systems, processes, and mechanisms, including by following the rule of law and promoting access to effective grievance mediation mechanisms. The Law on Handling Petitions (No. 05/NA, 2016) identifies policies, principles and processes for handling complaints in Laos. Along with this law, the Law on Economic Dispute Resolution (No. 51/NA, 2018) requires a committee and mechanism for resolving economic disputes, and the Decree on Labor Dispute Resolution (No. 76/GoL, 2018) requires a system for resolving labor-specific disputes.

## 3.1. Receiving complaints

Chinese guidance on agriculture and environmental protection calls on investors to create a grievance resolution mechanism in conjunction with local government and communities. The mechanism should be available in several formats, such as a hotline, a drop box, workshops for sharing feedback or a grievance resolution office, as well as through communities’ traditional grievance resolution models. Companies should promote available mechanisms to communities broadly through multiple avenues, including posters, videos, radio, village meetings, etc. Reporting a grievance should be free of charge, available in local languages, and anonymous (if desired). Companies should, through consultation with all project participants, establish procedures and standards for receiving and resolving conflicts to make the process clear, transparent and fair.



### 3.2. Handling requests and resolving conflicts

After receiving a complaint, Chinese government guidance on agriculture investment calls for investors to negotiate with stakeholders to find root causes of a problem and resolve it, while also improving the companies' policies to avoid similar issues in the future. Official reports on the grievance and its resolution should be provided to the complaining party. In the event that the two parties cannot agree, the next step is to enter Laos' justice system following Lao law, which requires a dedicated committee to consider and resolve the issue (Law on Complaint Resolution, No. 05/NA, 2016 and Decree on Compensation and Resettlement of People Affected by Development Projects, No. 84/GoL, 2016).



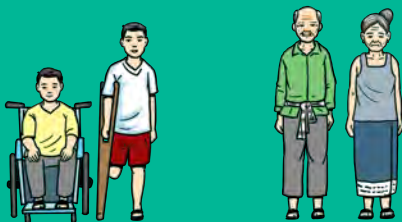
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## 4. Negotiating contracts with communities

Negotiating fair contracts between investment projects and communities relates to the following principles: “Consulting with and involving communities”; “Disclosing information and transparency” and “Contributing to social development.” Fostering equality in negotiations and a proper decision-making process on contract terms are essential to promoting fair contracts.

## 4.1. Fostering equality in negotiations

Inequality between affected people and investors can arise from cultural factors, as well as differing access to information, negotiating abilities, and power statuses. These inequalities are barriers to fair negotiations. Investors should thus support affected people to negotiate as equals, by promoting all people in a community to access project information, providing necessary technical assistance, and encouraging wide participation in contract negotiations.



Investors should give importance to marginalized voices including women, people with disabilities, youth, the elderly, and ethnic minorities. Individual consultation workshops should be held with each of these groups to understand their unique perspectives. If some individuals dissent with a majority decision, investors should strive to understand the reason for their dissent and find solutions to meet the needs of all people. Companies are encouraged to hire a community outreach specialist who can create trust between investors and affected people during negotiations. This specialist could be a consultant or civil society organization and should be of the same ethnic group as the affected community.

## 4.2. Agreeing on contract terms in writing

Agreeing on contract terms in writing helps investors and communities have shared understanding in all phases of an investment. The contracts should clearly state all terms and conditions for both investors and communities. Contracts should be written in a language that both sides understand (or in two languages), signed, and properly marked with a seal. In addition, contracts must be notarized to verify their legality (Article 2, Notary Law, No. 11/NA 2009). If contract conditions are not clear, different interpretations may arise, which can make them difficult to follow, as well as difficult to enforce, monitor and inspect compliance. Important terms to specify in contracts include a project's timeline, outcomes, commercial terms, any compensation or resettlement arrangements, and roles and responsibilities of both parties, as detailed in the Lao Civil Code (No. 55/NA, 2018). Contract copies should be printed for all parties, including villages and individuals involved. Types of contracts can include:

A screenshot of a Lao labor contract form. The form is titled "ສັນຍາເຊັນລາບ" (Labor Contract) and is issued by the Ministry of Labour and Social Security. It contains fields for the employer's name, address, and contact information, as well as the employee's name, address, and contact information. The form also includes sections for the contract's duration, terms of payment, and other conditions.

**4.2.1. Labor contracts:** Under the Law on Labor (No. 43/NA, 2013), employers must have written employment contracts with their laborers that include an employee's responsibilities, wages, employment duration, form of payment, welfare policies, benefits, and rest days/holidays (Article 78). Contracts should also include information on training programs and dispute resolution mechanisms.

A screenshot of a Lao land leasing contract form. The form is titled "ສັນຍາເຊັນດິນ" (Land Leasing Contract) and is issued by the Ministry of Agriculture, Forestry and Fisheries. It contains fields for the landholder's name, address, and contact information, as well as the company's name, address, and contact information. The form also includes sections for the lease's duration, geographical boundaries, land price, payment schedule, and dispute resolution mechanisms.

**5.2.2. Land leasing contracts:** These agreements should be created for contract farming arrangements between individual landholders and a company. Contracts should specify the duration of the lease, its geographical boundaries, land price, payment schedule, and dispute resolution mechanisms.

A screenshot of a Lao commodity purchase agreement form. The form is titled "ສັນຍາຊື້-ຂາຍສິນຄ້າ" (Commodity Purchase Agreement) and is issued by the Ministry of Agriculture, Forestry and Fisheries. It contains fields for the seller's name, address, and contact information, as well as the buyer's name, address, and contact information. The form also includes sections for the purchase duration, purchase price, quantity of the commodity to be purchased, schedule for commodity sale/purchase, commodity quality standards, post-harvesting commodity management, and dispute resolution mechanisms.

**5.2.3. Commodity purchase agreements:** These agreements should be created when smallholders sell agriculture and forestry commodities to companies. They should include purchase duration; purchase price (best practice is to include a floor price to protect sellers against fluctuating commodity values); quantity of the commodity to be purchased; schedule for commodity sale/purchase; commodity quality standards; post-harvesting commodity management; and dispute resolution mechanisms. Investors can refer to international tools such as FAO's "Model Agreement for Responsible Contract Farming" for further guidance: <http://www.fao.org/3/ca1772en/CA1772EN.pdf>

# 5. Compensation and resettlement

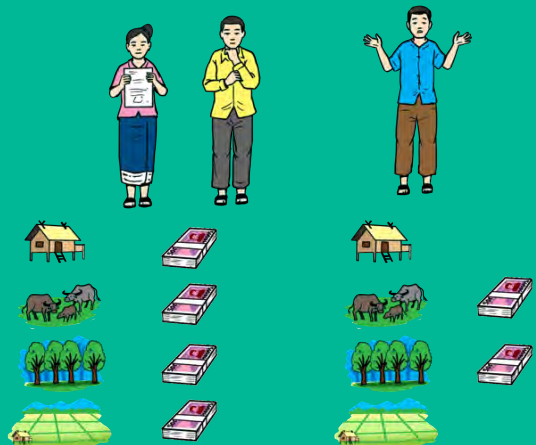
After all parties agree on compensation and resettlement arrangements in a signed contract, compensation and resettlement can begin. This step relates to the following principles: “Respecting people’s right to use land, fisheries, forests and water sources” and “Consulting with and involving communities.”

## 5.1. Compensation

International guidance such as the VGGT state that affected people should be consulted with to achieve their agreement with compensation plans, then given compensation through replacement land, cash or other means.



Under Lao law, investors have an obligation to compensate people affected by their investment (Article 73, Law on Investment Promotion, No. 14/NA, 2016). Full compensation for land must be paid to people with lawful land documents or customary land tenure (Article 22, Law on Resettlement and Vocation, No. 45/NA, 2018). Customary land rights are given to those who have cleared, developed and used land regularly for at least 20 years, as confirmed by village authorities (Article 130, Law on Land, No. 70/NA, 2019). Individuals who claim reserved land (jap jong ti din in Lao) and without lawful land documents are still eligible for compensation of structures, trees, and crops on their land.

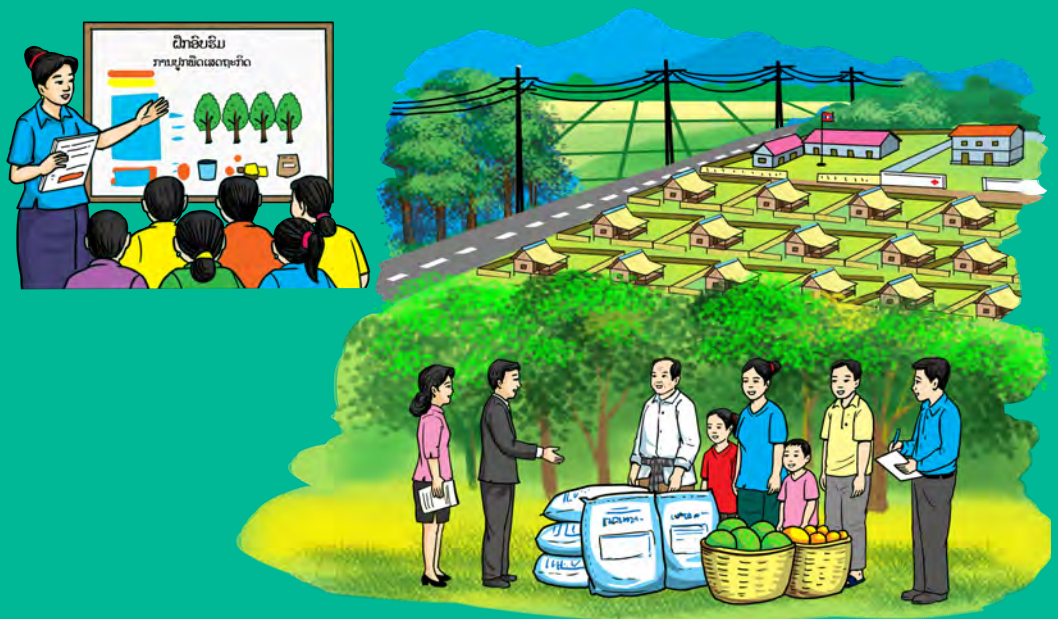


Investors should undertake surveys of communities' land use rights prior to investment to understand which households possess which type of land use rights. Direct consultation with households and village authorities is necessary in this effort. The Decree on Compensation and Resettlement of People Affected by Development Projects (No. 84/PM, 2016) states that compensation and resettlement should follow these basic principles: 1) protect the rights and legitimate interests of affected people; 2) ensure equality, accuracy, transparency, disclosure and fairness; and 3) ensure coordination, consultation, and participation between the project owner, affected people, state agencies, and other relevant stakeholders (Article 5).



## 5.2 . Resettlement

International guidance, such as the VGGT and ASEAN's guidelines on responsible investment, prohibit forced relocation and call for avoiding resettlement in project design. Projects that must relocate individuals for their investment must first study the feasibility of resettlement, consult with and obtain communities' agreement to the resettlement plan, compensate for damages (as above), and construct infrastructure to support resettlement. Compensation must be provided before relocation begins. Companies are also responsible for creating livelihood rehabilitation plans, which can include providing food, equipment and other products to affected people and supporting vocational training. Under Lao law, only individuals who agree to accept resettlement are eligible for relocation (Article 17, Law on Resettlement and Vocation, No. 45/NA, 2018), so it is important for companies to obtain affected people's consent prior to pursuing relocation.

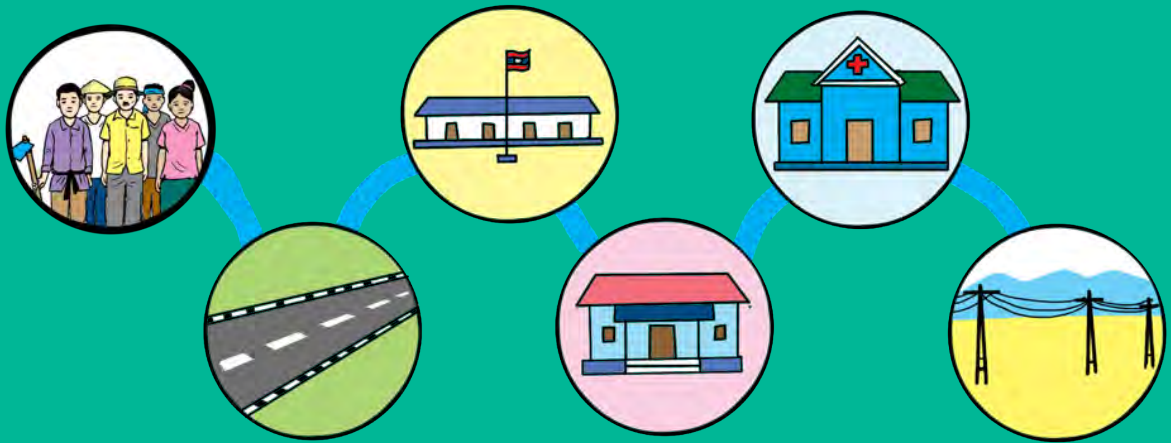


## 6. Social development

Social development is consistent with the following principles: “Contributing to social development” and “Using local labor and labor safety.”

### 6.1. Sharing benefits locally

Sharing benefits with people and the government is an important way for investors to earn local buy-in for their projects and improve their reputations. Some forms of benefit sharing are required through Lao law, such as:



1. Paying taxes and other fees to government agencies;
2. Hiring local laborers and creating employee training programs;
3. Building local infrastructure (bridges, roads, schools, water supply systems, and village meeting halls);
4. Contributing budget to village development, such as by creating village development funds.

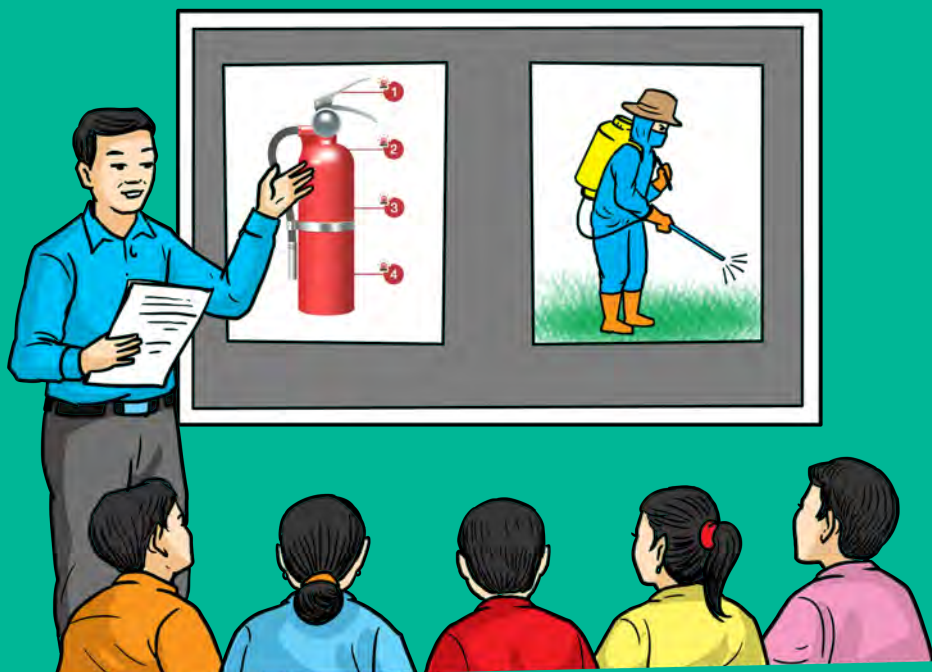
In addition, Chinese government guidelines on agriculture investment call on investors to donate money, buy materials from local providers, and volunteer locally. When companies make commitments to share benefits, written agreements should be created with the receiving party to avoid future misunderstandings and confirm the parties' agreement.

## 6.2. Promoting local employment and training employees

Chinese government guidance on forestry, agriculture and environmental protection prioritizes hiring local laborers, especially women. Lao labor regulations also call for creating employment opportunities for women and other disadvantaged groups, such as the elderly, people with disabilities and ethnic groups. Under the Law on Labor (No. 43/NA, 2013), the ratio of a company's foreign laborers must not exceed 15% of the total number of Lao laborers for those undertaking manual work, and 25% for mental work (such as management).



Investors are also required to develop laborers' skills and support technology transfer (Article 72, Law on Investment Promotion, No. 14/NA, 2016). Training to laborers should include not only skills necessary to their jobs (such as operating and safety techniques), but also other skills that they may like to gain (e.g. computer or language skills). Surveying laborers to understand their needs and creating a training program based on those needs can help Chinese investors make the most of their local human resources, while also creating goodwill.





# 7. Minimizing impacts on the environment

Minimizing impacts on the environment is consistent with the principle “Green development and protecting natural resources and the environment.”

## 7.1. Evaluating and protecting biodiversity

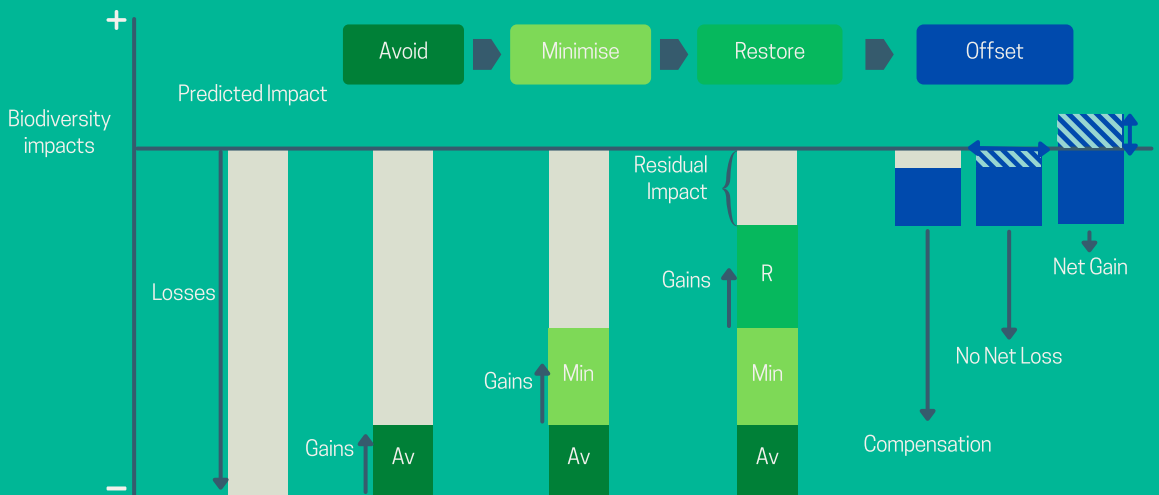
As part of their ESIA, investors must collect baseline information on biodiversity and natural resources in their investment area. According to Laos’ Law on Wildlife and Aquatic Life (No. 07/NA, 2007—currently being revised), it is prohibited for entities to encroach and destroy wildlife conservation areas, fish conservation zones, and habitats and feeding areas of both aquatic and wildlife through clearing land, felling trees, excessive use of pesticides and herbicides, and other actions (Article 52).

To avoid negative impacts on wildlife, Chinese guidance on agriculture and forestry investment calls for companies to map the rare, endangered, legally protected, and culturally significant flora and fauna in their investment area, then create plans to avoid negatively impacting these species and their habitats. Such plans could include the creation of local conservation zones and training staff in surveying and identifying the species.



Investors in Laos must also contribute financially to natural resource protection, for instance through paying various fees for environment, forestry and biodiversity rehabilitation. Some of these fees are funneled to Laos’ Environmental Protection Fund, which supports environmental research, environmental/natural resource management, awareness raising and other activities; and to Laos’ Forest Protection Fund, which supports forestry activities such as sectoral policy and regulatory reforms, outreach and dissemination, training, scientific research, forest protection and development, reforestation and forest restoration for commercial and environmental purposes and other activities (Forthcoming: Decree on Forest Protection Fund).

The Lao Decree on EIA (No. 21/GoL, 2019) states that projects creating serious damage to biodiversity, ecological systems, and endangered plants and animals will not receive an Environmental Compliance Certificate (ECC) that allows their project to move forward (Article 45). It is therefore essential that investors take the time to implement impact mitigation and compensation measures for biodiversity in their investment area. One approach to doing so is the mitigation hierarchy, which directs investors to begin by: 1) first, anticipate and avoid impacts so they do not occur (for instance by considering alternative project designs or locations); 2) minimize impacts if avoidance is not possible; 3) rehabilitate or restore affected areas to their previous condition if impacts do occur; and, as a last resort, 4) offset if significant residual negative impacts remain.



Chinese guidance on forestry calls on investors to respect and protect forests with high conservation value, which often includes protected areas. In line with the mitigation hierarchy above, projects should avoid investing in Laos' protected areas (PAs). If alternatives are not possible, projects must coordinate with PA authorities to ensure their investment plan is in line with PA management plans, land use plans and PA use zone allocation, so as to reduce impacts on biodiversity. Any impacts arising from investments in PAs must be compensated for following Lao regulations, and in line with the mitigation hierarchy described above.

## 7.2. Reducing impacts from chemical pesticides and herbicides

Chinese guidance on silviculture and agriculture calls for companies to minimize their use of chemical fertilizers and pesticides, and instead promotes organic options. The Decree on Pesticide Management (No. 258/GoL, 2017) requires that if a project must use pesticides, the company must register with the Department of Agriculture (Articles 15 & 34) and label pesticides in both Lao and foreign languages (Article 26). Companies using pesticides must also provide proper equipment and training to anyone applying pesticides and set up a warning system prior to and after application. The Decree prohibits washing or disposing of pesticide waste in water sources and near communities (Article 48). Government officials regularly monitor companies' pesticide use and can inspect facilities without warning. Violators of Lao regulations are subject to fines, seizure of pesticides, or termination of business operations. In addition to the regulations described here, all projects planting crops should follow Laos' clean agriculture standards, including Good Agricultural Practices (GAP) and organic agriculture (OA) standards.



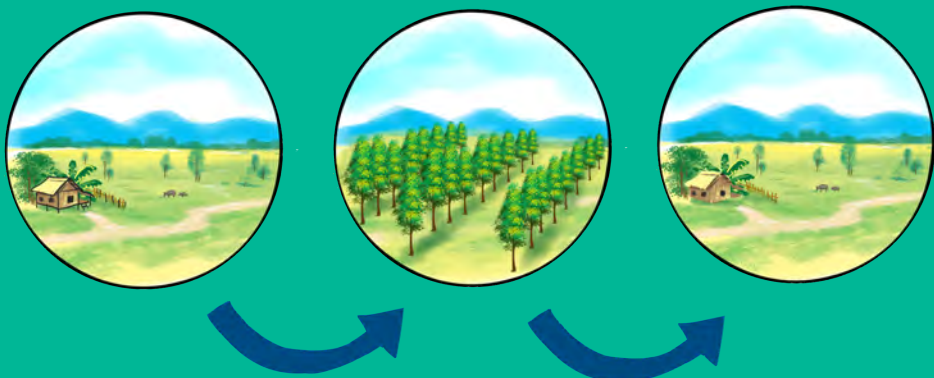
### 7.3. Following pollution control and waste disposal standards

Investors must comply with Laos' National Environmental Quality Standards and National Pollution Control Standards, as required in the Law on Environmental Protection (Article 35, No. 29/NA, 2012). Disposal of toxic waste, such as chemical pesticides, must follow methods outlined in the Decree on Pesticide Management (Article 48, No. 258/GoL, 2017). Chinese government guidance on agriculture and environmental protection calls on investors to build and operate pollution prevention and control facilities. All investment projects should constantly monitor and document pollution emissions. China's guide on environmental protection further calls on investment projects to pursue clean production by recycling and using resources effectively to minimize pollutants and waste.



### 7.4. Rehabilitating the environment post-investment

Laos' Law on Agriculture (No. 01/NA, 1998) states agricultural investors' obligations to environmental protection, including finding appropriate methods and measures to protect land, water, forests, air, etc. (Articles 6 and 68). The Decree on State Land Leases and Concessions (No. 135/PM, 2009) requires that investors who impact the environment must restore the affected area or compensate for damages following project closure. Land used must also be returned to its previous quality following a concession. Under the Law on Environmental Protection (No. 29/NA, 2012), investors must commit financial guaranties for environmental rehabilitation post-investment; if an investor proactively rehabilitates their investment area, the guaranties will be returned (Article 58). Investors are also subject to multiple fees supporting forests and biodiversity, such as forest restoration fees, biodiversity compensation fees, and tree planting fees if converting forestland (Articles 82 & 87, Law on Forestry, No. 64/NA, 2019). Investors must notify affected people of their environmental restoration efforts prior to project closure to gain feedback on any outstanding issues that need to be resolved (Article 39, Decree on Environmental Impact Assessments, No. 21/GoL, 2019). This consultation is a precondition for the Lao government to approve a project's closure.



# 8. Ensuring quality and safety of agriculture and forestry products

Ensuring quality and safety of agriculture and forestry products is consistent with the principle “Controlling the quality and safety of goods.”

## 8.1. Ensuring quality and safety of agriculture products

All exported agriculture products should meet phytosanitary standards agreed upon between Laos and the importing country. These standards are specific to individual crops and include limits on pesticide residue and other contaminants. Some of China’s trade safety standards and agreements with Laos can be found on the Ministry of Industry and Commerce’s Lao Trade Portal website: (<https://www.laotradeportal.gov.la/index.php?r=site/display&id=2105>).



The Lao Ministry of Agriculture and Forestry released the Agreement on Good Agricultural Practices for Product Safety Standards (No. 0115/MAF, 2011) to establish requirements that producers and entrepreneurs must follow in order to produce vegetables and fruits safe for consumers, following ASEAN’s Good Agricultural Practices (GAP) standards. The Agreement on Good Agricultural Practices for Product Quality Standards (No. 0539/MAF, 2011) sets requirements for producers and entrepreneurs to follow to produce agriculture products that are high-quality and meet market demands. Both these agreements set forth standards for using pesticides; properly applying and storing chemicals; tracking the use of pesticides, fertilizers and chemicals; ensuring safe storage and transport of harvested produce; and using suitable water in operations. Investors can apply for certification of their products following Lao standards, including GAP and organic agriculture certification, from the Department of Agriculture, Ministry of Agriculture and Forestry.



## 8.2. Harvesting timber and non-timber forest products sustainably and legally

According to Chinese government guidance, companies should set an annual harvesting plan that must be approved by the relevant local government department in the host country, then create a pre-harvesting publicity and consultation system in the local area. Chinese guidance on silviculture and forestry management calls on companies to establish a yearly quota lower than a plantation's annual growth; minimize impacts of harvesting on soil, biodiversity, ecologically fragile areas, and fauna and flora habitats; diversify the age of the forest environment through strategic harvesting; and “avoid over-concentrating logging over a short period of time.” The Lao Law on Forestry (No. 64/NA, 2019) requires appointing a committee responsible for managing, monitoring and inspecting logging in line with regulations (Article 29). It also requires using logging enterprises with expertise, experience and established standards following proper techniques. Enterprises with plans to log timber must design their timber harvesting plans to be in line with the Lao government's annual logging surveys and harvesting plans. Harvesting of all types of non-timber forest products must comply with approved plans in production forest areas; forestland conversion areas; controlled use zones in protection and conservation forests; and land areas of individuals where the government has legally granted land use rights (Article 31).



Laos is currently negotiating with the European Union to develop an assurance system for the trade of timber products that are of legal origin and sustainable. After negotiations are complete, a system for inspecting and certifying the legality of timber – from when it is in a forest or plantation to when it is an export product – will be developed.

## 9. Monitoring and inspection

Monitoring and inspection of investment projects is consistent with the following principles: “Disclosing information and transparency” and “Green development and protecting natural resources and the environment.”

### 9.1. Regular investment monitoring

The Law on Investment Promotion (No. 14/NA, 2016) requires that all investment activities be managed, monitored and inspected by investment promotion inspection authorities (Article 104). The contents of monitoring and inspection include social, environmental, economic, and legal dimensions, namely:

- Inspecting implementation of the investment contract;
- Inspecting implementation of investment procedures;
- Inspecting environmental protection efforts, based on the environmental and social management plan, and including impacts on assets of the government, people, investors, and developers;
- Inspecting implementation of occupational safety measures; and
- Inspecting implementation of relevant laws and regulations.

The Law on Investment Promotion further states that investors must contribute budget to monitoring and inspecting their investment, and must also report on their business operations to authorities quarterly (Article 72). Chinese government guidance on silviculture recommends that monitoring include gathering data on forest renewal/health, changing trends in fauna and flora, the impacts of logging on society and the environment, and the costs and benefits of the project. Companies should engage with communities in monitoring and inspection to understand the positive and negative impacts their project is creating and methods for strengthening operations in future monitoring periods.



## 9.2. Disclosing investment information and results of monitoring

Publishing investment information is required by Lao law in all project phases, from planning through completion. The Decree on Environmental Impact Assessments (No. 21/GoL, 2019) requires that relevant project documents, such as ESIA, environmental management plans, business plans and implementation reports, should be released to the public through multiple avenues, including village meetings, videos, radio programs, television, websites, and other means (Article 38). Impacted people have a right to provide comments on these reports, especially during project closure. The Lao government will only approve a project's closure after receiving communities' and other stakeholders' confirmation that the investment project has completed its environmental restoration plans and other commitments.



Chinese government guidance on environmental protection, silviculture and agriculture calls on investment projects to disseminate the results of their investment monitoring publicly, especially by regularly releasing environmental management plans, environmental performance reports and social responsibility reports. In addition, it encourages investment projects to host periodic dialogues between local authorities, communities, and other stakeholders about project decisions and changes. Regular, transparent reporting can help build trust in companies, improve their reputations in Laos and regionally, and reduce investment risks.





# Section IV. Conclusion

This guide was developed as a tool for Chinese investors to use in planning and operating a socially and environmentally responsible agriculture and forestry investment in Lao PDR. By compiling guidance from the international level and the Chinese government, then integrating legal requirements from Lao laws and regulations, this guide strove to illustrate how and why Chinese companies should operate their investments responsibly. With inputs from the Lao government, civil society organizations, international organizations, and the Chinese private sector, this guide has been widely endorsed as a reference for all prospective Chinese investors in Laos' agriculture and forestry sector.

This guide laid out seven principles of responsible agriculture and forestry investments that investors should follow from project planning to completion. These are:

- 1) Consulting with and involving communities
- 2) Disclosing information and transparency
- 3) Respecting people's right to use land, fisheries, forests and water sources
- 4) Contributing to social development
- 5) Using local labor and labor safety
- 6) Controlling the quality and safety of goods
- 7) Green development and protecting natural resources and the environment

These principles are reinforced by international guidance on responsible investment, Chinese government guidelines for foreign investment, and Lao laws and regulations. Applying these principles across an investment project can help companies minimize their project risk, as well as achieve environmental, social and economic benefits for all stakeholders involved.

Investors have an obligation to integrate responsible practices into each phase of their project. This guide identified five phases of responsible investments: 1) Strategic planning; 2) Design and approval; 3) Implementation; 4) Monitoring and evaluating impacts; and 5) Completing a project or reinvestment. Necessary actions in each of these phases are determined by the principles outlined above, as well as Lao legal requirements. These actions include:

- 1) Preparing for and comprehensively planning an investment, by identifying stakeholders, studying the Lao legal framework, and conducting required assessments with the involvement of affected communities.
- 2) Consulting with and involving affected communities in all project phases, being sure to pay attention to the most vulnerable groups and follow the FPIC process.
- 3) Establishing a grievance resolution mechanism for affected people to raise concerns, and operating this mechanism until investment closure for constant feedback and improvement of practice.

- 4) Negotiating fair contracts with communities that clearly state the roles and responsibilities of each party and clarify the company's commitments and investment plans.
- 5) Compensating affected people and, if absolutely necessary, resettling them following Lao regulations, and ensuring affected people's consent with compensation and resettlement plans.
- 6) Contributing to social development by sharing project benefits with local communities and government, promoting local hiring, and training employees.
- 7) Minimizing impacts on the environment, especially by protecting biodiversity; minimizing and controlling chemical use; following national pollution and waste standards; and rehabilitating any negatively impacted areas following the investment.
- 8) Ensuring product quality and safety by following domestic and international quality standards, earning product certifications, and sustainably harvesting products in line with Lao regulations and international best practice.
- 9) Monitoring and inspecting investment implementation, including assessing environmental, social and economic impacts, to identify areas for improvement, then disclosing the results of monitoring publicly to foster transparency.

Following the principles and practices outlined in this guide will help investors successfully implement their projects by building trust between companies and project stakeholders and minimizing risk of conflicts, delays, and negative impacts. On a larger scale, responsible investments will also contribute to the sustainable development of Lao PDR and its communities, preserve its environment, and improve investment cooperation between Lao PDR and China to ensure mutual benefits for all parties involved.



# Section V. Appendices

## Appendix I: List of laws and regulations relevant to agriculture and forestry investment in Lao PDR

This guide referenced the following laws and regulations:

### International Declarations and Conventions:

1. Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), 1973
2. UN Declaration on the Right to Development, 1986
3. Ramsar Convention on Wetlands of International Importance, 1987 (amended)
4. Convention on Biological Diversity (CBD), 1992
5. UN Declaration on the Rights of Indigenous Peoples, 2007

### Strategies:

1. Agriculture Development Strategy to 2025 and Vision to 2030
2. Vision to 2030 and Ten-Year Socioeconomic Development Strategy, 2016-2025
3. Natural Resources and Environment Strategy, 2016-2025
4. National Biodiversity Strategy and Action Plan, 2016-2025
5. National Forestry Strategy to 2030 (forthcoming)

### Resolutions:

1. Resolution of the Party's Central Committee on the Enhancement of Land Management and Development in the New Period (No. 026/CC, released 3 August 2017)

### Laws:

1. Law on Investment Promotion (No. 14/NA, released 17 November 2016)
2. Law on Forestry (No. 64/NA, released 13 June 2019)
3. Law on Agriculture (No. 01/98 NA, released 10 October 1998)
4. Law on Land (No. 70/NA, released 21 June 2019)
5. Law on Resettlement and Vocation (No. 45/NA, released 15 June 2018)
6. Law on Environmental Protection (No. 29/NA, released 18 December 2012)
7. Law on Wildlife and Aquatic Life (No. 07/NA, released 24 December 2007)
8. Law on Handling Petitions (No. 05/NA, released 9 November 2016)
9. Law on Labor (No. 43/NA, released 24 December 2013)
10. Law on Economic Dispute Resolution (No. 51/NA, released 22 June 2018)
11. Law on Secured Transactions (No. 06/NA, released 20 May 2005)
12. Civil Code (No. 55/NA, released 6 December 2018)

## Decrees:

1. Decree on Compensation and Resettlement of People Affected by Development Projects (No. 84/GoL, released 5 April 2016)
2. Decree on State Land Leases and Concessions (No. 135/PM, released 25 May 2009)
3. Decree on Environmental Impact Assessments (No. 21/GoL, released 21 January 2019)
4. Decree on Implementation of the Law on Investment Promotion (No. 119/PM, released 20 April 2011)
5. Decree on Pesticide Management (No. 258/GoL, released 24 August 2017)
6. Decree on Labor Dispute Resolution (No. 76/GoL, released 28 February 2018)
7. Decree on Occupational Health and Safety (No. 22/GoL, released 5 February 2019)
8. Decree on Building and Developing Labor Skills (No. 036/PM, released 22 January 2010)
9. Decree on Promotion of Tree Planting for Commercialization (No. 247/GoL, released 20 April 2019)
10. Decree on Sustainable Management of Production Forest Areas (No. 59/PM, released 2 May 2002)
11. Decree on Endorsement and Promulgation of the National Environmental Standards (No. 81/MONRE, released 21 February 2017)
12. Decree on Protected Areas (forthcoming in 2021)

## Orders:

1. Order on Enhancement of Land Use Management for Industrial Tree Concessions and Other Crops Nationwide (No. 09/PM, released 02 July 2020)
2. Order on Strengthening Strictness of Management and Inspection of Timber Harvesting, Transport, and Timber Businesses (No. 15/PM, released 13 May 2016);

## Agreements:

1. Agreement on the Control of Pesticides in Lao PDR (No. 2860/MAF, released 1 June 2010)
2. Agreement on the Endorsement and Promulgation of the List of Investment Projects and Other Activities that Must Conduct an Initial Environmental Examination or Environmental and Social Impact Assessment (No. 8056/MONRE, released 17 December 2013)
3. Agreement on Good Agricultural Practices for Product Safety Standards (No. 0115/MAF, released 27 January 2011)
4. Agreement on Good Agricultural Practices for Environmental Management Standards (No. 0538/MAF, released 9 February 2011)
5. Agreement on Good Agricultural Practices for Product Quality Standards (No. 0539/MAF, released 9 February 2011)
6. Agreement on Good Agricultural Practices for Worker Health, Safety and Welfare Standards (No. 0540/MAF, released 9 February 2011)
7. Agreement of the Minister of Agriculture and Forestry on Organic Agriculture Standards (No. 1666/MAF, released 30 December 2005)
8. Agreement on Pesticide Registration (No. 3604/MAF, released 17 September 2017)
9. Agreement on Approving Foreign Laborers to Work in Lao PDR (No. 5418/MSLW, 2007)

## Instructions:

1. Instruction on Investment Approval and Land Management Mechanisms for Leasing or Concessions for Crop Cultivation (No. 0457/MPI, released 27 February 2019)
2. Instruction on the Process of Environmental and Social Impact Assessments for Investment Projects and Other Activities (No. 8030/MONRE, released 17 December 2013)
3. Instruction on Implementing the Decree of the President on Fee Rates for State Land Leases and Concessions (No. 537/PMO, NLMA, released 25 December 2009)

## Appendix II: Selected stakeholders relevant to agriculture and forestry investment in Lao PDR

### Government

#### Ministry of Planning and Investment

Investment Promotion Department	<ul style="list-style-type: none"><li>• Serves as the One-Stop Service investment office at the central level in researching, coordinating, compiling, reporting, and implementing activities to attract, promote, protect, and manage private sector investment;</li><li>• Researches Lao laws and regulations related to attracting, promoting, protecting and managing private sector investment;</li><li>• Acts as an information/statistics center for private sector investment projects and provides investment information;</li><li>• Drafts notices and certificates for investment approval, investment promotion, suspension, warnings, investment license withdrawal, investment extension, and project closure;</li><li>• Monitors, inspects, encourages, and suggests issue resolution methods to higher levels of government on implementing investment projects.</li></ul>
Laos-China Cooperation Committee	<ul style="list-style-type: none"><li>• Coordinates with relevant stakeholders in Laos and China to identify, monitor, and encourage implementation of plans;</li><li>• Guides and encourages implementation of cooperation and investment projects in various areas that both governments have approved, and evaluates effectiveness of the projects.</li></ul>

#### Ministry of Agriculture and Forestry

Department of Agriculture	<ul style="list-style-type: none"><li>• Provides techniques for crop planting following proper principles and standards;</li><li>• Creates legislation on Good Agricultural Practices (GAP) and other Lao standards;</li><li>• Monitors and inspects investments requesting registration based on agricultural standards (such as GAP), and considers whether to issue those certifications;</li><li>• Controls the quality of agricultural crops based on standards after issuing certifications.</li></ul>
Department of Forestry	<ul style="list-style-type: none"><li>• Monitors, inspects and evaluates the impacts of investments implementing activities related to forests, forestland, tree plantations, forest restoration, tree harvesting, non-timber forest product harvesting, aquatic life and wildlife, ecotourism, and other activities based on responsibilities;</li><li>• Regularly reports on and evaluates implementation of policies, strategies, plans, and programs, with the goal to adjust them in line with the Party's policy guidelines and government regulations;</li></ul>



- Controls timber harvesting and transferring logs, sawdust, decorative trees, wooden scaffolding, wooden fence posts, biomass for energy, and non-timber forest products, including transfer of aquatic life, wildlife and charcoal;
- Encourages, monitors, evaluates impacts, summarizes, and reports every week, month, quarter, 6 months, year, and 5 years;
- Researches and provides comments on domestic and foreign investment in agriculture, forestry and rural development based on laws and regulations.

Department of Agricultural  
Land Management

- Compiles, manages, provides, and maintains information on land, work related to agricultural land management, and development to society;
- Researches and coordinates with other stakeholders to review economic analyses, and evaluates impacts of proposals to invest, lease or concession agricultural land before proposing higher approval;
- Monitors and inspects investors' and entrepreneurs' land use in line with contracts and laws;
- Surveys, allocates, and demarcates agricultural land and researches registration of that land, by coordinating with other stakeholders to manage and use land legally and appropriately based on actual conditions.

Department  
of Planning and  
Finance

- Signs and contributes comments on documents related to cooperation, domestic and foreign investment, and to stakeholders from related sectors responsible for cooperation and investment work;
- Coordinates with stakeholders from Laos and abroad in scientific/technical cooperation and providing and exchanging information and agriculture statistics.

## Ministry of Natural Resources and Environment

Department of Land

- Coordinates with various sectors at the central and local levels to manage state land centrally, develop land, turn land into capital, and approve leases and concessions on state land;
- Participates in technical committees to research, comment on and provide land information in considering approval of investment projects and other activities to the Investment Promotion and Management Committee at the central level;
- Proposes that higher government levels consider issuing approval, suspension, or cancellation of activities related to managing, administering, and allocating land and to land use and development planning.

Department  
of Environment

- Periodically evaluates environmental impacts of investment projects, from the start of the ESIA process through project implementation and before project closure;
- Creates various policies and regulations to protect the environment and society and avoid negative impacts from investment projects;
- Summarizes the results of project evaluations and sends to other stakeholders related to investment to find solutions to problems identified;
- Prevents and controls air, water, land, noise, light, color and odor pollution from emissions and general sources;

- Manages use of toxic chemicals, hazardous substances, hazardous waste, and other waste; surveys and collects information on pollution; plans for, prevents, and resolves emergencies that impact the environment, society and nature throughout the country.

## Ministry of Industry and Commerce

Department of Enterprise Registration and Management

- Manages proper registration of investing enterprises or companies;
- Services or changes the contents of registration for enterprises under the Ministry's management;
- Promotes making the business environment and the establishment of domestic investment businesses convenient;
- Provides relevant legal advice to service users, especially investors.

## Ministry of Labor and Social Welfare

- Creates policies on labor, welfare, and Lao labor safety;
- Promotes use of Lao labor in investment projects by requiring skills development according to the work of the project;
- Encourages all investors to use the social security system, following Lao laws, to manage Lao labor.

## Other stakeholders

Private sector

- Owns the investment project;
- Helps affected people understand the project;
- Ensures compensation and resettlement is conducted following Lao law;
- Improves affected peoples' livelihood to be better than before the investment;
- Ensures fair benefits sharing between the project and people;
- Creates mechanisms for communities to provide feedback on the project.

International and civil society organizations

- Builds understanding among communities about agriculture and forestry investment;
- Disseminates laws and regulations related to investment to communities to ensure they receive rights and benefits;
- Can be a resource for companies to increase their understanding of the local context in their investment area.

Village authorities and communities

- Receives both positive and negative impacts from the investment project;
- Considers accepting or rejecting the project after analyzing the pros and cons of the investment and agreeing;
- Cooperates with the investment project in developing their own community;
- Provides feedback to the company and government on project implementation and any concerns.

