



A map of the Mekong region, including parts of China, Laos, Vietnam, Cambodia, and Thailand. The map is overlaid with a brown semi-transparent layer. Numerous blue and red dots are scattered across the map, representing Special Economic Zones and land dispossession. Major cities labeled include Kunming, Nanning, Hanoi, Vientiane, Bangkok, and Phnom Penh. A vertical green bar is on the left side of the map.

SPECIAL ECONOMIC ZONES AND LAND DISPOSSESSION IN THE MEKONG REGION



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Land Watch Thai works to protect and promote the rights of people impacted by land and forestry policies. Land Watch Thai was founded in 2014 as a result of the mobilization of civil society working to promote more just land and forestry policies in Thailand.

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Authors: Pornpana Kuaycharoen, Luntharima Longcharoen, Phurinat Chotiwan, Kamol Sukin, Lao Independent Researchers

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TABLE OF CONTENTS

	Preface	6
1.	Introduction	7
2.	Special Economic Zones in the Mekong region	11
	Regional economic frameworks promoting SEZs	11
	Taking stock: SEZ development in the Mekong region	14
3.	Special Economic Zones in Laos	16
	State of SEZs in Laos	16
	Legal and governance framework	21
	Land governance framework related to SEZs	21
	Savan-Seno Special Economic Zone	23
	Vientiane-Long Thanh Specific Economic Zone	25
4.	Special Economic Zones in Cambodia	26
	State of SEZs in Cambodia	27
	Legal and governance framework	29
	Land governance framework related to SEZs	29
	Kiri Sakor Koh Kong SEZ	30
	Sihanoukville SEZ	31
5.	Special Economic Zones in Myanmar	33
	State of SEZs in Myanmar	34
	Legal and governance framework	37
	Land governance framework related to SEZs	37
	Thilawa SEZ	38
	Dawei SEZ	39
	Kyaukphyu SEZ	40
6.	Special Economic Zones in Vietnam	42
	State of SEZs in Vietnam	43
	Legal and governance framework	45
	Land governance framework related to SEZs	46
	Dung Quat Economic Zone Authority	48
	Land speculation in the three Special Economic Zones	49
7.	Special Economic Zones in Thailand	50
	State of SEZs in Thailand	51
	Legal and governance framework	54
	Land governance framework related to SEZs	55
	Mae Sot Special Economic Zone	57
	Amata Special Industrial Promotion Zone within the EEC	58
8.	Special Economic Zones: key issues and impacts	61
9.	Conclusion and recommendations	64
	References	67
	Endnotes	75

List of tables

Table 1	Special Economic Zones in the Mekong Region.....	14
Table 2	Special and Specific Economic Zones in Laos.....	17
Table 3	Special Economic Zones in Cambodia (operational, 2016).....	28
Table 4	Special Economic Zones in Myanmar.....	34
Table 5	Areas covered by the 29 Special Economic Promotion Zones within the Eastern Economic Corridor.....	54

List of figures

Figure 1	Special Economic Zones and GMS Economic Corridors.....	12
Figure 2	Special and Specific Economic Zones in Laos, operational and under construction.....	20
Figure 3	Location of Zone A, B-B1, C, D in Savan-Seno SEZ.....	23
Figure 4	Comparing Land Condition in Savan-Seno SEZ Zone C, 2007 and 2017.....	24
Figure 5	Land Use Change in Vientiane-Long Thang SEZ, 2008 and 2018.....	25
Figure 6	Special Economic Zones in Cambodia (operational, planned and under construction).....	27
Figure 7	Special Economic Zones in Myanmar.....	35
Figure 8	Special Economic Zones proposed in Vietnam.....	44
Figure 9	Location of 10 Border Special Economic Zones and the Eastern Economic Corridor, Thailand.....	52
Figure 10	Eastern Economic Corridor.....	53
Figure 11	Amata City industrial estates make up 3 of the 21 Promoted Zones within the ECC Special Development Zone.....	59

PREFACE

Special economic zones (SEZs) have become a one-size-fit-all policy solution for governments eager to expand their industrial economy. Laos, Cambodia, Myanmar, Thailand and Vietnam have all bought into the idea that SEZs will spur the development of a modern industrial sector that will form the basis of future economic growth. All countries have developed laws and policies that provide private investors with special privileges such as tax cuts and easy access to land for factories and other commercial enterprises. Whether special economic zones are really the engines of economic growth they are touted to be is still a matter for debate even among neoliberal economists. In the Mekong region, as elsewhere in the world, many SEZs have not met government's own expectations in terms of attracting investments, developing a robust manufacturing sector, generating revenue, or creating positive linkages with the local and national economies, including employment opportunities. As a model for development, SEZs are even more problematic when social and environmental impacts are taken into account. As this report examines, SEZs in the Mekong region are often linked with human rights violations such as land dispossession, poor working conditions and environmental degradation. As SEZs have expanded in the region, so too have social conflicts and resistance from local residents who have fought to protect their land and resources.

This study would not have happened without the collaboration of a dedicated team of researchers and activists from across the Mekong region. We hope the study will provide a basis for further discussion and help build a platform for people who have had their land rights violated to voice their concerns.

Pornpana Kuaycharoen (Kung)

Founder/ Coordinator

Land Watch Thai

Manfred Hornung

Director

Heinrich Böll Stiftung Southeast Asia Regional Office

1. INTRODUCTION



Sign at That Luang Lake SEZ prohibiting fishing; violators will be fined US\$500-1000. The new urban development is being built on one of Vientiane's last remaining wetlands.

PHOTO: LAND WATCH THAI

“ Liberal thinkers propose that for capitalism to continue growing, freedom must be given to it by abolishing the regulations and politics that constrain and control it. ”

— Pasuk Phongpaichit, Professor of Economics at Chulalongkorn University¹

In the Mekong region, much attention has focused on “land grabbing” and associated forms of dispossession resulting from large-scale land acquisitions for commercial agriculture, industrial forestry, and mining. While there is some evidence suggesting the concession model for agribusiness development “may have reached, or passed, their zenith”,² other land intensive forms of investments in factories and special economic zones are on the rise, yet have received comparatively less attention. As cross-border trade and ASEAN economic integration

progresses within the Mekong region and externally in the global economy, the demand to industrialize large swathes of agriculturally productive land and environmentally sensitive areas is set to continue.

While industrial zones of various types played a key role in shaping Thailand and Vietnam's export-oriented industrialization in the 1980s and 1990s, it was the 2000s that really saw special economic zones (SEZs) take off in the Mekong region as a model to drive industrialization and national

economic growth. Over the past decade, all five Mekong region governments – including Laos, Cambodia, Myanmar, Vietnam and Thailand – have been actively reforming their laws and institutions to promote SEZ development, attract private sector investment and facilitate access to land for factories and infrastructure in an increasingly “competitive regionalized economic landscape”. Key factors behind the push for SEZs are the various regional economic cooperation mechanisms promoting trade and investment; the increased availability of private capital within the Mekong and broader Asian region; improvements in trans-border infrastructure; and the differential endowments in the region that makes it profitable for companies to relocate labor and land-intensive industries to their poorer neighbors.

SEZs are commonly defined as “demarcated geographic areas contained within a country’s national boundaries where the rules of business are different from those that prevail in the national territory.”³ These “spaces of exception” are designed to attract investments in manufacturing and other commercial activities by offering benefits to investors and creating a business-friendly environment. Their association with land dispossession and exploitative labor conditions makes them a particularly contentious model of accumulation linked to regional and global circuits of production and trade.

SEZs have many names and come in various forms and sizes, but tend to have the following common attributes: 1) a geographically defined area, often physically secured; 2) a dedicated governance structure to administer the territory, under special laws and regulations; 3) eligibility for benefits based upon physical location within the zone (e.g. tax exemptions, no foreign exchange controls, duty-free benefits); 4) facilitated licensing and other regulatory processes; 5) enhanced infrastructure

and in-house services; and 6) less stringent labor and environmental regulations.

SEZs vary considerably across the Mekong region. They can be basic manufacturing enclaves, such as the Phnom Penh SEZ, where mainly Japanese manufacturing firms produce goods for export to Thailand, Japan and other regional and global markets. SEZs can also be massive “modern day company towns”⁴ that combine heavy petrochemical and lighter industries with residential areas, schools and hospitals, as with the Dawei SEZ in Myanmar. Or they can be tourist destinations, complete with resorts, casinos, and entertainment areas, such as the Chinese-owned Golden Triangle SEZ in Laos. SEZs can also represent a clustered approach to industrial development as in the case of Thailand’s Eastern Economic Corridor (ECC). Here, specific legislation has created an area that encompasses 29 Special Economic Promotion Zones in three provinces where companies can access land ownership, tax and other benefits if they invest in targeted industries. Some local governments are reimagining entire cities like Ho Chi Minh and Yangon to be special economic zones,⁵ while in Cambodia a master plan is under preparation to turn Sihanoukville province into an SEZ “similar to Shenzhen in China.”⁶

Mekong leaders have drawn inspiration from China’s success story of Shenzhen SEZ to inform their economic development strategy. In the 1980s, Shenzhen SEZ served a testing ground for China’s new economic liberalization policies. In just a few decades, Shenzhen was transformed from a small fishing village into a grand metropolis, now home to many of the world’s largest and most innovative high-tech companies. Lured by this embodiment of the Chinese economic miracle, Mekong governments see SEZs as a key policy tool to galvanize a modern industrial sector that will serve as a foundation for the future economy. Along with the Asian

Development Bank (ADB) and other proponents of SEZs, governments promise that SEZs will at the very least help diversify the economy, boost exports, create jobs, and raise standards of living.

So far results have been mixed at best. While some SEZs have generated benefits in the form of wages for local workers and contributed to national import and export targets, their economic performance has often been disappointing in terms of attracting significant investment or generating linkages with the domestic economy.⁷ This is particularly the case for countries that are relatively recent entrants to the global SEZ market such as Cambodia, Laos and Myanmar, where many SEZs are little more than enclaves delinked from the rest of the economy, or remain inoperative years after approval. Some SEZs have become notorious hubs for drug and wildlife trafficking, gambling, and money laundering.⁸

Aside from the more critical reviews by civil society groups and academics, assessments of SEZ 'success' tend to focus on their economic performance, neglecting their wider social and environmental impacts and leaving fundamental questions about who stands to benefit at bay. As this report illustrates, SEZs and associated infrastructure produce a number of critical problems for citizens, including land conflicts, loss of livelihoods, and the destruction of forests, coastlines and waterways. The promised jobs for those displaced by SEZs often fail to materialize due to lack of skills or competition with better wages offered in cities and across borders. The significant costs that SEZs have on society are often treated as externalities; yet they also pose risks for governments and investors.

“
SEZs and associated infrastructure produce a number of critical problems for citizens, including land conflicts, loss of livelihoods, and the destruction of forests, coastlines and waterways.
”

A particular concern in the context of this report is that SEZs generate a huge demand for land. The land allocated to investors is invariably land that is already occupied and used by communities. Often it is fertile farmland or it is forests and wetlands critical to local livelihoods, which communities have managed and protected for generations. To establish SEZs, states claim ownership over land that is sometimes privately titled but most often under de facto possession or control of local users. As the process of recognition and registration of land rights has been slow and incomplete in many Mekong countries, overlapping land claims

between people, the state and companies has sparked numerous conflicts. State claims to land are further enabled through national laws that empower it to appropriate land for “public purpose” or for the “national interest”. Like “state land”, these are fuzzy categories left to the discretion of state authorities, allowing state representatives, local elites and foreign investors to capture and exploit land and labor for private profit. In addition to outright appropriations, establishing SEZ often lead to indirect forms of land dispossession through, for example, real-estate speculators

in surrounding areas. As highlighted in a 2017 study by Focus on the Global South, SEZs are less a strategy for industrialization than a means to facilitate “extraction of value from the Mekong.”⁹ Unsurprisingly, the development of SEZs has often been met with resistance from affected communities across the region.

This report examines regional- and country-level policies, laws and processes shaping SEZ development and their intersection with land

governance. Although country contexts and dynamics differ, the confiscation of land from smallholders by the state to provide inexpensive sites for investors in manufacturing and other commercial activities is occurring across the Mekong region. A number of common issues are identified, including an absence of meaningful consultation with affected communities; lack of transparency and accountability in land acquisition and the development and administration of zones; inadequate resettlement and compensation for lost land and livelihoods; difficulties in seeking legal redress for communities; and the formulation and/or selective implementation of laws favoring business interests at the expense of people's rights and well-being.

The report begins with a brief discussion of the regional economic cooperation frameworks that have been central to promoting SEZs, most notably the ADB's Greater Mekong Sub-region (GMS) Economic Cooperation Program. This is followed by

country specific cases examining SEZ development, legal and governance frameworks and impacts in Laos, Cambodia, Myanmar, Vietnam and Thailand. Key issues and concerns emerging from the country cases are summarized in Section 8, before concluding with some recommendations.

Land Watch Thai undertook this study in collaboration with researchers and activists from the Mekong region countries. The report is based on a review of existing literature, complemented by field visits to selected SEZs where some of the authors have been monitoring SEZs and engaging in advocacy. The report is structured so as to facilitate a comparison between countries, although the availability of information makes for some unevenness. We hope this regional and country-level synthesis on SEZs helps to build awareness among governments, investors, donors and the public of the unacceptable costs of SEZs in the Mekong region, borne disproportionately by the most vulnerable sectors of society.

2. SPECIAL ECONOMIC ZONES IN THE MEKONG REGION



The Second Lao-Thai Friendship Bridge over the Mekong connects Mukdahan Province in Thailand with Savannakhet in Laos, and is part of the GMS East-West Corridor.

PHOTO: ADB LICENSED UNDER CC BY-NC-ND 2.0

Regional economic frameworks promoting SEZs

Special Economic Zones occupy a central place in the ADB's vision of a Greater Mekong Sub-region (GMS), a program initiated in 1992 that aimed to transform a region fractured by Cold War divisions into an integrated hub of economic prosperity. Spanning the territories of the five Mekong countries and Yunnan and Guizhou provinces in southern China, the GMS program has focused on the construction of large trans-border infrastructure to deepen regional connectivity and lower the cost of cross-border transportation. A key feature of the GMS program is the establishment of economic corridors, which bundles regional transportation networks with other types of infrastructure development, linking places of production and consumption and incorporating peripheral spaces into centralized capitalized relations. As shown in Figure 1, most SEZs are located at or near borders and along the GMS economic corridors.

The Association of Southeast Asian Nations (ASEAN) and its various configurations of regional blocs (AFTA, ASEAN+3, AEC, etc.) similarly focus on promoting trade and investment. Numerous free trade agreements (FTAs) have been signed to enhance the competitiveness of the region's manufacturing sector and support the growth and expansion of 'Factory Asia'. Like improvements in infrastructure, FTAs encourage the fragmentation and mobility of production networks: corporations can move specialized aspects of the production process to different locations to take advantage of a country's cheaper land and labor, but also their preferential access to markets under various international FTAs.¹⁰ ASEAN has also issued guidelines to implement SEZs,¹¹ addressing different aspects of policy-making, strategy development, regulation and implementation, as well as to promote collaboration on zone connectivity among member states.

The Japanese government has provided significant financial and technical support to Mekong

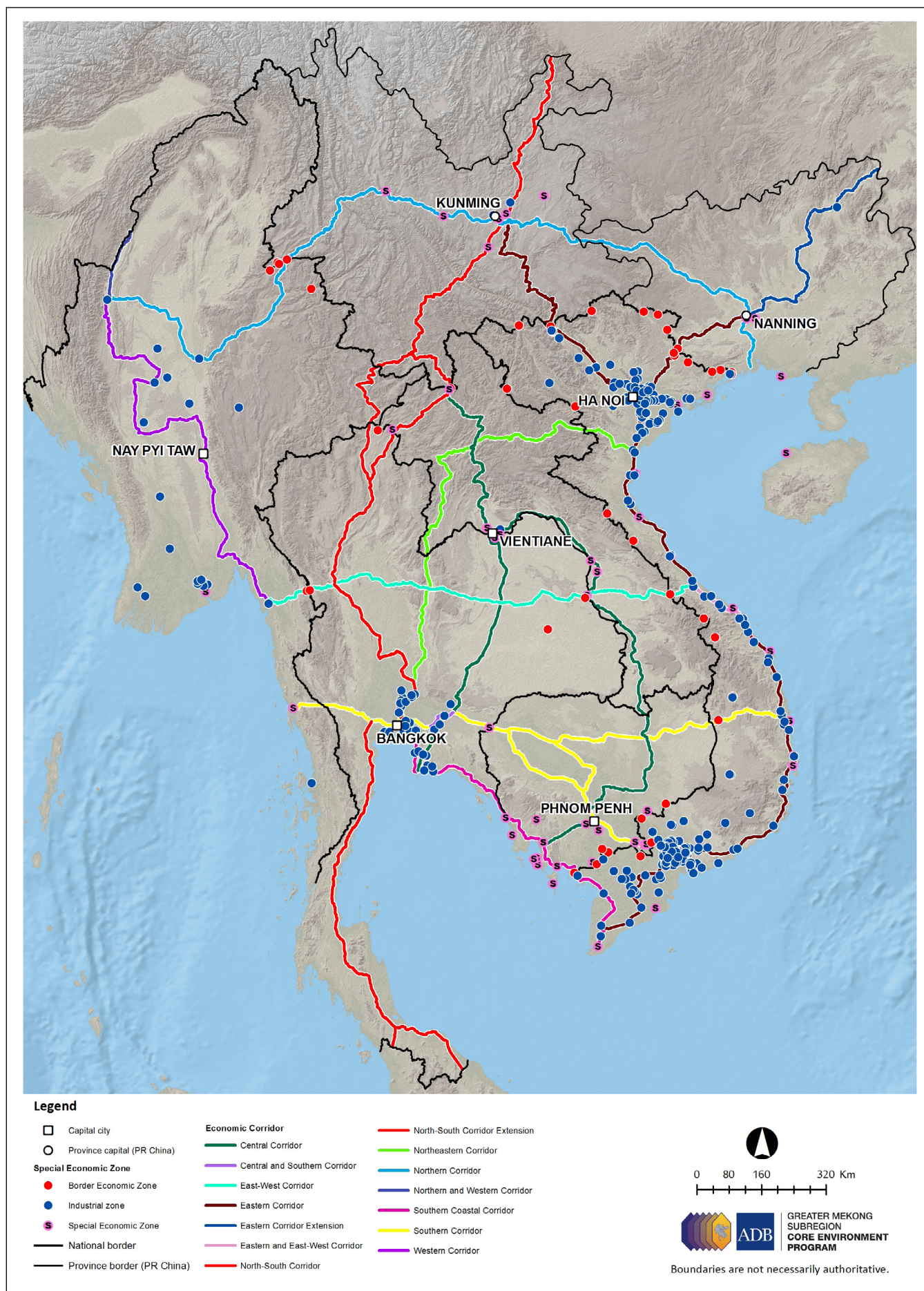


Figure 1. Special Economic Zones and GMS Economic Corridors

Source: GMS Environmental Operation Center, 2014

region countries to establish SEZs and related infrastructure as part of the ABD GMS program¹² as well as bilaterally. However, China is the dominant provider of aid and investment in the region. China has enthusiastically embraced economic corridors and SEZs as a model of development, offering Mekong countries billions in infrastructure finance. While continuing to support the ADB-led GMS program, China has created its own brand of multilateral institutions, infrastructure connectivity plans, and regional funding and cooperation mechanisms. Strategic projects such as the Kyaukphyu deep-water port and SEZ in Myanmar's Rakhine State have been rebranded by the Chinese state media as "model projects" under the Belt and Road Initiative (BRI),¹³ an inter-continental infrastructure connectivity scheme that promotes global trade with China.

Thailand and Vietnam have also contributed to developing SEZ-supporting infrastructure across their own borders to promote investment and move extracted raw materials and manufactured components between those areas to their own processing centers. Thailand's Neighbouring Countries Economic Development Cooperation Agency (NEDA), a public organization under the Ministry of Finance, has provided a low-interest loan to Myanmar to build a two-lane highway linking the Thai border town of Phu Nam Ron in Kanchanaburi province to the Dawei SEZ in Myanmar¹⁴ – a project in which Thai companies have a major stake. Thailand intends to expand motorway and railway links to transport goods and people from Dawei SEZ to its Eastern Economic Corridor (EEC) manufacturing heartland.¹⁵ NEDA has also provided the Myanmar government with soft loans for infrastructure development in Myawaddy town that connects with Thailand's Mae Sot district in

Tak province – where Thailand plans to develop a special economic zone.¹⁶

Much of the investment capital for SEZ industries in the Mekong region originates from neighboring or proximate countries, namely China, Japan, Thailand, Malaysia, Singapore and Vietnam. SEZs in Cambodia, Laos and Myanmar tend to be sites where labor-intensive, low-end manufacturing, assemblage and processing occurs before being sent across borders for higher-end value adding. For example, foreign Japanese firms that produce electronic and automotive parts and components in Phnom Penh SEZ (Cambodia), Savan-Seno SEZ (Laos) and Thilawa SEZ (Myanmar), supply most of their exports across borders to Thailand and Vietnam, where Japanese base factories are located. Furthermore, SEZs provide a convenient solution to export dirty industries from countries like China, Japan and Thailand to their poorer regional neighbors. Thailand's former Prime Minister, Mr. Abhisit Vejjajiva, famously said in a televised address in 2010, "Some industries are not suitable to be located in Thailand. This is why they decided to set up there [in Dawei SEZ]."¹⁷

An underlying logic behind the GMS and other regional economic cooperation frameworks is that they take into account "complementary" endowments in capital, land and labor in the Mekong region to produce "win-win" benefits. However, far from being an equalizing factor that can "help stimulate backward regions,"¹⁸ the development of SEZs in the Mekong is exacerbating regional disparities – both between and within countries – by "privileging capital above labor and above the general legal system",¹⁹ reallocating land from smallholders to corporate investors, and enabling countries to export their environmental problems to their poorer regional neighbors.

Taking stock: SEZ development in the Mekong Region

While Vietnam has a longer experience experimenting with various models of economic zones since the early 1990s, Cambodia, Laos and Myanmar only embraced the concept of SEZs in the 2000s. Thailand established many industrial estates in the 1970s and 1980s concentrated in the Eastern Seaboard and Ayuthaya, but only began promoting a policy on special economic zones in 2015.

Lack of data and clarity regarding the status of existing SEZs and the many different typologies of “economic zones” makes quantification difficult. Table 1 indicates there are 75 “special economic zones” at various stages of development in the Mekong region; however, the figure jumps to over 500 if various different kinds of “economic zones” are included (e.g. industrial zones, estates, parks, coastal economic zones, cross-border special zones, special economic promotional zones

in the case of Thailand’s EEC). Together these zones amount to well over a million hectares of land across the Mekong region. However, many of these economic zones are not currently operational, and large portions of land seized for SEZs remain unused. For example, out of a total of 325 industrial parks currently registered in Vietnam (covering 94,000 ha), 250 are currently operational with an average occupancy rate of 73%.²⁰ Vast tracts of land allocated for SEZs in other Mekong countries also remain vacant with only land clearing or basic infrastructure development taking place. Many have remained so for years after evicting local residents, preventing people from accessing their former farmlands, forests and fishing grounds. Whether private investors will flock to these areas to build factories, warehouses, modern IT complexes and other commercial activities – as governments hope – remains to be seen. Meanwhile, many communities continue living and farming on land slated for SEZ development, without knowing if or when they will be forcibly removed, or where they would move to if it comes to bear.²¹

Table 1. Special Economic Zones in the Mekong Region

Country	Special Economic Zone	Size (ha)	Industrial Estate/Zone/Park	Size (ha)
Laos	14	29,627.9	0	
Cambodia	45	14,814.4	<10 ^a	n.a.
Myanmar	3	22,050	63 ^b	10,289
Vietnam	3 ^c	n.a.	325	94,900
Thailand	10 ^d	2,400	55 ^e	24,908

Source: Compiled by authors from various sources, see country sections

^a Outside SEZs, Cambodia’s manufacturing sector is heavily dominated by garment firms.

^b The 29 industrial zones located in Yangon Region account for 65% of the total land area of all industrial zones in Myanmar.

^c These refer to 3 Special Economic Administrative Zones in Vietnam proposed under the framework of the Draft Law on Special Economic Zones, which has not yet been passed by Parliament. In addition, Vietnam has 18 coastal economic zones covering a total land and water area of 845,000 ha, and 27 border gate economic zones aimed at boosting trade and business activities with neighboring countries, especially China.

^d In addition to the 10 border SEZs, Thailand enacted legislation in 2018 to turn 3 provinces in the eastern region of Thailand (also known as the Eastern Economic Corridor), into a Special Economic Development Zone. Within the Eastern Economic Corridor, 29 “Special Economic Promotional Zones” have been identified covering an area of 17,468.4 ha for the promotion of specific industries.

^e 21 industrial estates are part of the area that makes up the 29 “Special Economic Promotional Zones” within the Eastern Economic Corridor.

SEZs may be developed by the state, a private enterprise or joint venture between government and private sector. In the Mekong region, most SEZs are developed and operated by the private sector, although the management of zones are overseen by a government agency (normally an SEZ authority). SEZs are established and constructed by zone developers who then seek investors to lease the area within the SEZ. Zone developers are responsible for the construction of

infrastructure, provision of services, establishing internal rules, and providing security. In Thailand and Vietnam, the government plays a key role in supporting infrastructure development within and outside SEZs. In Laos, Cambodia and Myanmar, governments rely on private investors. While domestic companies are significant investors in SEZs in many Mekong countries, attracting foreign investment is critical to the development of SEZs across the region.



Satellite image taken 3 Feb 2020 showing land cleared to make way for the Boten SEZ in northern Laos, across the border from Mohan in China's Yunnan province

PHOTO: PLANET LABS INC.²²

3. SPECIAL ECONOMIC ZONES IN LAOS



Golden Triangle SEZ in Laos is on the right. The photo is taken from Thailand with Myanmar on the left.

PHOTO: RAFAEL VILA LICENSED UNDER CC BY-NC-ND 2.0

Since Laos began its market-oriented economic reform program in 1986, economic policy has emphasized the development and expansion of the private sector as the driving force for the economy. Over the past two decades, the Lao government has promoted SEZs as a key mechanism to attract foreign investment and diversify the economy. Its SEZ development vision is to accelerate national socio-economic development by integrating Laos into regional and global markets, and capitalizing land for industrialization and modernization.²³

The importance of SEZs as a cornerstone of Laos' economic development strategy is reflected in key policy documents, including the Development Strategy for Special and Specific Economic Zones (2011-2020) and the 7th and 8th Five-Year National Socio-Economic Development Plans. To promote investment in and development of SEZs, the government has established a legal and institutional

framework (recently revised), streamlined regulations, and enhanced privileges to investors.

State of SEZs in Laos

From 2002 to 2010, five SEZs were approved in Laos but little progress was made. The government faced many challenges: 1) SEZ developers did not have sufficient financial resources to develop infrastructure according to their plan; 2) ineffective land use in zones whereby developers made no progress yet requested more concession area to occupy land; 3) lack of proper processes for identifying land for SEZs, leading to disputes over compensation with communities who refused to transfer their land use rights; 4) failure to meet employment targets along with a lack of consideration of how to create opportunities for local business; 5) poor administration, management, supervision and monitoring of zones by government agencies.²⁴

Table 2. Special and Specific Economic Zones in Laos

	SEZ	Year established	Location (province)	SEZ developer	Lease period	Land area (ha)
1	Savan-Seno Special Economic Zone	2003	Savannakhet	JV GoL + private investors	75	1,012
	Site A	2003	Savannakhet	JV GoL (30%) + Savan City Co. (Thailand) (70%)		297
	Site B: Savan-Japan Joint Development	2013	Savannakhet	JV GoL (30%) + Laos private (50%) + Japan private (20%)		235
	Site C: Savan Park SEZ	2008	Savannakhet	JV GoL (30%) + Pacifica Streams Development (Malaysia) (70%)		372
	Site D	2013	Savannakhet	JV GoL (30%) + Savan City Co. (Thailand) + ASEAN Union Inc. (Malaysia) (70%)		108
2	Boten Beautiful Land Specific Economic Zone	2003 (revised 2010)	Luang Namtha	Yunnan Hai Cheng Industrial Group (China) (100%)	90	1,640
3	Golden Triangle Special Economic Zone	2007 (revised 2010)	Bokeo	JV GoL (20%) + Kings Roman International (Hong Kong) (80%)	99	3,000
4	Long Thanh-Vientiane Specific Economic Zone	2008 (revised 2012)	Vientiane Capital	Long Thanh Golf Investment and Trade Joint Stock Company (Vietnam) (100%)	99	560
5	Vientiane Industrial and Trade Area (VITA Park)	2009 (revised 2011)	Vientiane Capital	JV GoL (30%) + Nam Wei Development Co. Ltd (Taiwan) (70%)	75	110
6	Saysettha Development Zone	2009 (revised 2011)	Vientiane Capital	JV GoL (25%) + Yunnan Provincial Overseas Investment Co. Ltd. ^a (China) (75%)	75	1,000
7	Dongphosy Specific Economic Zone	2009 (revised 2012)	Vientiane Capital	JV GoL (15%) + UPL Lao Co. Ltd (Malaysia) (85%) ^b	50	53.9
8	Phoukhyo Specific Economic Zone	2010	Khammouane	100% Laos private	99	4,850
9	That Luang Lake Specific Economic Zone	2011	Vientiane Capital	Wan Feng Shanghai Real Estate Company (China) (100%)	99	365
10	Thakhek Specific Economic Zone	2012	Khammouane	GoL (100%)	75	1,035

SEZ		Year established	Location (province)	SEZ developer	Lease period	Land area (ha)
11	Champasak Special Economic Zone	2015	Champasak	JV GoL (30%) + Laos private (70%)	50	1,306
	Pakse-Japan SME Specific Economic Zone	2015	Champasak	JV GoL (30%) + Laos and Japan private (70%)		195
	Champasak Lao-Service Industrial Park	2015	Champasak	JV GoL (30%) + Lao Service Co. Ltd (Laos) (70%)		800
	Champa City Specific Economic Zone	2016	Champasak	JV GoL (30%) + Laos private (70%)		58
	Vangtau-Phonthong Specific Economic zone	2016	Champasak	JV GoL (30%) + Laos private (70%)		253
12	Luang Prabang Special Economic Zone	2016	Luang Prabang	JV GoL (30%) + Phousy Group Co. Ltd. (Laos) (70%)	99	4,850
13	Dongphosy 2 Specific Economic Zone^c	2016	Vientiane	JV GoL (15%) + BM Group (Thailand) (80%) + Kham Kan Development Company (Laos)(5%)	50	28
14	Mahanathi Siphandone Special Economic Zone^d	2018	Champasak	JV GoL (20%) + Laos Mahanathi Siphandone Investment Co. Ltd (Hong Kong) + LTV Road & Bridge Construction Sole Co. Ltd (Laos) (80%)	50	9,846
Total land area: 29,656 ha						

Source: ASEAN Investment Report 2017 and selected company websites and news articles

GoL = Government of Laos

^a An overseas investment platform of Yunnan construction Investment Holding Group.

^b Press Release by the Embassy of Malaysia in Laos, "Exim Bank Malaysia Promotes Dongphosy SEZ", 25 Aug 2016.

^c Ministry of Planning and Investment, Government of Laos. "8th Five-Year National Socio-Economic Development Plan", 2016, p. 31; The Nation, "Lao govt approves another SEZ near border with Thailand", 22 Jan 2016.

^d VietnamPlus, "Laos permits Chinese firm to develop new economic zone", 2 July 2018; Vientiane Times, "Tourism project licenses revoked to make way for special economic zone", 13 Jan 2020.

A key problem was that there was no overarching legal framework guiding SEZ development. Rather, specific decrees provided the legal basis for the administration and management of each individual SEZ.²⁵ SEZ development only began to take off after 2010, when the government established the National Committee for Special Economic Zones and passed the Decree on Special and Specific Economic Zones (No. 443/PM). Since then, the legal and institutional framework has continued to evolve and SEZs have been promoted more intensively, though many challenges remain.

Currently the government has approved 14 special and specific economic zones²⁶ covering a total area of 29,656 ha (see Table 2). Chinese and Thai companies are currently exploring another two SEZs – the Sustainable Tourism Development Project SEZ in Vang Vieng and the Amata Smart and Eco City SEZ in Luang Namtha and Oudomxay provinces. As seen in Figure 2, most SEZs are located close to borders with neighboring countries and along economic corridors, with a view to support the country's participation in regional production networks, cross-border trade and tourism.

SEZs in Laos can be broadly classified into three sector categories: 1) industrial zones (e.g. Savan-Seno, VITA and Saysettha SEZs); 2) tourism and new urban centers (e.g. Golden Triangle, Long Thanh, That Luang and Luang Prabang SEZs); and 3) trade and logistic zones (e.g. Boten, Dongphosy and Thakek SEZs). However, many are adopting an integrated development approach, seeking to combine manufacturing, commercial, residential and tourism areas.

Most SEZs in Laos are still at early stages of development and SEZ developers struggle to attract investment into the zones. Some SEZs in Laos have drawn criticism – including from government officials – for becoming 'casino towns'

with negative social impacts.²⁷ Other SEZs, namely Savan-Seno, VITA and Pakse-Japan SME, are seen as "legitimately developing [into]... production, supply, and distribution center[s],"²⁸ attracting labor-intensive manufacturing firms that have their production base in neighboring countries.²⁹

Given budget constraints, the Lao government encourages the private sector (domestic and foreign) and public-private partnerships to invest in and develop SEZs. As seen in Table 2, four SEZs have private sector entities as developers, nine SEZs are joint ventures (JV) between the Lao Government and the private sector, and one SEZ is fully owned by the government. The Lao government relies on private companies to build infrastructure (such as roads, electricity, water supply, waste management and telecommunications) within SEZs and even in areas outside the zones, usually in exchange for land and other benefits. This in itself forms part of the rationale for promoting SEZ as a model of national development.

From 2003 to 2018, SEZs in Laos attracted actual investment capital of almost US\$5.7 billion.³⁰ Around 806 domestic and foreign companies are said to have invested in the zones, 48% in the services sector, 26% in industry, and 25% in trade.³¹ The main foreign investors in Lao SEZs (in terms of registered capital, and listed in order) are China, Thailand, Vietnam, Japan and Malaysia. Domestic companies also play a vital role, contributing slightly less than all foreign investors together.³² This shows that local companies are also taking advantage of incentives and benefits offered under the SEZ mechanism.

Although evidence suggests that investments are rising in some of the zones, SEZs in Laos still make up less than 1% of GDP.³³ While some SEZs have generated local employment, their benefit to wider society is questionable when weighed up against people's loss of land and livelihoods, and other social and environmental impacts.

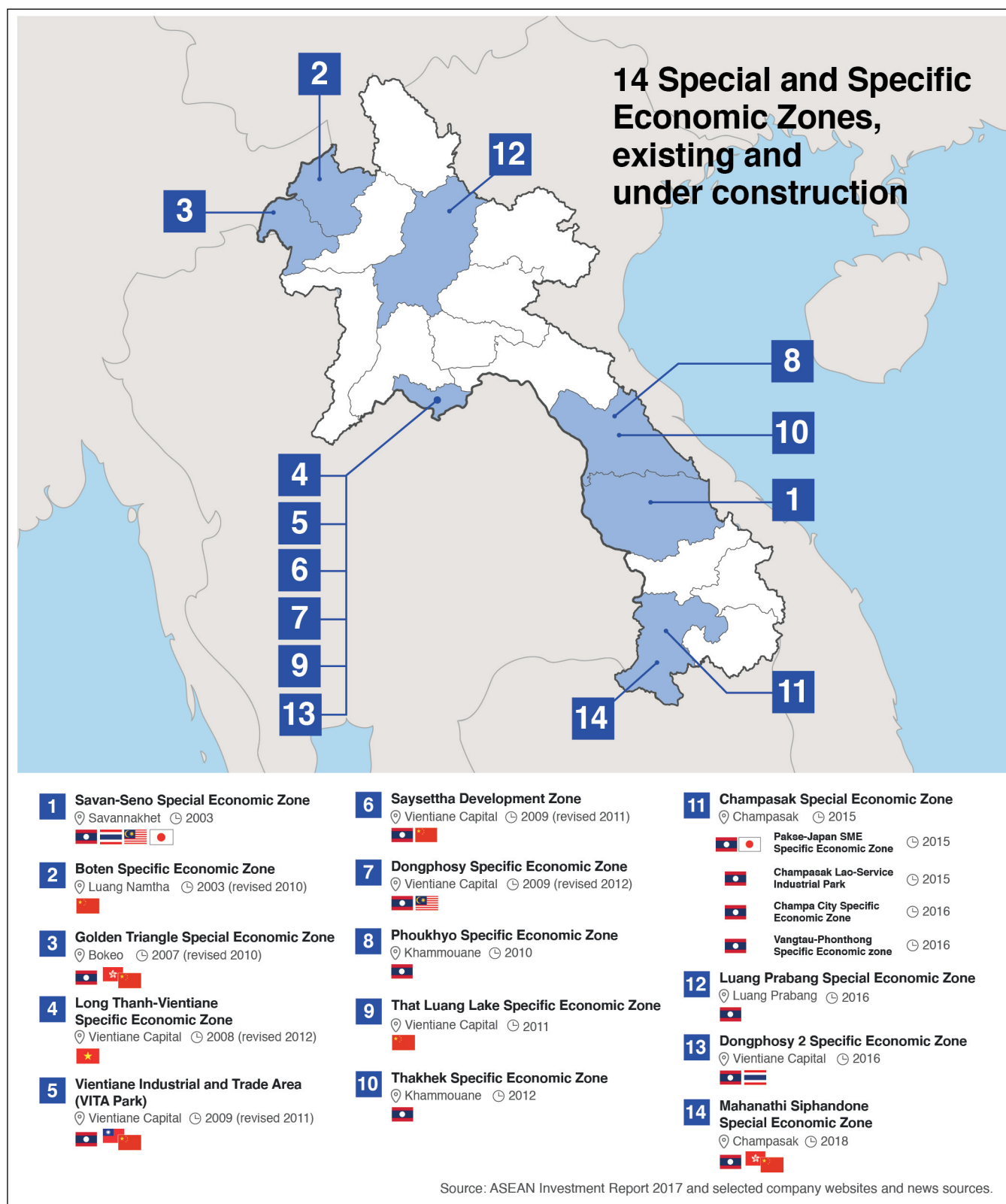


Figure 2. Special and Specific Economic Zones in Laos, operational and under construction

Legal and governance framework

The Investment Promotion Law (2009, amended 2016) and Decree on Special and Specific Economic Zones (2010, amended 2018) provide the legal foundation for the development of SEZs in Laos. Under the amended Investment Promotion Law (IPL), the overall supervision and management of SEZ development and investment moved from the Prime Minister's office to the Ministry of Planning and Investment (MPI), and management committees were consolidated to streamline SEZ administration.

The revised Decree on Special Economic Zones (No.443, 2018) reflects the new institutional arrangements and investment policies stipulated under the revised Investment Promotion Law (No.14/NA, 2016). The SEZ Decree seeks to provide a more standardized approach to the rules and incentives offered to investors. These include, for example, requirements for the establishment of SEZs, incentives granted to investors, one-stop service delivery, and developers' obligations to train and hire Lao workers. Following revisions to the Investment Promotion Law, concessions for new SEZs are now capped at 50 years, but renewal of concessions is possible with approval from the National Assembly.

The revisions of the two laws focus on facilitating investments and protect the interest of investors, but contain little or no safeguards for displaced populations or the environment. The laws only mention that the State and the developers are liable to provide compensation for acquired land, and investors need to submit an environmental and social impact assessment (ESIA) as part of their application. More detailed provisions for land acquisition, resettlement and compensation, and environmental protections can be found in other national laws, but these are often not followed.

There is also a broader question about the state of law in Laos, which "often serves as a basis for negotiation of outcomes rather than implementation or challenge."³⁴

Land governance framework related to SEZs

Laos' history of land relations and existing configuration of power shapes patterns of inequality in land access and distribution and provides for a certain blurring of public and private interests with regards to land use, tenure and governance.³⁵

Of relevance to SEZs is the concession model, which was developed in the late 1980s to mobilize private-sector actors to exploit forest resources for economic purposes. The enclosure of state land and natural resources accelerated in the 1990s and 2000s with the commodity boom that saw concessions for agriculture, tree plantations, mining, hydropower and SEZs become increasingly common. Concessions became the main *modus operandi* for a development strategy that identifies land as Laos' comparative advantage that needs to be "capitalized". The exchange of land for development via the granting of large-scale concessions to investors became the dominant (though not uncontested) interpretation of the "Turning Land Into Capital" (TLIC) policy, which became formalized in 2006 – although it was never clearly defined in writing.³⁶

Over a million hectares of land has been leased to domestic and foreign investors for agribusiness, plantations and mining.³⁷ Added to this is the expansion of hydropower projects and SEZs that have displaced and resettled people away from their villages, agricultural and forest lands. As concessions of so-called "state land" have targeted areas occupied and cultivated by smallholders land conflicts have escalated across the country.

A key problem is uncertainty about land ownership and the under-recognition of land tenure and local uses prior to acquisition. Under the Lao constitution, land belongs to the people as a whole (as “national heritage”) and is managed in trust by the State. The Constitution also affirms the rights of individuals to use and benefit from the land, and gives the State the duty of allocating land rights according to the law. The Party and State identified early on the need to accelerate land registration and issue land title certificates. The Land and Forest Allocation program initiated in the 1990s aimed to formalize village land through zoning. However, the marking of village boundaries and zoning of different land uses within villages was also aimed at identifying state forest areas that could be zoned for conservation or industrial forestry. Like various land use planning initiatives that followed, these often turned out to be exercises in limiting land used for shifting cultivation and reallocating land to investors.³⁸

Meanwhile, land titling in Laos has focused in urban and peri-urban areas leaving most rural areas untitled.³⁹ Around 700,000 parcels are currently estimated to lie inside national state forestland where titling is unavailable,⁴⁰ leaving communities vulnerable to expropriation without compensation (see case studies below).

Concession-based development for SEZs presumes state ownership of land and the resources in question, operating like a form of eminent domain. The 2003 Land Law and revised Land Law of 2019, allows the state to requisition land for public purposes or national development with appropriate compensation paid for expropriated land. In practice, “public interest” can be very broadly

interpreted to include economic development that provides for private gain. In areas granted for investment projects such as SEZs, expropriation is often compulsory and compensation rates are below market value.

The Lao government has acknowledged problems associated with land expropriation for investment projects and the implementation of the TLIC policy.

For example, in 2012 the Prime Minister issued a moratorium on new concessions for some minerals and tree plantation species to allow for a review of their impacts. The Resolution on Land Management and Development issued by the Party Central Committee in 2017 is uncommonly critical of past government policies on land management, particularly those regarding commercial investments.⁴¹ This reflects a growing recognition by the Party-State that land conflicts pose a problem for its legitimacy. Nevertheless, the revised Land Law, which was endorsed by the

National Assembly in June 2019, appears to fall short of providing adequate safeguards to protect people’s land rights. This is true for cases when the government requires private land for public projects like SEZs, as well as for land leases or concession granted on so-called “state land”. Although customary land rights are referred to in the 2017 Party Resolution and some earlier decrees,⁴² the 2019 Land Law does not require communities to be consulted over concessions planned in or near their villages. The land law continues to be unclear about the type and security of tenure provided for Lao communities in rural areas that cultivate and use land under customary and collective arrangements.⁴³



The revised Land Law, which was endorsed by the National Assembly in June 2019, appears to fall short of providing adequate safeguards to protect people’s land rights.



Savan-Seno Special Economic Zone

The Savan-Seno SEZ was established in Savannakhet province in 2002. Almost two decades later, the country's first SEZ is still incomplete and disputes over land compensation payments are ongoing. Locals have increasingly shown resistance to land expropriations and voiced concerns over unfair compensation.

Savan-Seno SEZ comprises four zones: A, B-B1,

C and D (see Figure 3). Development of the SEZ was slow in the initial stages, limited mainly to a casino in Zone A. Development only picked up after a partnership was established between the Lao Government and a Malaysian investor to develop Zone C (called "Savan Park") in 2008, which has since become a significant industrial hub attracting various international firms. Zone B has also moved ahead with its master plan, attracting a few Thai and Japanese firms. Zones A and D, on the other hand, have lagged behind.⁴⁴

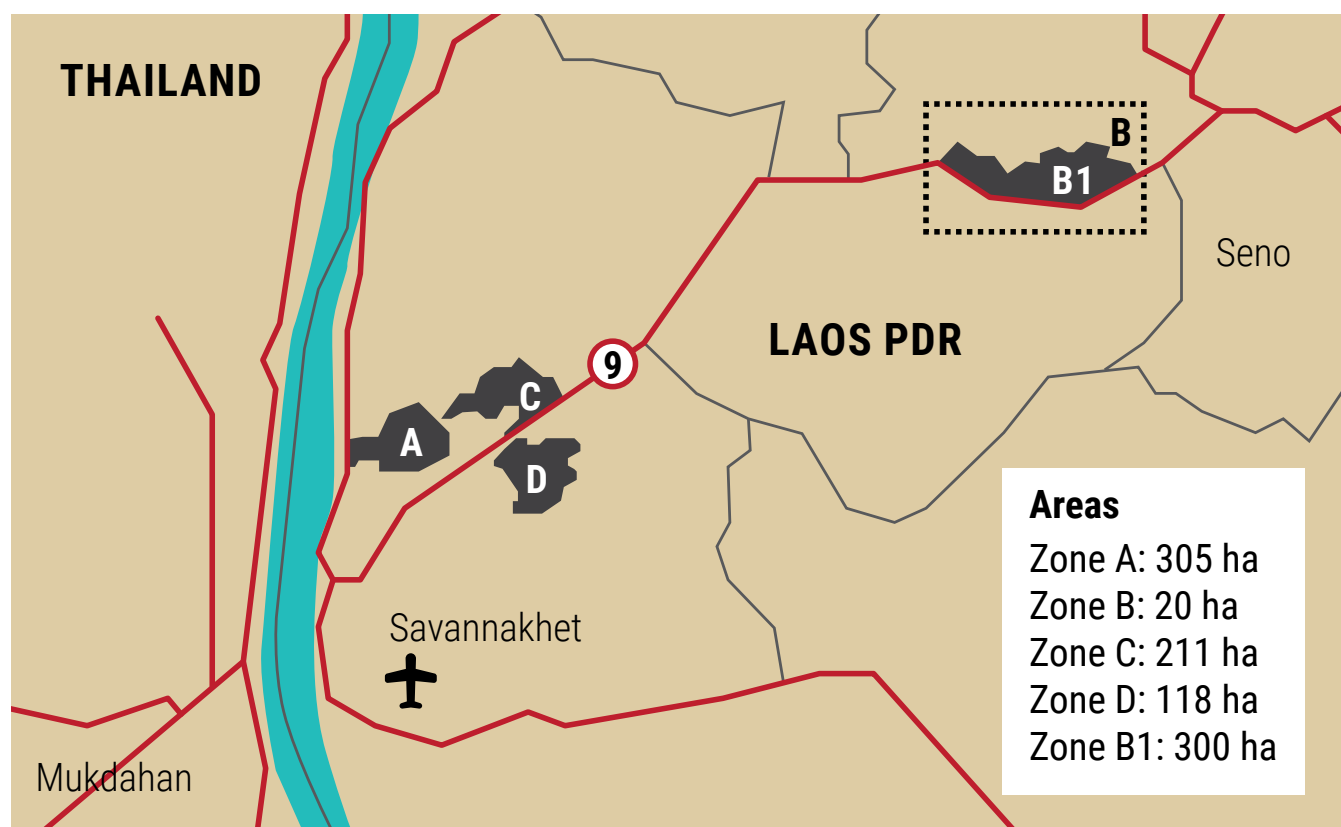


Figure 3. Location of Zones A, B1-B2, C, D in Savan-Seno SEZ

Source: *Bangkok Post*

In Zone D, the construction of 74 houses in the housing development project was suspended due to the land compensation issues and the developer's failure to find financing as promised.⁴⁵ Zone D has since been designated as resettlement site for people displaced by construction in other zones, as well as a residential complex for employees,

including schools and other services. As investors sign on to develop specific projects within the SEZ, city and provincial administrative agencies move ahead with the land acquisition process.

People living in and around Savan-Seno SEZ have not been clearly informed let alone consulted about

the resettlement and compensation process. In 2015, the Vientiane Times quoted an authority from the National Committee for SEZs saying the 400 families living in Zone D would only be compensated for the crops, trees, and houses, but not the land itself: “Land located inside Zone D will not be compensated for, as the land...is a conservation forest area. The villagers are encroaching on a reservation forest area.” People who have land titles in other zones, he said, would receive more compensation.⁴⁶

The state’s decision to convert the protected forest area in Zone C and D into a SEZ is also questionable (see Figure 4). To date, no environmental and social impact assessment for the Savan-Seno SEZ has been conducted, despite being required by law. Many households have lived in the area for generations, long before it was designated as a protected area. Yet, the government often does not recognize customary land rights when it comes to compensation.

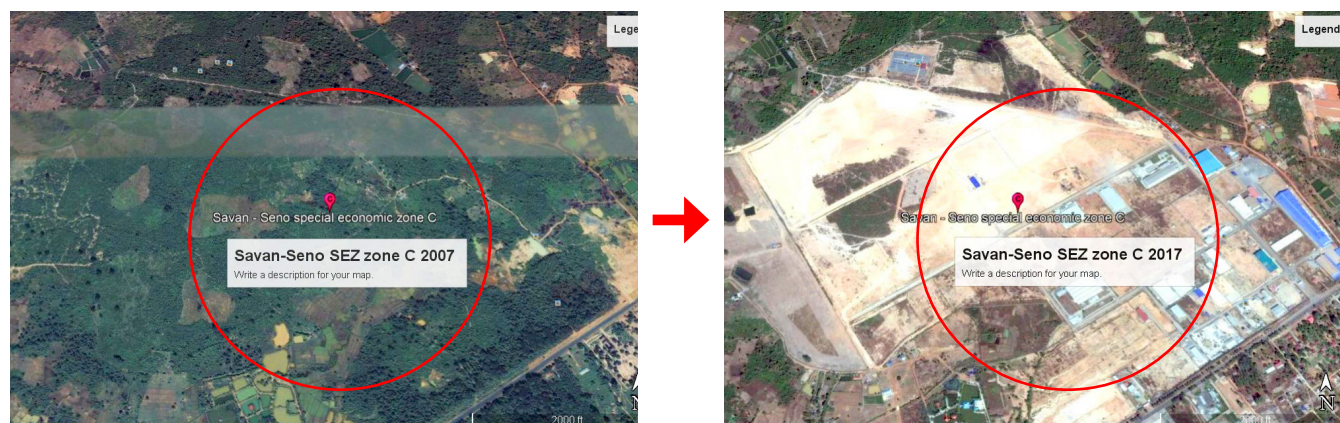


Figure 4. Comparing Land Condition in Savan-Seno SEZ Zone C, 2007 and 2017

Source: Google Earth

Many families who still reside inside the SEZ boundary live in a state of uncertainty. Even communities outside the SEZ boundary feel insecure about their land ownership. As one of the residents living close to the Savan-Seno SEZ noted, “We are not confident in our living situation because we do not know when the state will take it from us. Even though we have land title (*Bai Ta Din*), if the state wants our land, we will not be able to refuse.”

The Decree on Compensation and Resettlement (No. 84, 2016) includes provisions aimed at ensuring people affected by development projects are compensated and supported leading to improvements in living conditions; but it is not well enforced.⁴⁷ Laos is often criticized for its autocratic practices whereby the Party-State dominates various aspects of political life. Space for civic participation

and public dialogue is limited, along with a lack of transparency and public accountability. Although citizens’ concerns can occasionally permeate through channels such as the National Assembly (see further below), generally the government has little tolerance for criticism. Concealing problems has become a deep-rooted tradition within the state system, allowing land disputes and other core issues to linger unresolved.

The government insists that the Savan-Seno SEZ brings development to local people, in the form of modern jobs with higher incomes. To be fair, Savan-Seno SEZ has done much more than other SEZs in Laos to try to employ local labor and has proactively taken measures to address local labor shortages and barriers to recruitment. Nevertheless, Lao employment in the SEZ is mainly limited to

young women who make up the unskilled work force, earning minimum wage. Skilled and higher-earning jobs go to workers brought in from other countries. A group of high school students who work in a factory in the Savan-Seno SEZ explained they often had to work 12-hour shifts, and sometimes they were not paid for overtime. Many people in Savannakhet province thus prefer to cross the border to Thailand where they can work under less stressful conditions and often earn a higher wage.⁴⁸

Vientiane-Long Thanh Specific Economic Zone

In 2008, the Lao government granted a 560-hectare concession to a Vietnamese real estate company to develop the Vientiane-Long Thanh SEZ. Located in Vientiane Capital, the SEZ is to include a golf course, sports ground, luxury apartments, hotels and other projects (see Figure 5).

Initially, the company and relevant government agencies met with the local residents to inform them their land was slated to become a SEZ and persuade them to accept the government's development plan. They promised the project would bring roads, schools and hospitals and that they would be

compensated for their land and crops.

Two weeks later, without having reached any clear agreement, the government and project developers summoned villagers to collect their compensation money. The government told them that anyone who did not collect their money would forfeit their right to compensation. As a result, people were forced to accept the low compensation rate and hand over their land title documents.

Nevertheless, 19 households refused to do so on grounds that the amount offered was unacceptably low. As many of these households did not hold titles, the compensation rate was calculated based only on the value of the crops and did not include the value of the land. Like with Zone D in Savan-Seno SEZ, the government claimed that villagers were not entitled to compensation because the land was part of a protected forest area (and thus belonged to the state). Subsequently, the villagers filed a complaint to the National Assembly, which led to a consultation meeting to solve the issue. Although the National Assembly wrote a letter asking the Vientiane People's Council to implement a set of proposed recommendations and sent a complaint to relevant agencies, to this date, there has not been any real progress made towards resolving the issue.

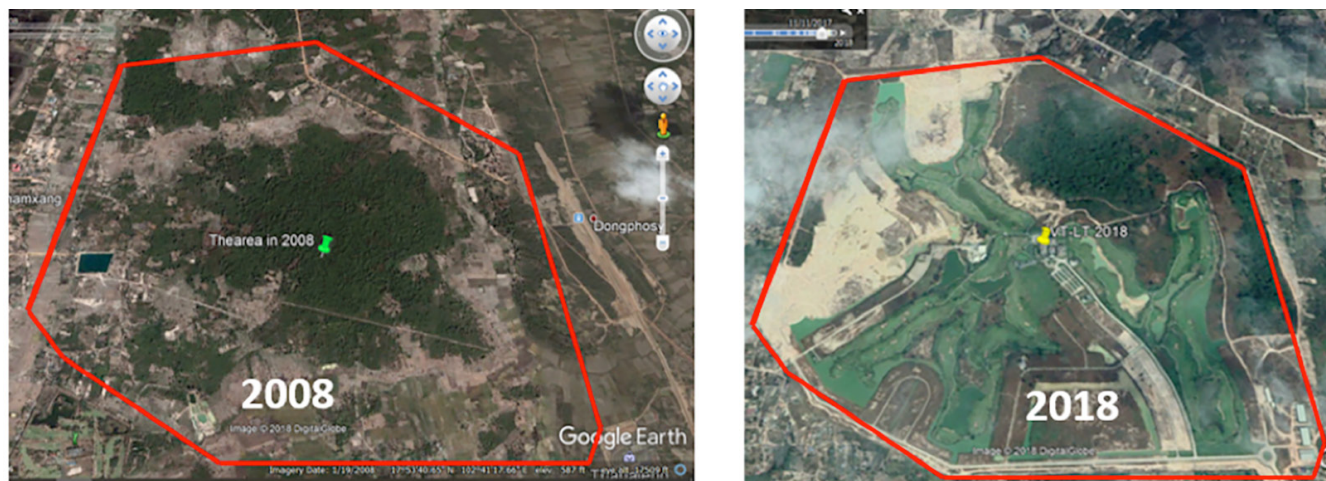


Figure 5. Land Use Change in Vientiane-Long Thanh SEZ, 2008 and 2018

Source: Google Earth

4. SPECIAL ECONOMIC ZONES IN CAMBODIA



Land demarcated for the Sihanoukville Port Special Economic Zone, September 2014

PHOTO: DMITRY MAKEEV LICENSED UNDER CC BY-SA 4.0

Since Cambodia began its transition to a market economy in the 1990s a range of measures have been implemented to ease economic restrictions, facilitate private sector investment and increase the country's competitiveness in labor-intensive industrial manufacturing. The 1994 Law on Investment (amended in 2002) provided the basis for Cambodia's liberal investment regime, offering tax holidays and other incentives to private investors. The law also established the Council for Development of Cambodia (CDC) as the highest decision-making body responsible for private investment, composed of senior ministers and chaired by the Prime Minister. Cambodia established its SEZ program in 2005 by issuing a sub-decree outlining the legal framework for SEZs⁴⁹ and creating the Cambodian SEZ Board as new wing under the CDC.

Key objectives of Cambodia's SEZ program are

to provide the infrastructure and utilities needed to encourage domestic and foreign investment, promote diversification of its industrial base beyond garments, integrate Cambodia into regional and global production networks and markets, and generate local employment. The government also sees SEZs as a way to redistribute wealth to peripheral rural areas of the county.

Attracting investment into SEZs is a key policy priority identified in Cambodia's National Strategic Economic Development Plan (2019-2023). Actions to be taken include amending the Investment Law and developing a new Law on Special Economic Zones to create a more favorable environment for investors. The Plan also calls for the further implementation of Cambodia's Industrial Development Policy 2015-2025, especially "transforming Sihanoukville Province into a multi-purpose Special Economic Zone."⁵⁰

State of SEZs in Cambodia

The first SEZ was established in Cambodia in 2005, and their number has risen rapidly since. Based on available information, 45 SEZs have been approved in 14 provinces of Cambodia (see Figure 6).⁵¹ If all are developed, they would cover a total land area of 14,814 hectares. Of these, 16 SEZs are currently operational, mostly located along the border with Thailand (e.g. Poi

Pet) and Vietnam (e.g. Bavet city), at the port of Sihanoukville and in Phnom Penh. As shown in Table 3, the 16 SEZs have generated almost 300 investment projects involving \$2.4 billion in registered capital. Before the Covid 19 epidemic hit, an estimated 90,000 people were employed in the SEZs, mainly young women in low-skilled positions.⁵² By far the main foreign investors in SEZs are from China and Japan, followed by Malaysia, Singapore and Taiwan.⁵³

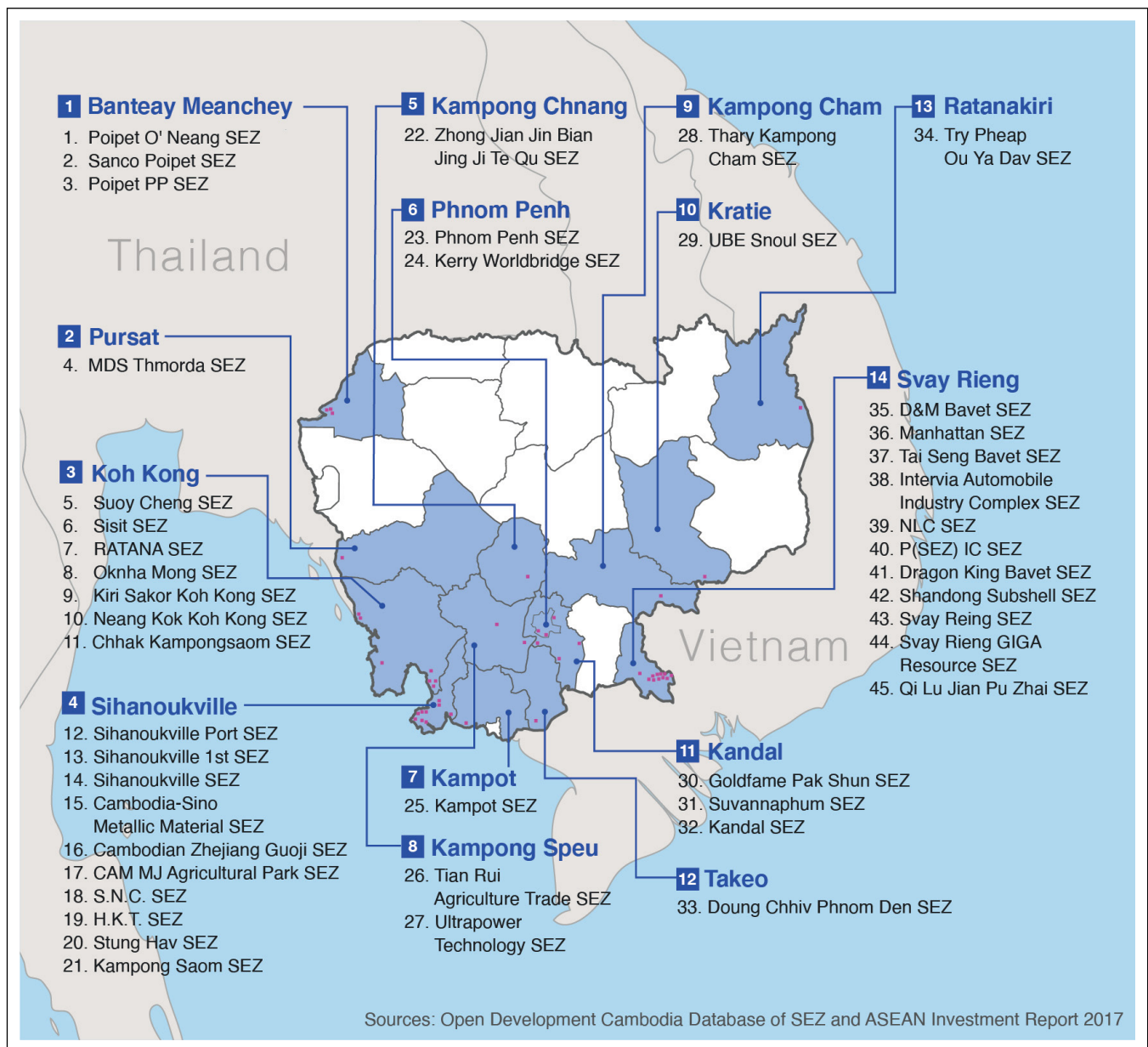


Figure 6. Special Economic Zones in Cambodia (operational, planned and under construction)

Table 3. Special Economic Zones in Cambodia (operational, 2016)

	SEZ	Approved sub-decree	Size (ha)	No. of tenants/ projects	Total Investment (\$ millions)	Number of workers
Svay Rieng Province						
1	Manhattan Svay Reing SEZ	No. 135, 29 Nov 2006	157	31	128.4	27,071
2	Tai Seng Bavet SEZ	No. 29, 4 Apr 2007	99	27	153.6	9,238
3	Dragon King Bavet SEZ	No. 190, 25 Oct 2012	106.5	4	18.7	1,175
4	Shandong Sunshell SEZ	No. 462, 1 Jul 2013	96	5	15.5	5,571
5	Hi-Park SEZ	No. 285, 30 May 2013	263	1	3	159
6	Qilu Jian Pu Zhai SEZ	No. 49, 28 Mar 2017	180*	1	1	16
Phnom Penh						
7	Phnom Penh SEZ	No. 133, 19 Apr 2006	350	89	555.6	16,945
8	Kerry Worldbridge	No. 87, 8 July 2015	63	1	21	25
Sihanoukville Province						
9	Sihanoukville 1st SEZ	No. 113, 25 Oct 2006	178	3	998.3	654
10	Sihanoukville SEZ	No. 24, 17 Mar 2008	1,114	109	312.7	14,874
11	Sihanoukville Port SEZ	No. 147, 2 Sep 2009	68	3	22.9	857
Koh Kong Province						
12	Neang Kok Koh Kong SEZ	No. 159, 26 Oct 2007	335	7	66.9	7,899
Kandal Province						
13	Goldfame Pak Shun SEZ	No. 30, 4 Apr 2007	80	2	25.6	4,606
14	Suvannaphum SEZ	No. 60, 11 Feb 2014	205	1	1.5	39
Banteay Meanchey Province						
15	Poipet O' Neang SEZ	No. 57, 1 Jun 2006	467	5	7.7	1,612
16	Sanco Poipet SEZ	No. 481, 11 Sep 2013	66.5	10	69.1	1,298
	Total		3,648	299	2,401.5	92,039

Source: ASEAN Investment Report 2017

SEZs in Cambodia are mainly export-processing facilities, where businesses import nearly all their inputs and export nearly all of their outputs to foreign markets. ADB consultants characterize Cambodian SEZs as “classic enclaves” because there are few linkages to the local economy and limited technology transfer, skill upgrading, and local industrial development.⁵⁴ Cheap labor has been a major source of Cambodia’s comparative advantage for years, helping to attract foreign investment in SEZs. Occasionally, worker strikes over wages have shown the limits of a model based on labor exploitation. In December 2015, Bavet’s Tai Seng and Manhattan SEZs were forced to shut down following a week of clashes between workers and police.⁵⁵

In Cambodia, SEZs are predominantly owned and managed by the private sector (mainly foreign companies), which are authorized as the zone developer. An exception is Sihanoukville Port SEZ, which is a public-private joint venture financed by a loan from the Japanese International Cooperation Agency (JICA). Zone developers are responsible for building all necessary infrastructure, leasing the land and providing a range of services to zone investors, including security. Developers must show they have sufficient capital and means to develop and manage the zone.

Legal and governance framework

The Sub-Decree on the Establishment and Management of Special Economic Zones (No.148, 2015) specifies that SEZs must meet the following criteria:

- be at least 50 hectares in size, within an enclosed fence
- have a production area (e.g. export processing zone, free trade area, service area, residential or tourist area)

- have the required infrastructure (roads, office buildings, water and electricity supply, sewage treatment and environmental protection measures)

Land for SEZs is mainly acquired through a land lease or concession. Cambodian individuals or entities have the option of purchasing their own land.⁵⁶

The Cambodian SEZ Board under CDC is responsible for supervising the development, management and operations of SEZs. Each SEZ has an administration office on-site, which serves as a one-stop service mechanism to receive applications, issue licenses and simplify customs procedures. SEZ administrators also determine what preferential incentives (e.g. tax exemptions) are available to investors. Furthermore, a SEZ Trouble Shooting Committee has been established within CDC to receive complaints from developers and investors and resolve any issues. No such complaint mechanism exists for SEZ employees or local communities.

Land governance framework related to SEZs

Cambodia’s increasing reliance on market forces has seen land policies and land laws geared towards “turning land into capital” which has led to land concentration and marginalized local communities and farmers from national development. The 2001 Land Law has been instrumental in this regard. While the land law extends private ownership rights over residential and agricultural land,⁵⁷ it also establishes “state private land” as a land ownership category where the state can treat land as a private asset to sell or lease to private investors as concessions.

The confiscation of land from smallholders for SEZs and resulting conflicts is closely linked to the emergence of the concession as a model for attracting private investment in land-intensive

sectors such as agriculture, mining and industrial manufacturing. To be eligible to develop a SEZ in Cambodia, investors must have at least 50 ha of land, and in most cases this land is acquired via a land concession from the state.

The history of economic land concessions (ELCs) in Cambodia dates back to French colonial times, where laws were passed allowing “un(der) developed” land to be granted to rubber companies.

The concession system reemerged again in the 1990s – this time with the support of international donors who sought to centralize state forest management to generate revenue from timber to fund the country’s post-war reconstruction. In the 2000s, the forest concession system was replaced by economic land concessions (ELCs) for agro-industrial development driven by “boom” crops such as rubber and sugar. In addition, concessions were granted for resource development projects (hydropower and mining) and urban-industrial development (SEZs).

By 2012, land concessions for large-scale plantation agriculture had been granted to private investors covering an area of 2.4 million ha. More recent data shows that ELCs cover around 1.2 million ha of the country’s land area.⁵⁸ The figures has been updated following a government review of ELCs and the implementation of the Order 01 policy, which resulted in some land being revoked from ELCs. However, the land area under ELCs is much larger if mining, hydropower and SEZs are taken into account.

ELCs have resulted in large-scale seizures of villager’s land, and given rise to conflicts in almost every part of the country. As illustrated in the

cases below, concession areas for SEZs often overlap with land that is occupied and claimed by local residents. Part of the problem is that many concession deals are granted by higher levels of government without specific demarcations of territory, and often involve powerful and influential actors. Another problem is that “state land” is a fuzzy category on which there are often overlapping claims. Without land ownership documents, many villagers are forcibly evicted without adequate compensation.

“
*Prominent tycoons
linked to high-ranking
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SEZs being developed
in Cambodia.*”

Whether developing a SEZ is in the “public interest” is a decision largely left to State authorities, investors and powerful elites; affected communities are rarely consulted. Moreover, the granting of ELCs for SEZs and other development projects is a means by which Cambodia’s ruling party builds and maintains its relationships with powerful actors who in turn,

provide it with political backing.⁵⁹ As indicated in the Open Development Cambodia database of SEZs, prominent tycoons linked to high-ranking party officials are behind many of the SEZs being developed in Cambodia. Cambodia’s patronage system gives rise to systematic corruption whereby powerful individuals and private firms exert undue influence on the state to shape laws, regulations and administrative procedures to their own advantage. This extends to land dispute resolution mechanisms, which are often skewed in the interest of the most powerful parties.

Kiri Sakor Koh Kong SEZ

In 2008, the Cambodian government granted an ELC to Koh Kong SEZ Company, owned by local tycoon and Cambodia Peoples Party Senator, Ly Yong Phat, to develop a SEZ for agro-industrial

production.⁶⁰ The concession area initially covered an area of 9,977 ha in Prek Khsach and Samrong Takeo communes. However, much of this land was located within the Batum Sakor National Park, and the government scaled down the concession to its current size of around 2,200 ha.

The land dispute began in 2006-7 when local residents saw company employees demarcating the boundaries of their land and began clearing it to build a road. At that time, the company paid \$5,000 USD per hectare in compensation to 12 affected families (all relatives of the commune and village chief), but did not provide compensation to the other 135 families whose land had also been affected. In 2010, the 135 families lodged complaints to commune, district and provincial authorities demanding just compensation. However, the complaints were ignored.

Between 2009 and 2012, the company bulldozed the land of all 135 families and destroyed most of their crops. As tensions escalated, the company offered to pay compensation to the 135 households. However, almost all villagers rejected the offer on the basis that it was too low and covered only the cost of demolition of their homes. Some families replanted crops on the disputed land, which was again bulldozed by the company. The conflict escalated and in 2014 a community representative was arrested. He was released after six weeks of community protest.

After this, negotiations over compensation resumed. This time the company's offer of compensation was more palatable and the majority of families took the money. However, a few households still refused to give up their farm plots while others with larger pieces of land tried to negotiate a better deal. Efforts by the company to clear the remaining forests in December 2017 were again resisted.⁶¹

According to local residents, most families settled in the area in the mid-1980s. At the time, local authorities actively encouraged people from other parts of the country to settle there, partly as a way to counter remnants of the Khmer Rouge still active in the area. Although peoples' possession rights over land was recognized in an official letter issued by village and communal authorities in 2005, their land was never secured due to ongoing land conflicts with both Koh Kong SEZ and another Chinese company with a concession in the area.

Local communities are frustrated that although a huge area of land was confiscated for the SEZ, they have received no benefits such as employment. Moreover, some confiscated land has been left unutilized for many years. Villagers who decided to take the compensation money are now facing financial difficulty. As explained by the village chief assistant: "They have spent the money and now they are left landless and unemployed. Many villagers who lost their land have been forced to migrate to Thailand to find work."⁶²

Sihanoukville SEZ

Sihanoukville SEZ was established in 2008 as a bilateral agreement between the Cambodian and Chinese governments. The project, which received backing from China's Ministry of Commerce, is a joint venture between Chinese company Jiangsu Taihu International Investment Company and the Cambodia International Investment Development Group (CIIDG). CIIDG is chaired by the wife of a ruling party senator and is a close friend of Hun Sen's wife. Sihanoukville province has plans to build 10 SEZs in total (three are currently operational) covering an area of 2,456 ha.⁶³

Sihanoukville is an area with a high concentration of land disputes due to a large number of ELCs granted for tourism, industrial agriculture and SEZs. A report

by NGO Forum ranks Sihanoukville first in terms of land dispute cases for years 2008-2010 due to the large number of forced evictions.⁶⁴

Many of the evicted families settled there in the 1980s and 1990s and obtained ownership rights over their land under the 2001 Land Law, which allowed people who had occupied land “peacefully and continuously” for five years or more prior to 2001 to register title and ownership. Residents in C.E. Pram community settled in Pou Thoeung village, Prey Nob District, in 1993 and lived mainly from agriculture, artisanal fishing and working in garment factories. In 2005, the land prices in Sihanoukville surged leading to land grabs and speculation. Residents from C.E. Pram community were summoned to meet officials at the Sihanouk governor’s office who attempted to convince

them without any evidence that their land actually belonged to a private company. The authorities instructed villagers to move out immediately, but villagers resisted. In February 2008, over a hundred police were sent to forcibly remove the 200 villagers, leading to violent clashes that resulted in injuries, the burning of houses and the arrest of the village chief.⁶⁵

The development of SEZs and other commercial activities in Sihanoukville has resulted in hundreds of evictions, often through violent means. Limited access to legal redress and lack of independent mechanisms for mediating disputes translates to unjust outcomes for many families. With plans now underway to transform Preah Sihanouk province into a multi-purpose special economic zone and industrial hub of Cambodia, land dispossession and disputes are likely to continue.

5. SPECIAL ECONOMIC ZONES IN MYANMAR



Clearing of villagers' farmland to build a road that links Thailand to the Dawei SEZ. Affected people say it proceeded without their prior consent.

PHOTO: DAWEI DEVELOPMENT ASSOCIATION

Myanmar's SEZ program was launched in the waning years of the military government. Just months before Gen. Thein Sein assumed the presidency in April 2011 to lead the country's transition to quasi-civilian rule, the outgoing State Peace and Development Council (SPDC) pushed through two laws detailing a framework for the development of SEZs. The Special Economic Zone Law and the Dawei Special Economic Zone Law, passed on 27 January 2011, were both later repealed and replaced by the 2014 Special Economic Law. Presently, the 2014 law governs all SEZs in Myanmar.

Aung San Suu Kyi's National League for Democracy (NLD) party won a landslide victory in the 2015 elections ending nearly 50 years of military rule. One of the tasks that fell to the new government was to take stock of the SEZ program set in motion by its predecessors. This time of pause and review raised expectations among many people that the new government might reconsider projects like

the Dawei SEZ in light of its significant social and environmental costs, and redirect national economic policy towards a more socially inclusive and sustainable path.

However, the NLD government has forged ahead on the same path of neoliberal market reforms initiated by the Thein Sein government, creating the conditions for profitable investment by private capital, including new laws on foreign investment and facilitating the building of infrastructure through public-private partnerships. The NLD is pushing ahead with the development of SEZs in line with its national objectives of promoting trade and investment, and support for market-led industrial development by attracting foreign investment.

International development assistance has played an important role. The Japanese government and the Asian Development Bank have helped the Myanmar government to formulate an industrial

policy centered on establishing SEZs and developing economic corridors that link Myanmar to its neighbors.⁶⁶ Japanese aid money has also gone towards the construction of the Thilawa SEZ. Thailand has provided financial support through subsidized loans to build a road linking Thailand to Dawei SEZ. It has also been reported that Italian-Thai Development Company, Thailand's largest construction company contracted to develop Dawei SEZ, was involved in drafting the SEZ and Dawei SEZ laws of 2011.⁶⁷

State of SEZs in Myanmar

Myanmar has two types of economic zones: industrial estates/parks and special economic zones. Industrial zones were promoted in the 1990s and 2000s under the SPDC government, but struggled to attract investment. Since 2015, industrial estates have experienced a resurgence with manufacturing and logistics companies

entering the market. This has focused in Yangon where there are currently 29 industrial estates.⁶⁸

Special economic zones are a more recent phenomenon, and tend to combine industry, infrastructure development and other types commercial activities over a larger land area. Between 2008 and 2013, the Myanmar government authorized the establishment of three large-scale SEZs. All are located on coastal areas covering a total area of 23,758 ha (see Table 4 and Figure 7).

Other economic zones currently in the pipeline include a deep seaport and SEZ on 20,000 ha of land in Yangon;⁶⁹ and a China-Myanmar Border Economic Cooperation Zone along the Kunlong-Chinshwehaw border area in Shan state. The latter is being pushed by China as part the China-Myanmar Economic Corridor (CMEC) that involves building transportation infrastructure linking Kunming to Kyaukphyu SEZ.⁷⁰

Table 4. Special Economic Zones in Myanmar (operational and under construction)

SEZ	Location	Year established	Size (ha)	Ownership	No. of tenants ^a	Investment ^a	Employment ^b
Thilawa	Yangon	2012	2,400	PPP Myanmar & Japan governments and private investors	112	1.9 billion	15,258
Kyaukphyu	Rakhine	2009 (revised 2013 and 2018)	1,708	JV Myanmar & Chinese governments and private investors	Not yet in operation		
Dawei	Taninthayi	2008 (revised 2012)	19,650	JV GoM + private investors (Thailand, Myanmar, Japan)	Not yet in operation		

Source: Compiled by authors from different sources

Notes: GoM = Government of Myanmar; PPP = public-private partnership; JV= joint venture

^aDeputy Commerce Minister cited in the Myanmar Times, "Three foreign companies withdraw investments from Thilawa SEZ, 18 Feb 2020.

^b2017 ASEAN Investment Report.



Figure 7. Special Economic Zones in Myanmar

Thilawa SEZ

Although Thilawa was the last of three SEZs to be approved in Myanmar, it was the first to be developed. Thilawa is a joint project of the governments of Myanmar and Japan, which set up a special purpose company in 2013 to develop and operate the zone. The Myanmar Japan Thilawa Development Co. Ltd. (MJTD) is made up of both state and private actors. The Japanese aid agency JICA along with three Japanese firms control 49% of MJTD, while the remaining 51% shares are held by the Thilawa SEZ Management Committee (TSEZCM), a consortium of Myanmar businesses plus individual shareholders. In 2014, MJTD obtained a 50-year land concession for the Thilawa SEZ, which can be extended for another 25 years. Commercial operations started in 2015, after the first phase of development (Zone A) was completed. Development of the second phase (Zone B) started in 2017.

Thilawa SEZ is receiving a growing number of investments in various labor-intensive industries such as garments, construction, packaging, food processing, auto and electrical parts, and pharmaceuticals. Around 80% of the tenants are 100% foreign-owned entities, with Japanese companies making up more than half of investors in the zone. Singapore is the second largest investor.

Kyaukphyu SEZ

The former Thein Sein government agreed in 2015 to allow a consortium led by CITIC Group – a large Chinese state-owned conglomerate – to develop the Kyaukphyu SEZ and deep-sea port in western Rakhine Province. Some minor infrastructure facilities were constructed at the end of 2014, but the new NLD-led government temporarily suspended the project due to concerns over the terms of the contract. After years of negotiations, new terms for developing Kyaukphyu SEZ and deep seaport were agreed in late 2018.⁷¹ CITIC Group's stake

in the port was reduced from 85% to 70%, while the Myanmar government and local public firms increased their share to 30%. China also agreed on a new arrangement aimed at helping Myanmar lighten its financial burden, including scaling down the first phase of the project. The two countries signed a concession agreement and shareholders' agreement for the project in January 2020.⁷²

Kyaukphyu deep-sea port and SEZ are a strategic part of China's Belt and Road Initiative as it gives China greater presence and control of trade in the Indian Ocean. Kyaukphyu is already the terminal of an overland pipeline that sends oil and gas to China's Yunnan province, thus bypassing the Malacca straits. The development of the China-Myanmar Economic Corridor will further consolidate this overland trade route linking Kyaukphyu with China.

Dawei SEZ

The Myanmar and Thai governments signed a MoU to develop the Dawei SEZ and deep-sea port in Tanintharyi's southern township of Dawei in 2008. Italian-Thai Development Company (ITD) of Thailand was granted a 75-year concession on a land area of 20,000 ha and awarded the contract to develop the project. The original plans were highly ambitious, and included building a deep-sea port, oil refinery and petrochemical plants, steel mill, pulp and paper processing, light industry, a coal-fired power plant, and a major reservoir. Related infrastructure projects included road and railway links to Thailand's Eastern Seaboard.

However, ITD was stripped of its lead-role position in 2013 after it failed to attract sufficient investment and the project was scaled back. In 2015, Japan agreed to participate in equal partnership with Thailand and Myanmar in the Dawei Special Economic Zone Development Company. The same year, the Myanmar government signed an agreement with ITD (which partnered with Rojana Industrial

Park) to begin work on the first phase of the project (2015 - 2025) over an area of 2,700 ha.

Twelve years after the project was first approved, Dawei SEZ has still not seen any significant progress, despite the Thai government and ITD continuously asserting their willingness and readiness to move forward. Recently, the project gained some momentum after a disagreement over who should finance a road linking the Thai border to Dawei SEZ was resolved.⁷³

Legal and governance framework

The 2014 Special Economic Law establishes the legal framework for developing and governing SEZs. The SEZ Law outlines objectives, institutional structure, roles and responsibilities of the governing bodies, and incentives offered to developers and investors. In 2015, SEZ Rules were issued as implementing regulations. The SEZ Law and SEZ Rules bestow special rights and privileges to investors, including extendable 50-year land leases, a one-stop service center to streamline permit processes, and exemptions from tax and customs duties. The SEZ Law also establishes special governance bodies to oversee the development, management and operations of SEZs, including:

- A Central Body, made up of various cabinet ministers and coordinated by the Ministry of Commerce, responsible for setting policy and overseeing the implementation of SEZs in the country.
- A Central Working Body, which scrutinizes

proposals and makes recommendations to the Central Body; and

- SEZ Management Committees in each SEZ responsible for supervising and managing the development and implementation of the SEZ in coordination with responsible government departments and bodies.



The SEZ Law does not establish clear roles, functions or accountabilities for the implementation of procedures related to the involuntary resettlement of people residing in SEZ areas or for the application of environmental laws.



The SEZ Law makes reference to Myanmar national laws governing land, labor and environment. However, the SEZ Law does not establish clear roles, functions or accountabilities for the implementation of procedures related to the involuntary resettlement of people residing in SEZ areas or for the application of environmental laws. A report by the International Commission of Jurists (ICJ) assessing the laws governing Myanmar's SEZs notes, "This lack of procedural guidance contributes to a situation whereby duty-bearers are unsure of their duties, rights holders are unsure of their rights. There is an overall lack of accountability in principle or in procedural terms, nor is there access to an effective remedy for unlawful acts."⁷⁴

Consequently, legal procedures are not followed and human rights violations have occurred in all three of Myanmar's SEZs.⁷⁵ The ICJ report concludes that the legal framework for SEZs is not consistent with the State's duty to protect human rights.

Land governance framework related to SEZs

The SEZ Law allows SEZ developers to acquire extendable 50-year land leases once the SEZ has been approved by the Central Body, the Union Government and the Pyidaungsu Hluttaw (Assembly of the Union). Article 82 of the SEZ Law confers

responsibility for acquiring and transferring land for SEZs to the Ministry of Home Affairs, “in accordance with existing laws.”

The Environmental Impact Assessment Procedure requires projects to comply with international standards on involuntary resettlement. However, there is no guidance on how resettlement should be implemented, or what are the responsibilities and obligations of the developer and the State. The SEZ Law (Art 80) only says that developers and investors must cover resettlement costs, and ensure the living standards of displaced persons do not deteriorate. Management Committees are only attributed a vague coordinating role in the resettlement process, but in practice they have played a central role in carrying out land acquisitions.⁷⁶

Myanmar has a large number of laws governing land, many dating back to the colonial era. Myanmar’s Constitution of 2008 establishes the state as the ultimate owner of all land and resources (Art 37). However, other constitutional provisions allow for private property rights and outline the state’s duty to enact law in protection of people’s rights. The rapid opening of Myanmar’s economy to foreign investment has shaped the direction of land and policy reform in recent years. This has exacerbated insecurity over land in a country where arbitrary use of power by the military and state has led to widespread land confiscation from smallholders for decades.

The 1894 Land Acquisition Act is the main law for acquiring land for “public purpose”, including concessions for SEZs. While the state is required to have a compensation plan for expropriated land and notify affected persons of such compensation, this does not always occur. Other land laws are also used for State reclamation of land and to determine compensation and entitlements, notably the 2012 Farmland Law and the 2012 Vacant, Virgin and Fallow (VVF) Land Law.

The 2012 Farmland Law allows for the registration and titling of individual land parcels through the issuing of land use certificates (LUCs). Holders of LUCs may sell, lease, mortgage or transfer their rights to other persons. This is geared at the promotion of land markets and land investments in lowland areas. Only agricultural lands are eligible for titling, which excludes all lands within state-identified Vacant, Fallow and Virgin (VVF) lands, which comprise the majority of land holdings by forest-dwelling communities. Furthermore, people who reside in areas slated for a SEZ or other development have not been permitted to apply for registration of their land.

The 2012 VVF Law (amended in 2018) is mainly geared at identifying so-called “wasteland” for domestic and foreign investments for agro-industrial and other development projects. Tracts of up to 50,000 acres of “vacant” land may be leased for up to 30 years.

Policies and land laws aimed at attracting investment by granting large land concessions for industrial agriculture and SEZs has deprived a large portion of Myanmar’s population from their land and given rise to land conflicts throughout the country. A key limitation is that the customary tenure is not formally recognized or protected under Myanmar Union Government laws, although the National Land Use Policy of 2016 does include some provisions to that effect.⁷⁷

Thilawa SEZ

The development of the Thilawa SEZ began with Zone A over 400 ha, affecting 81 households of which 68 were evicted and moved to a resettlement site in November 2013. Reports have highlighted a lack of due process in land acquisition and resettlement and that these were not done in accordance with Myanmar laws or JICA’s Guidelines for Environmental and Social Consideration.⁷⁸

Firstly, the Myanmar government did not adequately

inform affected communities about the project, its impacts or the relocation plan. Households report that they were only given two weeks notice before being evicted and were threatened with imprisonment if they refused.

There were also issues with resettlement conditions, including inadequate compensation for lost assets and lack of support to rebuild lives and livelihoods. Although villagers were compensated for the value of their crops and cattle, they were not compensated for their land. Meanwhile, by early 2014, land prices in the Thilawa SEZ had skyrocketed.⁷⁹ To make matters worse people were resettled to sites that were already involved in land disputes and lacked basic provisions such as adequate housing and access to clean drinking water.

As a result, affected households suffered significant hardships and have faced an uphill battle to have their grievances heard and addressed. An investigation conducted by the examiner's panel for the JICA guidelines for environmental and social considerations, while acknowledging a range of negative impacts, found that non-compliance with JICA guidelines was not proven.

Another concern raised by civil society organizations is that the EIA for the Thilawa SEZ did not adequately describe the project or comprehensively analyze its impacts.⁸⁰ The EIA was only conducted for a small area covering the first phase, instead of the entire area of the project. It did not examine the cumulative impacts from the different industries or air pollution sources. Moreover, it did not adequately consult affected communities or the public.

The case of Kyaw Win's family

Kyaw Win and his family accepted the compensation because they thought they could not refuse it. Kyaw Win could not read the conditions and the government did not let him keep a copy of the document. After receiving the first installment, they spent it on building the house in the resettlement area, which had not been completed when they were moved there. Seeing that the money was not sufficient for both the house and buying new land to grow crops and raise livestock, they rejected the second and third installment of compensation and continued to live in their old house. In September 2014, Kyaw Win, his wife and their son were arrested on charges of land encroachment.

Source: EarthRights International, "Analysis of the Affected Communities' Rights and Remedies Under Myanmar Law and JICA's Guidelines: A Briefer on the Thilawa Special Economic Zone"

Dawei SEZ

The Dawei Development Association estimates 4,384 - 7,807 households or 22,000 - 43,000 people will be directly affected by the Dawei SEZ and related projects.⁸¹ Project affected peoples can be divided into three main groups:

- Villagers residing in the area of the deep-sea port and Nabule village in the SEZ as well as

neighboring areas used for the construction of other related projects.

- Villagers of Ka Lone Htar village in the Tanintharyi mountain range, whose entire village was evicted for the construction of a reservoir to deliver water to the industrial estate. The reservoir construction would lead to the flooding of houses and farmlands affecting 182 households or approximately 1,000 people.

- Karen communities in the Tanintharyi Region along the road connecting the Dawei project to the Thai border town of Phu Nam Ron in Kanchanaburi province. Around 13 villages have been displaced to make way for the road while construction also destroyed forest areas and damaged water sources with adverse impacts to communities' food security.

The procedure for determining compensation

payment has lacked transparency, consistency, and fairness. Htein Gyi villagers say they still don't know why some families received 8 Million Kyat per acre while others only received a small fraction of that amount. Meanwhile, ITD reportedly sold land to investors for 1.2-3 million Baht per rai in 2013-2016, which is two to five times the highest compensation received.⁸² Villagers are still demanding justice for their loss of land.

The case of Ms. Malay and Ms. Lay Po

Even though the Dawei SEZ project has not yet taken concrete shape, Malay and her family were forced to move out of their home and resettle in Bawar village in March 2013. The eviction order came without prior notice, and shortly after, their old house in Cha Kan village was demolished. Another 30 households in Cha Kan village were also evicted. All of the villagers were told by officials to move out without receiving any compensation. Some people refused, and were prosecuted for disobeying orders.

When Malay and her family lived in Cha Kan village, fish was their main source of income, from which they earned about 5,000-10,000 Kyat (USD \$4-8) per day. They lost this source of income after they resettled to Bawar village. Her husband had to switch to catching small rodents and squirrels around the resettlement site. On good days, if he worked an extra petty job, he would earn 1,000-1,500 Kyat. At the resettlement village, there was no running water or electricity as previously promised by the government.

In Yawdut Thar village, another 11 households, who earned a living from salt farming, were forced out of the area so that ITD could build a road for the Dawei SEZ. Ms. Lay Po, who had lived her whole life in the village said it was impossible to stop the company from destroying her home and that she had no other choice but to leave. Currently, she is facing a lot of difficulties and lacks money to send her children to school.

Source: Dawei Development Association, 2014.

Kyaukphyu SEZ

The Kyaukphyu deep-sea port and SEZ in Rakhine State appears to be moving ahead after government authorities negotiated new terms for its development in 2018. However, detailed information about the plans and timetable has not been made public. Even the number of people who will be directly affected by the development of the SEZ is unknown or undisclosed. Research undertaken by ICJ in April-Dec

2016 indicates that up to 20,000 people live in the designated SEZ area and may be facing involuntary resettlement.⁸³ One third of these (6,568 people) reside in Ramree Island which is included in Phase 1 development, although the precise area may alter under the project's new arrangements. Residents live in a state of uncertainty without knowing what is in store for their future or how they should prepare for a project that promises to turn their communities into an industrial and shipping hub.

There are many reasons for concern. If past experience is anything to go by, the Kyaukphyu SEZ is likely to result in widespread involuntary resettlement, loss of access to resources that sustain people's livelihoods and other human rights violations associated with its development. According to media reports, people in Kyaukphyu Township recently lost their rights to their fishing grounds so as to free up areas for Chinese ships. They are now forced to fish covertly at night and face being "beaten or arrested" if caught fishing illegally.⁸⁴

A baseline study conducted by Oxfam in 2015 reports that 70% of the population in Kyaukphyu Township are farmers and fishers, while others rely on casual wage labor. Around half of the land for the proposed SEZ has no legally registered land titles or documentation.⁸⁵ This worsens the prospects of households achieving security of livelihoods after the development, as many people are not likely to receive compensation for land they have farmed over generations and hold rights to under customary arrangements.

According to the ICJ report, the option to register and title land was only made available to farmers in Kyaukphyu Township since 2015, three years after the enactment of the 2012 Farmland Law.⁸⁶ Locals report that they tried to register their land and obtain a certificate during 2016, but faced many barriers including local officials simply refusing to accept their applications. Moreover, a government-led survey team that demarcated land in preparation for the SEZ in March 2016, apparently classified villagers' grazing land and seasonally cultivated farmland as "unutilized" - despite protestation from villagers.⁸⁷ There is therefore a high risk that the

land acquisition process will not accurately reflect or recognize local land use and ownership, and will result in unfair compensation. Difficulties accessing land registration have only exacerbated this problem.

The project seems to be moving ahead without any clear planning and preparation for resettlement, replacement land, or support for alternative livelihoods. One potential site for relocation located outside the SEZ area was deemed by the ICJ study team as untenable, as it is already occupied and farmed by local people – despite the area being officially classified as "vacant".⁸⁸

Past experience of land acquisition and compensation leaves villagers with little hope of a fair process. In 2014, a small amount of land was acquired in Kyaukphyu Township for SEZ sub-projects, namely to build two dams. The 26 families who were displaced report they were not allowed to harvest their crops prior to eviction and were forced to accept compensation money that was insufficient to restore their livelihoods.⁸⁹ Their living conditions deteriorated as a result. Meanwhile, other Kyaukphyu residents are still seeking redress for losses and damages to farmlands and fisheries associated with the construction of the Myanmar-China oil and gas pipeline and related infrastructure that was completed in 2013.⁹⁰

Much work will need to be done by the Myanmar and Chinese governments and companies if they want to see investments in Kyaukphyu SEZ translate into benefits for local communities.

UPDATE ON MYANMAR SEZs AS OF 9 MAY 2021

The February 1 democracy-suspending coup has seriously affected operations of the Thilawa Special Economic Zone (SEZ) and raised fresh questions about the future of two proposed SEZs in Kyaukphyu, Central Rakhine State, and in Dawei, Southern Myanmar.

Thilawa SEZ

Thilawa, the only operational SEZ in Myanmar, has been heavily disrupted. Shortly after the coup, workers and employees at the SEZ's factories joined the massive Civil Disobedience Movement, which aims to deny General Min Aung Hlaing's junta financial control and legitimacy by disrupting economic activities. Most ports in Yangon River, with the exception of a military-owned port, have been paralysed, making businesses in Thilawa extremely difficult.

Manufacturers and medium-sized businesses started leaving in March, according to an investor in Thilawa. Some foreign executives of the Japanese trading houses already evacuated last year because of the COVID-19 outbreak.

Chair of the Thilawa SEZ Management Committee, Set Aung, has been detained along with other Suu Kyi's senior officials. No replacement has been announced. Starting from April, some factories which were closed have begun to partially operate.

Dawei SEZ

Dawei, the biggest in terms of landmass among all projects in Myanmar, was originally backed by the Thai government. Italian-Thai Development PCL (ITD) was granted a 75-year concession to build the SEZ but work never took off due to ITD's financial constraints and inability to attract investors on board.

In January 2021, ITD was told by the National League for Democracy-led government that the company was to be removed from the megaproject.

At the same time, the NLD administration reached out to the Japanese government for support. Aung San Suu Kyi and her top economic minister Thaung Tun repeatedly praised the success of Thilawa and expressed their wish to replicate that success in Dawei.

Thaung Tun announced the intention to build an SEZ in Mon State last summer. Following the announcement, there were doubts whether Dawei would remain a priority. Such doubts were dispelled after Myanmar's Japanese ambassador said Japan would invest in Dawei. Since Japan's government has suspended all official development assistance (ODA) projects in the country, Dawei is unlikely to proceed.

Kyaukphyu SEZ

Similar to Dawei, Kyaukphyu's SEZ proposal, which includes a deep-sea port, is not expected to move ahead in the near or medium future. The tender for the port's environmental and social impact assessments closed on February 8, without further announcements.

At a May 11 closed-door briefing with China-focused experts and journalists organised by local media outlet Frontier Myanmar, speakers expected the China-Myanmar Economic Corridor, which includes the Kyaukphyu project, to remain paused until the current crisis is over.

Even if the generals want to push ahead with Kyaukphyu, Beijing and state-owned CITIC Group would be wary to agree, a speaker said, citing risks of further escalating public animosity against China.

In addition, three military guards assigned to a Chinese-financed oil and gas pipeline that starts in Kyaukphyu were reportedly killed by an unidentified group in Mandalay, months after Chinese officials demanded the junta to guarantee the pipeline's security.

**The author is a journalist, based in Myanmar*

6. SPECIAL ECONOMIC ZONES IN VIETNAM



The Vietnamese state has expropriated large tracts of agricultural land from farmers to provide inexpensive sites for investors in manufacturing enterprises, particularly in peri-urban areas

PHOTO: THE ASIA FOUNDATION

Vietnam has experimented with different kinds of economic zones since they were first put forward as a policy mechanism to attract investments and catalyze industrialization. Export-processing zones were initially promoted in the early 1990s but were soon replaced with industrial zones, which grew rapidly in the late 1990s and 2000s. During that period the government began promoting high-tech industrial zones, mainly in areas close to Ho Chi Minh City, while also establishing border economic zones to promote development and trade in the country's peripheral areas bordering China, Laos and Cambodia. In the past 15 years, coastal economic zones have been established, combining heavy industry and high-tech sectors with seaports and other transport and logistics infrastructure. In 2016, the Vietnamese government announced it would establish three "Special Administrative Economic Zones" (herein Special Economic Zones or SEZs) in the north, center and south of the country. Along with a proposed new Law on Special

Economic Zones, the three SEZs have been touted as representing a new model of SEZ development in the country that would catalyze future economic growth.⁹¹

Vietnam's industrialization trajectory was given new priority in the 9th National Congress of the Communist Party (2001) where the government articulated a vision to transform Vietnam from a rural-based economy to a modern industrialized country by 2020. In the 20 years since this policy was pronounced, agriculture's contribution to GDP has fallen sharply from 40% in 1990 to 16% in 2018, whereas the proportional shares of industry and services have continued to increase over time.⁹² While the labor force engaged in agriculture has also contracted over this period, the number of households for whom agriculture is a main source of livelihood is still significant, accounting for 49% of the population in 2016.⁹³ This is important when considering the heavy impact that Vietnam's push

for industrialization is having on land relations in the country, where substantial areas of land have been taken out of agriculture to make way for industrial and urban development. A large portion of land-related conflicts in Vietnam have been linked to cases where the state has expropriated land from smallholders to provide inexpensive sites for investors in manufacturing enterprises, particularly in peri-urban areas.

State of SEZs in Vietnam

Vietnam's economic zones number in the hundreds. They include 18 coastal economic zones, 325 industrial parks (250 of which are operational), and 27 border gate economic zones.⁹⁴ More than 80% of economic zones in Vietnam are privately owned with a significant share of foreign company participation. Provincial governments, municipalities and government agencies are also active investors in economic zone development, often as joint venture partners with the private sector.⁹⁵

In 2016, the Government of Vietnam issued Resolution No. 103/NQ-CP establishing three SEZs. These are located in the coastal district of Van Don in the northern province of Quang Ninh, another in Bac Van Phong in the central province of Khanh Hoa, and the third on Phu Quoc island in the southern province of Kien Giang (see Figure 8). The three SEZs would enjoy special regulations and favorable incentives to attract investments, the details of which are contained in a draft Law on Special Economic Zones. The law was scheduled for Parliament approval in June 2018, but has since been put on hold following public outcry and opposition to a clause that would allow foreign investors to lease land for up to 99 years in the three SEZs (see below).⁹⁶ In June 2020, the Prime Minister formally approved the suspension of the Bac Van Phong SEZ master plan. The Master Plan will be considered again once the National Assembly

approves the Law on Special Economic Zones. Although the SEZ plans are currently on hold, the government nevertheless appears determined to persist with the development of a new generation of SEZs, promoting the projects as pivotal to Vietnam's transition to a green, high-tech and knowledge-based economy, or "Industrialization 4.0."

Economic zones in Vietnam have clearly played an important role in attracting foreign investment into the country over the past few decades, laying the foundations of an economy that is now heavily dependent on export-oriented labor-intensive industrialization. Foreign investment has continued to grow rapidly in Vietnam, reaching a record-level US\$16 billion in 2018, most of which has been in manufacturing. South Korea, Japan and ASEAN (mainly Singapore) are the largest investors accounting for 62% of total investments in 2018, followed by China and Hong Kong.⁹⁷ Vietnam has been among the main beneficiaries of the gradual shift of production capacity from China and other countries to ASEAN due to increased labor costs in China. That shift has now accelerated as a result of US-China trade tensions. For example, in 2018, the share of Korean firms investing in ASEAN rose by 3% to 36%, while the share of investments in China declined by 2% to 14%. This redistribution mainly went to Vietnam, which attracted 80% of manufacturing-related investments from Korean FDI.⁹⁸

However, this does little to allay concerns that the government's latest plans to increase Vietnam's competitiveness by promoting a new generation of SEZs will amount to anything different than the well-trodden factory-driven model of growth which is already showing its limits. Questions have been raised whether the government's proposed SEZ strategy will actually be effective in addressing underlying factors that challenge Vietnam's comparative advantage and investment based growth model. These include the exhaustion of



Figure 8. Special Economic Zones proposed in Vietnam

natural resources, environmental degradation, increasing labor costs, the continuing influence of monopolistic state enterprises, growing inequality and social conflicts, namely over land.⁹⁹

Critics also point out that existing economic zones are already designed to offer a wide range of incentives to investors, yet much of the agricultural land that has been seized for industrial zones remains vacant, due in part to a lack of infrastructure and poor management of zones.¹⁰⁰ In August 2015, Lam Dong Province in the central plains region submitted a proposal to downsize its Industrial Park Development Plan, which was subsequently approved by the Prime Minister.¹⁰¹

Legal and governance framework

The Department for Economic Zones Management under the Ministry of Planning and Investment (MPI) is the main agency responsible for guiding policy on and formulating master plans for industrial parks and economic zones in Vietnam, while decision-

making power lies mainly with the Prime Minister. MPI along with others ministries oversee that master plans are managed and implemented in accordance with laws and regulations. Provincial People's Committees and municipalities are empowered to formulate investment policies in their localities, and assume responsibility for developing and implementing master plans for industrial parks and economic zones under their jurisdiction. Each Provincial People's Committee has an industrial park management committee that manages and administers industrial parks, including issuing licenses to tenant enterprises.

A number of regulations promoting industrial parks and economic zones have been promulgated since 1997 (see Box). The most current is Decree 82/2018/ND-CP issued in 2018, which defines the various types of industrial and economic zones in the country, outlines the conditions and procedures for developing and investing in the different zones, and sets criteria for eligibility to preferential treatment and entitlements.

Main regulations related to industrial park and economic zone development promulgated in Vietnam since 1997

- Decree No. 36/ND-CP (24 April 1997) on the regulation on industrial parks, export processing zones and high-tech zones
- PM Decision No. 1107/QD-TTg (21 Aug 2006) approves the development of industrial parks in Vietnam up to 2015 and orientation of those parks up to 2020
- Government Decree 29/2008/ND-CP (14 March 2008) amends regulations on industrial, export-processing and economic zones
- PM Decision No. 43/2009/QD-TTg (19 March 2009) provides financial support (from central budget) for infrastructure development in industrial park areas facing difficult socioeconomic conditions.
- PM Decision No. 105/2009/QD-TTg (19 Aug 2009) outlines measures to encourage and regulate industrial agglomeration

- PM Directive 07/CT-TTg (2 March 2012) aims to discipline the management and enhancing operational efficiency of economic zones, industrial zones, and industrial agglomerations.
- Decree 29/2008/ND-CP (14 March 2008) defines industrial parks, export processing zones and economic zones, outlines the conditions and procedures for their establishment, and sets criteria for eligibility for preferential treatment and entitlements.
- Decree 82/2018/ND-CP (2018), supersedes Decree 29/2008ND-CP above. It includes provisions regulating auxiliary industrial areas, eco-industrial parks, industrial symbiosis, and coastal economic zones. It also provides various incentives for firms in industrial and economic zones.

Source: Adapted from Vo Tri Thanh, 2020

In 2018, a new Law on Special Economic Zones (or Law for Special Economic Administrative Zones) was drafted to provide a legal basis for the development and management of the three SEZs. The draft SEZ Law aims to provide additional measures and incentives to attract investment than those stipulated under current legislation, including authorizing foreign investors to lease land up to 99 years. Two days before the National Assembly was due to consider and vote on the draft bill on 15 June 2018, a series of protests erupted in several parts of the country against the passing of the draft law, some of which turned violent. The National Assembly was forced to postpone the vote to allow the government time to review it. The draft Law on SEZs was submitted again to the National Assembly in October 2018 but it was delayed once more, and it now seems to have been put on backburner.¹⁰² Opposition to the draft law was in large part driven by concerns that it would enable Chinese investors to acquire long-term land leases in territorially sensitive areas, including locations close to the South China Sea, which would expand China's power and influence over Vietnam thus threatening national security. While much of the public anger was marked by anti-China rhetoric, the demonstrations also reflected wider discontent over social and environmental impacts and growing

inequality associated with Vietnam's push for industrialization and urbanization, particularly grievances over land.

Land governance framework related to SEZs

Vietnam's transition from a socialist state has given rise to a land governance system that is riddled with tensions and ambiguities with regards to public and private domains of land ownership and interests. On the one hand, most households in Vietnam have been issued Land Use Rights Certificates, or "red books", since the 1993 Land Law mandated that the state allocate individual land use rights on a fixed and longer term basis (now extended to 50 years). Yet, the tenure security afforded to households through land certificates is offset by the fact that land remains under the ownership and management of the state on behalf of the "people".

Since Vietnam opened its doors to the global economy and welcomed neoliberal reforms, the party-state has embarked on an ambitious plan to transform the country from an agricultural economy to a modern, industrialized one. This has increasingly infringed on people's land rights as large amounts of agricultural land has been seized by the state

and reallocated to domestic and foreign investors for industrial and urban development projects. An estimated 0.9 million hectares of agricultural land was expropriated by the state and converted to land for non-agricultural purposes in the period 2001-2010,¹⁰³ affecting at least 9 million farmers and their families or around 10% of Vietnam's population.¹⁰⁴

Vietnam's land law (amended 1993, 2003, 2013) grants the state broad powers to revoke Land Use Right Certificates and make it easier for investors to acquire land under long-term leases of up to 70 years for industrial parks, economic zones and other developments. Land can be acquired by compulsory purchase in two ways. The first is land acquired for public purposes such as national defense or public infrastructure, which is similar to the power of eminent domain in most countries. The second form, which was introduced in the 2003 Land Law, is land that can be acquired for "economic development" or what the government calls projects of "national significance". The majority of agricultural land appropriated by the state under this category has been converted to export-processing zones, industrial zones, economic zones and high-tech zones.¹⁰⁵ Other conversions have been for investments in private and commercial real estate, golf courses, and new urban developments.

Private investors that want to acquire land for commercial purposes (i.e. for "economic development") are supposed to acquire the land through voluntary conversion by negotiating directly with landholders. In practice, however, landholders have often not had a say in the land conversion process, as local authorities sometimes use coercive means to acquire the land. The

latest revisions made to the land law (2013) gives investors the option of seeking higher level approval from the National Assembly or the Prime Minister if they want to enact the power of eminent domain to acquire land for commercial purposes.

In cases when the state expropriates land, households and individuals are entitled to receive compensation for the land. The problem is that compensation rates are often well below market

value for property, particularly around big cities like Hanoi and Ho Chi Minh. Farmers have been compensated at low agricultural rates, whereas developers receive much higher real estate returns for the same piece of land converted to urban or industrial uses. In this way, the government has encouraged provinces to requisition farmland at cheap rates to attract investors and raise the value of land in order to finance their development plans.¹⁰⁶ As the gap in the value of land for agriculture versus urban and industrial use has widened,

so conversion has accelerated, taking some of the country's most fertile agricultural land out of production.

Farmers forced out of their land find it difficult to find alternative livelihoods. Although the law includes provisions such as job training programs and requirements for a certain percentage of farmers to be employed in cases when industrial zones are built, this has been difficult to put into practice.¹⁰⁷ Industrial parks and economic zones have employed only a very small percentage of dispossessed farmers, as most do not have the qualification for those kinds of jobs. As noted by Nguyen Van Suu, for many farmers "a loss of agricultural land use rights results in a loss of livelihood, potentially creating

“
Large amounts of
agricultural land has
been seized by the
state and reallocated
to domestic and
foreign investors
for industrial and
urban development
projects.”

a vulnerable group in contemporary Vietnamese society.”¹⁰⁸

In the process of revising the 2013 Land Law, the National Assembly received comments from millions of citizens concerning the conversion of land use purposes, land acquisition by the state, compensation and resettlement, among other issues. In addition to provisions requiring higher levels of approval and oversight in land acquisition for economic development, the 2013 Land Law now requires investors to provide a Compensation Assistance and Resettlement Plan and Livelihood Restoration Plan. The land law also contains provisions for land dispute resolution and recognizes the right of citizens to monitor and report violations.

However, critics argue that the 2013 Land Law revisions did not go to the heart of the issue, which is that government officials and the party continues to hold power and discretion over land allocation, with little accountability or transparency. A key source of dissatisfaction is related to the blurry line between public interest and private benefit, particularly as state officials are often seen to be serving the interests of investors at the expense of farmers and landholders, or using their position as gatekeepers to reap private benefits from land deals with investors.¹⁰⁹

Dung Quat Economic Zone Authority

The Dung Quat Economic Zone Authority (DEZA) project¹¹⁰ is located in Bình Sơn District, Quảng Ngãi Province, in the south central coast region of Vietnam. Covering an area of 45,332 hectares, DEZA was approved by the Prime Minister in 1996 to set up a large economic and industrial zone, including Vietnam’s first oil refinery operated by state-owned PetroVietnam. In the first phase of the project (1997-2005), 1,111 farming households had their land confiscated and were resettled to new locations.

Although very low compensation rates were paid, there were few complaints at the time.

During the second phase (2006-2014), another 8,297 families were affected of which 701 were relocated to new locations. Although compensation payments were significantly higher than during the first phase of construction, due to a rise in land prices, public complaints increased drastically, partly reflecting changes in people’s perception of the project.

Differences in compensation rates prompted villagers who were relocated during the first phase of the project to return to the site of the oil refinery factory and protest in demand of higher compensation. Other reasons for the increase in protests relates to delays in compensation payments and problems with the new resettlement sites, some of which overlap with land claims of indigenous groups, causing conflicts. The resettlement areas were also in poor condition and lacked basic needs such as access to clean water.



Dung Quat Economic Zone Authority

PHOTO: ENVIRONMENTAL ATLAS, 2015

Land Speculation in the Three Special Economic Zones

Following the government's decision to establish SEZs in Van Don, Bac Van Phon and Phu Quoc in 2016, land prices in and around the three areas shot up due to land speculation, creating a real estate bubble. Local governments were forced to issue orders to temporarily suspend the repurposing and transferring of land in the three areas until the draft Law on Special Economic Zones is approved by the National Assembly.

In Van Don, large-scale land acquisition for the purpose of speculation took place, driving up land prices. According to a report by the People's Committee of Van Don District, from 2018, land transactions in the district increased 5-10 fold, with more than 1,000 land ownership transfers taking place, mostly in the communities of Ha Long Bay, Dong Xa, Dong Ket Va, and Dai Xuyen. The district

government took various measures in an effort to control the transfer of agricultural and forest land to non-agricultural purposes, including banning land use conversions, prohibiting the subdivision of the residential land, and suspending approvals of new projects in the Van Don SEZ area.¹¹¹

Similarly, the Peoples Committee of Khanh Hoa Province, where the Bac Van Phong SEZ is planned, reported that in the first three months of 2018 local government agencies received and processed over 2,250 applications for land transfers, which accounted for 65% of the previous years' total number of land transfers.¹¹² In May 2018, the Chairperson issued an order to temporarily halt land use conversions and land transfers in Van Ninh district. The People's Committee of Kien Giang Province, the location of the Phu Quoc SEZ, also issued a similar order.¹¹³ However, it is often difficult to enforce regulations on land use and transfers when a rush of speculation takes place.



Thousands of people gathered in Hanoi, Hoi Chi Minh, Danang and other cities to protest against the proposed law on special economic administrative zones that would allow foreign companies to acquire 99-year land concessions.

PHOTO: AFP KAO NGUYEN

7. SPECIAL ECONOMIC ZONES IN THAILAND



Local opposition to the Mae Sot special economic zone. The sign highlights negative impacts that will occur if the area is converted into an industrial zone

PHOTO: PRACHATAI, LICENSED UNDER CC BY-NC-ND 2.0

Economic zones in Thailand date back to the 1970s, when the government began developing industrial estates and export processing zones in Bangkok and surrounding areas as part of its FDI-driven export-oriented industrialization strategy. Rapid industrialization in the 1980s and 1990s led to the expansion of industrial estates particularly in the Eastern Seaboard, which was prioritized for industrial development following the discovery of natural gas reserves in the Gulf of Thailand. The Eastern Seaboard soon became home to Thailand's agglomerations of heavy

chemical and automotive industries. Japanese ODA played a key role in financing the development infrastructure, including industrial roads connecting Bangkok to the Eastern Seaboard and the deep-sea port in Laem Chabang and Map Ta Phut, which provided a gateway to foreign markets and served to attract foreign investment in export-oriented manufacturing.¹¹⁴ Thailand's Bureau of Industry's zoning scheme provided incentives such as tax deductions to foreign and domestic companies who located their operations in the Eastern Seaboard.

Today, industrial estates continue to be developed, but the government is giving greater attention to the development of border SEZs and Special Economic Promotion Zones in the Eastern Economic Corridor (ECC).

Although the concept of establishing SEZs has been floated by subsequent Thai government administrations since 2001, none was established due in part to resistance from local communities and civil society organizations who were especially opposed to a draft Special Economic Zones Act that would allow foreign investors to obtain 99-year leases to land. However, since the military-led National Council for Peace and Order (NCPO) government stepped in as the executive body following the military coup in 2014, SEZs have again risen to the fore as a key economic development policy. Under the leadership of retired General Prayut Chan-o-cha, the military government used its power under Section 44 of the then-Interim Constitution (May 2014-March 2017) to push through legislation allowing the procurement of state land for the establishment of 10 border SEZs and the development the ECC as a specialized economic zone in three eastern provinces.

State of SEZs in Thailand

There are currently three types of economic zones in Thailand: 1) industrial estates, parks and zones; 2) border SEZs; and 3) the Eastern Economic Corridor (ECC) Special Development Zone. Not all have been implemented and some are struggling to take off.

Based on data from 2017,¹¹⁵ Thailand has 55 industrial estates, covering a total area of 24,908 hectares. The majority (75%) are located in the eastern region, followed by the Bangkok Metropolitan Region (16%). The Industrial Estate Authority of Thailand (IEAT), a state enterprise attached to the Ministry of Industry, operates 12 industrial estates, while the remaining 43 are managed as joint ventures with the private sector. Additionally, Thailand has industrial parks and zones that are 100% privately owned and run. These come under the control of the Board of Investment (BOI), which assigns the Department of Industrial Works in each province to regulate private sector industrial parks and zones.¹¹⁶ Private sector developers are dominated by local companies, the major ones of which are Amata and Hermaraj (see case study below).

In 2015, the NCPO government developed a policy to establish 10 SEZs in Thailand's border provinces to stimulate economic development along border regions and reduce regional disparities (see Figure 9). Covering a total area of 293,200 hectares spanning 23 districts and 90 subdistricts, the SEZs have been slated for low-value manufacturing activities.¹¹⁷ As Thai labor rates are no longer competitive with its neighbors, the SEZs are structured to facilitate the use of migrant workers from Myanmar, Laos and Cambodia. The development of border SEZs was set to occur over two phases. The first phase involves developing 5 SEZs in the provinces of Tak, Mukdahan, Sa Kaew, Trat and Songkha, while the second phase implements the remaining 5 SEZs in Chiang Rai, Nong Khai, Nakhon Phanom, Kanchanaburi and Narathiwat.



Figure 9. Location of 10 Border Special Economic Zones and the Eastern Economic Corridor, Thailand

To date, the SEZs have struggled to attract investments, despite tax exemptions, preferential loans and other incentives offered to investors.¹¹⁸ The strategy to build labor-intensive manufacturing reliant on foreign workers in peripheral regions of the country has attracted criticism from various quarters. For example, Thailand's independent research institute TDRI said, "the zones were poorly designed and thus are unlikely to be effective."¹¹⁹ It argues that in order to boost Thailand's competitiveness, SEZs should be converted into "Special Innovation Zones" that promote "high-value-added activities", while labor-intensive industries should relocate to neighboring countries. Some local officials and private sector actors have expressed reluctance to support a SEZ policy they say has been developed in a top-down fashion without sufficient consideration of their concerns and aspirations or understanding of the local business environment.¹²⁰ Moreover, SEZs have confronted strong community opposition, particularly from residents who face losing their agricultural lands, community forests and wetlands.

The government initially set a target to procure a total of 3,840 hectares (24,000 rai) of state land to allocate leases to private investors and industrial estate developers. However, this target was not reached and the target area was reduced to 2,400 ha (15,000 rai).¹²¹ At present, Trat is the only SEZ where a company has invested on land procured by the state.

The lack of interest from investors in the border SEZs has led the government to focus its attention on the development of the Eastern Economic Corridor (EEC), a megaproject with an investment value of around 1.77 trillion Baht (over 55 billion USD) within the first five years.¹²² The EEC project aims

The lack of interest from investors in the border SEZs has led the government to focus its attention on the development of the Eastern Economic Corridor (EEC)

to drive economic growth through public and private investments in new infrastructure, expansion of industries and businesses as well as tourism growth and urban development. The project includes developing an eastern Aerotropolis with a new U-Tapao international airport in Rayong-Pattaya, a high-speed rail project connecting the three main airports (Don Muang, Suvarnabhumi and U-Tapao), expanding and upgrading the Laem Chabang and Ma Ta Phut deep-sea

ports, and an integrated logistics system connecting Thailand and Mekong countries. A key part of the EEC project is to promote investments in targeted industries through special promotion economic zones where investors can access a range of tax and non-tax benefits.



Figure 10. Eastern Economic Corridor
Source: National Social and Economic Development Council

In January 2017, the NCPO government issued Order No. 2/2017 on the development of the EEC project. This Order established two committees: the EEC Special Development Zone Policy Committee (chaired by the Prime Minister) and the EEC Special Development Zone Administration Committee (chaired by the Ministry of Industry). In the same year, the EEC Special Development Zone Policy Committee issued a notification in the Royal Thai Government Gazette identifying 24 “Special Economic Promotion Zones” within the EEC in

the three provinces of Chachoengsao, Chonburi and Rayong.¹²³ In June 2020, this was expanded to 29 Special Economic Promotion Zones, which includes: 21 Promoted Zones (originally industrial estates) to be a location for 12 targeted industries; an Innovation Platform Corridor (EECi); an area promoting digital businesses referred to as Digital Park Thailand (EECd); Eastern Airport City (EECa); a high-speed railway linking the three main airports (EECh); a Medical hub (EECmd) and two additional EEC clusters (see Table 5).

Table 5. Areas covered by the 29 Special Economic Promotion Zones within the Eastern Economic Corridor

Areas promoted in the zones	Area (ha)
21 Promoted Zones (mainly industrial estates) to be a location for 12 targeted industries	14,080
EECi (Innovation Platform)	580
EECd (Digital Park)	113.3
EECa (Eastern Airport City)	1,040
EECh (High-speed railway linking Dong Muang, Suvarnabhumi and U-Tapao airports (220km) and a transit-oriented development area)	1,256.5
EECmd (Medical Hub)	90.6
Genomics Medicine	0.6
EEC Cluster (Toyota Ban Pho)	271
EEC Cluster (E-Commerce)	37
Total	17,469

Source: Royal Thai Government Gazette Website, Office of the EEC Special Development Zone Policy Committee Website,¹²⁴ and EEC city planning report by the Department of Public Works and Town and Country Planning

Legal and governance framework

Thailand’s industrial estates and SEZs are under the responsibility of Thailand’s Board of Investment (BOI) and the Industrial Estate Authority of Thailand (IEAT). Thailand’s industrial estates and SEZs are under the responsibility of Thailand’s Board of Investment (BOI) and the Industrial Estate Authority of Thailand (IEAT). Under the jurisdiction of Thailand’s BOI, a Policy Committee for Special Economic Zones (PCSEZ) was established which is responsible for the planning, implementation

and monitoring of the 10 border SEZs. These administrative bodies lack representation from local communities or the public, evident in particular during the process of selecting the areas to establish the SEZs.

For both the development of the border SEZs and the EEC, the military-led NCPO government has relied on powers given to it under Section 44 of the Interim Constitution (2014-2017) to push through with plans and legislation. Regarding the EEC regulatory framework, a number of NCPO Orders

were issued to speed up the development of the EEC with minimal oversight. For example, NCPO Order No. 28/2017 on Measures to Improve the Efficiency of the Development of the EEC, includes provisions exempting the EEC Master Plan and associated land use plans from having to comply with the Thailand's planning law. Along with NCPO Order No. 47/2017 on Land Use Regulations in the EEC, it allows for new land use plans to be developed where investors can expand the industrial development onto land that was previously designated as agricultural land. Furthermore, Order No. 47 includes provisions to remove steps and minimize the time and effort spent on assessing environmental and health impacts of EEC projects. Section 51(2) of the Order specifically states that the Improvement and Conservation of Environment Quality Act of 1992 does not apply, so that permits can be issued quickly.

The above NCPO orders that enabled the government to move ahead quickly with the EEC project have now been superseded by the Eastern Special Development Zone Act (also known as the EEC Act), which was passed by the NCPO government in 2018.¹²⁵ The preamble states that the purpose of the EEC Act is to:

- Promote local and foreign investors to engage in targeted industries and related businesses in the ECC Special Development Zone, particularly “activities which employ advanced and modern technologies, promote innovations, and are environmentally friendly.”
- Identify Special Economic Promotion Zones within the ECC Development Zone which are subject to special regulations and privileges in order to promote the development and promotion of special targeted industries and supporting businesses, services and knowledge institutions

- Create an environment that is ideal for business operations and modern living, including by:
- Reducing obstacles to investment and minimizing costs of business operations
- Providing high quality infrastructure and public utility systems
- Identifying land suitable to fulfill the objectives of the EEC Special Development Zone

The NCPO government also passed other laws (both amendments and new laws) related to land and investment promotion in the EEC ahead of Thailand's general elections in March 2019. These have mainly aimed at streamlining public-private partnership agreement processes, cutting red tape to facilitate investments, extending tax benefits for companies investing in the EEC and facilitating land acquisitions for private investors.

Land governance framework related to SEZs

The 1977 Investment Promotion Act and the 1979 Industrial Estate Authority of Thailand Act are two key laws that have favored private investors' access and ownership over land in Thailand. The Investment Promotion Act granted special privileges to foreign investors who invested in a targeted business to own land beyond what was specified in the 1954 Land Law. The IEAT Act states that the Board of Directors of IEAT has the responsibility to grant land ownership for industrial or commercial purposes within industrial estates and free trade zones.

The IEAT Act has been amended over the years to allow the conversion of public land for the establishment and expansion of industrial estates (general industrial estates and free trade zones), for which a royal decree would be issued. Moreover,

IEAT also has the power to expropriate land, buildings, etc. according to the Immovable Property Expropriation Act, in order to then transfer it to industrial and commercial operators.

In addition to land ownership privileges, both domestic and foreign investors have the right to lease land under the 1999 Act on the Lease of Immovable Property for Commercial and Industrial Purposes for a period not exceeding 50 years (with possibility for extension). Although this law allows for a longer lease period than the 30 years permitted under the 1992 Civil and Commercial Code, it is subject to strict regulations. For example, land leases that exceed 100 rai (16 ha) require approval from the Director General of the Department of Lands. For foreigners, this requirement also applies for leases under 100 rai.¹²⁶ The applicability of these conditions for land leases, however, has been put in doubt with the recent passing of laws under the NCPO government. For example, Article 52 of the 2018 EEC Act states that for the designated Special Promotion Zones, some articles of these laws might be waved in order to facilitate the lease of land by foreign investors.

The NCPO government also amended the Immovable Property Expropriation Act (effective 30 May 2019) to allow land expropriation for the development of SEZs, especially for the construction of large-scale infrastructure within the EEC. To this end, it defines “the development of special economic zones” as a public use according to the Article 7 and allows expropriation of various categories of state land.

In 2015, the NCPO government issued Order No. 17/2015 on the Provision of Lands for SEZs, which authorized the government to use Section 44 of the interim constitution to acquire lands for the development of SEZs in Thailand’s 10 border provinces. Order 17 allows various types of state

land – public use land (*thi din satarana prayote*), national reserve forest land, permanent forest land, and agricultural reform land – to be converted to state “treasury land” (*thi din ratchaphatsadu*) for on-leasing to private investors. There were no feasibility studies undertaken of the areas in question, nor were people consulted about the selection of areas for the SEZs. Moreover, as indicated above, waivers were granted over national regulations that could pose barriers to or slow down the process of land acquisition, including laws related to land use plans and laws requiring detailed environmental and health impact assessments to be carried out. This has resulted in the displacement of people living on and utilizing so-called ‘state land’ without legal documentation. Cases have been brought to court to evict villagers, such as in Nakhon Phanom SEZ. The state has not offered compensation for the land acquired, saying people are illegal occupants of state land. Nevertheless, some communities have managed to negotiate compensation with government officials by collectively mobilizing to demand state recognition of their land rights (see Mae Sot case study below).

With regards to the use of state land in the EEC Special Development Zone, special powers were given to the EEC Policy Committee to issue regulations and conditions for the use of “treasury land”, which includes land that lies under the jurisdiction of local government bodies or other state agencies. Specifically, Article 53 of the 2018 EEC Act states that:

“In case that the Policy Committee resolves to establish a Special Economic Promotional Zone on state land, as well as to lease out or sublease out, all authority of the Treasury Department with respect to such state land shall be the authority of the Office [of the EEC Special Development Zone Policy Committee]. If the state land is under

possession or utilization of any other State Agency, the consent of such State Authority must be obtained. Notwithstanding the foregoing, the Policy Committee may require that the Office allocates the income derived from the use of that state land to the State Agency that possesses the state land or uses the state land, or to the Treasury Department...”

In this way, the treasury department has been able to gain control over state land for the development of, for example, the Eastern Airport City (EECa), a development in which Thai Navy has also been heavily involved.

Chapter 5 (Articles 48-53) of the EEC Act outlines special rights and privileges for Special Economic Promotional Zone Operators, which includes domestic and foreign companies and individuals.¹²⁷ This includes the right to ownership of land or condominiums for operating businesses or for residence purposes, the right to bring foreigners to reside within the Kingdom of Thailand, and the right to exemption or deduction of taxes and duties.

There has already been extensive land grabbing in the EEC Special Development Zone, both through the recovery of land by the state as well as through the stimulation of land markets and land speculation (see Amata case study below). Land prices have skyrocketed with a new wave of land sales. This is particularly the case in Chachoengsao province, where most of the land was previously designated as agricultural land in district and sub-district land use plans. In this province, most farmers have been leasing land for decades, either on private property or state land. Following the reclassification of land from agricultural to industrial use, land is being sold at a rapid pace. Farmers are now facing a sudden termination of their land leases, leaving them landless.

Mae Sot Special Economic Zone

Mae Sot SEZ is one of the ten border SEZs in Thailand. It is located near the 2nd Thai-Myanmar Friendship Bridge in Tha Sai Luat sub-district, Mae Sot district, Tak province, and covers an area of 349 hectares. The land, which used to be a residential and farmland area of villagers, was acquired through NCPO Order No. 17 issued in 2015. The villagers had settled in the area in the 1940s and 50s, but their land was later declared state forestland, which disqualified them from obtaining land ownership documents.

The loosening of border restrictions in the late 1980s, the construction of the 1st Thai-Myanmar Friendship Bridge in 1997, and Thailand's policy to develop border areas in the 2000s, all contributed to transforming the area into a major gateway for border trade between Thailand and Myanmar. Land markets flourished as local elites and outsiders began investing in land for production, construction or speculation purposes, resulting in the accumulation of land in the hands of the better off. The completion of the East-West Economic Corridor, along with the Mae Sot Economic Development Policy in 2010, saw land prices surge. The high land prices in Mae Sot have been an obstacle to the government acquiring land for the purposes of economic development. This is why the NCPO government issued orders allowing the treasury to recover state land for reallocation to investors for the development of border SEZs in the country.

In 2015, 93 villagers had their land confiscated by the state without much prior warning. At first, the government did not specify the compensation measures because they solely based their decision on whether people had land ownership documents. As villagers were seen to be encroaching on state land without said documents they were not entitled to compensation.

"I spent almost all my life on this land. I grew sugar cane, rice, corn, and other plants for our own use. One day, the government came knocking on our door destroying our family. We fought everyday. Government officials from all departments pressured us to sign the document giving up our land for road construction, even though we have always paid tax for it... I am not trying to obstruct the development, but what can I do if not be a farmer? The government said I could sell noodles or papaya salad but I am already old. I want to ask the authorities for land that I can inherit to my children.."

— Mr. Kaew Intarak, 76-year-old villager affected by the Mae Sot SEZ

Most of the disputed land was actually held by local businessmen and well-off households. Only 31 families owned small plots covering around a quarter of the land area. Yet it was this latter group of villagers that played a key role in negotiating with local authorities and the central government.¹²⁸ The government was quick to accuse villagers as being wealthy capitalists, although it was discovered later that most of the people had inherited land from their ancestors. Some of them had purchased it from previous owners for farming, while others for real estate businesses. The latter group had more options than the rest, as they owned multiple plots of land.¹²⁹

In the beginning, villagers' ability to mobilize to discuss the land grabbing issue was constrained by the martial law the military government put in place banning gatherings of more than five people. Since military officers were monitoring the villagers, they decided to file a complaint to the National Human Rights Commission. Villagers also received support from NGOs to establish a group to deal with the relevant government agencies, use social media as a public communication platform, use the mechanism of the administrative court, and scale-up the movement to a policy level by joining with the Northern Peasant Federation and the People's Movement for a Just Society (P-MOVE). However, as a result of the intense pressure from the government, which forced many villagers to accept the compensation money or risk getting none at all, only five villagers remained who still

demanded compensation from the state in the form of land.

This staunch handful of villagers eventually created an impact at the policy level benefiting all groups of villagers with increased compensation. A Cabinet meeting held on 31 May 2016 concluded that in order for the government's SEZ development policy to yield results within 2017, the Ministry of Natural Resources and Environment through the National Land Policy Committee should consider measures to aid people negatively impacted by SEZ-related activities.¹³⁰ As a result, the compensation level was increased from 36 million to 438 million Baht. One of the major reasons for the increase in compensation in the case of Mae Sot SEZ was the government's wish to put an end to the villagers' movement as it was seen as an obstacle to the progress of the government's SEZ development plans. In the end, the last five villagers received a new land allocation after joining with the P-MOVE network.

Amata Special Industrial Promotion Zone within the EEC

The cluster of Amata industrial estates consists of Amata City 1 and 2 in Chonburi province and Amata City in Rayong province. All are located in the Eastern Economic Corridor (EEC) and were declared a Special Economic Promotion Zone according to EEC policy (see Figure 11).



Figure 11. Amata City industrial estates make up 3 of the 21 Promoted Zones within the ECC Special Development Zone

Source: Office of the EEC Special Development Zone Policy Committee¹³¹

Thailand's Amata industrial and real estate empire was first established in 1988, when Mr. Vikrom Kromadit, the founder of Amata industrial estates, purchased 120 ha of land in the Eastern Seaboard. After five years, Amata industrial estates expanded to 3,014 ha. As of January 2019, the Amata industrial estates in Chonburi and Rayong provinces cover a total area of 7,034 ha, and are the largest industrial estates in Thailand.¹³² In addition to the industrial estates, Amata Corporation PCL created three subsidiary companies: 1) Amata City Co. Ltd., which is a property development business; 2) Amata (Vietnam) Joint Stock Company, which implements projects under the banner of Amata City (Bien Hoa); and 3) Thai-Chinese Rayong Industrial Realty Development Co. Ltd., which is engaged in selling and leasing land as well as factory construction for investors from mainland China.¹³³

In 2010, Amata City 2 was established near Amata City 1. The construction of Amata City 2 was opposed by residents concerned about the impacts

it would have on the ecological system of Bang Pakong River and local livelihoods. Amata City 1 was constructed on a waterway and had caused flooding in the surrounding communities and water waste problems affecting villagers who worked in fish and shrimp farms and grew crops along the river. Amata City 2 was to be constructed parallel to the Bang Pakong River and if connected to Amata City 1, would completely block the waterway which would result in more severe flooding.

The river flood plain of the Bang Pakong River was in fact deemed important by local government urban planning agencies, which had categorized the land use in said area as rural and agricultural land (green zone) in 2010.¹³⁴ Nevertheless, in 2018, Amata City 2 was declared a Special Promotion Zone according to the EEC development policy, which resulted in the conversion of the land use category from agricultural (green) to industrial land (dark purple). This way, Amata City 2 was able to proceed with its development and benefited



Villagers in Chachoengsao Province protest the Eastern Economic Corridor. Banner reads “EEC-free zone”

PHOTO: LAND WATCH THAI

tremendously from land sales to foreign investors. A report by the Bank of Ayudhya reveals that for the period 2012-2014, profits from land sales accounted for 70% of Amata Corporation PCL’s total revenues.¹³⁵ In 2013-2014, Amata’s profits from land sales exceeded 5 billion Baht (around USD\$160 million) out of total revenue of 7 billion Baht (USD\$220 million).

Along with local authorities, local influential people who acted as land brokers facilitated the land acquisition process for Amata City 2. They did this by accumulating and merging land parcels, which they then re-sold to companies. The surge in land prices in the EEC area (around 100 fold in 2009-2010) has allowed Amata to privately benefit from land transactions.

“Before the company began to buy up land, the land appraisal price was around 90,000 Baht. In 2009-2010, land price rose from 150,000-200,000 Baht to 1 million Baht because villagers had realized the industrial estate was going to be set up. Now the land price is around 1.5-1.8 million Baht. In some cases community leaders who opposed the industrial estates were offered a ‘special price’ for their land. There were also cases of brokers being offered a lump sum of money for buying up villagers’ land, where they got to keep the difference. Most recently, in 2017, a villager sold 6 rai of inherited land for 30 million Baht, and in 2018, the land appraisal price was 20 million per rai.”

— Sarayut Sonraksa, resident of Bang Son Sub-District, Ban Pho District, Chachoengsao Province

8. SPECIAL ECONOMIC ZONES: KEY ISSUES AND IMPACTS



Family resettled to make way for the Thilawa SEZ in Myanmar

PHOTO: ZACH IMAGES/ ERI

This section provides a summary of key issues, concerns and impacts related to the development and implementation of SEZs across the Mekong region.

Living up to promises? While SEZs are being promoted and developed at a rapid pace throughout the Mekong region, many are failing to meet government's own expectations in terms of attracting investments, generating state revenue, producing positive spillover effects to the local economy, or generating local employment. SEZs are risky and expensive projects, which produce huge social and environmental costs that are borne most heavily by the rural poor.

Who benefits from SEZs? In the Mekong region, there is obfuscation between private interests associated with the granting of land for SEZs to commercial developers and the purported public interest that they are supposed to serve. Interpretations of what

is in the 'public interest' is often captured by state representatives, local elites and foreign investors.

SEZ laws exist to benefit private investors and fail to provide sufficient protections for communities, workers and the environment. Throughout the region, laws have been amended to make it easier for private investors to access land at the expense of the poor without adequate provisions for compensation or alternative livelihoods.

Forced evictions: Most of the land taken up by SEZs is in fact occupied and used by communities. While the land is sometimes titled to individual households, often it is land held under customary tenure arrangements that are insufficiently recognized as thus claimed by the state. SEZ development presumes state ownership of land and the resources in question, operating like a form of eminent domain. Throughout the Mekong region communities living in and around areas slated for

SEZ development have been forcibly evicted from their land, sometimes through coercive or violent means.

Land grabbing has also occurred by means of land speculation and large-scale financial investments in and around SEZs.

Unlawful, irresponsible and poorly managed land acquisition has generated conflicts and brought suffering to communities. Land concessions have often been granted to SEZ developers without conducting prior surveys or consulting with local communities living in the area.

SEZ projects have been developed without the prior knowledge, participation or consultation of the people affected. Overall, land acquisition and resettlement processes have lacked transparency and fairness, contravening national and international law.

Loss of livelihoods, unjust compensation: Industrial zones and SEZs have often been established by claiming large amounts of agricultural land, dispossessing people from their means of livelihood. Laws requiring the state and investors to pay compensation for damages are either deficient or not properly implemented and enforced. Assumption of state ownership over land means that people struggle to claim their landholding rights and entitlements to compensation in areas designated as 'state land'. For those people who do have legal land documents, compensation rates are often way below market price. Moreover, resettlement sites have often lacked basic provisions such as clean water.

When SEZs face difficulties attracting investment, it leaves individuals and households whose land has already been taken or waiting to be taken in limbo. They can neither cultivate their agricultural land nor receive the benefits that the construction of the economic zones is supposed to bring.

Dispute resolution and access to justice: There is limited access to legal redress for rights violations that have arisen as result of forced displacement and loss of access to land and resources crucial to people's livelihoods. Most SEZ management committees do not have a grievance mechanism that would allow communities affected by SEZs to file complaints and report human rights abuses. Other channels for seeking legal redress are plagued by bureaucratic and costly procedures for lodging complaints as well as political interference in mediating institutions and the judiciary. In the absence of impartial institutions, affected communities resort to a variety of informal mechanisms to help in their negotiations with authorities and other powerful parties. These include collective actions through protests and campaigns, use of media, and partnering with NGOs. However, these efforts are hampered in contexts where there are political limits to resistance and public complaint.

Lack of transparency and accountability: In addition to a lack of transparency and accountability surrounding land deals, there is also limited publicly available information regarding SEZ projects in the region, including feasibility studies, impact assessment studies, resettlement and compensation plans, and approval processes. Decision-making on SEZ development takes place behind close doors without much public discussion or involvement, including by people directly affected by projects. The problem is compounded in countries where the state controls the media and information is limited to the positive aspects of projects.

Limited absorption of local labor in SEZs: Some SEZs have created employment opportunities for local people, particularly young women who generally occupy the lowest-paid manual labor positions. In other SEZs, there is a heavy reliance on foreign labor. For many farming households

who have been displaced by SEZs, accessing employment opportunities in SEZ can be difficult, as they lack the skills necessary for the types of jobs on offer.

The COVID-19 pandemic has highlighted that SEZ workers are highly vulnerable to external shocks and crisis,¹³⁶ and that labor-intensive industrialization is not a good basis for building secure, resilient or sustainable livelihoods. Continued access to farmland, forests and other natural resources has been a critical factor enabling workers and their families to survive through the pandemic and its economic aftermath.

Poor wages and working conditions: Studies have shown that working conditions vary significantly among SEZs in the Mekong region.¹³⁷ In some SEZs, extensive use of low-cost labor and lack of regulations regarding wages has led to an environment conducive to labor exploitation, with workers working excessive hours and underpayment of wages.¹³⁸ Trade unions and other associations are restricted from operating in SEZs in most Mekong region countries.

Environmental degradation and pollution: Fertile lands, forests and wetlands have been bulldozed to make way for SEZ development throughout the Mekong region. In Cambodia, logging concessions have been granted to companies in association

with SEZs that have subsequently encroached into national parks.¹³⁹ In Vietnam, water, air, and land pollution have become serious issues in recent years, as highly polluting industries are being given the green light to operate in agro-ecologically sensitive areas without proper oversight. In 2016, a Taiwanese-owned steel mill discharged toxic chemicals into deep-water seas along the north-central coastal region, causing one of the largest environmental disasters in the country's history.¹⁴⁰ In Thailand, environmental standards have been weakened significantly under the military government.

Environmental and social impact assessments (ESIA) are not always undertaken for SEZs, or they are not released to the public. Sometimes they are undertaken only after land has already been expropriated from communities. ESIA's undertaken are often of poor quality, failing to adequately assess the full range of impacts, let alone prompting actions and measures to minimize or mitigate negative impacts. Although SEZs involve many infrastructures covering a wide area, no government has conducted a Strategic Environment Assessment (SEA), which should be undertaken ahead of an ESIA to situate each development in a wider economic, social and environmental context.¹⁴¹

9. CONCLUSION AND RECOMMENDATIONS

All governments in the Mekong region are pursuing SEZs to attract investments and boost economic growth irrespective of differences in economic development contexts and levels and approaches to industrialization. While some SEZs have attracted investments in the industrial sector and created some employment opportunities, the development and operation of SEZs have resulted in human rights violations associated with forced evictions, land grabs, poor labor conditions and environmental damage. If SEZs are to have a more positive impact and produce wider societal benefits, they would need to be developed, managed and operated in a way that avoid the many negative social and environmental impacts they currently generate, and respect the rights and interests of local communities and workers. To that end, we make the following recommendations:

To Governments

- **Conduct a thorough review of the performance of SEZs to date to inform policy.** Existing and planned SEZs should be assessed not only on the amount of investment attracted or value of goods exported, but on their contribution to local and national economies, and the creation of secure, fair and sustainable employment, including for marginalized sectors. The economic contribution of SEZs should be weighed up against their social and environmental costs. Conducting a review will help governments ensure private investment is serving the needs of wider society and identify areas for policy reforms, for example, with regards to regulating private investors, and areas where public investment is needed to support certain sectors such as small and medium enterprises (SMEs) and public funding for education and skill training so the local population can benefit from employment opportunities.
- **Development strategies should be based on a participatory assessment of local needs and investment priorities** to ensure they are suitable to the locality and provide benefits to local people in the area.
- **Amend special economic zones laws** to protect the rights and interests of local residents impacted by SEZ developments and SEZ workers, to be in line with international best practice and international human rights laws, with clear establishment of responsibilities to ensure accountability for human rights impacts.
- **Amend national land laws** to strengthen the recognition and protection of land rights, including land held by communities under customary arrangements. Given the slow and incomplete roll out of titling initiatives in many Mekong region countries, the state should not presume ownership over land simply because it is untitled.
- Immediately **resolve outstanding compensation issues** with affected communities and initiate a process to legally **return land** that is unused within SEZs to communities who can farm and use it.
- Engage in **meaningful consultation** with affected communities prior to any approval or development of SEZs, using Free Prior and Informed Consent (FPIC) principles.
- In consultation with affected communities, **carry out comprehensive land surveys** to identify and resolve overlapping claims to land ahead of any

granting of land concessions for SEZs. If land is to be acquisitioned by the state, the terms and conditions under which it occurs needs to be negotiated and agreed by communities ahead of any approval.

- Create an **impartial and effective grievance mechanism**, both within SEZ management bodies at specific SEZs and at central level, to receive and resolve complaints from communities. An advisory group to oversee and manage social and environmental issues could be established within SEZ management bodies, with representation of local residents, SEZ workers, CSOs, as well as government and the private sector. The state must ensure that people have a right to an effective remedy when human rights are violated.
- Enforce the law to ensure that comprehensive and participatory **social and environmental impact assessments**, including **strategic environmental assessments**, are conducted for SEZs. It is imperative that there is meaningful public participation in the development, implementation and monitoring of impact assessments and management plans.
- **Provide greater transparency** at all stages of SEZ project planning, decision-making, implementation and evaluation. An important first step is ensuring that detailed information on SEZs plans and timelines are made publicly available, including economic projections and feasibility studies, ESIAAs, and resettlement and compensation plans. A system should be established for citizens to request information on SEZs.
- **Establishing a system for vetting potential SEZ developers and investors**, to ensure they have adequate social and environmental policies and standards, and exclude those with a poor record.

To the private sector

Investors have the responsibility to employ due diligence measures to ensure they are not complicit in rights violations. Concrete steps that private investors can take include:

- Apply international best practice principles in land acquisition and resettlement, and ensure to comply with all national laws related to the protection of human rights and the environment.
- Ensure land surveys have been conducted in consultation with affected communities to jointly identify, negotiate and resolve issues of overlapping land claims before signing concession agreement for SEZs.
- Identify and implement measures to avoid, minimize and mitigate negative social and environmental impacts, in consultation with affected communities and the wider public. Ensure adequate budget is allocated to for comprehensive assessment and consultation processes, as well as to mitigate and address social and environmental impacts.
- Establish independent grievance mechanisms that are able to receive and review complaints and provide remedies for affected communities, in accordance with the UN Guiding Principles on Business and Human Rights.
- Provide training and capacity building with upward mobility options for local employees. Targets for local employment and upward promotions should be set with monitoring of progress.

To civil society organizations

- Monitor SEZ developments to ensure land acquisitions are conducted in accordance with

domestic and international laws and standards.

- Conduct research and publish information on SEZs to hold governments, SEZ developers and investors to account and increase public awareness.
- Document case studies of community and CSO advocacy related to SEZs in the Mekong region.
- Strengthen community and CSO networking, information exchange and collaborations within and between countries.
- Support communities impacted by SEZs by facilitating access to information, legal advice and other tools that can help clarify available options.



Farmer in Chachoengsao Province in the Eastern Economic Corridor, Thailand

PHOTO: LAND WATCH THAI

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25. For example, Decree on Savan-Seno SEZ No. 148/PM, 29 Sept 2003; Decree on Boten-Danekham SEZ No. 089/PM, 4 Feb 2010; Decree on Golden Triangle SEZ No. 090/PM, 4 Feb 2010.
26. According to the Law on Investment Promotion (2009, amended 2016), Special Economic Zones are larger (>1,000 ha), have multiple objectives to produce "a new and all-round modernized town", and have greater autonomy in approving investment licenses and financing. Specific Economic Zones, on the other hand, are smaller and have fewer and more specific objectives (e.g. industrial zone, tourist town, tax free zone, border economy zone). Specific Economic Zones may be combined within a Special Economic Zone, as in the case of Champasak SEZ.
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32. This does not take into account the registered capital in JVs, which accounts for around a third of total registered capital. The Mekong Institute. "Joint Study and Survey of Special Economic Zones and Cross Border Economic Zones to Match Complementary SEZs and Identify Prioritized Areas" (Khon Kaen, 2018, 27).
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44. Site A and D are under the management of Thai firm Savan City, which holds 70% in a JV with the Lao government. However, a funding-per-project scheme has been introduced between Savan City and a Malaysian investor, Asean Union Group.
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