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Identifying Stakeholders in the Land Use Management Process and Related Critical Factors in ASEAN

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Abstract

With growing populations and demand for food, farmers in ASEAN member states (except Singapore) are required to produce more and more food from land that continues to decline due to population growth, industrialisation and urbanisation. Consequently, land conflicts – disagreements and disputes over access to, control and use of land or natural resources – have emerged. Among the many causes of land conflicts, one is that many people or parties/organisations impacted directly or indirectly by land (or legitimate stakeholders) are not involved in land use decisions and management. Involving all people impacted by land is an effective (if not the best) way to reduce the risk of land conflicts, resulting in good Land Use Management (LUM). This is, however, easier said than done.

This study adopted a stakeholder analysis approach, aiming to identify: (i) the main stakeholders directly and indirectly impacted by land, who have actual or potential influence on LUM; and, (ii) the critical factors determining smooth coordination and cooperation among stakeholders in ASEAN member states.

Country cases found that, at the macro (aggregate) level, there are three key stakeholders in LUM – government (departments or agencies), companies and community (individuals or households, including other villagers with different natural needs of land). At the micro (disaggregate) level, there can be a large number of stakeholders. Sustainable LUM acts in a multilevel governance structure between an operational project level and a strategic level of rural/regional/national economic development management, which means dissolving the often-occurring conflict between short-term and long-term orientation within the planning process. However, in reality, practices and results were different among the countries studied for various reasons. The form and intensity of conflicts varied widely by place, and over time within any community. Conflicts manifested themselves in many ways, ranging from breaking rules to acts of sabotage and violence.

Keywords: ASEAN, Cambodia, Indonesia, LUM, Malaysia

Biography

Tulus T. H. Tambunan holds a PhD in economics from Erasmus University in Rotterdam. As professor in the Faculty of Economics at Trisakti University, Jakarta, he is overseeing Indonesian economy, small and medium enterprises (SMEs) and cooperatives, and introduction to macroeconomic theory. He has established a research institute, Center for Industry, SME and Business Competition Study (CISBUCS), and is its Director.

He has carried out many studies on issues related to SMEs, economic crises, global competitiveness, trade and regional economies, particularly in ASEAN. He has been an editorial board member or reviewer for a number of international business journals, including *Journal of Business & Entrepreneurship*, *Journal of Asian Business*, and *Journal of Developmental Entrepreneurship*.

Since 1995, he has represented Indonesia as country researcher at the World Economic Forum (WEF) in Geneva. He is economic adviser to the Chairman of the Indonesian Chamber of Commerce and Industry (Kadin Indonesia). In the last 10 years, he has been a national consultant or associated researcher for a number of international agencies, including International Labour Organization (ILO), United Nations Development Programme (UNDP), United Nations Industrial Development Organization (UNIDO), Asian Development Bank (ADB), World Bank, United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP), on industrial and SME development issues.

Some of his books are: Tulus Tahi Hamonangan Tambunan, *Economic crisis and vulnerability: The story from Southeast Asia*, Asian Political, Economic and Security Issues (New York: Nova Science Publishers, Inc., 2011); Tulus Tambunan, *Global economic crisis and ASEAN economy: Theory and empirical findings* (Saarbrücken: LAP LAMBERT Academic Publishing, 2010); Tulus Tahi Hamonangan Tambunan, *Trade liberalisation and SMEs in ASEAN*, Trade Issues, Policies and Laws Series (New York: Nova Science Publishers, Inc., 2010); Tulus Tahi Hamonangan Tambunan, and *SME in Asian developing countries* (London and New Delhi: Palgrave Macmillan Publisher, 2009).

Introduction

The total population in ASEAN is growing every year, and so is demand for food. This means that every year, farmers in ASEAN member states (except for Singapore) will need to produce more and more food from land that continues to decline due to population growth, rapid industrialisation and urbanisation. As a result, land conflicts, which are disagreements and disputes over access to, control and use of land, often emerge because people have different uses for land, or want to manage them in different ways. In Indonesia, land conflicts (for instance, between basic food [especially rice] farmers and plantation owners who are mainly big export-oriented companies, as well as between rice farmers and real estate and highway developers) have intensified in the past decade. The fact remains that farmers, as the key stakeholder in land use management (LUM), are always the victims of this conflict. But, this has not only happened in Indonesia. Land conflicts have often occurred in other ASEAN member states as well, especially in countries where military influence remains strong (such as, Cambodia, Laos and Vietnam) and law enforcement is weak and corruption exists in all levels of government administration (such as, the Philippines).¹

Objective

This qualitative research aimed to answer the following two questions. First, how many stakeholders have influence on LUM? Second, what are the critical factors that determine the smooth process of coordination and cooperation between these stakeholders? The first question was important as there tends to be either too many stakeholders (i.e., those that are directly and indirectly affected as well as those whose 'interests' determine them as stakeholders) or it is not clear who has the right to use or manage land.² Most conflicts (i.e., disagreements and disputes over access to, control and use of land) are characterised by the presence of too many or multiple stakeholders who themselves have subgroups with varying interests. Disagreements also arise when these interests and needs are incompatible, or when the priorities of some user groups are not considered in policies, programmes and projects.³ Certainly, if these conflicts are not well addressed, they can escalate into violence, cause environmental degradation, disrupt projects and undermine livelihoods.

¹ Mylene G. Albano, 'The land administration reform agenda' (paper presented at the International Conference on Reform in Land Administration Systems [Lessons & Challenges], Makati City, 24–26 November 2003); Anne-Marie Brits, Chris Grant and Tony Burns, 'Comparative study of land administration systems: With special reference to Thailand, Indonesia and Karnataka (India)' (paper presented at the Regional Workshops on Land Policy Issues, Asia Program, Phnom Penh, 4–6 June 2002), www.landequity.com.au; Lor Davuth, Suon Sopha and Seng Thany, 'Land administration in Cambodia' (Powerpoint presentation at the International Seminar on Land Administration Trends & Issues in the Asia Pacific Region, Kuala Lumpur, 19–20 August 2008); Rhea Lyn M. Dealca, 'Initiatives to improve land administration system in the Philippines' (paper presented at the 7th FIG Regional Conference on Spatial Data Serving People: Land Governance and the Environment – Building the Capacity, Hanoi, 19–22 October 2009); Olivier Ducourtieux, Jean-Richard Laffort and Silinthone Sacklokhom, 'Land policy and farming practices in Laos', *Development and Change* 36, no. 3 (2005): 499–526; Mark Grimsditch and Nick Henderson, *Untitled: Tenure insecurity and inequality in the Cambodian land sector*, eds Natalie Bugalski and David Pred (Phnom Penh: Bridges Across Borders [Southeast Asia], Centre on Housing Rights and Evictions, Jesuit Refugee Service, 2009).

² Food and Agriculture Organization of the United Nations (FAO), 'Conflict and natural resource management' (Community Forestry, Rome: FAO, 2000); International Finance Corporation (IFC), 'Stakeholder engagement: A good practice handbook for companies doing business in emerging markets' (Washington, D.C.: IFC, 2007).

³ Food and Agriculture Organization of the United Nations (FAO), 'Conflict and natural resource management', op. cit.

The second question was important because the LUM issue is inherently complex, involving: (i) many stakeholders, with differences with regard to their need for land, interests on land use, behaviour, knowledge related to LUM and background; (ii) many physical (such as, ecological and hydrological cycles, climate, animals and plants, geography, etc.) and non-physical (including land title security, laws, political system and socioeconomic factors) factors; and, (iii) institutional factors that vary by individual ASEAN member states. In other words, a good LUM based on coordination and cooperation among the stakeholders will not happen if all these factors are not in favour of it. All factors are dynamic and many are inter-related – a change in one of them may have far-reaching and/or long-term impacts that may even be irreversible. So, good knowledge of the critical factors determining good coordination and cooperation among all the parties involved or impacted by land use is crucial.

Although land or LUM in ASEAN member states (except Singapore) has great influence on domestic food supply and, hence, food security, this paper does not deal with the role of food and agriculture or the importance of meeting food demands and interfacing with farmers. One reason for this is that the capacity to meet food demands is determined or affected by many factors, especially land distribution, availability of farmers and agricultural workers, market prices for agricultural commodities, infrastructure, climate, and others, that have nothing to do with LUM.

Analytical Approach and Conceptual Framework

This study adopted a stakeholder analysis approach, as the literature generally suggests this as an appropriate (if not the best) approach for natural resource management (NRM), including LUM. According to many⁴, stakeholder analysis involves the identification of stakeholders that may have influence directly and/or indirectly on LUM, and an assessment of their interests and the ways in which these interests affect project riskiness and viability.

According to International Finance Corporation (IFC), the main reason why stakeholder analysis is more suitable than other approaches for good risk management (including for NRM) is because it is a means of describing a broader, more inclusive and continuous process between land or natural resources using the company and those potentially impacted, encompassing a range of activities and approaches and spanning the entire life of a project.⁵ Especially when there are many stakeholders and it is not necessary for the company to engage with all stakeholders with the same level of intensity all the time, the company needs to be strategic and clear as to whom it is engaging with and why this engagement is crucial. In its practical handbook, IFC states clearly that the companies using the land or natural resources should prioritise their stakeholders and, depending on who the

⁴ M. B. E. Clarkson, 'A risk-based model of stakeholder theory' (Working Paper No. 2, Toronto: The Centre for Corporate Social Performance and Ethics, University of Toronto, 1994); Robin Grimble and Kate Wellard, 'Stakeholder methodologies in natural resource management: A review of principles, contexts, experiences and opportunities', *Agricultural Systems* 55, no. 2 (1997): 173–93; R. Grimble, 'Stakeholder methodologies in natural resource management, socioeconomic methodologies. Best practice guidelines' (Research Report, Chatham Maritime: Natural Resources Institute (NRI), University of Greenwich, 1998); Allen W. and Kilvington M., 'Building effective teams for resource efficiency. Landcare Research Contract (Report LC0001/60, Lincoln, New Zealand, 2001), as quoted in Abdulharis, Eka Djunarsjah and Andri Hernandi, 'Stakeholder analysis on implementation on marine cadastre in Indonesia. Integrating generations' (paper presented at the FIG Working Week 2008, Stockholm, 14–19 June 2008); Charlotte Billgren and Hans Holmén, 'Approaching reality: Comparing stakeholder analysis and cultural theory in the context of natural resource management', *Land Use Policy* 25, no. 4 (2008): 550–62.

⁵ International Finance Corporation (IFC), 'Stakeholder engagement', op. cit.

stakeholders are and what interests they might have, figure out the most appropriate ways to engage with them. Stakeholder analysis therefore assists in this prioritisation by assessing the significance of a project to each stakeholder group from their perspective and vice versa.

With respect to land use, this concept provides a basis for designing a sustainable LUM system by: (i) identifying different affected groups as stakeholders (e.g., local communities, including farmers, local government authorities, non-governmental organisations (NGOs) and other civil society organisations, local institutions and other interested or affected parties), as well as their goals and roles; and, (ii) helping to formulate appropriate forms of engagement with these groups. The stakeholder approach gives better insight about the degree of complexity of NRM or LUM. The higher the number of persons or groups engaged, who are directly or indirectly affected by land use or a project, as well as those who may have interests in a project and/or the ability to influence its outcome, either positively or negatively, the higher the expected degree of complexity. Conversely, if their goals and roles can be identified, and the range of activities and interactions among the stakeholders established, the risk of NRM or LUM can be minimised. The risk is not only in the form of production failure (where actual revenues are less than expected or should be, total costs higher than revenues, or there is soil degradation) but also as conflicts. Conflicts can occur because planners and managers identify stakeholders inadequately, or they refuse to acknowledge a group's interest in a resource. When planners and managers fail to identify and consult with the full spectrum of stakeholders, they limit their understanding of these groups' diverse needs and priorities and their indigenous knowledge of the situation. This increases the likelihood of conflicts emerging.⁶

Where there are numerous stakeholders, it is of course not practical and usually not necessary to engage with all stakeholders with the same level of intensity all of the time. From the perspective of the land-using company, being strategic and clear as to whom it is engaging with and why this engagement is crucial can help the company save on both time and money. For companies to engage effectively and efficiently with their project-related stakeholders, IFC suggests that land or natural resource-using companies should prioritise their stakeholders and, depending on who the stakeholders are and what their interests might be, figure out the most appropriate ways to engage with them.⁷ For example, some stakeholders might be more affected by particular phases of a project, such as construction activities, while others would be impacted during the project's implementation (e.g., production processes).

According to the IFC handbook, when prioritising or selecting stakeholders by degree of importance or level of engagement, the following questions are important⁸

1. What type of stakeholder engagement is mandated by law or other requirements?
2. Who are the most vulnerable among the potentially impacted, and are special engagement efforts necessary?
3. At which stage of project development will stakeholders be most affected (e.g., procurement, construction, operations, decommissioning, etc.)?
4. What are the various interests of project stakeholders and what influence might this have on the project?

⁶ Food and Agriculture Organization of the United Nations (FAO), 'Conflict and natural resource management', op. cit.

⁷ International Finance Corporation (IFC), 'Stakeholder engagement', op. cit.

⁸ International Finance Corporation (IFC), 'Stakeholder engagement', op. cit.

5. Which stakeholders might help to enhance the project design or reduce project costs?
6. Which stakeholders can best assist with the early scoping of issues and impacts?
7. Who strongly supports or opposes the changes that the project will bring and why?
8. Whose opposition could be detrimental to the success of the project?
9. Who is it critical to engage with first, and why?
10. What is the optimal sequence of engagement?

In stakeholder theory literature, the question of who is, and who is not, a stakeholder has long been a point of debate. The critical question here is: should stakeholder status be reserved for constituencies that have a very close relationship with the company? Or, should stakeholder status be broadly interpreted and take into account all people or parties that can affect, and be affected by, the company?

According to the literature, at the minimum, stakeholders are those groups or people or parties from whom the company has voluntarily accepted benefits and to whom the company has therefore incurred obligations of fairness.⁹ Typically, this includes groups such as financiers, employees, customers, suppliers and local communities.

Stakeholder theory maintains that normative or legitimate stakeholders are owed an obligation by the company while derivative stakeholders hold power over the company and may exert either beneficial or harmful influence on it. Thus, according to this theory, in the case of LUM, legitimate stakeholders include farmers, local communities, directly related government departments/agencies, suppliers and financiers. While other groups, such as environmental activists or local NGOs providing training or technical assistance to local farmers, are not normative or legitimate stakeholders, the land-using company may choose to care for the environment and welfare of local farmers because its legitimate stakeholders (e.g., customers) may care deeply about it.

Due to time and financial limitations, this study was entirely based on a literature review of key case studies from ASEAN member states (except Singapore). There were a number of good case studies that adopted field investigations based on stakeholder analytical approaches. Case studies on community forestry in some Asian countries (such as, Nepal, Indonesia and Korea) show successful examples of how stakeholder analysis can be incorporated into NRM.¹⁰ This allowed the stakeholders to identify their needs and level of involvement with the forests.

LUM

LUM – the process of managing the use and development of land – covers the debate about norms and visions driving policymaking and sector-based planning both in the strategic and operative time spans, as well as the spatial integration of sectoral issues, decision-making, budgeting, participation, implementation of plans and decisions, and the monitoring of results and evaluation impacts. LUM is driven by

⁹ Thomas Donaldson and Lee E. Preston, 'The stakeholder theory of the corporation: Concepts, evidence, and implication', *Academy of Management Review* 20, no. 1 (1995): 65–91; Robert Phillips, 'Some key questions about stakeholder theory', *Ivey Business Journal* March/April (2004), <http://iveybusinessjournal.com/topics/the-workplace>.

¹⁰ Grimble and Wellard, 'Stakeholder methodologies in natural resource management', op. cit.; Grimble, 'Stakeholder methodologies in natural resource management, socioeconomic methodologies. Best practice guidelines', op. cit.

various decisions taken at different levels (local, regional and national) and in different sectors (public, private and civil society). It is a continuing process, which improves the coordination of regional development policy as well as public and public-private investments and the involvement of inhabitants and local stakeholders in common visions. Sustainable LUM acts in a multilevel governance structure between an operational project level and a strategic level of region (urban and/or rural) management. Therefore, land use planning, as an instrument of LUM or rather a tool to reach the broader aim of sustainable land development, is concerned with the formulation of policies and plans on the use and development of land.¹¹

LUM, in general, is not an easy task, as it is challenged by a diversity of issues, including demography; political, cultural, ethnic and religious diversities; economics; and, environment, climate and geography. There are also structural factors that play a role in the process of LUM (for instance, location; physical infrastructure; different levels of government agencies, namely the central government [e.g., the ministries of forestry, agriculture, industry, trade, environment and finance] versus regional or local government agencies; and, competition between agencies in authority). Also functional are factors that include political issues inherent in the special interests of the various stakeholders that can influence understanding of the diverse issues and factors impacting the process.

At the macro (aggregate) level, there are three key stakeholders in LUM – government, companies and community. Government has a role in: (i) developing and establishing law, regulation, guidelines and socialisation; (ii) guidance and surveillance; and, (iii) administration and law enforcement. Corporates/companies/operators have a role in: (i) preventing and controlling pollution of the environment; (ii) monitoring and reporting; (iii) providing information/report that is correct, accurate and right; and, (iv) managing, recovering and rehabilitating pollution of the environment. Community has a role in: (i) giving recommendations/ideas; (ii) social control; (iii) reporting and lodging complaints when environmental pollution that is harmful to the community occurs.

At the micro (disaggregate) level, there can be a large number of stakeholders. With respect to government, many departments or agencies may be involved in LUM. Where companies are concerned, there can be more than one company holding/using the same land. Meanwhile, community is comprised of many individuals or households, be it individual farmers, herders or growers or other villagers, with different natural needs of land. Individual villagers or farmers are not always easily integrated in land use planning and LUM, and farmer groups should be the engine for such integration.

With many stakeholders having conflicting views about the best land management practices to achieve sustainable land management, conflicts sometimes cannot be prevented. Therefore, knowledge of the behaviour of stakeholders regarding land use on a case-by-case basis is important, as it will lead to a sector view on land use based on the different stakeholders involved and their requirements and needs. It is indeed important to open up the stakeholders view to an integrative view on land use, and coordinate and combine different sector requirements and needs on land use.¹²

¹¹ Dirk Engelke and E. Dorothea Biehl, 'Land use management as key part of metropolitan governance for sustainable urbanisation' (paper presented at the 46th ISOCARP [International Society of City and Regional Planners] Congress 2010 on 'Sustainable City/Developing World', Nairobi, 19–23 September 2010).

¹² Ibid.

Brief Overview of Land Policy and Administration in ASEAN Member States

The importance of colonial influence – for example, of the Dutch and Japanese in Indonesia; the French in Cambodia and Laos; the British in Malaysia and Myanmar; and, the Spanish and Americans in the Philippines – on the development of land tenure systems in Asia cannot be overemphasised.

Indonesia

In Indonesia, the strong colonial influence resulted in land laws becoming a dualism between Western systems and customary systems, with elements of the latter being incorporated into the former. Today, the customary elements incorporated into the new systems continue to feature strongly.¹³ In Indonesia, the Basic Agrarian Law No. 5 of 1960 is based on *adat* or customary law, and provides the basis for land administration. An important change in regulations (the first amendment in nearly 30 years) provided for a right to title after 20 years of occupancy ‘in good faith’ and recognition of occupancy by the surrounding community.¹⁴

In other words, the Law should be seen as a key step in the implementation of the constitution and as providing a stronger basis for customary right protection. It confirms the constitutional right of the state to control all unclaimed land and resources while recognising customary rights under certain conditions (such as, Articles 3 and 5). In fact, customary rights are applicable to lands not owned by the state, as long as they do not interfere with national interests or the common good. The validity of *ulayat* rights is strongly restricted by Article 5. The Law is compounded by land policies that have favoured land consolidation to facilitate investment, especially foreign direct investment, without resolving underlying conflicts over ownership and use rights. However, the Law has, in many cases, been ignored by related sectoral laws and policies governing forestry, environment, water and mining, thus severely limiting management opportunities for small farmers and fishermen.¹⁵

As in many other ASEAN member states (such as Thailand, Laos and the Philippines), land administration or registration in Indonesia is undertaken in all municipality/regency land offices. Regarding land tenure, Indonesian National Land Agency (*Badan Pertanahan Nasional* [BPN]) holds full control of delivering land tenureship and permits related to land use. Considering its widespread coverage, BPN is capable of performing this task. Also, given the full authority afforded to provincial and municipal governments by way of the Regional Governance Act, provincial and municipal governments can consult with BPN on further arrangements in relation to the granting of permits on LUM.¹⁶

Cambodia

There are three pillars of land policy in Cambodia: (i) land administration, which focuses on effective land titling programmes being systematic and sporadic, and on dispute resolution and land market orientation; (ii) land management, which focuses on sustainable development (e.g., by developing zoning schemes) and land use

¹³ Brits, Grant and Burns, ‘Comparative study of land administration systems’, op. cit.

¹⁴ Ibid.

¹⁵ Martin Kayoi, Adrian Wells and Gill Shepherd, ‘Poverty and natural resource conflict in Indonesian Papua: Reconciling growth and social justice’ (Jakarta: Profor, 2006), <http://www.profor.info/Documents/pdf/livelihoods/IndonesianPapuaCaseStudy.pdf>.

¹⁶ Abdulharis, Djunarsjah and Hernandi, ‘Stakeholder analysis on implementation on marine cadastre in Indonesia’, op. cit.

planning; and, (iii) land distribution, which is designing to provide residential and farming land to the poor landless and land-poor households.¹⁷ As the Ministry of Land Management, Urban Planning and Construction (MLMUPC) is the lead institution for land-related matters, it is the main, important stakeholder for LUM in the country.

However, despite the Cambodian government's efforts to have a good land management system, as in Indonesia, land conflicts are becoming a serious problem in Cambodia. Sokha et al., while studying land transactions in rural areas of Cambodia, found that the main type of land dispute has changed from disputes over boundaries to ownership rights.¹⁸ The land market has expanded and this has led to many cases of land disputes due to various reasons, including unclear land rights before land transfers or sales; absence of demarcation between state forestland and private or community land; ignoring traditional rights of fallow land when shifting agriculture areas; illegal encroachment on forested land for selling; and overlapping of administrative boundaries.

The Cambodian Forestry Administration (FA) concluded in a report that, currently, insecure titles over forested land and unclear rights to use de facto open access forest resources mitigate efforts to maintain the forest cover, to secure livelihoods or to contribute to rural economic growth in the country.¹⁹ According to the report, this situation reflects a lack of coherence in rural land management policies, weak capacities of subnational sector line agency departments, poor service delivery mechanisms, and the limited involvement of rural land and resource users in formalised NRM procedures.

Laos

Laos is a mountainous landlocked country, with relatively low population density. Some 87 per cent of its territory is upland, where there are high incidences of poverty and little infrastructure. Laos is rich in wetland biodiversity and has the least damaged ecosystems in Southeast Asia. Wetlands play a very important role in the lives of Lao people since a majority of them live in the wetland-rich Mekong basin and rely on wetlands for their daily subsistence and income generation. Besides, wetlands provide a diverse range of valuable services to society. However, unsustainable NRM due to government policies, socioeconomic change and population pressure is beginning to reverse this situation.²⁰

All land and forestland in Laos is owned by the state according to Forestry Law 2008. In Article 4, it is stated that natural forest and forests are the property of the national community. Customary rights are not acknowledged in this Law, but only in minor ministerial recommendations. However, the Law is able to grant certain rights of management, use and exploitation to different entities, with the form of rights dependent on the classification of land. It also dictates that a registered land title is the highest form of property right, analogous to ownership. A land title is the only

¹⁷ Davuth, Sopha and Thany, 'Land administration in Cambodia', op. cit.

¹⁸ Pel Sokha et al., 'Land transactions in rural Cambodia. A synthesis of findings from research on appropriation and derived rights to land' (Études et travaux en ligne N° 18, Phnom Penh: GRET Organisation, 2008), www.gret.org.

¹⁹ Forestry Administration (FA), 'Cambodia Forestry Outlook Study' (Working Paper No. APFSOS II/WP/2010/32, Asia-Pacific Forestry Sector Outlook Study II, Bangkok: Food and Agriculture Organization of the United Nations [FAO], 2010).

²⁰ Thienthong Sopha and Alice Sharp, 'Sustainable wetland management in Lao PDR: A case study of Xe Champhone wetlands' (paper presented at the 3rd International Conference on Ecological, Environmental and Biological Sciences [ICEEBS'2013], Singapore, 29–30 April 2013).

legal document demonstrating permanent land use rights and grants the holder a variety of rights, such as rights to use the land as collateral, to transfer the land, and to give the land as inheritance. Such land titles can be granted to individuals or families on land up to 3 hectares in size.²¹

Recently, Laos has developed a new policy aiming for sustainable land/forest management, including through targets for increased national forest cover (namely the Forestry Strategy to the Year 2020 [FS 2020]). Two ministries are directly responsible for the success of this strategy; the Ministry of Agriculture and Forestry (MAF) and Ministry of Natural Resources and Environment (MoNRE). Concurrently, broad management of the forestry sector was transferred from MAF to the Department of Forest Resource Management (DFRM) within MoNRE.²²

Malaysia

The Federation of Malaysia comprises peninsular Malaysia in the west and the states of Sabah and Sarawak on the island of Borneo (or Kalimantan) towards the east. In the context of land administration, the right of the individual to own land is safeguarded under the federal constitution, according to which the state authority administers land, although the federal government plays a very important role in legislating land matters.²³

The three parts of Malaysia mentioned above differ with respect to land administration. In peninsular Malaysia, which is a federation of states, each state is responsible for its own land issues. All states operate the Torrens system of registration, administered by the state district office and coordinated by the Department of Director General of Lands and Mines (*Jabatan Ketua Pengarah Tanah dan Galian* [JKPTG]) of the State Department of Land and Mines (SDLM).²⁴ Land administration in peninsular Malaysia is governed by the National Land Code 1965 (Act 56), which was created to provide a consolidated legislation in all aspects of land tenure and registration, land transfer, leases, charges, easement and other rights of alienation and development of land. In Sarawak, land is administered by the Land and Survey Department, which is headed by the Director of Lands and Surveys under the Malaysian Ministry of Planning and Resource Management. Sarawak also operates the Torrens system of registration and its current land law is governed by the National Land Code Chapter 81, 1958. In Sabah, the organisational structure of land administration is almost the same as in Sarawak, that is, it is administered by the Land and Survey Department under the portfolio of the Chief Minister's Department through the Office of the Secretary of Natural Resources. Its current framework for land policy is provided by the Sabah Land Ordinance Chapter 68, 1930.²⁵

²¹ Phetdavan Sipaseuth and Glenn Hunt, 'Customary land rights in Laos – An overview' (Powerpoint presentation, Vientiane: JVC [Japan International Volunteer Center] Laos, 2009).

²² The REDD Desk, 'REDD countries, A database of REDD activities on the ground: Laos', accessed 04 July 2012, http://theredddesk.org/sites/default/files/resources/countries/readiness_overview/laos_ro_en.pdf.

²³ Salfarina Samsudin, 'A review of organizational arrangements in Malaysia land administration system towards good governance: Issues and challenges' (paper presented at the FIG Working Week 2011, 'Bridging the Gap between Cultures', Marrakech, 18–22 May 2011).

²⁴ Ibid.

²⁵ Ibid.

Myanmar

A majority of its population lives in rural areas and depends on land as a primary means of livelihood. However, as all land in Myanmar ultimately belongs to the state, citizens and organisations do not own land; they depend upon use rights, and tenure rights vary depending on the type of land involved. The country's laws grant women equal rights in some respects and also recognise certain customary laws that provide women equal rights in relation to land. In practice, however, the rights of many women are governed by customs that do not afford them equal access to or control over land.²⁶

Different from other ASEAN member states, Myanmar does not have a written policy on land use and land tenure. Instead, the country has the Farmland Law, which was issued in March 2012, that defines rights and responsibilities relating to tenure and establishes a hierarchy of management over farmlands. The Farmland Law affirms that the state is the ultimate owner of all land and creates a private-use right that includes the right to sell, exchange, inherit, donate, lease and 'pawn' farmland. It also establishes a system of registered land-use certificates. The law effectively replaces the 1963 Tenant Farming Law and the 1963 Protection of Peasants' Rights Law, and repeals the 1953 Land Nationalization Act, the Disposal of Tenancies Law and the Agriculturalist's Rights Projection Law. It also covers other aspects, such as conditions under which farmers can retain farmland use rights, the state's power to rescind such rights, the process for settling certain land-related disputes, and basic requirements for compensation in case the government acquires the land for public purposes.²⁷

The Philippines

Prior to 2003, the Philippines used a nearly 100-year-old land administration system adapted from the West that had been institutionalised across, and implemented by, different government agencies. As it was a very old system, not anymore suitable for the country's current conditions, especially with respect to the use of land, the system had the following structural defects: (i) conflict among laws regulating the system and its administration; (ii) two processes for titling land (administrative and judicial processes); (iii) multiplicity in forms of ownership rights in land; (iv) multiplicity of property taxes and related disincentives to formalisation of land transactions; (v) multiplicity in land valuation methods; and, (vi) duplication and overlap in the roles, functions and activities of land administration agencies.²⁸ In response, the government undertook an initiative to improve its land administration system through the Land Administration and Management Project (LAMP). LAMP was conceptualised to respond to the weak and inefficient land administration system in the country, which has eroded confidence and trust in the titling and registration system as a whole.²⁹ In 2003, the government issued the Land Administration Reform Act of 2003, which is the new law on land administration in the Philippines.³⁰

²⁶ USAID Land Tenure and Property Rights Portal, 'Country profiles: Burma', May 2013, <http://usaيدlandtenure.net/Burma>.

²⁷ Ibid.

²⁸ Albano, 'The land administration reform agenda', op. cit.

²⁹ Dealca, 'Initiatives to improve land administration system in the Philippines', op. cit.

³⁰ Albano, 'The land administration reform agenda', op. cit.

Thailand

Thailand, although not colonised, borrowed extensively from the West in establishing its legal and administrative system. A titling system for private rights in land was introduced in 1901, which was based on the Australian system. As in other ASEAN member states (such as, Indonesia, Laos and the Philippines), title registration systems also operate in Thailand, although titles are not guaranteed by the state unlike, for instance, in the Philippines.

Five major legislations constitute the core of Thailand's land regulation and governance framework.³¹ First, Thailand's constitution, which provides that the state shall adopt land policies, including policies relating to land use, land distribution, town and country planning, and the sustainable protection of land and other natural resources. Second, Land Code (LC) 1954, which is as amended, Thailand's primary land legislation. The Land Code recognises a range of land documents, with the main ones being pre-emptive claims, which are non-transferable, and certificates of utilisation and titles, both of which are transferable and accepted as collateral.³² Third, the Agricultural Land Reform Act of 1975 that was enacted in an effort to address the high rate of tenancy in certain regions of the country, the large number of landless households, and the encroachment of public lands for cultivation. Fourth, the Land Development Act of 1983, which established a national Land Development Committee to help improve the utilisation and productivity of the country's agricultural land. Fifth, the Land Readjustment Act of 2004, which governs processes for land replotting and development in order to improve land utilisation.

As in many other ASEAN member states (e.g. Indonesia, Laos and the Philippines), the land administration systems in Thailand, are all decentralised. In Thailand, the title register is maintained in the 16 Bangkok metropolitan, 76 provincial and 272 branch land offices. Registers for the lesser documents in Thailand are maintained in the 758 district land offices.³³

The Thai government has implemented a 20-year project (1984–2004), named the Land Titling Project (LTP), in four 5-year phases. The project is considered as one of the largest land titling programmes implemented throughout the world and is recognised as very successful, having served as a model for other countries in the region (such as, Indonesia, Laos and the Philippines) and throughout the world.³⁴

Within ASEAN, Thailand has very efficient systematic land titling (first registration) procedures and has issued over 8.5 million titles since 1984 under the LTP. The procedures in Thailand have largely served as a model for systematic land titling in the region. Land titling is being undertaken in Indonesia and Laos while pilot land titling is being undertaken in the Philippines and Cambodia.³⁵

Vietnam

Following the introduction of the *đổi mới* reforms, a new Land Law was enacted in 1987, which ratified the ongoing decollectivisation of agriculture and began to allocate agricultural land holdings of cooperatives to individual households based on

³¹ USAID Land Tenure and Property Rights Portal, 'Country profiles: Thailand', Feb 2011, <http://www.usaidlandtenure.net/thailand>.

³² Brits, Grant and Burns, 'Comparative study of land administration systems', op. cit.

³³ Ibid.

³⁴ Ibid.

³⁵ Ibid.

family size. The second Land Law in 1993 granted five rights to land users, namely, to transfer, exchange, lease, inherit and mortgage, and extended the lease terms to 20 years for annual crops and 50 years for perennial crops and forestland through the issuing of Land Use Right (LUR) certificates.³⁶ Further, in 1994, the government issued Decree 02/CP on allocation of forestland followed, in 1995, by Decree 01/CP on contracting of land for agriculture, forestry and aquaculture purposes, and, in 1999, Decree 163 on leasing of land for forestry purposes.³⁷

The political economy of land shifted once again after 2000, as Vietnam embarked on a new policy emphasising 'industrialization and modernization'.³⁸ The 2003 revision of the Land Law allowed the state to appropriate land for economic development purposes, also serving to legitimise previous practices of land appropriation.³⁹ The new Land Law in 2003 recognises the legal status of village communities in land tenure and, in 2004, the government issued Forest Protection and Development Law, which recognises the legal status of village communities in forest management.⁴⁰

In recent years, land rights have become highly contested in Vietnam, as the economy has grown rapidly from a system of collectivised agriculture after 1975 to a mixed model of state and private management often described as a 'socialist-oriented market economy'.⁴¹ Vietnam's land endowment is one of the lowest in the world – each agricultural household holds, on average, less than 0.5 hectares. The national priority on 'industrialization and modernization' has placed new demands on agricultural land and forestland for urban industrial expansion. The high levels of public concern over land tenures and its links to political and social stability have led to widespread calls for a revision of the 2003 Land Law.⁴²

Some Evidence on the Main Stakeholders in LUM Processes and Critical Factors in ASEAN

From the limited case studies available from selected ASEAN member states, evidence of efforts to improve LUM through community-based/stakeholder approaches is presented in a matrix form in Table 1. The key stakeholders currently involved in LUM and the identified critical factors that need to be solved (i.e., supporting factors that are lacking) for sustainable land management are also outlined.

³⁶ Andrew Wells-Dang, 'Promoting land rights in Vietnam: A multi-sector advocacy coalition approach' (Annual World Bank Conference on Land and Poverty, Washington, D.C., 8–11 April 2013), 1–25.

³⁷ Nguyen Quang Tan, 'Forest land allocation and community forest management in Vietnam' (Session J, RECOFTC [Regional Community Forestry Training Center for Asia and the Pacific] – The Center for People and Forests, Lombok, 13 July 2011).

³⁸ Wells-Dang, 'Promoting land rights in Vietnam', op. cit.

³⁹ Wells-Dang, 'Promoting land rights in Vietnam', op. cit.

⁴⁰ Tan, 'Forest land allocation and community forest management in Vietnam', op. cit.

⁴¹ Wells-Dang, 'Promoting land rights in Vietnam', op. cit.

⁴² Wells-Dang, 'Promoting land rights in Vietnam', op. cit.

Table 1: Main stakeholders in land use management processes and critical factors in ASEAN, as identified in the literature.

ASEAN member state	Region/area of study	Author names (year of study)	Main legitimate and non-legitimate stakeholders		Critical factors that need to be solved for sustainable LUM
			Legitimate stakeholder	Non-legitimate stakeholder	
Indonesia	Papua/tropical forest management	Kayoi et al. (2006) ¹	Local communities/villagers (including farmers, forest or land resource dependent communities, and landowners)	NGOs/local civil society groups	Legal recognition to customary rights (ongoing struggle between the provincial and central governments over powers to regulate customary rights)
			Land-using companies		Availability of data on customary land
			Central government (related ministries and agencies)		Clear standards or procedures in place that take adequate account of community land-use systems
			Provincial and local (district) governments		Institutional mechanisms to guarantee the transparent, fair and equitable distribution of funds and development support under company-community agreements
					Allocation of forest resources between communities and large-scale commercial concessionaires, including

¹ Kayoi, Wells and Shepherd, 'Poverty and natural resource conflict in Indonesian Papua', op. cit.

					the allocation of areas for direct community management, based on participatory mapping of customary lands
					Clear definition of rights and responsibilities with respect to compensation and community development in areas assigned to external investors
					Local community and government institutional support
	Around the country/marine cadastre	Abdulharis et al. (2008) ²	Central government (related ministries and agencies)	Overseas legal persons	Coordination among government agencies (e.g., overlapping of jurisdiction of the Ministry of Marine and Fisheries with other public institutions, in particular on marine issues)
			Provincial and local governments	Navy, army and police	Special organisation focused on management of marine resources, or, alternatively, authority on marine resources relegated to specific ministries and agencies that have been performing tasks related to management of marine resources, in particular on marine cadastre
			Local community (e.g.,	Higher learning	Separation on management

² Abdulharis, Djunarsjah and Hernandi, 'Stakeholder analysis on implementation on marine cadastre in Indonesia', op. cit.

			fishermen, fish farmers, tourism, and other eligible subjects of exploitation and cultivation of fishery resources within a territory of 12 nautical miles)	institutions, including universities	land and marine resources in the ministry and agency in question
					National coordinator on marine cadastre issues
	Kapuas Hulu, West Kalimantan/oil palm plantation	Clerc (2012) ³	Villagers	Local customary authorities (e.g., village head, subvillage head and <i>patih</i>)	Local communities' involvement in all aspects of LUM
			Using companies	NGOs	Acknowledged and accommodation of customary system
			Central government (related ministries and agencies)		Trust between the company and the villagers
			Provincial and local (district) governments		The role of NGOs to strengthen the bargaining position/power of the local community
					Recognition of the landowner's right to decide whether or not to hand over the land
					Security of ownership of the used land after the leasing period which is critical in assessing the long-term

³ Johanna Clerc, 'Unpacking tenure security: Development of a conceptual framework and application to the case of oil palm expansion on customary land in Kapuas Hulu district, West Kalimantan, Indonesia' (Working Paper 102, Bogor: Center for International Forestry Research [CIFOR], 2012).

					tenure security of local communities
Cambodia	Kampong Pring village (Kandal province), Kampong Thnoat village (Kampot province), Baboang village (Prey Veng province) and some others/rice fields	Sovannarith et al. (2001) ⁴	Central government (related ministries and agencies)	NGOs	Weak implementation of decentralised land governance
			Local government		Weak implementation of law on land right (land title)
			Local communities (e.g., farmers)		Availability of data
	Siem Reap/rice fields	Sokha et al. (2008) ⁵	Central government (related ministries and agencies)	Brokerage and intermediary actors (e.g., village chiefs, commune chiefs, commune counsellors, policemen, military and local leaders)	Land title security
			Local government		The rights of farmers on former deep water and floating rice land should not be ignored
			Land-using companies		
			Villagers		
	Sre Ambel and Botumsakor districts (Koh Kong province)/sugar plantations	Haakansson (2011) ⁶	Central government (related ministries and agencies)	Local civil society organisations/NGOs	Land title security (land certificate)
			Local government		Bargaining power of farmers

⁴ So Sovannarith et al., 'Social assessment of land in Cambodia. A field study' (Working Paper No. 20, Phnom Penh: Cambodia Development Resource Institute [CDRI], 2001).

⁵ Sokha et al., 'Land transactions in rural Cambodia', op. cit.

⁶ Malene Haakansson, ed., 'Stolen land stolen future. A report on land grabbing in Cambodia' (Brussels: Association of World Council of Churches related Development Organisations in Europe [APRODEV], 2011).

			Local communities		Coordination and dialogue between farmers and government
Laos	Some parts in the country/forests	Manivong and Sophathilath (2007) ⁷	Central government (related ministries and agencies)	NGOs	Support from government with respect to budget, human capital, legal instruments, legal enforcement (legal and institutional support), technical instructions, etc.
			Private companies	Donor countries/organisations (ADB, GTZ, JICA)	Level of participation is local community
			Local communities		Management of the process
					Roles and responsibilities among stakeholders
	Central Laos/coconut plantation	Sipaseuth and Hunt (2009) ⁸	Central government (related ministries and agencies)	NGOs	Cooperation among stakeholders
			Using companies	Donor countries/organisations (ADB, GTZ, JICA)	Coordination and cooperation among various ethnic groups within the local communities
			Local communities		Awareness/knowledge of local communities on laws and their rights surrounding concession agreements
					Legal forestland tenure system
					Independency of

⁷ Khamphay Manivong and Phouthone Sophathilath, 'Status of community based forest management in Lao PDR' (Bangkok and Vientiane: Regional Community Forestry Training Center for Asia and the Pacific [RECOFTC], and National Agriculture and Forestry Institute [NAFRI], Ministry of Agriculture and Forestry, 2007).

⁸ Sipaseuth and Hunt, 'Customary land rights in Laos', op. cit.

	Xe Champhone/wetlands	Sopha and Sharp (2013) ⁹			government oversight
					Village level forest management systems
			Central government (related ministries and agencies)	NGOs	Participation of stakeholders and good cooperation among them
			Local government		Knowledge of stakeholders about related issues
Thailand	Northern Thailand/wetlands	Trisurat (2006) ¹⁰	Local communities		Bottom-up management practices
			Central government (related ministries and agencies)		Consensus-based decision- making approach to prevent or reduce potential conflict
			Local government		Participation of local stakeholders and their full commitment (resources and effort) to manage the land in a sustainable manner
			Local communities		Involvement of local communities in all stages, i.e., from the start of the planning process, and during implementation and monitoring
	Northeastern Thailand/saline soils	Pongwichian Dissataporn and	Using companies and other user groups		
			Central government (related ministries and agencies)		Participation of local community

⁹ Sopha and Sharp, 'Sustainable wetland management in Lao PDR', op. cit.

¹⁰ Yongyut Trisurat, 'Community-based wetland management in northern Thailand', *The International Journal of Environmental, Cultural, Economic & Social Sustainability* 2, no. 1 (2006): 49–62.

	Pak Phanang River basin/river basin	Ananpongsuk (2008) ¹¹	Local government		Community participatory network
			Local communities		Information
			Using companies and other user groups		
		Meraman and Chatupote (2013) ¹²	Central government (related ministries and agencies)	NGOs and academics	Identification of most disadvantageous/vulnerable stakeholders who depended on the land or natural resources for their livelihood and capacity
			Regional/local government	Local media	Classification of stakeholders according to their importance and influence on decision making processes
			Farmers and agricultural labourers		
Vietnam	In all forest areas/forestland	Tan (2011) ¹³	Using companies (oil palm/rubber plantations)		
			Central government (related ministries and agencies)	Military	Participation of all stakeholders in a good sustainable cooperation
			Local government		Legal access to forestland
			Local communities/villagers		Allocation of forest rights to individual households which is appropriate to customary

¹¹ Pirach Pongwichian, Chaiyanam Dissataporn and Kulras Ananpongsuk, 'Community participatory network on sustainable land management: A case study on saline soil in northeastern part of Thailand' (Bangkok: Office of Research and Development for Land Management, Land Development Department [LDD], 2008), http://www.ddd.go.th/web_LDDAPEC/PDF/30/30nov_10%20Pirach%20Community%20Participatory%20Network.pdf.

¹² Meraman Mumtas and Chatupote Wichien, 'Stakeholder analysis for sustainable land management of Pak Phanang River basin, Thailand', *Procedia - Social and Behavioral Sciences* 91 (2013): 349–56.

¹³ Tan, 'Forest land allocation and community forest management in Vietnam', op. cit.

					practice of collective forest management in the uplands
			Using companies		Capacity of local authorities (in the upland area) to provide support after forestland allocation
					Support for forestry (including local forest governance) and its community
					Recognition of multiple management traditions to expand forestland allocation to villages

ADB = Asian Development Bank; GTZ = German Technical Cooperation Agency; JICA = Japan International Cooperation Agency; LUM = land use management; NGO = non-governmental organisation

In each case, many people or parties were considered as stakeholders. Although the original studies did not make a distinction between legitimate and non-legitimate stakeholders, the stakeholders identified were grouped into these two categories in the present study. There were four key legitimate stakeholders in a LUM – farmers or landowners, companies or land users, local community, and government (central and regional/local). The most important non-legitimate stakeholders were non-government organisations/NGOs and, in some cases, donor organisations (at least according to the definition adopted in stakeholder theory literature).

The stakeholders were also categorised as direct, indirect and not impacted ones. Direct impacted stakeholders were those whose revenues, incomes or welfare changed (declined or increased) directly because of land use (such as the land-using company, farmers and other local community/villagers [e.g., local transport owners, suppliers, traders, etc.]) or those whose daily way of life would be disturbed due to production activities of the land-using company (i.e., local surrounding villagers). In other words, direct impacted stakeholders were the most vulnerable among the potentially impacted, so that special engagement efforts were necessary for this category.

Indirect impacted stakeholders were those whose revenues would change (increase) because of activities of the land-using company (e.g., income or value-added tax payments to local and/or central government). Local business owners whose activities would be disturbed indirectly could also be considered as indirect impacted stakeholders. For instance, many agricultural labourers were found to have lost their jobs, as the land on which they used to work was either sold or rented to a company. Resultant unemployment had a negative impact on local businesses, such as shops, transport, services, food stalls, etc. Direct as well as indirect impacted stakeholders were included as legitimate stakeholders.

Stakeholders who were not impacted at all were considered as not impacted stakeholders. This group, however, had various interests that could influence the activities of the company and included activist groups, press people/media, NGOs, donor organisations, universities, etc. According to stakeholder theory, not impacted stakeholders are to be considered as non-legitimate stakeholders from the company's perspective. Still, depending on the project type as well as the type of potential impacts and the degree of significance of these impacts, these groups are too important to be ignored by the company.

Although the type of critical (lacking support) factors for having a good LUM varied by case, there were some common critical factors, the most important ones being issues relating to: (i) ownership (i.e., lack of customary or land owner's rights and system, security of land ownership, and land tenure system); (ii) lack of full involvement of local communities in all aspects of LUM; and, (iii) lack of coordination, either among government agencies, between government and other stakeholders, or among other stakeholders (especially between farmers/landowners and land-using companies). In some other cases, the real owners of the land revealed the lack of data or information, especially on potential stakeholders and their needs, as the most crucial of factors.

With respect to issues relating to land ownership or land tenure security, it seems that they have not yet managed to solve all problems despite efforts by governments to improve land administration systems by issuing laws and regulations. Two main factors may explain this: (i) lack of law enforcement; and, (ii) corruption, especially at the lower levels of government administration in the regional or local government.

Overall Analysis of Common Trends, Differences and Challenges in ASEAN Countries

The country studies selected for review revealed at least four common trends:

1. Colonial influence on the development of land tenure systems is still strong in all ASEAN member states.
2. All ASEAN member states have national laws or policies on land administration and land customary rights, and the land administration systems, which are all decentralised, are undertaken in all municipality/regency land offices. However, the national laws on land are always in conflict with other laws (such as, sectoral laws). Indeed, good national coordination among government agencies/departments in dealing with various issues, including land, is as yet lacking in most ASEAN member states.
3. Land conflicts occur in all ASEAN member states (excluding Singapore), and the main type of land dispute has changed from disputes over boundaries to ownership rights. However, the degree (or seriousness) of the problem varies by country depending on many factors, including culture and social factors, population pressure, urbanisation process, level of economic development (especially industrialisation), coordination among government agencies, strength of military influences, political system, degree of regional autonomy or centralisation, degree of law enforcement, and degree of violations of human rights.
4. Although governments in these countries have realised the importance of the involvement of all stakeholders, especially those directly impacted (such as the local community or farmers), in reality, the implementation of such efforts was found to have occurred successfully only rarely. The main constraints or lack of supporting factors (i.e., critical factors) varied by country. For instance, in Cambodia, Laos and Vietnam, the influence of local government or military officials was too strong. In the Philippines and Indonesia, law enforcement was weak and corruption was present at all levels of government administration. In Indonesia, particularly, several factors were critical factors, such as the lack of legal recognition of customary rights (ongoing struggle between the provincial and central governments over powers to regulate customary rights), lack of data on customary land, lack of clear standards or procedures taking adequate account of community land-use systems, lack of coordination among government agencies, and the lack of trust between land-using companies and the local community.

There were also some differences between the ASEAN member states. For instance, in some countries, such as Myanmar, as land ultimately belongs to the state, citizens and organisations/companies do not own land but depend upon use rights, with tenure rights varying depending on the type of land involved. Myanmar also does not have a written policy on land use and land tenures. Instead, the Farmland Law defines rights and responsibilities relating to tenure and establishes a hierarchy of management over farmlands.

The key government agencies dealing with land administration varied by country. For instance, in Indonesia, BPN had full control over delivering land tenureship and permits related to land use. In Cambodia, the Ministry of Land Management, Urban Planning and Construction was the lead institution for land-related matters. In Laos, there were two key ministries – MAF and MoNRE. In Malaysia, the government agency concerned was the State Department of Land and Mines and, in Myanmar, Ministry of Agriculture.

Another key difference was with respect to land titling. Within ASEAN, Thailand has very efficient systematic land titling (first registration) procedures. Therefore, procedures in Thailand have largely served as a model for systematic land titling in the region.

There were at least three challenges to having good coordination and cooperation among all stakeholders when implementing good LUM and the seriousness of these challenges varied among the ASEAN member states, in keeping with general differences among them with respect to demography; political, cultural, ethnic and religious factors; economics; and, environment, climate and geography. The first challenge was related to structural factors that play a role in the LUM process, such as location, physical infrastructure, different levels of government agencies (namely, central government [e.g., the ministries of forestry, agriculture, industry, trade, environment or finance] versus regional or local government agencies) and the competition between agencies in authority. The second challenge was linked to functional factors, which include political issues inherent in the special interests of the different stakeholders that can influence the understanding of diverse issues and the factors that impact the process. The third challenge was related to local culture (namely, to have all stakeholders sit and work together in a cooperative and fair manner, especially to fully integrate individual villagers or farmers in land use planning and LUM). The fourth challenge was to identify the appropriate manner in which different stakeholders with different backgrounds influence LUM. The fifth challenge was to protect local communities, as they are generally considered the least powerful stakeholder and are often 'overpowered' by more powerful ones (e.g., big companies).

The best way to manage land

This study focused on the involvement of stakeholders in LUM in ASEAN member states. A good LUM guarantees sustainable economic growth and, hence, brings about improvements in the community's welfare and sustainable food supply. More specifically, good LUM consists of the following key elements. First, there should be good cooperation or interactions between the various stakeholders involved and no conflicts. Stakeholders should be engaged from the start to enable the proactive cultivation of relationships among them. Second, full integration of the local community or farmers in land use planning and LUM should be ensured; these stakeholders should act as the engine of such integration. Third, land should not only secure food but also generate high and sustainable production or revenues and benefits that exceed the costs of conservation, without harming the environment, including the quality of land used (e.g., in terms of loss of native vegetation, erosion, dry land salinity, soil acidification, etc.). Finally, the welfare or quality of life of local communities or farmers should be better off.

To have good LUM, there are a number of key preconditions. Among them is land right (or tenure) security. Land tenure security is defined as the assurance that the right holders (including vulnerable users, such as the poor and women) can exercise their rights now and in the future, and be able to reap the benefits of the labour and capital invested in the resource.⁵⁶ Land tenure security is included in property rights security, which is a critical incentive for investment in land because it guarantees that the right holders will reap the benefits of their investment. It also gives the right

⁵⁶ Celestine Nyamu-Musembi, 'Breathing life into dead theories about property rights in rural Africa: Lessons from Kenya', in *Women's land rights & privatization in eastern Africa*, Eastern Africa Series, eds Birgit Englert and Elizabeth Daley (Oxford: James Currey, 2008), 18–39; Clerc, 'Unpacking tenure security', op. cit.

holder access to credit, as the land can be used as collateral.⁵⁷ Land tenure security plays a key role in securing access to food, especially in rural areas, where local livelihoods are based on the direct exploitation of natural resources.⁵⁸ It is related to social equity, as land tenure insecurity and land access may be linked to rural poverty and social position. In addition, land tenure security, by reducing the likelihood of competitive claims, can decrease land-based conflicts, thus contributing to social order and peace.⁵⁹ Land rights security corresponds to the certainty that a right holder will not be arbitrarily deprived of his or her rights in the present or future. It depends upon a range of rights, their assurance and duration.⁶⁰

Although there are many factors affecting land tenure security, when considering it, there are two key aspects that should be identified – actors and institutions.⁶¹ With respect to actors, several players may have a role to play in land tenure security, including national and regional actors (such as national and local government officials), private groups (such as NGOs and private companies), and other villages and/or village-level groups (including decision-makers, users, individuals and demographic groups based on gender, age, wealth, etc.). Each actor is characterised by the actions it can undertake and their potential outcome. With respect to institutions, there exists a dynamic relationship between actors and institutions in the form of formal and informal rules providing a framework of incentives that then govern people's behaviours. The attributes of institutions that are likely to affect interactions with actors in using and managing land include related authority, types of incentives, the degree of common understanding, accessibility and affordability (the manner in which actors can defend their rights and the degree of participation in devising rules), and the perceived legitimacy of authority.

However, land rights security alone cannot guarantee sustainable LUM, as the latter acts in a multilevel governance structure between an operational project level and a strategic level of rural/regional/national economic development management, dissolving the often-occurring conflict between short-term and long-term orientation within the planning process. Here, sustainable LUM improves the coordination of economic and agricultural development policies as well as public and public-private investments and the involvement of inhabitants and local stakeholders in common visions. In this manner, LUM can be a strategic asset that allows sustainable economic growth and helps to meet the ever-growing demand for food. Therefore, land use planning, as an instrument of LUM or rather a tool to reach the broader aim of sustainable development, is concerned with the formulation of policies and plans on the use and development of land.⁶²

⁵⁷ Clerc, 'Unpacking tenure security', op. cit.

⁵⁸ Daniel Maxwell and Keith Wiebe, 'Land tenure and food security: A review of concepts, evidence, and methods' (LTC Research Paper 129, Madison: Land Tenure Center [LTC], University of Wisconsin-Madison, 1998).

⁵⁹ Clerc, 'Unpacking tenure security', op. cit.

⁶⁰ Andrew Fuys, Esther Mwangi and Stephan Dohrn, 'Securing common property regimes in a globalizing world: Synthesis of 41 case studies on common property regimes from Asia, Africa, Europe and Latin America', 2nd ed. (Rome: International Land Coalition [ILC], 2008), http://dlc.dlib.indiana.edu/dlc/bitstream/handle/10535/5363/ILC_Securing_Common_Property_Regimes_E.pdf?sequence=1.

⁶¹ Clerc, 'Unpacking tenure security', op. cit.

⁶² Engelke and Biehl, 'Land use management as key part of metropolitan governance for sustainable urbanisation', op. cit.

Conclusion

The country cases visited in this study demonstrated that sustainable LUM acts in multilevel decision processes, between the lowest or micro level (i.e., an operational project level), the medium level (i.e., rural or regional economic development management), and the highest or macro level (i.e., national economic development management). This means that, in sustainable LUM, the often-occurring conflict between short-term and long-term orientation within the planning process disappears. In other words, sustainable LUM enhances the coordination of economic and agricultural development policies, public and public-private investments, as well as the involvement of inhabitants and local stakeholders by finding common ground for all the stakeholders involved. In other words, LUM acts as a strategic asset allowing for sustainable economic growth and satisfying the growing food demand. In this sense, land use planning, as an instrument of LUM or a tool that can help to attain the broader aim of sustainable development, deals with the formulation of policies and plans related to the use and development of land.

As LUM, in general, involves many stakeholders and there is need for good cooperation among them, there should be a body that can act as coordinator. Since land is used for agricultural production, the ministry of agriculture in these countries should focus on agricultural issues while, at the same time, acting as coordinator for all stakeholders. In equally cooperative fashion, other stakeholders should undertake to perform their tasks.

Indeed, given the many stakeholders involved as well as the differences with regard to stakeholder interests, needs and goals, their understanding of governance and the varying degrees of access to information, the main challenge of LUM is to get them all to sit together and have a smooth, consultative and cooperative process. Actors from different backgrounds (such as government, civil society, academia, business, farmers and local communities) rarely sit together to discuss, let alone propose solutions to, governance-related challenges although they are all affected by them.

To sum up, there were at least three key challenges to implementing stakeholder involvement-based LUM in Indonesia and other ASEAN member states (except Singapore): (i) to ensure that all stakeholders sit and work together in a cooperative and fair manner; (ii) to identify the manner in which different stakeholders with different backgrounds influence LUM and the significance of such influence; and, (iii) to protect local communities that, as the least powerful stakeholders, are often overpowered by more powerful ones. In order to overcome these three main challenges, certain preconditions need to be met first. These include critical (lacking) supporting factors, such as landownership or land tenure systems, availability of data, law enforcement, absence of corruption, and, of course, a strong political will. In many ASEAN member states, a lack of these factors impedes the smooth process of LUM. Thus, fulfilling these preconditions is another big challenge currently facing these countries.

Policy recommendations

Sustainable LUM depends on the full participation of stakeholders. However, cooperation among stakeholders may not always be easily achieved, as stakeholders with different socioeconomic backgrounds may have different interests and knowledge, thus needing different management approaches. Nevertheless, involving stakeholders (in a good, cooperative fashion) in planning and management is a necessary condition for sustainable land management. There are a number of

preconditions therefore to having good cooperation among stakeholders and ensuring that LUM has a significant impact:

1. Land use planning and management in a top-down setting is no longer appropriate or adequate to address the issue of optimising land management for the satisfaction of conflicting human needs, including maximum sustainable production and thereby improvement of the local community's welfare and the preservation of a safe and healthy environment. There is a need to move from a prescriptive approach towards an integrated approach to physical land use planning and the social and institutional dimensions of LUM, with a bottom-up approach that will result in actions that local communities find are necessary, leading to good cooperation.
2. The integration or cooperation among all stakeholders in decision-making on land use planning and management should be developed at the lowest possible level using demand-based approaches. However, the capacity of stakeholders, especially at the subsistence level, should be strengthened (via, for instance, training), so that they have better understanding of good LUM and be fully aware of related laws, especially land laws, and their rights.
3. The successful process of LUM depends significantly on good planning and the latter depends much on the timely availability of crucial information or data. Therefore, all efforts should be made to address all issues related to the efficient and effective collection of information, good coordination between information collectors and suppliers (such as, national institutions, ministries, NGOs, and bilateral and international aid organisations), and issues related to the development of decentralised systems of data management. Consistent standards and formats should be adopted that will allow temporal and spatial trends to be documented and explored. With this, the value of collected data could be increased dramatically.
4. Land tenure of local communities or individuals should be fully guaranteed. There should be a special agency dealing with land administration, including for managing land tenures.
5. Institutional and regulatory bodies of local authorities should be empowered, so that claims for land cannot be influenced and defined by existing social relationships. Strong institutional and regulatory bodies of local authorities make land tenure certain and guarantee the legal rights of communities to use and manage their land.
6. Monitoring of land tenure and the state of land or resources in local villages, and, in particular, the accountability of village organisations and local authorities is necessary to ensure that both the environment and people's rights to land are being protected.
7. Government or local authorities should continue to support the dialogue between stakeholders to balance between sustainable LUM, on the one hand, and emerging needs for development, on the other.