



Capitalisation of Experience

Case Study

Lessons learned from policy engagement
in Lao PDR: Instruction 0457 and the
establishment of responsible agricultural
investment practices

Stuart Ling
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The Capitalisation of Experience (Capex) draws lessons learned from over 10 years of MRLG policy and practice engagement in the Mekong region. The project has worked through multistakeholder approaches, supporting alliances of reform actors and using evidence-based analyses to inform policymaking and adapting to the political economy at national and regional levels. This Capex includes thematic analyses and cases studies from MRLG in Cambodia and Laos and from similar programmes by ILC, Land for Life from WHH and CTFD that have supported multistakeholder platforms for policy dialogue in Malawi, Burkina Faso and Guinea. These experiences are documented in this **Capex Series** that includes a thematic report, briefs, case studies and a comparative analysis aimed at a large audience interested in understanding the conditions of success for similar policy-oriented programmes to achieve positive impacts in other geographical contexts.

Acknowledgments

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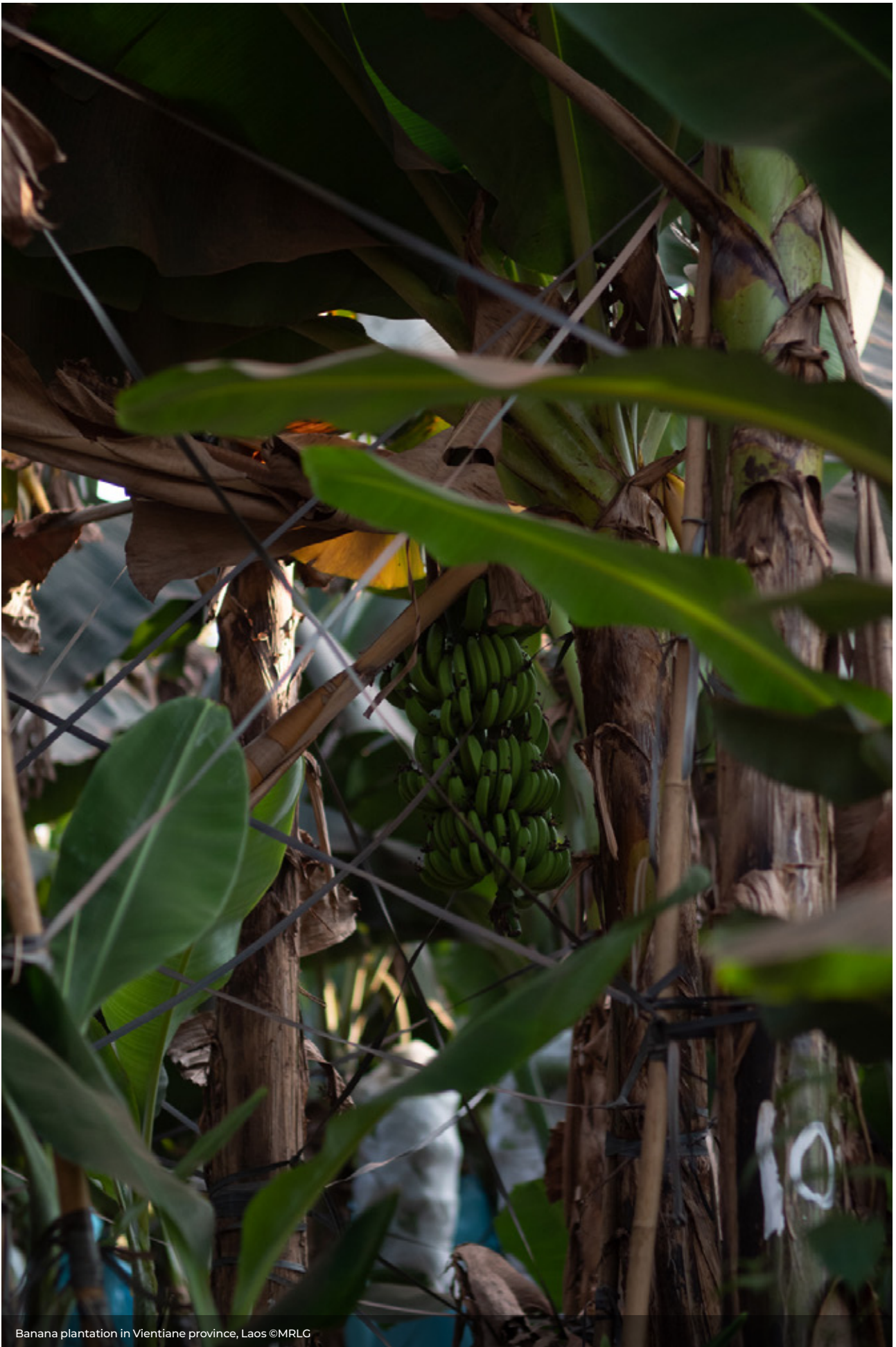
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ABBREVIATIONS

ASEAN	Association of Southeast Asian Nations
CSO	civil society organisation
DAEC	Department of Agricultural Extension and Cooperatives
DDG	Deputy Director General
GAP	good agricultural practices
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit (German International Cooperation Agency)
GoL	Government of Lao PDR
IPD	Investment Promotion Department
LAP	Lease Arrangements for Plantations
MAF	Ministry of Agriculture and Forestry
MoIC	Ministry of Industry and Commerce
MONRE	Ministry of Natural Resources and Environment
MPI	Ministry of Planning and Investment
MRLG	Mekong Regional Land Governance
RAI	responsible agricultural investment
SDC	Swiss Development Cooperation
SSWG	sub-sector working group
TLI	Transformative Land Investment



Banana plantation in Vientiane province, Laos ©MRLG

EXECUTIVE SUMMARY

The Mekong Region Land Governance Project (MRLG) addresses land governance issues as a region and at the country level in Cambodia, Lao PDR, Myanmar and Vietnam by supporting reform actors to engage in policymaking processes at regional, national and sub-national levels. The project strives to effect positive change by promoting cooperation and evidence-based solutions through multistakeholder alliances. In Lao PDR, the alliance approach has focused on policies for improved responsible agricultural investment (RAI) and improved customary tenure security for rural communities, many of whom also engage in agriculture.

This report presents a case study from Lao PDR that examines engagement of the Lao RAI Alliance ('the Alliance') in the context of improved RAI, and specifically in the development and implementation of Instruction 0457 – a directive issued under the Ministry of Planning and Investment (MPI) in 2019 in response to negative impacts arising from poorly conceived investments in agricultural crops such as bananas. The Instruction sets out obligations of investors entering into state land concessions and private lease agreements. This case study is not an evaluation of outcomes but a **learning exercise** focusing on processes and their effectiveness.

Evolution of the Lao RAI Alliance and Instruction 0457

Instruction 0457 was conceived and implemented over three phases of MRLG support to MPI and RAI Alliance partners between 2016 and 2025. The nature of the Alliance changed over this period, beginning as a taskforce limited primarily to government officials from relevant ministries to develop the Instruction, and evolving into a broader grouping that included the private sector, academia and civil society for dissemination and pilot testing. MRLG has since built on the lessons learned from Alliance engagement with Instruction 0457 for the development and revision of additional legislation relevant to agribusiness regulation.

Alliance engagement in policy and practice

The implementation of the alliance approach in policy engagement for the development and implementation of Instruction 0457 took different forms over the three project phases. MRLG adopted strategies and mechanisms relevant to the local context that had the greatest potential to effect changes in policy and practice to strengthen RAI initiatives.

Partnership strategies

- MRLG sought to build on and fund existing institutions and networks and draw them into the Alliance to influence RAI investment policies, rather than trying to develop new structures.
- A separation of powers between the Taskforce and the wider Alliance ensured that the development of Instruction 0457 remained focused and fostered ownership by Taskforce members.
- Dialogue opportunities fostered within the Alliance broke down barriers between different ministries that arise from vested interests to attract capital brought by investors.
- The Alliance brought new perspectives to RAI from outside government, including from Chinese investors in banana plantations.
- MRLG's strategic partner (GIZ) was able to mobilise high-level influential government officials as decision makers to be part of the MPI-led Taskforce, complementing the build-up of relationships with and between partner agencies.
- With the Taskforce comprising central-level government actors, it was important for the Alliance to include partners who were able to put Instruction 0457 into practice at the local level. Examples include organisations that had complementary projects that supported the roll-out of Instruction 0457.
- The long-term engagement of MRLG with MPI and Alliance partners proved essential to build the trust needed with the Government of Lao PDR to achieve policy and practice on sensitive issues such as land.

Role of research and evidence in Alliance engagement

- The pilot testing of Instruction 0457 in the field with companies and projects allowed time to gather evidence and provided an opportunity for reflection and revision so that the final version was acceptable to all stakeholders before being submitted to the minister for approval.
- Recommendations were incorporated into legislation regarding the accountability of local governments to put policy into practice in line with government decentralisation policies.

Adaptive management

MRLG struggled to find alliance partners at the outset of the project but was able to pivot its initial focus to establish a partnership with MPI. By Phase 3, the RAI Alliance had evolved with MPI and the Ministry of Agriculture and Forestry taking the role of joint chairs and leveraging the expertise in the respective ministries.

MRLG demonstrated flexibility within its planned portfolio of partners by defining the Alliance according to the local context and focusing initially on the Taskforce as the medium of policy decision-making. Civil society and the private sector were gradually involved over time as personal relationships and trust with government partners were established and consolidated.

Ensuring the inclusion of Alliance members from central and lower levels of government required a pragmatic approach, since differing levels of education and understanding influence how effectively Instruction 0457 is implemented in provinces and districts.

The most disruptive event beyond the control of the Alliance was the COVID-19 pandemic, which sent the country into lockdown several times between 2020 and 2022 and delayed the roll-out of Instruction 0457 pilot and dissemination activities. This resulted in provinces taking on their own interpretation of the Instruction with only limited support from the central level.

Outcomes of Alliance engagement with Instruction 0457

Before Instruction 0457, agricultural land leases and concessions were issued by various government agencies on an ad hoc basis and without due process, which left many remote smallholders impoverished. The Instruction made a positive contribution to land issues as a whole, and the Alliance played a significant role in influencing both policy and practice. The potential of the longer-term legacy of Alliance engagement is already evident both at policy level and on the ground.

- The management of banana plantations and other crops has improved in some instances, including labour conditions, compliance with good agricultural practice standards and community participation in the investment process, although negative outcomes are still widely documented.
- The relationships and trust nurtured and sustained in the process of developing the RAI Alliance have benefited ongoing MRLG engagement in the development of other policy instruments and relevant legislative frameworks.
- The alliance approach to policy development has been adopted by other government ministries who were initially reluctant to involve non-government actors in policy development.
- There is increased transparency and accountability in the land concession approval process, with Instruction 0457 representing the first attempt to consolidate a due legal process for approving agriculture land investments into one document which could be readily accessible to government agencies. However, the application of Instruction 0457 has been far from universal or consistent.

Key lessons learned on Alliance engagement

This case study highlights the approaches and strategies employed by MRLG to influence the development of policies that promote RAI in Lao PDR. The involvement in the development and roll-out of Instruction 0457 provides insights and learning on the alliance approach to policy engagement to further address land governance issues in the region.

Multistakeholder approach

- It is necessary for MRLG to be pragmatic in defining an alliance to suit the local context and political system, particularly in relation to civil society membership. By separating the (government-led) Taskforce and the broader Alliance, it was possible to progressively involve civil society and development partners in policy discussions and monitoring. Non-governmental actors went on to play an important role in awareness-raising activities, which provided indirect influence and created trust for future policy actions.
- For timely policy action in the Lao context, the manageable size of the Alliance and separation of powers is important. In the case of Instruction 0457, the roles were separated for the government Taskforce (to develop and implement policy) and the wider Alliance (which included CSOs and the private sector in consultations). However, it is acknowledged that other larger forums on RAI also operate in Lao PDR, and that either size has its comparative advantage.
- If one of the target groups to influence is Chinese companies, it is essential that the Alliance include (or engage) Chinese speakers who are able to test the feasibility of proposed policy actions with these companies.

Engagement with government

- Senior officials are more influential than technical staff, and champions need to be identified, supported and given recognition within the Alliance if policy and practice reforms are to be achieved. These champions led reform within MPI during Phase 1 and Phase 2 and were identified within the Ministry of Agriculture and Forestry for Phase 3.
- Personal relationships are very important in the Lao context. More meaningful relationships are developed and maintained when regularly sharing the same work space.
- A long-term commitment from the donor (in this case SDC) and government (through its champions within the Alliance) is key to overcoming the sensitivities around land and building the necessary trust needed to achieve change.
- To implement policy effectively, it is essential to have members within the Alliance operating at the field level to strengthen and support provincial and district implementation.

Use of research and knowledge for policymaking

- It is essential to pilot test proposed policy actions on the ground with the private sector to gather evidence and provide opportunity for reflection and revision before the final policy document is approved.
- Consistent with the decentralisation policies of the Government of Lao PDR, the Alliance should encourage and support local authorities to research, develop and enforce their own regulations which are evidence-based and conform with central government policy.



MRLG and RAI Alliance partners visit a commercial cassava processing facility in Luang Prabang ©MRLG



A worker gathers latex at a rubber plantation in Vientiane province ©MRLG

1. INTRODUCTION

Mekong Region Land Governance (MRLG) is a project of the Government of Switzerland, through the Swiss Agency for Development and Cooperation (SDC) with co-financing from the governments of Germany and Luxembourg. MRLG is implemented by Land Equity International and GRET. The project has been operating in Cambodia, Lao PDR, Myanmar and Vietnam since April 2014 and has been implemented over three phases (Phase 1 – April 2014 to September 2018; Phase 2 – October 2018 to December 2022; and Phase 3 – January 2023 to December 2025). The objective of the project is to address land governance issues in the region by supporting reform actors to engage in policymaking processes at regional, national and sub-national levels.

MRLG employs a comprehensive and collaborative approach to address customary tenure recognition and responsible agricultural investment (RAI) in the Mekong region. The project strives to effect positive change by promoting cooperation and evidence-based solutions, primarily through establishing and supporting alliances of partners working in the land governance space. This strategy is considered a stronger and more sustainable avenue for continued reform beyond the life of the project.

Focus on policy for RAI

In Lao PDR, the RAI workstream has focused on policies that govern the relationships between investors and smallholders – particularly in the form of land concessions, leasing and contract farming – to address historically negative and exclusionary impacts of land-based investment and to improve outcomes for both parties. This case study primarily explores MRLG engagement with the development and implementation of the Instruction on Investment Approval and Land Management Mechanism For Leasing or Concession to Cultivate, No. 0457/MPI (hereafter referred to as Instruction 0457, or ‘the Instruction’). This initiative was supported by MRLG within the Ministry of Planning and Investment (MPI) and sets out obligations for investors entering into state land concessions and private lease agreements.

Objectives and methodology

This case study forms part of MRLG’s capitalisation of experiences (Capex) series and will examine the alliance approach in the context of the preparation and implementation of Instruction 0457 and the engagement of the Lao RAI Alliance (or ‘the Alliance’). The specific objectives are to describe and assess:

- the approaches and mechanisms followed by MRLG to establish and/or support the RAI Alliance;
- the engagement by the Alliance and other partners to develop and implement Instruction 0457 over time; and
- the changes in policy and practice that have occurred following this engagement.

Research for this case study was conducted in August and September 2024, and included a literature review as well as key informant interviews and focus group discussions (FGDs) with stakeholders. A total of 24 key informant interviews were conducted with representatives from MRLG, central government, civil society organisations (CSOs), the private sector and critical analysts. A field visit to Sayaboury and Luang Prabang provinces also took place in August 2024. Four FGDs were conducted with representatives from provincial and district government offices, and two with village representatives. Initial findings were presented to stakeholders at a workshop in Vientiane in October 2024 before being refined for presentation at a Capex workshop in Paris in November 2024.

The case study is not an evaluation but a **learning exercise** focusing on processes and their effectiveness. The paper examines the strategies used by the Alliance to influence policy development and considers the potential longer-term impact of policy engagement on RAI initiatives in Lao PDR.



A villager dries cassava at a community cooperative facility in Vientiane province ©MRLC

2. THE POLITICAL ECONOMY OF LAND LEASES AND CONCESSIONS IN LAO PDR

Lao PDR is a parliamentary socialist republic led by the Lao People's Revolutionary Party. Policy decision-making process are narrowly controlled by Party and State actors. Economic liberalisation reforms initiated by the Party in the early 2000s encouraged foreign investors in the mining, hydropower and agroforestry sectors to seek large-scale land concessions and leases for their operations, effectively a process of "turning land into capital" (Dwyer, 2007; Kenney-Lazar et al., 2018). By 2018, the total area under concessions and leases was estimated to be 1,008,884 hectares, or 4 percent of the country's land area (Hett et al., 2020).

These concessions were approved by different ministries and levels of government with no proper consultation process or assessment of their impact, mostly because decentralisation processes¹ were widely ignored due to a lack of technical expertise and budget, and because of local vested interests (Hirsch & Scurrah, 2015). As a land registration system did not exist, many investments overlapped with village lands and dispossessed local people, predominantly in already poor rural areas that lacked formal tenure. Ethnic minorities and women were particularly affected because of their greater reliance upon land and natural resources for the food security of their families. Communities had little recourse to dispute the concessions and claim access to the land, and often faced recrimination when doing so. CSOs, which might have played a role in advocating for the rights of local communities, are restricted in Lao PDR and only played a relatively small part in decision-making and contestation around land.² However, the growing dissatisfaction and unofficial criticism of large land concessions led the government to declare a moratorium on new land concessions in 2013.

Chinese banana plantations as a driving force for improved governance

Chinese investors began planting bananas in the northern provinces of Lao PDR in the early 2010s. Instead of concessions, banana growers preferred to lease land directly from the community, since bananas required relatively flat, irrigable land that was already utilised for other crops. The driving factor for this wave of plantations (mostly belonging to small or medium-sized companies originating from neighbouring Yunnan) was the growing demand for bananas in China, compounded by the spread of Panama disease (*Fusarium wilt*) which is spread through plant material and soil. Once contaminated, a plantation dies after a few years and it is impossible to cultivate new banana crops. Consequently, as long as banana prices remain high, there is a regional banana colonisation front with farmers looking for new plantation lands, always farther from consumer centres. For Lao smallholders, the lease prices offered by Chinese investors provided a far greater return than maize, which had previously been the dominant cash crop in the area.



1 Decentralisation principles are outlined in the Resolution of Politburo on Formulation of Provinces as Strategic Units, Districts as Comprehensively Strong Units and Villages as Development Units, No. 03/CPP, dated 15 February 2012.

2 Unless otherwise noted, accounts in this report draw from key informant interviews. See methodology annex for details.

At the beginning of the MRLG project, senior researchers from the University of Agronomy in Nabong conducted field research on banana plantations and documented a range of negative social and environmental impacts. Issues included lease agreements directly with villagers that circumvented government approvals; improper use of agricultural chemicals (many of them unauthorised) that contaminated waterways and affected the health of workers; digging deep drains that led to the rapid depletion of organic matter and soil fertility; and plastic waste. In many cases, once banana production fell and leases ended, the soil was often left infertile and became unfit for cultivation, at least in the short to medium term. In addition, plantation labour often consists of low-paid migrant workers in precarious circumstances, who live in improvised structures on the plantation and face unsafe levels of chemical exposure. The findings were presented in various official meetings and were subsequently picked up by local national and international newspapers, exposing the extent of the issues (see Figure 1). These reports played an

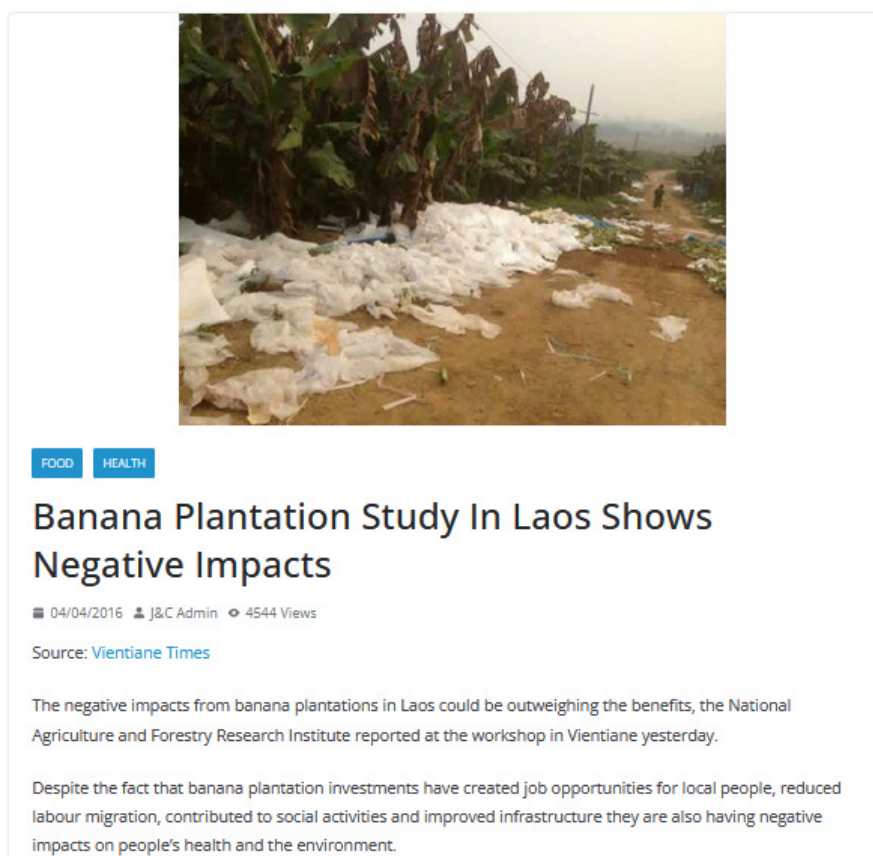
important role in sensitising the government and the public on the negative impacts of Chinese banana plantations.³

Government response

In response, several legislative measures were put in place. To address the negative social and environmental impacts and to promote clean agricultural practices, the Prime Minister ordered a suspension of further banana planting⁴ and subsequently issued Order 09/PM on the Intensification on Land Use Management for Industrial Tree Plantations and Other Crops Nationwide (dated 2 July 2018).

As the agency responsible for approving investments, MPI responded with Instruction 0457 on 27 February 2019. The Instruction states that approval is conditional upon an investment proposal that complies with the principles of green and sustainable agriculture, public participation and good agriculture practices (GAP) as well as with the laws and regulations of Lao PDR.

Figure 1. CT Alliance membership and rationale for inclusion ⁵



Source: J&C Laos. <https://jclao.com/banana-plantation-study-laos-shows-negative-impacts/>

³ The negative impacts of banana monocultures writ large are also well documented.

⁴ The original link for this article from the Vientiane Times website is no longer available. See also: <https://www.reuters.com/article/world/cash-and-chemicals-for-laos-chinese-banana-boom-a-blessing-and-curse-idUSKBN18732X/>

⁵ <https://laotiantimes.com/2016/12/12/banana-farms-ordered-stop/>

3. EVOLUTION OF THE LAO RAI ALLIANCE AND INSTRUCTION 0457

Instruction 0457 was conceived and implemented over three phases of MRLG support to MPI and Alliance partners between 2016 and 2025. The nature of the Alliance changed over this period, beginning as a taskforce limited primarily to government officials from relevant ministries to develop the Instruction, and evolving into a broader grouping that included the private sector, academia and civil society for dissemination and pilot testing. The Alliance has further evolved in its engagement with the development and revision of additional legislation relevant to agribusiness regulation.

Timeline of Instruction 0457 policy process

An overview of key activities in the development and roll-out of Instruction 0457 and the corresponding MRLG phases is presented in Figure 2. Phase 1 was the preparation of Instruction 0457 (2016–2018). Phase 2 included dissemination, pilot testing and implementation of the Instruction (2019–2022). Phase 3 supports the evaluation and revision of Instruction 0457 (from 2023).

Defining the Alliance

The political economy of Lao PDR influenced the nature of the term ‘alliance’ and its evolution over time. The group began as a small interministerial taskforce comprising only government representatives with GIZ and MRLG as strategic partners. Restrictions on civil society activities in Lao PDR limited how an alliance could be defined from the outset and “...government officials were not at ease with CSO partners around the table and they would not accept discussing policy with them” (MRLG key informant).

In other more democratic countries where the alliance approach is implemented, CSOs were promoted as alliance members and played a leading role in decision-making. However, in Lao PDR, MRLG had to adopt a structure and terminology applicable to the local context and sensitivities. For Phase 1, this was limited to the

Taskforce. By Phase 3, however, membership was extended to other stakeholders including development partners, civil society, and occasionally the private sector.

The interchangeability of the terms taskforce and alliance for MRLG in the Lao context can be confusing. When asked to define the Alliance, one CSO respondent considered it a term most appropriately used by MRLG at regional meetings since it described MRLG’s common multistakeholder approach across the four Mekong countries and at the regional level. In Lao PDR, the RAI Alliance was never formed through a clear membership, as opposed to the MRLG alliance approach in other countries, and remained a group of ad hoc and informal participants. Another interpretation was that “*the Lao Alliance was very much led by the direct relationship between MRLG staff and MPI staff, with the Taskforce being more a place to validate the results of these discussions*” (MRLG key informant).

The Alliance should not be confused with a multistakeholder platform in the usual sense, since it does not have a consistent membership outside government circles. A multistakeholder platform would normally play a formal advocacy role. One MRLG respondent described the Alliance as “*a multistakeholder process with varying spaces of exchange, and various levels of implications*”⁶.

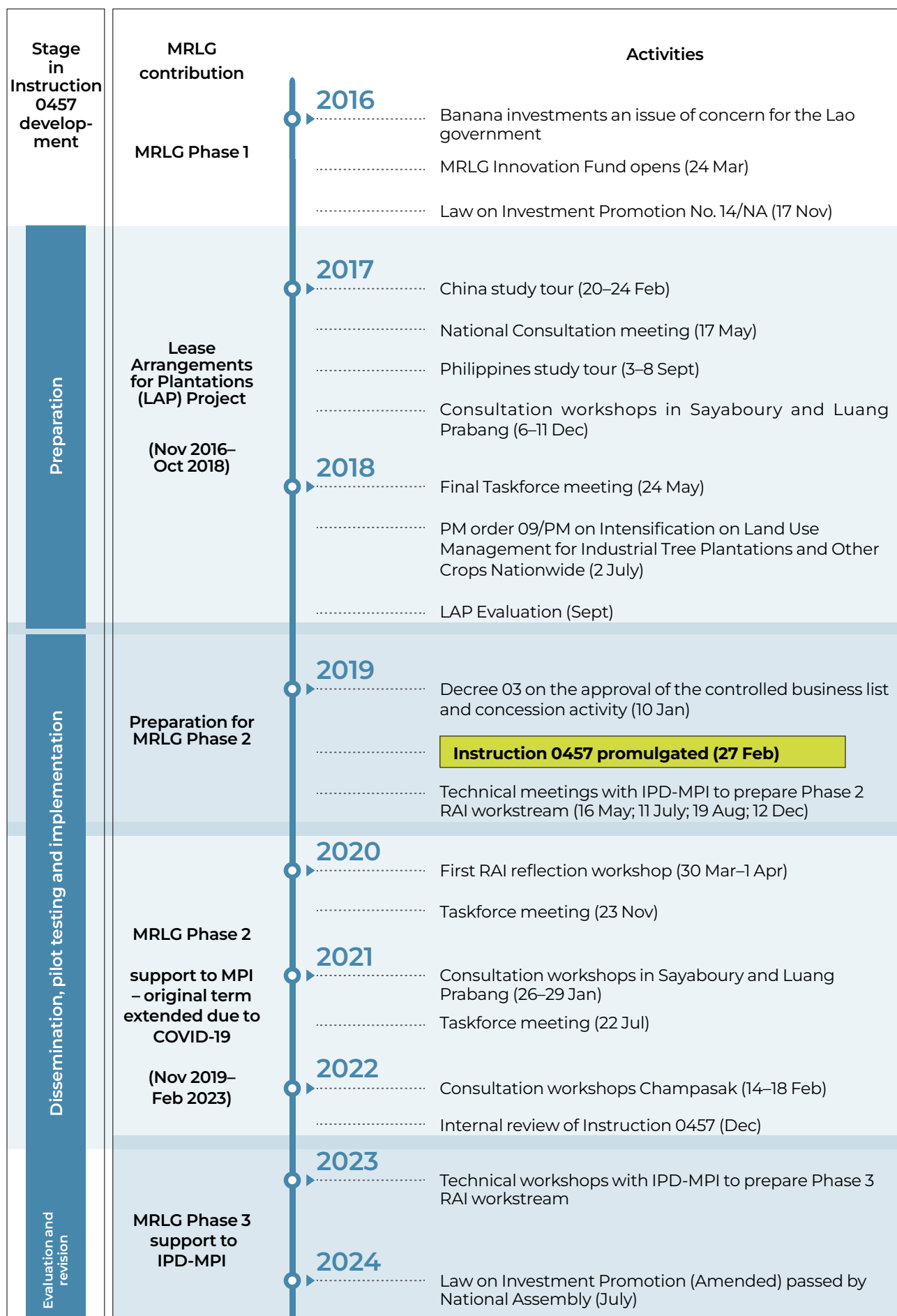
To complicate matters, under the Land Sub-Sector Working Group (SSWG) within the Round Table structure⁷, there is also an RAI Focal Group (co-chaired by DALAM⁸ within MAF) which meets on a quarterly basis, and which has also received support from MRLG, GIZ and the SDC-funded Transformative Land Initiative (TLI) in the past. However, the roles of the Taskforce and the Focal Group are clearly distinct. The Taskforce is a space dedicated to policy deliberation across ministries while the RAI Focal Group is a formal mechanism to share information between donor partners, CSOs and government, as well as feeding recommendations to the SSWG and Round Table.

6 In French, this type of arrangement would be described as a ‘variable geometry’.

7 The Round Table process, which is coordinated by MPI, brings different stakeholders together to design and implement the national socio-economic development plans.

8 Department of Agriculture Land Management.

Figure 2. Timeline for the development and roll-out of Instruction 0457



The SSWG and the Focal Group are led by MAF and do not involve other sectors and ministries. The SSWG probably would not exist if it was not driven by donors and the agenda therefore tends to be set by donor partners and projects.

Genesis of the Alliance (Phase 1)

MRLG did not establish formal alliances when the project began in 2014. To identify potential partners, Phase 1 included an Innovation Fund with open calls for grants for initiatives that developed, demonstrated, promoted or adopted transformative practices that could influence policy or be expanded and integrated into regular practices. The Investment Promotion Department (IPD) within MPI, with support from GIZ, saw this as an opportunity to improve management within the poorly regulated banana sector. The Deputy Director General (DDG)⁹ of IPD at that time was supportive of measures that would improve regulation.

“GIZ hosted a meeting in Luang Prabang in which the dominant theme was the issues faced by banana plantations. The participants wanted a guideline that would assist them in regulating the sector, and the then DDG agreed.” (GIZ key informant)

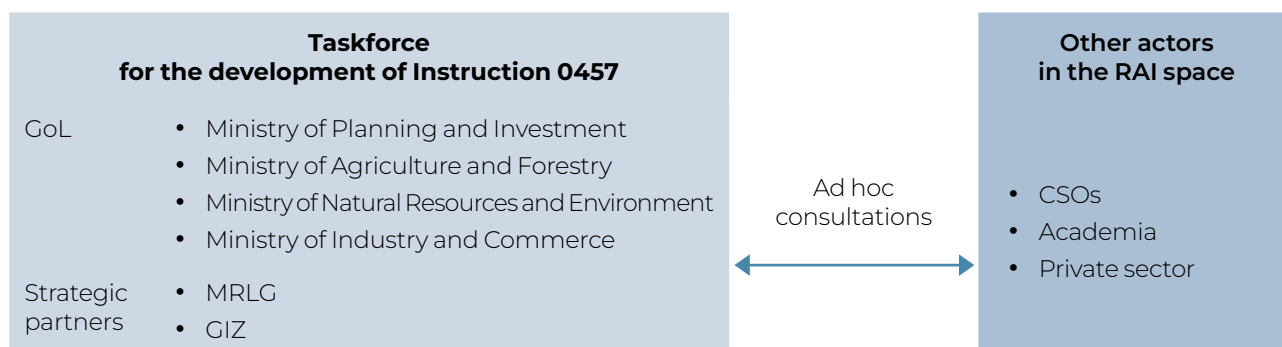
In November 2016, MRLG approved the Lease Arrangements for Plantations (LAP) project with IPD¹⁰, which aimed to develop a common legal

framework to regulate investments in banana cultivation and other cash crops under land lease arrangements for application nationwide. A multisectoral taskforce was appointed by the Minister of Planning and Investment to develop the framework (that would become known as Instruction 0457). The Taskforce comprised government representatives from MPI, the Ministry of Agriculture and Forestry (MAF), the Ministry of Natural Resources and Environment (MONRE) and the Ministry of Industry and Commerce (MoIC) along with GIZ and MRLG as strategic partners (see Figure 3). The Taskforce engaged with representatives from civil society, academia and the private sector as required.¹¹

Development of Instruction 0457

The LAP project began just as the Law on Investment Promotion (No. 14/NA, 17 November 2016) came into effect. The Law sets out provisions to improve efficiency and transparency of the investment approval process; defines principles, regulations and measures regarding both domestic and foreign investment processes; and clarifies the rights and benefits of investors, the government and communities. Once a law is enacted in Lao PDR, line ministries go through a process to promulgate sub-legislation to make sure the law is properly enforced. Instruction 0457 is one such piece of sub-legislation. The LAP project was therefore well timed for multistakeholder input into the legislative process.

Figure 3. Configuration of stakeholders in Phase 1 for the development of Instruction 0457



9 Those at DDG level and higher may be regarded as senior decision makers. In the Lao government structure, Director Generals and DDGs are below the rank of ministers and cabinet chiefs, but above the heads of divisions, directors of technical units and technical officers (Law on Government, No. 34/PO, 30 May 2003).

10 MRLG Innovation Fund Award No. IL-2016-0034-P. LAP was a two-year project with a budget of USD 250,000.

11 In Phase 1 there was also a ‘Learning and Alliance’ initiative under MRLG for learning purposes and unrelated to Instruction 0457. One example is the RAI Working Group – a coalition of CSOs, government agencies (including IPD-MPI), private sector actors and development partners with a shared goal to promote RAI in Laos. The Learning and Alliance initiative was originally composed of Village Focus International, Land Information Working Group, Japan International Volunteer Center, Oxfam, MPI, Comité de Coopération avec Laos, MONRE, MAF-DAEC, and Stora Enso. Eventually, Japan International Volunteer Center and Comité de Coopération avec Laos stopped participating, RECOFTC and GIZ joined, and DALAM replaced DAEC under MAF. The initiative also organised a visit to southern Laos with the private forest company Stora Enso, which developed its operations under agreements negotiated with communities using the principles of free, prior and informed consent. This resulted in a first policy brief validated by IPD: Guiding principles towards responsible agricultural investment in Lao PDR (Lette et al., 2017).



Participants on a study visit to the Philippines, 3–8 September 2017 ©MRLG

“The LAP project enabled the Taskforce to learn from other civil society actors who had been working on RAI under an informal [learning] alliance, including Oxfam and Village Focus International ” (MRLG key informant)

The development of Instruction 0457 under LAP was also informed by two study tours to the Philippines and China. Participants in the study tour to China (February 2017) learned about the importance of decentralisation and land rehabilitation guarantees, while the study tour to the Philippines (September 2017) recommended that GAP be incorporated to include waste management, pesticide management, training for workers on the safe use of chemicals, and the storage of chemical equipment and tools.

Instruction 0457 was promulgated on 27 February 2019, four months after the end of the LAP project and during preparation for MRLG Phase 2.

Significance of Instruction 0457

The LAP project was important to IPD because the department was under pressure to respond to Order No. 09/PM as well as to ongoing negative press coverage. The promulgation of Instruction 0457 exceeded expectations because *“IPD had transformed their initial commitment from draft recommendations to a concrete policy document [Instruction 0457]”* (MRLG key informant).

Instruction 0457 was successful in bringing together a broader framework of regulations related to agricultural investment in one legal document. Figure 4 provides an overview of the associated legislation and the specific provisions in the Instruction.

Figure 4. Overview of broader legislation with specific provisions under Instruction 0457

Associated legislation	Specific provisions in Instruction 0457
Law on Investment Promotion No. 14/NA	Explains the role of the one-stop service for agricultural investors.
Prime Minister’s Order on Improvement of Regulations and Coordination Mechanism for Doing Business in Lao PDR No. 02/PM, dated 1 February 2018	Emphasises investments in green and sustainable agriculture.
Prime Minister’s Decree on the approval of the controlled business list and concession activity of Lao PDR No. 03/PM, dated 10 January 2019	Divides investments into those that are sensitive and require additional approvals and those that can be approved more quickly.

Building the Alliance (Phase 2)

For Phase 2, MRLG shifted from a competitive grants-based approach to a more structured and programmatic approach based on the formation of multistakeholder alliances with a clear strategy and a programme of work (workstream) to better prioritise the strategic objective of effecting policy and practice change in RAI.¹² The perceived success of the LAP project, and particularly the Taskforce, that had been efficient in providing policy and technical advice prompted MRLG to explore a more permanent partnership with the more progressive IPD-MPI for Phase 2.

The selection of MPI as a suitable development partner was confirmed by an internal political economy and stakeholder analysis commissioned by MRLG in July 2018, which observed that political issues [in terms of policy engagement and advocacy] would likely pose a greater challenge to MRLG than technical issues. The long-term partnership with MPI also built synergies with the broader land reform programme of MRLG's funding agency SDC.

The technical role that GIZ had previously played in the LAP project with IPD-MPI was formalised in Phase 2. It was agreed that GIZ would continue to provide technical support over this period in relation to Instruction 0457, complementing the

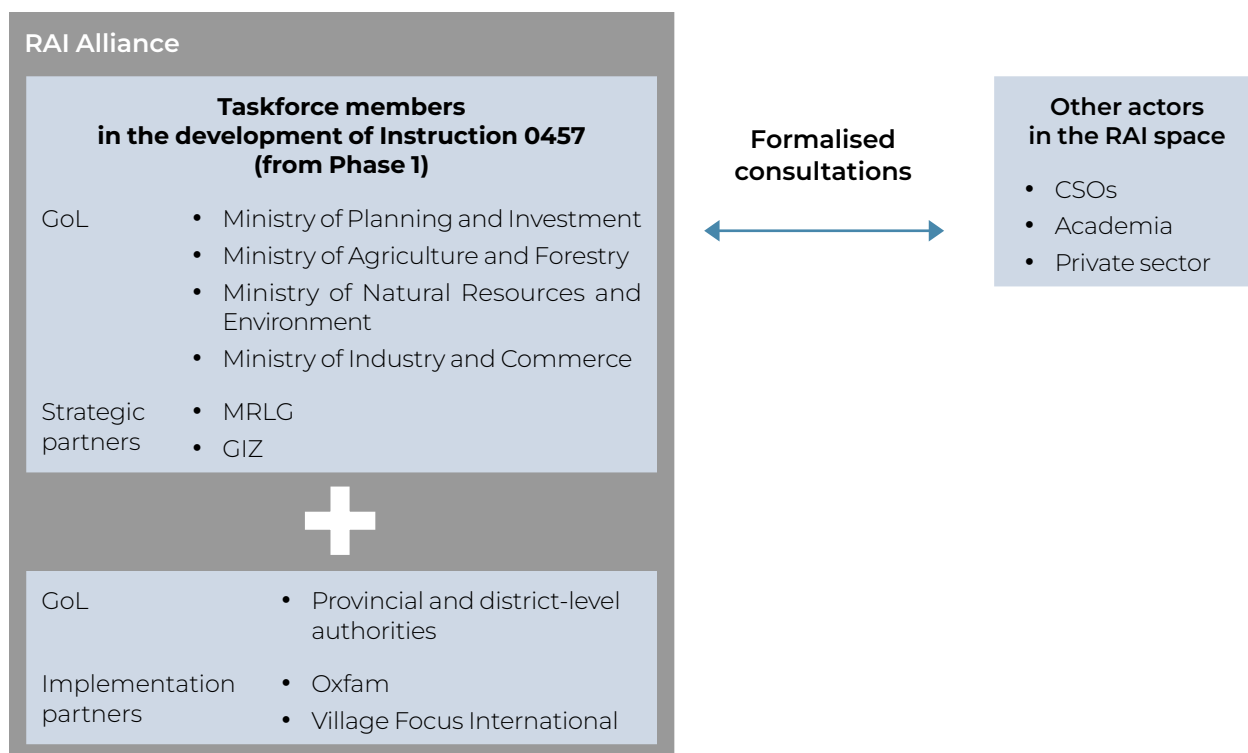
full-time MRLG staff advisor. This support would include the establishment and management of the monitoring and evaluation system that ensures that investors comply with provisions set out in their investment contracts with the government.

The desired changes in policy and practice were articulated as a Theory of Change, formulated by MRLG and partners during a series of workshops beginning in July 2019. The Phase 2 agreement with IPD-MPI began in November 2019 and included pilot testing, dissemination and implementation of Instruction 0457 as one of its strategic priorities.

Collaboration for the roll-out of Instruction 0457

The Taskforce (or 'Alliance') established in Phase 1 was once again central to implementing Phase 2. The core members remained the same but the group was now referred to as the 'Alliance' within the RAI workstream to better reflect MRLG's programme approach to create and support alliances in each country and at the regional level. An additional change in Phase 2 was the mobilisation of CSOs (including Oxfam and Village Focus International) by the Alliance to undertake legal awareness activities¹³ for communities together with local authorities at the provincial and district level (see Figure 5). CSOs

Figure 5. Configuration of stakeholders in Phase 2 for the roll-out of Instruction 0457



¹² The workstream approach was adopted by all MRLG countries in Phase 2 for the two thematic areas: customary tenure and RAI.

¹³ CSOs may undertake legal awareness activities but must be accompanied by government officials for monitoring purposes.

were expected to have better facilitation skills when engaging with communities and be more receptive to their concerns as “CSOs are close to communities and people, understand their issues and aspirations and are always willing to contribute for the improvement of country” (MRLG, 2020, p. 29).

Alongside this work on the implementation of the Instruction, MRLG supported IPD on contract farming regulations.¹⁴ In this framework, MRLG facilitated closer relationships with MAF (initially the Department of Policy and Legal Affairs and subsequently the Department of Agricultural Extension and Cooperatives [DAEC]). This collaboration was strengthened during Phase 2, which allowed the two departments to co-lead activities in Phase 3.

Roll-out of Instruction 0457

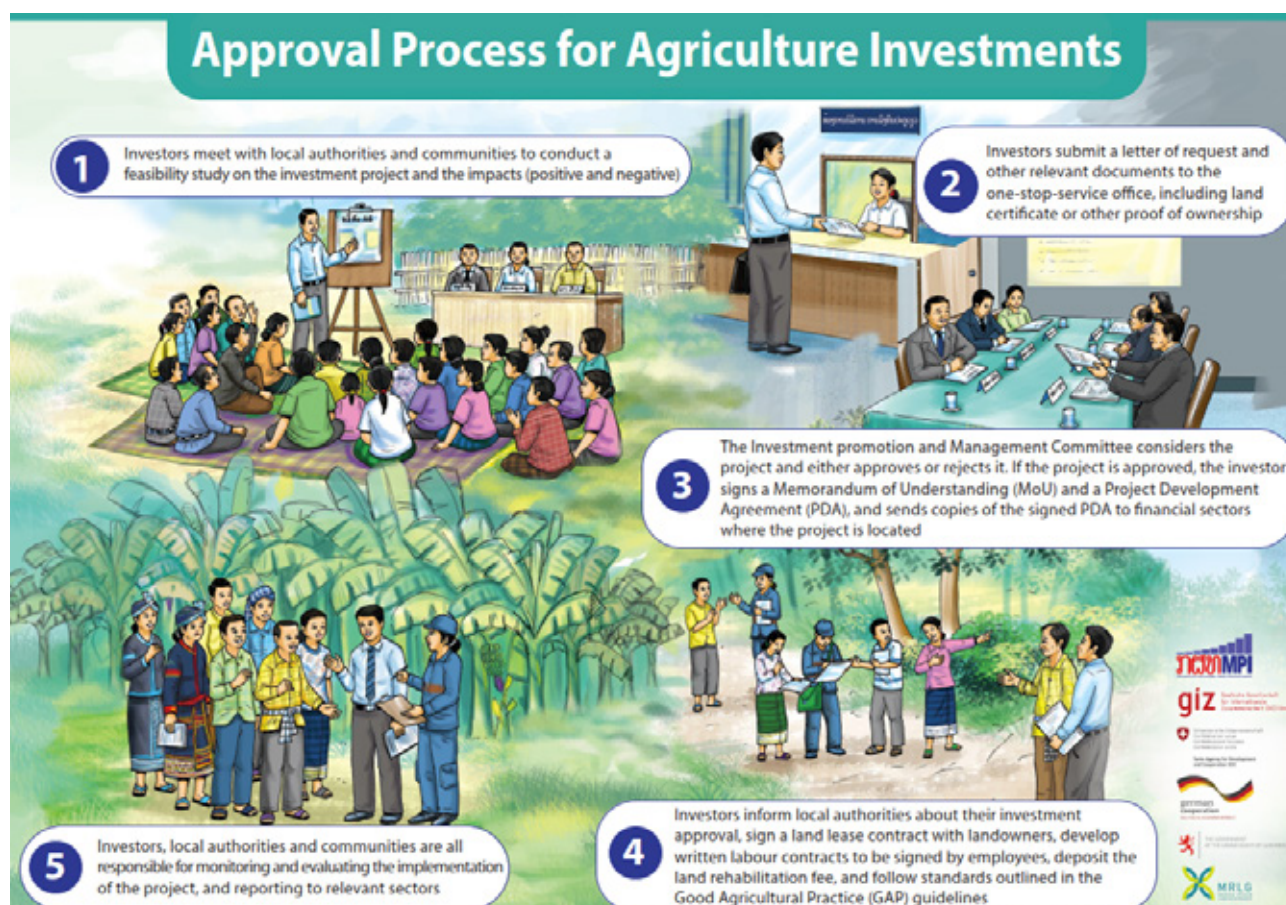
The roll-out of Instruction 0457 in Phase 2 included key activities at the Taskforce level as well as at provincial and district levels, including training on the Instruction for provincial and district government staff.

Posters were developed for dissemination activities with both investors and the community (see Figure 6). CSOs used the posters to inform communities of their rights to participate in agricultural investment projects using the principle of free, prior and informed consent.

Pilot testing and dissemination activities under Phase 2 were curtailed due to COVID-19, with most efforts being limited to the GIZ target provinces of Luang Prabang and Sayaboury. However, a range of experiences and interactions between the local authorities and investors during the pilots allowed for the collection of useful lessons.

At the end of Phase 2, a multistakeholder dialogue workshop co-organised by MPI, GIZ and MRLG brought together policymakers, donors and field practitioners to share the results of the pilots and experiences of implementing RAI in Lao PDR more broadly. These discussions provided the basis for stakeholders to identify ways towards responsible governance of land-based investments.

Figure 6. Examples of posters for dissemination of Instruction 0457 (translated)



¹⁴ This included a review of key issues and policy recommendations. See Cole & Soukhathammavong, 2021.

Participation of Communities in Agricultural Investment Projects

Communities have a right and responsibility to...



1. Participate in the survey to assess the feasibility of the project with investors and local government



2. Receive a copy of all project documents that clearly outline the costs, risks and benefits of the proposed project



3. Hold community meetings to discuss about the project, use information, maps, brochures, posters or videos to understand the costs and benefits



4. Negotiate with investors, ensuring that any decision made on the investment is based on Free Prior and Informed Consent - FPIC



5. Seek to independent legal and technical advice to support their negotiation and decision making



6. Make decisions by reaching community consensus through discussion, and take meeting minutes of the process in line with requirements specified in laws and regulations



7. Communicate with investors, monitor investment implementation and report problem to relevant authorities



Consolidating the Alliance (Phase 3)

MRLG Phase 3 began in January 2023 in partnership with IPD-MPI. The scope of activities in the Phase 3 RAI Workstream broadened significantly and includes supporting a revision of the 2016 Law on Investment Promotion and related sub-legislation (including Instruction 0457) as well as continued work with the development of a new contract farming decree. With the Law on Investment Promotion being the 'parent' law, any revisions to Instruction 0457 would be deferred until revisions to the overarching law were completed.

Phase 3 has maintained Phase 2 Alliance membership and added the Lao National Chamber of Commerce and Industry to formalise the representation of the private sector (see Figure 7). For the development of the contract farming decree, both MAF and MPI are expected to play important roles.

“For Instruction 0457 we worked most closely with IPD-MPI, but in reality MPI and MAF must work together. For the contract farming decree, both MPI and MAF were appointed co-chairs of the Taskforce, and the two ministries agreed on the division of responsibilities between themselves. They have agreed that DAEC-MAF

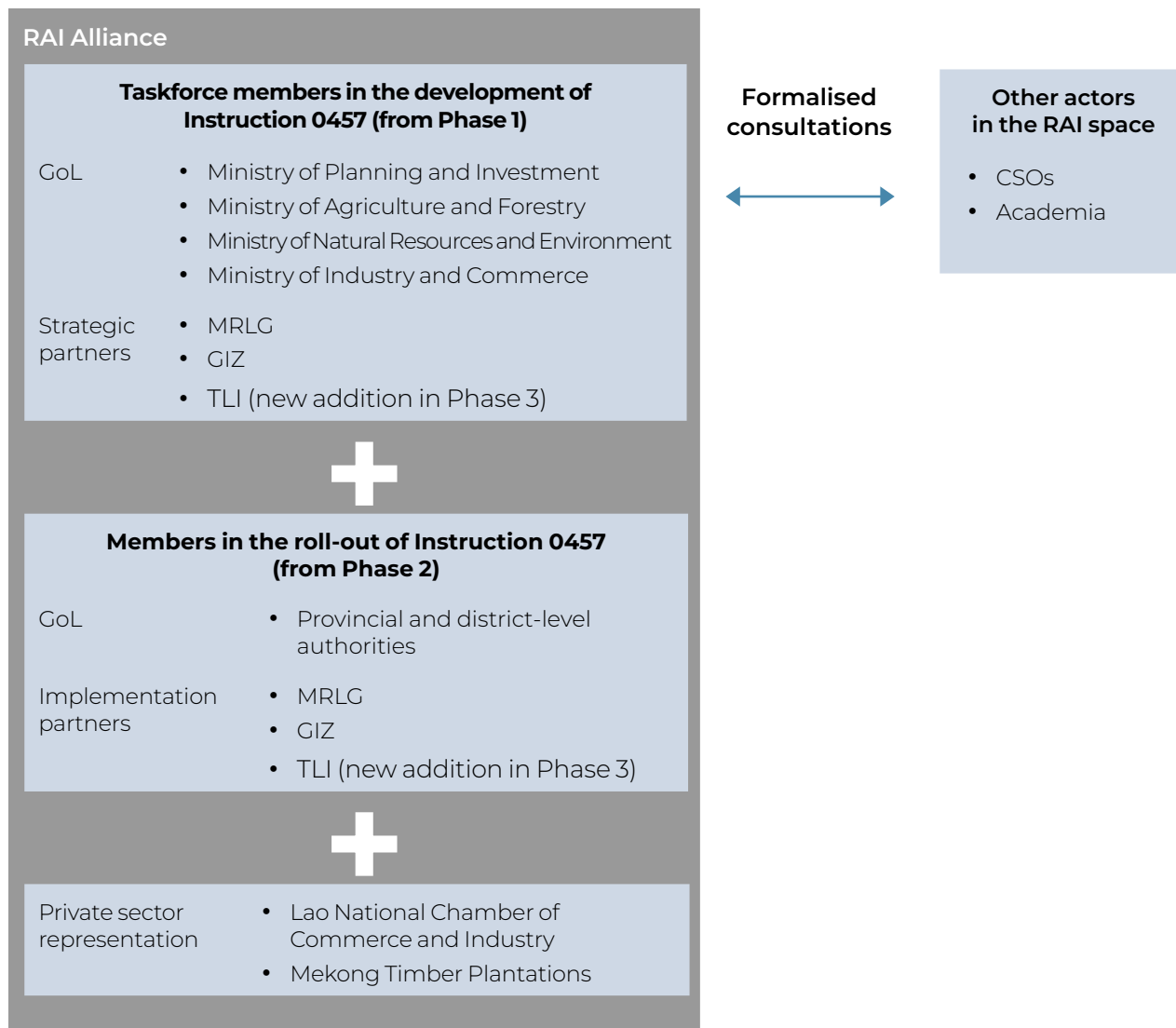
is to be the lead agency, while MPI provides support.” (MRLG key informant)

In Phase 3, the TLI project joined the Alliance and has since facilitated dialogue between the private sector and the government. TLI is another SDC initiative (also administered by Land Equity International in Lao PDR) that works to promote sustainable food systems, responsible investment and social inclusion, which are all elements of Instruction 0457.



Workers at a banana processing facility in Sayaboury Province ©Davone Bounphasouk

Figure 7. Configuration of stakeholders in Phase 3 for continued engagement in land governance legislation



Banana plantation in Sayaboury Province ©Davone Bounphasouk

4. ALLIANCE ENGAGEMENT IN POLICY AND PRACTICE

The engagement of the RAI Alliance in policymaking, and particularly in the development and implementation of Instruction 0457, took different forms in each phase. MRLG adopted strategies and mechanisms relevant to the local context that had the greatest potential to effect changes in policy and practice to strengthen RAI initiatives.

Partnership strategies

With a multistakeholder approach, MRLG employed various strategies to build partnerships and forums for effective working relationships with the diverse actors in the land governance space. These strategies were sensitive to the country context and drew on the strengths of the different stakeholders involved.

Building on existing institutions and networks

Rather than trying to develop new structures, MRLG sought to build on and fund existing institutions and networks and draw them into the Alliance to influence RAI policies. Examples include the RAI Focal Group as well as Oxfam, who

worked with rubber investors to curtail extensive forest loss, environmental degradation, land conflicts and impacts on livelihoods (Lu, 2023).

Working through existing institutions is an important lesson for donors that may push their own policy agendas onto government decision makers. Some government officials suggested that previous attempts by donors had not been successful in the long term because they established taskforces outside of existing mechanisms and networks.

“We should learn from the past – there have been many attempts to make taskforces by donors but these have not been sustained. Donors need to work with existing institutions.” (MPI key informant)

Donor influence was also a factor in choosing to draw Alliance membership from different sectors because *“even though sector and sub-sector working groups are already in place as a mechanism to influence policy, they tend to be donor influenced and do not deal well with multi-sectoral issues”* (MRLG key informant).



Workers packing bananas in Sayaboury Province ©Davone Bounphasouk



Courting influential actors as Taskforce members

The centralised decision-making process under the structures of the Lao People's Revolutionary Party required senior officials to be selected for the Taskforce if policy reform was to be achieved. Phase 1 succeeded because GIZ was able to mobilise influential government officials (or champions) to be part of the Taskforce, an observation acknowledged during preparations for Phase 2. The political economy and stakeholder analysis had concluded that reform actors needed to be both committed to reforms and powerful enough to make the desired reforms a reality. As such, respondents agreed that Phase 2 would need to involve more officials at higher levels of government if the main goal was to support policy and practice reforms.

One of the reform actors that would prove critical to the Instruction 0457 process was the then DDG of IPD during the LAP project. GIZ had built a good personal relationship with the DDG through sharing the same office. Multiple respondents acknowledged that MRLG was successful at policy influence level because it focused on engaging with higher-level actors.

"Because he [the DDG] is high ranking, he will bring in other high-ranking people to the Alliance. Once a committed high-level official takes ownership of a particular issue, they can make things happen very fast." (GIZ key informant)

"MRLG was successful at policy influence level because it focused on engaging with higher-level actors." (Critical analyst key informant)

Senior officials are also possibly more strategic in maintaining their donor funding streams. However, working with senior officials can be a challenge due to the numerous demands on their time. At higher levels, officials have multiple roles and often send their subordinates to attend meetings. If senior officials do join high-level meetings on policy development, they may not share outcomes and actions with junior staff.

There is a recognition that MRLG could have been more strategic in the scope of influential actors engaged at various stages in project implementation. Even though Instruction 0457 is focused on agricultural investments, MAF was initially sidelined (compared to MPI) at the beginning of Phase 2 due to an absence of high-ranking officials in the Taskforce and the lack of a chair role. Low levels of enthusiasm on MAF's part were also attributed to a desire to lead the policy process themselves rather than having to follow the MPI lead. On reflection, *"it would have been better to have more collaboration with MAF, but the MAF representatives weren't senior policy makers"* (MRLG key informant). MRLG corrected this situation during Phase 2 by negotiating an agreement between high-level officials from ministries on co-chairing the Taskforce and to specify and share roles and responsibilities.

Fostering ownership of the policy response through separation of powers

The separation of powers between the Taskforce (composed of government decision makers) and the wider Alliance (which also included CSOs and international experts) was important to ensure that the policy process of Instruction 0457 remained focused and fostered ownership by Taskforce members. Many respondents felt that too much direct influence in the decision-making process by those outside the Taskforce might have diluted that sense of ownership. Several respondents recognised that a network that comprises expertise from different organisations is necessary to achieve legal reforms but the network should be a manageable size, especially for maintaining accountability.

“The Taskforce needs to have a kind of formality, since we don’t want to change the dynamics of government ownership of the policy outcomes. We don’t want to have something large, loosely structured and unwieldy since this would be less sustainable.” (MRLG key informant)

One challenge to the sense of ownership was that not all Taskforce members contributed equally. A lack of delegation was identified as a contributing factor.

“To engage all members of the Taskforce, they have to think that this is the collective work of the country to which they all have to contribute, and not just the work of MPI. This can only be achieved by identifying the tasks to be achieved, allocating responsibilities to each taskforce member and then providing the budget for them to complete their tasks.” (MPI key informant)

Promoting dialogue and cooperation between stakeholders

A common complaint from donors and companies in Lao PDR is that ministries work in silos since they have a vested interest in attracting the budgets that donors and private investors bring. This is true in many countries and interministerial rivalries may arise in Lao PDR because MAF, MoIC and MPI have overlapping responsibilities to approve investments.

Silos also arise because ministerial line agencies will prioritise developing and using their own legislation rather than that of other ministries. MAF promulgated Instruction No. 1758/MAF on the implementation of Order No. 09/PM on

Intensification on Land Use Management for Industrial Tree Plantations and Other Crops Nationwide on 30 July 2018, seven months earlier than Instruction 0457. Consequently, some rubber investors were inspected by MAF and received performance review letters from MPI for existing concessions, which retroactively applied the terms of these instructions (Smith et al., 2020). A key informant from MAF explained that ministry officials *“are not familiar with Instruction 0457, because we follow the instructions and regulations from our own ministry”*.

The Taskforce was able to break down some of these silos because it offered a platform for the different ministries (in this case MAF and MPI) to meet and discuss both their shared and differing interests and mandates. One respondent explained that the process of developing Instruction 0457 pushed MPI to have discussions with other ministries on roles and responsibilities. A government representative acknowledged the positive impact of the Alliance in bringing greater harmony to the process.

“The Alliance reduced the level of misunderstanding between the different stakeholders. It also reduced the level of conflict in the legislation [Instruction 0457], since all agencies were involved in reviewing the Instruction before it was promulgated.” (MPI key informant)

At local levels, more productive dialogue has also reduced tensions between the government and the community. The Instruction “encourages the government and the people to discuss the issues together, which then reduces the risk of conflict” (CSO key informant).

Bringing different perspectives to policy development

While the Taskforce approach brought actors from different ministries together, the wider Alliance brought new perspectives from outside government. MRLG was pragmatic about the limited involvement of CSOs in policy development in Phase 1 but, as trust was established by CSO partners with the Taskforce, they were able to play a greater role over time. One respondent described how this step-by-step approach to effect changes in policy and practice can be contrasted with the approach of a local CSO coalition¹⁵ that also seeks to influence government policies on land issues but introduces sensitive issues such as human rights and indigenous rights, limiting its ability to effect change.

15 The name of this coalition has been withheld for privacy reasons.



With the Taskforce comprising central-level actors, it was important that the Alliance included partners who were able to put Instruction 0457 into practice at local levels with pilot testing, dissemination, implementation and monitoring activities. GIZ was a key partner providing technical support to the Alliance via the Promoting Responsible Governance of Investments in Land project¹⁶, also hosted by MPI. One of the project activities was to support government officials to monitor compliance with Instruction 0457 and identify any breaches of the investment contract.

“GIZ had developed a mobile application, which supports provincial and district government officials in the systematic monitoring of investors and their compliance with legal requirements and good business practice.” (GIZ key informant)

The synergies generated by GIZ, TLI, FAO, MRLG and other partners working together on the same land and investment issues have been more influential than what could have been achieved in isolation. Engagement with the private sector is of particular note. Multistakeholder dialogue

workshops were an opportunity for the Taskforce to understand the experience of the private sector in RAI throughout the country.

“I was able to give them the balance in the Alliance, otherwise it would have just been comprised of development partners and government. I could provide them with the private sector perspective.” (Private sector key informant)

“The Taskforce approach builds familiarity between the participants, but its uniformity sometimes does not challenge thinking. Therefore, it is necessary to closely involve the private sector to provide a different perspective.” (MRLG key informant)

The inclusion of TLI in the Alliance in Phase 3 also helped the private sector to gain access to MONRE. One respondent from the private sector explained that, with TLI’s support to simplify the process for environmental and social impact assessments, the company was now in a position to gain access to carbon credits, which they feel will ultimately benefit smallholders.

One barrier faced by the Alliance was in obtaining meaningful dialogue with Chinese investors. The different cultural values made it difficult to engage and led to limited understanding of the business needs of the investors. However, the MRLG-led exchanges bringing Alliance members to China and the experience in GIZ pilot provinces demonstrated that engagement with Chinese companies improved when Chinese speakers were present and that partnerships with Chinese authorities and trusted partners are essential to understanding investment practices.

Generating mutual trust and goodwill through long-term engagement

The long-term engagement of MRLG with MPI and Alliance partners proved essential to building the trust needed to achieve policy and practice on sensitive issues. From MRLG’s perspective, only one phase would have been insufficient to overcome the sensitivities around land and build trust with government partners. MRLG was able to *“strategically select less-sensitive topics to work on and achieve some results, hoping that in the process it could little by little address wider issues”* (MRLG key informant).

¹⁶ The Promoting Responsible Governance of Investments in Land project aims to ensure that investments in land are productive, contribute to sustainable land management and respect the rights and needs of local populations. The project in Lao PDR was implemented from November 2019 to July 2023. More information can be found at <https://www.giz.de/en/downloads/giz-2022-en-promoting-responsible-governance-of-investments-in-land.pdf>

¹⁷ This application is still in use by provincial and district counterparts in GIZ target provinces. The project plans to scale the app nationwide but is limited in resources to do so.

Mutual trust and goodwill were enhanced by working inside the MPI offices close to influential actors. Respondents from GIZ and MRLC observed that it was more effective to be inside the policy formulation process than on the outside and relationships could be built with key people within MPI.

Government officials at all levels commented on the time investment needed by Alliance members before reforms are achieved in both policy and practice. A respondent from MPI noted that it took many consultations and field visits before Instruction 0457 was finally approved by the minister. Similarly, at the provincial level, pilot testing required significant time for practices to be adopted.

“The provincial Taskforce came to review the banana planting projects in Nam Bak and Luang Prabang districts to negotiate an investment contract, but it was not that easy because there were many rounds of negotiations and research before nine companies agreed to pilot the security deposit. The government wanted them to pay 20 million kip/hectare, but eventually a compromise was reached of 5 million kip/hectare, to be paid in two instalments each of 50%.” (Luang Prabang Province FGD)

Role of research and evidence in Alliance engagement

The role that the initial research from the Agronomy University in Nabong played in sensitising the government and the public about the negative impacts of tissue-culture banana plantations was instrumental in triggering the administrative response that led to Instruction 0457. Gathering evidence was also important in reviewing the subsequent implementation of the Instruction.

With the Alliance dominated by central-level government actors, it was critical to pilot test Instruction 0457 in the field with companies and projects. It allowed time to gather evidence and provided an opportunity for reflection and revision so that the final version (prepared in Lao, Chinese, Vietnamese and English) was acceptable to all stakeholders before it was submitted to the minister for approval. Extensive consultation with the private sector also provided the opportunity for companies to express any concerns.

Despite extensive pilot testing, it proved difficult to implement the rehabilitation payments as required under Instruction 0457. Some banana

companies reflected that they would not pay the required rate because they did not consider the land valuable enough.

“Raising the guarantee amount from 5 million kip to 750 dollars/hectare coupled with the weak current exchange rate makes investors not want to pay, because they think it is too much.” (Luang Prabang Province FGD)

One of the lessons learned from this process was that it may be inappropriate to specify a rehabilitation figure for all crops, given the wide variety in crops and the differing levels of additional support provided by investors (such as community payments or infrastructure) under the terms of their investment agreements.

Although national agronomy researchers had a significant role at the start, they were not involved in the process. Greater involvement could have helped adapt the policy to different crops and situations, define more clearly what practices are unacceptable and give more weight to Alliance recommendations.

Private companies sometimes had a different understanding of what counts as a ‘sustainable’ investment, believing this meant how long they could continue turning a profit from the same land, as opposed to returning the land to the owners in a condition that may still provide for them in the future. Some considered themselves to be complying with requirements on chemical use and labour conditions, when they appeared to make little positive change at all. This was evidently not followed up by effective environmental or social monitoring, or the results of such monitoring were not enforced. It is understood that some investors were able to bypass the requirements of the Instruction (such as rehabilitation payments).



A banana plantation in Laos ©Hoxuanhuong

Transfer of responsibility to local authorities

While those at central level are in charge of making policies such as Instruction 0457, respondents acknowledged that responsibility for implementation lies with local government. Decentralisation was raised during the 2018 study tour to China and as part of RAI stakeholder dialogue as a means to create local accountability for investments, provided sufficient training and budget is ensured for local authorities.

There is evidence that the Taskforce is responding to these suggestions, although concerns remain over the management capacity of local authorities (MPI key informant). The amended 2024 Law on Investment Promotion, supported by MRLG Phase 3, includes a commitment to decentralisation to local authorities at the project feasibility stage (Article 5).

Adaptive management

MRLG's adaptive management was tested at the outset of the project when MRLG struggled to find alliance partners. It was able to pivot its initial focus on MONRE to establishing a partnership with MPI through the LAP process. In Phase 3, the Alliance evolved so that MPI and MAF became joint chairs, thereby leveraging MAF's technical expertise in RAI.

"The initial partnership with MPI allowed them to regain control over investments and clean up concession policies. But as this has been achieved, there needs to be a shift in emphasis to give more status to MAF." (MRLG key informant)

MRLG also demonstrated flexibility within its planned portfolio of partners by defining the Alliance according to the local context and focusing initially on the Taskforce as the medium of policy decision-making. Civil society and the private sector were gradually involved over time as personal relationships and trust with government partners were established and consolidated.

Ensuring the inclusion of Alliance members from central and lower levels of government required a pragmatic approach. Differences in awareness and understanding influence how the Instruction is implemented on the ground.

"Decentralisation in the Lao context is challenging due to differing levels of education and understanding between central and lower

levels of government. Roles and responsibilities are interpreted differently, leading to varying degrees of implementation between provinces and districts." (MPI key informant)

The strategic partnership with GIZ at the field level allowed these differences to be appreciated and measures to be put in place to implement Instruction 0457 according to local conditions. This was not always successful, as demonstrated by the difficulties in standardising rehabilitation payments across different contexts.

The most disruptive event beyond the control of the Alliance was the COVID-19 pandemic, which sent the country into lockdown several times between 2020 and 2022 and delayed the roll-out of Instruction 0457 pilot testing and dissemination activities.

"Phase 2 was designed to support the dissemination of Instruction 0457 and receive feedback from provincial authorities and investors but, due to COVID, this could not be achieved as intended. The provinces had to take on their own interpretation of Instruction 0457." (MRLG key informant)

The delays brought about by COVID-19 restrictions meant that MRLG had to redefine its expectations for dissemination and implementation in Phase 2. The experiences of target provinces (especially Luang Prabang and Sayaboury) were drawn upon to develop Phase 3, although some of the existing trained staff had been reassigned as part of the Party election process¹⁸.



Cassava production in Laos ©MRLG

¹⁸ Every five years (in this case at the end of 2020), all senior government positions are open for reselection under Party protocols.

5. OUTCOMES OF ALLIANCE ENGAGEMENT WITH INSTRUCTION 0457

Before Instruction 0457, agricultural land leases and concessions were issued by various government agencies on an ad hoc basis, often without due process, which left many remote smallholders impoverished or landless, or otherwise precluded them from benefiting from agricultural investments. Instruction 0457 represented the first attempt to consolidate a due legal process for approving agricultural land investments into one document which could be readily accessible to government agencies. The Instruction has made a positive contribution to land issues as a whole and the Alliance has played a significant role in influencing both policy and practice. Not only did efforts during Phase 1 result in a concrete policy that has shown tangible effects on the ground, the work of the Alliance has also initiated change with the potential for broader and longer-term impacts for RAI initiatives in Lao PDR.

Longer-term legacy of Alliance engagement

Tangible results from the roll-out of Instruction 0457 have been observed in the management of banana plantations and other crops. Respondents from provincial government offices reported monitoring the chemicals used by investors to ensure that farms comply with GAP principles. CSO respondents highlighted the positive impact of roll-out activities on community participation and relations with government officials.

"In project villages, the awareness work on Instruction 0457 led to attitude changes in the government staff – they would listen more and be less willing to force people. There was also a greater involvement of women in decision-making due to the use of gender equality tools." (CSO key informant)

The benefits of the approach to partnerships and relationship building have already been seen in Phase 3. Generating mutual trust and goodwill through long-term engagement provided the foundation for sustained engagement of non-governmental actors in the development of other policy instruments and relevant legislative frameworks.

"The ongoing relationships and trust generated by the Alliance in the development and implementation of Instruction 0457 will benefit engagement on additional legal instruments that strengthen RAI initiatives in Lao PDR. MRLG has already built on these relationships in Phase 3 to develop the multi-sector contract farming decree and for the alignment of legal frameworks with the ASEAN-RAI guidelines." (MRLG key informant)

In terms of broader reach, the alliance approach has been adopted by other ministries to improve their own stakeholder engagement on policy issues. Ministries such as MONRE, who were initially reluctant to involve non-government actors in policy development, have begun using taskforces as a policy tool and extended consultations to include development partners and the private sector.

"We have also participated in workshops organised by MONRE, which has a taskforce on environmental and social impact assessments that consults with the private sector. Our company was able to negotiate a simplified assessment process that would allow us to include all our plantation areas in the carbon market." (Private sector key informant)

Compliance with Instruction 0457

While Alliance engagement with Instruction 0457 has seen concrete results, challenges have also been identified regarding compliance. These issues range from conflicting legislation adopted by other ministries to the capacity and resources available to implement the Instruction. The Alliance may not have influence or the responsibility to address these particular challenges but issues raised may be applicable to inform future policy engagement processes.

Adherence to alternative legislation

Conflicting legislation and policies at both the central and provincial level influence how effectively Instruction 0457 is implemented. In various aspects, laws are inconsistent and result in different interpretations. Where MPI had influence over Instruction 0457, as in Luang Prabang and



A vegetable farmer in Laos prepares a field for the new cropping season ©MRLG

Sayaboury provinces, MPI agencies took the lead in dictating investment regulations. However, in other provinces, MAF influenced the approval of projects under Instruction No. 1758. Legislation specific to a particular ministry takes precedence over the policies of other ministries. In the event that MAF approved a project, MAF agencies would not follow guidelines under Instruction 0457 for a one-stop service or for the requirement of a security deposit. In the case of regulating banana plantations, MAF agencies followed Instruction No. 1758/MAF rather than Instruction 0457 issued under MPI.

Similarly, some provinces have their own policies which conflict with the principles of Instruction 0457. In Sayaboury, for example, policy tensions arose between the need to generate income from foreign investment and the requirement for proper consultation with local communities.

"In Sayaboury, Instruction 0457 was not able to be followed since the province had a conflicting policy to promote Chinese investment. The Provincial Department for Planning and Investment approved a request for a Chinese company to plant watermelons during the dry season on village paddy land, even though the community was against the proposal due to the higher income they received from irrigated rice." (CSO key informant)

Applying provisions to pre-existing investor contracts

Where investors already had existing contracts with growers, it proved hard to backdate them to include the provisions of Instruction 0457. Tree plantation companies, for example, were already locked into long-term lease arrangements that were unreasonable to revise.

"When our company signed their concession agreement in 1999, they provided a one-off payment of USD 50/ha as a community fund. When Instruction 0457 came out, we continued to use the previous arrangements but updated environmental protection conditions as required through the environmental and social monitoring plan." (Private sector key informant)

Other investors felt that they were already contributing to the community and that adding further rehabilitation costs would be unreasonable. A representative from a banana company in Sayaboury explained that the security payment is too expensive because the company is already contributing additional funds to community projects such as repairing roads and schools.

Cost of rehabilitation security deposit

The rehabilitation payment to a joint government/company bank account ¹⁹ (Section III/5) was one of the most contentious issues to resolve because of the significant cost to investors, which led to pushback and non-compliance. The Instruction specifies an amount of USD 750/hectare for crop cultivation of more than one year, a figure that was apparently derived from the cost of removing banana stems once they are no longer viable. While this figure may be suitable for bananas, it does not work so well for other crops.

As well as the cost of the security deposit, companies were concerned about the bureaucracy involved (and possibly informal payments required) in having their money returned after rehabilitation, especially when banana cropping areas may be rented for up to 10 years.

Investor origin, size and crop market

Some large international investors are responsible for meeting the standards set by their shareholders and consumers and are already complying with conditions such as GAP or environmental safeguards.

“We already have Forest Stewardship Council certification, so we are already following strict rules when it comes to community consultation, land restoration and labour management. So, for us Instruction 0457 brought no change.” (Private sector key informant)

However, meeting international standards was not so important for Chinese investors, since

their key concern was in meeting Chinese phytosanitary standards. In this case, chemical residues in bananas were measured but meeting labour and environmental standards was a lesser consideration.

Capacity and means of government line agencies

Section VII of the Instruction states that District Offices of Planning and Investment are responsible for monitoring and evaluating project implementation, investment activity and the implementation of laws and relevant regulations as delegated. However, several respondents reported that staff at the provincial and district level often do not have the capacity or resources to fulfil this role.

Budget constraints were cited by local officials as reasons for the lack of monitoring around investment performance, particularly related to environmental obligations. A critical analyst suggested that this is likely a factor in the low level of engagement of district authorities in the implementation process as a whole. The importance of financial resources was evident in how effective roll-out was in GIZ target villages (that had an allocated budget and field staff to support at the local level) compared with non-target villages with no budget allocated.

“Public awareness and implementation of Instruction 0457 is still not widespread, especially in the villages outside the target area of GIZ. We know that Instruction 0457 needs to be publicised, but the public sector lacks the implementation budget.” (Sayaboury Province FGD)



Cassava cuttings laid out in the field in preparation for planting © MRLG

¹⁹ There is also a separate security deposit which investors must pay to the government once the memorandum of understanding is signed, and which the government may draw upon if there is a breach of contract.

A lack of training also has an impact on the capacity to implement Instruction 0457. While those who develop policy have a good understanding of how it should work, provincial and district staff do not receive the proper training to implement. District officials themselves recognise that this is an issue.

“We are meant to be responsible for monitoring environmental performance, but we didn’t receive any instructions from higher levels about how to perform this.” (Nan District FGD)

These justifications are only one part of the story. The lack of controls on the importation and use of harmful and prohibited pesticides is symptomatic of a weak governance system. However, even with sufficient training and budget, challenges remain. A key informant from MPI acknowledged that the constant reassignment of staff at the district level means that officials who attended legal dissemination sessions are not those who will ultimately implement the work.

Debate on the authority of Instruction 0457

There was an internal debate within the Alliance²⁰ as to whether a new legislative document is required to improve compliance with Instruction 0457. While some respondents felt that Instruction 0457 needed to be reissued as a ministerial Order which must be followed,²¹ others felt it would be better left as a guideline to be flexibly interpreted.

“Regulations need to have teeth to be enforceable, but then the trade-off is lack of flexibility in their implementation. Guidelines can be interpreted to allow for the local context, but then will government officials take any notice?” (MRLG key informant)

“Do you try to make more legislation, or do you try to implement what we have already? We can make more, but then it becomes a problem of dissemination. We must focus on improving practice rather than improving policy.” (CSO key informant)

Box 1: Story of Change for Instruction 0457

In 2022, two MRLG-affiliated researchers (Soytavanh Mienmany and Hilary Smith) drafted a Story of Change distilling stakeholder experience during the pilot activity for Instruction 0457. The objectives of this assignment were to document the experience of IPD in conceptualising and disseminating Instruction 0457 and the impact of the Instruction to date, and to provide recommendations for revisions. The study utilised a mixed-methods approach combining document review and qualitative field research with relevant central, provincial and local authorities, companies and civil society.

The authors highlighted the differing experiences of three main stakeholder groups:

- GoL views Instruction 0457 as a tool to guide the government in the administration of new investments and in monitoring existing investments. In other words, it is about government roles in engaging and facilitating land concession and leasing investments.
- For investors, Instruction 0457 increased costs (officially and unofficially) and the time taken to get investment approvals. While some investors see the Instruction as mandatory, others are able to negotiate with GoL (for example, on land restoration fees).
- The intervention helped farmers who leased their land to investors understand contracts and negotiation processes.

The authors proposed improving uptake through further consultation and dissemination at all levels (including households) and investigation of fees and services; improving use by enhancing accessibility and capacity, particularly at the local government level; and improving impact through systematic monitoring and reporting.

Recommendations generated from this exercise remain relevant to the current effort in 2025 to revise Instruction 0457, which has been upgraded to a ministerial-level Decision to make it more enforceable. Revisions will be based on the 2024 Law on Investment Promotion, particularly regarding the need to clarify roles and responsibilities of each sector, fee schedules and implementation thereof, ESIA requirements, and more robust consultation.

20 Including during the Taskforce presentation of 11 October 2024.

21 MPI line agencies are not compelled to follow an Instruction but must follow an Order.

6. KEY LESSONS LEARNED ON ALLIANCE ENGAGEMENT

This case study highlights the approaches and strategies employed by MRLG to influence the development of policies that promote RAI in Lao PDR. The involvement of the MRLG RAI Alliance in the development and roll-out of Instruction 0457 provides insights and learning on how alliances can influence land governance issues in the region.

Multistakeholder approach

- It is necessary for MRLG to be pragmatic in defining an alliance to suit the local context and political system, particularly in relation to civil society membership. By separating the (government-led) Taskforce and the broader Alliance, it was possible to progressively involve civil society and development partners in policy discussions and monitoring. Non-governmental actors went on to play an important role in awareness-raising activities, which provided indirect influence and created trust for future policy actions.
- For timely policy action in the Lao context, the manageable size of the Alliance and separation of powers is important. In the case of Instruction 0457, the roles were separated for the government Taskforce (to develop and implement policy) and the wider Alliance (which included CSOs and the private sector in consultations). However, it is acknowledged that other larger forums on RAI also operate in Lao PDR, and that either size has its comparative advantage.
- If one of the target groups to influence is Chinese companies, it is essential that the Alliance include (or engage) Chinese speakers who are able to test the feasibility of proposed policy actions with these companies.

Engagement with government

- Senior officials are more influential than technical staff, and champions need to be identified, supported and given recognition within the Alliance if policy and practice reforms are to be achieved. These champions led reform within MPI during Phase 1 and Phase 2 and were identified within MAF for Phase 3.

- Personal relationships are very important in the Lao context. More meaningful relationships are developed and maintained when regularly sharing the same work space.
- A long-term commitment from the donor (in this case SDC) and government (through its champions within the Alliance) is key in overcoming the sensitivities around land and building the trust necessary to achieve change.
- To implement policy effectively, it is essential to have members within the Alliance operating at the field level to strengthen and support provincial and district implementation.

The use of research and knowledge in policymaking

- It is essential to pilot test proposed policy actions (in this case Instruction 0457) on the ground with the private sector to gather evidence and provide opportunity for reflection and revision before the final policy document is approved.
- Consistent with government decentralisation policies, the Alliance should encourage and support local authorities to research, develop and enforce their own regulations that are evidence-based, applicable to the local context and that conform with central government policy.



A representative from the Lao Farmers Network shares producers' perspectives at the Multi-Stakeholder Dialogue on RAI 2023 ©MRLG



Cassava being dried in preparation for processing into flour ©Nipol Plobmuang

7. CONCLUSION

Instruction 0457 was intended to be revised based on the lessons learned from the pilots implemented in Phase 2. This effort was delayed until the new Law on Investment Promotion as the umbrella law for the Instruction was approved in 2024. It was then determined that Instruction 0457 would be ‘upgraded’ to a Decision (still at the ministerial level) to enhance its enforceability. In 2025, the last year of MRLG, the Taskforce is conducting a desk review and analysis of how the Instruction can be improved. This review is also informed by the analysis conducted by Mienmany and Smith in 2022 (see Box 1). As of this publication, a timeline has been proposed

and endorsed by the RAI Taskforce, which would see a draft developed, improved via feedback from provincial stakeholders, and submitted for ministerial review by October 2025. However, the current restructuring of key ministries, including MPI and MAF, may delay the roll-out as new ministerial mandates are further clarified.²²

The collaborative work with IPD/DAEC that started with the Instruction has also resulted in other new legislation including the Law on Investment Promotion, PM Decree No. 56/2025 on Contract Farming and the Cooperatives Law. These new legal frameworks are all expected to contribute to improved RAI in Lao PDR.



A smallholder farmer cultivating bananas in Laos ©Katyakodner

22 In March 2025, the Lao People’s Revolutionary Party adopted a resolution announcing that MPI would be merged with the Ministry of Finance, retaining the latter ministry’s name, and that MAF and MONRE would be merged into one ministry, hereinafter known as the Ministry of Agriculture and Environment. Notably, IPD is scheduled to move to the Prime Minister’s office.



Small farmers in Laos typically cultivate bananas on small-scale farms averaging around 0.25 hectares ©Presse750

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Large-scale banana plantation. Chinese banana investment rapidly expanded through direct land leases, leading to governance and environmental challenges
©Saletomic

Laos has undergone a rapid agrarian transition, giving way to a surge in large-scale concessions and land leases for cash crops such as bananas – often with adverse socioenvironmental impacts arising from poorly conceived investments and weak governance. In response, the Mekong Region Land Governance Project (MRLG) worked through an alliance of government, private sector, academia, and civil society institutions to support a ministerial Instruction (Instruction 0457) clarifying the obligations of investors entering into concessions and private lease agreements, and influence policy and practice aimed at incentivising responsible investment and mitigating negative impacts. This case study highlights strategies, challenges and lessons learned from multi-year engagement of MRLG and its partners in shaping Instruction 0457 and related policies including a revised Law on Investment Promotion.

The Capitalisation of Experience draws lessons learned from improving land governance through multistakeholder platforms for policy dialogue, and is a joint effort of the following four organisations:



Comité Technique Foncier et Développement (CTFD) is a platform of multidisciplinary experts that discusses and debates rural and urban land issues in the Global South. CFTD meets under the tutelage of the French Ministry of Foreign Affairs and the *Agence Française de Développement (AFD)*.

Please visit www.foncier-developpement.fr

The **International Land Coalition (ILC)** is an independent global alliance of People's Organisations, civil society and intergovernmental organisations working together to put people at the centre of land governance.

Please visit www.landcoalition.org

The **Mekong Region Land Governance Project (MRLG)** is a project of the Government of Switzerland, through the Swiss Agency for Development and Cooperation (SDC), with co-financing from the Government of Germany and the Government of Luxembourg. MRLG has been working to improve the land tenure security of smallholder farmers in the Mekong Region since 2014.

Please visit www.mrlg.org

Welthungerhilfe (WHH) is a private aid agency in Germany; politically and religiously independent that fights for "Zero Hunger by 2030". **Land for Life Project** is supporting multi-actor partnerships working on land governance in Ethiopia, Burkina Faso, Liberia, Sierra Leone and Germany.

Please visit land-for-life.org

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