**OVERVIEW**

This case profile concerns a dispute between villagers from Thma Da commune and MDS Thmorda SEZ Co. Ltd over land to be used for a Special Economic Zone promoting trade with Thailand in Thma Da Commune, Veal Veaeng District, Pursat Province. **The dispute has been ongoing since November 2010,** when the Royal Government of Cambodia ('RGC') authorized the establishment of the MDS Thmor Da Special Economic Zone ('SEZ') which was set up to include an import-export market to exchange goods, a warehouse for agricultural products, a casino, a golf club, a sports club, a parking lot and a petrol station. In total the SEZ covers a surface of 2,265 hectares. The SEZ was granted to MDS Thmorda SEZ Co. Ltd ('MDS'), a Cambodian company owned by Cambodian tycoon Try Pheap.

In October 2010, even before the SEZ was granted, MDS began clearing the land, destroying houses and properties, and clearing farmland. The clearing continued sporadically until 2014, despite various efforts on the part of the communities to obtain a resolution. In November 2014, mixed armed forces bulldozed and destroyed the houses and plantations of 11 families inside the SEZ.

In total at least 97 families from three different villages have been affected by the land dispute. In order to survive, many of them accumulated great debt, and some had to sell their properties or migrate out of the area. To date, 15 families are still looking for a resolution.

**MDS THMORDA SEZ**

MDS Thmorda SEZ Co. Ltd ('MDS') is owned by Try Pheap, a Cambodian tycoon who owns at least 22 companies in Cambodia. The company also has two Economic Land Concessions ('ELCs') in the same area, totaling 6,352 hectares. MDS is part of the Try Pheap Group Co. Ltd. ('Try Pheap Group'), a large Cambodian company operating a wide range of business activities including agro-industry, tourism, hospitality, handicrafts, dry ports, SEZs and petrol distribution. The company is regularly accused of human rights violations in Cambodia, which it denies.

---

8 For more background information see "The Cost of Luxury", Global Witness, 6 Feb 2015, [here](https://www.globalwitness.org/en/campaigns/forests/cost-of-luxury/).
At some point in 2018, MDS partnered with a Chinese company, Henghe, to develop the SEZ:

As of September 2019, the company did not appear on the Cambodian’s business register.\(^9\)

**THE SEZ DEVELOPMENT**

In May 2018, public authorities told CCHR that 60-70% of the SEZ had been completed and that an administrative post/gate would be set up at the Thai/Cambodian border to facilitate the trade of agricultural products, with the MDS SEZ used as an import/export area. They added that once the road from Pursat Provincial Town to Thma Da Commune, currently being built, was completed, the development of the SEZ would drastically increase.

Since August 2018, MDS bulldozing machinery has been seen on the disputed land, accompanied by soldiers and local authorities. Construction work has also been ongoing on the SEZ since that time. As of May 2019, several buildings had already been constructed on the SEZ. There are many Chinese signs on shops and buildings, and several Chinese workers:


\(^9\) https://www.businessregistration.moc.gov.kh/, online services, search entity, “Henghe.”
In July 2019, a news article reported that a group of Chinese investors, reportedly close to a “powerful figure in Phnom Penh”, invested more than 323,597 USD to “develop a new city” in Thma Da. More than 10,000 condominium units are expected to be built, with a five-star luxury hotel, restaurants and high-end casinos expected to be completed in 3-5 years. To date, 97,068,472 USD have reportedly been spent on construction projects in the Thma Da area, and “several thousand” Chinese nationals work and live there. Roads linking Thailand with Battambang, Pursat and Koh Kong are also reportedly on the way.

**KEY ISSUES**

CCHR’s research, based on interviews with the affected communities, local authorities and NGOs working on the case, case monitoring and desk research, shows that:

- The families’ property rights were not given due consideration. In 1999/2000, many individuals applied for a land title in relation to the land that is now within the SEZ, however, they never received an answer from authorities.

- Environmental and social impact assessments do not seem to have been conducted prior to the start of the operations and documents related to the SEZ and its development are not publicly available.

- In 2014, MDS demolished the houses and plantations of 11 families, while armed forces, local and provincial authorities were present at the scene. As a result, people were forcibly evicted from their land. The affected communities were not properly consulted. No consultation took place before their land was bulldozed in November 2014. While the authorities reported that several meetings took place in 2010, they recognized that no agreement had been reached.

- Many of the affected villagers reported being threatened by the authorities and/or MDS representatives while attempting to protest the violation of their land rights. For instance, many say they were threatened with arrest while protesting MDS’s clearing of the land.

- Even though the dispute has been ongoing since 2010, 15 families, whose land is in the centre of the SEZ (close to the Casino), are still awaiting a remedy.

**UPDATES ON DISPUTE RESOLUTION PROCESS**

**May 2017:** some community members alleged having been forced to accept social land concessions (‘SLCs’).

**May 2018:** the authorities assured CCHR that they would speed up the dispute resolution process in order to ensure that the whole process go unhindered. At the same time, the community representative reported being told by the authorities that if they did not accept the SLCs, they would not have any other remedy.

**May 2019:** The authorities told CCHR that they set aside parcels of land (0.5 hectares) for the SLCs next to the SEZ. Other authorities told CCHR that the land was not a SLC, but a land exchange, and that even though the average size was 0.5 ha, but that there was some degree of flexibility. If that is correct, this means that the families who received it would also receive a formal land title, and that they could sell it, should they wish to.

**May 2019:** Authorities told CCHR that the SLC/land exchange is still being cleared from mines and unexploded ordinances (‘UXO’) and were unable to indicate when the process would be completed.

---


Those who accepted the SLCs/land exchange are not yet able to access the land

- The families who accepted the SLC/land exchange were given an information sheet, but they are still not able to access the actual land as a result of the mines. The families also do not know where the land itself is and the authorities have reportedly not allowed them to access the area. There are also reports that parts of the SLC/land exchange is being claimed by a military commander.

15 families are still awaiting a resolution

- The authorities continue to allege that these families do not have the proper documentation to prove ownership of the land they claim is theirs in the SEZ.
- Many families who lost land which was between 3 to 38 hectares located at the heart of the SEZ, are not able to accept the proposed land as it is much smaller to what they lost – 0.5 ha (50x100 m).
- April 2019: The Supreme Council of Consultation met with the communities and said it was looking into the market prices. The communities were told that it was working on their case, together with the Prime Minister.
- 8 July 2019: the 15 families submitted a petition to the Ministry of Agriculture, Forestry and Fisheries ('MAFF'), requesting it to speed up the dispute resolution process.
- 9 July 2019: the 15 families gathered at the National Assembly ('NA') in Phnom Penh, to submit a petition asking for the resolution of the land dispute, and requesting the president of the NA to take action to promptly find a solution. Their petition was accepted and four representatives were allowed to meet an officer, who signed an official receipt for their petition.
- 12 July 2019: the families submitted a similar petition to the Ministry of Land Management, Urban Planning and Construction (‘MLMUPC’) and the Ministry of Interior (MOI), but only the MLMUPC accepted it. The MOI refused the petition, stating that it was within the jurisdiction of the MLMUPC.
- 31 July 2019: the Council of Minister issued an official letter delegating the dispute resolution to the Deputy Prime Minister, the Minister of MLMUPC and the Head of the National Authority for Land Dispute Resolution (‘NALDR’). The letter followed a report by a member of the Supreme Council of Consultation’ delegation working on the land dispute and a notification by the Prime Minister.
- 7-8 August 2019: The 15 families attempted to meet the Pursat Provincial Governor to discuss the land dispute resolution. Since he was absent, they met the Chief of the Provincial Department of the MLMUPC.
- 10 August 2019: acting upon the 31 July 2019 Council of Ministers’ letter, the head of the NALDR assigned H.E Khun Haing, Senior Minister and NALDR deputy, to the case. He met the 15 families and informed them that he would examine the case and find out about their needs, and report his findings to his superiors to reach a final resolution and end the dispute.
- 21-22 August 2019: An inter-ministerial working group met with the affected families, and proposed three possible solutions for the families to choose: 1) the return of the disputed land, 2) the provision of an alternative land in exchange, and 3) financial compensation. All of the 15 families chose to get their disputed land back. The working group informed the families that it would report to the national level for consideration.
- 30 August 2019: the MAFF issued an official letter in response to the 8 July 2019 petition of the 15 families. It noted that the zone of the two companies (MDS Thmorda SEZ Co. Ltd and MDS HENGHE Thmor Da), which it describes as an economic land concession instead of a SEZ, was not under the MAFF’s management, and recommended that the claimants contact the provincial authorities to resolve their case.
RECOMMENDATIONS TO THE ROYAL GOVERNMENT OF CAMBODIA

CCHR calls on the authorities to:

I. ensure that the remedy asked by the 15 families who are still awaiting a resolution is promptly granted and put into place, in accordance with applicable national and international standards;

II. expedite the demining process to allow the families who have already accepted a SLC/land exchange to settle there;

III. ensure that the SLC/land exchange contains all necessary infrastructures for people to live on it, such as electricity, water and sanitary facilities, as well as schools.

Most of the issues listed in the present profile could have been avoided if the pre-requisites for ELCs and SEZs had been effectively implemented. Ultimately, this would save time, money and effort for all relevant stakeholders, avoid potential land disputes, and allow for the sustainable development of Cambodia. In order to effectively prevent, mitigate and remedy human rights violations, CCHR urges the RGC to:

I. Unequivocally require ESIAs before allowing any development project, infrastructure project or SEZ to proceed and ensure that findings of these assessments are made available to affected communities and to the public in a timely manner. Mechanisms to monitor their implementation should be put into place in accordance with international human rights standards, including Principle 18 of the UN Guiding Principles on Business and Human Rights, and the International Finance Corporation Standards;

II. Reconsider the contracts of companies operating SEZs, and require those who have not done so to conduct an ESIA, establish a mitigation plan for the risks identified and to monitor its implementation. The RGC should demand that they provide an effective remedy for any violations;

III. Ensure that meaningful consultations with communities affected by land dispute take place prior to any contract being given, that they are kept appraised of the developments, and that the principle of free prior and informed consent is respected;

IV. Ensure the timely resolutions of land disputes in accordance with international standards such Article 3(a) of the ICCPR, and Principle 26 of the UN Guiding Principles on Business and Human Rights;

V. Stop all forms of monitoring, harassment and punishment of human rights defenders in relation to land disputes;

VI. Create an independent, impartial and effective grievance mechanism to receive and resolve complaints from SEZ workers and local communities whose human rights are negatively affected by the SEZ;

VII. Develop and adopt a National Action Plan on Business and Human Rights, in consultation with civil society, to disseminate and implement the UN Guiding Principles on Business and Human Rights.