



## Case Study

The importance of understanding  
land-based livelihoods and why  
disrupting them can lead to conflict

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## Introduction

This case study considers the experience of a small medium enterprise (SME) seeking finance for a multi-crop agricultural venture. The SME is a long-standing client of the Bank with existing accounts for its boutique hotel business.

The case highlights the importance of establishing a clear understanding of land tenure regimes and potential claims on land ownership and/or occupancy rights during the credit risk analysis. The legitimacy of lease titles and approvals obtained from government can be contested in areas where communities have previously obtained occupancy and usage rights for significant periods of time but without any formal security of tenure. This in turn can disrupt projects particularly greenfield developments.

International E&S Standards like the IFC Performance Standard No. 5 on “Land Acquisition and Involuntary Resettlement” provides a useful framework to assess a project with a land-related transaction that has the potential to, physically or economically, displace persons or communities who do not have the right to refuse land acquisition or restrictions on land use.

It is possible for a client to obtain land rights in accordance with the legal system, but which result in the displacement of communities that have been granted access to and resource usage rights in the past, albeit without security of tenure. In such scenarios, it is important to understand that land transactions can have a negative and long-term impact on the livelihoods of the individuals and households that are subsequently displaced, precisely because they have no formal rights. As such communities can be highly sensitive to land transactions and will turn to protest if they consider their livelihoods threatened. For projects involving land-based transactions stakeholder engagement is a critical success factor for deepening understanding of prevailing land tenure dynamics, ensuring that no parties are left worse off and building broad community support.

This case clearly demonstrates that there is a strong business case for banks to fully understand land rights risks for any project involving land acquisition and ensure that a client has undertaken adequate stakeholder engagement in that regard. In areas characterised by insecure land tenure regimes obtaining copies of title/lease deeds and government approvals may not be enough.

*The case is based on facts, but names have been changed for reasons of confidentiality.*

## Background

SME, Serendipity Lanka, was seeking financing to set up a 40-acre green field agricultural enterprise. Fruits from the enterprise were to be sold to hotels, juice bars and supermarket chains, with the high-quality grades being exported.

The company's farming operation is in an arid agricultural zone and neighbouring small holder farmers are heavily dependent on water from government-maintained irrigation canals.

The company had secured a 30-year lease title and approval for setting up a mixed intercrop farm prior to approaching the Bank for financing. The company required a five-year term loan of Rs.80 million for infrastructure development, irrigation, power supply and cold storage. The Bank categorized the transaction as high (so called category A) for environmental and social (E&S) risks triggering the need for an evaluation of the E&S risks associated with the venture. This was undertaken by the credit team as part of the credit analysis and prior to a decision on the disbursement of funds.

The scope of the E&S due diligence was primarily concerned with checking adherence to the stipulations attached to the Environmental Protection License (EPL), labour laws and relevant laws.

### **Appreciating why communities fight for land rights when they are threatened**

*“Displacement, from access to land and or land-based resources for a livelihood, whether physical or economic can result in long-term hardship and impoverishment for the affected individuals and communities” IFC*

### **Performance Standard 5**

## Findings of the E&S due diligence

In accordance with Sri Lankan Environmental Laws the Client had obtained an Environmental Protection License to which various conditions were attached. The major concerns raised by the environmental authorities were a change in land use and loss of natural habitat, soil erosion and impact on water resources from abstraction for irrigation.

The Bank was particularly concerned with water management and the potential for conflict with other farmers over access to surface water resources. In response the company invested in solar powered boreholes to access alternative water sources and a drip irrigation system for more efficient use of water resources.



No investigation was made to establish if there were any competing claims on the land as the client had submitted lease titles and approvals for the proposed land use and this was deemed adequate by the Bank. An initial evaluation report by the Bank's credit officers had noted that the land had previously been a government run onion seed farm that had closed 10 years previously and not been cultivated since.

No checks were made on the adequacy of the Client's engagement with potential stakeholders.

The conclusions of the E&S due diligence indicated that the impacts identified were manageable and no risks arising from E&S impacts were anticipated. The client was required to comply with the EPL stipulations and labour laws as E&S conditions attached to the financing agreement.

## It's all about the onion seed

After the release of the first tranche of the loan amounting to Rs.25mn the company commenced land clearing to establish the perimeter fence and the installation of the irrigation network. Before the company had completed the erection of the perimeter fencing local farmers forcibly occupied part of the land that the company had formally acquired leasehold for.

The protests stopped any further development of the farm infrastructure and threatened the loss of nursery plants due to delayed planting.

The protestors alleged that the company had obtained the land through corrupt means and that the area of land concerned was historically used for the cultivation of onion seeds and a source of planting material for the community. Accessing quality seeds and planting material is no small matter to local farmers as illustrated in the news article below. The community felt that their livelihoods were under threat from the new venture.

*"Over seven hundred onion farmers in the Dambulla area suffered losses due to substandard seeds bought from a private company in the area. Farmers in the area stated that they had to depend on this imported Indian variety. According to the existing laws, farmers who are affected are not able to get any compensation from companies or from the government. They had to bear the entire loss which was estimated around LKR 25 Million." Extracted from Talking Economics', the blog of the Institute of Policy Studies of Sri Lanka*

*Security of access to land and land-based resources is a significant issue for a large part of the world's population who still depend on land and natural resources for a source of income or other means of livelihood and where access is far from secure under prevailing land tenure systems.*

*As such developments that, disrupt an existing right to access land and/or associated resources, directly threaten those livelihoods and becomes a potential source of conflict. Such disruptions could be outright dispossession, pollution of a natural resource, limitations to previous access rights conferred. These disruptions may result in physical displacement and/or economic displacement.*



Image: Pixabay

The company, subsequently, had to engage in lengthy legal and negotiation processes to resolve the crisis which resulted in losses associated with project implementation delays and ability of the company to meet its repayment schedule. The repayment schedule had to be revised to allow the company to continue as a going concern.

It was only during the stakeholder engagement process, prompted by the protests, that the company articulated the benefits that the project envisaged such as improved road access and an out-grower scheme. Through engagement, the conflicts with the local farmers were resolved and the company has turned into a profitable going concern that continues to transact with the Bank.

## Points of reflection

1. The scope of the E&S risk assessment that a Bank conducts should be commensurate with the level of E&S risk flagged. This transaction was correctly flagged as high E&S risk as it was a green field venture involving a land transaction and had the potential for conflict over water resources and land. Unfortunately, the subsequent E&S risk assessment was not commensurate with the risk level flagged and failed to note that there had been inadequate stakeholder engagement undertaken by the project proponent.

For high E&S risk transactions it helps to identify a set of good practice standards against which to evaluate a client's E&S impacts. The IFC Performance Standards are a valuable guide in this regard and Banks are encouraged to use them as an information resource especially for high E&S risk transactions.

In this case [IFC Performance Standard No 5](#) would have provided the Bank's E&S due diligence team with a deeper understanding of impacts that can arise when a greenfield project involves the acquisition of land. Particularly where there is uncertainty around land rights and when access to use land may have been conferred to a third party for a significant period of time.

Projects involving land-based transactions, especially where involuntary displacement, physical and/or economic, is triggered must be approached sensitively and ideally displacement avoided. Where unavoidable the adverse impact of displacement should be minimised and mitigated, preferably through land-based compensation and resettlement actions that ensure livelihoods are restored and not eroded.

2. Consulting other stakeholders during site visits for the E&S risk assessment can be insightful. It is particularly important for transactions involving any change of land ownership or occupancy and usage rights. What your neighbours have to say can often be more revealing than information provided by authorities and ESIA studies.
3. Social impacts are often more challenging to address than environmental impacts and as a result are a more likely source of business risk to an enterprise and its financiers. As such understanding community rights to safe and healthy livelihoods and what this comprises becomes an important lens through which to assess your client's activities and how they may impact those rights.

[Please access additional stakeholder engagement implementation resources on the page accessed through this link](#)