

Real Estate Market, Property Valuation, Land Taxation and Capacity Building in Cambodia

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Summary

Following the »Land Policy Declaration« from July 2009, the Royal Government of Cambodia henceforth has the unique opportunity to implement a land valuation policy by the Council of Land Policy. Land valuation, taxation and capacity building are indispensable elements of a land reform in Cambodia. By improving prior assessment tools for valuation and taxation, Cambodia could serve as an example for the development of taxation in circumstances when rent-seeking, speculation, informal land markets and an unequal land distribution occur. Property taxation – eventually supported by land value increment taxation – will become an important future source of the Cambodian revenue. Taxation should be ideally flanked by a coded, transparent and upgradeable property record system, by actualized or revised land valuation manuals and a holistic land information infrastructure due to international standards.

Zusammenfassung

Als Ausfluss der »Land Policy Declaration« von Juli 2009 hat die kambodschanische Regierung nunmehr eine einmalige Gelegenheit, mittels des interministeriellen Gremiums für Bodenpolitik, ein System zur Grundstückswertermittlung zu implementieren. Wertermittlung und ein Steuersystem sind unabdingbare Elemente der Landreform in Kambodscha, die für eine sozialgerechte Bodennutzung und eine gleichmäßige Verteilung der Landnutzungsrechte Sorge zu tragen hat. Eine Grundsteuer und gegebenenfalls auch eine Bodenwert(-zuwachs)steuer könnten die Einnahmehasis für den kambodschanischen Staat zukünftig erheblich verbreitern. Das Steuersystem sowie die Grundstückswertermittlung werden idealerweise begleitet von einem aktuellen, umfassenden Eigentums-, Informations- und Vermögenskataster sowie von Durchführungs- und Anwendungsvorschriften, welche nach internationalen Richtlinien erarbeitet werden sollten.

Keywords: Real estate development, Land valuation policy, Property taxation, Capacity building, Cambodia

1 Introduction

After decades of civil war and the communist Khmer Rouge domination of »Democratic Kampuchea« (1975–1979), Cambodia followed a concept to transform a socialist system into a market oriented democracy. This process includes legal reform assistance aiming at subsidiary legislation related to adjudication, taxation, valuation, titling (land privatization and the creation of private property rights) and decollectivization. The introduction

of formal property systems – for which Cambodia is not well prepared – is still incomplete. Real estate markets are considered to be informally and transactionally inefficient. In the Land Administration, Management and Distribution Program (LAMDP), the Royal Government of Cambodia (RGC) proclaimed to strengthen the Cambodian land markets and tenure security. The land titling process, disposing of the formalization of de facto possession rights into de jure property rights, results in 250.000 to 300.000 new private land titles a year. LAMDP – formerly named as LA-SSP – is currently implemented by Germany via its organization GTZ, which is responsible for »Land Policy Regulatory Framework«, »Institution Building« and »Resolution of Land Conflicts«. The Project partners Finland (through Finnmap) and Canada (through CIDA/LMAP Canada) are engaged in the components »Land Registration and Award of Titles« respective »Land Parcel and Property Assessment«.

2 Land Market Situation in Cambodia

In 2007/2008, sites in prime location in Phnom Penh were worth 3.000 USD per square metre (sqm) with a price peak at the capital's riverfront area with 5.000 USD per sqm, compared with 250 USD/sqm in 2004. This development mirrors single »skyrocketing« land prices for prime areas by as much as 1.000% from 2005 to July 2008 (Phnom Penh Post 2009). Concerning international real estate view, the prices per sqm seem to be moderate and reasonable (see Tab. 1). If the economic development and real estate infrastructure of Cambodia – in particular for

Tab. 1: Land prices per sqm in selected Asian cities and countries

| Rank | City/Country | Average land price per sqm (in USD) |
|------|--------------|-------------------------------------|
| 1. | Hong Kong | 15.424 |
| 2. | Japan | 13.814 |
| 3. | Singapore | 11.324 |
| 4. | India | 9.542 |
| 5. | Taiwan | 3.919 |
| 6. | China | 2.834 |
| 7. | Cambodia | 2.495 |
| 8. | Thailand | 1.939 |
| 9. | Malaysia | 1.366 |
| 10. | Indonesia | 1.287 |

Tab. 2: Past, present and future urban land price development in Cambodia

| Price development in urban areas | | From | To |
|----------------------------------|---------|-------|--------------|
| Past | 2003 | 10 % | 15 % |
| | 2004 | 15 % | 20 % |
| | 2005 | 15 % | 20 % |
| | 2006 | 20 % | 30 % |
| | 2007 | 60 % | 70 % |
| Before election | I-2008 | 40 % | 50 % |
| After election | II-2008 | -15 % | 20 % |
| | 2009 | -35 % | -25 % |
| Actual | 2010 | -10 % | 0 % |
| Future/Forecast | 2011 | 3 % | 10 % |
| | 2012 | 10 % | 15 % or more |

the retail market (malls, shopping centres, entertainment facilities etc.) with a lack of parking spaces and quality floor space – are taken into account, the price level is anything else than moderate. »Thus, developers will either have to hope for prices coming down in the city centre some day or look for more decentralized areas« (Marks 2010, p. 17). However, such development would foster urban sprawl and suburbanisation tendencies.

In particular, prices in Cambodia increased extensively from 2006 until the elections in 2008. After the national elections the price hike was interrupted. Meanwhile, the price level has almost returned to the level of 2007. In regional conurbations (Phnom Penh, Siem Reap, Battambang), the average price development is as follows (see Tab. 2).

At present, the housing market and the export-oriented economy are under risk. The global financial and property difficulties caused by subprime mortgage loans have hit Cambodia in particular by a rapid run-down in real estate prices and also construction costs of 25–35% until the end of 2009, by an ensuing »bust« and a spike in defaults (The World Bank 2009; see also Tab. 2). A new price hike in urban areas is possible from 2011/2012 on. Also a new roll-out of money is expected from wealthy Cambodian urban investors as well as from foreigners who are allowed to own property (e.g. condominium property) in Cambodia due to a Law on Foreign Property coming into force in 2010. The following price forecast

Tab. 3: Expected price development in urban areas

| Present/Forecast | Year | From | To |
|------------------|------|-------|--------------|
| Present | 2010 | -10 % | 0 % |
| Future/Forecast | 2011 | 3 % | 10 % |
| | 2012 | 10 % | 15 % or more |

for 2010 to 2012 related to urban areas can be made (Löhr 2010; see Tab. 3).

Like in the past, price bubbles in rural areas are expected to take place mainly at locations with a moderate price level (for buying, renting, and leasing), good quality land and development expectations, particularly regarding (eco-)tourism. Besides Phnom Penh (I), real estate advisors expect future prices to rise mainly in the regions of Krong Preah Sihanoukville/Kampot (III), Battambang/Siem Reap (II) and Ratanakkiri/Mondulkiri (IV), as shown in Fig. 1. Although decelerating forces are also at work, aberrations of the land market continue to be possible in the future. In the long run negative impacts on food security, due to soil degradation, capture of the distribution channels by foreign actors, lack of access for land-poor and landless people to agricultural land are also possible if no counteractive measures (e.g. through land use control mechanisms and taxation tools) are legally enforced (Löhr 2010). Tab. 4 and Fig. 1 show the urban and rural



Fig. 1: Map of »hot spot« urban and rural areas for future price developments in Cambodia

Tab. 4: »Hot spot« urban and rural areas for future price developments

| Region | Phnom Penh (I) | Siem Reap (II) | Sihanoukville/ Kampot (III) | Mondulkiri/ Ratanakkiri (IV) |
|--------|---|---|--|--|
| Cause | No limits and building codes yet on the height of real estates, hence high »intensity rent« | No limits on the height of buildings and intensity of use, but land scarcity caused by zoning | Development projects for Tourism, Airport, Seaport, Golf Resorts | Development projects for (Eco-)Tourism and Foreign Direct Investments (FDI) in agriculture (e.g., rubber, cassava) |

regions with the highest price developments, additionally the reasons for these price increases and rent-seeking tendencies due to construction and infrastructure activities (Tep and Klork 2008).

3 Land Policy Declaration and Land Valuation Policy

At 1st July 2009 Cambodian Prime Minister Hun Sen signed the »Declaration of the Royal Government on Land Policy« (RGC 2009). The guidelines for valuation and taxation will be embedded within a National Policy on Land Valuation (NPLV) that specifies and defines that Land Policy Declaration. The NPLV, which is currently being drafted in Cambodia, will identify its various applications and repartition of responsibilities among involved bodies, namely the ministries and the Council for Land Policy (CLP). Such a policy will be regularly updated. In order to strengthen and extent land valuation techniques, two steps of land valuation strategy must be established in Cambodia. The first step (0–5 years) should consist of land valuation procedures, which are ideally defined in simple, easy understanding for the first implementation step. A land valuation methodology must be chosen and accepted for the first step by using all the three main valuation approaches. The second step (5–15 years) comprises standardized land valuation procedures that must be prepared and established in scientific manner for the implementation. The future Land Valuation System in Cambodia will be constructed as a relationship among four components including legal framework, institutional, technical and financial sectors, which have interaction to each other to determine the market value (Fournier 2010, LMAP Canada 2010). In the future, the results of land valuation should be publicly displayed and reported. Appeal rights for result of land valuation must be provided. Access to data must be opened in view of clarity and transparency. Land value information via monitoring and revaluation must be updated; data delivery service must be transparent, effective and responsive through decentralization and deconcentration (see Fig. 2). Assessment ratio should be defined in order to attract participation from various intervening bodies such as landowners, real estate companies, no-

taries, banks and the involved ministries, especially the Ministry of Land Management, Urban Planning and Construction (MLMUPC) for valuation and the Ministry of Economy and Finance (MEF), which will be responsible for tax collection.

4 Property Rights and Valuation

Cambodia has adopted a market economy system (Article 56 Constitutional Law) including the rights for all Cambodians to own any amount and kind of land (Article 44 Constitutional Law). The legal framework for individual private property rights – the cornerstone of Cambodia’s land reform under the »tenure security«-approach – includes the Constitution from 1993, the Land Law from 2001 and diverse Sub-decrees. Private property is protected by the Constitution and the Land Law. Systematic or sporadic land registration transforms use rights (e.g. possession rights) and ownership into private

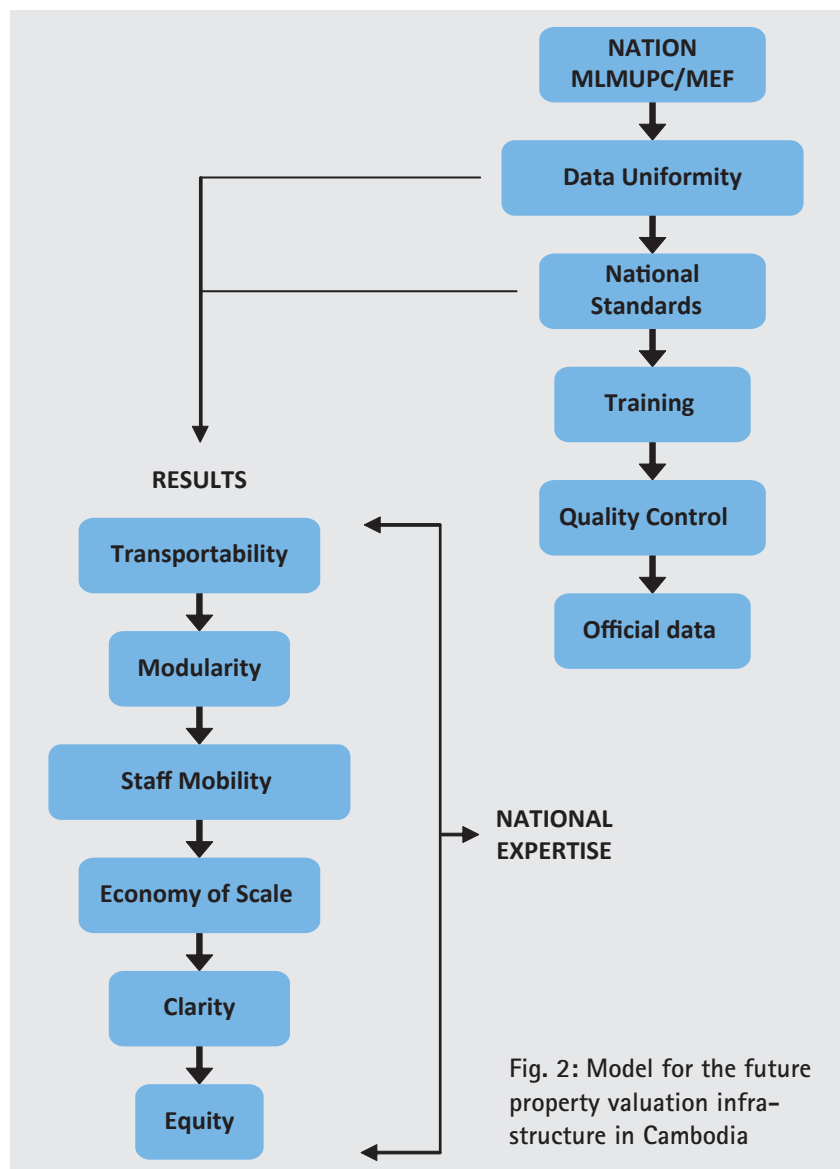


Fig. 2: Model for the future property valuation infrastructure in Cambodia

property rights (Thiel 2010). However, the implementation of a property market faces problems like unclear plot boundaries, a weak rule of law and the unfinished issuing of documents for mapping, property registries, valuation and taxation. A future land valuation and taxation system in Cambodia will define the contents of a »fair market value« according to the International Accounting Standard (IAS) (Fournier 2010; Finkemeyer 2008). This will be particularly important for expropriation measures (compensation) and for the valuation of state assets.

The framework for land valuation in Cambodia bases legally on the concept of »immovable property« (Article 2 Land Law 2001). This legislation, influenced by France, is equivalent to the existing ones in many countries. Article 2 defines the sense of immovable properties by nature, by purpose and by law. Immovable property, which »land« ideally represents, includes in Cambodia:

Land + Constructions + Property Rights + Servitudes.

The term »land« has to be interpreted as land including constructions or improvements (assets) and property rights which are appraisable for mortgages and hypothecs to determine co-ownership value and results from investments. Land valuation in Cambodia will be constructed as a sub-layer of the multipurpose cadastral system for public and private land (Williamson et al. 2010). Given such multi-purpose land valuation system, which is provided by most of the Western States, the cadastral system shows the overwhelming importance of property on land

as collateral and mortgage. Land valuation mapping is complementary to the cadastral system. In fact it supports the GIS and fiscal cadastral system (see Fig. 3). In future, land valuation mapping in Cambodia will consist of the integration of maps as a copy of the cadastral map and of satellite images.

5 Appraising and Assessment for Valuation and Taxation

Land valuation applications in Cambodia will consist of two general families of activities: Single Appraising and Assessment. Both techniques are based on the same foundations and are thus subject to the same methods of valuation. Appraising means detailed single expertise, while assessment is a mass-application for taxation purposes through coded structures. Appraising aims at private expertises while assessment is ordered by governmental authority in view of territorial inventory and add valor-em taxation on immovable properties. (Mass) appraising should generally be under a national professional order ruling its members and submitting them to the code of ethics and professional inspections. Assessment is normally covered by law and submitted to a specific national policy; such a policy is limited to assessment practices. The Cambodians once acting as assessors will come from public and private sectors and will be submitted to rules of conducts, conditional contracts or to their specific mandates (UBC 2003; Krumbholz 2007; LMAP Canada 2008; Finkemeyer 2008; Fournier 2010).

Appraisal and assessment require market monitoring and data storage in a timely and updated manner for the purchase of prices, for rent prices and statistics regarding to construction materials (Finkemeyer 2008). The land information system (LIS) will serve both as data storage and land valuation mapping in order to combine property and site related data (e.g. size, location, condition). In Cambodia this theme on actualization, revision or evolution should be fixed within a legal framework as an obligation to the assessor. This should happen to secure the updating of data bases and to ensure the integrity of the tax base on immovable properties to distinguish between data assessed values. It is essential to actualize the existing Data Bases (DB); this is considered as a permanent task for the assessor. To consider these modifications, the assessor must revise

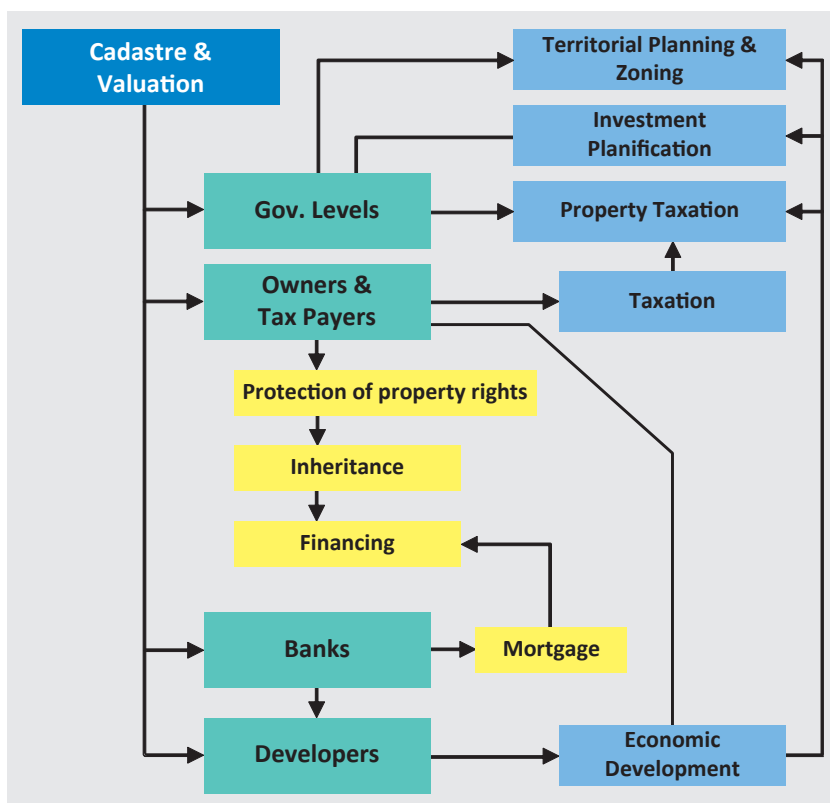


Fig. 3: Benefits and interconnections of a future land valuation and taxation system for Cambodia

the property record and recalculate the value by using the same unit-rates of valuation which already exist and amend the DB. This is essential to avoid distortions and unfair tax burden displacement. The Cambodian property owners and tax payers must be notified to support their right of opposition in case of errors. Once the assessment roll is completed for the first time, the assessed values will gradually change as a result of market/economical evolution. This type of actualization should be done in Cambodia every five years (UBC 2003; Fournier 2010; Williamson et al. 2010).

6 Land Valuation Methods

The implementation of – at least the three common – property valuation approaches like cost method, comparison method and income method towards the involved bodies (real estate developers, banks, public authorities, universities etc.) is still incomplete in Cambodia. The ultimate goal of the valuation process in Cambodia is a well-supported value conclusion that reflects all the factors that influence the market value of the property being appraised. To achieve this goal, the appraiser has to study a property from three different viewpoints, which are referred to as the methods to value (e.g. Isaac 2002; Appraisal Institute of Canada/Appraisal Institute 2005; Kertscher 2009). Traditionally, specific appraisal techniques are applied within the three methods to derive indications of immovable property value. One or more methods for property valuation may be used depending on their applicability to the particular appraisal assignment, the nature of the property, the needs of the client or the available data. The sales comparison method can be interpreted as most reliable and transparent but only if adequate comparable land transactions exist (Finkemeyer 2008; Kertscher 2009). Each method requires the gathering and analysis of data that pertains to the property being appraised.

Since land use control mechanisms (e.g. unified zoning measures) do not yet exist for the whole territory of Cambodia for the training course at the FLMLA neigh-

bourhoods were identified where uses of the sites were similar; a typical USD per sqm value was assigned as a benchmark site value for each neighbourhood. Values within each neighbourhood may vary according to differences in physical characteristics from the benchmark property but they do not vary by use. Therefore, until land use controls have been created the »highest and best use«-principle only analyzed the site. When indices are available, the preferred method of estimating the market value of a site is the direct comparison method as mentioned before. Indices were defined as the comparable sales, listings for sale and offers to purchase that were comparable with the subject site in order to estimate the market value (LMAP Canada 2009). In Cambodia, situations occur frequently where there are no site indices due to the informal and intransparent land market; then an estimation of the depreciated cost of the building is deducted from the sale price of the property. *For example:* If the site value of a single-family residence in the capital Phnom Penh is needed, sales of single-family residences of older buildings can be found. The reason for researching older buildings is because the main component of value is the site thus the building contribution is typically small and relatively easy to identify (see Tab. 5).

Example for market valuation in Cambodia by using the cost method:

The four properties located in an urban pilot project (Phnom Penh) as listed in Tab. 5 were sold at the prices being indicated. The site value of each of the sales is estimated by firstly adjusting the sale for market conditions to July 1 and then subtracting the contributory value of the building from its sale price. Once the site values for the indices are found, an adjustment can be made. The site value range is between 82.000 USD and 85.000 USD per site, but the price per sqm range is wide at 467 USD to 607 USD per sqm (Tab. 5). In this neighbourhood the price level indicates that the site size is larger than what is needed to build a house adding little extra value. However, this may not be true for all neighbourhoods; hence an analyzing of each situation will be required.

Tab. 5: Land sales in four selected areas of Phnom Penh (2008)

| Address | Sale Price (USD) | Sale Date | Site m ² | Bldg. m ² | Year Built | Bldg. Value (USD) | Site Value (USD) | Price per m ² (USD) |
|-----------------|------------------|-----------|---------------------|----------------------|------------|-------------------|------------------|--------------------------------|
| 2 Kramoun Sar | 115.000 | Feb. 08 | 154 | 120 | 1957 | 29.000 | 82.000 | 532,47 |
| 140 Kramoun Sar | 96.000 | Apr. 08 | 169 | 90 | 1960 | 11.000 | 83.000 | 491,12 |
| 220 Ang Non | 112.000 | Apr. 08 | 180 | 92 | 1960 | 26.000 | 84.000 | 466,67 |
| 419 Oudong | 110.000 | Mar. 08 | 140 | 104 | 1956 | 22.000 | 85.000 | 607,14 |
| Median | | | 162 | | | | 83.500 | |

7 Land and Property Taxation

At present, taxation of real estate is done in Cambodia by land transfer taxation, impersonal property taxation and taxation for unused land. A proper land taxation system is crucial for a successful land use policy, not only for Cambodia. In the past the developments on land markets partially counteracted the intentions of the land reform: To allocate land to peasants and to safeguard their livelihood. Land speculation, »land grabbing«, land concentration, land disputes and evictions have been aberrations that were caused by the described price hikes (Löhr 2010). In theory, currently land transfers are taxed in Cambodia by using a property transfer tax at a rate of 4%. The stated prices as part of the selling contracts are mostly understated by 40% till 80% – or are simply not registered at all – for tax saving and/or evasion purposes (Krumbholz 2007; The World Bank 2007). The Cambodian government has decided in 2010 to assess and tax the immovable properties in the country having a value from 25.000 USD and up with a rate of 0.1% (property taxation). For this taxation, neither didactical materials nor training courses are available for the staff of the Ministry of Economy and Finance (MEF) that is responsible for the tax collection. Assessors may be assigned by the MEF without basic knowledge about property taxation. Moreover, taxing the properties above the level of 25.000 USD eventually opens a corruptive mechanism since the taxpayer may pay a »kickback« – as secret USD – in order to gain valuations below that 25.000 USD limit.

The tax on unused land seems to be insufficient as well, since there are disputes whether land can clearly be defined as »unused« or not. Instead, Cambodia could consider different strategies dealing with the phenomenon of land speculation, e. g. by selling the State land to private investors under the condition that the desired development of the land has to be granted by the buyer within a certain period of time. If the investor fails to fulfill this condition, the land may fall back to the government; the buyer would receive the investment he paid for the land back but without compensation for the unearned »windfall profit« (Finkemeyer 2008). In order to avoid such problems, land should be taxed without regarding the actual use – it should be a tax on imputed proceeds. For these and other reasons, the site value tax could be accompanied by a land value increment tax (LVIT), based on the value of a site and not of the building. The rate for the LVIT should be fixed without being changed according to the actual use of the site. A fixed tax rate always results in the same tax burden for the owner. The owner of the land cannot avoid the tax, if it has the character of a fixed price. The only way to lower the effective burden of the tax is to use the site efficiently (Löhr 2010). However, to implement LVIT in Cambodia, the national, regional and local State authorities responsible for land

valuation and taxation would face the difficulties of partly skimming-off the potential rent-seeking gains of the landowners to achieve an even distribution of wealth between Cambodians. Windfalls are caused by increased land values and demand for land by outside investors especially in Phnom Penh. The assessment of the tax base could be carried out by committees according to the blueprint of the German land assessment boards (»Gutachterausschüsse«, § 192 BauGB) (Löhr 2010; Kertscher 2009; Finkemeyer 2008).

8 Capacity Building for Land Valuation and Land Market

The Cambodian Ministry of Land Management, Urban Planning and Construction (MLMUPC), in cooperation with the Faculty of Land Management and Land Administration (FLMLA) and the Royal University of Agriculture (RUA) have set up a bachelor program with technical assistance from Germany (German Federal Ministry for Economic Cooperation and Development – BMZ through the German Technical Cooperation – GTZ). The mission of the FLMLA is to provide an internationally accredited bilingual education with innovative education methods and a curriculum that follows the Cambodian job market needs in that specific sector (see Tab. 6). According to the detailed curriculum and the course descriptions (Mund/Vung/Lor 2005), students obtain basic knowledge about the land and real estate market, their structure, components and operating mechanisms. They should understand the importance of real estate valuation and property taxation in Cambodia against the background of the settlement of land disputes. The students should also be aware of the necessary political, legal and institutional framework conditions.

Before initiating assessment and appraising applications for the curriculum update, it is essential to develop a specific training program and then apply it with written examinations (for students of the FLMLA) or followed by certificate issuance (for ministry staff). A common core syllabus integrating appraising and assessment is possibly due to the fact that basic definitions, concepts, principles, forces influencing value and methods to value are the same.

9 Conclusion and Outlook

By improving prior assessment tools for mass valuation and for a property tax based on the assessed value of the property, Cambodia could serve as an example for the developing of taxation in circumstances when rent-seeking, informal land markets and an unequal land distribution occur. Capacity building for land valuation, taxation,

Tab. 6: Core curriculum of the Faculty of Land Management and Land Administration, Royal University of Agriculture (Phnom Penh) (simplified)

| FLMLA – Department Structure | | |
|--|--|--|
| Land Policy | Land Management and Land Administration | Geomatics, Surveying and Mapping |
| <ul style="list-style-type: none"> ■ Land Law/Property Legislation ■ Land Policy ■ Legal Framework for LM & LA in Cambodia ■ Natural Resource Rights ■ Land Economics ■ Social and Economic Land Issues ■ Public Administration | <ul style="list-style-type: none"> ■ Land Administration: Registration and Cadastral Systems ■ Land and Real Estate Valuation ■ Land Taxation ■ Land and Real Estate Market ■ Land Conflict Reconciliation ■ Land Use Planning ■ Urban Planning ■ Regional Planning and Rural Development ■ Land Development/Land Consolidation/Land Readjustment | <ul style="list-style-type: none"> ■ GIS and Cadastral Mapping ■ Surveying, Information and Communication Technique (ICT) ■ Data Application Software ■ Web-based Cartography ■ Geodesy ■ Photogrammetry and Remote Sensing ■ GPS ■ Aerial Photography |

economy and legal education are essential. Without this, the assessment applications will lose the public trust due to important errors. There is a fundamental difference between appraising and assessment – as it is between valuation and taxation which never should be mixed up. In many cases there is additional/permanent training available, e.g. through annual »Summer Schools« at the RUA/Phnom Penh.

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