



Institutional barriers to the development of agricultural land market in Vietnam

Institute of Policy and Strategy for Agriculture and Rural Development

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Introduction

Objective: Review and assess the institutional barriers to agricultural land and market development in order to propose amendments to the Land Law 2013 and other sub-law documents (Decree 43, Decree 135, policies on credit, investment attraction...) towards increasing land use efficiency and developing rural economy.

Specifically:

Review on relevant policies and international experience

Field survey on agricultural land market

Analysis and recommendation

Consultation

Introduction (cont.)

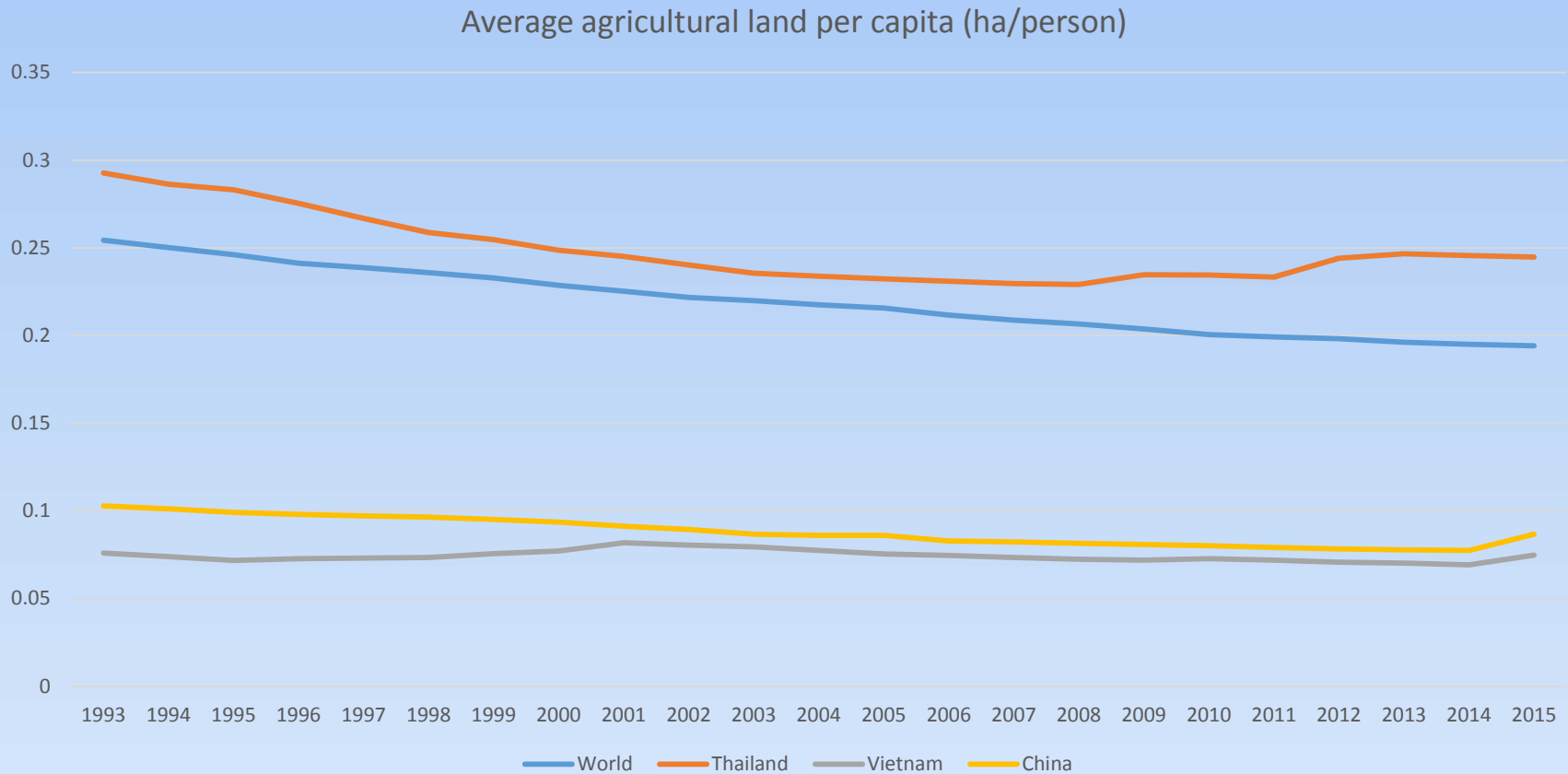
Survey site:

- Red River Delta: Ha Nam province
- Mekong Delta: An Giang
- Northern Midland and mountainous region: Hoa Binh
- Highlands: Lam Dong

Objects: Households (45 households/province), cooperatives, farm, enterprises, local authorities, experts

Scope: land for agricultural production, focus only on institutional barriers directly related to agricultural land market administration.

Status of agricultural land: scattered



Source: WDI (2018)

Status of agricultural land: fragmented

Comparison with neighbor countries:

Thailand (2012):

1,4 mil. plots having scale > 22ha

11 palm farms having scale of 3.000-4.000 ha/farm

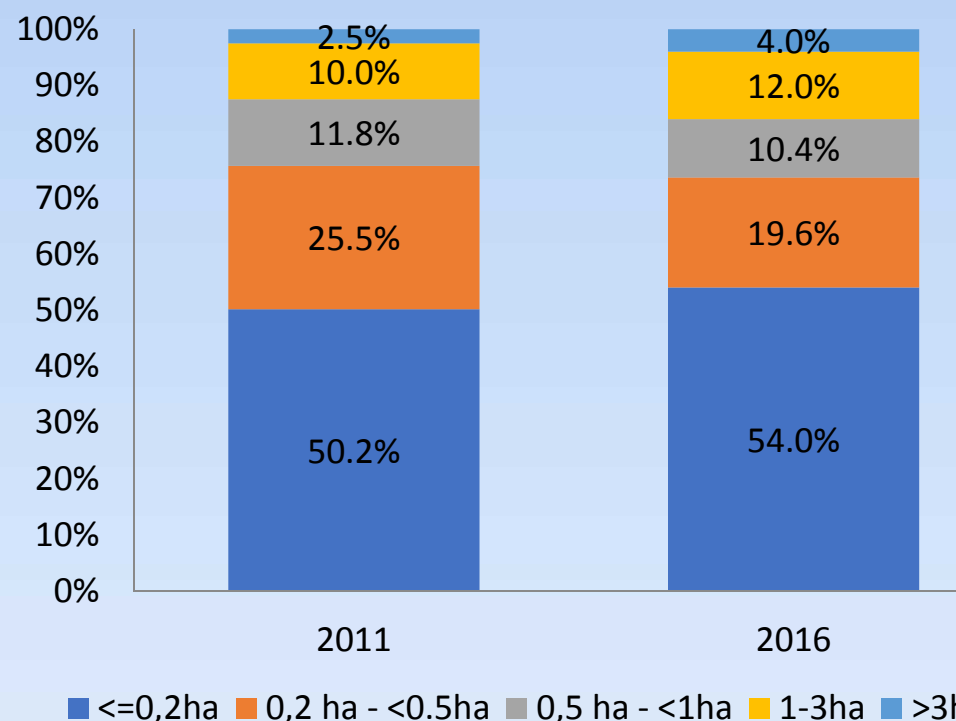
China (2013):

8,82 % of cropland areas having scale >3ha/plot

0,1% of cropland areas having scale of 30-70ha/plot

Over 70% of cropland plots in Vietnam having scale <0.5 ha

Proportion of cropland plots by scale, 2011-2016



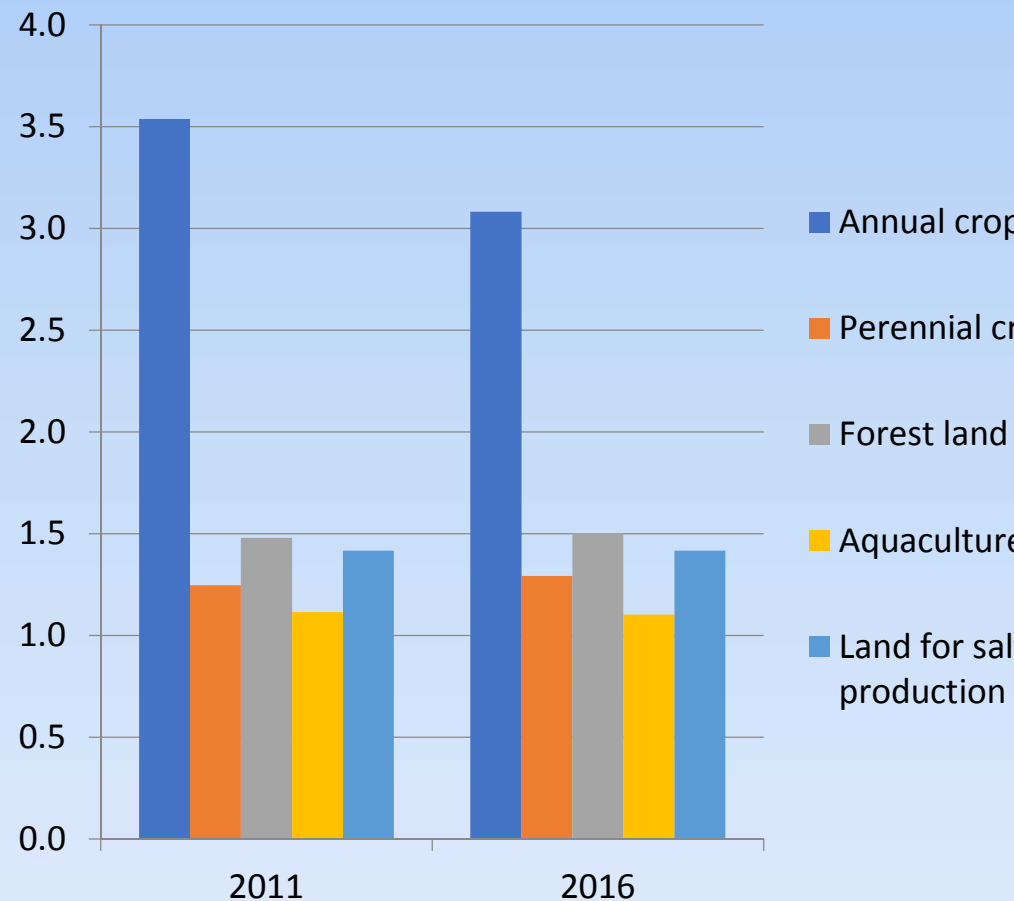
Source: WB

Source: 2011&2016 Agrocensus.

status of agricultural land: Land accumulation & concentration process is slow

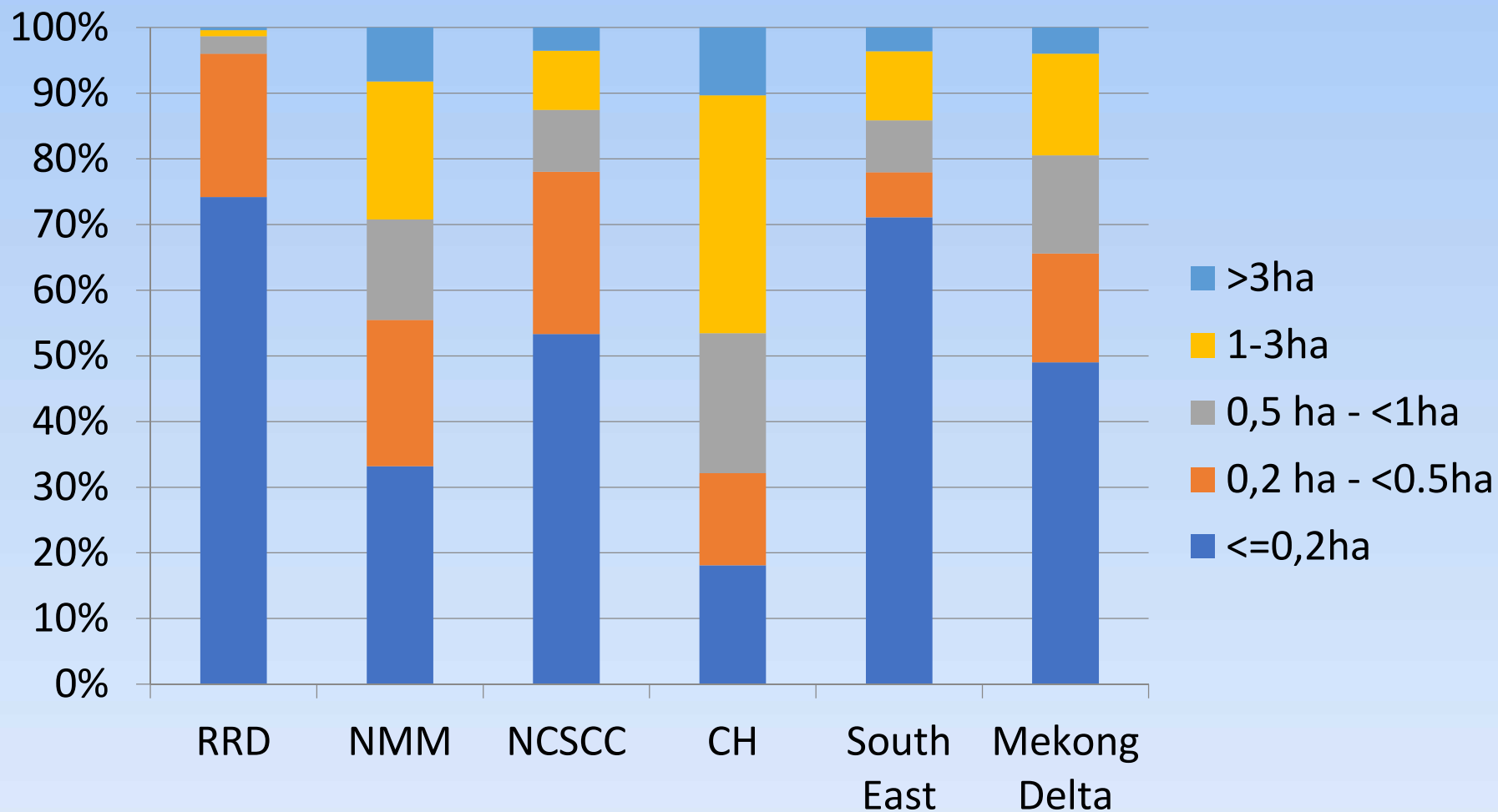
Average number of plots per farmer in Vietnam

	Agricultural land	Annual cropland	In which: <i>paddy land</i>	Perennial crop land
er Delta	2.0	2.9	2.6	1.2
rn midland and ainous region	2.4	4.6	3.3	1.4
Central and South Coast	2.0	3.2	2.4	1.2
Highlands	1.5	2.0	1.5	1.6
East	1.2	1.4	1.4	1.3
g Delta	1.2	1.5	1.5	1.2
country in 2016	1.9	3.1	2.5	1.3
country in 2011	2.5	3.5	3.0	1.2



Source: Agrocensus
2011, 2016

Fragmentation by region in 2016



Source: 2016 Agrocensus.

Status of agricultural land

Statistics are not close to reality:

Proportion of perennial crop land in forest land

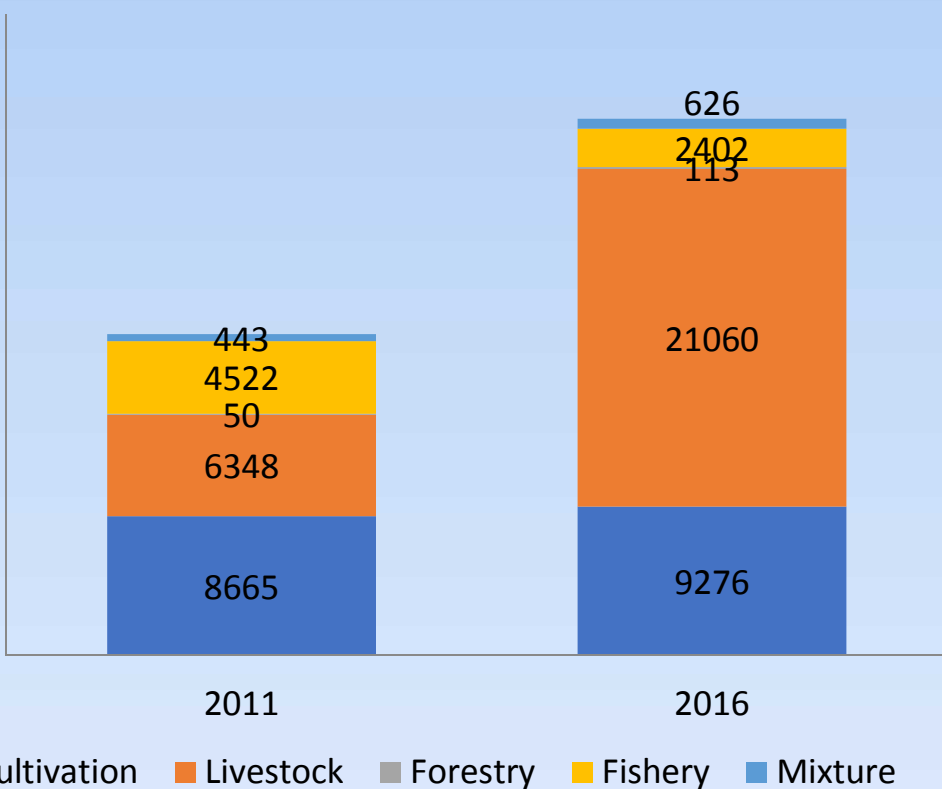
Land area of fruit tree, annual crops on paddy land

The issue of agro-forestry land has not been resolved thoroughly

Not updated, missing database on land marking

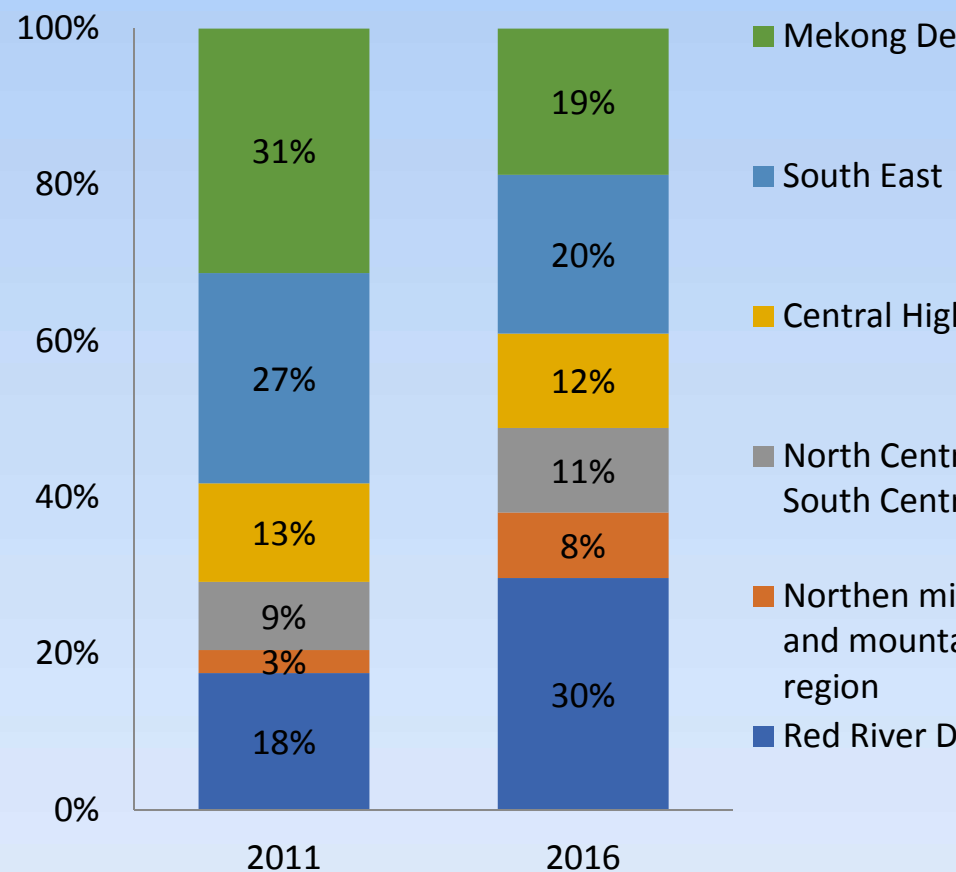
Status of agricultural production: Number of farms grows slowly

Number of farms divided by type



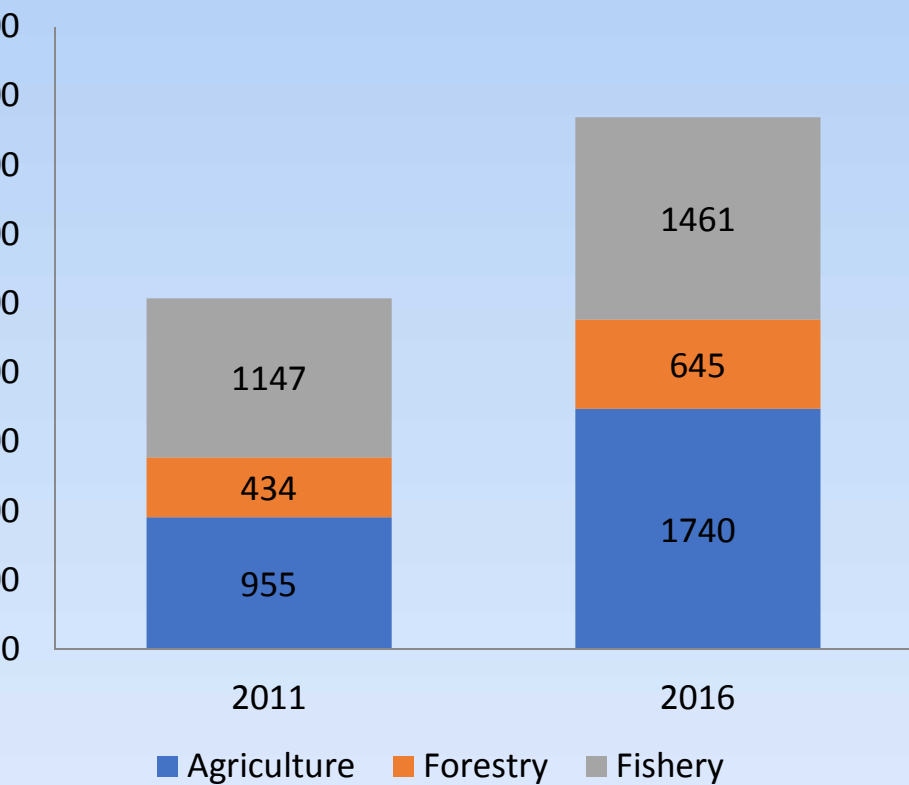
Source: GSO, MARD

Percentage of agricultural farms by region

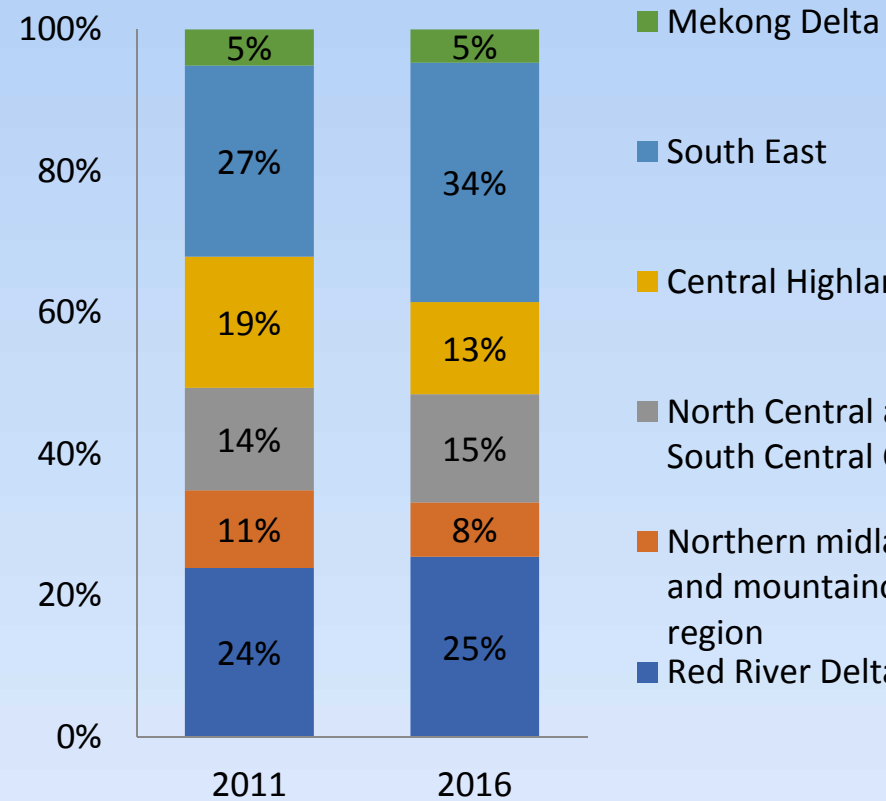


Agricultural production: Attracting enterprises' investment in rural agriculture is limited

Number of agro-forestry-fishery enterprises in Vietnam



Percentage of agricultural enterprises



Nguồn: GSO (2018)

Viewpoints for developing land-use rights market

Land use rights as property rights

Promote the role of the State in supporting and creating motivation to bring out higher economic efficiency per unit of land area.

Increasing land use efficiency must be associated with sustainable development and economic, political and social stability

Agricultural land market: Forms

Transfer of land use rights: conversion, transfer, inheritance, donation of land use rights and capital contribution using land use rights from one person to another (Section 10 Article 3 Land Law)

Leasing land use rights: Farmers/organisations/enterprises lease land of farmers/ of the State

Other: pledge, mortgage

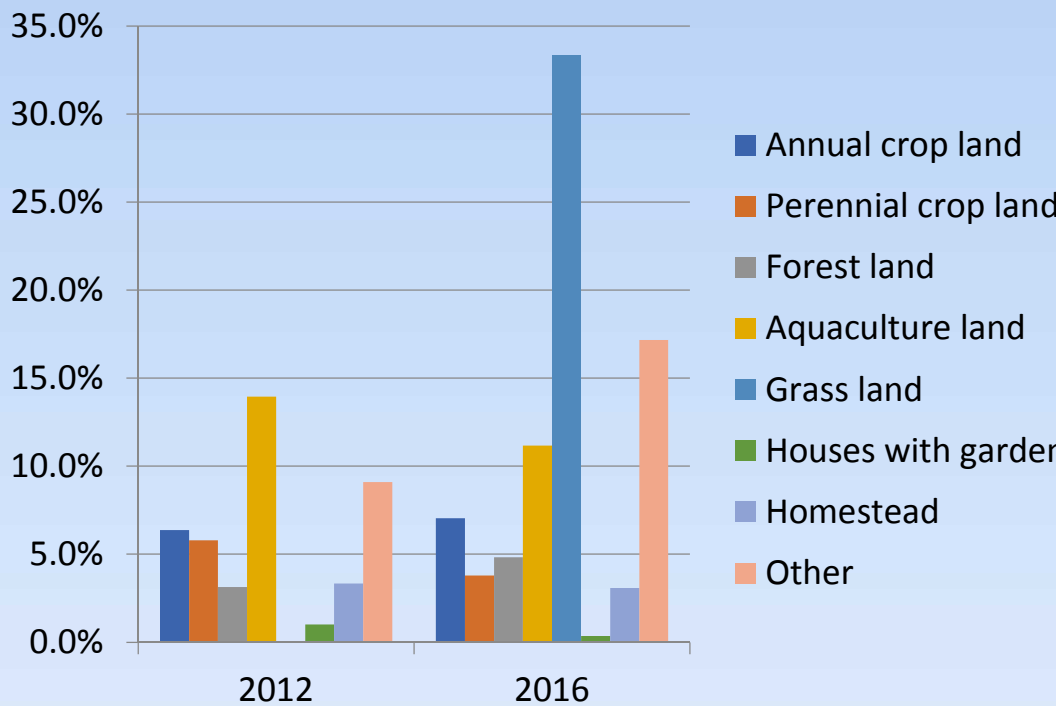
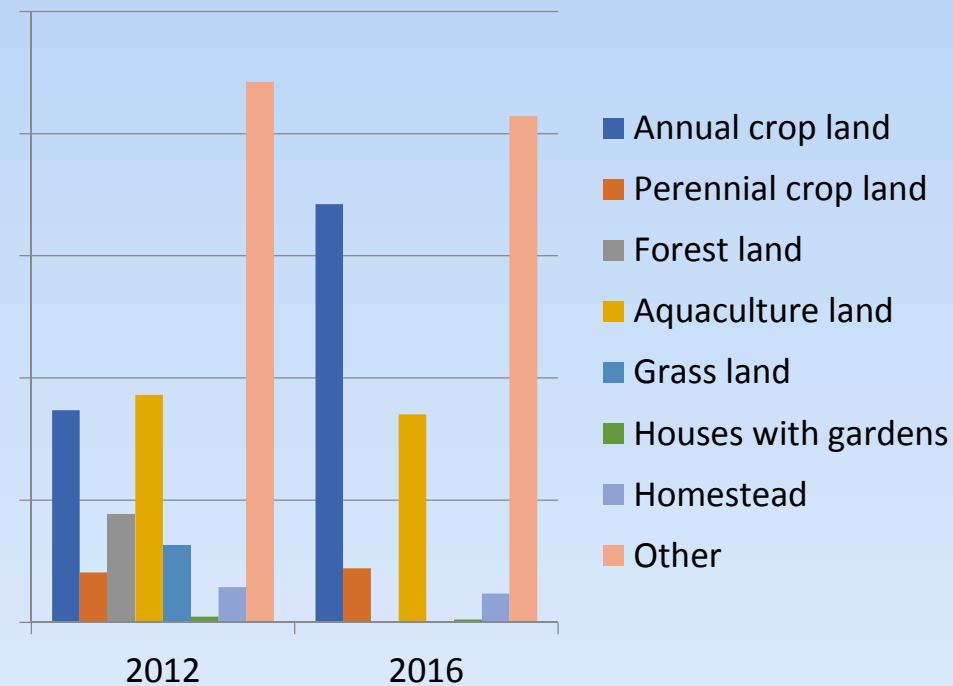
Agricultural land market

Rate of HHs with land lease out or rent in of total HHs having agricultural land, divided by type of land

%

Lease out

Rent in



Source: 2012&2016 VARHS

Land use right transfer market: Farmer - Farmer

Characteristics:

- No demand to use: labor in non-agricultural works
- Inefficient agricultural production
- Need money to invest
- Widen production
- Purchase for renting purpose
- Purchase with purpose of waiting for compensation from projects or conversion of land use purpose

Form: Notarized or handwritten

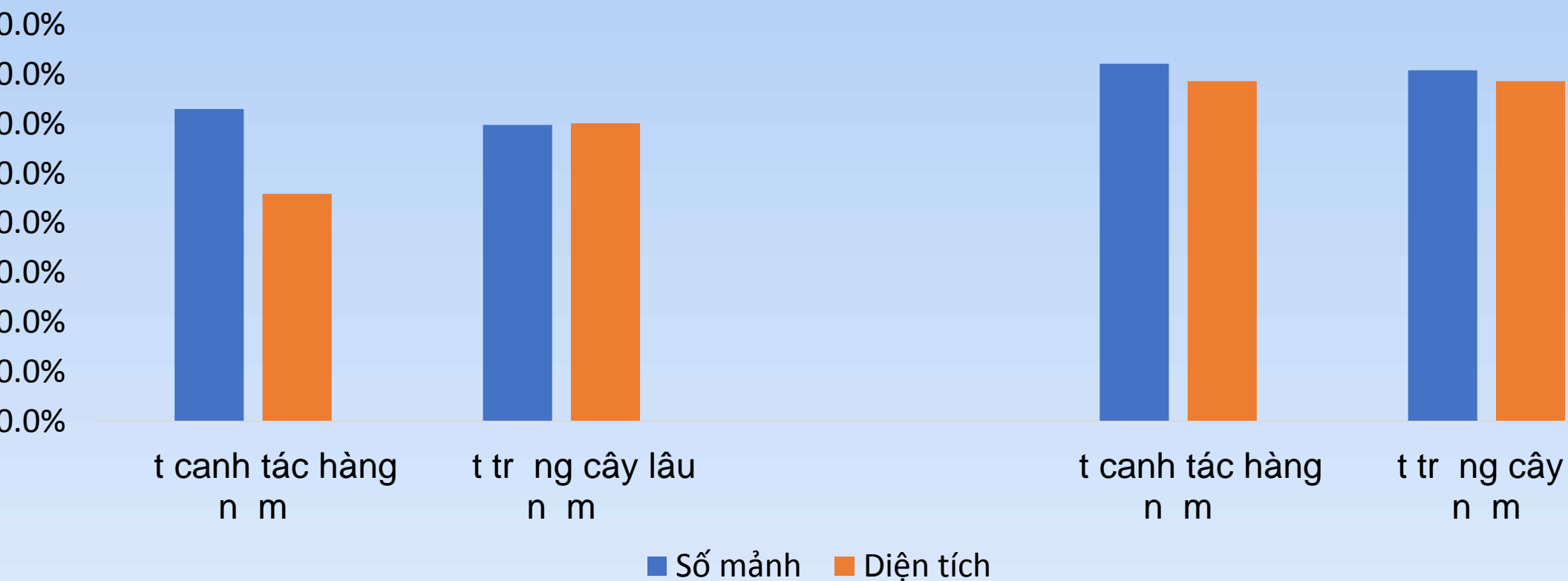
Status: No common (except Lam Dong), Hoa Binh: 100% of transactions are inheritance

Land use right transfer market: Farmer - Farmer

Barriers	Solutions
cannot be converted, transferred with LURC (Art. 88, clause 1, amended if not qualified (Art. 13, Decree 102)	Prescribe the case of non-issuance of LURC
cannot be converted in the same commune, town (Art. 179 Clause b)	Remove this rule
cannot be converted, transfer...only be effective from the time of registration in the land book (Art 188, Clause 3)	Effective since civil transaction has been completed in accordance with the law
cannot be converted and prohibition of land use right transfer is limited (Art 12)	Remove the ceiling of limits
cannot be converted of adjacent HHs even though the land has no boundary	Consider to remove this rule
cannot be converted because of lack, difficult to access the information on land use, high measurement cost	Complete, update the database, records and maps for land use
cannot be converted to convert purpose of using paddy land without hard to convert to other crop lands	Flexible to increase efficiency and value of land (already proposed for paddy land)
cannot be converted because of difficulty on holding land for hedging	Formalise the non-agricultural market, strictly implement land acquisition if not used, or inefficient use (Art. 64)
cannot be converted because ethnic minority is limited for transaction (Lam Dong)	Should be limited to land granted to them, adjust employment regulations because it is inadequate

Issuance of LURCs

Percentage of plot numbers and areas issued LURC



Source: 2012 và 2016 VARHS.

Rate of plots having LURCs in surveyed areas

	An Giang	Ha Nam	Hoa Binh	Lam Dong
Land with LURCs (plot)	57	70	74	87
Surveyed land (plot)	69	70	98	98
Rate of land with LURCs (%)	83	100	76	89

Land use right transfer market: Farmer – Enterprise/organisation

Status:

- Limited in Ha Nam, An Giang and Hoa Binh; popular in Lam Dong

Form:

- Enterprise purchase land of farmer before doing leasing procedures from the State

Land use right transfer market: Farmer – Enterprise/organisation

Barriers	Solutions
Land valuation does not meet market price even it has progress	Make at market price
Lack of land database, records (as above)	
Has to consult with many departments for investment projects although approved in the investment area	Simplify procedures, just approve one time for investment project
High cost, high risk for enterprises	Preferential mechanism to attract investment, create land fund for lease

Land Use Right Transfer Market: capital contribution

Status: No common

Form:

- Only make capital contribution by land for becoming business owner
- Some cooperatives make capital contribution by land but only make input – output linkages

Land Use Right Transfer Market: capital contribution

Barriers	Solutions
No regulation on making capital contribution by land and value of land use right	Specify and harmonize Article 25 of Business Law and Clause 3, Article 10 of Land Law
No regulation on making capital contribution in order to cooperation, gaining business benefits and business co-owner. No risk management mechanism for individuals contributing capital	Regulate on form, power and interest
The lack of legal framework of using capital contributed by value of land use right as collateral asset	Supplement regulation on each form of capital contribution
Drop land (Article 10) is not included of production supports (preliminary processing factories, equipment...)	Supplement supported land types, allow to logistics infrastructure construction for supporting on production

Land use right transfer market: capital contribution

Total renting area from individual and member is 4ha. There is a need for building a preliminary process -> changing land use purpose -> there must be a cooperative and fresh vegetable production must be approved -> it takes one year to prepare legal documents (procedure for making, editing legal documents takes time and efforts such as editing legal documents for 70 times, to much visiting delegation) “

- In depth interview a fresh vegetable cooperative

Land use right lease market: farmer - farmer

Characteristics:

- Household not producing but holding land certificate: olds, participate in non-agricultural sector.
- Household owning large area but lacking of labour.
- Household speculating (not producing)
- Increasing use efficiency

Status:

More common than land use right transfer (except Lam Dong), very common in An Giang

Forms:

- Verbal contract or hand writing contract without witness but non-risks
- Mainly for relatives and local people
- Annually, seasonally in An Giang, Hoa Binh, Ha Nam and every 5-10 years in Lam Dong (perennial plant)

Land use right lease market: Enterprise - farmer

Status: more common but still limited

Forms:

- Enterprises rent directly from the farmers: very difficult because of high transaction cost, risky, and need of government supports (An Giang, Ha Nam)
- Enterprises rent from government: common, but public land has become more scarce.
- Government rent from farmer and lease out enterprise: new form (in Ha Nam, Lam Dong), lacks of legislation framework, it is risky if enterprises do not obey the contract

Land use right lease market: land rented enterprise

	Solution
valuation is not reasonable (Item c, Article 3 of Decree No. 36/2014 / TT-BTNMT)	market price oriented land valuation
legislation framework for circumstance of high rent in from the farmers	Consider specific regulations
complex project appraisal procedures	Simplifying, one-stop mechanism
difficult to reach consensus, hard to attain consensusness from all parties	If there is a consensusness of 80% population, then the remaining individual must follow decision from arrangement from PPC.
guidances on land use demand appraisal of non-agricultural land	Supplement, supplement of the enterprise compensation agreement (D 61, 62)
public land, lack of policies to create agricultural land efficiently	Land withdrawal, high taxation on fallow land, low efficiency
land is not legal for mortgage loan	Building a mechanism for leased land for 5-10 years or more can be mortgaged to access capital, credit guarantee based on land
mechanism attracting enterprises investment	Credit, tax, renting cost, infrastructure...

Land use right lease market: land rented enterprise

- Tea production project application form (2015) → City PPC → provincial PPC → guidance : 3 months

Enterprise hires forest inventor (150 pines) → 100 million VND for forest inventory

Other procedures: investment verification, compensation documents: 1 year (including forest inventory)

Approved investment projects:

Request for resettlement of other plots in the project land area of the province. Total area of 3.2 hectares, 2.3 hectares of forest → Need to develop plans for forest protection.

There is a requirement to identify planted area milestone from local authority → enterprise could not identify the area milestone → have to hire expert to identify the area milestone, cost of 200 million VND

Have to re-register because of there is no registration on land use plan in 2016 and 2017 → Additional registration is required.

Until 2018, registration is not yet finished

_ case study of tea producing and exporting enterprise

Gender issue in agricultural land market

The rate of women registered LURC is low, especially in re-issuance

Implementation of land inheritance: Rural women are often excluded from receiving inheritance from their parents while they are still living in the family for several years (contributing, building, caring for their parents).

Land acquisition for the Project: affects women because of care of children, lack of health and labor skills → research on female rural workers

The rate of women registered LURC (%)

	An Giang	Ha Nam	Hoa Binh	Lam Dong
Co-registered (with spouse)	29,8	2,9	10,8	59,8
Registered (alone)	3,5	0	1,4	1,1
Non-registered	66,7	97,1	87,8	39,1

Conclusion

Land is fragmented, market activity limited, land market is more active in the Central Highlands

There are many barriers to transacting land use rights and investment accumulation

Need an adjustment to remove land quota, limitation of transaction objects

There should be a database, clear land information and promote the re-issuance of LURCs

Deal with the issue of land valuation, transaction procedures, appraisal

Dealing with abandoned land, inefficient use

Closely linked with attraction of enterprise investment, creating non-farm occupation for rural households

THANK YOU FOR YOUR ATTENTION!