

DRAFT FOR REVIEW

**Community consultation framework  
for the  
Seima Protection Forest REDD Project**

Forestry Administration and Wildlife Conservation Society

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## ***Summary***

This document sets out an analysis of the legal and voluntary standard requirements for community consultations in the context of the Seima Protection Forest REDD Project, one of two official national site-based pilots of the REDD concept in Cambodia. The central issue is the need for documentation of Free, Prior and Informed Consent, but this must be seen as just one step, building on past project activities, and linked to plans for regular consultations during future project implementation. The planned consultations also provide an opportunity to consult on community views regarding potential project impacts, improvements to project design, options for a grievance procedure, and an assessment of the existence of High Conservation Values in the project area. The consultations will involve a large element of awareness raising, since the concept of REDD has only just been introduced to the communities. However, most of the planned project activities are already familiar to villagers.

Section 1 describes the main parts of the project, in particular the way planned activities already involve communities and protect their rights. The principles of benefit-sharing in the Seima REDD project are also discussed.

Section 2 analyses the main global legal and voluntary standards that the project needs to meet, especially the UN Declaration on the Rights of Indigenous Peoples and the Climate, Community and Biodiversity Standard. Past consultations in Seima since 2002 are briefly described and an analysis is given of the key issues that need to be specifically covered by community consent.

Section 3 describes the 38 villages that need to be consulted and reviews the various options for these villages to select representatives that will take part in the consultations. Many villages already have potentially suitable community-based organisations whilst others will have to form new groups. The main capacity constraints for the various stakeholders are outlined.

Section 4 gives a detailed account of the consultation procedures. Teams have been selected, preparatory meetings and training are underway and communication materials are being drafted. The main consultation will consist of at least 3 well-spaced meetings in each village or settlements, one to raise awareness and to review potential project impacts, one to discuss the proposed community agreement and one to finalise the agreements. Between the second and third meetings it is hoped to provide independent legal advice to assist the villages in deciding whether to sign the agreements, and to generate feedback on the levels of awareness and understanding amongst community representatives. An outline timetable is presented, as well as a checklist list of the key issues that communities need to be aware of before they give their consent, for use by facilitation teams and evaluators.

## ***Section 1 Project structure and design***

### **The Seima REDD project**

Seima Protection Forest (SPF) is a 2927 km<sup>2</sup> reserve in eastern Cambodia, managed by the Cambodian Forestry Administration (FA). Since 2002 the FA and the Wildlife Conservation Society (WCS) have cooperated with local communities and local government on site management. Sustainable financing for the reserve is proposed to come mainly from the sale of environmental credits for avoided deforestation ('REDD' credits<sup>1</sup>). The basic REDD crediting area is the Core Protection Area, which covers 1880 km<sup>2</sup>, and there will also be activities in communities bordering this area to ensure that livelihoods are protected and that deforestation is not displaced.

REDD project development began in 2008 and a Project Document (PD) is being prepared for validation under the Voluntary Carbon Standard (VCS) and the Climate, Community and Biodiversity Standards (CCBS). This is the first such project in Cambodia within a conservation area, and as such is providing a valuable learning experience for project-, regional- and national-level REDD activities. The project overview document provides more detail on design aspects (FA/WCS 2010).

Formal consultations at community level are required on design of the PD. Meetings will be held to raise awareness of the issues and then to request Free, Prior and Informed Consent (FPIC) for relevant aspects of the project design from all affected communities. At the same time suggestions will be collected to improve project design and to inform the Environmental and Social Impact Assessment (ESIA), and the social elements of a High Conservation Value Assessment, as required by the CCBS. A process of continuing consultation and feedback will also be included in the project management cycle, to ensure community support at each stage. This document explains the rationale for the consultations on the PD, and how they relate to the extensive community program that already exists at the site.

### **The design of the Seima REDD project**

The following sections describe the key elements relevant to the community consultations. A more detailed description of the project can be found in the overview document (FA/WCS 2010). A formal summary of the project will be provided to all communities as an Annex to the community agreement. The current draft is included here as Annex 1.

The Seima REDD project is designed to reduce or prevent several major causes of deforestation and forest degradation. These causes include expansion of farmland by local communities and in-migrants, illegal logging and the creation of economic land concessions. The main project activities are:

- ensuring effective legal protection and coordinated planning at national and provincial levels, including production of a formal site management plan
- government-led law enforcement patrols
- ensuring land and resource use by local communities is sustainable through mapping, titling and demarcation and community strengthening
- development of improved and alternative livelihoods linked to conservation,
- systematic monitoring of activities, forest status and co-benefits.

The project will probably run for at least 30 years<sup>2</sup>, and will aim to ensure the permanence of the avoided emissions well beyond that period. Carbon credits from the Permanent Forest Estate will be owned and

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<sup>1</sup> REDD stands for Reduced Carbon Dioxide Emissions from Avoided Deforestation and Forest Degradation

<sup>2</sup> Exact period to be confirmed by the FA before PD is finalised.

sold by the Royal Government of Cambodia (RGC). The activities will focus on 38 villages across 8 communes (see Section 3). The ownership of carbon on community lands is still legally unclear. This is a relatively small proportion of the total as little forest land can legally be titled to individuals or communities.

To bring these credits to market it is proposed that this part of the carbon be pooled and sold with the government-owned credits, with subsequent benefit-sharing taking account in some way of this contribution from the communities concerned.

Income from the sales will probably be divided mainly between protection activities and benefits to local communities, as is the case in the other national pilot project in Oddar Meanchey (see below). However, final decisions on this have not yet been made by the government for Seima and will be partly influenced by the results of the consultation described here.

## **Framework for community involvement in the REDD project**

The FA and its partner organisations have a policy of building collaborations with every community in the project area. The conservation team has already worked with many of the villages for several years to form relevant organisations, for example Indigenous Commissions. These organisations build on existing traditional structures, represent the interests of the village and participate in land use planning, demarcation, protection of natural resources and various kinds of livelihood development work. They also play a central role in conflict resolution, exchange of information with project staff and consultation on new aspects of project design. These organisations will also facilitate consultation on many other aspects of implementation throughout the life of the REDD project.

Most of these groups work at the level of a single village or sub-village, since this is the natural unit of governance in the landscape. There are no strong traditional structures above the village level that form a basis for collective negotiation or consultation, but it is hoped to work with the community groups mentioned to gradually build such structures in the future.

In SPF community zones are being mapped around each village. These include residential land, farmland, fallow swiddens, spirit and burial forest but not other types of mature forest. All villages will have their community zones recognised in the SPF management plan. The community zones of some ethnic Bunong villages are eligible for special protection in the form of Communal Land Titles<sup>3</sup>. Titled lands and community zones are mostly non-forest but contain some forest carbon, and they often border areas at high risk of deforestation, so they are a natural focus for some activities.

Outside these community zones, local residents also have rights to continue using forest resources in the Permanent Forest Estate (e.g. under Forestry Law Article 40). These rights will also be clarified and confirmed, and eligible users are already in the process of being issued with ID cards. This will confirm their rights of use and make it easier to exclude illegitimate users, whose activities are often destructive.

These community zones, communal titles and traditional forest use rights provide an excellent framework for forest protection activities and for structuring REDD project activities, including benefit-sharing<sup>4</sup>. Furthermore, REDD funds can be used to strengthen protection of community lands and forest resources from outside threats and develop improved/alternative livelihoods.

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<sup>3</sup> Issued under Articles 23-28 of the Land Law (2001) and Subdecree 83 (June 2009) Procedures for the registration of land of indigenous communities.

<sup>4</sup> Titled lands and community zones are mostly non-forest but contain some forest carbon, and they often border areas at high risk of deforestation, so they are a natural focus for many activities.

A recent national legal analysis found that the ownership of carbon rights under Communal Land Titles 'is a "gray" area of the law that can be clarified in the future after exploring possible options for implementation'<sup>5</sup>. Therefore it is necessary for Seima, as a national pilot project, to propose and test an interpretation of the law that fits local conditions and may be applicable at other sites. The legal review also noted that usually 'Forest resources (and the carbon stored in them) growing on private property are the property of the entity that legally owns the land that the forest resources are growing on' and furthermore that Communal Land Titles give rights almost identical to private ownership<sup>6</sup>. This does not confirm that the carbon in Communal Land title areas is owned by the communities, but it provides the basis for the pilot project to make a proposal regarding the legal rights to carbon in different zones of Seima as follows:

- 1) On Communal titled land a community owns the carbon rights and could in theory generate and trade carbon credits themselves from this land if they chose (and if they had the relevant permissions). Equally, they can choose whether or not to incorporate the land into the area of the Seima REDD project, or to exclude the land from any REDD project. Land in the process of consideration for title should be given similar status as fully titled land for the purposes of REDD project design<sup>7</sup>.
- 2) Land in SPF used by villages of any ethnicity who do not want or are not eligible for communal title is also not eligible for private title and so will be placed in Community Zones. These remain state land, so the FA can in principle decide whether to include them in a REDD project. However, we propose that community zones should be treated as functionally identical to communally titled land for the purposes of REDD project design. This will ensure equity between villages and simplify project management. Other approaches are likely to cause conflict.
- 3) Forested land outside the community zones is Permanent Forest Estate (State Public Land) and is not owned by any community. However, it is still recommended to hold detailed consultations, obtain relevant consent and to share benefits, so as to ensure social acceptance, project success and use of forest to support poverty alleviation policies. Communities also have traditional use rights to these areas that must be considered in REDD project design.

This analysis results in two easily understood categories of land for REDD - community land and non-community land, with different levels of community rights and different requirements for consultation. We think this decision will send a clear and positive message about the government's willingness to recognize indigenous community rights, which is very important to ensure smooth development of REDD in Cambodia.

## **Principles for benefit-sharing**

The Seima project has high potential to provide community benefits at three levels.

- 1) The project will clarify user rights and reduce many of the threats that forest-dependent communities face. This will make their natural resources and existing livelihoods more secure.
- 2) There will be jobs for project implementation in forest protection, forest monitoring and other activities.

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<sup>5</sup> Oberndorf, R. B. (2010, in draft) *REDD+ in the Cambodian Context. An Overview of the Policy, Legal and Governance Frameworks Impacting Implementation*. UNDP Cambodia Office.

<sup>6</sup> Land Law 2001 Article 26: '...This collective ownership includes all of the rights and protections of ownership as are enjoyed by private owners. But the community does not have the right to dispose of any collective ownership that is State public property to any person or group...'

<sup>7</sup> Land Law Article 23: '...Prior to their legal status being determined under a law on communities, the groups actually existing at present shall continue to manage their community and immovable property according to their traditional customs and shall be subject to the provisions of this law.'

- 3) A part of the net income from carbon sales will be invested in community development and other community benefits. Net income means income after covering costs of project implementation at local and national level.

The Government of Cambodia may also decide to use a part of the net benefits at other sites. The main principles of benefit-sharing will be discussed during community consultations. The most important source of principles is the Council of Ministers decision<sup>8</sup> about the Oddar Meanchey Community Forestry REDD pilot. This states that benefits will be used to:

- Improve the forest quality
- Give maximum benefit to local communities which participate the project activities
- Study on the potential area for new REDD projects

It is likely that a similar decision will be made for Seima, but this is not yet sure. A report on comments from the Seima community consultation will be provided to the government for consideration. Then a detailed benefit-share system will be created. This will probably be based on a Subdecree.

Community benefits from net income may take more than one form, which cannot be specified at this stage. We expect that the following principles will be followed:

- benefits will go more to those communities that take actions to increase the amount of carbon credits sold (e.g. activities for forest protection, control of in-migration)
- the main benefits will be focused on social and economic development of communities, especially on developing long-term alternatives to forest clearance.
- the communities will have a role in deciding what kind of projects are supported in their area.
- examples of projects might include small infrastructure, education, health, micro-credit and investment in economic activities<sup>9</sup>.
- funds should not be spent in ways that conflict with project goals.
- benefits may be managed at the commune, community or family level, or a mixture of these, to be decided.

It is important to note developing high expectations among communities of rapid benefits will be damaging to attitudes and to long-term success. Net income may be low and unpredictable, especially in the early years, until the project is fully functioning and achieving high performance.

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<sup>8</sup> Sor Jor Nor 699, 26 May 2008

<sup>9</sup> Existing management activities at the site already include a strong focus on indigenous communities and the development of agriculture, tourism and sustainable timber harvests to boost community income.

## ***Section 2 Issues for consultation design***

### **Sources of guidance on the consultation process**

The current CCBS (December 2008) defines the consultation requirements that the project needs to meet if it is to be certified (see next section). In meeting these we believe we will exceed the requirements of Cambodian national law and conform with the VCS and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP; 2007).

There is no single definitive source of guidance on detailed methods or processes, so the process described here is based on recommendations from many literature sources, adjusted to the local situation. The sources that were found most useful in designing a project-level methodology were:

- The UN's Permanent Forum on Indigenous Issues report on FPIC methodologies relating to indigenous peoples (UNESCO 2005)
- The briefing on FPIC with regard to the Roundtable on Sustainable Palm Oil (FPP 2008)
- The Convention on Biodiversity's Akwé: Kon Guidelines on ESIA (CBD 2004)
- The Good Practice Guidelines for High Conservation Value assessments (ProForest 2008)
- The Manual for Social Impact Assessment of Land-based Carbon Projects Version 1.0 (CCBA *et al.* 2010).
- IWGIA *et al.* (2009) REDD guide for indigenous communities

Among the other documents consulted were: FPP (2008), UN-REDD Programme (2009), Oxfam Australia (2010), Moriarty (2010), and various unpublished drafts of the planned RECOFTC guide to FPIC in REDD+.

About 95% of villagers with homes in the Project Area are from indigenous minority groups (Bunong and a few Stieng), as are many of the other users of the Project Area. The remainder are ethnic Khmer and Cham. Several of the documents above refer to special rights for indigenous peoples, stemming from their special status under various international treaties and conventions. The Seima REDD project is designed to meet those standard for special protection. It also aims to avoid discriminating on the basis of ethnicity by offering similar levels of consultation and protection to other ethnic groups using the area, as long as this is consistent with national law.

### **Requirements for consultation under the CCBS**

The key CCBS requirements for consultation are show in Box 1. They can be summarised as (i) impact assessments, (ii) ongoing community inputs to project design, (iii) grievance procedures and, (iv) bringing together all of the other elements, Free Prior and Informed Consent from the land owners and users.

#### **Box 1 Key CCBS requirements regarding consultation**

G3(8) Document and defend how communities and other stakeholders potentially affected by the project activities have been identified and have been involved in project design through effective consultation, particularly with a view to optimizing community and stakeholder benefits, respecting local customs and values and maintaining high conservation values. Project developer must document stakeholder dialogues and indicate if and how the project proposal was revised based on such input. A plan must be developed to continue communication and consultation between project managers and all community groups about the project and its impacts to facilitate adaptive management throughout the life of the project.

G5(2): Document that the project has approval from the appropriate authorities, including the established formal and/or traditional authorities customarily required by the communities.

G5(3): Demonstrate with documented consultations and agreements that the project will not encroach uninvited on private property, community property, or government property and has obtained the free, prior, and informed consent of those whose rights will be affected by the project [a footnote adds.....in conformance with the United Nations Declaration on the Rights of Indigenous Peoples.]

G5(6). Demonstrate that the project proponents have clear, uncontested title to the carbon rights, or provide legal documentation demonstrating that the project is undertaken on behalf of the carbon owners with their full consent. Where local or national conditions preclude clear title to the carbon rights at the time of validation against the Standards, the project proponents must provide evidence that their ownership of carbon rights is likely to be established before they enter into any transactions concerning the project's carbon assets.

CM1(1): Use appropriate methodologies to estimate the impacts on communities, including all constituent socio-economic or cultural groups such as indigenous peoples (defined in G1), resulting from planned project activities. A credible estimate of impacts must include changes in community well-being due to project activities and an evaluation of the impacts by the affected groups. This estimate must be based on clearly defined and defensible assumptions about how project activities will alter social and economic well-being, including potential impacts of changes in natural resources and ecosystem services identified as important by the communities (including water and soil resources), over the duration of the project. The 'with project' scenario must then be compared with the 'without project' scenario of social and economic well-being in the absence of the project (completed in G2). The difference (i.e., the community benefit) must be positive for all community groups.

G3(10): Formalize a clear process for handling unresolved conflicts and grievances that arise during project planning and implementation. The project design must include a process for hearing, responding to and resolving community and other stakeholder grievances within a reasonable time period. This grievance process must be publicized to communities and other stakeholders and must be managed by a third party or mediator to prevent any conflict of interest. Project management must attempt to resolve all reasonable grievances raised, and provide a written response to grievances within 30 days. Grievances and project responses must be documented.

Section G3(9) also has requirements for consultations during the PDD Public Comment Period while CM3 contains requirements for consultation over variables for social monitoring. These are not relevant to the forthcoming round of consultations but need to be included in subsequent rounds.

## **The meaning of Free, Prior and Informed Consent**

In addition to the CCBS, many international policy documents focus on the need to obtain Free, Prior and Informed Consent for a project from affected communities<sup>10</sup>. This includes the UNDRIP, to which Cambodia is a signatory<sup>11</sup>. There has been extensive discussion on what exactly this entails. An authoritative recent source<sup>12</sup> lists the elements in Box 2.

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<sup>10</sup> e.g. UN-REDD (2010) *Operational Guidance: Engagement of Indigenous Peoples and Other Forest Dependent Communities*. FAO/UNDP/UNEP and UNDG (2008) *Guidelines on indigenous peoples' issues*. United Nations Development Group.

<sup>11</sup> [www.un.org/esa/socdev/unpfi/en/declaration.html](http://www.un.org/esa/socdev/unpfi/en/declaration.html)

<sup>12</sup> Source: Excerpt from the Report of the International Workshop on Methodologies Regarding Free Prior and Informed Consent E/C.19/2005/3, endorsed by the UN Permanent Forum on Indigenous Issues at its Fourth Session in 2005

**Box 2 Key elements of FPIC**

Free should imply no coercion, intimidation or manipulation;

Prior should imply consent has been sought sufficiently in advance of any authorization or commencement of activities and respect time requirements of indigenous consultation/consensus processes;

Informed – should imply that information is provided that covers (at least) the following aspects:

- a. The nature, size, pace, reversibility and scope of any proposed project or activity;
- b. The reason/s or purpose of the project and/or activity;
- c. The duration of the above;
- d. The locality of areas that will be affected;
- e. A preliminary assessment of the likely economic, social, cultural and environmental impact, including potential risks and fair and equitable benefit sharing in a context that respects the precautionary principle;
- f. Personnel likely to be involved in the execution of the proposed project (including Indigenous Peoples, private sector staff, research institutions, government employees and others)
- g. Procedures that the project may entail.

Consent Consultation and participation are crucial components of a consent process. Consultation should be undertaken in good faith. The parties should establish a dialogue allowing them to find appropriate solutions in an atmosphere of mutual respect in good faith, and full and equitable participation. Consultation requires time and an effective system for communicating among interest holders. Indigenous Peoples should be able to participate through their own freely chosen representatives and customary or other institutions. The inclusion of a gender perspective and the participation of indigenous women is essential, as well as participation of children and youth as appropriate. This process may include the option of withholding consent. Consent to any agreement should be interpreted as Indigenous Peoples have reasonably understood it.

When? FPIC should be sought sufficiently in advance of commencement or authorization of activities, taking into account indigenous peoples' own decision-making processes, in phases of assessment, planning, implementation, monitoring, evaluation and closure of a project.

Who? Indigenous peoples should specify which representative institutions are entitled to express consent on behalf of the affected peoples or communities. In FPIC processes, indigenous peoples, UN Agencies and governments should ensure a gender balance and take into account the views of children and youth as relevant.

How? Information should be accurate and in a form that is accessible and understandable, including in a language that the indigenous peoples will fully understand. The format in which information is distributed should take into account the oral traditions of indigenous peoples and their languages.

The documents cited do not specifically define consent. However, one key criterion that most sources refer to is the need for consensus amongst the group(s) being consulted. According to one source, consensus is defined as 'general agreement, characterised by the absence of sustained opposition to substantial issues by any important part of the concerned interests and by a process that involves seeking to take into account the views of all the parties concerned and to reconcile any conflicting arguments' (ProForest 2010, citing ISO/IEC Guide 2). Hence consent does not require 100% of affected persons to agree, as long as there is no sustained opposition by any important part of the communities involved.

Most literature sources stress that consent has to be maintained through regular consultations and efforts to retain trust between the parties. This requirement has been built into project design, for example through requirements for further consultations and, in some cases, formal consent, over zoning,

subsidiary regulations, the legal management plan for the Protected Forest and various community-level interventions. There will also be an annual conference where community leaders can review progress and issues over the past year and cooperate in drafting the following year's workplan.

## **History of consultation in Seima**

Conservation activities in Seima have been undertaken since 2002 and community work since late 2003. Throughout this period extensive consultations have been conducted with most of the villages in the project site. The broadest group consultation was held in July 2006, working with representatives from ten key villages, as well as various levels of local government, to discuss threats to livelihoods and to identify potential action that could be taken by the Seima Biodiversity Conservation Project. This led to a formally stated vision for future management of the site<sup>13</sup>. Most other consultations have taken place at lower levels - with families, individual villages, groups of adjacent villages or local government officials, notably the elected Commune Councils. Consultations have been conducted by conservation project members (government and non-government) and by associated local development NGOs.

These consultations mostly related to the following activities: law enforcement; creation of community committees; natural resource management agreements and mapping of village zones; provision of small grants; dealing with threats from land concessions; and design of livelihood assistance programs. This has ensured that most of the elements of the proposed REDD project have already been the subject of extensive consultations in most of the target villages. For example, consultations on whether to apply for communal land tenure have so far been held in 16 villages, 12 of which decided to proceed and 4 have decided not to. One significant issue that has not been consulted on before is mechanisms for benefit-sharing, so this should have special attention in the PD consultations.

The current round of consultations and consent agreements is taking place after the formal project start date, July 2008. This may seem to conflict with the requirement that consent should be prior to project commencement. However, at the time of commencement the first version of the CCBS was in force, which had no requirement for FPIC, so the initial approach to community consent was different from that now required. Furthermore, we believe that none of the project activities undertaken in the start-up period of the REDD work prior to the current consent process materially affected any of the rights of the communities involved, and in many cases these activities were highly beneficial. Many of the key activities and achievements during this period (for example the improvements in land-titling, the increased attempts to address illegal logging, the registration of traditional family rights to harvest products and the efforts to prevent parts of the site being issued as Economic Land Concessions or sold to illegal in-migrants) were identified by communities as priorities in the consultation processes mentioned in the previous paragraphs. Such activities often involved village-level consent processes. Crucially, no credits will be issued nor contracts signed with any potential buyers until the framework community agreements that document the level of consent have been signed. We believe this approach, and the commitment to regular consultations through the life of the project, is fully compliant with the intent of FPIC requirements.

## **Key issues now requiring consent in Seima**

The concept of FPIC refers to consent from people *whose rights may be directly affected by a project*. Hence it is necessary to define which rights are being discussed and how they might be affected.

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<sup>13</sup> WCS/FA (2006). *Vision for the Seima Biodiversity Conservation Area*. Wildlife Conservation Society - Cambodia Program and Forestry Administration. Phnom Penh, Cambodia

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The broadest level of consent covers the decision as to whether the project should proceed in any form. The spirit of the UNDRIP and CCBS implies that consent is required not only from landowners in the project area but also from other traditional users of the area. These villages are identified in Section 3 of this document. For Seima traditional use is being assessed in the same sense as it is normally interpreted by government officers implementing Article 40 of the Forestry Law - key criteria include where the user lives, how long they have lived there, and how long and how regularly they have been actively using the resource (Men Soriyun and Pet Phaktra, pers. comm.).

Specific consent is also required for the main elements of the project. So me elements of the Seima project are based on national law or policies in a way that makes the concept of consent meaningless, since nobody has a right to disregard the law. For example, most of the area lies within the Permanent Forest Estate as a result of decisions taken when the former logging concession was established in the 1990s, and under the Forestry Law these areas may not legally be deforested. Hence it makes little sense to seek consent for this level of protection, or the right of government officers to implement this law. Thus discussions over consent should focus on aspects where project design exceeds basic legal compliance, or on issues of *how* the law will be implemented - for example, inclusion of community titled lands in the crediting area, fair methods of demarcation and law enforcement patrolling, community participation in activities, benefit-sharing and continued access to development opportunities.

A rights-based analysis of the need for FPIC in different elements of the project is presented in Annex 2. It shows that there are three fundamental questions that need to be discussed with communities during the PD consultations:

- 1) Each community needs to decide whether or not their communal titled lands or community zones should be included in the REDD project crediting area.
- 2) Each community needs to decide if they want to participate in expanded collaborative conservation activities for forest outside the communally titled areas.
- 3) Each community needs to decide if they agree to the principles of the benefit-sharing arrangements and the process for future negotiations to finalise the system

The questions are linked. For example, communities consenting to include their titled lands in the crediting area would play a larger role, help to generate more credits overall and so might receive a greater share of the benefits than other communities, although this is not yet confirmed by the government. If communities choose not to participate in the forest protection activities either such communities would be likely to get a smaller share of the benefits.

Community leaders and communities will also be asked to identify other areas within the project design where they feel consent is / will be necessary during the process. Through this communities will be able to define key issues that they see as challenges to their rights.

It is hoped that full consent can be obtained from all communities. If not, the first step in each case is to redesign the project based on community concerns, if possible, and seek consent again. Table 1f outlines what happens if that step still fails to gain consent.

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Table 1 Implications of community decisions not to give consent, even after project has been revised to address concerns

<b>Decision to be made</b>	<b>Meaning of non-consent</b>	<b>Implication for project design</b>
overall project should proceed	area traditionally owned or used by the community should not be included in the project as it is currently designed	- remove the area used by this community from the REDD project area
Communal titled lands or community zones should be included in the REDD project	specified land parcels excluded from crediting area	- excluded lands need to be clearly mapped (which has time and cost implications) - fewer credits in total -reduced benefit-share to those villages (probably) -leakage management activities may be affected
participate in expanded collaborative conservation activities for forest outside the communally titled areas	communities unlikely to take part in joint patrolling/monitoring	- reduced impact, unless FA activities increase to compensate -reduced benefit-share to those villages (probably)
design of benefit-sharing arrangements/livelihood support and the process for future negotiations	benefit-share or livelihood support process not acceptable, need to be redesigned	- delay PD completion? - further negotiations required

### **Key issues for project design**

Apart from consent, the consultations would also seek feedback from community members on technical aspects of the design of the project, to increase its effectiveness. As noted in Box 1, this should always focus on optimizing community and stakeholder benefits, respecting local customs and values and maintaining high conservation values. The Project Summary contains a list of the main planned project activities and this provides a useful framework for discussions on the details of project design. Five key issues that should be highlighted for special attention are:

- measures for dealing with leakage
- control of in-migration
- community patrolling/monitoring
- effective selection and coordination of community development projects
- inclusion and protection of disadvantaged groups, such as women and the elderly

### ***Section 3: Target villages and likely representative organisations***

#### **Target villages**

Tables 2 and 3 and Figure 1 show the target villages in two groups - key villages and other user villages.

**Key villages** (Table 2) are those that have agricultural or residential land inside the SPF Core Area. These need to sign a full consent agreement that includes a decision over the inclusion of these lands in the project crediting area. Typically all families will need to be involved in the consultations. They are likely to have a greater role in benefit-sharing.

Table 2 Key villages in the Seima REDD project area

Commune	Key villages	Families <sup>^</sup>	Ethnicity	Likely representative group <sup>@</sup>
<b>Monduliri Province</b>				
<b>Keo Seima District</b>				
Sre Khtum	O Am	623	Mostly Khmer	tbd - not eligible for ICC
	O Rona	160	Khmer, Bunong	tbd (Khmer); ICC (Bunong)
	Sre Lvi	28	Bunong	ICC
Sre Preah	Sre Preah	112	Bunong, Khmer	tbd (revive old committee?)
	Gati	54	Bunong	ICC
	Pu Char	66	Bunong	provisional ICC
	O Chrar	27	Bunong	provisional ICC
	Pu Kong	62	Bunong	provisional ICC
Sre Chhuk	Chakchar	124	Bunong	provisional ICC
	Kmom	62	Bunong	provisional ICC
	Sre Andaol	50	Bunong	provisional ICC
	Sre Khtong	165	Bunong	provisional ICC
Memong	Pu Keh	114	Bunong	tbd - eligible for ICC?
Chong Plas	n/a			
<b>O Rang District</b>				
Sen Monorom	And. Kraloeng	107	Bunong	ICC
	Pu Haim*	303	Bunong	tbd - eligible for ICC?
	Pu Rang	91	Bunong	tbd - eligible for ICC?
<b>Sen Monorom District</b>				
Romonea	n/a			
<b>Kratie Province</b>				
<b>Snuol District</b>				
Khsim	n/a			
<b>Total</b>	<b>16 key villages</b>	<b>2148</b>		

<sup>^</sup>Households in 2008 [mostly from WCS/FA surveys, Pollard and Evans 2008]

\* Includes Rokathmei

<sup>@</sup>tbd = to be determined; ICC = Indigenous Community Commission

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**Other user villages** have some families that regularly use the forest in the project area, but no agricultural or residential land inside. These will need to sign a simpler consent agreement with no mention of the lands they own. Depending on the circumstances in each village, it may only be necessary to consult with the identified user families, plus the overall village authorities. They are likely to have a smaller role in benefit-sharing.

Table 3 Other user villages relevant to the project area

Commune	Other user villages	Families*	Ethnicity	Likely representative group
<b>Monduliri Province</b>				
<b>Keo Seima District</b>				
Sre Khtum	Sre Khtum	101	Bunong	ICC
	Chneng	631	Khmer+ Cham+Stieng	user group? (small Stieng part has provisional ICC)
Sre Preah	Sre Ampil	49	Bunong, Stieng	user group?
Sre Chhuk	Bras	83	Bunong?	tbd - eligible for ICC
	Ronaeng	41	Bunong?	tbd - eligible for ICC
Memong	Pu Ngov	48	Bunong	to assess
	Pu Ngol	82	Bunong	to assess
	Tourl	153	Bunong, Khmer	to assess
	Pu Char	50	Bunong	to assess
Chong Plas	Pu Tong	331	Khmer, Bunong	to assess
	Pu Huon	129	Bunong, Khmer	to assess
<b>O Rang District</b>				
Sen Monorom	-			
<b>Sen Monorom District</b>				
Romonea	Sre I	100	Bunong	to assess
	Pu Trom (2)	50 <sup>^</sup>	Bunong	provisional ICC
	Pu Tang	154	Bunong	user group?
<b>Kratie Province</b>				
<b>Snuol District</b>				
Khsim	Choeng	99	Bunong	tbd - eligible for ICC
	Sre Roneam	306	Khmer	user group or CF?
	Samraong	189	Khmer, Bunong	user group?
	Sre Thmei	250	Khmer, Bunong	user group?
	Khseum Knong	107	Khmer	user group?
	Khseum Krau	303	Khmer	user group?
	Doung	108	Khmer	user group?
	Mil	182	Khmer, Stieng	user group?
<b>Total</b>	<b>22 other user vills</b>	<b>3546*</b>		

\*Households in 2008, mostly from WCS/FA surveys (Pollard and Evans 2008). Not all these families use the project site.

<sup>^</sup>Other parts of village have 70 more households but not relevant.

@ tdb = to be determined; ICC = Indigenous Community Commission; CF = Community Forestry

Most user families will be identified because they travel to conduct resin-tapping in the project area. In this part of Cambodia people have traditional patterns of 'ownership' of specific trees that they visit on a roughly weekly basis (Evans *et al.* 2003). Some additional users visit only to collect non-resin forest products, such as other NTFPs or fish, and these people also need to be identified.

## **Selection of representatives**

Communities must be permitted and assisted to select their own representatives. This will take place during the first awareness raising visit to each village, where feasible. The most effective level for consultation is probably at the village level, rather than groups of villages or a landscape-wide body. There is little or no history of traditional organisation at higher levels so a newly created umbrella organisation would take considerable time to acquire legitimacy.

A community may choose an existing community organisation or decide that a new one needs to be created. Different groups within one village may have different representatives. For example, in O Rona the Bunong families have an Indigenous Commission (IC), but the Khmer families do not have an equivalent and will need to nominate one.

The FA/WCS team has excellent baseline information about community groups across the landscape as the team has been involved in forming many of them, and has provided support to most of the others through the long-running Civil Society and Pro-poor Markets Program (WCS 2007, 2008, 2009a, b, Pollard and Evans 2009).

Many villages have an existing community group, and in many cases there is a high likelihood that this will be selected to represent the village in REDD negotiations. This is most likely when the community group is currently active, represents most or all community members, has a high level of community respect and trust and was formed to deal with land and natural resource issues rather than, say, marketing or health. Across the core of the landscape, many of the villages have established, or are establishing, Indigenous Commissions (ICs). Our analysis shows that these generally meet the criteria and so are likely to be nominated by those villages to represent them. These ICs generally have good representation of women, and broad support within the relatively small villages that they cover. They will likely form a perfect basis for consultations and consent.

Some villages have other kinds of community group, for example Community Forestry Committees or Land-use Planning Committees. The villagers will be assisted to assess the status of these groups and decide if they are suitable representatives.

Communities lacking such groups will need to develop some form of broad-based representative structure. Options for doing this will be discussed with community leaders during the preparatory commune-level meetings. The default option in villages with no community group will be to work with a committee made up of the village chief and the chiefs of the sub-villages (*kroms*) beneath him. This would be straightforward and these people already have a great deal of legitimacy, but this approach is not ideal because these people are appointed officials and their role includes the representation of the government, so they are not independent representatives of the villagers in discussions with other branches of government such as the FA. One other potential solution is to begin the process of forming an IC or similar group and then return to consult with this group once formed. Another, faster approach is to form an ad hoc committee based on a community election. The more carefully these groups are formed the better they will represent the community during this round of consultations and the more effective they will be as a basis for future consultations.

Some villages distant from the project site form a special case, since only a minority of villagers may be regular users of the site and it does not make sense to seek consent from, or to share benefits with, the whole community. In this case we may form user group committees. A provisional structure for doing this will also be defined during preparatory discussions with community leaders.

In all cases there will be official documentation regarding the composition of the representative committees and the families who are represented.

Special attention must be paid to effective gender representation in the formation of these representative groups. The issue will be discussed during design of the groups and special efforts will be made to attract

and retain female representatives, and to ensure that gender issues are discussed fully during committee meetings.

## **Current levels of capacity among stakeholders**

Table 4 outlines capacity constraints among the main stakeholders participating in the consultation.

Table 4 Main capacity constraints and proposed solutions

Group	Capacity constraints	Ways to address
Senior facilitation staff (FA, WCS, CRDT)	<ul style="list-style-type: none"><li>• Understanding of REDD/climate change</li><li>• Understanding of FPIC requirements</li><li>• Understanding of the REDD elements of the Seima conservation project</li></ul>	<ul style="list-style-type: none"><li>- Training by more experienced staff.</li><li>- Provision of detailed information materials.</li><li>- Regular review sessions.</li></ul>
Newly recruited facilitation staff and participating Commune Councillors	As above, plus: <ul style="list-style-type: none"><li>• Limited knowledge of general facilitation techniques</li></ul>	<ul style="list-style-type: none"><li>- Training.</li><li>- Pairing with more experienced staff.</li><li>- Program of continuous improvement during implementation.</li></ul>
Khmer villagers	<ul style="list-style-type: none"><li>• Limited literacy</li><li>• Low general education levels (typically a few years of primary schooling only)</li><li>• Limited basic knowledge of laws, rights, NRM etc</li></ul>	<ul style="list-style-type: none"><li>- Focus on verbal communication and videos rather than written communication</li><li>- Preference for pictorial over text-based written materials</li><li>- Aim for very simple essential messages rather than full technical detail</li><li>- Allowing for sufficient time during and between meetings for questions, review and discussion</li><li>- Facilitation teams contain staff already known to, and familiar with, the villagers</li></ul>
Bunong and Stieng villagers	As above plus: <ul style="list-style-type: none"><li>• Limited fluency in spoken Khmer (elderly, some women and youths)</li></ul> <p>Note: Knowledge of laws, rights, NRM etc is higher in villages with existing community groups</p>	As above plus: <ul style="list-style-type: none"><li>- Inclusion of native Bunong speakers on all facilitation teams</li></ul>

## ***Section 4: Consultation procedures***

### **Consultation team**

The consultation will be conducted by three field teams, coordinated by the Deputy National Project Manager, who has led the Seima community team for seven years and is a nationally accredited trainer in participatory land-use planning. The composition of each team will be:

- An FA officer from the existing SPF community team having strong facilitation skills and deep familiarity with the project area.
- One or more NGO staff members, also with strong facilitation skills and local experience, from WCS or a local NGO (the Cambodia Rural Development Team, CRDT).
- One or more members of the local Commune Council.
- If none of the above is female, every effort will be made to ensure that there is also a female member on each team.

FA, WCS and CRDT team members have worked in the target villages for many years, while the Commune Councillors are local residents chosen in local elections, so there are already good levels of trust. This will make communication much easier.

Since the government is the project proponent, and given cultural norms in Cambodia, it is essential that at least one government person be involved in each key meeting to ensure that communities feel that they have been adequately respected and consulted. To ensure clear communication with people from ethnic minority groups, each facilitation team will aim to have one native Bunong speaker involved at all times in Bunong or Stieng communities.

Most team members and expected participants from the local authorities have already received basic training in REDD concepts and on the aims of the consultations from National-level trainers (Sopha Sokhun Narong 2010).

### **Preparatory stages**

A further training will be provided prior to the start of the consultations. This will include national level trainers from FA and WCS. It will address the following topics

- refresher of climate change and REDD principles
- details of SPF REDD project design and appropriate answers to common questions
- the proposed community agreement
- appropriate consultation techniques

Before the village-level meetings take place in a given commune or group of communes, a higher-level meeting will take place with local leaders (commune councillors, village chiefs and community committee leaders) who will be involved in village consultations. The aims will be:

#### a) capacity building

- to provide refresher training on climate change and REDD concepts
- to provide a detailed description of the proposed Seima REDD project

#### b) design of consultation methods

- to review the quality of the awareness materials
- discuss practical approaches to raising awareness in the target villages

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- to review, adjust and confirm the list of key issues that communities need to consent to
- to discuss how to identify or form representative bodies in each village
- to discuss how much time communities will need to make a decision
- to discuss how exactly consent will be decided (e.g. secret ballot, show of hands)
- to discuss how to ensure women are fully represented in the consultation process
- to discuss the design of a grievance procedure

The methodologies and awareness materials will also be field-tested in a Bunong village before being finalised.

### **Main consultation**

Initial public notification must be done in the right way. The most reliable way of reaching the highest proportion of people in Seima has been found to be direct visits to all affected settlements. Hence notification will be combined with the first awareness raising visit.

A minimum of three visits will be made to each community, if this is found to be enough to ensure full understanding. During each visit, separate meetings will be held with community leaders alone and with the whole community. Village representatives will be encouraged to attend some of the meetings in neighbouring villages, to improve the exchange of ideas.

The three visits will cover:

- Visit 1) Awareness raising and discussion of draft impacts assessment
- Visit 2) Discussions on consent and presentation of the community agreement
- Visit 3) Finalisation and signing of the community agreement

Initially visits 1 and 2 will be separate, because the agreement format is still being finalised, but later it may be possible to combine these on consecutive days in some villages. Between these visits, in particular between visits 2 and 3, community leaders will be encouraged to continue further discussions with all community members, especially those who were not able to attend the large open meetings. Where this incurs significant costs these will be covered.

If funds allow an independent legal advisor will be identified who can provide assistance to community leaders during the negotiation of the consent agreement. This will probably be done by holding commune-level workshops between Visits 2 and 3 for community representatives to come together and review the proposed agreements, without the FA/WCS/CRDT facilitation teams present. The legal advisors will provide advice to the communities on the meaning of the agreements and whether they provide adequate protection for their interests, and then facilitate discussions where the community leaders decide whether they want to accept, reject or propose changes to the agreements. The legal advisors will also provide written feedback to the FA on the levels of understanding among community leaders, to assist with judging the effectiveness of the awareness program. It may also be possible to invite representative of other groups to this meeting who could act as additional sources of information.

The conduct of each consultation meeting will follow best practice principles for Participatory Rural Appraisals, with which the facilitation teams are highly experienced. The procedures for the structured discussion of the draft impacts assessment will be set out in a separate document.

The consent obtained should meet the criteria set out in Box 2. To ensure that consent is 'free' the facilitation teams should recognise that there is a power imbalance between them and the communities, and should take care to ensure that there is no coercion, intimidation or manipulation before the community makes its decision. Furthermore, the facilitation teams should be aware that the communities have the right not to give consent, either for the whole project or for specific elements of it. The

facilitation teams should also analyse potential power imbalances within communities and then take steps to ensure that their impacts are minimised during the meetings (for example, ensuring that marginalised groups get a chance to have their voice heard), or in the recommendations for follow up. This will be a particularly important stage to ensure that gender issues are taken into account.

The other key criterion in Box 2 is to ensure that consent is based on full information. A list of the key point that communities need to be aware of is presented in Annex 3, based on the draft FPIC manual being developed by RECOFTC (see also IWGIA *et al.* 2010, RPP 2008 and UNESCO 2005). Most of these points are already incorporated into the standard Seima project summary. The standard project summary is Annexed to the Community Agreement, is provided to all community members in printed form, and will also form the basis for awareness raising presentations and poster design. Remaining key points will be included in the standard meeting plan for awareness meetings.

All meetings will be minuted, documented with attendance lists and, where possible audio-recorded. These documents will be lodged with the relevant authorities. For each meeting a standard report form will also be provided to the consultation team to enable them to record meeting details, feedback on project design and feedback on the consultations themselves. These reports will be summarised and communicated to project decision-makers at the end of each round of fieldwork, to allow adjustments to be made to project design and consultation procedures.

When the communities have made their final decisions regarding the formal agreements these decisions will be actively communicated back to the community members.

## **Evaluation**

The consultation team will invite feedback and suggestions for improvement at the end of each meeting. The responses will be documented. The team will also take advantage of time spent in the villages between meetings to talk informally to community members and assess their levels of understanding and awareness.

If funds allow an external body will also be invited to revisit a sample of the communities to assess the effectiveness and quality of the consultations.

## **Documenting community consent**

In accordance with international guidelines, communities will be encouraged to establish their own criteria for when consent is reached, based on their own cultural norms. This may be through a show of hands, a secret ballot or some other method at their discretion. It is likely that they will choose to form consensus between Visits 2 and 3, in the absence of the project facilitators, and then hold a final confirmatory session where all assenters attend in public. This is similar to the process by which indigenous communities form their Indigenous Commissions in the first place.

To ensure that it is clear who has given consent, and what they have consented to, a formal agreement will be drawn up with each community. A draft is currently under legal review. It will be finalised prior to Visit 2 being held in any of the communities.

In addition to this document, communities with formal communal land-titles will later probably be required to add an official annex to their Community Byelaws. This will increase the legal strength and durability of the part of the agreement that relates to the inclusion of communal lands in the crediting area.

## **Key communication materials required**

At a minimum, the following materials will be used:

- printed project summary
- specially designed posters on the SPF REDD project
- video shorts on the Seima and Oddar Meanchey REDD projects
- consultation guide and list of FAQs

These materials will be tested at the community representatives' meeting in mid November, with a special emphasis on their value in communicating with Bunong and Stieng participants, and with women.

Copies of the summary, posters and videos will be left in each village to facilitate internal discussion of issues.

Literacy levels are very low in many of the settlements, so the main focus will be on spoken or pictorial approaches rather than sharing large amounts of text. A recently created Bunong script exists, but is not yet widely used in the target villages.

The final impact assessment and project description will be shared during the later PD public consultation period.

## **Grievance procedures**

An externally managed grievance system is being designed and funding sought for its implementation through an NGO partner. Until this is in place, the project will make use of the existing system of commune councils to gather complaints and to assist with mediation, since this is a part of their current official duties across all sectors.

## **Expected constraints**

The consultation will be challenging for a number of reasons. Two key expected constraints are:

- 1) Logistics - difficult access, rainy season conditions. The target area is remote, has very poor roads and the villages are dispersed into hamlets that may each require their own separate set of meetings.
- 2) Uncertainty on design of the benefit-share system. These decisions rest with the Council of Ministers and we cannot pre-judge them. If communities do not feel able to fully support the project with the information we now have, it may be necessary to request clarification on certain issues from the Council of Ministers.

## **Outline timetable**

<b>Phase 1: Preparation</b>	<b>Timing</b>
Agree basic legal framework and key consent issues with FA focal point	Almost complete
Agree design principles for benefit-sharing at a level sufficient for consultation	Complete
Agree content of proposed community consent agreement	Underway. Estimated completion by end of November 2010
Extension/awareness meetings for provincial officials and local NGOs	Completed 27-28 September 2010
Extension/awareness meetings for commune officials	Completed 1 October 2010
Develop a more detailed description of project design as a basis for village awareness materials	25 October - 10 November
Develop detailed communication materials	25 October - 10 November
Review design of the consultation with panel of social NGOs	To be arranged
Refresher and facilitation training for team members	Sunday 14/11
Workshop for 3 communes with community representatives to review methods	Monday 15/11
Test materials in one village and revise as needed	Wednesday 17/11
<b>Phase 2 Implementation*</b>	
Visit 1 Awareness raising and discussion of draft impacts review in each village	November-December 2010
Visit 2 Discussions on consent and presentation of the community agreement	December 2010 - February 2011
Visit 3 Finalisation and signing of the community agreement	January -March 2011
Feedback to provincial officials	March/April 2011
Incorporation into PD	April 2011

*\*Exact timing will vary between villages*

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## ***Annexes***

### **Annex 1 Current draft of the project summary to be annexed to the community agreement**

#### *Project structure*

REDD is a new global system for reducing climate change by paying countries such as Cambodia for their efforts to reduce deforestation and forest degradation. The Seima Protection Forest was chosen as Cambodia's second REDD pilot in 2008 by the Forestry Administration (FA). The FA has cooperated with local communities and NGOs to manage forest in the project area since 2002. Carbon funding through REDD is expected to enable these efforts to be strengthened, expanded to cover the whole site and sustainably funded for the long term. The FA is the official project proponent, working in collaboration with the local communities that use the area and relevant local government agencies. The Wildlife Conservation Society (WCS) provides technical support and fund-raising assistance whilst other NGOs provide a range of services to the communities.

The carbon credits produced by the project from forest on State Public land will belong to the Royal Government of Cambodia, whilst ownership of credits from other kinds of first is currently being decided. The credits will be sold to international buyers on the voluntary carbon market. The credits will be bought and used by organisations that want to offset a part of their own carbon emissions that cannot be reduced in other ways. In this way the total impact of humans on climate change is reduced and funds are transferred from a richer country to a poorer one. The credits may be bought directly by the final buyer or bought and sold by various traders first.

The project design has to be validated (approved) by auditors using two international standards - Voluntary Carbon Standard (VCS) and the Climate, Community and Biodiversity (CCB) standard. The project design includes baseline studies, a social and environmental impact assessment, a consultation report, a workplan and a monitoring plan. Using the CCB standard will make sure that the project has measurable benefits for communities and biodiversity, and will enable the carbon credits to be sold for a higher price.

The exact time period of the project is under review and will be decided by the government. It will probably be 30 years, from 2008 to 2038. Credits will be claimed every 2-3 years, based on a progress report. Every ten years the whole project design has to be reassessed and checked again by auditors. At the end of the REDD project a mechanism must be set up to ensure that the remaining forest remains permanently protected

Central government showed its continued support for the project in August 2009 by issuing a Prime-Ministerial Subdecree raising the conservation status of the area to a Protection Forest. This will be especially important for minimising the risk of land concessions, for ensuring the participation of all branches of government and for making buyers confident that the carbon credits will be permanently secure. The subdecree sets out nine management objectives for the site, as listed below:

- 1- To protect, conserve and rehabilitate genetic resources of fauna and flora which are globally threatened;
- 2- To maintain and rehabilitate important ecosystems as habitat for all forms of biodiversity;
- 3- To contribute to protection and conservation, to meet the goals of the National Millennium Development Plan of the Royal Government of Cambodia, and to maintain forest cover;
- 4- To conserve the culture and tradition of indigenous communities and local communities where they are living within the Protection Forest area;
- 5- To maintain the natural resources that these communities depend on for their livelihoods and to implement the program of poverty reduction of the Royal Government of Cambodia;

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- 6- To contribute to sustainable socio-economic development through participation in the management of harvesting forest resources by the local communities, development of ecotourism and other similar activities which have very small impact to biological resources, forest and wildlife;
- 7- To maintain carbon stored in vegetation in order to reduce carbon dioxide (CO<sub>2</sub>) emissions into the atmosphere;
- 8- To prevent soil erosion, to protect soil fertility and to maintain the stability and quality of water sources;
- 9- To support other activities including technical and scientific research, education, training, community development, and environmental studies which are related to sustainable development and conservation at local, national and international levels.

### *Project location and community involvement*

The project targets the Core Protection Forest Area within Seima Protection Forest, an area of 187,983 ha. This area overlaps seven communes in two districts of Mondulkiri Province and a very small portion of Kratie Province. Most of the area is forest but it also includes areas of farmland and residential land from 16 villages. People from more than 20 other villages also use the area for traditional purposes, including some from Kratie province.

The FA and its partner organisations have a policy of building collaborations with every community in the project area. The conservation team has already worked with many of the villages for several years to form relevant organisations, for example Indigenous Commissions, and will continue to do so until all villages are covered. These organisations represent the interests of the village and participate in land use planning, demarcation, protection of natural resources and various kinds of livelihood development work. These organisations will also facilitate consultation on many other aspects of implementation throughout the life of the REDD project.

During 2010-2011 the FA will formally request free, prior and informed consent for the project from all the communities who use the forest and who will cooperate in the activities. Communities are free to withhold their consent for the REDD project, or parts of it, if they wish. The FA will also set up and publicise a grievance mechanism to ensure that any community complaints can be dealt with quickly, fairly and free of charge.

The law allows some areas that are used by communities inside the Protection Forest to be designated as community zones. These include residential land, farmland, reserved land for shifting cultivation, spirit forest and burial forest. If a village is eligible it can also choose to have these lands formally registered as Indigenous Communal Lands. Communities will be consulted over whether they wish to include these community zones areas in the land covered by the crediting area of the REDD project. They will be free to exclude their lands from the REDD project area if they so choose, although this will reduce the total benefits from the project. In the early years of the project FA will assist each village to map its community zones and, if appropriate, apply for communal land title.

### *Project activities*

The main activities resulting in deforestation in the project area are the expansion of farmland by local communities, clearance for land speculation and clearance by smallholder farmers migrating to Seima from elsewhere. The project is designed to minimise these threats and to reduce the risk of displacing the threats to other, unprotected forest areas. Logging and economic land concessions are also serious threats to the success of the project and so some project activities will try to deal with these problems.

The main planned project activities are listed below. Many of these have already been the subject of consultation with affected communities. After further consultation across the whole project (as listed in Annex 2) these will form the basis of a formal management plan for the Protection Forest, as required by the Forestry Law.

**Sub-Objective #1: Key legal and planning documents for the Seima Protection Forest and surrounding landscape are approved and implemented**

- Action #1: Support for sub-decree maintained among senior levels of government and general public
- Action #2: Management plan approved and implemented (including zonation and regulations)
- Action #3: Mondulkiri Provincial Corridors strategy implemented (maintaining links to other forests)
- Action #4: Develop partnerships with the private sector (to reduce impacts by companies)
- Action #5: Develop international cross-border dialogue
- Action #6: Adaptive Management system (regular public reviews and workplans)

**Sub-Objective #2: To reduce forest and wildlife crime by direct law enforcement**

- Action #1: Enforce wildlife, forest and protected area laws and sub-decree through patrols
- Action #2: Establish and implement law enforcement monitoring framework
- Action #3: Ensure sufficient patrol buildings, equipment and staffing
- Action #4: Ensure sufficient patrol personnel capacity
- Action #5: Liaise with Provincial, National and other authorities
- Action #6: Establish Community-based Patrolling and/or monitoring system

**Sub-Objective #3: Land and resource use by all core zone communities is sustainable**

- Action #1: Form and maintain land-use agreements with communities
- Action #2: Legally register communities and users
- Action #3: Indigenous land titling in appropriate communities
- Action #4: Demarcation of the Forest Estate; reforestation of recent clearance
- Action #5: Conduct extension and communication activities
- Action #6: Liaise with Commune Council and other agencies
- Action #7: Engage with civil society organisations operating in the Project area
- Action #8: Ensure the capacity of Project staff is sufficient

**Sub-Objective #4: Support for alternative livelihoods that reduce deforestation**

- Action #1: Establish sustainable timber harvests in buffer zone areas
- Action #2: Establish community-based ecotourism
- Action #3: Support agricultural extension activities
- Action #4: Provide infrastructure support linked to conservation activities
- Action #5: Develop NTFP-based livelihood projects
- Action #6: Develop and manage a system to share carbon benefits
- Action #7: Improve literacy and numeracy

**Sub-Objective #5: Collect information on long-term ecological and social trends**

- Action #1: Monitoring of trends in forest cover
- Action #2: Monitoring of key wildlife species
- Action #3: Socio-economic and demography monitoring
- Action #4: Facilitate research that will benefit the management of the SPF
- Action #5: Ensure sufficient staff capacity is available

**Sub-Objective #6: Effective administrative, accounting and logistical procedures are in place**

- Action #1: Evaluation and feedback on staff capacity, effectiveness and training needs
- Action #2: Develop and maintain effective management, administrative and accounting systems

**Sub-Objective #7: Long-term financial security**

- Action #1: Develop and Implement REDD project
- Action #2: Establish Eastern Plains Trust Fund
- Action #3: Continued support of a wide range of donor partners
- Action #4: Increase use of commune development funds for project activities

*Benefit-sharing*

## **DRAFT FOR REVIEW**

One major benefit of the project will be improved protection of land and forest resources, and more clear and secure rights to use (and in some case, manage or own) these resources. These rights are protected in law, but implementing them and protecting the resources requires funding that is difficult to find, so the REDD project will enable these activities to happen much more quickly and more effectively.

The system for managing income from the credits will divide the revenue according to pre-agreed rules and formulae. It will be designed with inputs from the community, and based upon decisions by the Government of Cambodia. Part of the revenue will be needed to pay for project costs. This includes effective forest management (such as patrolling and formation of community groups), implementation of the REDD reporting process (such as mapping deforestation) and government administration costs.

The remainder of the income will be available for benefits to participating local communities and potentially also payments to the national treasury. Benefits to be shared in local communities potentially include direct employment, provision of development services through local NGOs or civil society, contribution to village or commune investment funds, and possibly also direct incentive payments. The way these benefits are provided will be decided in close consultation with the affected communities.

**DRAFT FOR REVIEW**

**Annex 2 Right-based analysis of key issues needing FPIC in the Project Document**

The table below summarises the key rights of local communities that might *theoretically* be infringed by a REDD project in the area. It outlines the potential benefits and threats to each right, summarises how the Seima project design seeks to minimise or avoid the threats and sets out the kind of consent that is required from communities during the FPIC process for the project as it is now designed.

Right under consideration (with selected sources)	Potential REDD project benefits	Potential REDD project threat	Design solution to avoid risks	Consent requirement during PD consultation
right to self determination and self government in local issues (UNDRIP 4-6, 33, 34)	strengthens support for implementation of legal protections	threat if the project made it impossible for indigenous communities to get registered	support awareness of legal options and assistance for communities to register	none specific to REDD project; each community takes an FPIC decision on registering at a time of its choosing
right to control of land, development decisions and benefits from land in territories traditionally owned or used (UNDRIP 10, 19, 20, 25, 26, 27, 32, and Land Law 23-28)	strengthens security of claim and protection  mobilise funds for community development, build political support	threat if these lands were included in crediting area without FPIC	precautionarily exclude each area titled or potentially eligible for titling from the crediting area until consent is achieved from relevant community.	consent for inclusion of these areas in crediting area or leakage management area  exclude land areas where consent not obtained from crediting and activities beyond legal compliance
traditional harvest rights to forest/aquatic resources in NTFP zones (UNDRIP 20, Forestry Law 40)	strengthens security of claim and protection  mobilise funds for community development, build political support	threat if traditional resource harvests prevented	basic project design involves no infringement; any possible later restrictions will be subject to FPIC plus compensation at that stage	invite community participation in protection/ management
right to benefit from income from activities undertaken with their participation (UNDRIP 4)	creation of a new potential source of benefits	benefits might be delivered disproportionately to other participants	create a transparent, well-governed rules-based benefit-share system	discuss design of the system, gain consent for final design
rights to access to their own choice of development opportunities (UNDRIP 3)	security of natural resource base and land tenure  revenues to fund development activities	no impact above and beyond constraints of national law	livelihood development support built into project design; consultative process for delivery of support	discuss design of the system, gain consent for final design
rights to benefit from environmental services such as clean water, clean air etc (UNDRIP 29)	strengthens security of protection	no threat identified from the project	n/a	n/a

**Annex 3 *What is the key related information needed by indigenous peoples and local communities?***

**Mapping**

- That they have a right to map their boundaries and negotiate them to mutual satisfaction.
- That they have the right to maintain control of the map, and determine what information it contains and who has access to the information.
- That they have the right to decline participation in transferring their knowledge into a written or recorded form.
- That they have a right to advocate for legal recognition of these boundaries and their rights over the land/carbon.
- People not directly involved in mapping exercise need to be informed about and consent to the boundaries and rights-holders identified, especially neighbouring communities.

**Representation**

- Their right to decide their own representative bodies
- The obligation of REDD+ projects (according to standards such as CCBA), and therefore themselves, to uphold the rights of non-discrimination
- Their right to independent facilitation assistance if required to develop representative bodies that they think will best accommodate their cultural practice and the demands of decision making for a project such as REDD+
- Their right to make decisions in accordance with the principles of FPIC
- That they can insist on checks and balances within their own community where there is exclusion in decision making or abuse of power

**National support structures and legal rights**

- Good faith negotiations need to clearly spell out the rights a project proponent can and will uphold
- Their rights in relation to REDD, FPIC, customary/other affected land, carbon and forest resources
- The importance of continuing to advocate for land/resource rights.
- How communities can identify national support structures in their home country (legal aid, civil society support).
- Communities have the right to consult with third parties not directly involved with the project.

**Process for consent**

- Their right to a mutually agreed consent process, their obligation to abide by it and right to recourse if it is not adhered to by project proponents
- Right to independent legal advice at any stage of the consent process
- That support is available to them to build their capacity and understanding in relation to FPIC
- That their input into the strategy is essential as it will guide the capacity building output
- Rights holders have a duty to participate in information events/project development and monitoring activities where they have consented to the next phase of the project cycle
- All aspects of the consent agreement must be publicly accessible

**REDD Project design**

- Key information relating to all aspects of the project development cycle - checklists
- Their right to know about land acquisition/permit arrangements to which their land is subjected under REDD.

**Monitoring and recourse**

## **DRAFT FOR REVIEW**

- That they can and should seek participation in joint monitoring of consent agreement implementation
- Deviations in monitoring consent agreements can lead to triggering the grievance process and eventual re-initiation of the consent process if not resolved through arbitration
- The grievance mechanism does not replace their right to legal action
- They have a right to independent redress:- mediator, arbitrator, ombudsman or court
- Consent once given can be withdrawn, under reasonable circumstances.
- The agreed grievance process and where, when and how to access it.
- The right to independent verification of the consent process – that it was free from undue influence, timely and they understood the content and implications of the consent agreement