# **Conservation Agreements**









# Focus of the session:

- What Conservation a Agreement (CA) is
- Who participates in CAs
- Understand how and in which situations a CA can be used
- How to implement a CA
- Examples of CAs and success factors to consider



# What is a Conservation Agreement and why use it?



### What is Conservation Agreement?

"A Conservation Agreement is a **voluntary** time-bound **legal** agreement entered into between parties with **a shared goal** that incentivizes **conservation and livelihood outcomes.**"

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## Why put in place a Conservation Agreement?

It is an effective approach where communities work along with other actors to protect biodiversity and enhance their quality of life.

To ensure the long-term protection of biodiversity, the people living in and around PAs need to be effectively engaged. This can be done through a CA.

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### What drives a Conservation Agreement?



A CA is a suitable mechanism if the following conditions exist:





willing and voluntary partners that each bring different benefits to the partnership



threats that can be mitigated through the engagement of the partners

a shared vision between partners



### How a Conservation Agreement can help?

A Conservation Agreement is a tool to engage partners to achieve targeted conservation and development outcomes and overcome existing challenges.

#### **Example of challenges a CA can address:**

- Unsustainable practices
- Lack of funding for management of conservation areas
- Lack of transparent mechanisms for companies to finance conservation and community development
- Lack of a sustainable and productive linkage between local actors and private sector partners.

# Who can be a part of Conservation Agreement ? (QUESTION TO THE AUDIENCE)

### Typical partners of Conservation Agreements and their roles:

1. NGOs	<ul> <li>Facilitate the CA between all the parties.</li> <li>Provide technical support for the management of the targeted conservation area</li> <li>Support on the agreement process where needed and provide other technical assistance to communities</li> <li>Provide livelihood support to communities: sustainable agricultural and animal breeding practices, training, access to raw materials (seed and plant) and to and access to markets</li> </ul>
2. Private sector company	<ul> <li>Provide funding for the management of targeted conservation area</li> <li>Provide funding to support the community livelihood projects</li> <li>Provide funding for the CA implementation and facilitation</li> <li>Provide / facilitate access to markets for local communities (depending in the sector of operation and relevance to the context)</li> <li>Provide expertise / skills to local communities and other stakeholders</li> <li>Implement and supervise the CA</li> </ul>
3. PA Authority	<ul> <li>Ensure sustainable management of the targeted conservation area</li> <li>Facilitate contact / develop relationship with local communities</li> </ul>
4. Communities	<ul> <li>Participate actively on the design of a CA, defining the conditions and engaging in conservation activities</li> <li>Participate in the governance structure</li> <li>Support monitoring and reporting</li> </ul>

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Depending on the context and capacities of CA partners, different combinations of CA partners and roles can be envisaged



#### Community – Private Sector – NGO CA

Depending on the context and capacities of CA partners, different combinations of CA partners and roles can be envisaged

Public – Private Sector – Community Partnership (PPCP) Public – Private Sector – Community – NGO Partnership CA



Each situation is different and needs to be assessed. Multiple or single CAs may be entered into.

# How to implement a CA?

There are 5 main phases to implement a conservation agreement and 12 steps.

All the parties have to get involved!



#### Conservation Capital

#### Step 1. Determine the Context

Step 2. Identify potential private sector partners

Assess & understand context Step 3. Review the legal framework in the country

Step 4. Determine motivation for the parties

Step 5. Develop theory of change and deal structure internally

Step 6. Determine overall structure and financial flow

Design

Step 7. Draft heads of terms

Step 8. Conduct due diligence on the private sector partner

Due Diligence - Step 9. Complete a risk analysis

Step 10. Determine consistency with TOC and Goals

Negotiate

Monitor & Manage Step 11. Legal review and sign the CA

Step 12. Monitor and manage the CA

- Identify the biodiversity targets and its current and desired status
- Identify the most critical threats currently or likely to degrade the conservation targets
- Understand the social, economic, political and cultural factors contributing to the threats or representing opportunities to enhance the biodiversity
- Complete a stakeholder analysis: who is operating the area, what they do, why

Comply with ESS

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Gather information on the companies that operate in the focal landscapes and outside the focal landscape, but with the potential to impact the conservation targets and threats.

For example, a company mining outside of a priority conservation area may be interested in providing finance to support this priority landscape to mitigate its impact.

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Context			Conservation Capital
al private sector partners			
al framework in the country			
tivation for the parties			<ul><li>Environmental rules and regulations.</li><li>Biodiversity offset requirements</li></ul>
of change and deal structure internally	th ESS		<ul><li>Land tenure of the area impacted</li><li>Nature resource rights</li></ul>
rall structure and financial flow	nply wit		<ul> <li>Legal framework for CAs and contracts</li> </ul>
terms	Con		
ligence on the private sector partner			
	Context ial private sector partners al framework in the country itivation for the parties y of change and deal structure internally rall structure and financial flow terms iligence on the private sector partner is analysis onsistency with TOC and Goals and sign the CA manage the CA	al framework in the country tivation for the parties of change and deal structure internally rall structure and financial flow terms liligence on the private sector partner k analysis onsistency with TOC and Goals and sign the CA	ial private sector partners al framework in the country tivation for the parties y of change and deal structure internally rall structure and financial flow terms iligence on the private sector partner k analysis unsistency with TOC and Goals and sign the CA

	ſ	Step 1. Determine the Context			Conservation Capital
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Assess & understand		Step 3. Review the legal framework in the country	1		
context		Step 4. Determine motivation for the parties	]		
		Step 5. Develop theory of change and deal structure internally		th ESS	Determine the incentives for all parties for
		Step 6. Determine overall structure and financial flow		Comply with ESS	<ul> <li>Determine the incentives for all parties for engaging in a CA. What is their motivation, what do they hope to achieve, and what</li> </ul>
Design	->	Step 7. Draft heads of terms		Com	<ul> <li>What might be required to facilitate the CA ?</li> </ul>
	, [	Step 8. Conduct due diligence on the private sector partner			• What hight be required to facilitate the CA :
Due Diligence		Step 9. Complete a risk analysis			
	l	Step 10. Determine consistency with TOC and Goals			
Negotiate Monitor &		Step 11. Legal review and sign the CA			
Manage	-	Step 12. Monitor and manage the CA			

# Discussion point: what are the potential motivations for involved parties? Some examples

1. NGOs	<ul> <li>Alignment of values and goals</li> <li>New collaborative solutions</li> <li>New sources of funding for conservation protection and livelihood projects</li> <li></li> </ul>
2. Private sector company	<ul> <li>Regulation</li> <li>Reputational considerations</li> <li>Reliance of Ecosystem Services</li> <li>Biodiversity offset</li> <li>Shareholder pressure</li> <li></li> </ul>
3. PA Authority	<ul> <li>Mobilisation of funds for PA management</li> <li>Development of positive relationships with IPLC</li> <li>Biodiversity and landscape conservation and restoration</li> </ul>
4. Communities	<ul> <li>Improvement of livelihood opportunities and revenue enhancements</li> <li>Improvement of living conditions with</li> <li>Capacity building, access to knowledge and best practices in particular sectors</li> <li>Benefits from improved ecosystems and ecosystem services</li> <li></li> </ul>

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Assess & understand context		Step 3. Review the legal framework in the country				
context		Step 4. Determine motivation for the parties	7			
		Step 5. Develop theory of change and deal structure internally		ith ESS	Γ	<ul> <li>Determine the ideal outcome of a CA. This can</li> </ul>
		Step 6. Determine overall structure and financial flow		Comply with ESS		be done by developing the theory of change (ToC).
Design	→	Step 7. Draft heads of terms		S		It is likely that a high-level ToC was developed earlier in the process, but this can now be
Due Diligence		Step 8. Conduct due diligence on the private sector partner Step 9. Complete a risk analysis				properly developed using the information gathered.
		Step 10. Determine consistency with TOC and Goals				
Negotiate	ц Ц — Э	Step 11. Legal review and sign the CA				
Monitor & Manage		Step 12. Monitor and manage the CA				

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					Step 6. Determine overall structure and financial flow	}	Comply with	
Design		Step 7. Draft heads of terms	_	Comp	Conservation Actions			
	ſ	Step 8. Conduct due diligence on the private sector partner			<ul><li>Parties in CA</li><li>Number of CA</li></ul>			
Due Diligence		Step 9. Complete a risk analysis			<ul> <li>Financial flow: how the funding is allocated and under what circumstances</li> </ul>			
		Step 10. Determine consistency with TOC and Goals			Partnership management			
Negotiate	-	Step 11. Legal review and sign the CA			Any example of a good financial			
Monitor & Manage	-	Step 12. Monitor and manage the CA			mechanism used in Liberia?			

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Design	Step 7. Draft heads of terms	<u> </u>	Comp	
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Negotiate	Step 11. Legal review and sign the CA			
Monitor & Manage	> Step 12. Monitor and manage the CA			

Step 1. Determine the Context

- Parties name and description
- Definitions
- Purpose of the CA
- Duration of the CA
- Legal rights / jurisdiction for each party to enter into the agreement and execute the covenants contained in the agreement
- Obligations of each party
- Covenants that each party needs to uphold
- Monitoring process and responsibility
- Non-compliance and violation penalties and procedures
- Amendments how are they made and who needs to approve this
- Exit clauses

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Design	Step 7. Draft heads of terms		Comp	
	Step 8. Conduct due diligence on the private sector partner	]		,
Due Diligence	Step 9. Complete a risk analysis	-		
	Step 10. Determine consistency with TOC and Goals			
Negotiate	Step 11. Legal review and sign the CA			
Monitor & Manage	Step 12. Monitor and manage the CA			

Before entering into a legal agreement, proper due diligence on all parties will need to be done to determine their ability to meet obligations and sustain the partnership. The level of due diligence depends on the CA structure and the financial commitment made by each party

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Monitor & Manage	Step 12. Monitor and manage the CA

Step 1. Determine the Context

Before entering into or facilitating a CA, the CA facilitator will want to think through challenges and risks, describe them and develop a risk mitigation plan.

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For example

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- Community expectations high and may not be met
- Benefits not equitable distributed therefore the conservation impact not achieved
- Logistical challenges
- Competence, experience, completeness, motivation, alignment of goals among the partners

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	L	Step 6. Determine overall structure and financial flow		Comply with ESS	
Design		Step 7. Draft heads of terms		Com	
		Step 8. Conduct due diligence on the private sector partner			
Due Diligence		Step 9. Complete a risk analysis	-		CA facilitating organisation will want to
		Step 10. Determine consistency with TOC and Goals			consolidate the due diligence to ensure consistency with the ToC and their organizational
Negotiate	-	Step 11. Legal review and sign the CA			goals
Monitor & Manage	-	Step 12. Monitor and manage the CA			

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		Step 5. Develop theory of change and deal structure internally		ESS		
	l	Step 6. Determine overall structure and financial flow		Comply with ESS		
Design		Step 7. Draft heads of terms		Comp		<ul> <li>Prior to signing the CA, each party should have their own legal</li> </ul>
	ſ	Step 8. Conduct due diligence on the private sector partner				representative review the agreement.
Due Diligence		Step 9. Complete a risk analysis				• The signing of the CA should be recorded.
		Step 10. Determine consistency with TOC and Goals				<ul> <li>It is important to consider multilingual and publicly available agreements.</li> </ul>
Negotiate	-	Step 11. Legal review and sign the CA		-	F	<ul> <li>Up-front funding is a good practice!</li> </ul>
Monitor & Manage		Step 12. Monitor and manage the CA	Ĩ Ì			

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The CA will stipulate who is responsible for monitoring the CA:

- Who is responsible for monitoring
- Who is responsible monitoring costs
- When is monitoring done

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- What are the KPIs that are monitored
- Who receives monitoring reports
- Who has capacity to monitor

#### Monitoring might include:

- conservation targets (species, conservation areas, natural resources)
- community development projects
- progress in an annual workplan
- compliance with ESS
- financial management and spendings