

## Concept Note

# Developing National Guidelines on Free, Prior and Informed Consent in Cambodia

### Background

A future mechanism on REDD+ (Reducing Emissions from Deforestation and Forest Degradation) provides an opportunity for Cambodia, who became a UN-REDD Programme partner country in 2011, to be rewarded for its efforts to protect and sustainably use its forests. In order to develop a national approach and strategies for REDD+ that are effective, efficient and equitable, it is important to bring together the knowledge and experience of a broad range of different stakeholders from the forest sector and beyond. Sharing knowledge and ideas will not only support the development of optimum solutions, but it will also help to prevent the occurrence of perverse incentives that might adversely affect different environments, economies or stakeholder groups.

Similarly, recognizing the critical role of indigenous peoples and forest dependent communities to the long-term sustainability and effectiveness of REDD+, the UN-REDD Programme has prioritized stakeholder engagement from its inception, with the goal of supporting the implementation of the UNFCCC Cancun safeguards for REDD+ that require: “Respect for the knowledge and rights of indigenous peoples and members of local communities, by taking into account relevant international obligations, national circumstances and laws, as well as noting that the United Nations General Assembly has adopted the United Nations Declaration on the Rights of Indigenous Peoples [UNDRIP]” and “The full and effective participation of relevant stakeholders, in particular indigenous peoples and local communities.” A key component of effective stakeholder engagement and consultation is the principle of free, prior and informed consent (FPIC), which is set out in the UNDRIP.

Free, Prior and Informed Consent (FPIC) is the collective right of indigenous peoples, and, where relevant, other forest-dependent communities, to participate in decision making and to give or withhold their consent to activities affecting their lands, territories and resources or rights in general. The UN-REDD Programme’s approach to FPIC is predicated upon international human rights instruments such as the UN Declaration on the Rights of Indigenous Peoples which recognizes the right to self-determination. It applies to actions that have the potential to impact the lands, territories, and resources upon which rights-holders depend for their cultural, spiritual and physical sustenance, well-being and survival. The Programme’s Guidelines on FPIC<sup>1</sup> states that UN-REDD Programme partner countries are required to seek FPIC from rights-holders which will be affected by the decision/policy/activity in question.

In this respect, the Wildlife Conservation Society (WCS) and the Cambodian Forestry Administration (FA) recently and successfully implemented FPIC in Seima Protection Forest (SPF), Cambodia’s second national demonstration project for REDD+. It is an early example of how FPIC is implemented for REDD+, and the first case of FPIC in Cambodia across all sectors. The two-year process culminated in a final signing ceremony between the 20 villages of Bunong ethnicity in SPF and the FA on 14 January 2013.

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<sup>1</sup>Working Final January 2013

Therefore, there are several key lessons from this process that will be valuable as the Royal Government of Cambodia develops its social safeguards, and a corresponding safeguards information system.

## Objective

The project aims to develop national guidelines on FPIC that will be complemented by a set of operational materials or toolkit. This objective corresponds with 'Outcome 3.1b: Development of proposals for subnational approach to REDD+' in the UN-REDD Programme's Annual Work Plan for 2013.

## Expected Outputs

- National Guidelines on Free, Prior and Informed Consent
- A set of operational materials or toolkit consisting of:
  - Manual for facilitators / interlocutors;
  - Manual for conducting evaluations; and
  - Guidance for handling complaints or grievances.

## Scope of Work

### Activity One: Identify existing mechanisms and practices related to FPIC in forestry and other land-use sectors.

- Desk review of relevant international agreements, national policies, laws and regulations, including information and documentation pertaining to FPIC, such as the UN-REDD Programme Guidelines on FPIC, and relevant documentation developed by other key stakeholders;
- Conduct interviews with key multi-stakeholders at national level, including but not limited to; and
  - FA of the Ministry of Agriculture, Forestry and Fisheries (MAFF);
  - General Department of Administration for Nature Conservation and Protection (GDANCP) of the Ministry of Environment (MOE);
  - REDD+ Taskforce Members;
  - Consultation and Safeguards Technical Team;
  - REDD+ Consultation Group Members;
  - REDD+ pilot project implementation partners: WCS, and PACT Cambodia / Children Development Association;
  - Civil Society Organizations (CSOs);
  - Indigenous Peoples Organizations (IPOs);
  - Community Forestry, Community Fishery, Community Protected Area Networks; and
  - Development partners such as Japan International Cooperation Agency (JICA), European Union.
- Draft outline for the national guidelines on FPIC, and operational materials or toolkit.

### Activity Two: Conduct at least two national and two provincial level consultations to review the national guidelines on FPIC, and operational materials or toolkit.

- An initial consultation at the national level to obtain feedback for the guidelines and toolkit;

- At least two consultations at the provincial level, preferably at the REDD+ pilot project sites in Oddar Meanchey and Mondulkiri Provinces; and
- A validation consultation at the national level to present a revised guidelines and toolkit based on the feedback and recommendations from the national and provincial level consultations.

### Activity Three: Produce finalized national guidelines on FPIC, and operational materials or toolkit.

- Revise guidelines and toolkit based on findings from the validation consultation workshop.

### Implementation Modality

The process will be led by a national consultant who will develop the national guidelines and operational materials or toolkit. A second national consultant will be recruited to provide support in carrying out consultations, fieldwork, and the development of national guidelines and operational materials or toolkit. Both the national consultants need to be knowledgeable and experienced in forestry, REDD+ and/or FPIC. Global and regional UN-REDD experts shall provide pro-bono technical support during the development process.

The **Consultation and Safeguards Technical Team** is expected to be responsible for the overall development of the national guidelines on FPIC, and the operational materials or toolkit. The team will provide guidance to the consultants. The final outputs will be recommended to the REDD+ Taskforce for endorsement.

The **REDD+ Taskforce** will serve as a forum to collect feedback from line ministries and share information on the progress made.

The **REDD+ Taskforce Secretariat** will be responsible for the disbursement of payments related to the implementation of the stakeholder consultations activities. The Secretariat will provide guidance on financial aspects to ensure that it is properly managed.

**UNDP** (under the framework of the UN-REDD Programme) will be responsible to support the recruitment of the consultants and the disbursement of their payments subject to satisfactory performance that will be determined in consultation with the designated focal points. UNDP will also provide project assurance in order to ensure that the project's outputs meet UNDP quality standards.

### Expected Timeframe

The project is expected to take up to a period of six (6) months.