

Assessment of Cambodia Forest Sector/REDD+ Dispute Resolution Mechanisms With Options for Institutional Strengthening

Consultant's Report
9 April 2013

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Executive Summary

UN-REDD commissioned this assessment through UNDP as part of its contribution to development of Cambodia's REDD+ strategies. The purpose of the assessment was to

- review current patterns of forest sector disputes in Cambodia, with a focus on the REDD+ pilot sites
- assess the mechanisms and practices currently being used for dispute resolution at different levels of forest governance, and identify areas of strength and opportunities for institutional strengthening
- propose specific options for strengthening dispute resolution capacity, in order to achieve forest sector goals and enhance Cambodia's readiness for REDD+.

The assessment report presents a brief overview of Cambodia's forest sector, Cambodia's REDD+ partnership, and the terms of reference and methodology for the assessment. It then reviews international good practice in forest sector dispute prevention and resolution, and highlights broadly accepted principles and design elements for effective dispute and grievance resolution mechanisms.

Current dispute patterns in REDD+ pilot sites

The assessment finds that current dispute patterns in Cambodia's REDD+ pilot sites are consistent with previous assessments of conflicts and disputes in the forest sector overall. In particular, it finds that the following types of disputes are common in the REDD+ pilot sites, including the Oddar Meanchey Community Forests (CFs) and the Kulen Promtep Community Protected Areas (CPAs):

Disputes within REDD+ pilot site communities: Community members may be extracting resources from forests and/or converting forest land to agricultural use, in unsustainable ways. Communities have had to deal with internal disputes on rights to cut trees; to expand cultivated areas; and to site new settlements. There are also occasional disputes within CF Management Committees (CFMCs) and CPA Committees (CPACs) on roles and responsibilities, and disputes between CFMCs/CPACs and Commune Councils.

Disputes over local logging and commercial agriculture: Locally, small scale logging activity is continuing in both pilot sites despite the 2002 logging ban. Small-scale commercial farming is also encroaching on protected forests in both pilot projects, sometimes linked to migrants sponsored by land developers or associated with the military. CF and CPA members frequently confront loggers and farmers from outside the community who have illegally cleared land, sometimes supported by staff from the Forestry Administration (FA) or General Department of Administration for Nature Conservation (GDANCP).

Migrants and land developers: In-migration presents significant and ongoing challenges to both pilot sites. In the case of the Oddar Meanchey pilot, CFMC members and staff from the supporting NGO CDA noted several instances of in-migration that had caused conflict with current residents and particularly with Community Forest (CF) members responsible for patrolling the CF area. In the case of Kulen Promtep, both informal in-migration and the award of Social Land Concessions (SLCs) to former military families have caused conflict. The Prime Minister's current land titling initiative is a significant new factor that may resolve and also complicate current migrant-CF/CPA conflicts.

ELC holders: The problems of ELC awards that overlap CFs and CPAs have been well-documented. The mission's interviews confirmed a number of documented cases of conflict between CFs and CPAs and ELC holders and their employees. FA, GDANCP and provincial government have responded to requests to deal with conflicts and appeals for help from CF and CPA members in several cases.

However, most government officials whom the mission interviewed stated that they expect a substantial reduction in ELC conflicts in the future, given the government's moratorium on issuing new ELCs, and the current land titling initiative that is awarding titles to households in settled communities within ELCs. Other interviewees were concerned that ELC applications submitted prior to the moratorium continue to be approved, and that a new form of commercial concession could replace ELCs without an improved process for anticipating and avoiding land disputes.

Military personnel and families: For both national security and financial reasons, the Royal Government of Cambodia (RGC) has allowed military families to settle in areas where they are stationed, in some cases under the authority of the military itself, and in others, by providing SLCs to military families. The military has also built roads that have facilitated settlement in forest areas. There have been numerous conflicts between CF/CPA members and military personnel and families clearing land in CF/CPAs.

Road and infrastructure development: With the exception of military roads, the project sites do not appear to be strongly affected by road or infrastructure development at present. However, interviewees reported that in the Kulen Promtep CPAs, areas that are closest to roads are most likely to be encroached and cleared. There does not appear to be a mechanism in either site for consultation with either military or provincial authorities on new road construction. It is therefore unclear what would happen were road construction to cut through the pilot project sites.

Current mechanisms and practices for dispute resolution

Based on review of prior reports and analyses, and interviews with REDD+ pilot project stakeholders, it appears clear that most of the types of conflicts and disputes listed above that affect the pilot projects are being handled informally and *ad hoc*, rather than

through formal mechanisms for dispute resolution. The mission reviewed the ways that each type of dispute are being handled at the *local level* by Community Forest Management Committees (CFMCs), the Oddar Meanchey pilot Community Forestry Network (CFN), Community Protected Area Committees (CPACs) and supporting NGOs; at the *Divisional level* of FA and the and *Wildlife Sanctuary (WS) level* of GDANCP; at the *Provincial level* by the office of the Provincial Governor (supported by Commune Councils); and at the *national level* by FA and GDANCP (and other agencies, Ministries, and inter-Ministerial bodies where relevant).

The mission's preliminary assessment of current mechanisms and practices is summarized in the table below.

Local governance bodies at the pilot sites	FA Division and GDANCP Wildlife Sanctuary staff	Provincial government in Oddar Meanchey	National government ministries/bodies
• Have substantial capacity to manage disputes among CF and CPA members, and with other community members • Have capacity to coordinate their efforts effectively much of the time • Do not have clearly defined and well-understood grievance procedures that all members of the communities know how to follow • Do not have consistent documentation of disputes, or a structured way to share or learn from their experience in resolving disputes • Do not have effective capacity to resolve disputes with external actors • Do not have consistently effective channels or mechanisms for referring disputes to higher authorities for resolution	• Have effectively delegated responsibility and authority to manage internal disputes to their CFMC, CPAC, NGO and Commune Council counterparts • Do not have clearly defined and well-understood procedures for resolving disputes between local governance bodies and outside actors • Very uneven ad hoc responses to conflicts with external actors • Do not have consistent documentation of disputes, or a structured way to share or learn from their experience in resolving disputes • Do not have consistently effective channels or mechanisms for referring disputes to higher authorities for resolution	• Does not have clearly defined authority or procedures to respond to disputes between CFs/CPAs and external actors • Has uneven and limited lines of communication with local forest governance bodies, and with FA Divisional/ GDANCP Wildlife Sanctuary counterparts • Does intervene ad hoc to resolve disputes, often effectively • Does not have a clear strategy or set of guiding priorities for land use decision making • Is willing and interested in taking on a more proactive role in dispute prevention and resolution • Does not have consistent documentation of disputes, or a structured way to share or learn from experience in resolving disputes • Does not have consistently effective channels or mechanisms for referring disputes to national authorities for resolution	• Have taken positive steps to prevent and resolve forest sector conflicts, but have not completed implementation of those steps • Have not clarified or made transparent when or how other levels of governance should refer disputes to national government agencies or bodies • Have not established effective inter-agency coordination mechanisms at the national level to resolve disputes involving multiple national government agencies and interests • Do not have consistent documentation of disputes, or a structured way to share or learn from experience in resolving disputes

Options for strengthening REDD+/forest sector dispute prevention and resolution

REDD+ grievance and dispute resolution mechanisms are intended primarily as “reactive” tools to respond to concerns raised by REDD+ stakeholders. However, there are important opportunities for proactive dispute prevention for the pilot sites, and for Cambodia as a whole. These opportunities should be actively considered, in order to address longstanding issues and reduce the demand on grievance mechanisms. Dispute prevention options for consideration include:

- Substantially greater investment of funds and staff to accelerate participatory boundary demarcation and zoning for State Forests and Protected Areas, and for CFs and CPAs
- Continuous education for local and provincial governance bodies, communities and external stakeholders
- Joint, integrated local land use planning and zoning

At the level of **local forest governance**, options for strengthening dispute resolution include:

- clarifying the roles and responsibilities of CFMCs/CPACs and Commune Councils for dispute resolution, both for the benefit of the local governance bodies, and for community residents
- establishing joint CFMC/CPAC-Commune Council dispute resolution committees. The committees would link the two governance bodies for dispute resolution. They would have responsibility for regular communication and discussion about new and ongoing disputes, for communicating with community members where appropriate, for documenting disputes and their resolution, and for requesting assistance from higher levels of governance when necessary.

At the **provincial level of forest governance** (including Provincial government, FA Division and GDANCP Protected Area staff), it may be useful to develop an inter-agency team to receive requests for dispute resolution, and to respond to those requests with well-coordinated use of government authority and resources. Such a provincial inter-agency team or body could have the following design elements:

- mandate to resolve disputes involving CFs/CPAs and external actors when requested by local governance bodies, FA, GDANCP, or senior provincial leadership
- established under the auspices of the provincial governor, with explicit terms of reference for participation of national Ministry counterparts (FA, GDANCP), and representation from Community Forest Networks and supporting NGOs/CSOs where they are present
- authority to use a variety of means of resolution, including regulatory action by government agencies, direct dialogue, education and negotiation, and use of

independent mediation where available and appropriate

At the **national level of forest governance**, options for providing significant support to local and provincial level dispute resolution include:

- Substantially expanded budget and staffing to support participatory boundary demarcation and zoning for Protection Forests, Protected Areas, CFs and CPAs
- Allocating budget and resources for local capacity building for CFMCs, CPACs, and Commune Councils, including training in dispute resolution processes, establishment of documentation and reporting capacity, and ongoing periodic evaluation
- Authorizing staff of FA Divisions/GDANCP Protected Areas, MLMUPC, and other national agencies as appropriate to participate in provincial inter-agency dispute resolution teams, and providing guidance on the ways that they can work with provincial counterparts to resolve disputes
- Designating an existing interagency body, or creating a new body, to receive and respond to requests for assistance with dispute resolution from provincial inter-agency teams and governors; and to oversee, evaluate and support ongoing local and provincial dispute resolution systems.

Next steps

This assessment has provided a preliminary and provisional set of findings and options for consideration by REDD+ and other forest sector leaders in Cambodia. To develop effective conflict and dispute resolution mechanisms for use in REDD+ and more generally in forest management in Cambodia, it will be important to explore more deeply the findings and the options presented here. The assessment report recommends more joint investigation of the need for and potential benefit from strengthening dispute resolution capacity and improving coordination among governance bodies and agencies at each level of forest governance.

In particular, it recommends further assessment of the potential for a “linked” system that more clearly defines procedures and supports for local government to request and receive dispute resolution assistance from the provincial level, and for the provincial level to request and receive assistance from the national level.

In addition, it is important to note that the focus of this preliminary assessment was on pilot sites where management responsibility rests with established CFs and CPAs. It is possible that future development of REDD+ will occur in areas that are directly managed by FA and/or GDANCP, and/or that other actors, e.g. private conservation investors, could be authorized to manage forests directly. These management arrangements may raise the likelihood of conflicts between local residents and external managers, and additional effort will be needed to design and implement dispute resolution systems in these cases.

Conclusion

Cambodia's forest sector stakeholders have a significant opportunity to use the REDD+ process to build on important steps they are already taking to prevent and resolve disputes. Though the disputes are significant and often complex, there is evidence of substantial and sometimes successful dispute resolution efforts.

There is equally clear evidence that greater communication and coordination among governance bodies at each level, and across levels from local to national, could increase the efficiency and effectiveness of dispute resolution. It is also clear that there are significant needs for capacity development at each level of governance.

The mission greatly appreciates the cooperation and candor of the diverse REDD+ and forest sector stakeholders with whom we met. The mission hopes that this report will contribute to the ongoing, constructive work of the RGC, development partners, civil society and community groups to conserve and sustainably manage Cambodia's forest resources.

Assessment of Cambodia Forest Sector/REDD+ Dispute Resolution Mechanisms With Options for Institutional Strengthening Consultant's Report¹ 9 April 2013

1 Introduction: Cambodia's forest sector and REDD+

1.1 Environmental and institutional context for forest sector management in Cambodia

Cambodia's forest sector faces significant economic, environmental and social sustainability challenges. Cambodia is generally classified as a "high forest cover/high deforestation rate" country. It has a high proportion of forested area and relatively low population density. Deforestation and forest degradation drivers include

in-migration to forest areas, agro-industrial developments such as land concessions, poor implementation of land laws and subsidiary regulations, economic incentives promoting forest clearance, poor ESIA regulations, and a lack of state land registration and forest estate demarcation.²

In combination, these drivers contribute to ongoing deforestation at a rate of approximately 0.5% per year.³

The legal and policy framework for forest management has been established in the Forestry Law (2002), Protected Area Law (2008), National Forest Programme (2010), and relevant sub-decrees. However, there remain significant conflicts among policies (e.g. in the award of commercial concessions in protected areas), and between policy and practice. Staffing and budgets are generally insufficient to ensure full implementation of policies and regulations. These conflicts and capacity gaps are evident at the national and provincial levels, and in individual forest areas under the jurisdictions of the Forestry Administration and the General Department of Administration for Nature

¹ Prepared by David Fairman, Managing Director, Consensus Building Institute (www.cbbuilding.org), for UN-REDD Cambodia.

² Cambodia REDD+ Task Force and UN-REDD, *Cambodia Readiness Plan Proposal on REDD+ (Cambodia REDD+ Roadmap)*, Version 4.0, 13 March 2011, p.48.

³ United Nations and Royal Government of Cambodia, *UN-REDD (UN Collaborative Programme on Reducing Emissions From Deforestation And Forest Degradation In Developing Countries) Cambodia National Programme Document*, final version, 4 May 2011, pp. 11-17.

Conservation and Protection.⁴

Though there may be economic and social justification for some forest clearance and conversion, there is reason to believe that the full economic, social and environmental value of standing forest is not accounted for in private or public decisions to convert forest to other uses. It is likely that the current drivers of deforestation are producing net economic and social losses and conflicts, as well as environmental impacts.⁵

1.2 REDD+ goals and strategies in Cambodia

Under the Framework Convention on Climate Change, the goal of REDD+ is to reduce emissions from deforestation and forest degradation, and to promote conservation, sustainable management and enhancement of forests and forest carbon stocks. REDD+ supports this goal by “offering incentives for developing countries to reduce emissions from forested lands and invest in low-carbon paths to sustainable development.”⁶

The UN-REDD Programme is a partnership of UNDP, FAO and UNEP to advance the goal of REDD+. Together, the participating agencies assist developing countries to create UN-REDD national programs; to implement those programs to enhance forest carbon; to monitor and verify changes to forest carbon stocks; to generate financial value from forest carbon management; and to ensure that REDD+ programs, plans and activities are undertaken with appropriate social and environmental safeguards.⁷

In Cambodia, an interim Inter-ministerial Task Force with representation of international partners and civil society stakeholders has developed a REDD+ Roadmap in 2010.⁸ The Roadmap presents an overview of deforestation drivers within and beyond the forest sector; candidate REDD+ strategies, Roadmap activities to assess the likely effectiveness of those strategies in achieving Cambodia’s REDD+ goals; steps to finalize the development of a national REDD+ strategy; and an implementation framework.⁹

⁴ See e.g. Royal Government of Cambodia, *National Forest Programme*, 2010, pp.11-13; European Union Delegation to Cambodia, *DRAFT Country Environment Profile*, February 2012, p. 34; Paul Vrieze and Kuch Naren, “Sold”, *The Cambodia Daily*, March 10-11, 2012, pp. 4-11.

⁵ United Nations and Royal Government of Cambodia, *UN-REDD (UN Collaborative Programme on Reducing Emissions From Deforestation And Forest Degradation In Developing Countries) Cambodia National Programme Document*, final version, 4 May 2011, pp. 11-17.

⁶ UN-REDD Programme, “About REDD+,” <http://www.un-redd.org/aboutredd/tabid/582/default.aspx>, accessed 12 March 2013.

⁷ UN-REDD Programme, “About the UN-REDD Programme,” <http://www.un-redd.org/AboutUN-REDDProgramme/tabid/102613/Default.aspx>, accessed 12 March 2013.

⁸ *Cambodia REDD+ Roadmap*, op.cit. The interim Task Force was subsequently disbanded.

⁹ *Ibid*, Table 7 and Table 8, pp. 57-58, and Table 9, pp. 66-67.

1.3 Disputes as a risk factor for forest management and REDD+

In Cambodia and in other countries participating in REDD+, efforts to reduce deforestation and promote sustainable forest management are likely to trigger conflicts among forest user groups and constituencies, as government and other stakeholders seek to change laws, policies, regulations, incentives and implementation mechanisms affecting commercial forest concession holders, community forestry groups, and environmental conservation groups and advocates. Equally important, efforts to conserve forest carbon are likely to trigger conflicts with stakeholders outside the forest sector: migrants seeking land, commercial agriculture and mining interests, and developers of roads and other infrastructure, among others. As noted in the Briefing Note for this assessment:

REDD+ disputes could arise around issues such as land tenure, carbon rights, allocation of carbon revenues or benefits between stakeholders, changes to land boundaries or use rights due to REDD+ activities, the division of rights and responsibilities between public administrations, communities and project managers.¹⁰

These conflicts and disputes can be constructive, if they promote transparent public dialogue, negotiation and decision making on the most important value and uses of land that is currently forested. Institutional procedures and capacities that enable stakeholders to deal with their disagreements constructively are essential for managing and resolving conflicts. Where conflicts are not effectively managed, they raise the risk of unilateral actions by stakeholders in government, the private sector and civil society that undermine efforts at sustainable forest conservation and management, leading to accelerated deforestation and degradation. The “bottom line” risk to government and other stakeholders involved in REDD+ is that performance-based positive incentives are not provided because forest carbon stocks have not been managed effectively.

The Cambodia REDD+ Roadmap identifies a range of actual and potential disputes and conflicts that create risks for REDD+ implementation. It commits the Royal Government of Cambodia (RGC) and its partners to strengthen conflict resolution mechanisms in order to achieve REDD+ goals in Cambodia. The Roadmap states

Conflicts have been widely documented in sustainable forestry and natural resource management in Cambodia. The NFP and 2008 Protected Area Law contain measures to manage conflicts and for conflict resolution (e.g. for community forests), however these have not yet been operationalised. Development of these mechanisms will be supported through the R-PP and their suitability for REDD+ assessed. Where possible, mechanisms mandated by existing laws and policies where possible (*sic*) to avoid creating duplicate or redundant structures.¹¹

¹⁰ UN-REDD Cambodia, “Briefing Note - Managing multiple forest and land-use interests: Lessons learnt on consensus building mechanisms from two REDD+ pilot project sites in Cambodia,” December 2012.

¹¹ *Cambodia REDD+ Roadmap*, op.cit., p.71.

2 Assessment goals, terms of reference and methodology

UN-REDD commissioned this assessment through UNDP as part of its contribution to development of Cambodia's REDD+ strategies. The concept note for the assessment states the following goals:

To support the REDD+ readiness process by identifying potential consensus building mechanisms in case of forest and land-use disputes and suggest preliminary recommendations on how to strengthen them based on international best practices and observations at 2 REDD+ pilot project sites. In particular, the activities will directly contribute to:

1. Achieve the outcome 2.5 "Develop policy and legal framework for REDD+ implementation" through activity 2.5A "developing conflict resolution and independent review mechanisms" (*UN-REDD Project Document, August 2011*)
2. Implement the Cambodia REDD+ Roadmap "strengthening conflict management and resolution mechanisms, as mandated under the NFP and 2008 PA Law; review suitability of these mechanisms for REDD+ and recommend modifications as required" (*Component 4.1 Cambodia REDD+ Roadmap, March 2011*)
3. Address FCPF recommendations to revise the R-PP submission, in particular 2 a) "provide a rough roadmap to improve forest governance issues [...] which are necessary for REDD+ to succeed" (*Technical Advisory Panel Review, Comments and Recommendations, March 2011*)
4. Identify priorities to focus the expected activities under the additional FCPF 200,000 USD fund for "proposed feedback and grievance redress mechanism to be operational early in the R-PP implementation phase" (*FCPF Guidelines for Establishing Grievance and Redress Mechanism at Country Level, April 2012*)¹²

The Terms of Reference call for the consultant to

1. Conduct a review of international best practices related to dispute resolution mechanisms concerning REDD+, and of the current existing practices in Cambodia
2. Conduct scoping meetings to verify and collect additional information on existing mechanisms and practices to solve disputes related to forests with key stakeholders at national level
3. Collection of information on forest land dispute mechanisms at field level (visit of REDD+ Pilot Project sites and/or focal group discussions):
4. Consolidate the findings from the observations and discussions and develop possible options and recommendations to strengthen consensus building mechanisms in Cambodia.
5. Hold a Debriefing Seminar with presentation of preliminary results and recommendations to key stakeholders in Phnom Penh.

¹² UN-REDD Cambodia, "Concept Note: Managing multiple forest and land-use interests: Lessons learnt on consensus building mechanisms from two REDD+ pilot project sites in Cambodia," January 2013, p.1.

The methodology used was

- Desk review of international best practice in forest sector dispute resolution, and of current practices in Cambodia, assisted by a bibliography compiled by UN-REDD Cambodia
- Interviews and meetings in Phnom Penh with stakeholders in the Royal Government of Cambodia; international partners; civil society representatives; and government (GDANCP), NGO (WCS), and community (CPA) participants in the Steung Siem Reap Watershed/Kulen Promtep Wildlife Sanctuary REDD+ demonstration project
- Field visit to Oddar Meanchey province for meetings and interviews with government (FA), NGO (PACT Cambodia) and community (CFMC) participants in the Oddar Meanchey protected forest REDD+ demonstration project; provincial and commune government, and military police representatives
- Debriefing meetings with officials in the Forestry Administration, Ministry of Environment/GDANCP, and international partners
- Drafting of an assessment report based on the desk review, interviews and field visit

The agenda of interviews and meetings conducted in Cambodia is attached for reference. It is important to note that this assessment is *preliminary and provisional*. It is based on review of key documents and interviews and meetings with a cross section of stakeholders and experts in Cambodia. It is not a systematic analysis of institutional capacity and capacity gaps at the national, provincial or local level in Cambodia. More detailed assessment will be required to validate the findings and to determine the feasibility and desirability of the recommendations for strengthening conflict and dispute resolution mechanisms offered in this report.

3 International experience and good practice in forest sector conflict and dispute resolution

3.1 Conflict/dispute resolution in the forest sector

Tropical forests have been source of conflict since pre-modern city-states and kingdoms began to extend their authority into forest areas already inhabited by other peoples. In the colonial era, colonial governments established control over forest areas in Latin America, Asia and Africa, and colonial enterprises intensified logging and conversion of forest land for agriculture. In many cases, long-settled communities were displaced, and new migrants entered forest areas.¹³

¹³ Eric Wolf, *Europe and the People Without History*. Berkeley, CA: Univ. of California Press, 1982.

Since the mid-20th century, several trends have intensified conflict over forests. Post-independence governments have generally treated forests as a source of commercial income from logging, and as a source of land for plantations, smallholder and commercial agriculture, and livestock ranching. Population growth and pressure to provide land to the rural poor have provided additional incentives for land conversion. Economic globalization has facilitated multinational and national corporate investment in logging and forest clearing. During periods of civil war, forests in many countries have served as bases for insurgencies; logging has funded both government and insurgent forces; and national security requirements have driven the construction of military roads and bases in forest areas.¹⁴ These trends have intensified conflict between forest-dependent communities and outside forces, and among competing governmental, commercial, and national security interests.

Across the same time period, there has also been a surge in international and national advocacy on behalf of forest-dependent communities and tropical forest ecosystems. The globalization of human rights norms and legal regimes, the rise of organized civil society advocates for indigenous people and the rural poor, and the rise in global concern about the environment, tropical deforestation, biodiversity, and climate change, have combined to create increasingly organized challenges to government policies and practices, private commercial activity, and in-migration that adversely affect forests and forest-dependent communities.¹⁵

In response, governments, civil society groups, international development agencies and corporations have introduced a wide range of mechanisms to prevent, manage and resolve forest sector conflict. Following is a very brief summary of primary conflict and dispute resolution mechanisms in use, from those that seek to address conflicts between the forest sector and other sectors, to those specific to the forest sector.

- At the national and subnational (e.g. provincial) levels, a number of governments have sought to create **integrated land use plans**, including forest and non-forest areas. These plans offer the potential benefit of efficiently and effectively integrating a wide range of land use stakeholders and goals into a plan for a particular geographic area, and improving land use by zoning land based on its capability to support different uses.

In practice, most integrated land use plans have had limited impact on conflict resolution, primarily because the planning processes are often expert-driven, the

¹⁴ USAID: *Forests and Conflict: A Toolkit for Intervention*. Washington, DC: Office for Conflict Management and Mitigation, USAID, 2005.

¹⁵ David Fairman, *Reforming Natural Resource Policies in Developing Countries: Politics and Forests in the Philippines, Thailand and Costa Rica, 1980-1996*. Doctoral dissertation. Cambridge, MA: MIT Department of Political Science.

plans produced lack binding authority on the many agencies and private actors that make land use decisions, and they are not integrated into those agencies' and actors' ongoing planning and decision-making processes. However, the combination of technical advances in geographic information systems (GIS), increasingly sophisticated approaches to stakeholder participation and capacity building, targeting on geographic areas that are manageable in size and scope of issues, and growing awareness of the need for integrated approaches to land use in the face of intensifying competing pressures, have led to recent, promising experiences with participatory land use planning and implementation.¹⁶

- Since the Tropical Forest Action Plans of the 1980s, many governments have produced **integrated national forest sector plans**. These plans seek to minimize trade-offs among economic, environmental and social objectives within the forest sector, by defining long-range goals, and programs, policies and budget allocations to support achievement of those goals. The record of integrated forest sector plans in resolving conflict is mixed. While some planning processes have succeeded in building consensus among a broad range of forest sector stakeholders, they have often had limited impact on decision making by agencies and actors outside the forest sector. It has also been difficult to sustain commitment to and resources for long-term plans across changing government administrations. However, there has also been substantial learning from experience, and some current planning processes focus much more explicitly on multi-sectoral stakeholder participation.¹⁷
- At the level of individual production and protection forests and protected areas, **participatory boundary demarcation and zoning approaches** have been used to match land and forest resources to users and uses, aiming to resolve competing land claims and facilitate both forest protection and sustainable use. While these approaches have had some success, notably in protected areas, maintaining consistent management practices and enforcing zone boundaries has been a challenge in many cases. Communities living within forest areas have grown, external pressures have intensified, and government and other stakeholders' capacity for communicating and enforcing rules, and for managing forests for sustainable use, has remained limited.¹⁸
- Since the 1970s, and increasingly since the 1990s, **community forest**

¹⁶ GIZ, *Land Use Planning: Concept, Tools and Applications*. Eschborn, Germany: Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), 2011.

¹⁷ See e.g. C. Sepp and E. Mansur, "National forest programmes – a comprehensive framework for participatory planning," *Unasylva* 57:225, 2006 (3), pp. 6-12.

¹⁸ Lisa Naughton, "Collaborative Land Use Planning: Zoning for Conservation and Development in Protected Areas," Tenure Brief No. 4, Madison, WI: Tenure Center, University of Wisconsin, August 2007.

management, including management by indigenous communities, has been growing as a partnership approach between government forest agencies and communities living in and around forest areas. This approach has produced notable successes in many countries in resolving conflict and promoting sustainable management. Keys to success include a clear legal and regulatory framework, defining goals, roles, responsibilities and dispute resolution mechanisms; capacity building for both community forest managers and government counterparts; and ensuring that non-forest sector agencies and local governments are also engaged, with clear definition of their roles and responsibilities.

Though this family of approaches is promising for both dispute resolution and sustainable management, community and indigenous forest management areas are still a very small proportion of most national forests. Economic and political factors limit government incentives to expand community control of commercially valuable forests, and non-forest sector agencies (e.g. agencies with responsibility for commercial investment in land, mineral and fossil fuel development) have often ignored community forest agreements in their decision making and allocation of commercial concessions.¹⁹

- Within the private sector, there has been some movement by timber companies to **establish consultation and grievance mechanisms at the community level**. Voluntary certification systems often include requirements for timber companies to establish consultation and grievance mechanisms. However, the companies participating in these systems represent a small fraction of the industry. There are also questions about the capacity of companies to effectively manage consultation and grievance systems, and about the responsibility of governments to ensure community participation in accordance with their own environmental and social impact assessment (ESIA) and related permitting procedures, regulations, and laws.²⁰

In sum, there have been efforts at several levels to manage and resolve conflicts among competing users and uses affecting forests. Their records of success are mixed. In many cases, there have been significant local and site-specific successes in conflict management and resolution. However, these successes have sometimes been undercut by incomplete harmonization of government policies and practices within and outside the forest sector; limited capacity on the part of government and other stakeholders to

¹⁹ FAO, *Community-based forest resource conflict management*, Training Package, Vol. 1. Rome: FAO, 2002.

²⁰ Emma Wilson, *Company-Led Approaches to Conflict Resolution in the Forest Sector*. Research Paper Number 4. New Haven: The Forest Dialogue, Yale University, 2009.

create and maintain effective conflict management mechanisms; and continuing, sometimes intensifying demand for forest resources and forest land.

3.2 Globally recognized principles for the design and operation of effective conflict/dispute resolution mechanisms

The focus of this assessment is specifically on mechanisms to prevent and resolve forest sector conflicts and disputes in Cambodia, in the context of UN-REDD and REDD+. As noted above, a wide range of mechanisms is in use internationally, and in Cambodia. For REDD+, there is a requirement for effective dispute resolution mechanisms that may be used by stakeholders who may be adversely affected by REDD+ readiness or operational activities.²¹

Those stakeholders may include community residents and groups, commercial concession holders, and others who believe their access to and/or their use of forest resources is being unfairly restricted by REDD+ plans or operations. It is important to note that disputes may arise between those stakeholders and government agencies, and also within communities, and between community and commercial stakeholders.²²

Currently, UN-REDD and REDD+ are using the term “grievance” to refer to such stakeholder concerns or complaints about REDD+ activities. UN-REDD and the Forest Carbon Partnership Facility (a REDD+ funding mechanism in which Cambodia is participating) have created joint guidance on “Grievance Resolution Mechanisms (GRMs)” for countries participating in REDD+ readiness activities. This GRM guidance includes a discussion on practices and principles for effective GRM design and implementation. Following is a summary of that guidance.²³

Purpose of GRMs: GRMs act as recourse for situations in which, despite proactive stakeholder engagement, some stakeholders have a concern about the organization’s actual or potential impacts on them. Not all complaints about an implementing

²¹ Though the focus on GRMs for REDD+ is primarily “reactive” (i.e. in response to a complaint or a concern raised by a stakeholder), the more “proactive” mechanisms noted above, including integrated land use planning, national forest planning and forest-specific zoning, are all activities with significant potential to reduce the number of disputes that require the use of a GRM at the stage of REDD+ operational activities.

²² While disputes may also arise among government agencies with conflicting policies and practices regarding forest resources, the expectation of REDD+ global partners is that those conflicts will be worked out during the readiness phase. In Cambodia, the development and implementation of the Cambodia REDD+ Roadmap through the National REDD+ Task Force is meant to provide the institutional forum for identifying and resolving those intra-governmental conflicts.

²³ UNDP and World Bank, “Joint UNDP – World Bank FCPF Guidance Note for REDD+ Countries: Establishing and Strengthening Grievance Resolution Mechanisms,” Washington, DC: Forest Carbon Partnership Facility, March 2013.

partner's impacts should be handled through a GRM. For example, grievances that allege corruption, coercion, or major and systematic violations of rights and/or policies, are normally referred to organizational accountability mechanisms for formal investigation, rather than to GRMs for collaborative problem solving.

Several guiding principles should drive the design of GRMs. GRMs designed according to these principles are more likely to provide effective resolution of stakeholder grievances.²⁴

a. Legitimate: enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes.

Accountability for ensuring that the parties to a grievance process cannot interfere with its fair conduct is typically one important factor in building stakeholder trust.

b. Accessible: being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access. Barriers to access may include a lack of awareness of the mechanism, language, literacy, costs, physical location and fears of reprisal.

c. Predictable: providing a clear and known procedure with an indicative timeframe for each stage, and clarity on the types of process and outcome available and means of monitoring implementation. In order for a mechanism to be trusted and used, it should provide public information about the procedure it offers.

d. Equitable: seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms. Where imbalances are not redressed, perceived inequity can undermine both the perception of a fair process and the GRM's ability to arrive at durable solutions.

e. Transparent: keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake. Providing transparency about the mechanism's performance to wider stakeholders, through statistics, case studies or more detailed information about the handling of certain cases, can be important to demonstrate its legitimacy and retain broad trust. At the same

²⁴ UN Human Rights Council, "Report of the UN Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie: *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework.*" A/HRC/17/31, 21 March, 2011. Though developed initially as a guide for businesses with potential operational impacts on the rights of affected communities and other stakeholders, these Guiding Principles, and particularly the guidance on grievance mechanisms as a key component of remedy, are rapidly gaining global support among multilateral agencies as a basis for developing and refining their organizational grievance mechanisms. Likewise, though the Principles are not officially addressed to government agencies or NGOs, they provide a strong foundation for governments in reviewing, developing and refining their GRMs.

time, confidentiality of the dialogue between parties and of individuals' identities should be provided where necessary.

f. Rights compatible: ensuring that outcomes and remedies accord with internationally recognized human rights. Grievances are frequently not framed in terms of human rights and many do not initially raise human rights concerns. Regardless, where outcomes have implications for human rights, care should be taken to ensure that they are in line with internationally recognized human rights and they do not restrict access to other redress mechanisms designed specifically to address human rights concerns.

g. Enabling continuous learning: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms. Regular analysis of the frequency, patterns and causes of grievances, strategies and processes used for grievance resolution, and the effectiveness of those strategies and processes, can enable the institution administering the GRM to improve policies, procedures and practices to improve performance and prevent future harm.

h. Based on engagement and dialogue: consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances. For an operational-level grievance mechanism, engaging regularly with affected stakeholder groups on the GRM's design and performance can help to ensure that it meets their needs, that they will use it in practice, and that there is a shared interest in ensuring its success.

These principles are meant to define and support best practice in grievance and dispute resolution. In practice, the goal should be continuous improvement of GRMs, based on an assessment of how effectively they reflect the principles at present, and the options and resources available for improvement. A shared understanding among REDD+ forest stakeholders of the purpose of GRMs, and of these principles, is the best starting point for dialogue on the current level of GRM effectiveness, and on ways to strengthen GRMs in during the REDD+ readiness phase.

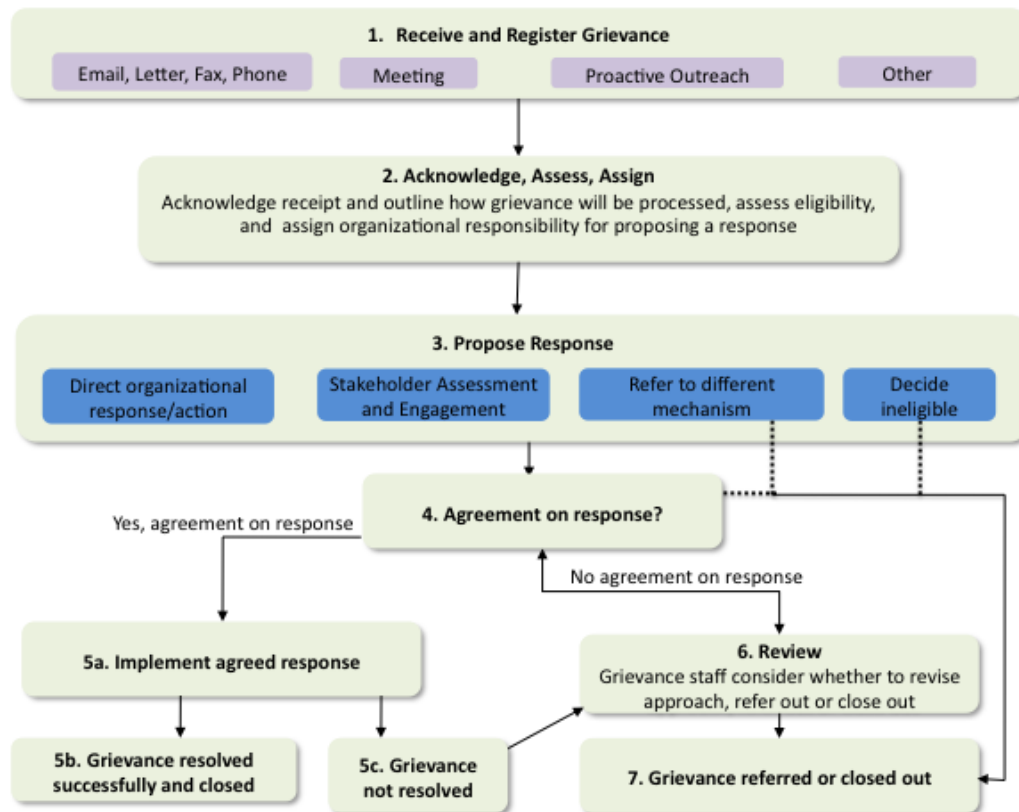
GRM Process Design: The diagram on the next page shows typical steps in a grievance resolution process, which can be tailored to the particular institutional context, capacities and concerns of government agencies, their partners and their stakeholders.

For purposes of this assessment, the most important elements of the process to highlight are:

- Clearly established policy, staffing and procedures for receiving, recording, assigning and responding to grievances, within each appropriate government agency and with partners where appropriate.

For example, in the context of REDD+, it is important for government agencies that have jurisdiction over community forests/community protected areas to establish clearly the

definition of roles and responsibilities with community organizations and local governments for receiving and responding to grievances, and for sharing information about grievances received and their status on an ongoing basis.



- Adequate staff capacity to develop and implement responses to grievances, including capacity to undertake dialogue and negotiation, and to identify and use independent mediation where necessary.

Because the process of dispute resolution is meant to be relatively fast, informal and constructive for all stakeholders, the staff of government and partner agencies responsible for responding to grievances need to have good interpersonal skills, and good judgment about the most appropriate steps to take to respond to a grievance.

Many complaints can be resolved through direct and relatively straightforward action on the part of the agency(ies) involved: e.g. investigating alleged damage caused by a vehicle; changing the time and location of a consultation; making public information more accessible in a community.

In other cases (e.g. conflicting commercial and community stakeholder claims within a

forest area), further assessment of multiple stakeholders and issues, and potentially an extended process of joint fact-finding, dialogue and/or negotiation, will be necessary to resolve the complaint. In these cases, GRM staff should propose a stakeholder assessment and engagement process to respond to the complaint. That process may require extensive dialogue and negotiation among stakeholders. Sometimes, an independent mediator may be helpful to the stakeholders in resolving the dispute.

- Periodic review of GRM cases and results by senior officials of the agencies involved in responding to grievances, in order to learn from experience and improve GRM functioning.

Particularly in contexts where multiple agencies will be involved in receiving and resolving grievances and disputes, periodic reporting by agencies to their own senior officials and to each other on their GRM experience can be very useful. Interagency task forces with oversight responsibility for REDD+ can be an appropriate focus of reporting, assessment and improvement of GRMs.

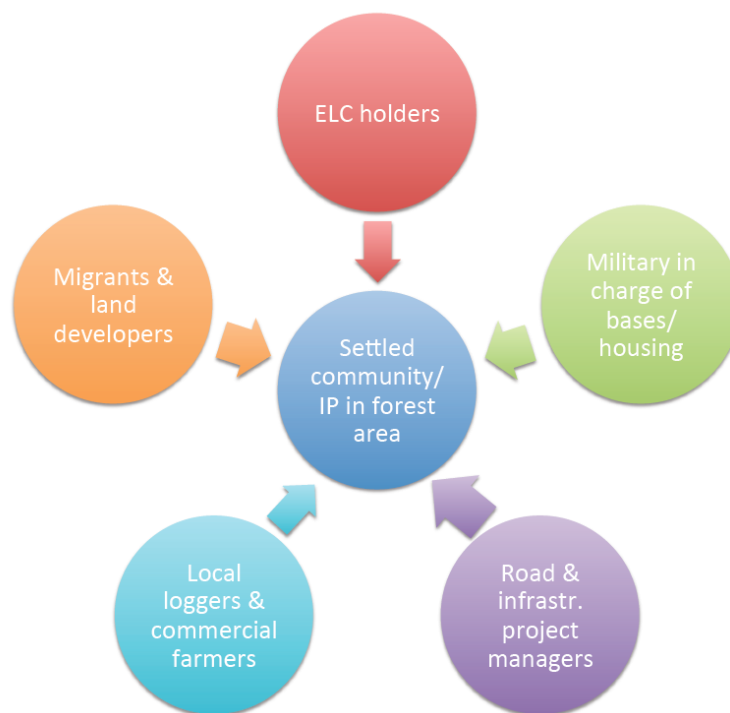
4 Findings from the Assessment Mission

4.1 Forest sector conflicts and disputes in the context of REDD+

The range of forest sector disputes and conflicts in Cambodia has been well documented in previous assessments and studies.²⁵ This assessment mission aimed to assess specifically how these disputes and conflicts appear in the REDD+ pilot projects.

Below is a summary diagram of the forest conflicts and disputes that are most relevant to the REDD+ context. This section details the patterns of conflict and disputes that affect the pilot sites, as understood by the mission based on information provided by interviewees, and supplemented by review of existing documentation where available.

²⁵ See e.g. ARD, Inc., *Cambodia: An Assessment of Forest Conflict at the Community Level*, Washington, DC: USAID, June 2004; M. Backstrom et al., *Case Study: Indigenous Traditional Legal Systems and Conflict Resolution in Ratanakiri and Monduliri Provinces, Cambodia*. Bangkok: UNDP Regional Centre, 2007; Surya R. Subedi, *Report of the Special Rapporteur on the situation of human rights in Cambodia, Addendum: A human rights analysis of economic and other land concessions in Cambodia*. A/HRC/21/63/Add.1. UN Human Rights Council, 21st Session. Geneva: UN Human Rights Council, 24 September 2012.



Disputes within REDD+ pilot site communities: At the center of many conflicts and disputes are the communities that are settled in forest areas. They themselves may be extracting resources from forests and/or converting forest land to agricultural use, in unsustainable ways. In some cases, they may have developed sustainable forest management practices (particularly likely in the case of ethnic minorities (referred to in this report as indigenous people (IP)), but those practices may be challenged both by the community's own population growth and by external factors.

In the case of the REDD+ pilot projects, a range of internal challenges has been documented and described. For the Oddar Meanchey Community Forestry REDD+ Pilot Project, Pact has produced a well-documented report that highlights several internal conflicts:

Changing social dynamics, such as population increases and in-migration, coupled with a lack of resources at the local level to implement CF activities, have threatened the strength and solidarity of many of the CF groups. Many of these problems have arisen over conflicting internal interests and ideas surrounding the management of the CF areas. Participation in and support for the CF institutions has varied according to a number of factors, including active recruitment by CF leaders, community cohesion, understanding of benefits, and the level of trust in CF committee members.²⁶

²⁶ Julien Brewster, *Conflict resolution in REDD+: An assessment in the Oddar Meanchey Community Forestry REDD+ Site, Cambodia*, Lessons Learned Report, p.6 (citing A. Bradley, *Does Community Forestry*

CPAC members and GDANCP staff involved in the Kulen Promtep Community Protected Area REDD+ Pilot Project reported similar internal challenges. They noted that communities have had to deal with internal disputes on rights to cut trees; to expand cultivated areas; and to site new settlements.²⁷

Local logging and commercial agriculture: Locally, small scale logging activity is continuing in both pilot sites despite the 2002 logging ban. The assessment mission was informed by Oddar Meanchey FA Division staff, GDANCP Kulen Promtep Wildlife Sanctuary staff, and the local military police, of many instances of commercial logging in Oddar Meanchey and Kulen Promtep forests. Small-scale commercial farming is also encroaching on protected forests in both pilot projects, sometimes linked to migrants sponsored by land developers or associated with the military.

Migrants and land developers: In-migration presents significant and ongoing challenges to both pilot sites. In the case of the Oddar Meanchey pilot, Community Forestry Management Committee (CFMC) members and staff from the supporting NGO CDA noted several instances of in-migration that had caused conflict with current residents and particularly with Community Forest (CF) members responsible for patrolling the CF area. According to CFMC members, at least one conflict involved threats of gun violence from military families settling in the Romdoul Veasna CF. In the case of Kulen Promtep, both informal in-migration and the award of Social Land Concessions (SLCs) to former military families have caused conflict.

Several interviewees from FA, GDANCP and Oddar Meanchey CFMCs noted that land developers have supported migrant groups and profited from the sale of land to those groups. In some cases those land developers have held ELCs, but in other cases they have been enterprising local businessmen or officials with no clear legal rights to land.²⁸

It is important to note that in the case of the Kulen Promtep Wildlife Sanctuary, the fact that the Sanctuary itself includes a major municipality and many smaller communities within its boundaries makes the question of “in-migration” a complex one. Because the Wildlife Sanctuary boundaries, and the CPA boundaries within the Sanctuary, have only been partially demarcated, there are instances of conflict in which villagers argue that their land claims predate the Sanctuary and/or the CPA. Unclear boundary demarcation has also led to conflicts between CFMA members and villagers in the Oddar Meanchey CFs.²⁹

Provide a Suitable Platform for REDD? A Case Study from Oddar Meanchey, Cambodia. Wisconsin Land Tenure Center, 2011). Phnom Penh: Pact Cambodia.

²⁷ Mission meeting with Kulen Promtep GDANCP managers, CPA committee members, and other local stakeholders, Phnom Penh, January 29, 2013.

²⁸ Mission interviews, January 28-30, 2013. See also Brewster, op. cit., p. 4.

²⁹ Ibid. See also Brewster, op.cit., pp.5-6.

The Prime Minister's current land titling initiative is a significant new factor that may resolve and also complicate current migrant-CF/CPA conflicts. The initiative was launched in June 2012. It aims to issue title to families resident in State Public Lands, including families inside ELCs, in Protected Areas under the jurisdiction of the Ministry of Environment, and in Protection and Production Forests (including cancelled/suspended logging concessions) under the jurisdiction of the Forestry Administration.³⁰

As of the date of the assessment mission, land titling teams had not yet been active in either of the pilot areas. On the positive side, titling teams may be able to resolve some conflicts with migrants who have settled in CFs and CPAs, whether by awarding titles to those who can prove settlement prior to June 2012, or by determining that titles cannot be awarded because residence cannot be documented. On the negative side, there has already been "anticipatory land clearing" both by recent migrants and by some established families with land bordering or inside CF/CPA areas, in the hope that the cleared land will be included in titles awarded by the land titling teams.

ELC holders: The problems of ELC awards that overlap CFs and CPAs have been well-documented. The mission's interviews highlighted the lack of transparency or participation by local stakeholders, including local staff of GDANCP and FA, in national government decision making about ELC awards. In the case of Kulen Promtep, GDANCP interviewees indicated that they had learned of the award of ELCs (as well as SLCs), covering thousands of hectares of land within the Sanctuary by reading the relevant sub-decrees in the government gazette. They then had to "ask around" a variety of government agencies in Phnom Penh to gain access to legal documents indicating the geographic coordinates and permitted activities for each ELC.

In the case of Oddar Meanchey, several CF Chiefs indicated that they had experienced conflict with ELC contractors who began clearing trees in CF areas without any prior notification or consultation.³¹ The Oddar Meanchey provincial government, even at the highest levels, has only occasionally been consulted on the award of national government-issued ELCs in the province. The provincial government has responded to requests to deal with conflicts and appeals for help from CF and CPA members in several cases.³²

³⁰ For an initial analysis of the land titling initiative, see Franz-Volker Müller and Günther Zülsdorf, "Old Policies – New Action: A Surprising Political Initiative to Recognize Human Rights in the Cambodian Land Reform," Paper prepared for presentation at the Annual World Bank Conference on Land and Poverty. Bonn: GIZ, 2013.

³¹ Mission interviews with Kulen Promtep and Oddar Meanchey pilot project stakeholders, January 29 and 30, 2013. See also the list of ELCs inside Kulen Promtep in Subedi, *Report of the Special Rapporteur*, op.cit., pp. 86-89.

³² Mission meeting with Oddar Meanchey provincial government leadership, January 30, 2013.

Most government officials whom the mission interviewed stated that they expect a substantial reduction in ELC conflicts in the future. They noted that the government's moratorium (since the Prime Minister's Directive 01 of May 2012) on issuing new ELCs, and the current land titling initiative that is awarding titles to settled communities within ELCs (advancing the RGC's stated "leopard skin policy" of excising existing community farmland from ELC awards), should combine to resolve current conflicts and reduce the risk of future conflict.

Others whom the mission interviewed were less certain about the future risk of conflict with ELCs. They pointed out that there is still a great deal of conflict over existing ELCs, and that some ELCs have been issued since the moratorium. They also wondered whether a new version of commercial concessions for resource development on State land might be coming in the future. It was also pointed out that the Prime Minister's land titling initiative does not authorize collective titles for indigenous peoples, though collective titling has been proceeding in several areas, including the Seima Protected Forest, which is also a REDD+ pilot site.³³

Military personnel and families: The mission was informed by RGC counterparts that because of the border conflict with Thailand, the RGC has decided to increase the number of military personnel stationed in the border area, including parts of the Oddar Meanchey CFs and the Kulen Promtep CPAs. For both national security and financial reasons, the RGC has allowed military families to settle in areas where they are stationed, in some cases under the authority of the military itself, and in others, by providing SLCs to military families. The military has also built roads that have facilitated settlement in forest areas. Though FA and GDANCP staff, partner NGOs, and CF/CPA members understand the national security issue and respect the need to station troops in the area, there have been numerous conflicts between CF/CPA members and military personnel and families clearing land in CF/CPAs.³⁴

Road and infrastructure development: With the exception of military roads, the project sites do not appear to be strongly affected by road or infrastructure development at present. However, interviewees reported that in the Kulen Promtep CPA, areas that are closest to roads are most likely to be encroached and cleared.³⁵ Because the pilot sites are in a border area that has been prioritized for settlement, it is likely that road construction, and associated settlement development, will continue and perhaps

³³ Mission interviews, January 28-31, 2013. See also ADHOC, *A turning point? Land, housing and natural resources rights in Cambodia in 2012*. Phnom Penh: ADHOC, February 2013; T. Evans, M. Arpels and T. Clements, "Pilot REDD Activities in Cambodia are Expected to Improve Access to Forest Resource Use Rights and Land Tenure for Local Communities," in L. Naughton-Treves and C. Day. eds. *Lessons about Land Tenure, Forest Governance and REDD+: Case Studies from Africa, Asia and Latin America*. Madison, WI: UW-Madison Land Tenure Center, 2012; and Müller and Zülsdorf, "Old Policies – New Action," op.cit.

³⁴ Mission interviews, January 28-31, 2013; see also Brewster, op.cit., pp. 4-5.

³⁵ Mission meeting with Kulen Promtep stakeholders, January 29, 2013.

accelerate over the next several years. There does not appear to be a mechanism in either site for consultation with either military or provincial authorities on new road construction.³⁶ It is therefore unclear what would happen were road construction to cut through the pilot project sites.

4.2 Assessment of current mechanisms and practices for conflict/dispute Resolution

Based on review of prior reports and analyses, and interviews with REDD+ pilot project stakeholders, it appears clear that most of the types of conflicts and disputes listed above that affect the pilot projects are being handled informally and *ad hoc*, rather than through formal mechanisms for dispute resolution. The table below summarizes the mission's understanding of the ways that each type of dispute is being handled at the *local level* by Community Forest Management Committees (CFMCs), the Oddar Meanchey pilot Community Forestry Network (CFN), Community Protected Area Committees (CPACs) and supporting NGOs; at the *Divisional level* of FA and the and *Wildlife Sanctuary (WS) level* of GDANCP; at the *provincial level* by the office of the Provincial Governor (supported by Commune Councils); and at the *national level* by FA and GDANCP (with other agencies/Ministries mentioned where relevant).

Conflicts/ Disputes	Conflict/dispute resolution practices at different levels of governance			
	CFMCs/CFN/ CPACs/NGOs, with Commune Councils	FA Division/ GDANCP WS	Provincial government	National government
Within CF/CPA; between CF/CPA and other community members	• Informal dialogue, mediation and adjudication based on locally developed rules	• Oversight of CFMCs and CPACs with limited involvement	• Delegated to Commune Councils	• Delegated to FA Division/ GDANCP WS
Local logging/ commercial farming	• Direct dialogue and education on CF/CPA rules • Reports and requests for help to GDANCP/FA • Reports and requests to military police	• Enforcement (uneven) of CF/CPA and FA/GDANCP regulations • Some support to CFMCs/ CPACs • Some partnering with military police	• Ad hoc involvement when requested by local stakeholders/FA/GDANCP	As above

³⁶ Meeting with Oddar Meanchey provincial government leadership, January 30, 2013.

Migrant settlement and land clearing	As above, and • Reports and requests for help to provincial government	As above	As above	• Normally delegated to FA Division/ GDANCP WS • Under PM's land titling initiative, potential for proactive MLMUPC engagement
ELCs	As above, and • Direct negotiation with ELC holders • Reports and requests for help to Prime Minister	• Efforts to clarify authorized ELC locations and activities • Direct negotiation with ELC holders (with or without HQ involvement) • Requests for HQ intervention to enforce regulations and/or resolve ELC conflicts	• Ad hoc intervention to assist in resolving conflicts (more involvement with provincially issued ELCs than with nationally issued ELCs) • Requests to Council of Ministers to intervene on nationally issued ELCs	• Normally, ad hoc review of particular ELC conflicts by relevant ministries; limited transparency • Under PM's Directive 01 and land titling initiative, potential for significant change in national involvement, not yet observed at pilot sites
Military settlement and land clearing	• Limited interaction, due to fear of violence	• Ad hoc engagement to address local conflicts	• Ad hoc engagement on local conflicts, including direct dialogue between Provincial Governor and military commanders	• Ad hoc engagement between FA/ GDANCP senior management and military
Roads/ infrastructure	• Minimal experience to date	• No clear consultation mechanism	• No direct links with FA/GDANCP or military on provincial or military roads and infrastructure	• No clear consultation mechanism with either province or military on roads/infra-structure

Following is a brief elaboration of the primary practices in use by local, Division/WS, provincial and national forest governance bodies.

CFMCs, CPACs, CFN, NGOs, and Commune Councils: The mission's interviews and meetings repeatedly heard of effective efforts by these local governance bodies and

supporting NGOs to resolve issues within CF and CPA communities. For example, there are well-established rules and procedures in the Kulen Promtep CPA communities for determining which CPA members will have priority in timber harvesting, and in developing land that has been set aside for agricultural use. According to CPAC members and GDANCP WS staff, these rules have been consistently followed, the only breakdowns occurring when road development or land titling creates overwhelming incentives for some community members to clear additional land. In the Oddar Meanchey CFs, we also heard numerous accounts of effective forest patrols, educating local community members and using dialogue as well as enforcement to ensure effective forest protection.

Another level of support to local self-governance comes from partnerships across CFs. The Oddar Meanchey Community Forest Network (CFN) provides oversight of individual CFMCs, intervening effectively in several cases of internal conflict among CFMC members in a particular CF. The CFN has also helped organize mutual support among CFs in response to migrant and ELC activities, ranging from joint petitions to direct action to stop land clearing.

Interviews and meetings also indicated that supporting NGOs (CDA and Pact for the Oddar Meanchey CFs; Wildlife Conservation Society for the Kulen Promtep CPAs) have played constructive roles in identifying and resolving internal conflicts, and in building community capacity for effective dialogue and dispute resolution.

Commune governments can also be useful partners in governance, though relationships between CFMCs/CPACs and Commune Councils appear to be very varied. A number of CFMCs and CPACs operate as de facto committees of their Commune Councils, reporting regularly and receiving support from the Commune Councils in resolving disputes between CFs/CPA members and other community residents; and in escalating issues with migrants, ELCs and the military to the provincial level when necessary. Others appear to have limited communication or coordination with their Commune Councils.

In a meeting with Oddar Meanchey Commune Council Chiefs, participants generally indicated that they have constructive relationships with CFs and CPAs. One Chief said “CFs and FA take care of the forest; Commune Councils take care of the people.” However, the Chiefs also noted that communication and coordination are not always effective, and that there can be frictions between Commune Councils and CFMCs/CPACs. In particular, some Chiefs emphasized that the CFs/CPAs should be clearly under Commune Council jurisdiction, and that in exchange, the Councils could ensure that all members of the community, not just CF/CPA members, follow the rules for forest protection.

While these local governance bodies appear to be working well to resolve disputes within communities, they face significant challenges: the need for regular communication and ongoing education with community members who are not participating in the CFs and CPAs; the limited resources and benefits available to CF and CPA members for demarcating boundaries, undertaking forest patrols and other

protection activities that are essential to effective dispute resolution; and the challenge of maintaining effective leadership of CFMCs and CPACs.

The external challenges posed by local logging and land clearing; migrants; ELCs; and military activity are much more daunting for the local governance bodies. It is clear from the mission's interviews and other documentation that these bodies have limited authority and capacity to resolve disputes with these external actors on their own. Faced with external challenges, the local bodies sometimes are able to negotiate a resolution that protects substantial CF or CPA areas, but at the cost of losing portions of those areas to land clearing and commercial activity and/or settlement.

The local bodies do seek help from government to resolve disputes with external actors. They often seek help from the Divisional level of FA, the Wildlife Sanctuary staff of GDANCP, and the provincial government (through the Commune Councils or through direct appeals to the governor of Oddar Meanchey). As noted below, the responses they receive are *ad hoc* and inconsistent. In response, the CFMCs and CPACs have sometimes adopted a "panic button" strategy of contacting multiple levels of government in rapid succession, including direct appeals to the Prime Minister and other senior officials in Phnom Penh. This can create its own challenges, as multiple levels of government and different agencies and Ministries simultaneously try to respond to issues and concerns.

In summary, the mission's preliminary assessment is that the local governance bodies at the pilot sites

- have substantial capacity to manage disputes among CF and CPA members, and with other community members
- have capacity to coordinate their efforts effectively much of the time
- do not have clearly defined and well-understood grievance procedures that all members of the communities know how to follow
- do not have consistent documentation of disputes, or a structured way to share or learn from their experience in resolving disputes
- do not have effective capacity to resolve disputes with external actors
- do not have consistently effective channels or mechanisms for referring disputes to higher authorities for resolution

FA Division and GDANCP Wildlife Sanctuary level: Senior FA and GDANCP staff at Division/Wildlife Sanctuary level often have good working relationships with their CF and CPA counterparts. They appear to have effectively delegated responsibility for most intra-CF and intra-CPA dispute resolution to the CFMCs and CPACs, and acknowledge the important supporting roles of NGOs and Commune Councils. However, it appears that FA and GDANCP staff have difficulty providing effective support to the local counterparts in resolving disputes with external actors.

Our interviews suggest that staffing constraints, unclear FA/GDANCP authority and responsibility for dealing with external actors (especially ELCs and the military), and limited capacity to manage dispute resolution processes, all contribute to the uneven response of FA and GDANCP staff to requests for assistance from the local governance bodies.

Of all the capacity constraints on FA and GDANCP, one of the most significant may be boundary demarcation. The mission heard numerous stakeholders raise concerns and express frustration about the slow pace of CF/CPA boundary demarcation. Boundary posts, GPS equipment, and FA/GDANCP staff all appear to be in short supply. A number of stakeholders stressed that boundary demarcation is one of the most fundamental needs for effective dispute prevention and resolution. FA and GDANCP counterparts acknowledged the slow pace of demarcation. They indicated that boundary demarcation is a high priority for them, but they are severely constrained by their available staff and budgets, which are decided by their HQs.

There are, on the other hand, several examples of FA and GDANCP staff taking proactive roles in dealing with illegal logging, migrants, and even ELCs in some cases. These proactive moves appear to be driven primarily by the personal commitment of individual staff, rather than by clearly defined procedures for addressing these disputes, or clear authority to do so.

In summary, the mission's preliminary assessment is that the FA and GDANCP staff at the Division/Wildlife Sanctuary levels supporting the pilot sites

- have effectively delegated responsibility and authority to manage internal disputes to their CFMC, CPAC, NGO and Commune Council counterparts
- do not have clearly defined and well-understood procedures for resolving disputes between local governance bodies and outside actors
- have very uneven ad hoc responses to conflicts with external actors
- do not have consistent documentation of disputes, or a structured way to share or learn from their experience in resolving disputes
- do not have consistently effective channels or mechanisms for referring disputes to higher authorities for resolution

Provincial government: In discussion with the Governor and senior provincial government leaders in Oddar Meanchey, the mission learned that the Provincial government is primarily in a reactive role, responding to disputes and conflicts that are brought to senior level attention either by CFMCs/CFs and their supporting NGOs, or by Commune Councils, or occasionally by ELC holders or migrant groups.

It appears that there is limited flow of information about CF/CPA disputes from Commune Councils to the Provincial government. It also appears that there is limited communication and coordination between FA Divisional or GDANCP Wildlife Sanctuary

staff and the Provincial government, though there have been some high profile conflicts with ELC holders and the military that have led to joint work by the Provincial government and FA and GDANCP staff.

The Provincial government does not have a land use plan on which to base decisions about how to respond to migrant or ELC conflicts with CFs/CPAs. It does not have identified areas for settlement or development of commercial agriculture, so each case leads to an ad hoc decision about whether and where to relocate migrants or commercial investments.

There are disputes that the Provincial government has referred to national decision makers in Phnom Penh, particularly those involving the military and some ELCs. It appears that the Provincial government does not have delegated authority to resolve these disputes. Nor does it receive clear or consistent responses from national government agencies when it requests them to resolve these disputes.

In summary, the mission's preliminary assessment is that the Provincial government

- does not have clearly defined authority or procedures to respond to disputes between CFs/CPAs and external actors
- Has uneven and limited lines of communication with local forest governance bodies, and with FA Divisional/ GDANCP Wildlife Sanctuary counterparts
- does intervene ad hoc to resolve disputes, often effectively
- Does not have a clear strategy or set of guiding priorities for land use decision making
- is willing and interested in taking on a more proactive role in dispute prevention and resolution
- does not have consistent documentation of disputes, or a structured way to share or learn from experience in resolving disputes
- does not have consistently effective channels or mechanisms for referring disputes to national authorities for resolution

National government: The RGC has taken positive steps to address conflict in the forest sector, including the ongoing process of establishing, demarcating and zoning State forest land by FA and GDANCP; support for community forestry in general and for the REDD+ pilot projects in particular; the Prime Minister's suspension of commercial logging and now of ELCs in order to clarify boundaries, rights and rules and strengthen their enforcement; and the Prime Minister's ongoing initiative to title household settlements and farm land within forest areas, including land within ELCs.

Though the RGC has taken important steps, their implementation remains incomplete. Inconsistent application of current laws, policies and regulations has itself been a source of conflict at the local level. Equally important is limited transparency and

communication between national HQs and Ministerial bodies and counterparts at other levels of governance. Provincial governments, FA Division and GDANCP Protected Area managers are uncertain of how policies will be applied to resolve particular disputes, and are often unclear where to refer complex cases that involve multiple government agencies.

National government interviewees indicated that existing high-level coordination and dispute resolution bodies, including the National Authority for Land Dispute Resolution and the Council for Land Policy, do not play an active role in forest land dispute resolution. With regard specifically to the REDD+ pilot sites, the REDD Task Force was not clearly mandated to resolve disputes, and there are no clearly defined procedures for local governance bodies to refer disputes to the REDD Task Force. In any case, the interim Task Force has been disbanded, and has not yet been re-constituted.³⁷

The recent leadership role of the Prime Minister in creating a moratorium on ELCs and in promoting land titling on forest lands is noteworthy, and may contribute to the resolution of some conflicts. However, these directives and their implementation are not well-linked to ongoing Ministerial bodies or agency mandates, and it is unclear what institutional structures will be used to resolve remaining or new disputes regarding ELCs or residents in forest areas once the current initiatives end.

Finally, though these initiatives are likely to have some positive results, they also risk creating additional conflicts, as some ELC holders refuse to accept the “leopard spot” removal of community lands from inside their concessions; some households that do not receive titles dispute the titling decisions; disputes arise between community members seeking collective titles and members who would like to take advantage of the titling initiative to gain an individual title; and households now possessing titles encroach onto CPAs and CFs. It is not clear that the RGC has a plan for ongoing management of the conflicts that it may create through the current ELC moratorium and titling initiative.

In summary, the mission’s preliminary assessment is that the national government, (primarily FA and GDANCP at HQ level, but also the existing Ministerial/Cabinet bodies with nominal responsibilities for land conflict resolution, and the Office of the Prime Minister):

- has taken positive steps to prevent and resolve forest sector conflicts, but has not completed implementation of those steps
- has not clarified or made transparent when or how other levels of governance should refer disputes to national government agencies or bodies

³⁷ The draft TOR for the now-disbanded REDD Task Force do include responsibility for “addressing any conflicts that occur within the REDD+ development process,” but it is unclear how this responsibility would be operationalized.

- has not established effective inter-agency coordination mechanisms at the national level to resolve disputes involving multiple national government agencies and interests
- does not have consistent documentation of disputes, or a structured way to share or learn from experience in resolving disputes

5 Strengthening forest sector/REDD+ dispute resolution mechanisms: options and design issues

5.1 Dispute prevention options

As noted in section 3.2 above, REDD+ grievance and dispute resolution mechanisms as intended primarily as “reactive” tools to respond to concerns raised by REDD+ stakeholders. However, there are important opportunities for proactive dispute prevention for the pilot sites, and for Cambodia as a whole. These opportunities should be actively considered, in order to address longstanding issues and reduce the demand on grievance mechanisms. Dispute prevention options for consideration include:

- Boundary demarcation and zoning for State Forests and Protected Areas, and for CFs and CPAs
- Continuous education for local and provincial governance bodies, communities and external stakeholders
- Joint, integrated local land use planning and zoning

Boundary demarcation and zoning for State Forests and Protected Areas, and for CFs and CPAs: FA and GDANCP are committed to completing the demarcation of land under their control, with support from the Ministry of Land Management, Urban Planning and Construction (MLMUPC) and the Prime Minister’s land titling initiative to transfer and title land that should no longer be part of the forest estate or protected areas system. The mission heard repeatedly from stakeholders at all levels of forest governance that demarcation is essential to effective dispute prevention and resolution. National government, particularly MAFF, MoE, and MLMUPC, could substantially accelerate the demarcation and zoning process by allocating additional resources. This is also an important area for technical and financial support by development partners.

Zoning is also critical for establishing sustainable forest management. The mission understands that GDANCP intends to complete zoning of protected areas once it has procedures established by sub-decree. The mission also understands that FA continues to develop plans for management of production and protection forests in its jurisdiction, but has limited resources for planning or for monitoring compliance with forest

management plans.

For both boundary demarcation and zoning, stakeholder participation is key to identify and resolve disputes about boundaries and zoning during the process, rather than having to deal with those disputes after the fact. Ideally, demarcation and zoning participants should include:

- FA and GDANCP staff with boundary demarcation and zoning authority
- Counterparts from MLMUPC and Provincial Land Management Departments as appropriate
- Commune Council members with land management authority
- CF/CPA leadership and members
- External claimants (migrants, ELC holders)
- Other community residents who have claims on or concerns about access to forest land and resources

In the next few months, as the Prime Minister's titling initiative continues, the stakeholders listed above should also be actively involved in the work of the land titling teams, in order to avoid the creation of new conflicts after the titling process.

Continuous education for local and provincial governance bodies, communities and external stakeholders: Our meetings and interviews with local and provincial governance stakeholders made it clear that there is a high need for ongoing communication and education about the purpose of forest conservation and sustainable management, the roles and authorities of CFMCs and CPACs, Commune Councils, FA and GDANCP in managing forest, and the specific goals, requirements and potential benefits of participation in REDD+. While it may not be appropriate to emphasize financial benefits from REDD+ carbon incentives, it is important to clarify who benefits and how from sustainable forest management and conservation.

Specifically, it may be useful to

- hold periodic joint orientation and training for local and provincial forest governance leaders, including CFMCs, CPACs, Commune Councils, GDANCP and FA at Divisional/Protected Area level, supporting NGOs, and provincial government staff with responsibility for land and forest management
- use local radio, TV and print media to communicate messages about the importance of forest conservation and the benefits of sustainable forest management
- integrate teaching about forest management into children's schooling

Joint, integrated local land use planning and zoning: As noted above, there is limited joint planning for forest and land use by forest management authorities (FA and GDANCP) and provincial government. There appears to be potential for strengthening joint planning in order to identify land areas within each province that are most suitable for settling migrants and supporting smallholder farming, for commercial agriculture and plantation forestry, and for sustainable forest management and forest protection. Given limited capacity at the provincial level and within FA and GDANCP for proactive planning, this initiative might be supported by MLMUCP, perhaps as an expansion of an ongoing provincial land use planning initiative currently being undertaken by MLMUCP with support from GIZ.³⁸

The goal of such an initiative would be not only to produce a map or a plan, but more importantly, to establish effective and ongoing communication and coordination in anticipating demands on forest and land resources at the provincial level, and setting up systems for channeling migrants and commercial activity out of forests with high value for conservation and sustainable management, and potentially into degraded forest areas and other state public land more suitable for those activities.

5.2 Strengthening dispute resolution by local forest governance bodies

As noted above, local governance bodies are acting in constructive ways to resolve disputes within their authority, particularly among community members and with small-scale external actors. To improve their effectiveness, it may be useful

- to specify the roles and responsibilities of CFMCs/CPACs and Commune Councils for dispute resolution more clearly, both for the benefit of the local governance bodies, and for community residents
- to establish joint CFMC/CPAC-Commune Council dispute resolution committees

With regard to roles and responsibilities, it may be useful to specify that CFMCs/CPACs are the first line of response for internal CF/CPA disputes; and Commune Councils are the first line of response for CF/CPA-community member disputes.

It may also be useful to create joint local committees for dispute resolution:

- Joint dispute resolution committees would include several CFMC/CPAC and several Commune Council members. The committees would link the two governance bodies for dispute resolution. They would have responsibility for regular communication and discussion about new and ongoing disputes, for communicating with community members where appropriate, and for documenting disputes and their resolution.

³⁸ Interview with Mr. Hue Chenda, Deputy Secretary General of National Committee of Land Management and Urban Planning, January 28, 2013.

- The joint committees would also have responsibility for requesting assistance from higher levels of governance (FA, GDANCP, provincial government, as appropriate) to resolve disputes with external actors. See below for the option to create a provincial-level team that could be the primary point of contact for the local joint committees for dispute resolution.

In order to strengthen local dispute resolution capacity, it may be useful to conduct training specifically on dispute resolution procedures, with skill-building activities and exercises. It may also be useful to introduce simple templates for documenting disputes received and how they have been resolved, and to clarify how documentation of disputes will be reviewed for purposes of learning and performance improvement. Supporting NGOs (e.g. CDA, Pact, WCS) could play useful roles in capacity building and setting up systems for documentation and learning at the local level.

5.3 Strengthening dispute resolution at the provincial Level

At the provincial level, there is an opportunity to improve the integration of the work of FA and GDANCP with provincial government leadership to resolve disputes involving external actors (such as migrants, ELCs, and the military). Specifically, it may be useful to develop an inter-agency team at the provincial level to receive requests for dispute resolution, and to respond to those requests with well-coordinated use of government authority and resources.

Such a provincial inter-agency team or body could have the following design elements:

- mandate to resolve disputes involving CFs/CPAs and external actors when requested by local governance bodies, FA, GDANCP, or senior provincial leadership
- established under the auspices of the provincial governor, with explicit terms of reference for participation of national Ministry counterparts (FA, GDANCP), and representation from Community Forest Networks and supporting NGOs/CSOs where they are present
- authority to use a variety of means of resolution, including regulatory action by government agencies, direct dialogue, education and negotiation, and use of independent mediation where available and appropriate

This option raises a number of design questions that need further assessment. First, the mandate and authority of such a body and its participating agencies and non-government stakeholders would need to be defined.³⁹ Second, there would need to be

³⁹ The mission was informed that in Oddar Meanchey and other provinces, there are regular (monthly) provincial inter-agency meetings chaired by the provincial governors. The provincial governors may establish standing task forces and time-limited task teams under these inter-agency forums. It might be possible to establish a standing task force on forest sector planning, management and dispute resolution in provinces such as Oddar Meanchey where there appears to be strong leadership interest in improving

capacity development to help the teams understand dispute resolution principles, strategies and processes; define their procedures and their links to local and national governance bodies; and begin responding jointly to requests for dispute resolution.

Third, the potential for the provincial teams to commission independent mediation needs further investigation. There is some indication that Buddhist monks have been playing effective mediation roles in some areas, and might be a valuable resource for dispute resolution. There may be other respected individuals and groups (for example, retired local leaders, senior teachers and professors, etc.) who could also become effective mediators with training and support. The availability of independent mediators, the criteria for using mediation rather than other approaches (direct dialogue, regulatory enforcement, etc.), the openness of local stakeholders to mediators, and the ability of provincial teams to formally request and support independent mediation, while respecting the independence of the mediation process, would all need to be addressed. However, reports of successful local mediation suggest that this is a set of questions worth investigating.

5.4 Strengthening dispute resolution at the national Level

At the national level, as has been noted above, the most valuable contribution to dispute prevention may be to provide budget and staff resources to complete forest area demarcation and zoning. Options for providing significant support to local and provincial level dispute resolution include:

- Allocating budget and resources for local capacity building for CFMCs, CPACs, and Commune Councils, including training in dispute resolution processes, establishment of documentation and reporting capacity, and ongoing periodic evaluation
- Authorizing staff of FA Divisions/GDANCP Protected Areas, MLMUPC, and other national agencies as appropriate to participate in provincial inter-agency dispute resolution teams, and providing guidance on the ways that they can work with provincial counterparts to resolve disputes
- Designating an existing interagency body, or creating a new body, to receive requests for assistance with dispute resolution from provincial inter-agency teams and governors

The option to designate or create an inter-agency body at the national level parallels the option at the provincial level. As noted above, one of the major challenges to effective dispute resolution is conflicting national agency policy and practice (e.g. with regard to award of commercial concessions and SLCs; military activity in forest areas; and land titling in forest areas). A national forum for inter-agency responses to requests for

coordination.

dispute resolution could help address those conflicts case by case. Over time, it could also help to align underlying policies.

If such a forum were to be designated or created, it would be important for its existence and procedures to be widely known and understood by provincial and local forest governance bodies, and by other REDD+/forest management stakeholders. The credibility and effectiveness of the forum would depend heavily on its ability to respond constructively, predictably, and with adequate transparency to requests received.

Such a forum could also support independent mediation of high-stakes cases involving substantial national interests. Again, the availability of qualified mediators, and the feasibility of ensuring independence when mediation was used, would need careful assessment.

It could also be useful for such a forum to support the ongoing documentation and review of cases handled at the local and provincial levels, and to promote learning and improvement in dispute resolution at all levels.

One additional caution is in order: if there is not substantial political will among national agencies, and at the highest levels of government, to cooperate in offering constructive support for dispute resolution, it is probably better not to designate or create such a forum.

6 Recommended next steps: detailed assessment, design and piloting of strengthened dispute resolution mechanisms

This assessment has provided a preliminary and provisional set of findings and options for consideration by REDD+ leaders in Cambodia, including the RGC, development partners, and supporting civil society and community organizations. To develop effective conflict and dispute resolution mechanisms for use in REDD+ and more generally in forest management in Cambodia, it will be important to explore more deeply the findings and the options presented here. Following is brief set of recommended next steps in this process.

6.1 Answering key assessment questions jointly with forest sector/REDD+ stakeholders

This mission has identified several options for improving coordination and capacity for dispute resolution within and across levels of forest governance in Cambodia. Key questions to be addressed by REDD+ and other forest management stakeholders are:

1. Do the number and intensity of disputes involving CFs, CPAs and external

stakeholders justify additional investment in capacity building and coordination?

2. If so, are the options proposed here the best possible options for improving capacity and coordination?
3. If not, what other options would be more likely to improve capacity and coordination?
4. What additional information is necessary in order to answer these questions, and how will REDD+ leaders and other stakeholders collaborate to gather it?

Given the diverse stakeholders who need to be involved in answering these questions, it might be useful to organize a task team under the auspices of e.g. the REDD+ Task Force to lead the process of further investigation, and provide a refined set of recommendations to national and provincial government leaders, and to local governance bodies, for decision.

6.2 Designing a set of linked local, provincial and national dispute resolution mechanisms

As a set, the options offered for consideration would create a “linked” set of dispute resolution mechanisms for REDD+ and potentially for the forest sector more generally:

- Joint CFMC/CPAC-Commune Council committees with clear, transparent procedures for local dispute resolution, with clearly established procedures for requesting help from the provincial level to resolve disputes that cannot be resolved at the local level.
- Inter-agency provincial teams with responsibility for responding to requests from local joint committees, using clear and transparent procedures (possibly including independent mediation); and with clearly established procedures for requesting help from the national level to resolve disputes that cannot be resolved at the provincial level.
- A national forum for REDD+/forest sector dispute resolution (either an existing body or one created for this purpose), with responsibility for responding to requests from the provincial level, using clear and transparent procedures, and authority to make final decisions jointly to resolve disputes where necessary.

While the individual options for strengthening dispute resolution capacity at each level could bring significant benefits, the advantage of creating a linked system could be to ensure that there is a clear set of procedures for dealing with more complex disputes in a systematic way, from the local to the provincial level, and to the national level where necessary.

As with the individual options, stakeholders should look carefully at the option to create a linked system. Questions for joint assessment include:

- Is there a substantial volume of requests from the local to the provincial level for help with dispute resolution?
- Is there a substantial volume of requests from the provincial to the national level for help with dispute resolution?
- Would there be significant benefit in clarifying and formalizing a linked system for making and responding to requests, and to building capacity for making and responding to requests across the levels?
- What are the most significant complications and barriers that would need to be overcome to make such a system effective in expediting constructive dispute resolution?

If these questions can be answered in a way that suggests benefit in developing a linked system, then a national body, such as the REDD+ Task Force, could lead in developing linkages, with provincial and local governance partners. Alternatively, if the judgment is that there is likely substantial benefit in building up local to provincial linkages, but less benefit in building provincial to national linkage, then the focus could be on working with provinces and the CFs/CPAs in their jurisdiction, with the national level taking on an oversight and support role.

In addition, it is important to note that the focus of this preliminary assessment was on pilot sites where management responsibility rests with established CFs and CPAs. It is possible that future development of REDD+ will occur in areas that are directly managed by FA and/or GDANCP, and/or that other actors, e.g. private conservation investors, could be authorized to manage forests directly. These management arrangements may raise the likelihood of conflicts between local residents and external managers, and additional effort will be needed to design and implement dispute resolution systems in these cases.

6.3 Pilot testing linked dispute resolution mechanisms

If the decision is to develop either a local-provincial-national or a local-provincial linked system for dispute resolution, then it would be appropriate to develop and pilot test the linked system in one or two provinces with substantial CF/CPA presence. Oddar Meanchey could certainly be a logical candidate province for such a pilot test, given the presence of the two REDD+ pilot sites and initial signals of interest from provincial government in improving communication and coordination on forest management. However, the unstable border security situation is a significant risk factor, because military deployments could undermine REDD+ activities and lead to forest degradation.

In conducting a pilot test, it would be essential to begin by collecting baseline data on

patterns of disputes and their resolution, in order to assess the impact of the system being pilot tested. The collection of baseline data could also be a way to begin building capacity among CFMCs, CPACs, Commune Councils, FA, GDANCP, and provincial government for documenting and tracking disputes. The types of data that could be collected include:

- Provision of information to community members and external stakeholders on options for dispute resolution (what information, by whom, how often)
- Number of disputes received per month
- Issues and stakeholders in each dispute
- How each dispute is received (meetings, letters, etc.)
- Who is responsible for responding?
- What is the initial response?
- How effective is the initial response in resolving the dispute?
- If the initial response is not effective, what follow up steps are taken, and what agencies and levels of governance are involved?
- What is the final outcome of the dispute resolution effort?
- What lessons did the governance bodies and agencies learn from the effort?

Governance bodies could collect these baseline data for several months while designing the pilot test. During the pilot test, the governance bodies could continue tracking data on the same questions for a period of 12-24 months. A review could then be undertaken to determine what difference a more formal and structured system had made in dispute resolution.

6.4 Conclusion

Cambodia's forest sector stakeholders have a significant opportunity to use the REDD+ process to build on important steps they are already taking to prevent and resolve disputes. Though the disputes are significant and often complex, there is evidence of substantial and sometimes successful dispute resolution efforts. There is equally clear evidence that greater communication and coordination among governance bodies at each level, and across levels from local to national, could increase the efficiency and effectiveness of dispute resolution.

It is also clear that there are significant needs for capacity development at each level of governance, ranging from skills in dialogue, negotiation and mediation to the development of systems for documenting, tracking and evaluating efforts at dispute resolution. Capacity building efforts should be tailored and targeted to the actors and contexts in which they are most likely to add value.

Given the number of disputes that involve CFs/CPAs and external actors, and which CFs/CPAs and Commune Councils do not have the authority to resolve on their own, it seems clear that building some joint capacity of FA, GDANCP and provincial government

to support local dispute resolution efforts should be a high priority.

The mission greatly appreciates the cooperation and candor of the diverse REDD+ and forest sector stakeholders with whom we met. The mission hopes that this report will contribute to the ongoing, constructive work of the RGC, development partners, civil society and community groups to conserve and sustainably manage Cambodia's forest resources.