



# Options for Fund Management Mechanisms for the Seima Protection Forest REDD+ project



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Cambodia REDD+ Programme



## **Disclaimer**

This information brief was prepared by **Alex Diment, Jeff Silverman** and **Donal Yeang** of the Wildlife Conservation Society (WCS)-Cambodia Programme, drawing on their experiences in developing and implementing the Seima Protection Forest REDD+ Project under voluntary carbon market. The work of producing the brief was funded by UNDP under the UN-REDD Programme. However, the views and recommendations reflected in the brief are not necessarily those of the Cambodia REDD+ Taskforce, the Forestry Administration, the General Directorate for Administration of Nature Conservation and Protection (Ministry of Environment), UNDP or the UN-REDD Programme.

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## 1. Background

The Forestry Administration is developing a site-based REDD project in the Core Area of the Seima Protection Forest. It is a designated national REDD demonstration site. REDD project development is well advanced with validation of the project design currently on-going and expected to be completed in 2014. This report describes the lessons learned through experiences with the development and implementation of the Seima REDD+ Project. Specifically, it identifies lessons from the VCS and CCBA combined Validation process that is currently underway.

WCS has been providing technical assistance to the FA to develop a site-based carbon offset project under the Reduced Emissions through Avoided Deforestation and Degradation (REDD) framework since 2008. Credits will be generated in the Core Area of the Seima Protection Forest, where these two organizations have cooperated on a long-term biodiversity conservation project since 2000.

The Seima Protection Forest is designated as a national REDD demonstration site. The Project Document (PD) was validated under the VCS (Verified Carbon Standard) standard in December 2014. Conservative projections suggest the site can generate significant emissions reductions each year beyond baseline levels; with the validation now complete, verification can commence, to create tradable VCUs (Verified Carbon Units, which represent a reduction or removal of one ton of carbon dioxide equivalent (CO<sub>2</sub>e)).

The Seima REDD project has been proceeding to the following timeline:

- 2008, May: REDD+ Feasibility Study is completed
- 2009, September: Seima Protection Forest is declared by Sub-decree
- 2010, January 1: Project “Start Date”
- 2012: FPIC process (completed Jan 2013)
- 2013, March, final draft Project Design document complete
- 2014, December, Project Validated under the VCS standard.

*Further anticipated activities are:*

- 2015, August, Project Validated under the CCBA standard
- 2015, November, Project Verification audit underway
- 2016, February, Project Verified, with tradeable VCU's

Once carbon credits are available to be traded, all revenue generated will need to be managed in a transparent, accountable, and efficient manner, with disbursements managed to. It is expected that credits generated will be. However, despite the one-time sale of credits resulting from avoided deforestation, REDD+ projects require that forests are protected in perpetuity. A ‘permanence fund’ has been included into the project financial model, and this design has now been verified. The precise structure of this ‘permanence fund’ within the Seima fund management arrangements, remains unclear.

This report aims to outline the options for fund management mechanisms in the Seima Fund, and proposed a number of legal and regulatory frameworks within which the fund could operate.

## **Overview of potential mechanisms for developing a Seima REDD+ Fund management mechanism.**

A review was done of existing fund mechanisms and opportunities under Cambodian law, to identify possible avenues for establishing a Seima REDD+ Fund. This builds upon reports done by Duggin (2013) and Tolisano (2014), which were performed in the framework of a national REDD+ fund, and national sustainable financing mechanisms. A national level legal analysis has been done, as well as a review of international experiences related to national REDD+ funding mechanisms. Based upon this review and assessment, a range of options were presented, and recommendations provided on the approach to developing Fund management mechanisms for the Seima REDD+ project.

## **2. National REDD fund management mechanisms**

### **International and Domestic Context for REDD+ in Cambodia**

According to recent UNFCCC decisions on REDD+, a national level entity should be established for receiving and facilitating funding, and finance is to be based on verifiable results-based payments. As domestic and international institutional and policy arrangements surrounding REDD+ and related issues of climate change and green growth are currently under development, it is important to establish a National REDD+ Fund for Cambodia in full consideration of current circumstances, and ongoing and future developments.

At present, there are multiple line agencies and institutions that have responsibility for activities relevant to REDD+. These include the REDD+ Taskforce, the Forestry Administration (FA) and the Fishery Administration (FiA) from the Ministry for Agriculture, Forestry and Fisheries, the General Department of Administration for Nature Conservation and Protection (GDANCP) and the Department of Climate Change (DCC) from the Ministry of Environment, and the National Climate Change Committee (NCCC).

Here we identify several enabling institutional conditions for a National REDD+ Fund to be successfully established and to operate effectively. These include as follows:

- A site based REDD+ Fund management mechanism should be structured such that it can be nested within any future national scheme, ideally as a ‘window’ within a national REDD+ Fund.
- Any site-based REDD+ Fund should be accessible equally across the relevant line agencies.
- Domestic institutional arrangements and respective roles and responsibilities should be clarified.
- The role of the NCCC and CCD, as responsible for national climate change policy and coordination and as the focal point for the UNFCCC respectively, must be recognised in respect of a REDD+ funding mechanisms. REDD+ Fund mechanisms should be developed in close coordination with related climate change strategies, such as the Cambodia Climate Change Strategic Plan, and in particular proposed plans to develop a national climate change fund.
- The development of mechanisms for the Seima pilot REDD+ project is important, as it has the potential to offer useful lessons in terms of design features that are effective in Cambodia.

## **Review of Cambodian Laws and Existing Funds**

Cambodia does not have any identifiable overarching law that guides or regulates the establishment of funds. For a National REDD+ Fund to be established under the Cambodian legal system, it must therefore have legal authority for its creation in a specific law. One exception to this would be a project-based, donor-managed trust fund established under contractual arrangements with a development partner(s).

### **Existing laws with the legal basis for a Fund**

*(see Annexe 3 for extracts from particular laws and policies relevant to fund management mechanisms for REDD+ projects)*

The *Law on Forestry 2002*, *Law on Protected Areas 2008*, and *Law on Environmental Protection and Natural Resource Management 1996* all offer legal avenues that could potentially be utilised for a REDD+ funding mechanism, as each establishes the legal basis and framework for a Fund. However, all three of these laws would likely require amendment to be used for REDD+. This may create significant complications, given that each law is intended to apply only to those areas under jurisdiction of the respective Ministry. If amendments are to be made to specifically incorporate REDD+ into one of these laws, substantive changes will be needed that address the entire scope of the law.

An alternative approach to amending an existing sector law would be to develop a new, standalone law that is specifically targeted to establishing a REDD+ fund, or to proceed on a project-based approach through a multi-donor trust fund.

## **A review of similar fund management mechanisms and trust Funds**

In order to develop a Seima REDD Fund management, first we should review existing experiences in Cambodia, and elsewhere, with similar fund management mechanisms, such as trust funds. Conservation Trust Funds (CTFs) are private, legally independent grant-making institutions that provide sustainable financing for biodiversity conservation and natural resource management. Conservation trust funds have been legally established in over 50 countries, typically as trust funds or foundations, as a way to manage long-term financing for protected areas, biodiversity conservation or other environmental purposes. These funds are usually independent of government, and are typically set up as private grant-making institutions that are governed by an independent board of directors which is charged with ensuring that funds are used for the specific purposes defined in the fund's legal statutes.

Conservation trust funds are often established to anchor other sustainable financing mechanisms by providing a transparent and efficient way to manage funding for conservation purposes. Conservation trust funds can manage endowment funds (e.g., only investment income is spent), sinking funds (e.g., both capital and investment income is disbursed) or revolving funds (e.g., pass-through sources of revenue are disbursed), or a combination of any of these.

CTFs can be:

- Funds that support Protected Area (PA) management with a primary focus on biodiversity conservation, or
- Environmental funds that cover a range of environmental issues with significant support to civil societies and local communities.
- Endowment Fund – A large capital fund (often provided by a donor or via a grant or debt swap). Only spends the interest earned on the account.
- Sinking Fund – All funds in the account are spent over a specific time frame – 10 to 20 years.
- Revolving Fund – Income from taxes, fees, fines, donors, or PES are continuously raised and put in the fund.

Most funds combine 2 or 3 of the fund types as a way to diversify their sources of funding and take advantage of emerging opportunities.

CTFS are typically developed through a process that engages all affected stakeholders to carry out the following steps:

- Define the mission, vision, and desired outcomes from establishment of the fund.
- Determine the roles and responsibilities for all parties involved in the development and management of the fund – this can include the assignment of fund management responsibilities to an independent third party, often a local or international NGO, and appointment of secretariat to manage the overall development and implementation of the fund.
- Legally establish the fund, and define financial management procedures.
- Identify potential donors with demonstrated interest in the mission and vision of the proposed fund.
- Develop and submit proposals to raise the funds to endow the fund.
- Build the capacity for individuals and institutions managing funds.
- Help fund managers communicate with and learn from other trust funds.

### **Madagascar Biodiversity Trust Fund**

*The Government of Madagascar established a conservation trust fund in 2005 as a part of a concerted effort to find sustainable financing the effective management of the protected area network by the National Park Service. The external trust fund donors in addition to the participation of the Government of Madagascar are the Global Environment Facility (GEF), Fonds Français pour l'Environnement Mondial (AFD/FFEM), World Wildlife Fund (WWF), Conservation International (C.I.), World Bank (IDA), and KfW. The interests yielded from the assets will go to cover selected measures for infrastructure, and to partly cover the costs of maintaining the parks. They planned to have \$33 million EUR. As of 2007, \$11 million USD had already been disbursed.*

### **Institutional and Policy Factors in Cambodia for fund management**

Cambodia does not have any identifiable overarching law or any sub-decree that guides or regulates the establishment of funds generally (aside from the more general Law on Public Finance System 2008, discussed further below). The result is that existing funds in Cambodia have been created on an ad hoc basis through special subject-matter laws. Further details could be included below this law, via a sub-decree, in accordance with the hierarchy. An exception to this would be a project-based, donor

managed trust fund established under contractual arrangements with a development partner(s) (also discussed further below). Nevertheless, there are various laws in Cambodia that do provide provision on how the different types of Conservation Trust Fund (discussed earlier) could be established.

The Law on Forestry 2002 establishes the legal framework for the management, harvesting, use, development and conservation of the forests in Cambodia. This law enables the establishment of a National Forestry Development Fund (NFDF), which is to be administered and managed under the responsibility of the National Forestry Development Committee (the organization and function of which is to be set out in Sub-Decree), and co-chaired by Minister of the MAFF and the Minister of MEF. The Forestry Law specifies that its revenue sources will include government allocations, premiums on forest products/by-products, wildlife conservation fees, contributions from international organizations, donations from individuals and non-government organizations, and revenue from 'other services in the forestry sector'. Activities the NFDF's funds may be only be used for are reforestation, silviculture and forestry rehabilitation, forest and biodiversity protection and conservation, scientific and technical research, extensions services; development in the forest and wildlife sector, development of community forestry; and training human resources for the forest and wildlife sector. The revenue of the fund must not be used for the organization and functioning of the FA. The FA is currently preparing the Sub-Decree to operationalize the NFDF.

The Law on Protected Areas 2008 ('PA Law') establishes a framework for the management, conservation and development of protected areas, under the jurisdiction of GDNCAP of MoE. Amongst other things, the PA Law requires the establishment of a National Protected Area Strategic Management Plan, action plans and technical guidelines for managing protected areas, and proposals for establishing and modifying any protected areas. The PA Law also contains provisions enabling the establishment of a Protected Areas Fund ('PA Fund'). Similar to the Forestry Law, the PA Fund is to be organized, managed and 'given responsibility' by a protected area committee, which is to have the Minister of MoE and the Minister of MEF as co-chairs. PA Law also specifies that the PA Fund may be used for activities within protected areas including the protection, conservation, rehabilitation and enhancement of biological resources and ecosystems, technical and scientific research and study, maintenance and extension of eco-tourism services, training, human resource development and capacity building of staff, support for establishing community protected areas, education on protected areas, and infrastructure needs. The PA Fund has not yet been operationalized.

The Law on Environmental Protection and Natural Resource Management 1996 ('Environment Protection Law') under MoE establishes a broad framework on matters including national and regional environmental plans, natural resource management, environment protection and pollution control, and environmental impact assessment. It also provides the foundations for the establishment of an 'Environment Endowment Fund', a special Treasury account to be created and administer by the MoE 'for environmental protection and natural resource conservation' in Cambodia. Sources of revenue are to constitute government contributions, grants from international organizations, donations from individuals and non-government organizations, and other lawful sums. To date, MoE has not operationalized the Environment Endowment Fund.

## **Prior Experience with fund management mechanisms (trust funds) in Cambodia**

### **Funds that are currently operating in Cambodia**

Funds that are currently operating in Cambodia provide useful observations and lessons on approaches to and structures of funds, and offer precedents with respect to design elements for a National REDD+ Fund.

**Two funds that currently operate under government administration** and established through Laws in Cambodia are the **Commune/Sangkat Fund (CS Fund)** and the **National Social Security Fund (NSSF)**. The Ministry of Economy and Finance (MoEF) plays a central role in both funds, maintaining high levels of control of financial management, and decision-making processes surrounding the allocation of funds. Any National REDD+ Fund that is established under Cambodian law is likely to require some oversight by MoEF. Other relevant insights include that the NSSF has multi-stakeholder participation in its governance arrangements (which is likely to be a key interest for international donors regarding REDD+) and that the CS Fund uses a performance-based approach in determining revenue allocations.

**The UNDP managed Cambodia Climate Change Alliance (CCA) Trust Fund is a multi-stakeholder trust fund**, and offers an alternative to a government-administered fund established by law. It provides evidence of donor willingness to contribute to multi-stakeholder governed funds, as well as willingness to pool resources around overarching goals.

All three funds provide useful insights regarding revenue sources, and in particular the pooling of domestic and international funds, which is successfully demonstrated by the CS Fund.

Finally, other Cambodian laws are also relevant, including those relating to public financial management and fiduciary practices, particularly if a National REDD+ Fund is to be administered by government, and seeks domestic budget support or earmarked revenue streams to contribute to its funding sources.

There are several examples of conservation trust funds that have been established in Cambodia. Thus far, the biggest trust fund that is currently operational and is relevant for conservation activities is the Cambodia Climate Change Alliance Trust Fund. Other trust funds that have been set up include the Marine Conservation Trust Fund and the Tropical Forest Conservation and Venture Trust Fund.

### **Cambodia Climate Change Alliance (CCCA) Trust Fund**

*The CCCA Trust Fund is a multi-donor trust fund established by donors and government to apply a more coherent approach to climate change support for Cambodia. The fund is administered by UNDP, and implemented by a National Climate Change Committee within the MoE. A dedicated Trust Fund Secretariat appointed by government manages day-to-day operations, and reports to a Programme Support Board. A Trust Fund Administrator manages the Trust Fund, provides capacity development and financial assurance, and reports to the government and donors.*

*The CCCA Trust Fund is a sinking fund, where all committed funds will be disbursed by the end of the project timeframe. The initial design was for the duration of 3 years (2010-2012) and approximately USD 8.9 million was committed for that period. Recently the CCCA programme has been extended to 2014, with additional donor commitments being made (details to be finalized).*

*The CCCA Trust Fund operates under a project cycle, utilizing 'calls for proposals' followed by a two-step appraisal process (concept notes and full proposals), and grants are capped at a maximum of US\$300,000. It accepts proposals from government institutions, international organizations, NGOs and research institutes/universities. The CCCA Trust Fund prioritized projects that contribute to or are aligned with the 39 projects identified as priorities in the National Adaptation Programme of Action to Climate Change (NAPA). Four priority areas for adaptation are identified in the NAPA, which include water resource management and agriculture, forestry, health, and the coastal zone.*

### **Tropical Forest Conservation and Venture Trust Fund, Eastern Plains Landscape (TRAFO)**

*The Eastern Plains Landscape covers an area of almost 16,000 km and constitutes the largest intact tropical dry forest in Southeast Asia, with 2 globally recognized protected areas: the Mondulkiri Protected Forest and the Phnom Prich Wildlife Sanctuary. Funded by WWF-Switzerland, the TRAFO project recognizes the multiple (economic, social and biological) values of forests. The approach also recognizes the role that communities play in retaining the forests, the opportunity costs of sustainable land uses and the sustainable commercialization of NTFP. There are three main objectives: (i) to identify appropriate financing incentives through an 'Incentive to Conserve' assessment, (ii) to establish and build capacity in the management of community forests, and (iii) to develop sustainable NTFP use and management processes. Communities are paid a set annual fee per hectare for protecting their forests. Another key strategy is to help establish Community Protected Areas (CPA) and Community Conservation Forests (CCF) that give communities management and decision-making rights within legally designated areas. The TRAFO also provides compensation to 30 forest patrol team members. Financial support is also given to CCF Management Committee and CPA Committee members to start up new enterprises based on natural products, or to scale up their existing ones to allow them to move beyond a subsistence level.*

### 3. Review of International Experience relevant to a National REDD+ Fund

International experiences provide valuable lessons for Cambodia in particular due to the interface of national REDD+ activities with the international UNFCCC context. Lessons can also be learned from national forest or conservation funds, and REDD+ is also being included within broader national climate change funds.

The cases of **Brazil, Guyana, Nepal and Costa Rica** represent a mix of approaches focused on REDD+/forests. In particular, **Brazil and Guyana** are the only national-level funds directed specifically to REDD+, and are experimenting with mechanisms for results-based payments. The cases of **Indonesia and Mexico** have recently established broader climate change funds that include REDD+ within their scope.

Review of these various funds reveals a strong focus on access to international financing as a common overarching objective, although most also seek access to a wide range of revenue sources, both public and private sector, and national and international. Most are also directly linked to national level policies on REDD+ and/or climate change. The international experiences also illustrate different governance and management approaches, including both multi-donor trust funds (such as Guyana and Indonesia), and national, government administered funds (such as Brazil and Costa Rica). With the exception of Brazil, no countries have successfully established and operationalized a national, government-administered and operated fund that is designed specifically for REDD+. The majority of funds established are those operating under trust fund arrangements with donors. The use of multi-donor trust funds appears to have been important for enabling access to international financial contributions due to strong fiduciary standards and multi-stakeholder participation, while at the same time promoting government ownership in decision-making.

The international experiences also provide examples relating to more detailed operational matters, for example, experimentation with approaches for results-based payments (such as in Brazil, Nepal and Guyana), and on matters such as governance, safeguards and fiduciary standards.

### **Identified Options for Fund Management frameworks for the Seima Fund**

Four options have been identified for a potential avenue for establishing the framework for a Seima REDD+ Fund management mechanism.

**Option 1: a multi-donor Seima REDD+ fund, administered by an independent trustee** (such as a multilateral institution), which could be transitioned to a government-administered fund in the future.

- The advantages include that it is likely to facilitate access to international finance, as it will support high levels of accountability and transparency. It will also support capacity building and enable the fund to transition to a government-administered fund in the future, be initiated more rapidly and with more future flexibility, and allow for ‘experimentation’ with respect to long-term fund model and design for Cambodia.
- The disadvantages include that it may require strong donor support and commitment of resources, including the identification of a willing trustee. If designed inappropriately, it may operate outside of national systems and not respond to the national context. It may also be less successful in integrating domestic revenue streams, at least in the short term, and be difficult to successfully transfer to a government-administered fund in the future.

**Option 2: a government-administered Seima REDD+ Fund established through a new law.**

- The advantages include the ability to appropriately tailor and design the fund according to government national priorities, and that it would not be bound by constraints under existing laws. It may also better facilitate integration of international and domestic revenue sources.
- The disadvantages include that it may be difficult to approve and operationalize a new law, given that this would require significant resources and political commitment, as well as capacity and support. If the eventual design did not meet international standards, this would limit access to international funding, which is a significant risk. It is likely to also generate inefficiencies and confusion if established concurrently with a National Climate Change Fund. Finally, in the absence of a clear national REDD+ institutional and legal framework, it may be premature to establish a National REDD+ Fund through a law.

**Option 3: a Seima REDD+ sub-fund or funding ‘window’ within a new National REDD+ Fund.**

- Generally, similar advantages and disadvantages to Option 2 would apply, although to a lesser extent given that a National REDD+ fund may be based on the existing CCCA Trust Fund and thus have existing capacity and a proven record of successful operation. Additional advantages include that it would avoid duplication of efforts and the creation of parallel and potentially overlapping systems.
- Additional difficulties associated include that it may be difficult, considering current institutional arrangements, to combine REDD+ with a National Fund. Robust governance and management arrangements would be required to ensure that this fund is genuinely cross-sectoral and supported by multi-stakeholder decision-making processes, and the particular technical and methodological issues associated with REDD+ (such as on results-based payments and benefit-sharing), may increase complexity for design and operation of the National REDD+ Fund.

**Option 4: amendment and expansion of the Fund provisions within the *Law on Forestry* or *Law on Protected Areas*** to explicitly enable and support REDD+ funding at a site and national basis.

- The advantages include that it is likely to offer a more rapid approach to operationalizing a fund, as opposed to the development of a new law, and that it is likely to support domestic ownership.
- The disadvantages include substantial legal complications, given that placing REDD+ activities within a specific sector law may limit the accessibility to the fund for other relevant line ministries, thus detracting from its national level operation. The disadvantages of Option 2 would also apply, in that this option may risk limiting access to international financing.

In analysing and evaluating these potential options, a range of factors provided guidance, including ensuring access to international financing, consideration of, and alignment and cohesion with domestic institutions, policies and laws, and a range of practical considerations including timeframes and feasibility.

#### 4. Recommendations

Based on analysis of the four options, it is currently recommended that **the most suitable option in Cambodia's context is to pursue a multi-donor Seima REDD+ Fund (Option 1)**.

This option, a national level entity, is highly likely to support access to international finance, by balancing multi-stakeholder management with national ownership. It is likely to develop donor trust to contribute to a REDD+ fund, and would enable experimentation with key design aspects specific for Cambodia's circumstances, without prematurely 'locking in' an inappropriate mechanism, while supporting capacity building for fund management. It is also likely to be more rapid to establish, and could be transitioned to government administration in the future, either by incorporation into a National REDD+ Fund, nesting within a National Climate Change Fund, or established through a new law.

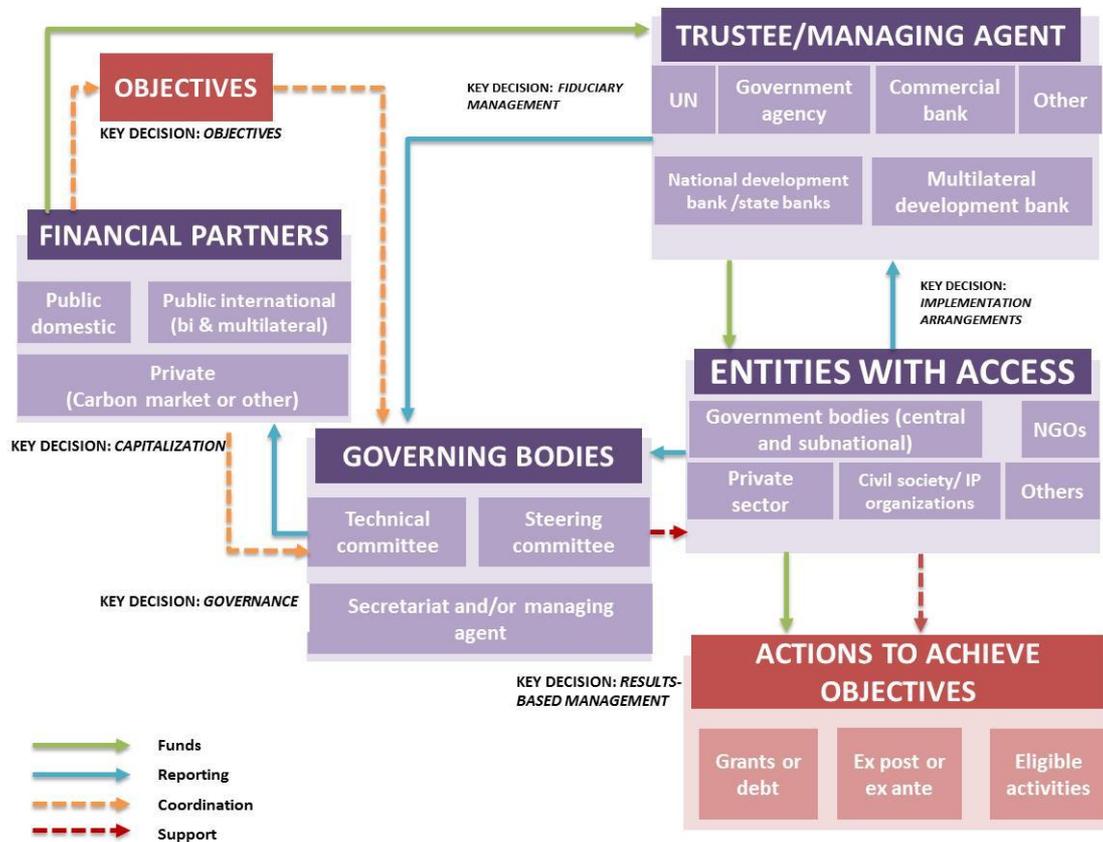
However, pursuing this option would require substantial donor support upfront, which in turn may depend on significant commitment on the part of the Cambodian government to REDD+ at the national policy and activity level.

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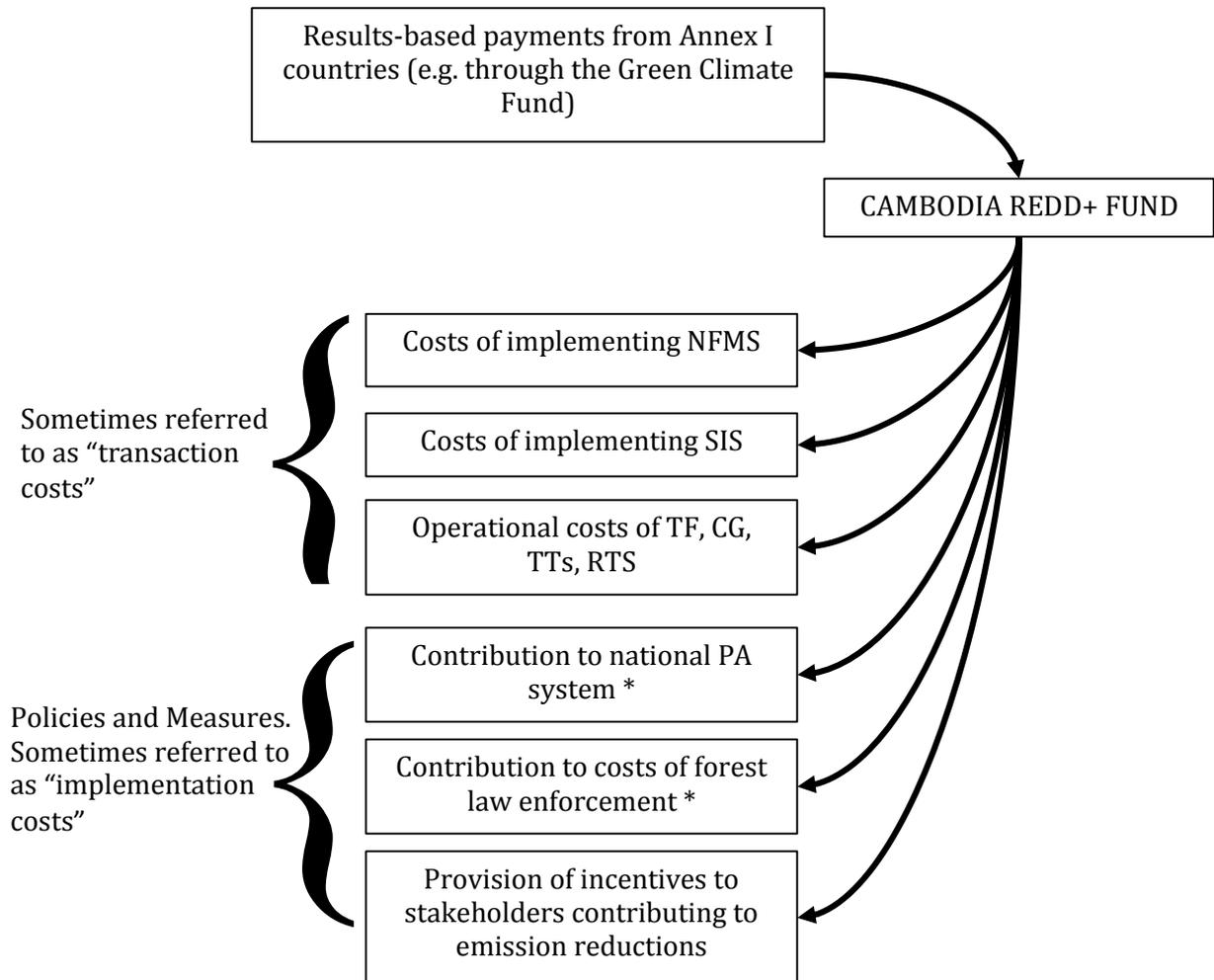
# Annexe 1: Proposed National Fund Management Mechanism

(source – draft Cambodia National REDD+ strategy)



## Annexe 2: Proposed distribution and use of National REDD performance funds

(source – draft Cambodia National REDD+ strategy)



## Annexe 3: References and Resources

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## Annex 4: Selected Texts of Enabling Legal Provision under Cambodian Law

### **The Constitution of the Kingdom of Cambodia, 1993**

**Article 59:** The State shall protect the environment and balance of abundant natural resources and establish a precise plan of management of land, water, air, wind, geology, ecological system, mines, energy, petrol and gas, rocks and sand, gems, forests and forestry products, wildlife, fish and aquatic resources.

### **Political Platform of the Royal Government of Cambodia of the Fifth Legislature of the National Assembly, 2013**

#### **Section 3.11. Environment**

- Preserving and protecting biodiversity and ecosystem while exploiting onshore and offshore natural resources in a sustainable manner for the benefit of people now and in the future in order to respond to the increased pollution caused by industrial development and global climate change and to ensure socio-economic advancement and the public well-being.
- Hastening the protection of environment quality and preservation of natural resources to ensure their sustainability in the ecosystem by way of: enhancing the development of green economy with full participation from all strata of society, especially local communities; and through strengthening the institutional and legal framework relating to environmental protection.
- Streamlining environment sector into the socio-economic development plan, and deepening regional and international cooperation in this sector. Accelerating the implementation of the Law on Environment with the aim to preserve protected natural areas, prevent environmental quality degradation and mitigate disasters.
- Undertaking sound environmental impact assessments for all development projects in order to ensure sustainable use of natural resources for advancing socio-economic development. Reinforcing the management of land concessions so as to ensure sustainable land use for development projects with the aim to prevent forest land encroachment at core and protected zones all the while providing technical support to local people living in those areas. Promoting eco-tourism that will help protect the environment and natural resources.
- Increasing environmental control and reducing pollution including: the management of solid waste, dangerous substances, air quality monitoring and quality improvement; monitoring and prevention of land and water pollution, including sound and visual pollution.

### **Rectangular Strategy for Growth, Employment, Equity and Efficiency Phase III of the Royal Government of Cambodia, 2013**

**Paragraph 27:** The Royal Government will continue to take a comprehensive development approach toward environmental management in Cambodia, through:

1. Sustainable management of natural resources.
2. Intensifying efforts to reduce the impacts of climate change by strengthening adaptation capacity and resiliency to climate change, particularly by implementing the "National Policy on Green Development" and the "National Strategic Plan on Green Development 2013-2030".
3. Continuing to strengthen technical and institutional capacity to promote the mainstreaming of climate change responses into the policies, laws and plans at national and sub-national levels.
4. Continuing to introduce measures to control environment and ecosystems pollution.

## **National Policy on Green Growth, 2013**

### **Section 3.2: Objectives**

- Developing an economy in balance with environment, society and culture;
- Create a favorably enabling environment for green growth in equity, balance, fraternity, and quality of socio-economic systems and ecology that uphold national cultural value;
- Effective management of Access to water resources management and sanitation, Access to food security and food safety, Access to development, forest conservation, and mixed resources water, and sustainable land use, Access to renewable energy, and energy efficiency, Access to information and knowledge and skill, Access to better social livelihood service means and environment, and Access to finance for creation of small medium enterprise and investment associated with green growth;
- Enhancing education and training on green growth;
- Strengthening information exchange, knowledge, good experiences, technology and investment related to green growth;
- Stimulating green growth cooperation at a national and sub national level, region and the world.

### **Law on Forestry, 2002**

**Article 1:** The objective of this law is to ensure the sustainable management of these forests for their social, economic and environmental benefits, including conservation of biological diversity and cultural heritage.

**Article 7:** The Forestry Administration shall perform the following duties: Study, collect data on State forests regarding scientific, economic, social and environmental factors in order to set a sustainable production level.

**Article 51:** The Forestry Administration shall collect the following Wildlife Conservation Fee and Wildlife Royalty:

1. A Wildlife Conservation Fee shall be paid to the Forest Development Fund; and
2. A Wildlife Royalty shall be paid to the National Budget.

The amount of a Wildlife Conservation Fee and Wildlife Royalty shall be determined by Joint-Prakas between the Ministry of Agriculture, Forestry and Fisheries and the Ministry of Economy and Finance.

**Article 52:** Except as stated in Article 53 of this law, any individual or legal entity harvesting Forest Products & By-products for commercial purposes within the Permanent Forest Reserve shall pay royalties and premiums to the national budget through the Forestry Administration. The Royal Government of Cambodia shall determine the royalties and premiums upon the joint proposal of Ministry of Agriculture, Forestry and Fisheries and Ministry of Economy and Finance. The state will not require the payment of royalties or premiums for the harvesting of Forest Products & By-products from private forests. The Model Forest Concession Management Agreement shall include a table of royalties and premiums on Forest Products & By-products.

**Article 56:** Anyone with legal possession of a permit to harvest Forest Products & By-products shall pay all applicable royalties and premiums prior to transferring or selling any of these rights to a third party. The Minister of Ministry of Agriculture, Forestry and Fisheries, after consultation with the Ministry of Economy and Finance, may approve a delay in the payment of Royalties and Premiums on Forest Products & By-products for a permit holder who the Forestry Administration has recognized for practicing the sustainable forest management, and the delay of payment shall be based on rules and guideline under Article 55, 2nd paragraph of this law.

**Article 62:** The Royal Government of Cambodia shall establish a fund known as “National Forestry Development Fund” which shall be administered and managed under the

responsibility of the National Forestry Development Committee, and co-chaired by the Minister of Ministry of Agriculture, Forestry and Fisheries and the Minister of the Ministry of Economy and Finance. The organization and functioning of the National Forestry Development Committee shall be determined by Anukret.

**Article 63:** The National Forestry Development Fund shall have sources of revenues derived from:

1. Distributions from the Royal Government of Cambodia;
2. Premium on Forest Products & By-products;
3. Wildlife Conservation Fees;
4. Aid from international organizations;
5. Donations from charitable individuals and national and international non-governmental organizations, and
6. Revenue from other services in the forestry sector.

All of the above mentioned revenue should be deposited into the account of the National Forestry Development Fund.

**Article 64:** National Forestry Development Fund shall not be used for the organization and functioning of the Forestry Administration. This fund shall be used only for the following activities:

1. Reforestation;
2. Silviculture and forestry rehabilitation;
3. Forest Protection and Conservation and bio-diversity
4. Forest and wildlife scientific and technical research;
5. Extensions on Forest and Wildlife sector;
6. Development in Forest and wildlife sector;
7. Development of Community Forestry; and
8. Training human resources for the Forest and Wildlife sector.

**Article 94:** Any individual who has committed a forestry offense harming the forest ecosystem shall be liable for payment in order to restore or repair the forest ecosystem to its original condition.

## **National Forest Programme: 2010-2029**

### **Strategic objectives**

1. Maximize sustainable forest contribution to poverty alleviation, enhanced livelihoods and equitable economic growth
2. Adapt to climate change and mitigate its effects on forest based livelihoods
3. Macro land-use planning that allows for holistic planning across sectors, jurisdictions and local government borders
4. Forest governance, law and enforcement at all levels
5. Develop a conflict management system
6. Raise awareness, capacity of institutions and quality of education to enable sustainable implementation of the National Forest Programme
7. Ensure environmental protection and conservation of forest resources
8. Apply modern sustainable management models adaptive to changing context
9. Develop sustainable financing systems

## **6. Sustainable Forest Financing**

Sustainable Forest Financing provides an economically sustainable and transparent framework required in meeting all the NFP objectives. This will be achieved through:

Sub-programme 6.1 – Government Financing

Sub-Programme 6.2 – Income from Forest Sector

Sub-programme 6.3 – Income from the Private Sector and Community Forestry

Sub-programme 6.4 – Financing via Donors

**Law on Nature Protection Area/ Protected Areas Law 2008**

**Article 1:** This law defines the framework of management, conservation and development of protected areas. The objectives of this law are to ensure the management, conservation of biodiversity, and sustainable use of natural resources in protected areas.

**Article 4:** The management of protected areas as mentioned in Article 2 of this law shall be under the jurisdiction of the Ministry of Environment. The Ministry of Environment has the “Nature Protection and Conservation Administration” (NPCA) as its own secretariat to manage the protected areas pursuant to the policy of the RGC. The organization and functioning of the Nature Protection and Conservation Administration in each protected area shall be determined by Prakas (Declaration) of the Ministry of Environment. The management of the protected area shall have to guarantee the rights of the local communities, indigenous ethnic minorities and the public to participate in the decision-making on the sustainable management and conservation of biodiversity.

**Article 32:** The Government shall establish a fund called "protected areas fund" which is organized, managed and given responsibility by a protected area committee with Minister of Environment and Minister of Economy and Finance as co-chairmen. The establishment and functioning of the committee shall be determined by a Sub-decree.

**Article 33:** Funding support for rehabilitation, improvement of protected areas and biodiversity shall come from:

1. National budget
2. Protected area entrance and other service fees
3. Environmental endowment insurance
4. Donations
5. Assistance from national and international organizations and friendly countries
6. Assistance from international environment funds

**Article 34:** Budget and funds from sources as stated in article 33 of this law may be used to support the following activities within the protected areas:

- The protection and conservation of biological resources and ecosystems;
- Rehabilitation and enhancement of biodiversity and ecosystems;
- Technical and scientific research study on the biological diversity and ecosystem;
- Maintenance and extension of eco-tourism services
- Training, human resource development and capacity building of the Nature Conservation and Protection Administration staff for effective protection and conservation of biodiversity and ecosystems;
- Programmes supporting the establishment of community protected area;
- Dissemination and education on protected area; and
- Construction, rehabilitation and maintenance of infrastructure.

**Law on Environmental Protection and Natural Resource Management, 1996**

**Article 1:** This law has an objective:

- To protect and upgrade the environment quality and public health by means of prevention, reduction and control of pollution.
- To assess the environmental impacts of all proposed projects prior to the issuance of decision by the Royal Government;
- To ensure the rational and sustainable preservation, development, management and the use of the natural resources of the Kingdom of Cambodia.
- To encourage and provide possibility to public to participate in the protection of environment and the management of the natural resources.

- To suppress any acts which may affect to environment.

**Article 8:** Natural resources of the Kingdom of Cambodia which primarily consist of land, water, airspace, air, geology, ecological systems, minerals, energy, petroleum and gas, rocks and sand, gems and stones, forests and forest sub-products, wildlife, fish and aquatic resources, shall be preserved, developed and managed to use in a rational and sustainable manner. Natural resource protected zones consists primarily of National Parks, wildlife sanctuaries, landscape protected areas, multiple use areas, shall be determined by Royal Decree.

**Article 19:** A special Treasury account, the Environment Endowment Fund, shall be crested, and administered by the Ministry of Environment for environmental protection and natural resource conservation in the Kingdom of Cambodia in accordance with the Finance Law. The Environment Endowment Fund, which comes from contributions from the Royal Government, grants from international organizations, donations from charitable individuals, donations from non-governmental organizations, and other lawful sums, shall be included in the National Budget in order to provide the above special account.

**Article 21:** Any person who refuses to allow access or obstructs the inspection officials from entering to examine or carry out an inspection inside the premise as provided for in the para.1 of the article 15 of this law, shall be subject to an administrative fine in cash from 500,000 (five hundred thousand) to 1,000,000 (one million) riels. In case of repeated offenses, shall be penalized a fine of 1,000,000 (one million) riels to 5,000,000 (five million) riels or shall be punished to imprisonment from 1 month to 3 months or to both punishments.

Any person who violate the article 20 of this law, shall be subject to administrative fine in cash of 1000,000 (one million) riels to 10,000,000 (ten million) riels. In case of repeated offenses, shall be penalized a fine from 21,00,000 (twenty one million) riels to 30,000,000 (thirty million) riels or shall be subject to punishment to imprisonment from 1 (one) month to 1 (one) year, or to both punishments.

#### **Law on Mineral Resource Management and Exploitation, 2001**

**Article 1:** The purpose of this law is to determine the management and exploitation of mineral resources, the manipulation of mines and all activities relating to the mining operation in the Kingdom of Cambodia save for the mining operation of petroleum and gas which shall be under a separate law.

**Article 22:** Guidelines on the form, plan expansion and increase and content of all necessary documents and work program, financial guarantee for proper implementation shall be determined by a Prakas of the Minister.

**Article 23:** In each necessary case, the Minister shall appoint competent officials to monitor the implementation of this law. Appointed officials shall:

1. Be responsible to the Minister for methods of administration in accordance with the provisions of the law.
2. Prepare an annual report on regulatory activities of exploration and mining during the preceding year and submit it to the Minister.
3. Collate information and maintain records of operations of explorations, mining, treatments, marketing and exportation of mineral resources and products.
4. Follow up and monitor to ensure that all provisions of this law have been implemented.
5. Make inspection to ensure that all regulations relating to the health and safety of workers and of the general public have been properly applied.
6. Perform other duties as determined by the Minister.

The power and duties of the officials appointed to monitor, inspect and report on all activities relating to the exploration, mining, research and analysis related to the methods of administration under the authority of this law shall be prescribed in Sub-decree.

**Article 31:** According to the applicable laws, a special tax regime shall be established for application to the output and revenue gained from the 6 (six) categories of the mining licenses as provided in Article 11.

**Article 32:** The rate of royalty on the value of mineral resources, methods of royalty payment to the State, and incentives for competent officials as provided in Article 23 shall be determined by Inter-Ministerial Prakas. Taxes, duties, tax on shares, tax on personal share, provision, method of expenditure, tax payment procedure, accounting and financial principles and practices, definitions of losses, exemption and incentives of investment in mineral sector shall comply with laws in force.

**Article 33:** Any person who conducts the operation of the mineral resource exploration without a mineral resource license shall be liable to a fine ranging from 500,000 (Five Hundred Thousand) Riels to 1,000,000 (One Million) Riels. In case of recalcitrance, the penalty shall be from 1,000,000 (One Million) Riels to 2,000,000 (Two Million) Riels, or such person shall be punished by 1 (one) month to 1 (one) year imprisonment, or both punishments.

**Article 34:** Any person who conducts the exploration operation in violation of the second paragraph of Article 7 or of Article 8 of this law shall be liable to a fine ranging from 5,000,000 (Five Million) Riels to 10,000,000 (Ten Million) Riels, or punished by 6 (six) months to 2 (two) years imprisonment or both penalties.

**Article 35:** Any person who conducts mining operation without a mining license or in violation of Article 7 and Article 8 of this law shall be liable to a fine of an amount equal to 3 (three) times the assessed value for a period the output of mineral has been extracted based on the size of apparatuses, used production machinery and quantity of minerals within such area, and shall be punished with a fine ranging from 1,000,000 (One Million) Riels to 10,000,000 (Ten Million) Riels per diem starting from the date such person illegally committed to the date the activities of mining operation have been ceased, and by imprisonment ranging from 1 (one) year to 5 (five) year regardless of compensation for damages. And the apparatuses and production machinery shall be confiscated into the State's property.

#### **Law on Public Finance 2008**

**Article 2:** The Law has its objective to manage public financial system by complying with the principles of integrity, authority, unity, associability, universality, consistency, accountability, transparency, stability, comprehensiveness, and achievements. The public financial management covers national public finance including relations and interactions between national and international public finance, national and international private finance ensuring compliance with budget principles, financial accountability, linkages between budget and policies, and accountability for achievements.

**Article 13:** Permanent resources of the state include current and capital revenues.

Current revenue is divided into 2 groups and 3 categories, namely:

- Group 1: Real revenue
  - o Category 1: Fiscal revenue
  - o Category 2: Non-fiscal revenue
- Group 2: Revenue by order
- Category 3: Revenue by order

Capital revenue is divided into 2 groups and 3 categories, namely:

- Group 1: Real revenue
  - o Category 1: Revenue from own sources
  - o Category 2: Revenue from external sources
- Group 2: Revenue by order
- Category 3: Revenue by order

Each type of revenue is classified by chapter, account, sub-account, and eventually can be in more detail by the Prakas issued by the Minister of Economy and Finance.

**Article 16:** Taxes, excises, and other fiscal revenues shall be determined by laws, collected and supervised by the Minister of Economy and Finance. The rates of taxes, excises, basis for taxation, tax exemption, and disputes related to the identification, collection, and control of taxes shall be determined in the framework and formalities stated in the law pertaining to the types of each tax and excise. No regulations of any kind, no international conventions shall induce changes leading to losses of revenue. The above case can only happen unless implementation of the formalities of similar laws and orders after having the approval from the Minister of Economy and Finance. The collection of non-fiscal revenue shall be under the supervision of the Minister of Economy and Finance.

**Article 68:** Under the limits defined by the Law on Finance and under the authority of the Prime Minister, only the Minister of Economy and Finance has the rights to prepare debt repayment schedules for either debt liable to and from others. The preparation of debt schedule shall be defined by the Law on Finance.

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