

The logo for REDD+ is displayed in a bold, orange, sans-serif font. The letters 'REDD' are larger than the '+' sign, which is positioned to the right of the 'D's.

ASIA-PACIFIC COMMUNITY CARBON POOLS PROGRAMME

POLICY BRIEF:

Carbon Rights and Benefit Sharing in Cambodia

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The purpose of this Policy Brief is to support the current dialogue in Cambodia regarding appropriate mechanisms and considerations for an effective and equitable REDD+ scheme that suits the country's development priorities.

This document provides an overview of the status of carbon as a legal structure, considers issues relevant to ensuring a fair deal for community stakeholders, and provides basic advice to policy makers and scheme participants regarding how to ensure suitable access to benefits within the framework of existing Cambodian law.

A Climate Change Solution

REDD+ means:
Reducing Emissions from
Deforestation and forest
Degradation in developing
countries, *plus* conservation,
sustainable forest management and
enhancement of forest carbon
stocks.

INTRODUCTION

In 2010, the Conference of the Parties (COP) to the United Nations Framework Convention on Climate Change (UNFCCC) established a global REDD+ mechanism, and subsequent COP decisions have provided further guidance about how REDD+ should be implemented at the national level. Collectively, these decisions create an international framework for REDD+ implementation which contains several elements that countries should include in their national REDD+ policies. These elements include the scope of REDD+ activities, the issues to be addressed in national strategies, and requirements for measuring, reporting and verification (MRV).

Carbon rights and benefit sharing for REDD+ are among the most contentious and legally complex areas of REDD+ policy, yet the current UNFCCC framework provides no explicit guidance regarding how to manage these two issues. General guidance has been given by the World Bank-supported Forest Carbon Partnership

Facility (FCPF) and also in some voluntary standards for REDD+ project development (such as the Verified Carbon Standard, Climate, Community and Biodiversity Standards, and Plan Vivo). However, it is left to countries to decide how to define carbon rights and manage benefit sharing within their national programmes. At the project level, benefit sharing arrangements are usually designed for the unique conditions of that project.

One country grappling with both carbon rights and benefit sharing issues is Cambodia. At present, there are no national laws and policies which explicitly define carbon rights and benefit sharing for REDD+. There are, however, demonstration projects being implemented (for example, the Oddar Meanchey Community Forestry and Seima Protection Forest REDD+ projects). Therefore, issues of carbon rights and benefit sharing are being discussed at both the policy level and project level, and it is a good time to explore them further.

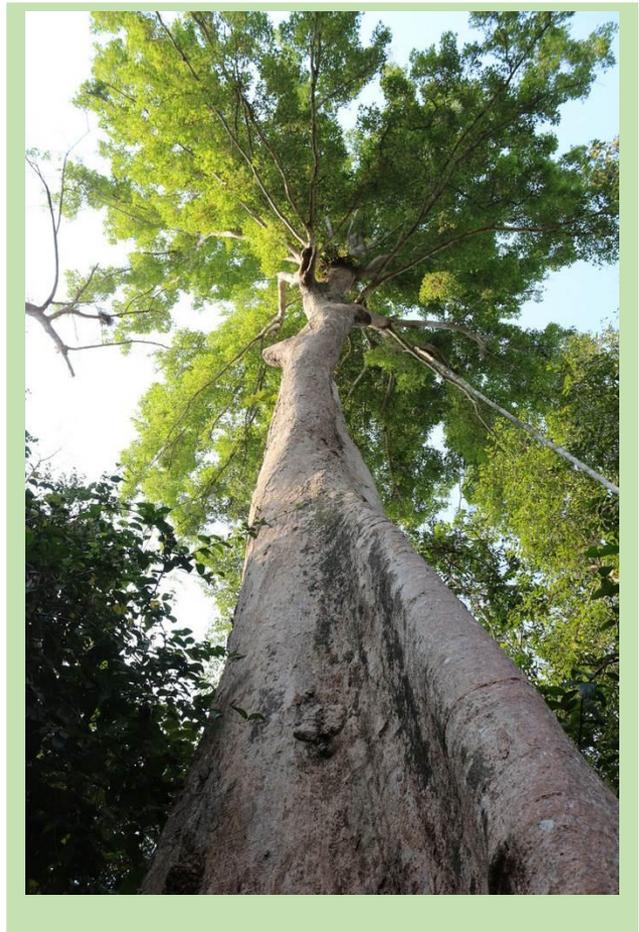
This Policy Brief introduces how the concepts of carbon rights and benefit sharing are approached from a legal perspective, and then discusses them in the context of Cambodia.

INTRODUCING THE CONCEPTS OF CARBON RIGHTS AND BENEFIT SHARING

When designing benefit sharing arrangements, several issues must be addressed, including the definition of carbon rights. The definition and treatment of carbon is likely to draw on existing law and require REDD+-specific clarifications. In legal terms, carbon rights and benefit sharing are two different concepts, although they are closely related. It can be helpful to think of defining carbon rights as the first step in a process of allocating and distributing the benefits flowing from REDD+ implementation amongst different stakeholders.

What are carbon rights?¹

In the context of REDD+, the term ‘carbon rights’ is used in a number of different ways. It can be used to refer to a tonne of sequestered² carbon, the legal right to own that sequestered carbon, or (more broadly) a moral claim to benefit from carbon-based payments. In this Brief, a **legal interpretation** is used – ‘carbon rights’ is the term given to the ‘legal form’ for carbon. The actual ownership of these carbon rights is a separate question.



Carbon (and non-carbon) benefits are created from the direct physical act of undertaking a REDD+ intervention. However, on their own, such benefits have no legal or property status unless the law gives them one. In the case of carbon, this has led to a variety of different approaches to creating a ‘legal form’ for carbon - such as a **carbon unit, carbon credit or emissions reduction (each of which might be referred to as a ‘carbon right’)**. In some cases, these ‘legal forms’ have been given a value within an emissions trading scheme.

Given the different interpretations, it is important to distinguish between the following:

- The physical outcome of the REDD+ intervention, namely, the preservation of terrestrial carbon;
- The ‘legal form’ given to the sequestered carbon, which could be called a carbon unit, carbon credit, emissions reduction or carbon right depending on the legal framework or contract³ used. In the context of REDD+, these units/credits/emissions reductions/rights represent the equivalent of one tonne of carbon or carbon dioxide (CO₂) avoided or sequestered⁴. Once specific criteria under the relevant legislative framework or contract have been met, the unit/credit/emissions reduction/carbon right will be issued by the scheme’s regulator. For example, a ‘Verified Carbon Unit’ (VCU) would be issued under the Verified Carbon Standard, and an ‘Australian Carbon Credit Unit’ (ACCU) would be issued under the Carbon Farming Initiative (an Australian domestic scheme that is implemented by the *Carbon Credits (Carbon Farming Initiative) Act 2011* (Cth)). At the international level, forestry-based credits called Temporary Certified Emission Reductions (tCERs) are issued under the Clean Development Mechanism (CDM). In this way, **the physical carbon transforms into formal statutory or contractual rights**; and
- The actual legal ownership of the ‘trapped’ carbon as opposed to the ownership of the units/credits/emissions reductions/rights created from it, which might not be the same. For example, the Australian Carbon Farming Initiative states that the person proposing the project must have the legal right to carry out the project and they must hold the ‘Carbon Sequestration Right.’ This right may be held by a landholder, or may be separated from land by the landholder and transferred to a third party.

Unless the law states otherwise, it has generally been presumed that the owner of the land owns the forest and, therefore, owns the carbon and non-carbon benefits attached to the forest. In this way, it is assumed that carbon is another type of forest resource. However, it might not be clear who owns the forest and many forest users might lack formal rights to ownership or use. This indicates why clarifying forest tenure is an important component of REDD+ implementation.

Carbon rights could be vested in governments, land owners, forest users, or exist as separate property (where a carbon right is ‘detached’ from other land and resource rights to facilitate carbon trading). The ownership of carbon rights can affect how carbon (and non-carbon) benefits are managed and shared between stakeholders. REDD+ projects and programmes offer a way to ‘monetise’ carbon rights. For example, if a country successfully generates emissions reductions through REDD+ activities, it might then be eligible for future

‘results-based’ payments through an international or bilateral mechanism (where the ‘result’ is the reduction in carbon emissions). Alternatively, a REDD+ project developer might sell ‘carbon credits’ produced from a project to a buyer in the voluntary forest carbon market (requiring the carbon rights to be transferred to a third party).

Once REDD+ revenue has been generated, decisions about how to *share* that revenue need to be addressed – in other words, benefit sharing.

How could benefit sharing work for REDD+?

Benefit sharing is a means to identify the outcomes from an activity (financial or non-financial), and then distribute them. Benefit sharing has been defined as the distribution of both the monetary and the non-monetary benefits generated through the implementation of REDD+ projects⁵ and programmes, and can be understood as the sum of many different mechanisms⁶. In this brief, the discussion focuses on sharing the monetary benefits flowing from successful REDD+ implementation.

Effective benefit sharing arrangements will create incentives for different stakeholders (including national and subnational governments, communities and businesses) to initiate and support action to reduce emissions from deforestation and forest degradation. It can be helpful to think of benefit sharing as the final stage of a process that seeks to generate, monetise and allocate REDD+ benefits (both carbon and non-carbon).

It is important to note that a moral claim to benefits (how benefits *should* be shared) might be very different from the legal claim to benefits. The **legal basis** for a benefit claim could be linked to land/carbon ownership or other eligibility criteria (such as participation). Beneficiaries could include different levels of government, communities, civil society and/or project developers. **To avoid confusion, the basis for benefit claims should be clarified in law.**



Although the UNFCCC emphasises the need for REDD+ implementation to enhance social and environmental benefits⁷, it does not prescribe a particular approach to doing this. In a similar way, the *Nagoya Protocol*

under the *Convention on Biological Diversity*⁸ addresses benefit sharing, but does not define a particular benefit sharing mechanism. Instead, it encourages national action by requiring Parties to:

- Take legislative, administrative and policy measures to ensure that indigenous and local communities gain fair and equitable benefits from the utilisation of genetic resources⁹;
- Create a national focal point on access and benefit sharing¹⁰; and,
- Develop and update voluntary codes of conduct, guidelines and best practices/standards in relation to access and benefit sharing¹¹.

This reflects a general recognition in international agreements and conventions that countries will implement measures in a way that is consistent with their unique national circumstances (which is reiterated for climate change mitigation and adaptation measures under the UNFCCC, including for REDD+).

The FCPF Readiness Fund¹² requires that benefit sharing arrangements be assessed as part of national 'readiness' preparations, and requires countries to have a Benefit Sharing Plan when applying to its Carbon Fund (which purchases carbon). The FCPF has also commented that a prescriptive approach to benefit sharing is unlikely to be effective¹³.

In the absence of explicit benefit sharing requirements within the UNFCCC or other frameworks, countries need to decide what approach to benefit sharing will be most appropriate for their REDD+ programmes.

In summary, benefit sharing involves a number of different elements:

- What is the benefit that will be shared? In the context of REDD+, this is usually discussed in terms of the revenue flowing from carbon (delivered as either cash or 'in kind' benefits such as social infrastructure);
- What is the legal basis for a benefit claim, and who are the beneficiaries?;
- How will the payment be distributed to different beneficiaries?; and
- How will public participation be supported (including dispute resolution procedures), and what transparency measures will be put in place?

A FOCUS ON CAMBODIA

Early REDD+ Development in Cambodia

Cambodia is covered by approximately 58% forest¹⁴, and the Royal Government of Cambodia is currently considering how to align national development objectives with sustainable management of these extensive forest resources. Major threats still include large-scale agricultural conversion and illegal logging¹⁵. The Forestry Administration of the Royal Government of Cambodia is leading development of a national REDD+ programme, and already has some demonstration projects (including the Oddar Meanchay and Seima Protection Forest REDD+ projects). Recently, Cambodia has applied to the FCPF Carbon Fund for a subnational-scale pilot project in the 'Northern Plains' region.

REDD+ implementation in Cambodia engages many stakeholders, including the Government, private sector and forest-dependent communities. The engagement of communities in REDD+ is extremely important because without acknowledging their stewardship role, REDD+ interventions will not succeed. Benefits flowing from REDD+ provide a key incentive for communities to support REDD+ implementation.

In order to align with the UNFCCC framework and respect the Cancun Safeguards, measures to respect indigenous rights and ensure the ‘full and effective participation’ of communities will need to be incorporated into Cambodia’s national REDD+ programme. New policies, with respect to carbon rights and benefit sharing arrangements for REDD+, provide an opportunity to formally clarify both the entitlements of communities and the mechanisms through which such entitlements will be distributed.

Current laws will have a bearing on how the issues of carbon rights and benefit sharing are dealt with under Cambodia’s national REDD+ programme, and it is important to note that **current laws always**

provide the starting point for new laws or reform. How the current law applies to the issues of carbon rights and benefit sharing is reviewed below, including how current provisions can be used to ensure that communities’ rights and interests are respected.

How to understand carbon rights in Cambodia?

The first step in the process of establishing a right to carbon (or ‘carbon right’) is to effectively ‘transform’ sequestered carbon in living biomass (such as trees and plants) into a legally defined right. This can be achieved by successfully implementing a REDD+ intervention (such as a protecting existing forest or recovering degraded land) and formally recognising the outcome under a legal mechanism (for example, a statutory REDD+ scheme or a contract).



By actively avoiding the release (by burning or felling) of CO₂ from a tree, or by growing a new tree/restoring habitat, the owner of that tree is provided with a legal right to the equivalent amount of ‘carbon units.’ These units are calculated as the equivalent volume of carbon dioxide (CO₂e) that would have been released into the atmosphere had the person not acted, or that the new tree is ‘sequestering.’ These units are normally measured in 1 tonne parcels. So, a REDD+ intervention will generate an agreed amount of CO₂e, defined in 1 tonne ‘carbon units’.

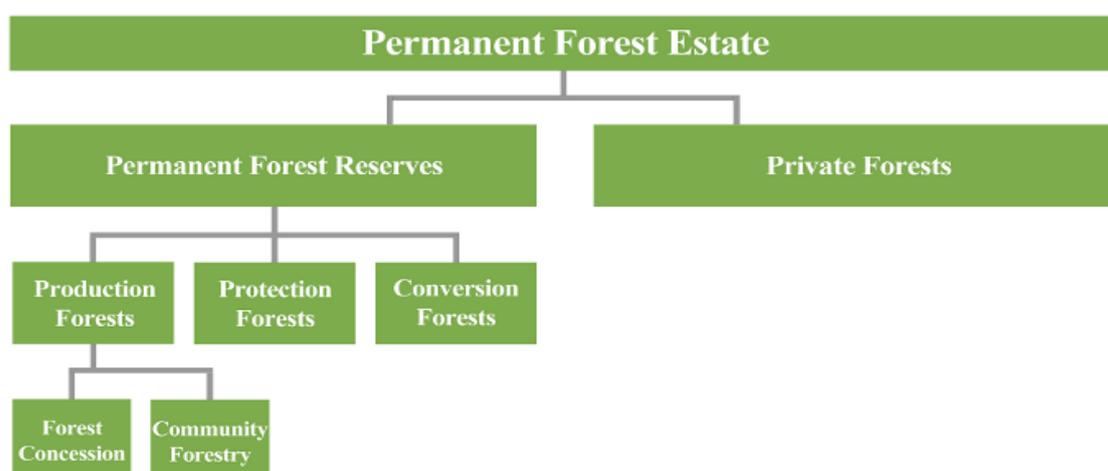
In order for a carbon unit to be assigned to a person or agency, it needs to be defined in law. Broadly speaking, international policy is heading towards requiring carbon units to be of a consistent type, irrespective of where the carbon originates, e.g. from reducing emissions from power stations or from protecting forests or mangroves.

These units are often called ‘carbon credits,’ although different schemes call them different things such as ‘emission reduction units’, ‘Australian carbon credit units’, ‘verified carbon units’ or ‘certified emission reductions’. These schemes are governed under different regulations, however, they pursue broadly similar objectives such as defining carbon rights and reducing overall carbon emissions. Once defined, the issue of ownership can be addressed.

In Cambodia, carbon is not explicitly defined in the law and there is no domestic scheme for creating carbon units. *If* carbon is defined as part of the land or forest, or as a type of natural resource, then constitutional provisions may and should help to determine who owns it.

The *Constitution of Cambodia, 1993* defines ‘state property’ to include land, forest and natural resources,¹⁶ and that the “control, use and management of State properties will be determined by law.”¹⁷ Under the *Constitution*, both the *Land Law, 2001* and the *Forestry Law, 2002* govern tenure arrangements¹⁸ and together determine ownership and use rights for forest areas and resources. The *Forestry Law, 2002* divides the Permanent Forest Estate¹⁹ into **Private Forests**²⁰ and the **Permanent Forest Reserves**,²¹ and the Permanent Forest Reserves are further sub-divided into different categories (please refer to the diagram below).

Forest Estate Classification in Cambodia



Current Cambodian law provides that:

- Private Forests generally belong to the landholder²²;
- Forest in the Permanent Forest Reserves belong to the State²³ (noting that use rights can be allocated); and
- Communities can be granted limited communal *use rights* to forests (for example, via Community Forestry arrangements²⁴ or indigenous land titling²⁵), but they do not *own* that land – actual ownership is retained by the State.

If carbon is determined to be included as part of the ‘land, forest and natural resources’ for the purposes of the *Constitution*, then, based on the assumption that carbon attaches to the land in the absence of any legal authority to the contrary, the ownership and use rights attaching to carbon would follow current forest tenure arrangements. For example: forest carbon in the Permanent Forest Reserves would belong at first instance to the State; forest carbon in Private Forests would generally belong to the landholders; and, whether communities hold a use right to carbon via the operation of an existing scheme would need to be determined.

It is often argued that the very long period of possession and customary use by communities of tracts of land and forest creates a form of title, termed customary title. The case is even stronger when a community settlement predates the existence of the Cambodian State itself. This is recognised as an important and ongoing debate. However, this paper focuses on the basis upon which REDD+ can be implemented in Cambodia **within the existing formal legal framework**.

Nonetheless, the Cancun Safeguards (established under the UNFCCC) do provide an entry point for considering community rights by way of requiring the full and effective participation of stakeholders and respect for indigenous rights. In adopting these principles, the development of an effective REDD+ framework in Cambodia could offer an opportunity to help stakeholders address some of these issues.

Benefit sharing: how to share carbon revenues between stakeholders?

Legally defining and determining who should hold carbon rights is only part of the story. In order for REDD+ to succeed, all stakeholders need to be motivated to participate and a key incentive often discussed is the monetary rewards expected to flow from carbon-based payments. Therefore, it is generally not appropriate nor strategic for the formal holder of carbon rights to retain all the revenue attached to them.

This point was recognised by *Government Decision No. 699*²⁶ of 2008, which provides that revenue from the sale of carbon should be used to maximise benefits for local communities. It should be noted, however, that this Decision only applies to the sale of carbon from projects and so, in its current form, might not provide a legal basis for a benefit claim from other forms of REDD+ payments (such as payments made to the national Government).

In order to secure funds from carbon-based payments, communities could be regarded as:

- Holders of a use right, where such rights have been granted by the State (for example, under a Community Forestry Agreement, or "CFA");
- Providers of a service to a REDD+ project or initiative, via a contracted relationship; or
- Beneficiaries under a formal scheme or trust. For example, in the case of a REDD+ project, a benefit sharing agreement could specify how benefits will be divided. If funds are received at the national or sub-national level, payments could be based on certain allocation arrangements, agreed via consultation, which could be formalised in a governing law. Such arrangements could be explored in the context of a REDD+ Benefit Distribution Mechanism (BDM).

Key considerations for policy makers

Although Cambodia's current legal framework could be used as a starting point for building a definition of carbon and determining its ownership, the current status of carbon is unclear. In addition, different laws speak to certain aspects of benefit sharing (such as *Government Decision No. 699* of 2008) and carbon sales more generally (such as *Government Decision No. 62-1552* of 2013, setting the minimum price for carbon from a REDD+ project), but do not provide comprehensive principles for designing benefit sharing mechanisms at either the project or national levels. In order to provide certainty for community stakeholders, it would be advisable for the Royal Government of Cambodia to develop clear policy positions on the following issues (at a minimum):

- How carbon is defined in law;
- Whether ownership of carbon is linked to existing land and tree tenure, or should be treated differently;
- The ways in which communities can claim payments from REDD+ schemes - whether as landholders, service-providers, or scheme or trust beneficiaries; and
- How to ensure that the Cancun Safeguards with respect to the protection of indigenous rights and the full and effective participation of stakeholders, including communities, are respected.

In order to provide both clarity and certainty, decisions regarding the above should be formalised in law - whether within an existing framework or a new law. Further careful analysis will be required to ensure that the most appropriate legal arrangements are put in place, and this task should be regarded as a priority.

REFERENCES

¹ This conceptualisation of carbon rights is drawn from the experience of the Global Climate Change and Environmental Markets Practice at Baker & McKenzie. As such, this information is drawn from internal documents of Baker & McKenzie. Please note that this information is pending formal publication.

² 'Sequestered' forest carbon is carbon that is removed from the atmosphere and stored in a carbon sink (such as a growing tree or in soil).

³ In the absence of any specific REDD+ law, private developers of REDD+ projects have entered into private contracts (Emissions Reduction Purchase Agreements, or ERPA). This is similar to the current approach by the FCPF where emissions reductions are defined in the seller's contract.

⁴ A carbon (C) atom is oxidised into carbon dioxide (CO₂) when burnt, or upon rotting. This gas is then released into the atmosphere, contributing to climate change. As CO₂ is the pollutant, emission reductions are quantified in this form, meaning that sequestered or trapped carbon is calculated as if it were in its oxidised state. A carbon figure can be converted to CO₂ by multiplying by 3.644 to account for the different molecular weights (3.644 tonnes of CO₂ contains 1 tonne of carbon).

⁵ P. T. Thuy et al. (CIFOR), *Approaches to benefit sharing: A preliminary comparative analysis of 13 REDD+ countries* (Working paper 108; 2013); page 1, paragraph 2.

⁶ C. Luttrell et al., 'Who should benefit from REDD+? Rationales and realities' 2013 *Ecology and Society* Vol.18 No.4; pages 51-52.

⁷ Appendix 1 of the *Cancun Agreement* (Decision 1/CP.16/2010), at (2): "*When undertaking the activities referred to in paragraph 70 of this decision, the following safeguards should be promoted and supported: ... (e) That actions are consistent with the conservation of natural forests and biological diversity, ensuring that the actions referred to in paragraph 70 of this decision are not used for the conversion of natural forests, but are instead used to incentivise the protection and conservation of natural forests and their ecosystem services, and to enhance other social and environmental benefits [taking into account the need for sustainable livelihoods of indigenous peoples and local communities and their interdependence on forests in most countries, reflected in the UN Declaration on the Rights of Indigenous Peoples, as well as international Mother Earth Day].*"

⁸ *Convention on Biological Diversity* (opened for signature 5 June 1992, entered into force 29 December 1993) 1760 UNTS 79; 31 ILM 818 (1992).

⁹ *Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity* (adopted 29 October 2010 at the Conference of the Parties to the Convention on Biological Diversity, Nagoya, Japan); Article 5(2).

¹⁰ *Ibid*, Article 13.

¹¹ *Ibid*, Article 20.

¹² The Readiness Fund is a capacity-building fund that assists developing countries to prepare for REDD+ participation and implementation.

¹³ Forest Carbon Partnership Facility (FCPF), *Carbon Fund Discussion Paper #9* (2013).

¹⁴ Hansen et al, 'High-Resolution Global Maps of 21st-Century Forest Cover Change' (2013) 342(6160) *Science* 850; FAO, Forest Area Statistics - Cambodia, <http://www.fao.org/forestry/country/32185/en/khm/> (accessed 13 June 2014).

¹⁵ *Cambodia R-PP* (Country Revision), March 4 2011.

¹⁶ *Constitution of Cambodia, 1993* (Cambodia) art 58: "State property notably comprises **land**, mineral resources, mountains, sea, underwater, continental shelf, coastline, airspace, islands, rivers, canals, streams lakes, **forests, natural resources**, economic and cultural centres, bases for national defence and other facilities determined as State property. The control, use and management of State properties shall be determined by law."

¹⁷ *Ibid*.

¹⁸ Different kinds of rights can be found within a land tenure system, such as:

- **Right to ownership:** the owner is entitled to use, control and dispose of the property.
- **Right to use:**
 - **Right to access:** for example, an easement confers the right to use the real property of another for a specific purpose (for example, access to another property).
 - **Usufructuary right:** refers to the right of one individual to use and enjoy the property of another, provided its substance is neither impaired nor altered (for example, rights to use water from a stream for household use).
 - **Right to exploit:** for example, a *profit a prendre* is the right of persons to share in the land owned by another, enabling a person to take part of the soil or produce of land that someone else owns (i.e. a logging concession)
- **Right to control,** i.e. entitled to make decisions about how land should be used.
- **Right to transfer,** i.e. entitled to sell, inherit and/or reallocate property rights.

¹⁹ *Forestry Law, 2002* (Cambodia) Glossary: ‘Permanent Forest Estate’ is defined as “*The overall forest complex, natural and planted, in the Kingdom of Cambodia, including State and Private, designated as two main categories: the Permanent Forest Reserve and Private Forest, to be maintained to ensure a sustainable permanent forest cover and use.*” In addition, the *Forestry Law, 2002* (Cambodia), art 11 provides that “*the Permanent Forest Estates shall be managed with the objective to increase to the maximum extent the social, economic, environmental and cultural heritage benefits for the Kingdom of Cambodia and its people according to the principle of sustainable forest management [etc.]*”

²⁰ *Forestry Law, 2002* (Cambodia) Glossary defines ‘Private forest’ as “*forest plantation or trees, whether planted or naturally grown on private land under registration and legal title in pursuant to authorized legislation and procedures.*”

²¹ *Forestry Law, 2002* (Cambodia) art 12 permits the Permanent Forest Reserves to be declassified by the Government if it serves the public interest and is consistent with the National Forest Sector Policy and the National Forest Management Plan. Further, the *Forestry Law, 2002* (Cambodia) art 24 states that “*all Forest Products and By-products located and originating from the Permanent Forest Reserves are state property, unless the rights of these products have been conveyed to an individual or legal entity*” under this law, and “*any individual, legal entity or community that intends to harvest Forest Products and By-products for commercial purposes must possess a harvest permit issued by the Forestry Administration.*”

²² *Forestry Law, 2002* (Cambodia) art 10: Private Forest shall be maintained by the owners, who hold rights to manage, develop, harvest, use, sell and distribute forest products.

²³ The *Constitution of Cambodia, 1993* (Cambodia) art 58 provides that ‘state property’ includes land, forest and natural resources and that the “*control, use and management of State properties will be determined by law.*” This is affirmed by the *Land Law, 2001* (Cambodia) art 12. Under art 14, ‘state property’ can be managed as either public land (referred to as *state public property*) or private land (referred to as *state private property*).

²⁴ Community Forest, a sub-category of Production Forest, refers to “*state forest subject to an agreement to manage and utilize the forest in a sustainable manner between the Forestry Administration and a local community or organized group of people living within or nearby the forest area that depend upon it for subsistence and customary use*” *Forestry Law 2002* (Cambodia) Glossary. Art 41 of the same Law authorises the Minister of Agriculture, Forestry and Fisheries to “*allocate any part of the Permanent Forest Reserve to a community living inside or near a forest area in the form of a Community Forest.*” Art 43 provides that Community Forests must be managed according to a Community Forest Management Plan, and the rules (*Anu-kret* on Community Forestry Management) and guidelines on Community Forestry (*Prakas* regarding Guidelines on Community Forestry). **Under Forestry Law, 2002 (Cambodia) art 42, the Forestry**

Administration has the authority to sign a Community Forest Agreement (CFA); CFAs are valid for a maximum of 15 years and can be renewed by the Forestry Administration if monitoring and evaluation reports are satisfactory. Under *Forestry Law, 2002 (Cambodia)* art 44, a CFA can grant user rights to maintain, develop, use, sell and distribute [forest] products; however, a local community cannot use Community Forest for concession arrangements and cannot sell, barter or transfer its rights to a third party.

²⁵ *Land Law, 2001 (Cambodia)* art 23 provides that “an indigenous community is a group of people that resides [in Cambodia] whose members manifest ethnic, social, cultural and economic unity and who practice a traditional lifestyle, and who cultivate the lands in their possession according to customary rules of collective use.” Further, it provides that “the measurement and demarcation of boundaries of immovable properties of indigenous communities shall be determined according to the factual situation as asserted by the communities, in agreement with their neighbours, and as prescribed by procedures in Title VI of this law and relevant sub-decrees” (art 25). **Ownership is granted as collective ownership, which includes the rights and protections enjoyed by private owners with the exception that communities do not have the right to dispose of the state public property (art 26).**

²⁶ *Sar. Chor. Nor 699, 2008 [Government Decision No. 699, May 2008]* (Cambodia) was specifically issued to endorse the Oddar Meanchey Community Forestry REDD+ Project. It designated the Forestry Administration as the seller of forest carbon for the project and also defined how revenue from the project's carbon credit sales could be used to

- (1) improve the quality of the forest,
- (2) maximize the benefit flows to the local communities participating in the project, and
- (3) study potential sites for new REDD+ projects.



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