



គណៈកម្មាធិការអង្គការមិនមែនរដ្ឋាភិបាល ដើម្បីតាមដានលទ្ធផល

សន្ទស្សន៍របស់កិច្ចប្រជុំពិគ្រោះយោបល់

NGO Committee for the Monitoring of CG Indicators

NGO Committee

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ធួន សារាយ
Thun Saray
ADHOC
President



យ៉ារ៉ូល ត្រីក្លឺរ
Carol Strickler
CCC
Executive Director



គួល បញ្ញា
Koul Panha
COMFREL
Executive Director



លេខាធិការដ្ឋាន
Secretariat
CHRAC



សេង ធីរី
Seng Theary
CSD
President



រ៉េស សុភោព
Ros Sopheap
GAD/C
Executive Director



ម៉ាក់ សិទ្ធិរិទ្ធ
Mak Sithirith
FACT
Executive Director



ស៊ីន សុមុនី
Sin Somuny
MEDICAM
Executive Director



សេង ហុង
Seng Hong
NEP
Executive Director



ឈឹត សំអាត
Chhith Sam Ath
NGO Forum
Executive Director



យ៉ត ម៉ាកឡេដឺ
Kurt A. MacLeod
Pact
Asia Regional Dir



ញឹក សារីន
Nhek Sarin
Star Kampuchea
Executive Director

NGO Statement on the Monitoring of CG Indicators

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Executive Summary

NGOs welcome this week's quarterly meeting of the Government-Donor Coordination Committee as an important opportunity to monitor progress on Joint Monitoring Indicators (JMIs) agreed at last March's Consultative Group (CG) meeting. The Royal Government of Cambodia (RGC) has made positive steps during the in the last three months towards achieving targets agreed upon during the recent CG in March. Important progress has been made in developing a strategy for agriculture and water, and implementing the partnership & harmonization agenda.

However, NGOs observe that Government has not met the June deadline to pass the *Anti Corruption Law* and has not yet integrated suggestions and comments from civil society and international experts. While civil society acknowledges the need to ensure that the Law is consistent with the draft Criminal Code and Criminal Procedures Code, there does not seem to have been much will to push these essential pieces of legislation through. And yet the government has recently shown itself capable of moving fast when it comes to the passage of other laws – including laws on adultery, on conscription and on limiting parliamentarians' right to speak.

NGOs welcome the fact that the first drafts of *Organic Laws* (4) have been prepared under the auspices of the Inter-Ministerial Committee (IMC) and submitted to Government for review. Government has indicated to the donor community that it intends to submit final versions of the D&D organic laws to the National Assembly for consideration before the end of the calendar year. The NGOs recommend that, in collaboration with the RGC, the draft organic laws be subject to a broad public

review process involving stakeholders at both national and sub-national levels prior to their finalization and submission to the National Assembly.

NGOs note that no progress has been made in the development of a clear policy framework on *access to information*. Together with a well implemented anti-corruption law, access to information is a key step to achieving good governance and will further enhance the trust between Government and civil society. Better access to information would help reduce conflicts over forests and land concessions, help improve monitoring of government budgets and the inputs and outputs of government plans, and empower people to participate in processes that affect their lives. NGOs recommend that, in order to help with the fight against corruption, the Government should move fast with the establishment of a legal framework on access to information as stated in the CG JMIs. This should be high on the agenda for the next GDCC meeting.

NGOs express continued concern over *land disputes* proliferating throughout the country. Illustrated by the continued evictions in Phnom Penh, the non-transparent grants of Economic Land Concessions in the provinces, and the alarming rates of illegal alienation of indigenous lands, NGOs see a disturbing pattern of consolidation of land and natural resources in the hands of the few wealthy and politically elite businessmen. The failure to implement the most basic provisions of the land and forestry law in these disputes calls into question the RGCs stated commitment to poverty reduction and improved public service delivery, particularly as inequality rates rise throughout the country.

NGOs appreciate their inclusion in 13 of the 18 Technical Working Groups and agree to abide by the principles of these groups. *NGOs have recently requested inclusion in an additional four Technical Working Groups*, namely Public Finance Management, Forestry and Environment, Decentralization and Deconcentration, and Legal & Judicial Reform. To further facilitate NGOs' contribution to monitoring of the JMIs and the NSDP, NGOs call on Government to honour these requests and enable an easy flow of information between the TWGs and the NGO community.

The Anti-corruption Law

i) Joint Monitoring Indicators monitored by NGOs

Target	Actions Needed	Responsible Government Institution	Time Frame
3. Combat corruption	3.1 Finalize and approve Anti-corruption Law, based on best international practices, and:	MNASRI Leads, COM	End June 2006
	a. Prepare an implementation plan to enforce and manage the implementation of the Anti-corruption Law.	MNASRI Leads, COM	Oct. 2006
	b. Disseminate information on reported cases on corruption and conviction on semi-annual basis.	MNASRI Leads, COM	On-going

ii) Monitored progress on Actions Needed

3.1 The government has failed to meet yet another (third) deadline for an Anti-Corruption Law to be finalized. The latest version, dating from August, still does not integrate suggestions and comments by civil society and international experts, that would bring the law up to international standards, as agreed upon by the Government with the donors at the CG meeting in 2005.

While civil society acknowledges that there is a need to ensure that the Law on Anti-Corruption is consistent with the draft Criminal Code and Criminal Procedures Code, there does not seem to have been much will to push these essential pieces of legislation through. And yet the government has recently shown itself capable of moving fast when it comes to the passage of other laws – including laws on adultery, on conscription and on limiting parliamentarians’ right to speak.

3.1 a. No progress on preparation of an implementation plan has been made.

3.1 b. A certain amount of progress has been noticed in bringing court cases against persons accused of corrupt acts. However, these cases are generally made public through the complaints by the individuals that suffer from the acts of corruption and through the media rather than by the Government's information mechanism. The cases being prosecuted tend to involve either low-level officials or members of one political party only.

iii) Recommendations:

- The Government should adhere to their agreement at the CG meeting to ensure the Anti-Corruption Law meets international best practices, taking into account the recommendations by civil society and international advisers.
- The Government should try to ensure that the Criminal Procedure Code and the Anti-Corruption Law are passed by the end of the year 2006 at the latest, and that no further delay should be made.
- The Government should take serious actions to prepare an implementation plan to enforce and manage the implementation of the Anti-Corruption Law.
- Further actions should be taken by the Government to address corruption issues based on the existing laws, particularly the current cases of corruption that have not yet finished, in order to prove the Government's commitment and seriousness.
- The Government should move ahead with the establishment of a legal framework on access to information as stated in the CG indicators, as so far, no progress has been made at all against this indicator.

Legal and Judicial Framework

i) Joint Monitoring Indicators monitored by NGOs

Target	Actions Needed	Responsible Government Institution	Time Frame
4. Establish a well functioning, transparent and accountable legal and judicial system that protects individual rights as defined in the Constitution.	4.1 Develop a clear policy framework on access to information	MNASRI Leads	Dec. 2006
	4.2 Complete the drafting and approval of the remaining fundamental Laws (Penal Procedure Code, Penal Code, Civil Code, Law on the Statute of the Judges, Law on Court organization and Functioning).	MOJ Leads	To be agreed by L&J TWG
	4.5 While the priority setting process is being put in place, priority will be given to:		
	a. Complete the Draft Law Against Trafficking in Person and Sexual Exploitation and submit to COM.	MOJ Lead	Sept. 2006
	b. Complete and adopt a National Plan to enforce the Law on Domestic Violence and Protection of the victims.	MOWA Lead	June 2006
	c. Complete preparation of regulations to enforce State Land Management Sub-Decree.	MLMUPC	June 2006
	d. Elaborate and Implement Article 18 of the Land Law.	MLMUPC/CLP	Nov. 2006
	e. Adopt RGC's strategy and regulations for the indigenous people	CLP	Nov. 2006

ii) Monitored progress on Actions Needed

4.1 The MoNASRI, which was assigned at the CG meeting to take the lead on developing a clear policy framework on access to information, has not taken any serious action yet as they still have to be officially given the assignment from the Council of Ministers. As of today, it remains unclear as to whether it is really the MoNASRI or any other government agency that would be responsible.

4.2 The MOJ is currently still working on the penal code. The main reason for the delay in sending this penal code to COM for a review by an Inter-Ministerial meeting is the recent amendment of UNTAC law which made it necessary for the MOJ to revise the draft penal code as well.

The other four fundamental laws are at the COM. The Penal Procedure Code will be reviewed in the second Inter-Ministerial Meeting (IMM) again before being submitted to a future cabinet meeting for verification and approval. The Civil Code currently remains in the COM and it is not clear when it will be submitted for discussion to the IMM or a cabinet meeting. The Law on Court Organization and Functioning is being discussed technically concerning the inclusion of other expertise courts to be under this law as well such as the Administrative court and Commercial court. The discussions on the Law on the Statute of the Judges are related to the contradiction between Supreme Council of Magistracy (SCM) and Government. SCM wants all judges (judge and prosecutor) to be under the control of SCM but the Government wants the Prosecutor to be under the direct control of the Ministry of Justice.

- 4.5a The Draft Law Against Trafficking in Persons and Sexual Exploitation is still in draft stage, and the Ministry of Justice and its stakeholders are expected to finalize the draft by the end of 2006. Current discussions focus on defining human trafficking and other technical words in the articles in line with the criminal law and UN protocol.
- 4.5b NGOs appreciate the efforts that have been made by the MOWA in providing the orientation on domestic violence to all commune councils and village chiefs in the whole country. However the sub-decree that should provide guidelines for the preparation on the National Plan to enforce the Law on Domestic Violence and Protection has not been issued. Moreover it is not clear when the sub-decree will be issued.
- 4.5c NGOs welcome that the Guidelines for the identification of state land have been sent to the Provinces and that State Land Working Groups have been formed. It is hoped that the demarcation of state land will put an end to illegal land acquisition by local and international opportunists and that the currently prevailing attitude favouring short-term gains will shift towards long-term sustainable use and management of natural state assets with meaningful participation of resource-dependent local people and the general public. NGOs are concerned, however, that the identification and mapping of state land is not sufficiently linked to other mapping processes, such as forest cover mapping, locally developed participatory land use plans and the mapping of the collective lands of indigenous communities.
- 4.5d Regarding attempts by the Royal Government of Cambodia to reclaim authority over land transactions involving state land, NGOs welcome efforts by the Ministry of Land Management Urban Planning and Construction (MLMUPC) to clarify scope and implementation of Article 18 of the Land Law. Action is urgently needed, since indigenous peoples, in particular, are facing severe hardship as a consequence of increasing land alienation within their communities.
- 4.5e NGOs realize that the General Secretariat of the Council for Land Policy (GSCLP) has made an effort in order to draft a policy on indigenous people. However, the first draft was rejected by some of the stakeholders, including the Forest Administration. GSCLP has therefore decided not to hold public consultations on the draft policy but support an internal process where all stakeholders can agree. This is of course a concern for indigenous community representatives and NGOs. Overall, there is still a lack of a comprehensive policy on indigenous communities. The draft National Policy on Indigenous Peoples' Development still has not been passed. It is currently with the Council of Ministers. Adopting a national policy that guides laws, policies and their implementation by line ministries with regards to indigenous communities will be an important step.

iii) Recommendations:

- (4.1) In order to help with the fight against corruption, the Government should move fast with the establishment of a legal framework on access to information as stated in the CG JMIs.
- (4.5a) NGOs would like to urge the MOJ and stakeholders to provide their comments on the most recent draft Law Against Trafficking in Person's and submit it to the NA as soon as possible.
- (4.5b) NGOs would like the Ministry of Women's Affairs to actively facilitate the Inter-Ministerial Committee in order to produce the required sub-decree providing guidelines for the preparation of the National Plan within the shortest possible time.
- (4.5c) NGOs suggest that the identification and mapping of state land should be more properly linked to other mapping processes, such as demarcation of forest land and protected areas, locally developed participatory land use plans and the mapping of the collective lands of indigenous communities. District/Khan Land Working Groups moreover need to be given sufficient financial

and technical support in order to fulfil their role and mandate in the process of state land mapping and identification.

- (4.5d) Prior to the full implementation of Article 18, there is an urgent need for the Royal Government of Cambodia to publicly state that all land transactions in indigenous areas are illegal and that buyers will not receive ownership titles to illegally acquired land.
- (4.5e) In the light of rapidly increasing land alienation, NGOs would like to see the implementation of a mainstreamed process for the legal recognition of indigenous communities as the first necessary step towards the registration of their collective lands.
- (4.5e) With regards to international standards and fundamental rights of indigenous peoples, NGOs however feel that further improvements of the by-laws are necessary. Before proceeding with by-laws for a third community in Mondulkiri, NGOs therefore suggest a review process with the participation of indigenous representatives and civil society organizations.
- (4.5e) NGOs also hope that the procedures for registration will be clearly outlined in a comprehensive strategy paper on indigenous land registration, currently being developed by the General Secretariat of the Council of Land Policy and MLMUPC. Building upon the experience from consultations on the sub-decrees on State Land Management and Economic Land Concessions, NGOs stand ready to support the Ministry in organizing public discussion on the strategy paper with indigenous communities and civil society.

The NSDP Monitoring Framework

i) Joint Monitoring Indicators monitored by NGOs

Target	Actions Needed	Responsible Government Institution	Time Frame
1. NSDP monitored annually	1.1 Develop and implement a framework to monitor the implementation of the NSDP and prepare an annual progress review of NSDP implementation.	MOP (Lead), MEF and CDC	End June 2006

ii) Monitored progress on Actions Needed

- The NGOs welcome the continued opportunity to participate in the Technical Working Group on Planning and Poverty Reduction (TWG-PPR) and as core-members of the TWG-PPR the NGOs are committed to positively contribute to the group's objectives. The NGOs welcome the efforts from the Ministry of Planning who presented the concept and proposed contents NSDP Annual Progress Report (APR) during the recent TWG-PPR meeting on 2 October 2006.
- The NGOs welcome the explicit inclusion of findings from independent research organizations, civil society organizations and NGOs in the APR which potentially impacts positively on NSDP ownership.

iii) Concerns

- NGOs are concerned that the APR will be unable to measure efficiency (are we using the resources wisely?) or effectiveness (are the desired outputs being achieved?) of the NSDP. The reason for this is that the underlying sectoral plans that should give insight in budget allocations and other input and output indicators are mostly non-existent. Even well established sectors such as health and education fail to provide information on planned inputs and outputs.
- There has been no information shared with the NGO community to indicate that the NSDP will actually guide the allocations to the National Budget Law 2007. NGOs generally welcomed the NSDP as a good overall plan to guide Cambodian development, but without integration into financial planning the NSDP will lose its credibility.

iv) Recommendations

- The inputs and outputs for the NSDP for the different sectors in the NSDP need to be defined and made publicly available in order to create the setting for a meaningful Annual Progress Report that can serve as an input for discussion on improving NSDP implementation in 2007.
- The Ministry of Economy and Finance and the Ministry of National Planning need to indicate what expenditures in the 2007 Budget Law can be categorised as NSDP expenditure.

Improve Livelihoods of the Rural Poor

i) Joint Monitoring Indicators monitored by NGOs

Target	Actions Needed	Responsible Government Institution	Time Frame
8. Improve livelihoods of the rural poor, reduce poverty in particular in rural areas, and enhance food security and nutrition based on priorities outlined in the National Strategic Development Plan for 2006-2010.	8.1 Develop a medium term strategy for agriculture and water building on the NSDP and existing MAFF and MOWRAM strategy documents	MAFF and MoWRAM	Jan-Dec 2006
	8.2 Establish a mechanism and periodically disseminate information on economic land concessions in accordance with the notice issued by the Prime Minister on 30 June 2005.	MAFF	2 nd Quarter 2006
	8.3 Take appropriate action to reflect the priorities of the Fisheries sector to improve the livelihoods of rural communities in commune, district and provincial development plans as well as donor funding levels.	MAFF(Lead)/ Local Authority	4th Quarter 2006
	8.4 To improve the livelihoods of the rural poor, 500 eligible households are settled on social land concessions with livelihood support and at least 10,000 hectares of suitable land confirmed as available for social land concessions.	CLP and MLMUCP	2006

ii) Monitored progress on Actions Needed

8.1 A Medium Term (2006-2010) Strategy for Agriculture and Water has been developed by the B1 Task force of the Technical Working Group on Agriculture and Water (TWGAW) and was endorsed on September 19th 2006 during a plenary meeting of the TWGAW. A website¹ is now open, on which relevant documents are available. The backbone of the Medium Term Strategy consist of five Program Areas:

- Institutional Capacity Building and Management Support Program for Agriculture and Water Resources;
- Food Security Support Program;
- Agricultural and Agri-business (value-chain) Support Program;
- Water Resources Development and Management (irrigation) Land Program;
- Agricultural and Water Resources Research, Education and Extension Program.

NGOs welcome this achievement, wish to enhance the objective of “pro-poor” management of land, water resources, water management facilities and water-related hazards. NGOs expect the program design to be consistent with this objective and be effectively implemented.

8.2 NGOs note that little progress has been made since the initial publication of information on economic land concessions (ELCs) on the MAFF website. While the launch of the MAFF ELC webpage was a welcome step in increasing transparency related to the use and management of state owned natural assets, the incomplete nature of the information and lack of meaningful updates² calls into question the government’s commitment to improved management of state assets. NGOs illustrated the ill effects of non-transparent granting of ELCs through their report

¹ <http://www.twgaw.org>

² Subsequent to the launch of the website, the first update occurred the day before the previous GDCC meeting; the second update occurred August 22, 2006, and only involved the addition of one concession cancellation document.

on the Wuzhishan ELC last year³ but little improvement has since been shown. Recent reports indicate that demonstrations against an ELC unreported on the MAFF website led to the shooting of a twenty-nine year old female by police forces in Koh Kong⁴. In Kratie, some three to six new ELCs have been granted over forested areas, village lands, and perhaps a mining site, while the granting of two concessions in Oddar Meanchey threatens to affect not only indigenous villages, but also a nearby Community Forestry initiative. Like the Koh Kong ELC, neither the Kratie ELCs nor the Oddar Meanchey ELCs have been reported on the MAFF ELC website.

In short, available evidence suggests that the government has and will continue to grant ELCs in a non-transparent manner, and will not publicize the type of information which could prevent disputes from occurring. Generally, ELCs are increasing everywhere and local people who live in the forest areas have not been allowed to access information on the ELC.

- 8.3 The overall progress in the fisheries sector in relation to improving the livelihoods of rural people is very slow. In the Tonle Sap region, the plans to set up community fisheries in the Tonle Sap Lake under the Tonle Sap Environmental Management Project (TSEMP) funded by Asian Development Bank (ADB) has experienced a massive delay and a great number of fishing communities have not been reached as targeted. In the Mekong and Coastal region where there is no major international funding supports, actions taken to improve fisheries management and livelihoods of rural communities are greatly inadequate. In both areas, fishing conflicts and illegal fishing activities continue to occur, but the latter saw an increase in scale, affecting the majority poor fishing households.

The NGOs welcome the adoption of the new Fisheries Law, but are concerned that the new Fisheries Law fails to properly serve the interests of the rural people and the poor whose lives are dependent on fisheries resources. The ten key concerns and issues, which are keys to poverty reduction and livelihood improvements of rural Cambodia, raised by fisher representatives from all over Cambodia about the draft Fisheries Law in July 2004 have been completely rejected, raising a concern about the effectiveness of the new Fisheries Law in reducing poverty in rural fishing communities, many people live in extreme poverty. The new Fisheries Law seems to centralize the power of the Department of Fisheries in control and management of fisheries resources, limiting the roles and responsibility of fishing communities in participating in fisheries resource management.

Numbers of community fisheries have been established on paper, but less on the grounds, thus poorly contributing to poverty reduction and efforts to improve the livelihoods of rural Cambodians. The community fisheries that have been established are poorly recognized and in conflict with unestablished communities. The members of the established community fisheries who are active in protecting the fisheries resources have not been well-protected by the legal framework, but face a threat to life and imprisonment as a result of their efforts, which later discourage them from active involvement in community fisheries.

- 8.4 NGOs are still very supportive and welcome the RGC's intention to facilitate social land concession projects, but have not seen any concrete progress yet. Various offers have been made by NGOs in several provinces to initiate support of such SLC projects, but the response from different levels of government and line agencies have been overall very discouraging.

³ Wuzhishan Economic Concession: An analysis of the Wuzhishan Concession based upon CG indicators (June 2005).

⁴ Villagers reportedly protested the clearing of land by a concessionaire in Srey Ambel district. In addition to the shooting victim, four others were reportedly assaulted by police and military forces, and two villagers were arrested.

iii) Recommendations:

- (8.1) As stated in the Mid-Term Strategy document, the formulation of the Strategy for Agriculture and Water (A&W) is a first step that has now been achieved. It is to be followed (after a reasonable delay) by the preparation of a framework for implementation that provides insight into budget allocations and immediate outputs.
- (8.1) It is recommended to complement the indicators of success as presented in the Mid-Term Strategy document (which are mainly “macro” and “quantitative”: rice production, average rice yield, irrigated area, etc.) with socio-economic indicators, in order to assess the social impact of the proposed strategy, and the strategy’s success in regard to its “pro-poor” objectives.
- (8.2) The MAFF ELC website should be consistently and meaningfully updated. The coordinates provided for ELCs need to be standardized and the boundaries of concessions should be integrated into a comprehensive map that also includes information on mining concessions, military development zones and other concessions allocated by the RGC.
- (8.2) Complete text inspection reports, E/SIAs, and employment and social commitments for ELCs should be immediately disclosed.
- (8.2) In accordance with JMI 4.5d and working upon the success of last year’s JMI regarding passage of key land legislation (2005 Cross-cutting indicators for Agriculture and Natural Resources Management: Indicator 1), NGOs urge donors and the RGC to immediately review disclosed ELCs for compliance with the law⁵, and implement all measures accordingly⁶.
- (8.3) NGOs would like to call on the Government and ADB to take appropriate steps to investigate the delay in implementation of the TSEMP, in a similar manner to the World Bank, before deciding on a new loan for the Tonle Sap.
- (8.3) NGOs and concerned donors should review the new Fisheries Law, and examine its content, aiming at assessing the potentials of this law in contributing to future poverty reduction.
- (8.3) Community fisheries are an alternative way of contributing to poverty reduction and improving livelihoods of rural fishing communities. Efforts should be made by the Royal Government of Cambodia and donor agencies in ensuring that communities have ownership over community fisheries, including rights and responsibilities in deciding about the sustainable use of fisheries resources in line with the legal framework.
- (8.3) The decentralization of community fisheries should be conducted through integration of fisheries into the SEILA program.
- (8.4) Simple and effective grievance mechanisms need to be in place that ensure that social land concessions will indeed benefit landless and land-poor farming families. NGOs would also like to reiterate the recommendation from the NGO Statement to the 2006 CG Meeting that only vacant and non-forested land should be allocated as social land concessions.

⁵ The establishment of an Economic Land Concession Logbook by the Technical Secretariat should have occurred on September 28, 2006.

⁶ Several of the ELCs already disclosed by MAFF are illegal on their face. This includes, inter alia, ELCs which are over the size limit (e.g., Green Sea Industry in Stung Treng, which is 100, 852 ha); ELCs which have been granted on cancelled logging concessions (e.g., Sopheak Nika in Stung Treng, which has been reallocated on the cancelled Kingwood logging concession); and ELCs which have been granted on private lands (e.g., Pheapimex in Kampong Chhnang and Pursat provinces, which not only encompasses 315,028 ha, but also envelops over 100 villages).

Sustainable use of natural Resources

i) Joint Monitoring Indicators monitored by NGOs

Target	Actions Needed	Responsible Government Institution	Time Frame
11. Ensure sustainable use of the natural resources taking into consideration the issues of livelihood and needs of the rural communities	11.1 Develop and implement National Forest Program, by initial focus on: a. Strengthening the enforcement of the Forestry Law, especially combating forest land clearing and encroachment; b. Rationalizing and reclassify national forest lands to ensure sustainable use of these resources by further forest demarcation/demarcation of protected areas ; c. Completing Forest Cover Assessment 2005/2006. d. implementing Community Forestry program and develop Community Forestry e. Implementing capacity building for forestry sector program/tree planting for socio-economic purposes. f. Independent Monitoring in the forestry sector (Subject to donor grant funding)	FA/MAFF/MoE FA/MAFF/MoE FA / MAFF FA / MAFF FA / MAFF FA / MAFF	Qrtly Report 4th Qrt GDCC ---,--- Qrterly Qrterly To be determ.
	11.2 Strengthen transparency by disseminating all relevant sector information on the activities of government agencies, including information on mining concession and military development zones, as well as donors and NGOs by periodically postings on TWG-F&E website.	All stakeholder	4th Quarter GDCC 06
	11.3 Develop and implement a Land Management Policy and associated legal framework to improve sustainable utilization of land resources.	MLMUPC	2006
	11.4 Strengthen and expand the scope of land registration by: a. Issuing 300,000 land title certificates in 2006; b. Increasing the percentage of cases successfully resolved by the cadastral commission: 450 cases successfully resolved out of 800 cases handled in 2006; c. Revision of cadastral service fee structure, especially for sporadic and subsequent registration, public dissemination of the new fee structure and stamp duty for subsequent registration. d. State land mapping conducted in five districts and results placed in a publicly accessible state land data-base. cc	MLMUPC MLMUPC MLMUPC & MEF MLMUPC	Dec.06 Dec.06 Jun 06 Nov 06

ii) Monitored progress on Actions Needed

11.1c NGOs welcome Order No. 1 on *Prevention of Clearance of State Forestland of All Types For Ownership* signed by the Prime Minister in May 2006. Enforcement of the Forestry Law has so far mainly targeted local, forest-dependent people and authorities have often turned a blind eye to violations by powerful and well-connected elites.

11.1b Mapping and demarcation activities in the Central Cardamoms Protected Forest, jointly implemented by Forest Administration (FA) and Conservation International (CI), have demonstrated the importance of forest land demarcation to diffuse conflicts and protect valuable natural resources. NGOs are concerned, that forest demarcation in other parts of the country is progressing only slowly, leaving large areas vulnerable to illegal operations and grabbing of forest land. NGOs also note that the Draft Protected Area Law submitted to the National Assembly in October 2005 has still not been passed.

- 11.1c NGOs welcome the commitment by government and donors to undertake a new Forest Cover Assessment, but are unaware of any progress towards this objective. Given the problems associated with the previous survey published in 2003, NGOs welcome the announcement by the FA that the methodology for the assessment will include ground-truthing and the participation of communities and local authorities.
- 11.1d NGOs welcome the fact that the Community Forestry Prakas has now been passed by MAFF. The Khmer version has been released, and an English version will be made available when some particular terminology has been agreed upon.
- 11.1e NGOs are encouraged that the World Bank has sent a team to Cambodia to examine the scope for future independent monitoring. In particular, the team's willingness to address the connection between logging operations and money laundering by powerful individuals is welcome. However there has been little visible follow-up to this visit and some concern that momentum generated may now be lost.
- 11.1e There remains a disturbing lack of transparency in the process of allocating annual coupes and gaps in the regulatory framework regarding their management. NGOs call on government and donors to ensure that existing loopholes in the law are closed. Companies seeking to exploit annual coupes must be held to the same standards of bidding, planning and operation laid out in the existing sub-decree on forest concession management. NGOs also recommend that all forestry and plantation operations in future should follow Forest Stewardship Council (FSC) standards, with broad involvement of and consultation with affected communities, in line with international best practice.
- 11.4 NGOs remain very pessimistic about the work of the Cadastral Commissions, who are consistently ineffective in resolving land disputes of any political consequence. This has most recently been highlighted by the creation of NALDR, which specifically takes jurisdiction away from the CCs in cases where the situation is too politically sensitive.
- NGOs also note that, despite its high profile creation earlier this year, and despite the serious concerns regarding the legalities of its existence mentioned below, the NALDR has thus far also proved to be ineffective in solving land disputes. The means for independent resolution of land disputes is severely lacking, and should be addressed as a priority matter.

iii) Concerns

- (11.1a) NGOs observe with concern that powerful perpetrators of large-scale forest crimes and related abuses are not being held accountable to the law. The activities of the Asia World Agricultural Development Company and Global Agricultural Development, O.Khreng Commune, Sambo District, Kratie Province, are especially notable in this regard, as they have never consulted with the local people nor have they provided information regarding their activities. Local people who protested against the forest clearing have been threatened.
- (11.1a) The commitment to enforce the Forestry Law is suspect when MAFF is granting ELCs over forested areas--particularly those which contain resin trees that local communities tap. This is evident in the new Kratie ELCs.
- (11.1a) Official reports on compliance with prime ministerial orders such as PM Order No.1 frequently only focus on the number of confiscations and cases referred to the court.

- (11.4) NGOs have repeatedly called attention to problems related to the implementation of systematic land registration, including the lack of transparency and accountability. Both remain to be problems, impeding the full participation of beneficiaries and stakeholders.
- (11.4) NGOs note that there is no legal basis for the NALDR to take this jurisdiction from the Cadastral Commissions, which are duly established by sub-decree.
- (11.4) NGOs observe that the mandates and terms of cooperation between the NALDR and the Cadastral Commissions are still unclear. The composition of the NALDR suggests undue executive control over areas already contained within the jurisdiction of the Cadastral Commissions and courts. This raises the concern, inter alia, of undermining the capacity of existing judicial institutions mandated to resolve land disputes. Given past actions by the executive branch regarding large land disputes, NGOs are still sceptical about NALDR practices with regard to transparency.

iv) Recommendations:

- (11.1a) It is essential that PM Order No 1 be fully implemented regardless of the social status of the violator. Official reports on compliance with prime ministerial orders such as this one frequently only focus on the number of confiscations and cases referred to the court. NGOs therefore suggest that the RGC and its development partners should measure progress according to the following criteria: a) cases in which there has been a full prosecution and imposition of penalties as opposed simply to a referral to the court; b) the number of cases in which such prosecutions are brought against individuals with official rank or public profile; c) enforcement of existing law that target corruption, particularly Article 100 and Article 101 of the Forest Law.
- (11.1a) NGOs further recommend that efforts reclaiming forest land need to be harmonized with the implementation of Article 18 of the Land Law.
- (11.1b) As stated above, harmonization is needed between the processes of demarcation of forest land and protected areas, the identification and mapping of state land and the registration of the lands of indigenous communities. Forest land demarcation furthermore needs the active participation of all stakeholders, including local communities, provincial authorities and civil society organizations. NGOs therefore request the government to give a clear account of the methodology it intends to use for demarcating the forest reserve, what steps it will take to consult local inhabitants living close to the boundaries and the measures it will take to inform the general public of the boundaries once the exercise is completed. NGOs call on the government and donors to expedite this process without delay in order to counter the current rush of illegitimate claims by land concession holders and others to areas of forest not yet demarcated. Finally, the government should give a clear public undertaking that the demarcation process will not override the prior claims (as enshrined in the Land Law) of indigenous people to forest areas that they use for traditional agricultural practices.
- (11.1c) NGOs would welcome a clarification from the TWG F&E on the timetable for the forest cover assessment 2005/2006.
- (11.1d) NGOs would like to encourage the CFO/FA to play a coordinating role in guiding CF implementation.
- (11.2) MIME needs to find a mechanism to make the information on mining and military concessions available to the general public and to ensure regular updates of the information. NGOs would like to urge other stakeholders to follow the example of MIME and provide information on their activities. This includes information on military development zones (MOND) and maps, ESIA's and management plans of annual bidding coupes allocated for 2006 (FA).

NGOs also recommend that all forestry and plantation operations in future should follow Forest Stewardship Council (FSC) standards, with broad involvement of and consultation with affected communities, in line with international best practice.

- (11.4) NGOs urge that the Cadastral Commissions be strengthened and empowered to work independently according to their legal mandate.
- (11.4) NGOs would like to see a transparent process that follows up on allegations related to the misuse of World Bank funds for the LMAP.
- (11.4a / b) In order to improve the process of systematic land registration and increase the number of issued land certificates, NGOs recommend a) an increase in public awareness activities and b) the strengthening of conflict resolution mechanisms available to local people.

Furthermore, it seems like a certain number of land conflict cases have been submitted to the NALDR. There has however not been much communication on the handling of these cases. NGOs would welcome greater openness in the activities of the NALDR. Information needs to be provided to development partners and the media at the conclusion of each NALDR meeting and information on NALDR proceedings needs to be made available for the public record. It is moreover hoped that the NALDR will focus on big and complex land conflict cases involving well-connected elites, and work to complement and strengthen existing legal institutions.

Decentralization and Deconcentration Reform

i) Joint Monitoring Indicators monitored by NGOs

Target	Actions Needed	Responsible Government Institution	Time Frame
6. The RGC's Strategic Framework for Decentralization and De-concentration (D&D) reforms developed and initial preparation made for full implementation.	6.1 Preparation, Consultation and submission for approval by the National Assembly a set of the organic Laws on democratic development at Sub-national levels.	IMC	First draft by end March 06
	6.2 D&D and organic law implementation framework/outline prepared (preliminary provisional pending the enactment-approval by the Nat. Assembly of the organic laws)	IMC	First and Second Quarter 06
	6.3 Review and formulate D&D support program for reform and Investment for Local Development	IMC	3rd quarter 06

ii) Monitored progress on Actions Needed

- 6.1 NGOs welcome the fact that the first drafts of the four Organic Laws have been prepared under the auspices of the Inter-Ministerial Committee (IMC) and submitted to the Government for review. Government has indicated to the donor community that it intends to submit final versions of the D&D organic laws to the National Assembly for consideration before the end of the calendar year. There has been no further movement in the direction of public release of the draft laws during this period. There has been no public discussion of the process for review and consultation on draft organic laws prior to finalization and submission to the National Assembly.
- 6.2 Government has indicated to the donor community that an implementation strategy covering 2006-2007 will be finalized during 2006. Verbal presentations by government suggest a three-phased implementation time-line, divided into a preparatory stage (2006-2007), an initial phase (2007-2009), and a transition phase (2009-2012). A draft "Implementation Framework for Sub-National Democratic Development Preparatory Phase 2006-2007" was circulated to the Donor community in June 2006, though it has not been more broadly circulated for comment by D&D stakeholders. The draft Implementation Framework suggests that a process of public consultation on the draft Organic Laws is planned during the third and fourth quarters of 2006, however delays in the release of the Draft Organic Law(s) may affect the timing and duration of such consultation.
- 6.3 The draft *Independent Study of Donor Support for Decentralization and Deconcentration (D&D)* was submitted to the IMC and donors for review in April 2006. This was followed in June and July by a consultancy to design a "Project to Support Democratic Development" (PSDD). The final design of the PSDD is pending. The NCDD has scheduled the annual work plan preparation workshop for 2-3 October 2006.

iii) Recommendations:

- The NGOs recommend that, in collaboration with the RGC, the draft organic laws be subject to a broad public review process involving stakeholders at both national and sub-national levels prior to the finalization and submission to the National Assembly.

Socially cohesive, educationally advanced, and culturally vibrant society

i) Joint Monitoring Indicators monitored by NGOs

Target	Actions Needed	Responsible Government Institution	Time Frame
10. Foster the development of a socially cohesive, educationally advanced, and culturally vibrant society that is free of illiteracy and disease and follow the RGC's Strategic Plan – Neary Rattanak (women are precious gems).	10.1 Increase the proportion of deliveries attended by skilled health personnel	MOH	On-going
	10.2 Increase the net enrolment in primary school (total, and by sex).	MOEYS	On-going
	10.3 Increase the survival rate from grades 1 to 6.	MOEYS	On-going
	10.4 Implement the National Action Plan to combat violence against women.	MOWA	

ii) Monitored progress on Actions Needed

10.1 The progress of this indicator could be known through the report of *Health System Information, Cambodia Demographic Health Survey, and Midwifery Review* that will be made public within the coming months. However, accomplishment of this important indicator (among many other outcome indicators in the health sector) very much depends on the progress of public administration reform to serve people better and to become an effective development partner. Discussions on the Merit Based Payment Initiatives are on-going and preparatory activities to formulate a draft joint Government-Donor action plan for phasing out salary supplements are on the way.

10.2 Since the year 2000, the ESP/ESSP documents and the PAP funds have been essential tools in the effort to achieve universal primary education by 2015. The net enrolment rate for all primary school age students has increased from 76% in 2000-01 to 91.3% in 2005-06 while the net enrolment rate for primary school age girls has increased from 75% in 2000-01 to 89.7% in 2005-06. This means that still only 47% of all students registered for primary school are girls. (Also see section on Public Finance Management on funding for the education sector)

10.3 While enrolment rates have increased, the more difficult issue is primary school completion. The completion rates for primary school (Grade 6) were 42.9% in 2004-2005, which is still far behind the projected target of 100% by 2010. Much work still needs to be done to realize this goal. The dropout and repetition rates remain high in primary school, and the Lower Secondary School enrolment rates are far behind those in other countries the region. (Also see section on Public Finance Management on funding for the education sector)

10.4 The draft National Action Plan to combat violence against women has been finalized and been submitted to H.E the Minister of the Ministry of Women's Affairs for approval. Implementation is expected to start after official approval by MOWA.

iii) Recommendations:

- (10.1) To effectively increase the proportion of deliveries by skilled health personnel, the deployment of midwives in all remote rural areas is required. NGOs welcome the fact that the

Midwifery Review will be part of the Midterm Review so that incentives to health professionals, particularly midwives, should be resolved and moved forward soon.

- (10.2 & 10.3) Given the present primary completion rate, we still have far to go to achieve the universal primary education that the Ministry hopes for and the country needs. The MoEYS needs to continue to emphasize the integration of girls, disabled children, and minority children into the education system.
- (10.2 & 10.3) The government, in partnership with donors, needs to increase its efforts to make more schools and facilities available to all children. The realization of Government commitments to abolish informal payments in schools, recruit more teachers, implement performance-based pay reforms and ensure the timely disbursement of PAP funds to the schools are also crucial to the realization of education for all in Cambodia.
- (10.2 & 10.3) In addition, the Ministry needs to strengthen its monitoring systems so that the education data upon which policy decisions are made is consistent, complete and reliable.
- (10.4) NGOs would like MOWA to provide their comments and approve the draft of the National Action Plan to combat violence against women and circulate it to all the stakeholders.

Public Financial Management Reform Programme

i) Joint Monitoring Indicators monitored by NGOs

Target	Actions Needed	Responsible Government Institution	Time Frame
7. The RGC's Public Financial Management Reform Program Implemented	7.1 Continue implementing the RGC's PFM Reform Program (complete Stage1/Platform 1 and begin implementing the action plan for Stage 2) and monitor impact through the agreed PFM Performance Management Framework/Indicators.	MEF	On-going

ii) Monitored progress on Actions Needed

Health

NGOs welcome the fact that cash disbursements to the health sector continue to improve, when comparing the second quarter of 2006 with the same quarter last year. Unfortunately, this improvement is seen mostly at the central level, but there has been very little progress at the provincial level. This continues to affect the health service delivery to the community.

The meetings between MoH, MoEYS, MEF, and partners regarding the disbursements have made good progress. NGOs would like to see this discussion continue until the cash release to the operational level is improved to all social sectors—health and education, in particular.

Education

Since the year 2000, the ESP/ESSP documents and the PAP funds have been essential tools in the effort to achieve universal primary education by 2015. In terms of funding, at the JTWG-ED in September 2006, it was noted that only 73.88% of the PAP disbursement for the first semester (January – June 2006) had been released.

iii) Recommendations:

- (Health) NGOs active in Cambodia's Health Sector are pleased with the tremendous efforts and the progress that the RGC has made so far. We, however, would like to encourage all partners to move towards finalization of the Merit Based Payment Initiative design, to ensure that payments will be based on qualifications and experience. Since this MBPI is at the moment focusing on the central ministries, NGOs would like to also encourage all partners to strengthen the incentives and performance at the service delivery level, especially in the rural areas.
- Education The NEP and EDUCAM, on behalf of their members, recommend that the Ministry of Education, Youth and Sport in close collaboration with the Ministry of Economy and Finance ensure the timely disbursement of PAP funds to the schools through a proper budget management system so that the education service will be healthier and will outreach to marginalized children in order to achieve the targets to which the government has committed itself.

Partnership & Harmonization

i) Joint Monitoring Indicators monitored by NGOs

Target	Actions Needed	Responsible Government Institution	Time Frame
2. <u>Build partnerships to enhance aid effectiveness and mutual accountability.</u>	i. Implement the RGC's Strategic Framework for Development Cooperation Management.	CDC	On-going
	ii. Prepare progress report on a six month basis the implementation of RGC's Action Plan on Harmonization, Alignment and Results	CDC	On-going
	iii. review and strengthen aid coordination mechanisms including CG, GDCC and TWGs,	CDC	3 rd quarter 06

ii) Monitored progress on Actions Needed

The Royal Government of Cambodia and the relevant donor agencies aligned with the Paris Declaration are to be commended for their commitment and achievements in the area of Partnerships and Harmonization. Extensive consultations between government ministries and development partners, including support for Technical Working Groups, have resulted in a more systematic approach to strengthening government and donor reporting and monitoring systems.

In addition, the various evidence based reports and studies on aid effectiveness, including Aid Effectiveness and Aid Coordination in Cambodia: Stakeholder Perceptions (Oct 2005), the OEDC/DAC Survey (2006) and the current Review of the CG, GDCC and TWG mechanisms (2006), are providing important information and analysis to the policy discussions on the development agenda.

iii) Concerns

- A challenge for the government and donor community in the future is to demonstrate the positive impact of the time and effort spent on aid coordination with respect to the results achieved in poverty reduction. A significant challenge for the NGOs and Civil Society Organisations is to increase their understanding of the aid effectiveness agenda, including the positive and negative effects on future NGO/CSO programs, the vulnerable and poor populations they serve and the changing relationship and funding arrangements with government and donors.
- The current draft of the CG, GDCC and TWG mechanisms does not recognise the "monitoring" function of the TWGs (be it NSDP or JMIs) and the role that NGOs have in this process while section 4.27 of the NSDP describes the TWGs as having an "*important role in assisting RGC to develop new sectoral plans, review ongoing ones, harmonise and coordinate external assistance to programmes and projects as well as to monitor their implementation and progress.*"

At the moment, NGOs participate in 13 of the 18 TWGs and discussions on inclusion of NGOs in four more TWGs have recently started (Public Finance Management, Forestry and Environment, Decentralization and Deconcentration, and Legal & Judicial Reform). Both the NGOs that are already participating in the TWGs and the candidates for the four mentioned TWGs are well networked in the wider NGO community which enables an easy flow of information between the

TWGs and the NGO community. All these NGOs in the TWGs have a monitoring function with respect to the JMIs and the NSDP while some are also active donors and play an advisory role.

All NGOs appreciate their inclusion in the Technical Working Groups and agree to abide by the principles of these groups.

iv) Recommendations

- Extend awareness raising activities and opportunities for dialogue with a greater number of interested NGOs and CSOs, at both national and sub-national levels, on the aid effectiveness agenda, possibly through the CDC NGO Coordination Unit.
- Accept the inclusion of well-networked NGOs in the TWGs on Public Finance Management, Forestry, Decentralization and Deconcentration, and Legal & Judicial Reform and continue to work with NGOs that are currently included in 13 of the 18 TWGs

List of Acronyms

ADB	Asian Development Bank
APR	Annual Progress Report
A&W	Agriculture and Water
CCs	Cadastral Commissions
CDC	Council for the Development of Cambodia
CG	Consultative Group
CI	Conservation International
CLP	Council for Land Policy
COM	Council of Ministers
CSO	Civil Society Organisation
D&D	Decentralization and Deconcentration
ELC	Economic Land Concession
E/SIA	Environmental/Social Impact Assessment
ESP/ESSP	Education Strategic Plan / Education Sector Support Program
FA	Forest Administration
F&E	Forestry and Environment
FSC	Forest Stewardship Council
GDCC	Government Donor Coordinating Committee
GSCLP	General Secretariat of the Council for Land Policy
IMC	Inter Ministerial Commission
IMM	Inter-Ministerial Meeting
JMI	Joint Monitoring Indicator
L&J	Legal & Judicial Reform
MAFF	Ministry of Agriculture, Forestry and Fisheries
MBPI	Merit Based Payment Initiative
MEF	Ministry of Economy and Finance
MLMUPC	Ministry of Land Management Urban Planning and Construction
MNASRI	Ministry of National Assembly-Senate Relations and Inspection
MOE	Ministry of the Environment
MOEYS	Ministry of Education, Youth and Sport
MOH	Ministry of Health
MOJ	Ministry of Justice
MOP	Ministry of Planning
MOWA	Ministry of Women's Affairs
MoWRAM	Ministry of Water Resource and Meteorology
NA	National Assembly
NALDR	National Authority on Land Dispute Resolution
NCDD	National Committee for the implementation of the D&D Strategy
NEP	The NGO Education Partnership
NGO	Non Governmental Organization
NSDP	National Strategic Development Plan
PAP	Priority Action Program
PFM	Public Finance Management
PPR	Planning and Poverty Reduction
PM	Prime Minister
PSDD	Project to Support Democratic Development'
RGC	Royal Government of Cambodia
SCM	Supreme Council of Magistracy
SLC	Social Land Concession
TSEMP	Tonle Sap Environmental Management Project
TWG	Technical Working Group