

# Development of Subsidiary Legislation for Community Fisheries Refuge Co-management<sup>1</sup>.

## 1. Introduction

This document is intended to aid discussion on the development of subsidiary legislation that will support implementation of CFR related articles in the New Fishery Law<sup>2</sup>

## 2. A Brief history of CFR in Cambodia

Rice field fisheries (RFF) have supported Asia's rice growing communities for generations. They form an integral part in the annual cycle of rice farming & fishing. Research on RFF was first carried out, in Udorn Thani, NE Thailand in 1975<sup>1</sup>. In the 1990s there was still very little ecological information available on RFF species and their collection.. From 1993, the AIT Outreach Project in Cambodia working with DoF found that many small farm ponds were being used to trap wild fish originating from surrounding ricefields. Sophisticated traditional techniques & management existed. Studies in Svay Rieng found that the average amount of fish and other aquatic animals caught in rice fields and surrounding areas ranged from 155 kg/HH/year – 604 kg/HH/year. Clear that the only manageable part of the RFF system was the small ponds and wetlands where fish could survive the dry season. In Svay Rieng the pumping of ponds in the dry season to collect fish is common practice. Traditional practices existed of returning some snakehead & catfish to these trap ponds, to help maintain future stocks. Small water bodies managed by communities for this purpose seemed to have potential. Key to their management would be connectivity, i.e. Open canals linking the CFR to the surrounding rice fields is important. The first pilot CFR in Cambodia was established in 1995 in Phum Kok Kandal, Svay Chrum, Svay Rieng. Local people supportive of the idea, The stocking of locally extinct indigenous fish species into the CFR resulted in their reappearance in the RFF the following wet season., helped convince people that the idea worked. Other pilot projects were launched in Prey Veng and Kompong Speu. Senior DoF staff showed an interest in the approach and studies were carried out<sup>3</sup>.

### 2.1. Policy support for CFR development followed.

- Statement on the National Fisheries Policy” (May 15th 2005) “CFRs should be developed all around the country where environmental conditions are suitable”.
- 2007, Prime Minister declared “the promotion of CFRs at the district and commune levels [should] be

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<sup>1</sup> CFR offer an opportunity for resource co-management, i.e the cooperation and shared responsibilities between stakeholders and the State, for the management of natural resources.

<sup>2</sup> The New Fishery Law for Cambodia is expected to be passed before the end of 2023.

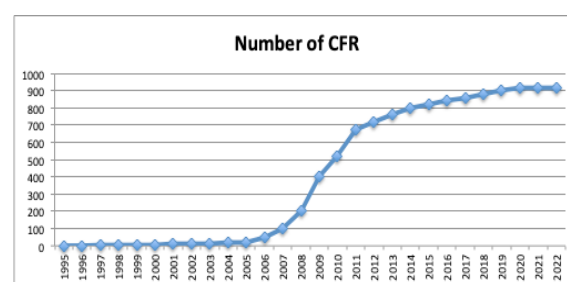
<sup>3</sup> Nao Thuok. 2009. Community Fish Refuge husbandry in lowland agricultural ecosystem. PhD Thesis. Build Bright University. Phnom Penh 211 pp

discussed so that these areas can be kept as state property and fish releasing activities can be organized in those areas” (CoM 2007)

- 2008- RGC prioritized CFR development as way to enhance fisheries, with MAFF launching an advocacy campaign, “One Commune, One Community Fish Refuge”.
- Strategic Planning Framework 2015– 2024, states that *rice field fisheries yields will be maintained. Target 1200 CFR by 2019.*
- ASSDP 2019-2023 recognised CFR.... *864 fish habitat community ponds were established and as result there is a gradual increase in the number of natural fish yields in the rice field.*
- Despite this support, the existing Fishery Law (2007) contains no references to CFR.

Policy support resulted in a sharp acceleration of new CFR from 2007-2011. The total number of CFR in Cambodia is now more than 900. The number of new CFR leveled off from 2012.

Impact of policy support on number of CFR in Cambodia



## 2.2. Institutional Support

The following institutions have been closely involved in CFR development in Cambodia

- FiA Dept of Aquaculture Development – Has overall responsibility for CFR in Cambodia. Maintains national level records and guides CFR implementation nationally.
- AIT Aqua Outreach- (1995- 2009) RFF research & Pilot CFRs
- JICA (2005-2010)- 22 shared pond sites (CFR) in Kampong Speu, Kampot, Takeo and Prey Veng
- Worldfish RFFEP (2012- 2016) Scientific Quantification of the impacts of CFR<sup>4</sup>
- GIZ SAFR Project 2020-2025 - The Project Objective is the food insecure population of Cambodia has more fish products and higher incomes from sustainable and resource-friendly pond aquaculture and community-based rice-field fisheries. Activities have focused on, Training on technical aspects and business skills; Capacity building for CFR Management Committees; Strengthening the policy framework for Cambodia’s fisheries and aquaculture sector

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- Management of CFR resulted in fish productivity per ha of rice field, increasing from 78kg/hectare/year in 2013 to 99kg/hectare/year in 2015.
- Average annual fish catch per HH by those living around the CFRs increased on average by 9%, from 211kg in 2012 to 230kg in 2015;
- Average annual fish catch per HH by poorest HH increased, from 156kg in 2012 to 268kg in 2015;
- Average increase in income from selling fish in 2015 was ten times that in 2012;
- Amount of small micronutrient-rich fish consumed at home; increased by 13% on average; consumption by children under the age of 5 increased by 23%;

### 3. Recent efforts to strengthen CFR co management.

#### 3.1. Technical Guidelines developed by WorldFish

The publications below, developed by Worldfish are considered the most comprehensive developed so far. However, they only focus on CFR connected to RFF, and do not discuss community co-management of closed water bodies or culture based fisheries options.

- Brooks A, Kim M, Sieu C, Sean V and Try V. 2015. A characterization of community fish refuge typologies in rice field fisheries ecosystems. Penang, Malaysia: WorldFish. Handbook: 2015-37. (see Annex 3)
- Kim M, Mam K, Sean V, Try V, Brooks A, Thay S, Hav V & Gregory R. 2019. Guidelines for community fish refuge-rice field fisheries system management in Cambodia. Phnom Penh, Cambodia: Fisheries Administration and WorldFish Cambodia.
- Guidelines on the stocking of CFR, currently under development, (under development).

#### 3.2. The Legal Framework for CFR

The draft Fishery Law under consideration by the RGC contains the following articles:

##### **CH 10- COMMUNITY FISHERIES & COMMUNITY FISH REFUGES- Sect. 2- Community Fish Refuges**

**Article 83-** *All Cambodian citizens have the right to organise themselves on a voluntary basis, to engage in the management of Community Fish Refuges in their community, for sustainable management, conservation, development, use and the enhancement of fisheries productivity with the purpose of improving livelihoods and enhancing food security.*

*The Community Fish Refuges management approach shall be determined by the Minister of the Ministry of Agriculture, Forestry and Fisheries.*

**Article 84-** *Community Fish Refuges (sic) shall have the following rights and duties:*

- *To access and sustainably use fisheries resources in the community fish refuge;*
- *To establish management committees and develop management plans for community fish refuges;*
- *To prepare by-laws and internal rules for Community Fish Refuge management;*
- *To establish the funds to financially support;*
- *To establish community fish refuge networks; and*
- *To seek development partners and charity fund to support the management and development of*

*Community Fish Refuges. Article 85- Community Fish Refuge Committees shall have no right to sell, exchange, rent, donate, lent, distribute, transfer, or privatize community fishing areas or sign any other agreement relating to Community Fish Refuges with any private partner, individual or legal person.*

**Article 86-** *Community Fish Refuge Management Plans shall be prepared by the Community Fish Refuge committee and approved by the Fisheries Competent Unit.*

*The Fisheries Competent Unit shall provide technical support and monitor the implementation of Community Fish Refuge Management Plan.*

*Community Fish Refuge shall receive the encouragement and exception from the Royal Government of Cambodia aligned with the community management approaches.*

### **3.3. Regional and National meetings on CFR Co-management guidelines.**

During 2022, GIZ supported four sub-national and one National to canvas stakeholder opinions on the current status of CFR in Cambodia. At the regional workshops, thorough SWOT analyses were completed for each EAFm pillar, (Ecological well-being, Good Governance, & Human well-being). Results were presented at the National Workshop on CFR Co-management guidelines in October 2022).

The main recommendations from the workshop were:

- The options for CFR legislation, (Prakas, Joint Prakas, Sub Decree, Joint sub decree), should be considered by FiA and a decision made on which legal instrument would be best suited to furthering CFR co-management, under the new Law.
- The CFR definition should be amended to reflect current uses of CFR by communities

### **3.4. The CFR Status Assessment**

In late 2022, a comprehensive status assessment of 915 CFR was completed, nationally. This exercise involved; DAD, GiZ, FAO, WorldFish, The data collected are currently under analysis by ODC, and ??.. The main findings from this assessment will be cross referenced with the findings from the sub-national and national meetings organized by GIZ & DADS and used to inform the drafting of the subsidiary legislation.

## **4. Next Steps in the Development of CFR legal frameworks and Guidelines**

### **4.1. Establishing a Working Group**

It is proposed that DAD lead the process by establishing a TWGFi sub Group, or reactivating the TWGFI Governance sub-group, to work on the issues described in this paper

### **4.2. CFR Legislation Options**

Firstly, the choice of subsidiary legislation to be developed has to be made

In developing a legal framework to build on references to CFR in the new Fishery law, four options exist. Each has pros and cons.

- **CFR MAFF Prakas**

This would be relatively easy to draft and approve, as it does not involve multiple ministries and would be relatively easy to amend in future. However, a CFR would be subordinate to the FWUC 2105 MoWRaM sub-decree and therefore would not strengthen collaboration between other community groups (e.g FWUC). In addition a Prakas would not clarify CFR land classification and titling issues, and would not be a tool that MAFF could use to express D & D policy.

- **Inter-ministerial CFR Prakas**

This would promote inter ministerial collaboration and would provide a legal framework for reducing conflict around CFR use. It would also have the potential to help clarify land classification and titling and could be used by local government to implement D & D policy. Such an approach might have support from other agencies/ sectors. However, an inter-ministerial Prakas would require extensive consultations with MoWRaM and more time to draft and get ministers to approve. It would be difficult to amend in future but could always be 'trumped' by the the 2015 MoWRaM sub-decree on FWUC.

- **CFR MAFF Sub decree**

Would have same legal 'power' as the MoWRaM 2015 sub-decree for FWUC and could help reduce conflict around water resources use. A sub decree may also have the support of other agencies/ sectors . However, a sub decree would not promote inter-ministerial collaboration, would take time to draft and approve as this level of legislation requires the PM's signature. It would therefore be difficult to amend at a future date. However, the commitment of the PM to CFR establishment is well understood. Other shortcomings of a sub decree are that it might not help clarify land classification and titling issues, and may not easily express Government De-centralisation & De-concentration (D&D) policy.

- **Inter-ministerial CFR Sub decree**

An inter-ministerial sub decree between MAFF, MWRaM, and MoE would strengthen the legal basis for community co-management of CFR. However, this would require extensive consultation and negotiation and would take time to achieve.

### 4.3. Revising the CFR Definition

The English back translation of CFR from Khmer ( ផ្នែកទី២ សហគមន៍ស្រះជម្រកត្រី ) is 'Community Pond Shelter Fish'. The Glossary for the New Law, defines CFR as follows:

*"A CFR refers to natural or man-made ponds or parts of water bodies that are co-managed for capture fisheries by local communities with the objective of sustaining fish biodiversity and productivity of adjacent rice fields and wetland fisheries. A CFR generally has an embankment to control water levels and has a connection to the surrounding wetlands".*

This definition only describes CFRs linked to rice fields or wetlands. It does not include CFR in 'closed' water bodies, such as reservoirs, and does not include scope for a CFR to be used for community-based aquaculture.

Regional and National level discussion suggests that this definition may have to be revised to better describe CFR resources and co-management practices. The following definition is proposed:

*"A Community Fisheries Refuge is a (permanent or seasonal; naturally occurring or man-made), pond, canal, reservoir or other water body, that is co-managed by communities and Government for fisheries, stock*

*enhanced fisheries or aquaculture, for the purpose of sustaining aquatic biodiversity and productivity in that water body or in surrounding water bodies or wetlands, and helping to support local livelihoods.*

The proposed definition above, attempts to capture:

- The inclusion of reservoirs and other closed water bodies as CFR. - There are many cases of such water bodies having already been registered as CFR.
- That CFR committee, with Government should be responsible for co-managing the CFR resource for the benefit of everyone in the surrounding community . This is to avoid the complication that exists with CFi, whereby a community can have members and non-members fishing in the same Cfi fisheries management area;
- The concept that; aquaculture and stock enhanced fisheries, (where fish juveniles from aquaculture are released into open water bodies), should be included as legitimate uses of the CFR, if agreed by the CFR committee and Government;
- The CFR Committee in collaboration with Government should decide on how the fish stocks are managed (i.e. the number, species and sizes of fish stocked in the CFR, and how much fishing effort can be applied in the CFR by local fishers;
- The term CFR should refer to a water resource, not a community. The CFR committee is responsible for co-management of the CFR on behalf of local people. A Community residing close to a CFR should be referred to as a CFR Community. This should avoid the complication that exists with CFi where the term CFi can refer to either the community fishery resource, or the community co-managing the fishery resource.

#### **4.4. Drafting the subsidiary legislation**

Whatever form the subsidiary legislation takes, it should be drafted in a similar format to that used for the Cfi Sub Decree and Cfi Prakas on Guideilnes for Community Fisheries (2007)

#### **4.5. Updating the current Technical Guidelines on CFR Management.**

If the characterization of CFR is expanded to include closed water bodies and stock enhanced fisheries, then the technical guidelines developed by Worldfish, (see 3.1 above), will need to be revised to cover these new management opportunities. New insights from the various workshops and studies carried out in 2022, should also be incorporated into the revised draft. It is also seen as important that DAD be the main author of these technic al guidelines and they also be made more easy implement by FiAC's and district / commune admninsitrations,

## **Annex 1- Proposed Draft of a Sub Decree on Guidelines for CFR Co management.**

### **Chapter 1 General Provisions**

#### Article 1

The scope and goal of this Sub-Decree is the determination of the rules and legislative procedures for the establishment and oversight of community fisheries refuges (CFR) for conservation and livelihood purposes, throughout the Kingdom of Cambodia.

#### Article 2.

The objectives of this Sub-Decree are:

- To set out the conditions for the co-management<sup>5</sup> of CFR;
- To ensure that fisheries resources in and around the CFR, are co-managed in a sustainable<sup>6</sup> manner
- To ensure that CFR resources are shared equitably<sup>7</sup> for the benefit for Cambodian citizens;
- To contribute to improvements in the standard of living and poverty reduction for Cambodian citizens.
- Provide a legal framework that makes it easy<sup>8</sup> for communities in Cambodia to establish and co-manage CFR ;
- To increase citizens' understanding<sup>9</sup> of the benefits and importance of the co-management or natural resources in Cambodia.

#### Article 3.

CFR are state public property, except in cases where a private owner of a water body offers the resource to a community for CFR co-management purposes<sup>10</sup>.

The boundaries of CFR<sup>11</sup> shall be defined by proclamation of the Minister of Agriculture, Forestry and Fisheries<sup>12</sup>.

#### Article 4.

The authority to lead and co-manage a CFR is derived through the election of a CFR Co-management Committee<sup>13</sup>.

#### Article 5.

Important terms used in this Sub-Decree are defined in the annex.

### **Chapter 2 - Establishment of CFR**

#### Article 6.

All Cambodian citizens have the right to be a member of a CFR Community on a voluntary basis and thereby take part in the sustainable co-management and development, of a CFR.

A CFR Community is a group of physical persons holding Cambodian citizenship who live close to a CFR, and who participate in the sustainable co-management of the CFR so that it contributes to their

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<sup>6</sup> Careful co-management leading to sustainability is a key concept to be included.

<sup>7</sup> Equitable access to the CFR and surrounding fisheries resources is a key concept to be included.

<sup>8</sup> Procedures for the establishment of new CFR should not be so complicated that it deters communities from trying to create new CFR

<sup>9</sup> CFR offer an opportunity to help community members understand better the need for sustainable resources management, and show how they can participate in the local governance of natural resources, including community forestry.

<sup>10</sup> Such an arrangement would be between the Community in question and the private pond owner.

<sup>11</sup> Due to the threats to CFR of land filling, land grabbing and illegal settlement.

<sup>12</sup> This text is lifted from the CFI sub-decree. I am not sure if it is required here.

<sup>13</sup> Could be shortened to 'CFR-CMC'



community's economic & social development and to poverty reduction.

The Fisheries Administration Cantonments (FiAC) and Commune/Sangkat councils, shall cooperate together with communities to establish and co-manage CFR<sup>14</sup>.

#### Article 7.

CFR Co-management committees shall draft CFR Resource maps<sup>15</sup>, CFR Resource use agreements<sup>16</sup>, CFR By-laws<sup>17</sup>, CFR Internal Rules<sup>18</sup> and CFR Co-management plans<sup>19</sup> to be recognized by the competent local authorities in accordance with the provisions of this Sub-Decree.

#### Article 8.

The CFR by-laws shall mention the following:

- Name and Address of the CFR Community;
- Vision and objectives of the co-management of the CFR;
- Obligations and rights of CFR Community members;
- Criteria and conditions of resignation and dismissal of CFR community members;
- Composition of the CFR co-management committee;
- Conditions for election of the CFR co-management committee members;
- Conditions for the sharing of benefits and profits from CFR associated economic activities;
- Procedures for keeping account books and other documentation;
- Conditions for dissolution of the CFR;
- Legal procedures for revising CFR by-laws and CFR internal rules.

### **Chapter 3 - Roles, Duties, and Rights of CFR Communities**

#### Article 9.

One individual per household, per community<sup>20</sup>, will be a member of the CFR Community. Each household will agree internally who will represent them. A list of the CFR Community households<sup>21</sup> will be maintained and updated as necessary by the CFR co-management committee;

Cambodian citizens of either sex who wish to become members of the CFR community shall comply with the following conditions:

- Have residency in a community that has been granted the right to co-manage a CFR;
- Hold Cambodian citizenship;
- Be at least 18 years of age.

#### Article 10.

Roles, duties and rights<sup>22</sup> of CFR community members, (one individual per household<sup>23</sup>):

- Represent their household as the single member of the CFR community;
- Participate in co-management activities relating to the CFR resource use agreement; CFR by-laws,

<sup>14</sup> Commune Council cooperation is needed due to the potential multiple uses of CFR resources, water and adjacent lands

<sup>15</sup> CFR resource maps show the location of the CFR, the CFR community and the surrounding lands

<sup>16</sup> CFR resource use agreements are agreements drawn up between the CFR Co-management committee and other Community groups, over the use of CFR resources, i.e. water, and adjacent lands.

<sup>17</sup> By-Laws explain the workings and procedures of the CFR Co-management Committee.

<sup>18</sup> Internal rules explain the local rules that are agreed by the CFR Community, which are applied for co-management of the CFR, and which must fall within the community's rights under the Cambodia Fishery Law or other laws relating to natural resources management.

<sup>19</sup> CFR management plans explain planned activities for specific periods of time i.e. 1 year, 3 year of 5 year.

<sup>20</sup> To ensure inclusivity and avoid splits in the community, (as is seen with CFi membership), it is proposed that each household in the CFR community be considered a member. This was a suggestion from one of the CFR workshops.

<sup>21</sup> I think households rather than household representatives would be more practical

<sup>22</sup> The CFi sub decree has a separate article (11) for CFi rights. We think this should be combined into the same article as roles as duties.

<sup>23</sup> Differs from the CFi model where there is no limit on numbers of members per household;

- CFR internal rules, CFR co-management plan and any other agreements relating to the CFR;
- Participate in discussions on the CFR with the CFR co-management committee and the local competent authorities;
  - Participate in CFR Co-management committee elections and re-elections as a voter or as a candidate for election;
  - Propose inclusions for the agenda at CFR Community meetings or CFR co-management committee meetings;
  - Harvest aquatic products from the CFR or surrounding wetlands, in accordance with the CFR internal rules, CFR co-management plan, Fisheries Law, and any other rules related to CFR natural resources exploitation;
  - Make a formal complaint or provide information on any problems affecting the interests of the CFR, to the FIAC or Commune Council, local authorities or other relevant local competent agencies.
  - Assume individual and collective responsibility for any wrongdoing carried out in the CFR
  - New Households must express their willingness to comply with the CFR Resource use Agreement, CFR by-laws, CFR internal rules, and CFR co-management before being accepted as a member of the CFR Community.

Article 11<sup>24</sup>.

Article 12.

CFR Community members have no right to:

- Establish private ownership of any part of the CFR or the surrounding common land<sup>25</sup>;
- Sell, exchange, rent, donate, share, divide, borrow, pawn or transfer the CFR in any form;
- Enter into agreements with any physical persons or legal entities, to use the CFR, even for the purpose of scientific research;
- Erect dams or carry out fishing that obstruct the passage of streams, creeks, and canals that might interfere with fish migrations to and from the CFR<sup>26</sup>.

In cases where a member of a CFR community prevents other members of the CFR community of which he or she is a member, from exercising the rights mentioned in this article, or causes harm to the interests of the community or members of other CFR communities, that member may be suspended or dismissed from the CFR community after being given the opportunity to defend themselves before the CFR co-management committee.

Article 14.

People from households that are not members of the community fisheries have no right to enter, leave, and use resources from the CFR<sup>27</sup>.

## **Chapter 4 Community Fish Refuge Co-management Committee**

Article 15.

The CFR Community will be led by a committee, called the 'CFR Co-management Committee'. The CFR Co-management committee shall be selected through secret, free, and fair elections by an absolute majority of the members of the CFR community who voted.

Article 16.

Following the validity of a potential CFR community, the FIAC or the commune/ sangkat council shall facilitate the first CFR co-management committee election;

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<sup>24</sup> Deleted from CFi sub-decree structure to keep subsequent article numbers consistent. In this case the deleted article relates to the rights of CFi. The rights of CFR community members is included in Article 10.

<sup>25</sup> Some CFR may be bordered legally by private land, therefore we can only protect common land.

<sup>26</sup> This is important for CFR connected to rice fields

<sup>27</sup> This is an important departure from CFi policy where CFi members and non-members both have access to same resources. This is thought by many to be constraining the development of CFi in Cambodia.

The candidate who receives the most votes shall be the Chief of the CFR Co-Management Committee. The candidate who receives the second most votes shall be the Vice-Chief of the CFR Co-Management Committee;

The results of subsequent CFR co-management committee elections shall be officially recognized even if FIAC, Commune Council or other local competent authorities, are absent from the election<sup>28</sup>.

Article 17.

The number of members of the CFR Co-management Committee shall be an odd number between five (5) and eleven (11), depending on the local situation.

Article 18.

CFR Community members of either sex can stand as candidates for election as members of the CFR Co-management Committee. A CFR Co-management Committee must have at least 2 women committee members<sup>29</sup> elected;

Candidates for CFR Co-management committee election must meet the following conditions:

- Be a full time resident in the community;
- Be the household representative of the CFR community;
- Hold Cambodian citizenship;
- Be at least 18 years of age.

Article 19.

The CFR Co-management Committee has the authority to co-manage the CFR in compliance with the articles in this Sub-Decree. A CFR Co-management Committee shall have a term of five (5) years, which will expire when a new CFR Co-management Committee has been elected and takes up office.

Article 20.

The CFR Co-management Committee shall have the following functions and duties:

- Work with FIAC to ensure that the CFR is registered<sup>30</sup> with the local authorities;
- Through consultation with CFR community members and in cooperation with FIAC and Commune Councils, draft the CFR resource use agreement, CFR by-laws, CFR internal rules, CFR co-management plan and any other agreements<sup>31</sup> related to the CFR.
- Design and construct a permanent signboard<sup>32</sup> to be erected at the CFR, explaining the vision and objectives of the co-management;
- Operate in accordance with the conditions set out in the CFR resource use agreement; CFR by-laws, CFR internal rules, CFR co-management plans and any other relevant agreements;
- Organise activities for the CFR community to implement the CFR co-management plan, in compliance with the Fishery Law and other relevant laws<sup>33</sup>.
- Represent the CFR community in discussions with other parties including other government agencies, private sector<sup>34</sup>, potential donors, and NGOs
- Seek technical and financial support<sup>35</sup> from the FIAC, other relevant institutions and donors for implementation of CFR co-management activities;

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<sup>28</sup> This is to ensure that CFR re-elections should not be delayed due to the unavailability of local competent authorities. This provision exists in the CFi sub-decree but does not seem to be applied.

<sup>29</sup> CFR are recognized as contributing significantly to family nutrition. It is therefore important that they have a voice at the CFR Co-management committee level.

<sup>30</sup> CFR registration should be at FIAC with a copy also held by relevant Commune Council.

<sup>31</sup> I don't know what other agreements might exist but probably best to leave it in the text.

<sup>32</sup> Many CFR signboards exist already but few, (if any) contain information on internal rules or co-management plans.

<sup>33</sup> Including environment protection laws and labour laws.

<sup>34</sup> Private sector interests in the CFR should be supportive of the CFR community members, and not result in reduced benefits from the CFR.

<sup>35</sup> The Regional CFR workshops suggest that CFR communities need help with applying for funding from potential donors.

- Notify the local competent authorities of any occurrences/ events that threaten/damage the CFR, e.g. pollution, drainage or land filling<sup>36</sup>;
- Cooperate with the FiAC to suppress violations in and around the CFR<sup>37</sup>. In urgent cases, the CFR Co-management committee can request intervention by local competent authorities to collect/seize evidence of the violation, detain offenders to deal with the offenses in accordance with the law;
- Represent the CFR community in any mediation and conflict resolution discussions<sup>38</sup> on CFR resource use that may occur;
- Open a bank account in the name of the CFR co-management Committee Chair<sup>39</sup>, manage the CFR Community funds and Co-management committee funds in a transparent and accountable manner;
- Make decisions on CFR co-management and development, with the agreement of a majority of CFR community members, in accordance with the CFR Resource use agreement, CFR by-laws, and CFR co-management plan.
- Participate in consultations related to the interests of the CFR Community, including communication with other CFR co-management communities, physical persons or legal entities for benefit of CFR co management, in accordance with all legal instruments that are in force;
- Organise transparent and democratic re-elections for the CFR Co-management committee
- Perform other functions in collaboration with local competent authorities;
- Appeal on behalf of the CFR community, if the CFR agreement with Government is not renewed.
- For CFR linked to wetlands, ensure that canals linking to the CFR are kept open and allow for the free passage of fish to and from the CFR;
- Keep all documentation related to the CFR, including records of fish introductions and catches from the CFR, in good condition;
- Promote cultural and recreational activities at the CFR site<sup>40</sup>;
- Establish and maintain water level poles<sup>41</sup> below which water can no longer be provided for irrigation or domestic water supply purposes;
- Raise awareness in the CFR community of the need to keep the CFR free from waste and discarded materials<sup>42</sup>;
- Raise awareness of the dangers of pesticide use<sup>43</sup> to the CFR environment and to human health;

#### Article 21.

Only the CFR Co-management Committee has the right to apply to the FIAC or Commune Council to request approval for the use of <sup>44</sup>CFR resources.

The CFR Co-management Committee may request technical assistance from FIAC or an individual with skills in natural resources co-management, to formulate a draft of the CFR resource use agreement, CFR By-laws, CFR internal rules and CFR Co-management plans.

#### **Chapter 5 Responsible Institutions<sup>45</sup>**

<sup>36</sup> *The Regional workshops found that CFR are coming under increasing threat from external sources. The CFR co management committee must be given the powers to report any such threats or damage to the CFR.*

<sup>37</sup> *This section of the corresponding CFI sub decree focuses on the need to organize patrols to reduce illegal fishing activity. This focus is not thought so necessary for CFR, which tend to be smaller in size and situated close to settlements where illegal activities can be easily observed by the community.*

<sup>38</sup> *The most common form of conflict around CFR seems to be related to water use in the dry season or early wet season, where farmers need irrigation to maintain their crop production.*

<sup>39</sup> *Not ideal but as CFR Communities (and CFI) are not legal associations or organisations, they cannot open bank accounts in the name of their enterprise.*

<sup>40</sup> *Some CFR are established in ancestral ponds or in the grounds of pagoda. These have important cultural significance.*

<sup>41</sup> *Common practice in many existing CFR.*

<sup>42</sup> *Some CFR visited were being used as dumping grounds for household waste, much of which was not bio-degradable.*

<sup>43</sup> *The Regional workshops identified that pesticide use in ricefields and vegetable growing areas, is increasing, with implications for water quality and fish survival in the CFR.*

<sup>44</sup> *This would include the organization of Fishing Days, where the controlled removal of fish stock from the CFR would be permitted and limited by control of fishing effort either in the time the CFR was open as a fishery, or the fishing gears permitted, or a combination of the two.*

<sup>45</sup> *This section is drafted to be consistent with the MOI 2019 Sub Decree on Functions & Structure of District Administrations (No.184 ANK.BK)*

#### Article 22

The Ministry of Agriculture, Forestry and Fisheries<sup>46</sup> shall have general jurisdiction over CFR Co-management and have the following functions and duties:

- Ensure that CFR are given consideration in Cambodia's Fisheries Laws;
- Establish policies and strategies for the development of CFR;
- Coordinate with other ministries on CFR resource use.

#### Article 23.

The Central Level Fisheries Administration<sup>47</sup> has the following functions and duties:

- Draft policies and strategies for CFR development;
- Disseminate policies of the Royal Government and other legal instruments related to CFR co-management;
- Educate and train local competent officers to increase the technical capacity for guiding CFR co-management;
- Maintain an updated national record of CFR communities;
- Issue and update guidelines on best practices for CFR co-management;
- Develop a standard template to be used for CFR resource use agreements, CFR by-laws, CFR internal rules, and CFR co-management plans, through a process of consultation with relevant institutions, authorities, and local communities;
- If requested by local authorities, help resolve conflicts associated with CFR resource use;
- Seek assistance from potential sources to fund and support CFR development.

#### **Article (new)**

Sub-national Fisheries administrations<sup>48</sup> have the following functions and duties:

- Receive and review requests from potential CFR communities;
- Visit the potential CFR site and meet with community members and then prepare a report on the suitability of the CFR and the community;
- Meet with the relevant Commune Council to discuss new CFR;
- Work with the CFR community on developing official maps of the CFR and surrounding lands;
- Facilitate the registration of new CFR<sup>49</sup>;
- Arrange the first CFR co-management committee meeting election<sup>50</sup> and help facilitate the establishment of the first CFR co-management committee;
- Provide support<sup>51</sup> to the development of CFR resource use agreements, CFR by-laws; CFR internal rules, and CFR co-management plans;
- Assist CFR communities with the prioritization of CFR development activities;
- Assist in the capacity building of CFR Co-management committee members;
- Supervise critical co-management activity moments at the CFR, including (re)excavation or water body restoration, invasive weed clearance, stocking of indigenous fish or fingerlings, and the controlled removal of fish stock from the CFR<sup>52</sup>;

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<sup>46</sup> MAFF functions are to establish laws, policies and strategies for CFR development.

<sup>47</sup> FiA functions are to draft laws, policies and strategies for CFR development, maintain a national CFR database and provide technical training/support to staff of sub-national authorities.

<sup>48</sup> These functions are mostly relevant to FiAC; but some may be relevant to other provincial level authorities including; PDAFF, PDWRaM, PDoE, & PDoT(ourism).

<sup>49</sup> The registration of CFR needs to avoid the situation that exists with CFi where the registration process is overly bureaucratic and slow.

<sup>50</sup> It is proposed that sub national authorities facilitate and are present at the 1<sup>st</sup> CFR Co-management Committee election, after which the CFR community should be able to arrange re-elections themselves and without the need for a sub national presence.

<sup>51</sup> The experience from CFi is that most communities need considerable support to prepare these types of documents satisfactorily.

<sup>52</sup> Here again we can give support for CFR fishing days to raise revenue for CFR co-management committee functioning.

- Promote awareness of good nutrition and food safety in the community<sup>53</sup>;
- Provide training to CFR communities on CFR co-management including; safe pesticide use, food processing and food safety<sup>54</sup>;
- Identify CFR best practices and facilitate exchange visits for CFR communities<sup>55</sup>;
- Advise CFR communities on encouraging and establishing eco-tourism<sup>56</sup> around the CFR
- Organise regular meetings with commune council staff to share information on CFR<sup>57</sup>.
- Where two communities have an interest in the same CFR<sup>58</sup>, facilitate the establishment of a single CFR co-management committee to take care of the interests of both communities;
- Ensure that the CFR community members are aware of all plans and budgets relating to CFR development<sup>59</sup>;
- Participate in meetings between PDWRaM and PDAFF to harmonise CFR resource use<sup>60</sup>;

#### Article (new)

Commune Councils will have the following functions and duties:

- Receive and review requests from potential CFR communities<sup>61</sup>;
- Meet with the FiAC to discuss the suitability of potential CFR communities<sup>62</sup>;
- Assist in the harmonization of CFR resource use under the CFR resource use agreement<sup>63</sup>;
- Work with FIAC on including CFR Co-management plans in the Commune Council development plans and Commune Council Investment plans<sup>64</sup>;
- Organise regular meetings with FiAC to share information on CFR;
- ??

## Chapter 6 Community Fishing Resource Use Agreement

### Article 24.

CFR resource use agreements shall include:

- A 1/50,000 scale map with coordinates, showing the CFR and surrounding lands;
- The names of all communities interested in co-management of the CFR
- A list of all local committees<sup>65</sup> with a shared interest in the CFR;
- A list of CFR Co-management committee members
- A list of other CFR resource related committee members;

<sup>53</sup> Although many fish species from CFR and ricefield fisheries are small in size, they may extremely rich in micro-nutrients. Women living in CFR Communities need to understand this important issue for managing their family's nutrition.

<sup>54</sup> This point came up repeatedly at the Regional CFR workshops.

<sup>55</sup> It is clear than some CFR communities are engaging in novel interpretations of co-management, (e.g. the organization of fishing days to raise funds) and these initiatives need to be monitored and where successful, lessons passed on to other CFR communities to try out.

<sup>56</sup> This would require collaboration between FiAC, Commune Councils and Provincial Department of Tourism.

<sup>57</sup> The regional CFR workshops showed how well FiAC and Commune council members can work together on CFR development issues. This sub-decree should promote close collaboration between the two sub national authorities.

<sup>58</sup> This situation is likely to become more common as large water bodies, such as reservoirs become registered as CFR. CFR Co-management Committees would have to share responsibility with a periodic rotation of the Chair, Vice Chair, and other key committee positions. A shared CFR Co-management plan would be an important document to secure with the communities involved.

<sup>59</sup> Another lesson from CFi is that CFi members re often unaware of the community management plans or development activities.

<sup>60</sup> Cooperation between sub-national fisheries and irrigation authorities is important for the rational strategic planning for CFR resource use.

<sup>61</sup> Potential CFR communities should have the choice of expressing their interest in developing a CFR with either the local FiAC of Commune Council.

<sup>62</sup> The FiAC and relevant Commune Councils should both be satisfied that the community in question has a legitimate right to establish a CFR.

<sup>63</sup> Commune Councils will be important in establishing non fish related perspectives in the CFR resource use agreement.

<sup>64</sup> This is seen as essential if CFR are to receive government funds on a more regular basis.

<sup>65</sup> This would include any community groups that use the CFR water for irrigation

- A statement on the objectives for establishing the CFR and the co-management of the CFR resources, with a commitment to use the CFR resources sustainably;
- The rights of the fisheries members, irrigation members, and any other resource user groups, in the CFR community.
- Other relevant documents as necessary.

#### Article 25.

A draft of the CFR resource use agreement shall be announced by posting it for at least thirty (30) days in a prominent and accessible public spaces at the commune/sangkat, district/khan, and at the provincial/municipal offices, before the draft CFR co-management agreement is submitted to the FiAC and Commune council<sup>66</sup> for review and signing.

In the event that an objection is raised during the notification period, the commune/sangkat council and district/khan and provincial/municipal authorities shall assist the CFR co-management committee to find ways to resolve the objection<sup>67</sup> or revise the draft CFR resource use agreement accordingly.

The procedure for the preparation of CFR resource use agreements shall be determined by proclamation of the Minister of Agriculture, Forestry and Fisheries<sup>68</sup>.

#### Article 26.

CFR resource use agreements have a validity of not more than five (5) years from the date of approval by the FiAC and Commune Council.

The incumbent CFR co-management committee shall submit a written request to the FiAC, six (6) months before the expiration of the existing CFR resource use agreement in order to request renewal.

Approval of a request for CFR resource use agreement renewal shall be announced by FiAC directly to the CFR community, at least thirty (30) days before the expiration date of the expiring CFR resource use agreement.

In the event that FiAC does not notify the CFR community following a request for renewal of the CFR resource use agreement within thirty (30) days prior to the expiration date, the CFR resource use agreement shall be renewed automatically for the same duration<sup>69</sup>.

In the event of clear evidence<sup>70</sup> of non-compliance with the Fisheries Law or other natural resources related laws, guidelines or other relevant legal documents, FiAC has the power to terminate the CFR resource use agreement or decline its renewal.

In such cases, following review by the local authorities, the FiAC will send a report on the results of the review and an evaluation by the respective Fisheries Administration division, conducted with the participation of the community fisheries committee, to the CFR co-management committee, explaining the reasons and evidence of the lack of compliance with existing legislation or local planning agreements.

#### Article 27.

CFR resource use agreements may be cancelled before they expire based on any of the following conditions:

- Written agreement of all parties;
- Agreement of the CFR co-management committee and two-thirds (2/3) of the CFR community members;

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<sup>66</sup> Both FiAC and Commune Council should sign off on the CFR resource use agreement.

<sup>67</sup> Objections could come from other communities with an interest in the CFR. In which case a single CFR resource use agreement would be drawn up for more than one community.

<sup>68</sup> Should this be a responsibility of MAFF or a sub-national administration?

<sup>69</sup> This article follows the process in the CFi Sub decree with a few small changes.

<sup>70</sup> The CFi sub-decree does not call for clear evidence of non compliance... The CFR sub-decree should add this point.

- Failure to implement, or serious violations of the conditions in the CFR resource use agreement and other rules, threatening the long-term sustainability of CFR resources;
- Judgment by the Royal Government that another use of the CFR would provide greater public and social benefits to the people of the Kingdom of Cambodia<sup>71</sup>.

In this last case, the FiAC shall give written notification to the CFR co-management committee six (6) months prior to termination, specifying the reasons for such termination. During this period, the FiAC in collaboration with the Commune Council shall discuss compensation<sup>72</sup> measures with the CFR co-management committee, regarding the loss of benefits to the CFR community.

## **Chapter ? - CFR By-Laws and internal rules<sup>73</sup>**

### **Article ??**

After the approval of the CFR resource use agreement, the CFR co-management committee, through participation of the CFR community, shall prepare CFR By-laws<sup>74</sup> and CFR internal rules.<sup>75</sup>;

The CFR co-management committee may request and require technical assistance in preparing the CFR By-laws and CFR internal rules<sup>76</sup>, from local authority officers.

## **Chapter 7 – CFR Co-management Plans**

### Article 28.

The CFR co-management committee shall prepare a CFR co-management plan for one year, three year or 5 year periods. The committee may request technical assistance in preparing the CFR co-management plan from local sub-national authority officers;

The CFR co-management plan should include a vision statement and state the objectives of the plan, which should strive to achieve a balance of ecological well-being and human well-being through good governance;

The CFR co management plan should include specific development activities planned for and around the CFR, including infrastructure development, (excavation, canal construction etc), eco-tourism development, water and stock conservation & enhancement, the planting of peripheral vegetation, the organisation of community fishing days, and any fishing gears permitted in the CFR;

The CFR co-management committee shall submit the CFR co-management plan to the FiAC, copied to the Commune council, for a compliance check<sup>77</sup> with the current fisheries law.

Procedures for the preparation of CFR co-management plan shall be determined by proclamation of the Minister of Agriculture, Forestry and Fisheries<sup>78</sup>.

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<sup>71</sup> This is also from the CFi sub-decree and is probably necessary to include but would open the door for housing developments or shopping malls.

<sup>72</sup> The CFi sub-decree does not mention 'compensation' but we think the CFR guidelines should encourage this.

<sup>73</sup> In the CFi sub-decree, there is no separate chapter on bylaws and internal rules. However, we feel that it would be better to include one.

<sup>74</sup> CFR by-laws would set out the structure and working operations of the CFR Co-management committee

<sup>75</sup> This would include local rules for co-management of the CFR, which could include rules such as, allowing some poorer households to take fish from the CFR, or the organisation of fishing days, and also any community agreed rules relating to the use of CFR water for irrigation purposes.

<sup>76</sup> This would include checking that all internal rules proposed by the CFR Co-management committee are in compliance with the Fisheries Law or other natural resources laws.

<sup>77</sup> This is short of requiring approval by the FiAC, which could slow implementation of the CFR co-management plan.

<sup>78</sup> Is it necessary to involve MAFF at the CFR Co-management plan level?



Article 29.

The period of validity of CFR co-management plan shall not be longer than the period of the CFR resource use agreement<sup>79</sup>;

Follow up, monitoring and evaluation of the CFR co-management plan implementation shall be done with the participation of representatives of the CFR co-management committee and FiAC;

Sub-national authorities may request the CFR co-management committee to revise the CFR co-management plan, in compliance with other legal instruments related to the fisheries sector, in order to ensure the sustainable use of CFR resources.

## **Chapter 8. Sources of Finances**

Article 30.

Sources of finances for CFR may be derived from:

- Charitable donations<sup>80</sup>;
- Community level CFR fund raising activities;
- Support from the Royal Government;
- Support from community-based organizations and non-governmental organizations;
- Other lawful sources of funds.

## **Chapter 9 Penalties**

Article 31.

Any person who violates the provisions of this Sub-Decree shall be punished according to the laws in force.

## **Chapter 10 Final Provisions**

Article 32<sup>81</sup>.

Article 33.

The Minister in charge of the Council of Ministers, the Minister of Agriculture, Forestry and Fisheries, the Minister of Interior, the Minister of Environment, the Minister of Water Resources & Meteorology, Ministers and Secretaries of State of all relevant Ministries and Institutions, and relevant provincial/municipal Governors shall implement this Sub-Decree in accordance with their respective duties from the date of signature hereon and forth.

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<sup>79</sup> The CFi sub decree has the co-management plan and resource use agreement for the same period.

<sup>80</sup> The regional workshops raised examples of Cambodian diaspora living abroad sending funds to develop CFR in their home villages;

<sup>81</sup> In the CFi sub-decree this article states that an older sub-decree on management of community fisheries, shall be considered null and void.

## Annex 2- Glossary of Terms

### **CFR:**

The direct Khmer translation of CFR is ផ្នែកទី២ សហគមន៍ស្រះជម្រកត្រី (Community Pond Shelter Fish)

Refers to natural or man-made ponds<sup>82</sup>, reservoirs<sup>83</sup> or other water bodies that are co-managed by communities<sup>84</sup> for fisheries or aquaculture<sup>85</sup> for sustaining fish biodiversity and productivity in that water body or in surrounding water bodies or wetlands<sup>86</sup>. A CFR can be a stand-alone water body or a water body that has seasonal connections to surrounding wetlands.

### **CFR community**<sup>87</sup>:

Refers to a community or group of communities that are situated close to a CFR resource, and who have registered a water body as a CFR for the purposes of co-management. .

### **CFR members**

Refers to people in the CFR community, who are willing to follow the internal rules developed by CFR Co-management committee and engage in co management of the resource.

### **CFR co-management committee:**

Refers to a group of local volunteers, (usually 5-11) elected by CFR community members. The main duties of the CFR Co-management committee are to; work with the local authorities to ensure effective co-management of the CFR, that include, defining the CFR boundaries; drafting CFR resource use agreements, CFR bylaws & CFR co-management plans; and organising fund raising activities for the CFR Community and the CFR Co-management Committee.

### **CFR Resource Use Agreement**

Following CFR registration, the CFR Resource Agreement is the first document to be prepared, as it establishes the basis for the rational and sustainable use of CFR resources, including aquatic animals and plants, water in the CFR, and land adjacent to the CFR. The agreement would also include consideration for the needs of other user groups such as Farmer Water User Communities.

### **Competent local authorities**

Refers to FIACs, Commune Councils or other sub national Government agencies.

### **Co-management:**

Cooperation and shared responsibilities between stakeholders and the State, for the management of natural resources.

<sup>82</sup> The term CFR must refer to the water body not the community; to avoid the type of confusion that exists with CFi.

<sup>83</sup> It is important that reservoirs and other closed water bodies can be included in the definition of CFR.





<sup>84</sup> CFR should only be co- managed by communities, not individuals or groups of individuals

<sup>85</sup> Aquaculture should be included as a legitimate use of CFR.

<sup>86</sup> Wetlands include ricefields.

<sup>87</sup> I was tempted to call the communities, "CFR CO-management communities" but decided that this could result in confusion with 'CFR Co-management committees'

### Annex 3. World Fish Characterisation of CFR in Cambodia

CHARACTERIZATION OF RICE FIELD FISHERIES WITH COMMUNITY FISH REFUGE CATEGORIES	<p><b>Category 1: Irrigation reservoir</b></p> <ul style="list-style-type: none"> <li>• reservoir usually upland</li> <li>• large water body with conservation area within</li> <li>• water control structures</li> <li>• long ditches and channels to rice fields</li> <li>• variable and rapidly changing water volumes</li> <li>• water in rice fields controlled</li> <li>• irrigated dry season rice</li> <li>• increased use of pesticides</li> </ul>	 <p>I. Kuch Neab Community Fish Refuge in Pursat</p>
	<p><b>Category 2: Community pond without flooding</b></p> <ul style="list-style-type: none"> <li>• community pond with water control structures</li> <li>• usually does not flood</li> <li>• often shallow and parts dry out</li> <li>• short connections to rice field by channels</li> </ul>	 <p>II. Lboeuk Keteyas Community Fish Refuge in Siem Reap</p>
	<p><b>Category 3: Community pond with flooding</b></p> <ul style="list-style-type: none"> <li>• community pond with water control structures</li> <li>• usually floods</li> <li>• often shallow and parts dry out</li> <li>• short connections to rice fields by channels</li> </ul>	 <p>III. Trapeang Thlok Meanchey Community Fish Refuge in Kampong Thom</p>
	<p><b>Category 4: Within large water body</b></p> <ul style="list-style-type: none"> <li>• natural depression forming large water body, usually with pulsing and extensive flooding areas</li> <li>• relatively small community fish refuge compared to total area of water body</li> <li>• widespread and diffuse connection to the rice fields</li> <li>• deep-water rice and fields vulnerable to flooding</li> <li>• some recession rice</li> </ul>	 <p>IV. Boeng Rotum Community Fish Refuge in Kampong Thom</p>

**Figure 3.** Summary of main physical features and distinctions across community fish refuge categories.