

SECTION E: FROM HERE TO THERE: Government, Donors and Support for D&D

The Study Team was tasked to prepare and assess options for donor assistance to implement Cambodia's D&D policy. Its remit does not include the policy itself, the law making process, the implementation strategy currently underway, nor design of the various instruments through which donors might join with government to support implementation. However, in preparing and assessing options, we have been mindful that when government and donors do consider these options, they might find relevant the Team's thoughts on the kinds of activities that could help transit from current arrangements and relationships to the point where the agreed option can be adopted in practice. Section E summarises our thoughts on the kinds of activities to be conducted within the next 12-18 months under the leadership of the IMC.

E.1 Preamble

It is important to note that the Team is not presuming anything beyond what is already in the public domain about the contents of the organic law(s) or the implementation strategy, nor indeed, whether the IMC in consultation with donors will find the Report's recommendations worthy of adoption. Our cornerstone is, however, that we believe the IMC will wish to ensure that a national 'implementation authority' is competent to assume its responsibilities as soon as possible after the promulgation of the organic law(s). By 'competence' we mean that the 'implementation authority' would have, as soon as practicable:

1. Approved rules of business and other necessary operating procedures, as determined by the Organic Law(s)
2. Convened its first meeting of the full membership of the 'Authority', again, as determined by the Organic Law(s)
3. A fully established Secretariat (logistics, offices, equipment, professional and support staff/consultants) with approved rules of business
4. Made arrangements to ensure the 'Authority' and its secretariat were fully conversant with existing donor-supported programs in Cambodia, and have been able to appraise the relevant experiences of other countries which have embarked in D&D reforms; in particular the different approaches and lessons learnt from experiences with 'implementation authorities' and government-donor coordinative arrangements
5. Prepared, and consulted with donor partners on a statement of RGC-donor principles (as we have used this term throughout), agreed on how these principles would be articulated in a medium term RGC-donor implementation commitment, and procedures for workplanning and budgeting, and annual performance reviews.
6. Approved an Annual Workplan and Budget (AWPB) 2008, that provides for the establishment and operating budget of the 'Implementing Authority' and its Secretariat, using government financing and donor support as needed.

In general, we assume that the process of establishing the 'Implementation Authority' and of setting up the necessary rules and regulations for its activities (including the new arrangements for RGC-donor cooperation outlined in Section D), will last until the second half of 2007. Considering the budget cycle of Cambodia and most donor countries, this would mean that the decisions on new arrangements for donor support to D&D would have to be made by the third quarter of 2007, and would be effective as of January 2008. This schedule does not exclude that some modifications and new arrangements could be initiated at an earlier state, for instance regarding the Seila extension and replacement program (see section 3.3.5).

The RGC has committed to ensuring that implementation of D&D reforms occur with minimal disruption to the business of government and in particular, that current arrangements to deliver both government and donor resources to SNAs are not interrupted. During 2006, important donor support to SNAs will need to be prepared over the May to September period: the second phases of the World Bank's RILG and of ADB's CCDP, the arrangements for PLG (funded by UNDP, DFID and SIDA) as well as Danida's and other donors' support to communes, local infrastructure, NREM, and related activities which are using the Seila system. For Seila-related programming, the IMC has notified donors that there should be no break in current arrangements, and in Section 3.3.5 we have made suggestions how an Seila extension and replacement program could be prepared which - while maintaining those Seila functions and structures which are still required until the new D&D implementation structure is in place - would already prepare for the new D&D support modality. We assume that on the Government side the main responsibility for preparing and negotiating such a Seila extension and replacement program will fall on the IMC and the IMC Task Force, until the time the "Implementation Authority" becomes fully competent.¹⁵⁰

E.2 Proposed Steps and Key Results

Assuming a) that a decision is made by IMC on the Study's recommendations, and that consultations with the donor community have been concluded by mid-2006, and b) that government will wish to ensure that the 'implementing authority' is competent at least by the end of 2007, then we suggest the IMC consider, and where needed seek donor support for the following activities.

1. Continuation and increase of donor support for Organic Law(s) and Implementation Strategy preparation process (drafting, consultation, etc.)

The government is keen to ensure that the drafting of organic law(s) makes good use of international experience and includes comprehensive consultations within the government and with civil society, before submission to the National Assembly. Donors are currently providing professional/technical assistance for the drafting process (including contributions for MOEF), and the Team understands that resources are also available to support consultative processes once a first draft has been released. International experience points to the importance of adequate consultation before approval of laws. One frequent obstacle to 'national ownership' is the lack of effective arrangements to ensure consultations with SNAs, not just the commune councils but also officials in the existing province and district administrations, and political parties, national NGOs and professional associations.¹⁵¹ The IMC might wish to consult with the donor community about how this consultation process on the draft organic laws, and the support for further preparation and finalisation of the Implementation Strategy can be supported by existing or new resources.

Indicative time frame: April – October 2006

¹⁵⁰This does not mean that the IMC becomes the "executing agency" for such a program – the program could determine that certain elements (like the funding of sub-national authorities) would be executed by the MoEF, while other elements (capacity development, guidelines and regulations) would be executed by the MoI with the IMC maintaining overall strategic program management. The Government could also determine to maintain the STF for the time being (perhaps with a different structure and different institutional association), until STF functions can be transferred to the 'Implementation Authority'. All options require the revision of the sub-decree establishing the Seila framework.

¹⁵¹It may be argued that 'government ownership' of Pakistan's devolution laws (2001) was considerably weakened by the truncated and executive-dominated process through which the laws were prepared and enacted.

2. Preparation and Approval of Seila extension and replacement program

Details for this have been outlined in Section 3.3.5. The program would continue to provide those Seila functions which are still needed, until a new donor support modality is established and the “Implementation Authority” becomes fully operational.

Indicative time frame: June – December 2006

3. Policy and technical exchanges for implementation authority members and secretariat officials

In many developing countries, senior officials (both national and sub-national) have benefited from regional exchanges where they gain first hand experience of lessons learned, and different approaches - particularly with respect to the role, functions and challenges faced by ‘implementation authorities’. Cambodia’s partners include agencies with considerable experience in supporting such exchanges (Danida, UNDP/UNCDF, World Bank, GTZ; and ADB in the case of Asia-region exchanges). The Team’s view is that this kind of policy and technical exchange might be considered at the earliest opportunity possible, and might even be part of the preparatory process for establishing the ‘Authority’.

Indicative time frame: some general preparatory work could start simultaneously with the consultation process on the draft organic law(s), ie. April – October 2006, for instance as part of a technical study on this issue (see Point 4. below); once a final policy decision has been made, such preparatory work would have to be revisited and modified.

4. Preparation and in-principle endorsement of RGC-Donor Agreement on Support to D&D

The RGC-Donor Agreement on Support to D&D envisaged by the Study Team is not a document prepared in haste, such as might be the case with a Memorandum of Understanding (or Aide Memoire) at the end of a donor mission. A durable, government-owned and donor-endorsed ‘agreement’ would need considerable discussion over time. It might include a) a clear statement of government policy, b) the articulation of policy in a series of ‘principles’ (as we have used the term throughout), c) clear indication of how the principles feature in the implementation strategy (as IMC uses the term), how they will be used to guide preparation of annual workplans and budgets and the annual performance review process, d) the undertakings of government and donors to abide by commitments, and/or resolve disputes that arise during implementation, and e) clear declarations with respect to public access to information. The final form and content of this agreement might depend on the results of some of the technical studies listed below, and will certainly be impacted by the final text of the Organic Laws and of the Implementation Strategy.

Indicative time frame: preparatory work could start once the IMC has fully considered the Study Report (May/June 2006), and once consultations with the donor community have resulted in an in-principle endorsement of this approach. The final endorsement of a RGC-Donor Agreement would be part of the final packaging of the new modalities during the third quarter of 2007 (See Figure E.1)

5. Conduct of Technical Studies and Reviews to Design New D&D Support Arrangements

Section D.3 and D.4 flagged the need for a range of technical studies to explore in more detail options within different modalities, as well as to adapt and apply the preferred option to the Cambodian situation. Suggestions for these technical studies are listed below.

The Team's view is that none of these study requirements are particularly complex, as there is experience already available in Cambodia to draw upon. We believe these studies must be government-led and directed. Nonetheless, the IMC may wish to seek support for these activities from the donor community. The Team's view is that it would be most unwise to field a single RGC-Donor mission to deal with all these studies at once: too much needs to be defined, and too many decisions need to be taken.

Regarding the modalities of conducting these studies, we recommend that they should be modelled on the Independent Study, that is, with clear Government (IMC) ownership, but resourced by a variety of donors.¹⁵² Some of these studies could be done in the context of preparing the Seila extension and replacement program, others could become part of the new program's activities.

The topics to be addressed by technical studies include the following¹⁵³

- a. Preliminary Design of the 'Implementation Authority' and its Secretariat, according to the draft of the Organic Law(s); this design should include the administrative/legal framework, rules of business, functions and responsibilities, options for start-up and operating budgets. This preliminary design need not preempt decisions yet to be made by way of the organic law(s); indeed, such work could assist fleshing out the possible implications of options and may contribute to debate around drafts of those laws.
- b. Review and preliminary re-design of province and district funds: Such review would need to consider the range of existing financing arrangements (notably the Province Investment Fund, district and inter-commune pilots, but also donor financed grant funding arrangements for NREM, agriculture, social development, infrastructure). It is important these initiatives are reviewed against the 'D&D principles' and that proliferation of systems is reduced through rationalisation and consolidation. The review might consider a) planning, and allocation systems, b) objects of financing for the purposes of development investment, operations and maintenance, recurrent support to performance-based pay initiative at national and sub-national levels, and c) estimate the budget required for province and district funds.¹⁵⁴
- c. Preliminary design of the *D&D Reform Facility*: Such preliminary design work would need to address both national policy management requirements (Section D.3) and sub-national resourcing (Section D.4). Design might include a) objects of financing, b) funding shares and flows, c) accountability process for both government and donor, d) public access to information provisions.

¹⁵²It may be possible to resource these activities from existing donor-supported programs.

¹⁵³The Team is aware of related technical initiatives (not discussed here) in the context of fiscal decentralization, including outlining a broad time frame for key activities based on the ten-year D&D implementation schedule outlined by the Deputy Prime Minister/Minister of Interior.

¹⁵⁴It might be useful to cast part of this work as leading towards a donor and government financed 'general purpose grant' for districts and provinces in a way that would emulate a similar grant that may be included in a formal intergovernmental grant systems, once the organic law(s) have been promulgated, and functional assignment/delegation has occurred. The potential objects of spending could include: a) recurrent expenditure: i) merit/performance bonuses, ii) technical, advisory services, iii) operations and maintenance of facilities; and b) development expenditure, i) design and technical supervision, ii) public awareness, grievance redressal, and advocacy services, iii) social, environmental and productive investments. Such objects would underpin piloting of 'unified administration' principles.

- d. Consultations with donors to determine co-financing possibilities for the *D&D Reform Facility*, this includes the current PLG partners (UNDP, DFID, SIDA) and the World Bank (during preparation of Poverty Reduction Support Operation/PRSO), but also the canvassing of potential new partners (including all those currently supporting the civil service reform, PFRMP and major sector reform programs).
- e. Technical Advisory services (national/international) to support the 'Implementation Authority', the secretariat and relevant national and sub-national government agencies. This technical study might examine the D&D implementation strategy and address: a) definition of needs (TORs, and level of input) for TA (national/international) required both in a medium-term and 2008 context, b) the performance review of PLG/Seila staff and their consultancy services leading to advice about possible future relevance, c) preparation of a TA Plan to be financed from the *D&D Reform Facility* and, where relevant, from stand-alone TA projects.
- f. Technical studies on the transition of vertical programs; this would include consultation with RGC and donors to a) map donor-assisted national and province vertical programs in priority sectors, b) identify challenges and constraints on a post-organic law(s) transition and c) reach agreement on transition strategy for targeted programs with line Ministries, Provinces and donor partners.
- g. Review of options to replace current modalities for providing salary supplements in all their manifestations, e.g. by providing performance-based salary subsidies in priority sectors as part of the funding support to sub-national authorities. In particular this review might consider and result in agreements regarding transitional arrangements for supplementation under the province (PRDC/ExCom) arrangements at province level, and the Merit Based Performance Initiative currently being implemented primarily at the national ministry level.
- h. Review of current practices of providing capacity building support to sub-national authorities; while in the short-term there will be a major need for pre-prepared training packages for newly-elected councillors or newly-appointed officials at provincial and district level, in the medium-term client-oriented modalities of capacity building have to be phased in which accommodate the various forms of accountability as outlined in Section C. Again, this is an aspect which should feature in the formulation of the Seila extension and replacement program.
- i. Review of national audit authority and external audit options at sub-national level. As noted (Section A.3), the Team was unable to sufficiently examine this critically important aspect of current and future modalities. The technical study may review current arrangements (both official/National Audit Authority, and donor project), consider ways to include capacity development of the authority during D&D, including introducing systems of pre-qualification and accreditation of national audit and accounting firms, and develop common RGC/donor protocols for application during D&D implementation.
- j. Preparation of draft 2008 Annual Work Plan and Budget for RGC-Donor Agreement on support to D&D. Subject to the results of the above listed studies, it may be useful to prepare, in preliminary draft form, an AWPB for 2008. Whereas it is relatively easy to define in principle the components of such an AWPB (based, for instance, on the PFMRP and Seila AWPB processes), the IMC's consideration

of what this implies in practice, and discussions with donors on the same, would be enhanced if a practical example were prepared well in advance of the September – December 2007 budget process.

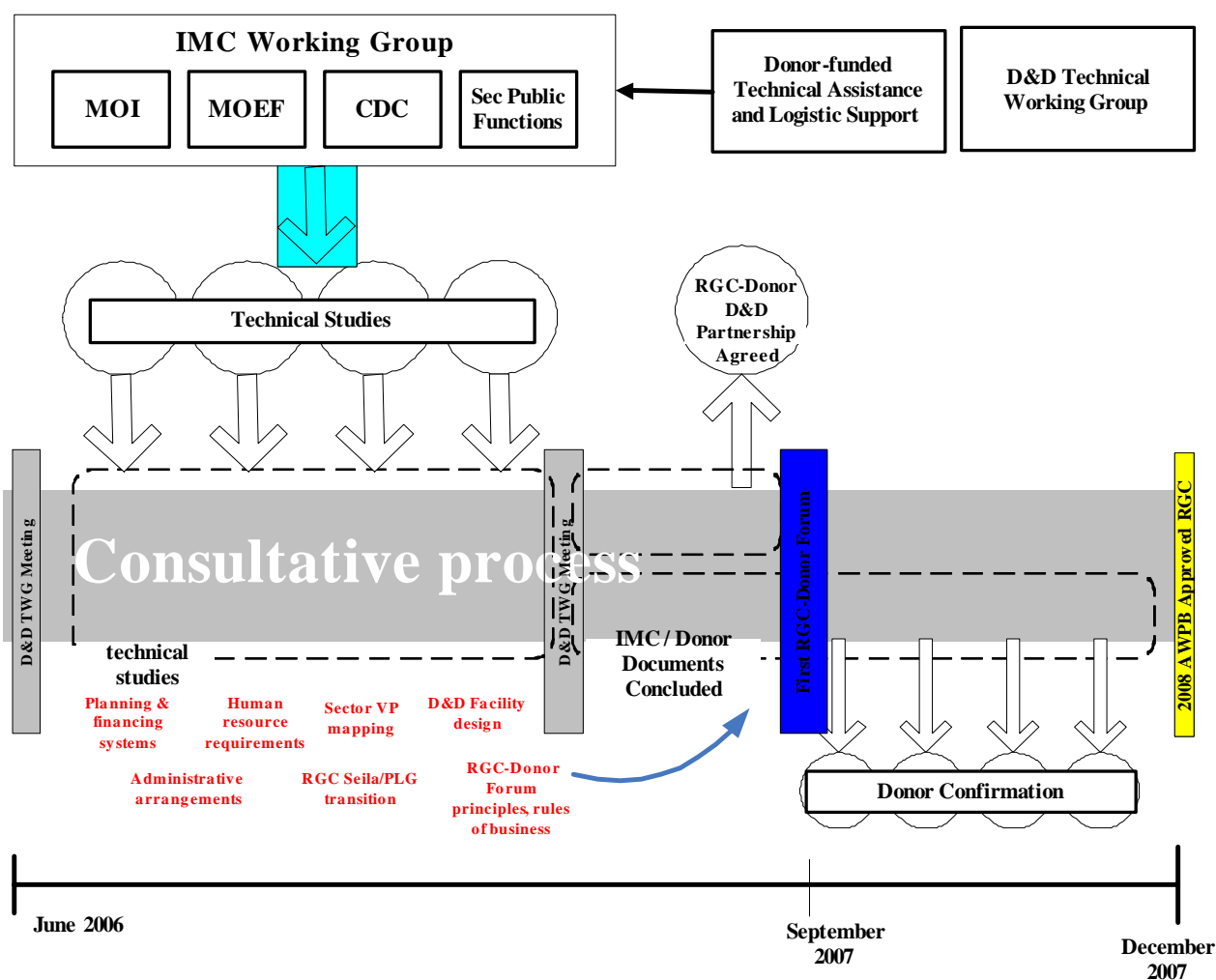
Indicative time frame: At any stage between the endorsement of these proposals and the third quarter of 2007, depending on priorities of the IMC. Some of the above mentioned Technical Studies may be done sequentially, however many can be done simultaneously. It is proposed that each study output is reviewed first by the IMC Working Group, before consultations take place with the donor community.

6. Endorsement of new D&D Support System by RGC and Donors

Once policy decisions have been made by the Government, and the necessary preparatory technical and design work has resulted in a comprehensive framework for RGC-Donor cooperation in D&D, a full D&D TWG might then occur to consider (and endorse) all documentation prior to an inaugural 'RGC-Donor Forum on Support to D&D Reforms' convened in the third quarter of 2007. Following this forum, RGC and donors would have to confirm their budget commitments, before the first AWPB 2008 of the 'Implementation Authority' could be approved by the RGC as of end 2007/early 2008.

Figure E.1 depicts these proposals and the assumed time schedule between now and end 2007.

Figure E.1 RGC-Donor Support for D&D: a consultative process



(Note: The process for formulating and approving the Seila extension and replacement program is not included here)