Terms of Reference
Consultant for Policy Gap Analysis and Capacity Assessment on Indigenous and Local Communities Conserved Areas

I. Background

Forests cover over 44% of Myanmar’s land area (FAO 2015). They are some of the most biodiverse areas of land in the world, and a source of livelihoods for a vast majority of the country’s estimated 36 million rural population (70% of the country’s population). Additionally, the forests are an important part of the national economy and provide immeasurable environmental services to the country.

The problem is that Myanmar’s forests, particularly its natural forests, are being destroyed at an alarming rate. According to FAO (2015) between 1990 and 2015 Myanmar lost over 400,000 ha (988,421 acres) of forest a year.

There is a growing recognition from the government and local CSOs on the importance of local communities in sustainable forest management. This was emphasized by the Government in their National Forest Master Plan where they plan to increase coverage of community forestry to 919,000 hectares by 2030. As of March 2019, there were 614,579 acres (248,711 ha) of CFs certified by the Forest Department (FD) in Myanmar, covering 4,707 CF Users Groups (CFUGs) (119,355 households).

In addition, the newly passed legislation on Biodiversity Conservation and Protected Area has added a new Protected Area category—the Community Protected Area—to give recognition on the potential role of communities in managing key biodiversity areas. However, application has to be approved by the Forest Department just like community forestry.

Even if there are advances and progress in the policy arena, many CSOs are not really contented and satisfied with the new Forest Law and BCPA Law for the following reasons, among many others:

- It does not recognize the customary rights of the ethnic communities over its territories
- It does not recognize other effective conservation modalities such as ICCAs
- It does not recognize the traditional governance of resource rich areas managed for centuries by ethnic communities
- The forest law did not respond to fundamental issues of the forest situation in the country;
- The forest law and BCPA law did not undergo public and stakeholder consultations;

In 2018, CSOs all over Myanmar formed an alliance, called ICCA NEWS (North, East, West, South) to advocate for the recognition of Indigenous and local communities conserved areas or ICCAs. Globally, ICCAs are defined as “spaces de facto governed by indigenous peoples or local
communities with evidently positive outcomes for the conservation of biological and cultural diversity.” The ICCA NEWS is composed of IPLCs and local CSOs advocating for the ICCAs in the country. It is still in its infancy stage but has been very strong in its advocacy on ICCAs in the country.

There were also sporadic efforts among CSOs in documenting and mapping their community conservation areas to demonstrate that traditional and indigenous governance of their forest result to conservation outcomes comparable or even better to government-managed protected areas.

In this regard, this consultancy aims to systematically analyze existing policies relevant to biodiversity conservation, forest management, and land tenure and assess whether these are enough legal basis to recognize and support ICCAs in the country. The analysis should also include the policy gaps, if there are, and recommendations to address such gaps.

In addition, the consultancy would also assess the existing capacity of the ICCA NEWS in areas of policy advocacy and ICCA documentation and management, identify gaps and recommend strategies on how to further strengthen the ICCA NEWS as an alliance or network of IPLCs and CSOs working for and supporting ICCAs.

II. Scope of Work

The consultant is expected to assess relevant policies in Myanmar and identify gaps, if there are, for the recognition of ICCAs in the country and assess existing capacities of the ICCA NEWS as a network to push for ICCA recognition in the country. Specifically, the consultant will be responsible to the following:

1. Review existing legal and policy instruments (pertaining to biodiversity conservation and land tenure) to identify gaps that need to be addressed to promote/incorporate the recognition of other effective governance modalities of managing key biodiversity areas such as ICCAs;
2. Based on the review, contribute to the preparation of detailed recommendations of the policies, laws and strategies that are required/need to be reviewed to facilitate the recognition of ICCAs and other effective conservation management regimes, including effective strategies for policy advocacy.
3. Based on the review, prepare detailed recommendations for strengthening the local and national regulatory environment to empower community institutions/local authorities, as well as other government institutions at local and national levels to strengthen and promote ICCAs in the country;
4. Assess the existing capacity of the ICCA NEWS as a network through a participatory manner; identify gaps and recommend strategies to further enhance the capacity of the network;
III. Expected Outputs and Deliverables

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<th>Deliverables/Outputs</th>
<th>Estimated Duration to Complete</th>
<th>Target Due Dates</th>
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<tbody>
<tr>
<td>Inception Report</td>
<td>3 working days</td>
<td>15 September 2020</td>
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<tr>
<td>The policy analysis report to include the situational review, gap and barrier analysis of the environment and other relevant policies, strategies, laws and regulations for the recognition and support of ICCAs;</td>
<td>15 working days</td>
<td>30 October 2020</td>
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<tr>
<td>Capacity assessment of the ICCA NEWS</td>
<td></td>
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<tr>
<td>Policy recommendations to address policy gaps;</td>
<td>7 working days</td>
<td>30 November 2020</td>
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<td>Recommendations for capacity development of the ICCA NEWS as a network and its individual members</td>
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IV. Institutional Arrangement

For the duration of the contract, the consultant will report to the Forest Programme Manager of WWF and shall work in close coordination with National Wildlife and Conservation Division of the Forest Department, ICCA Working Group and other relevant CSOs. All outputs of the consultants will be subjected for review and endorsement of the ICCA Working Group.

V. Duration of the Work

This TOR should be accomplished in three (3) months; with a total 25 working days spread over three months (Sept-November 2020)

VI. Duty Station

The Consultant is not required to report to the WWF Office. However, regular meetings will be conducted with the WWF and other stakeholders either through personal or virtual meetings, whenever feasible.
VII. Qualifications

- At least 5 years of relevant experience in policy and legal analysis of ENR related laws especially in Myanmar or Southeast Asian country;
- At least 3 years of relevant experience in policy analysis related to forest management, protected area management, other effective conservation modalities
- Knowledge on ICCA especially in Asia or Greater Mekong Region
- Familiarity with the Myanmar forest rules and regulations on community forestry, protected areas;
- Familiarity with the socio-political context of Myanmar

VIII. Schedule of Payments

A financial proposal from the applicants will be required and it should cover professional fees which includes all of the Consultant’s costs and profits as well as any tax duties, fees and charges that may be imposed on the Consultant

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<th>Percentage</th>
<th>Description</th>
<th>Deadline</th>
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<tr>
<td>10%</td>
<td>Upon signing of Contract and submission of Inception Report</td>
<td>15 September 2020</td>
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<tr>
<td>40%</td>
<td>Upon submission and acceptance of the 1st draft of the Policy Analysis and Capacity Assessment Report</td>
<td>30 October 2020</td>
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<tr>
<td>50%</td>
<td>Upon submission and acceptance of the final draft of the required reports with clear recommendations</td>
<td>30 November 2020</td>
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The cost of the contract shall be charged to SIDA Voices for Diversity Project. Processing of payment shall be made upon the endorsement of the Forest Team and the issuance of the certificate of acceptance of WWF.

Should there be travels, in several parts of Myanmar outside of Yangon, related to this engagement, WWF will shoulder the cost charged to SIDA Voices for Diversity Project.