

**DECISION-MAKING PROCESS**  
**on COMMUNITY OIL PALM and**  
**PRODUCTION PROTECTION AGREEMENTS**  
*Revised AUG, 2017*

**Introduction**

This document explains the community level decision-making process for community participation in the Community Oil Palm (COP) outgrower scheme and the Production Protection Agreement (PPA).

The purpose of this outline is to ensure that all stakeholders including IDH, FDA, MoA, the Concession Holders and others have a common understanding of the different stages at which communities will be making critical decisions on whether they think COP combined with a PPA is feasible and desirable, and the type of information and support for communities that is foreseen at each stage prior to making a key decision.

This document describes the community decision-making process, it does not include all legal and RSPO required steps for establishing the COP farm.

**Important definitions:**

- A) IWG:** Initiative Working Group. IWG consists of the relevant Concession Company, Sustainable Trade Initiative (IDH), Forest Development Authority (FDA), Ministry of Agriculture (MOA) and two social or advocacy NGOs working on oil palm and/ or community rights issues with respect to natural resources.
- B) Community:** A self-identified and publicly or widely recognized coherent social group or groups, who share common customs and traditions, irrespective of administrative and social sub-divisions, residing in a particular area of land over which members exercise jurisdiction, communally by agreement, custom, or law. A community may thus be a single village or town, or a group of villages or towns, or chiefdom.<sup>1</sup>

**Summary of community decision-making process**

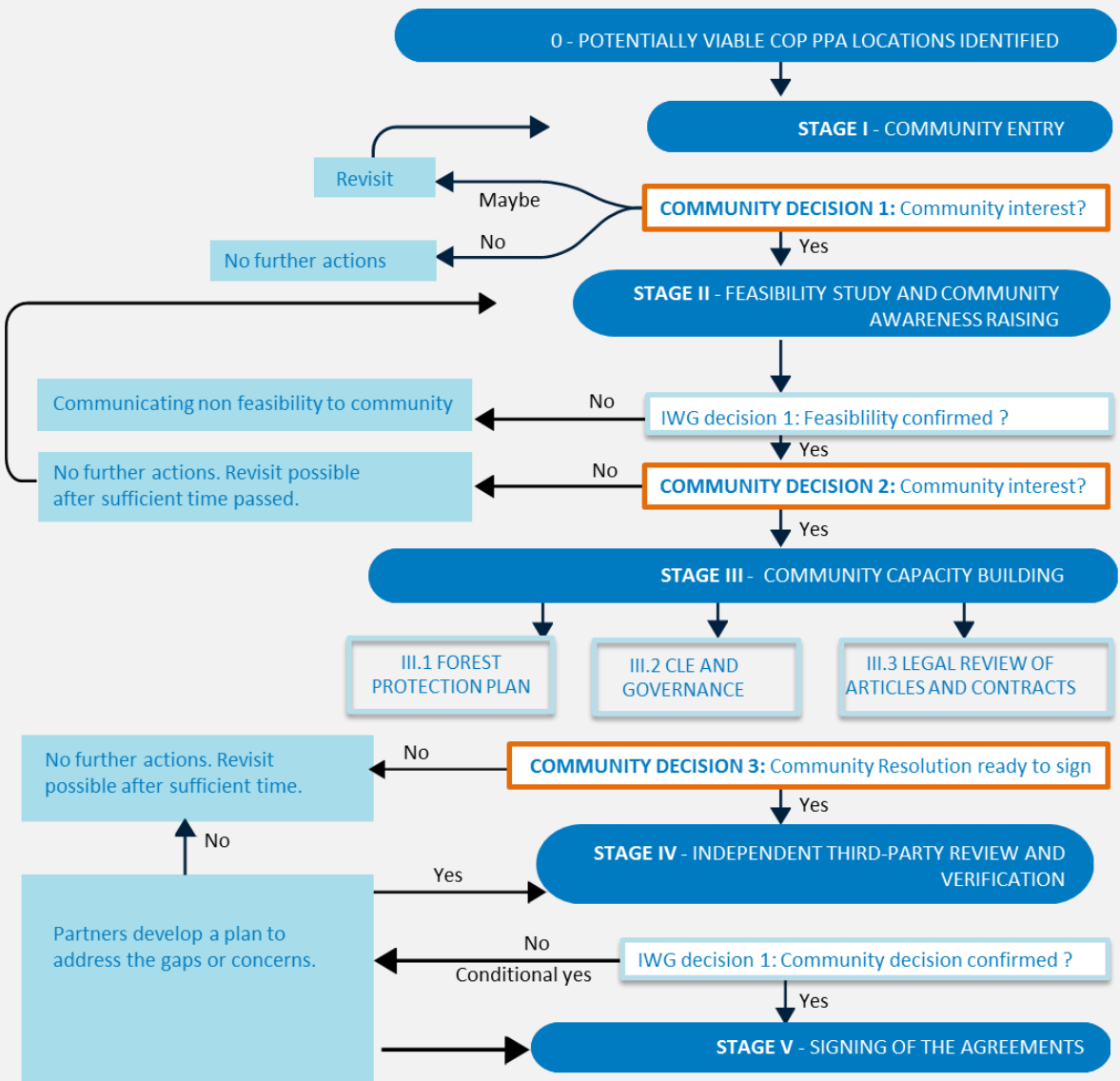
There are three check-in moments or community decision points in the entire process. In addition to these three check-in moments, the Initiative Working Group has two critical decision points as well, i.e. following the feasibility study and the independent review and verification. These two points where the IWG will make decisions are included as additional safeguards built into the community decision-making process.

The flow chart below illustrates the process.

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<sup>1</sup>Definition of community used in the Community Rights Law of 2009

## Overview Illustration



## Summary step by step description:

### Stage 0. Pre community engagement:

Based on existing data and available land use map, where possible including: rivers, roads, mill locations, oil palm planted, county boundaries, district boundaries, MoU areas, forest cover, other land use types, available biodiversity data sets, other concessions (eg. timber, mining, agriculture), future mayor development projects in the region (as far as known), settlements, population density. This map builds on GIS data and possibly existing HCV Assessment and Management Plans, HCS assessments and other studies.

Where this information does not already exist or is incomplete, it will be incorporated into the feasibility study at stage 2 described below.

Based on these preliminary data and information and, agronomical and economic feasibility, IDH and the relevant Concession Holder develop a list of potential COP PPA communities.

### Stage 1. Community entry:

The Community Entry refers to the initial direct contact with a cluster of villages or towns to share information about the COP outgrower scheme. The objective at this stage is that a cross-section of the population, reflecting representation of all groups, in the area is aware of the scheme and has received an overview of the program. At the follow up stages, including the feasibility and capacity building stages, there will be several more meetings explaining the program in greater detail to the broader community.

The Community Entry information provision will include the below process:

#### Activity 1.1: Invitations

- The information events are open to anyone who may wish to attend and steps taken to ensure timing and location will optimize community attendance and follow any pre-existing community protocols.
- Local authorities are invited and informed on the purpose of the meeting in advance in writing.

#### Activity 1.2: Community information events

- Concession Holder, Government of Liberia (FDA and/or MoA) and IDH (or an NGO), jointly deliver the information session. Schedule of events delivered to local CSOs, NGOs, government officials, the agriculture coordinator and County Land Commissioner in advance.
- The Entry Event will focus on the broad elements of the scheme and instructions on how to contact IDH if there is interest in learning more about the program.
- At the end of each event copies of the materials used including posters and Frequently Asked Question, with contact details are distributed. Posters with contact details are posted in visible locations.

**Required documentary evidence:** *copy or copies of letter or citation to existing community bodies and other stakeholders, copies of materials used during the event, attendance list, meeting notes and/ or a report of the event.*

**Community decision point no. 1:** If participants are interested and believe their community should receive more information on the scheme, they request more information and an assessment to determine whether a COP and PPA are feasible in the area. A standard template for such a letter can be provided to the community.

If there is no feedback or communication from the participants, the IWG may reach out to other towns and villages to organize additional information-sharing sessions in the area. If there is no expression of interest after these outreach events, it will be assumed that the community is not interested and no further action will be taken.

**Documentary evidence:** *Copy of letter(s) from participants.*

## Stage 2. Feasibility and awareness raising

- Activity 2.1: The IWG commissions a feasibility study to scope whether there is sufficient land in the area to accommodate COP, PPA and other land uses now and the foreseeable future, whether there is viable forest in the area that could be conserved, whether participation PPA would or would not jeopardize future food security in the target area, and whether there are boundary or land disputes within or with neighboring communities. The Concession Holder assesses the agronomical and economical feasibility of establishing the community oil palm farm;
- Activity 2.2 The Service Provider conducts desk review and Key Informant Interviews to catalogue the towns and villages to cover during the feasibility study, and facilitates towns and villages within the target area to establish their social, cultural and historical ties and relationships and propose to work together as a community;
- Activity 2.3 The Service Provider develops and delivers map literacy training to community members to enhance their participation in the study, and facilitates the proposed community to undertake participatory mapping of its customary land area;
- Activity 2.4: Where boundary or land disputes are documented, the FDA and Land Authority in collaboration with a Service Provider assess and clarify land and forest ownership and work to resolve dispute.
- Activity 2.5: A report of the feasibility study prepared with summary conclusions and recommendations and an accompanying map clearly showing towns that would like to participate and those that would not. The draft report is presented to the community for validation.

While these activities are carried out, community awareness raising and sensitization to deepen understanding of the program, especially overviews of the loan arrangement, the PPA concept, alternatives and risks associated with participation, continues<sup>2</sup>.

The final report is presented to the IWG and copies delivered to each town covered during the study. Each town is invited to general meeting of the entire community where the IWG formally presents the report to the proposed community and informs them that a COP and PPA is feasible.

**IWG Decision point 1:** Based on the conclusion of the report (Activity 2.6),

- if there is insufficient viable land and forest or there is an unresolvable boundary dispute, the community is informed that a COP PPA is not feasible.
- If the conclusion of the report is positive, the IWG confirms with the community that a COP is feasible.

**Community decision point no.2:** *The IWG organizes and facilitates a meeting with representation of all the towns and villages within the target area and ask the delegates, given the conclusions and*

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<sup>2</sup> The package of information materials used will include materials on alternatives, opportunities and risks associated with participation.

*recommendations of the report, and what you now know about the program, do you want to proceed to the next stage?*

If the answer is:

**NO:** Then NO further action is necessary.

**YES:** the delegates endorse the feasibility report.

The delegates establish an interim representative body and present them to the IWG. The interim representative body is mandated to work with the IWG and Service Providers on the next stages and possibly until the formation of the Community Legal Entity.

**Documentary evidence:** *Feasibility report including list of towns that make up the interested community, proof of community endorsement of the report, and community resolution confirming*

### **Stage 3: Develop and implement a three-part COMMUNITY CAPACITY BUILDING program**

*The capacity building activities are summarized below. The Capacity Building is distributed along different but inter-connected work streams including: (1) Forest Protection and Monitoring Plan; (2) Strengthening local governance for inclusive decision-making and setting up the COP PPA legal entity; (3) providing independent legal advice to potential COP communities prior to signing loan agreement, management contract and PPA. The numbering below does not imply any particular order. This is also the moment that the Concession Holder may start RSPO and government of Liberia required development plans, ESIA studies, etc., where needed.*

#### **(3.1) Forest Protection and Monitoring Plan;**

Activity 3.1 IDH contracts a Service Provider to develop Forest Protection Plan<sup>3</sup>

Activity 3.1.1 The Service Provider facilitates a participatory mapping of the community land area and assessment of the forest within the community domain.

Activity 3.1.2 The Service Provider works with the community to develop a Forest Protection Plan outlining how the PPA will be implemented and monitored, and proposing protection incentives connected to the PPA.

**Documentary evidence:** *The participatory map of the community domain, forest assessment report including conclusions and recommendations as well as a map depicting the extent of the forest and land in the community's domain, and drafts of the Forest Protection and Monitoring Plan and PPA.*

#### **(3.2) Strengthening local governance for inclusive decision-making and establishing the legal entity;**

Activity 3.2. IDH contracts a Service Provider to facilitate community institution building and strengthening local governance and, setting up COP PPA legal entity.

Activity 3.2.1 The Service Provider assesses community governance and develops a report;

Activity 3.2.2 The Service Provider develops and rolls out a capacity building plan to strengthen community governance.

Activity 3.2.3 The Service Provider supports the community to establish a Community Legal Entity (CLE) ensuring that it is appropriately suited to deliver on its mandate and members preferably chosen by the community. The Service Provider mentors the CLE.

Activity 3.2.4 The Service Provider prepares a report of the activities in this work stream and presents to the IWG, with recommendations as appropriate.

**Documentary evidence:** *Report of the governance assessment, the capacity building plan, documentations related to the process leading to the establishment of the CLE, and a consolidated report of the activities in this work stream.*

#### **(3.3) providing independent legal advice to potential COP communities**

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<sup>3</sup> This Service Provider's work will build on the work conducted during the feasibility study at Stage 2

- Activity 3.3 IDH contracts a Community Legal Advisor (CLA)
- Activity 3.3.1 The Community Legal Advisor supports the Service Provider responsible for facilitating community institution building and setting up COP PPA legal entity during the legalization process including developing Articles of Incorporation, drafting community by-laws and constitution, and processing with the appropriate government agencies.
- Activity 3.3.2 The CLA reviews the loan agreement, management contract PPA and the Protection and Monitor Plan to identify aspects that may be considered crucial for the COP community.
- Activity 3.3.2 The CLA develops legal educational materials to highlight the aspects of these agreements that the community needs to fully understand before signing them.
- Activity 3.3.3 The CLA delivers series of legal education workshops for cross-section of community members to increase their understanding of the program.

**Documentary evidence:** *Legal education materials used for community sensitization, reports of workshops or meetings where these materials were delivered to the community, and minutes of the meeting where the decision to move forward with signing agreements were reached.*

## RESPONSE AND FOLLOW UP

### Community decision point no.3:

When the CLE is registered, the governance documents established, the Protection Plan has been finalized, management contract drafted and the Community Assembly has reviewed and provisionally accepted the terms and conditions of the PPA, management contract and loan agreement, the CLE may then use the internal community decision-making process to develop and adopt a resolution to communicate its preparedness to the IWG.

The CLE formally informs the IWG that the community is ready to sign the various agreements. This resolution may include a checklist of the various obligations that the CLE must recognize, including financial, contractual, HCV/HCS, FPIC and other matters. The responsible persons for the CLE signs off that they understand these obligations.

Based on the CLE's formal communication, the IWG triggers the external verification process.<sup>4</sup>

## Stage 4. Independent third party verification

- Activity 4.1: The IWG prepares a draft ToR for the third-party review and verification, and invites the Steering Committee<sup>5</sup> and stakeholders to review and make inputs to clarify the mandate and ensure that the verification is sufficiently thorough.<sup>6</sup>
- Activity 4.2: Through a transparent and competitive process, managed by the IWG, the most-qualified applicant is selected and presented to the Steering Committee.
- Activity 4.3: The consultant conducts the review and verification process, presents its findings, conclusions and recommendations to the IWG, who then reviews and provides feedback or comments on the report. The consultant finalizes the report and

<sup>4</sup> The community does not sign any agreement until after the external verification.

<sup>5</sup> Steering Committee in this document refers to the National Community Oil Palm Outgrower Scheme Steering Committee

<sup>6</sup> To avoid a conflict of interest, one of the Service Providers or individuals associated with any of the Service Providers will participate in the stakeholder review of the draft ToR.

presents it to IWG and the Production Protection Inclusion Fund. The report is also shared with the Steering Committee.

The overarching or broad question for the Independent review and Verification is “In your opinion is the community sufficiently or well informed to be able to make a sound decision as to whether it wishes to sign these agreements?”

The specific questions for the Independent Review and Verification should include:

- a) Does the community understand the risks and benefits of the program?
- b) Is the community’s decision-making process transparent and inclusive?
- c) Is the community’s decision to participate broad-based and consensual?
- d) Is it feasible for the community to be able to meet the requirements of the Protection and Monitoring plans of these agreements?

*[NOTE THAT (b) is about the process itself and (c) is about the acceptability of the result of the process.]*

**IWG decision point no.2:**

If the consultant response to the overarching question is:

**YES:** the community, FDA, MOA and the Concession Holder sign the agreements as appropriate.

**CONDITIONAL YES:** IWG develops a plan to address the gaps or areas of concern.

**NO:** IWG review the situation together with the community. If they decide to pursue the project, develop a plan to address the concerns and issues that were identified. In such case, a second independent review will be commissioned.

**Documentary evidence:** *External verifier assessment report.*

**Stage 5: Signing of the Agreements**

Based on the External Verifier assessment report, the IWG propose final signing of the agreements to the CLE.