

Process Framework including Indigenous Peoples Plan

Establishing co-managed Fish Conservation Zones to help communities protect endangered *Probarbus* fishes in the mainstem Mekong River of northern Lao PDR



Submitted To:

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I. Project Background

FISHBIO's CEPF-funded project "Establishing co-managed Fish Conservation Zones to help communities protect endangered *Probarbus* fishes in the mainstem Mekong River of northern Lao PDR" builds upon several years of work and planning by IUCN Lao PDR. The IUCN conducted Phases 1 and 2 of this CEPF-funded initiative, "Conserving Biodiversity and Sustaining Livelihoods along the Mekong River in Luang Phrabang, Xayabouri and Vientiane Provinces, Laos " which included an extensive survey of biodiversity and a full livelihoods assessment of all settlements along the Mekong mainstem between the cities of Luang Prabang and Vientiane.

The current project represents Phase 3 of this original initiative. IUCN led project planning efforts for Phase 3, for which FISHBIO was hired to consult on aquatic resource conservation, especially the creation of Fish Conservation Zones (FCZs) for two IUCN Redlist endangered species *Probarbus jullieni* and *Probarbus labeamajor*. These two large-bodied migratory fish are greatly threatened by overfishing, especially the targeting of egg-bearing females during the spawning season. Through workshops with four communities, plans for three FCZs were developed with full support of community members, along with official regulations and enforcement plans. The goals of the current project are to secure government approval to officially establish the FCZs and train village enforcement teams to patrol the FCZs and enforce their regulations. The successful implementation of these FCZs should lead not only to an increase in *Probarbus* numbers, but also many other species of fish important for local food consumption. Income raised from fines and enforcement team salaries will allow communities to invest in more sustainable fishing activities as well as other livelihood alternatives.

One of the village's originally involved in the project, Ban Pakpoui, was relocated away from the river in early 2014. This relocation had been planned for several years under a Lao PDR government mandate that communities must have a minimum population number to receive services and infrastructure such as schools and electricity. With only 18 families, Ban Pakpoui fell under the minimum population requirements and was relocated several hours away towards Muang Xayabouri. This relocation was entirely unrelated to the FCZ project. All three of the originally planned FCZs will still be established. The communities that continue to be involved are Ban Pakpee, Ban Houaykholuang, and Ban Khokfak.

FISHBIO participated in three field trips throughout the study area and was involved in all of the workshops for this project. The results of these workshops can be found in full from IUCN Lao PDR. This process framework, which includes the Indigenous Peoples Plan (IPP) will focus on summarizing how these participatory workshops ensured that communities gave free, prior, and informed consent for project activities.

II. Summary of Legal and Institutional Framework Applicable to Indigenous People in Project Area.

The Lao government has an official policy of "one nationality," and because of this does not recognize any people as "indigenous." Human habitation in Lao PDR goes back before recorded history, and many of the groups that would be considered indigenous by definition of the United Nations or other international organizations entered what is present-day Lao PDR from Yunnan and the Tibetan Plateau. Much of the lower elevation, and river valley areas were already inhabited by the Lao Loum (lowland Lao), who are the nation's most populace group, although other groups preceded them. While the Government only officially recognizes one "Lao" nationality, they have also declared 49 officially recognized ethnic groups. FISHBIO's CEPF-funded project works with a Khmu community who are an officially recognized ethnic minority in Lao PDR.

The Lao Constitution issued in 1991 mentions the rights of ethnic groups in Article 8:

"The State pursues the policy of promoting unity and equality among all ethnic groups. All ethnic groups have the rights to protect, preserve and promote the fine customs and cultures of their own tribes and of the nation. All acts of creating division and discrimination among ethnic groups are forbidden. The State implements every measure to gradually develop and upgrade the economic and social level of all ethnic groups."

The Lao government does not provide special consideration for indigenous land rights, due to their proclamation that all citizens are Lao, and therefore all citizens should receive the same rights. Membership in the country's leadership party has seen an increase among ethnic minority members, but people from these groups remain under-represented and much more likely to live in poverty.

III. Summary of Free, Prior, and Informed Consultation with Project Communities.

In the spring of 2013, several communities were identified by the IUCN as potential sites/partners for Phase 3 projects using information gathered during Phase 1 & 2 fieldwork. FISHBIO was hired to consult on aquatic resource conservation, especially the establishment of FCZs. Areas identified as having biodiversity resources in need of better management were cross-referenced with a list of all communities that had stated a need and interest in sustainable development projects during Phases 1 & 2. This ensured that only communities with an expressed desire for outside support were approached.

The communities of Ban Houaykhoulouang, Ban Khokfak, Ban Pakpui, and Ban Pakpee were selected for planning workshops on *Probarbus* conservation. The biodiversity survey during Phase 1 identified one spawning area (a large shallow gravel bed) and two deep pools important for spawning adults to rest.

During Phase 3 planning, IUCN and FISHBIO staff developed a series of participatory workshops to ensure that project needs and goals came from the community itself. IUCN ensured that these workshops included members of all segments of the community, including representatives from village leadership, Women's Union, Youth Union, local law enforcement, and primary resource users (which in the case of this project are fishers). After needs and goals were expressed with consensus, IUCN and

FISHBIO introduced the concepts of FCZs and resource management committees. Workshop attendees were free to express their opinions at anytime and did so often.

In these workshops community members were asked a series of questions and asked to answer and present their ideas in three or four groups. By dividing participants into groups, it was ensured that responses would be their own and not simply an agreement with village leadership. In all of the FCZ workshops, answers to these questions were detailed, informed, and consistent, showing that these communities have a clear understanding about threats and solutions to conserving their fish resources.

The preliminary questions asked were as follows

- 1. Are *Probarbus* important? Why?**
- 2. What are the major threats to *Probarbus*? Describe.**
- 3. Who creates the problems/threats?**
- 4. How do we solve the problem/reduce threats?**

All four participating communities expressed very similar viewpoints on future conservation/management plans for *Probarbus*, and all agreed upon an FCZ-based strategy. In most villages, participants claimed that *Probarbus* were important food species; however, fish in general were of lesser importance to the Khmu people of Ban Pakpui and Ban Pakpee. They explained that they are an upland people, and that they were relocated to this site by the government in the 1970s. Villagers in Ban Pakpui and Ban Pakpee stated that they are much more interested in livestock raising, but that some village members had learned how to fish.

Respondents from all communities identified electro-fishing and the use of explosives as major threats to fish populations. Participants claimed that these techniques were rarely used by locals, and were usually employed by groups of commercial fisherman from larger towns who would sell the fish in markets in the cities of Xayabouri or downstream in Kengtao. The workshops revealed that while residents were uniformly aware that these techniques were against national law, most villages did not have village specific regulations against them. In Ban Khokfak, the village headman said that he did have a fining system in place for people caught using banned fishing gears, which was 500,000 kip and confiscation of gear for the first offense, and a doubled fine for the second offense. It appeared that these laws were only sporadically enforced, in part because of a lack of enforcement capacity.

Another challenge to enforcement was a lack of coordination between the village-level and district-level governments and law enforcement groups. No official steps have been put in place in any of the villages to try to facilitate greater enforcement. Villagers reported that due to the lack of local-level written regulations or signage about the laws, it was nearly impossible to enforce them on outside fisher groups. Despite frequent violations of the national ban on electro-fishing and explosives, few accounts of successful application of fines were given.

Villagers reported harvesting most *Probarbus* with the use of gill nets, which are pulled across the deep pools during the winter spawning season and the summer migration. According to participants, *P. jullieni* migrated south around June and July, while *P. labeamajor* was usually caught in August and October. Gill nets that target *Probarbus* have a 20-cm mesh size and can reach up to 100 m in length. By placing these nets across spawning grounds and deep pools, a large number of breeding-aged fish are being caught before successfully spawning. Many other species are often caught in these nets, and the nets' prevalence is likely a major contributor to major fisheries declines.

During all workshops, participants showed both a keen awareness of the seriousness of fish declines and motivation to reverse the trends. IUCN staff presented the concept of Fish Conservation Zones (FCZs), which are small conservation areas with specific regulations to be enforced by the local community with the help of district level government and FISHBIO. FCZs have been successfully implemented in Southern Laos and around the world. By limiting fishing activity in the FCZ, the intention is that *Probarbus* numbers will increase and smaller, more readily caught species will also be given a protected area to reproduce, which could produce an increase in their numbers as well. Fishers working outside the boundaries of the FCZ will benefit as young fish from a wide range of species begin to swim out of their protected habitat.

After these workshops, FISHBIO biologists and IUCN staff went into the field with fishermen from the village to survey the two deep pools and one spawning area agreed upon FCZ locations. The boundaries of these sites were discussed and agreed upon with resource users.

With the comments and suggestions made by community members, IUCN and FISHBIO staff drafted FCZ regulations. In July 2013 another series of workshops was held, where communities were given time to review the proposed documents and discuss any changes. The only major change to these documents was that the communities wished for the FCZ restrictions to be in place year round rather than during just the *Probarbus* spawning period. An English translation of these FCZ regulations can be found in Appendix I.

IV. Framework to ensure free, prior, and informed consultation during project implementation.

Upon receiving CEPF funds, FISHBIO staff will return to the partner villages for the official signing of FCZ regulations. Before this is done, a workshop will be held with the community (in which it will be ensured that representatives are present from all ethnicities, village leadership, the Lao Women's Union, and primary resource users). During this workshop, the entirety of the FCZ regulations will be reviewed. These regulations were designed in partnership with the communities in July 2013, following planning workshops in the spring of 2013. It will be ensured that all participants fully understand the regulations, and participants will be given time to address any changes they may want.

In the summer of 2014, a mid-project assessment will be distributed in the village. This form will ask residents to give anonymous feedback on the effects of the FCZ and any grievances will be addressed.

In late November of 2014, the enforcement groups will receive additional training in partnership with district law enforcement and FISHBIO. FISHBIO staff will ensure that any concerns or suggestions from

community enforcement team members will be brought before the community to come up with solutions.

V. Action Plan to Ensure Communities' Social and Economic Benefits are Culturally Appropriate.

Of all the communities partnering with FISHBIO on this FCZ project, the Khmu are the least dependent on fish. During previous workshops, the Khmu in the villages of Pakpoui and Pakpee said that they originally lived in the uplands and traditionally rely on farming and livestock. These communities had much fewer people involved in fishing than Lao Loum villages in the area. In Ban Pakpoui, the village leased rights to use gill nets in their area of the river to both community members and outsiders for very little cost. Throughout the workshops, the Khmu made many statements and requests for replacing fishing with the raising of chickens and goats.

The FCZ committee and their enforcement teams will receive funds to pay for their participation. In the case of these two villages where fishing is not as important a source of livelihood or food security, these earnings may be used to purchase livestock as well as farming implements, which can be used to grow food in a more traditional manner. Therefore, in the case of the villages of Pakpoui and Pakpee, the communities will have an opportunity to focus on improving their livelihoods and food sources in a way that has been clearly requested and is more in accordance with their traditional lifestyle, which ensures that the social and economic benefits are culturally appropriate. FISHBIO staff will make it clear during all future workshops and trainings that community members can feel free to report any issues of cultural appropriateness in this project.

VI. Identification and Assessment of Adverse Impacts.

This project, as demonstrated above has been conducted in a fully participatory manner and therefore all restrictions were voluntarily agreed upon by the communities. The creation of FCZ zones will restrict the fishing activities of community members and outsiders as well. Fishing inside a communities waters without permission is illegal in Lao PDR and therefore impacts on this activity is not covered in this framework. The FCZ areas are quite small in size and fishing will in no way be limited in other areas of the 3 communities fishing areas. Community members reported that no permits to outsiders were currently being sold, and there for community coffers will not suffer from FCZ restrictions.

It is not expected that the closing of these areas will have substantial adverse impact, and what little they have is likely to only occur during the first year. While total available fishing area will decline slightly, these areas are will create safe understood habitat, were juvenile fish can safely reach maturity. In a survey conducted in the spring of 2014 2/3rds of respondents reported a decrease in both number and size of fish caught over the last five years. In just one year's time areas outside of the FCZs could see increased fish numbers and increased fish sizes, which would bring more food security and secondary income for community members.

VII. Measures to Ensure Mitigation or Avoidance of Potential Adverse Impacts.

The enforcement teams working during the *Probarbus* spawning season will be made up primarily of fishermen. These team members will receive three months' salary for their participation, and will be able to fish in areas outside of the protected spawning areas. These FCZs are relatively small in size, and the vast majority of each village's fishing areas will remain open year round. While the first year will likely see a decrease in the number of *Probarbus* caught, it is not likely that the overall catch will decline significantly. Furthermore, FCZs have been shown to increase fish populations inside and outside their boundaries. If FCZ regulations are respected, the river surrounding it should see an increase in fish production in as little as a year's time.

Members of the indigenous community involved in this project have stated that they would prefer to engage in livestock rearing rather than fishing. The salaries earned by participation in the enforcement teams, as well as the money raised by the community conservation committee (from project funds as well as a large share of fine revenue), can be used by members of the community to invest in other sources of food or livelihood, such as crop planting or goat herding, which are both profitable and more traditional for the indigenous groups in this area.

VIII. Procedures for Affected Indigenous People to Address Grievances.

All grievances aired during workshops and questionnaires will be addressed with the community as they are brought to attention. Additionally, informational posters will be placed in each village's community building that will explain FISHBIO's desire to address all grievances, and that villagers should contact project staff at any time. Contact information for IUCN Lao PDR will be provided in addition to FISHBIO contacts.

Appendix I. Example Regulation Sheet.



The Lao People's Democratic Republic

Peace Independence Democracy Unity and Prosperity

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XXXXX District

No:

XXXXX village

Ban XXXX, Dated: DD/MM/YYYY

**Regulations on The establishment and management of Fish Conservation zone
in XXXXX, XXXXXX District, XXXXXXXX Province.**

I. Objective, location and size of conservation area

1. Objectives

1. To ensure successful spawning of *Probarbus jullieni* and *Probarbus labeamajor* as well as other species of aquatic life.
2. To end destructive fishing techniques such as electro-fishing and the use of explosive.
3. To improve the spawning success of multiple fish species.

2. Location and size of the conservation area

A. Location

II. Regulation, management and wise use of the conservation area

A. The regulations regarding Fish Conservation Zones.

1. During the *Probarbus sp.* Spawning period (usually January to March but if fish come early or late the ban will be put in place when ever *Probarbus* are observed spawning) all fishing gear will be forbidden from use within the FCZ.
2. Electro-fishing and the use of explosives or poison is forbidden year round.
3. Electronic fish attractants are banned

B. Penalties for violators

- If any individuals or a group of people violate regulation **No 1**, they will be penalized as follows:

1st offence: A fine of XXX,000 kip/person, seizure of evidence, mandatory education on FCZ regulations and benefits of FCZ and an official warning will be recorded.

2nd offence: A fine of X,XXX,000 kip/person, seizure of evidence and record of a final warning.

3rd offence: Seizure of evidence, detention of offenders and recommendation to send violator to the district authorities for further action regarding the case based on the regulations. This would mean a fine of more than X,XXX,000 or jail time depending on the case.

- If any individuals or a group of people violate regulation **No 2**, they will be penalized as follows:

1st offence: A fine of XXX,000 kip/person, seizure of evidence, mandatory education for the violators as to the laws regarding the use of explosives and electro-fishing techniques and their negative effects and an official final warning will be recorded

2nd offence: A fine of X,XXX,000 kip/person, seize the evidence, detain the offenders and make a case report to send to the district authorities to take further action regarding the case based on the regulations

- If any individuals or a group of people violate regulation **No 2**, they will be penalized as follows:

1st offence: A fine of XXX,000 kip/person, seizure of evidence, mandatory education on FCZ regulations and benefits of FCZ and an official warning will be recorded.

2nd offence: A fine of X,XXX,000 kip/person, seizure of evidence and record of a final warning.

III. Awards/Policy for the working group

- | | |
|--|------|
| 1. Provide for the village coffers | XX % |
| 2. Enforcement group | XX% |
| 3. Any individuals who report the wrong doers: | XX% |
| 4. Management committee (who work in the field): | XX % |
| 5. In cases where there is other income generated from the conservation areas, the income should be used for village development | |

IV. Responsible committee for the management of conservation areas

- | | |
|---------------------------------------|----------------|
| 1. Village head | President |
| 2. Vice Village head | Vice President |
| 3. 2 members of FCZ enforcement group | Committee |
| 4. Village women's union | Committee |
| 5. Village youth union | Committee |

V. Rights and responsibilities of the committee for Fish Conservation

Zone management

A. Village head

- Will act as first liaison between local fishermen, enforcement group, field officer, district and provincial level government. They will be in charge of disseminating any new information from these agencies and organizations to village residents.
- Will select along the members of the FCZ enforcement group.
- Will act as first envoy should any disputes over FCZ boundaries should arise with neighboring villages.
- Will collect all fines after reviewing evidence gathered by the enforcement group. While this decision should be made after discussion with the rest of

the committee it is the final authority of the village head as to who receives fines.

- Will contact district officials in cases regarding repeat offenders or offenders who are unable to be caught.

B. Village's youth and women' unions

- Will provide information for the young people in the village, making sure that youth understand the regulations as well as the reasons behind them, to ensure future generations are ready to take on the management of the FCZ.

C. FCZ Enforcement group

- Regularly guard the areas by organizing a schedule and recording the work-shifts.
- Will receive training and equipment from Field Officer, IUCN staff, and provincial and district level officials.
- Have the right to seize fishing equipment including but not limited to gill nets, electro-fishing devices(including attractants), fish poison, and explosives from offenders to be used as evidence
- Will keep detailed notes on any offences encountered, photograph any offenders or evidence of possible offences. This data is to be regularly shared with the district level officials and Field Officer.
- If an offense is deemed to large or too dangerous for the local enforcement group, district level law enforcement will be brought in to assist with enforcement.

VI. Final Provisions

The regulations on the management and wise use of aquatic animal resources of Ban XXXXX are made up with consent and agreement of all authorities and villagers in the villages and other authorities in the XXXXX district. They shall be effective from the date this regulation is announced.

XXXXX official

XXXXXX Village head

Stamped and signed

Stamped and signed

Certified and witness by:

Head of Livestock and Fisheries

Office, XXXXXX district

XXXXXXX district head

