

## **SECTION D: CONTRIBUTING TO DEMOCRATIC DEVELOPMENT: Potential Scope and Modalities for Donor Support**

*Section D formulates and appraises options for future modalities of donor support to the D&D reform process in Cambodia. The section reflects an interpretation of existing Government D&D policy documents and statements, local and international experiences on support for sub-national reforms, and policies on aid effectiveness as the building blocks for constructing modalities. Options are described for supporting national D&D policy formulation and management, and for donor resourcing of sub-national authorities. Options are assessed against the set of D&D policy principles described in Section B.*

### ***D.1 Constructing Modalities for External Assistance - Principles and Building Blocks***

**Principles of the reform implementation:** The Study TORs stress that options of modalities of future external assistance to Cambodia's D&D reform must reflect “the wider background, intentions and needs of the Strategic Framework for D&D” and the overarching “policy of sub-national democratic development”. The following summarises this background.

1. A 'whole-of-government' reform: D&D reform, if implemented consistently, will affect all levels and sectors of government by reconfiguring the distribution of authority, functions and public resources. By building upon the concept of primary, electoral accountability, the D&D reform aims to profoundly reshape the way in which citizens interact with the state. It comes therefore not as a surprise that the Deputy Prime Minister HE Sar Khen called the D&D reform the “perhaps the most profound and complex constitutional development in Cambodia since the adoption of the Constitution.”<sup>89</sup> Because of the political dimensions of the D&D reform process, the RGC is moving ahead in a cautious and incremental way, which is as much influenced by the complex technicalities of the reform as by the political repercussions of it.
2. Implementation Strategy as the Guide: The D&D SF outlines ‘medium term results’ expected. The Deputy Prime Minister's speech at the March 2006 CG Meeting provided more clarity on current thinking about how reform implementation may be phased, distinguishing between a “Preparatory Phase” in 2006, an ‘Initial Phase’ lasting from 2007-2009, a ‘Transition Phase’ from 2010-2012, and finally an open-ended ‘Transformation Phase’ starting in 2013 (see Table D.1). Details of a first outline of the implementation strategy are expected to be announced in late March/ early April 2006.
3. The DPM's speech of 2 March 2006 furthermore stated two main guidelines for introducing the fundamental changes to the current governmental structures and systems: “**First**, changes to our structures and systems are introduced in a planned, rational, consultative and transparent manner, with minimal disturbance to the essential business of government. In this respect, the business of government includes the current and on-going funding, support and participation by donors and NGOs. **Second**, it is to ensure that there is proper compatibility between these changes to our structures and systems, and other related government programs and strategies, including the National Strategic Development Plan, the Rectangular Strategy with particular reference to Administrative Reform, and the Fiscal Reform process.” We want to emphasise here that the principle of “minimal disturbance” includes external assistance – what will be required is a cautious, but consistent transition of current external assistance (its scope and the modalities being applied) to fit into the new D&D context: in other words ‘building the boat while sailing it’.

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<sup>89</sup>DPM Memorandum of 2 June 2005.

The IMC has emphasised that the task of the Study Team is not to design the RGC's 'implementation strategy'. However, in order to outline (and recommend) options for modalities of providing external assistance to such a strategy, we must have an understanding of what this is likely to include. In the absence of a formal document, we rely on informed assumptions and interpretations, drawing on the D&D SF<sup>90</sup> and other policy statements by Government officials. The shape of the future D&D implementation strategy as outlined below in section D.3 has to be seen against this background; *in no way it is meant to pre-empt policy decisions by the Government or by the legislature*. It must be revised once the organic law(s) have been passed, and once the RGC has made public its implementation plan.

**Table D.1: Phases of the D&D Reform**

2006	2007 – 2009	2010 - 2012	-2013
<i>Preparatory Phase</i>	<i>Initial Phase</i>	<i>Transition Phase</i>	<i>Transformation Phase</i>
<ul style="list-style-type: none"> <li>• Consultation on draft Organic Laws</li> <li>• Approval of Organic Laws</li> <li>• Design of Implementation Strategy</li> <li>• Design of 'Implementation Authority'</li> <li>• Information campaign</li> <li>• Preliminary design of donor modalities to support Initial Phase</li> <li>• Pledges of external assistance</li> </ul>	<ul style="list-style-type: none"> <li>• Commune elections 2007</li> <li>• Design of modified S/N structures and systems</li> <li>• Establishment of the 'Implementation Authority'</li> <li>• Establishment of policy management process</li> <li>• Establishment of Govt/ Donor instruments &amp; facilities</li> <li>• Indirect election of district &amp; provincial councils (2008/2009)</li> <li>• Functional assignments, structural changes, transfer of resources</li> <li>• Inter-govt fiscal arrangements</li> <li>• Capacity building (national, S/N level)</li> <li>• Review/redesign of donor modalities</li> </ul>	<ul style="list-style-type: none"> <li>• Continuation of reform process (especially in additional priority sectors)</li> <li>• Capacity building (national, S/N level)</li> <li>• Review of fiscal decentralization framework</li> <li>• Review of the impact of changes in complementary areas</li> <li>• Commune election 2012</li> <li>• Review/redesign of donor modalities</li> </ul>	<ul style="list-style-type: none"> <li>• Consolidation of reforms</li> <li>• Readjustments of systems &amp; structures</li> <li>• Election of district &amp; provincial councils</li> </ul>

**Building Blocks to Construct Modalities:** Section A.3 outlined our understanding of the term 'modalities' in the context of this study, and have pointed out the difficulty of precisely separating 'government modalities' from 'donor modalities'. We have defined modalities to include 1) policies and instruments which structure how aid is delivered, aligned and made effective<sup>91</sup>, 2) the resulting administrative, financing and accountability arrangements<sup>92</sup> which 3) enable that

<sup>90</sup> Especially chapter 4 which outlines components and expected outputs of a 'national program for the implementation of decentralization and deconcentration strategy'; however there are also other parts of the SF which can be used to construct the shape of an implementation strategy. We use here the term "national program" and "implementation strategy" as synonymous.

<sup>91</sup> This would include e.g., the legal project agreements used by international financing institutions (like World Bank, ADB), which can influence how national laws are applied (e.g., procurement). Another example would be policies which determine how donors can cooperate with each other: e.g., the European Commission is not permitted to co-finance activities with bilateral donors of member states.

<sup>92</sup> Such as reporting requirements, the use of certain procurement procedures, arrangements for making payments. Another controversial issue is the use of special-purpose project management or implementation units, a common

investments are made in local governance and local development.

In the context of Cambodia's D&D reforms, we distinguish three building blocks from which to derive options for external assistance modalities:

1. government policies on D&D and its implementation (as outlined above and in Section B)<sup>93</sup>
2. previous local experiences regarding D&D support (as illustrated in Section C) as well as relevant international experience, and
3. the Cambodian agreements on alignment and harmonization which provide for the national implementation of the international declarations on aid effectiveness.

**Table D.2: Building Block for Modalities**

<i>Government Policies (on D&amp;D, D&amp;D support)</i>	<i>Local Experiences</i>	<i>Cambodian Agreements on Aid Effectiveness</i>
<ul style="list-style-type: none"> <li>• “Most profound and complex constitutional development in Cambodia since the adoption of the Constitution”</li> <li>• Principle of ‘minimal disruption’ of government business (including external assistance)</li> <li>• Consultative, transparent, planned and rational change process</li> <li>• Phasing of reform implementation</li> <li>• Compatibility of reform with related government programs and strategies</li> <li>• Sustainable, highly flexible and adaptable forms of external assistance</li> <li>• Formulation and management of external assistance to be based on national program</li> <li>• Use of a variety of instruments (like basket funding, stand-alone support)</li> </ul>	<ul style="list-style-type: none"> <li>• Several examples of alignment and harmonization: planning systems (LAMC), funding arrangements (Seila), ‘mainstreaming’ of donor instruments (e.g., LDF transiting to the CSF)</li> <li>• Obstructing of primary accountability by government and donor modalities (dominance of vertical programs, negative incentive systems, resourcing does not follow functions, issue of remuneration)</li> <li>• Neglect of governance issues as compared to local development issues (infrastructure, social services)</li> <li>• Proliferation of relationships with external actors at the commune level</li> <li>• Less effective capacity building strategies</li> </ul>	<ul style="list-style-type: none"> <li>• Development of sectoral plans at national and sub-national level within the framework of the NSDP 2006 – 2010</li> <li>• Respect of RGC ownership and leadership of the development management process</li> <li>• Alignment of donor country strategies with the priorities of the NSDP</li> <li>• Making increasing use of strengthened RGC institutions, systems and procedures</li> <li>• Increase the proportion of development cooperation through sector/thematic programmes and other programme-based approaches</li> </ul>

Some additional remarks are required here regarding previous local experiences and aid effectiveness agreements:

1. Our assessment of existing modalities had concluded that Cambodia has a considerable number of examples of ‘donor modalities’ becoming ‘government modalities’ (e.g., because they are codified in laws), or of examples where the distinction has become increasingly difficult to be made. The point we want to stress here is that the future alignment of modalities in Cambodia can build upon these concrete cases, it is something that has been proved to be feasible in the Cambodian context.
2. Existing modalities for creating horizontal accountability are too weak to break the dominance of strong vertical lines of accountability in sector programmes – a shift of modalities has to

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feature in large-scale operations of the international financing institutions or the European Commission. cf. ADB (2005a); OECD/DAC Secretariat (2005).

<sup>93</sup>Main sources of reference here are the SF, the DPM's Memorandum of 2 June 2005, the DPM's speech of 2 March 2005, and statements by HE Prum Sokha (Chairman of the IMC Task Force) on 1 December 2005 (Introductory Remarks, Donor-MoI Meeting 1 December) and 23 February 2006 (First Meeting of the TWG on D&D).

occur especially in these vertical programs.<sup>94</sup>

3. Unless the issue of insufficient pay and remuneration has been solved, government and donor programmes will continue to be exploited for individual gains, like salary supplements, travel allowances, per diems etc. This ‘hunting for opportunities’ has a distinct impact on primary and horizontal accountability, and can undermine the achievement of democratic development.
4. Future donor support must increasingly address governance issues at the sub-national level – including conflicts about land and access to natural resources, conflicts between citizens and state officials or state institutions, conflicts among citizens. These issues feature strongly in the work load of elected commune councillors, however they do not appear prominently in donor support activities. Again, democratic development is as much about rights and entitlements, as it is about access to public services and the availability of physical infrastructure, and donor support is needed to find solutions to these pressing issues, especially arrangements that can be embedded in laws and regulations.
5. Cambodia is a signatory to the Paris Declaration on Aid Effectiveness, and joint declarations and agreements of the RGC and development partners have ‘localized’ these international agreements. Regarding modalities for donor support to D&D, the SF ties external support to D&D to the national program “as the basis for the formulation and management of foreign assistance so that the foreign assistance is used consistently with the priorities of the decentralization and deconcentration reform of the Royal Government.”<sup>95</sup> The SF envisages support to the national program, provision of finance to a basket fund or the allocation of resources to specific activities within the action plan or region.
6. The RGC Action Plan<sup>96</sup> lists more detailed actions to be taken in the various sectors, including: 1) an increasing proportion of development assistance delivered through national institutions, systems and procedures, 2) capacity development issues are addressed in the formulation of sector plans and ODA supported programs/projects, and 3) an increasing proportion of ODA is delivered through sector/thematic programs, and other Program-Based Approaches (PBAs).
7. While the RGC has fully subscribed to the agreements on aid effectiveness and has established an institutional framework for the dialogue with the donor community<sup>97</sup>, it has to be emphasised that because of the political nature of the D&D reforms the RGC is very sensitive about maintaining full ownership and authority on policy matters. The arrangements needed for coordinating future donor support to the D&D reform process must fully protect this policy ownership, and both sides have to ensure that agreements on support modalities do not infringe on the discretion of the RGC to determine (and modify) policies.

## ***D.2 Interpreting the Strategic Framework and Implementation Strategy***

Section B summarised features of the D&D SF, released June 2005. In Section D.1, we noted the import of remarks made by HE Sar Kheng during the 2-3 March 2006 Consultative Group meeting in which he summarised the main elements of the Implementation Strategy in a preliminary way. Here we *interpret* the Strategic Framework (June 2005) and Implementation Strategy (March 2006). *We do this not to pre-empt what RGC is yet to decide, in laws and subsequent documents.* Rather, we do this to provide a ‘platform’ so that in Section D.3 we can elaborate options and proposals for donor support to D&D. *Obviously, what is outlined in this and the next sub-section will be impacted by the substance of the Organic Laws, and by subsequent*

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<sup>94</sup>The recent OECD/DAC assessment of decentralization support has highlighted the risks of strong sectoral programmes, including sector-wide approaches (SWAp), undermining decentralization efforts (Schou and Steffensen, 2004).

<sup>95</sup> D&D SF, (2005, 17).

<sup>96</sup>RGC's Action Plan on Harmonization, Alignment and Results: 2006 – 2010.

<sup>97</sup>Altogether 18 so-called Technical Working Groups (TWG) have been established. Coordination of these groups is handled by the GDCC (Government-Donor Coordination Committee).

*consultations and decisions about the phasing and content of their implementation.*<sup>98</sup>

Here we refer to 1) *strategic domains and likely objects of donor support*, where major work will be needed to implementing D&D policies and laws, and where government may seek donor support; 2) and the major contours of the RGC *institutional framework* that may be empowered to oversee implementation.

### **1) Strategic Domains and Objects of Donor Support**

The SF and Implementation Strategy indicate that the major work of D&D formulation and implementation will occur in four domains which, for convenience, we have labelled: a) fiscal and financial, b) political and administrative, c) sectoral, and d) human resources. A distinction can be made, in each of these domains, between activities that will be ‘core’ to D&D implementation and those, equally important, but which may be regarded as ‘complementary’. Core domains in our view will become the organising points around which donor assistance to D&D implementation could be rallied.

#### **a) Fiscal and Financial:** This domain includes:

- external and domestic funds mobilisation and management, in relation to *existing* and new sub-national investments for local development and governance;
- reforms in planning, budget and budget execution,
- associated financial management (accounts) systems, including procurement;
- definition of fiscal sharing and transfers systems, as well as governing authorities for the design, reporting and evaluation of such systems;
- sub-national mentoring, technical support and monitoring, audit and accountability.

#### **b) Political and Administrative.** This domain includes

- creation of new, and realignment of existing political and administrative structures and establishments at sub-national level, and corresponding adjustments in national ministry structures and functions,
- administrative and political norms and procedures,
- admin and political legality control
- sub-national mentoring, technical support, training and monitoring

#### **c) Sectoral Realignment.** This domain includes

- functional reassignment of sectoral responsibilities, including definition of functions/ expenditure assignments, and implementation
- phasing and staging of implementation, (including phasing by sector, by level of governance authority, aspect of budget control)
- sector policy, and realignment of vertical sectoral programs
- amendment of sectoral laws and promulgation of legal instruments to articulate new provisions.

#### **d) Human Resources:** This domain includes

- civil service reform
- pay/remuneration reforms

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<sup>98</sup> The Study’s TORs and subsequent remarks by IMC officials, has made it clear the Study is not to venture into defining priorities for the RGC’s Implementation Strategy.

## ***2) RGC Institutional Arrangements; commitments and assumptions***

The Prime Minister's decision 18 January 2005 establishing the IMC noted that the IMC's task shall end when the organic law(s) is in effect. Subject to the provisions of the organic law(s), the D&D SF and the DPM's speech to the 2-3 March CG meeting indicate that current thinking is that the following may occur thereafter:

- i) **Supreme Council for State Reform:** to act as the coordinator, to ensure consistency of policies of state councils for reform
- ii) **'Implementation Authority':** established and empowered to:
  - a) coordinate implementation of the organic law(s)
  - b) provide guidance, coordination and support to implementation consistent with established priorities
  - c) mobilise and ensure consistency of government and donor support with the strategy, laws and agreed priorities
  - d) create committees and/or commissions to aid the 'Implementation Authority' in carrying out its functions
  - e) ensure public access to information about the progress of D&D reform implementation
- iii) **Implementation Authority Secretariat:** created and provided with sufficient professional, technical and managerial capacity to enable it to:
  - a) Support the 'Implementation Authority'
  - b) Ensure support is provided to national ministries and institutions, and provinces, districts and communes for institution development and service delivery

It is further understood that

- i) Implementation of reform priorities will be the responsibility of Ministries (and other national agencies), provinces, districts and communes, consistent with their new mandates. In other words, the Authority will not assume the responsibilities of Ministries; rather it will coordinate in manner required to ensure furtherance of the reforms.
- ii) The 'Implementation Authority' will organise, at least once each year, a 'Forum of the RGC Partners for Support to D&D'.<sup>99</sup>

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<sup>99</sup>D&D SF, p. 17.

## D.3 Options for Donor Modalities to Support D&D Reforms

### D.3.1 Government – Donor Coordination: Some International and Cambodian Experiences

With various kinds of decentralisation underway in more than 80 developing countries, there is much experience to draw upon. Although Cambodia's D&D strategy is in many respects unique, there are relevant country experiences, both in general<sup>100</sup> and in particular concerning donor support strategies.<sup>101</sup>

Where donor modalities have worked best to promote harmonisation and alignment, *it has almost always been attributable to the strength and capacity of national government implementation arrangements* (ie., the 'implementation authority') which is responsible to champion

#### **Box D.1 Donors and D&D: Six Requirements from International Experience**

1. Committed and strongly facilitated national champion
2. Strong government-donor arrangements for coordination
3. Strong donor-donor coordination (principles, programs etc.)
4. Effective links between decentralisation reforms and sector reforms
5. Effective links between decentralisation reforms and the wider public sector reform (financial management, civil service etc.)
6. Common processes of preparation, design, reviews and monitoring to improve coordination and reduce transaction costs for all parties.

decentralisation reforms. It is certainly international experience that where 'championship' responsibilities are unclear, fragmented or lacking strategy, that donor-government coordination is difficult. With positive national authority, good government-donor coordination is possible, donors can be more easily encouraged to work together, better links are ensured with sector reforms or critical actions in finance management and civil service reforms. All this makes it possible to reduce the transaction costs for government and donors.

Another key requirement is strong government-donor arrangements for coordination. This can have an institutional aspect (like having a joint

Government-donor forum for discussion and exchange, or having a one-window type of institution for donor relationships), but even more important are governments' own arrangements to align donor activities in the D&D field, e.g., through a clear government program that guides donors to where and when they should provide support, and through joint planning of work programs between donors and the related government institutions. Since 2004 in Cambodia, TWGs have become a favoured instrument of the RGC to intensify donor coordination and the alignment of donor activities with Government programs.<sup>102</sup>

According to the D&D SF, the 'Implementation Authority' and its Secretariat will also have a role in mobilising and managing external resources for the implementation of the D&D reforms. Whilst the organic law(s) may further specify these responsibilities, it will be critically important to clarify the responsibilities of existing national agencies (including core ministries such as finance and interior, line ministries, and the CDC), all of which have, in practice, overlapping responsibilities mobilising, allocating and managing donor support. Experience in other countries suggests that government ownership of donor support to D&D will be enhanced if the 'Implementation Authority' has a clear mandate through which it will be possible to define 'principles' for cooperation, and translate these in practical terms through agreements, work plans,

<sup>100</sup>Useful, and Cambodia-relevant comparative reviews include Steffensen and Trollegaard (2000), Steffensen et.al. (2004), Charlton et.al. (2004), and ADB (2005b).

<sup>101</sup>Schou and Steffensen (2004).

<sup>102</sup>Experience with the TWG seems to indicate that they work reasonable well when a single ministry 'occupies' the sector, i.e., they work less well where there are multiple national ministries/agencies with policy or operational mandates in the sector. D&D as a cross-sectoral, multi-level reform process; the effectiveness of the TWG approach is still unproven. Another lesson points to the importance of having a functioning and well-qualified secretariat.

joint progress review and other instruments.

#### **Box D.2 Donor-Donor Cooperation**

Donor-donor cooperation is very well institutionalised in Uganda where there is a permanent, all-encompassing Decentralization Donor Sub-Group. In Tanzania, the coordination is regular amongst donors but is intense only among those donors involved in providing a basket fund for the implementation of the Local Government Reform Project. In Indonesia, a recently established Decentralization Support Facility and a long-established Working Group on Decentralization provide platforms for exchange and for joint planning of initiatives.

A strong 'national champion' that can guide and hold donors to mutual accountability commitments will also be an important precondition for achieving good coordination amongst donors.<sup>103</sup> Such coordination can express itself in agreements on joint principles, the use of common standards (e.g., for planning, procurement, reporting), joint work programs and the pooling of resources. The debate on aid effectiveness has resulted in a critical review of past aid modalities and aid instruments, and international (and

Cambodian) agreements favour a more coordinated, program-based approach to providing assistance.<sup>104</sup>

The D&D SF makes clear reference to the sectoral component of implementing D&D reforms by assigning functions to the sub-national authorities and by providing the necessary resources. The strong impact of vertical programs on horizontal and primary accountability has also been one of the key findings from our field visits (see Section C.5.6).<sup>105</sup>

Consistent with international experience, the D&D SF recognizes the link between the D&D reforms and reform processes in other areas, like financial management, public administration and civil service reform.<sup>106</sup> Donor support in these fields needs to be locked into the D&D reform process, to complement and support elements which effect the success of D&D reforms, most importantly at present, the impact of donor-financed incentive systems on civil service reforms.

Finally, the observation that a proliferation of donor relationships (each with their own procedures, financial arrangements, reporting and accounting requirements) can pose a heavy burden on Government has resulted in the call for the harmonization of systems and procedures (and preferably for the use of Government's own systems and procedures instead of donors' systems and procedures). This can substantially reduce transaction costs for the parties involved. Common systems and procedures could include the use of joint project appraisal and review missions, common standards for procurement and reporting, the delegation of cooperation from one donor to another.

#### **Box D.3 Requirements from international experience and how they might be addressed in Cambodia**

*National champion:* 'Implementation Authority'.

*RGC-Donor Coordination:* D&D Implementation Strategy, RGC-Donor Agreement on D&D Support, TWG and other (more technical) forums.

*Donor-Donor coordination:* Common, government-driven annual work plans, budgets and performance reviews, pooling of resources.

*Linking D&D and Sectors:* D&D Implementation Strategy, 'Implementation Authority' with strong strategic policy management mandate.

*Linking D&D and other reforms:* D&D Implementation Strategy, cross membership with other reform authorities.

*Common processes:* Harmonization of systems and procedures

<sup>103</sup>Schou and Steffensen (2004, 10) explain the weakness of coordination between donors partly with the common belief that donor coordination should be the government's responsibility. Other reasons include the need of agencies to deliver identifiable products, and the preference of governments to deal with donors on an individual basis.

<sup>104</sup>An example in Cambodia is described in Talvela (2006).

<sup>105</sup>New modalities of donor support, like the sector-wide approaches (SWAp), can undermine decentralisation efforts (Schou and Steffensen 2004, 31).

<sup>106</sup>This aspect is also mentioned in the speech of the Deputy Prime Minister/Minister of Interior at the CG Meeting (2 March 2006).

Government–Donor coordination in D&D reforms has been a challenge in many countries, partly due to lack of capacity in the key ministries, partly due to the numerous donors operating within the field of decentralisation and deconcentration and the subsequent proliferation of relationships, procedures and activities. Experience has shown the value of strong coordination, especially in the design of joint efforts such as development grants to sub-national authorities and capacity building programs. Experience has furthermore proved that strong coordination can reduce the transaction costs both for the national government and for sub-national authorities, for example, by having joint review missions and by mainstreaming and harmonising procedures for planning, reporting, and procurement.

In Cambodia, examples of close government-donor coordination and cooperation aligned with Government programs can be observed in a number of sectors (health, education, land) and in a number of thematic fields (public financial management, local governance and local development).

These examples utilize a variety of modalities for providing donor resources to government in a coordinated and harmonized manner: clear division of tasks and functions between the participating partners, agreement on targets and objectives, joint work planning, joint programming of resources, joint progress reviews, use of joint procedures and standards. Such modalities for coordinated efforts, aligned to government-determined programs, come under different names: ‘partnerships’, ‘program-based approaches’, ‘sector-wide approaches (SWAp)’, sector-wide management (SWiM), ‘sector program’, ‘multi-donor support program’ and so on.

In discussing modalities of donor support to D&D reforms, we have distinguished between two domains: 1) support modalities targeting the formulation and analysis of national policies and the management of such policies at the national level (discussed in this sub-section), and 2) support modalities targeting sub-national authorities (Section D.3.3).<sup>107</sup> Choices made in one domain naturally impact on choices in the other; but for discussion purposes these need to be treated separately. In Section D.3.4, we provide more details about our preferred option for future donor support modalities which combines D&D support in both domains, that is to both the national policy level and to sub-national authorities.

#### **Box D.4 Program-Based Approach in Land Management**

The *Land Administration, Management and Distribution Program* (LAMDP) is a multi-year/multi-donor supported program which aims at realising the policy orientation of the 2002 Strategy of Land Policy Framework. Donors include the World Bank, the German Government (through GTZ), Finland, Danida, DFID, CIDA, JICA, SIDA and ADB. The Ministry of Land Management, Urban Planning and Construction (MLMUPC) is the lead agency on the Government side; wider policy coordination takes place under the umbrella of the Council for Land Policy for which the MLMUPC acts as secretariat.

Instead of pooling resources in a common basket fund, each donor provides funding (or direct services, like in the cases of the German and Finish contribution) according to individual agreements with the RGC. Some donors (e.g. CIDA, JICA) have provided trust funds which are managed by the World Bank, by the ministry or by GTZ. ADB provides a TA grant..

Harmonisation of donor support takes place by means of synchronizing project duration (each contribution covers the same period of time), a joint annual work plan, joint monitoring and evaluation missions, and joint annual progress reviews. An annual budget is established by means of summing up the annual contributions of each donor and of the government, and disbursement is reported regularly based on the information provided by each donor. Each donor operates its own financial management system.

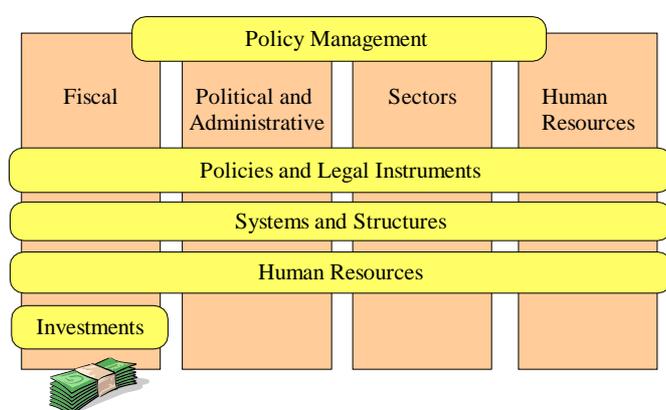
Contributions of donors reflect a clear division of task and functions within the program. Of special importance is the combination of funding by the World Bank (loan) with the funding (or provision) of technical assistance, especially by GTZ and Finland.

<sup>107</sup>This distinction should not be misunderstood as separating ‘local governance’ and ‘local development’ - our discussion of current donor modalities for D&D in Section C has made it clear that these issues cannot be separated if one wants to achieve ‘democratic development’; both issues appear and are relevant at the national policy level as well as the level of the sub-national authorities.

### D.3.2 Options for Donor Modalities Supporting D&D Policy Formulation and Management

‘Policy formulation and management’ refers to strategic supervision of the D&D reform process, including: a) the distillation of national D&D policy into a set of clear operational principles, on which, b) a time-bound, performance-based implementation plan can be prepared, thus enabling c) the coordination of activities to implement the D&D reforms by related government agencies, in line with their respective constitutional and legal mandates, d) clear indications by government of where donor support is required, e) the monitoring and evaluation of reform implementation (“Are the objectives being achieved?”), f) the identification of shortcomings and drawbacks in reform implementation as well as the identification of new issues that emerge and will have to be addressed, and g) the overall coordination of donor support to the D&D reform process.

**Figure D.1: Strategic Domains of the Implementation Strategy**



RGC’s D&D SF indicates four key strategic domains of a D&D implementation strategy (fiscal matters, political and administrative matters, sectoral issues, human resource issues). Donor support is likely to have different ‘objects’: policy management to integrate these different domains, policies and regulatory frameworks within these domains, the design and establishment of structures and systems, provision of human resources, and the provision of investment. Donor support to the policy management aspect of D&D reforms is another important lesson that can be drawn from international experiences.<sup>108</sup>

Although RGC has indicated there will be an ‘Implementation Authority’ to oversee and coordinate the D&D reform process, and that there will be a Government-Donor forum to discuss external support to this reform process, these are tentative proposals, pending detail in the organic law(s). Below, we make some observations based on international lessons, as well as our review of Cambodian experience. We are here conscious that the role and functions of the ‘Implementation Authority’ (and subsequently, donor support to it) has not yet been determined. In this light, *it is again necessary to stress that these observations in no way are meant to preempt policy decisions of the Government.*

- a) The tasks of the ‘Implementation Authority’ outlined in the D&D SF<sup>109</sup> may not be sufficient in view of international experience as outlined above (Section D.3.1). The Authority will be enhanced if it has a clear statutory mandate, an independent budget, separate from other government agencies, and clear mechanisms of interaction with other government agencies. It will require a mandate to ensure compliance by other ministries and national agencies to the D&D reform process, and will need a mandate to screen all legal instruments, initiated by other government agencies, which relate to the D&D reforms.

<sup>108</sup>Schou and Steffensen (2004, 22).

<sup>109</sup>The SF lists the following functions: (1) to coordinate the implementation of the organic law, (2) to provide “guidance, coordination and support to the implementation of the decentralisation and deconcentration strategy.”, (3) to provide “policy guidelines and coordination support for the implementation and mobilization of internal and external finances to support the national program”. (D&D SF 2005, 15)

- b) Although it is important that the 'Implementation Authority' does not interfere with the constitutional and legal mandates of core and sector ministries, its effectiveness may be enhanced if it is empowered with sufficient authority to i) report to the highest levels of government when it can demonstrate non-compliance with D&D reforms and ii) manage and direct both government and donor resources for the implementation process. For this purpose, the 'Implementation Authority' should be enabled to provide resource incentives to ministries to undertake the necessary changes. Here, donor resources become critical.
- c) As the natural 'owner' of the RGC's D&D Implementation Strategy, the 'Implementation Authority' should be the main counterpart for donor support that deals with core issues of the D&D reform process and is aligned to its Implementation Plan. Complementary reforms (like in public financial management, in public administration) will still fall under the jurisdiction of the respective government lead agencies, but could be coordinated by means of the D&D Implementation Strategy, annual work plans and the allocation of resources to undertake reform initiatives. If the 'Implementation Authority' becomes the main government body to coordinate the mobilization of external resources for the D&D reform process, its relationship with other government agencies having a similar role (like the CDC and MoEF's Department for International Cooperation/DIC) needs to be clarified.
- d) It would be desirable that the functions of existing inter-ministerial bodies whose mandates pertain to 'D&D reforms' (see Annex 3) are assumed by this Authority, provided these functions are still relevant under the new D&D context. This would have to be specified in the organic law(s) or in other legal instruments.
- e) In dealing with external support to the D&D reforms, the Authority will need an agreement with donors which outlines the principles of the cooperation (which might be an elaboration of the 'policy principles' described in Table B.2), stipulations regarding the mechanisms and procedures of the cooperation, joint objectives, and stipulations regarding joint progress reviews. This agreement would be the umbrella under which the Authority enters into specific and legally binding commitments from individual donors or a group of donors. This umbrella agreement will determine the 'rules of the game' and as such will ensure full ownership of the Government on donor support to the D&D implementation.

Besides the 'Implementation Authority', the likely core agencies playing a key role in policy formulation and management are the MoI, MoEF, priority sector ministries and the Secretariat for Public Functions.<sup>110</sup> These institutions can therefore be regarded as other likely partners to receive donor support for D&D policy formulation and management.

The current modality of donor support to D&D policy formulation and management in Cambodia is dominated by individual donor projects working with individual Government agencies, like activities located in the MoI.<sup>111</sup> While cooperation and joint activities of the projects does occur<sup>112</sup>.

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<sup>110</sup>See D&D SF, (2005, 15-16).

<sup>111</sup>Examples include the GTZ *Administration Reform and Decentralization Project* (ARDP) and UNDP's *Decentralization Support Project* (DSP). Other activities with MoI target the commune and other sub-national levels (ADB: *Commune Council Development Project*, EC/UNDP: *Strengthening Democratic and Decentralized Local Governance in Cambodia*, EC/KAF: *Pilot District Administration Project*); however, it has to be acknowledged that these activities often provide lessons learnt and innovations from the sub-national level as inputs for the national policy process. The donor mapping exercise (Independent Study 2006) has observed the relatively small amount of donor resources invested in policy support.

<sup>112</sup>Examples include the cooperation of UNDP-DSP and GTZ-ARDP in conducting the 2005 NCSC policy review (NCSC 2005), cooperation between PLG and ADB-CCDP in conducting commune-level training and capacity building, the cooperation between GTZ-ARDP, UNDP-DSP and EC/KAF in supporting the establishment of commune council associations.

in general they operate rather isolated from each other and are not locked into a joint work plan discussed and agreed with the ministry. Another current donor modality is the pooling of resources in the case of PLG<sup>113</sup>, a multi-donor funded project which is mainly addressing sub-national governance and local development issues, but which has also been used for generating policy inputs for the further development of D&D reforms (including in particular MoEF and MoI).

Three likely options for future donor support to D&D policy formulation and management emerge from Cambodian and international practice:

**Option A:** Individual projects working with different Government agencies, including the future 'Implementation Authority'.

Under this option, the 'Implementation Authority' and individual government agencies would enter into agreements with donors, however these agreements and the modalities of cooperation would not be governed by the umbrella agreement mentioned above. Donors would provide funds and advisory services, which could either be off-budget or be reflected in the budgets of the respective government agencies. As there would be no 'D&D wide' instruments for alignment and harmonization, coordination and cooperation among government agencies and between government agencies and donors would have to rely on several individual formal and informal arrangements. The modality of donor support would be the individual project or program, with separate management and accountability mechanisms for each.

**Option B:** Pooling of donor resources which are placed at the disposal of the Government through a variety of aid instruments (loans, grants) under the leadership of the 'Implementation Authority'.

Under this option, donor support to D&D would be entirely concentrated in the 'Implementation Authority': it would receive external funds, budget and spend them under the approved Annual Work Plan and Budget (for instance for procuring consulting services). Beside this kind of budget support, there would be no separate stand-alone TA activities funded by donors.

**Option C:** Combination of individual projects and pooled resources (Options A and B) which are brought together under the umbrella of a government program, with varying degrees of harmonization and alignment; resources are partly under the control of the 'Implementation Authority', partly under the control of other ministries.

This option combines features of Option A and Option B: a joint work plan and budget, based on the D&D Implementation Strategy allows for better coordination, despite the continuing existence of individual agreements between donors, the 'Implementation Authority' and other government agencies. The umbrella agreement mentioned above clarifies the 'rules of the game' and establishes the role of the 'Implementation Authority' in coordinating and managing Government-donor relationships in D&D support. This option takes into account that not all donors are prepared to pool resources, and that not all external resources are provided through cash transfers to budgets under the full control of government agencies, but often 'in-kind' (such as direct TA advisory services contracted by the donor agency).

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<sup>113</sup> Located at the Seila Task Force. PLG is the main donor vehicle providing the management support for the Seila program which is essential for the mobilization of resources from a wide range of other donors using the Seila framework.

Table D.3 summarises the main features of these options.

#### **Box D.5 Donor Harmonization in the Seila Program**

Seila is a local governance and local development program, which has gone through different phases since the mid-1990's. In its current phase, it is covering all provinces of Cambodia, providing technical support, capacity building and investment funding for the commune, district and provincial level. Its immediate objective is "to institute decentralised and deconcentrated systems and strategies to manage sustainable local development" (RGC 2001). Seila has been described as an 'aid mobilization and coordination framework', because the Seila framework has been used by a variety of donors to provide resources to the sub-national level. A multi-donor project (Partnership for Local Governance – PLG) provides the management support for the Seila program in form of technical advice, systems development and capacity building. Other donors ( IFAD, the World Bank, UNICEF and Danida) make use of this management core, which is jointly funded by UNDP, DFID and SIDA, in order to provide resources for sectoral and thematic activities at the sub-national level. Between 2001 and 2005, donor commitments using the Seila system totalled \$155.8m. Seila systems for planning, programming and budgeting systems have been become government systems in the LAMC. Its PRDC/ExCom structure at provincial level, and instrument like District Integration Workshops (DIW) are currently the only available mechanism to promote inter-departmental, horizontal integration of activities at this level, and between the provincial, district and commune level.

Seen from the perspective of alignment and aid harmonization, Seila has addressed many of the current demands for more effective aid delivery mechanisms in bringing together several donors using the same systems and procedures.

We understand that the D&D SF, in line with the international debate on aid effectiveness and existing RGC-donor agreements, favours a program approach which might include basket funding and the separate allocation of resources from donors not willing to pool resources to support specific activities which are part of the national implementation plan.<sup>114</sup> This approach is very similar to the Option C described above.

A *Program-Based Approach* is generally defined as a way of engaging in development co-operation based on the principle of co-ordinated implementation strategy).

support for a locally owned program (for instance the future D&D Program-based approaches typically entail:

- leadership by the host country or organisation
- a single comprehensive program and budget framework
- a formalised process for donor co-ordination and harmonisation of donor procedures for reporting, budgeting, financial management and procurement
- efforts to increase the use of local systems for program design and implementation, financial management, monitoring and evaluation.

Program-based approaches do not necessarily require the pooling of resources, as can be seen in the example of donor support provided to the implementation of the land policy in Cambodia (see Box D.4). The example of the multi-donor support to RGC development cooperation management also illustrates the kind of flexibility that can be built into program-based approaches (see Box D.6)

Applying the above-mentioned features to the D&D reform process, a program-based approach might have the 'Implementation Authority' as the lead agency, the D&D implementation strategy as the comprehensive program to which donor support is aligned, a combination of pooled and separate donor resources plus Government budget funds, and joint annual work planning and progress reviews as instruments of donor coordination.

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<sup>114</sup>D&D SF (2005,17).

**Table D. 3: Features of Options For Support to D&D Policy Formulation and Management**

	Features	Option A	Option B	Option C
1	<b>Agreement</b>	With 'Implementation Authority' and individual government agencies (like MoI, MoEF, sectors)	With 'Implementation Authority'	With 'Implementation Authority' and individual government agencies
2	<b>Donor support provided to:</b>	'Implementation Authority' and individual government agencies	'Implementation Authority'	'Implementation Authority' and individual government agencies
3	<b>Type of Resources</b>	Funds and Advisory services (TA)	Funds	Funds and Advisory services (TA)
4	<b>Shown in the budget of:</b>	'Implementation Authority' and individual government agencies; plus off-budget resources	'Implementation Authority'	'Implementation Authority' and individual government agencies, plus off-budget resources
5	<b>Instruments for alignment and harmonization</b>	Several cooperation agreements (formal, informal)	Annual Work Plan and Budget (AWPB) of 'Implementation Authority'	Joint Work Plan and Budget based on D&D Implementation Plan
6	<b>Expenditure control and accountability:</b>	Managed by 'Implementation Authority' (through secretariat) and ministries (through project implementation units). National Audit Authority. Donor control and audits.	National Audit Authority. External auditing	Managed by 'Implementation Authority' (through secretariat) and ministries (through project implementation units). National Audit Authority. Donor control and audits.

How could donor support be provided to this 'Implementation Authority' and to other national government agencies tasked with implementing parts of the D&D reform which come under their respective constitutional and legal mandates?

1. Government leadership is required to ensure that donor resources are being provided in line with the D&D implementation strategy. As has been pointed out earlier, a preferred way to ensure Government leadership and Government ownership is a joint agreement (or framework) between the Government and those donors supporting the D&D reform process which details principles and objectives of the cooperation, indicative time frames, indicative medium term resource needs and commitments, a division of tasks and functions among the parties to the agreement, and the mechanisms and procedures for working together.<sup>115</sup>

**Box D.6 Development Cooperation Management**

Donors pool resources to support Cambodia's national policy on aid coordination and management through a multi-donor program which assists the CDC/CRDB to manage its development coordination tasks. Core funding comes from UNDP, other donors (like DFID and SIDA) contribute to a 'pooled resources modality' which is being managed by UNDP. For donors which do not want to pool funds but wish to support the program, CDC/CBRD can enter into separate agreements which can include fund transfers directly to CDC/CBRD. Quarterly financial reports will be prepared to all funding partners, and an annual audit will be conducted by independent auditors.

<sup>115</sup>In addition, the RGC will require separate and legally binding agreements with each donor, however stronger linkage and better integration of efforts can be expected from a joint framework agreement which clarifies principles and objectives of the cooperation. We have labelled this an 'RGC-Donor Agreement on D&D', however others terms might be preferred. In the case of the Seila program, funding from donors is secured on the basis of tripartite agreements between the Ministry of Economy and Finance, the Seila Task Force and the respective donor. The Seila program document serves as the programmatic umbrella for the cooperation.

2. As part of such an agreement, those donors wishing to pool resources can provide a basket fund which is placed at the disposal of the 'Implementation Authority'. The management of this basket fund would ideally be handled by the Government (i.e. the 'Implementation Authority'), however, in the initial phase a fund manager<sup>116</sup> could be contracted by the implementation authority, until the 'Implementation Authority' has sufficient managerial and financial management capacity. As the operation of such a fund involves different roles (including fund mobilization, fund allocation, and financial management/accountability), not all of these roles need to be in the hands of the contracted fund manager. Essential would be clear assignment of functions through the contract to ensure that the 'Implementation Authority' has full ownership in determining the allocation of resources – whereas budget execution, procurement, payment and related accountability may then feature in a fund management contract.
3. Other resources for D&D support could be mobilized under stand-alone activities which are integrated in the joint work plan and budget of the 'Implementation Authority', are based on the overall D&D implementation plan, and respect and follow the principles of the 'RGC-Donor Agreement on D&D'. Ideally, the AWPB includes all resources, government and donor in respect of a) the implementation authority, common pool funds (see further recommendations below), b) those aspects of thematic reform programs (finance, civil service) which directly impact on D&D policy implementation, c) free standing donor TA/investment projects in both core and priority sector ministries, d) sub-national transfers to province, district, commune grant funds, and e) budget commitments by stand alone donor area and sector development projects on a province basis. *It should be noted that inclusion in the AWPB need not imply that budget execution authority should be vested in the 'implementation authority' for all items in the budget (e.g., PFMRP resources would remain under MoEF control).* But it is important that the AWPB give a reasonable approximation of all resources being spent on D&D 'sector' issues.

**Box D.7 Pooling of Resources under the Public Financial Management Reform Program (PFMRP)**

The PFMRP is financed by a multi-donor trust fund managed by the World Bank. Participating donors include DFID and AusAID, other donors (European Commission, SIDA) are expected to join the trust fund during 2006. The Trust fund is among others used to finance a donor-partner secretariat with management and coordination functions. In addition to the Trust fund, activities under the PFM are funded directly by donors which do not want to pool resources.

4. As the policy management function of the 'Implementation Authority' requires that other ministries fulfil their role in implementing the D&D policy, the authority must have the capability to provide resources to these ministries/agencies so that they can undertake the necessary efforts of adjusting policies, systems and

procedures. An example here is the review of functional assignments which becomes necessary in the priority sectors once the organic law(s) have been passed: the work involved in defining the assignment of functions to each level of government, of assessing financial and human resources which are needed at each level, of identifying the required adjustments of sectoral laws and regulation will require a substantial amount of technical support, which can be funded from resources stemming from the 'Implementation Authority' under TA contracts with the respective sector ministries. Similarly, activities in the MoI, the MoEF, or in the Secretariat of Public Functions can be funded by these pooled resources unless other donor support to these agencies can cover the necessary efforts (as might be the case with the D&D work in the MoEF

<sup>116</sup> Currently, multilateral organizations like UNDP and World Bank act as managers of basket funds. The PFMRP basket fund, for example, is managed by the World Bank (see Box D.7), while UNDP manages the pooled resources supporting development cooperation management at CDC (see Box D.6). Organisations also take a management fee for this service. Elsewhere, governments have contracted fund management responsibilities to private companies, such as PriceWaterhouse, or a financial management institute.

which is already covered by the Public Financial Management Reform Program).

We recommend the establishment of a ‘D&D Reform Facility’ as the modality for pooling resources, to be used both for the national level policy formulation and management work of the ‘Implementation Authority’, but also for financing SNAs (see Section D.3.4). Regarding policy formulation and policy management, these pooled resources could be complemented by funds or direct services (free standing projects) from those donors which do not wish to pool resources. Uganda provides an interesting example how a joint donor basket fund was established in order to finance policy analysis and program formulation-related activities.<sup>117</sup>

What could be the ‘objects of funding’ from pooled or separate resources with respect to national, policy management functions? Depending on the needs of the ‘Implementation Authority’ and/or the other government agencies involved, resources could be used to buy-in advisory services (for policy research<sup>118</sup>, technical studies, preparation of guidelines, manuals, monitoring and evaluation etc.), for capacity-building activities (targeting the ‘Implementation Authority’ and its Secretariat, other government agencies involved in D&D policy issues), for equipment and facilities needed by the ‘Implementation Authority’, and for providing performance pay to staff.

The D&D SF envisages the establishment of a RGC-Donor Forum to serve as a platform to support 1) consultation, policy debate and technical analysis of D&D reform implementation, 2) mobilization of resources, and 3) evaluation of progress in the implementation of D&D reforms. In view of the Study Team, this forum should be a high-level political forum, to agree on general principles and strategies of cooperation, which then become part of the RGC-Donor D&D Agreement. It would complement the more technical, operational tasks of the TWG.

**Table D.4: RGC-Donor Forum on D&D**

<b>Forum of the RGC Partners for Support to D&amp;D: some useful ways to promote donor alignment</b>	
1	Consultation with development partners (donors, and civil society) on policies and other decisions relating to implementation of the organic law(s) and ensuring that sufficient, reliable information is available to support such consultation
2	Mobilisation, planning and budgeting of domestic and international funding to support investments for the purpose of sub-national governance and institutional development, and sub-national development
3	Consideration of reports which monitor, evaluate and propose adjustments to all donor-assisted programs which aim to achieve improvements in sub-national governance and development
4	Consideration of reports which monitor, evaluate and propose adjustments or innovations in how D&D reforms are implemented
5	Preparation and approval of common multi-year and annual workplans, budgets and protocols to promote harmonisation of donor support to D&D, and progressive alignment of that support with government owned systems and procedures.

<sup>117</sup> In Uganda, resources from the basket fund were used to finance major policy research (like a Fiscal Decentralisation Study, which provided the basis for government’s Fiscal Decentralisation Strategy) and initial activities to define aspects of the fiscal decentralization strategy (like budget guidelines and grant allocation formulas). The basket was furthermore used to finance mid-term review studies of the Local Government Development Program (LGDP) and to study the links between the LGDP and the other donor programs (see: Government of Uganda, 2002).

<sup>118</sup> Another possible ‘object’ of donor support outside the government administration is the strengthening of Cambodian universities, research institutes (such as the Cambodia Resource Development Institute – CDRI) and “think-tanks” in providing conducting policy research and policy analysis, and in providing policy advice to the Government.

### D.3.3 Options for Donor Resourcing of Sub-National Authorities for D&D Implementation

Before outlining three options through which donors could resource<sup>119</sup> sub-national authorities in ways consistent with Cambodia's D&D reforms, it is important to note the following:

First, each of these options for sub-national support would depend for their coherence the kinds of national level, government and donor-government agreement canvassed in the sub-section above. These agreements, which would be firmly based on, and serve to articulate, Cambodia's D&D laws, policy and implementation strategy, would be essential to ensure the desired connections between national policy and operations, and the two objectives, relating to 'local governance' and 'local development' which are together intended to promote democratic development.

Second, unless careful attention is given to arrangements through which donors direct their support also to sub-national levels, there is a real risk that the political, governance and institutional priorities of *national* D&D policy would be inadequately or inappropriately articulated at the sub-national level. This is not just because international experience shows how important it is that efforts to establish new sub-national political and administrative institutions and capacities works best where they are accompanied by operational and development resources.<sup>120</sup> Rather it is also because international experience has shown that arrangements adopted by donors to channel their support from national to sub-national levels is perhaps as important as the particular activities supported for D&D implementation. The reason for this is that the modalities used to channel resources also imply agreements about who, which political or administrative agency, at which level of SNA will be given real powers to regulate, plan, budget, and actually invest in different activities whether these are primarily of a 'local governance' or 'local development' nature.<sup>121</sup> Thus, the modalities used to direct resources from national to sub-national levels, in large part, can determine whether the new 'accountability map' promoted by sub-national reforms is supported or constrained. Very often, the 'assignments of expenditure authority' contained in donor modalities are at odds with what is intended – as laid out in the policies, laws and procedures of the country transiting to decentralised arrangements.<sup>122</sup>

How this point may apply to Cambodia is indicated in Figures D.2 and Table D.5. Figure D.2 attempts to depict the main modalities through which official donors channel their support to SNAs in Cambodia.<sup>123</sup>

The first four modalities in Figure D.2 may be regarded as decentralised (modalities 1 and 2), delegated (modality 3), and deconcentrated (modality 4) arrangements. Each of these feature in various ways in other countries where 'D&D type' reforms are underway. The fifth modality, under which arrangement a central ministry or agency contracts a private/non-government agency to deliver specified local services or infrastructure, is also quite common, although it cannot readily be categorised according to normal definitions of decentralised/deconcentrated arrangements. Indeed, as explained in Section C, this kind of arrangement is unlikely to contribute positively to the kinds of

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<sup>119</sup> 'Resourcing' here refers to funding to support investments at sub-national levels in local development and institutional/governance (the latter including technical and advisory services, political and administrative capacity (systems, procedures, norms, skills and human resource).

<sup>120</sup> This point has been well established. See, e.g., Schou and Steffensen (2004).

<sup>121</sup> See Haggard and Webb (2001), Shah (1998). On how grants can be used to promote different political outcomes, see Johansson (2003).

<sup>122</sup> An interesting illustration of this is in Nielsen (2001).

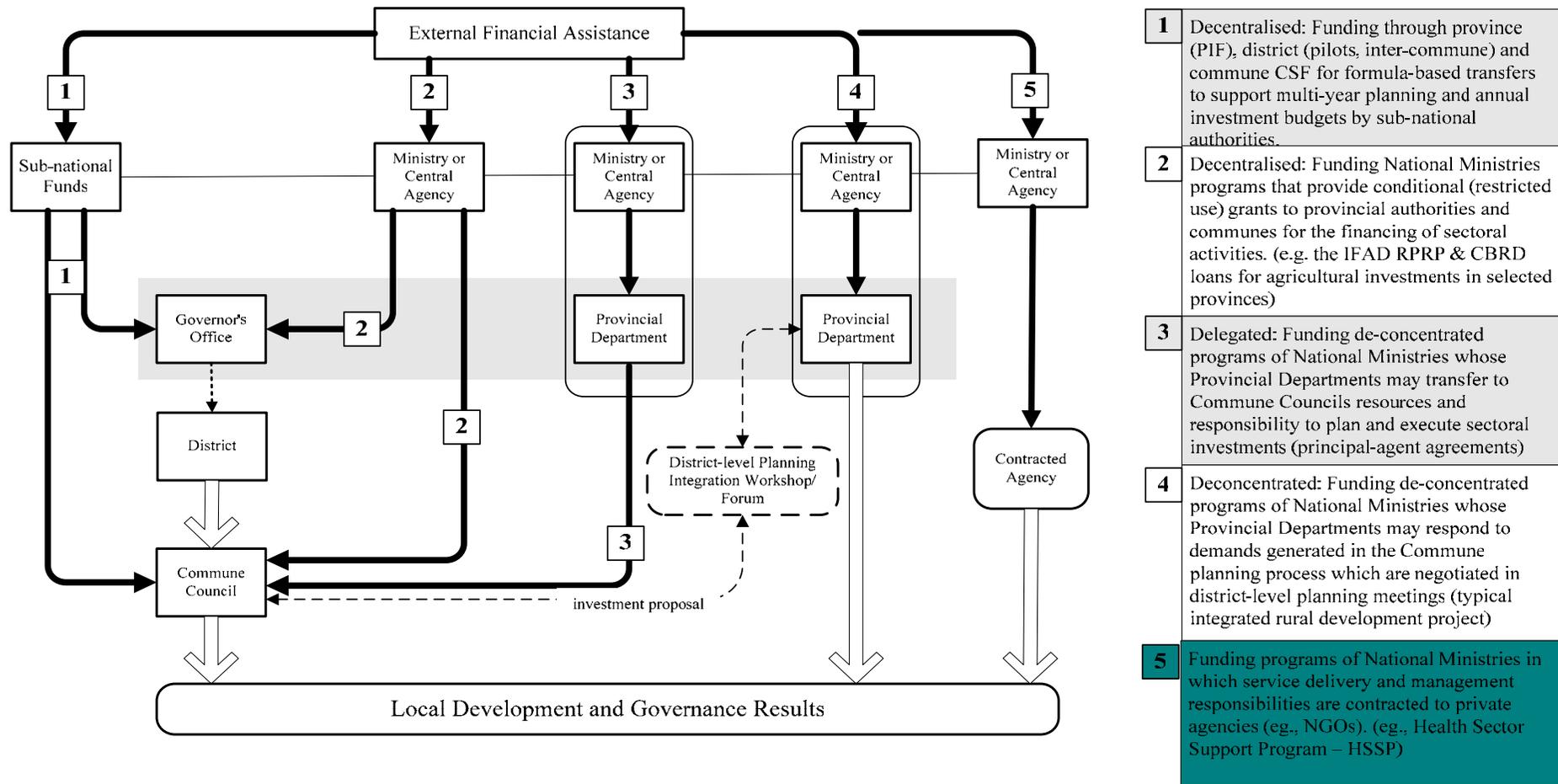
<sup>123</sup> Some modalities are not depicted here. For instance, the USAID-funded LAARs program, just getting underway, intends to contract province NGOs (PNGOs) to implement activities which, whilst aiming to support social investments in selected communes, will channel resources to communes entirely outside the government system. With these exceptions, the bulk of official donor assistance is under varying degrees of control, in the first instance, by national ministries and agencies.

accountability relations at sub-national level that Cambodia's D&D aims to promote.

Important for our point here, is that each of these modalities – decentralised through to deconcentrated arrangements – have implications of a governance nature: a) for how planning, budgeting, expenditure control and financial accountability is achieved, and b) for how the systems are integrated into SNA arrangements. These two points have very important implications for the kinds of accountability relationships that develop in SNAs. This is summarised in Table D.7 which lists the key characteristics of each modality, and their corresponding impact on what RGC policy regards as the foundation of democratic development, namely, local participation, choice and accountability. At present in Cambodia, the overwhelming share of donor assistance to the sub-national level (whether for local governance *or* local development) is directed through sector vertical programs (health, education, agriculture, etc.) in which expenditure authority is either deconcentrated (typically, to province PMUs) or in some cases, delegated under principal-agent arrangements. The difference in practice is the degree of discretion granted to the SNA. As can be seen, some forms of national vertical program (the 'least vertical') are made available in a manner that corresponds to what are known as conditional (or special purpose) grants. Again, these may be quite narrowly defined (e.g., infrastructure, but related only to agricultural production), or broadly discretionary, that is, they may be allocated to investments in a range of sectors (e.g., the Province Investment Fund).

The impact of these different modalities may be considered in three dimensions: i) the degree to which the systems are integrated within the planning, budgeting and expenditure control arrangements of the SNA, or contrarily, rely upon parallel systems; ii) the transaction costs, for the SNA, that arise as a result of the modality – or in other words, the 'efficiency' of the transfer arrangement, and iii) the degree to which the modality promotes or constrains local choice, participation and political accountability of elected leaders to citizens. As is well documented, the 'most vertical' of national programs tend to rely on parallel systems, controlled through donor reporting and accountability requirements. Due to the large number of ex ante and ex post controls on expenditure, extending sometimes from the headquarters of the donor agency (e.g., Washington, Brussels, Manila), through the national, province and/or commune level, these modalities tend to have high transaction costs. This results in higher overheads, slower response times, and correspondingly less invested in the intended objects of local governance or local development. Recognition of these facts are implicit in donor commitments to move towards 'programmatic' aid and alignment with government systems.

**Figure D.2 Current main modalities for donor financing at sub-national level**



**Table D. 5: Characteristics of Donor Modality and Implications for D&D**

		Deconcentrated expenditures	Delegated expenditures	Decentralized expenditures	
			Conditional grants		Unconditional grants
		Vertical programs <i>Most vertical</i> ← → <i>Least vertical</i>			
<b>Characteristics of Modality</b>	<b>Accountability for budget / expenditure</b>	Higher level government	Higher level government & Subnational government	Subnational government	
	<b>Conditioned on:</b>	Not conditional—earmarked by project agreement.	Inputs (earmarking), or processes	Processes, outputs or outcomes	Not conditional
	<b>Expenditure control and accountability arrangements:</b>	Parallel project facility managed by higher level government	Subnational government—but with special arrangements	Rely on existing sub-national government accounts control	
	<b>Awarded through:</b>	Individual ministries or departments or 'special agency' (eg., Seila Task Force)			A 'inter-govt finance commission' (all grants)
<b>Impact of Modality</b>	<b>Degree that systems are made part of normal functioning of subnational governments:</b>	Parallel systems	Parallel systems plus quasi legal compacts	Integrated with statutory arrangements by design	
	<b>Transaction costs / Efficiency of modality:</b>	Very high—special purpose units and establishments	Moderate—proliferation of grants creates demands on local administration	Low—few, strategic conditional grants.	
	<b>Degree to which local choice, participation and political accountability is promoted:</b>	<i>Low</i> ← → <i>High</i>			

However, the third dimension of impact is of prime importance here. As was illustrated in Section C, there are many factors that get in the way of what we referred to as 'primary accountability', (namely, local choice, participation, and citizen accountability in local governance and development), as well as the corresponding accountabilities between elected officials and administrators, and amongst different levels of government, local, province and national. Most of these factors cannot be attributed to donor modalities only. However, our view is that the plethora of national sector vertical programs is one of the key challenges donors and government will need to confront once D&D's organic law(s) are promulgated, and once the functional assignment from national to sub-national authorities occurs.

### ***Three Options for Donor Resourcing of Sub-national Authorities***

Against the background provided in Sections D.1 and D.2, we here outline three broad options for donor modalities to support resourcing of SNAs in the context of the D&D reforms. This outline is done in three steps. First, the broad features of the three options are detailed, along with summary remarks about the degree to which the option departs from current practice. At this point, the possible implications for the managerial, systems and investments of the Seila modality

are indicated.<sup>124</sup> Second, the relative merits of these options are assessed against the seven key principles culled from the Study Terms of Reference, the D&D SF and related statements (as already detailed Section B). The third step draws conclusions and recommendations.

The following points need to be kept in mind about these options:

- i) that the options are not mutually exclusive, in other words, they have some features in common, reflecting tentative proposals already announced by RGC and agreements already reached between RGC and donor partners regarding alignment and harmonisation
- ii) that these options are ‘stylised’ that is, they are presented to aid policy discussion by the IMC and donors. What may eventually be applied in practice will obviously need to be adapted from this stylised form – thus, any of these options would require further technical studies to elaborate their details, following promulgation of the organic law(s), and announcement of the D&D SF (we indicate in Section E the kinds of technical studies that might assist this process)
- iii) for discussion purposes, that these options may be considered for adoption from January 2008 and,
- iv) as will be explained in conclusion, that these options may in some respects be adopted sequentially, that is, there may be a progression, over time, from one modality option towards another.

***Features in Common:***

Each option assumes the following points in common:

- i) that there will be an ‘implementation authority’ empowered to prepare medium-term and annual programs of work and corresponding budgets and monitoring arrangements necessary to oversee both a) RGC – donor relations in respect of D&D (see point ii) below), and b) the actions of national Ministries and agencies responsible to implement the program of work approved by the ‘Implementation Authority’
- ii) that there will be a ‘Forum of the RGC Partners for Support to D&D’ and that choices will have been made with respect to national level RGC-donor relations (as in Section D.3.1 above)
- iii) that organic law(s) will have been promulgated, and that the functional assignment process will have begun, but not yet been concluded (January 2008)
- iv) that the relevant functions of the Seila Task Force and STF/Secretariat relating to donor-government and inter-government coordination, planning and management would be assumed by the ‘Implementation Authority’ and its Secretariat. In this respect, for all options, Seila as an entity is assumed to no longer exist.

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<sup>124</sup> The Study TORs require special attention to the future of RGC’s Seila program. For the purposes of this subsection, we consider Seila has having three ‘components’: a) donor-government and inter-government coordination, policy, planning and management (eg., the STF/Secretariat); b) funds mobilization, management and accountability; and c) sub-national institutional ‘capacity’, including systems and procedures, capacity building, monitoring and evaluation.

## Option A: *Support channelled to Sub-national Authorities through Sectoral Programs*

In summary:

- donors channel support for SNAs through the national line ministry currently mandated to do so. For instance, *sector* investments intended for health, education, rural development, etc., through the respective line ministry, or *core* sector investments intended for financial or political / administrative capacity through ministries responsible for finance, and sub-national administrations, respectively.
- donor support would be aligned through two mechanisms: a) primarily, the Forum of the RGC Partners for Support to D&D, and b) secondarily, forums for adoption of sector policy (in some cases sub-sector Action plans [as in agriculture, forests], or variants of sector-wide programs [as in education and health]) and the respective Technical Working Groups as exist for those sectors.
- that until the sector/function had been given to a SNA, donor support would reach provinces and districts in the form of deconcentrated or delegated expenditures with limited local discretion.
- donor support for Communes may be channelled through a) decentralised sector grants or b) delegated expenditures.
- donor support would be safeguarded through a) currently practised vertical controls on expenditure, b) reports on delegated expenditures against budget allocations to ensure expenditures were consistent with agreed priorities, iii) financial accountability/audits on a sectoral and/or project basis, and iv) audits of CSF.

Degree of departure from current practice

- Common practice in most 'D&D priority sectors' (education, rural development, etc.), that is, consistent with modalities 3 and 4 in Figure D.1.
- All province and district budget and expenditure by sector would be handled on a individual ministry / sector basis, rather than through the current range case (as depicted in Figure D.2 – current modalities)
- For current Seila functions: a) funds mobilization, management and accountability would become a sector ministry responsibility (consistent with responsibilities for rural development, agriculture, forestry, health, education, women's affairs etc.); and b) institutional 'capacity', including systems and procedures, capacity building, monitoring and evaluation, predominantly, *although not necessarily exclusively*, Ministry of Interior. Presumably, other ministries with sectoral responsibilities would have particular procedural/institutional responsibilities as well.

**Option B: *Support to Sub-national Authorities channelled through Inter-governmental Grants Financed by Sector Budget Support***

In summary:

- donors direct funds through national budget as ‘D&D Sector Budget Support’. (Note: this may be an agreed share of donor resources directed through the ‘*D&D Reform Facility*’ noted in Section D.3.2 above)
- donor support would be aligned through the Forum of the RGC Partners for Support to D&D and related ‘D&D implementation agreement’
- allocations of donor Sector Budget Support to sub-national authorities would be governed by the NSDP, and sector allocations made on this basis (perhaps, in future, through a MTEF)
- donor assistance to sub-national authorities would be transferred through intergovernmental grant systems, including ‘general purpose grants’ (for administrative/political expenditures and discretionary development expenditures), and special purpose grants (e.g., for primary health, NREM, road infrastructure, or capacity development)<sup>125</sup>
- SNAs would receive grants through formulae which reflect a) their functional responsibilities (ie., expenditure assignments), b) special considerations such as equalization, poverty targeting or performance
- Donor support safeguards could include: a) ‘D&D Sector’ expenditure out-turn reports; b) audits of sub-national authorities expenditure; c) expenditure tracking surveys<sup>126</sup>, or performance reports on sub-national service delivery
- An element of ‘performance’ based allocation could be introduced, to create incentives for positive administrative (planning, financial, etc.) or service delivery performance.

**Box D.8 Sector Budget Support**

Sector budget support is provided on the basis of agreement on a policy and expenditure plan (multi-year or annual) for the sector, with the understanding that the funds made available would be used to support achievement of policy implementation. The aid helps to finance the agreed sector expenditure plan (e.g. AWPB), and is disbursed and accounted for through government systems

Degree of departure from current practice:

- This modality could not be used to resource expenditures by provinces or districts before functional assignment had occurred. It need not have occurred for all sectors, or for each level (province or district) before this modality could apply.
- Donor national-level ‘budget support’ would be a major departure from current practice.<sup>127</sup> In this option, donor funding might be provided according to a mutually (government and multiple donors) agreed D&D implementation framework, and released annually,

<sup>125</sup> Elsewhere, these grants are the subject of special multi-year awards made by an ‘intergovernmental finance commission’ (either as part of ministry of finance, or an agency reporting directly to parliament).

<sup>126</sup> Expenditure tracking surveys have been undertaken in Cambodia’s education sector. These surveys, applied first in Uganda’s education and health sectors, have been used effectively to identify points of ‘leakage’ (misappropriation, etc) and delay in the transit of donor and national budget resources to the eventual point of expenditure (such as the school, the clinic, etc).

<sup>127</sup> The World Bank is currently preparing a Poverty Reduction Support Operation (PRSO) which will provide ‘Sector’ Budget Support, in the sense that funds will be released in response to achievement of a range of prior actions or ‘triggers’ (e.g., progress with PFRMP implementation benchmarks). See World Bank (2006b).

following mutual approval of an annual workplan and budget.

- The main features, planning and control systems for a) grants transfers and b) special purpose ‘grant’ transfers (NREM, Seth Koma, etc.) already exist in the Commune case
- The province investment fund, and allocations to districts for inter-commune planning and ‘district pilot’ activities, provide a basis for design of a more formalised grant system
- For current Seila functions: a) funds mobilization, management and accountability would become a responsibility of MoEF<sup>128</sup>; and b) institutional ‘capacity’, including systems and procedures, capacity building, monitoring and evaluation, predominantly, *although not necessarily exclusively*,<sup>129</sup> MoI.

**Option C: *Support to Sub-national Authorities channelled through Multiple Financing Instruments disciplined by RGC-Donor D&D Agreement***

In summary:

- Donor funds support to SNAs may be channelled through multiple modalities, including:
  - a) share of a dedicated ‘*D&D Reform Facility*’ (as in Section D.3.2) which would be used to finance general purpose grants (for administration and development expenditures)
  - b) specific purpose grants (conditional grants – health, agriculture, NREM<sup>130</sup>, etc.) for communes, provinces and districts
  - c) sector programs and area development projects, through which communes, provinces and districts may access funds under principal- agent agreements
- Donor support would be aligned through a) primarily, the Forum of the RGC Partners for Support to D&D, and b) secondarily, sector TWGs in the case of sector program funding.
- An element of ‘performance’ based allocation could be introduced, to create incentives for positive administrative and governance performance (participation, public access to information, grievance redressal, planning, financial management, etc.) or service delivery performance. These incentives could be attached to the general purpose grants, and/or the specific purpose grants.
- Donor support safeguards could

**Box D.9 General Purpose Grant: Potential Objects of Spending**

A Recurrent expenditure:

- 1) merit/performance bonuses,
- 2) technical/advisory services
- 3) capacity development
- 4) operations and maintenance of facilities

B Development expenditure:

- 1) design and technical supervision
- 2) public awareness, grievance redressal and advocacy services
- 3) social, environmental and economic investments

<sup>128</sup>This would be logical, since MoEF (or a national ‘intergovernmental finance commission’ mandated by law) would have the lead role in developing intergovernmental grant systems.

<sup>129</sup>For instance, responsibility for intergovernmental fiscal transfer systems, budget making/execution and financial management (MoEF, or national ‘intergovernmental finance commission’ mandated by law), and for audit (National Audit Authority)

<sup>130</sup>This is similar to the D&D NREM grant proposed for inclusion in the DFID/Danida supported Natural Resource Management and Livelihoods Program: Natural Resource Management in Decentralization and Deconcentration Component.

include: a) *D&D Reform Facility* expenditure out-turn reports; b) audits of sub-national authorities expenditure on general purpose and specific purpose grants; c) sector program expenditure tracking surveys, or performance reports on sub-national service delivery; and d) for area development projects, current arrangements for province to national reporting and accountability.

Degree of departure from current practice:

- As noted in Section D.3.2, the design of '*D&D Reform Facility*' may have similar features of the multi-donor PFMRP 'trust fund' and Seila/PLG 'trust fund', although a dedicated technical study would be required to design the Facility.
- Experience is available in Cambodia that is relevant to design of general purpose and specific purpose grants, and provided sufficient technical resources and political commitment were also available, these could be put in place in a way that would support (that is, not prejudice) subsequent design of full scale intergovernmental grant system
- Numerous national sector programs, and sub-national area development projects currently enter into 'principal – agent' agreements with provinces and communes (negligible experience with districts), however, the (critically important) alignment of donor support to these kinds of programs to a common, cross sectoral 'RGC-Donor D&D agreement' would be new, by definition.
- For relevant Seila functions: a) funds mobilization, management and accountability would become a responsibility of MoEF due in particular to the fact that general purpose and special purpose grants are involved<sup>131</sup>; and b) institutional 'capacity', including systems and procedures, capacity building, monitoring and evaluation, predominantly, *although not necessarily exclusively*,<sup>132</sup> MoI.

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<sup>131</sup> Aspects of this function (including grant design and monitoring/evaluation and reporting on grant performance) may be a function of MoEF, or a national 'finance commission' mandated by law.

<sup>132</sup> For instance, responsibility for intergovernmental fiscal transfer systems, budget making/execution and financial management (MoEF, or national 'finance commission' mandated by law), and for audit (National Audit Authority).

**Table D.6: Main Features of Options For Donor Resourcing of Sub-National Authorities**

	<b>Features</b>	<b>Option A</b>	<b>Option B</b>	<b>Option C</b>
1	<b>Donor coordination agreement</b>	With ‘Implementation Authority’	With ‘Implementation Authority’	With ‘implementation authority’
2	<b>Primary operational agreement:</b>	With national Ministries	Ministry of Economy/Finance	a) ‘implementation authority’ & MoEF <sup>133</sup> b) sector Ministries <sup>133</sup>
3	<b>Donor support channelled through:</b>	Line ministries	Inter-governmental grants (general & special purpose)	1. Grants, general & special purpose. 2. Line ministries
4	<b>Shown in the budget of:</b>	Line Ministry	Sub-national Authority	1. Sub-national Authority 2. Line Ministry
5	<b>Sub-national decisions</b>	1. Investments ear-marked by sector/project agreement. 2. Sub-national planning for operations and implementation	1. General purpose grants: local discretion 2. Special Purpose grants: discretion within conditions of grant	1. General purpose grants: local discretion Special Purpose grants: discretion within conditions of grant. 2. Sector/project agreements: line ministry or province department
6	<b>Expenditure control and accountability:</b>	1. Parallel project facility managed by line Ministry, and/or delegated to sub-national department project unit. 2. National audit authority.	1. Sub-national authority budget, execution. 2. National audit authority.	1. Sub-national authority budget, execution. 2. Parallel project facility managed by line Ministry, and/or delegated to sub-national department project unit 3. National Audit Authority
7	<b>Transfers primarily controlled by:</b>	IA and ministries, with MoEF transfers	‘national finance commission’ awards approved by National Assembly	1. IA and MoEF transfers 2. IA and ministries

### ***Assessing Options against D&D Parameters and Criteria***

Section B concluded with seven key principles and corresponding criteria for each which the Study was tasked to consider in proposing options for donor support to D&D. The following thus narrates the comparative strengths and weaknesses of each option and draws on both Cambodian experience where available (e.g., Section C) and international experience as appropriate.

#### ***1. Local Participation and Choice***

*How would each option promote participation in determining local needs; plans and budgets which reflect local choices for priority services and infrastructure; and participation in implementing and monitoring the outcomes of local decisions?*

Each of these options can promote participation in determining local needs. However, the kinds of participation likely to occur under each option, particularly comparing Options A and B, may be distinctly different. Under Option A, participation is likely to be fragmented since it would tend to occur on a sector basis. As evident in the illustrations in Section C, community participation under

<sup>133</sup> For sector programs and area development projects.

sector or area-based vertical programs tends to be of a ‘directed’ and ‘consultative’ form, that is, highly constrained by existing sector priorities (determined from higher levels) or pre-set ‘menus’ of investment options. Sector-wide approaches, especially where they include large vertical programs that ‘reach’ across all aspects of the sector (policy, planning, operations and monitoring) can be attractive at the national level. But in practice, it has been shown that sector-wide approaches can result in: i) side-lining of lower-level, cross sectoral community-level planning, ii) an increasing number of vertical controls, thus reducing local discretion, and iii) channelling support to institutions that operate in parallel with SNAs. In some cases, it has been observed that donors switching to a sector-wide approach has actually reduced the volume of resources available to SNA operations at the community level.<sup>134</sup>

Option B is least fragmented, and potentially least ‘directive’, since it would provide general purpose grants to SNAs, to enable them to allocate resources through participatory planning processes that were, compared with Option A, less constrained. Option B would be least likely to direct citizen choices according to pre-existing sectoral or other priorities or to pre-set, sectoral menus. Participation would be enhanced by clear budget constraints (that is, less likely to promote ‘wish list’ planning), and a high degree of discretion within the constraints of the grant. Conditions on the grant could be used to encourage rather than direct observance of national policies (e.g., community participation, sector priorities, public access to information, etc.). Option C provides for elements of both Option A and B. However, under Option C, it may be more likely that national sector and area-based programs would be subjected to more scrutiny, (for compliance with the D&D principles) through the donor-government agreements and fora noted earlier.

In theory, Options A, B or C need not be different in terms of local participation in implementation. In all options, of critical importance in determining the effectiveness of ‘community voice’ in monitoring implementation is the extent to which local elected representatives are able to be held accountable for the results. This accountability is promoted best where local elected officials are empowered as the ‘client’ for implementation activities. This tends not to be the case in typical, Option A vertical program arrangements, whereas it is typically the case in respect of inter-governmental grants (as under Options B and C).

## *2. Political and administrative accountability*

*How would each option promote accountability of administrative officials to elected leaders; integration of local choices with national policies and priorities; and unified administration?*

As observed in Section C, while Option A’s reliance on vertical programs would promote clear communication (as in ‘direction’) of national priorities to SNAs, it is difficult to also promote the primary accountability of elected leaders to citizen demands under these arrangements. Under typical Option A arrangements, local leaders are most likely to be only in a ‘consultative’ role with respect to investment planning, budgeting, implementation and monitoring decisions. In other developing country experiences, this most often happens because the accountability of the SNA staff, on which elected leaders depend to follow through on local plans and budget choices, is primarily directed ‘upwards’ towards the higher level administrations and national government with whom agreements are reached and accountability enforced.

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<sup>134</sup> See Shepherd (2001), Nielsen (2001), Land and Hauck (2003), Porter and Cyan (2006).

Under Option B, within the limits permitted by the grants made available (from more to less discretion), decisions on plans, budgets and investments are under the control of elected representatives. Grants systems can provide predictable budgets (otherwise called ‘hard budget constraints’) and this can promote better accountability of administrative officials to elected representatives and more disciplined action by both. Under Option B, unified administration would be encouraged through better correspondence between multi-sectoral plans and budgets, and by primary role of elected representatives in approving plans and budgets. Under Option C, province, district or commune administrations would tend to operate in a ‘unified’ manner only in respect of decisions about those projects and grants that had been included in the RGC-donor D&D agreement – the reasons for and importance of this instrument were illustrated in Section C.

Thus, Option C does offer the prospect of binding sector and area development programs into SNA planning, budget-making, etc. processes, that is, it could promote unified administration and alleviate the difficulties noted in Section C with respect to the constraints on horizontal accountability arrangements (such as PRDC/ExCom) for integrated planning, budgeting and implementation. This could have the positive effect of increasing the observance by national sector vertical programs of D&D *local governance* priorities, and allow for the eventual transition of many of these kinds of programs into an intergovernmental grant system, such as envisaged under Option B. Thus, Option C modalities could be used to promote both national priorities and local choices. Option C is also more reflective of relative inexperience of sub-national elected politicians, in how they govern, that is, regulate and deal with service delivery, in that not all resources made available at the sub-national level would be immediately provided through grant systems.

In this respect Option B would not give, for the foreseeable period in Cambodian politics, much assurance to donors or RGC that national priorities would be observed in sub-national decisions that responded only to local choices. The grants under Option B could be relatively narrowly defined to achieve this purpose, to give greater assurance, but increasing reliance on this approach would constrain local choice and increase transaction costs.<sup>135</sup> Similarly, for the foreseeable future, sub-national systems through which data could be assembled to enable monitoring of how this integration was, or was not, occurring will not be available at the scale or with the level of reliability required.

Again, on transaction costs and efficiency, Option C presents a middle course. Whereas the number of national to sub-national arrangements (expenditure controls and financial accountability checks) that would result from Option A will be highest, Option B could be expected to result in the least transaction cost from the viewpoint of SNAs, national government and donors.

### *3. Government ownership*

*How would each option promote: ownership of designated (national and sub-national) authority; avoidance of duality of responsibility (except as stipulated by laws); and reduction in parallel systems?*

One key, perhaps determining point in this aspect of the assessment is how the functional assignment occurs, following promulgation of the organic law(s). This is not simply a matter of ‘when’ functional assignment occurs, although this is certainly important. Also important will be decisions RGC has yet to make about whether functional assignment also provides full authority with respect to all budget decisions, that is, relating to staffing (levels, norms, appointments,

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<sup>135</sup> In this sense, the conditional grants would begin to operate like vertical programs (See the overlap in Table D.7).

postings and transfers), non-salary recurrent expenditure, and development expenditure. *This is noted not to cast doubt on the RGC's intentions, nor to suggest that the RGC must handle these matters in any particular manner.* However, international experience has been that in most cases SNAs are assigned functional responsibilities but with only varying degrees of control over budget expenditure decisions. Most often, for instance, control over recurrent expenditure relating to staffing/human resources is either not devolved, or this occurs at a much later stage than control over development or non-salary expenditure. This may seem to be a minor point in reference to 'ownership'. However, it greatly influences how donor modalities, in practice, promote 'ownership' by SNAs of activities supported by donor resources. Often, the determining factor in how SNAs regard the 'ownership' of any system at the sub-national level is 'who pays the wages', that is, on who, which level of administration controls wages/salary and other incentives, and authority over postings, transfers and appointments.

With this proviso in mind, it is likely that 'ownership' by national government authorities would best be promoted by Option A arrangements. Functional reassignment, following promulgation of organic law(s) would naturally attempt to un-bundle all national line ministry programs, and give responsibilities to SNAs accordingly. However, international experience is that it is difficult to transfer expenditure controls over sector vertical programs to SNAs. This tends to be more problematic where there are not already examples of decentralised grant systems in operation – as is currently the case in Cambodia and would continue to be the case under Option C. Whether these would be maintained in their current form (such as the Province Investment Fund – which is multi-sectoral) under Option A is uncertain, but in the Team's view this is unlikely. This is because the current multi-sectoral decentralised funds now in operation at province, commune and to a lesser extent district level, would under Option A be disaggregated across more than one line ministry. Unsurprisingly, ownership by SNAs is least likely to be promoted by Option A.

Under Option B, provided that clear functional assignment had been achieved, that is, the problem of 'co-occupation of mandates'<sup>136</sup> had been dealt with, neither 'duality' nor 'parallel' systems would exist. Under Option C, the same proviso as noted above for Option B would apply. However, much would depend on a) whether the donor financing the sector or area development project had agreed to be bound by the RGC-Donor agreement on D&D (that is, to 'align' with D&D implementation strategy), and b) if such had occurred, whether their own procedures (for disbursement, reporting and accountability) permitted such alignment to occur. Where this was not possible, parallel systems would remain in place.

#### *4. Fiscal transparency and accountability*

*How would each option promote: transparency and accountability in funds management at all levels of government; transparent procedures and mechanisms for mobilising and managing external funds and; international good practice for monitoring and safeguarding donor funding?*

Although responsibility for the current situation must be shared, it should be noted that fiscal transparency and accountability is not primarily determined by donor modalities. Special measures may be put in place to promote transparency of donor funds management, and to adopt international good practices to provide safeguards. These include parallel control and accounting systems, expenditure tracking arrangements, public expenditure and accountability boards/committees, and special purpose external audit arrangements, to name a few, as well as 'performance' arrangements to provide incentives to properly administer these systems. But in the

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<sup>136</sup> Co-occupation of mandates occurs where more than one level of governmental authority – national or sub-national – is either made responsible by law for a particular function or, de facto, assumes such responsibility through the provisions of a particular project agreement or directive even though it may be contrary to the stipulations of law.

final analysis, fiscal transparency and accountability depends on the integrity and character of government systems (of accounting, auditing, pay and performance/sanction), especially if there is a strong desire to avoid parallel arrangements. It is not clear what kind of fiscal transparency arrangements are envisaged in the organic laws relating to D&D or the budget process (now being considered for amendment). It is however, clear that there exist real fiduciary risks in all systems which rely for transparency and fiscal accountability on existing RGC systems and practices.<sup>137</sup>

Thus, whilst there is clear indication of commitment by RGC to fiscal accountability and transparency reforms, currently, the fragmented budget formulation and execution, pre-audit arrangements, weak cash management systems and accountability problems associated with the government system, would likely cause donors to insist on special, parallel measures in the case of Option A, and to shy away from the arrangements under Option B. In principle, Option A would see the assembly of all spending on a national sector basis, thus at least promoting medium term national-level planning and budgeting (e.g., the MTEF), and potentially allow for easier tracking of sector spending. However, this in itself would not reduce documented difficulties in safeguarding transfers in the treasury or line ministry environment, particularly between national and province levels. Option B would face major hurdles because of the lack of credibility of the national budget, the lack of defined and approved inter-governmental transfer systems, the centralised systems of payment order approvals, and weak sub-national expenditure controls, including for procurement.

The establishment of the elected Commune Councils has provided a major opportunity through which donor confidence in government systems has improved. Mechanisms articulating provincial priorities and commune plans are clearer than at the central / provincial juncture (due to the joint MOP/ MOI regulations on the commune participatory planning process). Commune Councils (which have had access to un-earmarked local development resources through the CSF since 2002) are legally accountable for organising a broad, village-based participatory planning process, the result of which is discussed and integrated with other local plans (provincial plans, donor projects, NGO support) at a district integration workshop. An increasing number of donors (both official and NGO) have adopted treasury systems for channeling resources to province, district and commune level. These ‘confidence building’ features would be retained in Option C.

##### *5. Flexibility and sustainability*

*How would each Option promote: flexible arrangements to enable donors to respond to phasing of D&D implementation and sustainability of funding commitment, to enable RGC to plan and budget for implementation of D&D over the medium term.*

The lack of sustainability of donor interventions has been an ongoing concern, and this has been particularly marked in respect of decentralization.<sup>138</sup> Few donor assisted programs have successfully achieved sustainability by institutionalizing their planning/budgeting, regulatory and implementation arrangements, replicating nation-wide, or providing effective feedback to national policy makers, or elaborating an exit or mainstreaming strategy. However we have illustrated numerous positive instances where sustainability has occurred in these terms, in Section C.

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<sup>137</sup> These conclusions may be drawn from Bartholomew and Betley (2004), Dom, Ensor and Suy (2003). Seila Program (2006, 62), where arguably the most donor experience has been gained with province finance/treasury, banking systems, notes “for the foreseeable future, and through the next phase of D&D, an external finance system linked to the government’s budget and programming cycle, will almost certainly be necessary”.

<sup>138</sup> Schou and Steffensen (2004).

The impact of different options on flexibility and sustainability largely depends on national level arrangements through which agreements are made with donor partners regarding D&D, as noted in Section D.2. The quality, and strength, of these arrangements impacts directly on government's ability to plan and budget for implementation of the reforms over the medium term. These factors are not, in essence, attributable to the particular option chosen for channelling donor resources to SNAs. We assume, therefore, that Option A, B or C would all be underpinned by principled, multiyear funding commitments which are in turn based on the above mentioned factors.

That said, each option does have implications for flexibility from both the government and donor viewpoint. The potentially adverse effects have been best documented for Option A arrangements, largely controlled by multiple line ministries. Sector program approaches – which are emerging in health and education, and to a lesser extent in agriculture, fisheries and forestry, can have a positive impact on flexibility *within* the sector concerned, especially if responsibility for that sector sits with one or few national agencies. However difficulties have been documented in integrating sector-wide approaches with decentralised arrangements. In part this has occurred because sector line ministries tend not to regard decentralisation as the best way to achieve their priorities (resource control, or MDG outcomes, for instance).

Option A arrangements constrain flexibility also because of the proliferation of agencies, systems, procedures and priorities within and across sectors presents real difficulties for authorities charged with responsibility for implementing decentralisation policy; even 'single sector' decisions must reach working agreements with a large number of often competing actors both within the ministry primarily responsible, and with other agencies that are typically also involved in the same sector.

There is little doubt that Option B would in the longer run offer the greatest flexibility, and offer the best prospect of securing high profile sustainable support. But, as noted with respect to fiscal transparency and accountability, moving directly to Option B modalities would likely be regarded by the donor community as premature. Option C, on the other hand, would allow donors to opt for a variety of arrangements: common '*D&D Reform Facility*' funding, free standing technical assistance, area development projects, decentralised investment funds, and sector development projects. This flexibility would prove beneficial for RGC *only* to the extent that the majority of donors made firm commitments to the D&D implementation strategy, and to an annual, review, workplan and budget process through which mutual accountability could be promoted and disciplined. Thus, the role of the 'implementing authority' again becomes critical.

#### *6. Managing for results*

*How would each option promote: arrangements that are feasible, in terms of capacity, and acceptable to government and donor partners; realignment of programs and projects in accordance with D&D policy; and create incentives for good performance at sub-national levels?*

Aspects of this assessment are evident in remarks already made regarding other principles. Options A and C are clearly the most technically *feasible* since their major elements are already familiar and in operation in Cambodia. Option A, from experience elsewhere, would likely receive most acceptance by national ministries and agencies, and donors who primarily operate through this modality. However, it may also be likely that Option A would not be positively regarded as feasible by donors that also direct their support through a wide range of alternate arrangements, including the decentralised modalities which have been positively assessed according to the range of principles already considered. Indeed, many would likely regard Option A as a retrograde step, not just because many would perceive it as being inconsistent with the direction of D&D policy, but also because the alternate, decentralised arrangements included in Option C have shown such evident promise. This conclusion could be anticipated from a range of

donors, and for a very wide range of local governance and development ‘results’: whether these include provision of Commune office facilities (ADB), agriculture and natural resource management (Danida, IFAD, others), commune-level infrastructure (at least 10 donors), or innovations in child/maternal rights and domestic violence (Unicef, others)

Which option could best assist donor *realignment* with D&D policy? Clearly, Option B. But the reality is that few donors a) are likely to accept the fiduciary risks associated with Option B, and, as important, b) not all donors are presently equally confident that D&D will bring the promised results, in terms of either local governance or local development. Thus, Option B carries the present risk of some donors opting not to participate in the top-level coordinative agreements discussed in Section D.2. This would be to the detriment of RGC efforts to achieve greater donor alignment with D&D. Option C carries the promise of enabling the majority of donors – advocates and sceptics alike – to join in common purpose, whilst at the same time directing their resources through different modalities according to their respective operational policies and levels of confidence. Over time, as the Seila experience shows, the evaluation of alternate modalities against the RGCs D&D ‘principles’ (such as the list of principles used here to assess different options), the sharing of experience and demonstration of results can have a powerful donor ‘alignment’ effect in favour of D&D.

In principle, there is no necessary distinction among the three options in terms of incentivising good local performance. Performance criteria could be agreed between national and SNA levels for each option, common assessment procedures agreed, and arrangements made to increase or decrease resource transfers according to the results of such assessment – this could apply at the individual, agency or sector level, and be applied to good governance or development performance. However, experience suggests that intergovernmental grant systems (Options B and C) provide the more ideal environment in which to promote such arrangements.<sup>139</sup>

#### *7. Donor government cooperation*

*How would each option promote: appropriate mechanisms for coordination amongst donors; efficient and effective mechanisms through common arrangements and simplified procedures; closer cooperation, understanding and consultation between government and donors?*

Different options favour more or less flexibility, coordination, transaction cost and alignment. But this final principle of assessment clearly depends on the arrangements adopted by government and donors at the national level – as noted and recommended earlier. To reiterate, governments can promote coordinative mechanisms, effective common arrangements, harmonisation around simplified protocols for directing assistance where: a) there is a credible commitment to a national poverty reduction strategy and clear statement of how decentralisation figures in this strategy; b) a clear, medium term (D&D) strategy is in place with commitment at the highest level, and c) where there is a national authority empowered to coordinate, both across government and with the donor community, and to prepare annual workplans and budgets which commit both government and donor resources to the strategy. Mutual accountability, which underlies effective donor-government coordination is achievable, but it is more likely to be within reach when these enabling conditions exist.

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<sup>139</sup> A useful summary of experience with performance-based systems to support adoption of decentralisation policy priorities for both ‘governance’ and ‘development’ purposes is Steffensen and Larsen (2005).

### D.3.4 Donor Modalities for D&D Support – Preferred Option

In the two previous sub-sections D.3.2 and D.3.3, the respective Option C had been indicated as the preferred and most realistic option in the medium term, both for donor support to policy formulation and policy management, as well as for donor resourcing of SNA. In the following, we summarise a combined version of these two options C as the suggested modality for donor support to D&D.

#### *Core Features*

This combined Option C would have the following core features:

- the 'Implementation Authority' with a strong legal and political mandate as the key government agency to coordinate and direct donor support to D&D and to manage the RGC-donor relationships in the D&D reform process
- executive oversight of donor support to D&D implementation by this Authority; however not all D&D support activities will necessarily be *implemented* by it as they will also be implemented by other government agencies and sub-national authorities in line with their respective constitutional and legal mandates
- a D&D Implementation Strategy as Government's *programmatic* road map for the implementation of the D&D reform, which would also highlight and prioritize the needs for external support
- common instruments, including an Annual Work Plan and Budget (AWPB) of the 'Implementation Authority' and an Annual Performance Review (APR), which would promote government ownership of D&D support by integrating D&D support activities at national and sub-national level on an annual basis. The AWPB and APR would include not just resources (government and donor) for which the Authority had *implementation* responsibility, but would potentially embrace all national and sub-national programs and activities for which other national and sub-national authorities have implementation authority but which are impacted on by D&D implementation
- a RGC-Donor Agreement on D&D which clarifies principles and objectives of cooperation ('rules of the game;') and serves as the umbrella for legally binding agreements between donors, the Authority, other RGC agencies and sub-national authorities
- an annual high-level event (labeled here 'RGC-Donor Forum on D&D') (see Table D.4).

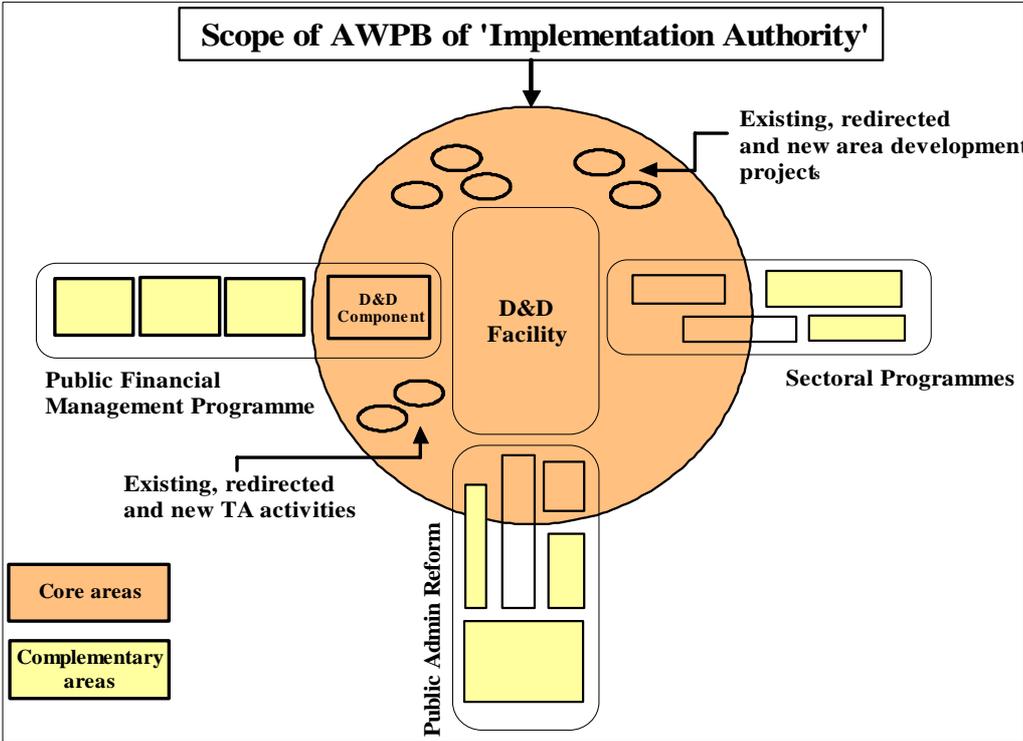
#### *Funding Arrangements*

In order to fund D&D implementation, the RGC would make use of a mixture of resources (as shown in Figure D.3. These would include donor resources pooled in a *D&D Reform Facility* under the management of the Authority, and resources from 'stand-alone activities' which are rooted in the Government's D&D Implementation Strategy and are reflected in the AWPB of the Authority. Stand alone activities would include donor financed technical assistance and service delivery projects partnered with national ministries and agencies (including but not limited to the Implementation Authority); and could on a case by case basis include sub-national sector development or area development projects with significant SNA capacity development components and/or sector investment components. Resources in complementary areas (like public financial management reform, civil service reform) can come from donor commitments in these areas if and where they address D&D issues. To reflect such resources in the Authority's AWPB does not mean that the Authority will *execute* all these activities – they remain under the management and *implementation* authority of the respective agency, however are integrated and embedded through the RGC-Donor Agreement and the AWPB to allow for better coordination.

In this option, the pooled resources are a crucial instrument for the 'Implementation Authority' to ensure full implementation of the D&D policy reform in line with the D&D Implementation Strategy. Funds from the *D&D Reform Facility* can be used for a number of purposes:

- to fund the Authority's own needs for staffing and operations, for technical support/consultancy and for equipment;
- to fund TA needs of other government agencies in implementing the D&D reform, e.g. of sector ministries reviewing functional assignments, or needs of the CAR and of the Secretariat of Public Functions in reviewing HR systems and policies; such funding of other government agencies would be formalised in TA contracts between the Authority and the beneficiary<sup>140</sup>;
- until a full-fledged intergovernmental fiscal transfer system is in place, the *D&D Reform Facility* can also be used to fund budget needs of sub-national authorities, both for development (capital investment) purposes as well as for recurrent purposes (see section D.3.3 for proposal details).

**Figure D.3 Funding Sources for D&D Implementation**



<sup>140</sup>It would need to be determined whether the 'Implementation Authority' would handle all contracting of technical/consultancy services or delegate this function to national ministries/agencies. Presumably, this decision would depend on the relative capacity of the 'Implementation Authority' (at the outset, a newly created, inexperienced body) and national ministries/agencies (some of which, such as MoEF, are accumulating experience with consulting contract management).

**How would the *D&D Reform Facility* be managed?** As explained in Section D.3.2, the management of such a basket (or trust) fund includes several functions which do not need to be combined in one agency, but could be divided between several actors. Such functions include the (1) mobilization of donor funds, (2) the allocation of funds, and (3) financial management (like procurement, disbursement, accounting and audit). Regarding fund mobilization, the Study Team envisages a shared role of both the CDC (being the government agency being tasked with coordinating external aid) and the 'Implementation Authority' (being the government agency to be charged with overseeing the D&D reform process). Like in the case of the current Seila program, legally binding agreements pertaining the provision of funds to the *D&D Reform Facility* would require tripartite agreements between the MoEF, the 'Implementation Authority' and the donor. The responsibility for fund allocation would clearly be with the 'Implementation Authority' in consultation with all national and sub-national agencies identified in the AWPB as having specific responsibilities – the AWPB is a key instrument to coordinate and direct D&D implementation, and allocating funds gives the Authority the opportunity to ensure that its priorities are being addressed. Financial management should become the Authority's task as well, however in the short and medium-term an external fund manager could be contracted (see also section D.3.2). As the D&D reform process matures and managerial capacity of the 'Implementation Authority' increases, the fund management may then be taken over entirely by the Authority, if this is judged to be the most efficient approach. Once public financial management systems have become stronger, donor support to D&D (especially for resourcing of SNA) could move towards budget support (as outlined in Option B, Section 3.3). Achievement of the benchmarks of the Public Financial Management Reform Program would be the main requirements to trigger such a shift, as only then donors would have sufficient confidence in government's budget and treasury systems.

**What would be the role of individual government agencies under the scenario described above?** The 'Implementation Authority' would be the receiver/caretaker of the *D&D Reform Facility*, and be in charge of allocating funds in line with agreed AWPBs. Other ministries and government agencies (like MoI, MoEF, sector ministries, the Secretariat for Public Functions) would either receive D&D support through individual agreements with donors (to be reflected in the Implementation Authority's AWPB), and/or receive support from the *D&D Reform Facility* in order to implement D&D reforms which fall under their respective constitutional and legal mandates. Funding by the Authority (using resources made available under the *D&D Reform Facility*) would be subject to contractual arrangements between the ministry/government agency and the Authority, which specify objectives, activity schedules and outputs. Sub-national authorities would receive funding from the *D&D Reform Facility* until a proper intergovernmental fiscal transfer system has been established. They would also receive funds from other resources (like individual agreements with donors, sector programs) which would be reflected in the Authority's AWPB (but would not be implemented by it).

**What kind of contractual relationships would exist?** Five kinds of contractual relationship would be required. First of all, there would be the RGC-Donor Agreement on D&D as a programmatic umbrella defining policy principles, modes of cooperation ('rules of the game') etc. Second, there would be separate, tripartite agreements between the Authority, MoEF and the donor regarding contributions to the *D&D Reform Facility*. Third, for those donors not willing to pool resources, there would be bilateral agreements between donor and executing agency (such as MoI, or a sector ministry, or a specific sub-national authority). Fourth, between the Authority and government agencies receiving support financed by the *D&D Reform Facility*, there would be TA contracts specifying objectives and activities. Fifth, depending on the kind of sub-national financing envisaged in the organic laws, there would be funding agreements between the Authority and sub-national authorities (unless some kind of intergovernmental fiscal grant system is being used, like in the case of the CS Fund).

The *D&D Reform Facility* is a key feature of the suggested modality, and the design of the Facility (objects of funding, funding shares and flows, accountability, management) would require more detailed preparation as suggested in Section E.2.

### **D.3.5 Transition of Seila Program**

The Study Team's IMC working group requested that specific recommendations were provided regarding the future of RGC's Seila Program. In our view, decisions regarding Seila are only one part of crucial and pressing decisions that must be made about national programs across a range of priority sectors (health, rural development, agriculture and natural resources, land, education). Many of these nation-wide programs, as well as substantial sub-national area development programs (e.g., the NRDP, or the Tonle Sap Livelihoods program, to note just two particular cases) have significant sub-national planning, budgeting and investment management activities, as well as capacity development activities which must, as soon as possible, be brought into alignment with D&D policy and implementation strategy. In other words, whilst arrangements for Seila transition are important, the need for a transition strategy for other national and sub-national programs should not be neglected.

Seila, as defined by government policies, regulations, budget outlays and programming commitments over many years, has proven an effective program in support of local governance and local development in ways that have few international precedents. It has provided a valuable forum for policy experimentation that has encouraged both government and donor attention (and considerable resources) to the positive prospects of local democratic development *whilst also* demonstrating the importance of full-scale D&D reforms as a pre-condition for achieving this outcome. However, the Study Team concurs with the IMC as well as Seila's partners that the program in its present format will not be able to meet the challenges posed by the emerging D&D policy reforms. Indeed, this reflects the fact that it was conceived prior to key policy announcements regarding D&D. While certain functions of the program (especially those dealing with funding of SNAs) will need to be maintained until the new D&D systems and the Implementation Authority are fully in place, the institutional structures, working mechanisms and the focus of work will need to be substantially modified following enactment of the organic law(s) and announcement of the Implementation Strategy.

It had been stated recently by the Government that the Seila program is expected to continue beyond 31 December 2006<sup>141</sup> in line with the RGC's policy that there should be no interruption of essential government business (including donor activities). However, continuation of Seila (either by an extension of the existing program, or formulation of a new, similar program which would take over those functions of Seila which are still needed) will require considerable flexibility and adaptability to adjust to the emerging D&D implementation arrangements, and to subsequent institutional and procedural changes to match these. We believe this is achievable, especially considering the flexibility demonstrated in Seila program arrangements over the 2001-2003 period when the commune councils were being introduced. In the following, we will outline our thinking on a possible transition (and exit) strategy for Seila.

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<sup>141</sup>The original Seila Program Document envisaged a duration of five years, i.e. 2000 – 2005. Following the DPM's Memo of 2 June 2005, the program was extended until 31 December 2006. New donor commitments to Seila (especially for the core management structure of Seila funded by the PLG project) were also extended until that date. Other donor resources using the Seila framework (like several IFAD projects) have a longer time horizon; for implementation they rely on the availability of the PLG-funded management structure. As indicated in Annex 3, the institutional structures put in place to implement the program (like its Task Force and Secretariat) are not time-bound and would continue to exist beyond 31 December 2006 unless the sub-decree establishing these structures is revoked by the Government.

Again, we have to make several informed assumptions as follows:

1. That the 'Implementation Authority' indicated in the DPM's speech at the March 2006 CG meeting will take over those functions of the STF which remain relevant. Functions to be taken over by the Authority may include a) those pertaining to government-donor relationships on D&D support, including partnership agreements, b) inter-governmental policy coordination, planning and management (both among national ministries/agencies, and between national and sub-national agencies), and c) coordination of those aspects of D&D implementation currently undertaken by the STF, based on the D&D Implementation Strategy.
2. Institutionally, once the 'Implementation Authority' has been established and has become fully competent, we assume therefore that a) the relevant functions STF Secretariat would be assumed by the Authority's secretariat, b) the STF as an institution would be abolished and c) that the 'Seila Donor Forum' would be replaced by the more broadly mandated 'RGC-Donor Forum on D&D'.
3. RGC will wish to retain the services of STF/Secretariat staff so as to ensure continuity/minimal disruption during transition. We assume therefore that the Implementation Authority will encourage applications for the Implementation Authority's staff and consultant positions from existing STF and Secretariat staff/consultants.<sup>142</sup>
4. The provincial-level executive coordination structures promoted under Seila (PRDC/ExCom) would continue to exist until an appropriate provincial (unified) administration has been established, however functions and modalities would have to be adjusted, and more sectors might have to be included in anticipation of this. As indicated in the DPM's speech at the March 2006 CG meeting, district and provincial councils are expected to be established in 2008 and 2009; these councils and their administrations would have to take over among others decision-making functions regarding planning, budget allocations and investment management, and capacity development which presently still rest with the PRDC/ExCom.

Those functions of the STF pertaining to funds mobilization, fund management and monitoring/reporting for financial accountability for sub-national authorities would become a responsibility of MoEF due to the fact that general purpose and special purpose grants are involved.<sup>143</sup> In this case, related Seila management systems (like databases) and staff would move from the STF Secretariat to MoEF. Staff movement would be subject to performance assessment and successful application for the new positions. Staff related with STF functions pertaining to funds mobilization, fund management and financial accountability for national policy formulation and policy management issues would (again, subject to performance assessment and successful application for the new positions) move to the 'Implementation Authority'.

Other Seila functions for institutional 'capacity development' at sub-national level, including systems and procedures, capacity building, monitoring and evaluation, in our view would best be assumed predominantly, *although not necessarily exclusively*,<sup>144</sup> by MoI which is likely to have the mandate to establish, supervise and facilitate the capacity of sub-national authorities

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<sup>142</sup> Given that the Implementation Authority will likely assume responsibility for some of the functions currently the responsibility of the STF and Secretariat, it is logical to assume that some of the Implementation Authority's staffing requirements will be the same. New staff profiles will be required, to reflect additional functions not currently undertaken by the STF and Secretariat.

<sup>143</sup> Aspects of this function (including grant design and monitoring/evaluation and reporting on grant performance) may be a function of MoEF, or of a national 'finance commission' if so mandated by law.

<sup>144</sup> For instance, responsibility for intergovernmental fiscal transfer systems, budget making/execution and financial management (MoEF, or national 'finance commission' if mandated by law), and for audit (National Audit Authority).

(including councils and administrations).

We have assumed that government (with support from donors) will enable the 'Implementation Authority' to be 'fully competent'<sup>145</sup> before the end of 2007. Should this prove the case, then clearly the need for a 'Seila' program will no longer exist after that 2007 and it will be subsumed in the new RGC-donor relationship detailed earlier.

***What steps are required to reach an RGC-donor agreement for the extension and/or replacement of the existing Seila program?***

A precondition for such a program would be the consensus to have an in-built review and change mechanism that would enable the participating parties to re-configure the program (ie. institutional and funding arrangements, thematic areas of work) once the organic law(s) are enacted and being implemented and the 'Implementation Authority' is competent.<sup>146</sup> The RGC would also have to decide whether it wants the Seila extension and replacement program to be limited to the current scope of work (ie. local governance and local development issues, including institutional capacity building), or whether it also wants to use such a program to obtain resources for preparing crucial structures and mechanisms required for the D&D policy management. Some of the crucial activities are listed as 'Technical Studies' in Section E and include, for instance, the preparation and establishment of the future 'Implementation Authority', the preparation of the suggested RGC-Donor Agreement on D&D Support and establishment of a *D&D Reform Facility* that could become part of such a program. Conducting of some technical studies could a) be part of the new program formulation process, whereas b) others could also be organised separately under other donor supported programs (e.g., GTZ and UNDP current support to MoI and c) the remaining could be undertaken after 1 January 2007 by the new program. As the *D&D Reform Facility* need not to be in place immediately upon commencement of the program, ie., as of 1 January 2007, the program could continue using existing Seila mechanisms and features during the first year of its operations. The activities needed for the budget process for the 2008 financial year might then be the next available 'window of opportunity' for both the RGC and the participating donors to program resources for establishing the Facility as of 1 January 2008, in line with the then established new donor support modality described in Section 3.4 above.

The following steps are recommended to reach an agreement on an extension and replacement of Seila:

1. As the programming of future donor funds to Seila (and its replacement) after December 2006 will require some lead time on the side of donors (which have their own budget cycle constraints), the RGC should communicate *as soon as possible* its preliminary requirements to the donor community<sup>147</sup>, including: a) the anticipated time frame for such a new government-donor cooperation<sup>148</sup>, b) institutional responsibility for the management and implementation of such a program<sup>149</sup>, c) expected thematic areas and scope of cooperation, d) triggers or benchmarks for integration of such a program into the wider

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<sup>145</sup> See our definition of 'competence' in Section E.1.

<sup>146</sup>The new EU/UNDP project (*Strengthening Democratic and Local Governance in Cambodia*) is a good example for such in-built flexibility.

<sup>147</sup> Especially to those donors supporting the Seila management structure through PLG, ie., SIDA, DFID and UNDP.

<sup>148</sup> In line with the preliminary implementation plan presented at the 2006 CG meeting, this could be for a three-year period covering what the Deputy Prime Minister called the "initial phase".

<sup>149</sup> Currently, the Seila program document is approved by the Council of Ministers. By sub-decree, the STF located with the CDC is tasked with the management of the program. Funding agreements are signed between the STF, the MoEF and the respective donor.

D&D policy reform process and the D&D Implementation Strategy. *Such communication from the Government should not come later than June 2006.*

2. Depending on the initial response from the donors, RGC and donors should agree on modalities and a schedule for the joint formulation of the program; *this decision should be taken not later than July 2006.*
3. A joint formulation mission could then be conducted in August 2006, with a review of results and agreement by all participating parties by end September 2006. This would allow subsequent donor headquarters approvals during October 2006, and approval by RGC of government budget commitments by the December 2006 budget approval.

**Table D.7 Possible time schedule for Seila extension/replacement**

<i>Date</i>	<i>RGC</i>	<i>Donors</i>
June 2006	Indicate to donor community requirements for Seila Extension and Replacement Program: 1) anticipated time frame, 2) institutional responsibility, 3) expected thematic areas of cooperation, 4) integration of program into wider D&D policy reform process	Review RGC requirements and prepare response
June/July 2006	Discuss and agree on <ul style="list-style-type: none"> <li>• key parameters of new program (duration, institutional responsibilities, thematic scope, quantum of financing required)</li> <li>• joint preparation of program (like modalities of formulation mission, time schedule of preparation, sharing of responsibility)</li> </ul>	
July 2006	Indicate technical support required for formulation of program	Assign responsibilities and mobilise resources for formulation of program
August 2006	Joint Formulation Mission	
September 2006	Review and Approval of Mission Results	Review and Approval of Mission Results
	Joint preparation of program document based on mission results	
November 2006		Approval of program document by participating donors
December 2006	Approval of program document (including budget outlays) by RGC	
January 2007	Begin of implementation	
September 2007	Joint review of program and revision of program document for approval by RGC and participating donors, revision to include establishment of <i>D&amp;D Reform Facility</i>	

Depending on the scope of work to be done under the new program, and depending on the sequencing of modifying the scope of work, there is furthermore a need to review staffing patterns, job requirements and job descriptions of the Seila program. As noted, support to the implementation of the new D&D policies at both national and sub-national level will require a different mix of skills and requirements compared to what is available currently in Seila. Such a review should be part of the program activities in early 2007, and this should be reflected in the program document.

There is also an urgent need to review Seila's current system of salary supplementation. As outlined in Section C, the Study Team takes the view that current instruments of salary supplementation used by donors act against primary accountability and will remain an obstacle to achieving democratic development. There is also commitment on the part of Government and donors to phase-out current forms of salary supplementation. As indicated earlier donor resources can be used in different ways to ensure that government employees receive a sufficient salary. This aspect would have to be tackled from the very beginning in the Seila extension and replacement program, and the program document must stipulate the arrangements to be used in the extension and replacement phase. This task is also indicated as a Technical Study requirement – see Section E.

#### ***D.4 Summary and Recommendations***

At this time, there remains considerable uncertainty regarding the provisions of D&D organic law(s) and subsequent implementation arrangements – and this of course constrains the confidence with which recommendations can be made regarding donor modalities. However, strategic commitments already announced by RGC, and agreements already made between government and donors, suggest that donor-government cooperation around D&D implementation will be a) organised in four strategic domains (fiscal, political and administrative, sectoral and human resources), and b) that government will seek support with five cross-cutting aspects of these domains (top level D&D policy management, subsidiary policies and legal instruments, systems and structures, human resources, and investments for both local governance and local development).

RGC has indicated there will be an 'Implementation Authority' (supported by a secretariat) which will interact with donors through an 'RGC-Donor Forum on D&D Support'. Whilst the powers, functions and relationships between these bodies and existing national ministries and agencies are not yet clear, these are positive moves. The Team's review of international experience further suggests that government may give consideration to a) ensuring the 'Implementation Authority' has a clear statutory mandate, independent budget and competitively recruited professional services, and clear mechanisms for relating to other national agencies, so as to promote coherent D&D implementation, b) ensuring clear jurisdiction for the implementing authority with respect to other high profile reforms (e.g., public finance, civil service, and sector reforms) and national ministries/agencies that currently also play a donor 'funds mobilisation, allocation and management' role, and c) ensuring that sufficient time and resources are invested to define further the 'principles' of cooperation/partnership agreements with donors around D&D, articulating these principles in its D&D implementation strategy and using these as a 'guide and check' to define sufficiently resourced annual workplans and budgets that d) can be monitored, disciplined and adjusted through a mutually agreed annual performance review process.

*To support these national-international arrangements, Section D.2 recommended an Option C arrangement, namely: a) a combination of pooled resources, which may be called a *D&D Reform Facility*, and individual technical and advisory assistance projects which are harmonised and aligned through the above-noted process, b) where the *D&D Reform Facility* may be managed by a government contracted 'funds manager' provided that the Facility (plus dedicated TA projects which are not part of the Facility funding arrangement) are under the control, and part of the budget of the 'Implementation Authority', and c) where those aspects of other donor assisted national programs (public finance, civil service) and free-standing TA projects and investment projects (such as with MoI, and sector ministries) which bear directly on the mandate of the*

'Implementation Authority' are aligned through the annual planning, budgeting and review process.

*To ensure that donor support to sub-national authorities* is provided in ways most consistent with the D&D principles, the Team also recommends an Option C modality. Option A, for reasons detailed would be least likely of the three to promote the core principles of D&D implementation, indeed this option may be seen, in the Team's view with some justification, as a retrogressive step. Option B, offers the best medium term prospect of promoting the core principles of D&D implementation. However Option B may be regarded as a 'longer-term' option, something to be aimed for, and achievable only in future subject to progress on a number of fronts, like public financial management and civil service reform, the realignment of national sector programs, the creation of a workable system of intergovernmental fiscal transfers, and key accountability measures, in particular around the National Audit Authority.

The combination of both Options C would present the general structure of the suggested new modality for donor support to D&D, consisting of the 'Implementation Authority' with instruments to achieve and enforce alignment and harmonization of donor support, a D&D Implementation Strategy, a general RGC-Donor Agreement on D&D Support and an annual RGC-Donor Forum. The *D&D Reform Facility* would provide the RGC with the funding envelope for activities at the national level (policy formulation and policy management), and for resourcing sub-national authorities, until a proper intergovernmental fiscal transfer system has been established, and until donors are prepared to engage in direct budget support. This modality will differ substantially from present arrangements for the Seila program, both in terms of scope of activities, in terms of government ownership enforced by the 'Implementation Authority', and in terms of defining clearly the 'rules of the game' for donor D&D support by means of the general RGC-Donor Agreement.

Regarding Seila, the Study Team suggests a number of steps to be taken to ensure agreement on a flexible and adjustable new program which will ensure that relevant functions of the Seila program can continue, until the new D&D implementation structure (including systems for the resourcing of sub-national authorities) are in place. During program implementation, necessary changes and modifications have to be effected, so that by the end of the year 2007 a revised program document can be approved which would fully integrate any still needed function and structure of Seila into the suggested new donor support modality.