

TERMS OF REFERENCE

A national consultant to assess laws pertaining to the operations of a Social Enterprise and support its incorporation in Trung Khanh district, Cao Bang province

Position: Legal consultant for Social Enterprise
Duration: 30 days, expected from February – July 2023
Duty station: Trung Khanh district, Cao Bang province and/or Hanoi
Reporting to: Project Manager

1. Background

FFI's mission is to conserve threatened species and ecosystems worldwide, choosing solutions that are sustainable, based on sound science, and which take into account human needs. FFI's strategy to achieve this mission is to work with in-country organizations at all levels to support them in identifying and implementing country led sustainable solutions.

The strategic goal of the FFI Vietnam Primate Programme is to identify primate populations in most need of conservation interventions and provide strategic species-focused conservation in the field, based upon sound science and participation of local communities and other relevant stakeholders.

Cao Vit gibbon (*Nomascus nasutus*) also known as Eastern black-crested gibbon was, after about 40 years without information on the existence, found by FFI's scientists¹ in 2002 in the remote forests of Trung Khanh district, Cao Bang province, border to China. Since the rediscovery of the rarest ape in the world, FFI and governmental agencies of Vietnam took a lot of conservation measures and efforts to keep the remnant population from immediate extinction. As the results, the Cao Vit gibbon population gradually recovered from 26 individuals in 2002 up to less than 100 individuals² in 2021.

The success of gibbon conservation and its habitat has been generating benefits for other wild animals living in Trung Khanh Cao Vit gibbon Species and Habitat Conservation Area (SHCA), and one of those is macaques. There are three species of macaques, namely Rhesus, Assamese and Stump-tailed macaques. The total number of these macaques is now as many as Cao Vit gibbons and they are competing with Cao Vit gibbons for food and habitat. These macaques also eat agricultural products and destroy crops, mainly maize, of local resident in places outside of the protected area, causing loss and damage of crops.

Conservation and development are always conflict to each other and often viewed as separate. Right from the beginning, FFI has had initiatives to integrate conservation and economic development activities into this area to one hand sustain the Critically Endangered Cao Vit gibbon population, and help local people in 13 villages close to forests to improve their livelihood to reduce the dependence on forest resources on the other hand. The development activities, supported by FFI, include fuelwood plantation, improved stoves, elephant grass growth, conversion of wood waterwheel into steel waterwheel, goat remove,... Pre-Covid, Vietnam had one of the fastest growing tourism sectors in the world, including an emerging

¹ La Quang Trung and Trinh Dinh Hoang (2002). Report on survey of eastern black crested gibbon (*Nomascus sp. cf. nasutus*) in Trunh Khanh District, Cao Bang Province. Fauna & Flora International Indochina Programme, Hanoi, Vietnam.

² Ollie Wearn, Trinh Dinh Hoang, Le Khac Quyet, Chang-yong Ma and Nguyen Duc Tho (2021). Cao Vit Gibbon transboundary census survey report (*Nomascus nasutus*) at the CVG SHCA in Trung Khanh, Cao Bang, Vietnam and the Biang Liang, Jingxi, Quangxi, China. Fauna & Flora International – Vietnam Programme, unpublished report, Hanoi.

interest in eco and nature-based tourism including Trung Khanh district. In 2022-23, we expect to see strong growth in this area return, from both domestic and international markets, providing local people with new incentives, sustainable finance and pride derived from healthy gibbon populations. Additionally, we expect improvement in local commodity supply chain to support local economy.

FFI is now recruiting a consultant to assess laws pertaining to the operations of a Social Enterprise and support its incorporation in Trung Khanh district, Cao Bang province. This enterprise is expected to be a community run organization with the support and advise of FFI to benefit Cao-Vit Gibbon conservation and community development in the landscape.

2. Objective

The objective behind this task is to guide FFI on establish of a Social Enterprise - Community base tourism and supply chain entity to contribute to biodiversity conservation and livelihood improvement in Trung Khanh landscape of Vietnam;

3. Deliverables

- Provide a summary of the distinct features of Social Enterprise in Vietnam's Enterprise law.
- Advice on "mission lock" - a mechanism to ensure the mission of the enterprise is legally incorporated in the Social Enterprise Law.
- Advice on possible legal options and structures for the incorporation of proposed conservation enterprise as per Vietnam's laws and specifically under the new social enterprise law.
- Provide a summary of pros, cons, dos and don'ts of other possible alternate legal structures (eg. Co-operatives) with insights into the kind of investments/funding it can and cannot accept.
- Provide details of costs involved in registering a social enterprise under Vietnam's laws.
- Provide details of statutory obligations related to the enterprise including reporting to the authorities, financial audits, taxes etc.
- Provide details of requirement for regular services of professionals with specific qualifications and related costs (Eg. Chartered Accountants, Company Secretaries etc) to support the management of the enterprise operations after its incorporation.
- Any other relevant details that FFI must know about social enterprise, especially the role of community and overall governance model for the enterprise.
- Draft the constitution (memorandum, articles of association etc as applicable) of the social enterprise and support its legal incorporation
- Propose financial models, benefit sharing mechanism between the community and the social enterprises.
- Draft guidelines for operating social enterprises based on the finalized legal structure.
- Final technical report on the assessment of laws pertaining to the operations of a Social Enterprise.

4. Scope of work

The scope of work for the consultant will include but not be limited to:

- A desk-based review of social enterprise under the Enterprise Law 2020 and reporting on key features with SWOT analysis.
- Discuss with FFI team and understand the needs and context in which the Social Enterprise is proposed to be registered.
- Recommend a suitable legal structure for the social enterprise.
- Cost-benefit analysis of managing a Social Enterprise and guide FFI on the required technical capacity for efficient administration.

- Drafting the legal documents of the social enterprise and developing a management structure, financial models, benefit sharing mechanism with the community and operating social enterprises.
- Assisting incorporation of the enterprise.
- Compile the report and submit to FFI.

5. Time Span

This assignment is expected to be carried out in a period of 30-days including reporting days.

6. Qualifications and experience

- University degree in law, Certified Public Accountant, Qualified Company Secretary or other equivalent legal qualifications to guide and support incorporation of an enterprise.
- At least five years of working experience in the field of the social enterprise;
- At least three years of experience in providing consultancy services of the social enterprise - suitable community eco-tourism/ Agriculture for Northern mountainous provinces or similar assignments;
- Working experience in social enterprise operated is required;
- Good in spoken and written English;
- Strong ability in writing English technical report.

7. Administrative support

FFI will provide the social enterprise consultant with the following support:

- Administrative procedures to work in the field and FFI's local partners;
- All local cost for field trip following FFI's cost norms.

8. Remuneration conditions

- Remuneration will correspond with the qualifications and work experiences required for the post as referred to in Part 6 of this TOR and FFI's cost norms.
- Payment of other related expenses including travel, field works and per diem of the consultant and local guide(s) accompanied will follow FFI's financial regulations and cost norms;

9. Application process

Interested and qualified candidates are invited to send a cover letter, CV, quotation, draft survey proposal and plan in English to Ms. Le Hong Viet via email viet.hong.le@fauna-flora.org no later than February 26th 2023. Only shortlisted candidates are contacted for interviewing.

For more information about FFI, please visit www.fauna-flora.org