

ASIA / PACIFIC

KAENG KRACHAN FOREST COMPLEX

THAILAND



Elephants in Kui Buri National Park © IUCN / Bruce Jefferies (from IUCN evaluation mission in 2014)

WORLD HERITAGE NOMINATION – IUCN TECHNICAL EVALUATION

KAENG KRACHAN FOREST COMPLEX (THAILAND) – ID N° 1461 Rev

IUCN RECOMMENDATION TO WORLD HERITAGE COMMITTEE: To defer the nomination of the property under natural criteria.

Key paragraphs of Operational Guidelines:

Paragraph 77: Nominated property has not fully demonstrated it meets World Heritage criteria.

Paragraph 78: Nominated property meets protection requirements, but does not meet integrity and management requirements.

Background note: The below background note explains a complicated and unprecedented sequence of events in relation to this nomination, which is additionally complicated by the postponement of the 44th Session of the World Heritage Committee in 2020. In summary, the present report addresses two cycles of reactivation of the nomination as referred back by the Committee at its 43rd Session, one addressed to the original planned meeting of the 44th Session in 2020, and one addressed to the extended 44th Session of the Committee which will be held in 2021.

The Kaeng Krachan Forest Complex (KKFC) was nominated in 2014 and considered by the World Heritage Committee at its 39th Session in Bonn, Germany, 2015. In Decision 39 COM 8B.5, the Committee took note of the nominated property's strong potential to meet criterion (x) and referred the nomination back to the State Party of Thailand to allow it to address in full concerns regarding Karen communities within the Kaeng Krachan National Park. The Committee also requested updated data on the conservation status and population viability of key threatened species reported from the property and encouraged Thailand to consider nominating the property also under criterion (ix). The Committee welcomed the 'roadmap' adopted towards a revised nomination.

Following this decision, Thailand submitted further information on the nominated property, which the Committee considered at its 40th Session in 2016. The World Heritage Committee again referred the property back to the State Party, in order to allow it to more fully address the concerns that have been raised regarding Karen communities within the Kaeng Krachan National Park, including the implementation of a participatory process to resolve rights and livelihood concerns and to achieve a consensus of support for the nomination of the property that is fully consistent with the principle of free, prior and informed consent (Decision 40 COM 8B.11). The Committee again encouraged the State Party to consider nominating the property also under criterion (ix). It also encouraged commendable initiatives on future biological connectivity opportunities, including collaboration with the State Party of Myanmar on the nominated property and neighbouring protected areas within the Taninthayi Forest Corridor in Myanmar.

In 2019, Thailand submitted additional information on the nominated property, which was considered by the Committee at its 43rd Session. In Decision 43 COM 8B.5, the Committee decided to refer back the nomination to the State Party for the third time, in order to allow it to demonstrate that all concerns have been resolved, in full consultation with the local communities, in accordance with paragraph 123 of the *Operational Guidelines*. The referral decision was also taken to allow the State Party to revise the boundaries of the nominated property, based on agreement between the States Parties of Thailand and Myanmar. A revised comparative analysis for these changed boundaries was requested to demonstrate that the reduced area of the nominated property would be sufficient to meet criterion (x), including the related conditions of integrity, protection and management. The Committee also encouraged the States Parties of Thailand and Myanmar to work in partnership on future biological connectivity opportunities and collaborative efforts on conservation between the nominated property and the protected areas in Myanmar. Furthermore, the Committee took note of the progress made by the State Party on the adoption of legislation aimed at addressing the concerns of the rights and livelihoods of the local communities including the Karen within the Kaeng Krachan National Park.

Regarding actions in relation to the timelines for the original planned meeting of 44th Session of the Committee in 2020, the following points are noted. In its 2019 Decision, the Committee also encouraged ongoing dialogue between the State Party and the Advisory Body and recommended that the State Party invite an IUCN Advisory mission to assist in the preparation of the additional information requested. In order to continue the dialogue between the State Party and the Advisory Body on the points raised by the Committee, and to jointly prepare the Advisory mission, IUCN met with the State Party in September 2019. Further to these consultations, the State Party sent an invitation to the World Heritage Centre on 18 November 2019 requesting the IUCN Advisory mission to take place between February and April 2020. On 25 December 2019, the State Party sent a further letter to the World Heritage Centre inviting the Advisory mission to take place in January 2020, and not between February and April 2020, with a view to submitting the additional information requested by the Committee by 1 February 2020 for the Committee's consideration at its 44th Session.

The World Heritage Centre wrote back to the State Party noting that the technical timelines necessary for establishing and finalizing an Advisory mission excluded the possibility of organizing such a mission within two weeks to meet the proposed mid-January 2020 timeframe. This letter furthermore, noted that, given the time needed to organize the

mission, prepare the report and recommendations it would not allow for adequate time to integrate this advice into the information planned for resubmission by 31 January 2020. Subsequently, the State Party reactivated the referral for further consideration in the evaluation process, through the submission of additional information on 31 January 2020.

IUCN notes that on 21 April 2020 a letter was sent to the World Heritage Committee, the World Heritage Centre, and IUCN relaying concerns from the United Nations Special Rapporteur on the rights of indigenous peoples; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; and the Special Rapporteur on the situation of human rights defenders. IUCN understands that this communication has been provided to the World Heritage Committee via the Secretariat.

Regarding the reactivation of the referral in relation to the extended 44th Session of the Committee in 2021 the key points noted are as follows. On 15 December 2020, the State Party sent a letter to the World Heritage Centre inviting an IUCN Advisory mission to take place in the period between February and March 2021. The World Heritage Centre responded on 21 December 2021 informing the State Party that the undertaking of an Advisory mission is not feasible at this stage. In this respect, IUCN recalls that the Committee, in its Decision 43 COM 8B.5 recommending the State Party to invite an IUCN Advisory mission, considered that the purpose of this mission would be to assist in the preparation of the additional information requested under paragraph 6 of the same Decision. Therefore at present any IUCN Advisory mission can no longer fulfil the purpose foreseen in the request of the Committee, since additional information responding to paragraph 6 of Decision 43 COM 8B.5 had been submitted by the State Party on 31 January 2020. On 26 February 2021, the State Party submitted further additional information regarding the present nomination, and which has been considered in the present report.

IUCN further notes that in January 2021, the World Heritage Centre and IUCN have received representations from civil society organisations, addressed to the Committee, regarding the nomination of this property, which the World Heritage Centre has transmitted to the State Party, as noted in the report below. IUCN anticipates that a summary of the content of this letter to the State Party, with relevant representations, as well as any other similar representations may be shared with the Committee, as relevant, by the World Heritage Centre.

The Committee's attention is drawn to the previous evaluations (WHC-15/39.COM/INF.8B2, WHC-16/40.COM/INF.8B2.Add and WHC-19/43.COM/INF.8B2.Add) in order to avoid repeating information.

1. DOCUMENTATION

a) Date nomination received by IUCN: The original nomination was submitted in 2014, and the latest information was received by IUCN in February 2021.

b) Additional information officially requested from and provided by the State Party: There has been no subsequent information requested, as the new information relates to a referral.

c) Additional literature consulted: No additional literature; please see past evaluations for earlier references considered.

d) Consultations: Two additional desk reviews received since the 43rd Session of the Committee. As noted above, IUCN undertook an informal visit to the nominated property in September 2019 in order to engage in dialogue with the State Party, consult with relevant stakeholders and prepare for an effective Advisory mission as encouraged by the Committee in its Decision 43 COM 8B.5. Extensive consultations have also been undertaken with the support of IUCN's Asia Regional Office in order to assist the State Party in responding to Committee Decision 43 COM 8B.5.

e) Field Visit: Original field mission undertaken by Bruce Jefferies, 01-09 September 2014

f) Date of IUCN approval of this report: May 2021

2. SUMMARY OF NATURAL VALUES

Previous evaluations have documented, in detail, the significant natural values of Kaeng Krachan Forest Complex (KKFC) and the area that surrounds it. While the original nomination in 2014 and the first revised nomination of 2016 comprised an area of 482,225 ha, the second 2019 revision significantly reduced the nominated area to 411,912 ha as a response from the Kingdom of Thailand (hereinafter referred to as Thailand) to territorial discussions that have been undertaken with the Republic of the Union of Myanmar (hereinafter referred to as Myanmar). The additional information provided by Thailand reports that based on an agreement between both States Parties, the 2020/21 revision further adjusted the nominated area to 408,940 ha, a reduction of slightly more than 15% compared to the original nomination. Revised areas for each of the protected areas comprising the nominated property were not provided (see Table 1).

As previously noted by IUCN, the revised boundaries result in a stepped boundary of straight lines on the western edge of the nominated property (see Map 1), significantly reducing the connectivity conservation functions of the nominated area and coverage of some significant areas for nature conservation whilst extremely important values undoubtedly remain. In Decision 43 COM 8B.5, the World Heritage Committee requested the State Party to submit a revised comparative analysis demonstrating that the reduced

area of the nominated property would be sufficient to meet criterion (x), including the related conditions of integrity, protection and management, which is discussed in the sections here below.

Name of protected area	Area (ha)		
	Original nomination in 2014; revised nomination in 2016*	Revised nomination in 2019	Revised nomination in 2020/2021
Mae Nam Phachi Wildlife Sanctuary	48,931	38,565	
Chaloem Phrakiat Thai Prachan National Park	32,924	32,884	
Kaeng Krachan National Park	291,470	256,870	
Kui Buri National Park	96,900	73,641	
Kui Buri Reserve under military control	12,000	9,953	
Total	482,225	411,912	408,940

Table 1: Revised nominated areas for KKFC proposed for inscription on the World Heritage List

* The original and revised nomination of 2014 and 2016 respectively also included a buffer zone of 242,778 ha.

A diverse range of biogeographic and floral regions overlap in the nominated property, which therefore exhibits particularly diverse biota. The resubmitted information reports the flora of KKFC is characterised by 81 rare species, and 48 endemic species, including newly recorded species. Of these, 27 species are Vulnerable (VU), 13 Endangered (EN) and three Critically Endangered (CR) according to the IUCN Red List of Threatened Species. The nominated property is characterised by six forest types, dominated by semi-evergreen, dry evergreen and moist evergreen forests and complemented by mixed deciduous forest, montane forest, and deciduous dipterocarp forest.

In terms of the fauna, 459 species are recorded in the nominated property. Among these, the IUCN Red List of Threatened Species, notes 23 species as Vulnerable (VU), eight Endangered (EN) and four Critically Endangered (CR) (the latter being the Siamese Crocodile, *Crocodylus siamensis*, whose presence has been confirmed in January 2021 after a long period without sightings; Sunda Pangolin, *Manis javanica*; Elongated Tortoise, *Indotestudo elongata*; and Asian Giant Tortoise, *Manouria emys*). KKFC hosts a remarkable range of mammals, birds and reptiles from this region, including the Asian Elephant (*Elephas maximus*, EN) and all eight species of cats, including Tiger (*Panthera tigris*, EN).

3. COMPARISONS WITH OTHER AREAS

The comparisons of previous evaluation reports remain relevant in terms of the global significance of this nomination. IUCN has previously concluded that the KKFC, on its original nominated boundaries, compared favourably with other sites in similar biogeographical

contexts and exhibited a particularly diverse biota characteristic of the overlap of a diverse range of zoogeographic and floral regions. KKFC protects critical habitats for a diversity of species and hosts a full range of mammals, birds and reptiles found in the region.

IUCN consulted with the UN Environment Programme World Conservation Monitoring Centre (UNEP-WCMC) regarding the changes to the boundaries. The UNEP-WCMC comparative analysis of 2014 had concluded that the biodiversity of the site appears to be of global significance. Although not substantiated by a field mission, the revised nomination with a reduced area would be unlikely to change this overall conclusion as the nominated property would still at this scale be part of the same biogeographical regions that are not yet well represented on the World Heritage List. The nominated property's species diversity would likely be very similar, and it would still largely overlap with Kaeng Krachan National Park, which is considered as one of the top 500 most irreplaceable protected areas in the world for the conservation of mammal, bird and amphibian species. However, the precision of impacts of the revised boundaries on values, as well as integrity considerations remains in need for further consideration.

The additional information submitted by the State Party in 2020 provides an analysis in response to Committee Decision 43 COM 8B.5 on the reduced area of the nominated property in view of criterion (x). Rather than comparing the nominated property with other similar biogeographical systems, this analysis appropriately compares the values of the originally nominated area with the revised area. This analysis is considered further in relation to the evaluation of integrity, which are discussed in section 4.2.

In addition, IUCN reiterates that the nominated property may also meet criterion (ix), as suggested by the previous global comparative analysis and especially in conjunction with transboundary and corridor opportunities. The nominated property is part of several biogeographical regional classifications (ecoregion, priority ecoregion, and Centre of Plant Diversity) which are underrepresented on the World Heritage List.

4. INTEGRITY, PROTECTION AND MANAGEMENT

4.1. Protection

The revised area proposed for inscription remains subject to the same legal protection regime within the same group of protected areas as previously nominated. Except for a need to improve coordination between these protected areas, IUCN has previously concluded that the natural values of the nominated property are provided with adequate legal protection. Based on the additional information provided by the State Party, this appears to be still the case; therefore, IUCN considers that protection requirements continue to be met.

In 2019, the State Party adopted amendments to the National Park Act and Wildlife Conservation and

Protection Act. In the State Party's additional information of 2020, the State Party contends that these amendments represent a *"significant paradigm shift in Thailand's conservation policy to strike a balance between natural conservation and utilization of resources in a sustainable manner."* The effect of these amendments is to legally permit existing resident local communities to remain inside protected areas utilizing resources to support sustainable livelihoods. The amended laws also foresee the involvement of local communities in important decision-making processes, including the management plan, and include new dispute settlement mechanisms and a land ownership survey.

The legal permission to reside and sustain livelihoods in a protected area is granted to local people on the following conditions:

1. A land ownership survey has to be completed with the participation of the communities within six months after adoption of the revised acts;
2. A committee has to oversee the process of establishing "management boundaries for conservation";
3. These "management boundaries for conservation" have to be approved by the National Park Committee;
4. Subsequently, the "management boundaries for conservation" need to be approved by the Cabinet and confirmed by Royal Decree.

The additional information by the State Party makes clear that the above four conditions must be met before local people will be legally permitted to reside inside protected areas. Further additional information submitted by the State Party in 2021 confirms that the land survey has been completed with a total of approximately 312 ha identified as "conservation management zone", where sustainable use by local communities is permitted. The State Party reports that public hearings are being undertaken at the time of the State Party's 2021 submission. These hearings have been delayed due to Covid-19, but significant developments have been made according to the State Party's additional information of 2021. The State Party further reports that it has revised guidelines and regulations on the appointment of the Protected Area Committees (PACs) in order to increase representation of local communities. In addition, an ad-hoc working group has been established in February 2021 to support the resolution of land disputes and explore livelihood alternatives for Karen communities.

Based on the additional information provided by the State Party, it is difficult to ascertain whether this process has been effective and successful in resolving the deep-seated concerns expressed previously by local communities. Concerns regarding non-compliance with paragraph 123 of the *Operational Guidelines* have been raised in relation to this situation in a communication from April 2020 from the United Nations Special Rapporteur on the rights of indigenous peoples; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; and

the Special Rapporteur on the situation of human rights defenders (see section 4.4). A "Public statement of the NGO Coordinating Committee on Development (NGO-COD)", signed by 120 organisations, was received by UNESCO and IUCN in January 2021, asking "to uphold the rights to livelihood and culture of Bang Kloy ethnic Karen community". This statement was transmitted along with a letter to the World Heritage Committee, signed by "villagers opposed to the registration of World Heritage Site". The World Heritage Centre has transmitted these third party representations to the State Party on 12 March 2021. These matters are discussed in detail in section 4.4 below.

The outcomes, in the configuration of "conservation management zones, adapt the zonation of park management compared to the situation in 2014, when the only evaluation mission took place. IUCN therefore considers that only a new evaluation mission could hold consultations with local communities and assess in adequate detail the implications of these legislative amendments with new zonation and co-management arrangements for the nominated property.

Whilst IUCN considers that the protection status of the nominated property meets the requirements of the *Operational Guidelines*, however, it is not possible to determine the effectiveness of recent legislative amendments relating to communities and use, without a new evaluation mission.

4.2 Boundaries

IUCN has previously noted that, in following straight lines on the western side of the nominated property, the boundaries are not optimal, as there is no consideration of the pattern of natural attributes on the ground.

The comparative study provided by the State Party is based on a project surveying and monitoring the conservation status of important species from 2015 to 2019 and includes outcomes of remote sensing of plant communities, and data collection in experimental plots on 805 clusters to assess diversity of flora. Fauna has been assessed through GPS tracking, camera trapping and distribution mapping. The Shannon-Weiner Index and Simpson's Index have been applied to assess biodiversity values. IUCN welcomes the commendable technical depth of this additional comparative analysis.

In terms of floristic diversity, the comparative analysis contends that all biodiversity rich plant communities are still included in the nominated property whilst some forest types are reduced in size, along with a slight reduction of respective species. Tree biodiversity is especially high along the international border with five species being now absent from the nominated property, among them two Vulnerable species (Buaphut, *Rafflesia kerrii* Meijer and Turianpa, *Durio mansonii*). Based on the data and maps provided, IUCN notes that forest types of higher altitudes (hill evergreen forest, moist evergreen forest, moist evergreen-bamboo forest and upper dry evergreen forest) are considerably less represented in the reduced area. Though significant parts remain in the nominated property, coverage of the

upper dry evergreen forests is decreased by 35.38%, and forest types of high tree diversity are reduced by 11.4% (middle dry evergreen forests) and 38.36% (moist evergreen forests). IUCN further notes that representation of already rare and dispersed stands of hill evergreen forests and moist evergreen-bamboo forests would drop by 90.05% and 45.25% respectively.

Similarly, the results of the Shannon-Weiner Index and Simpson Index indicate that, whilst still represented within the nominated property, many areas of very high tree diversity are excluded, especially in central and southern parts of KKFC. The comparison by the State Party also assesses 50 plant species listed on the IUCN Red List in the categories CR, EN, VU, NT (and DD) and how their representation changes with the reduced area. IUCN notes that representation of 30 out of the 50 species would decrease by 10%, whilst 8 species would be reduced by 50% or more, among them Critically Endangered Champi Doi (*Magnolia gustavii* King).

In terms of faunal diversity, the additional information by the State Party models changes in habitat suitability for threatened species (CR, EN, VU and NT) showing a reduction in high suitability habitat due to the boundary change ranging between 14.5% for CR species to 24.8% for NT species. The additional information by the State Party notes that the approximately 459 species of KKFC would all be still represented in the revised area. In this respect, IUCN notes however that previous submissions by the State Party reported 720 wild animal species, which also served as a key attribute in the global comparative analysis in 2014. The resubmitted 2020 information makes no reference to this number, thus IUCN is unclear on the species numbers.

The boundary change reduces suitable habitat for several key species such as Tiger (*Panthera tigris*, EN), Clouded Leopard (*Neofelis nebulosi*, VU), Malay Tapir (*Tapirus indicus*, EN), and Fishing Cat (*Prionailurus viverrinus*, VU). In contrast, representation of Siamese Crocodile (*Crocodylus siamensis*, CR), Hog Deer (*Axis porcinus*, EN) and Eld's Deer (*Rucervus eldii*, EN) is not affected by the reduced size of the nominated property. Based on species distribution modelling, it is expected that representation of 11 out of 39 assessed Near-Threatened, Vulnerable, Endangered and Critically Endangered animal species will not be affected by the reduction, whereas a decrease in area by more than 10% is expected for 26 species and by more than 20% for 14 out of 39 assessed species. More positive data was provided showing that most tiger sightings via camera trapping in the period 2013-2019 were still within the revised nominated area.

Based on habitat and distribution mapping provided in the additional information of 2020, IUCN notes that the northern section of the excluded area primarily contains areas with less suitable habitat and lower presence of particularly valuable species. However, the central and southern parts of the excluded areas contain highly suitable habitats with concentrations of many valuable species, including Critically Endangered and Endangered species.

IUCN recalls that when the property was first nominated it included a relatively uniform 3 km wide buffer zone totalling 242,778 ha extending down the eastern boundary. Information and maps provided in the 2020 resubmitted information make no reference to this buffer zone, and no additional information on this aspect was provided by the State Party in 2021, so IUCN is also unclear on its current status.

In summary, IUCN concludes that most values of the original nomination appear to be still represented in the reduced nominated area; however, for many species the reduced area proposed now for inscription has excised high conservation values and highly suitable habitat from the site. The additional analysis leads IUCN to the conclusion that, on balance, there is a high probability the reconfigured and smaller property meets the integrity requirements of the *Operational Guidelines* with respect to criterion (x), however, this needs to be verified through a field mission and thorough evaluation, including clarification of species counts and the status of the buffer zone.

IUCN considers that the boundaries of the nominated property have potential to meet the requirements of the Operational Guidelines subject to verification in the field.

4.3 Management

The additional information by the State Party confirms that the management and protection regime continues to apply across the protected areas comprising the forest complex, regardless of the reduced nominated area, which remains subject to the same legislation. This also applies to patrols for which the additional information by the State Party provided details on patrolling areas and frequencies. The patrols cover about half of KKFC, whilst being concentrated on the more accessible eastern areas of the nominated property.

The 2020 resubmitted material confirms the State Party's commitment and investment in implementing the roadmap that was put in place following the original referral. The roadmap consists of four strategies: (1) prevention and suppression for the protection of natural resources (i.e. law enforcement); (2) biological resources management; (3) integrated cooperation with all stakeholders; and (4) effective administration and management. IUCN's Thailand country office has also supported the State Party in engaging local communities in benefit sharing and participatory management processes. The 2021 submission by the State Party makes no further reference to the roadmap.

Nevertheless, IUCN notes below continued serious unresolved concerns in relation to communities and the governance and management of the nominated property, which have featured as the main focus of past referrals. As noted below, these have not yet been fully resolved, and despite progress remain to be satisfactorily addressed.

As previously concluded, IUCN considers the management capacity and conservation effectiveness of the nominated property meet the requirements of the *Operational Guidelines*; however, issues need to be considered regarding the relationship of the nomination with communities, as discussed below.

4.4 Community

Besides legislative changes described in section 4.1, the 2020 additional information by the State Party provided a commendably detailed overview on consultations and obtaining consent on the nomination from local communities. Public hearings, town halls and projects on improving livelihoods have been organised since 2015, following the first referral of the nomination. Certain villagers request to return to land from which they were relocated in 1996. According to the State Party, this cannot be granted for national security and ecology reasons, as the concerned areas would be located in a habitat of endangered fauna and crucial head-watershed, prone to erosion and landslides.

The State Party reports that 42 out of 55 villages surveyed support the nomination. Based on the list of villages provided in the 2020 additional information by the State Party, IUCN notes that the participation rate appears to be low: For instance, only a total of 2,204 villagers participated from a population of 23,140 in KKNP organised in 9,126 households. 1,412 out of the 2,204 participants in KKNP expressed their support to the nomination, according to additional information provided by the State Party, i.e. more than one third were not supportive at that stage. In 2021, the State Party reported that community consultations indicated that 2,105 individuals from 42 villages out of 55 villages expressed their consent and support for the nomination.

The State Party's additional information of 2020 reports that those villagers who were not supporting the nomination would not be opposed to World Heritage listing *per se*, but raised concerns regarding adverse impacts on their way of life, livelihoods and the community's development. A number of local people argued to resolve land allocations prior to the nomination process. Measures have been drafted to address these concerns, but details on what these measures entail have not been provided in the 2020 submission by the State Party.

The State Party reported in 2020 that the National Human Rights Commission of Thailand expressed its satisfaction with measures taken in a letter of December 2019 (annexed to the additional information by the State Party, but not provided in English). The Commission nonetheless suggested creating an inclusive environment to reduce conflict, in conjunction with a long-term action plan and strategy, which would include a better representation of Local Communities in the Protected Area Committee.

IUCN recalls that there are now clear expectations in the *Operational Guidelines* regarding the need for free, prior and informed consent, in line with the UNESCO policy on engaging with indigenous peoples and

UNDRIP, which should be met before any re-submission of the nomination.

IUCN further recalls that the Committee has requested the State Party to

- “address in full the concerns regarding Karen communities within the Kaeng Krachan National Park” (39 COM 8B.5),
- “achieve a consensus of support for the nomination of the property that is fully consistent with the principle of free, prior and informed consent” (40 COM 8B.11), and
- “demonstrate that all concerns have been resolved” (43 COM 8B.5).

In this regard, the clear fact indicated through the 2020 and 2021 submissions that the State Party continues to take considerable efforts to address concerns related to the rights of indigenous peoples and local communities is acknowledged. However, from the additional information provided by the State Party, there appears to be evidence that:

1. Considerable concerns remain among villagers regarding land allocations, livelihoods and other matters;
2. At a participation rate of less than 10%, a consensus of support fully consistent with the principle of free, prior and informed consent does not appear to be in place;
3. There is a need to improve the representation of Local Communities in the Protected Area Committee, as noted by the National Human Rights Commission of Thailand and in the State Party's additional information of 2021.

As previously, the United Nations Special Rapporteur on the rights of indigenous peoples submitted a communication to the World Heritage Committee, the World Heritage Centre and IUCN. The Special Rapporteur noted that members from local communities have raised concerns regarding the meaningfulness of the government's consultation with villagers in the nominated property pertaining to land issues, involvement in forest management and the nomination asserting that officials may have misled the villagers that the consultations and agreements concerned only land allocations and not the nomination. The communication argues that the nomination of KKFC is not in line with the UNDRIP and would not comply with paragraph 123 of the *Operational Guidelines*. The letter raised concern about the process whereby the State Party has re-submitted the nomination in 2019 and 2020, in particular regarding the lack of consultations and free, prior and informed consent.

IUCN has also been made aware of direct representations from concerned communities on the nomination and processes of consultation on the rights of indigenous peoples, including a letter sent in January 2021 by the Cross-Cultural Foundation supported by 120 signing organisations, conveying a petition by Karen communities who are asking to be allowed to return to their traditional homelands from which they were evicted since 1996. Previously, in January 2020, members from local communities submitted a complaint letter to the Chairperson of the House of

Representative's Standing Committee on Land, Natural Resources and Environment. The complaint demanded, *inter alia*, an investigation of the World Heritage nomination process and the resolution of land and rights issues, including the resolution of cases concerning enforced disappearance and alleged murder of Karen human rights defenders before proceeding with the nomination.

The correspondence from the Special Rapporteur on the rights of indigenous peoples also contests the basis on which the National Human Rights Commission of Thailand reached its above-mentioned conclusions in December 2019.

Considering this background, IUCN notes that the Committee's requests have not been fulfilled yet, because the situation continues neither to be one where all concerns regarding Karen communities have been resolved (39 COM 8B.5, 43 COM 8B.5), nor one where a consensus of support for KKFC's nomination has been achieved, in conformity with the principle of free, prior and informed consent (40 COM 8B.11). Therefore, IUCN considers that it is not possible to recommend acceptance of the present revised nomination. IUCN reiterates its previous conclusion that the nomination cannot be considered further through the referral mechanism as this will not allow for an adequate assessment of these serious matters, including consultations the State Party and the affected indigenous peoples and local communities and in the field. IUCN recommends that the State Party works closely and in full consultation with the affected indigenous peoples and local communities and with the Special Rapporteurs via the Special Procedures Branch Office of the United Nations High Commissioner for Human Rights (UNOHCHR) to seek to satisfactorily and fully resolve the concerns that have been raised by the Special Rapporteurs.

IUCN reiterates that until there is a means to resolve equitably the long-standing reported issues in regard to the rights of local communities, the nomination of KKFC will not be able to proceed to inscription on the World Heritage List. As a means to addressing equitably the continued concerns of local communities in relation to the nominated property, IUCN recommends that the State Party establish an independent, third-party, arbitration process, in consultation with UNESCO, and working closely with Special Procedures Branch of the Office of the UN High Commissioner for Human Rights. In order to respond effectively to the eventual recommendations of that process, IUCN further recommends that sufficient time is accorded to their implementation, prior to proceeding further with the nomination.

4.5 Threats

Threats affecting the property have been discussed in detail in previous evaluation reports. The additional information by the State Party does not note any new threats to the nature conservation values of the nominated property. However, IUCN notes that almost

seven years after the evaluation mission, a new assessment in the field is strongly recommended.

5. ADDITIONAL COMMENTS

5.1 Timescale for the nomination

IUCN recalls that the original nomination was submitted in 2014, and that following three referrals by the Committee it is now approaching seven years since the original nomination was evaluated. This is now more than double the normal maximum timeline for a referral process. IUCN considers that the 2014 evaluation is now clearly too distant from the original nomination for adequate and up-to-date advice to be provided to the World Heritage Committee, and the situation now appears to be outside any norms for a credible evaluation process. For these reasons, and to maintain the credibility of the Convention, IUCN reiterates that the deferral mechanism now represents the only appropriate option to proceed. IUCN considers deferral would be in the direct interests of the State Party, the affected indigenous peoples and local communities, and the World Heritage Convention.

5.2 Transboundary cooperation

The nominated property is located in proximity to the Taninthaya Forest Complex in neighbouring Myanmar. This site was added to Myanmar's World Heritage Tentative List in 2014 under criteria (ix) and (x). Data provided in the State Party's additional information of 2020 indicates the importance of large sections along the border to Myanmar on the side of Thailand for biodiversity conservation and ecological connectivity to reserves located in Myanmar, which reinforces previously noted observations in this respect. In additional information, the State Party of Thailand expressed its openness to joint natural conservation activities with Myanmar, including the perspective of a possible transboundary nomination in the future. In the view of IUCN, enhanced transboundary collaboration would have the potential to support the protection and management of the nominated property and ultimately improve integrity through a possible transboundary nomination.

6. APPLICATION OF CRITERIA

Kaeng Krachan Forest Complex has been nominated under natural criterion (x).

Criterion (x): Biodiversity and threatened species

Previous evaluations have noted that the nominated property has clear potential to meet criterion (x), in view of its notable biodiversity values, including a high number of globally threatened wildlife species. However, whilst most values are still represented within the reduced area of the nominated property, it excludes sections that are important for the integrity of the nominated property in terms of its wholeness. The revised boundaries, which do not follow ecological principles, also compromise the habitat connectivity which is necessary to many wide ranging wildlife species.

IUCN retains the view that the extent of significant modifications to this nomination make it impossible to conclude on its potential to meet this criterion in the absence of a field mission and full evaluation.

7. RECOMMENDATIONS

IUCN recommends that the World Heritage Committee adopt the following draft decision:

The World Heritage Committee,

1. Having examined Documents WHC/21/44.COM/8B.Add and WHC/21/44.COM/INF.8B2.Add;

2. Recalling decisions **39 COM 8B.5**, **40 COM 8B.11** and **43 COM 8B.5**;

3. Taking note that the nomination was referred three times, that the only evaluation mission for the nominated site took place in 2014, and that the maximum time foreseen for a referral procedure is three years, and also taking note that the boundaries proposed for the nominated property have been significantly modified throughout this period, including the removal of a buffer zone;

4. Defers the nomination of **Kaeng Krachan Forest Complex (Thailand)** under criterion (x), in order to allow the State Party to

- a) Develop a new nomination, presenting a fully updated analysis of the current conservation status, integrity and protection and management of the nominated property relating to its revised boundaries, and justifying potential Outstanding Universal Value under criterion (x).
- b) fully resolve concerns regarding rights, in line with paragraph 123 of the *Operational Guidelines*, and Decisions **39 COM 8B.5**, **40 COM 8B.11** and **43 COM 8B.5**, demonstrating that consensus of support for the nomination of the property has been obtained from all affected indigenous peoples and local communities, fully consistent with the principle of free, prior and informed consent;
- c) Work closely, and in full consultation, with the affected indigenous peoples and local

communities, and with the Special Procedures Branch of the Office of the United Nations High Commissioner for Human Rights (UNOHCHR) in order to fully and satisfactorily resolve issues raised by the Special Rapporteur on the rights of indigenous peoples; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; and the Special Rapporteur on the situation of human rights defenders;

- d) Assess and provide the results of actions related to community engagement including completion of land ownership surveys, mapping of new “management boundaries for conservation” and providing security of land tenure and livelihoods as provided for under amendments to the National Park Act and Wildlife Conservation and Protection Act;
- e) Improve representation of local communities in Protected Area Committees, consistent with the outcomes of consultation and independent arbitration processes concerning the rights of affected indigenous peoples and local communities;

4. Recommends the State Party to establish an independent, third-party, arbitration process, in consultation with UNESCO, and working closely with the Special Rapporteurs, via the Special Procedures Branch Office of the United Nations High Commissioner for Human Rights (UNOHCHR), to address equitably the continued concerns of local communities in relation to the nominated property, and to respond effectively to the eventual recommendations of that process, prior to proceeding further with the nomination;

5. Continue to enhance collaboration with the State Party of Myanmar in transboundary conservation and management of the highly significant nature conservation values of the region, with a view to improving the integrity of the nominated property, and considering the opportunities for extending the nominated property and a future possible transboundary nomination.

Map 1: Nominated property – revised boundary

Revised Area of Kaeng Krachan Forest Complex (KKFC) nominated for WHS

