

Legal Preparedness for REDD+:
Exploring needs and sources of expert support
25 September 2012, FAO

Meeting Summary

The event on Legal Preparedness for REDD+ took place on Tuesday 25 September at FAO, in conjunction with the Committee on Forestry (COFO) and the World Forest Week (24–28 September 2012). The two objectives were to share country experiences and expert views on major legal considerations related to REDD+ and to discuss country needs in relation to the type of legal support required, including their expectations in receiving legislative support to implement REDD+. Government representatives of UN-REDD countries, legal experts from international organizations, and representatives of civil society presented their perspectives on law and REDD+ implementation.

Morning Session

The event opened with welcoming remarks from the organizers of the program. They noted that a country needs assessment among UN-REDD and FCPF member countries has identified several legal issues, including clarifying carbon rights and improving law enforcement. Both the UN REDD Programme and the FAO Development Law Service have efforts dedicated to legal preparedness for REDD+. The LEG-REDD+ project, a joint effort of the two organizations, is assisting countries in REDD+ preparations. As background reading for the event, a legal study of cross-cutting issues for REDD+ implementation has been produced by FAO, based on lessons learned from Mexico, Viet Nam and Zambia.

Representatives from the three countries and from the LEG-REDD+ project gave presentations on REDD+ legal preparedness efforts. Although the country speakers came from nations with different forests, patterns of land tenure, and legal systems, they overlapped considerably in their concerns.

The issues they mentioned included:

- Drivers of deforestation
- Carbon ownership and rights
- Land tenure and security of rights, customary and formal
- Cross-sectoral coordination, planning, and harmonization of policies
- Revision of legislation to address relevant issues, and to enhance coherence and clarity
- Benefit sharing
- Private investment (incentives and regulation)
- Stakeholder and public participation, including participation of women and minorities
- Conflict and grievance mechanisms

In the ensuing discussion, the audience asked about the role of parliaments, the success of efforts to address drivers of deforestation, and other topics.

After a coffee break, the discussion expanded to allow the audience to share their experiences. Participants from several countries, including Democratic Republic of Congo, Ecuador, Indonesia, Guatemala, Kenya, Papua New Guinea, Philippines, Paraguay, Republic of Congo and Tanzania, took advantage of the opportunity.

Topics raised included:

- Integrating REDD+ issues with the larger issues of non-carbon benefits and access to forest resources;
- Distinguishing carbon ownership from carbon rights. Are people who invest labor or capital in protecting and managing the forest entitled to claim carbon rights even if they do not own the forest?
- Transactions involving carbon, including preventing fraud and allocating risks and liabilities;
- Benefit sharing generally, including whether the size of benefits will exceed the costs of management and administration;
- Reform of legislation to address REDD+ issues;
- Forest loss and the resulting loss of sequestered carbon, liability, and allocating the risks of loss;
- The role of local government and its frequent lack of capacity;
- Transboundary and international issues;
- Stakeholder participation and public participation;
- Improving controls on agricultural development and logging to slow deforestation;
- Use of concessions and community forest management;
- The role of freedom of information laws in ensuring transparency.

Afternoon Session

The afternoon session began with a voting exercise. The moderator listed a set of issues raised during the morning discussion or in the FCPF–UN-REDD country needs assessment and asked the participants to vote for the three that they considered most important. Table 1 in Annex 1 presents the results. The participants then heard from speakers representing organizations that offer law-related support to REDD+ countries.

Legislative support

The first speakers were from FAO's Development Law Service and the International Development Law Organization (IDLO), both of which offer legal analysis and drafting advice. A participant from the audience discussed some related services available to countries working with the World Bank. In the ensuing discussion, participants asked about the relevance of experience with Clean Development Mechanism projects and about some country-specific issues.

Parliamentary support

The next set of speakers represented UNDP's Parliamentary Support Group and GLOBE International, discussing support to parliamentarians. Participants asked about the relative advantages of working with parliaments as compared to working with governments, the risks of becoming entangled in politics, the need to engage not just on REDD+ but on larger forestry and cross-sectoral issues, the value of also engaging the judiciary, and the need to build capacity and awareness of REDD+ issues among parliamentarians.

Law enforcement assistance

The next speaker, from INTERPOL, discussed support to law enforcement. In particular, the speaker discussed INTERPOL's Project LEAF — Law Enforcement Assistance for Forests — and new INTERPOL estimates of the extent of organized criminal activities in logging and trade of forest products.

Project level legal support

The next two speakers, from the Institute for Law and Environmental Governance (ILEG) in Kenya and Climate Focus, discussed project-level legal issues. Some of these are tied closely to national issues. For example, reform of carbon rights or benefit sharing rules must take into account the project-level perspective. In fact, laws from many sectors including agriculture and mining can affect REDD+ projects. At the same time, projects will require focused, local legal expertise for such tasks as due diligence, contract drafting, creation of new legal entities, compliance with tax laws, and so forth.

The ensuing discussion ranged over country-specific concerns, the use of safeguards and mitigation, the need for due diligence in REDD projects, the possibilities for conflicts of interest in providing legal advice to those involved in REDD projects, the control of crime, and the role of market-based incentives for projects.

Conclusion

Finally, the participants heard from a representative of the UN REDD Secretariat, who summed up the day's presentations and emphasized the work that still lies ahead. The meeting concluded with the observation that the conversation among countries, civil society, and support providers begun during this event should continue.

Annex 1

Table 1: Participants' votes for the three most important issues for REDD+ legal preparedness.

Issue	Votes from country representatives	Votes from civil society representatives	Votes from development partner representatives
Carbon rights	<input type="checkbox"/> <input type="checkbox"/> (2)	<input type="checkbox"/> <input type="checkbox"/> (2)	(0)
Land tenure/customary rights	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> (5)	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> (6)	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> (3)
Benefit sharing	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> (5)	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> (3)	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> (3)
Stakeholder and public involvement	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> (4)	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> (4)	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> (4)
Law enforcement	<input type="checkbox"/> <input type="checkbox"/> (2)	<input type="checkbox"/> <input type="checkbox"/> (2)	<input type="checkbox"/> (1)
Anti-corruption	(0)	(0)	<input type="checkbox"/> <input type="checkbox"/> (2)
Investment, markets, and incentives	<input type="checkbox"/> (1)	<input type="checkbox"/> <input type="checkbox"/> (2)	<input type="checkbox"/> (1)
Social safeguards	<input type="checkbox"/> (1)	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> (3)	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> (3)
Environmental safeguards	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> (3)	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> (3)	<input type="checkbox"/> (1)
Cross-sectoral coordination	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> (5)	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> (3)	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> (7)
Harmonize terms and definitions	<input type="checkbox"/> <input type="checkbox"/> (2)	(0)	<input type="checkbox"/> (1)
Strengthen governance	<input type="checkbox"/> (1)	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> (6)	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> (4)
Conflict resolution mechanisms	<input type="checkbox"/> <input type="checkbox"/> (2)	<input type="checkbox"/> <input type="checkbox"/> (2)	(0)

Shaded boxes indicate the top three vote totals for each group of voters.

Annex 2

List of Participants Country representatives

Country	Name	Position	Email
Democratic Republic of Congo	Mr Maitre Cleo Mashini	Avocat à la Cour Chef de Projet National REDD Construction de la stratégie nationale & cadre de mise en œuvre Coordination Nationale REDD Programme FCPF - BM	cleomashini@yahoo.fr cleomashini7@yahoo.fr
Ecuador	Ms Cinthia Isabel Rosero Chávez	Especialista en Políticas Públicas Subsecretaría de Cambio Climático Ministerio de Ambiente	cirosero@ambiente.gob.ec
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Republic of Congo	Mr Georges Claver Boudzanga	National Coordinator REDD+ Climate Change Adviser Ministry of Sustainable Development, Forest Economics and Environment	bouzgege@yahoo.fr
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Civil Society Representatives

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Zambia Climate Change Network	Mr Eneya Maseko	Coordinator	zccn.info@gmail.com
Community Research and Development Services – Tanzania	Ms Lilian J. Looloitai	Director	ccords@habari.co.tz
Alianza de Organizaciones Forestales Comunitarias – Guatemala	Mr Juan Morales Ovando	Presidente	federafogua@yahoo.es
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