

# Reduced Emissions from Deforestation and Forest Degradation

*Lessons from a forest  
governance perspective*



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## Reduced Emissions from Deforestation and Forest Degradation (REDD) *Lessons from a forest governance perspective*

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### EXECUTIVE SUMMARY

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Proponents of initiatives to reduce emissions of greenhouse gases from Deforestation and Forest Degradation (REDD) see them as providing an opportunity to contribute to reductions in global emissions, while also protecting biodiversity and the livelihoods of forest dependent people. It is argued that by putting a value on the carbon in standing trees that are at risk of destruction, the current economic incentives for deforestation could be lowered, and ultimately, reversed. Carbon-based payments could compensate for the opportunity cost of retaining forest, and the economic incentives for conversion of forests to other uses could thus be reduced.

However such economic incentives are only part of the picture when addressing deforestation. Studies and reviews of drivers of deforestation indicate that in most situations a combination of economic, institutional, political or other factors contribute to deforestation. In many countries where REDD is likely to be important illegal and uncontrolled forest exploitation is a major cause of forest loss and degradation. Unless these issues are addressed and governance capacity improved, it is unlikely that economic incentives alone will be successful.

Furthermore, a mechanism which generates payments for forest carbon, whether through a fund or a market, will not function effectively unless consistently and effectively regulated. Hence it cannot be assumed that creating financing for forest carbon on its own will change land-use patterns in countries that have seen large historical rates of forest loss and degradation. Political will and capacity to govern forest resources and utilise the revenues that might accrue from REDD for national and local benefit will also be a vital prerequisite for reducing emissions on a national scale and allowing effective carbon markets for REDD to develop.

This paper outlines experiences from existing efforts aimed at improving forest governance which should be considered at both the design and implementation stage of REDD. Lessons learnt from these processes indicate that a number of critical challenges will need to be addressed in order to maximise the potential benefits of REDD. Lessons learnt for successful forest governance include:

- Establishing clarity of coverage and application of national forest laws
- Building capacity for law enforcement
- Establishing clear and equitable land tenure and use rights
- Establishing a national consensus on forest policy aims and implications through comprehensive stakeholder participation
- Monitoring performance through national verification systems
- Developing accountability at the national and local level

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## 1 INTRODUCTION

Deforestation in the tropics accounts for up to 20% of global emissions of carbon dioxide, making it the second most important contributor to climate change after the combustion of fossil fuels and the largest source of greenhouse gas (GHG) emissions in the developing world.<sup>1</sup> Forests also have an important role to play in global hydrological cycles, affecting rainfall patterns and temperature regimes. The first commitment period of the Kyoto Protocol (ending in 2012) does not contain measures to reward forest conservation or improved forest management in the tropics, nor does the scope of the Clean Development Mechanism (CDM) extend beyond afforestation and reforestation projects. In light of this, proposals have been made to include the prevention of deforestation and forest degradation in a future climate regime,<sup>2</sup> including possible compensation mechanisms.<sup>3</sup> The recent decision at the UNFCCC climate conference in Bali to explore options for reducing emissions through avoided deforestation and degradation reflects a consensus within the international community to negotiate such a mechanism in the context of reaching a broader post-2012 climate change mitigation agreement.<sup>4</sup>

It is estimated that deforestation has resulted in the loss of approximately 13 million hectares of forest annually between 2000 and 2005, most of it in the tropics. When forest planting, mainly in China, and the natural expansion of forests, mainly in Europe, are taken into account, the net rate of loss for this period is about 7.3 million hectares. South America

suffered the largest net loss of forests during this period at about 4.3 million hectares annually, with 3.1 million hectares being converted in Brazil alone, followed by Africa with an annual loss of 4.0 million hectares of forest. In South and Southeast Asia, 2.8 million hectares of forest were lost per year between 2000 and 2005, and Indonesia had the highest absolute deforestation rate in this region with 1.9 million hectares lost annually.<sup>5</sup>

It has been suggested that a novel multilateral mechanism which links a reduction in deforestation to either a donor fund or international carbon markets (or a combination of the two) could create an opportunity to tackle this important source of greenhouse gas emissions at comparably low cost, while contributing to poverty reduction in forest areas. A REDD market value of up to €45 billion<sup>6</sup> per year has been suggested the assumption being that, by putting a value on the carbon in standing trees (or rather the reduction in the rate at which it is emitted as a result of their destruction), such a mechanism could increase the economic incentives for protecting and better managing forests and begin to reverse some of the economic drivers for deforestation.<sup>7</sup>

However, given that monetary economic drivers are only one sub-set of a complex combination of factors affecting rates of deforestation it cannot be assumed that simply changing monetary incentives for the land-use sector will, by itself, change the way that forests are exploited. A good understanding of economic decision-making at the level of individual land-use actors and of the political and socio-economic framework governing the sector will help in the design of effective policy measures.

<sup>1</sup> Houghton, R A 2005, 'Tropical deforestation as a source of greenhouse gas emissions', in *Tropical deforestation and climate change* (ed. P Moutinho & S Schwartzman), pp 13-22, Belém, Washington DC: IPAM; *Environmental Defense Indicators for 1996–2004*, Washington DC: World Bank Institute

<sup>2</sup> Santilli, M, Moutinho, P, Schwartzman, S, Nepstad, D, Curran, L & Nobre, C 2005, 'Tropical Deforestation and the Kyoto Protocol', *Climate Change* 71, 267-276; UNFCCC, 2005a Agenda item 6 'Reducing emissions from deforestation in developing countries: approaches to stimulate action' In *Conference of the Parties, 11th Session* Montréal

<sup>3</sup> Laurance, W F 2007, 'A New Initiative to Use Carbon Trading for Tropical Forest Conservation', *Biotropica* 39, 20-24

<sup>4</sup> UNFCCC 2007, Decision -/CP.13 'Reducing emissions from deforestation in developing countries: approaches to stimulate action', *UNFCCC Conference of the Parties*

<sup>5</sup> FAO, 2006, *Global forest resources assessment 2005*, Rome

<sup>6</sup> Ebeling, J, and Yasue, M, 'Generating Carbon Finance Through Avoided Deforestation and its Potential to Create Climatic, Conservation and Human Development Benefits', accepted for publication in *Journal Philosophical Transactions of the Royal Society*, 2008

<sup>7</sup> Any incentive mechanism that aimed to change trends in legal and planned deforestation would have to be developed in a way that recognises the varied opportunity costs of standing forests around the world. Although central to the wider REDD picture this is not within the scope of this paper

There is a wide spectrum of drivers for deforestation ranging from planned and legal land use change for agriculture or infrastructure to completely illegal destruction of forests for commercial or subsistence requirements. Practices towards the latter end of this spectrum are often the result of poor regulatory frameworks, contested land ownership and resource rights, poor enforcement regimes, usually combined with corruption, and/or poverty. This range of interrelated drivers is usually characterised as poor governance of the forest resource.

In most of the countries with considerable REDD potential (large forest area, and high levels of deforestation), illegal activity – both through logging and land conversion for agricultural purposes – has been one of the most significant drivers of deforestation and forest degradation. Data relating to illegal activity are, by their nature, difficult to find, but attempts to estimate illegal logging have been made for a number of tropical forest countries that are currently exploring the potential of REDD:

- The Indonesian Ministry of Forestry estimates the annual rate of illegal logging, leading to forest degradation and in some cases deforestation, at 2.8 million hectares, a trade worth approximately US\$3.3 billion.<sup>8</sup> International NGOs estimate that illegal activity accounted for between 73% and 88% of total deforestation for timber production in 2006.<sup>9</sup>
- A range of forest sector audits commissioned by the Government of Papua New Guinea between 2000 and 2006 note that while ‘virtually all timber harvested from natural forest areas has official sanction in the form of a permit or license issued by the relevant authority... there are serious issues of legal non-compliance at almost every stage in the development and management of these projects. For these reasons the majority of forestry operations are ... therefore “unlawful”.’<sup>10</sup> The compliance failures in

question relate to fundamental issues such as land rights, harvesting limits and the payment of royalties.

- In 1997 the Brazilian Secretariat for Strategic Affairs estimated that 80% of logging in the Amazon was illegal.<sup>11</sup> Although the federal government maintains that improvements to law enforcement at the national level have led to improved forest management in the last decade, a 2006 workshop on the implementation of Forestry Legislation in the Amazonian Region found that the proportion of demonstrably legal wood production in the region stood at about 40%. This suggests that the status of the remaining 60% was unclear.<sup>12</sup>

Furthermore, the World Bank estimates that, over the past decade, the failure to enforce forest law and collect fees and taxes on timber extraction has cost developing country governments an estimated US\$15 billion in lost revenue and foregone macro-economic growth per year (more than eight times the total official development assistance dedicated to the sustainable management of forests).<sup>13</sup>

The limited success in capturing the potential timber revenues from current forest management models, suggests that establishing a mechanism which provides revenues for avoided deforestation will not automatically ensure that the goal of reduced emissions is actually achieved in many countries, if the capacity and will to effectively govern the resource and capture potential revenues are not considered at the design stage.

National and international initiatives have identified a number of lessons relating to the forest governance challenges highlighted above, that may be relevant to REDD. This briefing describes these and suggests ways in which they may be useful in negotiating and implementing a future REDD mechanism.

<sup>8</sup> Agribisnis report, Bisnis Indonesia, 17 Feb 2006

<sup>9</sup> *The Thousand-Headed Snake. Forest Crimes, Corruption and Injustice in Indonesia*, EIA/Telapak, March 2007

<sup>10</sup> *Logging, Legality and Livelihoods in Papua New Guinea: synthesis of official assessments of the large scale logging industry*, Volume I, Forest Trends, 2006

<sup>11</sup> Secretaria de Asuntos Estratégicos, April 1997, *Forest policy – lumbering exploitation in Amazonia*

<sup>12</sup> *Forest Law and Governance in Brazil in the Context of Sustainable Forest Management*, International Tropical Timber Organisation, Document ITTC (XLI1)/5

<sup>13</sup> *Strengthening Forest Law Enforcement and Governance: Addressing a Systemic Constraint to Sustainable Development*, World Bank, 2006

## 2 WHAT IS REDD?

Proposals have recently been made to include avoided deforestation and forest degradation in the potential scope of a post-Kyoto regime from 2012. The UNFCCC Subsidiary Body for Scientific and Technical Advice (SBSTA) made suggestions for 'Reducing emissions from deforestation in developing countries' at the thirteenth Conference of the Parties in Bali, Indonesia in December 2007. However, the scope and nature of the treatment of REDD is still unclear – the Bali road map includes a wide range of options regarding eligible activities, the form and source of incentives to be provided, and the calculation of reference emission levels.<sup>14</sup> However, an eventual post-2012 REDD mechanism would most likely involve compensation for countries lowering deforestation rates below a national historical baseline<sup>15</sup>, which implies measuring and rewarding emission reductions across the whole forest estate in a country, rather than in separate projects as is currently the case in the Clean Development Mechanism (CDM). Nonetheless, the CoP decision calls for REDD pilot projects to be implemented by host countries prior to 2012 and several countries are advocating a parallel mechanism in an eventual agreement that would include national, as well as project-based approaches.

Several critical issues remain to be resolved during negotiations leading up to 2009, when a post-2012 agreement is due to be reached. For example, crediting emission reductions on a national rather than on a project basis would have the major advantage of accounting for in-country 'carbon leakage' which

might occur when, instead of being avoided, deforesting activities are simply displaced from one area to another.<sup>16</sup> This approach would thus address one of the major objections raised in past policy discussions against including avoided deforestation under the CDM.<sup>17</sup> However, several potential REDD host countries, as well as a number of NGO and private-sector stakeholders, have declared a preference for project-based compensation approaches, partly because of governance issues which might make it difficult to gain effective control over deforestation trends in an entire country. 'Most of the forthcoming pilot schemes funded by international organisations, such as the World Bank, NGOs, and bilateral governmental programmes, are likely to focus in their implementation on lowering deforestation at the level of individual projects level rather than at a national level (in addition to supporting favourable national-level policies). Even under a national baseline approach, spatially limited projects are likely to play a strategic role in affecting wider deforestation trends. A solution might thus be a mixed approach of national and project-based crediting mechanisms, requiring significant institutional amendments to the present-day project-based mechanisms, or an entirely new institutional framework in a post-2012 agreement. Similarly, a post-2012 REDD agreement could rely on REDD credits that are fully fungible with other international carbon markets, or it could establish separate markets for REDD carbon credits. Alternatively, or in addition, REDD could rely on incentives derived from an international fund. Again, a hybrid regime with elements of several of these different approaches appears as the most likely outcome.'<sup>18</sup>

<sup>14</sup> UNFCCC 2007, Decision -/CP.13 *Reducing emissions from deforestation in developing countries: approaches to stimulate action* UNFCCC Conference of the Parties

<sup>15</sup> Santilli, M, Moutinho, P, Schwartzman, S, Nepstad, D, Curran, L & Nobre, C 2005 'Tropical Deforestation and the Kyoto Protocol' *Climate Change* 71, 267-276.; UNFCCC 2005a Agenda item 6 Reducing emissions from deforestation in developing countries: approaches to stimulate action in Conference of the Parties, 11th Session, Montréal

<sup>16</sup> Auckland, L, Moura Costa, P & Brown, S (2003) 'A conceptual framework and its application for addressing leakage: the case of avoided deforestation' *Climate Policy*, 3, 123-136

<sup>17</sup> Okereke, C, Mann, P, Mueller, B, Osbahr, H & Ebeling, J (2007) 'Assessment of key negotiating issues at Nairobi climate COP/MOP and what it means for the future of the climate regime' *Tyndall Working Paper* 106 Oxford, Tyndall Centre for Climate Change Research

<sup>18</sup> Boyd, E, Hultman, N, Roberts, T, Corbera, E & Ebeling, J (2007) *The Clean Development Mechanism: Current Status, Perspectives and Future Policy* Oxford, Tyndall Centre for Climate Change Research, EcoSecurities

### 3 GOVERNANCE RISKS FOR REDD

While much deforestation is a rational response to global and local economics and the result of land-use planning by governments, in many countries, a significant proportion has been illegal and uncontrolled. Beyond legal control of the forest resource, a broader set of governance issues also present fundamental risks to the effective implementation of REDD (see Box 3.1). Below are three critical areas where both relatively straightforward legal non-compliance and broader governance issues have the potential to undermine REDD objectives.

#### 3.1 Land-use planning and effective control of forest resources

Even if governments develop targets for REDD, they are unlikely to achieve them without the fundamentals required to effectively control access to and use of forestlands because:

- Unless land-use laws are enforced, forests may continue to be lost in an unplanned or uncontrolled manner, and their vulnerability may be exacerbated as degradation through illegal logging and small-scale conversion often precedes eventual conversion of forests to other land uses.
- Rational land-use planning may be compromised by uncertain tenure and use rights over both forestland and the ecosystem services that it provides. Currently, a number of key REDD countries face judicial and even physical conflicts relating to contested ownership and exploitation rights over large areas of forest.
- A perceived lack of legitimacy in land use planning or benefit sharing may undermine carbon conservation efforts. It has been estimated that 735 million rural people rely on forests for daily needs such as shelter, fuelwood and livelihoods.<sup>19</sup> Poverty-driven deforestation, primarily for subsistence agriculture, is thought to account

for up to 50% of deforestation in some tropical regions.<sup>20</sup> Clarifying tenure and use rights, and ensuring that revenues are used to find alternative ways of meeting basic needs will be vital in ensuring the long term security of areas that are conserved for REDD.

#### 3.2 Permanence of emission reductions

Even if deforestation is reduced in the short-term the long-term success of REDD may be at risk in the context of poor governance.

- While clear economic incentives have the potential to deliver behavioural change in the land-use sector in the short-term, this is unlikely to be sustained over the longer-term without effective law enforcement and transparent and reliable judicial processes. Temporary government-led high profile REDD initiatives are unlikely to improve the situation if they fail to address the underlying drivers of deforestation and don't establish the fundamentals of forest governance.

#### 3.3 Market values

If a market mechanism is used for payments for avoided deforestation, the value of carbon projects will be affected by a range of project- and country-specific risk factors, particularly if carbon credits are sold on a forward basis. Attempts to achieve optimal revenues for REDD efforts are likely to be significantly undermined by poor governance because investors and buyers will be reluctant to become engaged with a seller, i.e. REDD host country or project, that cannot guarantee delivery of the final emission reductions.

- Countries with high levels of illegal activity and weak institutional frameworks are commonly subject to investment 'discounting' associated with standard credit risk assessments. A high discount rate results in much lower net present values of activities projected to generate a return

<sup>19</sup> *Strengthening Forest Law Enforcement and Governance: Addressing a Systemic Constraint to Sustainable Development*, World Bank, 2006

<sup>20</sup> Robledo, C, Blaser, J, Levine, T, and Schmidt, K, *Climate Change and Governance in the Forest Sector*, Rights and Resources International, 2007

in the medium- or long-term future, which would likely be the case for investments and policy reforms directed at the forestry and land-use sector in the REDD context.

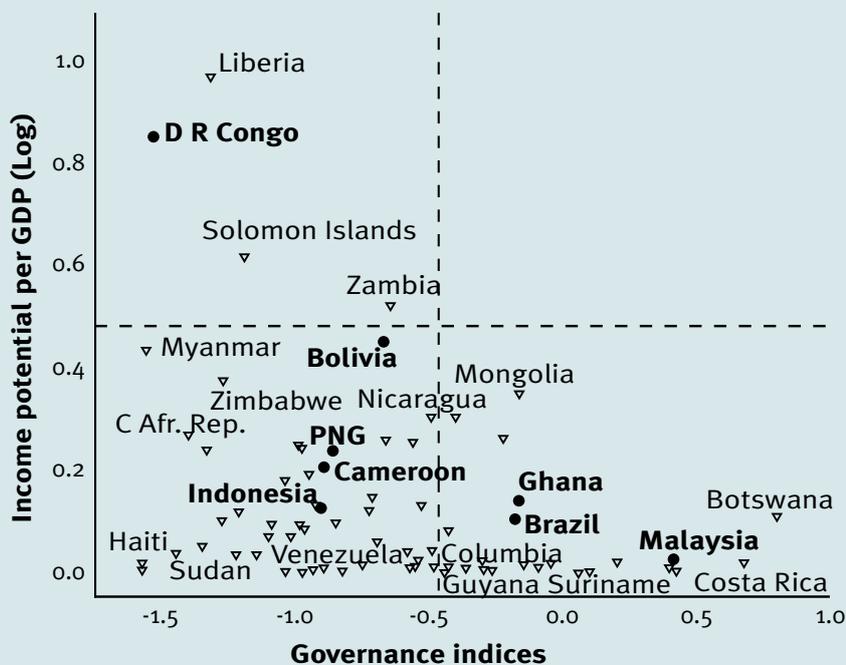
- Several carbon market surveys suggest that many buyers of credits generated through the Clean Development Mechanism (CDM) and voluntary markets differentiate between projects, either at the investment stage or when buying credits, on the basis of both business risks and perceived

reputational risks. It is likely, for example, that investors will be less confident in situations where local communities contest rights to project revenues, or where a project has been secured by force in the absence of a legitimate land or resource allocation mechanism. Markets could thus put a lower price on carbon in high risk countries than countries where governance is perceived as low risk (see Box 3.1). Similarly project insurance could be higher in the former.

**Box 3.1 Relationship between relative REDD income potential (log transformed) and governance**

Governance index used is the mean of two variables measuring law enforcement and corruption perception (Kaufmann et al, 2005). Lower values indicate more severe governance problems. This representation weights income potential by GDP to obtain relative incentives from REDD payments to governments in dependence of the size of a country's economy. REDD income potential was derived from reported data on deforestation between 1990 and 2005 (FAO 2006), country-specific values of average

forest carbon content (IPCC 2003), and a scenario of 10 percent reductions in deforestation. There are no countries in the top right quadrant of the figure where high income potential would coincide with governance levels potentially needed to implement REDD schemes effectively. Filled circles represent the 8 countries identified by the Stern review as being responsible for 70 percent of emissions from land-use change (Source: adapted from Ebeling and Yasue, 2008).



### 3.4 International leakage

Leakage within national borders would be taken in to account through a national REDD accounting system, and thus become irrelevant in terms of international carbon crediting; however a certain potential for international leakage exists. If only some countries participated in a regime for reducing deforestation, global markets might shift supply and demand patterns for timber or agricultural commodities across borders and lead to greater deforestation rates in countries not attempting to gain REDD credits.<sup>21</sup>

- Successful efforts at lowering forest conversion and degradation in one country, for example by

curbing the activities of illegal loggers, might result in a spilling over of the pressure on forests to another country in the region. Unless there is effective governance over the forest resource in the latter country and sufficient administrative capacity to rapidly adapt to such a changing situation, there might indeed be a significant increase in illegal logging or land-use conversion.

- In fact, forests might come under increasing pressure even through legal activities as the restrictions in timber and land supply caused by a successful implementation of REDD in some countries push up prices regionally or globally.

#### Carbon market transaction costs

In the course of the full CDM project cycle, transaction costs in the range of USD 80,000-130,000 can typically occur for project preparation, whereas they vary widely in the operation phase according to project type, starting at about USD 20,000 and potentially reaching several millions of US dollars. Depending on monitoring cycles and sample size needed, monitoring and verification costs can contribute substantially to overall expenditures of a carbon project. In the voluntary market no information is available to date on transaction costs for the full project cycle, but all indications are that high-quality voluntary standards will involve comparable project cycles and may lead to only slightly lower transaction costs.

In general, these costs have to be borne by the project developer, i.e. the carbon seller, which can often lead to considerable financing gaps, since carbon revenues only start accruing at a later point. However, it is a common contractual agreement that carbon buyers

cover all or at least part of the transaction costs and in exchange obtain a lower price for the carbon credits to be generated. Specifying responsibility for transaction costs is therefore often an integral part in selling contracts and can be distributed in various ways.

The above is mainly based on experiences from the CDM, i.e. a project based mechanism. The numbers are therefore most relevant for a policy scenario leading to direct project-based crediting for REDD, but the lessons can in some ways also be applied for sales of REDD credits under compensation approaches on the national level. It is important to note that national level approaches may suffer from their own governance risks resulting from:

- the potentially high transaction costs of involving the public sector in general, and poor public sector performance in particular
- uncertainty due to political change/instability and
- the risk of corruption.

<sup>21</sup> Ebeling, J 2008, 'Risks and Criticism of Forestry-based Climate Change Mitigation and Carbon Trading', in *Forests, Climate Change and the Carbon Market: Risks and Emerging Opportunities* (ed. C Streck, R O'Sullivan & T Janson-Smith), London: Earthscan

## 4 EXISTING FOREST GOVERNANCE INITIATIVES

A range of initiatives, both national and international, have sought to improve forest governance. One principle has underpinned these efforts – recognition that tackling poor governance is a pre-requisite to achieving investment in long-term forest management. This principle has been recognised in the Non Legally-Binding Instrument, adopted by United Nations Forum on Forests in 2007, as well as in discussions in the Food and Agriculture Organization and the International Tropical Timber Organization.

The G8 Action Programme on Forests (1998 to 2002) also recognised this principle. Under the Programme, G8 Members agreed to undertake a range of actions, including assessments of the nature and extent of international trade in illegally-harvested timber and assessments of the effectiveness of measures to control illegal activities. Following the Action Programme, the G8 returned to the issue in 2005, when a meeting of environment and development ministers recognized the need for joint action between consumer and producer countries to tackle trade in illegally produced timber. Japan is expected to take up the issue once more when it chairs the G8 in 2008.

Recognition of the importance of forests was the basis of the various regional Forest Law Enforcement and Governance (FLEG) processes and the EU Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan. These two approaches to improving forest governance provide many of the examples examined in this paper.

**The FLEG Processes** The first of the regional FLEG processes was established for the East Asia region in 2001, with the World Bank assuming a coordinating role and with the participation of both timber-consuming and producing countries. Other FLEG

processes have taken place in Africa and Europe and North Asia. The Forest Law Enforcement and Governance Ministerial conferences aimed to harness high-level political engagement to achieve public recognition of the fundamental governance challenges facing forestry in these regions, and commitments to improve the rule of law across the sector. Amongst the key principles set out those most relevant were: that policies should be designed regionally in order to reflect the different socio-economic contexts in which forests are managed; and that a significant part of the solution lay in international trade – recognising the influence of the global market on activities within timber producing countries, and the shared responsibilities of both timber producing and consuming countries in addressing governance and market failures.

Forest governance discussions in Latin America have followed a different approach, reflecting the political priorities of the region. Work to date has been carried out by established regional institutions in the Amazon basin and Central America. While the political model differs, the challenges in improving management of forest resources in the regions are very similar.

**The FLEGT Action Plan and Voluntary Partnership Agreements** The EU FLEGT Action Plan, adopted in 2003, sets out a series of actions to address illegal logging.

It has particular emphasis on trade. The Plan has a range of objectives and outlines a number of policy instruments aimed at combating illegal logging and creating markets for verified legal and certified sustainable products.<sup>24</sup>

Voluntary Partnership Agreements (VPAs) between the EU and timber producing country governments are at the core of the FLEGT Action Plan. These commit both parties to develop a timber licensing scheme under which only legally-produced licensed timber from FLEGT Partner Countries will be allowed into EU markets.

<sup>22</sup> *FAO Forest Resources Assessment 2005*

<sup>23</sup> *Giants Don't Leap: Verification in Brazil's Process towards Sustainable Forestry, Verifor Country Case Study 5, May 2006*

### Forest Law Enforcement in Brazil: The national approach

While this paper has focused mainly on lessons learned from international initiatives to address illegality and poor governance in the forest sector, there are many significant national initiatives that have sought to do the same thing. One of the most important of these is Brazil.

Brazil is a vast country with a huge forest resource (approximately 4.7 million km<sup>2</sup>).<sup>22</sup> Although the country has a range of forest types, the main timber-producing forests are planted forests of eucalyptus and pine in the sub-tropical south of the country, and tropical natural forests in the Amazon. It is the latter where uncontrolled and illegal activity has been an issue.

Over the last decade Brazil has made significant progress in understanding and addressing the problems of poor governance and illegal forest exploitation in the Amazon. Among the measures taken have been:<sup>23</sup>

- Understanding and seeking to address problems of unclear and conflicting land tenure.
- Encouraging broad participation from a wide range of stakeholders in discussions about how to address problems, resulting in realistic solutions with broad support.
- Clarification and simplification of laws relating to forest management. Transparency of key information to reduce the potential for corruption e.g. the publication on the internet of satellite images.

## 5 LESSONS FROM CURRENT INITIATIVES

The experience of FLEG and FLEGT, as well as several innovative national initiatives, suggests a number of critical issues which may be usefully considered in the design and implementation of a REDD mechanism. The lessons relate both to direct ways of improving governance and, less directly, to processes of developing governance initiatives in the forest sector.

### 5.1 Establishing readiness for REDD

In order to establish a country's readiness to implement a REDD mechanism, a number of key issues can be identified for consideration. These could, for example, be included in minimum standards or preconditions for pilot investments to be made under the World Bank's Forest Carbon Partnership Facility (FCPF), or become explicit objectives of countries wishing to reduce rates of deforestation and benefit from REDD.

**Legal clarity** In many countries where illegality in the sector is an issue, compliance requirements are complex and unclear. Often there are contradictions between different laws or between national and sub-national (e.g., state or province) laws. While harmonisation of such laws can be an important medium term goal, the establishment of a 'standard', identifying key legislation that should be verified in order to claim that production of timber and wood products is legal, can be an important short-term measure. Such a legal standard, including criteria and indicators with which to test compliance, has been central to the preparation of FLEGT VPAs (see Indonesia case study below). Clarification of legal requirements has also been a major focus of national reforms in Brazil.<sup>25</sup>

<sup>24</sup> Further details [http://ec.europa.eu/development/Policies/gInterventionareas/Environment/forest/flegt\\_en.cfm](http://ec.europa.eu/development/Policies/gInterventionareas/Environment/forest/flegt_en.cfm)

<sup>25</sup> See, for example, Hans Thiel and Marcel Viergever (2006) Country Case Study 5 *Giants Don't Leap: Verification in Brazil's Process towards Sustainable Forestry*, Verifor, available from [www.verifor.org](http://www.verifor.org)

### Forest Law Enforcement in Indonesia: Establishing legal clarity and building national consensus

Exploitation of Indonesia's forests has been central to the country's growth over the past three decades, but their sustainable management has been undermined by a number of interrelated factors: widespread illegality; inequity in distribution of benefits and consequences of exploitation; conflicts between central and local governments; and lack of clarity concerning traditional and formal tenure rights.

Indonesia was host to the 2001 Forest Law Enforcement and Governance Ministerial Conference and led regional cooperation efforts to implement the commitments of the resulting East Asia FLEG Declaration, supported by the World Bank. In 2002 the governments of Indonesia and the United Kingdom signed a Memorandum of Understanding (MoU) committing both countries to reduce illegal logging and international trade in illegally sourced timber. Similar memoranda have since been signed with Norway, China, Japan, Korea, and the United States. More recently the World Bank/WWF Alliance has supported a three-year policy dialogue on forest governance aimed at enhancing transparency and improving law enforcement.

The Central Government has recently publicly committed itself to tackling widespread illegality in the sector. A log export ban was enforced in 2001 and extended to rough sawnwood in 2004. In 2005 President Susilo Bambang Yudhoyono issued a Presidential Instruction that relevant Central Government ministries should coordinate to eradicate illegal logging.

Indonesia is now in the process of negotiating a FLEGT Voluntary Partnership Agreement (VPA) with the

European Union, one element of which is the negotiation of a nationally agreed standard for legal timber production. The standard setting process originated within the framework of the Indonesia-UK MoU but is now formally recognised within VPA negotiations.

In 2003 a small group of technical experts and local facilitators designed a series of provincial consultations to identify which laws and regulations were relevant to the production of timber. Stakeholders consulted were classed as primary (immediately affected – i.e. concessionaires, local communities) and secondary (indirectly affected – ie NGOs, regional political representatives). In the absence of detailed legal knowledge, the approach taken focused on the rights and responsibilities that consultees felt should be included, and existing legislation was mapped to this.

Consultation was followed by a concerted process of drafting, further consultation and field testing, which refined the standard and developed a shared analysis of the state of Indonesian forest law. Coordination of the process was taken on by the Indonesian EcoLabelling Institute (*Lembaga Ekolabel Indonesia – LEI*), a constituency based organization, that certifies sustainable forest management. LEI broadened the consultation processes and established protocols for governance of the standard and for audits against its requirements. To date the process has taken over four years and has resulted in a draft document that is likely to be adopted as a national standard. The process of its development has led to better relationships between different interest groups and increasing engagement from the Government of Indonesia and national stakeholders.

Forest resource and industry data from EarthTrends  
See <http://earthtrends.wri.org>

The European Commission's guidance<sup>26</sup> on the likely scope of national definitions for VPAs includes the following proposed elements:

- Granting of and compliance with rights to harvest timber within legally-gazetted boundaries
- Compliance with requirements regarding forest management, including compliance with relevant environmental, labour and community welfare legislation
- Compliance with requirements concerning taxes, import and export duties, royalties and fees related to timber harvesting and timber trade
- Respect for tenure or use rights to land and resources that may be affected by timber harvest rights, where such rights exist
- Compliance with requirements for trade and export procedures

<sup>26</sup> *What Is Legal Timber? FLEGT Briefing Note Two*, European Commission, 2007

The guidance recognises the need for workable standards; it also notes, ‘Most countries have a large number of laws related to forests and timber and assessments of compliance with all of them could be an extremely onerous task. Moreover, not all laws are equally relevant to addressing the most serious impacts of illegal logging. For example, compliance with a law relating to harvest rights is clearly an essential component of a definition, while compliance with road traffic laws [relating to the transport of wood products] is probably not.’

It is likely that countries wishing to achieve REDD aims will also need to establish similar standards.

**Building capacity for legal control** A lack of legal enforcement can be the result of poor capacity. Investing in systems and resources to secure legality in the forest sector is a key element of FLEG-related initiatives and FLEGT VPAs. (For national examples see Brazil case study above).

Under FLEGT VPAs, there is an explicit recognition that some partner countries will require considerable institutional strengthening and capacity building to meet commitments to enforcing forest law and licensing legal timber. The Commission has highlighted the need for ‘Capacity building and training in producing countries, including support for governance institutions in the implementation of new governance procedures’.<sup>27</sup> As well as agreeing the technical and legal aspects of VPAs, negotiations are being used to identify specific areas where partner countries need financial assistance. Over the longer term, it is envisioned that the increased resource revenue from legal timber production will allow operation of the introduced control systems to become self-funding.

Similar investment in resource protection and legal enforcement is likely to be necessary basis for developing projects in countries that wish to establish their readiness to access REDD funds.

**Clarity over tenure and resource use rights** In a number of tropical forest areas, tenure and usufruct rights are contested and conflicts regularly arise over rights to access and utilise land and resources. In

many cases, unless these conflicts can be equitably resolved, it is not possible to introduce better control over resources. Therefore, under FLEGT partnership negotiations in Indonesia extensive domestic stakeholder consultation around the national definition of legality has incorporated discussions of tenure rights in an attempt to avoid conflict in the future. As a result, the current draft Standard includes a commitment to the welfare of local communities, with reference to verifiers relating to gazettment and the formal resolution of any outstanding use-right conflicts.

Under a REDD scenario it will be essential to establish who owns the right to trade or benefit from credits achieved through the maintenance and sequestration of carbon and establish relevant verifiers for demonstrating ownership. Countries that can clarify carbon ownership issues are more likely to benefit from REDD than countries where tenurial insecurity or conflict between government and local communities constitute an investment risk.

**Domestic stakeholder participation** National stakeholder discussion processes have been central to FLEGT voluntary partnership agreement negotiations. The European Commission has published guidelines on stakeholder consultation in the VPA negotiation process. The guidelines state that the FLEGT Action Plan will support ‘Policy reform that focuses on laws and regulations that are appropriate to the country in question, and through which all stakeholders can engage in policy dialogue’.<sup>28</sup> They go on to assert that in defining legality ‘equity in relation to all forest stakeholders’ rights, need(s) to be taken into consideration’.<sup>29</sup>

Governments of three of the four countries currently negotiating such voluntary partnership agreements have established multi-stakeholder negotiating delegations and technical working groups, which include representatives of both the private sector and civil society groups, to ensure that a broad analysis of the problems, including the possible need for legal reform, informs the design of solutions. There is anecdotal evidence, from both the Ghanaian and Indonesian processes of increased trust and under-

<sup>27</sup> *What is FLEGT? Briefing Note One*, European Commission, 2007

<sup>28</sup> *What is FLEGT? Briefing Note One*, European Commission, 2007

<sup>29</sup> *What is Legal Timber? Briefing Note Two*, European Commission, 2007

standing between national stakeholders as a result of these opportunities to share analyses of the effects of illegal deforestation and some of the potential solutions.

Other governance initiatives, for example the nationally-led process in Brazil, have also recognised the importance of participatory processes for addressing governance issues.<sup>30</sup>

In the context of REDD, it may be useful for countries to consider similar processes, in this case aiming to establish broad-based support for a national approach to achieving reduced emissions. Key questions to be explored in this way could include land use priorities, tenure clarification, revenue and risk distribution, and investment objectives. The role of national media is a further important factor, which is often overlooked.

#### **National system development timeframe/period**

Experience from the development of FLEGT VPAs suggests that, while projects can be established relatively quickly, the development of national systems is both technically and politically complex and likely to require consistent and committed investments of time and technical expertise to achieve conditions for implementation. No FLEGT VPA has yet been signed, although Cameroon, Ghana, Indonesia and Malaysia aim to conclude agreements some time in 2008, after an average of approximately eighteen months of negotiations and technical discussions. Implementation timescales will vary for different countries, but most observers do not expect national systems to license timber (see Annex 1) to be in place in less than two years from the signing of an

agreement. Hence a four-year period to full implementation may be a realistic time frame, which will allow the necessary consensus and capacity building.

## **5.2 Implementing REDD**

**System Monitoring** Monitoring of REDD is likely to be undertaken remotely but a number of technical challenges remain, particularly with reference to assessing forest degradation. It is not yet clear whether forest degradation (REDD's second 'D') will be included in any proposed mechanism. If this is the case, then on-the-ground verification and monitoring systems such as those likely to be incorporated in FLEGT timber licensing, could offer useful policy options in this area. In Cameroon for example, Independent Forest Monitoring by international civil society groups was established with the support of the World Bank (see case study). A similar approach is considered necessary to guarantee the credibility of legality licenses under FLEGT partnership agreements. The concept of third party verification is well known in the forest sector as such systems are used in forest certification.

**Institutional capacity and cooperation** There is growing evidence that forest governance initiatives and REDD will have significant overlaps. From the outset therefore, it may be useful to share experience, information, data and institutional capacity across government, national and international expert groups and negotiating teams within and between countries in order to achieve greater effectiveness and policy coherence.

<sup>30</sup> See, for example, Hans Thiel and Marcel Viergever (2006) Country Case Study 5, *Giants Don't Leap: Verification in Brazil's Process towards Sustainable Forestry* Verifor, available from [www.verifor.org](http://www.verifor.org)

### Forest Law Enforcement in Cameroon: Independent Forest Monitoring (IFM)

Cameroon was host to the 2003 Africa Forest Law Enforcement and Governance Ministerial Conference. It is home to the Central Africa Forests Commission (COMIFAC) Secretariat and is currently negotiating a FLEGT Voluntary Partnership Agreement (VPA) with the EU.

Timber is Cameroon's second largest export commodity by value; representing almost 10% of total GDP in 2005, and around a quarter of all export earnings. Only 8% of the forest area is formally protected and even this area, which is globally-significant in terms of biodiversity, has reportedly been subject to regular illegal incursions. Of the forest allocated to timber production, almost 80% has been granted to commercial concession holders to date. The national annual allowable cut (legal production level) was estimated at 1.5 million cubic metres in 2006, but domestic capacity for processing timber is thought to be around double that and, in reality, national production for export and local consumption was substantially higher. In addition to commercial operations, an estimated 6.3 million of Cameroon's poorest people live in Cameroon's forests,<sup>31</sup> and unregulated settlements often follow commercial degradation, further exacerbating rates of forest loss. The World Bank estimates that illegal activity was responsible for around 50% of the deforestation and forest degradation in Cameroon in 2006,<sup>32</sup> a reported reduction from 2001 levels.<sup>33</sup>

One of the most successful initiatives in support of governance priorities was the introduction of Independent Forest Monitoring (IFM) – a sectoral condition of World Bank Heavily Indebted Poor Country (HIPC) funding in the country in 2001. IFM introduces

an independent group to work in an official capacity to assess legal compliance and support the enforcement of forest law. In this case the Monitor worked in partnership with the Cameroonian Government's Central Forest Control Unit to observe the title allocation process and control of forest activities, and to use remote sensing in assessing the level of forestry activity in forest management units. The Monitor had a relatively free reign and the resources to be able to respond to allegations of illegal activity anywhere in the country. The contract was primarily undertaken by international NGO Global Witness with support from local civil society groups. Regular reports of infractions were made to a Ministerial Reading Committee, then published by consensus and circulated to donors. Since 2001 the Government of Cameroon has increasingly become a more active partner in the process and, as a result, the Monitor's terms of reference have been changed slightly to reflect Government priorities. Assuming a VPA is signed with the European Union some time in 2008, monitoring will continue as part of the agreement, although the remit is likely to change again in response to the new policy context.

In assessing the programme, the World Bank noted 'The presence of the independent observer increased law enforcement activity significantly. Various financial penalties totalling several million dollars were imposed. Reforms fostered investment, increased government revenue, and promoted further industrialization of wood products. The presence of the independent observer also created significant pressure for greater public information: some 2,500 articles on forests and related issues were published in the Cameroonian press between 2000 and 2004.'<sup>34</sup>

Forest resource and industry data from EarthTrends See <http://earthtrends.wri.org>

<sup>31</sup> Source: Government of Cameroon Census data 2002

<sup>32</sup> Contreras-Hermosilla, A, *Forest Law Enforcement and Governance Programme: Review of Implementation*, World Bank, 2007

<sup>33</sup> Young, DW, 'Independent Forest Monitoring Seven Years On', *International Forestry Review* Vol 9(1), 2007

<sup>34</sup> Contreras-Hermosilla, A, *Forest Law Enforcement and Governance Programme: Review of Implementation*, World Bank, 2007

## 6 CONCLUSIONS

It is clear that achieving effective and legitimate governance of the forest resource, including credible law enforcement, will be key to implementing REDD. Legality and governance have been the focus of a number of national and international forestry initiatives and valuable lessons can be drawn from them. Countries that improve their forest governance, clarify tenurial arrangements and address illegal forest conversion and degradation are more likely to benefit from a future REDD carbon market and are more likely to attract up-front investments for REDD pilot schemes and long-term activities.

Policy discussions and pilot activities in the UNFCCC context could therefore benefit from a clearer understanding of current forest governance initiatives. The high degree of overlap between REDD and ongoing forest governance initiatives represents an opportunity for cooperation and coherence between institutions working on their mutual design and implementation. In fact, forthcoming REDD initiatives and ongoing forest governance efforts could be enhanced by an institutionalised exchange of information and experience on a national and international level. Specifically, experience from forest governance initiatives suggests that national and project-level REDD

initiatives could benefit from drawing on lessons learnt in the areas of:

- Establishing clarity of coverage and application of national forest laws
- Building capacity for law enforcement
- Establishing clear and equitable land tenure and use rights
- Establishing a national consensus on forest policy aims and implications through comprehensive stakeholder participation
- Monitoring performance through verification systems

The current governance situation in most potential REDD host countries poses the single most important challenge to tackling greenhouse gas emissions from deforestation and forest degradation. While a number of initiatives aimed at improving forest governance exist, these need to be effectively linked to forthcoming REDD schemes as well as extended beyond the forest sector to include all drivers of land use and land-use change in a country. At the same time, when deciding on priority areas for pilot schemes, international funding agencies and organisations need to critically evaluate the chances of success for REDD in countries which lack a significant track record of implementing forest governance reforms.

## ANNEX 1

### EU FLEGT

The Forest Law Enforcement, Governance and Trade (FLEGT) initiative is the European Union's response to the issue of illegal logging and poor governance and was adopted in May 2003.

The Action Plan recognises that legality is not the final goal, but a first (and vital) step in achieving sustainable forest management and supporting initiatives such as independent certification.

### Voluntary Partnership Agreements (VPAs)

One of the most important tools for implementation of the FLEGT Action Plan is the development of Voluntary Partnership Agreements. These are voluntary, bilateral agreements between producing countries (FLEGT Partner Countries) and the EU, which commit both parties to:

- Cooperation to develop **improved forest governance** in Partner Countries including increased access to support and development funding from the EU for Partner Country governments.
- The development and implementation of a **timber licensing scheme** under which only legally-produced licensed timber from a FLEGT Partner Country will be allowed into the EU.

The principle underlying each VPA is that it is an agreement where the EU and the Partner Country work together to find ways of jointly addressing the problems of illegal logging, using access to the EU timber market as an incentive, but also providing other forms of support where requested by the Partner Country.

#### The EU FLEGT Action Plan

The EU FLEGT Action Plan, published in 2003, sets out a range of measures that aim to combat the problem of illegal logging. These focus on seven broad areas:

- 1 Support to timber-producing countries
- 2 Activities to promote trade in legal timber
- 3 Promoting public procurement policies
- 4 Support for private sector initiatives
- 5 Safeguards for financing and investment
- 6 Use of existing legislative instruments or adoption of new legislation to support the Plan
- 7 Addressing the problem of conflict timber

*FLEGT Proposal for an EU Action Plan, 21 May 2003. Communication from the Commission to the Council and the European Parliament*

### FLEGT licensing schemes

The purpose of a timber licensing scheme is to ensure that all timber licensed under the scheme comes from legal sources. This means ensuring that forests are managed and harvested legally and that wood from these legally managed forests is not mixed with wood from illegal sources. In order to have such a scheme in place, there are five components which are needed:

- 1 **A definition of legally-produced timber** In many countries where illegality is an issue, legal compliance is complex and unclear. Often there are contradictions between different laws or between national and sub-national (e.g. state or province) laws. Therefore, it is important to have a standard that sets out clearly which laws of the Partner Country must be met and provides criteria and indicators with which to test compliance with these laws.

- 2 Control of the supply chain** Legal wood must be kept separate from wood from illegal or unknown sources. Requirements for systems to trace wood products through the production chain from harvesting to the point of export in order to ensure that material originates in legal forests.
- 3 Verification** It is crucial to have in place robust mechanisms for enforcing and verifying legality. There needs to be verification of both compliance with the legality definition in the forest and control of the supply chain.
- 4 Issuance of licenses** Details of who will issue licenses and how it will be done.
- 5 Independent monitoring of the systems by a third-party** A way to provide credibility by ensuring that all requirements of the scheme are being implemented as prescribed.

## **FLEGT negotiations to date**

Bilateral partnership negotiations are currently under way between the European Commission and Cameroon, Ghana, Indonesia and Malaysia. There have also been expressions of interest from Liberia, Gabon, Republic of Congo (Brazzaville), the Democratic Republic of Congo and the Central African Republic. The first agreements are expected to be concluded in 2008, with an implementation and investment phase of approximately one to three years before timber licensing is established.

More information about FLEGT is available from [www.illegal-logging.info](http://www.illegal-logging.info) or from [http://ec.europa.eu/development/Policies/9Interventionareas/Environment/forest/flegt\\_en.cfm](http://ec.europa.eu/development/Policies/9Interventionareas/Environment/forest/flegt_en.cfm)

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