BRIEFING PAPER

CHATHAM HOUSE

ENERGY, ENVIRONMENT AND DEVELOPMENT PROGRAMME EEDP LOG BP 07/03

DECEMBER 2007

Forest Governance and Reduced Emissions from Deforestation and Degradation (REDD)

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Summary

• To date, reduced emissions from avoided deforestation and degradation (REDD) have been left out of the Kyoto mechanisms. Now they are back on the agenda at the 13th Conference of the Parties in Bali in December 2007.

• Proponents of REDD see it as a low-cost option for reducing global emissions which could also alleviate poverty and protect biodiversity. The principle is that, by putting a value on the carbon in standing trees (or rather the rate at which it is emitted as a result of their destruction), the current economic incentives for deforestation could be reversed.

• However, government economic incentives are only part of the picture when it comes to deforestation: it cannot be assumed that simply addressing these will change behaviour in the forest. The capacity and will to effectively govern the resource and capture potential revenues for national and local benefit represent a serious challenge to achieving any REDD objectives.

• This paper sets out a number of lessons from ongoing efforts to improve forest governance, which should be considered at both the design and implementation stage, and suggests that those countries that improve their forest governance, clarify tenurial arrangements and address illegality are more likely to achieve reduced deforestation and benefit from potential REDD investment than those that do not.

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.[1] In the light of this, proposals have been made to include measures to ensure reduced emissions from deforestation and forest degradation (REDD) in the potential scope of a post-Kyoto regime,[2] including possible compensation mechanisms.[3]

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 an important source of GHG emissions at comparatively low cost and generate a change in the order of magnitude of investment in forest conservation and poverty reduction in forest areas.[4] Figures of up to US$55 billion per year have been discussed[5] – the assumption being that, by putting a value on the carbon in standing trees (or rather the rate at which it is emitted as a result of their destruction), such a mechanism could increase the economic incentives for protecting forests and begin to reverse some of the economic drivers for deforestation.

However, economic drivers are only one subset of a complex combination of factors affecting rates of deforestation. It cannot be assumed that simply changing the economics of the sector will, by itself, change behaviour in the forest, particularly over the longer term.

One of the historical drivers of deforestation in many tropical countries has been poor governance of the forest resource; substantial illegal activity in the sector is a symptom of this failing.

Illegal activity – both logging and land conversion for agricultural purposes – has been one of the most significant drivers of deforestation in the majority of countries with considerable potential for REDD – that is, those with large forest areas and high levels of deforestation. Data relating to illegal activity are, by their nature, difficult to find, but reasonably reliable estimates are available for a number of tropical-forest countries that are currently involved in exploring the potential of REDD:

- The Indonesian Ministry of Forestry estimates the annual rate of illegal logging at 2.8 million hectares, a trade worth Rp 30 trillion (approximately US$3.3 billion),[6] and international NGOs estimate that illegal activity accounted for between 73% and 88% of total deforestation for timber production in 2006.[7]
- 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."'[8] The compliance failures in question relate to fundamental issues such as land rights, harvesting limits and the payment of royalties. Further to this, in 2006 the World Bank estimated the level of illegal logging at around 70%.[9]
- In 1997 the Brazilian Secretariat for Strategic Affairs estimated that 80% of logging in the Amazon was illegal.[10] It is widely recognized that increased law enforcement at the national level has led to improved control over the forest resource in the last decade; however, 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 no more than about 40%. This suggests that the status of the remaining 60% was unclear.[11]
- In Cameroon, the World Bank/WWF Alliance estimates that 50% of national timber production is illegal, including 33% of logs harvested for local markets.[12] This figure is also quoted by a number of international and local NGOs and advocacy groups.

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 tropical governments an estimated US$15 billion in lost revenue and forgone macro-economic growth per year (more than eight times the total official development assistance dedicated to the sustainable management of forests). This failure is the result of a range of factors, from lack of enforcement capacity to systemic corruption, but the figures suggest that establishing a funding mechanism for avoided deforestation will not automatically ensure that the most important tropical-forest countries achieve their aims, if the capacity and will to effectively govern the resource and capture potential revenues are not considered at the design stage.

In the light of this, this briefing paper aims to set out a number of lessons relating to forest governance that have already been identified in national and international forest initiatives, and suggest ways in which they may be useful in negotiating and implementing a REDD mechanism, if one is mandated by the Parties to the United Nations Framework Convention on Climate Change (UNFCCC).

What is REDD?

As indicated above, proposals have been made to include avoided deforestation and possibly forest degradation in the potential scope of a post-Kyoto regime from 2012. The UNFCC scientific body is due to report on how to achieve 'Reduced Emissions from Deforestation' at the thirteenth Conference of the Parties in Bali, Indonesia in December 2007. The exact scope of such a mechanism is still unclear, but it is likely that it will include national-level baselines and accounting with options for project-level implementation, and financial incentives in the form of a development fund or a market mechanism based on tradable carbon credits, or some combination of the two.

Governance risks for REDD

While much deforestation is a rational response to global and local economics and is the result of economic planning by governments, in many countries a significant proportion has been, and remains, illegal and uncontrolled. Beyond legal control of the forest resource, a broader set of governance issues also presents fundamental risks to those wishing to design and implement a REDD mechanism. Below are three critical areas where both relatively simple legal compliance and broader governance issues have the potential to undermine REDD objectives.

Land use planning

- Without basic legal enforcement forests may continue to be lost in an unplanned or uncontrolled manner, and their vulnerability may be exacerbated as illegal degradation often precedes further loss through fires or land conversion.
- Rational allocation of land may be compromised by uncertain tenure and use rights over both forest land and the ecosystem services that it provides. Currently a number of key countries face judicial and even physical conflicts relating to contested ownership of and exploitation rights to large areas of forest.

'Permanence'

- While clear economic incentives have the potential to deliver behavioural change in the forest sector in the short term, without effective law enforcement and judicial processes it is unlikely to be sustained over the longer term.
- A perceived lack of legitimacy in land-use planning or benefit-sharing may undermine carbon conservation efforts. It has been estimated that almost 70 million people live in remote areas of closed tropical forest and another 735 million live in or near such areas, relying on forests for daily needs such as shelter, fuel and livelihoods.[13] As a result, legal and illegal poverty-driven forest conversion, primarily for subsistence agriculture, is thought to account for up to 50% of tropical deforestation.[14] Many of these people claim ownership of the forests that they use under traditional or formal law. Clarifying these claims, 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.

Market values

If a market mechanism is used, the value of carbon projects will be affected by both business and reputational risk factors. Attempts to achieve optimal revenues for REDD credits are likely to be significantly undermined by poor governance.

- Countries with high levels of illegal activity and weak institutional frameworks are commonly subject to investment 'discounting' associated with standard credit risk assessments.
- Anecdotal evidence from the Clean Development Mechanism (CDM) and voluntary markets suggests that many companies 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 that in cases where, for example, there is a contested legal right to project revenues by local communities, or a project has been secured by force in the absence of a more legitimate authority, investors will be more cautious than in less compromised circumstances.

Lessons from existing governance initiatives

A range of initiatives, both national and international, have sought to improve forest governance. Regardless of specific political processes, one principle has underpinned these efforts to improve forest legality and reform the management of the resource: a recognition that tackling systematic poor governance is a prerequisite for achieving investment in long-term forest management or any broader environment or development aims for the sector. This principle has been recognized in the United Nations Forum on Forests' Non Legally-Binding Instrument, adopted in 2007, and in discussions in the Food and Agriculture Organization, the International Tropical Timber Organization and the G8. It has also been a driving factor behind the Forest Law Enforcement and Governance (FLEG) Programme and EU Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan – the two approaches to improving forest governance that provide many of the examples in this paper.

The best-known manifestation of the FLEG programme has been its regionally focused series of Forest Law Enforcement and Governance ministerial conferences, which harnessed 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.

Forest governance discussions in Latin America have followed a different approach, reflecting the political priorities of the region. Work to date focuses on two schemes led by established regional institutions in the Amazon Cooperation Treaty countries[15] and Central America. While the political model differs, the nature of the challenges and the principles which underpin efforts to improve management of forest resources in the region are very similar.

The EU FLEGT Action Plan was published in 2003, setting out the EU's contribution to addressing illegal logging, with particular emphasis on the trade dimension highlighted above. The Plan had a range of objectives and outlined a number of policy instruments aimed at creating markets for verified legal and certified sustainable products.[16]

One of the most important tools for implementation of the FLEGT Action Plan are Voluntary Partnership Agreements (VPAs) between the EU and timber producing country governments, which commit both parties to develop a timber licensing scheme under which only legally produced licensed timber from a FLEGT Partner Country will be allowed into EU markets; and to cooperate to improve forest governance with support and development funding from the EU.

Lessons from current initiatives

The experience of FLEG and FLEGT, as well as numerous innovative national initiatives, suggest a number of key principles which may be usefully considered in the design and implementation of a REDD mechanism.

Establishing readiness for REDD

Legal clarity In many countries where illegality in the sector is an issue, compliance standards are complex and unclear. Often there are contradictions between different laws or between national and sub-national (e.g. state or province) laws. Establishing a clear standard for the legal production of timber and wood products, including criteria and indicators for testing compliance, has been central to the development of FLEGT. Similarly, this has been a major focus of reforms in the national process in Brazil.[17] It is likely that countries wishing to achieve REDD aims will need to establish similar clear standards for land allocation and management as a basis for rational economic planning and the development of successful conservation projects.

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 FLEGT VPAs, and it is likely to be a necessity in countries that wish to establish their readiness to access REDD funds.

Clarity of land tenure and ownership over carbon pools In a number of key tropical-forest areas, tenure rights are contested and conflicts regularly arise over rights to access and exploit land and the trees on it. In many cases, unless these can be equitably resolved, it is not possible to introduce better control over resources. Under FLEGT partnership negotiations in Indonesia, as an example, this has been addressed through extensive domestic stakeholder consultation around the national definition of legality. As a result, the current final draft Standard includes a commitment to the welfare of local communities, with reference to verifiers relating to gazettement and the formal resolution of any outstanding use–right conflicts.[18] Under a REDD scenario it may also be necessary to establish who owns the right to trade or benefit from credits achieved through the conservation of carbon, as well as relevant verifiers for demonstrating ownership. Countries that manage to clarify carbon ownership issues are more likely to

benefit from REDD than countries where tenurial insecurity or conflict between government and local communities constitutes an investment risk.

Domestic stakeholder participation National stakeholder discussion processes have been central to negotiations of FLEGT voluntary partnership agreements as well as preparations for FLEG ministerial conferences. In the former case, the European Commission has published guidelines on stakeholder consultation in the VPA negotiation process, while recognizing that such agreements are between sovereign states and must be endorsed by government. In response to these guidelines, three of the four countries currently negotiating VPAs have gone beyond the proposals and established multi-stakeholder negotiating delegations, which include representatives of both the private sector and civil society groups, to ensure that a broad analysis of the problems informs the design of solutions. Other governance initiatives, for example the nationally led process in Brazil, have also recognized the importance of participatory processes for addressing governance issues.[19] 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.

Implementing REDD

Verification/monitoring Verification and monitoring of REDD are likely to be undertaken remotely but a number of technical challenges remain, particularly with regard to assessing forest degradation. It is not yet clear whether the latter will in fact be included in any proposed REDD mechanism. Either way, however, a number of verification and monitoring systems have been developed under the auspices of FLEG or in support of FLEGT timber licensing, which could suggest 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 as part of its FLEG programme. A similar approach has been discussed under FLEGT partnership agreements where third-party monitoring of legality licences is considered a necessary guarantee of system credibility.[20]

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 and other relevant personnel, expert groups and negotiating teams in order to achieve greater effectiveness and policy coherence.

Conclusion

It is clear that effective and legitimate governance of the forest resource, including functioning legal enforcement, will be a central challenge to achieving REDD. Legality and governance have been the focus of a number of national and international forestry initiatives and key lessons can be drawn from them. As the discussion on REDD takes shape, countries that improve their forest governance, clarify tenurial arrangements and address illegality are expected to benefit more from future REDD investment than those that do not.

Discussions within the UNFCCC could therefore usefully be served by a clearer understanding of current forest governance initiatives, and the high degree of overlap between the two concepts which will represent an opportunity for cooperation and coherence between institutions working on the detail of implementation.

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[8] *Logging, Legality and Livelihoods in Papua New Guinea: Synthesis of Official Assessments of the Large Scale Logging Industry,* Volume I, Forest Trends, 2006. See *http://www.forest-trends.org/documents/publications/PNG%20Volume%201%20Final%20v2%20Feb%2016%202006.pdf*.

[9] *Strengthening Forest Law Enforcement and Governance: Addressing a Systemic Constraint to Sustainable Development* (Washington, DC: World Bank, 2006).

[10] Secretaria de Asuntos Estratégicos, *Forest Policy – Lumbering Exploitation in Amazonia*, April 1997.

[11] *Forest Law and Governance in Brazil in the Context of Sustainable Forest Management*, International Tropical Timber Organisation, Document ITTC (XLII)/5.

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[13] *Strengthening Forest Law Enforcement and Governance: Addressing a Systemic Constraint to Sustainable Development* (Washington, DC: World Bank, 2006).

[14] C. Robledo, J. Blaser, T. Levine and K. Schmidt, *Climate Change and Governance in the Forest Sector,* Rights and Resources Initiative, 2007. *http://www.rightsandresources.org/*.

[15] Brazil, Bolivia, Colombia, Ecuador, Guyana, Peru, Surinam and Venezuela.

[16] For further details, see *http://ec.europa.eu/development/Policies/9Interventionareas/Environment/forest/flegt_en.cfm*.

[17] See, for example, Hans Thiel and Marcel Viergever, *Giants Don't Leap: Verification in Brazil's Process towards Sustainable Forestry*, Country Case Study 5, Verifor, 2006. Available from *www.verifor.org*.

[18] A more detailed case study of the Indonesian process of defining legality will be part of a longer version of this paper, *Reduced Emissions from Deforestation and Forest Degradation (REDD): Lessons from a Forest Governance Perspective* (ProForest, forthcoming December 2007).

[19] See note 16.

[20] Both of these examples will also be discussed in more detail in the longer version of this paper (see note 18).

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