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# INTERNATIONAL REDD+ INSTITUTIONS AND THE ROLE OF LAND TENURE AND PROPERTY RIGHTS

PROPERTY RIGHTS AND RESOURCE GOVERNANCE PROJECT  
(PRRGP) – TASK 3.3, CLIMATE CHANGE AND TENURE POLICY  
FRAMEWORK

AUGUST 2011

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## **DISCLAIMER**

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# ACRONYMS AND ABBREVIATIONS

A/R	Afforestation/Reforestation
AFOLU	Agriculture, forestry and other land uses
BNDES	Brazilian Development Bank
CATIE	<i>Centro Agronomico Tropical de Investigacion y Ensanansa</i>
CBFF	Congo Basin Forest Fund
CCBA	Climate, Community and Biodiversity Alliance
CDM	Clean Development Mechanism
CER	Certified Emission Reductions
CIFOR	Center for International Forestry Research
COMIFAC	Central African Forests Commission
DFID	Department for International Development
ERPA	Emission Reduction Purchase Agreement
ESMF	Environmental and Social Management Framework
ETS	Emissions Trading Scheme
FAO	Food and Agriculture Organization of the UN
FCPF	Forest Carbon Partnership Facility
FIP	Forest Investment Program
FPIC	Free, Prior and Informed Consent
GHG	Greenhouse Gases
GRIF	Guyana REDD+ Investment Fund
ICRAF	World Agroforestry Centre
IWGIFR	Informal Working Group on Interim Finance for REDD
JICA	Japan International Cooperation Agency
MOU	Memorandum of Understanding
MRV	Measurement, reporting, and verification
NGO	Nongovernmental Organization

NORAD	Norwegian Agency for Development Cooperation
PAS	Sustainable Amazon Plan
PPCDAM	Action Plan for the Prevention and Control of the Legal Amazon Deforestation
PDD	Project development document
REDD+	Reduced emissions from deforestation and forest degradation in developing countries, and the role of conservation, sustainable management of forest and enhancement of forest carbon stocks in developing countries
REDD+ SES	REDD+ Social and Environmental Standards
R-PP	REDD+ Readiness Preparation Proposal
SBSTA	Subsidiary Body on Scientific and Technological Advice
SESA	Strategic Environmental and Social Assessment
TAP	Technical Advisory Panel
UN	United Nations
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNFCCC	United Nations Framework Convention on Climate Change
USAID	United States Agency for International Development
VCS	Verified Carbon Standards





# I.0 INTRODUCTION

## I.1 BACKGROUND TO REDD+

The international response to climate change through combating deforestation and enhancing forest carbon stocks in developing countries (REDD+<sup>1</sup>) will alter the way in which rural populations in many countries interact with forested landscapes through new incentives and regulations. The security of land tenure and property rights of these populations will be central to their ability to:

- Provide input into the design of these initiatives;
- Participate in the implementation of activities at the local level; and
- Receive benefits from the REDD+ activities.

Secure local land tenure and clear property rights will also help to protect rural rights holders from potential negative impacts of REDD+ activities, such as uncompensated government takings and private speculation. The international institutions guiding investment into REDD+ efforts are in their infancy and incorporate land tenure and property rights concerns into their operations to varying degrees. These institutions include efforts led by bilateral and multilateral donors through international financial mechanisms to the work of nongovernmental organizations (NGOs) and the private sector in developing certification standards and project activities. This paper provides a brief overview of how these international institutions interact with land tenure and property rights through their policies, decisions, and actions.

Global climate change poses a threat to the cultural and economic livelihoods of a large part of the world's population, particularly the rural poor, through increased weather variability and intensity. Society's response to climate change through efforts to mitigate the release of greenhouse gas (GHG) emissions and adapt to the biophysical impacts of climate change is already impacting a wide range of economic sectors, including agriculture, energy, transport, and health. The land-use sector offers significant opportunities to sequester carbon through protecting standing forests and increasing forest cover. At present, however, the land-use sector is a net emitter of greenhouse gases, with deforestation in developing countries contributing to the release of 12–17 percent of global anthropogenic greenhouse gas emissions (van der Werf et al., 2009). As a result, over recent years, reaching an international agreement to formalize an incentive mechanism for REDD+ has been a major objective of the United Nations Framework Convention on Climate Change (UNFCCC), and is seen as a way to realize multiple benefits related to climate, poverty alleviation, and the provision of ecosystem services.

In December 2010, the UNFCCC Cancun Agreements included a landmark decision on REDD+ describing the international goal of REDD+ to “slow, halt and reverse forest cover and carbon loss” (UNFCCC, 2010). The decision leaves the process for meeting REDD+ goals vague except that it should occur through a phased approach, which includes development of a national strategy. This would be followed by implementation of policies and demonstration activities and ultimately results-based actions that are measured, reported, and verified. This approach recognizes that for countries to deliver emission reductions effectively and address drivers of deforestation, there are a number of necessary readiness conditions related to human and institutional capacities and legal frameworks. Secure land tenure and clear property rights are

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<sup>1</sup> REDD+ is “reduced emissions from deforestation and forest degradation in developing countries, and the role of conservation, sustainable management of forest and enhancement of forest carbon stocks in developing countries.”

widely acknowledged as an important readiness steps that have implications on defining rights and responsibilities within REDD+ institutions, and also addresses underlying drivers of deforestation.

Unclear property rights and insecure tenure are recognized as drivers of deforestation in many countries. Individuals lacking secure tenure have few incentives to invest in improving long-term productivity of land (Feder & Feeny, 1991). In some cases, this trend may be due to a lack of ability to exclude outsiders, or defend land from being expropriated by more powerful stakeholders, thus creating an incentive to use resources as quickly as possible. Thus, in addition to acting as a driver of deforestation, unclear property rights and insecure tenure contribute to both rural and urban poverty. In this context, addressing tenure and property rights is seen as a “no regrets” strategy that will improve the livelihood security of the rural poor regardless of how a REDD+ mechanism develops.

Because of the direct link to deforestation, strengthening property rights and land tenure is foreseen as an activity that warrants results-based payments under some financing regimes. A baseline-level of tenure security and clarity of property rights is required for the institutions that support REDD+ to perform. For example, the local and national statutory and customary tenure context has significant implications for the ability of the rural poor to participate in REDD+ activities and/or own and benefit from the creation of emission reductions.

Over recent years, a range of international actors have been preparing for large-scale implementation of REDD+ while waiting for a signal from the UNFCCC. These players include:

- Major international bilateral donors, particularly Norway;
- Potential recipient countries, such as Brazil, Indonesia, and Guyana;
- Intergovernmental organizations, including UN-REDD and the World Bank’s Forest Carbon Partnership Facility (FCPF), Forest Investment Program (FIP), and BioCarbon Fund; and
- Intergovernmental coordination partnerships, such as the REDD+ Interim Partnership.

At the private level, NGOs and private investors have established project level methodologies and activities through emergent certification standards like the Verified Carbon Standards (VCS), the Climate, Community and Biodiversity (CCB) Standards and the REDD+ Social and Environmental Standards (REDD+ SES). These international institutions are playing an important role in controlling the initial scale and direction of funding for REDD+ activities and are defining policies with varying specificity to ensure that funding does not lead to unintended negative consequences. Each institution has a varying capacity to influence local, regional, and national policies and implementation on the ground. As a result, under the present context of a disjointed and ambiguous international regime, it is important to consider how the current discussions (or lack of discussion) related to land tenure and property rights in REDD+ are resulting in actions that promote good governance and safeguard the rights of REDD+ participants.

This paper addresses this need by describing the extent to which international institutions engaging in REDD+ have considered property rights and land tenure issues in their objectives and processes. The paper uses examples from the limited existing experiences with each institution to consider whether the institution’s work is likely to enhance the property rights and tenure of customary and statutory rights holders. For many institutions, particularly those that have not yet delivered funds related to securing tenure and property rights, this analysis is limited to a description of the development of their current guidance documents.

## 1.2 LAND TENURE AND PROPERTY RIGHTS AS A FOUNDATION FOR REDD+

Private and government investors in climate change mitigation require assurances that their investments will result in verifiable emission reductions and/or carbon sequestered, and that these investments do not lead to negative social impacts.

The confirmation that the individuals, communities, or institutions engaging in REDD+ have the right and the capacity to manage land to produce emission benefits is a foundation of the due diligence for producing emission reductions in private transactions. One of the primary ways

to demonstrate this capacity is through evidence of secure tenure and clear property rights. From an investment point of view, in the absence of secure rights to manage land, investors will be hesitant to take the risk that state or non-state claimants may come forward and contest ownership of carbon or the right to engage in an activity. From a participation perspective, a community or household is unlikely to be willing to voluntarily take on responsibilities for managing land for long-term REDD+ incentives if their own long-term tenure is not secure or if their right to benefit from their activities is not clear. This basic element of the need to reduce risk for all participants is the foundation for consideration of land tenure and property rights in REDD+ from the perspective of creating long-term emission reduction benefits.

However, the importance of land tenure and property rights extends beyond risk that emission reductions will not be realized to the procedural rights of who has the right to participate in REDD+ decision making. At the very least, tenure claims in an area where REDD+ activities will occur should provide individuals or communities with the right to engage in some level of the REDD+ decision-making processes. Full and effective stakeholder engagement is a key component of the Cancun UNFCCC REDD+ decision, though the standard modalities for stakeholder engagement, including level of engagement and role in decision-making, differ across REDD+ institutions and within countries. The right of certain groups or individuals, particularly indigenous peoples, to provide or deny consent for activities has been a divisive topic in discussion in international negotiations and still requires clarification. This controversy reflects the argument that externally imposed rules on management of national territory infringes on national sovereignty.

Along with the right to engage in the REDD+ decision making processes, secure land tenure may be linked to the right to own and/or benefit from the sale of carbon. Few countries have legislation that directly addresses property rights surrounding the creation and ownership of carbon credits or the relationship between land tenure, management and the right to benefit from mitigation activities. As a result, benefit distribution from carbon transactions and elaboration on the institutions responsible for this distribution are areas that may require clarification in national legislation. While countries may take different approaches to defining these rights or are basing them off of existing precedents, international institutions are beginning to provide some guidance on the level of clarity required for funding to flow.

The distribution of rights is a particular concern as an agreement on REDD+ under the UNFCCC represents commitment among national governments, and governments will have a great deal of autonomy with how they achieve REDD+ goals. Fears have been raised that national governments may choose to centralize their approach to REDD+, and thus potentially exclude marginalized or disadvantaged groups, including the rural poor (Hatcher, 2009; Larson, 2011). These concerns are particularly strong for countries where statutory rights are poorly enforced and differ from customary practices. In these cases, incentives from REDD+ may lead to actions that assert the right of states over rural land and negatively impact the rights of the rural poor. Without clear approaches to benefit sharing and conflict resolution that are based on standard criteria, such an approach may place the costs of REDD+ on local rural communities, while benefits accrue at the national level.

Tenure emerges as an issue in REDD+ through:

- Reducing risk for investors;
- Increasing security for local participants;
- Ensuring procedural rights to participate for stakeholders; and
- Informing the right to benefit from engaging in REDD+.

### 1.2.1 POTENTIAL IMPACTS AND SOLUTIONS

Activities designed to reach REDD+ goals may have negative impacts on rural populations. In some cases, a country's REDD+ strategy could include relocation of households from forest margins, as in Kenya's plans to rehabilitate the Mau Forest (Republic of Kenya, 2010). Safeguards have been proposed at various levels in international institutions to protect against outcomes that negatively impact the rights and livelihoods of stakeholders and follow the general principle of "do no harm." Safeguards are generally being considered as a minimum level of assurance that risks have been reduced in order to allow for REDD+ activities to proceed. However, the development and application of international safeguards for nations to meet through the UNFCCC has been controversial due to the above concerns over infringement on national sovereignty; as a result, there is a push for national systems of risk mitigation to be developed.

As opposed to the baseline risk mitigation ensured by safeguards, standards are also emerging to promote best practices that maximize co-benefits from REDD+ activities and ensure equitable outcomes. REDD+ standards are likely to consider both process and outcomes. Although standards for REDD+ initially emerged from NGOs and the private sector, multilateral banks, United Nations (UN) institutions, and bilateral donors (including the United States Agency for International Development [USAID]) are developing standards and guidelines and are providing help to guide project developers and governments with best practices.

Despite the acknowledged central role of tenure and property rights in the development of safeguards, standards and in the development of REDD+ institutions, it has not been at the center of REDD+ readiness investments in practice. The informal working group on Interim Financing for REDD identified land tenure clarification and land-use planning as "policy enablers" for REDD+, which will be required in many, but not all, countries before measurable results can be achieved from REDD+. These necessary investments in land tenure and planning were estimated to represent a cost of approximately \$450–\$900 million between 2010 and 2015, representing the greatest single area of investment in REDD+ readiness (Informal Working Group on Interim Finance for REDD [IWGIFR], 2009). While REDD+ funds are slowly starting to flow for establishing new institutions in countries, such as systems for measurement, reporting, and verification (MRV), new funding for tenure clarification has not yet materialized. Tenure-related funds are implied in various commitments of governments, such as the USG REDD+ Strategy and Copenhagen Climate pledge of \$1 billion for REDD+ readiness and Norway's \$1 billion plus pledges of support for REDD+ processes in countries including Indonesia, Brazil, Guyana, and Tanzania. Nevertheless, while some funds are undoubtedly focused on tenure clarification, it is not clear that they are being used in a consistent and targeted way as component of effective REDD+ readiness.

### 1.3 A PRIMER ON REDD+ ACTIVITIES

In order to understand how land tenure and property rights concerns impact the implementation of REDD+ activities and how implementation of REDD+ is likely to impact land tenure and property rights, there is a need to consider the range of activities that may be eligible to receive funding. These basic activities range from project-level to national-scale activities, activities that result in emission reduction credits and those where no-credits are created, compliance market credits and voluntary credits, and payments made for readiness activities vs. performance payments.

The current international REDD+ discussions emerged at the UNFCCC meeting in 2005 over concern regarding the lack of incentives for avoiding deforestation in developing countries (UNFCCC, 2005). While the discourse still centers on reducing deforestation, the agreement also includes incentives to reduce forest degradation,

There are a number of dichotomies that emerge in understanding REDD+ including:

- Project-level vs. national or jurisdictional accounting;
- Activities that create compliance credits, voluntary credits or no-credits; and
- Readiness payments vs. payments for emission reductions.

promote sustainable forest management, conserve forests, and enhance forest carbon stocks (the “+” components of REDD+). Enhancement of forest carbon stocks implies that activities like afforestation and reforestation (A/R) will fall under the REDD+ umbrella, although the specific eligibility of activities is still undefined. This development thus moves REDD+ beyond currently forested areas to a wider unforested or deforested landscape with implications for land tenure and property rights, particularly with respect to new incentives for large-scale plantation forestry on degraded and grazing land.

### **1.3.1 PROJECT LEVEL VS. NATIONAL LEVEL**

While REDD+ under the UNFCCC discussions represents national-level commitments to reducing emissions, private project developers, international NGOs, and bilateral donor have engaged in REDD+ with a variety of objectives. Broadly, private project developers have invested in projects in the anticipation of the creation of emission reduction credits that can be sold for a profit. Many NGOs are attempting to use REDD+ projects as a funding stream for existing activities in and around protected areas, or as a sustainable resource management strategy in priority areas for biodiversity, health, food security, and economic growth activities. Bilateral donors have financed project activities to demonstrate methodologies, establish pilot projects, or set the stage for broader national-level implementation of REDD+. Despite these efforts, most project-level avoided deforestation activities are still under development and few are delivering performance-based incentives to local rights holders. Some of these efforts have no intention of delivering performance-based incentives to the local level, but rather will place incentives in traditional development projects. While there are a number of A/R projects that have passed through the initial validation process and delivered carbon credits, only one REDD+ project has created verified emission reduction credits as of March 2011 (Kasigau Corridor, Kenya through VCS)(Wildlife Works, 2011).

While project-level activities have provided demonstrations of MRV methodologies and models for stakeholder engagement, there is pressure to account for emission reductions from REDD+ at larger jurisdictional scales, such as the provincial or national scale, to avoid the potential for project activities to strategically choose areas that are unlikely to be deforested or for projects to result in the displacement of deforestation outside of the project area (leakage). Furthermore, national-level accounting provides greater international accountability for the potential non-permanence of reductions (if deforestation rates ultimately rise), as it places responsibility on government instead of a project developer or local stakeholders. While national activities will certainly involve working with one or more discrete projects, the institutions for implementation, MRV, and benefit distribution will be coordinated or managed at a jurisdictional level. Furthermore, national activities will be required to improve forest governance and address the underlying framework for land tenure and property rights.

A particular challenge of REDD+ project-level activities is that they are responsive to existing land tenure and property rights conditions and have limited opportunities to influence larger policies. Despite this challenge, the first project in countries where tenure and property rights surrounding forest carbon are unclear may undertake significant background work to demonstrate to investors and national authorities that activities stand on a strong legal foundation, as occurred in the Ethiopian Humbo project (World Vision, 2009). In this case, legal analyses demonstrated that the national system of holding certificates provided adequate tenure security to implement activities. However, it might be more common that project developers find isolated cases in developing countries where tenure and property rights are adequately secure at a local scale, or where appropriate risk buffers are present for project-level activities to occur. In many of these cases, payments for carbon credits may be a co-benefit and an additional revenue stream to finance a particular forest management practice. This is likely to be the case in industrial A/R projects or in projects for improved forest management (through techniques such as low-impact harvesting), where carbon benefits are a small component of a larger financial argument for a particular land-use practice.

In contrast, national REDD+ activities have the opportunity to influence underlying legal frameworks and result in national strategies to improve land and forest governance, as well as MRV and benefit distribution institutions. As opposed to the reactive nature of discrete project-level activities, national REDD+ activities

must be proactive in developing effective governance environments and institutions for REDD+ through investment in readiness. This need is particularly true in the case of secure land tenure and clear property rights. At the readiness level, the legal framework for land tenure and property rights may need to be addressed in many countries to ensure that incentives to manage land for carbon benefits can reach land managers.

### **1.3.2 READINESS PAYMENTS VS. PAYMENTS FOR EMISSION REDUCTIONS**

Few developing countries have existing institutions or governance systems that are likely to be effective in delivering REDD+ commitments. As a result, much of the initial investment for REDD+ at the international level is helping to develop national legal frameworks and the human and institutional capacity to implement activities, monitor performance, and distribute benefits. While these readiness activities are crucial for REDD+ and provide additional co-benefits, they cannot be directly tied to quantified emission reductions. Addressing land tenure and clarity of property rights around carbon are likely to be among these necessary readiness activities in a great number of countries, though it is clear that addressing land tenure and property rights will be a long-term process that continues alongside payments for emission reductions. Readiness payments are likely to be programmed to help reform law to strengthen customary tenure or create clearer property rights to benefits from carbon transactions.

Performance payments for emission reductions, in contrast, are linked to a specific amount of emission reductions that have occurred (*ex-poste*) or will occur (*ex-ante*). Payments do not have to be linked to specific, pre-defined activities or local stakeholders. For example, in the case of national-level REDD+, transfers may be made between governments based on national emission reductions, rather than the measurable contributions of each individual land manager. This process does not prescribe the regulatory or incentive-based methods that are used to reach performance levels or how the payments should be distributed within a country. Similarly, in project-level activities, although project developers or NGOs may develop an understanding or contract with local landowners or communities with respect to distribution of benefits, this distribution is not necessarily linked to the performance of individuals and their activities.

### **1.3.3 CREDITS VS. NO-CREDITS**

Performance payments may be based on the creation of emission reduction credits, though not all emissions reductions result in credits. Credits imply a transferability and legal ownership, and they are created based on a validation and verification process. This process is typically carried out by a third-party verifier accredited by a central organization that reviews and accepts emission reduction methodologies. Credits for quantified emissions reductions are subsequently catalogued and tracked within a registry. Once credits are created, these units may be transferred and traded through direct transactions, or through a market that will accept the credits. Under the Kyoto Protocol, the Clean Development Mechanism (CDM) allows certain emission reductions created in developing countries, called Certified Emission Reductions (CERs), to be used to meet compliance obligations in developed countries. These credits can subsequently be transferred through private sector to government, government to government transactions, or on a market. The European Union (EU) Emissions Trading Scheme (ETS) acts as a market for CDM CERs. Under the CDM, A/R credits are permissible, but there are no accepted avoided deforestation methodologies. Although the EU ETS only accepts credits under the CDM, it has chosen not to accept A/R credits during the first commitment period. As a result, CER credits from A/R can be used for countries to meet their Kyoto Protocol compliance needs, but they are not tradable under the largest market for these CERs. California is in the process of developing the world's first compliance market that will accept REDD+ methodologies beginning in January 2012 (Tropical Forest Group, 2010).

In addition to credits created under the Kyoto Protocol Mechanism, a number of REDD+ methodologies have been accepted by carbon registries, including the Climate Action Reserve, VCS, and American Carbon Registry. As noted above, however, relatively few forest carbon credits have yet been created. Not all performance payments result in transferable credits. Under the Amazon Fund, for example, although Brazil

quantifies the emissions reduced based on payments into the fund, no credits of any kind are created from the transaction. Thus emission reductions funded by developed countries through the Amazon Fund cannot be used to meet compliance needs in developed countries. The role of emission reductions from REDD+ in helping countries meet targets is one of the key undefined areas from the Cancun Agreements.

# 2.0 INTERNATIONAL REDD+ AND LAND TENURE AND PROPERTY RIGHTS

The international REDD+ regime is composed of a range of intergovernmental bodies, bilateral and multilateral funders, and coordination bodies, as well as non-governmental organizations and private business that develop and administer certification standards and guidelines (see Annex A for a tabular breakdown of organizations and processes involved in standards and guidelines with relevance to REDD+ and land tenure). These institutions interact with government, landowners, local communities, and project developers; each has considered land tenure and property rights to a varying degree in their policies and activities on-the-ground.

## 2.1 UNITED NATIONS AND MULTILATERAL INITIATIVES

### 2.1.1 UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE

REDD+ has been under discussions formally since 2005 under the UN; while the 2010 Cancun Agreement (following from the 2009 Copenhagen Accord) does not establish a REDD+ mechanism, it represents the strongest indication that there will ultimately be an international mechanism to emerge from the process, with the agreement calling on parties to “slow, halt and reverse forest cover and carbon loss” (UNFCCC, 2010).

“Land tenure issues” are presented explicitly in the Cancun text as a priority in addressing forest governance issues, drivers for deforestation, gender considerations, and safeguards. The specific mention reflects the recognition of the foundational role of tenure in securing lasting emission reductions, although it is not within the scope of such a broad international agreement to outline the relationships between tenure and the other REDD+ priorities.

In terms of the participation of stakeholders, the Agreement provides guidance at both the global and national levels and affirms the need to “promote broad country participation.” This language sets the stage for investment in readiness activities, rejecting a potential focus on the few countries with the strongest current enabling environments or on the countries with the largest forest cover or greatest rates of deforestation. On the national level, and more directly relevant to land tenure and property rights, the Agreement calls for “full and effective participation of relevant stakeholders,” and makes special reference to indigenous peoples and local communities. While this issue is not elaborated on in the text, past drafts have included bracketed text on “free, prior and informed consent” (FPIC) (as under the UN Declaration on the Rights of Indigenous Peoples [UNDRIP]). The use of FPIC posed challenges for some developing and developed countries, as it implies the potential for groups to override the decisions of the state, with some developing countries suggesting that this impinges on their national sovereignty (Griffiths, 2009). Nevertheless, FPIC remains a central principle under some international REDD+ institutions, including UN-REDD, the CCB Standards, and the REDD+ Social and Environmental Standards (REDD+ SES).



The Cancun Agreement does not elaborate on the rights to own or benefit from emission reductions through REDD+, in part because the potential financing and potential methodologies for the creation of emission reduction credits are not described in the text. These two issues of financing and methodologies are expected to be components of political negotiations and scientific and technical work during 2011, although there is no assurance that agreement will be reached by the end of the year. There is also no indication that the UNFCCC will create guidelines for how the rights to own or benefit from emission reductions should occur at the national level. At present, it is unclear whether the international REDD+ structure will allow performance payments to institutions other than host governments. Some anticipate a structure, at least temporarily, where investments can be made into private projects or sub-national jurisdictions, as national governments develop the institutional capacity to monitor and enforce compliance and manage benefits. If past experience with the CDM provides a reference, then emission reduction credits are likely to accrue at the national level and governments will be responsible for establishing contracts or a legal framework for the distribution of benefits within the country.

The Cancun Agreement calls on countries to develop systems to provide information on how they are addressing and respecting social and environmental safeguards outlined in the annex of the agreement. These safeguards call for, among other things, “transparent and effective national forest governance structures,” “full and effective participation of relevant stakeholders,” “respect for the knowledge and rights of indigenous peoples and members of local communities,” “actions to reduce risks for reversals,” and “actions to reduce displacement of emissions.” Each of these statements is relevant to land tenure and property rights; it remains to be seen how forthcoming guidance on safeguards will incorporate the role of enhancing secure tenure and clear property rights. Guidance on safeguards was one of the priorities for the UNFCCC Subsidiary Body on Scientific and Technological Advice (SBSTA) addressed in June 2011. However, the SBSTA did not agree on substantive guidance on safeguard information at this meeting. The commitment to developing guidance on providing information on safeguards under the UNFCCC is a signal for the international community that consistent cross-cutting guidelines or rules will be developed. The question of guidelines versus rules will represent a source of tension, as a number of developing countries have expressed concern that strict eligibility criteria will prohibit participation by many forested nations (Griffiths, 2009). Furthermore, they caution that the costly and long-term challenges of reform may result in a reluctance of donors to investment in readiness. Others stress that eligibility criteria infringe on national sovereignty, as it prescribes how emission reductions are to be generated.

The need to address land tenure and property rights is implied within the Cancun Agreement. Although it represents movement forward in terms of objectives, it does not elaborate on operational steps. Instead, it is likely that the other institutions currently channeling funding will be responsible for clarifying the processes and rules through trial and error. These lessons may ultimately become best practice under the UNFCCC umbrella.

### **2.1.2 CLEAN DEVELOPMENT MECHANISM**

While the international REDD+ regime remains ambiguous, the UNFCCC does have experience in land-based mitigation activities in developing countries through the CDM. The CDM allows participating developed countries to contribute to meeting their emission reduction commitments under the Kyoto Protocol by financing emission reduction project activities in developing countries (the United States Government [USG] is a party to the UNFCCC, but is not a party to the Kyoto Protocol and so does not participate in the CDM). Avoided deforestation has not been permitted as a CDM methodology, in part due to fears of displacement of emissions beyond project boundaries (leakage) and the challenge of demonstrating that reductions will continue indefinitely (permanence). A/R project activities are permitted under the CDM. Though A/R methodologies were initially anticipated to play a substantial role in the CDM, only 61 of the over 6,000 projects registered as of April 2011 have been A/R (in part because the EU refused to accept A/R credits in their emissions trading system, due to concerns over permanence and the potential for a large volume of A/R credits to overwhelm the market) (United Nations Environment Programme [UNEP], 2011).

Nevertheless, A/R activities in developing countries are anticipated to be accounted for under REDD+, as they represent “enhancement of forest carbon stocks,” though the accounting link with proposed and existing projects under the CDM is not currently clear. Under the CDM, host country governments own any certified emission reduction credits created in the country (because the Kyoto Protocol is an agreement among nations). However, governments typically sign agreements to transfer credits to the private project developers that originate and finance the activities (with the government usually taxing the credits). In A/R projects, project developers, which are generally environmental NGOs or private forestry companies, can arrange for local statutory or customary property owners to be official project participants and thus entitled to own credits. However, in practice, the developer usually retains ownership of the credits and develops an agreement (not necessarily contractual) with local participants for benefit sharing arrangements. These benefit-sharing arrangements oftentimes resemble traditional conservation and development projects, with the project developer using the funds to finance local capacity-building activities and public goods. Similar arrangements are likely to occur under many of the potential REDD+ benefit-sharing approaches, with local participants receiving little, if any, cash benefit. Therefore, while at some level, benefits are linked to performance, the benefits that reach the stakeholders may not be related directly to the performance of individual or even groups of local participants.

As noted above, project-level mitigation activities, as in the CDM, tend to work within existing national legal frameworks and, therefore, have limited impact on land policy at the regional and national levels. According to CDM methodological guidance, all activities require a project development document (PDD), which includes a “description of legal title to the land, current land tenure and rights to the emission reduction credits that are issued,” as well as an assessment of socio-economic impacts of the project activity.

While CDM A/R projects do not necessarily enhance land tenure and property rights, in some cases, project developers have attempted to help local communities or land owners participate through assistance in securing official title to land or helped the government to clarify the extent to which existing legislation addresses carbon issues. The case of the Humbo Assisted Natural Regeneration Project, which was the first A/R mitigation project in Ethiopia, addresses each of these issues. For example, the project developer financed legal research that concluded that although the state owns the land, local users have the right to own and benefit from mitigation activities (World Vision, 2009). Additionally, the developer helped the local communities to gain holding certificates for their land, which will strengthen their tenure security. In another case, the Reforestation of Croplands and Grasslands in Low Income Communities of the Paraguari Department in Paraguay, project developers started the land titling process for local farmers by helping farmers acquire certificates of land occupation, the first step toward obtaining title. It is unclear, however, whether or not project developers will continue to assist community members with this process. There is additional concern that the efforts of project developers to clarify tenure can result in decreased tenure security by favoring one group over another or by expediting tenure claims without adequate consultation (USAID, 2011). This process may be a particularly relevant risk for REDD+ due to the anticipated national-level accounting, resulting in the pressure to clarify property rights quickly, including over large areas.

### **2.1.3 WORLD BANK OVERVIEW**

The World Bank acts as the secretariat, trustee, and/or delivery partner for a number of institutions relevant to REDD+ financing and implementation, including FCPF, FIP and the BioCarbon Fund. Each of these institutions has a different mandate for financing projects, national-level readiness or performance payments. In addition, the World Bank acts as the trustee for other REDD+ related climate funds, including the Guyana REDD+ Investment Fund (GRIF). Funds passing through World Bank institutions must be distributed in accordance with World Bank operational policies (World Bank Safeguards, described in box 2.1). However, the application of the World Bank Safeguards to REDD+ activities has been challenging due to the nature of REDD+ investments as part of multi-donor processes and the long-term nature of REDD+ institutional reforms.

The World Bank's Safeguards were initially designed to be relevant for discrete project-level activities, as

### **BOX 2.1: SAFEGUARDS**

The World Bank Safeguards are the primary instruments to ensure that land tenure and property rights are not negatively impacted by REDD+ activities with funding that passes through the World Bank. The most likely Safeguards to be triggered that are relevant to tenure and property rights are Operational Policy 4.12 on Involuntary Resettlement and Operational Policy 4.10 on Indigenous Peoples, both of which are considered under the Bank's policy on Environmental Assessments. Proposed projects are initially analyzed via an Integrated Safeguards Assessment, which ask for descriptions of key safeguard issues and how they will be addressed in the project. This initial step is followed by an Environmental Assessment carried out by the funding recipient. If potential concerns are found, the recipient is required to amend project proposals to describe how Safeguard concerns will be addressed, with a preference for preventative measures over mitigation or compensation. Safeguard compliance is then evaluated through a decentralized Safeguard Policies Review and Clearance Process, with any dispute resolution occurring through a centralized coordination mechanism. If a project is ultimately approved, the borrower will report throughout project implementation on compliance with agreed measures, the status of mitigation measures, and findings of the monitoring programs.

The policy on Involuntary Resettlement is triggered by any land acquisition or restrictions on access to resources in protected areas, even including cases where individuals are not required to relocate. The application of the policy may require a Resettlement Action Plan. The policy on Indigenous Peoples calls for free, prior and informed consultation (in contrast to "consent," as used in some other fora, such as UNDRIP). In this policy, the World Bank is clear that the right to consultation does not constitute a veto right for individuals or groups. When this policy is triggered, it requires borrowers to develop an Indigenous Peoples Plan, which is an action plan that may take the form of providing legal recognition of existing customary tenure systems or a process to convert ownership rights.

opposed to the integrated policy, plans, and programs that are characteristic of many REDD+ investments. As a result, there has been a movement to use Strategic Environmental and Social Assessments (SESAs) for assessing REDD+ activities through the World Bank (described in Box 2.2). SESA represents an assessment type that addresses governance and institutional concerns through an iterative learning process, as opposed to the binary triggers of the World Bank Safeguard process. As a result, the World Bank is working with other REDD+ delivery partners to adapt a SESA process to REDD+. However, the relationship between a SESA and the World Bank Safeguards is still under development, particularly related to if and how the Safeguards will be "triggered" through the SESA process. The SESA approach has been adopted by UN-REDD as well, and the move is reflective of the increased consolidation of methods and approaches across some international institutions.

In addition to the SESA, the World Bank is promoting an Environment and Social Management Framework (ESMF) related to REDD+ investments. Given that the SESA for REDD+ is being developed as an approach for multiple different donors to use, the ESMF is designed to address issues specific to World Bank requirements (addressed in detail in box below). This will allow for donors to coordinate on assessments through a SESA, but allow for the World Bank to meet its internal obligations through the ESMF.

The following section will introduce the Biocarbon Fund, FCPF, and FIP, and how their policies and activities address issues relevant to property rights and land tenure in REDD+. These institutions are extremely dynamic. Each of their meetings has the potential to provide dramatically new directions for their REDD+ work and clarifications of policy.

## **BOX 2.2: STRATEGIC ENVIRONMENTAL AND SOCIAL ASSESSMENTS (SESA)**

Because REDD+ implementation at a national scale will not be composed of independent and discrete projects, but rather the progressive development and implementation of national plans, the application of the World Bank Safeguards has posed a challenge for World Bank REDD+ institutions. Proposed approaches by countries in their REDD+ Readiness Preparation Proposals (R-PPs), and likely in FIP National Strategies, are a continuum of institutional building blocks and it is not always clear at what point compliance with Safeguards should be addressed. In response to this issue, FCPF and FIP, as well as UN-REDD, have proposed the use of SESAs. SESAs represent a participatory approach that integrates environmental and social considerations into policy, plans, and programs. They are used to address institutional and governance concerns within a sector through an iterative learning process, and thus contribute to the success of subsequent project activities (Slunge et al., 2010). The SESA process for REDD+ has two phases: an initial phase for R-PPs, which provides an overview of social and environmental context; followed by a deeper analysis with local consultations during the Readiness Phase. This analysis will then be presented as a mid-term progress report in the three-year Readiness Phase along with description of readiness activities to the FCPF for assessment. This progress report on SESAs will help the FCPF determine whether a country can access the entirety of the Readiness grant (of up to \$3.6 million). At present, no country has reached this stage of evaluation and the precise criteria for these assessments of the SESAs are still under development.

The SESAs are to be composed of a strategic component to facilitate: increasing attention to environmental and social priorities, strengthening constituencies, enhancing social accountability, and promoting policy learning (Slunge et al., 2010). In circumstances where the World Bank is the implementing entity for activities, an additional layer of social and environmental protection (ESMF) is required to ensure compliance with World Bank Safeguards for specific activities.

### **CONCERNS WITH THE SESA APPROACH**

Since 2009, civil society organizations expressed concerns that while SESA has been praised as a practical approach to ensure that social soundness is evaluated, initial descriptions did not highlight at what stages during the Readiness process compliance with the Safeguards would be assessed or the ramifications of non-compliance with the Safeguards (Bank Information Center, 2010). Early drafts were criticized for a lack of application of safeguard policies for environmental assessments, Indigenous Peoples, natural habitats, and physical and cultural resources during the Readiness Phase (Bank Information Center, 2010). The integration of the ESMF has allayed these concerns to some extent, although many still highlight the need for specific descriptions of when Safeguards will be evaluated during the readiness process.

### **BOX 2.3: ENVIRONMENTAL AND SOCIAL MANAGEMENT FRAMEWORK**

ESMF provides the framework to identify, mitigate and manage risks based on inputs from the wider SESA. The ESMF acts as an extension of a country's SESA to demonstrate compliance with the World Bank Safeguards. While FCPF, FIP, and UN-REDD will require SESA, only activities under the FCPF and FIP will require an ESMF. In order to be acceptable to the World Bank, the ESMF must include sections on Safeguards, including a Resettlement Policy Framework (for restriction of access to natural resources in parks or protected areas), a Process Framework, and an Indigenous Peoples Planning Framework. Each section should include procedures for consultations, capacity-building, continued assessments, time bound mitigation action plans, and monitoring plans. The SESA and ESMF approaches are adaptable to national circumstances. Countries are encouraged to build on existing institutions (FCPF/UN-REDD, 2010). This approach is still in its early phase and many countries will require assistance to move through the process. A draft ESMF can be used during the R-PP development to help inform stakeholders of potential impacts, but is expected to be finalized during the three-year readiness phase.

#### **2.1.4 BIOCARBON FUND**

The BioCarbon Fund is a public/private initiative, which has operated since 2004 with the World Bank as Trustee. The Fund aims to finance cost-effective emission reductions through land use and forestry projects. These projects were anticipated to take place primarily in countries that would otherwise have few opportunities to participate in a carbon market. Although most of the emission reductions from the BioCarbon Fund use methodologies that would be eligible under the Kyoto Protocol, some projects, including the avoided deforestation project-level activities in Mantadia, Madagascar, represent activities that are not currently eligible for Kyoto Protocol compliance credits. The Fund aims to help develop new methodology and project activities, therefore avoided deforestation and agriculture/soil carbon projects fall within the Fund's mandate. Proposed projects apply to provide emission reductions to the fund, which is capitalized by both governments and private companies. Two tranches have been opened under the fund, representing just over \$90 million of investment in 20 projects internationally. The Fund also includes a capacity-building and lessons learned program for projects in developing countries and economies in transition. All prospective projects must describe anticipated social benefits in addition to providing emission reductions (BioCarbon Fund, 2007). A number of BioCarbon Fund projects are also CDM projects, including the Humbo Ethiopia project previously described, and consequently face the CDM burden of proof for demonstrating land tenure and ownership of credits within the project design document and through the subsequent validation and verification process. BioCarbon Fund projects face the same limitations as other project-level activities on their ability to enhance tenure security and property rights clarification, unless supportive legal frameworks exist at the national level. Activities under the BioCarbon Fund are evaluated against the World Bank Safeguards, but do not need an ESMF or SESA because they represent discrete project activities.

The BioCarbon Fund projects must demonstrate that the activities “do no harm” by adhering to the World Bank Safeguards and preferably by exhibiting net social benefits. This approach requires a baseline representing an estimate of what would happen in absence of the project (BioCarbon Fund, 2004).

#### **2.1.5 FOREST CARBON PARTNERSHIP FACILITY**

The FCPF aims to assist countries in the development of systems to engage in REDD+ and ultimately provide performance-based payments to countries. The FCPF is based in the World Bank and is composed of a Participants Assembly of all country participants and financial contributors and Participants Committee of a subset of 28 participants and contributors. The FCPF includes a readiness fund valued at approximately

\$200 million and a carbon fund for performance-based emission reduction payments, which has reserves of \$145 million. The central function of the FCPF over recent years has been facilitating countries' development of Readiness Plan Idea Notes and R-PPs. As of July 2011, 17 of the 37 FCPF partner countries have submitted their final R-PPs to the FCPF and an additional 6 countries have provided draft R-PPs (Partner countries can be found in Annex B).

R-PPs provide preliminary analyses of key social and environmental issues, risks, and opportunities of REDD+ readiness activities, and potential winners and losers among stakeholders. The R-PP is expected to lead to an implementation phase of readiness preparation, during which policy, legal, regulatory, and institutional capacity gaps are identified and stakeholder consultations and more detailed stakeholder analyses and assessments occur. These efforts are to lead to the development of a SESA that includes an ESMF to ensure compliance with the World Bank Safeguards. The implementation of an R-PP can take up to three years to complete and is anticipated to be followed by a "Readiness-Package" to implement the action plan. The readiness package represents a country's process to develop its reference scenario, MRV system, REDD+ strategy and implementation framework, and national REDD+ management arrangements.

Consideration of land tenure and property rights is both generally and specifically considered by the FCPF through the guidance offered in the R-PP template and through evaluation of the FCPF's Technical Advisory Panel (TAP) (Templates available at [www.forestcarbonpartnership.org](http://www.forestcarbonpartnership.org)). As of July 2011, most countries are still in the process of submitting and revising their R-PPs. The R-PP template is continuously evolving; the December 2010 version notes that considers many of the issues related to REDD+, particularly tenure issues, represents a continuous process to be revisited frequently. The template calls for REDD+ strategies to identify land-use trends and drivers and to describe major land tenure and resources rights issues, followed by identification of options to address these concerns. Upon submission of their R-PP, each country's R-PPs is evaluated by the TAP and subsequently approved or rejected by the Participants Committee based in part on how well the R-PP addresses "land tenure, land rights issues and recognize[s] the respect for traditional knowledge and livelihood practices," and the extent to which both statutory and customary rights are addressed (FCPF, 2010). The World Resources Institute is performing a review of R-PPs through a set of governance indicators that include consideration of land and forest tenure, as well as a variety of indicators with relevance to tenure and property rights, such as participation in decision making and proposed mechanisms for benefit distribution (Goers Williams et al., 2011).

The TAP (indeed, the FCPF as a whole), aims to facilitate best practices and capacity-building initiatives rather than rejecting plans and activities. This openness has encouraged countries to submit draft R-PPs to the TAP. Critical feedback from the TAP has, in some cases, led to resubmission of proposals. For example, the Participants Committee has called on Guyana to: "[R]eview the implications of the current land titling process (especially for Amerindian communities) for the national REDD strategy, develop a plan and schedule for inclusive and transparent consultations with stakeholders, and further develop relevant policies, laws, regulations, or guidelines concerning land tenure and resource access, and the distribution of costs and benefits, for REDD demonstration projects" (FCPF Participants Committee Third Meeting, June 16–18, 2009, PC Discussions of Guyana's Readiness Preparation).

Despite these steps, the FCPF has not developed clear benchmarks or procedures against which these criteria can be evaluated. Thus, key decision points for deciding whether funding can and should proceed are not available. Civil society has critiqued the Participants Committee's role as changing from requiring "approval" of R-PPs to "review and assessment" of R-PPs. Some suggest that this softening of language may result in evaluation of country compliance with World Bank Safeguards much later in the Readiness process (Bank Information Center, 2010).

No performance-based benefits have been distributed under the FCPF, nor are they anticipated until countries have made sufficient progress towards REDD+ readiness, as judged by the Participants' Committee and TAP. Once this progress is made, countries may be eligible to participate in an Emission Reductions Payment Agreement (ERPA), subject to meeting a set of World Bank criteria, including the Safeguards. Such agreements will have to proceed through an Emission Reduction Program Idea Note phase requiring

elaboration on issues including benefit sharing, which calls for consideration of whether the national government is the best actor to enact and implement effective benefit sharing. This recognizes that local populations and the private sector may be the primary actors in implementing activities and thus should be the principle beneficiaries of Emission Reduction payments. The ERPA guidelines do not outline specific steps to ensure that local rights holders benefit from the payments, but any funded activities at this stage would need to demonstrate compliance with SESA and the World Bank Safeguards through an ESMF (FCPF, 2011a).

The Carbon Finance Mechanism of the FCPF identifies a variety of risks, including: permanence, where gains are lost due to future disturbance; leakage, where emissions are simply displaced to neighboring communities; and social risks, in cases where exclusion of some populations or forced inclusion may result in social disruption or conflict. In describing these risks, secure tenure is identified as a valuable mitigation strategy and a potential activity that can be funded through an ERPA (FCPF, 2011a). Despite these guidelines for what can be funded through performance-based activities, the process for pricing these emission reductions remains unclear.

### **2.1.6 FOREST INVESTMENT PROGRAM**

The FIP is a part of the Strategic Climate Fund, which is one of two multi-donor climate change trust funds under the World Bank to support adaptation and mitigation activities. The FIP is designed to fill an interim gap in financing and may close once an effective financial architecture emerges for REDD+ from the UNFCCC process. The FIP has explicit goals related to transforming forest related policies and practice in developing countries. While the specific activities that will be supported have not been finalized, support for “legal, financial and institutional development including forest law enforcement, cadastral mapping and land tenure reform” are explicitly mentioned in current design documents (FIP, 2009).

Within this framework, the FIP has proposed measuring a series of results over various time frames, including: activities over 1–7 years; project outcomes and outputs over 2–7 years; catalytic replication outcomes over 5–10 years; and transformative outcomes over 15–20 years. This approach requires solid background data; the FIP has indicated that it is still in the process of defining relevant indicators for tracking purposes (FIP, 2010). The FIP is in the process of establishing pilot work in Brazil, Indonesia, Mexico, Democratic Republic of the Congo, Peru, Ghana, Burkina Faso, and Lao PDR, with funding to range from \$20– \$70 million per country. Countries applying for funds under the FIP are required to submit country investment strategies with country-sector specific background information that includes forest governance arrangements, including “land rights and tenure systems, stakeholder participation, legislation and regulations” (FIP, 2009). At present, each pilot country is preparing to develop investment strategies for the funds, although none has been submitted to date.

The FIP also provides a dedicated grant mechanism for indigenous peoples and local communities or a selection of activities, including those that recognize and support tenure rights and traditional forest management and full and effective participation. The design proposal for this grant mechanism is under review and expected to be presented for review and approval in June, 2011. Despite pledges of over \$500 million, no funds have been dispersed from the FIP as of May 2011 (Climate Investment Fund, 2011).

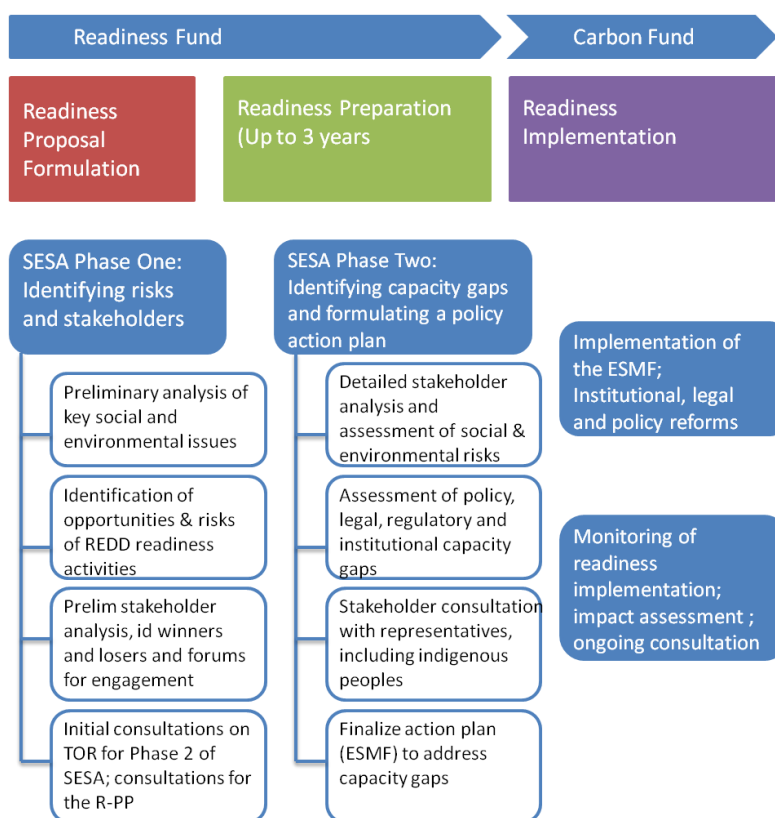
### **2.1.7 UN-REDD**

UN-REDD is a joint program of the Food and Agriculture Organization of the United Nations (FAO), the United Nations Development Programme (UNDP) and the UNEP that assists developing countries in creating national REDD+ strategies, implementing national programs, and coordinating global analyses and developing guidelines to advance implementation of and knowledge on REDD+. As of December 2010, UN-REDD includes 29 partner countries, 12 of which have received direct support (list of countries in Annex B). One of the primary activities of UN-REDD is to develop an approach that supports effective and inclusive governance systems for REDD+. This work on governance, led by UNDP, is at its early stages of

development and will provide technical and financial support to UN-REDD partner countries. It will include support for land tenure policy, drawing from the forthcoming Voluntary Guidelines on Responsible Governance of Tenure of Land and other Natural Resources from the FAO. This governance work will also be linked to a multi-stakeholder governance assessment tool, which is currently under development by UNDP, and will help identify a country's REDD+ governance situation, gaps, and needs. The tool will act as a diagnostic, mobilize public opinion, and create a demand for accountability and government leadership on strengthening governance (Governance Assessment Portal, 2011).

UN-REDD Readiness proposals will follow much of the same practices of developing a SESA. However, the use of ESMF will not be required, as UN-REDD is not subject to World Bank Safeguards. UN-REDD countries that are party to UNDRIP are expected to adhere to the principle of FPIC. UNDRIP Articles 26 and 27 contain provisions recognizing the customary rights of Indigenous Peoples to their traditional lands, as well as a process for adjudicating these rights, if necessary. Establishing guidelines for the application of FPIC has been a recent focus of UN-REDD efforts with a number of national and regional workshops sponsored by UN-REDD.

**FIGURE 2.1: PROPOSED SESA AND ESMF INTEGRATION**



*Proposed approach for integrating SESA and ESMF for readiness implementation under the FCPF (some countries are just beginning to move into the Readiness Preparation phase). (Adapted from FCPF)*

The FCPF, FIP, and UN-REDD held their first joint meeting of their governing bodies in November 2010, in order to begin to coordinate action on the ground in support of REDD+ countries. At the meeting, the organizations agreed that five of the FCPF and UN-REDD countries would act as pilots under the Multiple Delivery Partners approach for coordinating efforts between UN-REDD, FCPF, and the FIP. Through this collaboration, the organizations aim to develop a common approach for countries to outline readiness plans and access financing through each of the delivery partners. This approach will also aim to develop common environmental and social standards for REDD+ readiness, with good governance and inclusiveness as central



pillars. The collaboration also aims to highlight the need for stakeholder inclusion in both the planning and implementation of REDD+ activities.

A common approach to social and environmental standards across the three organizations is under development and in the interim there is agreement for the policies of the implementing organizations to be applied. As a basic framework, the R-PP template and the Draft Guidelines on Stakeholder Engagement in REDD+ Readiness act as guidelines for countries to follow in R-PP preparation under UN-REDD (FCPF, 2011c).

The approach to safeguards varies among the FCPF, FIP, and UN-REDD, with FCPF following the World Bank Safeguards, the FIP following the policies of the Multilateral Development Banks implementing the projects, and UN-REDD adopting a strategy for minimum social and environmental standards based on UNFCCC safeguards and reflecting UN policies from relevant conventions and treaties on rights. The coordination of these organizations is likely to result in agreement whereby the policies of the implementing organizations will be applied, subject to a set of minimum standards. A common approach to social and environmental safeguards has been proposed to be presented at the June 2011 meeting of the FCPF's Participants Committee and a draft was discussed at the March 2011 Participants Committee meeting (FCPF 2011b). There is an implicit understanding that if a common approach cannot ultimately be agreed upon, then each partner will continue to use its own policies when supervising the use of funds from another partner (Bank Information Center, 2010).

The primary area of divergence between the World Bank and UN-REDD is in provisions for consent and consultation for local communities and indigenous peoples. The World Bank provisions require free, prior and informed *consultations*, which do not give any single group a veto over activities. In contrast, UN-REDD calls for free, prior and informed *consent*, in line with UNDRIP. This difference reflects an underlying division between the UN's rights-based approach with a sustainable development objective, in contrast to the multilateral development bank's approach that revolves around "do no harm" and economic development. Facilitating the development of guidelines on FPIC and broader support for countries to operationalize FPIC is a key focus of the UN-REDD Programme's 2011–2015 Strategy (UN-REDD, 2011). In the process of delivering this support, UN-REDD has developed "Operational Guidance on the Engagement of Indigenous Peoples and other Forest Dependent Communities" (UN-REDD, 2009). This guidance addresses principles of representation, transparency, and access to information, as well as participation and inclusion for global and local-level REDD+ activities.

### **2.1.8 REDD+ PARTNERSHIP**

The REDD+ Partnership emerged in early 2010 as a platform to help the 71 REDD+ donor and recipient countries to scale-up REDD+ actions and finance in the absence of an international REDD+ mechanism emerging from the 2009 UNFCCC Copenhagen Climate Talks. While the Partnership is made up of recipient and donor countries, it does not actively implement or fund activities. The country-led Partnership acts as a voluntary clearinghouse for bilateral REDD+ information and aims to contribute to coordination among donor and recipient countries. To achieve these goals, the REDD+ Partnership has commissioned a number of analyses on financing and the development of a REDD+ database, and frequently holds meetings on the margins of international negotiations to share country experiences and results on the design and implementation of demonstration activities.

In the Partnership's 2011–2012 Programme Plan, the partnership has proposed workshops on a number of themes, including addressing drivers of deforestation, safeguards in REDD+ activities, and potential operation of benefit sharing arrangements. Each of these issues is tied to land tenure and property rights, but tenure is not explicitly recognized within the work program (REDD+ Partnership, 2010). It is likely that land tenure and property rights will emerge as key issues in the workshop reports, but it is unlikely that the Partnership will define benchmarks or guidelines for addressing tenure in the context of REDD+. Instead, the partnership will likely develop a series of lessons learned, which may include reference to tenure and

property rights. The Partnership's long-term role is uncertain as it was established as an interim initiative, which will ultimately be folded into a UNFCCC REDD+ mechanism.

## **2.2 BILATERAL SUPPORT AND NATIONAL AND REGIONAL FUNDS**

Bilateral support for REDD+ has occurred through supporting national or regional funds and through direct assistance. A number of countries are developing or envisioning an approach where performance payments and donor contributions pass through a national or regional fund, which would then be used to finance project level activities. Funds have been established in Guyana, the Congo Basin, and Brazil. Both the Guyana and Congo Basin Forest funds are established through cooperation between donor and recipient governments and include a multilateral development bank as the fund Trustee. Brazil, in contrast, has acted independently by establishing the Amazon Fund, which operates under the authority and trusteeship of the Brazilian Development Bank. Under many of the fund-based approaches, while contributions to the fund are to be ultimately based on emission reduction performance nationally (following investments in readiness), the investments made within the country using the funds will not necessarily be tied to the performance of specific communities or individuals at reducing emissions.

### **2.2.1 BILATERAL SUPPORT**

A number of international donors have begun engaging in REDD+ through a variety of mechanisms including support for multilateral processes, like the FCPF, FIP, UN-REDD. However, developed countries are also supporting piloting of activities through direct assistance through traditional environment and development programming mechanisms, and through direct support to national or regional funds. Among the active donors include: Norway through the Norwegian Agency for Development Cooperation (NORAD), the United Kingdom through the Department for International Development (DFID), Japan through Japan International Cooperation Agency (JICA), Australia through the International Forest Carbon Initiative, and USAID. These activities support forest governance processes in developing countries, as well as pilot activities and methodology development often through collaboration with international NGOs. Despite these efforts, none of these donors has explicit, publically available guidelines regarding the role of tenure in their REDD+ programming though a number have funded research, workshops, and/or field activities related to clarifying tenure and forest carbon.

### **2.2.2 CONGO BASIN FOREST FUND (CBFF)**

The Congo Basin Forest Fund (CBFF) aims to reduce deforestation in 10 Central African countries by funding activities that complement the Central African Forests Commission (COMIFAC) Convergence Plan. The Convergence Plan calls for “speeding up the drafting and adoption of forest land development plans,” and “securing the areas delineated for different uses in the forest land development plan,” including identification of and consultation with stakeholders (COMIFAC, 2004). The CBFF was established with funding from Norway and the UK and is managed by the African Development Bank with a fund value of \$170 million. Government, civil society, and private organizations can apply to the fund for specific project activities (African Development Bank, 2009). This approach limits the ability of the Fund to address strategically issues of tenure and property rights across large areas. At present, the project on “Promoting Community and Land Tenure Rights in the Congo Basin,” implemented by the Rainforest Foundation and the Cameroon Center for Environment and Development, is working with local and regional NGOs to develop recommendations for land tenure legislation in Cameroon, Central African Republic, Gabon, the Republic of Congo, and the Democratic Republic of Congo (Congo Basin Forest Fund, 2010). However, CBFF projects are not fully coordinated and are not necessarily delivered at the necessary scale to impact national-level readiness.

### 2.2.3 GUYANA REDD+ INVESTMENT FUND

The GRIF was established in October 2010 with assistance from Norway. Continued financial support to the GRIF from Norway will depend on performance related to emission reductions, as well as progress on enabling activities largely based on participation of stakeholders and protection of indigenous rights. As of January 2011, the GRIF is valued at \$30 million. No specific projects have been submitted by the Government of Guyana to the GRIF Steering Committee as of March 2011 and no funds had been distributed (Kaieteur News, 2011).

As with other REDD+ institutions, under the GRIF, security of tenure and clarity of property rights are considered necessary enabling conditions and insecure tenure is identified as a driver of deforestation. As a result, tenure and property rights may be addressed in both the readiness and emission reduction performance related activities. The joint concept note between the Governments of Guyana and Norway calls for the development of a governance plan that includes a national land-use planning system that considers deforestation drivers and a system for reporting on multiple benefits, including how REDD+ activities protect the rights of indigenous peoples and local communities (Guyana/Norway, 2009). These notes address concerns related to participation and conflict resolution, but do not describe plans for a wider coordinated benefit distribution. Furthermore, the 2011 Update to the 2009 Joint Concept Note makes no direct reference to progress in clarifying land tenure and property rights concerns, suggesting that this remains a slow-moving concern (Guyana/Norway, 2011).

In preparation for decisions on allocation of funds by the GRIF Steering Committee, Guyana has outlined five priority projects, including one on titling and demarcating Amerindian lands and conflict resolution, which will occur over four years and cost \$12 million. This approach aims to increase tenure security and allow for, but not require, titled communities to “opt in” to REDD+ opportunities. This approach will also consider how to address tenure disputes that are currently trapped in the national judicial system. Despite the description of these specific activities in the Administrative Agreement on the GRIF, none have been formalized.

An additional layer of protection for the land tenure and property rights of rights holders is provided by the application of the multilateral development bank safeguards to activities funded under the GRIF. With the World Bank acting as Trustee of the GRIF, the World Bank Safeguards are generally applicable to financed projects. However, in cases where the World Bank implements activities with the Government of Guyana through partner entities, which include the Inter-American Development Bank or the UNDP, the safeguards of these partners may be applied instead of the World Bank Safeguards. This arrangement is similar to the recently agreed-upon conditions between the FCPF and UN-REDD and provides the flexibility to coordinate financing and implementation among a variety of partners. However, some see this approach as an opportunity for subverting safeguards and thus ultimately acting as a threat to the rights of Guyana’s Amerindians (Griffiths and Anselmo, 2010).

### 2.2.4 AMAZON FUND

Brazil’s Amazon Fund represents a regional REDD+ initiative that focuses primarily on the Brazilian Amazon and is financed voluntarily by donor countries and by the Brazilian authorities. The fund is managed by the Brazilian Development Bank (BNDES) and so responds to national laws and regulations rather than to an externally imposed set of safeguards. Activities and guidelines are overseen by the Guidance Committee of the Amazon Fund. The Fund has received commitments of \$1 billion from Norway to be delivered through 2015, involving delivery of \$110 million in 2009 and an additional \$28 million from Germany. Up to 20 percent of the funds may be used to finance activities in non-rainforest biomes and biomes in other tropical forest countries (Zadek et al., 2010).

Emission reduction certificates are distributed to donors after reductions have been achieved, although the certificates are “non-transferable, and do not generate rights or credits of any nature” (Brazilian Government, 2008). To be eligible, projects must directly or indirectly contribute to reducing deforestation and should be

compatible with the Sustainable Amazon Plan (PAS) and the Action Plan for the Prevention and Control of the Legal Amazon Deforestation (PPCDAM). Projects can apply for funding for protected areas, sustainable production activities, science and technology development for sustainable use of biodiversity, or institutional development and improvement of control mechanisms.

Norway's Memorandum of Understanding (MOU) with Brazil to support the Amazon Fund does not reference land tenure or rights concerns, presumably to satisfy Brazil's current approach (Brazil/Norway, 2008). The agreement between Brazil and Norway on the initial donation of \$110 million references discussions of risk factors during each annual meeting, but does not specifically identify the potential risks (Brazil/Norway, 2009), such as conflict related to insecure tenure or property rights.

The Amazon Fund responds to individual project applications and so does not directly support land-holders, nor does it necessarily rely on performance payments for carbon emission reductions. Under the Fund structure, payments are made from national governments to the Fund for emission reductions, but the size of the payment to the local or project level is not necessarily directly related to the amount of emission reductions achieved at the local level, but rather to the cost of implementing the activity. This arrangement is similar to other fund-based approaches, like the CBFF and the GRIF, although payment for environmental services is one of a number of potential distribution modalities under the Amazon Fund (BNDES, 2010).

Among the priority criteria for the selection of activities by the fund is the target of "projects with direct benefits for traditional communities, agrarian reform settlements and small-scale farmers" Themes for implementation center around actions to improve regional development and land tenure regularization, including the designation of areas of public forests that currently lack identified uses, especially community forestry, law enforcement against illegal public land occupation, and land tenure regularization with preference to areas of higher concentration of informal land occupation and/or conflict. The implementation of law enforcement activities against occupation and regularization of tenure presents a risk that should be monitored carefully to ensure that appropriate processes are followed and rights are protected.

In terms of supporting specific land tenure and property rights work, eligible activities include, "development of systems and methodologies for monitoring, image interpretation, geo-referencing and reconciliation of real property registration, aiming to facilitate control of deforestation, rural territory arrangement and forest regularization in the Amazon Forest." Furthermore, securing the rights of territorial and landed-estates of indigenous peoples and creating sustainable settlements projects for Amazon settlers have been central features of the PPCDAM since launching in 2004 and thus are eligible for funding under the Amazon Fund (Amazon Fund, 2011).

The application of the PPCDAM has brought controversy, as its implementation has led to jailing of over 700 people, including government employees. The implementation of a real-time satellite monitoring program (DETER) has allowed the government to monitor deforestation hotspots and has led to landholders in 36 counties being required to present proof of their holdings to the government. Those landholders who did not comply with these government demands had their rural landholding cadastre certificates terminated, which prevented the legal sale of their property and access to credit (Environmental Defense Fund, 2009). These conflicts reflect the role of enforcement of existing rules in achieving emission reductions, and the potential negative impact of this renewed enforcement on the livelihoods of rural stakeholders. Reconciling these enforcement-based versus incentive-based approaches is a crucial concern for considering how REDD+ activities will operate on the ground (Brazilian Ministry of Environment, 2008).

The Amazon Fund started distributing funds to project level activities in December of 2009, with an initial disbursement of \$40 million to five NGOs. As of November 2010, \$93 million had been distributed toward nine activities. These activities included funds distributed that create land registries and monitoring capacity, develop new protected areas, contribute to reforestation activities, and engage with cattle ranchers and soy farmers. By the end of 2010, 72 projects had been submitted, with 13 approved and 25 under active consideration. Of the total submitted projects, approximately 30 percent include activities related to zoning,

land use planning, and land-title regularization (Amazon Fund, 2011). The impacts of these emergent activities have not progressed far enough for evaluation.

In terms of minimum safeguards for these projects, activities that involve traditional communities and indigenous people in the Amazon must demonstrate prior informed consent and in non-Amazon biomes must monitor impacts through a process that includes the participation of government and civil society. While there are equity criteria for those applying for resources, these criteria are related to distribution among states and distribution among public entities, research institutions and civil society organization, rather than a consideration of which stakeholders should benefit on the ground (Amazon Fund, 2008).

The Fund has been criticized for lacking a specific grievance or conflict resolution mechanism. While the Fund relies on the BNDES social safeguard policies, this approach has been seen to be relatively weak as the BNDES has only recently begun to implement these operational policies in 2009 (Zadek et al., 2010). Outside of the Amazon Fund, the BNDES has been criticized over its application of safeguards, particularly with respect to its approval of the Belo Monte Hydroelectric Project. Nonetheless, it is not clear how operational safeguards will be implemented with the recent restructuring of the BNDES Environmental Division (Bank Information Center, 2010). To date, little external oversight has occurred on the tenure related projects proposed and/or approved under the Amazon Fund.

## **2.3 STANDARDS AND CERTIFICATIONS**

### **2.3.1 VERIFIED CARBON STANDARDS**

The VCS (formerly Voluntary Carbon Standard until February 2011) accounted for more than one-third of all verified GHG credits on the voluntary market during its height in 2009 and was the most highly desired standard for forest projects, above the CDM. The VCS is designed to generate emission reduction credits at the project level, as opposed to many of the national-scale coordination efforts described above. As in other project-level activities and because the VCS has primarily been a forum for private investment in a wide variety of project types (including industrial), REDD+ project-level activities are only likely to emerge under the VCS in areas where tenure is already clear and the governance conditions present low risk. As a result, REDD+ activities under the VCS most likely will resemble activities under the CDM or the BioCarbon Fund.

The VCS creates a framework for broad project types and then specific methodologies are submitted and undergo an open review process. Most of the forest carbon credits developed to date under the VCS have been based on A/R projects. REDD+ methodologies are admissible and the first REDD+ specific credits were generated through the VCS in February 2011 from a project by Wildlife Works Carbon in Kenya, with a number of VCS REDD+ credits emerging from projects since (Wildlife Works, 2011). The most challenging hurdles for acceptance of methodologies under the VCS are related to developing rigorous accounting assumptions to reduce the chance of leakage and non-permanence, as well as to ensure additionality.

The VCS does not explicitly consider issues related to participation of rights holders, ownership of emission reduction credits, or potential distribution of benefits. The VCS approach centers around ensuring that emission reductions are as robust as possible and has little consideration of social or ecological impacts, particularly related to land tenure and property rights. The VCS's strict standards are based on ensuring that all credits generated are: derived from real projects; measurable; permanent (or include adequate reserves to safeguard against reversal); additional to business as usual; independently verified; unique (i.e., not counted twice); transparently documented; and calculated using conservative assumptions, values, and procedures (VCS, 2011). Land tenure and property rights are thus considered mostly from a perspective of risk to the quality of emission reductions.

The VCS assesses risk through the use of an Agriculture Forestry and Other Land Uses (AFOLU) Non-Permanence Risk Analysis and Buffer Determination Tool (VCS, 2008). The tool helps auditors ascribe risks based on land ownership categories on private or public land that is legally protected and has a good

management track record, privately owned land, uncertain land tenure, legally protected land, and land not protected by laws or protected but with weak enforcement. The VCS tool recognizes additional risk posed by circumstances where net revenues from a REDD+ project do not materialize for the full selection of stakeholders, including government, conservation groups, project developers, or property owners. The tool does not outline processes or wider social risks related to tenure security and property rights.

Based on these and other risks identified in this tool, a percentage of a project's GHG credits are placed into a buffer account shared by all VCS AFOLU projects and which cover unforeseen carbon stock loss within the VCS AFOLU portfolio. If projects risks subside (if, for example, the land tenure and property rights conditions change in subsequent verification periods), a portion of the pool of credits may be released for the project developer to sell (VCS, 2011).

### 2.3.2 CLIMATE, COMMUNITY AND BIODIVERSITY STANDARDS

The Climate, Community and Biodiversity Alliance (CCBA) is a partnership among conservation and development NGOs, corporations, and international research institutes that have worked together to develop standards for land-based climate change mitigation projects that have additional social and environmental co-benefits. These organizations involved in CCBA include: CARE, Conservation International, The Nature Conservancy, Rainforest Alliance, Wildlife Conservation Society, *Centro Agronomico Tropical de Investigacion y Ensanansa* (CATIE), World Agroforestry Centre (ICRAF), Center for International Forestry Research (CIFOR), and foundation and corporate support. Based on the recognition that some approaches, like the VCS, do not provide enough certainty that social and environmental risks have been mitigated, many projects pursue joint certification through the VCS and the CCB Standards. The standards do not result in emission reduction credits, but CCB Standards certification is designed to be complementary to project level carbon accounting standards like the VCS or CDM. The CCB Standards address land tenure and property rights through consideration of stakeholder participation and consultation, as well as rights to own and benefit from carbon.

The CCB Standards track 17 aspects of projects and include sections on legal status and property rights, net positive community impacts, offsite stakeholder impacts, and community impact monitoring, each of which may have a relationship to land tenure and property rights concerns (see Table 2.1 and CCBA, 2008). Successful verification of projects under the standards requires the implementation of a robust monitoring plan that is explicit about indicators and monitoring frequency. The standards also require a public comment period. This step has in some cases provided an opportunity for civil society representatives to highlight tenure concerns. Based in part on public comments questioning the clarity of land tenure and carbon rights, validation of projects in Papua New Guinea (April Salumei and Kamul Dosa) and Paraguay (Paraguay Forest Conservation Project) have been delayed and/or brought into question. In the context of Paraguay, public comments highlighted the problems of incomplete consultations for FPIC, questions regarding Indigenous Peoples' territories, outstanding and overlapping land tenure disputes, and a lack of certainty over carbon rights in Paraguayan law (CCBA, 2011).

Original conditions in the project area	Net positive community impacts
Baseline projections	Offsite stakeholder impacts
Project design and goals	Community impact monitoring
Management capacity and best practices	Net positive biodiversity impacts
Legal status and property rights	Offsite biodiversity impacts
Net positive climate impacts	Biodiversity impact monitoring
Offsite climate impacts (Leakage)	Climate change adaptation benefits*
Climate impact monitoring	Exceptional community benefits*
	Exceptional biodiversity benefits*
* refers to optional criteria	

Project documents require a “description of current land use and customary and legal property rights including community property in the project zone, identifying any ongoing or unresolved conflicts or disputes and identifying and describing any disputes over land tenure that were resolved during the last ten years.” In terms of project design, the CCB Standards require parties to “document and defend how communities and other stakeholders potentially affected by the project activities have been identified,” as well as their involvement in project design in a way that optimizes community and stakeholder benefits and respects local customs and values. This process further requires the documentation of a plan on how consultations will continue through the life of a project. Other sections of the standards require the project developer to “formalize a clear process for handling unresolved conflicts and grievances that arise during project planning and implementation” (CCBA, 2011). This approach to describing existing processes that have led to the current institutional context and the development of processes for continued consultation and engagement are strengths of the CCB Standards.

In terms of formal legal and property rights concerns, the standards require a solid legal basis for the project and require that in cases where there are unresolved tenure or use rights disputes there must be a plan to resolve these concerns so that there are no unresolved disputes by the start of the project. Authorization from formal and traditional authorities must be sought, as well as demonstration that the project will not encroach uninvited on others’ territories, or result in relocation of people or important livelihood or cultural activities without the free and prior informed consent of those concerned and without provisions for fair and just compensation. This process includes assurances that carbon rights are clear and uncontested.

Many of the REDD+ projects under review by the VCS as of January 2011 are also pursuing CCB Standards certification. To date, 56 projects have been submitted for validation under the CCB Standards for both the compliance and voluntary markets. Five projects have either been rejected or withdrawn from consideration following an attempt to meet the standards. Though the CCB Standards do not create tradable credits, it has become a widely adopted standard under both the voluntary market and the CDM for project developers to demonstrate that their projects are environmentally and socially sound.

### **2.3.3 REDD+ SOCIAL AND ENVIRONMENTAL STANDARDS**

With the recognition that many REDD+ programs are likely to be government-coordinated at the national or regional level, a collection of NGOs, the private sector, and international institutions have developed REDD+ SES, which is a set of standards focused on respecting the rights of Indigenous Peoples and local communities and generating significant social and environmental co-benefits. The REDD+ SES is coordinated by CCBA Secretariat and CARE International with a Standards Committee composed of developing and developed country representatives from governments, indigenous peoples organizations, community associations, social NGOs, environmental NGOs, and the private sector. Like the CCBS, the REDD+ SES moves beyond minimum safeguards and provide a framework for helping countries and provinces identify and document benefits. The standards are focused around rights holders and stakeholders, and they place an initial focus on clarifying the set of relevant rights around land ownership and management. A consideration of land tenure and property rights is ubiquitous throughout the REDD+ SES and issues related to identification, consultation and participation of stakeholders, and the rights to own and benefit from carbon are all explicitly considered. Furthermore, the REDD+ SES approach calls for monitoring of performance on each of the SES criteria.

The first version of the REDD+ SES were released in June 2010 and are being piloted at the national level in Ecuador, Tanzania, Liberia, and Nepal and at the state or regional level in Acre, Brazil, and Central Kalimantan in Indonesia (REDD+ SES, 2010). The Secretariat for the REDD+ SES is presently located with CCBA and CARE International, reflecting the emergence of the REDD+ SES and the CCB Standards from a similar group of partners. The standards are based around eight principles with associated criteria and a framework for developing country/region-specific indicators. Among the criteria, the REDD+ program must: identify both statutory and customary rights holders; recognize and respect these rights; obtain FPIC for activities affecting rights to lands, territories, and resources; identify and use dispute resolution processes

and where private ownership of carbon rights is possible; and base carbon rights on the rights that generate the emission reductions and removals. The second principle builds on this process to define criteria for fair and effective benefit distribution. Other principles highlight the need for full and effective participation of rights holders and the need for access to accurate information for decision-making. A final principle on coherence of REDD+ programs with national and international law underscores the need for a review process to resolve any inconsistencies between law and the standards.

The REDD+ SES provides a framework for monitoring and reporting on REDD+ that will likely go beyond the basic international requirements under the UNFCCC, UN-REDD, and FCPF. The REDD+ SES creates a framework for documenting social and environmental impacts during the design, pilot and full-scale implementation phases of REDD+ activities. This framework helps to first identify the issues related to land tenure and property rights, then design a process for achieving SES goals, implementing the process, and monitoring its effectiveness.

Efforts to streamline coordination are underway, particularly in Ecuador, where piloting of SES is occurring alongside the implementation of the UN-REDD approach. Thus, while funding bodies tend to outline minimum benchmarks for REDD+ activities to receive funding that focus on the “do no harm” principle, REDD+ SES provides the opportunity to go beyond “do no harm” and elaborate on net positive outcomes. Some see the REDD+ SES framework as an opportunity to collect wider information that can be easily be used for UN-REDD, UNFCCC, or FCPF reporting requirements (ProForest, 2010).



## 3.0 CONCLUSIONS

The international REDD+ institutions create a framework for addressing issues relating to land tenure and property rights. However, implementation varies significantly among countries and projects. The attribution of the success of implementation is not strictly related to the guidelines established by each institution. Despite the interest in security of land tenure and clarifying property rights to realize effective institutions for REDD+, there is a lack of tools to reach these objectives. This paper identified a number of emerging tools to assess governance contexts at the local and national level that will help international REDD+ institutions secure tenure and clarify property rights in REDD+ countries. There is a risk that the development of this wide variety of tools and approaches will provide mixed messages to recipient countries and result in a waste of resources. However, the development of cooperative approaches among UN-REDD, FCPF, and the FIP provides evidence that the international community is collaborating to address governance in a coherent manner.

Despite these efforts, it is clear that clarifying property rights and securing tenure in the context of REDD+ does not assure a positive outcome for local stakeholders. If land tenure and property rights reforms are expedited to focus strictly on formal titling without engaging in processes that consider social, political, and cultural forces, systematic exclusion of some populations could ensue (Ellsworth & White, 2004; Hatcher, 2009). For example, migratory populations or groups that use land infrequently may be susceptible to exclusion, as has occurred in Face Foundation led project level reforestation activities in Ecuador where a local community were incentivized to plant on “degraded” lands. The project led to conflicts when those using the land seasonally for pasture contested the new land use (Granda, 2005). In other cases, if tenure clarification does not acknowledge and address overlapping use rights, or the wide bundle of rights that exist within a tenure regime, the rapid clarification of rights can lead to simplified outcomes that place the full bundle of property rights with a single group (Meinzen Dick & Mwangi, 2008). Thus, even efforts that seek to achieve tenure clarity must be monitored throughout the life of a project to ensure they will result in effective governance environments for REDD+.

Addressing tenure represents a costly commitment that requires significant and lasting political will. In some cases the knowledge that tenure reforms will take decades may lead to inaction and a defeatist attitude. Furthermore, the lack of clear benchmarks for participation may leave some countries guessing whether they will be required to implement land tenure and property rights interventions.

As a result, despite the recognition of its importance, land tenure clarification has received relatively little consideration within the REDD+ readiness in practice. In order to reverse this trend, the governance tools under development should include a central consideration of tenure and property rights and provide guidance on incremental goals for tenure security as well as some indications of steps to reach these goals under a variety of tenure regimes.

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# ANNEX A: OVERVIEW OF INTERNATIONAL INSTITUTIONS AND THEIR CONSIDERATION OF TENURE AND PROPERTY RIGHTS

	Description of Role	Funds Available	Funds Distributed	Role of Tenure and Property Rights in Guidance Documents	Role of Tenure and Property Rights in Practice	Prospects for the Future
<b>United Nations Multilateral Processes</b>						
United Nations Framework Convention on Climate Change (UNFCC)	In the process of developing an international mechanism for REDD+. The funding of the mechanism, accounting for reductions, and role of safeguards are under negotiation. It is not clear if the mechanism will be able to be used to meet national emission reduction commitments.	N/A	N/A	Acknowledged as important, particularly in safeguard Annex to Cancun Agreement.	N/A	Safeguards likely to remain broad and unenforceable at the international level. Will be up to country guidelines and donors to monitor and enforce.

	Description of Role	Funds Available	Funds Distributed	Role of Tenure and Property Rights in Guidance Documents	Role of Tenure and Property Rights in Practice	Prospects for the Future
Clean Development Mechanism (CDM)	Mechanism from the Kyoto Protocol for project specific activities. Reducing emissions from deforestation are not eligible, but afforestation and reforestation are eligible.	N/A—Private investment in individual projects	61 A/R projects since 2004	Required to consider the implications of tenure on emission reductions and social impacts in project design document.	A few CDM A/R projects have been evaluated for impact on tenure and property right and have helped to lead to more secure tenure and clearer property rights. Many projects are unexamined.	A/R projects may be folded into REDD+ mechanism and thus subject to donor and national oversight. This process could lead to a weakening of tenure and property rights concerns if project based evaluations of tenure are lost and reporting is centralized. While the CDM will continue, the future of this mechanism for A/R is unclear.
UN-REDD	UN program to help countries create national REDD+ strategies, implement national programs, and coordinate global analyses and develop guidelines to advance implementation of REDD+.	\$126 million pledged	14 countries receiving funding support for readiness preparations for a total of \$51 million distributed	Considered through policies on engagement with indigenous peoples, operational guidelines, and compliance with SESA process.	Mostly can be seen through the development of governance tools and guidelines. The impact on activities in countries has not been evaluated.	Same as FCPF.



	Description of Role	Funds Available	Funds Distributed	Role of Tenure and Property Rights in Guidance Documents	Role of Tenure and Property Rights in Practice	Prospects for the Future
<b>World Bank Processes</b>						
BioCarbon Fund	Public/Private Partnership to promote land-use emission reduction projects. There are currently three project-level REDD+ activities and a number of A/R projects in the BioCarbon Fund portfolio.	2 tranches for approx. \$90 million total	15 land-use based projects producing emission reduction purchase agreements	Required to consider the implications of tenure on emission reductions and social impacts in project design document, also considered through compliance with World Bank Safeguards.	A few A/R projects have been evaluated for impact on tenure and property right (same projects as CDM above) and have helped to lead to more secure tenure and clearer property rights. Many projects are unexamined, or not far enough along to evaluate.	Same as CDM above.
Forest Carbon Partnership Facility (FCPF)	Country level program with a "Readiness Fund" and a "Carbon Fund" to help countries prepare for and ultimately develop performance based emission reductions from REDD+ activities.	Readiness Fund—\$123 million received & Carbon Fund—\$51 million received	(August 2011) 6 of 37 countries have submitted final Readiness Preparation Proposal.	Considered in Readiness Preparation Proposal (R-PP) and in emission reduction purchase agreements (ERPA) and through compliance with World Bank Safeguards and Strategic Environment and Social Assessment (SESA), and Environmental and Social Management Framework (ESMF).	Not enough experience to evaluate in practices, but R-PPs have been evaluated for tenure impacts and efforts to clarify tenure. Technical Advisory Panel process has led countries to resubmit their plans with a greater consideration for improving substantive and procedural rights based on tenure considerations.	Potentially strong role for FCPF to help provide guidance for countries to implement long-term processes to strengthen tenure and clarify property rights. This will depend on political will and increased guidance from the FCPF going forward, as well as increased coordination among FCPF, UN-REDD, FIP, and other multilaterals.

	Description of Role	Funds Available	Funds Distributed	Role of Tenure and Property Rights in Guidance Documents	Role of Tenure and Property Rights in Practice	Prospects for the Future
Forest Investment Program (FIP)	Program to fill the gap in financing for REDD+ activities prior to the development of a UNFCCC REDD+ mechanism.	\$558 million pledges/\$102 million received	8 pilot countries, none have submitted their investment plan/\$0 distributed	Considered in operational guidelines and through compliance with World Bank Safeguards, SESA, and ESMF.	Not enough experience to evaluate.	Same as FCPF.
<b>Other International Process</b>						
REDD+ Partnership	Platform for scaling up REDD+ activities and coordination between 71 donor and recipient countries.	N/A—acts as a forum for exchange	N/A—acts as a forum for exchange	Likely to be considered in guidance documents developed in 2011.	N/A	As a forum, it is not likely to have a strong role but could develop influential best practices.
<b>Country/Regional Funds</b>						
Congo Basin Forest Fund	Central fund, managed by the African Development Bank, to reduce deforestation in 10 Central African countries.	\$165 million received	15 projects approved for a total of \$11.72 million	Considered through compliance with African Development Bank operational policies and through criteria for eligible projects.	Few projects have included tenure and property rights strengthening components, and have not been evaluated to date.	Unlikely to have large impact because funded projects are not at the national level and not coordinated within national plans.
Guyana REDD+ Investment Fund	Fund established by Norway and Guyana, managed by the World Bank, for REDD+ readiness and performance payments in Guyana.	\$30 million received	\$0 distributed	Considered through compliance with World Bank operational policies (and those of other delivery partners) and through criteria for eligible projects.	Priority projects include controversial tenure and property rights strengthening, related to Amerindian claims. To date these have not been implemented.	Addressing tenure through GRIF programs or independently within the government will be central to whether the funds ultimately flow through the GRIF.

Description of Role		Funds Available	Funds Distributed	Role of Tenure and Property Rights in Guidance Documents	Role of Tenure and Property Rights in Practice	Prospects for the Future
Amazon Fund	Fund established and managed by Brazil to fund activities to reduce deforestation in Amazon Basin Countries.	\$1 billion pledges/\$50 million received	\$7 million disbursed across 9 projects	Considered through compliance with Brazilian Development Bank operational policies and through criteria for eligible projects.	Some impacts observed by legal enforcement against agricultural settlers in the Amazon. Some projects have clarifying property rights as explicit components, but they have not yet been evaluated.	The Amazon Fund may be used to clarify tenure and property rights but will also likely continue to fund enforcement activities and thus have both positive and negative tenure impacts on the rural poor.
<b>Certification Standards</b>						
Verified Carbon Standards (VCS)	Standards established to create voluntary and verified emission reduction credits through a selection of methodologies in a number of economic sectors.	N/A– Private	Unknown number of forest/land use projects (both in developed and developing countries).	Considered through risk reduction tools and buffers.	Unknown due to inadequate knowledge of project activities.	Unlikely to have a large impact on tenure and property rights concerns.
Climate, Community and Biodiversity Standards (CCBS)	Standards for tracking social and environmental co-benefits in land based mitigation projects. It does not generate credits of any kind. The development of standards was led by a coalition of environmental and social NGOs.	N/A	59 projects have been submitted (both in developed and developing countries).	Considered across a set of principles, both in terms of outcomes and processes followed.	Some projects have been removed from consideration due to lack of addressing property rights and tenure. Others have helped to document potential conflicts and resolutions.	As the standard becomes the norm for project-level activities, it will have a strong role for verifying that tenure concerns have been taken into account.

	Description of Role	Funds Available	Funds Distributed	Role of Tenure and Property Rights in Guidance Documents	Role of Tenure and Property Rights in Practice	Prospects for the Future
REDD+ Social and Environmental Standards (REDD+ SES)	Standards at the national or jurisdictional level to track social and environmental performance. It does not generate credits of any kind. The process is led by CARE International and the Climate, Community and Biodiversity Alliance (CCBA).	N/A	N/A	Considered across a set of principles, both in terms of outcomes and processes followed.	Use of principles should guide plans to have strong tenure and property right strengthening components, but not enough experience to date.	As the standard becomes the norm for national REDD+ activities it will be important for establishing best practices and strengthening tenure and clarifying property rights.

# ANNEX B: LIST OF PARTICIPATING COUNTRIES IN ABOVE PROCESSES

Country	FCPF Country	FIP Country	UN-REDD	USAID Mission
Argentina	x		P	
Bangladesh			P	x
Bhutan			P	
Bolivia	x		M	x
Brazil				
Cambodia	x		M	x
Cameroon	x			
Central African Republic	x		P	x
Chile	x			
Colombia	x		P	x
Costa Rica	x		P	
Democratic Republic of the Congo	x	x	M	x
Ecuador			M	x
El Salvador	x			x
Equatorial Guinea	x			
Ethiopia	x		P	x
Gabon	x		P	
Ghana	x	x		x
Guatemala	x		P	x
Guyana	x		P	x
Honduras	x		P	x
Indonesia	x	x	M	x
Ivory Coast			P	
Kenya	x		P	x
Laos	x	x		
Liberia	x			x
Madagascar	x			x
Mexico	x	x	P	x
Mongolia			P	x
Mozambique	x			x
Nepal	x		P	x

Country	FCPF Country	FIP Country	UN-REDD	USAID Mission
Nicaragua	x			x
Nigeria			P	x
Panama	x		M	x
Pakistan			P	x
Papua New Guinea	x		M	
Paraguay	x		M	
Peru	x	x	P	
The Philippines			M	x
Republic of Congo	x		P	
Solomon Islands			M	
Sri Lanka			P	x
Sudan			P	x
Suriname	x			
Tanzania	x		M	x
Thailand	x			x
Uganda	x			x
Vanuatu	x			
Vietnam	x		M	
Zambia			M	x

*Note: UN-REDD (P – Participating (observer) country, M – Member country)*

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