



3 CORRUPTION RISKS AND ANTI-CORRUPTION MEASURES IN REDD+

3.1 Background

3.1.1 What is REDD+?

Reducing emissions from the global forest sector has an important role to play in both mitigation and adaptation. Deforestation and forest degradation, through agricultural expansion, conversion to pastureland, infrastructure development, destructive logging, fires, etc., account for 17% of global greenhouse gas emissions, or 5.8 GtCO₂ annually, more than the entire global transportation sector (14%), and second only to the energy sector.⁵⁷

In 2005, in response to a joint proposal from the governments of Papua New Guinea and Costa Rica, the UNFCCC's COP 11 considered the possibility of adopting a mechanism known as Reducing Emissions from Deforestation and Forest Degradation, and in 2007, at COP 13 in Bali, the concept of REDD+ gained further support as a potential mitigation measure.⁵⁸ (for a definition

of 'REDD+', see Table 1). The purpose of REDD+ is to establish a large-scale system of financial incentives to encourage developing countries to reduce their levels of deforestation and forest degradation, and to increase their forest carbon stocks. It has been estimated that financial flows for greenhouse gas emission reductions from REDD+ could reach up to US \$26 billion a year by 2030.⁵⁹

The purpose of REDD+ is to establish a large-scale system of financial incentives to encourage developing countries to reduce their levels of deforestation and forest degradation, and to increase their forest carbon stocks.

REDD+ has received widespread support from the international community and was recognised in the Copenhagen Accord as having a crucial role to play in mitigation. To date ten countries⁶⁰ have pledged over US \$ 5 billion to 'fast track' REDD+, although the mechanism for delivering this funding has yet to be agreed. However, at present, the international architecture for REDD+ remains under consideration

within the UNFCCC negotiations, with the current position being reflected in the draft Negotiating Text of the Ad Hoc Working Group on Long term Cooperative Action ('Negotiating Text')⁶¹. The topic will be considered further at COP 16 in December, in Cancun, Mexico.⁶²

57 IPCC Fourth Assessment report, 2007.

58 Bali Action Plan, UNFCCC Decision 1/CP.13; and Decision 2/CP.13. However the term 'REDD+' did not become official language until the following year at COP 14 in Poznan, Poland, 2008.

59 €13-23 billion- see Report of the Informal Working Group on Interim Finance for REDD, 2009. http://www.unredd.net/index.php?option=com_docman&task=doc_details&Itemid=&gid=1096

60 Australia, Canada, Belgium, Canada, France, Italy, Japan, Norway, Sweden, United Kingdom and the United States.

61 UNFCCC Advance Version, Negotiating Text, of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention, 13 August 2010, (FCCC/AWGLCA/2010/14). FCCC/AWGLCAA/2010/14.http://unfccc.int/documentation/documents/advanced_search/items/3594.php?rec=j&preref=600005941#beg

62 COP 16 will take place from 29 November 2010 – 10 December 2010..



The international REDD+ mechanism as currently proposed contemplates five types of forest activities (see Table 1).⁶³

Table 1: Five elements of REDD+, with examples

		Activity	Example
Reducing carbon emissions	1.	Reducing deforestation	Slowing the rate of broad scale or clear fell logging
	2.	Reducing forest degradation	Reducing forest areas affected by selective logging, grazing, fire or fuel wood collection
Increasing the removal of carbon (the 'plus')	3.	Conserving forest carbon stocks	Preservation of existing forests
	4.	Sustainable management of forest	Extending logging cycles from 10 years to 30 years to allow a greater amount of carbon to develop in regrowth
	5.	Enhancement of forest carbon stocks	Forest regeneration and rehabilitation (but not afforestation and reforestation)

3.1.2 REDD+ Readiness

The Negotiating Text on REDD+ envisages a phased approach to REDD+ in which a country first undertakes 'REDD+ readiness' preparatory activities. REDD+ readiness relates to the efforts a country undertakes, with the support of multilateral or bilateral initiatives, to build capacity to be ready for participation in a REDD+ mechanism. The second phase involves the implementation of national REDD+ strategies and measures, and the third phase involves payments (either funds, credits, or both) if and when a country can demonstrate actual emissions reductions (referred to as 'results-based payments').

⁶³ Wertz-Kanounnikoff, S., and Angelsen, A., (2009), 'Global and national REDD++ architecture: Linking institutions and actions', in Angelsen, A., with Brockhaus, M., Kanninen, M., Sills, E., Sunderlin, W.D. and Wertz-Kanounnikoff, S. (eds)(2009), *Realising REDD+: National strategy and policy options*. CIFOR, Bogor, Indonesia, at pp 16-17.



3 CORRUPTION RISKS AND ANTI-CORRUPTION MEASURES IN REDD+

The two main multilateral readiness platforms, the UN-REDD Programme⁶⁴ and the Forest Carbon Partnership Facility⁶⁵ (FCPF, hosted by the World Bank) have defined that 'REDD+ readiness' involves an extensive programme that includes:

- Establishing institutional arrangements for the coordination of activities and ongoing and meaningful engagement of stakeholders, with particular focus on the need for engagement with indigenous peoples and other forest-dependent communities;
- Developing a comprehensive national REDD+ strategy which sets out the country's policy and governance framework for REDD+. This phase should include the development of a national legal framework for REDD+, containing detailed laws, regulations and policies to enable the implementation of REDD+,⁶⁶ as well as developing a benefit distribution system setting out how REDD+ revenues are to be administered and shared at national, provincial and local levels;
- Determining reference levels against which any future emissions reductions will be measured; and
- Establishing the systems and expertise to use remotely-sensed satellite imaging and ground-truthing to measure current forest carbon stocks, and to assess subsequent changes in those stocks, as well as reporting and verification systems.

The REDD+ readiness phase is supported by international donor funds, channelled mainly through the UN-REDD programme and the FCPF (with the World Bank's Forest Investment Programme (FIP) supporting phase 2 activities). The UN-REDD Programme is to date⁶⁷ assisting nine pilot and twenty partner countries to develop national REDD+ strategies.⁶⁸ The FCPF is assisting 37 countries to prepare Readiness Preparation Proposals (RPP).⁶⁹ Annex A contains a list of all countries participating in the UN-REDD Programme and/or FCPF.

64 The UN-REDD programme is a partnership of FAO, UNDP and UNEP. See www.un-redd.org

65 See www.fcpf.org

66 For a detailed analysis of possible legislative frameworks for REDD+, see *Background Analysis of REDD Regulatory Frameworks*, UN-REDD Programme and Terrestrial Carbon Group, May 2009, prepared by Covington & Burling LLP and Baker & McKenzie.

67 29 October 2010

68 To date, only two countries have released a national REDD+ strategy. In September 2010, Indonesia released a draft national REDD+ strategy which is available in Indonesian and English at <http://www.un.or.id/redd>, and the Philippines released its final National REDD-plus Strategy which was approved in September 2010 and is available at <http://ntfp.org/coderedd/wp-content/uploads/2010/08/Philippine-National-REDD+-Strategy.pdf>.

69 These processes are collectively referred to in this paper as 'national REDD+ frameworks'. It should be noted that national REDD+ strategies and Readiness Preparation Proposals are not 'legal' frameworks. However, national REDD+ frameworks will eventually need to be underpinned by detailed legislative frameworks..



In addition to these two multilateral programmes, some countries are also supporting the development of REDD+ through bilateral aid. For example, Norway has entered into bilateral arrangements on REDD+ with Indonesia, Guyana, Tanzania and Mexico,⁷⁰ Australia with Indonesia and Papua New Guinea⁷¹, and Germany with Ecuador.

3.1.3 Fragmentation of funding

The current fragmentation of funding sources for REDD+ readiness activities has the potential to undermine early anti-corruption efforts due to the differing standards for transparency and governance (including for safeguards) between donors and mechanisms (e.g. NAMAs, see below). The literature on aid effectiveness indicates that where standards differ among donors there is a risk that the recipient countries (and others hoping to receive aid) will receive mixed messages about the importance of addressing corruption risks.⁷² With fragmentation, there is also a risk that the same REDD+ activity may be funded twice, e.g. through being funded on a national basis with the same project receiving either bilateral funding or credits from the voluntary market.

There is thus a need for coordination among the various REDD+ funding mechanisms to ensure that a common approach is taken and double-counting does not occur. It should be noted that the two main multilateral platforms for REDD+, i.e. the FCPF and the UN-REDD Programme, have developed good coordination backed by a high level of commitment⁷³. In addition to a joint delivery in countries such as the Democratic Republic of the Congo⁷⁴, the FCPF and UN-REDD Programme are currently harmonizing their stakeholder engagement guidelines, developing common social and environmental principles for REDD+ and establishing principles for monitoring governance for REDD+. The Voluntary Database, developed by a joint UN-REDD/FCPF team providing secretariat services to the Interim REDD+ Partnership (Box 6), was also created to respond, in part, to the risk of double-counting.⁷⁵

70 Under its International Climate and Forest Initiative, Norway has committed US\$1 billion over the next 7-8 years to Indonesia in exchange for emission cuts from avoided deforestation, signing a Letter of Intent on 26 May 2010. UNDP is the fiduciary manager of these funds. Some of the funds will be used to assist with REDD+ readiness. Norway has also signed a Memorandum of Understanding on REDD+ with Guyana, and has pledged \$250 million to assist Guyana with REDD+ activities. Norway also has bilateral arrangements with Tanzania and Mexico: <http://www.regjeringen.no/en/dep/md/Selected-topics/climate/the-government-of-norways-international-/what-do-we-finance.html?id=557700>

71 Under the umbrella of its AUD\$200 million International Forest Carbon Initiative, the Australian Government has entered into bilateral arrangements with Indonesia and Papua New Guinea to provide support for REDD+ activities: http://www.usaid.gov.au/hottopics/pdf/IFCI_factsheet_1_11Dec09.pdf

72 See the OECD Development Cooperation Report (2010), by Eckhard Deutscher, Chair of the Development Assistance Committee, OECD Report, p 91.

73 See Joint letter sent to the Prime Minister of the United Kingdom by the United Nations Secretary-General and World Bank's President, available at http://www.unredd.net/index.php?option=com_docman&task=doc_download&gid=1331&Itemid=53

74 See Joint UN-REDD and FCPF publication at http://www.unredd.net/index.php?option=com_docman&task=doc_download&gid=3676&Itemid=53

75 This is a publicly available database, and can be accessed at <http://reddplusdatabase.org/>.



3 CORRUPTION RISKS AND ANTI-CORRUPTION MEASURES IN REDD+

Box 6: Interim REDD+ Partnership

The Interim REDD+ Partnership 2010, which was established in May 2010 and has since been joined by 69 countries, is intended in part to address the problems created by fragmentation of funding. The Partnership aims to scale up REDD+ activities, to fast track funding from donor countries, and to improve the effectiveness, transparency and coordination of REDD+ initiatives and finance.⁷⁶ After becoming a Partner, each developing country is expected to submit information on its financing and policies and measures on REDD+ to the Secretariat, to be included in the Voluntary REDD+ Database. This Partnership, if established effectively, could contribute to providing an efficient and accountable means of tracking the various REDD+ funding initiatives to avoid the risk of double-counting.

Under the Copenhagen Accord, developing country Parties can specify the nationally appropriate mitigation actions (NAMAs) that they intend to undertake,⁷⁷ and many developing countries have listed REDD+, or some elements of REDD+, in their NAMAs.⁷⁸ This could present a risk of double-dipping in that a country may obtain funding for REDD+ activities under its NAMA while also receiving funding from other multilateral, bilateral or voluntary market sources for the same activity – with political elites in the REDD+ country, or project developers, pocketing the duplicated funding.

There is also a risk that permitting REDD+ activities under NAMAs may undermine efforts to prevent corruption in REDD+ because, unlike the REDD+ mechanism proposed in the Negotiating Text, REDD+ activities which take place under NAMAs are not subject to any social or environmental safeguards. There is a clear need to ensure that the proposed REDD+ mechanism and REDD+ activities under NAMAs are coordinated and subject to the same requirements for transparency and accountability in order to avoid giving mixed messages to REDD+ countries about the importance of addressing corruption risks.

3.1.4 Overview of corruption risks

Given that corruption is widespread in the forestry sectors of most countries that are likely to participate in REDD+, which often have particularly high levels of poor governance as well, it is not unreasonable to expect that corruption may affect REDD+.⁷⁹ The World Bank estimates that illegal logging in developing countries results in a loss of assets and revenue in excess of US\$ 10 billion annually, with as much as US\$5 billion being lost annually to governments because of evaded taxes and royalties.⁸⁰ It is anticipated that the corrupt actors who are involved in these illegal logging activities will seek to

76 The Work Plan of the Interim REDD+ Partnership 2010 contains a proposal to establish a database of REDD+ financing, actions and results (Component 1) and a further proposal for an analysis of financing gaps and overlaps (Component 2). The 2010 work programme is available at <http://reddpluspartnership.org/22835-1-0.pdf>.

77 Copenhagen Accord, para 5.

78 These are listed in La Vina, A. G. M., (2010) *The Future of REDD-Plus: Pathways of Convergence for the UNFCCC Negotiations and the Partnership*, Working Paper, Foundation for International Environmental Law and Development, Table 1.

79 For a detailed analysis of corruption in the forestry sector, see Blundell, AG., and Harwell, EE. (2009) *Manual: An analysis of corruption in the forestry sector*, Transparency International and Natural Capital Advisors.

80 The World Bank (2006), *Strengthening Forest Law Enforcement and Governance: Addressing a Systemic Constraint to Sustainable Development*, Report No. 36638-GLB, The International Bank for Reconstruction and Development / The World Bank, p 1.



protect their illegal revenues, and will look for new opportunities to engage in corrupt activities under REDD+. As general observation, it should be noted that because REDD+ is relatively new and is not yet operational, it is not possible to map corruption risks as accurately or as comprehensively as has been done for the forestry sector.⁸¹

The corruption risks that may affect REDD+ are likely to differ depending upon the particular phase being considered, namely the readiness phase of REDD+, or the implementation phase. For example, the REDD+ readiness phase is more likely to be affected by state capture, effected through grand corruption and political corruption, in which powerful individuals and groups, such as politicians, logging companies, agribusiness and possibly the military, might seek to influence the design of a country's national REDD+ framework in order to benefit their private interests or to entrench their political power. This can be a way of 'legalizing' corruption.⁸²

The corruption risks that may affect REDD+ are likely to differ depending upon the particular phase being considered, namely the readiness phase of REDD+, or the implementation phase.

While the *implementation phase* of REDD+ may also be affected by grand corruption and political corruption (e.g. large bribes to exclude large areas of high value timber from REDD+), this phase may also involve the additional risk of petty corruption, in which the low to mid-level public officials who are responsible for implementing REDD+ are bribed to ignore routine breaches of REDD+ laws (e.g. illegal logging), or are bribed to create fraudulent land titles or carbon rights. It should be noted however that such breaches would result in less emissions reductions and therefore decreasing REDD+ performance payments. REDD+ as a performance payment mechanism will not in the long term reward corrupt practices if these affect emission reductions and carbon stock outcomes. In addition to petty corruption, the implementation phase is also more likely to involve the risk of embezzlement as REDD+ revenues begin to flow. All of these risks are summarised in a table in Annex E, and are covered in more detail below in sections 3.2 and 3.3.

3.1.5 Impact of corruption in REDD+

Corruption has the potential to undermine the very benefits that a well designed REDD+ mechanism may bring, i.e. mitigate emission, reduce poverty and improve livelihoods.

First, by decreasing confidence, corruption in REDD+ can result in a failure to mitigate emissions. For example, if the distribution of benefits is captured – legally or not – by a few elites, or if the level of corruption is perceived as high, local stakeholders will not take the risk of forgoing the income they derive from their current uses of forest resources. Conversely, donors and investors may grow weary of insecure investment environments and unpredictable emission reductions, and may be

81 Again, see, Blundell, AG., et al (2009).

82 UNDP (May 2008) *Tackling corruption, transforming lives: Accelerating Human Development in Asia and Pacific*, Asia-Pacific Human Development Report series, Macmillan Publishers India Ltd, at p. vii



3 CORRUPTION RISKS AND ANTI-CORRUPTION MEASURES IN REDD+

deterred from investing in REDD+. Furthermore, if REDD+ is to adopt a trading element, corruption which affects emission reductions will have a double environmental impact because not only will the opportunity to mitigate emissions be lost, but the purported offset (credit) which is generated will permit an equal volume of greenhouse gas emissions to be released elsewhere in the world.

Women in traditional communities are also more likely to be disproportionately affected by corruption in REDD+ because they often have weaker claims to customary title, may have little control over how funds or benefits are managed, and generally have lower literacy rates than men.

Finally, many hold concerns that corruption in REDD+ may adversely affect the lives of indigenous peoples and other forest-dependent communities, with particular impacts on women. It is estimated that about 60 million people live in the rainforests of South America, South-East Asia and Central Africa, with a further 350 million people living in, or next to, dense forests, relying on them for subsistence or income.⁸³

Indigenous people are particularly vulnerable to corruption, because they often live in remote areas, are poor and marginalised, and are usually unable to access the system of social and legal

protection available to other members of society. These characteristics are also more likely to make them targets for corruption.⁸⁴ Women in traditional communities are also more likely to be disproportionately affected by corruption in REDD+ because they often have weaker claims to customary title, may have little control over how funds or benefits are managed, and generally have lower literacy rates than men.⁸⁵

3.2 Design of national REDD+ frameworks

3.2.1 Corruption risks in design

This section of the paper considers the corruption risks which could arise at country level during the REDD+ readiness phase in which national REDD+ frameworks are being designed.⁸⁶ The corrupt actors in this phase may involve high level actors, such as political elites, institutions, powerful national and international timber companies, industrial scale agribusinesses (e.g. palm oil, sugarcane, soy and jatropha), multinational corporations (who may anticipate the need to buy carbon offsets), project developers and the military. These actors may seek to influence the design of national REDD+ frameworks, legislation and regulations in order to maximise their

83 Aleman, A., et al (2010), Realising rights, protecting forests: An alternative vision for Reducing Deforestation – Case studies from the Accra Caucus, Accra Caucus on Forests and Climate Change, p 5.

84 Chene, M., (2010) *Impact of corruption on indigenous peoples*, U4 Expert Answer, available at www.U4.no.

85 Sunderlin, *From Exclusion to Ownership*, pp. 14-15.

86 The paper does not address the corruption risks and anti-corruption measures which could be adopted at the international level under the UNFCCC/COP process.



chances of capturing REDD+ revenues. Some specific examples of particular design-phase risks are considered below.

Land use planning

Under the proposed international mechanism for REDD+, REDD+ is intended to take place as a large scale, planned and coordinated national activity. This represents a different approach to that of the Clean Development Mechanism (CDM), which adopts a small scale, project-based approach. As part of the REDD+ readiness phase, each REDD+ country will need to undertake an extensive review of its land use plans (spatial plans) and forestry plans to identify those forested areas which are suitable for REDD+, and those which may be used for other purposes, such as for agriculture or timber production.

Corrupt practices in land use planning might include:

- logging companies seeking to influence the design of land use plans by bribing officials to exclude high value timber concessions from REDD+, while pressing for areas which have already been degraded (selectively logged) to be included;⁸⁷
- project developers, multinational corporations or powerful agribusiness operators bribing public officials to ensure that the land areas they own or have an interest in are allocated to, or excluded from, REDD+.

Without adequate oversight, these corrupt practices may continue to attract corrupt behaviour after the initial land use plans are established because those actors holding timber concessions or controlling forested areas may seek to bribe public sector officials to rezone areas (spot rezoning) to either include or exclude particular areas from use in REDD+ (see section 3.3.1.2. below).

One means of ensuring that land use planning is undertaken transparently is for national frameworks to adopt a set of objective criteria, such as establishing the factors that will be used to guide land-use decision-making, such as listing factors to identify deforestation risks, soil suitability, carbon sequestration potential, and biodiversity values.⁸⁸ It is also essential that the rules for governing land use planning decision-making and the initial land use plans are made publicly available in an accessible format, and are the subject of multi-stakeholder consultations.

87 Tacconi, L., Downs, F., and Larmour, P., (2009) 'Anti-corruption policies in the forest sector and REDD+', Chapter 13 in Angelsen, A with Brockhous, M., Kanninen, M., Sills, E., Sunderlin, W.D., and Wertz-Kanounnikoff, S., (eds), *Realising REDD+: National strategy and policy options*, CIFOR, Bogor, Indonesia, at p 164.

88 Tacconi et al, (2010), at p. 164.



3 CORRUPTION RISKS AND ANTI-CORRUPTION MEASURES IN REDD+

Land and natural resource tenure

The manner in which national REDD+ frameworks will treat land and forest tenure will be of particular importance to indigenous peoples and other forest-dependent communities. In many REDD+ countries, customary land tenure and control over natural resources is weak, and precautions must be taken to ensure that REDD+ does not result in the systematic loss or displacement of indigenous peoples and forest-dependent communities from their customary land.⁸⁹ For example, indigenous and local communities are often unable to register their customary title because the land registration procedures are too costly or cumbersome.

Corruption may influence the design of the rules regarding land tenure and REDD+ by:

- failing to recognise competing rights of formal or informal customary land tenure, particularly in countries where State ownership of forests is already strong, so that political elites can “trump” customary tenure and capture REDD+ revenues; and
- adopting a REDD+ framework which appears to respect customary land tenure, e.g. by recognizing registered customary land titles (where such registration is possible, such as in the Philippines⁹⁰) while failing to provide the necessary administrative and budgetary support to build capacity for the land registration process. This might be characterised as ‘corruption by omission’, and illustrates the difficulty in distinguishing between corruption and a lack of capacity.

To address this risk, the REDD+ readiness phase should include capacity building for land administration institutions to undertake the task of clarifying land tenure through the systematic registration of customary land titles.⁹¹ Assistance should also be provided to local communities and NGOs who often play an important role in assisting indigenous peoples and other forest-dependent communities to access complex land registration processes.

Allocation of carbon rights

Carbon rights⁹² are a form of property right that ‘commoditise’ carbon and allow it to be traded. They separate the right to carbon from broader rights to forest and land.⁹³ Typically, the holder of the carbon rights will control the carbon resource, which they can sell or convert into REDD+ credits (unless a national REDD+ framework provides otherwise). Each REDD+ country will need to adopt

89 For a detailed analysis of the difficulties experienced by indigenous peoples and other forest-dependent communities in establishing customary land tenure and control over forest resources in developing countries, see Sunderlin, W.D., Hatcher, J., and Liddle, M., (2008), *From Exclusion to Ownership? Challenges and Opportunities in Advancing Forest Tenure Reform, Rights and Resources Initiative*.

90 The Indigenous Peoples Rights Act of 1997 (Philippines)

91 It should not always be assumed that registration of customary title is desirable from the perspective of protecting customary tenure. For example, in Papua New Guinea, where 97% of land is held as unregistered customary land, the act of registering customary title strips the land of its statutory protection thereby allowing it to be mortgaged or sold, and thus permanently alienated from the local community. In such circumstances, a national REDD legislative framework which imposes a requirement for land registration as a precondition to REDD might benefit local elites who could capture REDD+ revenues by registering customary land: see Tararia, A., et al, (2010), *Incorporated land groups and the registration of customary lands: Recent developments in Papua New Guinea*, published in *In Defence of Melanesian Customary Land*, Anderson, T., and Lee, G. (eds), AID/WATCH, Sydney, Australia.

92 Including carbon sequestration rights.

93 Cotula 2009, p 9. For a detailed analysis of carbon rights in REDD+, see Takacs, D., (2009) *Forest Carbon – Law + Property Rights*, Conservation International, Arlington VA, USA.



legislation which clarifies how carbon rights will be created, and who can hold them, (although this is not necessary if the REDD+ country does not intend to participate in carbon trading).⁹⁴

The rules which are adopted under a national REDD+ framework for allocating carbon rights has the potential to deliver windfall gains or profits, and is thus likely to be a highly contentious aspect of any REDD+ legislation. Examples of areas in which corrupt actors may seek to 'legalise' corruption is if political elites seek to link carbon rights to State ownership of forests –thus excluding any claims to carbon rights by those holding or asserting customary tenure. Given the prevalence of State ownership of forests in many REDD+ countries⁹⁵, this would mean that the lion's share of REDD+ revenues would be paid to the State, thus creating opportunities for 'skimming' and embezzlement. Another possibility is that REDD+ legislation may link carbon rights to logging concessions, thus allowing logging companies to convert their concessions (which may already be tainted by corruption) into carbon rights.

To address these risks, it is essential that REDD+ national proposals to allocate carbon rights be closely analysed, and that consensus on the proposed framework for allocation of carbon rights and benefit distribution be pursued through broad-based multi-stakeholder consultations.

Setting reference emission levels / reference levels

Each country that wishes to participate in REDD+ will first need to set a national baseline or reference emission level/ reference levels ('baseline') against which any future emissions reductions and removals can be measured.⁹⁶ The extent to which a country reduces its emissions and increases its removals against its baseline will establish the amount of REDD+ revenue to which that country is entitled. Countries will be likely to have the options to select the methodologies to determine baselines, including future projected baselines.

In terms of setting baselines, there is a risk that corruption may result in:

- artificially inflating the baseline in order to increase the emissions reductions, and thus the REDD+ revenues, which can subsequently be claimed, allowing the excess to be 'skimmed' by corrupt officials at a later date once the real rate of deforestation/degradation becomes apparent,⁹⁷
- collusion between political elites and the private sector (such as logging companies, industrial plantation owners and other powerful economic parties) to share the proceeds deriving from:
 - increasing deforestation rates in the lead up to the start of REDD+ activities, and to share the subsequent proceeds.⁹⁸

94 UN-REDD Programme and Terrestrial Carbon Group, Background Analysis of REDD+ Regulatory Frameworks.

95 See Sunderlin, WD., Hatcher, J., and Liddle, M., (2008), From Exclusion to Ownership? Challenges and Opportunities in Advancing Forest Tenure Reform, Rights and Resources Initiative.

96 SBSTA decision on Methodological Guidance for REDD+ (UNFCCC, Decision 4/CP.15. For an analysis of how reference levels might be set, see Angelsen, A., (2008) 'How do we set the reference levels for REDD+ payments?', in *Moving Ahead with REDD+: Issues, Options and Implications*, Angelsen, A. (ed.), CIFOR, Bogor, Indonesia, pp. 53-63.

97 Brown, M.L. (2010), *Limiting Corrupt Incentives in a Global REDD Regime*, 37 Ecology L.Q. 237., at p. 260

98 Typically, RL/REL calculation period is set to the average deforestation rate of the last 10 years, updated every 3 years (as suggested in an early proposals to UNFCCC), although many countries do not yet have reliable or consistent historical deforestation data. This corruption risk will be mitigated if countries conduct the REL/RL measuring as it is suggested in the COP/IPCC.



3 CORRUPTION RISKS AND ANTI-CORRUPTION MEASURES IN REDD+

- determining the time for calculating the Reference level/reference emission level and or choosing to incorporate national circumstances in a way that favours certain types of activities (such as plantations) or socio-economic environments.

Lessons should be learned from the problems experienced by the Clean Development Mechanism where it has been found that organisations were manipulating baselines by increasing their production of HFC-23, a potent greenhouse gas, in order to increase the Certified Emission Reductions (carbon credits) which could be generated for a project under the Kyoto Protocol.⁹⁹

In terms of solutions, the risk of inflated baselines must be addressed at the international level through the UNFCCC process, with the COP (or the Subsidiary Body for Scientific and Technological Advice) adopting clear methodological guidance as to how national baselines are to be established and verified.

Design of benefit distribution systems

It is expected that the REDD+ readiness phase will include the design of a benefit distribution system (BDS) (see the example from Viet Nam in Box 8 on page 42). In carrying out this task, there is a risk that the BDS may be unduly influenced by state capture, nepotism and cronyism, which could influence design of the BDS at national, provincial and local levels.

3.2.2 *Proposals to reduce corruption risks affecting the design of national REDD+ frameworks*

Identifying and addressing corruption risks in national REDD+ frameworks will be a particularly difficult and sensitive task.

Corruption risk assessments

It is suggested that as a first step, each REDD+ country should identify the main types and the scale of corruption risks (including the actors) posed by REDD+ through a corruption risk assessment. This should not only give a picture of the overall governance conditions in the country, including the forestry sector, but should also identify the extent to which corruption is a driver of deforestation. Towards this goal, the UN-REDD Programme has taken some steps to support the conduct of “multi stakeholder country-led REDD governance assessments”¹⁰⁰, undertaken by a partnership between government and civil society to help point to particular institutions or institutional arrangements as the cause of governance and corruption challenges and provide the basis for evidence-led reform. A risk assessment tool for social principles is also being developed to provide guidance in the development of UN-REDD National Programmes (see Box 7).

99 Brown (2010), at p 244.

100 UN-REDD Programme 2010 Scope of work : Multi -stakeholder country-led governance assessments for REDD+, available at http://www.unredd.net/index.php?option=com_docman&task=doc_download&gid=3677&Itemid=53



Box 7: UN-REDD Programme - Risk Assessment Tool for social principles

To assist with the risk assessment phase, the UN-REDD Programme is currently developing a Risk Assessment Tool for social principles that will assist in the detection and improvement of program weaknesses in of UN-REDD National Programmes – and national readiness processes more generally. Criterion 1 of this tool sets out a detailed decision-making tree for ensuring that proposed REDD+ activities have addressed corruption and fiduciary risks by asking a series of questions, e.g. ‘has the government ratified UNCAC or other regional anti-corruption instruments?’, and if so, ‘does the country actively enforce the principles from these conventions?’. Criterion 2 sets out a decision-making tree for ensuring that REDD+ activities are carried out in an accountable and transparent manner, and Criterion 3 sets out a process for ensuring that all stakeholders are able to participate in a meaningful and effective manner, with special attention given to most vulnerable groups and indigenous peoples.¹⁰¹

Economic and social impact assessment

The next step at the country level should be to conduct a detailed analysis of the extent to which vested interests may have influenced the design of the national REDD+ framework. It is recognised that this is a particularly sensitive task. The analysis might, for example, take the form of, or be included in, an economic and social impact assessment, which assesses the likely economic impact of REDD+ activities on current actors within the forestry sector (logging companies, agribusiness, etc), as well as assessing the potential impact on the most vulnerable people, viz, indigenous peoples, other forest-dependent people, and women.¹⁰² The analysis (and broader REDD+ readiness phase) should also include proposals for addressing the corruption risks in design (some of which are covered above), such as how objective land use planning guidelines will be established, how the registration of customary land tenure will be facilitated, and how carbon rights will be addressed.

This type of detailed economic and social analysis should be conducted at critical points in the development of national REDD+ frameworks. Initially it should form part of a country’s national REDD+ strategy, which does not appear to be happening at present.¹⁰³ An economic and social impact assessment should also be done at the point when draft REDD+ legislation is prepared, which is when legal rights are established. In order for this to happen, the multilateral and bilateral initiatives which are supporting the REDD+ readiness phase should be aware of the potential for corruption and vested interests to unduly influence the design of national REDD+ frameworks,

101 A summary of the Social and Environmental approach, which contains a link to the latest version of the Risk Assessment Tool is available at: http://www.unredd.net/index.php?option=com_docman&task=doc_download&gid=3554&Itemid=53

102 For example, the FCPF’s current RPP Template (v. 4, 28 January 2010) provides for an (optional) Social and Environmental Impact Assessment (Annex 2d), and the FCPF has also issued guidance on how to incorporate social and environmental considerations into the REDD readiness process, but these obligations do not extend to an economic impact assessment. These documents are available at: <http://www.forestcarbonpartnership.org/fcp/node/255>

103 A review in May 2010 of 16 RPPs and National Programme Documents found that “most of the proposals identify weak law enforcement and unclear land tenure as key governance challenges for REDD+. However, the depth of analysis of the underlying problems and potential solutions is relatively low at this stage. It is often not clear how countries intend to address these issues through their REDD+ strategies: Davis, C., *Governance in REDD+: Taking stock of governance issues raised in readiness proposals submitted to the FCPF and the UN-REDD Programme*, prepared for Expert Workshop, 24th-25th May 2010, Chatham House, London, Background Paper Two, p. 2.



3 CORRUPTION RISKS AND ANTI-CORRUPTION MEASURES IN REDD+

and should encourage corruption risk assessments and economic and social impact assessments throughout the REDD+ readiness phase. For example, these could be incorporated as express topics to be addressed under the FCPF's RPP template and be provided as guidance through the preparation of UN-REDD national programme documents.

Multi-stakeholder consultations

Finally, national REDD+ frameworks (strategies and legislation) should be scrutinised and assessed through robust, multi-stakeholder consultation processes which 'flush out' any instances where corruption has influenced the policy or legislation. These consultations should be informed by the information and analysis contained in the corruption risk assessments and in the economic and social impact assessments described above. The multilateral and bilateral initiatives which are assisting countries in REDD+ readiness phase are partly fulfilling this role already. The UN-REDD Programme has already taken some steps in this direction, with the multi-stakeholder country-led assessments mentioned above as well as through the implementation of an extensive programme of work on stakeholder engagement.¹⁰⁴

3.3 Implementation of REDD+

3.3.1 Corruption risks in implementation

This section of the paper considers the corruption risks in the implementation phase of REDD+.¹⁰⁵ In this phase we might expect to see a broader range of actors than in the design phase, therefore increasing the potential range and diversity of corrupt practices. For example, in addition to high-level actors (political elites, transnational logging companies), in terms of the potential for corrupt behaviour, there is also the potential for low to mid-level public sector officials, community leaders and elites of indigenous peoples and local communities, carbon brokers, military and para-military groups, and local and international NGOs to engage in corrupt practices.

While there is potential for grand corruption (large scale bribes) to affect implementation, in this phase typical forms of corruption might also involve petty corruption (or supply-side corruption) such as officials being bribed to turn a 'blind eye' to breaches of REDD+ laws, or officials being bribed to falsify land titles or carbon rights. In this respect public sector officials may have little incentive to reject bribes and to ensure that emissions reductions are achieved and can be verified, because there is no personal gain for them, and indeed there may even be a potential loss of (illegally-derived) income.¹⁰⁶ Specific examples of potential corrupt practices in implementation are considered below.

104 <http://www.un-redd.org/Home/EngagementofIPs/tabid/1033/language/en-US/Default.aspx>

105 Due to limited space, it has not been possible to address all corruption risks in the implementation phase of REDD+. For example, neither the moral hazard posed by reversals (non-permanence) and insurance, nor the risks of leakage in nested approaches, have been covered. For a discussion of moral hazard and reversals, see Barr, C., Dermawan, A., Purnomo, H. And Komarudin, H. 2010 *Financial governance and Indonesia's Reforestation Fund during the Soeharto and post-Soeharto periods, 1989-2009: a political economic analysis of lessons for REDD++*. Occasional paper 52. CIFOR, Bogor, Indonesia, pp. 63-64; for information on nested approaches, see Cortez, R., and others, *A Nested Approach to REDD++ - Structuring effective and transparent incentive mechanisms for REDD++ implementation at multiple scales*, published by The Nature Conservancy and Baker & McKenzie, 2010 <http://www.nature.org/initiatives/climatechange/files/nested_paper_final_60110.pdf

106 Brown, at p 262.



Land administration

In many REDD+ countries, effective land administration is undermined by poor governance, with poor practices for registering and maintaining statutory and registered customary land titles.¹⁰⁷

In REDD+, there is potential for corruption to affect land administration because some actors (e.g. provincial or local level elites, project developers) might seek to obtain land titles, and thus an entitlement to REDD+ revenues:

- bribing public sector officials to fraudulently create land titles,
- bribing to public sector officials to overlook competing customary claims to land titles, and
- bribing to induce public sector officials to register titles over State land in the name of particular individuals or corporations.

To overcome these risks, REDD+ readiness activities should recognise the particular difficulties affecting land administration, and take specific measures to provide for capacity-building and transparency in the land administration sector.

Spot rezoning

Corrupt practices could also arise where private landholders or concession holders seek ‘one off’ changes to the land use zoning designation over a particular parcel of land, which may be triggered by a fluctuation in commodity prices (see section above on establishing rules for land use planning). For example, a logging company might bribe a public sector official to include a specific parcel of land in REDD+, with a view to revoking the REDD+ zoning designation at a later date, thus allowing the logging concession over the land to be reactivated.

One means of addressing this risk is to require logging concessions to be surrendered or declared void once land is zoned for use in REDD+. It is also essential that all rezoning applications and decisions be made publicly available in an accessible format and be subject to a public consultation process.

Carbon rights

If a national REDD+ framework permits carbon rights to be decoupled from land and forest tenure, this is likely to open new avenues for corruption involving bribery and fraud relating to the creation and sale of carbon rights.

107 See Sunderlin, W.D., Hatcher, J., and Liddle, M., (2008), *From Exclusion to Ownership? Challenges and Opportunities in Advancing Forest Tenure Reform*, Rights and Resources Initiative, pp. 23, and Chapter 4 generally. For a detailed description of the problems of land administration in Papua New Guinea, see the National Land Development Taskforce Report: Land Administration, Land Dispute Settlement, and Customary Land Use Development, prepared by the NLDT Committees on Land Administration, Land Dispute Settlement, and Customary Land Development, published by the National Research Institute (Papua New Guinea), NRI Monograph 39, February 2007.



3 CORRUPTION RISKS AND ANTI-CORRUPTION MEASURES IN REDD+

For example, corrupt practices might include:

- project developers, logging companies or local elites bribing public officials in the lands department to register the carbon rights over particular parcels of land in the name of the corrupt actor. The corrupt actor could sell the carbon rights to a third party, and then abscond with the proceeds. This could occur without the knowledge or consent of the indigenous people or other local communities who own, use or occupy the land, who may discover when it is too late they have been defrauded of their carbon rights;
- the laundering of money through the purchase and sale of carbon rights.

Because of the intangible nature of carbon rights (they only exist on a piece of paper), these risks are particularly difficult risk to manage. Risk management for carbon rights will require capacity building within the land administration sector to assist the sector to develop and manage the process for registering carbon rights, in accordance with adequate safeguards.

Carbon measurement risks

REDD+ depends for its effectiveness on the accurate measurement, reporting and verification of forest emissions and sequestration, and changes in forest carbon stocks (C-MRV). As REDD+ revenues will depend upon the extent to which a State can demonstrate that it has reduced its emissions and increased its removals below its baseline, this creates an opportunity for fraud.

Corrupt practice in carbon measurements might include:

- public sector officials over-estimating the amount of avoided emissions and emission reductions against the baseline in order to inflate REDD+ revenues, and the subsequent 'skimming off' and embezzlement of these additional revenues generated by political elites or public sector officials;
- project developers attempting to bribe public sector officials to falsify claimed emissions reductions from projects to secure additional revenues. Such reporting failures may be relatively easy to hide given the technical complexity of measuring changes in carbon stores.¹⁰⁸

Because of the technical complexity of forest carbon measurement and monitoring, C-MRV is an area where the line between corruption and a lack of technical capacity may easily become blurred. It is also an area where corruption in public sector appointments has real potential to undermine REDD+ because employees who have been appointed through patronage, nepotism or because of connections may lack the technical skills necessary to measure, report and verify carbon emissions.

Multilateral and bilateral initiatives must continue to focus attention on developing capacity in REDD+ countries to undertake the robust and transparent measurement, reporting and verification of carbon changes, which underpins the effectiveness of REDD+.¹⁰⁹

¹⁰⁸ Brown (2010), at p, 262.

¹⁰⁹ In the context of the UN-REDD Programme, this role is undertaken by the Food and Agriculture Organisation (FAO).



3.3.2 Administration of revenues and benefit distribution

In order to become 'REDD+ ready', each country should develop a system as to how it will administer and distribute REDD+ revenues.¹¹⁰

The main corruption risks in benefit distribution are:

- the diminution or loss of REDD+ revenues through embezzlement by public sector officials, and
- the potential for REDD+ revenues to be misappropriated by powerful groups, such as logging companies, the military, and project developers.¹¹¹

The form in which the international community will make REDD+ revenues available to developing countries is not yet clear. It may be based on donor funds made available by developed countries (fund-based); it may be market-based, which would involve the allocation and trade of REDD+ carbon credits; or it may be a combination of both.¹¹² Both fund-based and market-based approaches entail different corruption risks, each of which are discussed below.

Fund-based approach

A fund-based approach would involve payments being made to national governments for demonstrated reductions in emissions. With this approach, there is a risk that funds may be embezzled by political elites responsible for the management of REDD+ revenues for their own enrichment, or that funds will be siphoned off to others to secure political favours or support. The recent move towards decentralisation in many developing countries also has implications for corruption in the management of REDD+ revenues because the opportunity for public officials to embezzle REDD+ funds will increase with each additional layer of government, effectively leaving local communities to 'wait for the trickle down'.¹¹³

Compared to a market-based approach which generates carbon credits, fund-based payments may be more susceptible to corruption due to the difficulty of tracing cash funds. Careful decisions will need to be made as to who will administer REDD+ revenues at the country level – the Treasury department, the ministry of forestry, or a new stand alone fund such as a National REDD+ Fund – with careful consideration being given to the relative corruption risks of each, including the track

110 Curiously, the obligation to have in place a BDS is not listed as an obligation in the Negotiating Text on REDD+, which is silent on the issue. Viet Nam is one of the first countries to design a transparent and equitable benefit distribution system, which was prepared with support from the UN-REDD Programme and GTZ: *Design of a REDD+-Compliant Benefit Distribution System for Viet Nam*, (2010). Through regional coordination offered by the UN-REDD Programme, it is foreseen that other countries in the region will benefit from this work.

111 For example, in Indonesia it has been observed that many large-scale forestry enterprises, pulp and paper producers and oil palm companies have close ties to political elites, and are therefore well positioned to secure access to REDD+ revenues if distributed by government agencies: Barr, C., Dermawan, A., Purnomo, H. And Komarudin, H. 2010 *Financial governance and Indonesia's Reforestation Fund during the Soeharto and post-Soeharto periods, 1989-2009: a political economic analysis of lessons for REDD++*. Occasional paper 52. CIFOR, Bogor, Indonesia.

112 UNFCCC draft Neg Text, Option 2, para 12. It is also not yet clear whether payments will be made to national-level actors who would then be responsible for disbursing payments within their country, or whether payments could also be made directly to sub-national actors, such as provincial governments and private sector project developers.

113 Cotula 2009: 21.



3 CORRUPTION RISKS AND ANTI-CORRUPTION MEASURES IN REDD+

record, of each institution.¹¹⁴ In this regard, it is highly preferable that REDD+ funds be held off-budget and not be mixed with consolidated revenue, as the funds should be earmarked to reward performance of forest managers and communities.

The financial mechanism that links national REDD+ funds to local beneficiaries needs to be transparent and have a governance structure that includes all relevant stakeholders who can monitor the administration and expenditure of REDD+ revenues (see, for example, Box 8 on Benefit Distribution System for REDD+ in Viet Nam). This multi-stakeholder structure could also be used to distribute benefits under a market-based approach.

Box 8: Design of a REDD+ compliant Benefit distribution in Viet Nam

With the assistance of the UN-REDD Programme, Viet Nam has undertaken an extensive study to consider how to design a Benefit Distribution System for REDD+. It is established that REDD+ could generate about US\$80-\$100 million each year in Viet Nam. Viet Nam proposes to establish a National REDD+ Fund which will receive and hold the revenues 'off-budget' and will be responsible for disbursing the funds. The Fund will be overseen by a broad-based multi-stakeholder governing body. Provincial REDD+ Funds will be mirrored on the National model, which is then responsible for delivering payments and benefits to local beneficiaries.¹¹⁵

Market-based approach

The adoption of a market-based approach which involves the generation and sale of REDD+ credits poses different corruption risks.¹¹⁶ On the one hand, carbon credits are easier to track because, unlike funds, they are given a unique year and serial number which allows the chain of custody of the credit to be traced. However for this to work for REDD+ credits, it will require the establishment of a highly complex administrative system involving a national registry and separate national accounts to track the issue, purchase, sale and retirement of REDD+ credits in a similar manner to the system of managing Kyoto Units under the Kyoto Protocol).

114 See, for example, the report of Barr et al on Indonesia's Reforestation Fund which notes that Ernst & Young documented losses from the Fund over a four-year period (1993/4 – 1997/8) of US\$5.2 billion in public funds, 50% of which occurred after the funds had entered the Ministry of Forestry's accounts. This triggered a transfer of responsibility for fund management to the Ministry of Finance, and more recently again to a specially formed unit, the Forest Development Funding Agency Public Service Unit. Barr, C., Dermawan, A., Purnomo, H. And Komarudin, H. 2010 *Financial governance and Indonesia's Reforestation Fund during the Soeharto and post-Soeharto periods, 1989-2009: a political economic analysis of lessons for REDD+*. Occasional paper 52. CIFOR, Bogor, Indonesia.

115 UN-REDD Programme, (2010) Design of a REDD-Compliant Benefit Distribution System for Viet Nam, GTZ. Cambodia and Laos are preparing similar studies.

116 There is currently an emerging, although relatively small, voluntary carbon market for REDD+ in which the private sector is able to generate credits according to various methodological REDD+ standards. In 2009, the total volume of voluntary REDD+ credits which were transacted was US\$41.6 million, with a weighted price average of US\$13.33/tCO₂e (Hamilton, K., Chokkalingam, U., and Bendana, M., (2010a), State of the Forest Carbon Markets 2009: Taking Root & Branching Out, Ecosystem Marketplace).



Corrupt practices in national REDD+ carbon markets might include:

- a seller of REDD+ credits bribing a public sector official not to 'retire' credits when required to do so, allowing the credit to be resold (or recycled) for a profit; or
- a multinational corporation, which requires carbon offsets for compliance or voluntary purposes, colluding with public sector officials to sell illegally generated REDD+ credits to the corporation at a cheap price in return for a kickback for the official. Conduct such as this on the part of the multinational corporation would probably fall foul of the OECD Anti-Bribery Convention (see below).

The nature of REDD+ credits themselves may make them easy targets for corruption as they involve the creation of an intangible asset, namely, carbon credits, which exist only on paper and which are difficult to verify.¹¹⁷ It is not yet clear whether national governments will be permitted to issue REDD+ credits under an international REDD+ regime which will be recognised on the international plane. If permitted, this would present a significant corruption risk as public sector officials could be bribed to create fraudulent credits which could enter the international market.

A market-based approach presents an increased opportunity for the private sector to participate in REDD+ (e.g. project developers, multinational corporations, carbon brokers), and this introduces new corruption risks. Lessons from natural resource extraction indicate the potential for the private sector to bribe the public sector to provide access to the resource – which in REDD+ could apply to carbon. To address the risk that REDD+ funds may be lost through collusion between the public and private sectors, consideration should be given as to how the models which have been developed to improve transparency in natural resource revenues, such as the Extractive Industries Transparency Initiative (EITI), can be adapted for use in REDD+ (see Box 9), and the recent Dodd-Frank Wall Street Reform and Consumer Protection Act passed in the US (see Box 13).¹¹⁸



© David Gonzales

117 Peter Younger from Interpol has described carbon credits as follows: "You're obtaining not a physical entity or asset but a piece of paper". He notes that there are even greater risks for forest carbon offsets, stating "In effect, you could be falsifying ownership in something you can see (land) in order to sell something that you can't (carbon), and then inserting it into the carbon markets and selling it to people": Lang, C., 1 October 2010, REDD+ Monitor, 'Joining the little REDD+ dots: Stories from the world of carbon trading' <http://www.REDD+-monitor.org/2010/10/01/joining-the-little-REDD+-dots-stories-from-the-world-of-carbon-trading/#more-5884>

118 <http://eiti.org/>



3 CORRUPTION RISKS AND ANTI-CORRUPTION MEASURES IN REDD+

Box 9: Liberia, forestry and the EITI

The EITI model requires companies to disclose what they pay to government to access resources, and for government to disclose how much they have received. These amounts are then reconciled, with the process being overseen by a multi-stakeholder group. Around 50 of the world's largest oil, gas and mining companies support and actively participate in the EITI process. Liberia is a participant in EITI and, in addition to agriculture, minerals and oil, has chosen to include forestry as a covered sector.¹¹⁹ Liberia has developed a financial reporting template for companies in the forestry sector, which could easily be adapted for use in REDD+.¹²⁰

Local level benefit distribution

Whether REDD+ is fund based or market based, it appears likely that national government will retain control over how REDD+ benefits are to be distributed (among provinces, districts and communities), and in which form (cash, credits, or in the form of services such as schools or hospitals). In addition to the risk of embezzlement by provincial or local elites, decisions as to how REDD+ benefits will be distributed at provincial and local levels are also prone to the 'demand side' corruption risks of cronyism, nepotism and clientelism, which may affect both the design of provincial and local level benefit sharing plans and the implementation. These risks apply equally to fund-based and market-based approaches to REDD+.

3.3.3 Proposals to reduce corruption risks in implementation

Much has already been written about the need for a broad-based and robust monitoring system which REDD+ countries can use to measure, report and verify not only the carbon stored in forests, but for governance, environmental and social safeguards too. Indeed, it is worth noting that the Negotiating Text requires REDD+ countries to address these issues in their national REDD+ strategies.¹²¹ Some specific solutions for reducing corruption risks in implementation are discussed below.

119 <http://www.leiti.org.lr/>

120 http://www.leiti.org.lr/content_maindoc.php?main=67&related=67; and see also TI Manual: An analysis of corruption in the forestry sector, 2009, Appendix 8, at http://www.illegal-logging.info/item_single.php?it_id=845&it=document

121 In this regard, the draft Negotiating Text requires developing country Parties, when developing and implementing their national strategies or action plan ... to address, inter alia, drivers of deforestation and forest degradation, land tenure issues, forest governance issues, gender considerations and the safeguards identified in paragraph 2 [of the text] (para 7). A significant body of work on the need for MRV for governance has also been undertaken by Chatham House: see Saunders, J., and Reeve, R., (2010), *Monitoring Governance for Implementation of REDD+*, prepared for Monitoring Governance Safeguards in REDD+ Expert Workshop 24th - 25th May 2010, Chatham House, London, UK, Background Paper One.



Using UNCAC as an anti-corruption framework

It is suggested that a country's REDD+ framework should be designed using the provisions of UNCAC as an anti-corruption framework, or checklist. This should generally be possible, because of the 49 countries which are participating in either or both the UN-REDD Programme and the FCPF, only nine have not ratified UNCAC (see Annex A). Using UNCAC would encourage the following type of analysis of national REDD+ frameworks:

- Article 5 requires Anti-corruption policies: does the national REDD+ framework recognise corruption risks and incorporate effective anti-corruption policies?
- Article 6 requires Preventative anti-corruption bodies: does the national REDD+ framework provide a link to independent anti-corruption commissions or courts to enable these bodies to investigate and prosecute complaints concerning corruption in REDD+?
- Article 10 requires Public reporting: does the national REDD+ framework contain freedom of information provisions allowing members of the public to obtain information about REDD+, e.g. applications for rezoning, grant of REDD+ licences, benefit distribution, etc
- Article 13 requires support for civil society: does the national REDD+ framework contain provisions for capacity building and support of NGOs (CSOs) working on REDD+?

Annex D to this paper contains a more detailed checklist which could be used to assess whether a national REDD+ framework is consistent with the UNCAC framework.¹²²

Multi-stakeholder approaches

Transparency and accountability in both the development and implementation of REDD+ can be promoted through the use of a multi-stakeholder approach. For example, not only can a multi-stakeholder structure be used to administer and manage REDD+ revenues (see the example from Viet Nam's proposed Benefit Distribution System in Box 8), but they can also be used more broadly to oversee the design and implementation of national REDD+ frameworks. The establishment of a multistakeholder National REDD Committee in the Democratic Republic of the Congo provides a good illustration of how this might be done (Box 10).

122 The idea for this table was drawn from UNDP Anti-corruption Guidance Note (2008), p 9, Table 3 which contains a table setting out "UNCAC as a democratic governance and development framework". This presupposes that the REDD+ country is in fact a signatory to UNCAC: see Annex X for a list of REDD+ countries and whether they have ratified UNCAC.



3 CORRUPTION RISKS AND ANTI-CORRUPTION MEASURES IN REDD+

Box 10: Multi-stakeholder approach to REDD+ in Democratic Republic of the Congo

On 26 November 2009, the Prime Minister of the Democratic Republic of the Congo (DRC) adopted a Decree to establish the institutional structures for REDD.¹²³ The Decree establishes a National REDD Committee, which has overall responsibility for REDD, including preparing the guidelines for REDD, deciding on the actions to be taken, approving national work plans, monitoring and evaluating the implementation of REDD, and establishing a national fund to manage and distribute REDD revenues (s 4). Nearly one third of the members of the National REDD Committee must be drawn specifically from civil society and indigenous peoples organisations. Of the 13 members on the National Committee: 6 are from government; four must be representatives of NGOs, forest communities and native populations; one is from the Federation of Wood Industries (private sector); one is from the business sector; and one from a national agricultural research institute (s 5). This provides a broad range of stakeholders with a strong supervisory role in the design, implementation and monitoring of the REDD+ process. The Decree provides that this multi-stakeholder structure is also to be replicated at the provincial level (s 13).

Capacity-building and support for NGOs and anti-corruption bodies

NGOs play an important role as a corruption ‘watchdog’ and can assist in identifying instances of systemic or specific corruption. However, in asking NGOs to play this role, it should be recognised that they are often poorly resourced with little capacity to undertake this work. As part of the REDD+ readiness process, support should be provided to build capacity within NGOs to respond to corruption risks in REDD+, and to support local communities. Care should be taken, however, to ensure that the manner in which support is provided does not compromise the independence of NGOs, e.g. by providing funding which is tied to REDD+ activities, and which may itself may raise corruption risks.

In countries that have established anti-corruption commissions or other equivalent bodies, support for these institutions to develop their capacity on risks related to REDD+ and receive political commitment and funding will also be key. This may include strengthening their capacity to raise awareness, to develop and implement preventive mechanisms such as system audits and to investigate and monitor corruption cases in REDD+.

Recourse and complaints mechanisms

Ensuring that an independent, effective and accessible recourse and complaints mechanism is available to the public, including to indigenous peoples and other forest-dependent communities is an essential part of managing corruption risk in REDD+. In the absence of such mechanism corruption

123 Decree No 09140 of 26/11/2009 Providing for the Creation, Compositions and Organization of the Implementation Structure of the Process of Reducing Emissions from Deforestation and Forest Degradation, “REDD”, text (in English) available in Annex 1a to the DRC Readiness Plan for REDD, 2 March 2010, available at http://unfccc.int/files/methods_science/redd/country_specific_information/application/pdf/eng_rpp_drc_version_020310.pdf. For more information on the DRC 2009 REDD Decree to support REDD, see http://www.un-redd.org/Newsletter3_Congo_best_practice_en/tabid/2038/language/en-US/Default.aspx



activities can continue unchallenged or unchecked, thus continuing to undermine REDD+. National REDD+ frameworks should ensure that an effective recourse and complaints mechanism is available, and that it is accessible to indigenous peoples and local communities.

Box 11: UN-REDD, Free Prior and Informed Consent, and recourse mechanisms

The UN-REDD Programme has recently held a round of consultations with indigenous peoples representatives and CSOs in Hanoi (June 2010), and in Panama (October 2010) to facilitate the development of generic guidance on Free, Prior and Informed Consent (FPIC) and Recourse Mechanisms which can be used to guide national UN-REDD activities around the world.¹²⁴ A third regional consultation will take place in Africa in January 2011.

Sharing responsibility for managing corruption risk

While much focus is often placed on the need for developing countries to proactively address corruption risks, developed countries should recognise that they too have a responsibility to reduce corruption risks in REDD+, as well as in adaptation. Developed countries are in a position to control the supply side risks of corruption, also referred to as “active bribery”¹²⁵ which occurs when the donor country or a private sector investor (in the case of REDD+, from a developed country) engages in corruption by bribing or coercing public sector officials in developing countries in return for favourable treatment.

Actions which can be taken by developed countries to share responsibility for corruption risk include:

- Ratifying and fully implementing the 1997 *OECD Anti-Bribery Convention of Foreign Officials in International Business Transactions*, and specifically enforcing it in the context of REDD+ and adaptation.¹²⁶ This Convention requires signatory States to make it a criminal offence under domestic law for any person or company to bribe a foreign public official (legislative, administrative or judicial) in order to obtain or retain international business.

124 For more information on the UN-REDD round of consultations on FPIC and Recourse mechanisms in the Asia-Pacific region, see http://www.unredd.net/index.php?option=com_docman&task=doc_download&gid=3662&Itemid=53 ; and in Latin America / Caribbean, see http://www.unredd.net/index.php?option=com_docman&task=doc_download&gid=3663&Itemid=53

125 UNODC (2004), *The Global Programme Against Corruption: UN Anti-Corruption Toolkit*, 3rd ed, Vienna Chapter 1.

126 All Annex 1 countries have ratified the OECD Anti-Bribery Convention except Belarus, Croatia, Latvia, Liechtenstein, Lithuania, Monaco, Romania, Russian Federation and Ukraine. Three REDD+ countries have ratified the Convention: Argentina, Brazil and Chile.



3 CORRUPTION RISKS AND ANTI-CORRUPTION MEASURES IN REDD+

Box 12: Bribery Act 2010, UK

An example of the implementation of UNCAC is the United Kingdom's Bribery Act 2010, which is scheduled to come into force in April 2011.¹²⁷ The Act makes it a criminal offence for a person or corporation incorporated in the UK, or a company that carries on any part of its business in the UK, to bribe any public foreign official who holds a legislative, administrative or judicial position of any kind.¹²⁸

- Introducing legislation which requires corporations to be involved in accessing REDD+ revenues (by receiving funds or REDD+ credits) to disclose any payment they make to developing country governments to access their carbon.

Box 13: Dodd-Frank Wall Street Reform and Consumer Protection Act

An example of legislation which requires natural resource revenue transparency is the Dodd-Frank Wall Street Reform and Consumer Protection Act which was passed by the US Congress in July 2010. Section 1504 of the Act requires all U.S. and foreign companies registered with the US Securities and Exchange Commission (SEC) to disclose in their annual reports how much they pay foreign governments for access to their oil, natural gas and minerals.¹²⁹



127 The *UK Bribery Act 2010* supplements the provisions of the UK's *Anti-terrorism, Crime and Security Act 2001*, which was only ever intended to be a temporary measure to implement the OECD Anti-Bribery Convention.

128 UK Bribery Act 2010, s 6.

129 For more detail on this legislation, see <http://www.publishwhatyoupay.org/en/resources/dodd-frank-law-2010-section-1504-disclosure-payments-resource-extraction-issuers>.