

GOVERNANCE OF REDD+

To what extent does the R-PP promote good governance within REDD+ systems and processes?

Stakeholder Participation in REDD+ planning and Implementation

+ Identifies relevant stakeholders for REDD+

Specifically considers how to engage vulnerable groups

+ Establishes procedures to ensure a transparent process and accountability for stakeholder input

Establishes a grievance / dispute resolution mechanism

Considers how to learn and build from other relevant participatory processes

The R-PP identifies an array of relevant stakeholders (p26) and provides a detailed awareness-raising, consultation and training plan. One of the main goals of the REDD strategy is to involve the indigenous farming communities living in ecosystems of interest for conservation and provision of environmental services (p2). Further, one of the strategic objectives of the Forest Policy aims to include civil society in land use planning and forest management (p12). The R-PP also stresses that indigenous and other forest dependent communities need to be at the heart of the REDD strategy (p21,27,50), and the National Environmental Agency (ANAM) has already established dialogue with farming and indigenous communities to inform them about REDD developments (p2,27). However, little information is provided on how the dialogue is being carried out, and if it extends beyond simple information sessions. The principle of free, prior and informed consent is not explicitly mentioned as guiding any future agreements that may be developed with indigenous communities relating to REDD although the R-PP repeatedly makes clear that rights of indigenous communities will be respected and benefits from the use of their forests will be shared with them (p14,17,42,77-78).

The REDD Consultation and Outreach Plan has three components (p24). First, a communication campaign focusing on raising awareness on REDD in Panama both internationally and at national and local levels. Second, public consultations to assess the state of public knowledge about REDD and to gather information about the socio-economic and needs of involved stakeholders. Third, a training component to train both government and non-government actors on REDD strategies. The plan focuses primarily on capacity-building activities such as awareness-raising and information dissemination on REDD. The plan states that public consultations will take place to “review” the R-PP, but it is not clear whether this would be a real opportunity for stakeholder input, or whether it is simply an opportunity to inform stakeholders of the R-PP components (p27).

The R-PP states that the success of the REDD strategy will largely depend on the gradual transformation of the environmental culture of the Panamanian population – a process promoted by ANAM that has been ongoing for the last 15 years (p23). The R-PP states that recent consultation processes – such as the (National) Land Use Plan developed to promote development planning – have adopted a comprehensive, forward looking, democratic and participatory approach (p19). However while recognizing that this and other related environmental planning processes need to be more inclusive for REDD (p20), no information is provided on the experiences to date of the effectiveness of consultative processes or areas for improvement. More clarity on how the consultation process will work is vital – details could include how stakeholders will know when and how they can engage, how comments will be taken into consideration, and what information will be publically reported. The R-PP provides brief information on the mechanisms available for civil society to oversee environmental management including REDD, such as citizen’s complaints procedures (p32), and it is clear that forest control activities have been carried out in response to citizen complaints (p44,46,50).

Recommendations:

- Elaborate on existing measures in the consultation process to ensure the ease and transparency of participation and subsequent accountability for incorporating stakeholder input into the REDD development process
- Clarify and provide more information on the citizens’ complaints mechanism and its effectiveness to date

Government coordination in REDD+ planning and implementation

+ Considers REDD+ in the context of other sector policies, land use plans, and national development plans

Proposes a process to reconcile potential conflicts between REDD+ strategies and other policies/plans

+ Proposes effective mechanisms to coordinate REDD+ across sectors

+ Proposes effective mechanisms to coordinate REDD+ across levels of government

The R-PP describes existing policies and laws in detail (p13-16). According to the R-PP, environmental management is carried out through three entities: (i) ANAM, responsible for creating and enforcing environmental policy, (ii) Various environmental advisory commissions, and (iii) the Inter-Institutional Environment System (SIA in Spanish) that works through committees and enables sectoral coordination, consultation, policy harmonization and conflict resolution (p13-16). The last two entities include representatives from a diverse range of stakeholder groups at the national and sub-national levels while ANAM is also responsible for inter-agency and public coordination (p20-21).

The R-PP focuses primarily on implementation of the new National Environment Strategy as the basis for REDD rather than on policy/institutional reform (p23). It does, however, acknowledge that certain existing policies, including the Agrarian Code, create perverse incentives for deforestation and therefore need to be amended (p10). The document includes broad statements about the importance of cross-sectoral coordination. Additional stakeholder engagement processes occur through other policy instruments such as the General Indicative Land Use Plan (PIGOT) and Environmental Impact Assessments (p19). The R-PP states that ANAM will encourage the establishment of a REDD Steering Committee that will be responsible for defining and overseeing the implementation of REDD activities (p20). The R-PP identifies a wide range of government and non-government stakeholders to be involved in the Committee, but at this point does not describe any tangible process for coordinating or promoting collaboration between these various interests as part of or in addition to the SIA.

Recommendations:

- Elaborate on how emerging policy conflicts in the development and implementation of REDD will be managed
- Elaborate on the process of how coordination between sectoral interests will actually be achieved

Transparent and accountable REDD+ revenue management & benefit sharing

Proposes a transparent system to track and coordinate international financing of activities related to REDD+

Considers measures to promote fiscal transparency and accountability for REDD+ revenue management

- Proposes a transparent process for deciding who should benefit from REDD+ and how benefits will be targeted

- Reviews lessons from past and/or existing systems for managing and distributing forest revenues

An objective of the R-PP is to “design a financing mechanism to promote fair, equitable and transparent distribution of revenues generated by the provision of environmental services, with direct benefits for communities” (p7,36). The R-PP states that forest carbon is owned by the State, even on indigenous lands. Therefore, receipts received from the sale of emissions in the REDD market will belong to the State. The R-PP proposes a REDD fund, to be managed and administered by ANAM (p42-43). One major line of financing will include activities relating to the production of environmental goods and services. The other will relate to supporting environmental management of indigenous comarcas (p43). No further details are given regarding mechanisms to promote transparency or accountability in the distribution of REDD revenues, or the development of a transparent system to track and coordinate these funds or how particular stakeholder groups will be targeted in practice. However, the R-PP states that in a post-2012 REDD regime, clear information will be provided on the financial mechanisms adopted by the government and ways to access them (p33).

The R-PP describes that ten other forest-related funds already exist and will factor in developing the REDD fund (p42-43). These funds provide direct support to 250 grassroots organizations to develop social capital and business opportunities in conservation, restoration and forest management projects (p11). However the performance of the existing funds is not reviewed in detail except that it is noted that their use for promoting environmental businesses and investments at community level can be viable and successful as a substitution for subsistence activities that lead to forest loss (p38).

Recommendations:

- Review the success of the existing forest-related funds and their governance in order to generate better understanding of how they have been successful and where improvements are needed to ensure their transparency, accountability and ability to deliver the promised outcomes
- Elaborate on existing or planned processes for accountably deciding how REDD benefits will be transparently managed and distributed
- Provide further information on proposals to track and coordinate performance-based international REDD financing and the measures required to promote fiscal transparency and accountability

Transparent monitoring and oversight of REDD+

+ Proposes to establish information management systems for REDD+ that guarantee public access to information

Proposes mechanisms for independent oversight of the implementation of REDD+ activities

Proposes mechanisms to monitor progress of efforts to address governance-related drivers of deforestation

ANAM is the agency responsible for environmental and forest monitoring. The R-PP acknowledges that there is a lack of an information management system to integrate and analyze forest data (p44). The R-PP also states that an information and analysis system will be established to make it possible to determine the degree of compliance of regulated activities (p47).

The R-PP recognizes public participation in monitoring activities (p46). It also mentions that an activity of the “post 2012 phase” of the consultation and outreach plan will be “strengthening the ability of society to monitor, audit, and evaluate the development of the REDD strategy and compliance with objectives” (p33). It is not clear, however, that an independent forest monitoring system would be allowed in Panama as a way to address questions of transparency and accountability of all government activities, including revenue distribution, as no further details are provided.

The R-PP recognizes the central importance of governance for the success of REDD, and outlines some components of what are commonly understood to be governance related issues in its social and environmental impact assessment component (p55-58). In this regard the R-PP discusses the need for social monitoring systems – e.g., tracking the impacts of programs in meeting the social or other environmental goals that will be decided on as part of the REDD strategies – but notes these need work.

Recommendations:

- Elaborate on the extent to which civil society will be allowed to provide independent oversight and monitor the implementation of REDD
- Elaborate on how the key elements of forest governance that continue to be developed will be monitored particularly in regard to their effectiveness, efficiency and equitability by non-government actors and the government

GOVERNANCE-RELATED DRIVERS OF DEFORESTATION

To what extent does the R-PP consider key forest governance challenges for achieving REDD+?

Land and forest tenure

Discusses the situation regarding land and forest tenure, including for indigenous peoples

Considers the capacity of judicial and non-judicial systems to resolve conflicts and uphold the rights of citizens

Links identified governance challenges to proposed REDD+ strategy options and implementation framework

Although the R-PP states that indigenous peoples’ rights to land are recognized under the law, the R-PP provides little information about the overall land and forest tenure framework in Panama except that the country is divided into nine provinces and five indigenous comarcas (p14). The R-PP states that the lands comprising the comarcas are collectively owned (p14). By law, the government should “respect, preserve and maintain the knowledge, innovations and practices of the indigenous and local communities which involve traditional ways of life related to the conservation and sustainable use of biological diversity, promoting their widest application, with the participation of the communities, and will promote equitable sharing with them of the resulting benefits. Any natural resource exploration, exploitation and development studies authorized on land occupied by *comarcas* or indigenous peoples should not cause harm to their cultural, social and economic integrity or spiritual values, according to the same law” (p14). However, all forest carbon is owned by the State, based on the legal premise that natural resources pertain to the public domain and are for public benefit (p42). This presents a potential conflict of interests that will need to be clearly addressed, including conflict resolution bodies that are seen as independent by the stakeholders – the government, indigenous peoples, forest dependent communities and civil society.

The R-PP does not mention the existence of any tenure conflicts, nor identify mechanisms for resolving potential conflicts. However, external studies suggest that overlapping tenure regimes, particularly with regard to subsoil rights and mining, pose a source of conflict and present a serious risk to tenure security in Panama.¹ Other than the legal framework which protects the rights of forest dependent people, there is no discussion of any institutions or systems to uphold those rights, such as the judiciary or other bodies seen as independent by all stakeholders. The R-PP mentions an Environmental Justice Programme but does not provide any further details (p47).

Recommendations:

¹ Larsen, A. 2008. LLSL Country Case Study: Panama. Online at: http://www.rightsandresources.org/publication_details.php?publicationID=943

- Elaborate on the overall framework of land and forest tenure in Panama, and how it varyingly enables or constrains tenure security, rights- and incentive-based forest management and the development of REDD
- Elaborate on the extent to which land and forest tenure conflicts exist, how resulting conflicts have been addressed and what measures need to be put in place to prevent conflict and uphold the rights of indigenous and other communities in the future
- Elaborate on the role and effectiveness of formal and informal conflict resolution institutions, including the Environmental Justice Programme, and their capacity and track-record in addressing land- and forest-related conflicts

Forest Management

- *Discusses the ability of forest agencies to plan and implement forest management activities*
- + *Considers the role of non-government stakeholders, including communities, in forest management*
- + *Links identified governance challenges to proposed REDD+ strategy options and implementation framework*

One of the objectives stated in the R-PP is to build capacity in environmental management – including forest management – and environmental business as part of the readiness process to promote the REDD strategy. The R-PP states that ANAM, which is the primary agency responsible for forest management, has the “institutional permanence, territorial coverage, and a budget to carry out the duties entrusted to it” (p13). Although the R-PP provides an incisive summary of the trends and biological importance of Panama’s forests (p5-6), the R-PP does not provide an overview of the state of forest management and the existing capacity and effectiveness of forest management institutions. However the R-PP refers to unspecified weaknesses in environmental management in Panama, as partly a result that ANAM was only established ten years ago (p56). The R-PP lists the capacity building needs in good detail with regard to monitoring and enforcement activities (p47).

The R-PP states that REDD implementation has to be “as communal as possible” to succeed (p7), and the REDD strategy is based on the premise that rural communities, indigenous populations and others living in the forests need to be included in forest management plans/projects in order to address deforestation (p50). Further, there is a general recognition throughout the document of the various relevant stakeholders within the different policy and regulatory frameworks under which REDD activities will be implemented. For instance, the strategic objectives of the Forest Policy aim to include civil society in land use planning and forest management (p7). The document does not, however, provide a sense of how these various stakeholders might be engaged in REDD activities in practice.

Recommendations:

- Outline capacity constraints of forest management institutions to plan and implement forest management activities and how these constraints will be addressed as part of designing and implementing REDD
- Elaborate on the actual roles and responsibilities of forest stakeholders and how they relate to the development and implementation of REDD

Forest Law Enforcement

- + *Discusses the ability of law enforcement bodies to effectively enforce forest laws*
- *Discusses efforts to combat corruption*
- + *Links identified governance challenges to proposed REDD+ strategy options and implementation framework*

Some on-the-ground monitoring and enforcement activities are carried out (inspection of forest permits, etc), but according to the R-PP, they are not standardized, and in many cases, monitoring and enforcement activities occur only in direct response to complaints. Further, there is currently no information available on the extent of compliance (p44). The R-PP states that law compliance is assessed by the extent of fines imposed for failure to comply with environmental impact assessments, but it is recognized that other ways of measuring environmental and natural resource law compliance need to be evaluated (p46). Therefore monitoring tools, procedures and protocols, will need to be developed as a part of the REDD strategy. These include capacity building activities relevant to law enforcement focusing on staff training (e.g. park rangers), establishing protocols to define competence and authority between the different agencies involved, inter-institutional coordination, enforcing forest protection in protected areas and forest production areas, and the establishing analysis and information systems to determine the degree of law compliance (p47).

By law, ANAM is in charge of supervision, control and inspection of forestry activities, and it has the authority to confiscate forest products and to impose sanctions in cases of illegal activity. Proposed activities under R-PP include developing mechanisms and criteria for inter-institutional collaboration (customs, police authorities) and integrated programs to address illegal activities (p47).

However, illegal logging or other forest crime is not listed as a major cause of deforestation in the Quick Assessment Paper (p16).

Recommendations:

- Elaborate further on the current capacity and effectiveness of forest law enforcement and how the identified weaknesses are addressed by the capacity building and activities set out in the R-PP
- Describe the nature and extent of corruption in the forest sector and any specific remedial steps required

Other Forest Governance Issues Relevant for REDD+

+ *Discusses other forest governance issues that are relevant for REDD+*

■ *Links identified governance challenges to proposed REDD+ strategy and implementation framework*

The R-PP states that recently there has been a decentralization of powers over land use planning and the development of conservation-based environmental businesses and services to municipal governments (p56). The R-PP indicates this devolution of powers is currently a disadvantage as the institutions are still underdeveloped, and their capacity to manage, locate and coordinate activities needs to be strengthened (p19). The R-PP states that a REDD coordinating organizational structure operating at local (province and district) level will probably need to be established based on the recommendations of experts in order to complement and support the municipal decentralization process and to coordinate it with the national REDD process (p22).

Recommendation:

- Elaborate on how the municipal decentralization process complements current institutional forest management arrangements, and propose steps to address potential discontinuities / conflicts that may exist.