Making REDD-Plus Work for Forest Communities and the Climate

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Countries participating in UN FCC negotiations in Copenhagen (COP 15) failed to reach accord on legally binding treaty to reduce greenhouse gas (GHG) emissions.

However, progress was made on the framework for “reducing emissions from deforestation and degradation” of forests or REDD.

- Copenhagen Accord, adopted by the majority of countries at the COP recognizes “the crucial role of reducing emission from deforestation and forest degradation” and
- Most importantly, countries agreed “on the need to provide positive incentives to such actions through the immediate establishment of a mechanism including REDD-plus, to enable the mobilization of financial resources from developed countries.”

Forests are important carbon sinks, sequestering CO₂ and CH₄ and providing other valuable eco-system services.

- Deforestation and related land use changes account for over 15% of global GHG emissions, more than the entire transportation sector (cars, planes, trains, ships).
- For many developing countries, deforestation is the major source of GHG emissions.
- Deforestation not covered under the Kyoto Protocols’ Clean Development Mechanism (CDM).

The aim of REDD is to make living, intact forests more valuable to national governments than the sum of their parts (timber, soil, subsurface minerals).

- Initiated by the Coalition of Rainforest Nations at COP 11 in Montreal in 2007, REDD practices were developed through voluntary projects undertaken by a number of NGOs with national governments and local communities. See, e.g.:
  - The World Bank Forest Carbon Partnership Facility (FCPF) was launched at Bali in 2007.
Although considerable concern was expressed about drivers of deforestation (legal and illegal logging, land clearing for agriculture, population growth), the stewardship role and interests of indigenous peoples and communities dependent on forests for their livelihoods were not prioritized.

- An estimated 370 million indigenous peoples in 70 countries around the world; many of them live in tropical forest regions of Africa, Asia, the Americas and the Pacific.
- Indigenous lands and other protected areas to safeguard indigenous livelihoods and biodiversity are estimated to contain over 312 billion tons of carbon.
  - 2007 LCA on REDD recognized “that the needs of local and indigenous communities should be addressed when action is taken to reduce emissions from deforestation and forest degradation” in developing countries.
    - Decision 2/CP.13 “Reducing emissions from deforestation in developing countries: approaches to stimulate action” FCCC/CP/2007/6/Add.1
    - [http://unfccc.int/resource/docs/2007/cop13/eng/06a01.pdf#page=8](http://unfccc.int/resource/docs/2007/cop13/eng/06a01.pdf#page=8)
  - LCA = long-term cooperative agreement.

REDD negotiations have focused on development of methodological framework for carbon measurement, reporting and verification (CMRV), neglecting other essential criteria.

- Implementation and monitoring of sub-national benefits and the overall governance framework for REDD were not prioritized in early negotiations.
- This drew considerable criticism from organizations representing indigenous peoples, as well as environment and development NGOs working on voluntary REDD projects.
- They advocated for monitoring to go “beyond carbon” and address the social and legal context in developing countries, particularly in regard to status of indigenous peoples whose lands would be affected by REDD projects.
- Benefit sharing with indigenous peoples and forest communities is essential for carrying out most forest protection activities but REDD lacked any mechanism to ensure that national governments distributed benefits equitably or at all.
  - It should be noted that this is not only a problem in developing countries as the “mismanagement” of Tribal Trust Fund accounts by the U.S. Bureau of Indian Affairs has shown. *Cobell v. Norton*, 283 F. Supp.2d 66 (D.D.C. 2003). The Obama administration ended over a decade of litigation in December 2009 by agreeing to pay $3.4 billion to settle claims on behalf of hundreds of thousands of American Indians.
Governance in countries participating in the World Bank’s FCPF and other voluntary REDD projects present major obstacles to forest preservation.

- Of the 37 countries participating in the FCPF, 80% rank in the bottom half of the World Bank’s governance survey and 30% are in the lowest quarter.
- A 2007 Chatham House comparative study of environmental protection for fisheries, wildlife, and forests found that in 7 REDD countries “the general picture that emerges is one of widespread corruption undermining attempts to strengthen law enforcement.”

The REDD-Plus Draft LCA text negotiated in Copenhagen represents a breakthrough in terms of interests and concerns of indigenous peoples.

- REDD-Plus LCA text references the UN Declaration on the Rights of Indigenous Peoples.
- The LCA, negotiated by the contact group on long-term cooperative action, “reflects the input and comments made by Parties at the meeting of the drafting group on 17 December 2009.”
  - Work undertaken by the Conference of the Parties on the text contained in annex I G to document FCCC/AWGLCA/2009/17, on “Policy approaches and positive incentives on issues relating to reducing emissions from deforestation and forest degradation in developing countries; and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries.”

The UN Declaration on the Rights of Indigenous Peoples (the “Declaration”), adopted by 143 countries in the UN General Assembly in September 2007, is a non-binding statement on individual and collective rights of indigenous peoples.

- Four countries voted against the Declaration: Australia, Canada, New Zealand and USA.
  - Australia and Canada have since issued statements in support of the Declaration.
- Eleven countries abstained, among them: Bangladesh, Bhutan, Burundi, Colombia, Kenya, Nigeria, Samoa.

USA and Canada did not object to the REDD-Plus LCA’s reference to the Declaration and language about “indigenous rights.”

- Previously, objections had been raised to the concept of “free, prior, informed consent” (FPIC) enshrined in the Declaration.
- FPIC appears in several of the Declaration’s Articles:
  - Article 10, prohibiting forced removal or relocation;
  - Article 11.2, requiring redress for property taken without FPIC
  - Article 19, consultation through indigenous peoples’ institutions to obtain their FPIC
The term “indigenous peoples is not defined in the Declaration,” but it is found in previous international agreements and has been applied in case law.

- **ILO Convention No. 169 Article 1(1). This Convention applies to:**
  - (a) tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations;
  - (b) peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.

- **Article 1(2) of ILO 169** also states that “[s]elf-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply.


    - [http://www.tebtebba.org/partners/docs/IP-SPSDrafttoolkit43.rtf](http://www.tebtebba.org/partners/docs/IP-SPSDrafttoolkit43.rtf)

The REDD-Plus Draft LCA (the framework for REDD-Plus negotiations going forward) sets forth a number of important principles with respect to forest communities and indigenous peoples:

- **Paragraph 2**
  - (b) Transparent and effective national forest governance structures, taking into account national legislation and sovereignty;
  - (c) Respect for the knowledge and rights of indigenous peoples and members of local communities, by taking into account relevant international obligations, national circumstances and laws, and noting that the General Assembly has adopted the United Nations Declaration on the Rights of Indigenous Peoples;
  - (d) Full and effective participation of relevant stakeholders, including, in particular, indigenous peoples and local communities in actions referred to in paragraphs 3 and 5 below;
(e) Actions that are consistent with the conservation of natural forests and biological diversity, ensuring that actions referred to in paragraph 3 below are not used for the conversion of natural forests, but are instead used to incentivize the protection and conservation of natural forests and their ecosystem services, and to enhance other social and environmental benefits

- Paragraph 7
  - Requests developing country Parties, when developing and implementing their national strategies or action plan, [or subnational strategies] 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 above, ensuring the full and effective participation of relevant stakeholders, inter alia, indigenous peoples and local communities;
    - Bracketed text was not agreed upon.

Will the principles of REDD-Plus be sufficient to protect the interests of indigenous peoples and forest communities going forward?

- This will depend on the development of credible social, as well as environmental, reporting criteria and robust independent monitoring mechanisms.