

**Strengthening Country Capacity to Develop Supportive Legal Frameworks and Tenure Systems for REDD+**

**CONCEPT NOTE**

|  |
| --- |
| I. Summary |
| Objective | To respond to a growing demand from countries for technical assistance and capacity building to develop supportive legal frameworks and tenure systems for REDD+ |
| Expected results | 1. Enhanced country capacity to develop robust and consistent legal frameworks at national and sub-national levels for the implementation of REDD+
2. Enhanced country capacity to develop improved tenure arrangements as enabling conditions for the implementation of REDD+.
 |
| Level of intervention | Country level |
| Related work area, as defined in the [UN-REDD Programme Strategy](http://www.unredd.net/index.php?option=com_docman&task=doc_download&gid=4598&Itemid=53)[[1]](#footnote-1) | GovernanceThe proposal relates to Outcome 2 “Credible, inclusive national governance systems are developed for REDD+ implementation “ of the Support to National REDD+ Action: Global Programme Framework 2011-2015 (SNA) |
| Total concept duration | 1 January 2014 - 31 December 2015 (24 months)  |
| Total concept amount | US$ 1,605,000 |
| Total amount requested  | US$ 759,700[[2]](#footnote-2) for activities to be undertaken until 31 December 2014 |

|  |
| --- |
| II. Background |
| The topics of tenure and legal preparedness have emerged as vital issues to address in the context of REDD+ readiness. There is a growing demand from countries for technical assistance and capacity building in order to develop legal frameworks and tenure systems supportive of REDD+. Indeed, the Country Needs Assessment commissioned by UN-REDD and FCPF in 2012 identified the following needs: strengthening of law enforcement capacities, the legal evaluation on how to integrate carbon rights under current legislation, including coordination and consultation on how to assign carbon rights, formally recognized and applied mechanisms for conflict resolution under REDD+ (around carbon rights, indigenous peoples, land tenure, and others), the assessment of how existing laws, policies, programs and practices incentivize deforestation and forest degradation, the identification of specific reforms in legislation that can be addressed in the short term, and legally defined institutional arrangements for REDD+ with clarified competencies and technical capabilities. Both areas of work (i.e., tenure and legal preparedness) are however highly country-specific, requiring prolonged and in-depth support tailored to national circumstances, and additional resources are required for the Programme to deliver the needed assistance.Legal preparedness for REDD+ refers to countries’ efforts to establish robust and coherent sets of national and/or sub-national legislation for the implementation of REDD+. Typical issues of legal preparedness for REDD+ include: the establishment of legally defined institutional arrangements related to a national forest monitoring system or safeguards information system; the harmonization of REDD+ terminology; the clarification of forest tenure rights; the regulation of benefit-sharing mechanisms; and, options for the handling of carbon rights under domestic legislation. All these components are crucial for countries to prepare for REDD-related mechanisms and can also assist with wider national sustainable development goals. In order to develop adequate legal frameworks for REDD+, countries may need to amend existing laws and regulations or to develop new legislation for REDD+. Countries have requested support to analyze existing forest and environmental legislation, to identify gaps and inconsistencies in the existing forest related laws that might impede the appropriate implementation of REDD+, and to develop recommendations to adopt legal reforms in close collaboration with national counterparts. Indeed, approaches to draft legal provisions require the engagement of all stakeholders: government and non-governmental institutions, central and local authorities, community and private sector stakeholders. Closely related, but not limited to legal issues, is the support to strengthen the governance of tenure. This support aims at increasing administrative, legal and institutional capacities of land, forest and natural resources agencies to ensure successful REDD+ planning and implementation. Improving the governance of tenure for REDD+ may include assessing how to gain greater tenure clarity to reduce deforestation and forest degradation. It is also a fundamental step to develop a base for establishing efficient benefit-sharing, undertaking reforms for the legal recognition of tenure rights for local communities and indigenous peoples, registering tenure rights more efficiently and developing approaches for the clear allocation of carbon rights where applicable, as well as providing the legal framework to support developing benefit-sharing models based on community forest rights. Furthermore, clear tenure rights and stable legal frameworks are essential for building investor confidence and attracting private investment that will be crucial for successful implementation of Phase III. The UN-REDD Programme, through the Food and Agriculture Organization of the United Nations (FAO), held an initial consultation with countries through an Expert Consultation on tenure and REDD+ in April 2013 and regional awareness raising workshops on the Guidelines attended by UN-REDD Focal Points from a number of UN-REDD Programme countries (12 participants from 11 countries). The responses from these have been positive to continue and expand the work on tenure and REDD+ including recommendations that the work be done in partnership with national agencies and as an integral part of wider efforts for tenure reform.The FAO Development Law Service has a long standing expertise in the provision of legal advice to member countries in forest, land and natural resource management regulations. The UN-REDD Programme can also build on FAO’s experience in the governance of tenure and applying the technical guidance provided by the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security endorsed by the all UN-REDD partner countries through the Committee on World Food Security in May 2012. All UN-REDD countries have endorsed the Guidelines through the FAO Conference, which have since been endorsed by the UN General Assembly, Rio +20 meeting, Francophone Parliamentary Assembly, Berlin Agriculture Ministers’ Summit and the G20.UNEP’s Division of Environmental Law and Conventions (DELC) could further add value to in-country efforts to build capacity on legal preparedness for REDD+. DELC has been engaged in the progressive development of environmental law for several years and holds substantial expertise in supporting States in the development and implementation of legal and policy measures that address emerging environmental challenges. DELC’s recent work on legal preparedness with countries has included adaptation, mitigation and REDD+, technology transfer, low carbon development, energy efficiency and intellectual property rights.The planned activities are complementary to the UN-REDD Programme’s work through UNDP on governance. |

|  |
| --- |
| III. Results framework and theory of change |
| Additional resources will enable the UN-REDD Programme to better respond to country requests for assistance in the development of their legal frameworks and tenure arrangements for REDD+. A review of tenure issues and reform needs identified by UN-REDD countries in the Readiness Preparation Proposals (R-PP), National Programme Documents (NPD) and the mentioned Country Needs Assessment (CNA) shows that nearly all governments mention legal gaps or uncertainty of tenure with regard to overlapping or conflicting legal texts, lack of law enforcement and application, conflicting and contested tenure rights or needs to revise outdated legacies. The effective administration of tenure, including registration of land titles, as well as the establishment of risks/conflict and resolution mechanism, are also mentioned as necessary measures for the implementation of REDD+. In many cases, existing tenure systems and legal frameworks do not provide enabling conditions for REDD+. Yet, the needed reforms may take years or even decades, so there is an urgent need to find appropriate entry points and customised short-to-medium term solutions to handle REDD+ country-specific tenure and legal issues. Tenure reforms are usually focussed on more developed land of high economic value and population density, rather than forest areas, so there is specific need to undertake REDD+ related tenure work to prepare for REDD+. * The amount of resources available for REDD+ tenure work is relatively small and not sufficient to carry out much in relation to wider tenure work, if not done in association with a wider and bigger approach to tenure by governments.
* Similarly, REDD+ alone will not be enough to initiate changes in domestic laws and regulations. Required legal amendments and/or new legislation must insert themselves within wider legal reforms on-going in the countries.

Therefore, the support to UN-REDD countries will primarily seek to integrate REDD-related considerations within wider tenure and legal processes at the national and sub-national level. REDD+ funds can add useful additional funds and expertise to complement national tenure reforms and achieve results for forest tenure reform and REDD+ implementation. The actions herein proposed will further seek to build on existing work on legal preparedness and tenure systems for REDD+ as much as possible. Most notably, the knowledge generated by the GEF/UNEP funded project developed by the Global Legislators Organisation (GLOBE) on parliamentary engagement and national legislation for REDD+ in Brazil, the Democratic Republic of Congo, Indonesia and Mexico. In addition to the second phase of this work, which GLOBE is currently developing with Norwegian funding in the aforementioned countries as well as Colombia and Peru.The aim is to channel FAO’s corporate technical expertise on tenure and legal preparedness, as well as UNEP’s DELC expertise on environmental legislation and legal capacity-building, through the UN-REDD Programme. In the last two years, the FAO Development Law Service has worked with a relatively small number of UN-REDD countries, demonstrating a good track record for results with the delivery of tailored legal advisory services. For example, support was provided to the Democratic Republic of Congo and Kenya, and Guatemala and Honduras have recently requested legal assistance. For the reason that the nature of the support required is country-specific, prolonged, and in-depth, additional resources will be maximized by providing targeted support upon demand to a limited set of countries (approximately two countries per region, six in total) over the next two years. In addition, synergies will be built with on-going work planned by UNEP’s DELC as a series of legal preparedness workshops on the different streams of climate change are due to take place in the first semester of 2014 in Francophone Africa and Latin America. UNEP could contribute with additional funds worth US$ 170,000 from other externally funded work that is related to this and can be coordinated to achieve improved results for both projects.”Lessons learned will be compiled and used to guide work in other countries where applicable. |

|  |
| --- |
| IV. Management arrangements and partnerships |
| Standard UN-REDD Programme management arrangements and partnerships apply. Country support will be delivered by FAO (as the agency leading in the areas of tenure and legal preparedness) and UNEP, in close collaboration with UNDP.The work will contribute to the overall work streams on “Credible, inclusive national governance systems are developed for REDD+ implementation” (Outcome 2 of SNA) and the related outputs “Institutional capacity for land tenure (with a view to also address drivers of deforestation and forest degradation) is strengthened,” and, “Forest related Legal Frameworks analyzed and strengthened for implementing REDD+ programmes and strategies at country level.” |

|  |
| --- |
| V. Monitoring and Evaluation |
| The UN-REDD Programme has proposed global-scale indicators for success in implementing its work ([UNREDD/PB10/2013/XII/2c](http://www.unredd.net/index.php?option=com_docman&task=doc_download&gid=10468&Itemid=53)). Those relevant are:2.3.a. Number of UN-REDD countries that have assessed their legal frameworks for forests and land for implementing REDD+ programmes and strategies. 2.3.b. Number of UN-REDD countries enacting legal reforms for implementing REDD+.2.7 Number of UN-REDD countries increasing capacity on governance of land tenure to defined/ agreed level.The short duration of this proposed intervention (24 months) and the entirely country-specific nature of work related to legislative processes and customary tenure poses a challenge to monitor results. Hence, monitoring and evaluation frameworks will be defined for each supported country, in line with national circumstances. An important concept in the monitoring and evaluation approach will be to monitor the change in national capacity and improved understanding of these issues as well as the progress towards legislative reforms which may take a longer period beyond the current activities. As per UNDG guidelines for joint programming on resources for monitoring, 5% of the implementation budget has been allocated for monitoring and evaluation costs and is included in the budget of the concept note on “Results Based Management – Managing for Results.” |

**VI. Indicative Results Framework[[3]](#footnote-3)**

| **Outcome** | **Output** | **Agency** | **Indicative Activity[[4]](#footnote-4)** | **Estimated Timeline** | **Indicative budget (Q1 -Q4 2014)****(US$)** | **Indicative budget (Q1 -Q4 2015)****(US$)** | **Indicative budget (Q1 2014 -Q4 2015) (US$)**[[5]](#footnote-5) |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **2014** | **2015** |
| **Q1** | **Q2** | **Q3** | **Q4** | **Q1** | **Q2** | **Q3** | **Q4** |
| Expected Result 1: Enhanced country capacity to develop robust and consistent legal frameworks at national and sub-national levels for implementation of REDD+ |  | FAO and UNEP | Systematic analysis of national legal frameworks for REDD+ |  |  |  |  |  |  |  |  | 260,000 |  | 260,000 |
|  | Facilitate participative processes to generate recommendations for addressing legal gaps and inconsistencies |  |  |  |  |  |  |  |  | 190,000 |  | 190,000 |
|  | Support drafting of legal text for required amendments or new legislation (focusing on the most pressing needs for REDD+) |  |  |  |  |  |  |  |  |  | 320,000 | 320,000 |
| **Subtotal, Result 1** | **450,000** | **510,000** | **960,000** |
| Expected Result 2: Enhanced country capacity to develop improved tenure arrangements as enabling conditions for the implementation of REDD+ |  | FAO | Review of existing tenure arrangements in-country, including customary practices |  |  |  |  |  |  |  |  | 160,000 |  | 160,000 |
|  | Additional activities to national work on Voluntary Guidelines for Tenure to focus on forest and REDD+ issues and prioritize actions needed to create enabling tenure systems for REDD+ |  |  |  |  |  |  |  |  | 50,000 | 50,000 | 100,000 |
|  | Conduct pilot trials for participatory mapping of tenure / rights at local level |  |  |  |  |  |  |  |  |  | 180,000 | 180,000 |
|  | Training workshops for stakeholders (including indigenous people) to build awareness and informed participation on policy, legal, administrative and operational aspects of tenure and REDD+ |  |  |  |  |  |  |  |  | 50,000 | 50,000 | 100,000 |
| **Subtotal, Result 2** | **260,000** | **280,000** | **540,000** |
| **Subtotal, Results 1-2** | **710,000[[6]](#footnote-6)** | **790,000** | **1,500,000** |
| **Indirect support costs (7%)** | **49,700** | **55,300** | **105,000** |
| **TOTAL** | **759,700[[7]](#footnote-7)** | **845,300** | **1,605,000[[8]](#footnote-8)** |

1. The work areas are: Measurement, Reporting and Verification (MRV); Governance; Stakeholder Engagement; Multiple Benefits and Safeguards; Transparency and Accountability; and, Green Economy. [↑](#footnote-ref-1)
2. Out of this amount, about US$ 500,000 is allocated to targeted support upon demand from countries. See also separate concept note on targeted support. [↑](#footnote-ref-2)
3. The draft Framework will be embedded in the overall SNA Monitoring Framework 2013-2014. [↑](#footnote-ref-3)
4. To be implemented in each of the six supported countries. [↑](#footnote-ref-4)
5. 5% of this amount for monitoring and evaluation costs is included in the separate concept notes on “Results Based Management – Managing for Results” (SNA Outcome 8). [↑](#footnote-ref-5)
6. 5% of this amount for monitoring and evaluation costs is included in the separate concept notes on “Results Based Management – Managing for Results” (SNA Outcome 8). [↑](#footnote-ref-6)
7. Out of this amount, about US$ 500,000 is allocated to targeted support upon demand from countries. See separate concept note on targeted support. [↑](#footnote-ref-7)
8. The total budget for the two years includes US$ 500,000 for boosting coordination and technical backstopping capacity at FAO and UNEP (including the delivery of training, preparation of publications, promotion of lessons learnt), and US$ 1 million for country level activities (as outlined above) in targeted support to six countries. [↑](#footnote-ref-8)