

Background Paper for the Expert Meeting:

Options for Addressing Tenure under REDD+

25 - 27 February 2013 in Rome, Italy

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1. Introduction

Addressing tenure under REDD+ is becoming increasingly urgent. There is particular urgency for greater clarity over tenure and the recognition of customary rights to land by indigenous peoples and local communities. In all national REDD+ programmes, land and forest tenure are intrinsically linked to the debate on carbon rights and the equal sharing of benefits at national and local levels. The Country Needs Assessment has been carried out by the UN-REDD Programme of FAO, the United Nations Development Programme (UNDP) and the United Nations Environment Programme (UNEP), as well as the Forest Carbon Partnership Facility (FCPF), which is hosted by the World Bank. The Assessment has analysed REDD+ countries' requests for tenure to be prioritized within REDD+ readiness activities. It suggests immediate actions with regard to "legal frameworks to support the implementation of REDD+ and to resolve land tenure and carbon rights issues in the REDD+ context which is needed in virtually all existing and nascent REDD+ country strategies".¹

The term 'tenure' is meant to include land tenure in general, forest tenure and access to natural resources (soil, water, vegetation). According to FAO: "Tenure is the relationship, whether legally or customarily defined, among people, as individuals or groups, with respect to land. Land tenure is an institution, i.e., rules invented by societies to regulate behaviour. Rules of tenure define how property rights to land are to be allocated within societies. They define how access is granted to rights to use, control, and transfer land, as well as associated responsibilities and restraints."²

There are many reasons why addressing tenure is a key task for successful REDD+ implementation. Among other things it will help to:

- clarify and secure tenure;
- recognise and protect local communities' and indigenous peoples' rights and traditional ownership of forests;
- identify REDD+ responsibilities and beneficiaries, and put carbon benefit systems in place;
- improve data collection and sharing of information and experience;
- establish conflict resolution mechanisms and better manage risks associated with REDD+ implementation;
- improve sustainable management of forests and take account of the multiple functions and benefits of the forests and other ecosystems;
- contribute to climate change mitigation; and

¹ *Country Needs Assessment On REDD+ Readiness Among UN-REDD Readiness among UN-REDD and FCPF Members Countries*, UN-REDD Programme and Forest Carbon Partnership Facility, October 2012.

² Quoted from Country Needs Assessment

- avoid displacement of emissions from one area to another (leakage).

All countries are engaging in the regularization of tenure. In particular, they are working toward turning customary and traditional law into statutory legislation and legislative frameworks. The Committee on World Food Security has endorsed the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* (hereafter referred to as the *Voluntary Guidelines*). These global guidelines were designed to support “governments to safeguard the rights of people to own or access land, forests and fisheries.”³

Addressing tenure under REDD+ must be seen in the context of the overall work carried out in countries on land laws and legislative frameworks for the tenure of land and forest resources, including carbon tenure and carbon rights. As they can be instrumental in implementing REDD+ through community-based forest management, these advances, such as the Village Land Act in the United Republic Tanzania, will certainly facilitate the future tenure work in the context of REDD+.

Current REDD+ efforts are primarily geared towards REDD+ readiness. They are intended to prepare countries to be ready to mitigate carbon emissions by reducing deforestation and forest degradation, conserving and enhancing forest carbon stocks, and managing forests sustainably.

There are time limits, as well as limits in the availability of financial and human resources, for the readiness phase of REDD+. Question have arisen as to what specifically can be done under REDD+ programmes on forest and land tenure to achieve legal assurances of clarified and secured tenure rights for investments into REDD+ and eventual results-based payments, or to develop a legality assurance certificate⁴ as the foundation for equal benefit sharing. The work on tenure under REDD+ must match the scope of the REDD+ instrument in terms of financial and human resources and the time frame for readiness.

This Expert Meeting, *Options for Addressing Tenure under REDD+*, was initiated to bring together experts and representatives from governments, civil society organizations (CSOs), the private sector and international organizations to debate the broad range of possibilities for working on tenure in order to become ready for REDD+ results-based payments in a realistic manner.

The objectives of the Expert Consultation are to:

- exchange experience and increase understanding amongst REDD+ countries and other stakeholders on how to address tenure and use the *Voluntary Guidelines* in REDD+ implementation;
- clarify tenure issues and the scope of work on tenure under REDD+ with consideration give to the range of country-specific contexts;

³ FAO Media Centre, 11.5.201: <http://www.fao.org/news/story/en/item/142587/icode/>

⁴ The Legality Assurance system is used under the Forest Law Enforcement, Governance and Trade initiative (FLEGT) and is based on the FLEGT legality standard that sets out clearly which laws of the Partner Country must be met and provides criteria and indicators with which to test compliance with these laws.

- discuss and evaluate different options on how to address tenure under REDD+ according to the respective settings in forested areas (e.g. national parks, conservation areas, gazetted forests and concessions) and in productive landscapes with forests considered along with agriculture and water management as part of territorial development;
- clarify interactions with other land-based activities, and how they affect roles, rights and responsibilities, in particular at the interface of REDD+ and agriculture; and
- discuss, clarify and prioritize actions for strengthening the policy, legislative and institutional frameworks related to tenure at national, subnational or local levels for the successful REDD+ implementation.

The expert Meeting should provide a forum for debate on the scope of the tenure work under REDD+ in the context of the overall efforts to improve governance of tenure in all land-based interventions. It should also increase the common understanding on the various ways and means to tackle tenure under the limited mandate of REDD+.

2. Tenure issues and needs under REDD+ identified by UN-REDD and FCPF Partner Countries

The *Voluntary Guidelines* constitute the first broad international consensus by governments, CSOs, the private sector, international organizations and academics on how to govern tenure in a way that increases national food security and promotes sustainable development. The *Voluntary Guidelines* outline principles and practices for the legislative framework and administration of land, fisheries and forests rights. They represent a highly valuable source of information on how to address tenure challenges.

The following section presents the conclusions drawn from an analysis of issues and needs regarding tenure that have been identified by countries with UN-REDD national programmes. The information has been collected from Readiness Preparation Proposals, National Programme Documents and the Country Needs Assessment⁵ (see table in Annex 1). The analysis has been organized around five themes. The first four are taken from the *Voluntary Guidelines*. The fifth has been included to take stock of suggested or initiated legal, administrative and organizational reforms that have been mentioned by countries to address tenure in their national REDD+ strategy.

The five themes are:

1. legal recognition and allocation of tenure rights and duties,
2. transfer and other changes to tenure rights and duties;
3. administration of tenure;
4. risks and conflict⁶; and
5. legal, administrative and organizational reforms.

⁵ *Country Needs Assessment On REDD+ Readiness Among UN-REDD Readiness among UN-REDD and FCPF Members Countries*, UN-REDD Programme and Forest Carbon Partnership Facility, October 2012.

⁶ Conflicts in respect to tenure of land, fisheries and forests is a section under theme 6: *Responses to climate change and emergencies* in the *Voluntary Guidelines*.

Virtually all countries consider tenure insecurity as an important contributing factor to deforestation. Establishing tenure security is seen as a key requirement for establishing efficient carbon benefit-sharing systems. Below are the conclusions of the analysis.

Theme 1: Legal recognition and allocation of tenure rights and duties

Although most countries have a legal framework in place to record and protect tenure rights, it has become clear that addressing legal uncertainty of tenure is a key challenge. Major obstacles to the clear definition and allocation of tenure rights include: overlapping or conflicting legal texts; lack of law enforcement and application; conflicting and contested tenure rights; and the need to revise outdated legal frameworks. In Africa, increased recognition of customary tenure systems is needed. In Latin America, there have been difficulties enacting land distribution policies that can ensure land tenure certainty for indigenous and farming communities that collectively manage and own large territories. Legislation in some countries recognizes the free, prior and informed consent (FPIC) of indigenous peoples when activities and projects are developed within their territories.

Theme 2: Transfer and other changes to tenure rights and duties

The analysis of the second theme indicates that transfer and other changes that can be made to tenure rights and duties⁷ are almost totally excluded from UN-REDD national programmes. Only seven countries mentioned the need for improved governance in areas such as the allocation of forest land to ethnic minorities, the establishment of public-private partnerships and the conversion of customary land into land available for private business.

Theme 3: Administration of tenure

Thirteen countries reported difficulties in the administration of tenure. Countries generally report a lack of capacities for dealing efficiently with the adjudication and recording of tenure rights, as well as a lack of operational capacity in land administration, particularly in relation to fiscal policy and the adjudication of concessions.

Theme 4: Risks and conflict

It is crucial to analyse the conflict dynamics in REDD+ countries to understand both how they could affect and be affected by REDD+ implementation, and what new risks might arise. Although 13 out of 16 countries have raised concerns about tenure-related conflicts in relation to tenure, few of them have sought to analyse the nature and extent of the risk of conflict in relation to tenure and REDD+.⁸

Theme 5: Legal, administrative and organizational reforms

Eleven countries either indicate the need for extensive measures to be able to address tenure in REDD+ or suggest undertaking such measures. This includes reforms for promoting legal tenure certainty for local populations and indigenous peoples, recording tenure rights, developing benefit-

⁷ Within the Voluntary Guidelines *Transfer and other changes to tenure rights and duties* refers to the governance of tenure of land, fisheries and forests when existing rights and associated duties are transferred or reallocated through voluntary and involuntary ways through markets, transactions in tenure rights as a result of investments, land consolidation or other readjustment approaches, restitution, redistributive reforms or expropriation. See the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, Committee on World Food Security (CFS), Food and Agriculture Organization of the United Nations (FAO), Rome, 2012, p. 19.

⁸ In some African countries, there is a specific concern that REDD+ could challenge the status quo of tenure and in such a way revive social tensions or conflict. Other fears include potential conflict between customary and public tenure systems as well as between migrants and communities in place. Concerns were raised also over stakeholder exclusion, gender issues, and weak capacities to resolve tenure conflict.

sharing models for the clear allocation of carbon rights, and establishing community forest rights and benefits.

3. Tenure Safeguards and Standards

The overarching agreement informing and guiding the implementation of national-level safeguards are the Cancun Agreements as outlined in UNFCCC Decision 1/CP.16 and Annex I⁹ to this decision. The safeguards under Paragraph 2 include *inter alia*:

- *actions* “that complement or are consistent with the objectives of national forest programmes and international conventions and agreements” (Paragraph 2(a));
- “transparent and effective national forest governance structures, taking into account national legislation and sovereignty” (Paragraph 2(b)); and
- “full and effective participation of relevant stakeholders” (Paragraph 2(d)).

Although they do not explicitly mention tenure, the Cancun Agreement safeguards contain several provisions (e.g. forest governance structures, rights of indigenous peoples) that are relevant to national tenure systems. Just as they will shape the way in which REDD+ activities are implemented, the Cancun safeguards will also provide the overarching frame for the work on tenure under REDD+.

UN-REDD Social and Environmental Principles and Criteria

The *Social and Environmental Principles and Criteria* (SEPC) are a voluntary guidance provided to UN-REDD countries. The SEPC consist of issues to consider for enhancing benefits and avoiding risks brought about through REDD+ implementation. These issues include: avoidance of involuntary settlement (Criterion 5); the development of equitable benefit distribution systems (Criterion 7); long-term effectiveness of REDD+ (Criterion 9); and the consistency with development policy objectives (Criterion 10).

The application of these principles and criteria form part of the overall governance assessment and monitoring under the measurement, reporting and verification (MRV) systems supported by UN-REDD. In this regard, the work on Participatory Governance Assessment for REDD+ under UN-REDD is directly relevant to the engagement of indigenous peoples and local communities in governance systems on tenure and equal benefit sharing from REDD+ income.

A country approach to safeguards can be thought of as having two core components that ensure that social and environmental risks from REDD+ are reduced and that benefits are enhanced. These components are:

1. a set of national policies, laws and regulations relevant to safeguards; and
2. a safeguards information system.

The UN-REDD Programme offers a wide range of tools, guidelines and methodologies to support countries in following the different steps involved in developing a national approach to safeguards. For instance, *SEPC*, *Stakeholder Engagement Guidelines* and the *FPIC Guidelines* are useful resources for countries working to define the goals and scope of their approach to safeguards. Other tools, like

⁹ Decision 1/CP.16 of FCCC 2010 and its Annex 1.

the *Benefits and Risk Tool*, and the *Participatory Governance Assessments for REDD+* may be helpful for analysing existing policies, laws and regulations, and for identifying potential gaps in relation to safeguards. The *LEG-REDD+* methodology assists countries with the formulation of reforms and/or new provisions for the implementation of safeguards. When collecting information on safeguards, the *Framework for Assessing and Monitoring Forest Governance*, the *Guidelines for Monitoring the Impacts of REDD+ on Biodiversity and Ecosystem Services (draft)* and the *Practical Guide to Forest Governance Assessments (draft)* provide guidance for the design of indicators and the choice of data collection methods.

FCPF and safeguards

For the FCPF, the safeguard policies of the Bretton Woods Institutions, referred to as Operational Policies (OP), are being applied in the context of FCPF's *Strategic Environmental and Social Assessments* (SESA) and the subsequent *Environmental and Social Management Framework* (ESMF) to implement investments under REDD+. With regard to tenure, OP 4.10 on indigenous peoples and OP 4.12 on involuntary resettlements are the most relevant. OP 4.36 on forests, OP 4.04 on natural habitats and OP 4.01 on environmental assessments (among others) play a vital framing role for FCPF's safeguard approaches to REDD+ investments.

Tools to help implement safeguards

Similar to the aforementioned technical notes prepared by FAO for the implementation of the *Voluntary Guidelines*, the Programme on Forests (PROFOR) at the World Bank and FAO have prepared the *Framework for Assessing and Monitoring Forest Governance* (PROFOR and FAO, 2011) in which land tenure and property rights play a very prominent role. *Assessing and Monitoring Forest Governance – a User's Guide to a Diagnostic Tool* (PROFOR, 2012) provides a check list of indicators and with regard to tenure. The material concerning traditional and customary law, formal and informal rights as well as conflict resolution play a central role in determining good governance.

The World Bank's *Lands Governance Assessment Framework*¹⁰ is a tool for assessing the governance situation in the land sector. It is particularly important as it focuses on land administration, a dimension of tenure that often does not receive enough attention. A functioning administration of tenure that includes the protection of land rights and access to natural resources and the compliance of all stakeholders to laws, ordinances, rules and regulations, is a prerequisite for results-based investments.

REDD+ Social and Environmental Standards

The REDD+ Social and Environmental Standards (REDD+ SES)¹¹ is a voluntary multi-stakeholder initiative coordinated by the Climate, Community and Biodiversity Alliance and CARE International. REDD+ SES have outlined detailed principles, criteria and indicators, in particular for land tenure, rights to land, territories and resources, and the application of FPIC. These standards focus on REDD+ activities that are site-specific and project- or programme-based. However, the safeguards also describe indicators that allow REDD+ to contribute to a broader agenda of sustainable development

¹⁰ The Land Governance Assessment Framework: Identifying and Monitoring Good Practice in the Land Sector Klaus Deininger, Harris Selod and Tony Burns, World Bank, November 2011.

¹¹ www.redd-standards.org

and social justice, through the good governance of tenure, equal benefit-sharing within REDD+ and other measures.

Other Standards-related initiatives

A recent evaluation entitled *Standards for Results-based REDD+ Finance* (ClimateFocus, 2012) compares 23 initiatives and their standards and distinguishes between public/private and international/national/subnational schemes. All of the initiatives have a different focus and objectives. The document speaks of “competing standards” developed through international finance, either through carbon accounting established by the Kyoto Protocol or private investors and voluntary market requirements. Most of the private sector standards do not explicitly mention governance of tenure, but the legality of any operation is one of the most important standards to be met. This includes the legality of land tenure rights and access to natural resources by the investors and beneficiaries.

The approach of the private sector and their standards are very site-specific and project-based. Consequently, the *Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan* of the European Union, its legality assurance system and the Voluntary Partnership Agreements are relevant to the debate on tenure under REDD+ for informing the discussion on legal preparedness of countries.¹²

More detailed standards on land and forest tenure would need to be country-specific and developed on a case-by-case basis. The above-mentioned resources can play an important role in the development of national legal frameworks for addressing tenure under REDD+. National standards on tenure will be determined by the respective countries’ current legal framework on tenure. The standards need to match the scope of the REDD+ programme and the contribution that the tenure work under REDD+ can make to the overall national legal framework on tenure.

4. Scope of tenure work under REDD+

According to the aforementioned analysis of ClimateFocus, most of the current REDD+ standards are project-based, including those for the Clean Development Mechanism and Joint Implementation activities under UNFCCC and its Kyoto Protocol. REDD+ SES include national-level work and consider REDD+ activities only as a contribution to the countries overall work on policies, institutional development and implementation. However, the standards of FCPF and UN-REDD principles and criteria are open to include the entire forest sector at the interface with agriculture, water management and rural development in REDD+ implementation mechanisms.

Currently, the tenure work has not yet been established in most REDD+ countries, and road maps for the tenure work still need to be developed. The legal framework for tenure is quite well developed in many countries, but compliance with the existing laws and regulations remains a major challenge for many governments and communities. REDD+ work on tenure therefore needs to be based on a solid analysis of the existing legal frameworks for tenure, in particular in view of the clarification of tenure systems and the formalization of customary tenure. In a nutshell: What is specifically needed in the improvement of tenure for effective REDD+ implementation?

¹² see also: <http://www.euflegt.efi.int>

A recent study by the Rights and Resources Initiative described an extended “bundle of rights”¹³ on tenure for indigenous peoples and forest communities in Asia, Latin America and Africa. The study’s encouraging findings, particularly for Latin America, show that many of the rights in this bundle are recognized and implemented and in some cases constitutional protection is granted.

There are some important conditionalities, such as the compliance of forest communities with management plans, that governments determine. Since REDD+ results-based payments are bound by conditionalities and their verification, the experience of governments and communities is of particular interest to the tenure work under REDD+. While REDD+ might create new benefits for forests and communities, the competition over financial and natural resources may also increase. In view of carbon tenure and carbon rights, the relationship between land tenure and carbon tenure needs to be clarified in most countries for effective REDD+ implementation.

In many countries, the scope of the legal framework for REDD+ readiness is largely focused on indigenous territories and forest communities with clearly defined geographical boundaries. These rights do not necessarily apply to non-indigenous citizens and their communities. Broadening the scope of the REDD+ instrument to productive landscapes, would certainly have many implications for tenure work under REDD+.

The UN-REDD Programme has recently published an analysis¹⁴ on legal reforms on land and management of natural resources in Mesoamerican countries. Its findings indicate that land and forest tenure is a major incentive for the sustainable management of forests. It is also important for increasing the confidence between governments and indigenous peoples, which is being developed based on more secure land rights. One of the key elements of this study are the lessons learnt from the implementation of Payment for Environmental Services in the context of the recognition of indigenous peoples’ rights over land tenure and natural resources.

The confidence between government and indigenous people has positive impacts on the compliance of communities with the conditionalities and conditions of current REDD+ projects. The UN-REDD Programme’s analysis calls *inter alia* for building a closer link between the current REDD+ financing for readiness with strengthening the legal certainty of indigenous territories. This should be done in consideration of the interactions between existing legal frameworks and REDD+ tenure efforts regulating indigenous tenure. The analysis also calls for establishing or reinforcing participatory natural resources/forest management.

The analysis of FOCALI *et al.*¹⁵ on REDD+ and tenure calls for a community-based forest management approach that includes agriculture and water management. The analysis, however, warns REDD+ policy makers and practitioners that regularization of tenure rights should not be rushed because quick reforms in the name of REDD+ might deepen inequalities rather than improve tenure security for the intended beneficiaries.

¹³ What Rights? A Comparative Analysis of Developing Countries’ National Legislation on Community and Indigenous Peoples Forest Tenure Rights – Rights and Resources Initiative, 2012.

¹⁴ Tenure of Indigenous Peoples Territories and REDD+ as a Forestry Management Incentive: the Case of Mesoamerican Countries –UN-REDD 2012/2013 (spanish and english versions).

¹⁵ REDD+ and Tenure: A Review of the Latest Developments in Research, Implementation and Debate. L. Westholm, Robin Biddulph, Ida Hellmark and Anders Ekbohm, FOCALI, 2011.

The scope of work on tenure under REDD+ needs to be defined for each country in view of institutional costs, including the costs of tenure work, project implementation costs, and costs for MRV. The cost-benefit analysis of REDD+ in a given country will be determined greatly by the scope of the tenure work.

To avoid major discrepancies between the REDD+ concepts of results-based payments and the actual implementation, institutional costs and programme implementation costs should not cover a broader scope of tenure work than is economically viable for REDD+ investments. The scope of work on tenure under REDD+ will be determined by the financial and human resources available.

REDD+ will certainly benefit from the integrated nature of its design, which forms an integral part of rural development and benefits from existing policy processes, programmes and work on tenure. In this regard, REDD+ is only one element of a national forest programme or other planning frameworks of the forest sector, and it should contribute to the overall tenure work in a given country. This contribution is to be defined by the scope of the REDD+ activities in sustainable forest management and in development in general.

6. Options to address tenure under REDD+

Before entering into a discussion on the options for addressing tenure under REDD+, the design of the REDD+ instrument as agreed upon by country Parties of the FCCC under Decision 1/CP.16, Paragraph 70 of 2010 should be reiterated:

“... Para 70. Encourages developing country Parties to contribute to mitigation actions in the forest sector by undertaking the following activities as deemed appropriate by each Party and in accordance with their respective capabilities and national circumstances;

- (a) reducing emissions from deforestation;
- (b) Reducing emissions from forest degradation;
- (c) Conservation of forest carbon stocks;
- (d) Sustainable management of forests;
- (e) Enhancement of forest carbon stocks.”

This design of the REDD+ instrument opens ample opportunity for REDD+ countries to include more activities under REDD+ than initially anticipated by including landscape approaches and planted forests. By requesting country Parties under paragraph 72 of the same decision “to address, *inter alia*, the drivers of deforestation and forest degradation, land tenure issues”, the decision of the Convention on REDD+ clearly demands that the work on tenure under REDD+ goes well beyond forest boundaries.

The following options suggest how tenure could possibly be addressed under REDD+. This set of options includes only roughly outlined scenarios. It is by no means an inclusive or prescriptive list.

These options should only guide the expert meeting and stimulate debate in order to achieve a better common understanding on best practices, opportunities and limitations for regularizing tenure for REDD+ purposes, given the time frame for readiness and the available human and financial resources for the readiness phase and beyond.

Since REDD+ work on tenure is integrated in the overall context of sectoral development (policies and legislation, institutions and governance, investments and revenues/benefits), it should always be kept in mind the potential REDD+ might have under the various options to improve the sustainability of the forest and to increase revenues, income and benefits from domestic and international investments, be it from official development assistance (ODA) sources, the voluntary market or existing/emerging emissions trading schemes and their mandatory markets.

Evaluating the options to address tenure under REDD+ is meant to be a ground-truthing exercise and provide a reality check against frame conditions in terms of available resources for REDD+ implementation.

Option 1: Nation-wide instrument

This option considers all forests and productive landscapes in a given country as possible target areas for REDD+ implementation with basically all communities eligible for inclusion in REDD+ schemes. The tenure work under this option is therefore very broad.

Following this approach, REDD+ would be turned into a nation-wide instrument under national forest programmes and other relevant planning frameworks. Tenure under REDD+ would be addressed by carrying out all necessary institutional and legislative reforms. All national and subnational forest programmes should screen for opportunities and potentials of improved tenure governance for achieving REDD+ readiness and implementation. This carbon offset instrument would be turned into an integral part of forest development policies.

Since this option potentially includes all forests and productive landscapes, it also takes into account agriculture and rural development. In this case, tenure issues would not be limited to communities living in and around larger forested areas; they would also cover conservation areas, gazetted or classified forests.

This approach requires a broad debate on changes in national strategies, legislation, tenure administration and cadastre. It certainly demands increased capacity building and participation under REDD+. In particular, the readiness of countries for REDD+ results-based payments would be expanded to cover improved tenure governance at national scale. The goal would be to anchor tenure security in a conducive legal framework.

Such approach would involve high investments into the future. These would mainly be covered by domestic budgets and international support through ODA. The nation-wide approach is based on the premise that REDD+ will become an internationally acknowledged instrument of the UNFCCC and most or possibly all mandatory emissions trading markets.

The cost-benefit analysis of this option should consider the potentials for future investment under REDD+. Particular attention should be paid to tenure security in order to assure investors and establish future equal-benefit sharing schemes.

This option might be of particular interest for high forest cover countries. It could potentially offer them programmes and projects with ensured tenure security for large forests. In such forests, the tenure security is essential for efficient MRV and for the implementation of compliance mechanisms. On the other hand, MRV and governance of tenure in particular are more challenging in countries where agriculture may be the predominant land-use and where productive landscapes consist of patches of smaller forests, afforestation schemes and classified forests.

Option 2 Subnational approach in selected areas of intervention

Many countries are engaged in efforts to decentralize and increase access and management rights to natural resources at the subnational level (e.g. districts, regions, federal states). Given this situation, REDD+ could be established as an instrument in selected number of politically and administratively defined subnational regions. This option would be integrated in the overall tenure framework and legal provisions of a given country. The subnational authorities (e.g. local governments, councils) could set appropriate rules and regulations within their jurisdiction to improve tenure security. These rules and regulations could in return inform the overall national framework under REDD+.

This option includes forests and productive landscapes in the selected subnational regions. Councils and local governments would be politically and administratively responsible for preparing and implementing REDD+ schemes, programmes or projects in their region. REDD+ would become an instrument of the decentralized authority. The selection of REDD+ subnational regions would be based on regional applications and their potential for REDD+ as well as on national-level considerations. A national mechanism for selection would need to be put in place.

Under a subnational approach, existing programmes and projects could fuel climate-smart development in which REDD+ provides the climate-smart component and additional rural development benefits. A large number of programmes and projects have already chosen such development path to sustainable forest management. Experiences are available to turn REDD+ into an effective mitigation and development tool under local authorities. The tenure work would be focused primarily on establishing subnational legal provisions that are in line with national legislation on tenure and decentralizing authority. Additional work on the national legal framework is also likely to be needed.

This option includes the direct participation of civil society stakeholders, in particular ethnic minorities, indigenous peoples and local communities, as well as the private sector under the decentralized political and administrative structure of a given region. The focus on the decentralized setting would open new opportunities for stakeholders to engage in tenure work, compliance and conflict resolution mechanisms.

Option 3: Landscape approach

The landscape approach would require the identification of selected landscape 'hotspots' with particular potential for REDD+ investments. This option takes a biophysical and geographic approach for terrestrial development in cooperation with perhaps more than one local government. The transboundary nature of the landscape approach requires increased coordination and communication between local governments and the various stakeholders in the affected subnational political and administrative settings.

The selection of the designated REDD+ landscapes should enable the effective implementation of sustainable landscape management. In this way, REDD+ would be used more as a rural development tool. The multiple benefits of forests would respond to a broader agenda of sustainable natural resource management, and a larger number of local communities would benefit from an integrated ecosystem approach to REDD+.

The landscape approach would be integrated in the overall context of the national tenure framework. It would be implemented by decentralized authorities of local governments and councils. These authorities would set rules and regulations for forest and land tenure as with option 2. The difference is not only geographic. Through a cross-border and integrated landscape development, there would be increased benefits of REDD+, including improved water management and a better micro-climate for communities and the environment. The tenure work would be based on broader cooperation between various political and administrative settings, including districts, and their stakeholders.

Option 4: Project approach for selected conservation areas or classified forests

In a number of publications on best practices and experiences with the implementation of REDD+, the argument for a project approach is based on the relative simplicity in dealing with the implementation and the application of relevant REDD+ indicators and MRV systems. The restrictions of this approach (i.e. limiting the investments to clearly defined conservation areas, indigenous peoples' territories and classified and gazetted forests) serve the purpose of building on well-known project-type interventions and investments.

The tenure work would focus on project-specific tenure solutions within the existing legal framework for tenure governance. Institutional and operational costs are relatively well-known and participation of stakeholders in the tenure work could be efficiently organized.

This approach would require a tripartite project agreement or legally binding compact between the legal holder of the land (often the government), affected communities under various legal regimes (like for rural communities, indigenous peoples or ethnic minorities) and the investor.

It is certain that in many countries a project approach can be based on existing legislation with regard to tenure. Examples of such legislation include the Tribal Land Act of Botswana, forest land allocated to communities in Viet Nam and community concessions as in Guatemala.

It is also argued that a project approach, at least for the finalization of the readiness phase of REDD+, would contribute effectively to MRV with no major upfront investments in the MRV system. This is particularly relevant for the long-term tenure security and conflict resolutions. Investments would be facilitated at an earlier stage than in the case of broader approaches described above.

The current reality under REDD+ is that investments are mainly project-based and investment opportunities even at an early stage of the REDD+ readiness phase can materialize. (see also Section 2 on safeguards)

Furthermore, the approach would build on broad experiences by setting a sound impact-oriented project design and integrating safeguards and climate-smart elements. A project, limited in scope

and participation, would help clarify tenure and carbon rights under REDD+ through the aforementioned tripartite agreements.

Effective REDD+ experiences in one or more REDD+ projects in a given country could lead to a debate at the subnational and national level on future requirements for addressing the issues of tenure, carbon rights and benefit sharing from REDD+ investments. Project experiences would generate a more informed debate on the legal framework of forests and land tenure that would consider REDD+ requirements for a steadily increasing number of REDD+ projects.

The project approach would lead to a REDD+ programme that would be a nation-wide instrument, or at least an instrument that is used within a particular landscape for benefit sharing under REDD+. Improved governance of tenure cannot be achieved with only a few projects; it may require national approaches for achieving REDD+.