

Honduras: Assessment of Forest Sector REDD+ Dispute Resolution Mechanisms

Consultant Report

(Draft – Guideline)

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1. Introduction

- *Objective:* The objective of this report is to contribute to the development of a mechanism for conflict resolution as an important element of the REDD+ (Reducing Emissions from Deforestation and Forest Degradation) programme in Honduras.
- *Analysis:* This report briefly analyses the current sources of conflict in the forestry sector, potential new conflicts that may arise related to REDD+, and the mechanisms that exist to address conflicts.
- *Recommendations:* In the context of the REDD+ readiness phase this report proposes recommendations for the development of a mechanism for conflict resolution, and steps to support prevention. The recommendations attempt to provide ideas to improve the country's capacity to address natural resource conflicts, even under various future scenarios of REDD+ in Honduras.
- *Methodology:* This report was prepared on the basis of a series of interviews with a wide range of stakeholders representing government institutions, indigenous groups, NGOs, civil society and the private sector, and UNDP. Field visits were not within the scope of the report.

2. REDD+ in Honduras

- In 2010 the government formed the Inter-Agency Committee on Climate Change (CICC) and the REDD+ Subcommittee
- Initial efforts to develop a proposal for REDD+ readiness generated controversy with indigenous peoples.
- A process of dialogue was initiated.
- In February 2013, the government and the Confederation of Indigenous Peoples of Honduras (CONPAH) agreed to send a draft proposal (R -PP) to the Forest Carbon Partnership Facility (FCPF).

3. Forestry Sector in Honduras

- Forests still represent about half the territory (see Table 15, p. 97th in the R-PP)
- There was a significant change with the new Forestry Act of 2007.
- Key institutions:
 - SERNA - environmental permits
 - ICF - forest management plans
 - INA - permits for agricultural uses
 - Attorney General - monitor law violations
 - Public Prosecutor - defend state resources

- Deforestation Factors (see pp. 100-117 of the R- PP). Include the expansion of the agricultural and ranching frontier for several reasons: migratory pressure, growth of the palm oil industry, livestock, land conversion for coffee.

4. Sources of conflicts related to forestry sector and natural resources

- Multiple titles and/or permits for the same land.
- Migratory pressure, causing illegal land conversion and use. Economic incentives (market) for conversion to coffee, livestock, African palm. Encroachment.
- Lack of legal clarity about the ancestral rights of indigenous peoples
- Lack of agreed norms on consultation and consent
- Disputes over mining and energy projects (particularly related to the above two points)
- Divisions within communities on natural resource management

REDD+ can generate new sources of conflict.

- The program itself is controversial. Some voices have expressed their opposition to the programme mistrusting that help control global emissions. These same voices fear that it would not be compatible with the aspirations and visions of indigenous and Afro-Honduran peoples. Many other voices are willing to explore the possibility of REDD+.
- The process of defining the distribution of benefits that the programme would bring could also become a source of conflict.

5. Current mechanisms to address conflicts

- There are different mechanisms for different types of conflicts.
- For large national debates (ancestral rights, norms for consultation and consent) there is dialogue at the political level. For example, there is a work agenda between CONPAH and the government, which is just starting. There is also progress in the titling of indigenous lands in Moskitia. These are all very difficult issues.
- For specific conflicts, much frustration is expressed; there is a perception that the current processes fail to resolve most disputes.
- Many cases go through several government institutions. For example, a dispute over land may start as a complaint filed with the ICF (by a community, the military and/or others), then it would pass to the SERNA to see if any permits have been violated, and after it would pass to the Public Prosecutor if there are any violations of the law involved. There is no

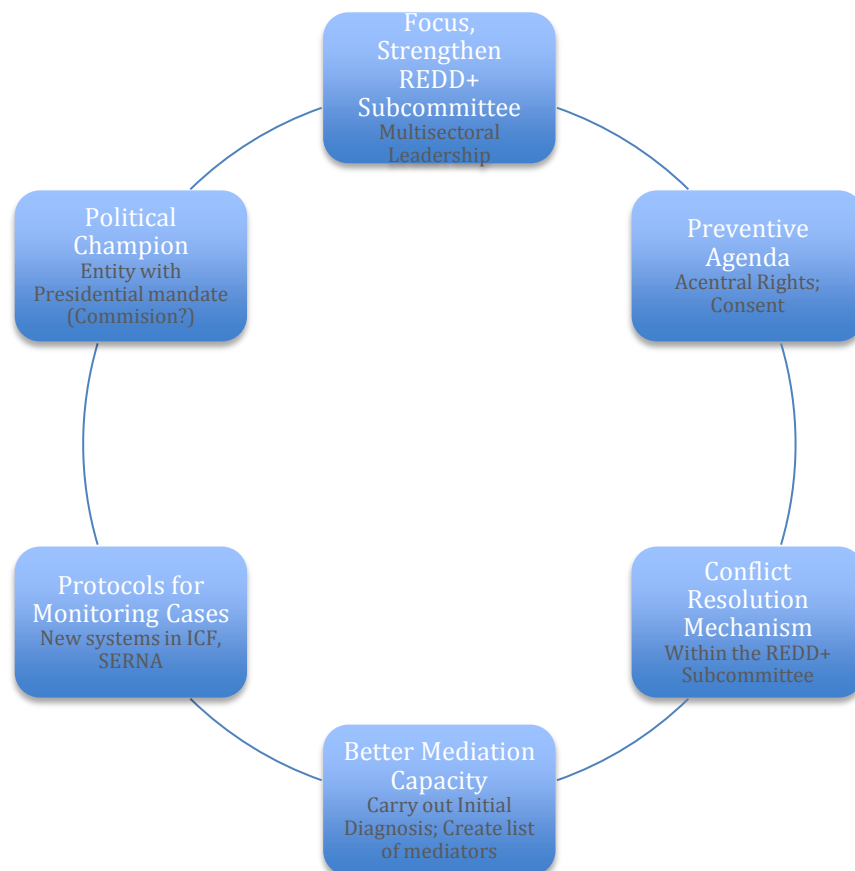
systematic follow-up. There is a sense that the Public Prosecutor fails to resolve the majority of cases filed (the consultant does not have specific data).

- The Commissioner for Human Rights, through its independent forest-monitoring programme, helped to document cases of illegal logging and other environmental irregularities. It has also supported some Advisory Councils to oversee their communal lands.
- There are conciliation centres in some communities in the country, which may play a role in resolving conflicts over land use.

6. Recommendations for a Conflict Resolution Mechanism for REDD+

- This report recommends six components for a comprehensive effort to address conflicts related to REDD+. Three considerations guide these recommendations.
 - Beyond REDD+, the ideas also aim to improve the country's capacity to address natural resource conflicts in general.
 - As a preference, see to strengthen existing institutions within the country, rather than creating new institutions.
 - They seek spaces to include options for mediation and conciliation.
- The 6 components of a comprehensive effort would be:
 - **Focus, Strengthen the REDD+ Subcommittee:** Have a clear agenda and multi-sectoral leadership
 - **Preventive Agenda:** Advance agreements and new norms for Ancestral rights and prior informed consent
 - **Conflict Resolution Mechanism:** Located within the REDD+ Subcommittee, with the function of receiving and tracking cases
 - **Better Mediation/Conciliation Capacity:** Start with a diagnosis of current capacity, generate a list of mediators
 - **Protocols for Monitoring Cases:** New electronic systems within key ministries such as ICF, SERNA
 - **Political Champion:** An entity with the Presidential mandate to coordinate between ministries, boost the effort. It could be a new Commission, or a new mandate to an existing entity.

Figure 1. Element for a Comprehensive Mechanism



More details on the six recommended components

a. Focus, Strengthen the REDD+ Subcommittee

- Carry out the REDD+ readiness phase, requires a joint effort by the most relevant actors. The REDD+ Subcommittee (under that name or another) should be strengthened to play that role. This includes:
 - A clear work agenda
 - More clarity on the role and responsibilities of the subcommittee versus public institutions such as SERNA and ICF. In particular, establish when it has the power to make binding decisions, and when it should make recommendations to government institutions.
 - Multi-sectoral leadership, that has control over the agenda. Representatives of Indigenous and Afro-Honduran peoples should be part of that leadership, most likely through MIACC or CONPAH (although the indigenous institutions should choose how to participate).

- To-date the consultant has heard concerns from CONPAH regarding their full participation in the REDD + Subcommittee. It would be important to explore whether the recommended changes to the agenda and leadership of the Subcommittee could address these concerns. If CONPAH forms part of the leadership of the Subcommittee, MIACC could be an important entity through which to address issues most related to indigenous peoples. MIACC should be open to all indigenous and Afro-Honduran groups who wanted to participate.

b. *Preventive Agenda – Consent and Ancestral Rights*

- The government and social actors must move on two key issues for a preventive agenda to minimize conflicts with regards land use
 - Define consensual norms with a wide range of actors for the implementation of **prior consultation** and **free, prior and informed consent**
 - Reach agreement on **defining the ancestral lands** of the indigenous peoples of Honduras

c. *Conflict Resolution Mechanism*

- A role of the REDD+ Subcommittee would be to establish a mechanism to receive and track complaints related to REDD+. That role should be explicitly stated within the mandate of the Subcommittee.
- This mechanism would be guided by a working group within the subcommittee. The group should be multisectoral and include key stakeholders from the government to support the monitoring of cases – for example by including the **Public Prosecutor**, that to-date has not participated in the Subcommittee
- It should have a secretary and an office to implement the mechanism
- It should include several ways to receive possible cases, and publish their existence.
- It should focus on monitoring the cases, using the representatives of relevant state agencies in the working group to push that forward. For example, a case received by the mechanism could be referred to the relevant institution within the government, and the mechanism would be responsible for maintaining an active tracking even when the case moves from one institution to another.
- It may be associated with programs like the Independent Forest Monitor to support the parties to clarify and document the facts.
- It should have an option for using mediation/conciliation to address with conflicts (see below).

d. *Better Mediation/Conciliation Capacity*

- Mediation or conciliation are processes where the parties, voluntarily, work with an impartial mediator to explore the issues, better understand the perspectives of each party, and develop and negotiate options for resolving the dispute. It is the parties who are working to find solutions, not the mediator, and it is the parties who decide whether they agree with the possible options.
 - The REDD+ subcommittee, through its working group dedicated to conflict resolution, could promote the creation of a list of mediators qualified to mediate issues related to REDD+.
 - A first step would be to carry out a diagnosis of the current capacity in the country for this type of mediation/conciliation and the legal implications of pushing forward such efforts.
 - Eventually, the REDD+ mechanism should include the following elements:
 - The list of mediators
 - A protocol for sending cases to a voluntary mediation process
 - Guidelines for the mediation process that gives more predictability to the process
 - A mechanism to fund the work of mediators
 - A process to document the process and its results.
 - Beyond REDD+, identifying these capacities and processes would be a useful endeavour for many government institutions related to natural resource conflicts.
- e. *Protocols for Monitoring Cases*
- Within the key ministries for issues related to natural resources (SERNA, ICF, INA, Public Prosecutor), there is an opportunity to develop protocols for the monitoring of cases and for the early warning of disputes.
 - There are experiences in other Latin American countries (Ecuador, Guatemala), of developing electronic systems within government agencies for effective protocol. The systems can keep track of a case, and create incentives for timely resolution. It would also help a state entity to see case trends, and work with disputes before the turn into major conflicts.
 - There are actors within the United Nations system in Honduras with willingness and budget to carry out a pilot project of this nature, using in particular the experience of Ecuador.
 - Institutions like SERNA and ICF would be good ministries for a pilot project.
- f. *Political Champion*
- The conversations involved in these recommendations are complex and require a political champion to be the interlocutor and the counterpart for ministries and other state agencies. This entity would

need a presidential mandate to guide these conversations. This political entity would not take the important technical role of the REDD+ Subcommittee. It would advance the political conversations needed to advance a preliminary agenda and the implementation of a mechanism for conflict resolution.

- As initial ideas, two options are recommended:
 - Create a **new Commission** dedicated to these issues (forests, deforestation, land use, and rights)
 - Another possibility would be to include these issues in the mandate of the **National Council for Sustainable Development** (CONADES)

7. Next Steps

- Circulate these guidelines to all respondents and other relevant stakeholders.
- Incorporate feedback into a final report.

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