



LEGAL PREPAREDNESS FOR REDD+ IN KENYA

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Background

- Kenya has completed a comprehensive gap analysis of the forest and tenure laws and policies relevant to REDD+ with the financial support of the UN-REDD program and the technical support of FAO.
- The support was provided under the targeted support modality (TS1).
- Study intended to analyse the major forest, land and carbon tenure issues relevant for REDD+ and to recommend areas for reforms in order to clarify and regulate various REDD+ legal issues .

Rationale for the Study

- Understanding that a framework for REDD+ implementation at the national level is gradually emerging that includes elements that needs to be translated into law (Land tenure and rights, Forest governance, equity and gender, safeguards).
- Requirements that national strategy should contain **legal framework to implement strategy options.**
- Current understanding within the country on drivers of D&D and options for addressing them;
- Understanding that robust legal frameworks, consistent with UNFCCC rules will help ensure Kenya can attract and manage REDD+ investments.

Methodology and Scope

- An assessment of the principal land tenure and forest related laws and institutions, which have a direct impact on REDD+;
- A review of the relevant provisions of the Constitution, the environment, forest and land legislation; and
- general methodological approach included desk review of relevant documents, interviews of experts and stakeholders, consultative meetings and workshops.

Main Observations

- Existing legal frameworks surrounding land, environment, forest could support REDD+ implementation;
- The review suggests a number of challenges that may hinder Kenya's implementation of REDD+, including:
 - insecurity and unreliability of tenure;
 - lack of clarity and coherence of some forest related laws, including the criteria for defining “communities” in relation community land;
 - the institutional challenges including inadequate cooperation and collaboration;
 - the lack of a framework for benefit sharing modalities.

Recommendations

Opportunity for integrating REDD+ legislative reforms in the ongoing legal and institutional reforms that are intended to align Kenyan laws with the new Constitution, including:

- Inclusion of specific provisions on REDD+ in specific laws and policies
- Clarifying the roles and mandates of all the forest sector institutions in order to avoid overlaps and incoherence
- Crafting the rules for access and use rights and for carbon rights benefit sharing

TS2 Support

- Policy dialogue and legal work that will support the formulation of legal provisions to:
 - Capture decisions reached on benefit sharing options, carbon rights and safeguards (building on previous work)
 - Capture decisions to promote broad stakeholder participation
 - Address land, forest and carbon tenure issues.