

Introduction

The Conference of Parties (COP) to the United Nations Framework Convention on Climate Change (UNFCCC), at their sixteenth session in Cancun in 2010, not only spelled out the five activities of REDD+ but also specifically decided on safeguards for REDD+ and how they should be addressed (COP Decision 1/CP.16). More guidance was provided in the subsequent COPs especially in, the Durban Outcomes and the Warsaw Framework for REDD+.

Country-led Approach

The Government of Papua New Guinea (GoPNG) through the Office of Climate Change and Development (OCCD) with the support of its key stakeholders has been working to develop its National Safeguards Guidelines. The initiative was technically and financially supported by the PNG National UN-REDD Programme.

An international expert, supported by two national experts, was hired to help draft the national social and environmental safeguards, looking at the current national Policies, Law and Regulations (PLRs) that were generally thought to be relevant for REDD+ safeguards. The first draft was shared with stakeholders through the Social and Environmental Safeguards technical working group (SES TWG), as a result of which additional inputs were received. The next step involved regional consultations in the four regions (New Guinea Islands, Southern, Highlands, and Momase) where provincial representatives from the twenty-two (22) provinces were given the opportunity to comment on the draft. The comments were brought together at a subsequent national consultation workshop to further improve the draft.

An analysis to identify key gaps in Papua New Guinea's legal and policy framework with regard to the implementation of REDD+ safeguards was undertaken using a systematic approach that, for each of the Cancun safeguards in turn, assessed the degree to which existing legal provisions met the principle reflected in the safeguard statement. A total of 19 policies, 29 laws and 12 regulations (PLRs) were reviewed across a range of jurisdictions and sectors. The key PLRs are related to provincial affairs, climate change, land, environment, agriculture, planning, mineral extraction and forestry.

The gap analysis revealed a number of key areas where action is needed, such as improving the Laws on Forestry, changing existing government administrative arrangements, decentralisation and enforcement, to adequately address and reflect the seven safeguard principles defined in Cancun. Major changes are.

- **Benefit sharing and rights to carbon:** Many sector laws provide guidance on how benefits from natural resource management are to be shared (for example, under mining). Whilst royalty payments for timber are mandatory, it is largely a discretionary arrangement dependent on the negotiating abilities of customary landowners and the integrity of investors/operators which are normally in the permit conditions. No specific mention is made in law regarding how carbon rights will be defined or the benefits will be shared.
- **Access to information and involvement in decision-making:** While access to information is provided for under the constitution, important gaps exist in practice. Information on environmental impact statements and environmental impact assessments are typically outsourced by DEC, or the project developer, and rarely available to the general public. Information regarding local-level forest investments and developments are rarely shared widely and consent is rarely secured beyond a narrow range of local decision-makers. FPIC guidelines developed at national level have yet to be adopted and implemented at the local level other than in a few selected sites.

- **Devolved governance and land-use planning:** Provincial Forest Management Committees (PFMC) are poorly resourced and rarely consulted regarding land-based developments (such as, Special Agricultural and Business Leases (SABLS) but only consulted when a permit for forest clearance is requested by the project developer). Policies and decisions taken at provincial level regarding local-level forest management and protection are regularly over ridden by national level agencies.
- **Weak implementation of environmental safeguards in existing laws:** Environmental safeguards regarding SABLS, and in some instances Forest Management Agreements, are often flouted and poorly enforced at national, provincial land District levels. This has resulted in widespread conversion or clearance of natural forests.
- **Conflicts between national laws and sector policies:** While the forestry legislation aims to conserve and protect natural forests and biodiversity through sustainable forest management, agricultural policies promote clearance and conversion of forestlands for other purposes such as, palm-oil production, rubber and other monocultures.
- **Grievance And redress mechanisms:** Formal grievance mechanisms, particularly at the lower levels operate, but there is limited capacity among public officials, lack of awareness by public administrators, including provincial lawmakers, on land and natural resource tenure issues, and severe under-resourcing.
- **Greenhouse gas emissions integrity:** Given the recent nature of agreements made on REDD+, PNG Legal jurisdiction has yet to provide a legal framework that would address issues such as reversals (permanence) and displacement (leakage).

In order to address these identified gaps, it was proposed that PNG develops safeguard principles and criteria, and reform PLRs. However, time will be needed for this to happen, as legal reform is a gradual process that requires strong political backing. Furthermore, at the international level, additional guidance for REDD+ activities may still need further development.

PNG has a unique legal safeguard enshrined in its Constitution on the protection and recognition of customary landowner's right to land. This is reflected in the current land use, where about 97% of the total land area is owned and managed by customary landowners and held collectively on behalf of local residents. For REDD+ Safeguards, key relevant laws are the newly enacted Environment Act (2000), the Conservation Areas Act, the Land Act (1996) and its amendments, and the Forestry Act (1991) and its amendments.

Design of Safeguards Information System

Given the guidance provided by Decision 1/CP.16 Appendix I and Paragraph 70 and again in the Warsaw Framework for REDD+ concerning the development and implementation of Safeguards and Safeguards Information Systems, the Government of Papua New Guinea is working on these issues to develop an SIS to provide information to the UNFCCC, donor agencies, markets, private sector partners, national and local stakeholders and REDD+ authorities. Information sources will include national surveys and datasets, Protected Area data, REDD+ projects, Forest Management Units and other primary data. The current initiative is to link the SIS database with the national MRV System and its web portal, still under construction.

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