



CHATHAM HOUSE

Rights & Resources Initiative and Chatham House Dialogue on **Forests, Governance & Climate Change**

Royal Society, Carlton House Terrace, London SW1, UK

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Opening remarks

Arvind Khare, Director of Finance and Policy, Rights & Resources Initiative

Approximately one fifth of greenhouse gas emissions result from deforestation and forest degradation. Climate change experts are therefore looking at how to stop deforestation; this is seen as a cost-effective method of reducing emissions. National governments, civil society and indigenous peoples also see the potential and are engaged in the debate.

However, it is important to understand the real situation in the forests. Much forest is mis-governed, ungoverned or ungovernable. Poverty and corruption are widespread and there is often no clarity over rights, which can result in violent conflict. The challenge is how to move forward in these circumstances.

There are four key questions that need to be addressed:

1. What are the chances that a climate agreement will provide the answers on forest governance?
2. Will REDD (Reduced Emissions from Deforestation and forest Degradation) address the critical questions of governance, rights claims, conflicts and corruption within the countries in the programme?
3. How do we know when a country is 'REDD-ready'? Will the existence of a baseline reference point be sufficient?
4. Will funds help politicians to make governance decisions? Will the money go to the rightful claimants in the absence of good governance?

This dialogue will help to address these questions, which deal with real, not theoretical issues.

The objective of the dialogue is to get all points of view on the table, to see and understand the different perspectives, rather than to aim for consensus or a series of recommendations.

SESSION 1: FORESTS AND REDD IN CLIMATE NEGOTIATIONS

Chair: Alan Charlton, British Ambassador to Brazil

The United Nations Framework Convention on Climate Change (UNFCCC) conference being held in Copenhagen in December 2009 has become increasingly important to Brazil over the last year. Brazil and the UK are key players in the negotiations. Brazil has addressed many environmental issues, such as obtaining much electricity from hydroelectric power, and using alcohol to run transport; the key issue to address now is forests. The debate on forests encompasses carbon, biodiversity and people. 20–25 million people in Brazil depend on the forests and need to obtain a decent standard of living, so the challenge is to bring finance into the forests.

There is much debate across all sections of society in Brazil in the run-up to Copenhagen. A number of initiatives have already been developed; for example, setting targets for continuous reductions in deforestation rates, and establishing the Amazon Fund, which has already attracted financial pledges from Norway and Germany and which the government hopes will attract further funding.

Brazil is a key player in the climate change–deforestation debate, but not the only player.

The key questions to be addressed in this session are:

- What is the current state of play?
- What are the prospects of the coming climate agreement creating space for addressing rights, tenure and governance issues?
- What are the implications for developing countries?

Jim Penman, Head of Response Strategies, UK Department of Energy & Climate Change (DECC)

If we agree that addressing GHG (greenhouse gas) emissions from deforestation in tropical countries is a good thing, there have been improvements since the Kyoto Protocol came into effect. 2005 saw the start of talks on baselines and on REDD. At the UNFCCC conference in Bali in 2007, the right of indigenous peoples to be included and consulted was recognised.

Discussion now is centred on how far an agreement in Copenhagen should go.

Addressing the issues of rights and resources is essential in this debate; simply throwing money at countries is unlikely to succeed. The current text resulting from the recent discussions in Bonn provides many opportunities for negotiations. There are two strands of thought about the potential ways to address these issues in a treaty:

1. The dirigiste, legal view, which would include tough legal requirements on addressing the rights of indigenous people and appropriate governance, which would result in reduced emissions. However, this could raise issues of national sovereignty, as well as cross-referencing with other treaties, which could be grounds for confusion.
2. A more pragmatic approach, which aims to get as much as possible into the text that falls within the boundaries of a climate treaty, such as monitoring and verification. This could include explicit mention of the rights of indigenous people. Payment would be by results, which would provide incentives to engage with local communities.

It is important to achieve as much clarity as possible from the negotiations; however, it is likely that the result will depend on the boundary between the two strands of thought. Concrete proposals are needed to ensure that any system works.

Beatriz Souviron, Ambassador of Bolivia to the UK

Bolivia has a vision of the world in which all peoples live in harmony with other human beings and with the earth. To realise this vision, we must address the structural causes of climate change and recognise that profit without limits destroys our planet. If we do not change from the current system to one based on harmony with nature, any measures adopted in Copenhagen will be meaningless.

Bolivia has set out its preliminary views on the Bali Action Plan. The government wants the assembly document to be structured in a way that reflects the reality of the climate crisis. Firstly, it is vital that harm being done to the climate stops and that those liable – the industrialised countries – are held to account. Secondly, the victims of climate change must be provided with the means to adapt. Thirdly, those harmed must be compensated in a way that fully recognises historic responsibility.

Bolivia is not responsible for the harm already done. In 2007 the country lost an estimated 4% of GDP due to the effects of climate change. Currently, more resources are directed towards reducing emissions and less to reducing the effects of climate change that are already being suffered.

More resources and investment must be provided to support action on mitigation and adaptation, and technology cooperation. UNFCCC Annex I parties must support developing countries in covering the full costs of implementing their plans and programmes for adaptation and mitigation, in the innovation, development and transfer of technology, in the preservation and improvement of sinks and reservoirs, in responses to serious natural disasters caused by climate change, and in the carrying out of sustainable and eco-friendly development plans.

Developed countries must also undertake commitments on deep emissions reductions; these commitments must be met internally and not through market mechanisms that allow countries to purchase certified emissions reduction certificates and continue polluting in their own country. Reductions must be based on scientific information, equity and historical responsibility, the carbon embedded in infrastructure and other assets, national levels of capital and technology, and the need for guarantees that financing and technology will be provided and transferred to developing countries in an adequate and transparent manner.

Nationally appropriate mitigation actions (NAMAs) must be developed to ensure the effective implementation of the climate treaty. In developing countries, they must be supported by finance, technology and capacity-building from developed countries.

REDD must be based on a mechanism of direct compensation from developed to developing countries, through implementation by sovereign countries that ensures broad participation of local communities, and a transparent mechanism for monitoring, reporting and verifying. Programmes and projects must operate within the UN Declaration on the Rights of Indigenous Peoples (UN DRIP).

The full text of this presentation is available at:

<http://illegal-logging.info/uploads/SouvironRRICHJuly09.PDF>

Panel discussion

Co-benefits – a participant asked if REDD implied co-benefits for forest-dependent communities, if this would be a barrier or opportunity for implementing REDD and what co-benefits would look like.

Jim Penman: It is hoped that REDD will imply co-benefits. If REDD were to displace the rights of indigenous peoples that would equate to co-disbenefits, so the text must be as explicit as possible on such issues. However, the treaty cannot be turned into a sort of international police force. Transparency and the rule of law are critical. Where there are existing laws, we must get better at using them. And where there are no legal provisions, there are often NGOs present who can raise awareness of injustices. Transparency, political pressure and the rule of law are the means by which to achieve co-benefits.

REDD and REDD+ – A participant asked about the UK view on the move from REDD to REDD+ and what is included in REDD+.

Jim Penman: The world has lost a lot of carbon and needs to get as much of it 'back' as possible. In order to get it back, a broad approach to the landscape is helpful. The EU sees the need to consider the landscape as a whole, but also to employ a step-by-step approach to learn as the process develops. We need to develop ways to understand the landscape and its ability to adapt to climate change; it does not help to isolate REDD from that. The move from REDD to REDD+ is, therefore, important for, for example, identifying forest conversion elements in the overall package (the goal is to halve deforestation from conversion by 2020).

Bolivia and CrFN's (Coalition of Rainforest Nations) position – A participant asked how Bolivia views the position taken by CrFN (for a market-based but non-offsetting mechanism for REDD).

Beatriz Souviron: The CrFN proposal is good. We need an international regulatory system to compensate and sanction to ensure agreements are complied with. The world is still dependent on fossil fuels and is putting money into propping up a car industry based on them. Instead, we should put a tax on cars based on fossil fuels and make a shift away from carbon. If carbon technologies became relatively cheaper, they would develop faster. Industry must change and be forced to change and the technology should be transferred to developing countries. This goes beyond state powers; to address this we need a regulatory system with the capacity to verify and to sanction those who do not comply.

Governance and the provision of finance – it was noted that there is a correlation between not only the amount of tropical forest in a country and poor governance, but between the top tropical timber producers and bad governance. It was suggested that there is a need for a very strong international agreement that sets standards for governance and that this requires strong partnerships. There was real concern about the potential for the misuse of funds.

Jim Penman: Such corruption indicators are not necessarily static. It is true that we need as strong an agreement as is possible, but it will not be possible to turn the climate convention into an international police force. It is important to use the provisions in the convention alongside international law and the work of NGOs. Payments should be an incentive for achieving results; if there are no results, there should be no payments.

Beatriz Souviron: Although concerns about corruption are important, Bolivia believes it is important to look not only at the financial issues, but also at the lives that could be lost if we do nothing. Governments have an ethical, as well as a financial, responsibility. Developed countries have the resources to create polices and mechanisms to control CO₂ emissions;

developing countries do what they can with the resources they have, but many are already suffering. Bolivia is currently losing glaciers that are sources of drinking water. It is crucial to avoid barriers to technology transfer if we want change in the developing world and to create mechanisms to stop the international pattern of wasteful development.

Position of northern countries – It was noted that the climate change talks have focused less on the drivers of deforestation in northern countries and it was asked how the negotiations in Copenhagen would deal with demand-side measures.

Jim Penman: The Copenhagen process is also about northern responsibilities. The problems cannot be solved and the negotiations will not succeed without the commitment of countries in the south or without policies on emissions reductions and consumption in the north. The FLEGT process and actions on procurement are important. We also need proper accounting of harvest products so that the use of non-sustainable timber is not incentivised.

Closing comments

Jim Penman – the guiding principle of the negotiations is that there is hope and that the system being put in place will make a difference. Inputs from all stakeholders are helpful and this meeting is a useful contribution.

Beatriz Souviron – Bolivia is committed to the treaty but also wants to be able to develop a climate-friendly economy. The country is not very industrialised and does not produce many emissions, but wants to see the most participative approach possible to the debate which will result in a guarantee of sustainable development, taking into account the principle of ‘living well’, i.e. living in an environmentally friendly manner and avoiding the waste of natural resources.

Many large cities in the developing world have almost no relationship with nature. There is a dangerous lack of knowledge about the climate and forests. There needs to be a drive to increase awareness within society.

SESSION 2: UN-REDD, FCPF, FIP: CREATING PRECEDENTS AND STANDARDS?

Chair: Frances Seymour, Director General CIFOR

Whenever humans have found something valuable in the forests, the rich and powerful have pushed others aside to get the benefits. This has resulted in the denial of the rights of indigenous peoples to natural resources, and the repression of traditional patterns such as burning and shifting cultivation.

The challenge is, therefore, how to meet a ‘do no harm’ standard and to develop accountability mechanisms to ensure this.

The questions to be addressed in this session are:

- What standards and safeguards exist to protect rights and livelihoods of forest people?
- When and how should safeguards be implemented, and for what duration – limited to the ‘readiness’ phase or also applied to the global payment programme/market?
- Will safeguards derail the REDD processes or strengthen them?
- What is the role of REDD-readiness programmes in reducing gamesmanship and perverse incentives?

Tim Clairs, Senior Technical Adviser with the UN-REDD Programme, UNDP

There are many issues on the agenda at this meeting that are important for UNDP (United Nations Development Programme); this is an opportunity for participants to inform the work UNDP is undertaking.

The UN-REDD programme is a collaboration between FAO (Food and Agriculture Organisation), UNDP and UNEP (UN Environment Programme). Information on the programme can be found at www.un-redd.org.

The UN-REDD tools currently being developed are:

1. **Policy board** – the composition of the policy board is unique in multilateral initiatives around REDD. It includes representatives from UN agencies, donors and programme countries, but also one member representing indigenous peoples and one representing civil society. There are also three indigenous peoples observers from Asia-Pacific, Africa and Latin America, and three civil society observers. All decisions are based on consensus. In addition, there is a civil society advisory group on forests, rights and climate change with NGO representatives from the north and south; this provides independent advice and guidance to the policy board.
2. **Operational guidance** – the UN-REDD Programme has approved operational guidance, including principles, guidelines and best practice on consultation. UNDP has worked with FCPF (Forest Carbon Partnership Facility) to harmonise their guidance on consultation.
3. **Global programme of support functions to national programmes** – UNDP leads on governance and engagement issues and develops tools as they are needed.
4. **UN principles** – the main section of the operational guidance articulates UN principles:
 - The UN DRIP is referred to in the guidance. The Programme should support and strengthen the Declaration and help with implementation.
 - The Guidelines on Indigenous People's Issues provides guidance to national operational teams.
 - The Programme works closely with the UN Permanent Forum on Indigenous Issues.
 - The Programme works with the UN agreements on human rights and takes a rights-based approach to development and cooperation.

UNDP itself also has a number of tools that are useful in this context:

1. A policy of engagement with indigenous peoples has been in place since 2001. This informs, and establishes a basis for, work programmes.
2. A civil society advisory committee advises UNDP administrators.
3. Social and environmental assessments have been inserted into policy guidelines.

UNDP's approach is to take advantage of, and use tools that already exist, to broker dialogues between governments and non-governmental actors and to support the capacity development of governments to implement agreements. This includes facilitating and supporting the development of engagement and consultation structures, and taking a participatory approach to providing infrastructure at a national and local level. UNDP puts a great deal of work into strengthening institutional and governance structures.

UN-REDD operational guidance is informed by these tools, by the UN's experience with indigenous people and forest peoples, by the case law concerns brought to the UN on

information-sharing and participation and by a rights-based approach to development. The key question is whether this approach, and the operation of international laws and tools is going to be sufficient for REDD, or whether a stronger mechanism will be needed.

Within the CDM (Clean Development Mechanism) it has been seen as necessary to create new due diligence processes. It is important to consider whether this should also be required for REDD and whether support should be provided to countries to meet the eligibility criteria. Norway has suggested a phased approach on eligibility criteria; what the thresholds might be and what criteria might be included needs to be addressed.

Mark Cackler, Manager, Agriculture & Rural Development Department, World Bank

75% of the world's poor are rural and most are involved in working the land. Agriculture and forestry are fundamental for poverty reduction, economic growth and sustainability. The World Bank Agriculture & Rural Development Action Plan calls for action to address each of these issues. These three issues are also the key pillars in the Bank's Forest Strategy:

- **Poverty reduction** – harnessing the potential of forests to reduce poverty.
- **Growth** – integrating forests in sustainable economic development.
- **Environmental sustainability** – protecting vital local and global environmental services and values.

Forests are vital for people and for the climate:

- Forests play an important role in reducing the vulnerability of livelihoods.
- 1.8 billion people earn part of their subsistence from forests and trees.
- 500 million people directly depend on forest resources for their livelihoods.
- 50 million people live within forests.
- Forests can sequester carbon from the atmosphere helping to mitigate climate change.
- Forests stock between 430–540 Pg of carbon, and maintaining these reservoirs is crucial.
- Up to 20% of GHG emissions come from deforestation and forest degradation in the tropics and sub-tropics.

Mitigating carbon emissions is one of the many benefits generated through sustainable forest management, and any discussion on carbon emissions cannot be had in isolation of other issues, such as energy, timber, biodiversity, watershed management and soil conservation.

A number of new instruments have been developed to address forests and carbon emissions:

FCPF (Forest Carbon Partnership Facility) – there are 37 participating countries at the 'readiness' stage, developing concrete proposals. The 'readiness' stage is about capacity-building and runs until 2012. Countries ready to receive REDD payments (for emissions reductions) will be part of the Carbon Finance Mechanism. Guyana and Panama have submitted plans that have been approved; Indonesia submitted a plan that has not yet been approved.

FIP (Forest Investment Programme) – the purpose is to provide up-front bridge financing for readiness reforms and investments identified through national REDD readiness strategy building efforts. FIP objectives are to serve as a vehicle to facilitate financing large-scale investments to implement policies and measures, to promote transitional change, to generate

understanding and learning and to pilot replicable models to lever additional and sustained financial resources for REDD.

GFP (Growing Forest Partnerships) – The objective of the GFP is to facilitate the creation of multistakeholder processes to anchor forest-relevant investment and capacity-building. It does this by building on existing structures, such as national forest programmes, and by strengthening partnerships among stakeholders and across sectors to create shared ownership of outcomes. This is a joint initiative of the World Bank, FAO and IUCN, providing support through IIED.

There are also various standards and tools to promote accountability and due diligence. The approach of ‘do no harm’ is valid but incomplete. Having accountability mechanisms in place not only ensures ‘doing non harm’ but also ensures that key issues are not missed and that projects are as good as possible. This goes beyond ‘do no harm’.

There are a number of criteria for FIP investment strategies, programmes and projects. A working group, with broad representation, was set up to develop these. They address inclusive processes and participation of stakeholders, including indigenous peoples and local communities. Practical guidelines are being developed for FIP engagement with communities.

GFP also has structured consultation processes, with a work plan driven by partners. Initiatives will be different in each country and the funding will be flexible to add value to existing initiatives. Stakeholders will be connected to existing opportunities and different voices will be brought into the national and international forum.

The World Bank has operational and safeguard policies that apply to its projects and programmes. Which ones are triggered depends on the individual project. Any project under the ‘forests’ banner would trigger OP4.36 (Forests) and possibly OP4.10 (Indigenous Peoples) or OP4.04 (Natural Habitats).

In the FCPF, safeguards would be applied at the point where readiness preparation proposals have been formulated and again at the point where grants have been agreed for readiness preparation proposals. If, at either point, the proposed activities trigger safeguards, the World Bank supervises safeguard implementation.

The PowerPoint presentation can be accessed at:
<http://illegal-logging.info/uploads/CacklerRRICHJuly09.pdf>

Marcus Colchester, Forest Peoples Programme

Rights matter for many reasons:

- The livelihoods of 1.2 billion people depend on forests, including several hundred million forest people with customary rights.
- Studies show that social exclusion and denial of rights by conventional forestry is an underlying cause of deforestation.
- Ignoring rights in REDD will fail and will undermine sustainability and weaken efforts to achieve ‘permanence’ and avoid ‘leakage’ but will create conflict.
- Clear property rights are vital for ‘markets’ and ‘development effectiveness’.
- The three pillars of international law are: international human rights, trade and the environment.
- The UN has to be internally consistent.

- UNFCCC's REDD++ has to relate to all.
- UN-REDD agrees to follow the UN DRIP and FPIC (free, prior and informed consent).

The World Bank has 10 safeguard policies, one of which (OP4.10) relates to indigenous peoples. The key provisions centre round culturally-appropriate and collective decision-making processes, informed participation and broad community support at each stage of the project, providing information on the assessments of project impacts, and highlighting the importance of land to indigenous peoples and the need to develop an action plan which either provides full legal recognition of existing customary land tenure systems or a process for converting customary rights into ownership rights. However, there is a concern that the policy refers to borrowers carrying out 'free, prior and informed *consultation*' with indigenous peoples, not free, prior and informed *consent*.

The World Bank is seeking to be a key channel for REDD funds. This raises concerns; the FCPF initially ignored rights and included no participation requirement. After complaints indigenous peoples were consulted and a charter was issued which provides guarantees. Procedures now require participation and the recognition of rights in planning and implementation, respecting indigenous peoples' rights under national law and applicable international obligations. The mechanisms for the FIP are not yet clear.

Furthermore, at what stage of the REDD process the World Bank's safeguards would be triggered under REDD is not clear. Following recent talks in Montreux, Panama's and Guyana's R-PLANS (now R-Preparation Proposals, R-PPs) were approved, on a 'no objection' basis and the safeguards have not yet been applied. There is no clarity about the role of the Technical Advisory Panel in assessing the adequacy of safeguard reviews and it is not clear who signs off that due diligence is adequate.

In Guyana, Amerindians make up 9% of the population but are the majority in the forest interior. Only one third of indigenous people's land claims have been recognised. Two prior World Bank / GEF projects in Guyana were suspended as the government did not comply with the safeguards, and UN CERD (Committee on the Elimination of Racial Discrimination) has criticised the Amerindian Act of 2006 as discriminatory. Amerindians insisted that the R-PLAN ignored them and demanded proper consultation and the recognition of customary areas. This consultation has now started.

In Panama the recognition of indigenous people's rights has been inconsistent. R-PLANS do not reference international human rights obligations, such as UN DRIP and FPIC. The consultations have been unfocused and have not addressed land rights. A current World Bank land-titling project is subject to an Inspection Panel claim over poor compliance. In May the indigenous peoples demanded the recognition of rights and effective involvement in REDD plans and implementation. A new grant for indigenous people's consultations is now being made.

In Indonesia only 40% of land holdings are formally titled. The rest is held informally or in accordance with custom. Millions of forest residents are without any rights in 'State Forest Lands'. Conflicts, illegal logging and mismanagement are widespread. UN CERD has criticised the government for not recognising customary rights, taking land in the 'national interest' without a fair process and denying the right to consent. Indigenous peoples have appealed to the FCPF not to approve the current R-PLAN.

The Forest Peoples Programme has concerns about the prospects for REDD and the FCPF. The Technical Advisory Panel assessments have been critical of the R-PLANS and have noted non-compliance with the charter. Government members of the committee overseeing the FCPF have insisted on the importance of adhering to the safeguards but are also concerned about

not holding up the process of giving approvals to plans. There is a major risk that moving too hastily will result in inspection panel claims and REDD being undermined.

The UK government is a main funder of FCPF and a proponent of FIP and, as such, has a key role in arguing for due diligence and in ensuring a fair process through adherence to human rights, and ensuring the safeguards are carried through.

The PowerPoint presentation can be accessed at:

<http://illegal-logging.info/uploads/ColchesterRRICHJuly09.pdf>

Panel discussion

Incentives and sustainability – a participant noted that sustainability is a key issue and asked how a system could be created which does not give incentives for ever more carbon sequestration but stops at sustainability.

Mark Cackler – It is understood that if incentives are not right it could discourage sustainable forest management from which appropriate benefits derive. It is an interesting point – the concern is how to get the incentives right so that forest carbon is accounted for properly in the REDD scheme.

REDD and governance – A number of questions were raised about REDD and governance; is there a clear idea of what governance concerned should be discussed in the REDD context; how will it be possible to assess when a country is ready and what governance principles should be enshrined in readiness plans; and what differences are there between governance in a REDD context and a timber management context?

Marcus Colchester – There must be practical steps in place to legislate in favour of forest communities. In Africa, most people living in forests are there on the basis of customary rights, which are usually not recognised in law. There needs to be a detailed assessment of the disconnect between customary rights and national laws, and national laws and international conventions signed by the country in question. The UN DRIP is a good yardstick by which to measure national laws.

Tim Clairs – the UN-REDD Programme is starting to consider this and UNDP is developing indicators of governance and how to apply them to REDD. There is no real difference between governance in the context of REDD and any other context, except perhaps that REDD is a results-based performance mechanism, potentially creating new types of rights not yet considered elsewhere. Any initiatives involving governance should build on the expertise already developed within the UN and other institutions.

Indonesia's R-PLAN (R-PP) – Concern was expressed that Indonesia's R-PP does not address all deforestation drivers and that it had not been the subject of full consultation but had been developed solely by the Ministry of Forestry. It was noted that Indonesia is going through a process of decentralisation, yet local government and local communities had not had any input into the plan. It was suggested the World Bank was in danger of lowering standards if Indonesia's R-PP were to be accepted in July.

Mark Cackler – If the plan is not good enough it should not be accepted; this has been the case in other World Bank projects. However, there is a tension between lowering standards and getting something done – the role of pilot projects is to see how this works in practice. It may be appropriate to set the bar at different levels at different stages of the process; ideally it would be good to get everything right at the outset, but achieving balance is crucial. Perfection is not achievable and where the acceptable bar is set is a judgement call.

Marcus Colchester – This is an opportunity to engage with governments to address fundamental problems of governance, poverty and other issues, so the safeguarding process is crucial. There are, of course, other, better ways to achieve these ends – governments should uphold what they have already signed up to in international treaty obligations on human rights and the rights of indigenous peoples.

Free, prior and informed consent – a participant asked why the World Bank policy calls for ‘free, prior and informed *consultation*’ rather than *consent*.

Mark Cackler – A ‘consent’ standard requires decisions about who the legitimate voices are to give consent and this may be disputed between different groups. World Bank officials should not make those decisions. It is reasonable to ensure full and real consultation and broad community support and make assessments on the basis of that support. Although the World Bank should be held accountable for the process, it should not legitimise one group over another.

Marcus Colchester – The World Bank is, in fact, considering changing its language to ‘consent’ rather than ‘consultation’ in line with UN DRIP. The argument over who are the ‘right’ people to give consent is no different from who are the right people to give ‘broad community support’. This is a false differentiation.

Complaints procedures – a participant asked what complaints procedures are in place.

Tim Clairs – There are three opportunities for recourse in UNDP:

1. The UN Special Rapporteur on the Human Rights of Indigenous Peoples.
2. The UNDP advisory committee, which has played a role in responding to concerns raised about UNDP and has recommended changes in the way UNDP operates.
3. A recourse process is being developed specifically for the REDD programme for the country level and at the policy board level. Civil society groups will have a role in this.

SESSION 3: RIGHTS, RULES AND EMISSION REDUCTIONS: CLARIFYING WHAT IT REALLY MEANS TO BE ‘REDD-READY’

Chair: John Hudson, Senior Forestry Adviser, Climate and Environment Group, DFID UK

Assessing REDD-readiness involves assessing the level of competences required, what actions have been taken on legal and institutional frameworks, monitoring mechanisms, and funding mechanisms.

The number of countries engaged in FCPF is 37 and in REDD, 9. Many of these countries will not be able to provide a complete assessment of what actions need to be taken.

The questions to be addressed in this session are:

- How are REDD-readiness programmes developing national participation processes to reach a social agreement on compensation arrangements?
- What is the status of efforts to recognise and enforce community forest property rights in order to ensure REDD functionality?
- Can Monitoring, Reporting and Verification (MRV) systems be designed to ensure transparency in tracking social and environmental impacts, as well as carbon?

- Which measures are proposed for establishing credible remedial processes that can deal with the conflicts that will arise?

Leif John Fosse, Senior Adviser, Government of Norway's International Climate and Forest Initiative

Keeping global temperature rise within the 2 degrees target is not possible without REDD. REDD makes up a significant part of that target and is the fastest and most cost-effective opportunity.

Much can be achieved in a concentrated number of countries; for example, Brazil and Indonesia represent half the emissions from deforestation and forest degradation and land use changes. However, some of the countries with the highest emissions are those that score badly on the Transparency International index, which measures governance.

The goals of the Norwegian Climate and Forest Initiative are:

- To work towards the inclusion of emissions from deforestation and forest degradation in a new international climate regime.
- To take early action to achieve cost-effective and verifiable reductions in greenhouse gas emissions.
- To promote the conservation of natural forests to maintain their carbon storage capacity.

Some of the key challenges that need to be addressed are:

- Monitoring of emissions levels and whether to set baselines according to carbon stocks or historical deforestation rates.
- Carbon leakage, permanence and additionality.
- Moving from authoritarian to participatory forest governance involving local communities.
- Clarification of land tenure (eg. in Indonesia 60% of land holdings are not properly accounted for in the legal system).
- Benefits sharing and who pays – a Norwegian study concluded that payments for environmental services (PES) would not work in REDD until certain governance standards were in place. It is important to make sure that PES under REDD is equitable and those managing the system well are compensated.
- Ensuring local livelihoods and access to forests.
- Safeguarding indigenous people's rights.

Addressing these challenges will require a number of approaches. It will require national commitment, in the form of broadly consulted national REDD strategies, and a robust, effective and flexible international architecture for supporting REDD efforts. There needs to be systematic cooperation with NGOs and research institutions to investigate some of the most challenging issues. Consideration needs to be given as to whether MRV mechanisms should monitor more than carbon and how this would be done. Norway must ensure that its contribution inspires others to pledge funds and be involved.

It is crucial to ensure there is a broad, but coordinated approach to REDD. There are the key 'backbone' organisations (the World Bank, and the UN-REDD Programme), which are providing support to the approximately 40 pilot countries. Bilateral cooperation is also important; Norway has pledged 700 million NOK to Brazil in 2008–09 and 500 million NOK to Tanzania over a five-

year period. NORAD (Norwegian Agency for Development Cooperation) is providing 175 million NOK to civil society for research, NGO advocacy and implementation, and for private sector initiatives.

The role of indigenous peoples in REDD

Indigenous people live in the forests and, from a utilitarian perspective, they are forest managers. Giving them a stronger and formal role in forest management presupposes recognition at the national level.

Indigenous peoples have recognition at the international level in treaties and conventions, independent of national settings. They have a key role to play in negotiations and a key role in the design and implementation of national REDD strategies. Involvement of indigenous peoples is a prerequisite to the success of the REDD programme.

All these roles are contested by national governments. Some do not recognise their role at all, some see them as a challenge to the integrity of the national state, and some see them as ordinary citizens with no particular special rights.

One potential way to involve indigenous peoples is through participatory monitoring. Indigenous peoples have detailed knowledge of the ecosystems and in countries with no established or recognised MRV mechanism, they could ensure their involvement by undertaking this role.

Phased approach to REDD

Norway has presented a phased approach to REDD, with the release of funds dependent on the stages achieved:

Phase 1 would involve the development of a national REDD strategy and core capacity-building, and identifying necessary adjustments in forest law and governance. Funding would be based on REDD commitment.

Phase 2 would involve the implementation of policies, and the development of a legal framework for land tenure, land use planning, forest governance, and enforcement capabilities. Funding would be based on the progress towards proxies.

Phase 3 would focus on compensation based on measured, reported and verified results.

The PowerPoint presentation can be accessed at:
http://illegal-logging.info/uploads/1_FosseRRICHJuly09.pdf

Manish Bapna, Executive Vice President & Managing Director, World Resources Initiative (WRI)

There are four key points to consider in preparation for REDD:

- The fundamental challenge for REDD is addressing the underlying drivers of deforestation and forest degradation.
- Financing for REDD may change incentives around decisions.
- Robust institutions and processes are necessary to achieve REDD.
- There is a risk of perverse outcomes if governance does not improve.

WRI's Governance of Forests Initiative has established a framework of indicators to measure governance. It includes diagnostic questions about how law and policy are created, changed and implemented, and focuses on *how* decisions are made.

There are three components of governance:

- Actors
- Rules (laws)
- Practices (how the rules are interpreted on the ground).

There are five principles of good governance:

- Transparency
- Participation
- Accountability
- Coordination
- Capacity

There are four key forest sector issues:

- Tenure
- Forest management
- Planning and zoning
- Revenues and incentives

For each forest sector issue, WRI has plotted the principles of good governance against the governance components to produce a set of matrices that assesses the quality of aspects of governance. There are 94 indicators (see the presentation for an example of a matrix).

One of the indicators is Community Forest Tenure. The elements within this are:

- Pre-existing land claims and resource use rights of local communities are identified in the area under question.
- Local communities have access to all relevant information necessary to understand the situation.
- Local communities have the internal capacity and/or external support to effectively represent their interests to and engage with external parties.
- Local communities can participate in decision-making processes.
- Local communities have access to adequate mechanisms of redress.

These matrices can help developing countries to design and implement an effective REDD programme, and will also be a useful tool for civil society to monitor and review implementation.

REDD in the US Clean Energy and Security Act

The Act establishes a Supplementary Fund, financed by 5% of allowances, and offsets of up to 1 billion tons per year (which may increase to 1.5 billion tons). Oversight of the fund and offsets will be by the EPA (Environmental Protection Agency) guided by an independent Offsets Integrity Board.

The criteria for programme design include some very specific language on the rights and interests of local communities, indigenous peoples, forest-dependent peoples and vulnerable groups. There must be full consultation and participation before and during design,

implementation and monitoring of the REDD programme. There must also be equitable sharing of the profits and benefits.

The details will be worked out over the next two years. The legislation will come before the Senate probably early in 2010.

The PowerPoint presentation can be accessed at:
<http://illegal-logging.info/uploads/BapnaRRICHJuly091.pdf>

Kyeretwie Opoku, Coordinator, Civic Response, Ghana

Civil society's focus is on development rights as well as the environment and climate change.

Ghana started off on a bad footing with the R-PIN. It was approved without any consultation, in violation of the national constitution and World Bank standards. At the time the R-PIN was being developed, there was a parallel, thorough, consultation process taking place on the FLEGT VPA but no attempt was made to link the two processes.

A recent FCPF mission to Ghana made attempts to address the problems and agreement was reached on consultation principles, who the stakeholders are and how to access them. However, even with this framework in place, there has been a reluctance to submit the key issues for consultation.

In early June the REDD steering committee was presented with a consultation programme of meetings to be held within two weeks in different parts of the country. Invitations had not been sent out, and it was clear that key issues would not be addressed. There are serious issues and defects in the process that need to be addressed but the response from the authorities is that it is now too late.

Many of the potential participants in the process have no background on REDD and the expectation that they can be taken from a basis of having no knowledge to approving the plans during a one-day consultation meeting is unrealistic. The steering committee and other stakeholders are due to meet on 16 July to validate the work done but it is very likely that there will be an impasse.

The key reason consultation procedures have not been respected is the August deadline for accessing the available funding. However, if the key issues are not solved, the programme will not move forward. For example, forest property rights is an important issue, but the key people have not been at the table to be consulted.

If the World Bank wants to promote REDD readiness, Ghana needs support to work out what 'readiness' would look like and to address governance issues in areas such as rights. Ghana has no strategy for the UNFCCC discussions, and no political oversight of the negotiations. The subject is moving up the national agenda but no decision has been taken about who will be the representative at the negotiations. This situation is partly due to a lack of vision on the part of the Ghanaian authorities, but it is also an issue for the World Bank in the way in which the programme has been projected and the way in which funding is allocated.

After the Montreux meeting at which two R-PPs were approved despite issues raised by technical advisers, the message has gone out that countries can 'get away with it'. Stakeholders feel that, although the right background work has not been done, the World Bank will approve plans and hand over money. Ghana could be awarded \$3 million if its plan is in place in time – this is a very significant incentive for ignoring a proper consultation process.

Frances Seymour, Director General, CIFOR

There are conflicting views as to whether governance challenges should be solved simultaneously with or before implementing REDD. Those who believe in 'no rights, no REDD' suggest that poor governance and injustices must be resolved before REDD activities start. This is a legitimate view but there are three considerations to be borne in mind:

- That would mean that there would be a risk of no action on REDD, and if forests are not included in the climate agreement, there is no chance of keeping global temperature rises to a maximum of 2 degrees.
- REDD will provide opportunities in the form of co-benefits, such as livelihood improvements and the maintenance of ecosystems services important to many rural communities.
- In effect, much of the work that has been done in recent decades could be classified as what is now called 'REDD readiness' – transparency, participation, tenure reform, community-based forest management, and effective forest law enforcement. At the current pace of change, it could take another generation before these issues are addressed.

Therefore, we should address governance issues simultaneously and use REDD to provide incentives and the finance necessary to speed up progress towards a system of performance-based payments to forest countries.

There is reason to be optimistic about the prospect for significant, performance-based payments to change the political economy of forest management. The example of the FLEGT VPA negotiations is useful – the threat of losing valuable markets for timber products has brought forest countries to the table to address governance reforms. The forest governance indicators being developed by WRI could be a useful tool for a similar process under REDD.

The first threshold for REDD readiness should include:

- A basic framework of safeguards and accountability mechanisms to identify risks to people and ecosystems, with avenues for recourse.
- The government is willing to make the necessary changes for REDD effectiveness over time.
- Affected communities understand what is at stake and have the capacity to participate in the development of REDD policies and programmes.

REDD readiness involves the policies and practices of both forest countries and the international community in a number of ways:

- International institutions have a role to play in developing and implementing safeguards and accountability mechanisms.
- The international community has to contribute to controlling demand-side drivers of deforestation and degradation.
- The international community needs to coordinate initiatives related to REDD, and help national governments to do the same (eg. REDD and FLEGT VPAs).
- The international community must put sufficient finance on the table to make it worth the while for forest nations to make major changes in forest management.
- The international community needs to learn lessons from past efforts to leverage domestic reform inside and outside the forest sector. For example, the experience of structural adjustment lending shows the limitations of heavy-handed conditionality to induce meaningful reform.

- There needs to be a seriousness on both sides about the performance basis of REDD payments – we cannot expect ‘business as usual’ finance to result in anything other than ‘business as usual’ emissions and injustice.

There are many challenges ahead for REDD. One example is the way in which forest nations and the international community will need to agree on national institutions for managing REDD revenues. CIFOR is completing a study on Indonesia’s Reforestation Fund, which provides lessons for managing REDD funds. It was subject to an independent audit which revealed gross mismanagement and misappropriation of funds earmarked for forest management; yet this report has never been disclosed to the public nor its implications discussed. In the meantime, the Indonesian government has set up a number of institutions and mechanisms, such as an independent audit agency and a corruption eradication commission, that are opening institutions up to scrutiny and resulting in successful prosecutions. The international community should support these institutions in the interests of monitoring, reporting and verification for REDD finance.

There are synergies between the REDD agenda and the rights agenda. For example, clear property rights on the part of the ‘seller’ are necessary for the implementation of payments for ecosystem services (PES), which could form part of national REDD strategies.

However, there are significant challenges facing the realisation of livelihood and environmental benefits. For example, many communities have had to divert much energy into defending their rights from other interests, even if these rights are secure on paper. Some that have tried to engage with international markets to get the benefits from their forest assets have been overwhelmed by the institutional requirements. The lessons for REDD are clear – statutory forest tenure is a first step, and needs to be accompanied by providing communities with help to defend their rights, and building the institutions necessary to translate those rights into livelihood benefits.

CIFOR is launching a global comparative research project on the first generation of REDD initiatives, which it hopes will inform policy-makers and practitioners regarding how to get REDD right, including the rights necessary for effective and equitable REDD.

The full text of the presentation can be accessed at:

<http://illegal-logging.info/uploads/SeymourRRICHJuly09.pdf>

Panel discussion

Speed vs. perfection – a participant noted that the REDD process is already well advanced in some countries and asked if there is a case to see how well the governance agenda ‘catches up’ in order to assess how the process will work.

Frances Seymour: this is a difficult judgement call and needs to be made based on the relative risks – the risk of going ahead now vs. the risk of not going ahead. However, some issues clearly are time-sensitive.

Kyeretwie Opoku: the process will move faster if the rights issues are addressed now. In Ghana, a lot of time is being wasted by initially avoiding the fundamentals.

Leif John Fosse: we cannot wait until all countries look like Sweden or Switzerland. We need to get started and the governance issues must be worked out simultaneously. Determining rights issues should not be a slow process and may, in fact, be speeded up by being part of the REDD process. In the phased approach suggested by Norway, incentives would be established to move through the phases. This would allow countries to go ahead with REDD now whilst

facing governance challenges along the way. It is important not to waste time. Sets of indicators could be established to show when a country is ready; a country could be awarded on the measurements it will commit to, such as:

- A minimum standard of leadership and coordination.
- Movement to more participatory governance.
- Opening a debate on benefits sharing.
- Establishing an effective MRV system.

Commitment to these could enable countries to move forwards on governance.

A participant suggested it was worth learning from the FLEGT VPA countries, where there have been incentives on the table (access to EU markets) for addressing fundamental issues of rights. It is realistic to expect the processes should move along in parallel. The VPA process provides a platform and mechanism to take forward changes in legal frameworks; even if these changes have not yet been forthcoming, they are on the agenda.

The World Bank and REDD – a participant asked if the World Bank is ‘REDD ready’.

Frances Seymour: the World Bank has a safeguard framework and the discipline of an inspection panel. However, it is not trusted by some governments and civil society groups, and there are examples of where it cannot achieve because it is not trusted. Therefore it needs to seek out the appropriate partners.

Kyeretwie Opoku: The World Bank does not have the capacity to lead on the rights agenda. The rhetoric is there but the Bank does not understand the mechanisms and processes by which to deliver. The Bank does not know how to start and does not have the culture to reach out and help.

Manish Bapna: WRI carried out research to review R-PINs and R-PLANS. It found that fundamental governance issues had not been adequately addressed by governments or the World Bank. Civil society experts should be part of putting together these plans, as it is hard for governments or the Bank to be objective.

Communities as forest stewards – It was noted that there are 400 million ha of forest in tropical countries that are managed by communities of stewards with very little support. There is an increasing realisation that they do not need forest laws, legal frameworks and markets working against them. It should be a question of how to empower them by letting them loose rather than setting rules for them.

There was agreement amongst the panel that communities that are successfully managing forests should be empowered and given positive opportunities to become involved.

Aid vs. compensation – It was suggested that discussions about ‘aid’ were developing into discussions about ‘compensation’. Because the international community needs REDD this has led to a shift of emphasis to the compensation principle. Talk is not of loans but of compensation for past pollution.

Kyeretwie Opoku: In Africa, this debate is about reparations and the huge issue of past and present injustices. The international community needs to hear that. There will be no solution to the climate crisis without a shift of power from the North to the South and from corporations to communities. It is not possible to hold on to what currently exists and still make the necessary adjustments.

Manish Bapna: The US climate bill has elements of both in its provisions. It will be interesting to see how these are reconciled as the bill is debated in Congress.

SESSION 4: CARBON FINANCING MECHANISMS AND FOREST GOVERNANCE

Chair: Duncan Brack, Chatham House

The questions to be addressed in this session are:

- What is the status of new financial instruments?
- Is a forest carbon market feasible, and on what timescale?
- Can payments be made conditional on 'good governance'?
- Do funds or markets help in taking the difficult policy decisions needed for a successful REDD strategy?

Simon Rietbergen, Senior Project Manager, Prince's Rainforest Project

It is clear from discussions so far that a feasible forest carbon market is some way away. However, there are dangers in inaction so it is important to consider what can be done within the next two to three years. Recent reports have suggested that the implementation of a fully functioning REDD system could be as much as eight to nine years away. There are a number of reasons for this:

Measuring carbon – it is not yet clear how to measure forest carbon accurately. A recent detailed study demonstrated how much work would be involved and how complex a process it will be; therefore, in the interim, a simpler proxy system should be used instead, for example the area of well-managed forest. However, there is, as yet, no agreement on this.

Payments – there is debate about whether payments can be conditional on good governance. The language of conditionality is difficult and there is currently a shift away from framing the discussion in terms of penalising injustice towards talking about payment for services.

Funds and markets – It is not clear whether funds or markets help in the process of taking difficult policy decisions. The only sure way to encourage countries to take decisions that move away from 'business as usual' is to demonstrate self-interest; therefore, dialogue must be established with governments to establish the understanding of self-interest. For example, it is believed that \$20 billion of agriculture in the south of Brazil depends on rainfall effectively generated by the Amazon; therefore, it is vital to keep the forests standing. Others believe that a sustainable timber industry keeps the forests standing. The reasons do not matter but the end result is the same.

Governance – the question of governance is not a luxury add-on to the objective and value-free mechanism of keeping the forests standing, but an integral part of the mechanism to keep forests standing in the long term. In the parts of Ghana where the forests are owned under customary law, they are not cleared in the way they are in some neighbouring areas under different tenure. Governance is integral to any workable solution

It is fundamental that we do not get in the way of, or put up obstacles for, communities who are already managing forests well.

James Mayers, Head of Natural Resources Group, IIED, and The Forests Dialogue

The Forests Dialogue (TFD) was founded by civil society and private sector leaders with the aim of establishing a multistakeholder dialogue platform for leaders to pursue SFM, build trust, share learning and seek to work together. TFD has developed initiatives on issues such as forests and climate, free, prior and informed consent, commercial forestry and poverty reduction, and illegal logging and forest governance.

Four Forests and Climate Change dialogues in 2007–08 resulted in a consensus statement, 'Beyond REDD'. The statement embodies five guiding principles:

1. Ensure that forest-related climate change options support sustainable development in both forest-rich and forest-poor countries.
2. Tackle the drivers of deforestation that lie outside the forests sector.
3. Support transparent, inclusive and accountable forest governance.
4. Encourage local processes to clarify and strengthen tenure, property and carbon rights.
5. Provide substantial additional funding to build the capacity to put the above principles into practice.

Dialogues in 2009 have focused on REDD finance mechanisms and REDD readiness. The objectives of the REDD finance dialogue are:

- To define the challenges and opportunities of options for financial mechanisms.
- To elaborate on the possible solutions for identified challenges.
- To develop a series of recommendations to be considered in the negotiations leading up to Copenhagen.

The dialogue process takes its lead from what is already on the table and involves engaging with negotiators, and moving towards a consensus position from which to put forward recommendations. The key points of consensus reached in the two out of four dialogues that have so far taken place are:

- Stakeholder groups must have the space and capability to organise and represent themselves in decision-making processes.
- REDD+ measures must support and help build SFM frameworks and be mainstreamed in sustainable development plans.
- A phased approach with safeguard policies is useful.

At the end of the four dialogues, the intention is to have a fully fleshed out phased approach for REDD, covering safeguards, financing mechanisms and practicalities, key characteristics and the main capacity-building needs. There is agreement that if the preparation phase is too long or mis-targeted it will undermine the eventual performance-based deals. Therefore, it is important to get the safeguards right and support the pilot projects.

There is also agreement that there needs to be flexibility on the level of intervention needed, but an understanding that benefits must reach local stakeholders; and that the focus should be on the types of in-country finance that work for forests and livelihoods (targeted, locally accountable and long-term).

There are a number of challenges for the dialogue process. For example, how to define the triggers for moving from one phase to the next, developing proposals for sub-national finance

and distribution mechanisms, defining explicit social and environmental safeguards, and sorting out the reference level or baseline to ensure an equitable deal.

REDD is a technocratic mechanism, which requires fundamental changes in power and justice in order to work. It is crucial to get the mechanism right, but then the real political project begins.

The PowerPoint presentation can be accessed at:

<http://illegal-logging.info/uploads/MayersRRICHJuly09.pdf>

Panel discussion

Finance and forest governance – comment from Simon Counsell, Rainforest Foundation: finance and forest governance are inextricably linked. There has been much discussion on funding to date but the indices of bad governance mean that reputable private sector investors would see forest carbon investments as very high risk with huge costs. The achievable carbon price is very low and probably would not cover the costs of anti-deforestation schemes. The supply of funds from carbon markets is likely to be much less than projections suggest and the market could end up being dominated by international organised criminals. With the future of tropical forests at stake is there a case for a moratorium on a voluntary or regulated market in forest carbon? There is a tension between adequacy of schemes and urgency. However, World Bank figures show that tropical countries are losing billions of dollars because of the unregulated timber trade and illegal logging.

Simon Rietbergen: Clearly, if lots of money is poured into a country while billions of revenue is going uncollected, that is akin to mopping the floor while the basin is overflowing. The key is not to create artificial short-term mechanisms but to put in place all possible measures to ensure forests are worth more. We cannot reduce emissions in the short term without reducing deforestation because a lot of other emissions are tied into very complex infrastructure, such as power stations, which cannot be quickly addressed. It is crucial to look at what can be achieved in the short term.

How the money is spent will differ from country to country and any blueprint would probably be unworkable. A good example is the Amazon Fund, which is independently governed and has representatives from scientific research and civil society. Other countries have large areas over which indigenous peoples have sovereignty; in these cases money would have to go to the sovereign structure.

Risks and returns – there were a number of comments around this:

It will be crucial to address risks in order to attract investment and to deliver. The costs of this should not be underestimated. The current focus is on markets to provide the money for REDD but there has been a failure to address what the market is for. If it is for the purchase of carbon credits, this gives permission to continue pollution. Payment must be for results – what is actually being done on the ground to keep the forest standing. Capitalist systems maximise benefits from payments; in a REDD setting this means buying carbon to avoid making one's own reductions. We should question whether we want the private sector involved at all.

Another participant commented that, as risk rises, so the return increases. However, when the risk is very high, the only ones involved in the market are 'cowboys'. Therefore we should question whether the current system is asking for the unattainable in the light of existing corrupt and weak institutions.

Simon Rietbergen: The Rainforest Project does not advocate a market at this stage, and has been looking at the cost of a low deforestation development path, for example, putting palm oil plantations into degraded areas. Instead of speculating on market prices, we should be considering the costs of shifting to a more sustainable forest industry base.

Fund vs. market-based approach – a participant asked what the differences would be in the strategies resulting from taking either a fund-based approach or a market-based approach.

James Mayers: the basic difference is the degree and location of control, and the implication that the government would have a major but different role in each. However, there are concerns about both – there are uncertain prospects of governments improving environmental governance under a fund-based approach and doubts about market-based approaches for all the reasons already mentioned. It is not yet clear what a successful strategy would look like.

Simon Rietbergen: If a market-based system is developed for forest carbon it may be a short-lived phenomenon. It would buy time to develop renewable energy but that is all. The ultimate aim should be to have no need of a market.

Closing comments

Arvind Khare

A few key points stand out from the discussions:

- We have not yet resolved how to address national sovereignty and human rights and international conventions. We need to explore this more and find out whether countries would accept a little less sovereignty for greater benefits.
- The question 'Is the World Bank REDD ready?' is a serious issue and goes to the heart of whether institutions understand the key considerations.
- If the new US REDD-related legislation is passed, this could be a game changer; there is a huge amount of money potentially involved.
- There are no clear answers on finance mechanisms and ensuring good governance. We need to explore what institutions can be designed to persuade countries to take sub-optimal decisions but the right decisions.

There will be two more conferences in this series, in October (probably in Washington) and in January (London). Dates will be announced shortly.