

**COORDINADORA NACIONAL DE PUEBLOS INDÍGENAS DE  
PANAMÁ  
(COONAPIP)**

**Annex 1**

**INDIGENOUS PEOPLES AND REDD**

**1. Introduction**

The indigenous peoples are one of the most important actors in the design and implementation of the REDD mechanisms. Most of the forest cover in Panama is found in territories belonging to these groups of actors and they depend directly on these forests.

Being the best guardians of their natural resources, they should be included in the decision making process for there to be harmony between the implementation mechanism and the interests of these communities.

The indigenous territories are areas where what is left of the primary forests is under conservation and are also areas with the most important biodiversity at the national level; and the implementation of REDD in the territories of the indigenous peoples should benefit the indigenous communities, providing the programs and activities are coherent with the principles of respect and recognition of their collective rights and the collective property rights over the land. It should also guarantee access and equitable distribution of the benefits generated.

This is why the participation of the indigenous peoples at this point in the preparation process is vital and important to the success of and to guarantee the REDD Program.

**2. COONAPIP Background**

COONAPIP<sup>1</sup> was created in 1990 in response to the coordination and communication efforts among the indigenous Congresses and Councils to promote the unity and strengthening of the organizational structures of the Indigenous Peoples.

The Congresses and General Councils are the governmental expression of each indigenous community and they are the broadest political decision making space, organized through traditional authorities. Each indigenous community regulates, through its culture and customs, the way they organize their congresses and councils as decision making mechanisms.

During its first years, COONAPIP played an important role in claiming their indigenous rights and had significant impact on the different programs which the State sought to implement through the Government. However, in the last few years it has not been very

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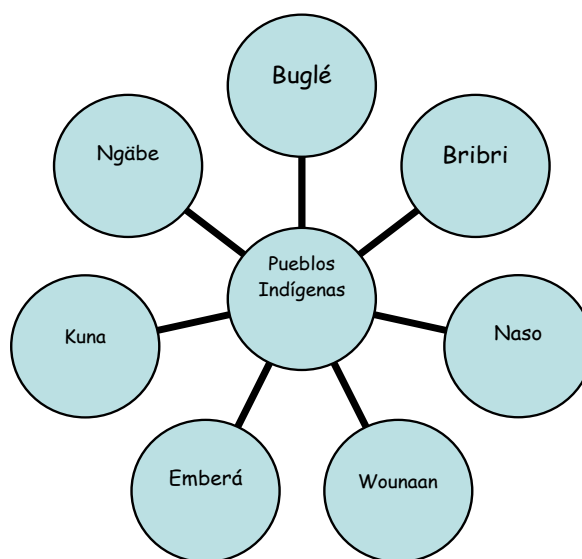
<sup>1</sup> COONAPIP is a national organization of Indigenous Peoples of Panamá, which groups seven indigenous communities with their eleven (11) traditional structures: Congresses and Councils.

effective which has led to seeking a new strategy by consolidating a new organizational structure.

In mid November of 2008, the authorities of the Original Peoples of Panama issued a “Declaration”, stating among its principles, “*the need for real unity in order to confront all the threats they face*”<sup>2</sup>; and mandated in numeral 4: “*...to restructure the political organization of COONAPIP as an Institution created to be at the forefront of the indigenous movement..., but that now its politics and operation require consolidation and strengthening to obtain...rights as original indigenous peoples*”<sup>3</sup>.”

At the Kuerima Assembly, in the Ngöbe-Buglé Territory, at the V COONAPIP Assembly, held on May 28-31, 2009, the new organizational chart was created integrating, in addition to the seven indigenous communities, the eleven socio-political-administrative structures of the congresses and councils, as established in graphs 1 and 2:

Graph 1: The Indigenous Peoples of Panama

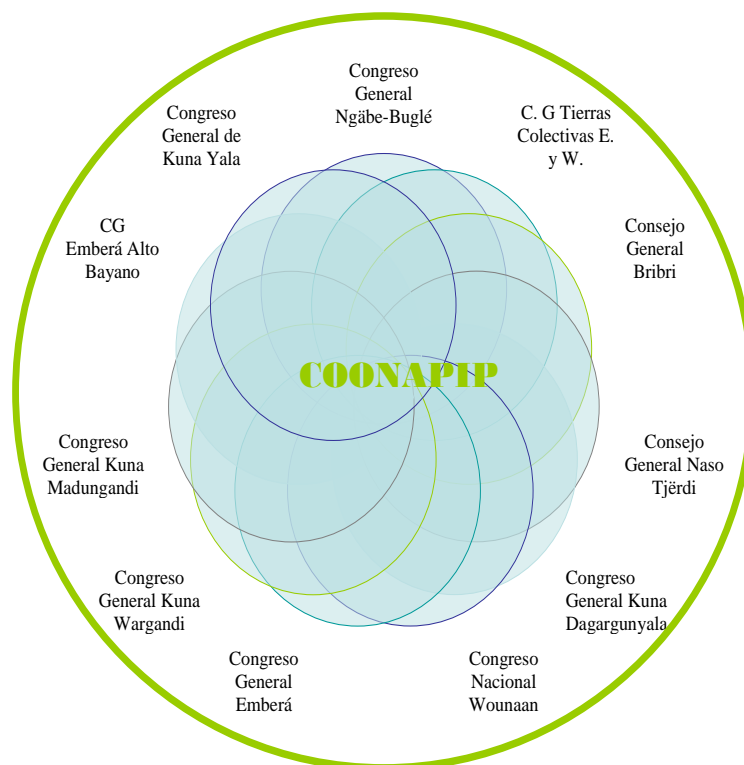


Source: COONAPIP. COONAPIP restructuring, 2009

<sup>2</sup> DECLARATION of the Meeting of the Original Peoples of Panama. Mandi Ubigandup of the Kuna Yala Territory. November 14 and 15, 2008. p. 1

<sup>3</sup> Ibid., (2008), p.1

Graph 2: Socio-political-administrative structure of Congresses and Councils of the Indigenous Peoples of Panama /Original Authorities



Source: COONAPIP. Congresses and General Councils of the Indigenous Peoples.

Currently, the Indigenous Peoples of Panama, through COONAPIP, are seeking a new relationship with the State, primarily focused on strengthening and consolidating their institutional indigenous structures. As part of the process, the indigenous peoples are studying and analyzing current topics that have an impact on them, such as global warming and the reduction of greenhouse gas emissions from deforestation and forest degradation.

### 3. The Indigenous “Comarcas” in Panama

The “Comarcas” are political-administrative divisions with special regimes that guarantee the indigenous peoples of Panama the collective property right over the land. In this regard, the right to their natural resources, identity, culture, customs and traditions, language, spirituality, form of government and recognition of their traditional political structure is also guaranteed.

Thus, the Panamanian State has included in its laws the rights of the indigenous peoples incorporating the figure of “comarca” with an autonomous administrative regime; opening the way to new forms of authority and institutionality. Each indigenous “comarca” has a *Ley Comarcal* (Territorial Law) and an organic administrative document compiling the laws and forms of organization.

Currently, in Panama, there are 5 “comarcas” recognized by the laws of the Republic of Panama (Table 1). Additionally, the Government recognized in accordance with Law 72 of December 23, 2008, whereby “the special procedure is established to adjudicate the collective property of lands of the indigenous peoples that are not within the “comarcas””, the existence of 24 Embera and Wounaan territories under collective property of lands (Table 2), 16 in the Darien province, 3 in Alto Bayano, 2 in Maje Chiman, and 3 in the Panama Canal Basin, especially the Chagres River, which are under the process of adjudication.

Additionally, three indigenous territories are still requesting to be recognized as “comarca”, as shown in Table 3.

Table 1: *Comarcas*, Laws, Official Gazettes

COMARCAS	LAW	OFFICIAL GAZETTE
Kuna Yala	2 of February 16, 1938	Second Law of September 16, 1938. G.O.P.
Darien Emberá	22 of November 8, 1983	Nº 19976 of January 17, 1984
Madungandi Kuna	24 of January 12, 1996	Nº 22951 of January 15, 1996
Ngöbe-Buglé	10 of March 7, 1997	Nº 23242 of March 11, 1997
Wargandi Kuna	34 of July 25, 2000	Nº 24106 of July 28, 2000

Source: Indigenous laws of the *comarcas* of Panama

Table 2: Emberá and Wounaan Collective Territories, Law and Official Gazette

COLLECTIVE LAND TITLE	LAW	OFFICIAL GAZETTE
Collective Lands of the Emberá and Wounaan (16 territories with 45 communities)	73 of December 23, 2008	Nº 26193 of December 30, 2008
Alto Bayano Emberá (3 territories with 4 communities)		
Wounaan National Council (2 territories with 3 communities)		
Collective Lands of the Emberá and Wounaan (3 territories with 6 communities)		

Source: Law 72 of December 23, 2008. Table by COONAPIP, 2009.

Table 3: Indigenous Territories proposed “comarca”

INDIGENOUS TERRITORIES	PROPOSAL	GAZETTE
Naso Tjërđi	<i>Comarca</i>	
Bribri		
Dagargunyala	<i>Comarca</i>	

Source: COONAPIP. Interviews with the leaders of the communities mentioned, 2009.

#### 4. Constitutional Basis for the Indigenous *Comarcas* and the Collective Property Right over the Land

The Republic of Panama is one of the countries which has significantly advanced with respect to recognizing the rights of the indigenous peoples, and proof of that is the creation of five territories by special laws based on Article 5 of the Constitution (Article 90, 127, and others).

Article 5<sup>4</sup> of the Constitutions stipulates: *“The territory of Panama is politically divided into Provinces, which in turn are divided into Districts and the Districts into “Corregimiento”.*

***The law may create other political divisions, either to subject them to special regimes or for reasons of administrative convenience or public service.”***

(The bold letters is ours)

Article 90 states: “The State recognizes and respects the ethnic identity of the national indigenous communities...<sup>5</sup>.” While article 127 of the Constitution establishes the constitutional framework that guarantees the collective property of land to the indigenous communities, stating: *“The State guarantees that it will reserve the necessary lands and the collective property of said land for the indigenous communities.... The law will regulate the procedures that must be followed in order to achieve this purpose and the corresponding limitations which prohibit the private appropriation of land.”*

The Panamanian Judicial Branch, when referring to the issue of collective property of the indigenous peoples, in the ruling of September 24, 1993<sup>6</sup>, stated: *“the collective property in our Constitution is anticipated so...the indigenous communities may achieve economic and social well being (Article 127). The Court goes on to state: it is evident that it refers to a different type of property than both private and State property and the Constitution has foreseen that this category of property be subject to a legal regime different from the others.*

*When the Constitutions states, as an exception, the institution of collective property for the indigenous and farming communities it does so in the interest of a collective group, of a social group, whose well being, as far as the group goes, needs to be preserved. The Constitution does not pursue to protect the individual; only in the measure that he is part of a group and it is the survival of the latter that needs to be ensured through a type of property that grants continuity to the indigenous communities.” (Judicial Registry, September, 1993).*

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<sup>4</sup> POLITICAL CONSTITUTION OF THE REPUBLIC OF PANAMA. Official Gazette N° 25,176, of November 15, 2004. National Legislative Assembly. pg. 9 and 10.

<sup>5</sup> *Ibid.* (2004). pg. 37.

<sup>6</sup> SUPREME COURT OF JUSTICE. Ruling N° 7 of September 24, 1993. Published in the Official Gazette N° 22,517 of April, 1994. pg. 6

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**Annex 2**

**REDD PRINCIPLES AND OPERATIONAL FRAMEWORK  
October 13, 2009**

*Considering* that the preparation process goes beyond the purely technical and scientific aspects of the “Reduction of Emissions from Deforestation and Forest Degradation” (REDD),

*Keeping in mind* that the Indigenous Peoples and Communities of Panama live in and are inhabitants of tropical forests with high percentages of carbon,

The NATIONAL COORDINATOR OF THE INDIGENOUS PEOPLES OF PANAMA presents a Framework of Principles of Understanding for the REDD Panama Program:

1. Create an environment of dialogue and consultation with the Indigenous Peoples, who occupy close to 70%<sup>1</sup> of the tropical forests, where a high percentage of carbon accumulates, reason why the issue of legal certainty in their territories and the areas overlapping the Protected Areas is a priority.
2. Review, analyze, and adapt the regulations for indigenous rights in the national laws regarding the environment, to allow a good relationship between the State and the Government and the original and traditional authorities of the indigenous peoples.
3. Introduce the concept of “*Good Livelihoods*” to create an environment of equality where the benefits are distributed equitably keeping in mind the indigenous cosmovision of equilibrium between Mother Earth and development.
4. Legally recognize the existence of the forested zone in the territories and “*comarcas*” as collective property.
5. Promote the previous consent, free and informed, in the preparation of the UN-REDD Document in the Indigenous Territories, *Comarcas*, and Communities.

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<sup>1</sup> Preliminary calculation by COONAPIP, 2009, according to the total indigenous area.

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**Annex 3**

**“Balu Wala” Methodology**

“*Balu Wala*” is a concept of the Kuna-Panama people that means Tree of Salt and refers to a new relationship between Mother Earth and mankind. It establishes political, economic, and social relationships with respect and equality. It strengthens organizational systems aimed at community production within the framework of the indigenous economic model in order to improve the quality of life towards a good life.

Thus, the Balu Wala is nurtured by the foundations and knowledge itself, developing tools for the community to express its vision of the future by learning about the past and their present in order to look towards the future.

1. **Communitarism:** A model of social and collective life in the community where cohesion of its members involved as important actors in the different facets of community life is evident.
2. **Time Registry:** An indigenous system for registering important events or tangible or intangible chronological calendars, around which community life is developed, be it in the past, present or future. For this reason, it is important to develop close, respectful ties to the spiritual guides who represent the natural library of the communities or chronological events.
3. **Harmony and equilibrium between nature and mankind:** This is a fundamental principle of the indigenous peoples, which should be taken into account for the development of the community.
4. **Consensus:** A fundamental principle for making collective decisions that influence the “*Good livelihood*” or community life. All of the activities and results shall be approved by consensus in a democratic, respectful, and traditional manner, without impositions of any kind.
5. **Dialogue:** Another basic principle that allows the exchange of information and social coexistence between the members of a community and different sectors. The consultation will make use of dialogue through surveys, interviews, and census with leaders, authorities, and spiritual guides, among others.
6. **Respect:** All of the consultation processes will be respectful of the settlers, their belief systems, gubernatorial systems, and of all the facets of their community life including their lands and traditional beliefs.
7. **System of indigenous rights:** The consultation will be based on the right of the indigenous communities, their authorities and members to the empowerment of all the processes and the right, not just to information, but also to participate and be involved in decision making in every stage of the project.