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# PROPERTY RIGHTS AND RESOURCE GOVERNANCE PROJECT (PRRGP)

INSTITUTIONAL MECHANISMS FOR REDD+ – CASE STUDIES  
WORKING PAPER

AUGUST 2011

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Authored by: Crystal Davis, World Resources Institute (WRI); Peter Veit, WRI; Ruth Nogueron, WRI; and Anne-Gaelle Javelle, WRI

Implemented by:

Tetra Tech ARD  
159 Bank Street, Suite 300  
Burlington, Vermont 05401  
Tel: (802) 658-3890  
Email: [ard@tetrattech.com](mailto:ard@tetrattech.com)

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# ACRONYMS AND ABBREVIATIONS

AA	Authorized Authority
AFD	<i>Agence Française de Développement</i>
ANSAB	Network for Sustainable Agriculture and Bioresources
AWF	African Wildlife Foundation
BAPPENAS	<i>Budan Perencanaan Pembangunan Nasional</i> (National Development Planning Agency)
BPN	National Land Agency
CARPE	Central African Regional Program for the Environment
CBFF	Congo Basin Forest Fund
CBFM	Community-Based Forest Management
CBO	Community-Based Organization
CCBA	Climate, Community and Biodiversity Alliance
CCI	Clinton Climate Initiative
CDM	Clean Development Mechanism
CEMDA	<i>El Centro Mexicano de Derecho Ambiental</i> (Mexican Center for Environmental Law)
CF	Community Forestry
CFM	Collaborative Forest Management
CFUG	Community Forest User Group
CIFOR	Center for International Forestry Research
CLG	Local Management Committee
CLS	Local Oversight Committee
CODELT	<i>Conseil pour la Défense de l'environnement, la Légalité et la Traçabilité</i>
COMIFAC	<i>Commission des Ministres des Forêts d'Afrique Central</i> (Central African Forest Commission)
CONABIO	National Biodiversity Commission
CONAFOR	<i>Comisión Nacional Forestal</i> (National Forestry Commission of México)
CONAGUA	<i>Comisión Nacional del Agua</i>

CONANP	<i>Comisión Nacional de Áreas Naturales Protegidas</i> (National Protected Areas Commission)
COP	Conference of the Parties
CSR	Corporate Social Responsibility program
CSO	Civil Society Organization
DDC	District Development Committee
DFCC	District Forest Coordination Committees
DFID	Department for International Development
DFO	District Forest Office
DNPI	National Council on Climate Change
DRC	Democratic Republic of Congo
ERC	Ecosystems Restoration Concession
FAO	Food and Agriculture Organization of the United Nations
FBD	Forest and Beekeeping Division
FCPF	Forest Carbon Partnership Facility
FCTF	Forest Carbon Trust Fund
FDL	Local Development Fund
FECOFUN	Federation of Community Forest Users, Nepal
FIP	Forest Investment Program
FPIC	Free, Prior, and Informed Consent
GHG	Greenhouse Gas
GIS	Geographic Information Systems
HKm	<i>Hutan Kemasyarakatan</i> (Community Forest)
HPK	Convertible Production Forest
HTR	<i>Hutan Tanamab Rakyat</i> (People Plantation Forest)
IBCSP	Ibi-Batéké Carbon Sink Plantation
ICIMOD	International Centre for Integrated Mountain Development
ICRAF	World Agroforestry Centre
IFCA	Indonesia Forest Climate Alliance
INE	<i>Instituto Nacional de Ecología</i> (National Ecology Institute)
INEGI	<i>Instituto Nacional de Estadística, Geografía e Informática</i> (National Institute of Statistics, Geography and Information Technology)

IUPHHK	Timber Resources Utilization Permit
JFM	Joint Forest Management
KFCP	Kalimantan Forests and Climate Partnership
LAFR	Local Authorities Forest Reserve
LFP	Livelihoods and Forestry Programme
LOI	Letter of Intent
LUP	Land Use Plan
MECNT	Ministry of the Environment, Natural Resources and Tourism
MJUMITA	Tanzanian Community Forest Conservation Network
MNRT	Ministry of Natural Resources and Tourism
MoFor	Ministry of Forestry
MoFSC	Ministry of Forests and Soil Conservation
MRV	Measurement, Reporting, and Verification
MT	Metric Ton
NC-REDD	National REDD+ Coordination
NEFIN	Nepal Federation of Indigenous Nationalities
NFR	National Forest Reserves
NGO	Nongovernmental Organization
NORAD	Norwegian Agency for Development Cooperation
NOVACEL	<i>Nouvelle Société d'Agriculture, Culture, et Élevage</i>
NRTF	National REDD+ Trust Fund
NTFP	Non-Timber Forest Product
OP	Operational Plan
PES	Payment for Environmental Services
PFM	Participatory Forest Management
PLTA	Way Besai Hydropower Company
PMU	Project Management Unit
PNPM	National Program for Community Empowerment
PSAH	<i>Programa de Servicios Ambientales Hidrológicos</i> (Water Environmental Services Program)
PT RMU	PT Rimba Makmur Utama
REDD+	Reducing Emissions from Deforestation and Forest Degradation
REDD-cell	REDD+ Forestry and Climate Change Cell

R-PP	Readiness Preparation Proposal
RUPES	Rewards for, Use of and shared investment in Pro-poor Environmental Services
SAO	<i>Servicios Ambientales de Oaxaca</i> (Environmental Services, Oaxaca)
SEMARNAT	<i>Secretaría de Medio Ambiente y Recursos Naturales</i> (Ministry of Environment and Natural Resources)
SKT	Surat Keterangan Tanah
SLCD	<i>Service Laïque de Coopération au Développement</i>
SODEFOR	<i>Société de Développement Forestier</i>
TFCG	Lawyers' Environmental Action Team
TFWG	Tanzania Forest Working Group
TNRF	Tanzania Natural Resource Forum
TSA	Supreme Agrarian Tribunal
TZS	Tanzanian Shillings
UMB	Norwegian University of Life Sciences
UN	United Nations
UNDP	United Nations Development Programme
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNFCCC	United Nations Framework Convention on Climate Change
UN-REDD	United Nations REDD+ programme
UPK4	President's Monitoring and Delivery Unit
USAID	United States Agency for International Development
VEC	Village Environmental Committee
VDC	Village Development Committee
VLFR	Village Land Forest Reserve
VPO	Vice President Office
WAFAC	Watershed Fund Advisory Committee
WMA	Wildlife Management Areas
WRI	World Resources Institute
WWF	World Wildlife Fund
ZEC	Zonal Environmental Committee

# PREFACE

The *Institutional Mechanisms* study seeks to identify promising institutional models and assess potential institutional challenges for achieving effective, efficient, and equitable distribution of benefits under REDD+. The study highlights lessons from case studies in five developing countries, which are characterized by a range of different approaches to forest sector benefit sharing and have been global leaders in REDD+ preparation.

Each case study provides an overview of emerging strategies and concepts relating to REDD+ benefit sharing that are currently being discussed by stakeholders and policy-makers at the national level. It also draws insights from field visits to REDD+ pilot projects that have developed a benefit sharing model, and to other institutions managing environmental benefits at the local level, which have been identified by national policymakers as potential models for REDD+.

The case studies are based on field visits and desk research carried out between February and June 2011. The list of institutions and experts interviewed is provided as an appendix to each case study.

# I.0 MÉXICO

## STUDY OVERVIEW:

The México case study provides an overview of existing Payment for Ecosystem Services (PES) systems that will likely be used as models for the implementation of REDD+ in the country. The case study focuses on two PES systems and two emerging REDD+ projects:

- *Comisión Nacional Forestal* (National Forestry Commission of México) [CONAFOR]'s ProÁrbol PES system is the national, and most prominent, government-sponsored system. It generates revenues from water usage fees, and the money is distributed among participant communities in projects established in CONAFOR's forest priority areas.
- The carbon sales system in the state of Oaxaca is a voluntary system facilitated by Mexican nongovernmental organizations (NGOs) that involves 10 communities. The project sells carbon storage and sequestration from private-sector buyers, and the funds are distributed with the communities.

This study focuses on two systems that were chosen due to their potential role in future REDD+ systems and their relatively well developed status. In addition, the case study touches tangentially on a REDD+ pilot in the state of Chiapas and on the State of Chiapas' Climate Change Strategy, which involves a PES system.

This study draws insights from interviews and visits conducted between March 2011 in Guadalajara, México City, and field visits in the states of Oaxaca and Chiapas.

## I.1 INTRODUCTION

The literature suggests that there are three key elements for the successful implementation of Reducing Emissions from Deforestation and Forest Degradation (REDD+) projects: (1) clear and secure land tenure rights; (2) rights over the use of the resources; and (3) access to benefits derived from the resources and/or from the use of the resources (Larson et al., 2010; Barry et al., 2010). As countries develop and implement REDD+ programs, México offers interesting insights on each of these three elements:

1. **Relatively secure land rights:** Even though agrarian conflicts persist in some areas, land tenure rights are relatively secure in México, with between 70–80 percent of the forest land in México classified as “social property” (*propiedad social*) and owned by *ejidos* and communities (Robles, 2011).<sup>1</sup>
2. **Recognition of community governance structures:** By law, *ejidos* and local communities have the right to define their own decision-making processes. The combination of secure land rights and self-governance has been credited as an enabling environment for thousands of communities to manage their forests successfully for the production of timber and non-timber forest products (NTFPs) while maintaining stable forest cover (National Forest Commission, 2010; Barry et al., 2010).

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<sup>1</sup> Based on data from the National Institute for Geography, Statistics and Informatic (INEGI). INEGI estimates are, however, controversial.

3. **Increasing experience in Payment for Ecosystem Services (PES) systems:** PES is one approach to share financial benefits derived from forests with local communities. México has accumulated a wealth of experience in PES systems through the government-sponsored ProArbol Program (in place since 2003) and various voluntary PES systems, some of which are linked directly or indirectly to ProÁrbol.

In spite of these advances, the situation in Mexico is far from perfect. Although deforestation rates have decreased over the past few decades, they still continue at an annual rate of 0.4 percent (United States Agency for International Development [USAID], 2011), contributing to an estimated 14 percent of the country's greenhouse gas emissions (National Forest Commission, 2010). Nevertheless, preliminary assessments suggest that net deforestation is slightly higher in privately owned lands and that the risk of deforestation and degradation is higher in areas with unresolved land tenure conflicts, or in areas where community forest management is weak (National Forest Commission, 2010; Barry et al., 2010). According to CONAFOR, the main driver of deforestation is land use conversion to pasturelands and agriculture (estimated to contribute to 82% of the deforestation) (CONAFOR, 2010). Forest degradation is mainly driven by uncontrolled and illegal logging, forest fires, direct grazing, shifting agriculture, fuelwood collection and forest pests. In some areas, forest fires and natural disasters (hurricanes) also affect forest cover.

**FIGURE I.1 MAP OF MEXICO AND SITES VISITED FOR INTERVIEWS**



There are two underlying causes of deforestation: (a) government programs to expand the agricultural sector through subsidies, although efforts are underway address conflicts between environmental and land-use policies; and (b) poverty (CONAFOR 2010). Nearly 85 % of the localities in forested areas have a high, or very high- poverty index, and they are highly marginalized and highly dependent on forest resources (CONAFOR 2011). While the processes to secure land rights and control over resources are relatively mature in México,<sup>2</sup> access to benefits and benefit-sharing mechanisms is relatively recent. This case study focuses on identifying key needs and considerations for efficient and equitable benefit distribution systems, based on the

<sup>2</sup> Land tenure reform began with the Mexican revolution in 1910 while the origin of the social movement for communities to gain the control of the resources can be traced back to the early 1880s. See Bray, D.B and L. Merino. *La experiencia de las comunidades forestales en México: Veinticinco años de silvicultura y construcción de empresas forestales comunitarias*. Secretaría de Medio Ambiente y Recursos Naturales (Ministry of Environment and Natural Resources [SEMARNAT]), Consejo Civil Mexicano para la Silvicultura Sostenible, A.C., Fundación Ford.

PES experience, to ensure that future REDD+ benefits reach forest-dependent communities and other local actors.

At the time of writing this analysis, México's REDD+ strategy had not been developed. Thus, this case study is based on a review of REDD+-related documentation and the benefit sharing literature, including studies of the effectiveness of PES programs in México, as well as a series of interviews with stakeholders from different sectors. Data for this analysis also was gathered during field visits to a PES project and an emerging REDD+ project from March 1–12, 2011.

The study is divided into the following three sections:

- 1.2 provides an overview of the REDD+ strategy and introduction to the envisioned REDD+ benefits and institutional arrangements for benefit sharing;
- 1.3 is an overview of two PES systems and two emerging REDD+ projects; and
- 1.4 provides lessons learned and recommendations.

## **1.2 OVERVIEW OF THE NATIONAL REDD+ STRATEGY AND REDD+ BENEFITS**

México's national REDD+ strategy is expected to be completed in 2011. Politically, it is important that the strategy is adopted before the June 2012 presidential election because the next administration (starting January 2013) might not recognize the strategy or would be reluctant to adopt it.<sup>3</sup> The majority of elements of the REDD+ strategy, and the process to articulate the strategy itself, are currently under discussion by different government agencies and stakeholder groups.

A review of official documents<sup>4</sup> and interviews with stakeholders (see Appendix 1.1) demonstrates a common understanding that:

- The strategy should be holistic and build upon existing systems and policy frameworks;
- For successful implementation of REDD+, communities, *ejidos*, and indigenous peoples need to be involved in the design and implementation of the strategy.

On the second aspect, there is recognition that representation, consultation and participation by local community actors in the current REDD+ discussions are lacking, and that this omission is a major challenge. This lack of representation is a critical gap in the context of México since communities control the use of their resources and, therefore, cannot be forced to participate in REDD+, or might even reject it if REDD+ is perceived to be a threat to local livelihoods (see Box 1.1 for an overview of this issue).

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<sup>3</sup> Interviews with Antony Challenger (SEMARNAT), Santiago Enriquez and Gabriela Lozada (ABT Associates).

<sup>4</sup> Official documents reviewed include: National Forest Commission, 2010; SEMARNAT. *Comisión Nacional Forestal* (National Forestry Commission of México [CONAFOR]). 2010. *Visión de México sobre REDD+: hacia una estrategia nacional*. SEMARNAT. Online at [http://www.conafor.gob.mx:8080/documentos/docs/7/1393Visi%C3%B3n%20de%20M%C3%A9xico%20sobre%20REDD\\_.pdf](http://www.conafor.gob.mx:8080/documentos/docs/7/1393Visi%C3%B3n%20de%20M%C3%A9xico%20sobre%20REDD_.pdf) (7/10/11).

## **BOX I.1: COMMUNITY ORGANIZATION AND DECISION-MAKING PROCESSES: OVERVIEW**

In México, there are two types of communal land tenure: agrarian communities (or *communes*) and *ejidos*. In an agrarian community, the land belongs to the community based on a Presidential Resolution or a resolution from the *Tribunal Superior Agrario* (Supreme Agrarian Tribunal [TSA]). The land cannot be subdivided for individual property, and according to the Agrarian Law, all forests are to be managed as communal lands. In an *ejido*, the land also belongs to a community based on a Presidential Resolution or a TSA resolution, but the land can be subdivided for the individual use of the *ejidatarios*. Each *ejidatario* can have rights to communal lands, but also to individual parcel rights.

Agrarian communities and *ejidos* are legal entities and they have the right to govern themselves and define the uses of their lands and establish the boundaries of such uses within the communal properties. To exercise this right, the communities and *ejidos* have to develop an internal set of regulation and register with the *Registro Agrario Nacional* (National Agrarian Registry). The regulations should address the organizational structure of the community, the rules to admit new members to the community, and the rules and criteria to decide on land uses.

As a result, communities can have different institutions, governance mechanisms, and decision-making processes. There are, however, common organizational structures within the agrarian communities and the *ejidos*:

- The general assembly is the highest authority within a community/*ejido*. In the *ejido*, it includes all *ejidatarios*. Among other things, the assembly is responsible for articulating and modifying the *ejido* regulation, admission of new members, distribution of economic resources and approval of contracts or agreements with external actors, and allocation of areas for different land uses.
- The *comisariado ejidal/de bienes comunes* (*ejido/common goods commission*) is in charge of representing and executing the agreements of the assembly. The members of the commission (at a minimum, a president, secretary, and treasurer with their substitutes) are appointed by the assembly. Among other things, the commission is responsible for the management of the common goods of the *ejido* according to the guidelines established by the assembly, and to ensure that the rights of the members of the *ejido* are respected.
- The enforcement commission is responsible for overseeing the activities of the *ejido/common goods commission* to ensure that it fulfills its obligations and follows the regulations established by the assembly. The members of the commission (a president and two secretaries with their substitutes) are also appointed by the assembly.

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### 1.2.1 REDD+ BENEFITS

Based on a review of official documents<sup>5</sup> and interviews with stakeholders, most of the discussions on REDD+ benefits are focused on how benefits will be captured rather than on how they will be managed and distributed. REDD+ benefits are perceived as monetary payments, although there is recognition that other benefits can be derived, such as improved community organization (sometimes called social capital); direct employment; improved local infrastructure; and improvements in the local natural environment.

Over the past several years, a number of PES systems have emerged in México at the national and sub-national levels, which have generated a cumulative body of experience on managing and operating these systems. It is likely that the REDD+ benefit-sharing mechanisms will build on existing PES systems or improved versions of them.

## 1.3 MODELS FOR INSTITUTIONAL ARRANGEMENTS FOR REDD+ BENEFITS

This study focuses on two systems that were chosen due to their potential role in future REDD+ systems and their relatively well developed status:

- **CONAFOR's ProÁrbol PES system** is the national, and most prominent, government-sponsored system. Several other systems are directly or indirectly linked to it. Early in the REDD+ literature and official presentations, the ProÁrbol system was presented as the model to follow for REDD+ programs. However, recent support for this approach has waned.
- **The carbon sales system in the state of Oaxaca** is a voluntary system facilitated by Mexican nongovernmental organizations (NGOs) that involves 10 communities. According to stakeholders interviewed, this system appears to be one of the best examples of a functioning PES and offers opportunities for gleaning best practices.

These two systems highlight tensions between national and sub-national approaches and efforts to develop and implement REDD+ in México. In addition to these two systems, the case study touches tangentially on a REDD+ pilot in the state of Chiapas and on the State of Chiapas' climate change strategy, which involves a PES system. The Chiapas REDD+ pilot project was also facilitated by Mexican and international institutions and has links to global voluntary carbon markets. This project is an early action pilot as the government develops its REDD+ strategy. The project also was selected because of the links to USAID's Improving Mexican Private Sector Competitiveness Program. However, because this is a pilot in its early stages, the information available is limited.

### 1.3.1 CONAFOR'S PROÁRBOL PES

CONAFOR's ProÁrbol PES system was established in 2003 and is one of the first, and certainly the largest, PES systems in México.<sup>6</sup> The system focuses on payments for water services and for biodiversity conservation. Annually CONAFOR enters into five-year agreements with selected communities to protect and maintain the forest cover of specific areas in exchange for financial compensation. Communities submit applications to enter into the program and winning proposals are selected based on a scoring system that includes the following factors, among others (Government of México, 2010):

- Area and location of the project;

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<sup>5</sup> National Forest Commission, 2010; SEMARNAT, 2010.

<sup>6</sup> Torres-Gonzalez, J. El programa de pago por servicios ambientales en México. Presentation; Gobierno de México.

- Risk of deforestation;
- Proportion of indigenous population in the area;
- Women's participation in the project; and
- The capacity of the applicants to organize themselves and execute the project.

Once the participants are selected, and if it is not available already, the boundaries of the area entering into the contract are delineated and geo-referenced for monitoring purposes. Performance is monitored using a combination of remote sensing and Geographic Information Systems (GIS) analysis to detect changes in forest cover coupled with occasional audits in the field. If deforestation is detected, the payment can be suspended for the year or the remainder of the contract if it is determined that the owner/community did not meet the terms of the contract. At the end of the five-year term, there is a possibility to renew the contract. The program also promotes efforts to secure matching funds to support local concurrent PES systems (CONAFOR, 2010).<sup>7</sup>

#### **Overview of key institutions and actors:**

- *CONAFOR* manages the system, monitors performance, and raises matching funds.
- *The PES National Technical Committee* is comprised of stakeholders from universities and research institutions, private sector, government, and civil society actors. They are responsible for selecting the proposals to participate in the program. The Technical Committee has the authority to demand compliance with the agreement and to cancel the agreement if the communities do not fulfill the terms (Government of México, 2010).
- *The PES Consultative Technical Committee* is comprised of stakeholders from academia, the private sector, government, and civil society. It provides guidance and advice on matters related to the operating rules and eligible areas.<sup>8</sup>
- *Communities, ejidos, and individual landowners* commit to maintaining the forest cover of areas under contract through fire control activities, prevention of illegal logging, and implementation of forest management practices.
- *Intermediaries* include forest technicians, NGOs and private consulting firms. Intermediaries play a key role helping communities to prepare the applications and contracts and develop and implement the projects. Intermediaries are hired by the communities and the fees and terms of these contracts are not regulated by CONAFOR. However, intermediaries are required to be registered with CONAFOR. The agency offers general guidelines as well as suggested fees. For the winning projects, CONAFOR includes additional funds to cover these services.
- *Other actors* include those that contribute to PES matching funds (see below), local governments (including state government, municipalities, and city governments), NGOs, individuals, the private sector, and foundations and international cooperation funds.

#### **Funding sources:**

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<sup>7</sup> Interviews with Paola Bauche, José María Michel, Sofía Magdalena García Sánchez and Víctor Hugo Martínez Cántora (CONAFOR).

<sup>8</sup> Torres-Gonzalez, J. El programa de pago por servicios ambientales en México. Presentation; Gobierno de México.

Funds for the system come from water-usage fees (collected by the national water commission, *Comisión Nacional del Agua* [CONAGUA]) and budgetary transfers allocated by Congress. The money is managed by a National Forest Fund that currently contains \$100 million, \$30 million of which come from CONAGUA. Money from the Fund is allocated to the following three areas:

- ProÁrbol's PES;
- The Biodiversity Conservation Endowment; and
- A program (\$10 million per year) to establish/support local 50/50 matching PES funds for areas that CONAFOR cannot support fully. The local matching PES funds are usually managed by the team executing the project but have some oversight from CONAFOR.

#### Link between land rights and communities' access to benefits:

Legal ownership is a requirement for program participants. Applicants should demonstrate legal ownership of the land, and communities and *ejidos* should be registered in the *Registro Agrario Nacional* (National Agrarian Registry) or demonstrate that the registration is in process.

#### Benefit-sharing functions:

Payments are made annually to either the community representatives or to land owners directly through bank transfers based on an annual fixed payment (Table 1.1; Figure 1.2). The rate is pre-determined every year for different forest ecosystems based on their conservation priority and the opportunity cost of preserving forests vis-à-vis profits obtained from agriculture and livestock. Rates are based on analyses by the National Ecology Institute (INE) using data from the main government commercial agriculture credit agency to estimate average annual profit for growing corn and for livestock production. The results are used as a baseline to determine rates that are designed to optimize the investment of a limited amount of resources while covering as much area as possible (Munoz-Piña, 2007).

CONAFOR does not intervene or include conditions in the contract about the governance of funds within communities. It appears that in a significant number of cases the community leaders distribute the money directly to members of the community.<sup>9</sup>

**TABLE I.1: FIXED PAYMENT RATES IN THE PROGRAMA DE SERVICIOS AMBIENTALES HIDROLÓGICOS (WATER ENVIRONMENTAL SERVICES PROGRAM) (FROM GRAF & IGLESIAS, 2010)<sup>10</sup>**

Priority	Ecosystems (INEGI classification)	Deforestation risk (evaluated by INE)	Rate (dollars/ha/year)	No. Hectares (2010 cycle)
I	Cloud forest	Very high	\$93.00	88,452
II	Cloud forest	High, medium and low	\$60.00	1,853,404
III	Tropical evergreen forests	Very high, high, medium, low and very low	\$46.00	7,388,413
IV	Conifer forests, sub-deciduous forests, and oak and pine forest	Very high and high, medium, low, and very low	\$32.00	25,307,783
V	Deciduous forests and deciduous thorn (dry) forests	Very high and high	\$32.00	5,681,210

<sup>9</sup> Interviews with Paola Bauche, José María Michel, Sofía Magdalena García Sánchez and Víctor Hugo Martínez Cíntora.

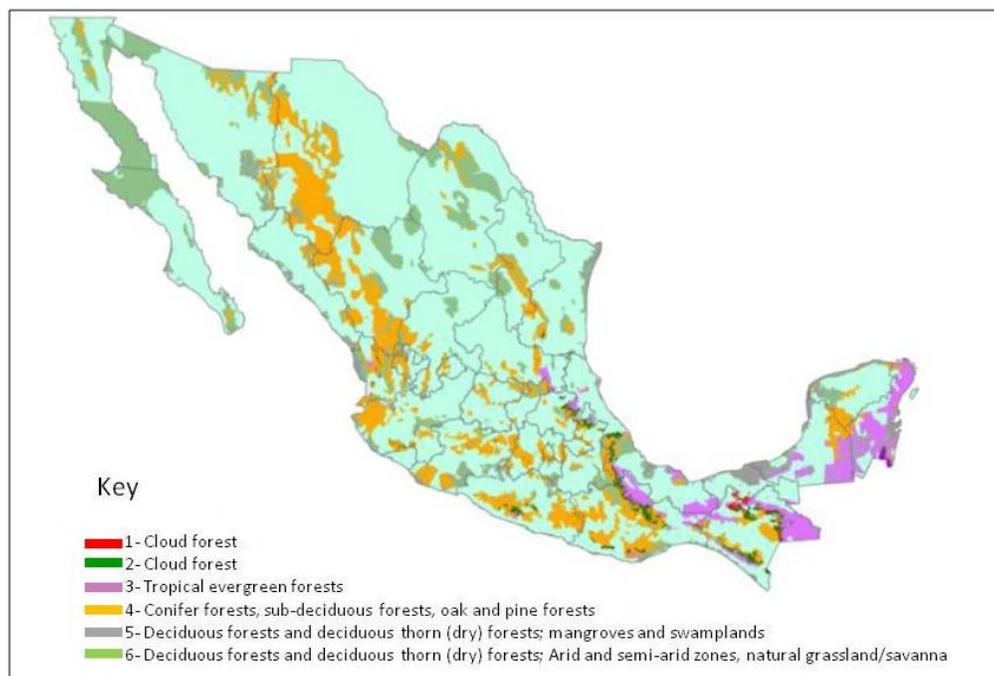
<sup>10</sup> Torres-Gonzalez, J. El programa de pago por servicios ambientales en México. Presentation; Gobierno de México.

Priority	Ecosystems (INEGI classification)	Deforestation risk (evaluated by INE)	Rate (dollars/ha/year)	No. Hectares (2010 cycle)
	Mangroves and swamplands	Very high, high, medium, low, and very low		
VI	Deciduous forests and deciduous thorn (dry) forests	Medium, low, and very low	\$24.00	23,480,064
	Arid and semi-arid zones and natural grassland/savanna	Very high, high, medium, low, and very low		

### Consultation with local communities:

Applications to enter into the PES program should be backed up by an assembly agreement that documents the approval and commitment of the community to enter into the Program. CONAFOR, however, does not interfere with or define consultation processes within the communities (*Secretaría de Medio Ambiente y Recursos Naturales* [Ministry of Environment and Natural Resources (SEMARNAT)], 2010).

**FIGURE I.2: LOCATION OF ELIGIBLE AREAS FOR THE 2010 CYCLE <sup>11</sup>**



### Grievance and conflict resolution benefits:

The communities determine how the funds are used based on their own customs, practices, and decision-making processes.<sup>12</sup> CONAFOR does not intervene or include conditions in the contract about governance or how the funds are to be used once they reach the communities.

### Evaluation of past performance:

<sup>11</sup> Torres-González, op.cit. p. 8.

<sup>12</sup> Interviews with Paola Bauche, José Maria Michel, Sofia Magdalena Garcia Sanchez and Victor Hugo Martinez Cíntora (CONAFOR).

To date, CONAFOR has disbursed an estimated \$429 million to more than 5,400 *ejidos*, communities, and small landowners, which covers 2.7 million hectares of forest. As of 2010, there are 3,940 beneficiaries and 30 percent of the PES system is allocated to communities and *ejidos* inside and around natural protected areas<sup>13</sup>.

The system is credited with reducing deforestation rates and with building social capital in the communities through the collective management of forest resources. However, these results need to be thoroughly evaluated and quantified. CONAFOR is collaborating with an independent researcher to complete this evaluation.

Nevertheless, some concerns about the system include: (a) the lack of long-term financial sustainability and CONAFOR's staff and capacity limitations to monitor and manage the projects;<sup>15</sup> (b) creating dependency from the communities to the funds;<sup>16</sup> (c) related, funds being perceived as "conservation subsidies";<sup>17</sup> and, (c) raising ungrounded expectations of financial benefits that might not occur due to circumstances out CONAFOR's control.<sup>18</sup>

### 1.3.2 CARBON PES IN OAXACA<sup>19</sup>

This project involves 10 communities<sup>20</sup> in the state of Oaxaca that sell carbon through intermediaries. The project started in 2000 by organic coffee growers who were interested in obtaining additional revenue for their agro-forestry operations. The first four years of this initiative focused on articulating the project's goals and activities, securing community buy-in, and building the social/legal/technical basis to execute the project.

In 2004, the communities entered into a five-year PES agreement with CONAFOR for a Reforestation-Carbon Sequestration project.<sup>21</sup> This agreement helped to consolidate the project. In addition to reforestation activities, the project included a community land use planning process and the delimitation and geo-referencing of boundaries of the reforested areas along with institutional capacity building and technical assistance. With time, the outputs of the project became the basis of the existing initiative.

The majority of the lands in the carbon project are areas of common use that were previously deforested. In cases where coffee producers participate in certain communities, they participate as private landowners and thus are entitled to individual compensations for the estimated carbon sequestered in their properties. The role of two intermediary NGOs, *Servicios Ambientales Oaxaca* (Environmental Services, Oaxaca [SAO]) and ProNatura, is critical to this process (see below).

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<sup>13</sup> *Ibid.* Torres Rojo, 2010.

<sup>14</sup> The focus on protected areas is to compensate the lack of mechanisms from *Comisión Nacional de Áreas Naturales Protegidas* (National Commission for Protected Areas [CONANP]) to compensate for land use restrictions inside protected areas.

<sup>15</sup> Interviews with Paola Bauche, José María Michel, Sofía Magdalena García Sánchez and Víctor Hugo Martínez Cíntora (CONAFOR).

<sup>16</sup> Interview with Antony Challenger, SEMARNAT; Jorge Rickards, WWF; Elsa Esquivel, Ambio.

<sup>17</sup> Interview with Antony Challenger, SEMARNAT.

<sup>18</sup> Interview with Antony Challenger, SEMARNAT; interview with Paola Bauche, CONAFOR.

<sup>19</sup> Description is based on the following sources: Interviews with Carlos Marcelo Pérez (SAO) and Benjamín Antonio Ordoñez (Pronatura); authorities and members of the community in Tlahuitoltepec Oaxaca; and SAO, 2010. *Beneficios sociales, ambientales y económicos generados con la venta de bonos de carbono en el mercado voluntario*. Servicios Ambientales Oaxaca.

<sup>20</sup> The project involves ten communities: Santiago Teotlaxco, Santa María Zoogochí, San Juan Yagila, La Trinidad, Santiago Xiacuí, Capulalpan de Méndez, Santa María Tlahuitoltepec, San Juan Metaltepec, San Miguel Maninaltepec, San Bartolomé Loxicha.

<sup>21</sup> It appears this was a short-term program active between 2003 and 2004 to compensate people for carbon sequestration through reforestation. There were only eight projects and the communities in Oaxaca were one of the projects.

## Overview of key institutions and actors:

- *Communities* conduct forest management activities. The communities have agreed to maintain the forest land use over the long term and to not cut the trees, even if the carbon is not sold. The communities own the trees and the carbon absorbed/stored in them and they decide which plots are available for sale and sign off on the purchase. Community members receive technical training to participate in the project and to evaluate performance (e.g., through measuring tree growth, planting new trees, and forest management).
- *SAO* (intermediary) is an NGO based in Oaxaca. SAO provides training and technical assistance to the communities regarding forest/carbon management and monitoring, project development and implementation, and administrative management. SAO offers carbon to the buyers and is authorized by the communities' assemblies to represent the interests of the communities. In addition to selling the carbon, SAO receives and transfers the payments from the buyers to the communities, oversees and validates the community forest management and monitoring activities, keeps records of the operation in a geospatially-referenced database, and prepares periodic updates to the buyers. Updates include financial reports with documentation of the transferring of the funds to the communities.
- *Community technicians* (intermediary) are employed and trained by SAO. The technicians link SAO and the communities by translating technical matters into a common language and also by translating from Spanish to the native language. In many cases, technicians are members of the communities.<sup>22</sup> Technicians are responsible for working with the communities in developing annual forest management plans (e.g., when they will trim the trees, make fire barriers, etc.) and ensuring that these plans are successfully implemented.
- *Pronatura* (intermediary) is another NGO with more visibility at the national level. Pronatura has been engaged in defining the methodology for estimating carbon sequestration and storage; training technical SAO personnel on carbon measurement; ensuring that the carbon sale is considered by the government as a commercial transaction; ensuring the recognition of CONAFOR of the system, including compatibility between the CONAFOR and SAO monitoring systems; and providing assistance on legal matters. Pronatura is also a signatory (sometimes as a witness) of the legal agreements with the buyers, although there are cases where the buyers choose to sign agreements with SAO directly. Both SAO and Pronatura issue certificates to the buyers to back up the carbon sales. Pronatura and SAO also ensure technical compatibility with CONAFOR's national monitoring system.
- *Buyers* are mostly large national corporations, including Televisa (a television network), Gamesa (a bakery), and Chinoín (a pharmaceutical), in addition to private individuals and other smaller buyers from México and abroad.

## Link between land rights and communities' access to benefits:

Forested areas involved in the project are common areas that belong to the community. In setting up the project, ProNatura and SAO provided assistance to review the land tenure status to ensure that tenure was clear and properly documented and registered.<sup>23</sup> The process also involved working with the communities to review and clear up internal governance rules and processes within the communities, as well as identifying and establishing community institutions to execute the project.

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<sup>22</sup> In the case of the Santa María Tlahuitoltepec community, the technician has been involved in the project in different capacities for over five years. This was important to maintain the trust of the members of the community and to ensure the continuity of the project. For example, when community authorities change (every three years), the technician briefs the incoming authorities and brings them up to speed on the project.

<sup>23</sup> Interviews with Carlos Marcelo Perez (SAO), Benjamín Antonio Ordoñez (Pronatura), and Alejandro Pérez Vázquez (SAO), and members of the community).

### **Benefit sharing functions:**

Carbon is offered to buyers at a rate of US\$10 per ton of carbon.<sup>24</sup> From each payment, up to US\$ 1 per ton of carbon sold is kept by SAO and up to US\$1 per ton is kept by Pronatura to support their operations. The rest of the money is channeled to the communities. There is usually a symbolic handing over the money to the community authorities at an assembly meeting. This event is broadcasted on the local public radio stations. Often, the entire *ejidal* assembly (or agrarian authority) cashes the check together. Neither SAO nor Pronatura are involved in the way the communities use or share the funds and more research is needed to study internal community decision-making process.

### **Consultation of local communities:**

Securing community support for the project has required extensive community consultations and dialogue through meetings with the assemblies, community leaders, and community authorities. It was important to secure buy-in from key community leaders first, who then played a critical role convincing and securing the buy-in from the rest of the members of the communities.

Strengthening the project's social, legal, and technical bases involved building the knowledge base and technical capacities of the communities on various themes, such as the impacts of deforestation in the communities, "business as usual" scenarios, ecosystem services, pollution, reforestation, forest carbon, carbon markets, and potential benefits for the communities of the carbon sequestration project for the medium and long terms.

### **Grievance and conflict resolution mechanisms:**

Issues related to the project are addressed in the community assembly. From interviews with members of the community, it appears that the sense of duty to the community is very strong and individuals accept the decisions of the assembly without major issues. For example, the SAO community technician was living and working in México City when the assembly appointed him to serve as the community liaison with SAO (an unpaid position). He was informed of the decision by his family, and he returned to the community to serve.<sup>25</sup> After serving as the community liaison for a couple years, he was hired by SAO to become SAO's community technician working in the community. Also, interviews with two of the four women serving as assistants in the Agrarian Authority show that they accepted their appointments even though the work interferes with their daily activities.

### **Evaluation of past performance:**

The first carbon sale was conducted in 2008 and included three communities. Since then, there have been seven additional sales involving the ten communities. As of March 2011, the project had sold 84,984 tons of carbon, including sales to offset emissions in the 2010 UN Framework Convention on Climate Change Conference of the Parties (COP).

Based on SAO surveys, the communities invested an average of 62 percent of the revenues in forest management, reforestation, or agro-forestry activities; 28 percent into social services within the community; and 10 percent to cover administrative expenses and/or salaries of the agrarian authorities. The surveys indicated that private land owners re-invested the revenues in their operations, incorporated it to the family income, or donated it to support the activities and expenses of the community authorities. In Tlahuitoltepec, the community invested funds in forest operations (greenhouses, equipment), temporary employment for forest management activities, and in complementing salaries and expenses of the agrarian authority.<sup>26</sup>

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<sup>24</sup> This price is above the international carbon market range (between \$3–7 USD per ton).

<sup>25</sup> Interview with Alejandro Pérez Vazquez (SAO).

<sup>26</sup> Interview with Carlos Marcelo Perez (SAO).

It appears that this project is relatively well known in México. Overall, impressions from actors (CONAFOR, SEMARNAT, WWF, etc.) interviewed outside of this project were very favorable and positive. The only concern raised by one of the interviewees was related to the fact that, unlike the REDD+ pilot project in the State of Chiapas (see below), the Oaxaca PES system is not affiliated to an internationally recognized carbon standard and thus, not subject to independent verification of the performance.<sup>27</sup>

### **1.3.3 REDD+ PILOT PROJECT IN THE STATE OF CHIAPAS**

In the buffer area of El Ocote Biosphere Reserve in the state of Chiapas, there is an emerging REDD+ pilot project using the international Plan Vivo approach, which is modeled after the successful implementation of Plan Vivo Scolel Té project in Chiapas.<sup>28</sup> The Scolel Té project is a carbon-sequestration project that uses the Plan Vivo standard to measure and verify carbon sequestration. This approach allows the carbon to be offered on the international, voluntary carbon markets.<sup>29</sup>

The El Ocote project is being carried out by the NGO AMBIO, which also acts as an intermediary services provider between communities and other actors. The project is in its second year. The first year of the project was devoted to activities, such as identifying the communities (three total) for the project and establishing collaboration agreements; conducting community planning activities, including the development of land use plans for communal areas and individual parcels; and building a carbon reference scenario, including monitoring plots. The basic idea is that after current and future land uses are defined and agreed upon, carbon sequestration can be measured and monitored in areas allocated to be permanently forested or reforested and subsequently the carbon can be sold. The carbon initially could be offered to the market through the Scolel Té project.

In this initial phase, the primary focus of the project team is to build the capacity of the communities to produce carbon benefits, measure carbon, and –to some extent—widen their perspectives about the importance of their forest resources. However, the team does not openly discuss the possibility of carbon markets with the communities because they are concerned that they will raise unreasonable expectations. The project is financed, in part, by the United States Agency for International Development (USAID). Because this project is still in an early phase of the process, more time is needed to assess successes and or shortcomings of the project. Even the implementation team recognizes that success is uncertain.<sup>30</sup>

### **1.3.4 PES UNDER THE STATE OF CHIAPAS' CLIMATE CHANGE STRATEGY**

The government of the State of Chiapas is developing, and already implementing a strategy parallel to the development of the national REDD+ strategy and projects like the ones described above related to a state-wide climate change strategy that includes payments to indigenous peoples to maintain current land uses.<sup>31</sup> To date, the state legislation has modified the legal framework that enabled the following three actions: (1) the State Ministry of Environment to be more involved in the development and implementation of the climate change strategy; the establishment of an Environment Fund that collects a special tax from car owners; the use of the funds from the special tax to compensate indigenous land owners who maintain the current land

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<sup>27</sup> Interview with Elsa Esquivel, Ambio.

<sup>28</sup> Description is based on interviews with Elsa Esquivel (AMBIO), Gabriela Lozada (ABT Associates), Javier Medina (CONANP) and the Director of El Ocote Biosphere Reserve.

<sup>29</sup> Plan Vivo is a standard promoted by the Plan Vivo Foundation –a UK-based charity—for the establishment of community-based payments for ecosystem services programs. For more information about Scolel Té and the Plan Vivo Standard, see: [http://www.planvivo.org/wp-content/uploads/Scolel\\_Te\\_factsheet.pdf](http://www.planvivo.org/wp-content/uploads/Scolel_Te_factsheet.pdf).

<sup>30</sup> Interviews with Elsa Esquivel, Ambio;; and Gabriela Lozada, ABTAssociates.

<sup>31</sup> Description is based on interviews with Alejandro Calleja (State Ministry of Environment in Chiapas), Elsa Esquivel (AMBIO), Gabriela Lozada (ABT Associates) and Juan Carlos Franco (Conservación Internacional México).

use. The state government is also working with other partners to define the carbon baseline for the state, to conduct capacity building activities to raise awareness among communities, and to monitor and measure carbon sequestration and emissions. There has been one disbursement and another additional payment is expected.

The PES system under the State of Chiapas's Climate Change strategy was the most controversial among some of actors interviewed for this case study. The main concern was that it was perceived that the payments are used for political gain and that the government was paying indigenous peoples for “doing nothing.”<sup>32</sup>

## I.4 LESSONS LEARNED, CONCLUSIONS, AND RECOMMENDATIONS

### I.4.1 LESSONS LEARNED AND CONCLUSIONS

The PES approach used in México could become the model used for developing the country's major REDD+ benefit-sharing mechanism. Although there are ample experiences with these systems, there are some overarching concerns about PES in México, including:<sup>33</sup>

- The financial benefit sharing process can be politicized and/or used for political gains;
- Funds can be perceived as “conservation subsidies” and thus create dependency from the communities;
- The beneficiaries might not really understand why they are receiving the payment and might use the funds for activities that result in increased emissions. Although this trend has not occurred in Oaxaca, it was a concern raised by most of the stakeholders interviewed;
- Because the communities have the right to decide how to use the funds, it can be challenging to monitor the use of the funds and to persuade communities to invest the funds in long-term community investments or to distribute benefits equitably; and
- PES can raise ungrounded expectations of financial benefits that might not occur due to uncertainties in the markets and/or lack of performance.

Regarding benefit sharing more specifically, the following are targeted lessons learned from the PES examples examined in this case study:

#### **Land tenure and access to benefits:**

In the CONAFOR and Oaxaca examples, clear and defined land tenure is required for communities to be able to participate in the PES systems.

CONAFOR will not enter into an agreement with communities where there are outstanding land conflicts and /or uncertainty in land tenure. Through the land certification program, PROCEDE, 78 percent of the *ejidos* and 43 percent of community lands have been fully certified as of 2006 (Robles, 2011). Based on this fact, this pre-requisite would, in principle, exclude just over a third of the *ejidos* in México and over half of the community lands.

In the case of Oaxaca, when the scheme was set up, SAO and ProNatura provided support for the communities to regularize and register their lands and define their governance processes through extensive,

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<sup>32</sup> Interviews with Elsa Esquivel, Ambio; Gabriela Lozada, ABT Associates; Antony Challenger, SEMARNAT; Paola Bauche, CONAFOR; and José Maria Michel, CONAFOR.

<sup>33</sup> Interviews with Antony Challenger (SEMARNAT), Santiago Enriquez and Gabriela Lozada (ABT Associates), and Elsa Esquivel (AMBIO).

deliberate, and continuous outreach and capacity building activities (e.g. workshops, exchanges, visits, etc.). More research is needed to estimate the financial investment in this process; however, the process required commitment and hard work for over at least four years. In that sense, PES systems and REDD+ could be used as a vehicle to push for, and support, land tenure clarification and regularization and capacity building. However, the time and financial investments required could be significant.

### **Effectiveness in delivering benefits to local communities:**

There are mixed results from the PES systems in terms of delivering benefits. In the case of CONAFOR, the funds are transferred directly to community bank accounts<sup>34</sup> and SAO hands over the funds to communities in a transparent manner. It, therefore, is clear that financial benefits are permeating to the community and/or individual members of the community. However, it is less clear and more challenging to track down how the benefits are used and shared once they reach the communities.

From interviews with members of the community visited in Oaxaca (Tlahuitoltepec), it appears that members of the community are quite happy with the PES scheme and are supportive of the project. One of the members of the community said that the carbon payments were an extra bonus to the water benefits (e.g., continuous water flow in the streams) that they were receiving from reforestation activities. Another said that at the beginning he was quite surprised that people would want to pay them for maintaining trees that would “vacuum away” the carbon from the atmosphere.<sup>35</sup>

Two of the communities involved in the REDD+ pilot in Chiapas have been in the CONAFOR’s PSAH (*Programa de Servicios Ambientales Hidrológicos*, or Water Environmental Services Program) system. The technicians from the communities involved in the project did not know many details about how the benefits were distributed at the community level. It appears the funds were shared only among *ejidatarios* (only one of the four technicians was in track to become an *ejidatario* because he was the oldest son of the family), and that the *ejidatarios* would either share the funds with members of their family and/or augment the family income. When asked whether or not there was discontent among non-*ejidatarios* in the communities and if there was a mechanism to address discontent, the response was that non-*ejidatarios* would submit to the decisions of the assembly.<sup>36</sup>

Thus, a challenge of using PES systems to share benefits under REDD+ is the question of whether the system can distribute benefits in a way that will equitably reach the widest range of stakeholders.

### **Incentives to reduce/abandon practices that lead to deforestation:**

In both the CONAFOR PSAH and the Oaxaca initiative, the systems appear to be working relatively well in terms of reducing deforestation.<sup>37</sup> By providing supplemental income to communities and community households, people are less inclined to cut the trees. In the case of Oaxaca, because the community receives other co-benefits from maintaining the forest cover (see section below), they also are inclined to increase forest cover. However, the challenge is when the supplemental income from PES is not enough to compete with financial benefits from other land uses.

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<sup>34</sup> Interviews with Paola Bauche, José María Michel, Sofía Magdalena García Sánchez and Víctor Hugo Martínez Cíntora (CONAFOR).

<sup>35</sup> Interviews with members of the community in Tlahuitoltepec Oaxaca; and SAO, 2010. *Beneficios sociales, ambientales y económicos generados con la venta de bonos de carbono en el mercado voluntario*. Servicios Ambientales Oaxaca.

<sup>36</sup> Interviews with community technicians from the ejidos Nuevo San Juan, Nueva Tierra, and Ejido 20 Casas.

<sup>37</sup> Interviews with Antony Challenger (SEMARNAT); Santiago Enriquez and Gabriela Lozada (ABT Associates); Paola Bauche, José María Michel, Sofía Magdalena García Sánchez (and others) (CONAFOR). Interviews with members of the Agrarian Authority of Tlahuitoltepec.

Based on the periodic remote sensing monitoring system, the tree coverage in the project areas is stable.<sup>38</sup> A preliminary assessment of the 2004 CONAFOR PSAH cohort conducted by Alix-Garcia *et. al.* suggests that the program has, overall, reduced deforestation among those who were causing deforestation by approximately two percent and also reduced the probability of deforestation by 24 percent compared with other areas that were not involved in the program.<sup>39</sup> The largest impacts were in the northeast and north-central states. However, one of the main concerns about the effectiveness of PES schemes in reducing deforestation is related to additionality. In the case of Tlahuitoltepec, it appears that setting lands apart to be managed as forests did not displace agricultural activities because the forest management activities are occurring in common areas that had been degraded in the past. Furthermore, because members of the community are more aware of the impacts of deforestation, they had already stopped, to some extent, slash and burn agriculture. Rather than clear new lands, community members collected organic fertilizer and topsoil from the forested areas to maintain the productivity of their crops. Thus far, the system appears to be working relatively well (interviews in Tlahuitoltepec). For projects involved in the CONAFOR's PSAH scheme, there is less clarity and lack of systematic analysis of additionality according to CONAFOR. There is also uncertainty with Ambio's REDD+ pilot project in Chiapas, but the idea is that through the design of community and household *Planes Vivos*, the communities will be more aware of the different land use options and, therefore, able to make more informed decisions.<sup>40</sup>

Since in many cases revenues generated from forest management activities are significantly low compared to other economic activities, another major concern is how communities will react when faced with pressure to shift their land use practices. This issue will be encountered across the board, even in communities with a solid/stable forest management tradition. For example, several forest communities in the State of Jalisco that are Forest Stewardship Council-certified are seriously considering converting their forests to avocado plantations for export because of the possibility of a substantive increase in income. An approach to counter this trend that is being considered by CONAFOR is to support and promote sustainable forest management certification for communities to be able to offer certified wood as an additional stream of income and to link certified communities with REDD+ and/or biodiversity markets.<sup>41</sup>

#### **Indirect and co-benefits provided to local communities:**

In addition to financial benefits from REDD+ in México, there are a number of co-benefits that should be considered and pursued. In Tlahuitoltepec, for example, community representatives highlighted the following benefits:<sup>42</sup>

- *Water capture:* The community has experienced a constant flow of water in streams and creeks that were seasonally dry throughout the year;
- *Biodiversity conservation:* A few animal species—including game species—that had not been seen in the communities for some time have been spotted in recent years;
- *Soil conservation:* SAO has documented increases in the top-soil/organic matter cover in areas that have been reforested of up to 20 cm. Members of the communities use this material as organic fertilizer in their crops, which also results in a reduction of slash and burn agriculture;

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<sup>38</sup> Interview with Paula Bauche, CONAFOR; Antony Challenger, SEMARNAT.

<sup>39</sup> Alix-García, J.M., E.N. Shapiro, K.R.E. Sims. 2010. Forest Conservation and Slippage: Evidence from México's National Payments for Ecosystem Services Program. Working Paper. Online at <http://cbey.research.yale.edu/uploads/Environmental%20Economics%20Seminar/Alix-Garcia%20Shapiro%20and%20Sims%20PES%20Mexico%208-6-10.pdf> (10/14/11).

<sup>40</sup> Interview with Elsa Esquivel (AMBIO).

<sup>41</sup> Interview with Paola Bauche, José María Michel, Sofia Magdalena Garcia Sanchez, Victor Hugo Martinez Cintora (CONAFOR).

<sup>42</sup> SAO, 2010; interviews with members of the community in Tlahuitoltepec and Carlos Perez-Gonzalez (SAO).

- *Additional reforestation:* Before the PES, the community had embarked in reforestation activities (e.g., as part of school activities) that were unsuccessful due to a lack of planning. Now that the system is in place, members of the community often request trees for planting in their yards and along water bodies. The trees are from the nursery and are offered at no cost. In addition, the community has reforested additional deforested lands that could be ready to enter into the PES scheme once the carbon baseline and boundaries are established;
- *Capacity and knowledge:* Members of the community seem to have a general basic understanding of the environmental functioning and carbon sequestration and monitoring. They are also more conscious about the impacts and benefits of deforestation and reforestation in their community. A reflection of this increased capacity could be the fact that a relatively large portion of the money is re-invested in forest management activities; and
- *Employment opportunities and volunteerism:* Some of the funds that are re-invested in forest management operation are used to buy equipment, while part is also used to pay members of the community in the forest management activities. Part of the money is also used to pay for the expenses of members of the agrarian authority. This payment potentially threatens customary tradition of *tequio*. In the *tequio*, members of the community have the duty to volunteer time and labor in activities that benefit the community. These activities can range from being assistants to the members of the agrarian authorities, cleaning the church, helping organize community events, and improving infrastructure, among other activities. There is some concern that if workers are paid to do activities there may be a limited willingness to volunteer time and effort. Nevertheless, the community is promoting the use of *tequio* in activities related to the maintenance of the forests.

### **Financial sustainability:**

The lack of real markets is a major risk for the long-term stability of these PES systems. Of the schemes mentioned in this case study, only the Scolel Té, which set the precedent for the REDD+ pilot project in Chiapas, is linked to an international carbon market. Although SAO sells the carbon in the Oaxaca scheme, the price is not determined by markets and the water fees for the PSAH scheme are not necessarily linked directly to the forests or payment for performance system.<sup>43</sup> In addition, in some cases the costs to cover the service providers (e.g., SAO in Oaxaca or AMBIO in Chiapas) are not covered completely by the carbon sales and they have to seek additional funds to cover their operating expenses (e.g., private charitable donations in the case of SAO and USAID funds in the case of AMBIO). This issue poses a risk for the long-term stability of the schemes given the central role that these intermediaries play.<sup>44</sup>

### **Institutional capacity and the role of intermediaries:**

Linked to the financial sustainability issues are capacity limitations. In the case of ProÁrbol, CONAFOR has limited staff for measurement, reporting, and verification (MRV) activities. There also is limited capacity to conduct field audits and to manage the local matching PES funds. This issue is particularly relevant when conflicts arise in matching PES projects to the communities (or land owners), the intermediaries and other donors because the communities bring their grievances directly to CONAFOR.<sup>45</sup>

On the other hand, intermediaries are important players in terms of linking those managing and producing carbon at the local level (e.g., communities) with markets and building the capacities and knowledge-base of the communities. In the case of Oaxaca, the role of SAO and Pronatura has been critical for the success of the scheme. It is very important to make sure that the intermediaries are people that are trusted by the

<sup>43</sup> Interviews with Antony Challenger (SEMARNAT).

<sup>44</sup> Interviews with Challenger, CONAFOR staff, Carlos Perez-Gonzalez (SAO), Jorge Rickards (WWF México), Gabriela Lozada (ABT Associates).

<sup>45</sup> Interview with Paola Bauche (CONAFOR).

communities. In the case of the REDD+ pilot visited in Chiapas, three of the four technicians were recent recruits replacing other technicians that had left the project (even after receiving training) for better opportunities, or that had been replaced by the community assembly because they were not *ejidatarios*. There is also a need to regulate the intermediaries better to ensure that those who are not performing well do not continue to be hired by the communities.

### **Length of the agreements:**

By law, *ejidos* and communities cannot enter into legal agreements for a period beyond 30 years.<sup>46</sup> The terms of the agreements for the PSAH and in Oaxaca are relatively short (five years and one year, respectively), although there are possibilities for extension. Participants in CONAFOR's PES program can apply for a five-year extension, although in the practice more points are given to new applicants in the selection system.<sup>47</sup> To date, there are only two projects that have extended their agreement with CONAFOR.<sup>48</sup> For Oaxaca, the communities have chosen to offer the carbon on an annual basis, although some buyers are interested in this and have committed verbally to longer terms. In fact, a buyer offered SAO/Pronatura to buy carbon for a 100-year period, but the communities declined.<sup>49</sup>

### **Managing expectations:**

Perhaps the two major concerns about PES schemes in México are that they can create unreasonable financial expectations and that can be used for political gain or other purposes. There is a perception that they are only “buying time” and/or are “conservation subsidies” and that they might be creating a habit among communities to expect compensation without doing anything or without changing behaviors.<sup>50</sup> The more serious concerns are about the PES of the State of Chiapas where indigenous communities are paid for “not changing the current land use of their properties”.<sup>51, 52</sup> “The reason AMBIO's REDD+ pilot project in Chiapas does not discuss carbon markets openly with the communities and the focus of the project presented to the communities is on sustainable community development, is because the communities have been “corrupted” by CONAFOR's PES system.”<sup>53</sup>

### **Equity:**

In rural communities, women traditionally are not considered in decision-making processes that have to do with natural resources or economic activities. Pronatura considered this project as an opportunity for women, which would help to ensure the long-term sustainability of the project.<sup>54</sup> Although there is much progress to be made, it appears that participation of women is improving. In Tlahuitoltepec, four women have been

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<sup>46</sup> Interview with Paola Bauche (CONAFOR).

<sup>47</sup> (Diario Oficial de la Federación, 2010) Secretaría de Medio Ambiente. Comisión Nacional Forestal. 2010. Reglas de operación del programa ProArbol 2011. Diario Oficial de la Federación, 29 de Diciembre de 2010. Online at [http://dof.gob.mx/nota\\_detalle.php?codigo=5172994&fecha=29/12/2010](http://dof.gob.mx/nota_detalle.php?codigo=5172994&fecha=29/12/2010).

<sup>48</sup> Interviews with Paola Bauche, José María Michel, and Sofía Magdalena García Sánchez (and others) (CONAFOR).

<sup>49</sup> Interview with Carlos Marcelo Pérez (SAO).

<sup>50</sup> Interviews with Antony Challenger (SEMARNAT), Santiago Enriquez and Gabriela Lozada (ABT Associates), and Elsa Esquivel (AMBIO).

<sup>51</sup> Interviews with Elsa Esquivel (AMBIO) and Gabriela Lozada (ABT Associates).

<sup>52</sup> Historically, politicians have used government funds dedicated to social programs to buy votes in of election times; people are used to this practice and they expect to receive benefits (mostly meals and other goods) just to show up at political rallies. This is a practice that has been in place over the last 80 years in some rural places.

<sup>53</sup> Interview with Elsa Esquivel (AMBIO).

<sup>54</sup> There are many cases where men (or *ejidatarios*) leave the community in search of better employment opportunities leaving women behind to make decisions about the household and—in some cases—the use of the parcels.

elected as assistants to members of the agrarian authority. Although these positions are not decision-making positions, it appears that women are on track for more decision-making opportunities since the members of the agrarian authority are often elected based on their service to the community. Although much progress needs to be made, PES schemes can be used to create opportunities for women, as illustrated in this case of Tlahuitoltepec.

### **Conflict resolution:**

In terms of conflict resolution, there are no formal institutional arrangements to mediate conflict. A government agency that could play a role in this process is the *tribunales agrarios* (agrarian tribunals), although they would need significant training and capacity building to address conflicts related to REDD+.<sup>55</sup> At the community level, conflicts are addressed effectively, to some extent, within the community.<sup>56</sup> More research is needed to determine if indeed all members of the communities have a common perspective of the efficiency and fairness of the process in each of the communities.

### **Community participation:**

Community buy-in is central to entering into a PES scheme, performing carbon sequestration activities according to agreements, and managing benefits effectively. There are opportunities at each of these stages for conflict to arise or for institutions to break down. However, there are examples of success encountered during this México case study assessment, particularly in the community of Tlahuitoltepec.

## **1.4.2 GENERAL RECOMMENDATIONS**

- *Support efforts to involve communities appropriately in the development of the REDD+ strategy.* It is critical to have buy-in from the communities in the development and implementation of the REDD+ strategy and projects. Accomplishing this objective is a major challenge of which many stakeholders involved in the development of the REDD+ national strategy are aware. Using PES schemes as an example, it appears that the better organized the community and the stronger the internal institutions are, the more successful the projects are in practice. Involving communities is particularly challenging because they are often located in areas that are remote and/or of difficult access, and in many cases they do not speak Spanish.
- *Building on the example in Oaxaca, support the use of PES schemes (or REDD+ projects) as a way to define and clarify land tenure.* Given that tenure security is an eligibility criterion for participation in PES schemes, communities may be incentivized to engage in processes to clarify tenure, or facilitating intermediaries may assist communities to reach these tenure security goals. The precedence created by government-sanctioned PES schemes that call for a level of tenure security can be important for building momentum around accepting tenure clarification within government and building the capacity of NGOs and communities to engage in this process, thus leading to tenure clarification and regularization in the early stages of the PES/REDD+ projects although this might require significant up-front investments of time and financial resources.
- *Support efforts to use PES schemes (or REDD+ projects) to formalize governance rules within the communities.* For example, in setting up the project in Oaxaca, the project team made sure that the community governance processes (such as rules for decisions in the assembly) were in place and appropriately recorded in the National Agrarian Registry to be legally recognized (see Box 1.1).

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<sup>55</sup> Interview with Juan Carlos Carrillo (Centro Mexicano de Derecho Ambiental).

<sup>56</sup> Interviews with authorities and members of the communities in Tlahuitoltepec, Oaxaca; interviews with technicians (also members of the communities) in Ambio's REDD+ pilot in Chiapas.

- *Support efforts to build the knowledge-base, awareness and capacity of communities in a framework to achieve sustainable rural development, with clearly defined outcomes and results.* Capacity building is arguably one of the most critical gaps to make REDD+ work, by ensuring that communities exercise their rights to use their resources in a way that is consistent with REDD+ objectives. In addition, capacity building can also be used to address issues of equity and gender equality, which in turn could be important for successful REDD+ implementation. However, capacity building will require significant investments of time and resources. In the REDD+ pilot in Chiapas, the two years of the project thus far have focused on capacity building. In the example from Oaxaca, the project invested four years in building awareness of the project and educating people.
- *Avoid raising unreasonable expectations.* It is very important to manage expectations, particularly since the scale of benefits are not yet clear for REDD+ activities. Although it appears that establishing REDD+ frameworks and projects is a race against time, careful attention must be given to raising the expectations of local communities. If community expectations to earn income from REDD+ projects are high and are not met, then projects could backfire and perhaps even increase deforestation rates in the future.

## MEXICO CASE STUDY APPENDIX I.1: LIST OF INTERVIEWS CONDUCTED DURING THE FIELD VISIT (MARCH 1–12, 2011)

Location	Name	Organization
México City	Anthony Challenger	SEMARNAT
	Enrique Enriquez	ABT Associates
	Gabriela Lozada	ABT Associates
	Jorge Rickards	WWF México
	Juan Manuel Frausto-Leyva	Fondo Mexicano para la Conservación Ambiental
	Juan Carlos Carrillo	CEDMA
	Antonio Ordoñez	Pronatura
	Gustavo Sanchez-Valle	RED MocaF
	Salvador Sanchez Colon	USAID
	Kevin McGlothlin	USAID
Oaxaca	Carlos Marcelo Pérez-González	SAO
	Alejandro Pérez Vazquez	SAO
	Gabriel Hernandez López	Member of the community, and SAO employee
	Modesto Vázquez Martínez	Member of the community, and member of the agrarian authority
	Hipólito Pacheco Vázquez	Member of the community, and member of the agrarian authority
	Marcelino Díaz	Member of the community, and member of the agrarian authority
	Nicasio Vázquez	Member of the community, and member of the agrarian authority
	Tatiana Flores (assistant)	Member of the community, and member of the agrarian authority
	Irma Vázquez (assistant)	Member of the community, and member of the agrarian authority
Guadalajara	Paola Bauche	CONAFOR
	José María Michel	CONAFOR
	Sofía Magdalena García Sanchez	CONAFOR
Chiapas	Elsa Esquivel	AMBIO
	Roberto Escalante	CONANP, Reserva El Ocote
	Javier Medina	CONANP
	Juan Carlos Franco Guillén	Conservación Internacional Chiapas
	Alejandro Callejas	Secretaría de medio ambiente, vivienda e historia natural, gobierno de Chiapas
	Hernesto Hernández	Community technician, Nuevo San Juan Ejido
	Jeremías (last name unknown)	Community technician, Nueva Tierra Ejido
	Javier (last name unknown)	Community technician. Ejido 20 Casas

# 2.0 DEMOCRATIC REPUBLIC OF THE CONGO

## STUDY OVERVIEW:

The Democratic Republic of Congo (DRC) case study provides an overview of emerging strategies and concepts relating to REDD+ benefit sharing that are currently being discussed by stakeholders and policy-makers at the national level (Section 2.2). It then presents experiences with two cases:

- The Ibi-Bateke project, registered with the Clean Development Mechanism: This project results from an investment by a private company, NOVACEL. This afforestation project generates revenues through the sale of agro-forestry products and soon carbon credits. A share of these revenues is invested in local community welfare and development .
- Social agreements concluded between logging companies and nearby communities: The framework for these agreements was recently established by the DRC government and is being tested in one province of DRC.

This study draws insights from interviews and visits conducted between March and May 2011 in Kinshasa and in province Orientale, and from a literature review.

## 2.1 INTRODUCTION

The Democratic Republic of Congo (DRC) encompasses 61 percent of the Congo Basin's dense forests and has the highest net deforestation rate in the sub-region (de Wasseige, [ed.], 2009). In partnership with major international financial institutions and bilateral donors, the country has made significant progress since 2002 to update its forestry legislation and to regulate industrial-scale logging. The DRC's government, through the Ministry of the Environment, Natural Resources and Tourism (MECNT), has consistently showed interest in REDD+ and is playing a leadership role within the sub-region, in particular through the *Conférence des Ministres des Forêts d'Afrique Centrale* (Central African Forest Commission [COMIFAC]).<sup>57</sup>

As a result, DRC is perceived as a strategic country to test and implement REDD+. The country received significant support to develop a REDD+ plan and strategy,<sup>58</sup> and its REDD+ National Coordination team includes international experts who have helped to fill the capacity gap within the DRC government on the technicalities of REDD+ institutional design.

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<sup>57</sup> COMIFAC is a sub-regional institution created by the Paris Treaty in 1999 to harmonize forest policies between Congo Basin countries (DRC, Congo, Cameroon, Central African Republic, Gabon, Equatorial Guinea, Rwanda, and Chad). See [www.comifac.org](http://www.comifac.org) for more information.

<sup>58</sup> The DRC government receives support from the Forest Carbon Partnership Facility (FCPF), The United Nations Program on REDD+ (UN-REDD), and the Forest Investment Program (FIP). In addition, the Congo Basin Forest Fund (CBFF) is financing several REDD+ pilot projects.

Today, the DRC is the most-advanced country within the Congo Basin in the development of a REDD+ strategy, as well as REDD+ instruments and action plans. Its Readiness Preparation Proposal (R-PP) was used as a reference by the Republic of Congo, and the options it will take in terms of institutional design will likely influence the choices made by other Congo Basin countries.

However, the DRC is also facing major governance challenges, with an administration in shreds, largely unable to implement policies or enforce laws. While other Congo Basin countries also have notably weak public administrations, the DRC is facing additional challenges as a post-conflict country, with many forested areas of eastern DRC still experiencing outbreaks of violence. In addition, the size of the country and its poor communication and transportation infrastructure contribute to the isolation of forested provinces from the central government.

This case study is divided into the following four sections.

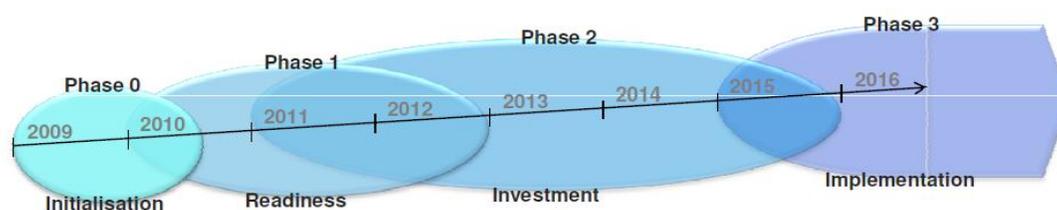
- Section 2.2 reviews progress made thus far on elaborating the REDD+ national strategy and presents an overview of the institutional mechanisms currently considered by the DRC central government for sharing REDD+ benefits.
- Sections 2.3 and 2.4 elaborate on model institutions currently used as references in discussions to develop a national REDD+ benefit-sharing mechanism. The first model is a Clean Development Mechanism (CDM) afforestation project implemented in Ibi-Batéké (Section 2.3) and the second model presents the procedures and institutions established to carry out social agreements signed between local communities and industrial-scale logging companies (Section 2.4).
- Finally, Section 2.5 identifies lessons learned, conclusions, and recommendations for the adaptation of these institutions in a REDD+ context.

## 2.2 OVERVIEW OF DRC'S NATIONAL REDD+ STRATEGY AND OPTIONS CONSIDERED FOR REDD+ BENEFIT SHARING AT THE NATIONAL LEVEL

DRC's national REDD+ strategy is being elaborated according to the following three steps:

- The R-PP was adopted in its final version in July 2010;
- The government has planned to release a Preliminary Strategy. The plan initially was scheduled for release in January 2011, but it was still being developed by the DRC government in June 2011. It will be based on preliminary findings from the first studies programmed in the R-PP and will explain how the government will work to develop the REDD+ National Strategy.
- The final “REDD+ 2030 Strategy,” including the design of revenue-sharing mechanisms, is scheduled to be completed by January 2013 and implemented through 2030.

**FIGURE 2.1: GLOBAL ROADMAP FOR THE REDD+ PROCESS IN DRC CONGO**



*Source: Designing and Implementing a REDD+ National Fund in DRC, presentation of the NC-REDD, December 2010*

**FIGURE 2.2: MAP OF DRC**



Since neither the Preliminary nor the Final Strategies for REDD+ had been developed at the time this case study was written, all elements presented in this document are drawn from the R-PP. Information in the R-PP was complemented with data obtained from interviews with government officials that were conducted by World Resources Institute (WRI) and a local consultant in February–April, 2011, as well as from draft documents shared by the interviewees.

At that stage, options for REDD+ benefit-sharing mechanisms were discussed in general terms. However, a REDD+ National Fund was already presented as a “pillar of the Congolese vision for a REDD+ national mechanism.”<sup>59</sup> The National REDD+ Coordination body (NC-REDD)<sup>60</sup> had already published a request for proposals in February 2011 for a study proposing institutional options for the Fund. However, this study was not available at the time of writing and the Fund’s role, responsibilities, and operating rules were yet to be defined.

NC-REDD+ members that were interviewed for this study suggested that all REDD+ payments would not necessarily pass through the Fund. The option of taking a “nested approach” was still being considered, where international markets would be able to contract directly with local communities. The DRC Ministry of Finance<sup>61</sup> emphasized institutional options that would secure the State’s share of REDD+ revenues, claiming that the State owns by law all national land and forests, and thereby the carbon sequestered in forests.<sup>62</sup> Another argument put forward is the legitimacy for the State to tax any form of national revenue.

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<sup>59</sup> Source: Designing and Implementing a REDD+ National Fund in DRC, presentation of the NC-REDD, December 2010.

<sup>60</sup> The National Coordination on REDD+ (NC-REDD) is the body in charge of formulating technical and policy propositions to the REDD+ National Committee and the REDD+ Interministerial Committee, and of coordinating all REDD-preparation activities in the country. It is housed by the MECNT within the Direction of Sustainable Development.

<sup>61</sup> Felicien Mulenda, Finance Ministry official in charge of Natural Resources, interviewed in Kinshasa on April 12, 2011.

<sup>62</sup> See Appendix 2.1 for more information on the legal status of land and forests in DRC.

## 2.2.1 WHAT ARE THE FORMS OF REDD+ BENEFITS IDENTIFIED?

In a technical note circulated in March, 2011, the NC-REDD+ proposed a typology of REDD+ interventions, which highlighted the distinctions between different forms of REDD+ revenues (Box 2.1). The government has so far focused its attention on how to invest Readiness funds (\$28 million expected), Investment funds (\$40–60 million from Forest Investment Program [FIP], and \$22.5 million from the Congo Basin Forest Fund [CBFF] for pilot projects). There is no revenue flowing from market sales of carbon credits to date.

### **BOX 2.1: TYPOLOGY OF REDD+ INTERVENTIONS AND REVENUES ESTABLISHED BY THE NC-REDD**

- **“REDD+ initiatives”**: Programs and policies to create the enabling conditions for REDD+ to succeed (part of the Investment Phase). Two sub-categories are identified: enabling activities (institutional support, technology transfer, and training of administrative staff) and sectoral activities (field activities with direct impact on carbon emissions, such as support to sustainable forest management). These investments will not be supported by carbon-sequestration performance-based payments, but rather by financial partners such as the FIP, Forest Carbon Partnership Facility (FCPF), United Nations Programme on REDD+(UN-REDD), and bilateral agencies.
- **“REDD+ projects”**: Local projects that aim to reduce carbon emissions and/or increase carbon stocks, will measure emission reductions or carbon sequestered, and will be financed through payments conditional on carbon-sequestration results. These payments will originate from carbon markets, international donor agencies, or through a national REDD+ fund.

The NC-REDD+ considers that the funds allocated to REDD+ *initiatives* (as defined in Box 2.1) cannot be qualified as “REDD+ benefits.” Rather, these funds are investments similar to other public or foreign aid investments. The NC-REDD+ considers that REDD+ benefits will, flow exclusively from REDD+ *projects* until REDD+ reaches Phase 3 (Figure 2.1), if an agreement is reached under the United Nations Framework Convention on Climate Change (UNFCCC).

REDD+ benefits are defined in the R-PP as any form of service, compensation, payment, or positive change resulting from REDD+ projects, according to the following four categories:

- Economic benefits (job creations, compensation for reduced use of forest resources, access to funding and cash, etc.);
- Environmental benefits (ecosystem services provided by forests, improved landscape management, etc.);
- Socio-cultural benefits (better access to health and education, quality of public services, nutrition, etc.); and
- Governance benefits (transparency, accountability, improved procedures and rule of law, etc.).

Under the terminology used in other countries, many of these benefits are generally identified as co-benefits (especially environmental and governance benefits). In addition, it should be noted that, per the definition of REDD+ benefits provided by the NC-REDD+ (Box 2.1), all REDD+ funds reaching the DRC until 2015 will be qualified as REDD+ investments, not benefits (including revenues flowing from REDD+ pilot projects). The DRC strategy on REDD+ benefit-sharing is understood by the government as relevant only to REDD+ projects (*after 2015*).

What specific benefit will flow to local communities through REDD+ projects is not clear yet, nor is it clear if the government will want to regulate project-level benefits. While some countries (e.g., México) already take for granted that REDD+ benefits will materialize in cash payments to communities, DRC government

officials and NGOs seem to agree that REDD+ project intermediaries might keep REDD+ cash payments at their level and instead offer services or non-cash benefits to local communities. Those involved with REDD+ pilot projects in the DRC say they prefer to provide socio-cultural and in-kind economic benefits to local communities rather than share cash revenues. The NC-REDD+ and REDD+ project managers feel that communities are not ready to manage cash.

## 2.2.2 WHO ARE THE REDD+ BENEFICIARIES IDENTIFIED IN THE NATIONAL STRATEGY?

No official document has been produced yet to identify formally REDD+ beneficiaries. The NC-REDD+ organized a first consultation workshop with experts and NGOs on this issue in July 2011. This issue is largely debated within NC-REDD+ and linked with discussions on the carbon rights regime that will be established.<sup>63</sup>

Interviews with government officials, civil-society organizations, and REDD+ project managers demonstrate that there is a growing consensus on the semantic distinction between REDD+ “beneficiaries” and those “service providers” who directly contribute to set up REDD+ projects (investors, technicians, auditors, etc.). The State (centralized and decentralized government) and local communities are more often labeled beneficiaries, although NGOs and NC-REDD+ are still debating on where they should fit based on what they bring to REDD+ projects. There is little agreement on what should constitute the legal basis for the claims of the State or local communities. In addition, the terms of the problem are understood differently among the Ministries and local governments.

In a technical note<sup>64</sup>, the NC-REDD+ presented the two following options:

1. Claims to REDD+ benefits are based on who owns the land, the forests, and forest products; and
2. Claims to REDD+ benefits are based on who contributes to the project that generates carbon credits.

The first option would place land tenure at the heart of the REDD+ benefit-sharing mechanism to be established. The DRC Land Law and Forest Code both establish that the State owns all land and forests, but the Constitution and the Forest Code also recognize customary tenure (see Box 2.2). In this sense, local communities and logging concession holders (or other holders of any form of titled land) may have concurrent legal property rights over a given forest area. On non-forested land, the Land Law applies and long-term land lease holders (*contrat d'emphyteose*) may have concurrent legal property rights with riparian communities (customary authority). Whether customary property rights can be extinguished by a legal title over land or forests is not clear. Some lawyers<sup>65</sup> argue that the Constitution offers strong protection to customary rights by establishing that customary rights to natural resources cannot be taken away without proper compensation (Article 56).

As a result, claims to REDD+ benefits based on land/forest tenure would potentially open competing rights to three types of stakeholders: the State, local communities with customary rights, and concession holders.

As highlighted by the NC-REDD+, the first option has an important caveat: it requires that communities agree on their land's boundaries, a daunting task given the size of the country and the number of land conflicts, especially in the eastern portion of the DRC. In addition, if the Forest Code and its implementing regulation somewhat clarified the legal status of customary tenure over forested land, the Land Law still needs

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<sup>63</sup> Refer to the Appendix A presenting the general context in DRC for more details on the terms of this debate.

<sup>64</sup> “La propriété du crédit carbone en RDC, Éléments de discussion,” Bruno Guay, Technical Advisor within NC-REDD+ (adapted from ONFI's Guidebook of Evaluation and Development of REDD+ projects, 2010).

<sup>65</sup> Augustin Mpoyi, director of *Conseil pour la Défense de l'environnement, la Légalité et la Traçabilité* (CODELT, registered as an NGO).

to be harmonized with the 2006 Constitution and to be completed (several important implementing decrees were never adopted).

The second option, which is favored by the NC-REDD+, emphasizes remuneration of efforts that reduce carbon emissions, with “effort” being defined as the input in capital and labor. Interestingly, this second option does not entirely elude the question of land/forest tenure, as land used by a REDD+ project would be recognized as a form of capital brought to the project. This option would also recognize active contributions to carbon sequestration, such as land-use practices or technical support. It can, therefore, potentially create a clearer link between performance and payment: if the principle by which “those who sacrifice more deserve more” is recognized as the key criterion to allocate benefits, local communities may have stronger claims than the State in its role of ultimate land owner. This option is also favored by civil society organizations that are weary of the State’s claim of being the ultimate owner of all trees and land.

## BOX 2.2: LAWS REGULATING LAND AND FOREST TENURE IN DRC

**The 1973 Land Law** establishes that all land is the “exclusive, inalienable and imprescriptible property of the state” (Article 53). Land is divided into two categories:

- *Private domain of the State*: parts of this domain can be ceded through perpetual or temporary concessions, which can then constitute what is commonly perceived as “private property” of individuals, organizations, etc.; however, these concessions create *use rights*, not property rights (Article 61).
- *Public domain*: land can be solely used for public good or public services and cannot be ceded.

Chapter II of the Land Law recognizes the existence of land occupied by local communities but does not attach this recognition to any specific rights, and limits it to areas that have not been allocated through a legal title or for public purposes.

**The 2002 Forest Code** establishes the same principle on forests: “Forests are the property of the State” (Article 7). However, Article 9 of the Forest Code also establishes that “trees located in a village or its immediate vicinity or in a community’s or individual’s field are the collective property of the village or of the person who owns the field.” The Forest Code also recognizes customary *use rights* over forests, which can be limited by law. Customary *use rights* are defined as the right to use forest resources for subsistence purpose (communities cannot sell products acquired through their customary rights).

**The 2006 Constitution** goes beyond recognizing customary *use rights* and recognizes customary property as an individual and collective right equal to statutory rights: “Private property is sacred. The state guarantees individual and collective rights to property acquired by law or custom” (Article 34).

In a July 2011 workshop on benefit-sharing, the NC-REDD+ and some NGOs seemed to agree that all direct contributions to REDD+ projects establish a right to REDD+ revenues (i.e., net revenue from carbon sales), whereas indirect contributions (or those that cannot be quantified) and social safeguards establish a right to REDD+ benefits. From this perspective, financiers and project managers would be the only ones entitled to REDD+ *revenues*; while other indirect contributors, such as local communities not identified as a party to the project (e.g., Ibi-Batéké project presented below), would be entitled to REDD+ *benefits*. State agencies providing services such as MRV would be service providers and entitled to a share of the revenue generated by REDD+ projects, while other State agencies that would not provide any direct service might be entitled to some benefits.<sup>66</sup>

<sup>66</sup> These concepts are still being discussed and NC-REDD+ noted that they will be clarified in the following months.

### 2.2.3 WHAT INSTITUTIONAL SYSTEM IS CONSIDERED TO CHANNEL REDD+ BENEFITS?

In a technical note shared in March 2011<sup>67</sup> the NC-REDD+ identified five possible sources of REDD+ funds:

- **State budget funds** (e.g., National Forest Fund, trust funds for protected areas);
- **Independent National REDD+ fund** (yet to be created), eventually with entities in each Province;
- **Private investors and buyers on the international carbon market**, specifically for REDD+ pilot projects that will have already started before DRC's REDD+ institutions are in place (e.g., *Nouvelle Société d'Agriculture, Culture, et Élevage* [NOVACEL] project in Ibi-Batéké described later in this document);
- **Traditional foreign aid** contributing to the implementation of REDD+ preparation and subsequently of the REDD+ national strategy (e.g., foundations, bilateral aid, etc.); and
- **Traditional private financing mechanisms**, such as foreign direct investment, bank loans, and projects implemented by international conservation organizations on private funds.

According to the NC-REDD, REDD+ initiatives and projects will be funded directly by these sources, or indirectly through intermediary institutions, such as the National Forest Fund, or trust funds for protected areas. It is not clear yet if the national REDD+ fund will be considered an intermediary institution or a funding source, but it seems clear that it will not funnel all REDD+ funds as is planned through a similar mechanism in Tanzania.

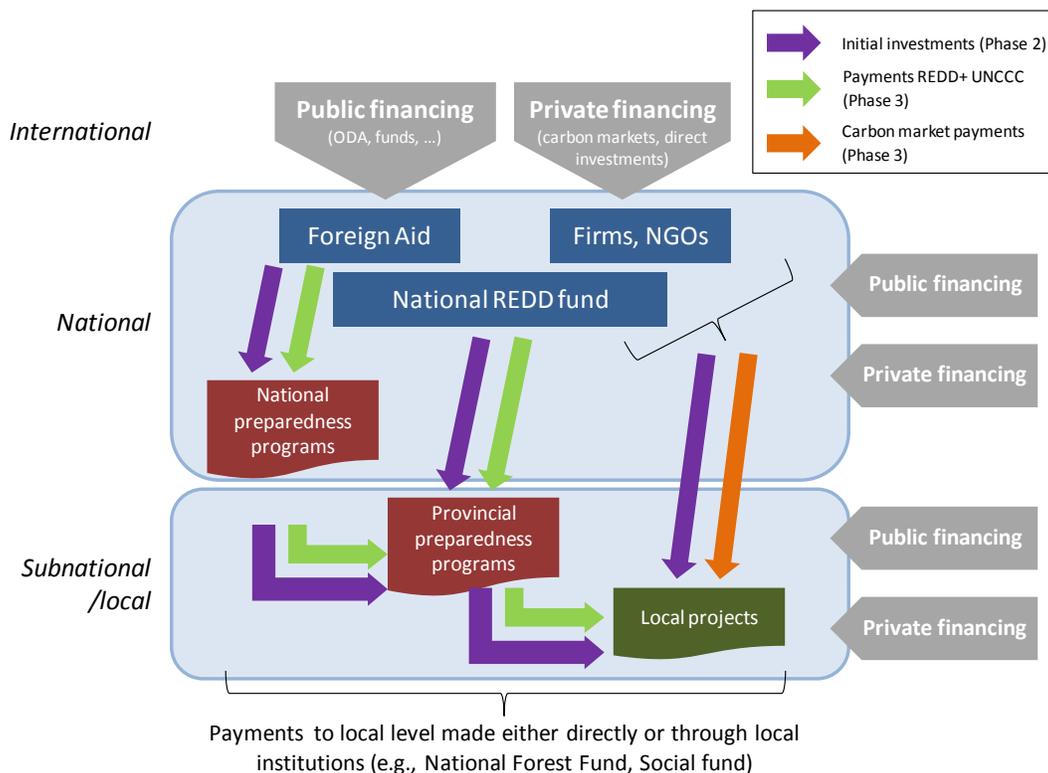
The National Strategy is expected to provide more details on how (and whether) each of these funding sources will reach local communities. What remains to be clarified is how this broad scheme will reconcile with existing environmental benefit-sharing rules established by the Constitution and the 2002 Forest Code.

If DRC adopts a carbon rights regime establishing that carbon is a national resource (on the basis that the State ultimately owns all land and underground resources), carbon revenues will become national revenue and likely fall under Article 175 of the Constitution and implementing regulations will likely follow those defined in the 2002 Forest Code (Box 2.3). One possible outcome would be that carbon revenues (defined as net benefit from market sale of carbon credits) generated by REDD+ projects on privately held land are taxed similar to forestry and mining activities. The product of these taxes would then be shared between Provincial and National governments according to the rule established by the Constitution and/or the Forest Code.

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<sup>67</sup> Cadre de mise en oeuvre interimaire de la REDD+ en RDC : Vue d'ensemble et Propositions, note technique prepared by NC-REDD, March 2, 2011.

**FIGURE 2.3: TENTATIVE FRAMEWORK FOR REDD+ IN DRC—FINANCIAL FLOWS**



Based on *Cadre de mise en œuvre intérimaire de la REDD+ en RDC : Vue d'ensemble et Propositions*, note prepared by the NC-REDD, March 2, 2011.

More uncertainty remains regarding what revenue distribution rule will apply to carbon revenue generated on untitled land. For example, would a local community be subject to the same taxation system for carbon revenue generated on land held under customary tenure? The current Land Law (of 1973) does not provide any answer to this question. However, its revision is underway and might provide more clarity in regards to non-forested areas.

In forested areas, the 2002 Code and implementing regulation on community forest concessions will enable communities to register forests under their customary tenure as “community concessions”. Article 37 in the draft *Arrêté*<sup>68</sup> explicitly exempts revenues from payment for ecosystem services and conservation from any taxation and stipulates that revenues generated by REDD+ projects on community concessions will be allocated to a “community development fund.” However, the procedure to create community forest concessions is relatively complex<sup>69</sup> and will require external support from NGOs and local administration. Experiences in other countries with similar legislation show that it will likely take years for community concessions to be created.

In the meantime, it is less clear how local communities will benefit from REDD+ projects carried out on their land (held under customary tenure) that is located outside community concessions. The Ibi-Batéké

<sup>68</sup> Final draft (as of June 2011) of the *Arrêté Ministériel portant dispositions relatives à la gestion des forêts des communautés locales et à la tenure des forêts villageoises*.

<sup>69</sup> To exploit their concession, communities have to create three local institutions (Community Council, Management Committee, and an Oversight Committee presided by a local administrative official), to establish a forest management plan that includes an inventory, participatory mapping, and land use plan. In addition, commercial logging permits have to be approved and granted by provincial authorities *annually* (Articles 9 to 17 of the abovementioned *Arrêté*).

project, the first to be registered as a CDM project, is widely used as a reference in REDD+ discussions, as it illustrates a project launched by a private company, on non-forested areas, where customary tenure was not perceived to be secure. This project is presented in Section 2.3 of this document.

To ensure REDD+ projects carried out by outside organizations (firms, NGOs) do benefit local communities, including those lacking clear tenure, the NC-REDD+ is proposing that the official registration of REDD+ projects be conditional upon their ability to demonstrate that they respect internationally recognized social standards (e.g., Climate, Community and Biodiversity Alliance Standards [CCBA]). In a draft version of the official REDD+ procedures shared in May, 2011, the NC-REDD+ would require that REDD+ projects demonstrate that local communities and indigenous people gave their full, prior and informed consent to the project, and that they signed an agreement on benefit-sharing with those who are developing the projects.

The use of social agreements is also supported by many Congolese NGOs, who propose to follow the model recently created for logging concessions. The implementation of this model has just begun in DRC (the implementation regulation was adopted in June 2010). This model of social agreements is presented in further detail in Section 2.4.

### **BOX 2.3: REVENUE-SHARING RULE ESTABLISHED BY THE 2006 CONSTITUTION AND THE 2002 FOREST CODE**

**The 2006 Constitution, Article 175**, establishes that 40 percent of national revenue collected by provincial governments is kept at the Province level (40 percent of which is allocated to sub-provincial government entities), and 60 percent is transferred to central government. The Constitution does not regulate how these funds should be used at the Province level, and the practice has been that they have been allocated to cover government and administration operational costs.

This disposition of the Constitution has not been fully applied yet, as the Treasury (central government) has continued to centralize collection of revenues generated by exploitation of forests and mining through export taxes.

In addition to this constitutional provision, **the 2002 Forest Code** introduced two important innovations specific to the forestry sector:

- 40 percent of the annual area tax on logging concessions is transferred from the Treasury to the Provinces where the concessions are located, with the specific mandate to use these funds for public interest works and infrastructure (Forest Code, Article 122); and
- Industrial logging companies are required to sign with local communities adjacent to their concessions a negotiated social agreement, indicating what benefits and services the companies will provide to the communities, such as roads, health and education centers, or transportation services (Forest Code, Article 89 and *Arrêté 028* establishing a model for social agreements).

A similar provision is included in the Mining Code (unlike the oil and gas sector where benefits to communities are negotiated on a contract basis without any legal requirement).

## **2.3 ILLUSTRATION OF A PROJECT-BASED BENEFIT-SHARING ARRANGEMENT: THE IBI-BATÉKÉ PROJECT**

The Ibi estate is located on the Batéké Plateau, approximately 150 kilometers from the capital Kinshasa. It is part of the village of Mbankana, Maluku municipality. The Batéké plateau is 90 percent covered with

herbaceous or shrubby savanna that is burnt many times per year, while the remaining area is degraded forest used for subsistence farming (maize, cassava) and charcoal making (World Bank, 2009).

The Ibi-Batéké project is carried out by NOVACEL, a private company specializing in agriculture and livestock farming, in collaboration with GI-Agro (an NGO created by NOVACEL leaders and providing training in agro-forestry) and Profinaf Invest (finances, marketing).

NOVACEL was created by the late Paul Mushiete Mahamwe, Minister of Finance under President Mobutu. His three children own the company, and one of them, Olivier Mushiete, is the company’s CEO. Olivier Mushiete also presents himself as a traditional chief of the area.

Olivier Mushiete launched the Ibi-Batéké project in 1995. The initial objective was to accompany local communities in the reforestation and restoration of degraded land through changes in land use patterns. Ibi-Batéké project is DRC’s first and only CDM project approved and registered under the Kyoto Protocol. Carbon sequestration was recently added as a supplementary source of revenue for the project.

The project is widely perceived of as a success, both in terms of environmental and socio-economic results. The World Bank promotes it as a model to follow, both nationally and internationally. NOVACEL has already started scaling-up this framework in cooperation with the DRC Ministry of the Environment by investing in large tracts of land in other provinces of DRC (Sud-Kwamouth territory).

### 2.3.1 GENERAL DESCRIPTION OF THE PROJECT

Ibi-Batéké activities spread over 8,000 hectares (ha) and involve afforesting over 4,200 hectares of savanna land. To date, 1,700 ha have been planted. Exotic trees (primarily pines, acacias, and eucalyptus) will be mature after seven years and will be partially harvested after 10 years for fuel wood and charcoal production. An “ecological area,” comprised of local species and a natural regeneration area were also established (World Bank, 2009). The project runs a charcoal producing unit and uses GIS technology to monitor land cover changes. Agroforestry activities include planting manioc among young acacias. The project runs a food processing plant to process the manioc and sell it in nearby markets, primarily in Kinshasa. The project currently employs 35 permanent staff and 400 temporary staff (200 equivalent full-time). Project managers estimate that in the future the project will hire 25 additional permanent staff and 100 more temporary staff.

### 2.3.2 FUNDING SOURCES

The project already generates income from manioc intercropped with acacias and from fuel wood produced from the wood of these acacias. NOVACEL developed carbon sequestration activities mainly with the earnings from manioc and fuel wood sales. In addition to sales benefits, NOVACEL identifies the following financial partners (World Bank, 2009):

**TABLE 2.1: IBI-BATÉKÉ PARTNERS**

Category	Name	Area	Financial support
Private Companies	Umicore (Belgium)	Specialized in materials technology. Develop, produce, and recycle materials.	US\$ 325,000 (seven-year investment loan)
	SUEZ	International industrial and service group specialized in the management of public utilities (water, waste, energy).	US\$ 325,000 (seven+ -year investment loan)
	Orbeo	Joint-venture between Rhodia (production of specialty chemicals) and Société Générale (banking group). Co-purchasing emission reductions with the World Bank (see below).	US\$ 2,000,000 (expected to buy 500,000 tCO <sub>2</sub> e at US\$ 4 per ton)
	Other private investors	N/A	US\$ 130,000

Category	Name	Area	Financial support
NGOs	Service Laïque de Coopération au Développement (SLCD)	Belgian NGO in charge of implementing the community development or social component of the project.	N/A
International/ Bilateral Development Agencies	Agence Française de Développement (AFD)	French development agency.	US\$ 620,000 (loan, to be confirmed)
	The United Nation Development Programme (UNDP)	Division of Technology, Industry, and Economics.	US\$ 100,000 in technical assistance
	World Bank	Through the BioCarbon Fund, co-purchasing emission reductions with Orbeo.	US\$ 2,000,000 (expected to buy 500,000 tCO <sub>2</sub> e at US\$ 4 per ton)

NOVACEL also recently signed a contract with the French private company Danone for the purchase of additional emission reductions.

### 2.3.3 LINK BETWEEN LAND RIGHTS AND COMMUNITIES' ACCESS TO BENEFITS

The Ibi-Batéké project is carried out on land privately owned by Olivier Mushiète and his family, which is rented to NOVACEL. Traditional chiefs of neighboring communities have negotiated to receive co-benefits from the project. In the absence of any legal foundation for local communities' claim, co-benefits seem to have been voluntarily granted by NOVACEL.

Legally, Olivier Mushiète is the primary beneficiary of all revenues generated by Ibi-Batéké project. His claim is grounded in four different ways:

- Project activities take place on a section of the 22,000 ha of land Olivier Mushiète personally inherited with his brother and sister;
- He is customary chief of the Ibi clan on which his land is situated and his authority is backed by the local *Chefferie*;
- Olivier Mushiète titled 8,000 ha of the land he inherited under his name and registered it as a concession (*contrat d'emphyteose*); and
- The land is rented to NOVACEL, a company that he manages and owns with his brother and sister.

Other lawful beneficiaries are Olivier Mushiète's sister and brother, who also co-inherited the 22,000 ha and own the remainder of NOVACEL's stock shares.

The fact that NOVACEL acquired a legal title over the land (instead of relying on the customary claim of the traditional chiefs) in order to secure its rights over carbon rights will likely create a precedent for other REDD+ projects in the country. It also highlights that despite familial attachments to the land, there may still have been questions regarding the level of tenure security NOVACEL actually had and whether investments were indeed safe from contestation.

Communications material from Ibi-Batéké highlights that the project is carried out on land under customary tenure of clan Chief Mushiète. However, by obtaining a legal title over the 8,000 ha of project activities, in addition to having the land recognized by the *Chefferie* as privately-held land, Olivier Mushiète seems to have effectively extinguished any competing customary claims over Ibi estate by other clan members.

Still, local chiefs have challenged Mushiète's claim over this land on grounds that were not entirely clear to the people interviewed for this study. In response, NOVACEL recently created the Ibi Commission

comprised of the 18 clan chiefs within the Mbankana Chefferie.<sup>70</sup> Members of the commission seem to have come to an agreement, which would include the obligation for NOVACEL to provide social services (e.g., health and education centers) and to improve local infrastructure.

### 2.3.4 FUNCTIONS PERFORMED IN TERMS OF BENEFIT SHARING

This section addresses how existing benefits from agro-forestry and agro-industrial activities have been shared in the project. An agreement was reached on how the revenue from carbon sales would be shared and is described below, although no information is available on its implementation as carbon revenues are expected to materialize in upcoming years.

As mentioned above, the Ibi-Batéké project is a private-firm investment. Contrary to logging or mining concessions, private firms investing in agro-forestry or afforestation activities are not required by DRC law to provide social services to or to share benefits with local communities. It seems that NOVACEL voluntarily agreed to provide benefits to local populations (and the World Bank is said to have also pushed in this direction).

#### **Designation of beneficiaries and design of benefit-sharing rules:**

As mentioned above, in the absence of a legal basis for local populations to claim a share in NOVACEL benefits, NOVACEL was entitled to decide alone what benefit to share, how, and with whom. Another important point is that the project did not require any change of land use, source of livelihood, or any form of direct contribution from populations (outside paid employees). The land used by the project was said to be free of any prior occupant, although this information could not be verified in this study.

However, to receive funds from the World Bank and to register as a CDM operation, Ibi-Batéké project had to meet the social safeguards of these institutions, which include consulting local populations affected by the project and demonstrating positive socio-environmental impacts from the project.

The type of benefits shared with local populations is identified in project documents as contributions to local development, mainly through employment and entrepreneurial opportunities, connection to markets, and new infrastructure available to local populations. The project broadly identifies beneficiaries as “local communities” and provides no benefit on an individual basis outside salaries to project employees (most of whom are immigrant workers from other provinces of DRC).

In terms of consultations, local populations seem to have been informed and consulted exclusively through their customary chiefs.<sup>71</sup> As mentioned above, the traditional chiefs were able to negotiate that a fixed share (12 percent) of revenues from carbon sales the benefit-sharing mechanism to be used by NOVACEL when carbon revenue starts flowing: Their argument was that “during the consultations with local communities, the traditional leaders emphasized that the land concession<sup>72</sup> to the Mushiete family was dependant on the provision of social services to the local communities. NOVACEL has addressed this concern by creating a mechanism through which proceeds from the carbon credit sales will directly fund community development activities to benefit local population” (World Bank, 2009).

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<sup>70</sup> More information on the Ibi Commission is provided in 2.3.6, Grievance and Conflict Resolution Mechanisms.

<sup>71</sup> Two reports on the Ibi-Batéké project mention these consultations: World Bank, *Carbon Finance Assessment Memorandum (Cjam) on a Proposed Carbon Finance Transaction on the Ibi Bateke Carbon Sink Plantation (IBCSP)*, May 11, 2009, and Ernst & Young et Associés, *Ibi Batéké degraded savannah afforestation project for fuelwood production (Democratic Republic of Congo)*, Evaluation Report, 01 December 2010.

<sup>72</sup> The reference to a “land concession” was not substantiated by research conducted for this study. The fact that customary chiefs referred to a concession to the Mushiete family shows that, if negotiations did take place among the traditional chiefs, the content of this negotiation has not been shared or publicized.

Interviews with NOVACEL staff did not yield further information on the exact process and rules by which this negotiation was carried out.

### **Delivery of benefits:**

Some benefits were already delivered by NOVACEL to local communities using revenues other than carbon credit sales, including “potable water facilities, electrification and social service facilities (schools and pharmacies); as well as capacity building, including teachers and educators, agricultural extensionists, medical services, applied research and development.”<sup>73</sup>

Olivier Mushiete created a non-profit organization, GI-Agro (see Box 2.4), which is NOVACEL’s official partner to manage project funds allocated to local development and to ensure that local populations benefit from Ibi-Batéké. In this capacity, GI-Agro receives funds from NOVACEL and will manage the 12 percent share of carbon revenues.

### **BOX 2.4: MISSION AND ORGANIZATION OF GI-AGRO**

GI-Agro has two main activities: research and development in agro-forestry, in collaboration with the universities of Kisangani and Kinshasa; and rural development through agro-forestry. The latter has mostly focused on villages around Ibi and is organized around three objectives:

- Strengthen production capacity and develop economic opportunities for the villagers;
- Improve villagers’ access to basic social services (e.g., built a primary school and dormitories, a health center with a maternity unit, dug wells to improve access to water);
- Promote solidarity through cultural activities (e.g., theater, music, sports); and
- Capacity building in agro-forestry techniques and agriculture intensification practices.

Source: [http://www.ibi-village.cd/index.php?option=com\\_content&view=article&id=101&Itemid=96&lang=en](http://www.ibi-village.cd/index.php?option=com_content&view=article&id=101&Itemid=96&lang=en)

GI-Agro is in charge of monitoring the construction of the buildings, wells, payment of teachers’ salaries, and provision of training to villagers. GI-Agro staff based in Ibi village says they are in close contact with the population to hear their needs and feedback. There doesn’t seem to be any interest (at least from GI-Agro or NOVACEL) to establish a more formalized consultation process.

Ibi villagers interviewed for this study provided overall a very positive feedback on the work accomplished by GI-Agro. Some villagers<sup>74</sup> complained that what has been done is not enough, but there was no clear discontent with the project or with GI-Agro’s work to deliver benefits.

### **2.3.5 CONSULTATION OF WITH LOCAL COMMUNITIES**

NOVACEL hired several full-time staff to handle interactions with local communities, in addition to its partnership with GI-Agro. More specifically, they hired a specialist on customary affairs, an agronomist, a nutritionist, and an agricultural technician specialized in socio-organization and communication to manage the community development component of the project (World Bank, 2009).

The model of the Ibi-Batéké project to manage social benefits through an NGO controlled by NOVACEL leaves little room for the participation of local populations in this process. An argument presented by

<sup>73</sup> This document can be consulted on the Ibi-Village website: [http://www.ibi-village.cd/index.php?option=com\\_docman&Itemid=113&lang=en](http://www.ibi-village.cd/index.php?option=com_docman&Itemid=113&lang=en).

<sup>74</sup> This feedback was provided by individuals while our partner was visiting the village. No systematic survey was conducted with villagers. Therefore, this feedback might not be representative of the majority’s perception.

NOVACEL staff and supporters is that the externalization of benefit-management to an NGO and the provision of services, rather than cash, limits opportunities for corruption or mismanagement.

Local populations were officially consulted on the following two occasions: (1) for the socio-environmental Impact Assessment commissioned by NOVACEL and carried out by a consulting firm in 2006; and (2) during later consultations carried out by the Lead Social Development Specialist of the World Bank *in persona*.

Reports from these consultations seem to indicate that those consulted were actually customary authorities who were viewed by NOVACEL, GI-Agro and supporting institutions (including the World Bank) as representatives of the populations. More field research would be necessary to better evaluate the extent to which the clan chiefs of the Mbankana Chefferie are considered as being legitimate representatives by their communities.

### **2.3.6 GRIEVANCE AND CONFLICT RESOLUTION MECHANISMS**

The Ibi Commission is the only known mechanism to handle conflicts specific to the Ibi-Batéké project. All clan chiefs of the Mbankana *Chefferie* are members of the Commission, which is presided over by the *Chefferie* Chief. The mandate of the Commission is to mediate land disputes. It is also expected to help prevent conflicts by creating a space for regular dialogue between the clans and with Ibi-Batéké project leaders.

Outside the Ibi Commission, individuals could use the public court system, which is, however, highly dysfunctional and difficult to access for most of the population.

### **2.3.7 EVALUATION OF PAST PERFORMANCE**

The Ibi-Batéké project is widely presented as a success by the DRC government, the World Bank, and the private sector in DRC, as well as by conservation organizations like World Wildlife Fund (WWF). The NC-REDD+ regularly refers to this project as a reference for the national REDD+ strategy. The Ministry of Environment of DRC is supportive of Olivier Mushiete's efforts to create a second project site in DRC.

The fact that Ibi-Batéké was the first CDM operation registered under the Kyoto Protocol in Africa and generates tangible benefits for local people (e.g., schools, health centers, wells, etc.) are successes that should not be underestimated.

More field research would be necessary in the Ibi village to better understand the local dynamics of benefit distribution. Benefits, however, are widely appreciated, especially the construction of an eight kilometer pipe that brings water to the village.

Scalability of the Ibi-Batéké model is not clear. The success of this project relies mainly on the personal skills of a private entrepreneur with extensive political connections. Olivier Mushiete was able to secure land from any competitive claim, to mobilize capital from the private and public sectors, and to build on the wealth of his family. His personal commitment to supporting local development also seems to have been a key component for ensuring that local populations would benefit. Successes in terms of local development are similar to the accomplishments of the most progressive companies in the forestry and mining sectors, exhibiting the same paternalistic pattern of the firm providing public services in lieu of the State.

## **2.4 BENEFIT-SHARING ARRANGEMENT IN THE FORESTRY SECTOR: THE CASE OF SOCIAL AGREEMENTS**

The 2002 Forest Code (Article 89) and implementing regulations require logging companies to contribute to the development of populations living in areas riparian<sup>75</sup> to forestry concessions through the provision of

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<sup>75</sup> See 3.4 "Functions of the institution in terms of benefit-sharing" for more details on the type of benefits provided.

infrastructure and social services. The Code defines “riparian communities” as a “cohesive group traditionally organized by customary rules, bound by clan or parental solidarity [and] attached to a specific territory.”<sup>76</sup> The Code mandates that companies sign social agreements with these communities as part of the forest management plan, provide a model for these agreements defining what should be negotiated between the parties, and, to a certain extent, define how the negotiations should be carried out (*Arrêté* 028, 2008).

The implementation of this new regulation was just starting in 2011. The *Arrêté* 023 provided the model of social agreement that was adopted on June 7 2010, based on the experience of a pilot with a *Société de Développement Forestier* (SODEFOR) concession. In 2011, the Ministry of the Environment launched a request for proposals for consultants to disseminate information on the new regulation to the communities located near the 80 active logging concessions and to support communities in the negotiation of these agreements.

The drafting process of the *Arrêté* 023<sup>77</sup> was exceptionally open and participative, prompting a deep sense of ownership among NGOs who contributed to, and fought for, the model of social agreements proposed in the *Arrêté*. This process might explain why these NGOs now strongly support using social agreements in REDD+ projects, in spite of the limited experience with their implementation to date.

This section will present the benefit-sharing mechanism created by this new regulation in general terms, since it was not possible to make a site visit to an active concession during the course of this study.

#### 2.4.1 GENERAL DESCRIPTION OF THE INSTITUTION

The implementation of social agreements is regulated by the *Arrêté* 023, which requires the creation of a local development fund (FDL) to be managed by a local management committee (CLG). The CLG are comprised of one representative from the logging company and at least five elected representatives of local communities or indigenous populations whose territory (under customary tenure) overlaps with the concession where logging is taking place. The president of the CLG is an elected member of the local community or indigenous populations and acts under the supervision of traditional authorities of these communities. A civil society organization can assist local communities and attend CLG meetings as an observer.

Social agreements signed between local communities and concessions list in detail the amount of funds made available by the logging company (between \$2–5 per cubic meter of wood logged in the concession, depending on the species), the roads to be renovated (with their exact location and nature of the work done), the schools and health centers to be built or renovated, the transportation services provided, and any other service agreed upon which is consistent with the Forest Code. The agreement must indicate what percentage of the FDL will be allocated to initial investment vs. maintenance throughout the five years of the agreement. The CLG agrees where funds shall be kept, such as by the logging company or by a third party (e.g., church).

Finally, the *Arrêté* 023 also requires the creation of a local oversight committee (CLS) to monitor the implementation of the social agreement. The CLS is presided over by the head of the territorial administration and comprised of one representative of the logging company and three representatives of local communities or indigenous peoples. In addition, one NGO can become a full member of the CLS upon agreement by all other members.

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<sup>76</sup> 2002 Forest Code, Article 1, al. 17. The notion of riparian community is specific to the Forest Code: decentralization laws adopted subsequently do not identify communities as an administrative unit (the smallest unit being the village, which does not have judicial personality). The loose definition of the Forest Code therefore provides significant flexibility for communities to self-identify and define their boundaries, without going through any administrative process to be recognized as a community.

<sup>77</sup> This *Arrêté*, as well as approximately 30 other implementing regulations to the Forest Code, was drafted in workshops gathering international and national NGOs and the MECNT. National NGOs were able to propose whole sections of the regulations, and obtained that the MECNT follows their preference against the recommendation of the head legal advisor to the Minister on important aspects (e.g., registration rules for community concessions).

## 2.4.2 FUNDING SOURCES

As mentioned above, the main funding source for the FDL identified in the *Arrêté* 023 is contributions by logging companies based upon social agreements. The funds of two-to-five US dollars per cubic meter of harvested wood and the total amount to be invested in the FDL are calculated based on a quarterly inventory carried out by the company under the control of the national forest service.

However, there is no legal restriction limiting contributions to the FDL to only logging companies. Discussions with the NC-REDD+ and local NGOs indicated that these organizations favor the use of this new local institution to manage funds that could flow from conservation or carbon sequestration projects, as well as other forms of fiscal revenues.

## 2.4.3 LINK BETWEEN LAND RIGHTS AND COMMUNITIES' ACCESS TO BENEFITS

Neither the Forest Code nor its implementing regulation explicitly link communities' claim to social agreements benefits to a recognition of local communities' customary tenure over land. Instead, the Forest Code (Article 44 and 89) recognizes communities' customary *use rights*: Article 44 indicates that communities' customary use rights are maintained within logging concessions except for any commercial or farming activities and any use deemed incompatible with logging activities. The recognition of customary tenure (arguably provided by Article 34 of the Constitution<sup>78</sup>), therefore, fails to protect communities' forested land from being allocated for exploitation. It does, however, create the right for communities to reap some benefits following the logic of compensation for the restrictions on use rights and the diminished availability of forest resources following logging.

This interpretation is consistent with the principles established in the 2006 Constitution (Articles 34 and 56), which only goes halfway toward recognizing customary tenure, but establishes the right to benefit from natural resources without any ambiguity.

*Arrêté* 023 and other texts regulating management plans of forest concessions put the onus on concession holders to identify and map the customary claims of communities within, and adjacent to, concessions before they can be logged. While in other countries, customary claims must be justified by visible signs of use, the DRC only requires that traditional authorities (such as *Chefferie* and clan chiefs, in charge by law of managing land under customary tenure) state their claim and agree on the boundaries of their territory. The process to secure this agreement is defined in *Arrêté* 023 (participatory mapping) and the resulting map and negotiated social agreements have to be consensual.

## 2.4.4 FUNCTIONS PERFORMED IN TERMS OF BENEFIT SHARING

To date, there has been limited experience with the implementation of the institutions created by the Forest Code and its implementing regulation. Between five and ten social agreements have been signed between concession holders and communities since 2010, but none of them seem to have yielded any concrete benefit to local communities. Communities around a SODEFOR concession in Boshwe territory have received external support ahead of the government's program. Since 2010, three missions have taken place where two local NGOs funded by WWF have presented the new regulation to communities, helped set up the negotiation committee and the CLG, trained their members, and followed the negotiations until signature of the agreement.

However, there has been no official communication on this experiment since the signing of the agreement and the team could not visit the site. Therefore, the description of functions performed below presents elements of the law rather than experiences with its implementation.

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<sup>78</sup> Article 34 of the Constitution "guaranties the right to private or collective property acquired by law or custom."

### **Designation of beneficiaries:**

Beneficiaries from social agreements are identified in the Forest Code and implementing regulation as neighboring communities who have recognized customary claims<sup>79</sup> overlapping with the forest concession.

These communities are identified by the concession holder through a legally required socio-economic survey necessary for obtaining a concession title. The concession holder has to negotiate with all communities whose customary claims overlap with the areas to be logged within the concession. Negotiations take place as the concession holders are preparing the management plan. The negotiation guide officially endorsed by the Ministry of Environment mentions that the socio-economic survey conducted by the concession holder should identify who the legitimate authorities are and requires that affected communities set up a “negotiation committee” that is representative of all community members (including women, youth, and indigenous people). They can request the assistance of an NGO or any individual (e.g., mayor, parliamentarian, expert) who will be able to take part in the negotiation sessions as an observer.

### **Design of benefit-sharing rules:**

The law is very clear that the beneficiaries are communities and not individuals within communities<sup>80</sup>: Article 89 of the 2002 Forest Code provides a list of “socio-economic infrastructure and services” to be provided by logging companies: “construction of roads, renovation and construction of hospitals and schools, and facilitation of transportation services for people and goods.” While this list does not aim to be exhaustive (local management committees can add other benefits), it does frame the type of benefits to be provided. It also *de facto* eliminates the question of how benefits will be shared within a given community.

However, the question of benefit-sharing between communities neighboring the same concession is open, since one social agreement can apply to more than one community. If the law specifies that decisions within local oversight committees are based on a consensus, it does not provide any rule for how decisions should be made within the negotiation committee or CLGs.

### **Delivery of benefits:**

The model of social agreement provided in the annex of *Arrêté* 023 lists each and every infrastructure and service to be provided by the logging company, together with the blueprint of any building, the exact location of any road, and a financial estimate for each of these elements. In addition, the social agreement must include a description of how maintenance costs will be covered after the agreement period. Finally, it identifies what costs should be covered by the State (e.g., teachers’ salaries, hospital operating costs).

The logging company is responsible for the delivery of those benefits that fall under its responsibility. The logging company may keep the funds, but the management responsibility for the local development fund is shared with local communities through the CLG (*Arrêté* 023).

The CLS monitors the implementation of the social agreement and the activity of the CLG.

## **2.4.5 CONSULTATION OF WITH LOCAL COMMUNITIES**

*Arrêté* 023 creates permanent institutions at the local level to ensure that local communities are involved in the choice of benefits they want to receive, the management of these benefits, and the control of their delivery. Contrary to project-based committees, these institutions are designed to last for the long-term.

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<sup>79</sup> A map of customary claims is one of the documents required by DRC government to grant a logging concession.

<sup>80</sup> *Arrêté* 023 actually requires that the logging company gives priority to community members in employment opportunities (under the condition that they have the required skills). However, as in the case of Ibi-Batéké, this type of socio-economic opportunity is rather a positive externality than a guaranteed benefit.

These institutions are in essence participatory because they regulate how local communities work together with the logging company and local State authorities. The composition of the CLGs and CLSs is intended to ensure that community representatives are the majority in these forums. This measure, added to the possibility for communities to receive external support from NGOs and elected officials, can help compensate for the imbalance of social and economic powers between villagers without formal education and adequate information and logging company officials or State authorities.

#### **2.4.6 GRIEVANCE AND CONFLICT RESOLUTION MECHANISMS**

Conflict mediation is particularly necessary in DRC, as illustrated by recent events taking place during negotiations between SIFORCO, a subsidiary of an international timber company, and local communities. In April, 2011, villagers protested against SIFORCO for “not following through on promises to build community infrastructure. The company called on local authorities to quell protesters, resulting in 16 men being beaten, three women and three minors raped, and one man, Momoma Tika Frédéric, killed” (Hance, 2011).

These events took place as the institutional model for social agreements was still being set up and tested. Building on this experience, the *Arrêté* 023 established two mechanisms to mediate conflict. At the community level, local oversight committees, presided by a State authority, are expected to help mediate disagreements between communities and concession holders. The State authority is expected to be a neutral player (at least in theory) between negotiating parties.

At the territory level (administrative entity), the *Arrêté* 103<sup>81</sup> creates decentralized forest conflict resolution commissions. These commissions are in charge of resolving all forest-related conflicts, including those opposing two logging companies, those opposing companies to communities, and inter-community conflicts. They would likely be responsible to handle REDD-related conflicts as well. These commissions are also presided over by the *Territoire* administrator (as are the CLSs), but may have more members from local administrations (territory-level representatives from the environment and conservation services, rural development services, land tenure services, etc.). Logging companies and local communities are represented by local associations.

This commission is required to meet in a regular session every three months and can be called on for an extraordinary session if a complaint is filed with the territory forest administrator. Parties to the conflict are full members of the commission for the extraordinary meetings.

If parties are not satisfied with the decisions of the commission, they can appeal to the high court (*tribunal de grande instance*). The court system, however, is notably disorganized and inefficient in the DRC today.

#### **2.4.7 EVALUATION OF PAST PERFORMANCE**

Early experiences with negotiating social agreements tend to illustrate the need for permanent local institutions to provide space for dialogue between communities, State authorities and logging companies. Where this three-way dialog was not present, conflicts became violent rapidly (e.g., between SODEFOR and local communities, where distrust was already high. The police intervened upon request by the logging concession and a man was killed). When local authorities were excluded from negotiations, elected or administrative officials undermined the negotiation process either through ignorance or in an attempt to get their share of the benefits (e.g., ill-informed provincial parliamentarians mobilized communities to fight for rights they did not actually have by law).

All these new institutions presented above will likely take several years to be fully operational. The major program launched by the Ministry of the Environment to support communities in negotiation social

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<sup>81</sup> *Arrêté* 103/CAB/MIN/ECN-T/15/JEB/09 of June 16, 2009 defining the organization and operation of forest conflict resolution commissions.

agreements with logging companies is expected to yield enough lessons before the REDD+ National Strategy is adopted (by 2013), allowing the DRC government to take these lessons learned into account.

## 2.5 LESSONS LEARNED, CONCLUSIONS, AND RECOMMENDATIONS

Although the two benefit-sharing mechanisms presented above are based on drastically different models, they also share common characteristics reflecting the legal and institutional background in the DRC and provide an interesting contrast of options to consider for REDD+.

### 2.5.1 LESSONS LEARNED FROM IBI-BATÉKÉ AND SOCIAL AGREEMENTS IN THE FORESTRY SECTOR: CHALLENGES AND OPPORTUNITIES FOR REDD+ BENEFIT-SHARING

#### **Land tenure and access to benefits:**

Community access to benefits in the case of the Ibi-Batéké program does not stem from any legal or customary land claim. Rather, the land belongs to the project founder and his private company. All benefits flowing to local communities result from negotiations with traditional authorities—the way private firms in the mining and oil sectors negotiate to secure their cooperation, or merely to avoid tensions that would undermine operations.

Financial support to the project by the World Bank required NOVACEL to meet the Bank's social safeguards,<sup>82</sup> which include the obligation to formally secure local populations' support for the project (not their consent) and to demonstrate that the project will have neutral or positive social impacts.

In this context, local communities have very limited levers with which to negotiate what benefits they will get, how much they will get and under what form since they are not *entitled* to benefit. Project managers decide unilaterally what to negotiate and how, and they have the law (and police forces) on their side.

In the case of social agreements signed with logging companies, customary claims over forests within a concession create a right to access benefits. Concession holders cannot obtain a logging authorization from the administration without the explicit consent of local communities. The law provides further protection to local communities by imposing a model of social agreements that is particularly detailed and by creating institutions where local community representatives are systematically a majority. Finally, the government's program to support local communities in these negotiations is expected to help balance unequal access to information and to strengthen their bargaining power.

#### **Effectiveness in delivering benefits to local communities:**

The Ibi-Batéké project has effectively delivered community infrastructure and services to local populations through its partner NGO, an achievement that greatly contributes to the positive perceptions of this project held by those we interviewed. Benefit delivery is entirely managed by professional project staff, which has the advantage of avoiding the lengthy compromises and inefficiencies common to community-based organizations—an argument frequently mentioned by supporters of Ibi-Batéké.

With carbon sales revenues expected in the upcoming years to add to benefits already provided, the local traditional chiefs seem to be content with the types of services delivered. Indeed, the project contrasts with the State's inability to provide basic public infrastructure, such as roads, wells, schools, and clinics.

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<sup>82</sup> World Bank social and environmental safeguards:  
<http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0,,contentMDK:20403235~menuPK:4564185~pagePK:64709096~piPK:64709108~theSitePK:502184,00.html>

The institutional model for social agreements was created recently and its effectiveness in delivering benefits, therefore, is not clear. However, the DRC already has experience with social agreements signed on a voluntary basis by logging companies prior to the new Forest Code. At that time, benefits were granted on a voluntary basis and delivery was entirely managed by the logging company, as in the case of the Ibi-Batéké project today. In some cases where logging companies did not deliver on their promises (or because of misunderstandings), local communities mobilized to hold companies accountable. However, this mobilization was often violent, disorganized, and ended in clashes with local police forces. The new institutional design builds on lessons from these experiences to improve benefit delivery to populations.

### **Incentives to reduce/abandon practices that lead to deforestation:**

Reducing deforestation is not the objective of Ibi-Batéké project, which is mostly located on non-forested land. The few forest galleries of the Batéké plateau were used primarily for wood fuel and charcoal production, but these activities do not contribute significantly to local livelihoods. However, to meet its afforestation objectives, the project must make sure local populations are not tempted to cut the trees indiscriminately.

The project addresses this issue through positive incentives (e.g., providing training in agro-forestry to change land use patterns in the long term or supporting local energy needs through controlled charcoal production), and by clarifying that tree plantations belong to NOVACEL and are not open to access or use by community members. This seems to have been quite effective to date, as project staff did not report illegal logging as an issue.

Social agreements in the forestry sector also mix positive and punitive incentives. The agreement template has a whole section on local communities' obligations (*Arrêté* 023), which includes contributing to sustainable management of forests, preventing illegal logging, controlling fires and restricting access to the concession by individuals outside the community. Last but not least, the Forest Code bans any farming activity within concessions. Benefits obtained through social agreements aim to compensate communities for these duties and restrictions.

In both cases (Ibi-Batéké and social agreements), conditions seem to ensure that conditionality of benefits-sharing is clear and enforced:

- The entity providing benefits is located in the concerned forest, allowing for relatively low-cost, continuous control of communities' activities;
- This geographic proximity of the provider is also important to adjust the terms of the contract: if the opportunity cost increases for communities, they will start cutting down the trees, indicating to project/concession holders that they need to increase communities' share of benefits; and
- The presence of a contract (social agreements) or a clear tenure situation (Ibi-Batéké) establishes without ambiguity the rights and responsibilities of each party.

Neither scheme is equipped, however, to address leakage risks. By definition, project and concession holders are exclusively concerned with what happens on their parcel and they have no incentive to discourage communities from filling their needs in other forested areas.

### **Indirect and co-benefits provided to local communities:**

The robustness of the Ibi-Batéké model resides in its integrated design, providing many co-benefits to communities, such as employment opportunities, improved access to water and to markets, increased farming productivity, and, more generally, a more dynamic local economy. These positive externalities were visible within a short period of time after the project inception. Carbon revenues will provide NOVACEL and GI-Agro with additional resources to provide the same type of benefits, which will increase the financial

sustainability of the model. However, the model itself does not rely on carbon revenues to provide co-benefits to local populations.

Because logging concessions are focusing on one type of activity only that does not indirectly benefit communities, co-benefits from social agreements will probably be more limited, even though the focus on social infrastructure and services aims, as in the case of Ibi-Batéké, to improve lives and local economies in the long term. In addition, local concessions are located in remote areas, and a few kilometers of roads will not significantly change the fact that these populations are isolated and have limited access to markets.

### **Financial sustainability:**

In the case of Ibi-Batéké, financial sustainability has been an issue from the start. The initial investment was possible thanks to the familial wealth of Olivier Mushiete and the political connections of the Mushiete family, which were likely key to get through the red tape and secure administrative authorizations (including titles over land). Once past these initial difficulties, the project's strategy was to diversify activities and thereby revenue sources. This strategy generated sufficient trust from investors to bring in additional funds and invest in new areas, such as afforestation activities and carbon sales.

This diversification strategy will be a positive component of a future REDD+ initiative. Even if carbon revenues are not as high as expected (e.g., market price of carbon credits plunges, unequal carbon sequestration volumes across years), project viability will likely not be threatened.

The question of financial sustainability in the case of social agreements is addressed differently. Revenues available to communities over the period of the agreement (five years) are proportional to the number of trees harvested within the concession. After this period, financial sustainability becomes a more pressing issue. Social agreements must specify how infrastructure and services will be maintained after five years (e.g., parties must agree on a percentage of the funds allocated to maintenance), but communities with limited financial management capacity will likely face difficulties to ensure that these funds are efficiently used. This problem could be alleviated if the FDL are used to manage other funds, such as the products of the forest area taxes or REDD+ investments.

### **Institutional capacity and the role of intermediaries:**

The two models differ significantly with respect to institution capacity and the role of intermediaries. In the case of the Ibi-Batéké project, all benefit-sharing responsibilities are handled by project staff. Community capacity building is strengthened in the long term through training in agro-forestry and the availability of schools, but community-level institutions are not strengthened nor empowered in any other way. Actually, research shows that they might be de-legitimized over time, as benefits flowing from the project outgrow those provided by community (or State) institutions. This model maintains communities in a situation of complete dependence on intermediaries to carry out the project and maintain the flow of revenues.

In contrast, institutions created in the case of social agreements are designed to empower communities that are legally designated as beneficiaries. Communities will be provided the space and power to negotiate with logging concessions on what benefits they want to receive, how, and when. In addition, community members will be co-responsible to manage FDLs and oversee the use of these funds. Whether or not the new regulation will actually reach these objectives will likely depend on the level and quality of support provided to communities (and State authorities) to help them understand the new regulation and use the bargaining power they are given by law. However, the limited administrative burden and the proximity of the institutions created should allow communities to be autonomous after a few years of experience.

### **Managing communities' expectations:**

In both models, communities are not generating revenues on their own. Rather, they are merely recipients of revenues from commercial activities carried out by others.

In the case of logging concessions, this passivity has often created unrealistically high expectations among communities. Villagers can see the wealth of the company (through equipment, salaries to their staff, clothes, etc.) and many stories circulate on how much money they make selling the wood they harvested. The colonial past is still present and contributes to the distrust between villagers and logging companies.

### **Equity:**

Equity of benefit-sharing within communities seems to be a secondary issue, as both Ibi-Batéké project and the model of social agreements require that all funds be invested in “community projects” that by definition should benefit all villagers equally. Opportunities for elite capture seem to be limited in the case of Ibi-Batéké, as all benefits are managed by an external organization controlled by NOVACEL. More experience with FDLs will be needed to assess how egalitarian these institutions will be.

## **2.5.2 CONCLUSIONS AND RECOMMENDATIONS**

The NC-REDD+ and NGOs are still in the process of identifying options for REDD+ benefit-sharing. Their perceptions are evolving quickly as they work to translate concepts into practical solutions. It is, therefore, too early to make specific recommendations on institutional mechanisms for benefit-sharing. This sub-section, therefore, attempts to identify the main advantages and drawbacks of the two main strategic options currently considered in DRC.

A general belief of government officials and NGOs interviewed is that REDD+ benefits flowing to communities should not come in the form of cash payments. Communities are considered to be unable to manage cash and not likely to acquire this capacity in the short term due to a lack of basic education, geographic isolation, and lack of access to information.

There are important strategic consequences to this perception. If decision-makers perceive that it will take too much time for communities to acquire money management skills, then they will likely try to by-pass this problem and regulate the type of benefits that can reach populations. Although this approach might limit opportunities for elite capture in the short term, it might also prevent populations from gaining the skills that they will need in the long term (including money management skills).

### **Efficiency vs. communities’ control of benefit-sharing decisions:**

Along these lines, ongoing discussions in the DRC on REDD+ benefit-sharing seem polarized between efficiency *vs.* communities’ right to (some) control over benefit-sharing decisions.

The case of the Ibi-Batéké project illustrates how REDD+ projects would be carried out most efficiently by bypassing the major problem of communities’ capacity and keeping their expectations low by concentrating all benefit management responsibilities in the hands of project staff. However, this case study also noted problems with this model that might undermine the country’s capacity to meet carbon sequestration objectives:

- *Concentration of power and rights in the hand of intermediary agencies:* Communities remain passive recipients with limited-to-no bargaining power. Land use changes required to reduce deforestation and forest degradation are less likely to be sustainable when communities do not develop ownership of projects promoting these changes.
- *Limited community capacity-building:* The current system maintains communities in a situation of dependence and might even weaken community-level institutions in the long run. Strong community institutions, however, are necessary for communities to self-regulate land and forest use patterns.
- *Limited scalability:* the success of the project relies heavily on the personal wealth, skills, and connections of Olivier Mushiete.

The model built for social agreements with logging concessions addresses, at least in design, these three problems. It provides more bargaining power to communities in the following two important ways.

- First, by recognizing them as entitled shareholders to revenue generated from the use of their land, thereby entitling communities to negotiate what benefit they want and overseeing the delivery of these benefits. They are more likely to develop ownership of land-use change decisions and to enforce these decisions effectively.
- Second, by establishing the negotiated benefit-sharing agreement as a contract with legal force and establishing local arbitration structures to mediate disagreements, communities' institutions have an active role to play. This approach will create incentives for community members to hold them accountable of decisions they make.

However, using the model of social agreements for REDD+ will likely require a longer transition period, where local communities experiment with the new institutions created (i.e., CLGs, CLSs, and FLDs). To be successful, these new institutions will require external support, which will be provided (at least partially) by the new program launched by the DRC government to support communities in negotiating social agreements with logging companies.

#### **Social safeguards vs. land tenure security:**

The terms of this debate on efficiency vs. communities' rights are connected to another debate as to which vehicle would best secure local communities' access to REDD+ benefits. The NC-REDD+ and many conservation NGOs are in favor of strong social safeguards, where as human rights organizations instead favor strengthening communities' tenure rights.

The Ibi-Batéké project demonstrates that social standards do not guarantee that communities have a say in benefit-sharing decisions, and might as well remain passive recipients. This process does not mean that local communities will necessarily reject the project or not appreciate its results (such as changes in land use patterns). Rather, the Ibi-Batéké project shows that by bringing important co-benefits, and providing opportunities for improved livelihoods, it can create buy-in without extensive participation in benefit-sharing decisions. However, projects focusing more narrowly on REDD+ will probably face more challenges. In addition, the location of Ibi-Batéké (near Kinshasa) places it in a particularly favorable situation (in terms of access to market and existing infrastructure) that will probably not be replicable in remote areas where REDD+ projects are likely to be set up.

## DRC CASE STUDY APPENDIX 2.1: LIST OF INTERVIEWS CONDUCTED DURING THE FIELD VISIT (MARCH-MAY 2011)

Type of organization	Organization name	Contacts interviewed & Title
<b>Government</b>	Ministry of Forestry	Dr. Ir. Hadi S. Pasaribu
		Cleo Mashini, National REDD+ Strategy Lead
<b>Donors</b>	USAID - CARPE	John Flynn, Director; Nicodeme Tchamou
	World Bank	Andre Aquino, Carbon Finance Specialist
	UN-REDD	Bruno Guay, Technical Advisor; Bruno Hugel, Technical Advisor; Fabien Monteils, Technical Coordinator
	PNU	Yves Wancesias Nyakabingu, National capacity building coordinator
<b>Local government</b>	Orientale Province	Jean Marie Mago, Environment Advisor; Joseph Tofendo, Legal Advisor; Esuka, Provincial Minister of Agriculture, Samuel Lifendi, Provincial Environmental Coordinator
		SOMWE, Chef de l'Antenne Provincial du Fond Forestier National
<b>NGOs</b>	OCEAN - REDD+ Isangi Project Pilot	Joelle Mukungu; Cyrille Adebu
	WWF	Flory Botamba, REDD+ Coordinator
	Greenpeace	Rene Ngongo, Political Advisor
	OSAPY - Kisangani Pilot Project	Willy Loyombo
	SESA Commission	Rubin Rashidi, REDD+ Climate Group
	REPALF	Joseph Itongwa, National Coordinator
	WCS	Jean Remi Makana, Forestry Coordinator
	CDPE- Mambassa REDD+ Pilot Project	Celestin Raoul Bamongoya, Coordinator
	OSAPY - Mambassa REDD+ Pilot Project	Marie Boundawana, Richard Lokoka
Projet REFORCO	Prosper Sabongo	
<b>Private Sector</b>	Federation des Entreprises du Congo	Robert Osundja
	ILEXA- Bois	Felicien Liyofu, President
	Ibi-Bateke	Olivier Mushiete

## 3.0 TANZANIA

### STUDY OVERVIEW:

The Tanzania case study provides an overview of emerging strategies and concepts relating to REDD+ benefit sharing that are currently being discussed by stakeholders and policy-makers at the national level (Section 3.2). It then presents experiences with two existing community-level institutions currently considered to manage future REDD+ benefits:

- Wildlife Management Areas (WMAs), allowing communities to get a share of revenues from safari and hunting operations taking place on their land.
- Village Land Forest Reserves (VLFRs), allowing communities to keep all revenues generated through sustainable forest management taking place on village land.

This study draws insights from visits conducted on the Enduimet WMA and the Suledo forest, and from a review of the abundant literature published on Tanzania's experiences with WMAs and participatory forest management.

### 3.1 INTRODUCTION

Tanzania is one of the first countries in the world to have circulated a draft of its national REDD+ strategy. This strategy lays out key principles on how the country will approach REDD+ both technically and institutionally.<sup>83</sup> In Section 3.2, this case study looks more closely at how this draft strategy addresses issues of REDD+ benefit-sharing. Although important aspects of the institutional design to share REDD+ benefits are yet to be defined, interviews with government officials and NGOs provided information about the primary options being considered.

Since benefit-sharing options discussed for REDD+ today are largely informed by past experiences with wildlife benefit-sharing institutions and participatory forest management, these two benefit-sharing mechanisms are described in more details in Section 3.3 and 3.4 of this document. Section 3.5 proposes lessons learned from these two mechanisms and draws general conclusions and recommendations on how they could inform the national REDD+ benefit-sharing mechanism to be adopted in Tanzania.

### 3.2 OVERVIEW OF NATIONAL REDD+ STRATEGIES FOR BENEFIT SHARING

The first draft of the REDD+ national strategy for Tanzania has been available for public comment since December, 2010. The draft been criticized by several NGOs and experts<sup>84</sup> on two points relating to benefit-

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<sup>83</sup> Refer to Landesa's Carbon Rights case study on Tanzania for a presentation of the REDD+ National Strategy (Section 3).

<sup>84</sup> Feedback published by the Tanzania Natural Resource Forum (TNRF), an initiative counting 3,751 individual and organization members. Available at: <http://www.tnrf.org/files/FEEDBACK%20First%20Draft%20National%20REDD%20Strategy%20from%20REDD%20Pilot%20Projects.pdf>.

sharing. First, consultations with civil society to elaborate this first draft have been limited. Second, the position of the strategy on how REDD+ benefits will actually reach local communities is ambiguous since the National REDD+ Trust Fund (NRTF) is to centralize all forms of REDD+ benefits.

On this issue, the national strategy defers to a study on “Financial mechanisms and incentive schemes” that is yet to be published. Objectives identified for December, 2012, include: “to develop a clear and transparent financial mechanism,” “to develop a clear and transparent incentive/compensation scheme,” and “to establish a clear social safeguard policy.”<sup>85</sup>

During interviews carried out for this study, government officials (in the Vice-President’s Office [VPO] and the Forestry and Beekeeping Division [FBD] at the Ministry of Natural Resources and Tourism [MNRT]) spoke principally of a NRTF, although the embassy of Norway talked about a financial mechanism as if the decision had not been made. Many NGOs are convinced that an NRTF will be established. Ongoing discussions on the role of the NRTF are described below (Section 3.2.3).

**FIGURE 3.1 MAP OF TANZANIA AND SITES VISITED FOR INTERVIEW**



### 3.2.1 WHAT ARE THE FORMS OF REDD+ BENEFITS IDENTIFIED IN THE NATIONAL STRATEGY?

The REDD+ national strategy identifies REDD+ benefits as either market or non-market payments. Both forms of payments will be channeled through the NRTF according to the strategy, which lists broad potential uses for these funds. For example, including “conservation and protection of forest resources, capacity building, research and training on REDD+ related issues, improving livelihoods of local communities through provision of alternative sources of income and energy” (Republic of Tanzania, p. 16, 2010). According to the government officials interviewed, the NRTF will distribute money received minus some transaction costs. The price paid to beneficiaries will depend partly on the world market price for carbon.

<sup>85</sup> United Republic of Tanzania, National Strategy for Reduced Emissions from Deforestation and Forest Degradation (REDD+), Executive Summary, p.10.

In interviews, FBD officials said that they expected that aggregate institutions would be intermediates between central government and villages, and that villagers would decide how to manage and invest their REDD+ money.<sup>86</sup>

Many people interviewed in Tanzania do not believe that REDD+ benefits will be significant. Most of Tanzania's high-carbon forests are in the protected estate while Tanzania's *miombo* woodland is low-carbon forest. As an example, CARE in Zanzibar anticipates that carbon benefits will be \$5–\$10 per ha. Many NGOs, however, advocate that forests provide communities with a wide range of benefits and that the REDD+ money will not make much of a difference for villagers regarding their decision to protect or cut-down their forests.

Many NGOs expect that the transaction costs for measuring and monitoring carbon sequestration (either by government or communities) and for sharing REDD+ benefits will be high. Interviewees had mixed thoughts about opportunity costs for villages depending on where villages were located and the productivity of their land.

### 3.2.2 WHAT ARE THE TYPES OF REDD+ BENEFICIARIES IDENTIFIED IN THE NATIONAL STRATEGY?

The REDD+ national strategy identifies a wide range of beneficiaries for REDD+ funds to be distributed by NRTF, including “government ministries, communities, researchers, students, NGOs and CSOs [civil society organizations] implementing REDD+ related activities,” based on submission of proposals by “registered organizations or individuals” (Republic of Tanzania, p. 16, 2010).

How local communities will benefit from REDD+ is further addressed in a study prepared by Mwakaje et al. (2010) as a contribution to the national strategy on the theme “role of REDD+ for rural development.” This study recommends that REDD+ funds be used for a wide range of forest- and conservation-related activities (e.g., beekeeping, ecotourism, intensive farming, intensive charcoal use and production training, etc.) to address all underlying drivers of deforestation.

The VPO<sup>87</sup> supports this idea, and believes that all villagers should benefit from REDD+—including those with standing forests as well as those planting new forests—to avoid creating incentives for cutting trees and to prevent leakage issues. Along this line, the VPO also mentioned that protected areas should benefit from REDD+ to strengthen their management capacity and to reduce illegal logging in these areas.

The FBD said that because most land in the country is Village Land,<sup>88</sup> communities must be involved. There is a need to develop a performance-based mechanism to determine who benefits from REDD+ and how much they should benefit from the process. It was not clear, however, that there was agreement on the type of performance that should be rewarded through the national scheme (e.g., rate reduction, new growth, etc.).

There is broad recognition that measuring reductions in the rate of deforestation is difficult and measuring reductions in the rate of degradation is even harder. Many people interviewed expect that the performance measure will be “increased carbon sequestration,” although this leaves open the debate on whom to reward: those who provide *efforts* to sequester carbon, or those who produce *results* (measured decrease in carbon

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<sup>86</sup> Interview with Dr Zahabu, lecturer at Sokoine University of Agriculture, May 16, 2011.

<sup>87</sup> Fred Manyika, interviewed on May 18, 2011.

<sup>88</sup> Different Ministries seem to have different assumptions on the amount of Land that is Village Land: according to TNRF and Tanzanian Community Forest Conservation Network (MJUMITA), the Ministry of Lands considers that 70 percent of land is Village Land, 28 percent Reserved Land and 2 percent General Land; according to TNRF, FBD considers 43 percent of land is General Land. Moreover, many government officials do not recognize Village Land that does not have a land use plan or that is not surveyed. George Jambiya says that less than 10 percent of villages have their land registered as Village Land (although registration is not required for the government to recognize customary land/Village Land). For more information on this debate, refer to Landesa's Carbon Rights case study on Tanzania.

emissions). There is also the question of whether or not this approach will focus on forest carbon or all carbon (e.g., agriculture, soil, etc.).

### **3.2.3 WHAT INSTITUTIONAL SYSTEM IS PROPOSED TO CHANNEL BENEFITS TO THE INTENDED BENEFICIARIES?**

#### **At the national level:**

According to the draft REDD+ national strategy, all revenues (market and non-market) will be “received as grants and deposited directly in the NRTF account” (Republic of Tanzania, p. 16, 2010). Sources of funds listed in the strategy include bilateral and multilateral donors, carbon traders, private sector, and NGOs implementing REDD+-related activities.

Government agencies are divided on whether NTRF should centralize all funds:<sup>89</sup> The MNRT and FBD seem to be open to various options, including community-to-market relations, while the VPO would prefer that all forms of payments transit through the state, including from markets and international funds. The latter justified its position by mentioning corruption at the village level. Non-government experts and organizations<sup>90</sup> expressed a strong preference for a nested approach in which villages can negotiate with international market players directly. They fear that a model centralizing all revenues is expensive and will reduce revenues that will actually reach villagers. They also worry about risks of corruption and mismanagement. According to these organizations, if villagers need to negotiate with NRTF, then there will be a need for strong safeguards<sup>91</sup> and NRTF must be an independent entity.

Although the institutional design of NRTF is yet to be finalized, options favored in the REDD+ national strategy would establish NRTF as a semi-autonomous structure most likely attached to the VPO and governed by a board of trustees composed of high-level ministry officials. These governance principles are considered insufficient by NGOs and by the Embassy of Norway, which is a major REDD+ donor in Tanzania. Many of the Norway-funded pilot projects are designed so that the communities can link directly with the international market. The Embassy hopes that this approach will encourage the government to reconsider its position.

#### **At the sub-national level:**

The REDD+ national strategy does not propose benefit-sharing options at a more local level.<sup>92</sup> It does, however, refer to Wildlife Management Areas (WMAs) and Participatory Forest Management (PFM) as possible models upon which to build. Per MNRT officials interviewed, the option favored by the government would require the creation of multi-village authorities to address issues of scale and to limit leakage and transaction costs. Several government officials and NGOs mentioned the importance of “aggregates,” that is, cooperatives or federations (groups of villages and communities that would receive money from NRTF such as the Authorizing Authorities of WMAs or associations of villages involved in community-based forest management [CBFM]). These “aggregates” would then be responsible for passing REDD+ money further down to communities. Village institutions would be responsible for managing and investing the funds within the community. In this scenario, the government would help villages to establish cooperatives and might establish general rules on how REDD+ funds must be used (as with WMAs, see Section 3.3 for more details).

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<sup>89</sup> Interviews with MJUMITA and TNRF.

<sup>90</sup> Interviews with MJUMITA and TNRF.

<sup>91</sup> Although the national REDD+ strategy does recognize the need for social and environmental safeguards and plans the development of an impact assessment framework specifically tailored to address risks of REDD+ projects (based on experience with biofuels/land grab), it does not set standards or refer to existing international standards such as CCBA.

<sup>92</sup> According to CARE/Zanzibar, the Zanzibar government was concerned that its role was not defined in the strategy; it was pushing to receive funds from NRTF and to have allocation authority within Zanzibar.

It is unclear as to whether or not these authorities could be those that are already registered under PFM or WMA schemes, or if they would need to be other “aggregates” positioned at a different scale. VPO officials mentioned that PFM and WMAs are good entry points, although it is unclear how much forest is located within current WMAs.

One issue of concern with regard to aggregate institutions is overhead costs. MNRT/FBD said the government wants to reduce transaction costs of paying communities—minimize overhead, bureaucracy and the number of intermediates involved. One option considered by the government to reduce transaction costs is actually to bypass District government, which is seen as too corrupted and inefficient.

Another option considered is to create large aggregates, since experience shows that those created for WMAs and CBFM do keep a significant percentage of the benefits for operating costs. This option is supported by some NGOs, such as the African Wildlife Foundation (AWF), which prefers to support “super-associations” of more than 20 villages. However, several studies have shown that larger aggregates are less accountable to village members (Institute of Resource Assessment, 2007). Maintaining ethnic homogeneity within each aggregate also seems to be a success factor in WMA governance (these issues will be described in more details in Sections 3.3 and 3.4).

The VPO mentioned that the REDD+ pilot projects currently conducted in Tanzania will provide lessons on benefit sharing. A consultant will be hired to bring the lessons together and prepare a report on benefit-sharing (Phase 2 of the REDD+ Task Force).

### **3.3 THE CASE OF WILDLIFE MANAGEMENT AREAS AS ILLUSTRATED BY ENDUIMET WMA**

Although WMAs are designed to manage wildlife rather than forests,<sup>93</sup> they are mentioned in the REDD+ national strategy and by many as a model that can be utilized for developing local institutions for REDD+ benefit sharing mechanisms.

The first pilot WMAs were established in 2003 and are now generating revenue at the village level. WMAs, therefore, provide useful, although still recent, experiences of local-level fund management. The scale<sup>94</sup> of aggregate institutions created to manage WMAs, called “Authorized Authorities” (AAs), could present advantages to minimize REDD+ transaction costs and to limit leakage issues. Lessons can be learned from successes but also from pitfalls experienced with WMAs. For example, a wealth of studies have highlighted the lack of capacity of AAs and village governments, flaws in WMA regulations, and the lack of political will to transfer effective management power to communities.

#### **3.3.1 GENERAL DESCRIPTION OF ENDUIMET WMA**

The Enduimet WMA lies in the West Kilimanjaro Basin, among the Amboseli, Arusha, and Kilimanjaro parks, in the Longido District (see map below). This WMA was among the 16 pilots launched in 2003 after the WMA Regulation of 2002 was passed. It included nine villages at the time it acquired wildlife user rights in August, 2007. The constitution of this WMA was facilitated by AWF following a wildlife survey conducted by elephant researchers and district wildlife authorities (Institute of Resource Assessment, 2007).

One of the villages with the largest amount of wildlife and territory, Sinya, refused to join the WMA for several years as it already earned revenues through contracts signed with a safari operator and anticipated that

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<sup>93</sup> For more information on the legal background of WMAs, refer to Landesa’s Carbon Right case study.

<sup>94</sup> In terms of the number of villages grouped.

the village would earn less through a WMA (Nelson et al., 2006). However, Sinya agreed to join the WMA in 2009.<sup>95</sup>

The Enduimet WMA encompasses approximately 110,000 ha of land.<sup>96</sup> The land in the WMA is primarily pasture land, not agricultural land or forest.

### **Location of Enduimet WMA and Suledo Forest in Tanzania:**

As required in the 2002 WMA Regulations, the Enduimet WMA is managed by an AA registered as a community-based organization (CBO, see Box 3.1). The AA oversees the WMA and manages revenues derived from WMA activities. The AA is comprised of representatives of each member village often from the Village Natural Resource Committee, which is a subcommittee of the Village Council. The Enduimet AA has a chairman, secretary, and a financial manager. A total of 40 game scouts from member villages have been trained with support from AWF and the Honeyguide Foundation, a Tanzania-based NGO.<sup>97</sup>

The AA is monitored by member Village Councils, which must provide annual and semi-annual reports to Village Assembly meetings and to the District Council (WMA Regulations of 2002, Part V, article 21). However, interviews with villagers from the Enduimet WMA (Minwary, 2009) and findings from studies conducted in other WMAs show that AAs are not effectively accountable to the Village Council and the Village Assembly. As a result, member villages lose a certain measure of control over their land because much of their authority is transferred to the AA. According to Honeyguide Foundation,<sup>98</sup> villages of the Enduimet WMA struggle to communicate with the AA. They believe the WMA has too many villages for effective communication and management. The lines of accountability between the AA to the various Village Councils and Village Assemblies of the member villages are stipulated in the Regulations in general terms only, and they tend to vary in practice by AA and village.

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<sup>95</sup> The legislation on Non-Consumptive Utilization of Wildlife was changed in July 2008, requiring that all fees paid by safari operators go through the Wildlife Division in the MNRT. Sinya stopped receiving revenues from these fees after this date.

<sup>96</sup> Figure provided in the Institution of Resource Assessment of 2007, at a time Sinya had decided not to join the WMA.

<sup>97</sup> Per its own website, the Honeyguide Foundation is “a grass roots, non-profit, non-governmental organization based in Tanzania dedicated to support communities and the conservation of wildlife and natural resources through long-term community partnerships.” (<http://www.honeyguide.org/>).

<sup>98</sup> Interview with Damian Bell, May 2011.

### BOX 3.1: PROCEDURE TO ESTABLISH A WMA ACCORDING TO THE REGULATIONS OF 2002

The WMA Regulations (subsidiary legislation under Section 84 of the WCA of 1974) provide for the creation of WMAs on village lands and implementation of the Wildlife Policy's objectives. The Regulations allow communities to become corporate entities and to participate in, and benefit from, wildlife utilization in WMAs. However, in order to use any other natural resource products like fish, forest, or bees, one needs to consult sectoral policies, laws, and regulations regulating that particular resource. The Regulations spell out the process that the communities must follow in order to qualify for being granted wildlife user rights:

- First, a Village Assembly meeting or meetings in the relevant village or villages must decide to form a WMA on the village lands. Once this has happened, the villages must form a CBO to represent the community members and manage the WMA. This CBO must have a constitution, rules of membership, qualifications of office bearers, financial management procedures, etc.
- Second, the CBO is to prepare Land Use Plans for the relevant villages. These Land Use Plans should show where the proposed WMA will lie in the village's or villages' lands; they should follow the procedures laid out by the National Land Use Planning Commission.
- Third, the CBO must form a General Management Plan, or alternatively as an interim measure (for up to five years) can compose a more basic Resource Management Zone Plan providing for the zonation of resource uses in the proposed WMA.
- Finally, after completing the above prerequisites, the CBO can apply to the Director of Wildlife for the Minister to declare the CBO as an AA and gazette the WMA. If the application is approved by the Director, and the WMA is gazetted, the CBO becomes an Authorized Association, which then applies for a user right.
- For those communities in Game Controlled Areas, another requirement is provided in the Regulations. The Regulations state that communities in Game Controlled Areas (e.g., Loliondo, Longido, Burunge, and Ipole) must have their land moved from reserved/conservation land to village land prior to having WMAs established. This is because WMAs are only supposed to be established on village land, and not on any category of Protected Areas.

If the WMA application is approved by the Director of Wildlife, and the WMA gazetted, the following conditions will apply to the WMA:

- The AA will apply for the User Right. After acquiring the User Right the AA cannot transfer it.
- The AA can now enter into contracts with other entities for use of wildlife resources in the WMA.

For investments in WMAs, the Regulations state that all investments must be approved by the Director of Wildlife. In terms of hunting for tourists, the AA can ask the Director to designate all or part of a WMA to be a hunting block. Regarding benefit sharing, WMA's Section 73 states that benefit sharing will be determined by "circulars issued by government from time to time." For the proportion that the AA does capture, the

Regulations state that:

- At least 15% must be reinvested for resource development of the WMA.
- At least 50% must be given to member villages in the WMA.
- At least 25% must be reinvested in strengthening the AA.

The Regulations provide a leeway for the individual AAs to decide on the actual allocation within the above stipulated limits."

**Source:** Institute of Resource Assessment, *Assessment and Evaluation of the Wildlife Management Areas in Tanzania*, Ministry of Natural Resources and Tourism/Wildlife Division, United Republic of Tanzania, June 2007 (p.15–16)

### 3.3.2 FUNDING SOURCES

Revenues started flowing to the Enduimet WMA in 2007, the year it obtained wildlife user rights. It remains unclear how much the Enduimet AA has generated since then. According to the Honeyguide Foundation,<sup>99</sup> it managed approximately \$1,800 US (3 million Tanzania shillings [TZS]) per year with safari tours (non-consumptive use of wildlife). However, a study<sup>100</sup> found that in 2008 the Enduimet WMA's official record books indicated \$14,000 US (22.8 million TZS) of revenues from photographic tourism. This sum was formerly indicated as revenue from hunting fees and from land-rent paid by hunting companies to Division of Wildlife at the Ministry of Natural Resources (Sulle, 2008).

In interviews conducted by WRI with the AA of the Enduimet WMA, the following three sources of revenue were identified:

- *Consumptive uses of wildlife (hunting activities)*: Existing hunting concessions were negotiated by the Director of the Wildlife Division under the Tourist Hunting Regulations<sup>101</sup> and all revenues were collected by the Wildlife Division and returned to Treasury. The Treasury is then supposed to return 25 percent of quota fees to the District, based on the quota of animals allocated to each hunting company in each District). The District should then send at least 60 percent of this amount to villages in which hunting occurs. In practice, Districts and villages rarely know the quotas that were allocated and cannot check that the amounts they receive are correct (Sulle, 2008). Often, districts receive small amounts and villages do not get anything. This situation should change in 2012 since the AAs in new hunting concessions will be able to negotiate with the hunting companies directly as defined in WMA Regulations (Article 22). This arrangement is expected to channel more revenues to villages, as some advocates believe the terms of the existing concession agreements favor the companies and not the government.
- *Non-consumptive uses of wildlife (e.g., photography safaris)*: Villages can negotiate directly with safari ventures but a permit still has to be granted by the Director of the Wildlife Division. Before 2008, revenues were collected directly by the AA but the new Wildlife Conservation Act passed in 2009 harmonized the collection processes between consumptive and non-consumptive uses of wildlife. Now all fees are collected directly by the central government. Sixty-five percent of the non-consumptive fees are returned to the AA.
- *Tourism revenues*: hotel concession fees and bed-fees are retained directly by WMA AAs. However, in most cases hotel concession fees have yet to be collected. Other tourism-related benefits include temporary employment as tour-guides, and tourists buying beads and taking pictures of villagers' *bomas* (Minwary, 2009).

In terms of revenue distribution among villages within a WMA, the 2002 Regulations require that the AA allocates not less than 15 percent for resource development, not less than 50 percent to member villages forming the WMA, and not less than 25 percent to strengthen the AA.<sup>102</sup> According to the Enduimet AA, 35 percent of the revenue goes to the District and the remaining 65 percent to the AA.

AA officials interviewed by WRI consider that the Enduimet WMA has not generated as much revenue as expected or reached its full potential. They mentioned in the interviews conducted for this study the following four major problems:

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<sup>99</sup> Interview with Damian Bell, May 2011.

<sup>100</sup> Emmanuel Sulle, research carried out in July 2011.

<sup>101</sup> These concessions have been in place since the late 1970s but have subsequently been subdivided several times over. Between 2005 and 2010, the hunting industry came under an increasing spotlight as the levels of corruption were exposed.

<sup>102</sup> WMA Regulations, 2002, paragraph 73 (2). A new set of WMA regulations are expected for 2011 but have not been released to the public yet.

- They are working with safari operators without the use of contracts,<sup>103</sup> but they have hired lawyers to help.
- The AA is not satisfied with the revenue-sharing rule adopted by the Wildlife Division (35 percent to government and 65 percent to WMA). They also question whether they are actually getting 65 percent of revenues collected by the government, since all the money goes first to government, which then passes it down to the AA. The AA said they started to keep records and in the future they will monitor contracts with operators more closely.
- They have no capabilities for marketing purposes and are, therefore, unable to advertise their WMA.
- Finally, financial sustainability of the WMAs was also raised as a concern in Enduimet WMA. Although it is expected that WMAs depend on donor money to start up, they should be able to support their own operating costs and to generate profits once they are established. This situation does not seem to have been the case for the Enduimet yet, which still relies significantly on the AWF to cover its management costs (estimated to be approximately \$100,000 US/year, including \$45,000 US in salaries<sup>104</sup>).

### 3.3.3 FUNCTIONS PERFORMED BY THE INSTITUTION

As mentioned above, the Enduimet WMA is managed by an AA, which reports back to the Village Councils and to the District Council. The AA of the Enduimet WMA has approximately 40 game scouts, vehicles, and communications equipment.

#### **Designation of beneficiaries and design of benefit-sharing rules:**

The rule used to share benefits among the government, the District, and the AAs have been described above. Within AAs, the 2002 WMA Regulations (article 21) stipulate that the AA must “develop a mechanism for benefit sharing among the villages which form the WMA”, which must be reviewed and approved by Village Councils. Article 73 of the WMA Regulations requires that the AA passes down to villages 50 percent of the revenue received from the District.

The money the AA receives is used as follows:

- 25 percent for AA office costs;
- 50 percent is divided equality among the nine member villages (regardless of how much land or wildlife each village brings to the WMA);
- 10 percent is used for scholarships (secondary school costs); and
- The remaining 15 percent is used for conservation.

In the Enduimet WMA, revenues are allocated exclusively to community projects (e.g., repairing cattle troughs, (Minwary, 2009) building schools, paying scholarships). According to the AWF (the facilitating agency for the Enduimet WMA), villages would prefer to distribute cash to households but the current benefits are not sufficient and are rather used to support community projects.

Joining the WMA resulted in an increase of revenue for some villages, while others are getting less than they previously made through private deals with tour operators. For example, one researcher<sup>105</sup> indicated that one

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<sup>103</sup> Apparently, the AA’s relationship with operators was based on verbal agreements.

<sup>104</sup> Estimates provided by Damian Bell, Honeyguide Foundation, in May 2011.

<sup>105</sup> Interview with Laura Tarimo, Round Table Africa.

village went from earning \$50,000 US/year to US\$400/year; while another village went from \$200,000 US/year to \$8,000 US/year (the latter apparently wants to leave the WMA).

Some villages of the Enduimet WMA are unhappy with this equal-sharing rule, especially those who now have to share with other villages revenues that were formerly collected by the village alone (e.g., Sinya had contracts with safari operators which generated more revenue than what they now get through the WMA) (Minwary, 2009). Interestingly, this problem is identified as a major issue in the literature on the Enduimet WMA, but it was not mentioned during interviews with the AA of Enduimet.

These wildlife revenues received at the village level are low compared to the benefits individuals and households could receive from other land uses aside from wildlife (e.g., four bulls can bring approximately \$1,200 US). This situation also creates tension, as villagers do not get the revenues they were hoping for before the creation of the WMA.

### **Delivery of benefits:**

Information on how benefits are actually delivered at the village level is scarce. Nelson et al. (2006) found that four villages of the Enduimet WMA had “become concerned by the lack of information they have been receiving from the CBO since it was formed.” CBO members are said to fail to report back from meetings they attend and the AWF communicates exclusively with village representatives sitting in the CBO. Distrust was growing, prompting villagers to call for their withdrawal from the WMA. The Honeyguide Foundation confirmed that communication with the AA was still a problem.

### **3.3.4 LINK BETWEEN LAND RIGHTS AND COMMUNITIES’ ACCESS TO BENEFITS**

As required by WMA Regulations, WMAs are located on Village Land<sup>106</sup> and are gazetted (see Box 3.1). Access to WMA benefit is, therefore, conditioned by land tenure. However, the amount of revenue that a village can access is disconnected from the amount of land it provides to the Enduimet WMA, where all villages get an equal share.

The AA said that only pasture land, managed as common property, was put in the WMA (farmland was not). Most benefits were invested in community projects (except for a few scholarships awarded to individuals), although this may change as more revenue is generated.

The WMA Regulations provide a way out of a WMA but require the approval from the District Council and a signature of the Minister to publish the notice of de-gazettement. During interviews, many expressed fears that this rule will be changed in the new WMA Regulations expected in 2011 and that a village will be able to leave a WMA but its land in the WMA will stay in the WMA. Presumably this situation could mean that villages would not be able to use their land for other purposes outside of wildlife and they would no longer receive any of the WMA benefits. The new Regulations would, therefore, put in place compelling incentives for villages to stay within WMAs, whether they are satisfied or not.

### **3.3.5 CONSULTATION/PARTICIPATION OF LOCAL COMMUNITIES**

The participation of local communities in WMA management is mediated by village government, as defined in the 2002 WMA Regulations. First, the Village Assembly has to approve the decision to join or create a WMA. Then the Village Council prepares a Land Use plan, formulates natural resources management by-laws, monitors activities of the AA, and reports back to the Village Assembly (2002 Regulations, art. 21).

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<sup>106</sup> In the Village Land Act of 1999, Village Land is land that is occupied and used by a village for the last 12 years or more; land demarcated and recognized by Village Councils; or land formally registered as Village Land. However, this definition is being challenged by the Land Act of 1999 defines General Land as land that is not used, regardless of whether it is claimed as Village Land by Village Councils or not. For more information on this contradiction, refer to Landesa’s Carbon Rights case study on Tanzania.

Village Council members are elected by the Village Assembly, which includes all villagers that are 18 years old and older.

In practice, however, research shows that some Village Councils are corrupt and that the Village Assemblies have difficulties holding the Councils accountable. There is also evidence that the villages that have received support to strengthen their institutions tend to perform better both in terms of participation of communities to local government and of money management (Nelson et al., 2006).

Interviews conducted for this study and past evaluations of WMAs highlight the difficulties of Village Government to hold AAs accountable, especially in larger and ethnically diverse WMAs. AAs are entrusted with vast responsibilities (technical, organizational, financial) to manage WMAs. This responsibility does not always match their actual capacity and clear lines of accountability to Village Assembly and Village Council are often lacking. NGOs and District officials with a facilitation role have focused capacity-building efforts on AAs and have created incentives for them to be upwardly accountable. However, as for village government, these problems seem to be less prevalent in WMAs where efforts have been made to encourage communication among the AA and WMAs (e.g., WMA supported by Africare) (Nelson et al., 2006).

### **3.3.6 GRIEVANCE/CONFLICT RESOLUTION MECHANISMS**

There were significant internal and external conflicts during the years following the creation of the Enduimet WMA. Several studies report that villagers felt they were being pressured into joining the WMA against their own interests (Nelson et al., 2006). Conflicts are also reported between villagers and the AA, as the former feel the AA is not sufficiently transparent in its activities and has made decisions with the facilitator (AWF) without asking for villagers' consent (Minwary, 2009).

Part IX of the 2002 WMA Regulations, which establishes principles for “dispute settlement and conflict management” within WMAs, refers primarily to each WMA constitution to provide the mode of dispute settlement. In case the constitution does not provide such mechanism, “the parties shall apply the Arbitration Ordinance.”

Research conducted for this study did not clarify if the constitution of the Enduimet WMA defines a dispute settlement mechanism.

### **3.3.7 EVALUATION OF PAST PERFORMANCE**

WMAs in general have been extensively studied. In addition, the government carried out an official assessment in 2007. However, most of these evaluations were carried out just at the end of the pilot period (2006–2007), and there is much less information in the public domain since WMAs started generating significant revenues.

Research conducted for this study suggests that considerable progress has been made in the last two-to-three years in terms of revenues generated by WMAs and experience with managing benefits. Of the 16 pilots, 14 have completed the process to create and gazette a WMA. WWF mentioned that communities have requested assistance to establish another 20 WMAs.

However, it is still unclear if WMAs are achieving their stated objectives of local development and conservation.<sup>107</sup> Another expert<sup>108</sup> mentioned that there are not many animals in WMAs, largely due to

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<sup>107</sup> Interview with Laura Tarimo, Round Table Africa.

<sup>108</sup> Interview with Andrew Williams.

hunting quotas set too high by the Wildlife Division and by historically poor law enforcement rather than local community management practices.<sup>109</sup>

Many of the experts interviewed for this study estimate that WMAs have not (or have not *yet*) significantly improved local wellbeing. Overall, the money received by villages seems to be hardly sufficient to keep the WMAs running, let alone to provide substantial benefits to communities. While in many villages the money seems to have been well used, in others it seems to be captured by local elite (including some on the Village Council).

Recommendations to improve downward accountability of AAs include:

- *Strengthening the role of Village Assemblies in key decisions made by the AA:* for instance, by making information publically available on village notice boards and through regular Assembly meetings where the Village Council would have to report back on activities of the AA.
- *Creating WMAs composed of fewer villages, taking into account the ethnicity of villagers.* At present, NGOs tend to focus on wildlife habitat and ecology, resulting in some WMAs being unmanageable. WMAs should be structured as socially sustainable and manageable units. Ecological scale should be achieved by encouraging these units to cooperate with each other. To achieve this, WMAs should not be supported or facilitated by conservation NGOs exclusively. Instead, development NGOs should be integrated into the conversation. Africare, for example, has focused more on social and development issues in the Tabora WMA.
- *Strengthening village institutions and governance and work with villagers instead of engaging exclusively AAs and village chairs.* At present, the two primary facilitation NGOs, the AWF and WWF, are focused on infrastructure such as AA buildings, equipment, and roads. They should spend more efforts working directly with villages.
- *Integrating wildlife management with other nature resource management at the village level* by using existing natural resources village committees when relevant, so as to keep a coherence at the village level.
- *Reorganizing WMAs to be run by managers,* similar to CBWM in Kenya, instead of a committee, as is currently the case with AAs.
- *Simplifying the process to create WMAs following the example of CBFM regulations* (e.g., simplify Land Use Planning requirements, withdraw pre-authorization by District of contracts with safari operators).

### **3.3.8 CONCLUSION: HOW ADAPTED IS THIS MODEL TO MANAGE REDD+ BENEFITS AT THE LOCAL LEVEL?**

Two major lessons can be drawn from the experience of Enduimet WMA in terms of institutional design for REDD+:

- AAs provide a link between national/District government and villages and, therefore, may respond to the need for “aggregate institutions” identified by the Tanzania government to implement REDD+. Experiences with AAs, however, show that the scale of these aggregate institutions matters: a balance needs to be found between the advantages of large aggregates (e.g., to keep costs down, to meet wildlife management objectives) and the social and human factors calling for smaller aggregates (e.g., communication problems between large AAs and villagers, difficulties arising from ethnically-heterogeneous AAs).

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<sup>109</sup> Illegal hunting—particularly by urban elites and the military—has wiped out or seriously depleted many wildlife populations.

- WMA regulations establish strict rules on how WMA money is to be shared and require that a large percentage of the money goes to District government and to AA for WMA management. Little is left for villages, creating weak incentives to protect wildlife and limiting effects on poverty alleviation. The rule adopted in the Enduimet WMA, to share AA revenues equally between villages, may further weaken the link that villagers can establish between their opportunity cost and payment of benefits. The fact that WMA benefits reaching villagers remain limited also raises questions regarding what these payments are targeted to respond to: wildlife protection rules are enforced in Tanzania, while compensations for damages caused by wildlife seem largely insufficient. One villager of Tinga Tinga reported, ‘the government takes care of the elephants, but they damage my crops and the government doesn’t do anything to help me. That shows I’m not important like those wild animals. They are more important than me. So, now we are still in poverty. We work hard and cultivate, but the elephants finish our labor, and we remain poor (Minwary, 2009).’

PFM will illustrate a situation where, in contrast, opportunity costs may be low while direct revenue generated is even lower.

### **3.4 THE CASE OF PARTICIPATORY FOREST MANAGEMENT AS ILLUSTRATED BY SULEDO FOREST**

PFM is the second institutional model used as a reference by the Tanzanian government to implement REDD+. The 1998 Forestry Policy and the 2002 Forest Act created two forms of PFM: (1) Joint Forest Management (JFM), where local communities and the government co-manage forests on National Forest Reserves (NFRs) and Local Authorities Forest Reserves (LAFRs); and (2) Village Land Forest Reserves (VLFRs), where communities are both managers and owners of forests on Village Land.<sup>110</sup>

According to the assessment of WMAs published by the FBD (Blomley & Iddi, 2009), four million ha (about 12 percent of the forest area of Tanzania) were in PFMs in 2009. To date, however, only a few communities or groups of communities have gone through the administrative process allowing them to generate revenues through PFM. The Suledo Forest is among the first Village Land Forests to generate revenue this year. It seems that no JFM on the mainland has generated revenues for local communities to date. Still, significant experience has been accumulated, providing useful lessons for REDD+.

Although both JFM and VLFR are identified by the Tanzanian Government as a potential model for REDD+, this case study will only focus on VLFRs. The decision to focus on VLFRs only was made because Village Land Forests provide more interesting insights on how land tenure and REDD+ benefit-sharing will interplay and because local communities do not have any land rights over JFM. The conclusion of this case study, however, will identify some lessons to be drawn from JFM based on the literature review and the interviews conducted for this study.

#### **3.4.1 GENERAL DESCRIPTION OF SULEDO FOREST**

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<sup>110</sup> For more details on the legislative background of PFM, refer to Landesa’s case study on Tanzania.

Suledo Forest lies in the Kiteto District and covers 167,000 ha in the dry lands of the Masai steppe. The Suledo VLFR<sup>111</sup> is comprised of 10 villages today (see Box 3.2 for details on its creation process). Suledo communities count pastoralists and sedentary farmers from different ethnic origins. The creation of Suledo Forest was initiated through the LAMP project in 1991 and facilitated by ORGUT Consulting.<sup>112</sup> The project was started long before the 1999 Village Land Act or the Forest Act of 2002, which partly explain why Suledo is ahead of other CBFM pilots in the country.

### BOX 3.2: HISTORY OF SULEDO FOREST:

1994	Two villages start to demarcate their forest areas to tackle the conflicts over grazing and farming land between pastoralists and farmers.
1996–2007	More villages join this strategy when the District Land Use Management Programme assisted in land surveys, land use plans, village bylaws, and the demarcation of the forest borders.
1997	Forest is under the management of nine villages. A joint management committee where all villages are represented is formed (the Zonal Environmental Committee [ZEC]).
2000	Forest management plan for the protection of the forest established, domestic use regulated, and inventory of the forest done.
2002	Suledo community is awarded the UNDP’s Equator Initiative Prize for “extraordinary efforts to reduce poverty through the conservation and sustainable use of biodiversity” The \$30,000 US was used for village development.
2007	Suledo is gazetted as a Village Land Forest Reserve under the Forest Act. A legal agreement between the villages and their joint management committee allows the latter to enter into harvesting contracts.
2009	The communities are allowed to selectively harvest the forest and receive a hammer for marking logs and timber from the Ministry. The tender process for harvesting starts and a contract is signed between the joint management committee and a company, agreed by all village governments.
2010	Selective harvesting starts on a 500 ha pilot coupe.

**Source:** “Suledo Village Land Forest Reserve Tanzania: Access to Land and Other Natural Resources for Improving People’s Livelihoods,” Presentation by Saidi Bakari to the 3<sup>rd</sup> European Forum on Rural Development, March 30, 2011.

Suledo Forest is managed by an aggregate institution called the Zonal Environmental Committee (ZEC).<sup>113</sup> The ZEC was established in 1998. Its members are elected and serve five-year terms. In Suledo Forest, there are 30 ZEC members (three from each village) who are also members of each Village Environmental Committee (VEC).<sup>114</sup> VECs are Village Council sub-committees and have a legal mandate to act as forest managers and to command patrol teams. Patrol teams are comprised of unpaid villagers.<sup>115</sup> The ZEC is a coordination entity where villages can discuss issues relating to forest management, but also other land uses such as agricultural land, pasture, water catchment areas and livestock.

<sup>111</sup> SU, LE, and DO are the first letters of the 3 wards in which the 10 member villages are located. Two wards have all their villages involved and one ward has only one village involved in Suledo.

<sup>112</sup> See for more information on the LAMP project and ORGUT Consulting: <http://www.orgut.se/sida.aspx?id=58>.

<sup>113</sup> Per the Forest Act of 2002, each village can have its own forest. If several villages decide to establish a joint forest, they must create a joint village forest management committee, which does not need to be registered as an association or co-operative but can be a “Union” (*muungano*).

<sup>114</sup> VECs are also called Village Natural Resource Committees.

<sup>115</sup> Serving in a patrol team is one village duty among others.

VEC members are elected by the Village Assembly. Gender representation is required in VECs as well as in the ZEC (*Tanzania Forest Act, 2002*). Village Assemblies approved the establishment of the ZEC and its bylaws that support the forest management plan (e.g., fines, sanctions, etc.). Bylaws are forwarded to the District Council for “ratification.” As mentioned earlier, it is important to note that many people consider that village government does not function well in many villages.

Suledo forest was managed for 10 years without being logged for commercial purposes. In 2009, the Ministry issued harvesting rights via a harvesting permit to the Suledo Forest. They were initially allowed to harvest two species, but now have the authority to harvest five species.

A harvesting committee monitors the ZEC. Timber needs to be stamped to certify that the timber harvested is legal. The stamping hammer is normally held by the District; in the case of Suledo, a second hammer was issued by the FBD especially for the community, since it was granted harvesting rights and only they could establish the timber had been harvested as authorized.

### 3.4.2 FUNDING SOURCES

By law, 100 percent of harvesting sales in VLFRs goes to the village. Some forest products, however, are taxed (e.g., Kiteto district has a road access tax so all charcoal that leaves the district must pay).

In Suledo, revenue from harvesting started flowing in 2010, but it remained well below expectations. For example, three of the villages that WRI visited expected \$24,000 US (40 million TZS) each, but each village got only \$617 US (1 million TZS). Three problems were mentioned by the ZEC and village government: (1) the harvester did not cut all the forest that was contracted; (2) he paid less per cubic meter of wood than the contract stipulated; and (3) ZEC overhead costs were high.

The Suledo forest ZEC and villages have the following three sources of revenues and benefits:<sup>116</sup>

- *Fees collected according to the forest rules and bylaws:* The ZEC collects money from large fines (illegal harvesting); small fines of less than \$30 US (50,000 TZS) stay in the village. Fees are charged for farming by outsiders (outside forest) and all commercial activities of non-timber forest products (these fees are levied and collected directly by the village, not ZEC). Permits without fees are issued for grazing, collection of poles and grasses for roofs. These are not regulated and there are no quotas. The principal problem highlighted by ZEC was that now too many poles are being collected so the ZEC is encouraging villagers to build mud huts to relieve pressure.
- *Forest products harvested for domestic use (as authorized by Suledo’s management plan):* These non-monetary benefits are particularly important for the poor and pastoralists whose livelihoods depend on forest products (e.g., pastoralists are allowed to graze their cattle in the forest in case of drought or hardship). Previously, communities were not authorized to graze their cattle and had weaker protection against encroachment by local farmers and external investors.
- *Sale of forest products to outsiders:* Revenues in this category have remained very limited to date, mainly due to administrative hurdles to obtain harvesting rights and lack of experience of VECs in contracting with loggers. In addition, a study conducted by Vyamana (2009) found that when forests in VLFRs are highly degraded, villages’ by-laws tend to restrict use of forest resources until forest resources have regenerated.

Other sources considered by the Suledo ZEC include REDD+ and management of other natural resources. The ZEC is aware that REDD+ benefits could materialize if they stopped harvesting. They have inquired about the monetary benefits in order to decide which pays more. The pilot harvesting area is 500 ha and only 120 ha have actually been harvested.

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<sup>116</sup> In addition, the ZEC charges a fee for services. For example, they charged WRI \$30 US (40,000 TZS) to be briefed by them.

The ZEC aims to acquire rights to manage and use other resources including wildlife and minerals. They have requested more information on WMAs to assess the costs and benefits of creating one. According to them, 27 large species of animals live in the Suledo forest. They also have formed groups for bee keeping, but to date they have not been able to effectively market their products.

Two major problems were highlighted by the ZEC that could limit these new sources of revenue:

- Neighboring villages still see Suledo forest as idle land and, as a result, villages are having trouble slowing incursions, including farmers who want to cut down the Suledo forest for agricultural purposes; and
- Wildlife poachers and illegal timber harvesting occurs and the ZEC has limited capacity to combat these drivers.

According to the ZEC, bushfires used to be a problem. They are not a problem anymore, as villagers have reduced biomass—and therefore fires—by allowing pasture to be created within the forest.

### **3.4.3 FUNCTIONS PERFORMED BY THE INSTITUTION**

#### **Designation of beneficiaries and design of benefit-sharing rules:**

In Suledo, the ZEC proposed a system for distributing benefits earned from harvesting with approval of the VECs. The rule used in 2010 was that all 10 villages received an equal share, regardless of how much a village's land has contributed to Suledo Forest or how much of the village's land in the forest has been harvested.

Decisions on how to use the money within each village were made by the VECs or by the Village Council. According to the ZEC, village priorities are read to Village Assemblies so everyone knows how the money is to be spent. VECs or VCs have also told the ZEC how they will spend money. In 2010, the money was used for community projects and not handed to households. As an illustration, Lengatei village used its \$600 US (1 million TZS) to renovate a house for two teachers (it is difficult to retain teachers in this part of Tanzania). In this case, the Village Council made the decision on how to spend the money but it was passed by the Village Assembly.

#### **Delivery of benefits:**

The following process was described in interviews with the ZEC and with village government. The ZEC collects all harvesting revenue and some fees (as mentioned above) and ZEC operating costs are taken off the total revenue. Of the remaining funds, 10 percent was given to the District (this is not required by law but the ZEC decided to do so) and 90 percent to villages. The ZEC mentioned that they are happy with the District Forestry Officer. One District Forestry Officer is now based in Suledo to help with harvesting decisions and to contract negotiations. Initially, guards were paid by the facilitation agency but now the ZEC covers their salaries in addition to the transport and sitting fees of VEC members who come to ZEC meetings. The ZEC gave the money to villages by depositing it into the Village Council bank account. The ZEC has an auditing committee and if villages do not spend the money appropriately it can take legal action. No mismanagement problems were reported in 2010.

However, in 2010, ZEC operating or overhead costs amounted to more than 50 percent of what was collected as harvesting revenues. The District Forest Officer explained that the ZEC had hired the brother of a Member of Parliament to be the manager and paid him \$300 US (500,000 TZS) per month and gave him benefits such as a vehicle, health insurance, as well as a \$50 US (100,000 TZS) monthly operating budget. The brother had, however, no experience managing a community forest and Suledo ended up receiving a much smaller payment than anticipated from the harvesting contract. It was not clear if this situation was due to some form of corruption within the ZEC. The District Forest Officer, as well as other experts interviewed, believed this situation was simply the result of a bad decision. Villagers interviewed said that they plan to watch the harvesting issue more closely next year.

#### **3.4.4 LINK BETWEEN LAND RIGHTS AND COMMUNITIES' ACCESS TO BENEFITS**

As mentioned above, land in the Suledo Forest is registered as Village Land, which was required to receive a harvesting permit. Each village that participates in the Suledo forest has a land certificate and a land use plan. Gazetting village forests is not required by law, but Suledo communities and the facilitation agency believed that it would provide additional security since the national government, not just the District, is involved in the gazetting process.

As a result, the land is fairly secure. In addition, the 2002 Forest Code establishes without any ambiguity that villages are entirely responsible for managing their forests in the VLFRs. This arrangement permits them to sign contracts directly with companies to harvest, process, and trade wood products. They can decide on the allocation of all revenues from these activities, as opposed to WMAs where benefit-sharing rules are heavily regulated.

This situation may explain why the biggest hurdle for generating revenues from the VLFRs is convincing the District to approve the creation of the VLRF and grant harvesting rights in the first place. Once these rights are devolved, the Districts lose revenues generated by forests (although they can still tax sales of forest products).

Still, studies conducted in other VLFRs indicated that even after village forests are gazetted, some District officials continue to allocate harvesting permits in these forests and keep the proceeds. This trend, however, was not raised as a problem in Suledo.

#### **3.4.5 CONSULTATION/PARTICIPATION OF LOCAL COMMUNITIES**

The 2002 Forest Act lays out conditions for true devolution of powers to the village in the VLFRs. Contrary to the procedure to establish WMAs, few formalities and decisions depend on the District or central government's approval. After a VLFR is established and the land use plan is approved, the law stipulates that Village Councils are not bound to comply with all or any advice formulated by central government or local authorities (Tanzania Forest Act, 2002). In Suledo, the ZEC is unambiguously designed as the coordination entity between villages and accountable to VECs and Village Assemblies. The influence of Village Councils over these aggregate institutions is limited through several measures (e.g., members co-opted by Village Councils cannot vote on forest management decisions). As a result, the institutional design of the VLFRs creates more effective conditions for downward accountability of both village and aggregate institutions.

Interviews conducted with residents in the Suledo villages confirmed that communication with the ZEC was not a problem. This is not to say that there will be no opportunity for corruption or elite capture within villages or at the ZEC level when Suledo revenues increase. An assessment of PFM in Tanzania conducted by CARE International in 2009 (Vyamana, 2009) shows that elites benefit more from CBFM than the poor because they are better able to engage in new income-generating activities, such as beekeeping, ecotourism, butterfly farming, mushroom farming, or fish ponds. These activities require an up-front investment in time or money (e.g., building or buying a beehive or digging a pond) that the poorest can't afford. In addition, the authors report that VEC members are the village elite and tend *not* to be effectively controlled by the Village Assembly.

#### **3.4.6 GRIEVANCE/CONFLICT RESOLUTION MECHANISMS**

The 2002 Forest Act does not establish a specific dispute settlement or arbitration mechanism. Villages take illegal harvesters they catch to the Ward Court. In interviews, the ZEC said that they have an audit committee that will take financial matters to court.

### 3.4.7 EVALUATION OF PAST PERFORMANCE

Many assessments of CBFM were conducted in Tanzania since 2007. Overall, the institutional design of CBFM is praised for strengthening existing and legally-established village government institutions, establishing true devolution of forest ownership and management responsibilities to villages, improving forest cover and availability of forest resources,<sup>117</sup> and for having positive spill-over effects. For example, CARE International found that forest cover surrounding the VLFs also improved, as villagers tacitly use the same rules and by-laws (Vyamana, 2009).

In two studies, however, the authors point out that the positive impacts on livelihoods are slow to appear (Vyamana, 2009; Blomley & Iddi, 2009). They also reported that the VLFs seem to perpetuate in-village inequalities rather than reduce them since the costs of sustainable forest management still seem to fall disproportionately on the poor while the rich capture most benefits. Villages were found to rely on external help to manage the harvesting of timber and other non-timber forest products and access basic market information. The facilitation agency that supported Suledo also warned of weak capacity at the District level to support villages and carry out their duties related to PFM (ORGUT Consulting, 2009).

The experience of Suledo with its first harvesting contract provides a good illustration of these problems. The first harvesting was expected to generate \$200,000 US (325 million TZS) with 500 ha set out to be harvested, but generated only \$17,000 US (28 million TZS) with only 113–200 ha harvested.<sup>118</sup> According to the District Forest Officer, this poor performance was due to a number of factors, including:

- Sokoine University was allegedly contracted to conduct an inventory of Suledo Forest. The work was passed on to students who did not adequately inform the villagers that the trees were too old and rotten to sell. The yield per hectare, therefore, was much lower than anticipated. Villagers expected 400 cubic meters to be harvested in an 83-ha pilot area, but they got only 200 cubic meters. It seems that the total actual yield per hectare was even lower, although there was suspicion that the harvester under-reported the amount of cubic meters he actually harvested.
- The harvester was to pay \$75 US (120,000 TZS) per cubic meter but renegotiated the contract. In the end, the amount paid per cubic meter was only \$45 US (66,000 TZS) per cubic meter.
- The facilitation agency (ORGUT) that supported Suledo since its inception left just before they negotiated the contract, leaving the ZEC without any external help for its first experience with harvesting timber.<sup>119</sup> Since March, 2011, a District Forest Officer is at Suledo to help in the absence of any facilitation agency.
- The amounts of harvested wood and revenue generated are transparent within Suledo Forest, but the community has been frustrated with the limited benefits that have materialized.
- Pastoralist and farming community members have different interests in the forest. Pastoralists prefer standing forests because it provides dry-season pasture and other non-timber forest products while farmers prefer to clear the forest to expand their fields. Maasai hope that benefits coming from sustainable management of the forest will create incentives for farmers to protect it.

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<sup>117</sup> Improvements in natural capital are perceptions by villagers that have not been measured scientifically. Source: V.G. Vyamana, "Participatory Forest Management in the Eastern Arc Mountains of Tanzania: Who Benefits?", *International Forestry Review*, Vol II (2), 2009.

<sup>118</sup> There was no consensus on the area actually harvested.

<sup>119</sup> District authorities resisted for years before granting harvesting rights to Suledo, such that the ORGUT facilitation ended before timber harvesting could start.

- Lesoit village said that the ZEC will harvest 600 ha this coming year. They will tender it out but admitted that they have limited technical capacity to evaluate bids.

Interviews with villagers of Lengatei and Lesoit in the Suledo Forest also reported a number of problems. Lengatei village noted that other villages invade their forest and that their own villagers do not comply with the six zones in the Land Use Plan. For example, they engage in illegal harvesting (although the Suledo village guards patrol and arrest people and take them to Ward Court) and illegal charcoal production. Lesoit villagers noted that harvested trees were of poor quality and also raised the problem of illegal harvesters.

### 3.4.8 CONCLUSION: HOW ADAPTED IS THIS MODEL TO MANAGE REDD+ BENEFITS AT THE LOCAL LEVEL?

The case of Suledo Forest illustrates that the VLFRs provide a strong institutional model where villages are likely to access a larger share of revenues than the WMAs (in percentage at least) and to have more autonomy in its management. The strength of this model is also that limited changes in legislation (if any) would be necessary for villages to claim a significant share of carbon benefits. In addition, there are already other local incentives to manage forests sustainably, which can contribute to meeting the opportunity costs for villages willing to start a REDD+ initiative.

As noted in the draft national strategy released in December, 2010, forested land under PFM represents only a quarter of total forest reserves in Tanzania today (Republic of Tanzania, 2010. See Table 3.1 below).

**TABLE 3.1: DISTRIBUTION OF FORESTED LAND ACCORDING THE TANZANIA DRAFT NATIONAL REDD+ STRATEGY**

Total area of forest covered by PFM <sup>120</sup> arrangements	3,672,854 ha
Percentage of total forest area under PFM	10.8
Number of villages involved in PFM	1,821
Number of villages with approved management plans or signed Joint Management Agreements	531
Number of districts with ongoing PFM processes	57

The country's potential for carbon sequestration, therefore, remains in large part with National Forest Reserves and forests on General Land, which also experience higher rates of forest degradation than areas under PFM (Vyamana, 2009). On areas directly managed by the state, the REDD+ national strategy mentions that the government strongly supports the development of the other system for participatory forest management, JFM. JFM, unlike VLFR, is not based on secure land tenure for villages but on shared responsibilities to manage nearby forest resources that are "owned" by the government. Legal dispositions on benefit-sharing in JFM are less clear than with VLFRs. In addition, JFM entails more restrictions on the use of forest products and resources by villagers. As a result, demand for CBFM schemes has been higher than for JFM in terms of area and number of participating communities (Blomley & Iddi, 2009). However, CARE International (Vyamana, 2009) found that leakage problems are more likely with JFM (the natural capital within the forest under JFM improves, but to the expense of nearby forests as perceived by villagers and local foresters).

<sup>120</sup> PFM includes Village Land Forest Reserves as well as Joint Forest Management arrangements.

## 3.5 GENERAL CONCLUSIONS AND RECOMMENDATIONS

### 3.5.1 LESSONS LEARNED FROM WMAS AND VLFRS: CHALLENGES AND OPPORTUNITIES FOR REDD+ BENEFIT-SHARING

#### **Legal and policy framework: land tenure and access to benefits:**

The policy and legal frameworks for WMAs and PFM present a number of important differences. WMAs are based on a regime of shared management between villages and government. However, the resource itself still remains public property vested in the President<sup>121</sup>, and all revenues generated by the use (consumptive or not) of this resource are collected by the government and shared with villages that contributed to its management. JFM follows a similar rationale with one important difference: JFM can only be located on National Reserves (i.e., land owned by the state), while WMAs are located on Village Land that is legally managed by villagers, since it is gazetted in their name (a feature shared by VLFRs).

Both VLFRs and WMAs are based on relatively secure *land* from the standpoint of villages, but the extent of devolved management rights differs between the two models. In the case of forests, more powers are devolved to communities, while in the case of wildlife, the devolution is more limited, and based on the village ceding part of its land to a third party to manage (the AA). The land remains village land, but is managed by a third party that also manages the wildlife rights on behalf of the village, with the village losing considerable control over management and benefits unless it withdraws from the agreement. Several experts mentioned that WMA Regulations were being revised in ways that would make it harder for villages to get out of WMAs, as they would lose rights over the land previously gazetted for the WMA. This would raise serious concerns for villages, whereas many studies report that villagers are already pressured to join WMAs even when it may not be advantageous to them (Nelson et al., 2006).

As a consequence, the two institutional models result in quite different benefit-sharing arrangements. Villages receive 100 percent of benefits generated in VLFR (except for sales taxes) and have complete discretion over the use of these revenues, while villages in WMAs receive approximately 50 percent of revenues collected by the AA (which receive only a small share of quota fees levied and collected by the Wildlife Division). As a carbon rights regime is yet to be established in Tanzania, WMAs and VLFRs represent two potential models that could have radically different impacts on communities' claims over REDD+ benefits.

Several experts mentioned that WMA Regulations were being revised in ways that would make it harder for villages to get out of WMAs, as they would lose rights over the land previously gazetted for the WMA. This issue would raise serious concerns for villages, whereas many studies report that villagers are already pressured to join WMAs even when it may not be advantageous to them (Nelson et al., 2006).

#### **Governance and Management: Institutional capacity and the role of intermediaries:**

Local capacity appears to be a challenge in establishing the WMAs as much as it is with the VLFRs. External technical and financial support was found to be necessary for villages to go through the whole administrative process. The WMAs present additional hurdles by requiring the creation of a new institution (the AA) and the approval of officials of central government.<sup>122</sup>

Experts interviewed for this study seemed to agree that the WMAs remained dependent on facilitation NGOs after they have been established to continue strengthening the capacity of AAs and of Village Councils.

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<sup>121</sup> United Republic of Tanzania, Wildlife Conservation Act, 2009, Art. 4 (1): "All animals in Tanzania shall continue to be public property and remain vested in the President as a trustee for and on behalf of the people of Tanzania."

<sup>122</sup> As presented in Box 3.1.

However, their focus on these institutions was flagged as increasing the capacity gap with villagers and thereby further weakening downward accountability of these institutions.

The facilitation agency that helped establish Suledo Forest left before the first harvesting contract was signed, leaving villagers and the ZEC unprepared to fairly negotiate with the harvester and monitor the work. However, villagers interviewed (and the ZEC) said they had learned from these mistakes and most experts interviewed anticipate villagers will have more oversight of the ZEC efforts regarding harvesting contracts in the following years to ensure they will get more revenue.

### **Efficiency of the benefit-sharing schemes:**

The legislative and policy framework for WMAs and PFM were established about 10 years ago. However, the WMAs have generated revenue for villages earlier than PFM and seem to be generating more revenue.<sup>123</sup> This trend might be explained by several factors, including the fact that wildlife is a more abundant and lucrative resource in Tanzania than forestry, the interest of conservation NGOs in supporting the creation of WMAs to reduce poaching and secure wildlife migration corridors outside national parks, and the increased interest of District administrations once they noticed WMAs could generate additional revenues for them. In contrast, CBFM has not generated significant revenues to date, but did generate many co-benefits (e.g., secure access to forests for grazing, fuel wood, and other livelihood activities) appreciated by local populations.

The role of the private sector is also a key factor for understanding differences in revenue generated by WMAs and PFM. Private investors (e.g., safari operators, hunting companies) are generating revenue in community-based wildlife management. With one exception (the Mpingo project), the private sector has played a very marginal role so far in PFM, as illustrated with the case of Suledo forest. REDD+ could create new interest for private investment in forest management.

Nonetheless, VLFRs present significant advantages compared to WMAs in terms of transparency and effectiveness in benefit distribution and management. For example, all revenue is collected directly by village institutions (the ZEC and Village Councils), while wildlife revenues are first collected by the government and by the District. The AA of Enduimet reported that they did not know how much was actually collected by central and district government. They suspected the share they received was lower than defined in the Regulations (Minwary, 2009). Although there was no proof of embezzlement, the Districts' reputation of money mismanagement was also mentioned by MNRT officials interviewed for this study; justifying their preference for a REDD+ benefit-sharing scheme that would by-pass Districts altogether.<sup>124</sup>

### **Effectiveness of the benefit-sharing schemes:**

Discussions about REDD+ benefit-sharing often raised the question of whether or not REDD+ payments should be invested only in activities that contribute to reduce deforestation and forest degradation, so as to maintain a direct link between REDD+ funds and activities increasing carbon sequestration, or whether forest users should be left to decide how to use REDD+ funds they receive, as long as they “deliver” the expected amount of sequestered carbon. The cases of the Enduimet WMA and the Suledo Forest provide good insights on this question.

In the case of Enduimet, WMA Regulations require that a significant share of revenues generated be reinvested in conservation and used to strengthen the AA capacity, while there is no such restriction in the Forest Act for PFM. In the case of the Suledo VLFR, the ZEC and member villages decided to keep a significant part of revenues to cover its operating costs with the same objective. These funds do not create

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<sup>123</sup> This assumption is based on the numbers collected in the studies referenced throughout this document, which are limited to a few villages. No comparative analysis has been published to compare revenues generated by the two institutional mechanisms.

<sup>124</sup> Interview with Dr. Zahabu, FBD.

incentives for populations to engage in more conservative practices, but are intended to enable the aggregate institution to manage the resources at stake better –and thereby ensure they will perform as expected.

In both the Enduimet WMA and the Suledo Forest, villagers decided to invest the funds they received at their level to improve access to education rather than to offset the opportunity costs of conserving the resource at stake. Some villagers of the Enduimet WMA complained, however, that revenues generated through the WMA were not sufficiently invested in protecting the population and crops from wildlife or to compensate their loss. Conservation behaviors seemed to be more driven by the fear of punishment if they killed a wild animal than by the payments they received through the WMA. The situation seems to be quite different in the Suledo Forest, where some communities (pastoralists mainly) already had strong incentives to protect the forest because of the resources they need from forests for their livelihoods (e.g., fuel wood and cattle grazing space) and because of the co-benefits they enjoy or anticipate (e.g., secure tenure, strategy identified by Maasai pastoralists to increase the monetary value of standing forests for farmers). These benefits significantly decrease the opportunity cost to engage in sustainable forest management (at least for pastoralist groups, if not for farmers). As a result, the size of required benefits may be lower in the case of Suledo than it is for the Enduimet villagers.

### **Financial sustainability:**

As noted above, establishing WMAs and VLFRs requires major investments from facilitation agencies to strengthen the capacity of village government and aggregate institutions (as well as District officials). In the long run, however, both institutional models are designed to be financially autonomous in the sense that the managing institutions' budget can adapt to the amount of revenue collected since they do not require up-front investments to operate.

The situation would likely be different if they engaged in REDD+ initiatives. Village or aggregate institutions would depend on new facilitation agencies to go through the whole administrative process of designing and registering a REDD+ project. They would likely need to pay external experts to meet monitoring, reporting and verification requirements associated with the project. These fixed costs may or may not be covered by REDD+ payments or a national system depending on the amount of carbon effectively stored in village forests and on the international market price of carbon credits.

### **Community engagement:**

Interviews conducted for this study as well as past assessments show that villages of the Enduimet WMA are facing significant communication challenges with the AA. The fact that few villagers are involved in village government also contributes to limit community engagement in both WMAs and VLFRs.

In the case of the Suledo Forest however, villagers mentioned that they would monitor ZEC decisions more carefully for the next harvesting contract. They perceived that an increased commitment would make a difference and contribute to improved decision making. Villagers of the Enduimet WMAs did not seem to share this belief, as a majority reported they had not been involved in the establishment of the WMA.<sup>125</sup>

The issue of scale was mentioned by many as key to allow for effective community engagement. AAs tend to communicate better when they are composed of fewer villages than if they have many villages in the AA.

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<sup>125</sup> Ibid., p. 35: “The respondent believed that he participated in the public meetings, but when it came to knowledge and making decisions about the WMA, the leaders had the authority. This belief was commonly shared amongst those who did not think they were involved in the establishment of Enduimet WMA.”

## Equity:

Benefit distribution within villages is based on decisions made by village government in the WMAs and in the VLFRs. Based on the information gathered by WRI in the Enduimet WMA and the Suledo Forest, benefits were used mainly for community projects, which focused on improving access to education.

It should be noted that a CARE International assessment of the VLFRs found that village elites tend to enjoy more benefits and be less affected by costs (e.g., fees levied in VLFRs) than the village poor (Vyamana, 2009). In-village inequalities seem to be perpetuated rather than reduced by village engagement in VLFR. These analyses called for bringing changes in PFM regulations to make them more pro-poor. No such study was found for WMAs to check if they have the same bias.

### 3.5.2 CONCLUSIONS AND RECOMMENDATIONS

National NGOs in Tanzania have been urging the government to recognize in the REDD+ national strategy that most land is under Village Land, following the definition of General Land provided by the Village Land Act. The stake is to ensure that a larger share of forests outside National Reserves is recognized by government to be on Village Land, thereby increasing the chances that villages will benefit from REDD+ payments as forest owners. If the government uses the Land Act definition of General Land, as is currently the case in the draft REDD+ national strategy, more forests will be considered outside Village Land and the model of JFM is more likely to be relevant, resulting in lower benefits and co-benefits for villages.

#### Recommendations:

- Tanzania government should accept the Village Land Act's definition of General Land.
- Government and sectoral laws should recognize the authority of village government over Village Land and all resources on Village Land.

Experience with the WMAs and the VLFRs demonstrate that it took approximately 10 years until new local institutions were relatively operational. Therefore, it will be important to consider using existing institutions for REDD+ rather than create new ones. Assessments of the WMAs tend to show that villagers will more likely be able to hold institutions accountable that are closer to them, which makes the argument for smaller aggregate institutions rather than larger ones. The Suledo Forest is not a small aggregate (10 villages), but villagers felt more confident that they could hold the ZEC accountable through the Village Assembly and the Village Council. Indeed, the Forest Act provides more flexibility for village government to decide on the allocation of responsibilities among their institutions (e.g., they can vest power in the Village Council or a Village subcommittee like the VEC). In addition, the institutional design of VLFRs present several strengths compared to WMAs. For example, with the VLFR there are defined lines of accountability of the aggregate institution to village government, the process to establish VLFRs is arguably less heavy and costly than for WMAs<sup>126</sup>, and villages can directly sign contracts with harvesters in VLFRs and collect the payments directly.

#### Recommendations:

- REDD+ should build on existing local institutions, including village governments established by the Local Government Act of 1982, rather than create new ones.
- Aggregate institutions that will be created or used for REDD+ should be based on the model provided by VLFRs rather than WMAs.

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<sup>126</sup> Although simpler procedures did not necessarily result in more VLFRs obtaining harvesting rights, given that Districts have more to lose than with WMAs where they still get a significant share of revenues.

- The size and composition of aggregates created for REDD+ should be based on socially sustainable and manageable units, taking into account local governance factors, instead of focusing solely on ecological factors or on minimizing transaction costs.

Another key factor emerging from experiences with the Enduimet WMA and the Suledo Forest is the role of facilitation agencies, their expertise, and their interests. Most WMAs were established with the facilitation of international conservation NGOs. They focus their support on the aggregate institution in charge of managing wildlife, thereby strengthening its operational capacity. An unintended consequence of this strategy was a growing capacity gap with village government and a dynamic where upward accountability (to the District and the facilitation NGO) is greater than downward accountability (to village government and villagers). This trend was not observed in the WMAs and the VLFRs established with agencies more focused on poverty alleviation, like ORGUT Consulting with Suledo Forest and Africare with Ipole and Uyumbu WMAs (Nelson et al., 2006). These organizations focused more on strengthening village government and communication with the aggregate institution.

**Recommendations:**

- Facilitating organizations that will support the establishment of new aggregate institutions for REDD+ should focus on strengthening village government and support local development support.

## TANZANIA CASE STUDY APPENDIX 3.1: LIST OF INTERVIEWS CONDUCTED DURING THE FIELD VISIT (MAY 13–27, 2011)

Type of organization	Organization name	Contacts interviewed & Title
<b>Government</b>	Vice-President Office (VPO)	Kanizio F. and Fred K. Manyika, Senior Environmental Officer and Chair of REDD+ Task Force
	Forestry and Beekeeping Division (FBD)	Dr. Zahabu, FBD
<b>Local government</b>	Jozani National Park, Zanzibar	Salim Ali Khamis, Park Warden
	Kiteto District	Jane Mutagurwa, District Executive Director Fabian N. Nshuima, District Land, Natural Resources and Environmental Officer Mr. Muhimili, District Forest Officer
	Zonal Environmental Committee (ZEC) and Sunya Village (part of Suledo)	ZEC Chairman, ZEC Secretary, and 12 ZEC members
	Enduimet WMA	11 members of the AA including the Secretary, Treasurer, Administrator, Guard
<b>Village government</b>	Lengatei Village (part of Suledo)	14 members of the Natural Resource Committee, including the Chairman and Secretary as well as the Acting Village Executive Officer
	Lesoti Village (part of Suledo)	10 members. Also present in our meeting in Lesoti Village were Dr. Kelly Askew, University of Michigan; 2-man film crew; Prof. Maganga, Institute of Resource Assessment (IRA), University of Dar es Salaam; and Lydia Nyeme, PhD student of Prof Maganga
<b>Universities and research institutions</b>	University of Dar es Salaam	Dr George Jambiya and Zabron Kengera, PhD Student
	Sokoine University of Agriculture, Morogoro	Prof. George Kajembe, Prof. Salem Moyondo Kikuwanza, Usamba Sal...
	University of Maryland	Emmanuel Sulle
	Round Table Africa	Laura Tarimo, WMA researcher
<b>Local civil society / coalition of NGOs</b>	MJUMITA (Tanzanian Community Forest Conservation Network)	Theron M. Brown, Technical Advisor
	Tanzania Forest Conservation Group (TFCG)	Nike Doggart, Senior Technical Advisor
	Lawyers' Environmental Action Team (LEAT)	Prof. Hamudi Majamba, Faculty of Law, University of Dar es Salaam; Rugemeleza Nshala; and Lutema
	Tanzania Natural Resource Forum (TNRf)	Elias, Chairman; Carol Sorenson, Director and (One other person)
<b>International Institutions</b>	Food and Agricultural Organization (FAO)	Prof. Rogers E. Malimbwi, Forest Inventory with FBD
	IUCN-East Africa	Andrew Williams
<b>Bilateral agencies/embassies</b>	Norwegian Embassy	Simon Milledge, Consultant, Environment/Climate Change
	USAID	Mikala Lauridsen, Senior Technical Advisor, Consultant; and Gabriel Batulaine, Senior Environmental Management Specialist

Type of organization	Organization name	Contacts interviewed & Title
<b>International NGOs</b>	CARE/Tanzania	Paul Baker, Director, CARE, I6 May, Monday and George Mkoma, CARE, micro-finance coordinator
	CARE/Zanzibar	Raja Jarrah, CARE Climate Change Advisor and REDD+ point person; Amour B. Omar, Program Coordinator/Team leader-Zanzibar; Soud Mohammed Jumah, Monitoring and Evaluation and Learning Officer, HIMA; Fatima Ali Khamis, Community Forests and Institutional Strengthening Officer, HIMA; and Ali M. Hilal, Leakage Control and Enterprises Development Officer, HIMA
	WWF	Dr. Mwakalila, REDD; Peter Sumbi, Forest Programme Officer; Adam Kiduzi, Forest Programme Officer; and Dr. H. Sosovele, CBNRM Policy Program Coordinator
	African Wildlife Foundation (AWF)	Andrea Athanas, Senior Program Design Officer and Thadeus Binamungu, Senior Program Officer
	Honey Guide Foundation	Damian Bell
<b>Experts</b>	Independent Consultant	Prof. Adolfo Mascarenhas
<b>Private firms</b>	Manyara Ranch	Clive Jones, former manager
	Carbon Tanzania	Doug Baker

# 4.0 NEPAL

## 4.1 INTRODUCTION

Nepal is still emerging from a prolonged period of political instability and civil war. In 2008, a constituent assembly was elected to draft a new constitution by May, 2010. To date, the constitution has not been completed and remains a significant source of political, legal, and institutional uncertainty. The people of Nepal represent diverse ethnic groups, religions, and languages. Approximately 80 percent of the population is rural (CIA, 2011) and are highly dependent upon forest and agricultural land uses.

Recent and accurate information on forest cover in Nepal is lacking. The most recent national forest inventory (1999) documented approximately 5.8 million hectares of forest, or roughly 40 percent of the total land area. This 5.8 million hectares of forest included approximately 1.5 million hectares of shrub-land and 4.3 million hectares of dense forest. Current forest cover is likely much lower than these figures given high estimated rates of deforestation and degradation over recent years. The Global Forest Resources Assessment (2010) estimated that forest area decreased by 1.7 percent per annum between 1979 and 1994 (FAO, 2009). Data from the Central Bureau Statistics of Nepal (2008) provides an annual deforestation rate of 2.7 percent between 1992 and 2002 (Government of Nepal, 2010).

Nepal can be divided into three main physiographic regions: (1) high mountains; (2) middle hills; and (3) the Terai and Siwaliks (Government of Nepal, 2010). In the 1950s, all private forest lands in Nepal were brought under state ownership. However, starting in the 1980s, forest management rights were handed over to thousands of communities in the middle hills region. Community-managed forests now account for roughly one-quarter of Nepal's forest area. This shift is widely believed to be responsible for the reversal of deforestation trends in the middle hills region during the 1990s (Acharya et.al., 2009).

In the Terai region, the vast majority of forests remain officially government managed and deforestation rates are high. The drivers of deforestation and degradation are associated with lack of clarity in the land tenure system and weak governance. Many government managed forests are treated as a *de facto* open access resource, falling victim to unplanned settlements, illegal logging, wood fuel harvesting, and agricultural encroachment. Finally, little is known about the status of forest resources in the high mountains, other than the prevalence of illegal logging to export timber into Tibet.

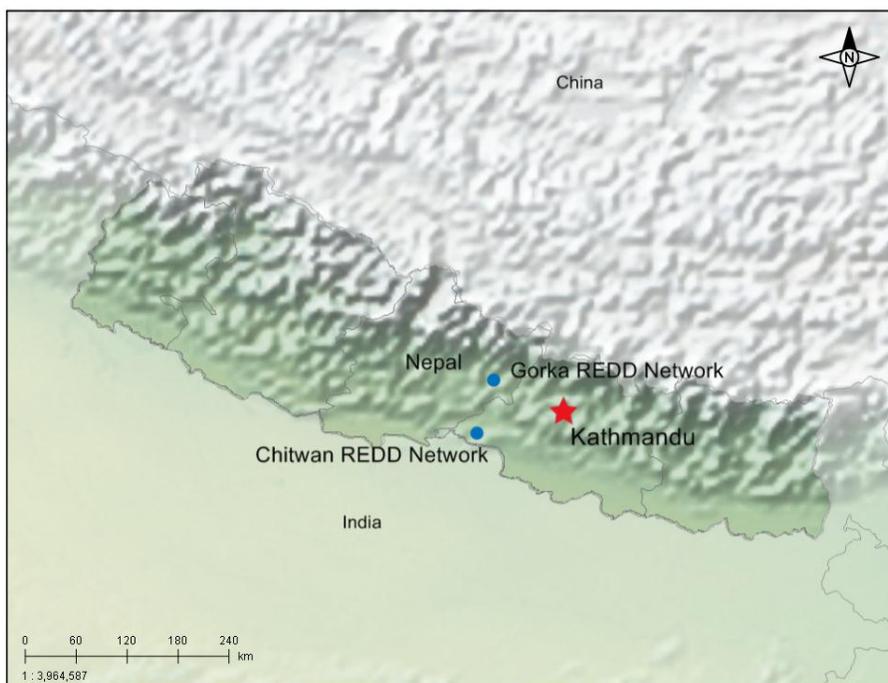
## 4.2 OVERVIEW OF NATIONAL REDD+ STRATEGIES FOR BENEFIT SHARING

In 2009, Nepal's Ministry of Forests and Soil Conservation (MoFSC) initiated planning exercises and stakeholder consultations to develop an R-PP for the World Bank's Forest Carbon Partnership Facility (FCPF). A multi-stakeholder institutional mechanism (see Figure 4.2) was established to manage the development and implementation of the R-PP, which was released in its final version in November, 2010. The R-PP outlines a roadmap of activities that Nepal will undertake between 2010 and 2013 (i.e., the "readiness" phase) to prepare itself for REDD+ implementation at a national scale. These activities include, among other things, developing a national REDD+ strategy and preparing the institutional and legal frameworks necessary to implement the strategy. Nepal has received \$3.6 million US from the FCPF to implement these activities. In addition, Nepal has received pledges of bilateral support totaling over \$20 million from governments such as Switzerland, Finland, Japan, and the United States.<sup>127</sup>

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<sup>127</sup> Nepal page of the voluntary REDD+ database. Accessed 15 August 2011. Online at: <http://reddplusdatabase.org/entities/284>.

**FIGURE 4.1 MAP OF NEPAL AND LOCATIONS OF FIELD VISITS**



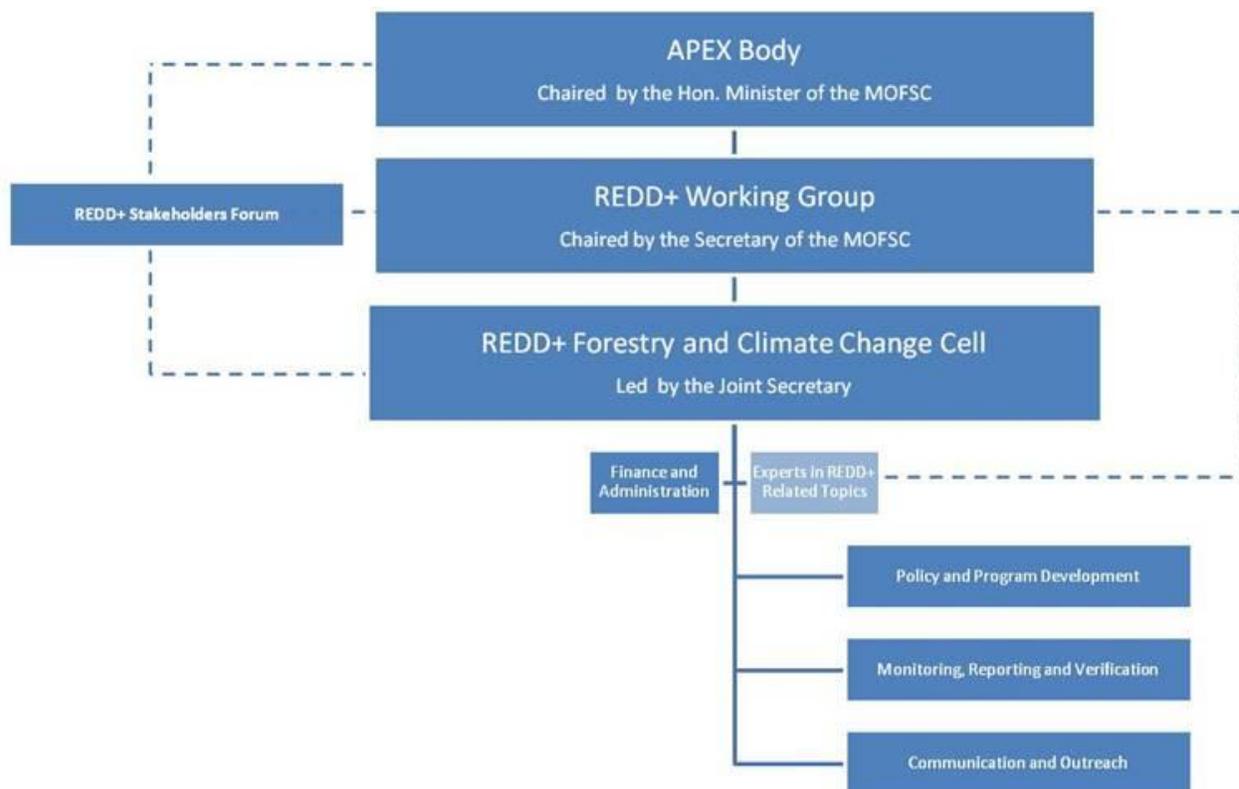
Based on the first draft of the R-PP, the REDD Forestry and Climate Change cell (REDD-Cell) also released an interim REDD+ strategy in July, 2010. Both the R-PP and the interim strategy contain preliminary ideas on potential financing and benefit distribution mechanisms for REDD+, which form the basis for this case study. Interviews conducted with national and local stakeholders, including those engaged in the major REDD+ demonstration projects currently underway<sup>128</sup>, provide additional perspectives on these emerging concepts.

An important caveat that was mentioned during all interviews is the ongoing process to develop a new constitution. Until the new constitution is signed, it will be difficult to talk definitively about legal or institutional reforms for REDD+. The impacts of the constitution in terms of state restructuring will be particularly consequential for the design of any national benefit sharing mechanism.

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<sup>128</sup> The R-PP and Interim Strategy provide a list of six current REDD+ projects in Nepal. These include the NORAD-funded project explored in this case study, as well as projects led by WWF and the UK Government (DFID). Most projects are currently focused on awareness raising, developing methodologies for carbon measurement, and REDD+ strategy development.

**FIGURE 4.2: INSTITUTIONAL STRUCTURE OF REDD+ GOVERNANCE IN NEPAL<sup>129</sup>**



#### 4.2.1 POTENTIAL FORMS OF REDD+ BENEFITS

REDD+ is expected to create a new source of revenue for what is generally considered to be an underfunded sector in Nepal (Government of Nepal, 2010). Current sources of financing for REDD+ include upfront multilateral and bilateral investments in strategic planning, capacity building, and consultation activities. Following the readiness phase, it is expected that performance-based financing from carbon markets (voluntary or compliance), international funds, or bilateral agreements will be the main sources of REDD+ revenue. There has also been some discussion about exploring domestic funding sources for REDD+, such as environmental taxes (REDD+ Forestry and Climate Change Cell, 2010).

Estimates of how much revenue could be generated by selling carbon offsets are highly variable and depend upon assumptions about the market price of carbon. For example, one study using a “conservative” carbon price estimated that community managed forests in Nepal could earn between US\$3.6–7.2 million per year (Ojha et al., 2008). Another study, which used existing CDM market prices for carbon, calculated a potential income of \$90.9 million per year (Staddon, 2009). To put these figures in perspective, the current average annual income from community forestry has been estimated at over \$10 million (Pokharel et al., 2008).

At this stage, there is no detailed national vision for how REDD+ revenues would be transferred into direct cash or non-cash benefits for local actors. A payment for ecosystem services (PES) model, which would involve direct payments to local communities, has been highlighted as a potential approach in the R-PP and interim strategy. However, Nepal has limited experiences with PES, so further investigation is needed into the potential for this model. In addition to carbon payments, REDD+ initiatives could potentially generate direct benefits for communities through employment opportunities associated with project implementation,

<sup>129</sup> R-PP, p. 11.

improved tenure security, enhanced access to forest resources, and up-front (i.e., not performance-based) investments in sustainable livelihoods.

In addition, the R-PP and interim strategy identify broader societal benefits that REDD+ programs will be expected to deliver. These indirect benefits of REDD+, sometimes called “co-benefits,” are likely to play an important role in Nepal. Since Nepal’s potential for carbon reduction and sequestration is low relative to countries with more significant forest carbon stocks and higher rates of deforestation, there are concerns that forest carbon revenues will not be able to offset significant transaction and opportunity costs. Bundling REDD+ strategies with broader ecosystem service, poverty reduction, and climate change adaptation programs could help to build stronger incentives for forest protection and to minimize transaction costs. Key co-benefits identified in the R-PP include:

- Reduced poverty and improved livelihoods for people who depend on forest resources;
- Enhanced biodiversity, soil, and water conservation;
- Enhanced value of timber and non-timber forest products;
- Enhanced adaptive capacity of forests and forest dependent communities to climate change; and
- Improved capacity of forest management institutions, including local government and local communities.

#### **4.2.2 POTENTIAL REDD+ BENEFICIARIES**

The R-PP and interim strategy discuss three potential beneficiaries of REDD+: local communities, government, and the private sector. At this stage, it is not clear what would constitute a legitimate basis for identifying beneficiaries and dividing REDD+ revenues among them. Several potential criteria are mentioned in the R-PP and interim strategy, including carbon rights, opportunity cost, levels of effort and investment (i.e., inputs), and performance (i.e., outputs). Broader social equity and fairness concerns underlie each of these criteria. During interviews, most stakeholders asserted that clarifying rights to carbon in state-owned forests will be a critical determinant of access to benefits, particularly for local communities.

##### **Communities:**

There appears to be broad consensus among stakeholders that forest-dependent communities should be a key beneficiary under REDD+. Approximately 80 percent of the population in Nepal relies on forest resources for some aspect of their livelihoods. Communities, therefore, play a significant role in forest management and use regardless of their legal tenure status; their active participation in REDD+ will be vital to its success.

Currently, there are three main tenure regimes that allow local communities to legally capture benefits from state-owned forest: (1) community forestry (CF); (2) collaborative forest management (CFM); and (3) buffer zone management (see Box 4.1). Under each regime, communities are legally entitled to share in forest benefits. However, the relative size of this share has been an ongoing source of tension between communities, local government, and central government. These tensions are fueled by differing notions of fairness and by ambiguities in the legal framework<sup>130</sup>.

For example, communities participating in the CF program (most prevalent in the Middle Hills region) currently retain all benefits from the forests they collectively manage in accordance with the Forest Act of 1993. However, the Local Self Governance Act of 1998 entitles local government to 10 percent of revenues from national forests. Furthermore, MoFSC has shown an increasing interest to reclaim a portion of these revenues now that community-managed forests have regenerated and become more lucrative (Dahal & Banskota, 2009). Although their attempts to do so have been unsuccessful to date, the promise of REDD+

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<sup>130</sup> Refer to carbon rights case study for more extensive review of legal framework.

revenues is likely to exacerbate these tensions. Clarification of carbon rights, which are not currently delineated under community forestry law, will likely be a crucial point of debate in this context. This point was voiced repeatedly by community stakeholders interviewed for this case study who felt strongly that communities should be entitled to the majority, if not all, of the revenues generated from the sale of carbon from the forests they legally manage.<sup>131</sup>

A more significant challenge is faced by communities who lack clear tenure rights. Approximately 60 percent of Nepal’s forest area, mostly found in the Terai, remains officially government managed. The government has cited several reasons for not expanding Community Forestry to the Terai, including the greater value and size of forests in the Terai (therefore requiring more sophisticated management plans), the heterogeneity of local forest users (therefore making it difficult to form CFUGs), and the need to carve out a more substantial role for local government. Many experiments with Community Forestry in the Terai have proven unsuccessful for these reasons (Ebregt et.al., 2007).

#### BOX 4.1. PARTICIPATORY FOREST MANAGEMENT REGIMES IN NEPAL

*Community Forestry:* Established by the Forestry Act (1993), CF is the most widespread system and exists predominantly in the Middle Hills region. CF spans approximately one-quarter of the total forest area of Nepal and involves over one-third of the total population of the country (Chapagain & Banjade, 2009). It involves the full transfer of forest management rights and responsibilities to local users, who organize as legally recognized Community Forest User Groups (CFUGs). CF is widely believed to be responsible for the extensive regeneration of previously degraded forests in the Middle Hills.

*Buffer Zone Community Forestry:* Created by the Wildlife Conservation Act (1993), this form of participatory management gives the national parks department power to establish buffer zones in and around national parks where forest resources are used by communities. Communities form Buffer Zone Management Committees and are allowed to managed, extract, and sell certain forest products according to the Buffer Zone Management Guidelines, and under the supervision of the Park Warden.

*Collaborative Forest Management:* CFM was introduced by the 2000 National Forest Policy with the objective of sharing management responsibility for large blocks of national forest in the Terai region between state and local institutions. CFM was established following the general perception within government that CF is unsuitable in the Terai, for reasons including the large size and value of forests, the heterogeneity of local forest users, and the need to carve out a more substantial role for local government. More cynical perspectives assert that government is unwilling to hand over its only major source of forest revenue to local communities. CFM remains in a pilot stage and accounts for less than 0.2 percent of forest area in Nepal (Government of Nepal, 2010).

	area in hectares	% of total forest
<i>Community Forestry (includes buffer zone)</i>	1,229,681	21.10
<i>Collaborative Forest Management</i>	10,676	0.18

Source: Nepal’s R-PP

Forests in the Terai are generally treated as a *de facto* open access resource by local users due to weak government capacity to manage and enforce the area. Furthermore, conflicts over resource access have arisen between forest adjacent communities and those occupying the southern belt of the Terai (often referred to as

<sup>131</sup> Interviews with Watershed REDD+ Network members in Chitwan and Ghorka districts.

“distant users”). Presumably, the tenure rights of these communities will need to be clarified and recognized before they will be able to benefit under REDD+. Several of the proposed REDD+ strategy options in the R-PP suggest clarifying tenure by extending collaborative forest management regimes to these areas.

### **Indigenous peoples, *Dalits*, women, and the poor:**

Within and among local communities, an additional layer of REDD+ beneficiaries emerge. The Government of Nepal promulgated the Act of National Foundation for Development of Indigenous Nationalities in 2002, which identified 59 indigenous nationalities. Although Nepal signed the United Nation Declaration on the Rights of the Indigenous Peoples (UNDRIP) and ratified International Labor Organization Convention 169 in 2007, the national policies and institutions necessary to implement these international laws have not yet been developed. As a result, many NGOs have voiced significant concern regarding how the rights of indigenous peoples will be addressed within REDD+ benefit sharing systems at the national and community levels.<sup>132</sup> For example, in the Terai region, high levels of immigration have resulted in exclusion of indigenous communities within local benefit sharing systems.

In addition, women, *Dalits*<sup>133</sup>, and low-income households make up an important group of REDD+ stakeholders that have a history of social marginalization within local communities. Within the CF system in Nepal, equity issues have increasingly become a focus of attention with respect to intra-community benefit sharing (Blomely et al., n.d.). In the 2000 revision of the CF guidelines, the government made it mandatory for all communities to carry out a household “well being” ranking while preparing the CFUG constitution. Using this ranking, and with support from NGOs, donors, and government agencies, some CFUGs have begun giving priority to poor and excluded groups in benefit sharing arrangements. To date, considerations of poverty and social marginalization have also featured prominently in REDD+ discussions, and consultations with vulnerable groups is a major focus of the R-PP. In addition, Nepal has been a leading participant in the national implementation of the REDD+ Social and Environmental Standards, which have been developed as a voluntary international standard for the social and environmental performance of REDD+ programs<sup>134</sup>.

### **Government:**

To implement REDD+ at a national scale, it will be necessary for the government to retain some share of the revenues in order to establish country-wide carbon registries, monitoring systems, and safeguard systems. Although the R-PP is not explicit regarding the role government will play in implementing REDD+ strategies, the majority of the REDD+ strategy options identified in the R-PP involve national or sub-national level policies and measures (e.g., investing in non-forestry sector employment programs in rural areas to reduce forest dependency) rather than project-based interventions. According to the interim strategy document, government-led policies and measures are more likely to yield co-benefits than projects, although projects are typically considered to be more favorable in terms of economic efficiency.

The R-PP and interim strategy do not provide any insights on how much revenue would need to be retained by government, or how this figure might be calculated. In particular, it is not yet clear how revenues would be shared between central and local government, even though there is widespread agreement that significant investments in capacity will be needed at the district and village levels to implement REDD+ strategies. Reaching additional clarity on this issue is currently impeded by significant legal uncertainty regarding the extent to which rights and responsibilities for managing national forests have been decentralized to local governments.<sup>135</sup> The anticipated transition to a federal system of government under the anticipated new

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<sup>132</sup> Interview with Pasang Dolma Sherpa, National Federation for Indigenous Nationalities (NEFIN).

<sup>133</sup> *Dalits* are a socially marginalized group under the caste system.

<sup>134</sup> Additional information on the REDD+ Social and Environmental Standards can be found at: <http://www.redd-standards.org/>.

<sup>135</sup> See legal case study for additional information.

constitution creates an additional cause for uncertainty. The general expectation of greater decentralization of responsibilities to local government has already driven the central government to propose several new national parks.<sup>136</sup>

#### **Private sector:**

All forest lands in Nepal were nationalized in 1957. The extent and status of forests that currently exist on privately owned lands is not well understood or actively supported by the government. Within the national forest, private individuals, cooperatives, and companies can access 40-year leases through the leasehold forestry program. However, leasehold forests currently account for less than 0.5 percent of national forest area (Government of Nepal, 2010). According to the interim strategy, MoFSC will review and simplify land-leasing procedures for climate change initiatives in order to encourage more private sector investment in REDD+ projects. Additional details on this strategy are not provided, and interviews with national stakeholders did not reveal any insights on the potential for increasing private forestry in Nepal.

### **4.2.3 POTENTIAL INSTITUTIONAL MECHANISMS FOR BENEFIT DISTRIBUTION**

The R-PP and interim strategy have articulated the following general vision for a national REDD+ benefit distribution mechanism in Nepal. The mechanism would employ a sub-national approach in order to accommodate different socio-economic, biophysical, and forest management contexts across regions, although it is also acknowledged that this approach may result in higher transaction costs. A multi-stakeholder Forest Carbon Trust Fund (FCTF) would be established to collect and disburse REDD+ revenues at two levels: central and district. It is expected that the Fund would allow enhanced financial transparency and distributional efficiency compared to an on-budget system. New legislation will be necessary to implement the Fund.

At the central level, the REDD+ Forestry and Climate Change Cell would be responsible for maintaining a registry of verified emission reductions as a basis for distributing payments to the district level. At the district level, District Forest Offices (i.e., the local arm of the Forest Department) would be responsible for monitoring, reporting, and verifying registered emission reduction activities on the ground. Existing multi-stakeholder institutions and benefit sharing mechanisms at the district and community levels would be leveraged to channel benefits to local stakeholders (see Table 4.1). Key local actors and institutions at this level are described below.

#### **District Forest Offices:**

District Forest Offices (DFOs) are the local arm of the Forest Department. The roles and responsibilities of DFOs vary significantly depending on the forest management paradigm. In government-managed forests, the DFO's role is to control and protect the forest and to use it for revenue generation. However, most DFOs have not been given the necessary support or resources to carry out their responsibilities and have faced hostility from local stakeholders that lack clear user rights (Bampton, 2003). This trend has resulted in a *de facto* open access situation in most government-managed forests. In areas under Community Forestry, the role of the DFO has shifted to facilitator, technical supporter, and overseer of CFUGs. DFOs are also a key stakeholder in the CFM regime. In fact, one criticism of CFM is that it has given too much control to the DFO in decision-making and implementation (Bampton et al., 2007).

#### **Local government:**

The lowest administrative unit in Nepal is the Village Development Committee (VDC). Above it is the District Development Committee (DDC). These bodies have not had elected representatives since 2002. Instead, government employees and unelected joint political party mechanisms make up the Committees,

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<sup>136</sup> Interview with Dil Raj Kanal, National Federation of Forest Users Nepal (FECOFUN).

which are housed in the district offices of the Ministry of Local Development. This situation has given rise to many concerns regarding the mismanagement of local development funds and overall lack of transparency and accountability in local governance.

With respect to forest management, the Local Self Governance Act (1999) gives DDCs significant rights and responsibilities over national forests in their district, including a right to 10 percent of revenues generated. However, in the Middle Hills where CFUGs control the majority of forests, these rights and responsibilities are generally not practiced, leading to tension between some CFUGs and their DDC.<sup>137</sup> Nonetheless, the DDCs provide resources for schools, road construction, and other services that are used by the CFUG members. Most of the experts interviewed for this case study were skeptical of a strong role for local government in REDD+. Nonetheless, the DDCs and VDCs are described as important actors in the R-PP.

### **District Forest Coordination Committees:**

District Forest Coordination Committees (DFCCs) were introduced in the revised National Forest Policy (2000) in order to promote more inclusive management of forests in the Terai. The main objective of a DFCC is to develop, implement, and monitor district plans for forest management and conservation in coordination with and through active participation of all concerned stakeholders. In addition, DFCCs have the mandate to coordinate and monitor the implementation of programs to support poverty reduction and gender equality. DFCCs are housed within the DDC rather than within the MoFSC.

The R-PP proposes that the DFCCs could be the primary channel for distributing REDD+ benefits at the district level. However, significant scaling would be required to achieve this vision. To date, the DFCCs have only been established in a small number of districts, and the process has been driven by donor-funded programs. Preliminary evidence suggests that the DFCCs have had positive impacts on local participatory governance; however, some contend that the mandate and legitimacy of the DFCCs is still unclear under the Local Self Governance Act (Rana, Khanal, Kotru, & Jamarkattel, 2009).

### **Community Forest User Groups:**

Under the CF program, local communities in the middle hills and in limited parts of the Terai have organized themselves into autonomous and self-governing CFUGs. The legal rights and responsibilities of these groups are dictated by their constitutions and five-year forest management plans, which must be approved by the DFO.<sup>138</sup> As of 2009, there were over 14,000 CFUGs comprising roughly 1.6 million households. CFUGs have their own funds and accounts, which they use to invest in community development projects and forest management activities.

For these reasons, CFUGs are widely viewed as a promising institution for channeling REDD+ funds at the community level. However, in most of the Terai, where community forestry has not taken hold and where traditional institutions have been marginalized by recent migrants (Nagendra, Karmacharya, & Karna, 2005), it is less clear how REDD+ funds would be effectively managed by communities. Pilot experiences with CFM, which is inherently a more government driven process than CF, suggest that community groups in that context tend to be more upwardly accountable to government officials rather than downwardly accountable to their constituencies.

### **Community-Based Organizations:**

Over 14,000 CFUGs have joined together to form the National Federation of Forest Users Nepal (FECOFUN). The FECOFUN plays a critical role in terms of advocating for CFUG rights at the local and national levels, and providing support and guidance to its members. The National Federation for Indigenous Nationalities (NEFIN) is another important grassroots organization, which specifically looks after the

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<sup>137</sup> Interview with Bibek Chapagain, Winrock International.

<sup>138</sup> Refer to legal study for deeper legal analysis of the rights and responsibilities of CFUGs.

interests of indigenous peoples. Both the NEFIN and FECOFUN have a strong presence at the local level.

**TABLE 4.1: BENEFIT SHARING SYSTEMS BY MAJOR FOREST MANAGEMENT REGIME**

Forest Management Regime	Key Institutions/ Beneficiaries	Revenue Sources	Benefit Distribution
<b>Community Forestry</b>	CFUG is main decision-maker. Oversight by DFO. In most cases, limited-to-no role for DDC/VDC.	Local sales of “excess” forest products (i.e., beyond community consumption). Government allocations from central and DDC/VDC. Potentially grants from donor agencies.	Communities retain 100 percent of revenues and have wide discretion over spending. 25 percent mandatory spending on forest management activities. Remainder on community development projects. Pro-poor considerations in some CFUGs.
<b>Collaborative Forest Management</b>	DFCC coordinates local stakeholders including DFO, DDC/VDC, community user groups (multiple), and NGOs.	Sales of forest products.	25 percent to local government (DDC & VDC) to implement local development activities. 75 percent to central government. Communities access fuel wood and fodder free of cost.
<b>Buffer zone management</b>	Buffer Zone Management Group (i.e., community) is main decision-maker with close oversight from park warden.	Sales of limited forest products. 30-50 percent of revenues from the park (e.g., entry fees). Potentially grants from donor agencies.	Communities must spend 40 percent on conservation, 30 percent on community development, 20 percent on income generation and skills development, and 10 percent on administration.
<b>Government-managed</b>	DFOs manage with DDC/VDC to varying extents. Local users are “illegal.”	Sales of forest products.	10 percent revenue to local government. Remainder to central government.

### 4.3 REDD+ DEMONSTRATION PROJECT

In 2009, three NGOs (the International Centre for Integrated Mountain Development [ICIMOD], the Asia Network for Sustainable Agriculture and Bioresources [ANSAB], and FECOFUN) launched a REDD+ demonstration project in Nepal comprised of three watersheds, 104 CFUGs, and over 18,000 households. The project is supported by a four-year grant (2009–2013) from the Norwegian Agency for Development Cooperation (NORAD). The main objectives of the demonstration project are to<sup>139</sup>:

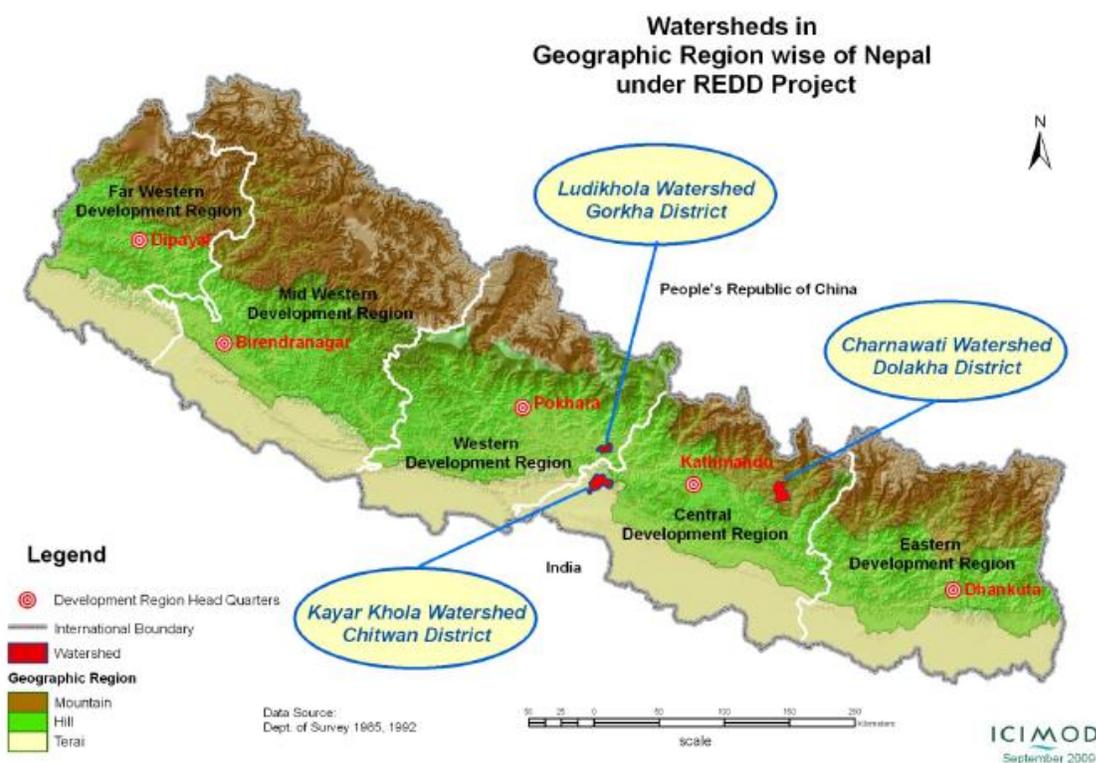
- Strengthen the capacity of civil society actors in Nepal to ensure their active participation in the development of national REDD+ strategies;
- Establish a sustainable and creditable FCTF;
- Contribute to the development of national REDD+ strategies that can effectively and efficiently monitor carbon in community managed forests; and
- Provide a replicable model for REDD+ payment distribution.

<sup>139</sup> See FECOFUN website, [http://www.fecofun.org/home/p\\_redd.php](http://www.fecofun.org/home/p_redd.php).

This demonstration project has been described in the R-PP and by the government officials interviewed during this case study as an important learning opportunity for REDD+ benefit sharing in Nepal. In particular, the project’s pilot FCTF is likely to inform the development of the national FCTF envisioned in the R-PP. However, when considering the potential scalability of this model, there are several important caveats to consider. First, the three watersheds selected by ICIMOD, ANSAB, and FECOFUN to participate in the project were considered to contain some of the best performing CFUGs in the country with respect to governance and forest management.<sup>140</sup> Second, the project only credits enhanced carbon sequestration (afforestation/reforestation), as opposed to avoided deforestation, and the opportunity costs faced by communities are relatively low. It is, therefore, uncertain how applicable this model will be in the Terai, where deforestation rates and opportunity costs are high and local governance systems are weak.

Nonetheless, this REDD+ demonstration project is highly likely to influence the development of REDD+ benefit sharing in Nepal. This case study involved field visits to two of the three Watershed REDD Networks established by the project, located in Chitwan and Gorkha Districts (see Figure 4.3), in order to gain perspectives of local stakeholders on project experiences to date.

**FIGURE 4.3: MAP OF REDD+ PROJECT AREAS ACROSS NEPAL<sup>141</sup>**



<sup>140</sup> Interview with Laxman Joshi and Bhaskar Karky, ICIMOD.

<sup>141</sup> Presentation by Bhaskar Karky. 2010. “Lessons from Norad REDD pilot in Community Forests of Nepal.” [http://www.iisd.org/pdf/2010/08\\_REDD\\_II\\_Hue\\_Lessons\\_Nepal.pdf](http://www.iisd.org/pdf/2010/08_REDD_II_Hue_Lessons_Nepal.pdf).

### 4.3.1 OVERVIEW OF KEY INSTITUTIONS

As of 2011, a project-level FCTF has been established and is operational.

The FCTF provides an institutional arrangement for managing and disbursing REDD+ payments to CFUGs participating in the project. Operational guidelines (for the FCTF have been developed (*Operational Guidelines*, 2011), which outline the specific roles and responsibilities of involved institutions and prescribe criteria for disbursing payments. The guidelines attempt to adhere to the principles and concepts in Nepal's R-PP in order to facilitate future scaling.

Figure 4.4 depicts the institutional structure of the FCTF. In this structure, central government and district government are engaged as stakeholders via the FCTF Advisory Committee and the Watershed Fund Advisory Committee (WAFAC). These Committees provide overarching strategic guidance and oversight at the project and watershed levels respectively. In addition, one representative from the District Soil and Watershed Conservation Office (central government) sits on the monitoring committee. Community-based organizations, such as FECOFUN and NEFIN, are also represented on these committees.

The most important strategic and operational responsibilities with respect to payment distribution are held by the Project Management Unit (PMU), which is jointly coordinated by the three project partners (ICIMOD, ANSAB, and FECOFUN). The PMU reviews payment claims and disburses payments to the three Watershed REDD Networks established by the project. Each Watershed REDD Network consists of one representative from each participating CFUG. The Watershed REDD Networks are then responsible for distributing payments to CFUGs according to FCTF criteria and under the guidance of its WAFAC. Once CFUGs receive payments, they are expected to operate in accordance with their existing constitutions and governance structures. They must also adhere to specific project requirements related to financial transparency and utilization of funds.

### 4.3.2 FUNDING SOURCES

A four year grant from NORAD for \$750,000 US per year (Funding to Civil Society, 2009) has enabled ICIMOD, ANSAB, and FECOFUN to establish the FCTF institutional mechanism described above and to provide seed funding to the three Watershed REDD Network for activities that will contribute to improved forest management and livelihoods in the participating CFUGs. The NORAD grant will also support pilot payments for verified carbon sequestration. After 2013, the goal of the project is to enable markets and/or donors to buy certified emissions credits from the FCTF. The members of the Watershed REDD Networks in Chitwan and Gorkha that were interviewed for this case study shared this expectation.

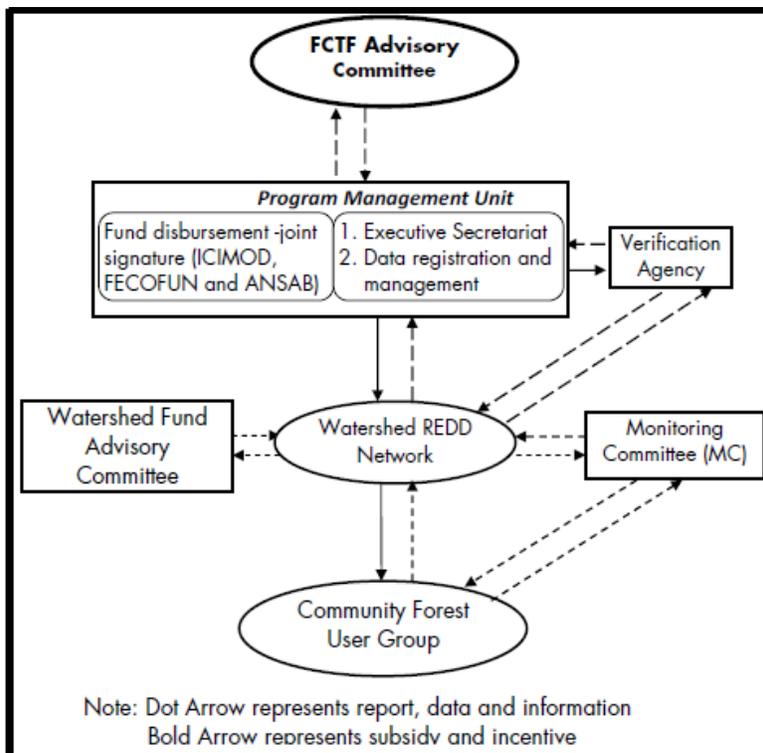
Beyond the REDD+ project, the participating CFUGs are likely already managing revenues from the sales of forest products, and potentially from external sources, such as government or donor grants.

### 4.3.3 LINK BETWEEN LAND RIGHTS AND COMMUNITIES' ACCESS TO BENEFITS

This pilot project builds upon Nepal's well-established Community Forestry model. The Forest Act of 1993 empowered District Forest Offices to hand over rights and responsibilities for managing parts of national forests to a registered CFUG. A CFUG is legally formed if forest users in a particular location form a group, develop a constitution, and register it in the DFO. In principle, the process to identify legitimate forest users to constitute a CFUG is intended to be an inclusive and bottom-up process facilitated by the DFO, but some experiences suggest that the process can sometimes reinforce group domination by local elites (Thoms, 2007). The group must also develop a forest management plan (known as an "operational plan" or OP) that must be approved by the DFO every five years. Upon approval of the OP, the CFUG is given broad rights of access, withdrawal, management, and exclusion. In practice, lack of capacity among DFOs has resulted in a

significant backlog of unapproved OPs<sup>142</sup>, although this does not appear to have affected the operation of most CFUGs.<sup>143</sup>

**FIGURE 4.4: FCTF MANAGEMENT STRUCTURE AND REPRESENTATION<sup>144</sup>**



DFOs are also empowered to withdraw a previously handed over community forest if a CFUG: is engaged in activities detrimental to the environment; is unable to implement the operational plan; or does not comply with provisions of the Forest Act. According to several interviewees<sup>145</sup>, this situation has rarely, if ever, happened. In particular, it was noted that FECOFUN plays an important role protecting the rights of CFUGs against potential abuses of power by DFOs. Without FECOFUN, there would be limited recourse options that are independent from the forest department. The judicial system is considered to be largely inaccessible to communities without significant external support.<sup>146</sup>

While the community forestry provisions of the Forest Act could potentially provide a strong legal platform for CFUGs to claim carbon rights in the forests they manage, this issue remains contentious and unclear. The NORAD pilot project is operating under an assumption of community carbon rights that is not fully backed by the existing legal framework.<sup>147</sup>

<sup>142</sup> Interview with Krishna Acharya, Department of National Parks and Wildlife Conservation.

<sup>143</sup> Interview with Dil Raj Khanal, FECOFUN.

<sup>144</sup> Ibid at 40.

<sup>145</sup> Interviews with Dil Raj Khanal, FECOFUN; Peter Branney, LFP; Bibek Chapagain, Winrock International.

<sup>146</sup> Interview with Dil Raj Khanal, FECOFUN.

<sup>147</sup> For more information about the existing legal framework, refer to the carbon rights case study.

#### 4.3.4 BENEFIT SHARING FUNCTIONS

The operational guidelines for the FCTF prescribes detailed criteria and procedures for the determination of beneficiaries, the distribution of payments, the use of payments by communities, and the monitoring and verification of the benefit sharing mechanism.

##### **Determination of beneficiaries:**

In order to address concerns regarding equity, governance, and inclusion, payments will be made to the Watershed REDD+ Networks based on the following four criteria:

REDD+ Payment = f (forest carbon enhancement + ethnic diversity + sex ratio + poverty)

Each criterion is calculated and weighted as follows:

- a) *Forest carbon enhancement (40 percent)*: annual quantity of carbon sequestered as a result of community forest management.
- b) *Ethnic diversity (25 percent)*: number of households of Indigenous Peoples (as defined by NEFIN, 2002) and Dalits.
- c) *Sex ratio (15 percent)*: proportion of women in the CFUG and watershed.
- d) *Poverty (20 percent)*: number of “poor” households in the CFUG and watershed as identified by a participatory well-being ranking carried out by the CFUGs using indicators established by the project.

##### **Distribution of payments:**

On an annual basis, the PMU reviews the claims and reports submitted by each Watershed REDD Network. The PMU then makes a recommendation for payment distribution that must be reviewed and approved by the FCTF Advisory Committee. Upon approval, the PMU disburses the payment to the Watershed REDD Networks in two installments biannually. Payments during subsequent years are contingent upon review of the previous year’s verification report.

Payments received by the Watershed REDD Networks are then distributed to CFUGs following a similar process. The Watershed REDD Networks review CFUG claims and reports and makes payment recommendations that must be approved by the WAFAC. The first installment of subsequent years is contingent on the review of each CFUG’s monitoring report.

##### **Utilization of payments:**

CFUGs are allowed to invest REDD+ payments into collective activities that benefit the community, which must be outlined in a detailed fund utilization plan for incorporation into the CFUG operational plan. Acceptable investments include direct and indirect activities that reduce deforestation and forest degradation or enhance and conserve forest carbon stocks. Early investments of NORAD seed money have already been used by CFUGs for investments in alternative energy and in community plantations.<sup>148</sup>

CFUGs can also use REDD+ payments for poverty reduction and livelihood improvement activities. For example, the Watershed REDD Network in Chitwan suggested giving small grants to groups of low-income households to collectively invest in income generation activities. Although the FCTF operational guidelines do not explicitly prohibit direct payments to households, both Watershed REDD Networks interviewed for this case study confirmed that household level payments will not be made.

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<sup>148</sup> Interview with Watershed REDD Networks of Chitwan and Ghorka.

### **Monitoring and Verification:**

A monitoring committee will be established including one representative each from the District Soil and Watershed Conservation Office, ANSAB, district-level organization of *Dalits*, and women network. The Committee will be responsible for monitoring and reporting on carbon data, payment distribution, and payment utilization with respect to the FCTF operational guidelines. An independent verification agency, consisting of a multi-disciplinary team of technical experts, will also analyze and verify these aspects.

#### **4.3.5 CONSULTATION OF LOCAL COMMUNITIES**

The FECOFUN is responsible for facilitating the consultation and participation of the CFUGs during the early stages of the project. In particular, the FECOFUN supported each CFUG to identify two local resource people within the community. These local resource people received training in Kathmandu, and were tasked with raising awareness and building capacity within the CFUGs regarding climate change, REDD+, and the proposed demonstration project. The CFUGs were given an option as to whether or not they wanted to participate in the project. According to the members of the Watershed REDD Networks that were interviewed for this case study, all CFUGs in their respective watersheds were eager to participate, and there were no major concerns voiced regarding the project or the proposed benefit sharing mechanism. The only outstanding concern raised repeatedly during the interviews was whether international REDD+ markets would actually materialize after 2012.

Although it was not possible to verify these claims through interviews with individual community members, an interview with Pasang Dolma Sherpa from NEFIN suggested that at least one household within the Chitwan watershed had not been adequately informed of the project. Members from this household had reported their concern that the project would force them to stop shifting cultivation practices. Overall, this situation led Pasang Dolma Sherpa to conclude that Free, Prior, and Informed Consent (FPIC) of indigenous households had not been adequately undertaken.

The FECOFUN also facilitated the establishment of the three Watershed Network Groups. Once operational, these groups effectively transfer the responsibilities for community engagement to the communities themselves.

#### **4.3.6 GRIEVANCE AND CONFLICT RESOLUTION MECHANISMS**

According to the FCTF operational guidelines, any disputes or disagreements between parties will be resolved by the FCTF Advisory Committee, which makes decisions by consensus of its members. Interviews with the two Watershed REDD Networks indicated that communities expect to rely on existing conflict resolution mechanisms, including the CFUGs themselves for intra-community disputes and local FECOFUN offices for disputes involving multiple CFUGs. However, the Network members also emphasized that disputes, particularly with regard to benefit sharing, are generally uncommon.

#### **4.3.7 EVALUATIONS OF PAST PERFORMANCE**

At this stage, it is still too early to evaluate the performance of the REDD+ demonstration project. The project stakeholders interviewed at the local and national level spoke positively about the experience to date and did not cite any emerging problems. The only negative critique came from the NEFIN representative with respect to the FPIC process.

However, since the project builds heavily from existing community institutions, evaluations of the past performance of CFUGs with respect to benefit sharing may provide relevant insights. There is a large body of literature on this topic. While inequity and elite capture are recognized weaknesses of some CFUGs (Bleaney, 2009), CFUGs are generally considered to be an important local institution in Nepal that has significantly strengthened community level governance since the 1990s. Furthermore, it appears that pro-poor and social equity considerations (widely known as “second generation” issues) are an increasing focus of CFUG

governance (Ojha et.al., 2009). For example, one study of 26 CFUGs (2,700 households) in the Koshi Hills found significant positive impacts on poverty alleviation and livelihood security (Chapagain and Banjade, 2009). In that study, a well-being ranking indicated that 46 percent of poor users moved into higher well-being categories over a five year period, facilitated in part by the participation in CFUGs that directly supported livelihood improvement measures.

## **4.4 LESSONS LEARNED FROM THE REDD+ DEMONSTRATION PROJECT**

### **4.4.1 LEGAL AND POLICY FRAMEWORK**

The demonstration project relies heavily on existing community forest tenure arrangements established under the Forest Act of 1993. This law gives community forest user groups comprehensive rights regarding access, withdrawal, management, and exclusion on state-owned forest lands. The project has essentially interpreted this law to extend these same rights to forest carbon, based on an assumption that forest carbon is comparable to other forest products to which communities currently have rights. The community members interviewed for this case study felt strongly that such an interpretation is valid and consistent with their existing usufruct rights.

Nonetheless, the issue of carbon rights is not clear under Nepali law<sup>149</sup>, and it seems likely that carbon rights in community managed forests will be contested by the government. Therefore, clarification of carbon rights with the law will be necessary to ensure the future viability of this and other potential REDD+ projects.

### **4.4.2 GOVERNANCE AND MANAGEMENT**

This demonstration project is perhaps one of the most advanced in the world in terms of generating lessons and experiences relating to the governance and management of REDD+ benefit sharing mechanisms. In particular, the project has proposed concrete governance arrangements to ensure that payment distribution is managed in a transparent, accountable, and inclusive manner. For example:

- The multi-tiered and multi-stakeholder design of the FCTF institutional structure promotes checks and balances in decision making;
- The third-party verification and audit committee promotes accountability against project performance objectives and standards; and
- The FCTF operational guidelines, including the detailed roles and responsibilities of each institution, are clear and were developed through a participatory process.

Although it is too early to begin assessing the effectiveness of these arrangements, it is possible to identify some potential challenges and concerns. Despite the engagement of district and central government representatives as stakeholders in the two multi-stakeholder advisory committees, one could argue that the role of government in this mechanism is fairly limited. In fact, local government from the village level (i.e., VDC) is not involved at all. Based on an interview with the District Forest Officer of Chitwan, there appears to be dissatisfaction within the DFO and DDC over the fact that the project is NGO-led. The Officer felt that his engagement to date had been very limited, and that government should be playing a more central role in REDD+ projects.

This perspective likely stems from a broader and more long-standing tension between the CFUGs, DFOs, and local government in the middle hills region regarding their respective rights and responsibilities in forest

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<sup>149</sup> Refer to carbon rights case study for more information.

management. REDD+ simply provides a new space for debating this issue. If the project were to carve out a larger role for the DDCs and DFOs—for example, by establishing a DFCC to play the advisory role at the watershed level—significant investments in the capacity of local government will likely be necessary. To date, the project focus has been on community level capacity building.

Furthermore, the financial sustainability of this model is highly dependent upon the availability of carbon markets and the ultimate price per ton of carbon. The proposed institutional structure is likely to entail significant set-up and transaction costs, since it does not rely on already existing institutions.

#### **4.4.3 COMMUNITY ENGAGEMENT**

This demonstration project provides a model for REDD+ benefit sharing that puts communities at the heart of local implementation and decision making. The establishment of the Watershed REDD+ Networks empowers communities by providing a space for multiple CFUGs within a given watershed to coordinate and negotiate as a group. According to the Network members interviewed, this type of institutional arrangement is novel in their districts. Given that CFUGs are relatively small (typically less than 50 ha) and extremely numerous in Nepal, this type of model will likely provide a useful option to reduce transaction costs of REDD+ implementation at the national scale.

Based on this case study research, it is not clear whether the community consultation process facilitated by FECOFUN would meet emerging international standards for FPIC that are being demanded by numerous indigenous peoples organizations around the world for implementing REDD+. The fact that FECOFUN, which is also a project proponent, facilitated the consultations raises questions about the neutrality of the process. When posed questions about the potential downsides of the project or about concerns raised by community members, the Watershed REDD Network members were not able to identify any issues. This situation could be due to a failure of the FPIC process, or due to the fact that for this particular project, there are actually very few (if any) opportunity costs faced by the communities.

At the time of research, published reports from the project proponents on the consultation process that was carried out were not available. As a result, it was not possible to analyze the extent to which the process adhered to emerging REDD+ safeguards in Nepal, such as the REDD+ Social and Environmental Standards and the Strategic Environmental and Social Assessment of the FCPF.

#### **4.4.4 DISBURSEMENT EFFICIENCY**

At the time of research, payments had not yet been disbursed. It is anticipated that the first payments will be made in late 2011. The disbursement procedures outlined in the operational guidelines involve several layers of review, recommendation, and approval. While these procedures can enhance transparency and accountability, they may be expensive in terms of time and transaction costs.

If scaled up to the national level, the proposed FCTF structure would likely be fairly efficient in terms of limiting the number of intermediaries in payment distribution. However, this process raises an additional challenge with respect to the capacity of a national FCTF to manage the distribution requests of a potentially large number Watershed REDD Networks.

#### **4.4.5 DISBURSEMENT EFFECTIVENESS**

The payments are clearly linked to performance in terms of carbon sequestration, which is given the largest weighting within the payment calculation criteria. Payments are also contingent upon verified compliance with project standards during the previous year.

Nonetheless, it is unclear whether the proposed payments will significantly change the behavior of communities with respect to forest management. First, the use of additional payment criteria that are based on social indicators (e.g., poverty, gender, and ethnicity) rather than performance indicators is likely to dilute

the incentive. Second, in this particular case, the payments will reward communities for activities that they have largely already been carrying out for several decades. In fact, the REDD Network members interviewed insisted that CFUGs already appreciate value of forest conservation, particularly in terms of raising revenues for the community. They see potential REDD+ payments as an additional reward for their good practices. When asked how their behavior would change if the REDD+ project failed, they insisted they would still seek to conserve the forest, but with fewer financial resources at their disposal.

#### 4.4.6 DISBURSEMENT EQUITY

This project places a strong emphasis on social equity considerations, as revealed by the selected payment criteria and by the guidelines on fund utilization. This approach is in line with a broader trend towards addressing social equity concerns among CFUGs, which has been labeled a “second generation” issue of Nepal’s Community Forestry program. However, an outstanding question is whether these REDD+ criteria and guidelines will be widely perceived as fair within and among CFUGs. For example, under the proposed payment mechanism, it is possible for two CFUGs that invested similar labor and financial inputs to receive different compensation. Similarly, it is possible that low-income households within a CFUG could receive more benefits (either in absolute terms or relative to income) than other households despite contributing less to the community’s carbon sequestration activities.

Interviews with the Watershed REDD Network members suggest that the participating CFUGs are satisfied with the proposed payment criteria. However, based on the experience reported by NEFIN (in which one indigenous household was not even aware of their rights under the project) it is possible that the criteria and guidelines have not been fully socialized. This issue will need to be closely monitored as the first payments are made.

### 4.5 GENERAL RECOMMENDATIONS

Nepal is still in the process of developing strategies for REDD+ benefit sharing. They have articulated overarching principles, including effective multi-stakeholder engagement, clear land tenure, and equity. They have also put forth a potential institutional mechanism: a national FCTF. The following considerations may be informative as discussions move forward to identify viable benefit sharing strategies.

- *Consider incentives beyond financial benefits.* Revenues generated from carbon offsets can create significant incentives to change the behavior of local forest users, particularly by compensating opportunity costs. However, Nepal’s experience with community forestry demonstrates that clarifying and securing forest tenure for local communities can provide an equally strong incentive to conserve and regenerate forest ecosystems. Before seeking to define an appropriate share of REDD+ revenues to allocate to local communities, the Government of Nepal should clarify and formally devolve rights and responsibilities to local communities surrounding government-managed forests. Once the forest tenure situation is clear, it will be possible to more precisely understand the opportunity costs and incentive structures faced by local resource users.
- *Strengthen local governance systems.* Preliminary evidence suggests that DFCCs can provide a useful platform for bottom-up planning and decision-making at the local level. Although many CFUGs in the middle hills operate effectively in the absence of strong local government, implementing REDD+ will require coordination and planning at a larger geographic scale (e.g., at the watershed level in the case of the NORAD pilot project). Building the capacity of local government to fill this role will likely be more efficient and have greater governance co-benefits than developing brand new institutional structures.
- *Support efforts to build the awareness and capacity of communities that are broader than REDD+.* Nepal’s experience with community forestry demonstrates that strong community-level institutions are crucial for all aspects of managing forest resources and sharing resulting benefits. They are also necessary for implementing a robust and unbiased FPIC process. Efforts to engage and build the capacity of communities should not

initially be directed towards a particular REDD+ objective. Rather, they should support communities to understand their rights and responsibilities within a broader forest management context and to implement transparent, accountable, and inclusive governance practices.

- *Investigate lessons learned from collaborative forest management and the potential for scaling.* CFM now has nearly a decade of experience, yet the scale of implementation remains small. The Government of Nepal and NGOs should ramp up efforts to cull lessons learned from past experiences in order to discern the scalability of CFM in the Terai.

## NEPAL CASE STUDY APPENDIX 4.1: LIST OF INTERVIEWS CONDUCTED DURING THE FIELD VISIT (MAY 13–27, 2011)

Type of organization	Organization name	Contacts interviewed & Title
<b>Government</b>	REDD Forestry and Climate Change Cell	Krishna Paudel, Chief; Keshav Khanal, Under-secretary; and Dil Raj Paudel, FECOFUN representative
	Department of National Parks and Wildlife Conservation	Krishna Acharya, Director General
	Ministry of Environment, Climate Change Management Division	Batu Krishna Uprety, Joint Secretary and Chief
<b>Local government</b>	District Forest Office, Chitwan	Jeeban Thakur, District Forest Officer
<b>NGOs</b>	International Centre for Integrated Mountain Development (ICIMOD)	Laxman Joshi, Payments for Ecosystem Services Specialist and Bhaskar Karky, Resource Economist
	Forest Action Nepal	Dr. Naya Sharma Paudel, Executive Coordinator
	Federation of Community Forest Users, Nepal (FECOFUN)	Dil Raj Khanal, Policy Facilitator
	Winrock International	Bibek Chapagain, Director and Nira Bhatta, Program Associate
	Nepal Federation of Indigenous Nationalities (NEFIN)	Pasang Dolma Sherpa, National Coordinator
	Livelihoods and Forestry Programme (LFP)	Peter Branney, Programme Adviser
<b>REDD+ project stakeholders</b>	REDD+ Watershed Network Office, Chitwan	Approximately 15 members of the network, plus forest officer (translator)
	REDD+ Watershed Network Office, Ghorka	Approximately 15 members of the network, plus forest officer (translator), plus local representative of FECOFUN

# 5.0 INDONESIA

## STUDY OVERVIEW:

The Indonesia case study provides an overview of emerging strategies and concepts relating to REDD+ benefit sharing that are currently being discussed by stakeholders and policy-makers at the national level (section 2). It also draws insights from two field visits involving contrasting benefit sharing experiences at the community level (sections 3-5):

1. The Mantaya Sabrang community in Central Kalimantan Province is located adjacent to a proposed REDD+ project led by a private developer seeking an Ecosystem Restoration Concession (ERC). The ERC will give the investor long-term rights to conserve and restore state-owned production forest and benefit from the sale of resulting environmental services.
2. A group of coffee farmers in West Lampung Province was among the first in Indonesia to secure conditional tenure rights for community forest management in state-owned protection forest. They participated in a pilot payment for ecosystem services scheme to reduce river sedimentation through improved forest and land management practices.

## 5.1 COUNTRY CONTEXT

Indonesia possesses the third-largest amount of tropical forest in the world, more than 120 million hectares, after Brazil and the Democratic Republic of Congo. However, Indonesia's forests are being rapidly diminished and degraded, largely due to industrial logging, clearing for plantation crops (e.g., oil palm), mining, and forest fires. Underlying these proximate drivers of deforestation are complex governance challenges, including weak legal and political accountability of government institutions, a forest tenure system that does not recognize or protect poor and indigenous forest users, a policy environment that favors continued deforestation and conversion by large-scale commercial actors, and widespread corruption.

The political, institutional, and legal history of Indonesia's forests is highly complex, marked by ongoing power struggles between various levels of government, companies, and local communities. Their struggle is perhaps most pronounced in the context of property rights and related land use planning processes. Approximately 70 percent of Indonesia's land has been designated as "government owned"<sup>150</sup> forest estate (*kawasan hutan*), which is under the jurisdiction of the Ministry of Forestry (MoFor). The forest estate is further classified according to three main functions: production, protection, and conservation. In practice, however, the official designation does not always correspond to the biophysical and socio-economic characteristics of the landscape. For example, approximately 30 percent of the forest estate is not actually forested.<sup>151</sup> Since 1999, the decentralization era has generated competition and conflict between MoFor, provincial governments, and district governments over the authority to control, plan, and allocate rights within the forest estate (Galudra, 2011). Amidst this confusion, large-scale logging, agricultural, and mining companies have secured concessions (including many that are overlapping or of questionable legality) to clear and convert a significant portion of Indonesia's natural forests. According to a recent study, a total of 63

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<sup>150</sup> The legal basis for asserting that the forest estate is "government owned" has been contested. However, in practice the government acts as the *de facto* land owner.

<sup>151</sup> Presentation by Myrna Safitri. "Strengthening the Legality of Indonesia's Forests." Presented on 12 July 2011 at the International Conference on Forest Tenure, Governance, and Enterprise in Lombok, Indonesia. [http://www.rightsandresources.org/documents/files/doc\\_2554.pdf](http://www.rightsandresources.org/documents/files/doc_2554.pdf).

million hectares have been allocated for conversion to plantations, mining, and other uses, while 22 million hectares are currently under “active” logging concessions (Elson, 2011).

Although estimates vary, a frequently cited figure from Center for International Forestry Research (CIFOR) places nearly 50 million Indonesians in and around forests, of which 6 million receive a significant portion of their cash income from forest resources.<sup>152</sup> An even larger number directly rely on forest products and ecosystem services to sustain their livelihoods. The tenure rights of these forest-dependent and indigenous communities have generally not been legally recognized by the government, despite the existence of legal mechanisms to do so. As a result, communities have come into direct conflict with logging and plantation companies that have been awarded concessions by the government, which typically offer minimal compensation.

**FIGURE 5.1: MAP OF INDONESIA AND LOCATIONS VISITED FOR INTERVIEWS**



### 5.1.1 THE RISE OF REDD+

Indonesia’s greenhouse gas (GHG) emissions are among the highest of any country in the world, with 1.12 gigatonnes of carbon dioxide equivalent emissions reported in 2005 (Ministry of Environment, 2010). In 2010, the Government of Indonesia ambitiously pledged to reduce its GHG emissions by 26 percent by 2020 using domestic resources, or by 41 percent if international assistance is provided. REDD+ is expected to feature centrally in Indonesia’s emerging GHG mitigation plans, since land use change and forestry account for over two-thirds of its emissions profile.

Indonesia has been an early actor and global leader in developing a national architecture for participating in a global REDD+ mechanism. Indonesia is involved in all three major multilateral REDD+ programs: the World Bank’s Forest Carbon Partnership Facility (FCPF), the United National Programme on REDD+ (UN-

<sup>152</sup> Presentation by Martua Sirait. “Strengthening Forest Management in Indonesia through Land Tenure Reform.” Presented on 11 July 2011 at the International Conference on Forest Tenure, Governance, and Enterprise in Lombok, Indonesia. [http://www.rightsandresources.org/documents/files/doc\\_2544.pdf](http://www.rightsandresources.org/documents/files/doc_2544.pdf).

REDD), and the Forest Investment Program (FIP) of the World Bank's Climate Investment Funds. It is also a recipient of substantial bilateral support, including the Letter of Intent (LOI) with the Government of Norway for US\$1 billion of "results based" financing between 2010 and 2016. The Governments of Australia, Japan, the United Kingdom, Germany, and the United States are also major donors (Brown & Peskett, 2011). In addition, there are currently over 60 REDD+ demonstration projects being planned or implemented by various NGOs, private investors, and donor governments.

The MoFor initially played a significant role in leading and coordinating REDD+ activities in Indonesia. However, the increasing complexity and magnitude of international investment has triggered numerous government institutions beyond MoFor to get involved. This dynamic has resulted in institutional confusion and competition that has stalled agreement on basic REDD+ concepts and strategies.

In 2010, the President of Indonesia formed a high-level REDD+ Task Force to become the institutional focal point for REDD+ planning and coordination. The Task Force is headed by the President's Monitoring and Delivery Unit (UPK4) and is comprised of high-level officials from the Ministries of Finance, Planning (BAPPENAS), Forestry, Environment, the National Land Agency (BPN), and the National Council on Climate Change (DNPI). Current Task Force responsibilities include: implementing the Norway LOI, establishing a REDD+ agency, creating a national REDD+ strategy, and designing a national REDD+ financial mechanism and an MRV system.

**FIGURE 5.2: REDD+ TIMELINE IN INDONESIA<sup>153</sup>**



## 5.2 OVERVIEW OF NATIONAL REDD+ STRATEGIES FOR BENEFIT SHARING

The Government of Indonesia has not published a definitive national strategy on REDD+. The REDD+ Task Force is responsible for developing the strategy, which is expected to be released in late 2011. This case study will draw upon an array of relevant documents and experiences relating to REDD+ benefit sharing that have emerged over the past several years, including:

- **Indonesia Forest Climate Alliance (IFCA) report** (Purnomo et al., 2007): In preparation for hosting the UNFCCC Conference of the Parties (COP-13) in Bali, the MoFor launched the IFCA in 2007. This

<sup>153</sup> Timeline compiled by WRI based on multiple sources.

multi-stakeholder and interdisciplinary group carried out Indonesia's first in-depth analytical studies and consultations on REDD+, including a detailed report on potential benefit distribution options.

- **Readiness Preparation Proposal (R-PP)**<sup>154</sup>: Indonesia's R-PP was prepared by MoFor in 2009 for submission to the FCPF. The R-PP provides an outline of activities that Indonesia will carry out to become "ready" for full-scale REDD+ implementation. It contains preliminary notions on benefit sharing, based on the IFCA report.
- **Draft REDD+ strategy**: Several REDD+ strategies have been drafted by various government institutions, including quite different versions from MoFor, BAPPENAS, and the REDD+ Task Force. This case study will reference the most recent "consolidated" draft prepared by the REDD+ Task Force in May, 2011.
- **MoFor regulations and decrees on REDD+**: In 2008 and 2009, MoFor issued three regulations on REDD+,<sup>155</sup> which provide guidance on REDD+ project implementation, including revenue distribution. The Ministry of Finance immediately contested the authority of MoFor to regulate revenue distribution, and it is likely that the MoFor regulations will eventually be revised or replaced.
- **REDD+ demonstration projects**: Although most REDD+ demonstration projects in Indonesia are in the very early stages of planning or implementation, some preliminary ideas on benefit sharing are beginning to emerge.

It is widely believed that Indonesia will pursue some form of a "national approach to REDD+ with sub-national implementation" (also known as a "nested" approach).<sup>156</sup> This approach means that Indonesia will establish a national system for MRV of emission reductions against a national reference emissions level. However, REDD+ activities will be designed and implemented at a sub-national level led by local governments, communities, NGOs, or private developers. Carbon credits would only be issued to sub-national project developers after their emission reductions have been verified and registered within the national accounting framework. Furthermore, the national government will likely retain a portion of earned credits in order to finance transaction and implementation costs incurred at the central, provincial, and/or district levels.

Adoption of a nested approach implies that sub-national REDD+ "projects" will be the focal point of local benefit distribution. The scale of a project could range from the landscape-level (i.e. crossing different forest types, legal classifications, and potentially political boundaries) to the site-level (i.e. involving a localized and homogenous area). This approach generates the potential for a broad spectrum of different sub-national benefit sharing arrangements, depending on the project design and the socio-economic and legal context governing the project area. However, it is also probable that the central government will issue national rules, guidelines, and safeguards to ensure that sub-national benefit sharing approaches meet minimum standards of equity, efficiency, and effectiveness.

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<sup>154</sup> See <http://www.forestcarbonpartnership.org/fcp/Node/218>.

<sup>155</sup> Regulation Number 68 of 2008 on the Implementation of Demonstration Activities on Reduction of Emission from Deforestation and Degradation; Regulation Number 30 of 2009 on Reducing Emissions from Deforestation and Forest Degradation; and Regulation Number 36 of 2009 Regarding Procedures for Licensing of Commercial Utilization of Carbon Sequestration and/or Storage in Production and Protected Forests.

<sup>156</sup> Joint submission to the AWG-LCA and SBSTA by the Governments of Indonesia and Australia. <http://www.climatechange.gov.au/government/initiatives/unfccc/~media/submissions/international/Joint-Indonesia-and-Australia-REDD-SubmissionAUG.ashx>.

**FIGURE 5.3: THREE IMPLEMENTATION PHASES UNDER THE NORWAY LOI<sup>157</sup>**



## 5.2.1 POTENTIAL FORMS OF REDD+ BENEFITS

Indonesia is currently in the “preparation” phase of REDD+ implementation (see Figure 2). Considerable international financing is being invested in the development of REDD+ institutions, systems, and strategies at the national level. Some of these resources are also supporting demonstration projects and related capacity building at the sub-national level. In this context, the preliminary implementation costs borne by REDD+ project developers could be perceived as benefits for some local stakeholders. For example, the Kalimantan Forests and Climate Partnership (KFCP) pilot project in Central Kalimantan is employing local community members to carry out forest restoration. Many projects are also providing technical and financial support for low carbon development planning processes at the community and district levels.

Following the preparation phase, the primary anticipated benefit from REDD+ is direct cash payments for nationally registered emission reductions. One estimate suggests that a five percent reduction in Indonesia’s deforestation rate could generate annual carbon payments of \$765 million US (Barr, et al., 2010). Presumably, the majority of these payments would accrue to REDD+ project developers who already possess or have been granted the right to sell carbon. It remains unclear whether project developers would then share these revenues with other local stakeholders through direct cash payments or other non-cash benefits.

Another potential benefit of REDD+, which is discussed in the IFCA report, is the possibility of providing conditional tenure to forest dependent communities. On the other hand, the R-PP and draft national strategy frame community forest tenure as a potential strategy for achieving emission reductions, rather than as a direct benefit of REDD+.

## 5.2.3 POTENTIAL REDD+ BENEFICIARIES

Key forest stakeholders and potential REDD+ beneficiaries in Indonesia include: government institutions (central, provincial, and district), industrial timber and plantation companies with existing licenses for extraction or conversion, indigenous and other forest dependent communities, local and national NGOs, and private REDD+ project developers. Criteria for identifying “legitimate” beneficiaries have not yet been decided at the national level. Nonetheless, some general concepts have begun to emerge from various sources.

### IFCA report:

The IFCA report proposes eight criteria for identifying legitimate REDD+ beneficiaries. REDD+ payments could be distributed to individuals or groups who demonstrate one or more of the following:

<sup>157</sup> Letter of Intent between the Government of the Kingdom of Norway and the Government of the Republic of Indonesia. 2010. <http://www.forestclimatechange.org/fileadmin/photos/Norway-Indonesia-LoI.pdf>.

1. Change their behavior and reduce emissions in the long term;
2. Suffer legitimate losses from mandated REDD+ implementation;
3. Maintain low carbon emission rates (continued conservation);
4. Provide sustainable low carbon emission alternative livelihoods;
5. Act legally and have rights to sell carbon (provided that this action does not disadvantage the poor and those with customary rights not recognized by the government);
6. Exhibit high accountability, transparency, and good governance;
7. Have included provisions for capacity building; and
8. Include elements of long-term learning.

These criteria are very broad and inclusive, allowing for a wide range of potential beneficiaries. Interestingly, the criteria include the right to sell carbon, but they do not reference land and resource tenure rights more broadly. Furthermore, the report does not indicate how these criteria could be measured or prioritized.

#### **Draft national REDD+ strategy:**

The most recent “consolidated” draft of the national REDD+ strategy prepared by the REDD+ Task Force contains brief comments on benefit sharing. It identifies three primary beneficiaries: (1) government; (2) REDD+ project developers; and (3) communities. It also suggests that special consideration should be given to “vulnerable” communities, including indigenous peoples, women, and the poor.

The strategy proposes two major approaches to benefit sharing: rights-based and service-based. For the former, all rights holders to land or resources on which a REDD+ project is conducted will have the right to receive benefits. While this approach could feasibly include all three categories of beneficiaries identified in the strategy, in practice almost no communities in Indonesia possess legally recognized forest tenure rights.<sup>158</sup>

In order to accommodate REDD+ project stakeholders who are not rights holders, the draft strategy also specifies that benefits should be provided to those who provide “services” that contribute to emission reductions or enhanced sequestration in a REDD+ project. It does not further define what a service might entail in this context. Similarly, it states that local governments could receive benefits for policies or public investments that directly contribute to emission reductions. These types of local government interventions could potentially span the geographies of multiple REDD+ projects.

#### **MoFor Decree No. P.36/Menhut-II/2009:**

This ministerial decree specifies that income from the sale of carbon credits should be shared among three groups: government, community, and project proponent (defined as permit holder or legal forest manager). The specific distribution of income among these actors varies according to permit type and forest category (see Table 5.1). The government share of income is further subdivided between central government (40 percent), provincial government (20 percent), and district government (40 percent). The rationale for this distribution is not justified, and the legitimacy of the decree has been contested by the Ministry of Finance. Although it is likely that the decree will eventually be revised or replaced, it currently stands as the only concrete guidance on benefit sharing for existing REDD+ projects.

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<sup>158</sup> Refer to carbon rights case study for more information about the legal framework for community forest tenure in Indonesia.

**TABLE 5.1: BENEFIT DISTRIBUTION ACCORDING TO MOFOR DECREE NO. P.36<sup>159</sup>**

Permit holder/Developer	Distribution		
	Government	Community	Developer
IUPHHK-HA (Wood Use License for Natural Forest)	20%	20%	60%
IUPHHK-HT (Wood Use License for Plantation Forest)	20%	20%	60%
IUPHHK-RE (Wood Use License for Ecosystem Restoration Area)	20%	20%	60%
IUPHHK-HTR (Wood Use License for People's Plantation Forest)	20%	50%	30%
<i>Hutan Rakyat</i> (People's Forest)	10%	70%	20%
<i>Hutan Kemasyarakatan</i> (Community Forest)	20%	50%	30%
<i>Hutan Adat</i> (Customary Forest)	10%	70%	20%
<i>Hutan Desa</i> (Village Forest)	20%	50%	30%
KPH (Forest Management Unit)	30%	20%	50%
KHDTK (Special Purpose Forest Area)	50%	20%	30%
<i>Hutan Lindung</i> (Protection Forest)	50%	20%	30%

#### 5.2.4 POTENTIAL INSTITUTIONAL MECHANISMS FOR BENEFIT DISTRIBUTION

The potential influx of billions of dollars of REDD+ finance into Indonesia has raised questions about the ability of the Indonesian government to effectively, efficiently, and equitably manage and distribute revenues. The government's past performance with respect to collecting and sharing timber revenues has been heavily criticized as corrupt, inefficient, and non-transparent (Barr, et al., 2010) (Purnomo et al., 2007). Furthermore, few direct revenues or benefits have accrued to the estimated 30,000 local and indigenous communities that are located in and around Indonesia's forests.<sup>160</sup> The inability of indigenous peoples to share in this wealth has stemmed from a lack of formal recognition of their forest tenure and customary rights.

The REDD+ Task Force is currently in the process of designing a centralized financial mechanism, which will be used to channel funding under the \$1 billion agreement with Norway. Although it remains unclear what form the financial mechanism will take, it is expected that the mechanism will incorporate international standards of transparency and accountability.<sup>161</sup> It is possible that the REDD+ financial mechanism will be similar to, or associated with, the existing Indonesia Climate Change Trust Fund, which aims to link international finance sources with national low-carbon investment strategies.

In the context of sub-national REDD+ implementation, benefit sharing approaches will likely vary between projects. Based on emerging research on existing REDD+ pilot projects in Indonesia, it is possible to identify a preliminary typology of REDD+ projects, whereby projects can be differentiated according to their strategy for establishing carbon claims (Madeira et al., 2010).

##### **The concession model:**

Over recent decades, concessions have been granted to logging companies, plantation crop companies (e.g., oil palm), and mining companies across large swaths of Indonesia's forest estate. Many of these concessions were granted on lands customarily or otherwise claimed by local communities, resulting in frequent and sometimes violent conflict.

<sup>159</sup> From Regulation Number 36 of 2009 Regarding Procedures for Licensing of Commercial Utilization of Carbon Sequestration and/or Storage in Production and Protected Forests.

<sup>160</sup> Presentation by Martua Sirait. "Strengthening Forest Management in Indonesia through Land Tenure Reform." Presented on 11 July 2011 at the International Conference on Forest Tenure, Governance, and Enterprise in Lombok, Indonesia. [http://www.rightsandresources.org/documents/files/doc\\_2544.pdf](http://www.rightsandresources.org/documents/files/doc_2544.pdf).

<sup>161</sup> Letter of Intent between the Government of the Kingdom of Norway and the Government of the Republic of Indonesia. 2010. <http://www.forestclimatechange.org/fileadmin/photos/Norway-Indonesia-LoI.pdf>.

Community-company partnerships (*kemitraan*) were eventually introduced as a legal mechanism to mitigate conflict between local communities and concession holders over access to forest land and resources. These partnerships indirectly recognize community claims through the creation of a contract between impacted communities and the concession-holder. Depending on the contract, communities may receive a share of the concession's revenues, job opportunities, or inputs (e.g., seedlings) and land to manage for commercial purposes. Among the key challenges facing community-company partnerships are direct recognition of community tenure rights, fairness of the contract, capacity of community institutions to manage benefits, and rent seeking within the community and company (Purnomo et al., 2007).

Based on the prevalence and long history of concession-style interventions in Indonesia's forest sector, it is not surprising that the majority of current REDD+ projects are taking a similar approach. In particular, most REDD+ project developers have applied for an Ecosystem Restoration Concession (ERC). The ERC provides<sup>162</sup> long-term rights (60 years + 35 year extension) to conserve and restore the area, and to generate revenues from the sale of environmental services. It is considered to be a favorable model among REDD+ project developers because it allots significant certainty and control over the project's future (Madeira, 2009).

The concession model does not explicitly recognize the rights of the local communities that inhabit or use the forest. However, most REDD+ project developers acknowledge that regardless of legal tenure, local actors often have *de facto* control over the forest (Madeira, 2009). Thus, engaging and reaching an agreement with local communities will be critical to the sustainability and permanence of any REDD+ project. Ministry of Forestry Decree Number 36 (2009) stipulates that communities should receive 20 percent of carbon revenues generated by an ERC, to be managed in a community trust fund. However, a recent survey of 23 REDD+ demonstration projects in Indonesia revealed that only nine projects had plans to provide cash payments to communities (Morgan, 2010). Instead they are providing non-cash benefits, such as education and health services, gifts (e.g., laptops or improved cook stoves), employment, and support for developing alternative livelihoods.

### **Government partnerships:**

The Government of Indonesia is the statutory land owner within the forest estate. A REDD+ project proponent may, therefore, enter into an agreement with the government to develop a REDD+ project and share the resulting carbon credits. However, the project proponent does not establish its own legal rights to the land or carbon. Similar to the concession model, proponent-government partnerships do not explicitly recognize the forest tenure rights of local communities. However, there are some existing institutional arrangements in Indonesia for channeling funds from the government to communities for development activities, which may be adaptable for REDD+.

Most notably, the National Program for Community Empowerment (PNPM) channels block grants of \$120,000 to \$360,000 US per year from the national budget to the sub-district level. Villages within a sub-district compete over access to the funds by engaging in a participatory planning and decision-making process resulting in self-defined development needs and priorities. Awarded funds are managed by the village government, with a strong emphasis on transparency and broad-based participation of community members. Participation of women and poor households is particularly encouraged. Nonetheless, some problems with elite capture of PNPM funds have been reported.<sup>163</sup> Most PNPM investment has been made in local infrastructure and service provision. However, starting in 2008, a pilot "green" version of the PNPM is also being implemented in select locations on Sulawesi and Sumatra islands, focusing on investments in sustainable natural resource management, conservation, and renewable energy.

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<sup>162</sup> Established under Ministry of Forestry Decree No. SK 159/Menhut-II/2004 on "Ecosystem Restoration in Production Forests."

<sup>163</sup> Interview Samsudin Molano (Head of Mantaya Sabrang Village), interview with Rezal Kusumaatmadja (Starling Resources), and "Green PNPM: Evaluation of Sub-Project Implementation Quality." 2011. [http://psflibrary.org/catalog/repository/Eval.%20Green%20PNPM%20Sub-Project%20Implementation%20Quality\\_May%202011.pdf](http://psflibrary.org/catalog/repository/Eval.%20Green%20PNPM%20Sub-Project%20Implementation%20Quality_May%202011.pdf).

### **Land user partnerships:**

A REDD+ project proponent may also enter into an agreement with existing land users who have legally recognized rights to the land (and presumably to the carbon). Similar to the government partnership model, the project proponent agrees to develop the project in exchange for a share of the resulting carbon benefits, but does not seek independent legal rights to the carbon. Existing rights-holders most often include companies holding concessions for timber extraction, mining, or forest conversion. They may also include communities, although very few communities currently possess legally recognized forest tenure rights (see Box 5.1). Currently, only a small number of REDD+ project proponents are pursuing a strategy whereby they support communities to secure these rights.<sup>164</sup> Theoretically, a land user partnership based on legally recognized community forest tenure would provide the most direct mechanism for sharing REDD+ benefits with local and indigenous communities.

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<sup>164</sup> The REDD+ project led by Fauna Flora International in West Kalimantan is an example. <http://forest-carbon.org/project-list/ffi-redd-and-community-forest-west-kalimantan>.

## BOX 5.1. LEGAL OPTIONS FOR COMMUNITY FOREST TENURE IN INDONESIA

Indonesian law recognizes four main types of community forest tenure regimes that can be established within the national forest estate:

- **Adat Forest (Customary Law Forest):** Recognized customary communities may manage their forest resources in accordance with prevailing customary laws, when not contradicting the government. Subsistence use is not restricted and commercial utilization depends on forest function and customary laws.
- **Hutan Kemasyarakatan (Community Forest or HKm):** Rural institutions can form cooperatives, which can be granted rights to manage forest resources in accordance with sustainable forest management principles and approved management plans. Utilization and sale of non-timber forest products is authorized in both production and protection forests, while utilization of timber is only allowed in production forests conditional on the granting of a business license.
- **Hutan Tanaman Rakyat (People Plantation Forest or HTR):** Individuals, households, or village cooperatives can establish a timber plantation in degraded production forest. Upon approval of a business license, timber may be used or sold.
- **Hutan Desa (Village Forest):** Village institutions can plan, manage, and allocate benefits derived from the forest. An area designated as *hutan desa* can only be exploited by the people residing near the forest. Commercial timber permits (IUPHHK) can be issued, but only for small-scale timber industries run by the village community.

Implementation of these mechanisms has been extremely limited and has fallen far below government mandated targets. To date, there are approximately 60,000 hectares of HKm and 20,000 hectares of *hutan desa* (Almeida & Hatcher, 2011). HTR is most prevalent with almost 600,000 hectares. No Adat Forest has been designated. Among the key constraints to scaling up these models are the significant administrative complexity of the application process, high transaction costs, high opportunity costs for central and local government in forests classified as production or conversion forests, and existing land tenure conflicts. Most communities that have succeeded in securing forest tenure rights have done so with significant external support.

In July, 2011, the head of the REDD+ Task Force expressed renewed commitment to expand community-based forest management in the context of REDD+ implementation. The Ministry of Forestry also pledged to allocate 89,000 hectares of forest estate for community based forest management. To date, however, few if any existing REDD+ projects have actively pursued a community-based model.

## 5.3 THE KATINGAN REDD+ DEMONSTRATION PROJECT

The Katingan Peat Forest Conservation Project is a REDD+ demonstration project launched in 2008 and led by PT Rimba Makmur Utama (PT RMU) in association with Starling Resources, an Indonesian-based environmental consulting firm. The project covers approximately 220,000 hectares of intact and degraded (logged over) forest in the Districts of Kotawaringin Timur and Katingan in Central Kalimantan Province. Approximately thirty local communities (20,000 people) have been identified surrounding the project area, many of which may have claims to land or resources within the project area (Morgan, 2010). The primary objectives of the project are to:

- Earn income from the sale of carbon credits in the voluntary market or in an eventual compliance market; and

- Learn lessons and build capacities for REDD+ project implementation at the village, district, provincial, and national levels.

The proposed project area is within the national forest estate and is expected to have significant additionality in terms of avoided deforestation. Almost 90 percent of the project area is designated as production forest (HP) and has been subject to industrial logging concessions, as well as to illegal logging activities. A small zone along the eastern border of the project area is designated as convertible production forest (HPK), meaning that it is eligible to be released from the forest estate and converted to plantation crops. Several mining concessions surround the project area to the north.

In November, 2008, PT RMU initiated the application process for an ERC from the Ministry of Forestry. The ERC model grants long-term rights (60 years with possibility of 35 year extension) to private companies to manage an area for ecosystem restoration and conservation, and to sell any resulting ecosystem services. As of August, 2011, PT RMU has not yet secured the ERC, largely due to a dispute with the Katingan District Environmental Agency over whether a partial or full environmental impact assessment should be required.

Furthermore, the Katingan District *Bupati* (head of District government) has also raised the issue of conflicting permits within the project area. Although the Ministry of Forestry had already designated the entire area for ecosystem restoration in 2009, in March, 2010, the *Bupati* of Katingan granted a temporary permit (*araban lokasi*) to an oil palm company within the designated HPK area. At the time of research, Starling Resources felt optimistic that a deal had been reached with the *Bupati* to arrange a land swap, whereby the HPK area within the project boundaries could be swapped for other land suitable for oil palm cultivation that is not currently designated as HPK.<sup>165</sup> If this arrangement is successful and the application process is able to move forward, the ERC could potentially be issued before 2012.

### 5.3.1 OVERVIEW OF KEY INSTITUTIONS

#### **Project proponent:**

PT RMU is a private company based in Jakarta, Indonesia. It is described as a forest conservation company, and was established for the purpose of REDD+ project development. Dharsono Hartono is the company owner and primary investor. Starling Resources, an environmental consulting firm, was hired by PT RMU to facilitate the project.

#### **Government:**

The Ministry of Forestry has ultimate jurisdiction over the forest estate, including the proposed project area. However, under Indonesia's system of decentralization, the provincial and district governments also have certain authorities within the forest estate. Unlike other types of concessions, the ERC application process does not require recommendation letters from the provincial and district governments. As a result, some local governments have criticized ERCs as being inconsistent with decentralization policy. In this particular case, the *Bupati* of Katingan District has actively sought to block the ERC from being issued by the Ministry of Forestry.<sup>166</sup>

#### **Community facilitator:**

Yayasan Puter, an Indonesia NGO focusing on community development, is leading the community engagement process. A community facilitator resides full-time in four villages.

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<sup>165</sup> Interview with Rezal Kusumaatmadja, Starling Resources.

<sup>166</sup> Interview with Rezal Kusumaatmadja, Starling Resources.

### **Village FPIC group:**

Yayasan Puter has helped to establish a community organization in four villages, which will be responsible for discussing village needs and representing village opinions to external actors. The groups are comprised of 25 individuals representing major stakeholder groups within the village (e.g. women, village legislature, youth, religious leaders, customary leaders, etc.).<sup>167</sup> In the Mantaya Sabrang village, which was visited for this case study, the head of the village FPIC group is a woman.

### **5.3.2 FUNDING SOURCES**

PT RMU is financing the ERC application process, and will be responsible for paying the concession fee once the ERC is granted. In addition, PT RMU has provided a small amount of money to support preliminary community engagement activities. Additional spending to develop the project is contingent upon securing the ERC.

Starling Resources partnered with the Clinton Climate Initiative (CCI) in 2009. CCI provides financial and technical support to develop an MRV methodology and to prepare Project Design Documents for third-party validation to both the Voluntary Carbon Standards and Climate and Community and Biodiversity (CCB) standards. CCI also awarded a grant of \$12,000 US to Tropical Salvage, a company that employs local communities to salvage tropical hardwood to create high-end furniture for sale in the U.S., Canada, and Europe. The grant money will be used to conduct a feasibility study of wood-salvage potential in areas within the project. Finally, Yayasan Puter secured a grant of \$150,000 from the Packard Foundation to support its community engagement work in four villages.

Ultimately, the project seeks to sell carbon credits on the voluntary market or an eventual compliance market. It has been estimated that the project could potentially generate 1.8 million megatons of avoided carbon emissions per year (Starling Resources, 2008).

### **5.3.3 LINK BETWEEN LAND RIGHTS AND COMMUNITIES' ACCESS TO BENEFITS**

Twenty villages have been identified adjacent to the proposed project area. These villages currently access and use small sections of the project area for hunting, fishing, rattan cultivation, NTFP collection, and timber harvesting.<sup>168</sup> However, all villages are physically situated outside of the project area. If PT-RMU is awarded an ERC, it will provide long-term clarity regarding the land rights and land uses associated with the project area. Although the ERC does not recognize the rights of communities, the mandated land use (i.e., conservation) is consistent with most existing village uses, with the exception of timber harvesting. As a result, the ERC could, in theory, provide adjacent villages with more secure, long-term access to NTFPs and forest ecosystem services since there is no longer a possibility for industrial logging or oil palm cultivation. However, this will depend on the will of the concession holder. The basis on which communities will benefit from the REDD+ project, therefore, is not linked to any explicit recognition of community land rights.

#### **Land tenure and property rights in the village of Mantaya Sabrang:**

According to the most recent provincial spatial plan (2005), Mantaya Sabrang Village is situated entirely within the national forest estate, indicating that the government controls all rights to the land and resources.<sup>169</sup> In practice, the land use patterns of the area are characterized by many decades of human settlement and agro-forestry. The land claims of the village have been officially recognized by the sub-district government through the issuance of a Surat Keterangan Tanah (SKT) certificate. The SKT certificate

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<sup>167</sup> Interview with Saifull Anwar, Yayasan Puter.

<sup>168</sup> Interview with Rezal Kusumaatmadja, Starling Resources.

<sup>169</sup> Interview with Rezal Kusumaatmadja, Starling Resources.

identifies the owner and boundaries of a piece of land. As a result, villagers appear to have a strong perception of “owning” the land, even though the SKT certificate directly contradicts the land’s official status as forest estate.

The majority of the land occupied and used by the community is not forested and falls outside of the proposed ERC area. This area is designated as convertible production forest (HPK), and the village has already been approached by several oil palm companies that are interested in developing the area. However, according to the village head, most of the community is currently opposed to oil palm development. Although oil palm would likely bring new employment opportunities and income, many community members have an inherent distrust of oil palm companies and worry about the long-term impacts of oil palm on land productivity.<sup>170</sup>

The proposed ERC area begins at the boundary of the HPK designated area and the HP designated area. The HP designated area had been under a logging concession until the late 1990s, and, as a result, the village recognizes this area as being part of the forest estate. Although they may not claim to own the land, they do exercise informal rights to access and use the forest resources. The village elder interviewed for this case study also spoke of the forest’s value in terms of regulating hydrological and other ecosystem services that the village depends on.

#### **5.3.4 BENEFIT SHARING FUNCTIONS**

The Katingan project is in early stages of implementation. The project proponents are hesitant to initiate conversations about benefit sharing with local communities before the ERC is granted and before there is greater certainty about the future of REDD+ carbon markets. As a result, a project benefit sharing mechanism capable of distributing revenues from the sale of carbon credits has not yet been developed. Nonetheless, the project’s early engagements at the village level are providing insights into what an appropriate local benefit sharing mechanism might entail.

##### **Determination of beneficiaries:**

In order to identify villages with legitimate claims to the project area, Yayasan Puter facilitated a participatory community mapping process to identify all relevant land rights and uses. This process has been carried out in four villages, and will be expanded to all adjacent villages after the ERC is secured.

##### **Distribution of payments:**

It has not yet been determined when or how benefits would be distributed to villages by PT RMU, whether they would include cash payments, or whether they would be conditional upon any kind of performance. Starling Resources has indicated the desire to ensure that payments are somehow linked to the development of long-term livelihoods options that are consistent with forest conservation.<sup>171</sup> For example, one payment delivery idea that was mentioned was to pay communities improved and consistent prices for marketable goods they produce, such as rattan.

##### **Utilization of payments:**

The village of Mantaya Sabrang already has nearly a decade of experience managing and utilizing cash grants at the village level through its participation in the PNPM program. With the guidance of the PNPM village facilitator (who is also the FPIC facilitator hired by Yayasan Puter), the village has identified collective investments in infrastructure and community services through a bottom-up and inclusive community decision-making process.

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<sup>170</sup> Interview with Samsudin Molano, head of Mantaya Sabrang Village.

<sup>171</sup> Interview with Rezal Kusumaatmadja, Starling Resources.

In the context of the Katingan Project, Yayasan Puter is seeking to facilitate a similar process geared towards community cooperation and collective investment in the generation of sustainable livelihoods. For example, small seed grants have been provided to support the formation of community rubber plantation groups, women's revolving fund groups, and manufacture of improved cook stoves. By building community capacity for this type of collaborative development planning and investment, Yayasan Puter hopes to establish a foundation for equitable and sustainable use of future REDD+ revenues.

#### **Monitoring and verification:**

In theory, PT RMU will be able to earn carbon credits if it can demonstrate that current forest carbon stocks are maintained and enhanced. Starling Resources is currently working to develop an internationally credible project methodology for carbon MRV. Given that the surrounding villages are not a significant driver of deforestation in the project area, it is unclear whether it will be necessary to monitor and verify the performance of individual communities with respect to forest conservation. The project developer noted that small-scale illegal logging carried out by villages for subsistence or local commercial use could easily be discounted from the project's carbon accounting.

### **5.3.5 CONSULTATION OF LOCAL COMMUNITIES**

As a part of the ERC application process, PT RMU carried out consultations on the proposed REDD+ project at the sub-district level. Stakeholders from the village of Mantaya Sabrang, including the head of the village, attended the consultation.

Deeper consultations with four villages have been carried out by Yayasan Puter starting in 2009. Yayasan Puter aims to empower local communities to participate in the development of the ecosystem restoration plan for the project area and to maximize potential benefits resulting from the project. Yayasan Puter also aims to develop a model for FPIC between the villages and the project developer. This FPIC model will not be restricted to the scope of the REDD+ project, but rather will prepare the village to deal with any potential outside investor, including mining, oil palm plantation, and timber plantation. In fact, community members interviewed during this case study did not appear to be aware of the link between Yayasan Puter and PT RMU.

Yayasan Puter developed an FPIC training module to be carried out over the course of two days in each village. The module provides community members with basic information about FPIC processes, customary tenure rights, patterns of natural resource uses and exploitation, applicable international and national laws, and basic negotiation skills. The first four trainings indicated that the training materials needed to be further simplified, and that additional follow up was needed beyond the two-day session. Nonetheless, Yayasan Puter's ultimate goal is to refine the training module into something that can be used by community members without significant outside assistance.

Once the ERC has been awarded, PT RMU will be willing to invest the financial resources necessary to carry out a full FPIC process in all of the adjacent communities.

### **5.3.6 GRIEVANCE AND CONFLICT RESOLUTION MECHANISMS**

PT RMU has not established a formal conflict or grievance resolution mechanism. At this stage, it is not clear whether a conflict resolution mechanism would need to exist at the project level, or if REDD+ conflict resolution would be provided as a government service.

Interviews with members of the Mantaya Sabrang village indicated that intra-community conflict is not common, especially since incoming revenues from the PNPM program are spent on collective investments. When conflicts do arise, it is generally possible to reach consensus with support from the PNPM/Yayasan Puter facilitator or the village head. It is expected that the community empowerment activities currently being

carried out by Yayasan Puter will further strengthen the ability of villages to equitably resolve internal disputes.

### **5.3.7 EVALUATIONS OF PAST PERFORMANCE**

It is too early to evaluate the performance of this REDD+ demonstration project.

## **5.4 RUPES/RIVERCARE PROJECT**

The sub-district of Sumberjaya is located in West Lampung Province. It forms the upper watersheds of all major rivers on the island of Sumatra. Approximately 40 percent of Sumberjaya is subsequently classified as protection forest and 10 percent as national park. Nonetheless, nearly three-quarters of the land has been converted to coffee gardens by small-scale farmers. The government believed that uncontrolled deforestation was causing erosion, which threatened the operation of the Way Besai hydropower company (PLTA). Thousands of farmers were consequently evicted from Sumberjaya between 1991 and 1996.

In 2004, the World Agroforestry Centre (ICRAF) started working in Sumberjaya through its RUPES project (Rewarding Upland Poor for Environmental Services). During the first phase of the project, ICRAF focused on supporting local communities to gain access to the Government of Indonesia's HKM program. The HKM program gives farmers conditional land tenure to cultivate protection forest for coffee. In exchange, they must adopt sustainable farming practices and protect the remaining natural forest. The HKM program now covers approximately 70 percent of Sumberjaya's protection forest and involves nearly 6,400 farmers (ICRAF, 2010).

Between 2008 and 2009, ICRAF worked with PLTA to implement a pilot project known as the RiverCare program, which would reward farmers who could reduce river sedimentation through improved land management practices. A competition was held between 30 groups of HKM farmers over six months. The group that developed the most promising erosion control measures was subsequently trained in river sediment monitoring. As a reward for the sediment reductions achieved by the group, PLTA installed a micro-hydroelectric generator for the community. Runner-up HKM groups received cash payments of up to 7.5 million Rupiah (approximately US\$875).<sup>172</sup>

ICRAF has been inactive in the area since the RiverCare pilot program ended in 2009. However, they are currently considering a second phase of RiverCare, which would expand the program to new communities and potentially introduce new performance criteria beyond reduced sedimentation.<sup>173</sup>

### **5.4.1 OVERVIEW OF KEY INSTITUTIONS**

#### **ICRAF:**

ICRAF is a global research organization dedicated to generating and applying the best available knowledge to stimulate agricultural growth, raise farmers' incomes, and protect the environment. The RUPES project seeks to integrate rewards for environmental services into development programs to alleviate rural poverty and protect the environment. It has 15 research sites in six Asian countries: India, Nepal, China, Vietnam, Philippines, and Indonesia. ICRAF played a major role in securing HKM permits for farmer groups in the Sumberjaya sub-district, and designed and implemented the RiverCare pilot program.

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<sup>172</sup> Interview with Eddy Perwanto.

<sup>173</sup> Interview with Chandra Wijaya.

### HKm groups:

Farmer households must organize into groups in order to apply for an HKm permit. The Buluh Kapur HKm group, which was visited for this case study, includes 107 households. Each HKm group has its own management structure, which is responsible for collecting and managing group funds, monitoring and enforcing the group's internal rules, and supporting its members.

### FKKT-HKM:

The Forum Komunikasi Kelompok Tani HKm (henceforth referred to as “the HKm Forum”) in West Lampung is a membership based organization representing 30 HKm groups, which include roughly 7,000 farmer households, of which approximately 20 percent are headed by women.<sup>174</sup> The HKm Forum was established in 2008 by ICRAF. The Forum provides technical support to its member groups and seed funding for communal investments in livelihoods enhancing activities. Within the Forum, the women's group is a strong sub-group, which provides its own technical guidance and micro-lending program.

### RiverCare Group:

The HKm group that won the RiverCare competition—the Buluh Kapur group—formed a RiverCare Group. This group has a management structure that is separate from the HKm group's structure (with the exception of the president), and is responsible for monitoring river sedimentation levels, maintaining the micro-hydro generator, and collecting monthly maintenance fees from participating households.

### PLTA:

The Way Besai hydropower company participated in the RiverCare program and financed the micro-hydro installation for Buluh Kapur sub-village. They also work closely with the Forum to support livelihood enhancement efforts and to provide seed funding. PLTA's engagement is led through their Corporate Social Responsibility (CSR) program.

### Government:

The Ministry of Forestry maintains the power to designate an area of the forest estate – either production or protection forest – as an HKm area. Following this designation, the *Bupati* (head of district government) has the right to allocate permits to farmer groups to utilize the HKm area. The district forest agency typically plays a supporting role in the HKm permit application process, and is also responsible for monitoring the activities of active HKm groups.

**TABLE 5.2: OVERVIEW OF KEY INSTITUTIONS**

Institution	Key Functions
ICRAF	Supports farmer groups to secure HKm license, developer of RiverCare project
HKm groups	Unites over 100 farmer households to secure a HKm license
FKKT-HKM	Unites over 30 HKm groups to provide technical support and protect the groups' interests
RiverCare Group	Manages the RiverCare project for the Buluh Kapur HKm group
PLTA	Is the ecosystem service “buyer” in the RiverCare project and technical support to the FKKT-HKM
Government	Approves and monitors HKm licenses

<sup>174</sup> Interview with Eddy Perwanto.

## 5.4.2 FUNDING SOURCES

The RUPES project was financed by ICRAF. Since 2008, ICRAF has also been providing financial support of US\$6,000 (50 million Rupiah) per year to the HKm Forum, although this support will end in 2012.<sup>175</sup> In addition, PLTA provided some funding as the ecosystem service “buyer” for the RiverCare pilot program. ICRAF has estimated that PLTA would need to spend up to US\$1 billion per year to clean sediment from their reservoir. It is feasible that some of this cost could be deterred if the RiverCare program could be scaled up across the seven sub-watersheds that feed their dam.

## 5.4.3 LINK BETWEEN LAND RIGHTS AND COMMUNITIES’ ACCESS TO BENEFITS

In this case, communities’ access to benefits is tightly linked to land rights, which are secured through an HKm permit. The HKm mechanism for community-based forest management was first established under the Basic Forestry Law No. 41 in 1999. It was further elaborated by Government Regulation No. 6 (2007), which has since been amended three times by ministerial decree. The primary benefit of HKm is long-term access to the land and resources, which in turn provides access to a secure livelihood through agro-forestry. In addition, having legally recognized rights allows communities to gain access to government agricultural and forestry programs that provide technical services and support. The HKm group that participated in the RiverCare program in Sumberjaya received an additional benefit in terms of electricity generation.

### Application process for HKm:

The Ministry of Forestry must designate a forest area for HKm before any permits can be allocated. HKm designation can occur through a top-down process, whereby MoFor works with district government to identify potential HKm areas and socialize the HKm permit application process with local communities. HKm designation in West Lampung district happened through a bottom-up process. Local communities supported by ICRAF worked with the district government to map areas desired for HKm designation, and the *Bupati* made an HKm designation application to MoFor.

Once the area is designated for HKm, communities can apply to their *Bupati* for an HKm permit by forming a group and submitting a proposal. The proposal must include a map of the proposed area, which indicates the area that will be planted with coffee and the natural forest area that will be protected against logging and forest fire. The district government is expected to provide “facilitation services” to communities during this process, including mapping support, education and training, and institutional capacity building. These services may also be provided by NGOs, as was the case in Sumberjaya.

The designation and application process takes about three years on average<sup>176</sup>, at which point a temporary five year permit is issued. If the community complies with the terms of their temporary permit, a 35 year permit is supposed to be issued. In the case of Sumberjaya, 19 of the 30 groups within the HKm Forum were awarded temporary permits more than five years ago. Of those 19, only seven groups have received 35 year permits.<sup>177</sup> The other groups have not been able to secure long-term permits due to lack of clarity regarding district borders.<sup>178</sup>

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<sup>175</sup> Interview with Eddy Perwanto.

<sup>176</sup> Interview with Eddy Perwanto.

<sup>177</sup> Interview with Dariono.

<sup>178</sup> The district of West Lampung has undergone several sub-divisions in recent years to establish new sub-districts. The sub-division process has resulted in disputes over sub-district borders that, in many cases, have yet to be resolved.

### **Rights and responsibilities under HKm:**

Communities possessing an HKm permit are allowed to cultivate and extract NTFPs, plant trees, and utilize environmental services. Communities wishing to extract timber must apply for a timber resources utilization permit (IUPHHK), which can only be allocated in production forest.

In the protection forest of Sumberjaya, HKm groups must maintain one block for coffee cultivation and one block for protection of natural forest. Depending on the group, the protection block could be as much as 50 percent of the land to nil.<sup>179</sup> Within the cultivation block, farmers must maintain multi-strata vegetation and implement soil and water conservation practices. Group members must pay an annual fee to support the administration of the group. HKm groups are responsible for enforcing compliance of its members with these conditions. Groups that do not comply with the conditions of their HKm permit could theoretically have their permit revoked, although the HKm group members interviewed for this case study did not seem to believe that this was a likely threat.

### **5.4.4 BENEFIT SHARING FUNCTIONS**

#### **Determination of beneficiaries:**

There are no restrictions on the types of communities that can apply for an HKm permit. However, the likelihood that a community will apply depends on their awareness of the program and their ability to cover the transaction costs of applying.<sup>180</sup> Thus, communities supported by NGOs or by proactive district forest officers are more likely to benefit from the HKm program. The HKm Forum members interviewed in Sumberjaya felt that their success story was largely community and NGO driven, and that government is not adequately supportive of the program.

Since the RiverCare pilot program had limited resources, only a small number of HKm groups were able to receive benefits (micro-hydro installation or cash payments). These groups were selected based on their performance in a competition to develop improved land management practice to reduce soil erosion.

#### **Distribution of benefits:**

The main benefit of HKm is secure land tenure, which is equally shared among members of the HKm group. In the RiverCare program, the Buluh Kapur HKm group received a micro-hydro installation as their reward. The generator produces enough electricity for 17 out of the 40 households that participated in the RiverCare program. Those 17 households must pay 10,000 rupiah per month (just over US\$1) to maintain the service.<sup>181</sup>

HKm groups that received cash payments from RiverCare managed these resources for collective investments, e.g. to maintain the tree nursery, to buy communal livestock, etc. The HKm Forum provides supervision and support to HKm groups to be able to manage funds transparently and accountably. Nonetheless, instances of corruption in HKm groups have been reported.<sup>182</sup>

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<sup>179</sup> Cucu Suryadi.

<sup>180</sup> One study (Porras and Neves, 2006) estimated the transaction costs of establishing and managing a HKm group in Sumberjaya at about US\$55 per household, or roughly half of the average annual household income. Calculations were based on the time spent to carry out the necessary activities, at average local wage rates.

<sup>181</sup> Interview with Dariono.

<sup>182</sup> Interview with Eddy Perwanto.

### **Monitoring and verification:**

HKm groups are responsible for monitoring and enforcing compliance of their own group members with respect to the requirements of the HKm permit. The District Forest Agency also provides broad oversight, although field level monitoring and verification is rare.<sup>183</sup>

## **5.4.5 CONSULTATION OF LOCAL COMMUNITIES**

Local communities are at the center of this benefit sharing model. Communities must invest significant effort to secure an HKm permit.<sup>184</sup> In the case of the Buluh Kapur HKm group, the process was driven by one particular community member, who socialized the HKm concept amongst his peers and facilitated a common community vision necessary to develop the HKm proposal. He is currently the president of the HKm group. ICRAF provided essential technical and financial support, but ultimately the process was community driven. Similarly, participation in the RiverCare program was voluntary and driven by community interest.

## **5.4.6 GRIEVANCE AND CONFLICT RESOLUTION MECHANISMS**

Intra-community conflicts are typically resolved at the HKm group level. If necessary, the HKm Forum can provide additional support. The HKm group members interviewed during this case study insisted that these communities lead simple lives, with minimal opportunities for conflict. There was no separate conflict resolution mechanism established for the RiverCare program.

## **5.4.7 EVALUATIONS OF PAST PERFORMANCE**

HKm is the most prevalent model of community based forest management in Indonesia. Nonetheless, the implementation of HKm has been limited, largely due to the significant transaction costs and administrative complexity associated with the application process. The success of HKm in Sumberjaya sub-district can be attributed to the support provided by ICRAF—to make communities aware of the HKm process, to facilitate negotiations with local government, and to build the capacity of community institutions. Overall, the Government of Indonesia has not provided significant support or investment to scale up HKm across the country.

HKm has provided a clear benefit to local communities in terms of providing secure, long-term land tenure. However, the impacts of HKm with respect to poverty alleviation and environmental protection are not well studied. The prospect for improved environmental management hinges on the assumption that communities will adhere to the conditions of their HKm permit (e.g. improved soil conservation practices). However, at least one study suggests that the “conditional” aspect of the HKm land tenure arrangement is often not well understood, monitored, or enforced by communities (Kerr, 2006). The study surveyed several HKm groups in the Sumberjaya sub-district and found that 20 percent of households were not even aware that they were members of an HKm group. An even greater number were not familiar with the environmental requirements of the permit. Furthermore, since the district forest agency tends to play a relatively hands-off role with respect to monitoring and enforcement,<sup>185</sup> it is unclear whether HKm groups feel a legitimate threat of eviction if they do not comply with the terms of their permit.

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<sup>183</sup> Interview with Cucu Suryadi.

<sup>184</sup> One study (Porras and Neves, 2006) estimated the transaction costs of establishing and managing a HKm group in Sumberjaya at about US\$55 per household, or roughly half of the average annual household income. Calculations were based on the time spent to carry out the necessary activities, at average local wage rates.

<sup>185</sup> Interview with Cucu Suryadi.

## **5.5 LESSONS LEARNED FROM THE KATINGAN REDD+ PROJECT AND RUPES/RIVERCARE PROJECT**

### **5.5.1 LEGAL AND POLICY FRAMEWORK FOR LAND TENURE AND ACCESS TO BENEFITS**

The two cases described above demonstrate that the choice of tenure mechanism has significant implications for community access to benefits. In the case of HKm, the main benefit provided is secure long term rights to the land and forest. This benefit is highly desirable for communities because it offers an opportunity for a secure livelihood. Becoming a legal user of the land also creates opportunities to access NGO or government sponsored forestry and agricultural programs, which may bring an additional set of benefits or incentives. The RiverCare pilot program is one example of this approach, which could be extrapolated for REDD+. Since communities hold the land rights, their participation is always voluntary.

On the other hand, the Katingan REDD+ project does not secure any formal rights for communities. Instead, it provides long-term certainty and clarity regarding the land use. This certainty could be seen as beneficial for communities, but only so long as they have access to adequate income generating opportunities that are also consistent with forest conservation. Otherwise, the project could be seen as significantly limiting their choices over the long-term. Once the ERC is granted, the communities have limited power to alter the terms of the project or to negotiate the types and quantity of benefits that they will receive. Even if they agree to the project terms at the outset (likely through a legal contract), it is probable that their development needs and aspirations will change over the 95 year lifespan of the concession. At this stage it is unclear whether communities will have any legal standing from which to renegotiate their rights and responsibilities under the project over time.

### **5.5.2 GOVERNANCE AND MANAGEMENT**

In both cases, intermediaries play a crucial role in realizing the project. In Sumberjaya, ICRAF—followed up by the HKm Forum—empowered communities to work with local government to implement the HKm program. They also provided the technical training and skills to establish RiverCare. In the Katingan project, Yayasan Puter is helping to prepare the community for future negotiations and engagement with PT-RMU. The heavy reliance on NGOs to play this intermediary role is a constraint to scaling up both approaches. In both cases, the community members interviewed expressed a feeling that local government should play a greater role in educating and supporting communities to improve their land management practices and to identify opportunities for sustainable livelihoods.

The Sumberjaya and Katingan cases also revealed common insights regarding community level governance. Elite capture of community resources was an identified risk in both communities, which was mitigated by relatively close oversight—by the HKm Forum in one case and by the sub-district government in the other. Both communities required institutional capacity building and training to be able to manage communal funds transparently and through a bottom-up decision making process. Having this training in advance of project implementation enhances the likelihood that communities will be able to successfully participate. Strong community “leaders” are also pivotal in organizing and facilitating agreement within the community. These individuals may not start out as formal leaders (i.e., recognized or elected representatives of the community), but they typically command the respect of their peers. In Mantaya Sabrang village, Syamsu was respected due to his age and deep knowledge of the area’s history. In Buluh Kapur, Darsono’s motivation and personal effort brought the community together to form the HKm group.

### **5.5.3 COMMUNITY ENGAGEMENT**

Engagement under the HKm model is inherently community driven. ICRAF played a crucial facilitating role between the communities and the government. In the Katingan REDD+ project, the project is owned by PT-RMU and communities are to be engaged through an FPIC process. The fact that the FPIC training

provided by Yayasan Puter was not explicitly linked to REDD+ or to PT-RMU is very important to reducing bias and managing community expectations. Once the ERC is granted and PT-RMU is ready to begin negotiating with communities, they will be more empowered with an understanding of their rights and options.

However, there remains an outstanding question about what “consent” and “prior” mean in this context, given that the FPIC process will be carried out only after the ERC has been awarded. If a community chooses not to consent to the project, they will not have any alternative options regarding the land use of the project area. Lack of consent does not imply that the ERC will be revoked on the lands claimed by the community. Nonetheless, given the uncertainties and financial risks associated with applying for an ERC, it is not surprising that PT-RMU is unwilling to invest in a full-scale FPIC process before the license is secured.

#### **5.5.4 EFFICIENCY OF BENEFIT SHARING SCHEMES**

Neither project has established a formal payment or benefit distribution system. Thus, they remain difficult to assess from an efficiency perspective. In Sumberjaya, the consolidation of farmers into HKM groups serves to reduce transaction costs that would be borne by a project developer. However, transactions costs are subsequently transferred to the farmers who must commit resources to organize, administrate, and monitor their group. It is currently uncertain whether the Katingan REDD+ project will seek to establish an intermediary for its benefit distribution scheme, or if it will work directly with the 30+ communities surrounding the project area.

#### **5.5.5 EFFECTIVENESS OF BENEFIT SHARING SCHEMES**

The HKM model has effectively delivered benefits to the coffee farmers of Sumberjaya through secure, long-term land tenure in return for conserving the ecosystem in the affected areas. However, there is currently little evidence to suggest that this approach has improved environmental performance rather than formalizing the status quo. The RiverCare pilot program demonstrated that communities will implement improved environmental practices when an additional incentive is provided. However, there is currently no environmental service “buyer” who would be willing to provide these incentives across a larger scale and in the long term. According to the PLTA representative, the company doesn’t have the ability to implement RiverCare across all seven sub-watersheds that feed its dam. Rather, it sees a role for the provincial government to recognize the district’s role in providing ecosystem services for the entire province, and to allocate resources accordingly.

The conditionality of potential payments or benefits under the Katingan REDD+ project are also unclear at this stage. Since communities are not currently a significant driver of deforestation or degradation in the project area, REDD+ benefits are being seen as an opportunity to finance alternative livelihoods rather than as an incentive to change behavior. Since benefits are not linked to a clear opportunity cost borne by communities, it is difficult to estimate how much compensation communities should receive. If higher opportunity costs manifest in the future due to emerging trade-offs between community development and forest conservation, it is possible that originally negotiated benefit levels will become inadequate.

#### **5.5.6 EQUITY OF BENEFIT SHARING SCHEMES**

The primary equity concerns with respect to the HKM model concern the accessibility of the program. Without intervention by an NGO, the program is more accessible to communities that are more socially connected (i.e. have means to become aware of the program) and have the resources to invest in a lengthy and complicated application process. Once a community receives an HKM permit, the primary benefit in terms of secure land tenure is shared equally by the group members. However, engagement in additional programs such as RiverCare raises new risks with respect to elite capture of benefits.

It is difficult to assess the equity aspects of the Katingan REDD+ project at this stage. It remains to be seen what benefits communities will receive and how those benefits will be divided between and within

communities. In the village of Mantaya Sebrang, experience managing funds under the PNPM program has provided a useful foundation for ensuring that potential REDD+ funds are managed by the community through an equitable and inclusive process.

## 5.6 CONCLUSIONS AND RECOMMENDATIONS

Indonesia is still in early stages of developing benefit sharing arrangements for REDD+. The revenue sharing regulation created by the Ministry of Forestry in 2009 provides a potential starting point by identifying key beneficiaries and different legal models for REDD+ projects. However, the actual division of revenues specified by the regulation does not appear to be grounded in any practical estimation of cost or existing perceptions of fairness. Furthermore, additional benefits beyond carbon payments have not been factored in. These issues will need to be explored at a deeper and more local level before appropriate benefit sharing models can be identified.

The two projects reviewed in this case study demonstrate that vastly different models for REDD+ projects (and for claiming carbon rights) are emerging. It is likely that Indonesia will embrace a number of different project models in its pursuit of a nested implementation framework. The following considerations can help inform the analysis and selection of various benefit sharing approaches.

*Consider the incentives faced by local government.* REDD+ is fundamentally about realigning incentive structures to favor forest conservation and restoration. In Indonesia, most conversations about REDD+ incentives are occurring at the national and project levels. With the exception of a few projects that are based on local government partnerships, these conversations have not significantly involved district and provincial governments. In the Katingan REDD+ project, district government has actively sought to block the ERC application. In Sumberjaya, community members perceive the district government as passively allowing the HKM program rather than actively encouraging it.

As a result, the drivers of these programs are NGOs, project developers, or the communities themselves. While this is not problematic per se, it presents a challenge for scaling up REDD+ interventions across the Indonesian landscape. Local governments need to be incentivized to support REDD+ programs, and to provide services and support to the local communities that will be participating in them. Creating such incentives will require a deeper understanding of the incentive structures and opportunity costs currently influencing local government decision-making, and innovative strategies to realign these incentive and cost structures in a manner consistent with REDD+ objectives. Ensuring that local governments are direct recipients of REDD+ benefits will likely be an important aspect of this, but deeper institutional and legal reforms may also be necessary.

*Recognize community rights, not just benefits.* Few REDD+ projects are currently seeking to clarify or legally recognize the forest tenure rights of local communities. Instead, most projects are pursuing a concession based model, using an ERC or other forest license. These models do not explicitly recognize the land rights of communities. Presumably, a right to benefit will be established through a legal contract. While this approach is not inherently problematic, it creates risks for communities over the long-term by limiting their options for income generation. And without clearly recognized land rights, communities will have little legal standing to renegotiate benefits or other terms of the project as their circumstances change over time.

The current preference for concession based models in REDD+ is likely a result of existing legal and policy frameworks, which encourage this type of approach to forest management. On the other hand, the legal, institutional, and political hurdles to securing forest tenure rights for communities are substantial. Broader legal and institutional reforms will be necessary to make a community rights based model viable, or even desirable, for REDD+ project developers. This will require deep political commitment to the broader social objectives of REDD+ at all levels of government.

*Establish national policies, measures, and standards.* The project based approach to REDD+, which is currently being pursued in Indonesia, will likely offer advantages in terms of economic efficiency and effectiveness of

emission reductions. However, emerging experiences from REDD+ pilot projects in Indonesia suggest that the profit motivation of private project developers may not necessarily be aligned with the interests of local communities. The unwillingness of PT-RMU to invest financial resources into a full-fledged FPIC process until after the ERC is secured provides an example of this dilemma.

This challenge highlights an urgent need for policies, measures, and standards at the national level that regulate private project developers, define a spectrum of acceptable benefit sharing practices, and clarify and legally recognize communities' rights in the context of REDD+. Social and environmental safeguards should be developed, monitored, and enforced. In addition, the Government of Indonesia should consider national scale interventions that strengthen the capacity of local communities to participate in REDD+ projects, rather than relying on NGOs or private project developers to deliver these services at scale.

## INDONESIA CASE STUDY APPENDIX 5.1 – LIST OF INTERVIEWS

Type of organization	Organization name	Contacts interviewed & Title
<b>Government</b>	Ministry of Forestry	Dr. Ir. Hadi S. Pasaribu
		Dr. Yetti Rusli, Senior Advisor to the Minister of Forestry on Environment and Climate Change
<b>Donors</b>	USAID Jakarta	Alfred Nakatsuma, Aurelia Micko, Carey Yeager, Tony Djogo, Ben Stoner, Bill Rush
	Ford Foundation	Dr. Steve Rhee
	CLUA	Chip Fay
	AusAid Jakarta	Timothy Jessup, Forest and Climate Specialist
	World Bank Jakarta	Tim Brown, Mubariq Ahmad, Emile Jurgens, Olivia Tanujaya
<b>Local government</b>	Mantaya Sabrang Village	Samsudin Molano , Head of Village, Mantaya Sabrang
	Sumberjaya Sub-District	Cucu Suryadi, District forest ranger
<b>NGOs</b>	Indonesian Center for Environmental Law	Giorgio Budi Indrarto
	CIFOR	William Sunderlin, Andrew Wardell
	Clinton Climate Initiative	Taufiq Alimi, National Coordinator
	Association for Community and Ecologically-Based Law Reform (HuMa)	Steni Bernadinus
	The Nature Conservancy	Erin Madeira, Senior Advisor, Forest Carbon Climate Change Team
	Sekala	Ketut Deddy, Director
	Kemitraan Partnership	Avi Mahaningtyas, Chief of Economic and Environmental Cluster
	HKM Forum	Eddy Perwanto, HKM Forum Coordinator =
	Yayasan Puter	Andaman, Katingan Project Facilitator
<b>Private sector</b>	McKinsey & Company	Dr. Gotz Martin
<b>Project developers</b>	Starling Resources	John Claussen, Managing Partner; Rezal Kusumaatmadja, Managing Partner
	World Agroforestry Center (ICRAF)	Beria Leimona, RUPES Project Coordinator; Ujjwal Pradhan; Chandra Wijaya, RUPES Project Coordinator
<b>Project stakeholders</b>	Mantaya Sabrang Village	Syamsu Usman, Village elder
		Murnia, Head of FPIC group
		Saifull Anwar, Village Facilitator (hired by Puter Yayasan)
	Buluh Kapur Community	Darsono, Head of Buluh Kapur HKM Group
PLTA Way Besai (hydropower company)	Subono, CSR Director	

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**U.S. Agency for International Development**

1300 Pennsylvania Avenue, NW

Washington, DC 20523

Tel: (202) 712-0000

Fax: (202) 216-3524

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