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ASSESSMENT TOOL FOR CLARIFYING RIGHTS TO DERIVE BENEFITS FROM REDD+ ACTIVITIES

TENURE AND GLOBAL CLIMATE CHANGE (TGCC) PROJECT

JUNE 2015

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ACRONYMS AND ABBREVIATIONS

CCBA	Climate, Community and Biodiversity Alliance
EIA	Environmental Impact Assessment
ER-PIN	Emission Reductions Program Idea Note
FAO	Food and Agriculture Organization
NTFP	Non-Timber Forest Product
REDD+	Reduced Emissions from Deforestation and Forest Degradation plus carbon sequestration from forest enhancement
R-PP	Readiness Preparation Proposal
USAID	U.S. Agency for International Development

INTRODUCTION

REDD+ is a global initiative designed to support developing countries to reduce carbon emissions and increase global carbon stocks by slowing, halting, and reversing forest loss and degradation (Daviet and Larsen 2013), for example by promoting conservation and the sustainable management of forests.

The evidence from early REDD+ projects suggests that weak natural resources rights and tenure governance have made it difficult to “protect local livelihoods and rights against the effects of forest use restrictions” that these projects involve (Sunderlin et al. 2013). Whether REDD+ programs¹ achieve their goals while benefiting local communities and other stakeholders hinges on the clarity of natural resources rights and tenure governance. Land tenure in most developing countries, however, is contested, overlapping and insecure.

At the local level, REDD+ projects are increasingly seeking to address natural resources rights and tenure governance issues through social safeguards (e.g., Richards and Panfil, 2011) and voluntary social certification (e.g., the Climate, Community and Biodiversity Alliance [CCBA] Project Design Standards, 2013). But these issues are affected by national and sub-national legal and policy frameworks, which lie beyond the direct control of REDD+ projects. To be effective, local interventions designed to solve natural resources rights and tenure governance issues must be accompanied by reforms at higher levels of governance (Sunderlin et al. 2013). These may include legal recognition of rights, or procedures and institutional structures that operationalize rights recognition, protection and enforcement.

This “Rights and Benefits” assessment tool is intended to help identify changes in national and sub-national natural resources rights and tenure governance laws, regulations, and policies, as well as in the REDD+ program itself, that will enable all stakeholders, including those for whom natural resources rights are presently unresolved or insecure, to benefit from, or at least not be harmed by, REDD+ programs. As a planning tool, it aims to identify the legal, regulatory, and policy enabling conditions around resource governance for national or regional REDD+ program. As such, it does not assess impacts of existing REDD+ pilot projects on stakeholders at the local level, but is rather focused as a planning tool.

Sunderlin et al. (2013) list four ways by which natural resources rights and tenure governance are relevant to achieving effective and equitable REDD+ programs. These are to identify the right holder for reward purposes; identify the responsible party to be held accountable; prevent a resource rush during creation of a new commodity; and protect existing rights and livelihoods. This assessment tool examines these questions operationally by looking at three aspects where rights are affected by and affect the extent to which REDD+ programs benefit stakeholders:

1. **Eligibility:** Which stakeholders are brought into the consultation process and whose interests are considered is often a reflection of who has rights and which rights are recognized. Eligibility criteria for REDD+ programs need to factor how natural resources rights and tenure governance can affect eligibility of stakeholders to participate in and benefit from REDD+.

¹ In the context of this tool, REDD+ programs encompass national or regional efforts, led by government or non-government actors, such as REDD+ Strategies, Readiness Preparation Proposals (R-PP), or Emission Reductions Program Idea Note (ER-PIN).

2. **Net benefits:** REDD+ programs may restrict natural resources access, use and/or management rights of stakeholders. REDD+ incentives may need to compensate stakeholders involved with or affected by REDD+ programs for the socio-economic losses they incur. Whether stakeholders could be better or worse off with REDD+ programs partially depends on their procedural rights related to natural resources (e.g., rights to compensation, access to information, participation).
3. **Security of benefits:** Even if stakeholders are eligible to participate in a REDD+ program, their rights might be contested and insecure. Insecure rights, a reflection of weak tenure governance, diminish the likelihood that stakeholders will be able to meet their obligations under REDD+ and receive associated benefits over time.

This tool is intended to help researchers, and those designing REDD+ activities at the national and sub-national level assess the existing rights and tenure governance frameworks in relation to these three elements to understand whether a REDD+ program is designed in an effective and equitable manner.

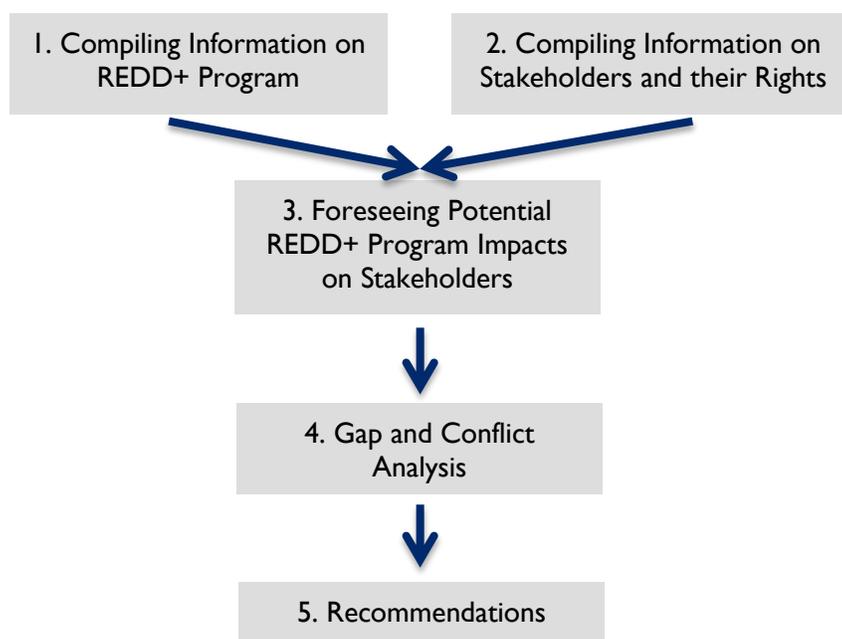
The assessment tool has five modules (Figure 1):

- *Module 1: Compiling Information on REDD+ Program.* Understand the REDD+ program, i.e., what will the program implement, where will it be implemented, what type of incentives (positive and negative) will it utilize, what are the eligibility criteria to participate in and benefit from the REDD+ program, and which stakeholders are targeted.
- *Module 2: Compiling Information on Stakeholders and their Rights.* Identify who the stakeholders are and understand their natural resources rights and tenure security regarding the natural resources subject to the REDD+ program through a review of relevant legal, regulatory, and policy frameworks, and any existing reviews and analyses of these frameworks.
- *Module 3: Foreseeing Potential REDD+ Program Impacts on Stakeholders.* Understand how stakeholders could be affected by the REDD+ program.
- *Module 4: Gap and Conflict Analysis.* Determine:
 - Whether there are any potentially negatively impacted stakeholders that are not eligible to participate in the REDD+ program;
 - Whether there are any stakeholders targeted by the REDD+ program who are unlikely to benefit from the REDD+ program; and
 - Whether any stakeholders targeted by the REDD+ program are at risk of not benefiting over the long-term as a result of weak natural resources rights and tenure governance.
- *Module 5: Recommendations.* Identify how changes in tenure governance and natural resources rights might ensure that:
 - Stakeholders are eligible to participate in the REDD+ program;
 - Stakeholders may benefit from the REDD+ program; and
 - Stakeholders have secure rights necessary to benefit from the REDD+ program over the long term.

While researchers should be able to produce a first assessment based on a desktop review of relevant documents, they will need to conduct an in-country workshop to get feedback on their analysis and recommendations from experts in the REDD+ program and in the legal, regulatory, and policy institutional frameworks governing natural resources.

The five modules of the “Rights and Benefits” tool will be illustrated through a desktop-only assessment of a case study in Brazil (Box 1).

Figure 1: Components of the guidance



At the end of the assessment undertaken using this document, the researchers should produce a document that:

1. Identifies the stakeholders of concern and explains why they were identified as stakeholders.
2. Identifies the provisions related to tenure governance and natural resources rights in national legal and policy frameworks (and state/regional legal and policy frameworks in cases where there are important differences) that define the ability of stakeholders to benefit from REDD+ programs.
3. Identifies the provisions in the REDD+ program that are designed to ensure that stakeholders, especially local communities and other vulnerable actors, benefit from the REDD+ program.
4. Identifies the strengths, gaps, weaknesses, inconsistencies and/or conflicts in the overall REDD+ governance architecture regarding the ability of stakeholders to benefit from the REDD+ program.
5. Proposes recommendations on how to improve tenure governance and natural resource rights in order to increase the ability of stakeholders to benefit from the REDD+ program, with a focus on local communities and other marginalized actors.

An important subject that is beyond the scope of this document is the institutional capacity of REDD+ programs to implement their benefit sharing mechanisms. As an example of what might impair implementation, overly complicated procedures may limit local community participation. To understand institutional capacity regarding benefit sharing mechanisms, the reader should refer to the U.S. Agency for International Development’s (USAID) [Institutional Assessment Tool for Benefit Sharing under REDD+](#).

This document will also not assess the extent to which the institutions managing tenure have the resources and are administering existing rights effectively and therefore could do so in a REDD+ related process. For more information on assessing forest governance capacity, the reader can refer to the tenure indicators in the World Resources Institute’s (WRI) [Governance of Forest Initiative Framework of Indicators](#).

Box 1: Introduction to the Brazilian case study

One draft of Brazil's national REDD+ strategy stipulates that it will implement "(i)ncentives for priority areas protected or under special management, e.g., Conservation units and Indigenous settlements, in line with existing incentives such as Bolsa Verde."

Therefore, we examine the incentive model used in the Bolsa Verde Program as though it were a REDD+ program in Brazil for the sake of demonstrating the information that use of this "Rights and Benefits" tool would provide. This case study has been developed using desktop materials only and has not been reviewed by Brazilian legal or policy experts. It is only meant to be illustrative rather than comprehensive. Experts undertaking these examples may need to more closely examine legal and policy instruments, as well as draw from local knowledge, to present an accurate picture.

The Bolsa Verde Program pays R\$300 every three months to families that make a living from collecting forest products (e.g., extracting cashew nuts, latex, and rubber) or conducting agricultural activities within the forest, and commit to adopting more sustainable natural resources practices aimed at reducing deforestation (GoB undated). The program is administered by Brazil's Ministry of Environment as part of the country's national extreme poverty plan, Brasil Sem Miséria (Law No. 12,512, 14 of October 2011, Decree 7572 of 28 September 2011).

Created in 2011, the Bolsa Verde Program targets populations that live in specific areas² (Article 3 of the Law No. 12,512, 14 of October 2011):

1. Federal Conservation Units: National Forests, Extractive Reserves and Sustainable Development Reserves;
2. Agrarian Reform Settlements: Forest Settlement Projects, Sustainable Development Projects and Agro-extractive Settlement Projects; and
3. Territories occupied by riparian gatherers, indigenous peoples, Maroons and other traditional communities.

Federal Conservation Units and Agrarian Reform Settlements have well-defined tenure regimes: in Conservation Units, the legislation confers specific rights to recognized traditional communities; in Agrarian Reform Settlements, the legislation confers specific rights to communities represented by an association, condominium or cooperative (RRI 2012). The identification of the individual groups, rather than the tenure areas, may mean that the riparian gatherers, indigenous peoples, Maroons and other traditional communities may not be living in areas where they have well-defined tenure regimes (Santos et al 2012). In these areas, we assume that these traditional communities claim customary rights that are expected to be recognized legally at some point. At the time of the implementation of the Bolsa Verde, however, they have no legally recognized rights to the territories they occupy.

² The law also allows the Executive Branch to prioritize other rural areas but, for lack of specific information on what these rural areas might be, we will only focus on the first three categories of target areas in our illustrative application of the modules.

MODULE I: COMPILING INFORMATION ON REDD+ PROGRAM

In Module 1, the researchers identify the stakeholders that the REDD+ program targets, establishes why it targets them, and specifies how it plans to influence their behavior.

Types of documents to review include:

- National (or sub-national where there is a meaningful difference with national) REDD+ strategies;
- Readiness Preparation Proposal (R-PP);
- Emission Reductions Program Idea Note (ER-PIN); and
- Selected REDD+ program.

Box 2: Terminology

REDD+ Strategy: A document that provides an overarching perspective on the objectives of a REDD+ or REDD+ related program to be developed, a description of any rules or institutions managing REDD+ programs, and a description of the various REDD+ programs and what the combined REDD+ programs will seek to achieve. Examples include the Indonesian and Mexican National REDD+ strategies.

REDD+ Program: A program put in place to reduce emissions from deforestation and/or forest degradation, conserve carbon stocks (conservation), or increase carbon sequestration (e.g., forest restoration and management). These may include payment for ecosystem services, changing incentives, and enhanced law enforcement. In the context of this tool, REDD+ programs encompass national or regional efforts, such as Readiness Preparation Proposals (R-PP), REDD+ Strategies, or Emission Reductions Program Idea Note (ER-PIN).

Stakeholders Targeted by REDD+: The people whose behavior the REDD+ program is specifically hoping to change.

Affected Stakeholders: Those that the REDD+ program will likely impact directly or indirectly – this may be positive or negative.

REDD+ Impact (negative or positive): Potential change in well-being of affected stakeholders as a result of the implementation of the REDD+ program. For example, potential positive impacts may often result from the capture of REDD+ positive incentives.

REDD+ Net Impact (negative or positive): Potential net change in well-being of affected stakeholders as a result of the implementation of the REDD+ program. Net positive impact, or net gain, in well-being means that the REDD+ program positive impact on stakeholders outweighs its negative impacts; conversely, net negative impact, or net loss, in well-being means that the REDD+ program negative impact overrides its positive one (adapted from Luttrell et al 2013).

REDD+ Incentive: The method by which the program intends to influence the behavior of actors to achieve REDD+. This may include direct payments, subsidies, new land use regulations, the implementation of existing activities, and enforcement actions.

Stakeholders: Stakeholders are those actors who use or have rights to the natural resources on the lands where the REDD+ program is seeking to reduce carbon emissions, maintain carbon stocks, or increase carbon sequestration.

Stakeholders' Obligations: The activities the stakeholders will be committing to undertake or required to undertake as part of the REDD+ program.

I.1 WHICH STAKEHOLDERS ARE EXPLICITLY TARGETED BY THE REDD+ PROGRAM? WHAT IS THE RATIONALE FOR THE REDD+ PROGRAM TO TARGET THEM?

Stakeholders are those actors who use or have rights to the natural resources on the lands where the REDD+ program is seeking to reduce emissions, maintain carbon stocks, or increase sequestration. They include local communities, individual households, private companies, and government institutions. Depending on the REDD+ program design, they might be targeted because they have statutory, customary, or *de facto* rights to natural resources subject to the REDD+ program; because they have been good or bad forest stewards in the past; or because they can provide a service related to the REDD+ program.

Based on the description of the REDD+ program, researchers should identify which stakeholders are targeted and specify, when relevant, any focus on specific individuals/households or vulnerable groups (e.g., women, poor, elderly, indigenous people). This tool does not address whether the REDD+ program targets the stakeholders that are most responsible for driving deforestation and forest degradation, and therefore how likely the program is to achieve its carbon emission goals.

Output 1.1: List of stakeholders targeted by the REDD+ program and reasons why they are targeted (e.g., Table 1).

Table 1: Stakeholders targeted by the Bolsa Verde Program and their standing

Stakeholders	Reasons why they are targeted
Legally recognized traditional populations in National Forests making under R\$70 per capita monthly	<ul style="list-style-type: none"> • They live in extreme poverty and are the target of the national poverty alleviation plan, Brasil Sem Miséria. • They impact and depend on forests in one of the areas specified in the law.
Legally recognized traditional populations in Extractive Reserves and Sustainable Development Reserves making under R\$70 per capita monthly	
Legally recognized populations in Forest Settlements Projects and Sustainable Development Projects making under R\$70 per capita monthly	
Legally recognized populations in Agro-extractive Settlement Projects making under R\$70 per capita monthly	
Riparian gatherers, indigenous peoples, Maroons and other traditional communities in targeted area making under R\$70 per capita monthly	

1.2 WHAT ARE THE POSITIVE OR NEGATIVE INCENTIVES FOR THE IDENTIFIED STAKEHOLDERS UTILIZED BY THE REDD+ PROGRAM? WHAT ARE THE STAKEHOLDERS' OBLIGATIONS ASSOCIATED WITH THE INCENTIVES?

Incentives may be financial, such as a payment to an individual or community, removing subsidies, or fining illegal actors. They can also be non-financial, such as when the REDD+ program clarifies or strengthens tenure security or funds improvements in physical infrastructure (e.g., new or improved roads, schools, health clinics). This analysis focuses on the incentives that are directly under the control of the REDD+ program versus those that depend on a chain of actions that are not directly under the control of the REDD+ program.

Obligations may include demonstrating emission reductions, increased carbon stocks, responsible forest management or forest protection practices, actions to reduce emissions (whether or not the emission reductions are achieved), facilitating others to take actions, or compliance with laws and enforcement.

Based on the description of the REDD+ program, researchers should describe how the program intends to influence the behavior (aka REDD+ incentives) of each stakeholder (group) and what each stakeholder has to do as part of the REDD+ program (aka obligations). Incentives and obligations might be differentiated by phase (i.e. Readiness, Pilots/Implementation, Emission Reductions), by gender, or in other ways.

Output 1.2: List of incentives and obligations for each stakeholder targeted by the REDD+ program (e.g., Table 2).

Table 2: Bolsa Verde Program Incentives and Obligations

Stakeholders	Incentives (positive and negative)	Obligations
<p>Legally recognized traditional populations in National Forests making under R\$70 per capita monthly</p> <p>Legally recognized traditional populations in Extractive Reserves and Sustainable Development Reserves making under R\$70 per capita monthly</p> <p>Legally recognized populations in Forest Settlements Projects and Sustainable Development Projects making under R\$70 per capita monthly</p> <p>Legally recognized populations in Agro-extractive Settlement Projects making under R\$70 per capita monthly</p> <p>Riparian gatherers, indigenous peoples, Maroons and other traditional communities in targeted area making under R\$70 per capita monthly</p>	<ul style="list-style-type: none"> • Transfer of R\$300 per family every 3 months • Transfer of these funds will occur for a period of up to two years and may be renewed once, but receipt of funds from Bolsa Verde is temporary and does not create a vested right • Funds transferred do not count toward family incomes for purposes of eligibility for other income transfer programs related to poverty reduction. However, beneficiary families cannot participate in other federal programs or actions to encourage environmental conservation • Income diversification training (e.g., ecotourism) 	<ul style="list-style-type: none"> • Demonstrate compliance with the commitments made by the beneficiary families regarding the maintenance of vegetation cover over its property and the sustainable use of natural resources • Be inscribed in the Ministry of Environment's environmental conservation activities registry • Sign up for the Bolsa Verde Program

MODULE 2: COMPILING INFORMATION ON STAKEHOLDERS AND THEIR RIGHTS

In Module 2, the researchers look beyond the stakeholders who are formally targeted by the REDD+ program (as identified in 1.1) and identifies all the stakeholders who are currently benefiting from or have rights to the natural resources on the lands that may be subject to the REDD+ program. It also depicts the rights and tenure security held by these stakeholders. The researchers must pay close attention to local communities and other stakeholders that may have been overlooked or marginalized due to social or economic status, distance from cities, etc.

Types of documents to review include:

- Census data;
- Constitution;
- Laws, regulations, and policies;
- National level and sub-national level program documents from government and non-governmental interventions; and,
- Formal or informal documentation of statutory, customary, and claimed rights.

2.1 WHICH STAKEHOLDERS CURRENTLY BENEFIT AND HAVE HISTORICALLY BENEFITED FROM THE NATURAL RESOURCES ON THE LANDS SUBJECT TO THE REDD+ PROGRAM? HOW DO THEY BENEFIT?

Identify the stakeholders currently benefiting from the natural resources on the lands subject to the REDD+ program. Differentiate between gender and socio-economic groups if possible, paying special attention to those stakeholders most likely to be overlooked or marginalized in the process.

When identifying the benefits stakeholders derive from their environment, researchers should consider the many dimensions of human well-being that depend on access to natural resources. Natural resources are not merely a source of income and food. People also depend on natural resources to provide them with basic resources, such as construction material for shelter, and to enable traditional ways of life and other intra-community activities that promote social cohesion.

Output 2.1: A list the stakeholders who benefit from the natural resources on the land subject to the REDD+ program and description of the benefits they derive from them (e.g., Table 3).

Table 3: Stakeholders and the benefits they derive from natural resources

Stakeholders	Natural resources used	Benefits derived from natural resources
<i>Targeted stakeholders</i>		
<p>Legally recognized traditional populations in National Forests making under R\$70 per capita monthly.</p> <p>Legally recognized traditional populations in Extractive Reserves and Sustainable Development Reserves making under R\$70 per capita monthly.</p> <p>Legally recognized populations in Forest Settlements Projects and Sustainable Development Projects making under R\$70 per capita monthly.</p> <p>Legally recognized populations in Agro-extractive Settlement Projects making under R\$70 per capita monthly.</p> <p>Riparian gatherers, indigenous peoples, Maroons and other traditional communities in targeted area making under R\$70 per capita monthly.</p>	<p>Timber, non-timber forest products (NTFPs) (rubber, latex, wildlife), land for livestock and small-scale agriculture</p>	<p>Subsistence livelihoods (food, fuel, construction material, etc.), income, cultural and social values (religious purposes)</p>
<i>Other stakeholders</i>		
<p>Legally recognized populations in National Forests, Extractive Reserves, Sustainable Development Reserves, Forest Settlements Projects, Sustainable Development Projects, and Agro-extractive Settlement Projects making more than R\$70 per capita monthly.</p> <p>Riparian gatherers, indigenous peoples, Maroons and other traditional communities making more than R\$70 per capita monthly.</p>	<p>Timber, non-timber forest products (rubber, latex, wildlife), land for livestock and small-scale agriculture</p>	<p>Livelihoods (food, fuel, construction material, etc.), income, cultural and social values</p>

Not legally recognized/non-traditional populations in targeted area. ³	Illegal timber, non-timber forest products (rubber, latex, wildlife), land for livestock and small-scale agriculture	(Subsistence) livelihoods (food, fuel, construction material, etc.), cultural and social values
Rural property owners in National Forests, Extractive Reserves, and Sustainable Development Reserves	Unknown (historically, use land for agriculture)	Unknown (historically they have relied on resources for livelihoods and income, cultural and social values)
Mining groups	Minerals extraction	Income
Government	Targeted lands are public lands	<ul style="list-style-type: none"> • Potential sources in income from timber, NTFP (Brazil nuts, rubber), tourism, hydropower, and minerals • Potential land for infrastructure (e.g., hydropower, road)

2.2 WHICH PROPERTY RIGHTS DO STAKEHOLDERS HAVE TO THE LANDS TARGETED BY THE REDD+ PROGRAM?

Researchers should identify what rights the stakeholders identified in 2.1 have to the natural resources on the land subject to the REDD+ program. This will require reviewing the constitution and a range of relevant laws, regulations, and policies, including to the extent possible customary and informal policies and practice.

Box 3: Definitions of natural resources property rights

Access right: the right to enter a defined physical area and enjoy non-consumptive benefits (e.g. canoe, sit in the sun, ingress/egress).

Withdrawal / use right: the right to obtain resource units or products of a resource system (e.g. catch fish, divert water, harvest honey, collect firewood).

Management right: the right to regulate internal use patterns and transform the resource by making improvements.

Exclusion right: the right to determine who will or will not have an access or withdrawal right.

Alienation right: the right to sell or lease exclusion, management or withdrawal rights. Private property is often defined as equivalent to alienation.

Sources: Adapted from Ostrom 2010, Ostrom and Hess 2008, and USAID 2013. For a comparison of USAID's and Ostrom's terminology, See Appendix 2.

For the land subject to the REDD+ program, researchers should identify:

- **Rights to natural resources that the REDD+ Program might affect:** There are a number of natural resources over which stakeholders have existing rights that a REDD+ program might impact, such as land, trees, and carbon. Researchers need to predict the ways that the REDD+ program might impact various rights to these resources, such as rights to access, use, and manage resources.

³ It is assumed that the Bolsa Verde Program only targets populations who are legally on the land and/or traditional communities who claim customary rights that are expected to be recognized legally at some point.

- **Other rights that could affect the ability of targeted stakeholders to fulfill their obligations:** Competing land rights could potentially prevent targeted stakeholders from fulfilling their obligations under the REDD+ program. Minerals rights and the right of a government to exercise eminent domain for infrastructure projects, for example, could jeopardize target stakeholders' activities to sequester carbon and the long-term implementation of the REDD+ program.

It is important to differentiate between access, withdrawal, management, exclusion and alienation rights (see Box 3 for definitions). The combination of rights stakeholders have will affect their receptivity to different types of incentives; the range of actions they can take with respect to the natural resources in question; and the carbon outcomes they will be able to achieve (Adapted from Ostrom 1992).

Researchers should also note any additional information that might be relevant to assess targeted stakeholders' tenure security (see 4.3), such as:

- The basis of these rights (e.g., statutory, customary, or claimed);
- Whether these rights are individual or group rights;
- The strength of the legal tool that protects the right (e.g., a right enshrined in the constitution has precedence over one enshrined in a law or a regulation);
- Any restrictions placed on the right (e.g., the ability to use the resource is allowed as long as it does not interfere with another stakeholder's right to use a resource);
- The existence of overlapping rights (e.g., rights to land and trees are held by different stakeholders; use right and alienation right to land are held by different stakeholders);
- The duration of the rights (e.g., rights of unlimited duration are more secure than limited duration ones); and
- The conditions under which land can be taken away under the right of eminent domain (e.g., expropriation of land to build a pipeline).

Output 2.2: Description of the rights of stakeholders to the natural resources on the land subject to the REDD+ program (e.g., Table 4).

Table 4: Stakeholders' rights to the land targeted by the Bolsa Verde Program

Stakeholders	Forest Resources ⁴					Minerals				
	A	W	M	E	AI	A	W	M	E	AI
Legally recognized traditional populations in National Forests	1 (S)	2 (S)	0	0	0	0	0	0	0	0
Legally recognized traditional populations in Extractive Reserves and Sustainable Development Reserves	1 (S)	2 (S)	1 (S)	0	0	0	0	0	0	0

⁴ Rights to forested land were assumed to be equal to rights to forest resources. Brazil does not have separate tree and carbon rights.

Legally recognized populations in Forest Settlements Projects and Sustainable Development Projects	1 (S)	2 (S)	2 (S)	1 (S)	0	0	0	0	0	0
Legally recognized populations in Agro-extractive Settlement Projects	1 (S)	2 (S) (NTEP only)	2 (S)	1 (S)	0	0	0	0	0	0
Riparian gatherers, indigenous peoples, Maroons and other traditional communities	1 (Cu/ Cl)	2 (Cu/ Cl)	2 (Cu/ Cl)	1 (Cu/ Cl)	0	0	0	0	0	0
Rural property owners in National Forests, Extractive Reserves, and Sustainable Development Reserves	0	0	0	0	0	0	0	0	0	0
Not legally recognized/non-traditional populations in targeted area ⁵	0	0	0	0	0	0	0	0	0	0
Mining groups	0	0	0	0	0	1 (S)	2 (S)	2 (S)	1 (S)	0
Government	0	0	2 (S)	1 (S)	1 (S)	0 (S)	0 (S)	0 (S)	0 (S)	1 (S)

Source: Adapted from RRI 2012.

Legend:

1. A= Access; W= Withdrawal; M= Management; E= Exclusion; Al= Alienation
2. 0 = right not guaranteed; 1 = right guaranteed (W: only subsistence use and M: co-management); 2 = right guaranteed within management plans (W: commercial use)
3. S= statutory; Cu= Customary; Cl= claimed

2.3 WHICH PROCEDURAL RIGHTS DO STAKEHOLDERS HAVE?

Researchers need to assess the strength of the procedural rights associated with the rights held by the stakeholders identified in 2.1. At a minimum, researchers should consider:

- **Due process:** What processes are in place for limiting or extinguishing natural resource rights that may be impacted by the REDD+ activities?
- **Compensation:** Under which circumstances may stakeholders claim compensation in relation to those impacts? For example, is compensation required when rights are restricted? Or only when rights are extinguished?
- **Transparency and participation:** Do stakeholders have transparency and participation rights related to decisions that will impact the management of the natural resources or the relevant lands regarding:
 - the management of the forest resources

⁵ Researchers would need to conduct additional research to determine whether there are any people who either have customary rights or claim rights to the land targeted by the Bolsa Verde Program. It could not be established based on the data available during the desktop assessment.

- the development of projects that may impact the forest resources (e.g., via an environmental impact assessment [EIA])
- the development of policies that may impact the forest resources

Researchers may find there are other important procedural rights to consider. The stronger the procedural rights of stakeholders, the more likely they are to benefit from the REDD+ program, or at least not be harmed by it. For example, stakeholders are more likely to be fairly compensated for any losses they might incur if their natural resources rights can only be restricted through a public and participatory process.

Output 2.3: Description of stakeholders’ procedural rights regarding natural resources on the land subject to the REDD+ program (e.g., Table 5).

Table 5: Bolsa Verde Stakeholders’ Procedural Rights

Stakeholder	Forest Resources
Legally recognized traditional populations in National Forests	<p>Due process</p> <ul style="list-style-type: none"> • The Federal Constitution states that “no one shall be deprived of freedom of his assets without the due process of law.” • The Civil Code provides mechanisms of judicial protection against forced evictions and threats of forced eviction to occupants of any piece of land. <p>Compensation</p> <ul style="list-style-type: none"> • The Federal Constitution states that the “the law shall establish the procedure for expropriation for public necessity or use, or for social interest, with fair and previous pecuniary compensation, except for the cases provided in this Constitution.” <p>Transparency and participation</p> <ul style="list-style-type: none"> • Inclusion in management decisions (see output 2.2): The law does not guarantee a community the right to manage forest resources. • Bolsa Verde law and decree: while the targeted stakeholders have a say in the type of conservation activities they will implement, they don’t have a say in the types of incentives. • The Federal Constitution states that “everyone is entitled to receive from public agencies, information of particular interest, or of collective or general interest, to be provided within the law, subject to liability, except for those whose secrecy is essential to the security of society and the State.” • Environmental Impact Assessments (EIA): NA
Legally recognized traditional populations in Extractive Reserves and Sustainable Development Reserves	<p>Due process: Same as above</p> <p>Compensation: Same as above</p> <p>Transparency and participation</p> <ul style="list-style-type: none"> • Inclusion in management decisions (see output 2.2): The law guarantees a community the right to participate on the management board but it cannot elaborate the management plans by themselves. • EIA requirements: NA • Bolsa Verde law and decree: same as above
Legally recognized populations in Forest Settlements Projects and Sustainable	<p>Due process: Same as above</p> <p>Compensation: Same as above</p> <p>Transparency and participation</p> <ul style="list-style-type: none"> • Inclusion in management decisions (see output 2.2): the law guarantees the right to manage within management plans, and limits of environmental and other legislation.

Development Projects	<ul style="list-style-type: none"> • EIA requirements: same as above • Bolsa Verde law and decree: same as above
Legally recognized populations in Agro-extractive Settlement Projects	<p>Due process: Same as above</p> <p>Compensation: Same as above</p> <p>Transparency and participation</p> <ul style="list-style-type: none"> • Inclusion in management decisions (see output 2.2): the law guarantees the right to manage within management plans, and limits of environmental and other legislation. • EIA requirements: same as above • Bolsa Verde law and decree: same as above
Riparian gatherers, indigenous peoples, Maroons and other traditional communities	<p>Due process: Same as above</p> <p>Compensation: Same as above</p> <p>Transparency and participation</p> <ul style="list-style-type: none"> • Inclusion in management decisions (see output 2.2): They don't have any legally recognized rights to forest resources yet. • EIA requirements: same as above • Bolsa Verde law and decree: same as above • Specific to Indigenous and Maroons: rights to lands cannot be extinguished, but their use rights can be limited under certain circumstances. In such cases, Federal Constitution establishes that all affected groups must be listened to before any measure for limiting their rights is taken.
Rural property owners in National Forests, Extractive Reserves, and Sustainable Development Reserves	<p>Due process: Same as above</p> <p>Compensation: Same as above</p> <p>Transparency and participation</p> <ul style="list-style-type: none"> • Inclusion in management decisions (see output 2.2): They don't have any rights to forest resources. • EIA requirements: same as above • Bolsa Verde law and decree: same as above
Not legally recognized/non-traditional populations in targeted area	<p>Due process: Same as above</p> <p>Compensation: Same as above</p> <p>Transparency and participation</p> <ul style="list-style-type: none"> • Inclusion in management decisions (see output 2.2): They don't have any rights to forest resources. • EIA requirements: same as above • Bolsa Verde law and decree: same as above
Mining groups ⁶	<p>Due process: In addition to the Constitution there are two main pieces of law relating to mining activities: the Decree Law No. 227, dated as of February 28th, 1967, enacted with force of law at the time, and Decree No. 62.934, dated as of July 2nd, 1968, as amended along the years (hereinafter the Mining Code).</p> <p>The Concession for Mine Extraction and Processing (after exploration) may be denied if contrary to the public interest, at the criterion of the government.</p>

⁶ <http://latinlawyer.com/reference/topics/46/jurisdictions/6/brazil/>

	<p>Once granted, the Concession for Mine Extraction and Processing shall entitle the company respective rights until depletion of the mining, provided that all obligations, undertakings and duties established by the Mining Code are complied with. Only where a mining company has serious infringement of the obligations, commitments and duties associated with its Concession for Mine Extraction and Processing can a concession be terminated.</p> <p>The Mining Code provides that the property (surface) where the mineral deposits are located is subject to easements. The easements shall be indemnified (payment of income for the occupation of the area and an amount for damages resulting from the mining activities). In case an agreement with the surface owner cannot be reached, such indemnification shall be determined through a judicial procedure provided by the Mining Code.</p> <p>For surface rights, termination can only occur based on a material violation of the obligations, commitments and duties assumed before the power authorities and before the surface owner, in both cases the due process of law being fully observed.</p> <p>Compensation: In such case where the mining company is not granted the mining permit, they shall be indemnified for expenses incurred during the exploration studies. It is unclear what compensation would be granted once the mining permit is granted. It is likely set in court.</p>
Government	N/A

MODULE 3: FORESEEING POTENTIAL REDD+ PROGRAM IMPACTS ON STAKEHOLDERS

In Module 3, the researchers predict how stakeholders might be affected by the REDD+ program.

3.1 HOW COULD STAKEHOLDERS BE AFFECTED BY THE REDD+ PROGRAM?

Depending on how REDD+ incentives could impact natural resources rights and tenure governance, as well as the existing benefits stakeholders derive from the natural resources on the lands that could be impacted by REDD+, the final impact of the REDD+ program may be quite different on different stakeholders.

Using the information compiled in the previous modules, the researchers should identify the stakeholder⁷ impacts resulting from the REDD+ program. It may be useful to categorize these as:

- *Direct REDD+ impacts*, where the implementation of the REDD+ program results in a clear and immediate change in stakeholders’ well-being, whether positive or negative, for example, REDD+ activities that sponsor enforcement and result in loss of livelihood for timber harvesters; or
- *Indirect REDD+ impacts*, where the implementation of the REDD+ program results in a change in stakeholders’ well-being, whether positive or negative, as a result of a complex causal pathway, for example the provision of improved water quality and supply due to maintenance of forest cover.

We recommend researchers consider indirect impacts to identify if any are of high significance but do not expect them to be addressed comprehensively otherwise.

Output 3.1: Description of the impacts on local stakeholders (e.g., Tables 5 and 6).

Table 6: Potential impacts of the Bolsa Verde Program on stakeholders

Stakeholders (See output 2.1)	Potential impacts on natural resources rights	Potential impacts on benefits derived from natural resources
<i>Targeted stakeholders</i>		
Legally recognized traditional populations in National Forests	The Bolsa Verde Program doesn’t restrict or	Potential direct negative impacts: loss in subsistence livelihoods and income from

⁷ Note that depending on the aim and focus of the research, the researchers may choose to focus on some of the stakeholders for a more in depth study, for example those that are most likely to face significant negative impacts.

<p>making under R\$70 per capita monthly</p> <p>Legally recognized traditional populations in Extractive Reserves and Sustainable Development Reserves making under R\$70 per capita monthly</p> <p>Legally recognized populations in Forest Settlements Projects and Sustainable Development Projects making under R\$70 per capita monthly</p> <p>Legally recognized populations in Agro-extractive Settlement Projects making under R\$70 per capita monthly</p> <p>Riparian gatherers, indigenous peoples, Maroons and other traditional communities making under R\$70 per capita monthly</p>	<p>extinguish rights per se. It provides incentives to comply with existing requirements regarding withdrawal rights as spelled out in the management plan. However, it is possible that targeting of benefits will not compensate the voluntary or involuntary loss of access, for example if a group or community agrees to participate.</p> <p>These communities are assumed not to have recognized rights. However, their <i>de facto</i> rights may be restricted in terms of access to resources.</p>	<p>reduced withdrawal of timber and NTFP and reduced agricultural production. According to how unsustainable their original natural resources use was, targeted stakeholders might more or less lose their subsistence livelihoods.</p> <p>Potential direct positive impacts: increase in tourism income.</p> <p>Potential indirect negative impact: loss in subsistence livelihoods and income as a result of REDD+ program-induced migration into the area, causing deforestation and natural resources overharvesting. Indeed, there are no requirements regarding proof of residency so there is a risk of people migrating in the area to participate in the Bolsa Verde Program.</p>
<p><i>Other stakeholders</i></p>		
<p>Legally recognized traditional populations in National Forests making more than R\$70 per capita monthly</p> <p>Legally recognized traditional populations in Extractive Reserves and Sustainable Development Reserves making more than R\$70 per capita monthly</p> <p>Legally recognized populations in Forest Settlements Projects and Sustainable Development Projects making more than R\$70 per capita monthly</p> <p>Legally recognized populations in Agro-extractive Settlement Projects making more than R\$70 per capita monthly</p> <p>Riparian gatherers, indigenous peoples, Maroons and other traditional communities making more than R\$70 per capita monthly</p>	<p>While their legal rights will not be affected, they may find that their <i>de facto</i> uses (whether legitimate or not) will be curtailed.</p>	<p>Potential indirect negative impacts: loss in livelihoods and income from increased enforcement of existing rights.</p>
<p>Rural property owners in National Forests, Extractive Reserves, and Sustainable Development Reserves</p>	<p>Their legal rights are not changed, however, their <i>de facto</i> uses may come under increased scrutiny.</p>	<p>Potential indirect negative impacts: loss in livelihoods and income from increased enforcement of existing rights for those who are still farming their lands.</p>

Not legally recognized/non-traditional populations in targeted area	Their legal rights are not changed, however, their <i>de facto</i> uses will certainly come under increased scrutiny.	Potential indirect negative impacts: loss in (subsistence) livelihoods and income from increased enforcement of existing rights.
Mining groups	Potential indirect negative impacts: the Government might cancel concessions and therefore extinguish existing rights.	Potential indirect negative impacts: potential loss of income from loss of concession.
Government	None.	Potential indirect negative impacts: <ul style="list-style-type: none"> • Potential loss in income from timber, NTFP (Brazil nuts, rubber), tourism, hydropower, and minerals • Potential loss in land for infrastructure (e.g., hydropower, road)

MODULE 4: GAP AND CONFLICT ANALYSIS

In Module 4, researchers determine if there are areas where the stakeholders, rights, and anticipated benefits do not align in a way that supports achievement of REDD+ program objectives, including benefiting stakeholders.

4.1 ELIGIBILITY: ARE ANY STAKEHOLDERS WHO COULD BE NEGATIVELY IMPACTED BY THE REDD+ PROGRAM NOT TARGETED BY IT?

Compare outputs from 1.1 and 3.1 and identify the stakeholders who will potentially be negatively affected by the REDD+ program but not targeted. Based on the output from 1.1, identify why these stakeholders were not targeted.

If some stakeholders will potentially be adversely affected by but are not participating in the REDD+ program, this situation should be flagged, as it may result in conflict or leakage that will diminish the effectiveness and equity of the REDD+ program. The researchers should identify why these stakeholders were bypassed. Was it because the REDD+ program uses a legal approach to eligibility, and these stakeholders do not have the required legally recognized rights? Was it due to an incomplete stakeholder analysis? Was it because other policies/programs target these stakeholders?

Output 4.1: List of potentially negatively affected stakeholders who are not targeted by the REDD+ program and explanation of the likely reasons they are overlooked (e.g., see Table 8)

Table 7: Potentially negatively impacted stakeholders who are not targeted by the Bolsa Verde Program

Stakeholders potentially negatively affected (see output 3.1, “other stakeholders”)	Likely reasons they are not targeted
Legally recognized traditional populations in National Forests making more than R\$70 per capita monthly Legally recognized traditional populations in Extractive Reserves and Sustainable Development Reserves making more than R\$70 per capita monthly Legally recognized populations in Forest Settlements Projects and Sustainable Development Projects making more than R\$70 per capita monthly Legally recognized populations in Agro-extractive Settlement Projects making more than R\$70 per capita monthly Riparian gatherers, indigenous peoples, Maroons and other traditional communities making more than R\$70 per capita monthly	The law that establishes the Bolsa Verde Program, Law No. 12,512, 14 October 2011, explicitly targets “population in extreme poverty.”

Rural property owners in National Forests, Extractive Reserves, and Sustainable Development Reserves	They are not supposed to be in these Conservation Units. They do not need to be considered in Module 5, however, as there is a regulation, ICMBio Regulatory Instruction No. 2/2009, that regulates the technical and administrative procedures for the compensation for improvements and expropriation of their rural properties located in these Conservation Units.
Not legally recognized/non-traditional populations in targeted area	Because they are not supposed to be in targeted Conservation Units or Territories occupied by riparian gatherers, indigenous peoples, Maroons, and other traditional communities.
Mining groups	The law that establishes the Bolsa Verde Program, Law No. 12,512, 14 October 2011, explicitly targets “population in extreme poverty.”
Government	Because the Bolsa Verde Program is a government program. The Government will not be considered in Module 5.

4.2 NET BENEFITS: ARE THERE ANY TARGETED STAKEHOLDERS WHO MIGHT NOT DERIVE NET BENEFITS FROM THEIR PARTICIPATION IN THE REDD+ PROGRAM?

For the stakeholders targeted by the REDD+ program, compare outputs from 1.2 and 3.1 and determine if the incentives are likely to outweigh the negative impacts resulting from the REDD+ program.

If some stakeholders targeted by the REDD+ program do not achieve net benefits despite positive incentives, the likelihood to achieve REDD+ outcomes in the long-term is at risk.

The researchers should identify why these stakeholders may be worse off overall. Is it because the REDD+ program enforces current laws and they are benefiting from natural resources illegally? Is it because there is no compensation provision in place? Is it due to an incomplete stakeholder analysis and participation process, which led to an underestimate of the potential socio-economic losses to be incurred by the stakeholders?

Output 4.2: List of targeted stakeholders who might lose as a result of the REDD+ program, despite the positive incentives put in place, and explanation of the likely reasons they might not benefit from the REDD+ program (e.g., Table 8).

Table 8: Targeted stakeholders likely to experience a net loss in well-being as a result of the Bolsa Verde Program

Targeted stakeholders (see output 1.1)	Incentives provided by REDD+ program (see output 1.2)	Potential impacts as a result of REDD+ program (see output 3.1)	Net potential impacts on stakeholders	Likely reasons they are not adequately compensated
<p>Legally recognized traditional populations in National Forests making under R\$70 per capita monthly</p> <p>Legally recognized traditional populations in Extractive Reserves and Sustainable Development Reserves making under R\$70 per capita monthly</p> <p>Legally recognized populations in Forest Settlements Projects and Sustainable Development Projects making under R\$70 per capita monthly</p> <p>Legally recognized populations in Agro-extractive Settlement Projects making under R\$70 per capita monthly</p> <p>Riparian gatherers, indigenous peoples, Maroons and other traditional communities in targeted area making under R\$70 per capita monthly</p>	<ul style="list-style-type: none"> • Transfer of R\$300 per family every 3 months • Transfer of the funds will occur for a period of up to two years and may be renewed once. • Income diversification training (e.g., ecotourism) 	<ul style="list-style-type: none"> • Loss in subsistence livelihoods and income from reduced withdrawal of timber and NTFP and reduced agricultural production. • Increase in tourism income. • Loss in subsistence livelihoods as a result of REDD+ program-induced deforestation and natural resources overharvesting. 	<p>Short-term (2-4 years): Potentially neutral to positive net impacts</p>	<ul style="list-style-type: none"> • As a voluntary program, it is expected that people would at least be compensated for their loss in livelihoods and income, otherwise they would not participate. • It seems that one assumption is that income from tourism might compensate loss in livelihoods and income from restricted use once the R\$300 quarterly payment ends but the realization of the increase in tourism income depends on factors beyond targeted stakeholders' training. • The way compensation was defined does not seem to be the product of a participatory process where targeted stakeholders could express their opportunity costs and how they would need to be compensated over time if they are expected to keep restricting their use after the end of the R\$300 quarterly payment.

4.3 SECURITY OF BENEFITS: ARE THERE ANY TARGETED STAKEHOLDERS AT RISK OF NOT BENEFITING FROM THE REDD+ PROGRAM IN THE LONG-TERM?

Targeted stakeholders are able to benefit from REDD+ over the long-term if they can realize the positive REDD+ incentives because they meet their agreed upon obligations. The ability of targeted stakeholders to fulfill their obligations depends on them having (1) the necessary rights to meet their obligations, (2) the necessary rights to capture the REDD+ positive incentive, and (3) security over both of these sets of rights. Targeted stakeholders without the necessary rights and/or with limited tenure security over these rights face higher risks of not fulfilling their REDD+ program obligations and/or of not being able to capture the REDD+ incentives and are therefore more likely to not receive the intended REDD+ benefits.

- **Holding the necessary rights to meet REDD+ obligations:** Targeted stakeholders do not need the full suite of rights to meet their obligations over the long-term. In most cases, they do not require access and withdrawal rights to deliver agreed upon carbon emission targets. They do most likely need, however, *management rights* to be able to take decisions regarding the management of natural resources to achieve REDD+ carbon outcomes and *exclusion rights* to protect their carbon storage investment over time from other uses. Whether targeted stakeholders need alienation rights to deliver their commitment or not will depend on the situation in-country. In some instances, possessing alienation rights might have a significant role in the risk of reversing earlier gains in carbon stocks when natural resources rights are sold. Researchers should establish whether targeted stakeholders have the necessary rights to fulfil their obligations based on Module 2.1.
- **Holding the necessary rights to capture the REDD+ positive incentives:** Targeted stakeholders need some rights to be rewarded for delivering on their REDD+ obligations. Researchers will need to identify which of the access, withdrawal, management, exclusion, and alienation rights are necessary for stakeholders to capture REDD+ positive incentives (see Appendix 2 for preliminary thoughts of the rights necessary to capture REDD+ positive incentives) and establish whether targeted stakeholders have these rights based on Module 2.1.
- **Tenure security over these necessary rights:** Once the researchers have identified which rights are necessary for targeted stakeholders to deliver on their obligations and capture the positive incentive, they should assess whether these rights are secured based on the information collected in Module 2.2 regarding tenure security.

Output 4.3: List of rights targeted stakeholders need to meet their obligations and capture REDD+ positive incentives; list of targeted stakeholders at risk of not benefiting from the REDD+ program over the long-term (e.g., Tables 9 and 10).

Table 9: Natural resources property rights necessary to capture the Bolsa Verde Program’s positive incentives

Positive incentives of the Bolsa Verde Program (see output 1.2)	Forest resources/ land rights ⁸				
	Access	Withdrawal	Management	Exclusion	Alienation
Transfer of R\$300 per family every 3 months	N/A, the criteria used for eligibility are not linked to specific rights.				
Income diversification training (e.g., ecotourism)	N/A, the criteria used for eligibility are not linked to specific rights.				
Increase in income from ecotourism	X				
Increase in the future capacity of the land to support ecotourism	X		X	X	

⁸ Rights to forested land were assumed to be equal to rights to forest resources.

Table 10: Strength of natural resources rights held by stakeholders targeted by the Bolsa Verde Program

	Do targeted stakeholders have the necessary natural resources property rights to fulfill their obligations? (see output 2.2)	Do targeted stakeholders have the necessary natural resources property rights to capture the positive REDD+ incentives? (see output 2.2 and Table 9)	If they have the necessary rights, do targeted stakeholders have tenure security over these rights? (see output 2.3)	Are these stakeholders at risk of not benefiting from the REDD+ program?
Legally recognized traditional populations in National Forests making under R\$70 per capita monthly	No <ul style="list-style-type: none"> • Missing management and exclusion rights • Alienation rights not deemed necessary 	No <ul style="list-style-type: none"> • Holding access rights • Missing management and exclusion rights 	N/A	High risk
Legally recognized traditional populations in Extractive Reserves and Sustainable Development Reserves making under R\$70 per capita monthly	No <ul style="list-style-type: none"> • Holding management rights • Missing exclusion rights • Alienation rights not deemed necessary 	No <ul style="list-style-type: none"> • Holding access and management rights • Missing exclusion rights. 	N/A	High risk
Legally recognized populations in Forest Settlements Projects and Sustainable Development Projects making under R\$70 per capita monthly	Yes <ul style="list-style-type: none"> • Holding management and exclusion rights • Alienation rights not deemed necessary 	Yes Holding access, management and exclusion rights	No <ul style="list-style-type: none"> • Potential overlap with mineral rights and other land use rights vested in the government • Potential overlap with stronger tenure regimes (e.g., Indigenous Territories and Quilombola Territories) 	Medium risk
Legally recognized populations in Agro-extractive Settlement Projects making under R\$70 per capita monthly	Yes <ul style="list-style-type: none"> • Holding management and exclusion rights • Alienation rights not deemed necessary 	Yes Holding access, management and exclusion rights		Medium risk
Riparian gatherers, indigenous peoples, Maroons and other traditional communities in targeted area making under R\$70 per capita monthly	Yes <ul style="list-style-type: none"> • Claiming customary management and exclusion rights • Alienation rights not deemed necessary 	Yes Claiming customary access, management and exclusion rights	No Rights are customary. According to our hypothesis, they are not legally recognized yet, though they are expected to be recognized sometime in the future.	Medium risk

MODULE 5: RECOMMENDATIONS

In Module 5, the researchers make recommendations to achieve REDD+ program objectives while benefiting stakeholders, especially local communities.

Types of reference documents to review:

- Best practices in environmental and social safeguards (e.g., [FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security](#)).
- Appendix 2 provides a preliminary list of natural resources rights necessary for stakeholders to secure benefits from REDD+ programs.

For each of the shortfalls identified in Module 4, the researchers should identify recommendations regarding improvements to be made to the legal, regulatory, and policy frameworks that support and bolster the REDD+ program and/or the REDD+ program itself in order to bring stakeholders’ rights, REDD+ objectives, and REDD+ incentives into alignment.

Researchers should lay out recommendations for short, medium, and long term interventions according to the complexity of enshrining these changes in the legal, regulatory and policy frameworks. For example, short-term recommendations might focus on improving the design and implementation of a specific REDD+ program; medium-term recommendations could address improving implementing regulations regarding the REDD+ policy; and long-term recommendations could focus on improving national and sub-national legislation.

Output 5.1: List of legal, regulatory, and policy recommendations to support achievement of REDD+ objectives while benefiting stakeholders (e.g., Table 11).

Table 11: Preliminary thoughts on changes in the legal, regulatory and policy framework, and in the Bolsa Verde Program to ensure it benefits stakeholders based on the desktop review⁹

	Examples of changes in the legal, regulatory and policy framework, and/or in the Bolsa Verde Program
Eligibility	<p>Short-term:</p> <ul style="list-style-type: none"> • The Bolsa Verde Program only targets poor populations who are legally on the land and/or traditional communities who claim customary rights that are expected to be recognized legally at some point. If this is attracting unwanted migration, the program could require occupiers to

⁹ These are preliminary observations and questions for follow up since this was done purely through a desktop review without Brazilian expertise.

	<p>prove a certain number of years of residency to avoid in-migration. If it is excluding poor actors and creating conflict, the Bolsa Verde Program could explicitly state that it targets all people living in extreme poverty and occupying the targeted lands till medium- to long-term measures are in place (see below).</p> <p>Medium- to long-term:</p> <ul style="list-style-type: none"> • Further clarification and administration of rights to local communities may be required to stabilize populations into the area.
<p>Net Benefits</p>	<p>Short-term:</p> <ul style="list-style-type: none"> • Part of the incentive of the Bolsa Verde Program could contribute to community infrastructure as the Bolsa Floresta program does so that people who are not targeted but unintentionally negatively affected also benefit. • The positive incentives for the Bolsa Verde regarding alternative livelihood strategies need to also consider enabling conditions (e.g., infrastructure, advertising). For example, tourism training needs to be complemented with tourism infrastructure and advertisement campaigns and need to abide by IN No. 8/2008 to ensure that trained stakeholders can provide services in Federal Conservation Units. • The duration of the Bolsa Verde Program as a REDD+ program would need to be re-evaluated so that the positive incentives align with the timeframe of sequestering carbon and associated negative impacts on stakeholders. <p>Medium- to long-term:</p> <ul style="list-style-type: none"> • REDD+ policy or strategy should require that compensation in areas with unclear land tenure and/or high poverty be based on the extent to which stakeholders could be negatively affected. • REDD+ policy or strategy should require that the types of incentives be determined as part of a transparent and participatory process with the affected stakeholders.
<p>Security of Benefits</p>	<p>Short-term:</p> <ul style="list-style-type: none"> • Put a moratorium on granting new mining concessions in targeted areas. <p>Medium- to long-term:</p> <ul style="list-style-type: none"> • Grant to targeted stakeholders the rights necessary to fulfill their obligations. • Grant to targeted stakeholders the rights necessary to capture the REDD+ positive incentives. • Clarify tenure on all rights that are not secure.

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APPENDIX I: COMPARISON BETWEEN OSTROM AND USAID'S TERMINOLOGY

Ostrom	USAID
<p>(http://www2.econ.iastate.edu/classes/tsc220/hallam/Ostrum.pdf)</p>	<p>(http://usaidlandtenure.net/sites/default/files/USAID_Land_Tenure_Frame_work.pdf)</p>
<p>Property rights define actions that individuals can take in relation to other individuals regarding some 'thing'. Schlager and Ostrom (1992) identify five property rights that are most relevant for the use of common-pool resources.</p> <p>* Operational-level rights ** Collective-choice rights</p>	<p><u>Property rights</u>: The rights individuals, groups and the state hold with respect to particular land, resources and other assets, and in relation to each other so there is some overlap between the concepts of land tenure and property rights.</p> <p><u>Land tenure</u>: The relationship that individuals and groups hold with respect to land. Land tenure rules define the ways in which property rights to land are allocated, transferred, used, or managed in a particular society.</p>
<p><u>Access right</u>*: the right to enter a defined physical area and enjoy non-subtractive benefits (e.g. canoe, sit in the sun)</p>	<p><u>Access to land</u>: The local and/or legally recognized right to enter and use a physically defined area. Access rights may be obtained through family or group membership or through legally-sanctioned processes such as allocation, purchase, and inheritance.</p>
<p><u>Use right</u>*: the right to obtain resource units or products of a resource system (e.g. catch fish, divert water)</p>	<p><u>Use right</u>: The right to use a thing in accordance with its designated purpose. It may be linked to membership of the resident community and perpetuated by stable and continuous occupation, confirmed by the work carried out by a family of farmers.</p>
<p><u>Management right</u>***: the right to regulate internal use patterns and transform the resource by making improvements</p>	
<p><u>Exclusion right</u>***: the right to determine who will have an access right, and how that right may be transferred</p>	<p><u>Collective ownership</u>: A situation where holders of land rights are clearly defined as a group and have the right to exclude others from the enjoyment of those land rights.</p>
<p><u>Alienation right</u>***: the right to sell or lease exclusion, management or withdrawal rights.</p>	<p><u>Alienation of land</u>: The transfer of ownership rights in land or property to someone without regard to status, implying both the existence of private property and free will.</p>

<p>In much of the economics literature, private property is defined as equivalent to alienation (http://www.sfu.ca/~allen/common%20property.pdf).</p>	<p><u>Land ownership</u>: The set of rights in land held by an owner or owners. These include rights to use and dispose of the interests in the land through sale, lease, bequest, or other terms agreed upon with the person acquiring those rights.</p>
	<p><u>Bundle of rights</u>: Rights held in relation to access and utilization of land resources. These include, but are not restricted to, such things as the right to sell, mortgage, and bequeath land; cut trees; cultivate; and construct homes. This bundle can be broken up, rearranged, and passed on to others. Some of these rights will be held by individuals, some by groups, and others by political entities.</p> <p><u>Tree rights</u>: Specific rights held by individuals over trees and their products. These rights include the right to plant trees, harvest fruits from the trees, harvest the trees themselves, and own or inherit the trees. While trees are attached to the land, tree rights may vary from the land rights over the land on which the tree grows.</p>
	<p><u>Freehold</u>: The right to full private ownership of land, free of any obligations to the state other than payment of taxes and observance of land use controls imposed by the state in the public interest. This term is used interchangeably with private property or <i>private land ownership</i>.</p>

APPENDIX 2: NATURAL RESOURCES RIGHTS NECESSARY FOR TARGETED STAKEHOLDERS TO CAPTURE THE POSITIVE INCENTIVES UTILIZED BY REDD+ PROGRAMS

Positive incentives	Natural resources rights				
	Access	Withdrawal	Management	Exclusion	Alienation
Increase in income from carbon payments			L, T, C	L, T, C	L, T, C
Increase in nutrition and income from increased agricultural productivity (e.g., crops, livestock)		L	L	L	L
Increase in nutrition and income from increased availability of NTFP		L, NTFP, W			
Consolidation or improvement of natural resources rights and tenure governance	The REDD+ program could opt to grant rights to people with no rights at all or to strengthen existing rights.				
Increase in income from ecotourism	L		L	L	
Subsidies to households for tree planting	L	T	L, T	L, T	L, T
Increase in employment income (in tree planting, thinning, harvesting, or monitoring, etc.)	N/A if eligibility is not based on natural resources rights				
	L, T	T	L, T	L, T	L, T
Increased availability of micro-credit (e.g., project fund, or community trust fund or rotating fund)	N/A if eligibility is not based on natural resources rights				
			L, T	L, T	L, T
Improvement in skills and/or knowledge in business administration and/or in natural resources management	N/A if eligibility is not based on natural resources rights				
	L		L, T	L, T	L, T

Positive incentives	Natural resources rights				
	Access	Withdrawal	Management	Exclusion	Alienation
Increase in the future capacity of the land to support agricultural production (crop, livestock)	L	L	L	L	L
Increase in the future capacity of the land to support NTFP	L	L, NTFP, W	L	L	L
Increase in the future capacity of the land to support ecotourism	L		L	L	L
New or improved infrastructure (transportation, health, school, ecotourism facilities)	N/A				

Legend: L= land, T= tree, C= carbon, NTFP= non-timber forest product, W=Wildlife*Sources:* Adapted from Ostrom 2010, and [CCBA and Forest Trends 2011](#).

Note: This list of incentives is not exhaustive.

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