Establishing Forest Carbon Markets in Tropical Countries: Community Rights and Carbon Trade

MegaFlorestais 2014

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Not an overall agreement on Climate Change yet but...

2 MAJOR DEVELOPMENTS HAPPENED IN RECENT MONTHS

1. The adoption of the “Warsaw Framework for REDD+” at COP19 which established safeguards rules and requirements for REDD+ implementation

2. The finalization of the Methodological Framework by the Carbon Fund of the World Bank paving the way for purchase of Emission Reductions (ER) titles from developing REDD Countries
What is the Warsaw Agreement?

3 key requirements in the REDD+ Rulebook:

1. REDD+ activities are to be consistent with the 7 safeguards established in Cancun regardless of the source and type of funding.

2. Countries will develop a Safeguards Information System to provide information on how the safeguards are being addressed. BUT limited guidance provided.

3. Developing countries are required to provide a summary of the above information.

➤ Additional rules are required to ensure accountability; further coordination and guidance is needed from donors and financing entities.
The Good...

• Designed to achieve a consistent approach to carbon accounting and programmatic characteristics
• Consistency with Cancun Safeguards and World Bank operational policies and safeguards
• Includes a grievance mechanism
• Promotes collaboration with local stakeholders

And the Bad

• Lack of clarity about who owns the carbon and who can transfer titles
• No sufficient guidance on safeguarding community rights (i.e. clear and equitable tenure are not required)
• The 1st ER-PIN in DRC revealed serious issues but the process is moving on
• Requires good governance to have positive effects
Legal status of community carbon rights in developing countries

New research looked at 23 countries across 3 continents

**Africa**: Cameroon, DRC, Rep of Congo, Gabon, Kenya, Liberia, Mozambique, Tanzania, Zambia

**Asia**: Cambodia, India, Indonesia, Nepal, Papua New Guinea, Philippines, Vietnam

**Latin America**: Bolivia, Brazil, Colombia, Guatemala, Guyana, Mexico, Peru
Only 2 countries have passed legislation defining carbon rights (Guatemala and Mexico), 6 countries are drafting new laws.

None of the countries have legally established a regulatory framework for the carbon trade.

Countries have insufficient legal tools to address the complexity of the carbon trade.
Research Findings

- IPs and communities can be allies and the guarantors of forest carbon permanence. Research shows that “Communities with secure tenure have proven that they promote permanence of forest carbon, often better than state protected areas” (Nolte, et al 2013).

- Even governments agree: 15/21 countries with R-PP, R-PIN, or NPDs identify lack of clear tenure as a driver of deforestation and forest degradation. BUT things are not moving in the right direction:

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Successful carbon rights models

AUSTRALIA – State level

- Since 2000s, all Australian states have adopted legislation to define carbon sequestration rights (CSR).n- Why? to accommodate a growing voluntary trading market which requires clear and long-term ownership rights.n- Main advantage: purchasers and government regulators have the assurance they are dealing with the entity that is properly entitled to create and sell carbon arising from a plantation activity on a particular piece of land.
Successful carbon rights models

AUSTRALIA – Federal level

• The Carbon Credits (Carbon Farming Initiative) Act was enacted in 2011 – it established a scheme whereby landholders may establish carbon abatement and sequestration projects that generate tradable carbon credits - the Carbon Farming Initiative or CFI.

• All those proposing a project must have the exclusive legal right to obtain the benefit (whether present or future) of the sequestration of carbon in the relevant carbon pool on the area of land.

• It is an offence for any person to engage in conduct that results or is likely to result in a reduction below the benchmark sequestration unless the conduct has been expressly permitted.
Successful carbon rights models

NEW ZEALAND – Example of a unitary state

• According to the Forestry Rights Registration Act 1983, the owner of the land owns the carbon sequestered on that land.
• The New Zealand Emissions Trading Scheme (NZ ETS) was created in 2008 to help in reducing its emissions and meeting its international obligations under the UNFCCC and Kyoto Protocol.
• It provides incentives for increased tree planting by passing the carbon units earned under the Kyoto Protocol to forest owners.
• With the exception of indigenous forests, forest Lands before 1990 are included in the ETS on a mandatory basis, those past that date can be included on a voluntary basis.
• If deforestation occurs, forest owners are required to file an emission return and pay units to meet their emissions liability.
NEW ZEALAND – Permanent Forest Sinks Initiative

- The PFSI was created in 2007 and operates in parallel to the NZ ETS to promote the establishment of permanent forests on un-forested land by offering landowners the opportunity to earn emission units for the carbon absorbed by their forests since 1 January 2008.
- PFSI participants enter a covenant for an unlimited duration with the Crown which is registered against their land title(s). It can be terminated after 50 years. Harvesting restrictions apply for 99 years.
- If for any reason, the amount of carbon stored in a forest decreases, the landowner will be required to “replace” emission units.
1. **Clarification is required**: Complex legal issues such as those related to land tenure, carbon benefits and benefit sharing have not been addressed in the level of detail required to move forward with certainty towards carbon markets in developing countries. => adding a new layer of complexity over an intangible resource will lead to confusion and conflict.

2. **Rights need to be strengthened (and responsibilities clarified)**: In many cases, existing legal frameworks fail to recognize sufficient rights to empower communities to serve as guarantors of carbon.

3. **Permanence is needed**: to encourage both community participation and private sector support for REDD+ implementation, arrangements guaranteeing permanence need to be made.

**Are we ready for this?**
How many of us are ready for forest carbon markets?

Is it a solution worth the costs and risks?

Is setting up the institutional conditions for a carbon market a priority (given the many other priorities?)

How much forest will be left by the time we get this set up?

Thank You