

**World Bank Legal Department Comments
On Ghana's Final ERPD**

Based on our initial comments provided on the earlier draft version of Ghana's ERPD, we would like to flag our following remaining comments:

Re Benefit sharing:

- Initial comments:

"Clarify (or provide more detailed information on) the different categories of potential beneficiaries and their eligibility for the different types of benefits – While the BSP can be developed later, detailed information should already be included in the ER-PD. The ERPD further states (p165) that government agencies that directly contribute to the production of ERs will receive ER payments, while at the same time, their transactional/institutional/operational costs are already topped off upfront as suggested elsewhere in the ER-PD. This sounds like double dipping."

"Process for benefit distribution: The ERPD (p164) still has a long list of operational costs/expenses that will be covered by ER payments by the listed sequence. There is no discussion on how payments to beneficiaries would be assured."

Remaining comment:

The concerns raised in our initial comments apparently remain. The government will take 50% of the Dedicated Fund (DF) accruals to cover, inter alia, operational costs for program monitoring (MMRV, SIS, and FRGM). Sec. 5.1.1 states that "[p]ayments from the Carbon Fund will be paid to the MoF, and then directly channeled into the DF". Does this mean that payments made under an ERPA will ultimately be transferred into the DF in full (ie no upfront topped-off cost reimbursement for government agencies)? From the rest of the DF accruals, 30% will be used to set up an insurance program (Cocoa Yield Insurance Scheme). However, based on section 15.2 "summary of the process of designing the benefit-sharing arrangements," it is unclear whether such an insurance scheme is what the communities prefer as one benefit from the ER program. Section 15.2 only states generally that "benefits sharing options and ideas have been subjected to multiple discussions involving a wide range of public sector, civil society, traditional authority and other stakeholders." It is unclear to what extent communities were represented in the consultation process and support this benefit option.

- Initial comments:

"Criteria and timelines for benefit distribution: The ERPD does not provide criteria or a timeline for distribution, distinguishing between Monetary and Non-Monetary Benefits."

"The ERPD also mentions that the government is revising forestry benefit sharing agreements and changes will be tested in the initial HIAs (p163). What is the expected timeline of this revision process? In addition, Section 4.6 of ERPD (p65) states "though an ERPA will not be signed . . . until mid-late 2017, Ghana will begin to implement the

programme in the first HIAs (in at least 3) by the middle of 2016.” Has this initial implementation begun? If so, what is the benefit-sharing arrangement currently used in these first HIAs? Considering the benefit-sharing arrangement under the ERPD does not seem to be ready for implementation, how will the ER program ensure consistency of benefit-sharing implemented in the first HIAs and the later HIAs?”

Remaining comment:

The ERPD would still benefit from a greater clarity on who will manage the Community Development Fund (CDF), when the CDF will be established, and the expected timing for selecting and implementing CDF’s community development projects. Section 5.1.1. states that 20% of the received fund will be used to establish the CDF in each HIA (Hotspot Intervention Area) in the program area. Section 15.3, paragraph 2, states “the passage of the Wildlife Resources Bill will also provide the legal basis for establishment of the HIAs, its governance structure and the HIA landscape management plans.” However, Part E of Section 4.3 notes that this Bill did not pass in 2016 as expected. Does this mean there is delay in setting up governance bodies for HIAs? If so, what alternative arrangements are made to assure that the CDF, one of the only two tangible community benefits, will be established in a timely manner? It is important that the CDF is not pooled into local government’s general revenue that is used for building community infrastructure, with or without the ER program. It is recommended that the CDF to be set up under the ER program is clearly earmarked.

- Additional comment:

The revised text in Sec. 5.1.3 of the ERPD raises time-related payment/benefit sharing expectations which may need to be reassessed in order not to raise unrealistic expectations. In particular, it is stated that the distribution of benefits under the BSP will occur on an annual basis. Due to the fact that results-based payments under the ERPA are expected to be made following each (multi-year) Reporting Period and subsequent successful verification, results-based payments (to be shared under the BSP) are expected to be made (and shared) periodically, but not annually. Furthermore, the revised text states that the “first tranche of REDD+ payments” is to be received “by late 2019”. Taking into account that it is stated under Sec. 4.6 of the ERPD that first monitoring is expected in 2020 (phase 2), followed by verification, this timeline for a “first tranche of REDD+ payments” may raise unrealistic expectations and should be revised accordingly.

Re ER Title:

- Initial comment:

“The ERPD refers to an independent assessment on carbon transaction rights which is expected to be completed by August. What is the status of this assessment? What are the results?”

Remaining comment:

We note that the reference to this “independent assessment on carbon transaction rights” was removed from the revised ERPD, Section 4.3, part E2. Was this assessment dropped?