Forest Carbon Partnership Facility

Carbon Fund Methodological Framework

Comments of the Environmental Investigation Agency

October 4, 2013

The Environmental Investigation Agency (EIA) appreciates all of the work that has gone into developing the Methodological Framework (MF). However, the MF as currently drafted leaves a lot of unanswered questions and exposes the Carbon Fund to substantial uncertainties, contradictions and possible fraud. EIA understands that other CSOs are submitting detailed comments on 1) the MF and World Bank Safeguards, and 2) the Programmatic Elements, and, therefore, we incorporate those comments by reference rather than repeat them. EIA's comments focus on the details of the MF, unresolved questions, gaps where the MF does not incorporate the letter and/or spirit of the Guiding Principles on the Key Methodological Framework for the Carbon Fund (June 2012), and the potential for fraud, issuance of bogus emission reduction credits issued by the Carbon Fund (ERs), and devaluation of ERs due to uncertainties and gaps in the MF.

EIA has the following Specific comments:

2.1 Scale and Ambition

In the description contained in the "Context and Rationale" concerning Scale and Ambition, the ER Programs are described as driving the national REDD+ strategy in the countries where ER Programs are being conducted, rather than implementing the priority components of the country's national REDD+ strategy. To the contrary, the underlying criteria in Section 2 talk about the ER Program reflecting "a variety of interventions from the [country's] national REDD+ strategy." However, as the ER-PINs and the fundamental components that will transition into the ER Program are being formulated now, before the national REDD+ strategies are developed, subjected to Stakeholder review and finalized, the Context and Rationale is correct: the ER Programs are in fact driving the formulation of the national REDD+ strategies. This is contrary to the fundamental principles of the Readiness Phase, and the descriptions of country processes that have been issued by the Forest Carbon Partnership Facility (FCPF) for years.

The Carbon Fund should prioritize the selection of ER Programs that actually implement strategies to address the key drivers of Deforestation and Degradation in the country which should be at the top of the countries' national REDD+ strategies, not merely programs that were created to get in line to secure Carbon Fund financing with an ER-PIN, and then subsequently incorporated in to the country's national REDD+ strategy.

3.1 Carbon Accounting

Although the FCPF Carbon Fund is supposed to be committed to programs that address REDD (reduction of emission from Deforestation and Degradation), pursuant to **Indicator 3.3**, degradation only has to be accounted for in an ER Program if it is significant, which is defined as 10% of total forest emissions in the ER Program area. Additionally, control and monitoring of degradation only has to be accounted for "if data are available." The Definitions establish that emissions in the ER Program Area are calculated in hectares. Since degradation is often caused by the installation of roads to extract the most valuable trees, other types of illegal logging, small scale incursions for artisanal mining, or slash and burn agriculture, it is unlikely that emissions from degradation will be at the hectare level, that at the beginning of the ER Program, the full extent of degradation during the course of the ERPA will be known, or that past data on degradation will be available for most REDD countries which are having difficulty controlling both Deforestation and Degradation. Given the way the MF is written, there is little incentive, and actually strong disincentives, for countries to address emissions from or to undertake activities to control Degradation.

Multiple factors and drivers acting synergistically rather than by single-factor causation best explain tropical Deforestation and Degradation. At the underlying level, public and individual decisions largely respond to changing, national- to global-scale economic opportunities and/or policies, as mediated by local factors, such as agricultural expansion, wood extraction, and infrastructure extension combine to cause Deforestation and Degradation. While industrial conversion is the leading cause of Deforestation in the world, Degradation of forests has been well documented as the gateway to this broader Deforestation. Additionally, the revenue from timber from illegal logging (Degradation) has been well documented to be a common source of funding for the illegal conversion of forests to palm oil, other agricultural crops and beef. Therefore, the MF should be rewritten to incentivize programs that ensure that Degradation is monitored, accounted for, responded to and mitigated. The MF should not provide exceptions and burdens that act as disincentives for monitoring and preventing Degradation. Without this, the Carbon Fund is not truly funding REDD+ programs, but rather has changed to promoting RED Programs, which is not its mandate.

Criterion 4 is oddly worded. The primary paragraph gives project proponents the ability to choose the sources and sinks that are to be included in the ER Program "except where an exclusion would underestimate total emissions reductions." This seems to be establishing the policy that emissions cannot be excluded that would maximize the ERs generated by the ER Program, but sinks or emissions that may reduce the number of ERs that an ER program will generate can be excluded. The MF should require that all sinks and sources that add to or reduce impacts from Deforestation and/or Degradation be included in an ER Program. If this is not done, how will any investor have any confidence that an ER actually represents the reduction of one tonne of carbon dioxide emissions as the direct result of the ER Program?

Indicator 4.2(i) allows the Project Proponent to exclude any emissions associated with excluded Carbon Pools and greenhouse gases that generate less than 10% of the total emissions of the ER Program. As discussed above, this is providing the wrong message about forest Degradation and should be changed. Additionally, Indicator 3.3 dealing with forest Degradation appears to be separate and distinct from Indicator 4.2(i) which means that a Project Proponent can ignore up to 20% of the emissions from the ER Program Area some of which such as Degradation may increase during the term of the ERPA and the project proponent would still get ERs issued for reductions from other sources and sinks.

4.2(ii) has the same funny language of the primary paragraph, again not allowing the exclusion of emissions that underestimate total emissions reductions from the ER Program. These paragraphs appear to be directly contradictory and not consistent with a comprehensive REDD+ program. The conflicts in these provisions should be clarified and the MF should mandate that Degradation should be monitored and controlled. There should be a separate Programmatic Element dealing with degradation in all aspects. Finally, if an emission source of <10% or degradation is allowed to be ignored (which EIA opposes), the emissions from this source(s) should be included either in the uncertainty calculation for of the ER Program or in the calculation of allowable ERs, if they can be quantified.

Criterion 6 describes how Reference Levels are to be constructed and that the final Reference Levels should be made publically available on-line. However, the data used to develop the Reference Levels only must be presented to **independent reviewers** "in sufficient detail so that they can recreate the reference level." At the end of Criterion 6, the Carbon Fund is given authority to withhold certain of the data from the Public subject to the World Bank Group Policy on Access to Information. This provision should be stricken, as all of the information used to create an ER Program's Reference Level will be relevant to developing a fair and equitable Benefit-sharing Plan.

In **Criterion 6**, the MF leaves open some important terms for each ER Program to define including the:

a) Definition of forests – Does this mean that definitions that include palm plantations will be acceptable? What about transitions from virgin forests to plantations, if both are included in the definition of forests is there an emission release that needs to be accounted for? EIA urges that the definition of forests be uniform for all ER Programs and that it be included in the MF and subject to public comment.
b) Definition of Classes of Forests – all ER-Programs should use the same definitions and classifications of forest type so that the calculations of emissions per hectare of a particular kind of forest are comparable in all ER Programs. Clearly, not all forest types will be in each ER Program, but to the extent that two ER Programs have virgin deciduous tropical forests, or savannah lands, they should use the same classification and the same emissions rates. The internationally recognized classes of forests should be set forth in the MF and

subject to public comment. If an ER Program wants to use a different class of forests, it should be up to the Project Proponent to explain why their forests are unique and another classification of forests needs to be used.

c) Rationale for adjusting emissions –the ability to adjust Reference Levels to higher than historic rates of Deforestation creates a huge opportunity for manipulation and fraud. There have previously been countries with very low Deforestation rates that have hired consultants to provide plans to deforest the country's entire forests on a very aggressive schedule and then demanded to be paid to preserve their forests not based on historic Deforestation rates, but on the imaginary rapid Deforestation scenario. The MF allowance for adjustments from historic Deforestation rates is begging for this exactly this type of manipulation and fraud. See longer discussion concerning this issue below.
d) Methods and assumptions associated with adjusting emissions – at the very least the MF should set forth the criteria and calculations of how adjustments should be made and justified (See longer discussion below).

3.2 Uncertainties

Uncertainties can result in the issuance of excess ERS, can undermine the value of the ERs, and investors' interest in buying the ERs from the Carbon Fund. Uncertainties are supposed to be identified and minimized, through "comprehensive set of standard operating procedures" "including [quality assurance and quality control] QA/QC processes that work with local circumstances." Under this provision, rather than having the suggested "standard operating procedures." Mexico could have different QA/QC than countries in the Congo basin, or for that matter all other REDD+ countries. Differing standards of quantifying and controlling uncertainties will likely lead investors to prefer ERs from one country over ERs issued by an ER Program in another country with weaker QA/QC processes. Also **Criterion 9** states that emissions factors used in setting the Reference Level and MMR need to be quantifiable in a consistent way so estimations of emissions, removals and Emissions Reductions are comparable among ER programs." However, if the data of how a Reference Level is developed can be withheld, and ER Programs can use different methods for addressing uncertainty, how are they going to be comparable and by whom?

Also, the statement concerning the comparability of ER Programs is footnoted with the statement that uncertainty is subsequently addressed in Criterion 22 that deals with the calculation of ERs and protections against reversal, which protects ERs and investors not forests. Criterion 22 is evaluated in detail below.

Indicators 9.1 and 9.2 state that uncertainties in activity data, emissions factors and ERs are going to be quantified using "accepted international standards." However, this is the first major REDD+ crediting program so it is a mystery what are these international standards are as they are neither identified nor set forth in the MF for public comment. The MF should be amended to set forth the detailed standards that all ER Programs will have to employ to quantify uncertainties.

3.3 Reference Levels

This section has a number of problematic issues that must be addressed in the next version of the MF:

1. The Carbon Fund will have flexibility in how each country sets Reference Level. This statement is footnoted with a notification that "they" (it is not clear whether the "they" refers to the Carbon Fund or the Forest Management Team (FMT)), may provide detailed operational methods for employing this flexibility, but have not decided whether to yet and have not provided any direction concerning this in the current version of the MF. The MF has not provided anything but the vaguest guidance about the criteria for adjusting Reference Levels which will allow manipulation reference levels to generate potentially millions of additional ERs from adjustments rather than actual reduction of Deforestation and Degradation. The MF should set forth the criteria and methods for these adjustments as they very easily could completely undermine the credibility of the entire Carbon Fund.
2. The MF definitively abandons "additionality" requirement that allegedly was problematic in the Clean Development Mechanism (CDM). "Additionality" was used in the CDM to prevent paying for things that would have happened anyway without CDM funding. While the concept of "Additionality" is abandoned in the MF, no where in the MF is there a provision to ensure that the Carbon Fund is not issuing ERs for programs, projects or activities that would have occurred even in the absence of the Carbon Fund financing. This issue needs to be addressed in the next version of the MF.
3. Reference Levels for the ER Programs can be different from the FREL/FRL developed for the UNFCCC with only an explanation. There needs to be an explanation in the MF why the Carbon Fund should allow these levels to be different and how allowing this variance benefits the Carbon Fund. It seems on the face of it that the same values should be used in both processes and allowing a variance opens the Carbon Fund to manipulation and fraud.
4. Provisional Emission Reductions are defined as difference between the emissions and removals and the RL in a certain time period, so the higher the country can get the RL, the more ERs it can get.
5. Historic Deforestation rates make no distinction between historic legal and illegal Deforestation. Using this rate without adjustment rewards poor forest governance that permitted illegal Deforestation prior to entry into the Carbon Fund.
5. Countries can adjust their Reference Levels above documented historic Deforestation rates (whether legal or illegal). This allows particularly countries with low Deforestation rates to inflate future Deforestation rates, where "national circumstances have changed so historic rates do not reflect future rates." ER Programs can use the average Deforestation rate of all developing countries to increase their Deforestation rate so that they can catch up with the massive Deforestation that has occurred in recent decades worldwide. Countries also can adjust their Deforest rates and Reference Level upwards where there are "documented policy changes or investments underway, e.g. infrastructure, legislation or regulations." Finally, Deforestation rates can be increased if there is an upward trend in Deforestation in the country without examining whether the increases in Deforestation rates is due to legal or illegal Deforestation. This provision

could enable countries to dramatically increase their Deforestation rates. For example, the moratorium on commercial logging in the Democratic Republic of the Congo (DRC) is not intended to last forever, once it is lifted Deforestation rates could dramatically increase, so the DRC could argue for high compensation based on a projected Deforestation rate even though they have historically experienced low Deforestation rates. In the DRC, the historic Deforestation rate is under .25% of its forests per year. Under the provisions of the MF, it could file an ER Program for that historic rate of Deforestation, increase the rate in the ER Program to the average Deforestation rate of all developing countries of .43%, or claim that when the commercial logging moratorium is lifted the Deforestation rate will increase to 1.00%. Each of these determinations would be justified under the current MF, and each would have a huge impact on the forests of the DRC and how much the DRC could receive for doing nothing but letting their forests stand for the next 6 years. Again, the issue of additionality comes into play. If the DRC can justify an increased Reference Level, which it can, but hypothetically does not have any intension of increasing Deforestation to 1.00% or even .43% of its forests per year, what is stopping it from stating that one of the higher Reference Levels applies to the ER Program solely to get paid more for leaving its forests standing? This is just one instance where the concept of additionality prevents exploitation of the Carbon Fund and this provision of the MF. This also demonstrates that the ability to adjust Reference Levels has the perverse incentive of encouraging countries to increase not decrease their rates of Deforestation.

6. Deforestation rates can also be increased if there is an upward trend in Deforestation in the country in recent years with no distinction between legal and illegal Deforestation. The majority of Deforestation in recent years is due to the illegal conversion of forest for agriculture (including palm oil and cattle grazing). Therefore, if the Carbon Fund allows reference levels to be increased due to an increasing Deforestation rate without subtracting out the illegal Deforestation that has occurred, countries will be rewarded for failing to implement the governance and structures necessary to control illegal logging and ensure proper forest conversion.

7. Each country can have a different definition of forests. As was seen in the negotiations at the UNFCCC, the definition of forests can vary widely and include a whole range of forest types from virgin forests to palm plantations. The Carbon Fund should provide a definition of "forests" in the MF that does not include plantations, or clear cut land intended to be returned to forest use in the future (included in the FAO definition of forests) and require that this definition of forests be used in all ER Programs after public comment.

8. If measured, monitored and reported emissions exceed the Emission Threshold as defined in the MF, the ER Program will not be able to sell ERs to the Carbon Fund. This means that if there is a drought, as there has been in the Amazon twice in the last 10 years, and the covered forests become net carbon emitters, ER Programs will not be able to sell ERs and no provision is made anywhere else in the MF to provide the ER Program compensation to fund activities during such a year, making the longevity of the ER Programs questionable. If the intent of the Carbon Fund ER Programs is to protect forests and prevent Deforestation and Degradation, there should some provision whether by insurance or other mechanism to ensure that countries receive compensation during predictable times of drought any other predictable time when the income from ERs will

not be either adequate to pay for the ER Program or is not competitive with the value of competing land uses. If this does not happen, it may be more economical and/or profitable for countries to convert the forests in the ER Program into agricultural or other uses. These issues are not expressly addressed in the Reversals provisions, the MF should explicitly address these issues and ensure a continuity of income during the ERPA period if the ER Program is properly implemented.

Criterion 14: Robust forest monitoring

Robust monitoring sounds good until it is understood that Activity Data (defined as data on the magnitude of human activity (e.g. Land use and land use changes related to forests) resulting in emissions or removals taking place during a given period of time expressed in hectares) only has to be monitored twice during the ER Program. Other sinks and sources such as Deforestation can be assessed using indirect methods and proxies. No frequency for this monitoring is specified.

Emissions Factors (defined as a coefficient that quantifies the emissions or removals of per unit of REDD+ activity), need to be determined only once during the ER Program. Emission Factors are often based on a sample of measured data, averaged to develop a representative rate of emission for a given land use changes related to forests under a given set of operating conditions. The uncertainty associated with this type of assessment adds to the uncertainty of the entire ER Program and the potential for gaming the system and fraud, or at least over issuance of ERs due to miscalculation of actual emissions reductions.

If there truly is going to be "robust" forest monitoring, it should be defined and the frequency, scope and extent of the required monitoring should be explicitly described in the MF.

Criterion 15: ER Programs have to document how the monitoring plan fits into the National Forest Monitoring System (NFMS) or if it does not fit into this system, the ER Program has to provide a technical justification why the monitoring being employed is not consistent with the existing NFMS. Inconsistent monitoring should not be permitted in any ER Program unless the monitoring required in the ER Program is more stringent than that required by the NFMS.

Criterion 16: Requires the ER Program to demonstrate that it explored opportunities for community participation in all aspects of monitoring and reporting. It does not require any demonstration that there is engagement with the local community(ies) on monitoring and reporting. Use of community monitoring and reporting is only required where it is possible at a reasonable cost. A part of REDD+ is delivery of community benefits to gain community acceptance of the ER Program and cooperation in achieving tits goals. There are numerous studies that demonstrate that community monitoring and reporting is a cost-effective way of undertaking these tasks and that it is key to gaining broad community acceptance of a REDD+ project/program. The presumption in the MF should be that community involvement will be used unless, after a stakeholder process, appropriate

terms can not be established to gain community monitoring and reporting as part of the ER Program.

3.5 Accounting for Displacement

The assumption stated in the Context and Rationale related to Accounting for Displacement is that main drivers of displacement are either subsistence based or a reduction of the area allowed for the production of commodities. To counter these drivers, the MF recommends that the ER Program maintain the same level of production of commodities in the ER Program Area and introduce alternative sustainable livelihoods. This view of displacement does not address the recent studies that establish that commercial conversion is the main driver of Deforestation worldwide. If an ER Program prohibits commercial expansion within an ER Program Area, the expansion for agricultural, livestock, mining or other commercial conversion will occur outside the ER Program area, normally as close to the original commercial activity as possible.

The MF has adopted a narrow definition of displacement that counts only activities that are transferred from within the ER Program Area to outside of that area due to the ER Program. So if cattle grazing were banned within the ER Program area and then forest was cleared for grazing cattle outside that would count as displacement. However, the concept of expansion of activities is not counted as displacement. So if a rancher wants to double his grazing area and can not expand within the ER Program area due to land use restrictions imposed, and as a results has his expansion outside the ER Program area, but continues to graze as he has historically within the ER Program area, the Deforestation caused by expansion would not be counted as displacement under the MF. This is too limited a definition of displacement.

The question that displacement is supposed to address is whether the net result of the ER Program is a reduction in Deforestation and Degradation, or did the land use restrictions in the ER Program Area cause a shift in the location of Deforestation and Degradation. By ignoring expansion and other activity changes (e.g., mining outside an ER Program Area rather than inside an ER Program Area where both have minerals), much displacement will be ignored and as a result, more ERs will be issued than is proportional to the actual reduction in emissions from Deforestation and Degradation caused by the ER Program.

Likewise if drivers are not properly identified, the ER Program will not properly account for displacement. The same applies to the evaluation of the risks associated with drivers and mitigation strategies as well as evaluations of total displacement. If the wrong drivers are prioritized, the amount of displacement will be inadequate and inaccurate. As a result, independent evaluators should carefully scrutinize the drivers indentified and prioritized in an ER Program.

Criterion 17: Prevent and minimize displacement

1. Drivers of Deforestation and Degradation that may be impacted by the ER Program

must be identified, assessed for potential for displacement and mitigation strategies must be developed to address any displacement that does occur. In general, Degradation within the ER Program Area does not have to be accounted for if it does not account for >10% of total emissions in the ER Program Area. The MF does not say whether similar restriction applies to displacement, but it would seem to flow from Criterion 4.
2. The ER Program is to prioritize sources of displacement risk that will be monitored, so there is no assumption that ER Program will control/address all displacement caused, and if the drivers identified are inappropriately focused on subsistence activities, displacement will be under-reported and more ERs will be issued than the emissions reductions caused by the ER Program.
3. The strategy developed by the ER Program to mitigate or minimize displacement does not have to be implemented until the time of verification. It is not clear what will happen if major displacement has occurred and at the time of selling the ERs, the ER Program implements a program of afforestation outside the Program Area. Will the ER Program be able to use the program to argue that the displacement has been mitigated and therefore it should receive the ERs claimed without subtracting for displacement, or will the ER Program actually have to mitigate the displacement prior to being issued the ERs. If it is the latter, why does the MF not require the mitigation not have to be implemented until the time of verification? Prevention and mitigation of displacement should be implemented as an essential element of all ER Programs and no ERs given to the ER Program above documented emissions reductions less displacement until the displacement has been actually mitigated.

18. Estimates of displacement

ER program has to have a procedure for monitoring displacement and such monitoring has to be of the "potential areas where displacement is likely to occur" or alternatively the ER Program can use of default factors (standard coefficient or other assumption on the magnitude of displacement) based on historic observed trends in drivers and interventions. As stated above, if the wrong drivers are identified as the primary causes of Deforestation and Degradation neither of these methods will work. This is another place where the ability to increase the Reference Level may result in an overestimate of the impacts of the ER Program as it will be able to argue increases in Deforestation and Degradation can be eliminated from displacement using the Reference Level to argue that the Deforestation and Degradation would have happened even without the ER Program.

Finally, as there is little well documented experience in most REDD countries of monitoring "historic observed trends in drivers and interventions" it is hard to imagine that there will be good data for this analysis. If an ER Program plans to use this method, it should have to state the data it intends to use to document "historic observed trends in drivers and interventions" in the program documents and have the method and data subject to public comment. Indirect monitoring of displacement should only be allowed where it is established by the project proponent that adequate historic data exists.

3.6 Accounting for Reversals

The MF makes clear that the emphasis should be on the design and implementation of an ER Program that does not give the investors more ERs for emissions reductions than have actually been achieved. It also requires that through insurance, reserves, and country guaranties or the like, that the ER Program be able to pay for any excessive ERs that are issued but not verified. The MF does not describe any procedure to review to see if the ER Program underestimates the ERs accomplished or what happens in that case, such as a lowering of required reserves.

As written, the accounting for reversals does not protect forest resources. This should be changed. The Forest Carbon Partnership Facility and its Carbon Fund are supposed to be developing models for REDD+ going forward and an underlying assumption should be that the forest resources present at the beginning of a REDD+ project or program will be there at the end and if there are reversals, that the ER Program will not only pay the investors for excess credits issued, but steps will be taken to ensure the restoration of any forest sink that is reduced and to offset any new source that is created or occurs during the ER Program. The MF should be amended to incorporate these concepts.

Criteria 19 and 20: Reversals

Reversals are defined as a situation where the cumulative monitored and verified ERs are less than the currently transferred ERs, i.e., at any point in time if it is determined that more ERs have been transferred than is warranted by the underlying reported and verified emissions reductions, a reversal has occurred. The focus of the reversal provisions is on the transfer of ERs rather than physical changes to sinks and sources in the ER Program Area due to natural or anthropomorphic activities. Therefore, under the MF, a fire burning down a forest, a drought, illegal logging, illegal commercial conversion or a re-evaluation of the assumptions used to control uncertainties or justify the number of ERs being issued would not be treated as reversals unless they result in an excess of ERs being issued. The MF makes clear that under the Carbon Fund the reason for addressing reversals in this context is to make investors whole, not about protecting forests.

The ER Program has to evaluate both anthropomorphic and natural reversal risks and demonstrate how effective ER Program design and implementation will mitigate those risks and will address the sustainability of its emission reductions (i.e., ERs transferred to investors) during the term of the ERPA and for a reasonable period beyond.

The ER Program during the ERPA has to have a robust reversal management mechanism and, in brackets, this mechanism is exemplified as insurance or a buffer reserve that will be used to cover the cost of reimbursing investors for any excess ERs that have been issued. There is no mention of any fund to cure the underlying change in sources or sinks that caused the excess of ERs to be issued. So if there is an illegal conversion of forests, the ER Program has to pay the investors for the excess ERs issued due to this illegal Deforestation. As long as the next year, the ER Program reduces the number of credits it

issues by the area of the illegal logging, there will, by definition, be no reversal and nothing more will need to be done. If REDD+ and the Carbon Fund are really about protecting forests, reversals should also relate to the actual biological changes to sources and sinks that cause the excess issuance of ERs, and forest resources that have been affected to cause the change have to be restored. Additionally, any non-carbon benefits that have been taken into account when setting the price of the ERs for the ER Program that have been affected by alteration of sources or sinks would also have to be restored. Likewise, steps have to be taken to reverse or offset new emissions that are created or occur during the ERPA period. The MF must be amended to reflect these concepts.

Criterion 21

The ER monitoring plan has to be technically capable of identifying any reversals. But as noted above emissions reductions only have to be monitored once during the ERPA period and calculations based on changes can be used to estimate emissions from various land types (and remember each ER Program can name its own land types). So in a mild drought are emission reductions assumed to be what they were during normal whether conditions? What about during an extreme drought? What about conversion of virgin forests into palm plantations when the definition of forests includes both? Would that be a reversal requiring an adjustment of ERs or neutral event as the "forest" has been maintained? If an ER Project decides not to monitor Degradation as it is not anticipated to be greater than 10% of all emissions in the ER Program, how degraded from illegal logging, mining and agricultural conversion does a forest have to get before it becomes a reversal? If Degradation is not being monitored does the actual Degradation of a forest ever become a reversal? Does the ER Program ever have to take steps to restore the forest to the sink it was when the ER Program was approved and the ERs related to this sink were calculated? Given the frequency of monitoring required by the MF would anyone even know that the forest has become degraded if it is not specifically monitored?

According to **Criterion 21.2**, the ER monitoring plan has to be able to detect reversals and reversals need to be reported within 90 days of detection. However, the required monitoring frequency is so low that years could go by between monitoring events, or could be undertaken by calculation, how then are these actual reversals to sinks and sources be detected? Which requirement in the MF takes precedence? Sophisticated monitoring is essential to the credibility of the Carbon Fund as any over-issuance of ERs would negatively impact the value of the ERs and the credibility of the Carbon Fund.

Degradation can be ignored if less than 10% of total emissions. Indicator 4.2(i) allows the Project Proponent to exclude any emissions associated with excluded Carbon Pools and greenhouse gases that generate less than 10% of the total emissions of the ER Program. Displacement is narrowly defined which will result in an underestimate of actual displacement caused by ER Programs. Reference Levels are at best based on historic levels of legal and illegal Deforestation, but can be adjusted substantially upward allowing for rates dramatically greater than historic Deforestation rates. When the uncertainty of all of these issues are aggregated, the multiple uncertainties allowed in the MF without clear quantification, can legitimately raise the issue whether any ERs issued

under the Carbon Fund can be legitimately be used as offsets for actual emissions of greenhouse gases. How uncertain does the issuance of ERs have to get before the Carbon Fund closes down an ER Program? The issue of the additive and synergistic effect of all of these manipulations and uncertainties is not addressed in the MF but should be.

3.7 Calculations of Emissions Reductions

Emissions reductions are calculated as follows:

Step 1:Subtract verified ERs from reference levels including any reversals using 1 of 2 equations:

Option A. First, **without any guidance of how to do this**, subtract from the amount resulting from Step 1 an amount appropriate to quantify uncertainty associated with 1) the determination of the Reference Level (this uncertainty does not include any upward adjustment of the historic reference level allowed in other parts of the MF), 2) estimated emissions (ignoring emissions that are excluded such as degradation, emissions from sinks that total <10% if claimed in the ER Program and displacement that has not been prioritized), and 3) removals (e.g., any change due to degradation if ER Program does not monitor degradation);
Second, subtract displacement if not addressed by buffer or insurance, (but do not forget that displacement is just activities that move from within the ER Program Area to outside it, so if a huge mine is built right next to an ER Program Area because the ER Program does not allow for mining even though it has richer ore, that is not displacement under the definition of the MF because the mining did not move from the ER Program area to the other, likewise for all agricultural conversions that are due to expansions of agricultural or other commercial activities within the ER Program Area unless the original activity moves as well);
Third, subtract any credits withheld as a buffer against reversals (remembering that reversals are over issuance of ERs, not changes in the landscape in the ER Program Area.)

Option B. First, set aside a number of ERs to sufficient to address all uncertainty, displacement and reversals so that investors can always get their money back if it is determined that too many ERs have been issued (don't worry about restoring the sinks or offsetting any new sources that occur during the Program Period since as long as the ER count to investors is correct, the MF does not care about the underlying forest resources or promised non-carbon benefits.)

Finally, no matter how the calculation is done there has to be a registry to ensure no double counting of ERs.

Is this calculation and the MF that formed the basis for it really going to a) prevent Deforestation and Degradation in the ER Program Area and surrounding vicinity; b) deliver non-carbon benefits; c) create a viable market for REDD+ credits? The MF is a good start but there are major faults and holes that need to be filled. In footnote 17, it is

stated that after discussion "further edits or guidance may be developed that revises the way that uncertainty, displacement, reversals and possibly other risks are addressed." The FMT knows that the methodology is full of holes and subject to manipulation and fraud, and knows exactly where the problems are in the MF that cause these problems. The MF should be rewritten to revise the way that reference levels are set, uncertainty, displacement, reversals and possibly other risks are addressed so that the objective of the MF is truly reduce emissions from both Deforestation and Degradation and maximizing the associated non-carbon benefits.

4. Safeguards

As stated above we are going to leave the detailed commentary on safeguards to other CSOs and adopt their comments herein.

The MF will require that feedback and grievance reporting mechanisms (FGRM) are established for each ER Program (including using existing mechanisms) but these mechanisms can vary from country to country "depending on the local context." The MF intends to list key items for FGRM in an appendix. This list should be developed before adoption of the MF and subject to public comment. Any FGRM should be independent and provide anonymity as people can risk injury or death by complaining about projects like these in many REDDS countries.

There should be an explicit requirement for a Stakeholder consultation process prior establishing ER Program or country specific safeguards and/or FGRM.

An assessment of existing FGRMs including customary FGRMs is supposed to be conducted and released before signing of ERPA. If found necessary, the FGRM will be improved to meet World Bank standards. It is not clear who makes the decision whether an FMRG needs improvement and whether the FGRM needs to be improved and in final form before the ER Program can go forward. The MF should address these issues.

5.1 Sustainable Design

The ER Program must identify the key drivers of Deforestation and Degradation, and opportunities for forest enhancement, and program measures that will be taken to reduce emissions. If ER Program proponents do as bad a job identifying drivers as many REDD Countries did in their R-PPs, ER-Programs are likely going to be focusing on wrong drivers or at least not addressing some significant drivers of Deforestation and Degradation. International drivers are explicitly excluded from consideration, and in many REDD countries may be significant sources of Deforestation and Degradation which will undermine the viability of ER Programs.

5.2 Benefit Sharing

Benefit-sharing mechanisms are supposed to be clear and transparent which contradicts the Carbon Fund's ability to withhold information used to develop Reference Levels that

form the basis of all benefits that will flow from the ER Programs.

Criteria 27-30

Benefit-sharing mechanisms are supposed to respect customary rights to lands and territories, and the status of rights to carbon and relevant lands must be assessed to establish the basis for the Benefit-sharing mechanisms. As a result, the MF requires that ER Programs must assess tenure and status early in the ER design process. Establishment of tenure and status is an element of the Benefit-sharing Plan, which at least a draft of which is supposed to be made public before the signing of the ERPA. However, in footnote 20, it says that the Benefit-sharing plan does not actually have to be finalized until the ER Program wants to transfer benefits from the sale of ERs. As a result, some Stakeholders may not know whether they will benefit from the ER Program or how until well into the implementation of the ER Program.

As Benefit-sharing mechanisms are supposed to respect customary rights to lands and territories, and the status of rights to carbon and relevant lands must be assessed to establish the basis for the Benefit-sharing mechanisms, these determinations are relevant to who has a right to participate in a Benefit-sharing mechanism. However, the definition of title to ERs states: Title to Emission Reductions is defined as the full legal and beneficial title and exclusive right to ERs. It is then pointed out that the definition relates to the ERs only. In particular, it does not entail any rights, titles or interests to land and territories. Likewise, beneficiaries of the benefits flowing from the ER Program are defined as those who receive benefits under a benefit sharing program. Ok beneficiaries are people who receive benefits, but how do project proponents and Stakeholders know who should be receiving the benefits? The only indication of who will be a beneficiary of a Benefit-sharing mechanism is those people and entities that get to participate, and they know that this determination has nothing to do with rights, titles or interests to land and territories. This is not adequate, the MF needs to specify exactly the Stakeholders who will have a right to participate in a benefit sharing mechanism.

So while title to ERs and the ability to receive benefits from an ER Program does not relate to rights, titles or interests to land or territories, nowhere in the entire MF are ER Program proponents or other Stakeholders told how or even given guidance how to establish who has rights to ERs and if they do not have an interest in the emissions reductions accomplished by the ER Program, whether they going to be entitled to participate in Benefit-sharing mechanisms. Additionally, nowhere in the MF is interest, title or rights related to non-carbon benefits or how non-carbon benefits which are essential integral elements of REDD+ programs going to factor into Benefit-sharing mechanisms. The MF should explicitly address these issues.

Additionally, the Benefit-sharing arrangements supposed are to be "designed in a consultative, transparent and participatory manner appropriate to the country context." This provision gives ER Programs substantial leeway in how much participation stakeholders and potential stakeholders will have in the process of developing the Benefit-sharing Program. The phrase "appropriate to the country context" should be

stricken as if the MF is truly going lead to the development of a Benefit-sharing Plan that is widely accepted by the community and is fair and equitable. There should not be differing levels of consultation, transparency or participation by affected stakeholders and potential stakeholders in different Benefit-sharing mechanisms.

The Benefit-sharing plan has to be made available in a manner and language understandable to affected people and reported on in each ER Monitoring Report and made public which is a good process. It is unclear if the reports in the ER Monitoring reports are also going to be made available in a manner and language understandable to affected people.

Criterion 31 states that Benefit-sharing plans have to comply with "applicable relevant laws." However, this sentence is not explained. Since no REDD country is likely to have a law on a Benefit-sharing Plans, this provision likely refers to laws governing land tenure, other rights to forest resources and rights to carbon and non-carbon benefits. One would hope that this provision also includes anti-corruption laws, procurement and restrictions on the process for building or distributing community benefits. The MF should explicitly describe the categories of laws that are expecting to be included in this provision. Customary laws and legal authorities should also be included if the benefit-sharing mechanism is going to have wide community support.

Criterion 32.1 The ER Program is supposed to incorporate all of the progress on assessments of "resource and land tenure (including legal and customary rights of use, access, management ownership, exclusion, etc)" made during the Readiness Phase." Did any country do this? Based upon the country reports to date, all that the reporting countries have done in the Readiness Phase is to prepare the required FCPF Readiness documents.

"If necessary, the ER Program will resolve resource and land tenure issues "critical" to its implementation." The MF should make this a clear statement that all legal and customary rights in the ER Program Area need to be resolved before benefit sharing occurs. As described above, given the definition of title to ERs, the conflicting language which makes it appear that interest in ERs is related to land tenure and rights to forest resources needs to be clarified so there is a common understanding of what elements will be used to determine who will be able to participate in a Benefit-sharing Mechanism and how the extent of participation will be evaluated.

5.3 Non-carbon benefits

All ER Programs are supposed to identify **priority** Non-carbon benefits and how the ER Program will "generate or produce" non-carbon benefits. Does this mean that ER Program are to focus on development of all significant non-carbon benefits related to the ER Program or does the use of the word "priority" mean only a subset of non-carbon benefits will be considered? There is supposed to be a stakeholder process to identify non-carbon benefits but there is nothing in the MF to suggest how non-carbon benefits are important or how it could affect stakeholders' benefits or the ER Programs.

Non-carbon benefits will be monitored using simple methods including proxy indicators and will be reported in monitoring reports.

There is still no emphasis or discussion on how non-carbon benefits can be used to increase ER price, what will be expected to justify an increase in price based on non-carbon benefits or how this would affect monitoring and issuance of ERs, or Benefit-sharing mechanism. There is also no discussion on determination of who has rights to or interests in non-carbon benefits. A complete, separate section on non-carbon benefits must be added to the MF to clarify these issues.

6. ER Program transactions

Criterion 35.1 states that an ER Program has to show the ability to transfer ERs at signing of the ERPA. **Criterion 35.2** (Which is bracketed) says an ER Program still can go forward, but resolve title issues within a period agreed with the Carbon Fund. **Criterion 35.3** (which is also bracketed) says if the ER Program cannot resolve title with one or more stakeholders, it can go ahead with transfer of ERs where they do have title. This provision puts huge power in hands of the ER Program to say "take the benefits we are offering or we will exclude you from getting anything." EIA strongly opposes the inclusion of Criteria 35.2 and 35.3 in the MF.

The ER Program is supposed to work with host country to ensure that there is no more than one claim to each ER title. It is easy to imagine situations where legal and customary rights to tenure and resources as broadly defined give multiple stakeholders have interests in ERs. We should push strongly for a determination of rights to ERs prior to the inception of the ER Program and a registration of the determination of those rights even if 2 or more people/entities (maybe a person and a tribe or community) have to split the benefits flowing from ERs in a particular area. Also such a determination makes clear who will be able to participate in a Benefit-sharing program and whether individual or community benefits are going to be issued.

Definitions

Activity data: data on the magnitude of human activity expressed in hectares. This will make it unlikely to capture forest degradation. The definition also may work against incorporation of non-carbon benefits into these REDD+ programs.

Adjustments: projections of reference levels for the ER-program that diverge from historical Deforestation rates to take into account changes in drivers, degradation or enhancement of carbon stocks, policies or measures introduced, other factors. Big potential for manipulation and fraud, see discussion above.

Beneficiaries: defined as those who receive benefits under a benefit sharing program rather than people or entities have legal or customary rights to lands or resources that generate ERs. This definition does not include people or entities that have filed claims

but have not had those claims adjudicated. Given the use of this term, rights to land tenure, forest benefits and carbon rights need to be resolved before a benefit-sharing plan can be developed.

Displacement: emissions occurring as a consequence of activities moving from within an ER Program Area to an outside area. What if a palm plantation goes in right next to an ER Program area if it is barred in the ER Program area? What if both the ER Program area and surrounding land have minerals but mining only expands outside due to a prohibition on mining in the ER Program. What if palm oil plantation exists within an ER Program area, but new plantations are banned within the ER Program Area so the next expansion is outside the program area, but the old plantation continues to exist? The definition misses much of the common understanding of displacement. The definition says displacement typically caused by 1) activity shifting (e.g., subsistence agriculturalists moving due to ER Program restrictions, or 2) market effects where commodity production moves in response to Deforestation and Degradation or due to REDD+ activities protecting forests and agricultural land. As defined, without a documented shift of an activity moving from within an ER Program Area to an outside area there is no displacement.

Emissions reductions and removals: does not mandate frequency of monitoring, or reflect that elsewhere frequency of monitoring is set very low so there will be no verification of emissions reductions in some years.

Feedback and grievance redress mechanism: locally based, will vary country to country.

Measurement: Not required for non-carbon benefits only forests and carbon.

Monitoring: Definition is fine but does not mention frequency.

Non-carbon benefits: The list of example activities needs to be expanded to all of the benefits regularly associated with REDD+, as those listed activities will have preference and it will be open to discussion whether other non-carbon benefits qualify for inclusion in the Carbon Fund process.

REDD+ Activities: includes reducing emissions from forest degradation but as described above, inclusion of degradation is unlikely in many if not most ER Programs unlikely as degradation has to be measured in hectares and only if emissions from degradation are >10% of total emissions. The MF needs to be revised to incentivize monitoring and stopping degradation as it inevitably leads to Deforestation.

Reference Level (RL): fails to point out that the reference level can have no relationship to historic Deforestation and degradation levels, see discussion above.

Reversals: See discussion above.

Title to Emission Reductions: is defined as the full legal and beneficial title and exclusive right to ERs. It is then pointed out that it is important for the Trustee to ensure that the ERs acquired by the Carbon Fund are free of dispute and the legal title to the ERs is transferred to the Trustee in accordance with the ERPA. However, the definition relates to the ERs only. In particular, it does not entail any rights, titles or interests to land and territories. So while title to ERs does not relate to rights, titles or interests to land or territories, nowhere in the entire MF are ER Program proponents told how or even given guidance how to establish who owns rights to ERs.

Verification: is defined very precisely as the process in which the ER-program document is checked for adherence to requirements established by the *methodological framework* and ER-Program reporting is checked for accuracy, scientific validity and adherence to the requirements established by the ER-Program document. No where is a disclaimer given that given all of the uncertainties described in detail above that verification of an ER does not mean that it is an offset of any particular amount of carbon dioxide or that it is not bogus.