

## **The Environmental Investigation Agency’s Initial Comments on the Process for Assessing “Readiness” and on Readiness Criteria and Indicators**

The R-Package is the final output of the Forest Carbon Partnership Facility (FCPF) Readiness Grant process. It is envisioned as documentation that a REDD+ country has developed and implemented national strategies sufficient to be “ready” for REDD+ by addressing five core elements:

- 1) developing a REDD+ strategy;
- 2) establishing an implementation framework;
- 3) designing and implementing monitoring, reporting and verification (MRV) systems;
- 4) determining baselines and reference levels (REL/RFL); and
- 5) developing safeguards and grievance mechanisms.

The question now facing the FCPF is how these core elements will be assessed, what criteria and indicators will be used, and what standards will need to be met by the REDD+ countries in relation to the indicators and criteria to demonstrate “readiness.”

The Environmental Investigation Agency (EIA) submits the following comments on:

1) the process to be used by the FCPF to define indicators/criteria and standards which must be:

- a) robust, and
- b) transparent; and

2) two key elements that must be evaluated during the R-Package assessment process:

a) a proper and thorough assessment of national and international drivers of deforestation and responses thereto; and

b) a proper and thorough assessment of REDD+ governance and forest governance<sup>1</sup> to ensure that policy, legal, institutional, and regulatory aspects of forest

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<sup>1</sup> REDD+ governance refers to the oversight of all the institutions, policies and processes that a country has in place at the national and sub-national level to implement REDD+. REDD+ governance includes all the institutions, policies and processes that a country has in place at national and sub-national levels to implement REDD+, and includes MRV

administration and law enforcement are in place to address illegal logging, other forest illegalities, corruption and related drivers of deforestation and forest degradation.

## **I. A Robust and Transparent Process for R-package Review.**

### **A. The R-Package Assessment Review provides a unique opportunity to evaluate the FCPF Readiness Process and to ensure that the REDD+ countries receiving support from the FCPF are truly ready to undertake the REDD+ activities necessary to combat climate change effectively.**

A robust process must be undertaken to identify the key issues and corresponding indicators of success that will signal the completion of the Readiness Phase. Specifically, the FCPF needs to identify the criteria and indicators to assess whether core issues have been adequately addressed and whether effective processes are in place to address longer-term issues within a reasonable period of time. The R-Package, in principle, signals an end to an extensive and expensive REDD+ preparation process and provides an excellent opportunity to evaluate the results of this undertaking and ensure that the REDD+ countries receiving support from the FCPF are truly ready to undertake the REDD+ activities necessary to combat climate change effectively.

As has been demonstrated in the REDD Readiness Preparation Proposals (R-PP), there are a multitude of unique, country-specific issues that countries must address in order to be truly “ready” for REDD+. Some of these issues can be addressed effectively during the period of the Readiness Grant, while others will require a longer time frame. The FCPF will need to make an initial assessment to determine whether the R-Package documents submitted by the REDD+ country have met a minimum standard of “readiness.” If not, additional “readiness activities” will be necessary before the country may begin REDD+ implementation. The assessment process should evaluate any additional activities that need to be performed and the resources required to complete the Readiness Phase. While it is unlikely that REDD+ countries will be able to address all issues identified in their R-PPs during the period of the Readiness Grant, the R-Package should contain sufficient documentation that progress has been made diagnosing and resolving core issues as well as instituting enterprising processes to address longer-term issues.

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of carbon, respect for safeguards, financial accountability. Its scope includes both previously existing institutions, policies and processes, as well as those specifically created for the REDD+ mechanism. Forest governance is an essential component of REDD+ governance, which is recognized in the Cancun REDD+ Agreement through the inclusion of the need for transparent and effective forest governance structures in safeguards. See UN-REDD/Chatham House Guidance for the Provision of Information on REDD+ Governance.

**B. The process used by the FCPF to select criteria/indicators to evaluate R-Packages must be transparent, inclusive and result in criteria and indicators that are representative and sensitive to changes in the forest sector**

The criteria and indicators selected to evaluate R-Packages need to be clearly and directly related to each of the key issues identified as relevant for REDD+ Readiness. They must be framed in a way to promote constructive debate and motivate action for improvement. Additionally, they must be free from hidden bias, sensitive to changes in the issue being assessed, subject to verification and replication, and easy and inexpensive to construct and measure. (See, ProFor/FAO Framework for Assessing and Monitoring Forest Governance, pp 19-20).

The FCPF is not starting from scratch in developing these criteria and indicators. Numerous approaches to assess or establish effective REDD+ governance and forest governance are currently in use or under development and they should be considered. They include the World Bank's Framework for Forest Governance Reform, the ProFor/FAO Framework for Assessing and Monitoring Forest Governance, the World Resources Institute's Governance of Forests Initiative; the Criteria and Indicators for Sustainable Forest Management of the Montreal Process and of the International Tropical Timber Organization (ITTO), the CCBA/CARE REDD+ Social and Environmental Safeguards, the Chatham House Report on Illegal Logging and Related trade: Indicators of the Global Response, and the proposed draft UN-REDD/Chatham House Guidance for the Provision of Information on REDD+ Governance.

The FCPF and the Facility Management Team (FMT) will need to conduct a broad-based evaluation to develop criteria/indicators for R-Package assessment review, including both subjective and objective criteria for the most comprehensive assessment possible of the various aspects of REDD+ readiness. This should include an assessment of the data necessary for the current and ongoing assessment of a REDD+ country's state of readiness, which could entail the collection of new types of data.

The credibility and efficacy of the criteria and indicators that the FCPF finally adopts will be directly dependant on the transparency and inclusiveness of their development process. The FCPF's process must actively engage relevant multi-stakeholders, including civil society, indigenous people, forest dependant communities and the private sector, soliciting and incorporating their input. A concerted effort needs to be made to have this outreach occur in the countries where substantive REDD+ actions will be taking place, and the final criteria and indicators must, to the extent possible, reflect a consensus of all FCPF participants and stakeholders. This will enable the in-country REDD+ processes to gain legitimacy and have a greater chance of successful implementation.

## **II. Two Key Elements of R-Package Assessment Review.**

### **A. Comprehensive assessment of national and international drivers of deforestation and degradation must be an integral element of every R-Package**

Every R-Package must articulate:

- 1) the key national and international drivers of deforestation and degradation in the REDD+ country;
- 2) the extent to which the drivers are the result of illegal activities.
- 3) the methods of monitoring and controlling these drivers;
- 4) the means of coordinating governmental actions to ensure REDD+ is consistently considered through a cross-sectoral approach, the measures for controlling illegal logging and other illegalities;
- 5) and the resources, including manpower by organization, dedicated to the efforts to control these drivers.

Then these issues must be critically analyzed by the FCPF during the R-package assessment review.

The assumption underlying REDD+ is that by creating a REDD framework based upon financial incentives, forest use policy and management can be changed. In order to accomplish this, the country-specific dynamics of deforestation and forest degradation must be clearly understood and enunciated in the R-Package. Unless a country has undertaken a comprehensive and honest analysis of the national and international drivers of deforestation and degradation in its forests, it will be impossible to protect forests and effectively engage in REDD+ activities over the long term.

“Drivers” that should be considered in any realistic assessment include legal and illegal logging; energy production and associated displacement (*e.g.*, hydro-electric dams and soybean production for biofuels), extractive resource activities (*e.g.*, mining); commercial agriculture (*e.g.*, beef, soybeans, and palm oil); infrastructure development (*e.g.*, dams and roads); expansion of urban areas; financial flows including investments, investment incentive structures, and national debt; and forest dependency, including small scale farming, fuel wood, unclear land tenure, and poverty. These direct and proximate drivers are, in turn, influenced by forest policies, management, and legal frameworks; national politics and economy; and global, regional and national commodity and energy demand. In many REDD+ countries, major drivers of deforestation and forest degradation are non-compliance with forest-related laws and poor governance of forest resources including weak law enforcement. Many of the drivers of deforestation and degradation actually originate from outside the forest sector and frequently outside the country, particularly where the alternative land use is more profitable than forest conservation. In many of the R-PPs that the FCPF has approved, many if not all of the drivers that generate commercial and state revenues or involve illegalities have been ignored.

The complex interplay of ALL of these drivers must be understood and addressed in the R-Package if REDD+ activities are going to be implemented successfully over time. A description of the readiness activities undertaken to mitigate these drivers will be a key component of the R-Package. Moreover, the scope and budget committed to these mitigation activities must be clearly articulated.

R-Packages must also demonstrate a thorough analysis of the potential for displacement of illegal activity across borders or within a region (see e.g. Meyfroidt et al (2009) Forest transition in Vietnam and displacement of deforestation abroad. Proceedings of the National Academy of Sciences, 106 (38), 16139–16144, doi: 10.1073/pnas.0904942106). It will be important for R-Packages to also describe the activities that will bring these drivers under control in the long term and how displacement of illegal activities across borders will be prevented – e.g. cooperative actions, legal frameworks, enhanced monitoring. Responses should include changes to laws to control illegal logging and illegal trade in wood and wood products (e.g., legislation analogous to the United States Lacey Act or the European Union Illegal Logging Regulation).

Infrastructure development, extractive resource programs, agriculture, and control of illegal logging, and many other drivers are typically handled by different ministries or departments and at different levels of government. R-Packages need to describe the pre-existing mechanisms or those established during the period of the Readiness Grant to ensure that REDD+ activities receive consistent and coordinated focus within the federal government and among federal, regional and local governments.

1. Recent studies document that the primary drivers of deforestation in most REDD+ countries are major commercial enterprises such as palm oil conversion and the expansion of commercial soybean, beef and other agricultural operations. While international, demand-side drivers cannot be completely controlled by REDD+ countries, improved governance can minimize their impacts. An essential first step would be the enactment of coherent laws defining the various types of forests and how wood can be legally removed in the full-range of contexts, including commercial logging, land clearing for agriculture or building of infrastructure, etc., to ensure effective forest protection. REDD countries can establish checks and balances in government procedures to control corruption (including the establishment of an independent Office specifically dedicated to investigating governmental corruption), and invest in improved law enforcement and inter-agency cooperation. Ensuring that spatial planning plans exist at national, sub-national and local levels and that the various responsible governmental employees are aware of and understand these plans is a critical component of defining forests and how they can be legally harvested. If moratoriums taking timber are in existence on certain types of forests or areas of forests, the R-package needs to document that the moratoriums are being effectively implemented and enforced.

Additionally, Governments can ensure that their forest-related information is well organized, accessible and transparent. Clarifying land tenure and ensuring the rights of indigenous peoples and forest dwelling communities have also been demonstrated to mitigate the impacts of international drivers. REDD+ countries may also want to consider establishing comprehensive and adequately funded systems to monitor legal harvesting and track and verify the legality of wood exports.

During the Readiness Phase, REDD+ countries need to establish appropriate systems to identify, monitor and reduce the impact of international drivers. For example, they need to determine the approximate land areas associated with different export commodities and international drivers in order to prioritize interventions, and establish dialogues with countries identified as significant consumers in order to solicit their support for intensification of agricultural activities; restriction of production to degraded lands, and revision of the country's government procurement policies to remove the incentives that are leading to deforestation and degradation. Without these mechanisms, it will be nearly impossible either to monitor environmental laws or regulations effectively or to monitor compliance with those additional requirements for REDD+. The R-Package must document these essential elements of being "REDD+ ready".

The results of such monitoring of international drivers must be reported to the FCPF regularly. If it becomes apparent that international drivers are causing REDD+ countries to fail in their efforts to control deforestation and forest degradation, the FCPF will need to assess what actions by donor nations are required to reduce these drivers.

**B. Good REDD+ governance and forest governance together with supporting legal and enforcement infrastructure are critical to the success of REDD+.**

*"Efforts to achieve REDD will only be successful if they support developing countries to address the fundamental governance challenges that drive deforestation. Failing to tackle problems of weak institutional capacity and coordination, accountability, transparency, and public participation may exacerbate current conflicts over the use of forest resources, and risk creating perverse outcomes for forest dependent people, forest ecosystems, and the global climate."*

The Governance of Forests Toolkit.<sup>2</sup>

Poor forest governance, inadequate law enforcement, and corruption have been internationally recognized as major impediments to the successful implementation of REDD+. Good forest governance requires: 1) transparency, accountability and public participation; 2) stability of forest institutions and conflict management; 3) quality of

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<sup>2</sup> Instituto Centro de Vida, Amazon Instituto do Homem E Meio Ambiente Da Amazonia, World Resources Institute, The Governance of Forests Toolkit (Version 1), The Governance of Forests Initiative, September 2009, available at [http://pdf.wri.org/working\\_papers/gfi\\_tenure\\_indicators\\_sep09.pdf](http://pdf.wri.org/working_papers/gfi_tenure_indicators_sep09.pdf).

forest management; 4) coherence of forest legislation and rule of law; and 5) economic efficiency, equity and incentives.<sup>3</sup> The FCPF has fleshed out these concepts in the R-PP Template, which highlights how REDD+ countries can demonstrate good governance and coordination across and within governmental departments. The R-Package must contain information demonstrating that the REDD+ country has conducted an honest assessment of its forest governance and has implemented processes to address weaknesses identified during the Readiness Phase.

While the FCPF will need to develop criteria and indicators for all aspects of governance, appropriate law enforcement is a critical and much-overlooked element. “Readiness” from an enforcement perspective should include ensuring that adequate measures have been undertaken to establish and maintain the rule of law, preventing prevent illegal logging and other forest illegalities, and implementing effective transparency and anti-corruption measures, through an approach that engages relevant stakeholders particularly indigenous peoples and forest dependent communities in enforcement efforts, while ensuring respect for their rights. The R-Package will need to analyze the REDD+ country’s existing forest management systems and thoroughly evaluate whether effective mechanisms are in place to prevent forest illegalities and corruption.

Relevant authorities from law enforcement and oversight community must be included in the development of REDD+ readiness plans and implementation. This should include federal, regional and local governmental entities involved in preventing forest crime and corruption, whether involving commercial logging or other activities resulting in the removal of forest. Names may vary from country to country, but these stakeholders may include units from the Department/Ministry of Justice and particularly any environmental unit or money laundering unit; the investigating units from the forest or environmental agency, any Comptroller charged with oversight of governmental spending; Customs; the prosecutor’s office; the military; police, and any ombudsman charged with protecting citizen’s rights.

The UN Convention Against Corruption provides guidance on the basic structures that a country must have in place to establish minimum levels of transparency, public integrity, reduce incentives for bribes and conflicts of interest. The existence of these structures should be documented in the R-Package to demonstrate that effective governance systems are evolving.

Country-specific criteria/indicators will be necessary to identify weaknesses in REDD+ governance and forest governance, detect forest crime, track efforts to strengthen and improve governance and enforcement, and react appropriately to the ever changing

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<sup>3</sup> World Bank, The Building Blocks of Forest Governance and Their Principal Components.

vectors that drive forest crime. Examples of forest illegalities have been well documented, and they are estimated to cost REDD+ and consuming countries billions of dollars (US) annually in lost revenue and price distortions. Forest illegalities include: 1) illegal logging -- both theft of trees and other illegal harvesting of trees from public or private lands; 2) theft of non-tree species including wildlife; 3) illegalities in awarding forest concessions; 4) illegal occupation of forestlands; 5) woodlands arson, 6) timber trespass due to traditional versus modern tenure conflicts; 7) violation of police power laws (laws to promote health, safety, or welfare) governing forest management or harvest; 8) illegal timber transport, certification, trade or timber smuggling; 9) transfer pricing and other illegal accounting practices, 10) illegal forest processing, 11) illegal land clearing for agriculture and resource extraction activities, and 12) civil service practices, social and institutional factors that permit illegal activity.<sup>4</sup>

The types of illegalities will vary from REDD+ country to REDD+ country; therefore, it is critical that the R-Package thoroughly document the driving forces behind the country-specific illegalities. For instance, while both illegal awarding of concession areas and illegal occupation of forestland may lead to the same result (illegal, unmonitored timber cutting), the underlying causes are distinct and must be addressed differently. Effective responses for these two different causes of the illegalities could range from a review of concessions processes and implementation of increased transparency in forest management, to re-allocation of the land to its rightful owners.

Forest illegalities frequently occur because forest management and enforcement bodies lack the staff, infrastructure, equipment and money necessary to regulate forest resources effectively. Inadequate training, underpaid staff, and a lack of robust monitoring procedures and accountability structures also foster illegality in the forest sector. Improving the conditions of the government employees charged with managing forest resources can be an effective tool in reducing corruption. Better-paid staff have less incentive to accept bribes, more incentive to properly perform their jobs and more to lose if they are caught and are disciplined or dismissed. Increasing forestry staff supervision, and the establishment of an independent Office specifically dedicated to investigating governmental corruption which increases the probability of identifying staff participating in illegal activities is an important complimentary enforcement tool. Providing incentives for revealing illegal activities and a confidential way to make such disclosures can dramatically reduce forest illegalities.

REDD+ countries need to combine the improvement of conditions for forestry personnel with strong scrutiny and penalties for bad actors to make forest management effective. Providing training to forestry officials, the investigating agencies,

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<sup>4</sup> See, Kishor, N.M and K.L. Rosenbaum, Indicators to monitor progress of Forest Law Enforcement and Governance Initiative to Control Illegal Practices in the Forest Sector, International Forestry Review 5(3), 2003.

prosecutorial units and the judiciary and their staff allows a better understanding of the applicable laws and processes governing forest management and an increased understanding of how to effectively monitor and report illegal activities. The R-Package must demonstrate that the REDD+ country has implemented a program of incentives and penalties to create accountability and a professional ethos among its forest management personnel.

REDD+ incentives are intended to support good governance and prevent illegal logging and other forest illegalities by creating new financial and legal incentives for governments, companies and communities to fully enforce laws and property rights. Increasing interagency and intergovernmental linkages is critical to ensure that REDD+ activities receive consistent and coordinated focus within the federal government and among federal, regional and local governments. Governmental coordination needs to also take place on a regional basis to prevent leakage and adverse impacts to and from neighboring countries. Regional enforcement cooperation among countries can also be essential to stopping illegal transport of wood and wood products. Regional cooperation is also necessary to prevent REDD+ countries' energy, extractive resource and agriculture policies from increasing deforestation in neighboring countries REDD countries should incorporate Interpol into the process for bilateral and multilateral assistance with illegal logging and other forest illegalities. Having each country establish a comprehensive system to monitor legal harvesting and to track and verify the legality of wood exports at ports and other key international transit points could substantially reduce forest crimes and corruption.

While a number of REDD+ countries may have excellent forestry and governance laws on the books, implementation and enforcement are frequently minimal to non-existent. Effective forest governance requires laws with adequate civil and criminal penalties addressing illegal logging, other relevant forest crimes, and corruption; a functional judicial system; actual prosecution of forest crimes and other forms of corruption; and the imposition of adequate penalties in these cases. The R-Package must not only describe that an effective enforcement framework has been created, but also provide documentation that adequate resources have been committed to ensure actual enforcement on the ground and that the enforcement mechanisms have been operationalized. This should include data showing manpower dedicated to law enforcement efforts, investigations opened, number and type of cases brought, and the sanctions actually imposed including fines (actually collected), forfeitures and defendants jailed and the length of their sentences. This information should be both established as a baseline and published by the government on a prompt annual basis.

Government agencies often have critical regulatory, financial technical and personnel limitations on their abilities to impose the rule of law in the forestry sector. The R-Package should analyze institutional capacity and evaluate whether forums exist

for citizen participation, such as:

1) Forest Management Committees. FMCs are partnerships between the local branch of the public forest administration, concessionaires, indigenous peoples, forest dwelling communities, local environmental and other civil society organizations, which have been given a range of governmental responsibilities from overseeing harvesting operations, monitoring forest concessions and protected lands, overseeing infrastructure maintenance, and intervening to resolve conflicts.

2) Timber Compliance Assessment Partnerships.<sup>5</sup> TCAP are a type of multistakeholder partnership that produces evidence of forest practices, documents their compliance with agreed indicators of acceptable performance and communicates this to the government, the market and the public. TCAPs are being developed to unite diverse regional forest stakeholders to assess compliance with the law or a set of criteria for good forest management, by coordinated monitoring of the actual practices in the forest.

Another key criterion for evaluating whether the R-Package demonstrates adequate institutional capacity is whether there are both a governmental monitoring body and an independent monitoring program in place. A monitoring body with the government can ensure REDD+ activities receive appropriate consideration in all governmental decision making and can detect and help resolve conflicts of policy at an early stage. Independent monitors can assist governments by providing an independent assessment of the efforts and achievements of the forest administration and related agencies in investigating and suppressing forest crime, and to make recommendations for improvements to the current system. They have been very effective in increasing the levels of information about local forests and illegalities occurring in the forest sector. They reveal the political interests and relationships, which undermine forest management and lead to illegalities. The availability of this information can provide the basis for both increased discipline and increased professionalism within the country's forest management and enforcement agencies, and within the timber industry.

### **III. Conclusion**

Without basic enabling conditions, the REDD+ framework of incentives will be undermined by inadequate institutions, conflicting economic priorities, and policies that do not address the underlying drivers of deforestation in a given national context. The R-Package must demonstrate that a forest management regime is in place, with the infrastructure and personnel necessary to manifest the change and enforcement on the ground. The FCPF must seize the opportunity provided by the R-Package assessment review to ensure that REDD+ countries have been enabled to tackle deforestation and forest degradation for the protection of the global climate.

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<sup>5</sup> TCAP were established by the Global Forest Watch (GFW) initiative of the World Resources Institute (WRI).

The FCPF needs to have an inclusive and transparent process to define what constitutes “Readiness” for REDD+. It is also critical that criteria and indicators are developed that will guide REDD+ countries in their readiness process. Two essential components of getting ready for REDD+ and the R-Packages now are 1) a clear understanding to the drivers that are causing deforestation and forest degradation in the REDD country and 2) robust enforcement mechanisms to control illegal logging and other forest illegalities as well as corruption. By making clear now what is expected at the end of the Readiness Phase, REDD+ countries can optimize their readiness activities and enhance the prospects for the successful implementation of REDD+ activities.