



global witness

Review of Guatemala's DRAFT R-PP submitted to the 10th Participants' Committee meeting of the FCPF

Provisions on Enforcement and Non-Carbon Monitoring October 2011

This assessment examines the draft Readiness Preparation Proposal (R-PP) submitted by Guatemala on 30 September 2011 for consideration at the 10th Participants Committee meeting of the FCPF in Berlin, Germany (18-19 October 2011).¹ This R-PP is a draft and only available in Spanish.

This assessment focuses on how the R-PP addresses illegality, corruption and law enforcement issues and what type of system is proposed to monitor and assess governance and social and environmental impacts (non-carbon monitoring).

Guatemala draft R-PP September 2011

1. Does the R-PP adequately address weak law enforcement, illegality and corruption as drivers of deforestation and forest degradation?

The draft R-PP identifies four areas as the key drivers of forest loss in Guatemala (p. 43):

- Change in land use, in particular clearing of forests for agriculture and growth in urban areas;
- Forest fires, which have increased in frequency and severity in recent years, attributed to El Nino;
- Disease, and
- Illegal logging.

The proposal also recognises that corruption and the selective extraction of high value logs without compliance with the relevant forest regulation drive deforestation and forest degradation in the country (p. 43-45).

Further analysis of the drivers of deforestation and forest degradation is planned, which will involve evaluating the impacts of each through multi-stakeholder dialogue and reaching consensus among different points of view. This aims to ensure that actions planned under REDD+ are targeted appropriately (p. 45).

The planned analysis is also to take into consideration the activities of various actors, including government

¹ R-PP available on the FCPF website at:

http://www.forestcarbonpartnership.org/fcp/sites/forestcarbonpartnership.org/files/Documents/PDF/Oct2011/GUATEMALA_Revised_draft_R-PP-September_30_2011.pdf

departments and NGOs. The R-PP acknowledges that there are currently no coordination efforts or common goals between these actors. The R-PP also plans an analysis of laws, policies and tools that guide these organisations and institutions, to evaluate their role in promoting or preventing forest loss (p. 45). A plan of action is detailed for these studies, including consultation processes, to be carried out between 2012-2014 and assigns agencies responsible for each area. \$534,000 is allocated under the R-PP for sectoral studies, but it appears that no budget has been set for the activities set out in the plan of action.

Strengthening governance in key strategic areas forms the first strategic option for the R-PP. The activities proposed include improved law enforcement, regaining areas that have been seized, adapting and updating laws on environmental crime, and increasing the budget of forestry institutions (p. 61).

According to the country's R-PIN, illegal logging accounts for 30-50% of commercial wood volume produced. A second strategic option set out in the R-PP is to implement a strategy to tackle illegal logging that until now has lacked funding (p. 58). Under this strategy the need to involve all relevant agencies and bodies is emphasised. It is aimed to address the degradation caused by illegal selective logging (p. 61).

The R-PP also details how forest management is regulated by two separate laws covering each of forests and protected areas. These two laws set out a system for the approval of forest licenses, including management plans that are approved as tools to monitor forest use. This ensures the sustainability of forest resources in areas that are logged. The failure of a management plan constitutes a criminal offence and results in the cancellation of the license and other legal consequences. Agroforestry activities are exempt from this regulation.

Local governments have been engaged in forest management, because they have municipal forestry offices. This has had some success among certain formal actors in the forest sector and on household consumption of forest products (p. 49). The Guatemala government also plans to undertake further work to develop best practice in forest management, improve the application of forest regulations and improve the justice process.

Recommendation

1. The R-PP should clarify how the analysis of drivers of deforestation and forest degradation under the 2012-2014 plan of action is to be funded.
2. The R-PP should also ensure this analysis takes full account of the role of corruption, illegality and corruption in driving deforestation.

2. Does the R-PP adequately address the need to monitor social, environmental and governance safeguards?

The R-PP recognises the need for objective evidence to identify, assess and evaluate the environmental and social impacts of readiness implementation (p. 76). To do this, it plans to conduct a Strategic Environmental and Social Assessment (SESA) process over the period 2011-12. This process will analyse each strategic option for REDD+ and lead to the development of an Environmental and Social Management Framework (ESMF) for managing the environmental and social impacts of the proposed REDD+ strategy, governance reforms and activities. These are intended to follow World Bank frameworks and safeguards, and also look at other safeguards monitoring initiatives, such as CCBA standards.

The aims of the SESA are to:

- Assess the impacts of strategic options, in a participatory manner. This will set out technical, social, economic, environmental and political considerations for how to mitigate these impacts.
- Provide space for discussion and proposals among key REDD+ actors, in particular rural communities and indigenous peoples, for assessing social and environmental impacts.

The R-PP sets out steps for the SESA process, including identification of stakeholders, studies and

research, analysis of impacts, broad consultation and socialisation of the evaluation results, a national SESA report and the development of an Environmental and Social Management Framework (p. 77-78). The R-PP does not designate an organisation or institution to implement or oversee this process, but rather states that the body responsible will be assigned during the readiness process by the ministry of environment. It does, however, emphasise that whichever body leads this process will need to coordinate efforts broadly throughout the government.

Outputs of the SESA and the resulting ESMF will be:

- Report of risks and potential benefits to the strategic options prioritised by actors
- Measures to mitigate these impacts and suggestions on how to manage the risks.
- Plans to tackle social, environmental and political impacts (p. 78).

Although some information is provided on how Guatemala intends to set up a system to monitor multiple benefits, other impacts and governance under the ongoing REDD+ mechanism, this information is brief and incomplete. Two activities are planned to establish this monitoring system:

(i) The first is to identify and monitor areas under forest management, and create a registry to provide information on the sustainability of these processes, their contribution to local and national economies, job creation, taxes and sustainable livelihoods, and how these affect the country's carbon balance. This is to take place during 2012-13. A budget of \$50,000 has been allocated for the identification of areas under forest management. However, no funding has been allocated for the creation of the registry, although this is listed in the budget table.

(ii) The second activity is the creation of a participatory and practical framework to allow the monitoring of social and environmental safeguards. A part of this includes the development of a set of socioeconomic and biodiversity indicators and a framework for provide information on how these are addressed. This will be developed during 2012-13.

To inform this process, safeguards monitoring schemes such as CCBA's will be analysed. However, the proposal points out that it is stakeholders who will ultimately decide which are the most effective indicators for this monitoring process (p. 113-114). A budget of \$80,000 has been allocated for the development of indicators, but no further funding is allocated for the creation of a system to monitor these.

No organisation or institution has been designated as responsible for these processes and it is unclear who will carry out the initial activities of identifying areas under forest management and developing the set of socioeconomic and biodiversity indicators. It is also unclear who will eventually set up and implement these monitoring systems, and how their independence will be assured.

Recommendation

1. The R-PP needs to designate a body or institution to implement and oversee the SESA and ESMF processes. It should also detail how the independence of this system will be assured.

2. The R-PP should provide further detail on what an eventual monitoring system for social, environmental and governance impacts and benefits under the ongoing performance-based results phase of REDD+ would look like.

In particular, the R-PP should designate a body or institution to undertake the monitoring of multiple benefits, other impacts and governance under the REDD+ mechanism, and detail how the independence of this system will be assured.

3. A budget should be allocated for the following activities: creating the registry of areas under forest management and developing a system to monitor social, environmental and governance impacts of the REDD+ mechanism.

3. Other issues

Sub-national implementation and leakage

Guatemala intends to implement REDD+ by first creating a sub-national reference level for the northern Tierras Bajas del Norte region. This region contains 70% of the country's forests, has the highest rate of deforestation and has more advanced forest data than the rest of the country (p. 82). The R-PP states that this approach is an interim measure, and the aim is to eventually develop a single national reference scenario (p. 5-6). The R-PP also sets out steps toward developing a reference level first for Tierras Bajas del Norte, then four other sub-national zones and finally bringing these together to create a national reference level.

Aside from a brief and incomplete assessment of the leakage risks of each of the strategic options put forward (p. 61-62), the R-PP does not otherwise discuss how it intends to address the increased risks of leakage posed by a sub-national approach.

The other systems under the R-PP, such as the MRV system and monitoring of multiple benefits and other impacts, appear to be planned on a national basis with little or no discussion of sub-national implementation. It is unclear how an initial sub-national reference level would fit with these national systems.

Land tenure

The R-PP sets out some information on the land tenure regime in Guatemala and the legal framework for land rights. A 2005 law regulating a land information registry defines community-held land as the collective property of peasant and/or indigenous communities, and also recognises traditionally held land that is technically owned by the state, local authorities or individuals. The proposal notes that this recognition of customary land claims will create expectations among communities as regards the recognition and formalisation of their land rights, but goes no further to propose a programme of formalisation (p. 46).

The proposal also notes that recent reforms of the property laws had negative impacts on equality and social relations, in particular in the north of the country (p. 46).

The R-PP notes that the complexity of the land tenure regime and formalisation processes in Guatemala suggests that efforts should focus more on setting out how to allocate rights to/ownership of emissions reductions, rather than resolving issues around land rights. Both land ownership and tenancy, along with involvement in actual implementing REDD+ activities, should be the starting points for ascertaining rights to emissions reductions (p. 70). The R-PP goes on to propose steps to clarify rights to emissions reductions, including defining a legal mechanism to recognize the rights of the reductions and proposing instruments for the mechanism (p. 71).

A proposed law on climate change is currently awaiting approval in the Guatemalan Congress. The law contains specific articles setting out a regulatory framework for rights to emissions reductions according to ownership or tenancy of the forested land (p. 71).

The R-PP fails to justify why focussing on the issue of legal rights over emissions reductions from REDD+ activities should be any less complex or difficult than resolving land tenure questions which are in any event seen as the starting point for ascertaining those rights over emissions reductions.

Although Guatemala clearly recognises the complexity of land tenure issues, there is no proposal within the strategic options to address this. Without regularisation of land tenure, the issue of who has the rights to emissions reductions will not be resolved.

Land tenure issues must also be resolved if Guatemala is to address broader land management and land-use issues that can also act as indirect drivers of deforestation. There are reports, for example, of palm oil plantations being established, which have forced local communities off the land, resulting in their

resettlement (and subsequent deforestation) in other areas.

The R-PP indicates that the government intends to come to an agreement with palm oil and sugar growers and develop policies to regulate these industries (p. 59). The R-PP also proposes strategic options to review land zoning to address palm oil plantations as a driver of deforestation, and provide economic alternatives to compete with agroindustry. These strategic options will only be effective if land tenure issues are also clarified.

Participation and consultation

Some concerns have been voiced around stakeholder mapping and ensuring the right actors have been involved in the preparation of the R-PP and the national REDD+ process in general.

This has meant that some key groups such as certain indigenous peoples' representatives and the campesino movement have only recently been included in the consultation process and did not participate fully in the drafting of the R-PP.