

Indigenous Participation and Rights in the REDD/CCAD/GIZ Program in Central America

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Editorial

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Case study: REDD/CCAD/GIZ Program
Tatiana Mendoza Salamanca¹

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Acronyms

ADDI	Indigenous Development Association
ANAM	National Environmental Authority
BMZ	German Federal Ministry for Economic cooperation and Development
CATIE	Tropical Agricultural Research and High Education Center
CCAD	Central American Commission on Environment and development
CICA	Indigenous Council of Central America
CONPAH	National Confederation of Autochthonous Peoples of Honduras
COONAPIP	Coordinadora Nacional de Pueblos Indígenas de Panamá
COP	Conference of the Parties
ERCC	Regional Strategy for Climate Change
ER-PIN	Emission Reductions Program Idea Note
FAO	Food and Agriculture Organization
FCPF	Forest Carbon Partnership Facility
FONAFIFO	National Forestry Financial Fund
FPIC	Free, Prior and Informed Consent
GHG	Green House Gases
GIZ	German Agency for International Cooperation
ILO	International Labor Organization
MNICC	National Indigenous Board on Climate Change
MRV	Measurement, reporting and verification
PARCA	Regional Environmental Plan of Central America
PESP	Payment for Environmental Services Program
PERFOR	Strategic Regional Program for Forest Ecosystem Management
R-PIN	Readinnes Plan Idea Note
REDD	Reducing Emissions from Deforestation and Forest Degradation
R-PP	Readiness Preparation Proposal
REDD/CCAD- GIZ	Regional Program Reducing Emissions from Deforestation and Forest degradation in Central America and Dominican Republic
SESA	Strategic Environmental and Social Assessment
SICA	Central American Environmental System
UICN	International Union for the Conservation of Nature
UNFCCC	United Nations Convention on Climate Change
UN-REDD	United Nations Collaborative Program on Reducing Emissions from Deforestation and Forest Degradation

Executive Summary

The lack of consideration and compliance with indigenous rights and social safeguards is creating critical challenges to the main REDD+ preparation strategies existing in Central America and elsewhere in the world. For that reason, this case study was aimed at the assessment of the REDD/CCAD/GIZ initiative in relation to the compliance of international human rights standards, and the implementation of safeguards related to indigenous peoples. To carry out this analysis during the period between August and November 2012, attempts were made to get the project's official reports, and to arrange telephonic interviews with the German Society for International Cooperation (Gesellschaft für Internationale Zusammenarbeit / GIZ) team leading the project and with some indigenous representatives, but unfortunately there were very few answers from the project developers and the indigenous representatives.

For that reason, even though a comprehensive analysis of the program was not possible, based on the information and documents published on the REDD/CCAD/GIZ initiative web site, and on the documents submitted to the Forest Carbon Partnership Facility (FCPF) by Costa Rica and Honduras – two of the countries that are also receiving support from the GIZ to implement or formulate their REDD strategies – some basic aspects were identified and described.

In the first part of the document, general aspects of the forest cover and deforestation of the countries, as well as some information about the legal situation of the indigenous peoples in the region are presented. Afterwards, a summary of the main REDD initiatives currently existing in Central America and of the participation and progress of each country under these programs are outlined. The next section of the document presents the description of the REDD/CCAD/GIZ program and the main activities carried out until the end of 2012, followed by some basic findings about the indigenous rights and participation contemplated by the program.² Furthermore, two country cases are presented, describing specific points outlined in the R-PP about the inclusion of international standards, indigenous participation, Free Prior and Informed Consent (FPIC), land rights and co-benefits, and distribution of benefits under the eventual REDD strategies implementation. Finally, some conclusions and recommendations are given.

1. Introduction

➤ Situation of the region in terms of forest cover, deforestation and forest conservation

According to the last national evaluations reported to the Food and Agriculture Organization (FAO), the Central American region has 23.25 million ha of forests; representing the 44.3% of the total territory. The spatial distribution of the forests coincides in many cases with protected areas and/or with important indigenous territories. 27.6% of the forest cover in the region has a legal protected status, which in

² Some additional information on the elements of participation and consultation of indigenous peoples in the course of the program has been included in 2013. However, this does not represent a general update of the overall study which generally only reflects the developments until the end of 2012.

theory should guarantee their safeguard. Considering that the forest extension in protected areas varies from 28.5% in Nicaragua to 53.5% in Guatemala, the situation is similar in all the countries with the exception of El Salvador, where the protected forest areas are only of about 6.5%.

Regarding the indigenous territories in the forests, the percentages are similar (with an average of 39%), but they differ in their distribution on the national level. In Panama, Guatemala and Nicaragua almost half of the forest areas have indigenous territories, while in Belize, El Salvador and Honduras the proportion is about one third and in Costa Rica they only represent the 13.3% of the country's territory. There are also forests within indigenous territories having a legal protection status at the same time. This situation represents about 15% of the total forest cover. The percentage of forest sharing both conditions is of 23% in Panama, 18.5% in Nicaragua, about 10% in Honduras, Guatemala and Belize, and 3% in El Salvador and Costa Rica (CABAL, 2010).

Table 1. Forest cover in protected and indigenous areas in Central America.

Country	Total forest cover (thousand ha)	Forest cover/Country (%)	Forest in indigenous territories (%)	Protected forest areas (%)	Protected forest areas in indigenous territories and protected forest areas (%)
Belize	1,506	68	30.5	45.5	10.4
Costa Rica	2,913	56.8	13.3	32.7	3.6
El Salvador	180	8.7	30.6	6.5	3.3
Guatemala	4,047	37	48.3	53.5	11.9
Honduras	4,855	43	33.3	31.9	14.5
Nicaragua	5,414	41.8	44.7	28.5	18.5
Panama	4,336	52.2	50	35.5	23.7
Total CA	23,251	44.3	39	36.3	15

Source: CABAL, 2010

The region has high rates of deforestation, but during the last twenty years, significant changes have occurred. According to the FAO reports from the period 2005-2010, the region lost annually 395.000 ha. of forest, a number notably lower in comparison with the 1990 decade where the forest loss was of about 726,000 ha annually. The major progresses have occurred in Panama, a country that has reduced the deforestation rate from 1.2 % to 0.4% and, Costa Rica that is the only country of the region that is increasing its forest cover. In contrast, Honduras, Nicaragua and Guatemala still have high rates of deforestation between 1.5% and 2.1% (CABAL, 2010).

Table 2. Forest cover changes in Central America

Country	Annual changes of forest cover 1990-2000 (%)	Annual changes of forest cover 2000-2005 (%)	Annual changes of forest cover 2005-2010 (%)
Belize	-0,6	-0,7	-0,7
Costa Rica	-0,8	-0,9	0,9

El Salvador	-1,3	-1,4	-1,5
Guatemala	-1,2	-1,3	-1,5
Honduras	-2,4	-1,9	-2,0
Nicaragua	-1,7	-1,9	-2,1
Panama	-1,2	-0,4	-0,4

Source: CABAL, 2010

It is usually accepted that the agricultural expansion, the commercial exploitation of timber and the opening of roads and tracks are three of the main causes of deforestation in Latin America. Additionally, local factors influencing land use changes are, commonly, the cost of access to transportation and market, population density and biophysical conditions of the soils. Some of these issues occur simultaneously and are determined by further socioeconomic and political factors, known as the underlying drivers of deforestation (CABAL, 2010).

In Central America, the underlying drivers of deforestation are deep, diverse and not well understood. However, the neoliberal tendencies of the last decades have shown that the agro-export models, the unequal distribution of resources, the inadequate ways of soil exploitation in conjunction with the population growth, have resulted in the deforestation of vast forest extensions and the exclusion of important sectors of the population, especially farmers from the agricultural frontier and indigenous peoples from their lands. Moreover, a substantial problem is the land property regime actually existing in the region. In a generalized way, large parts of the forest users do not have a land title, and most of the legislation requires the demonstration of the land use (normally agricultural usage) to accredit the possession of a territory. In this sense, land use changes and agricultural frontier advancement have been motivated by the same political frameworks of the countries (CCDA, 2010).

➤ Indigenous peoples and their legal situation

According to Edouard (2010), in Central America the majority of the indigenous territories have a high degree of uncertainty over the property of their lands, resulting in numerous conflicts with private and state actors. Although, this is not always recognized by national legislations, indigenous demands in the region are strong and aimed at the legal recognition of their property rights over the land, the recognition of the rights to self-determination and autonomy, and the right to FPIC. The legal framework that guarantees the possession and governance of the indigenous territories is under development and the situation differs from country to country.

Nicaragua started the legal recognition of some indigenous territories in 1915 and 1925, followed by the autonomy law in 1987 and more recently with the approval of the Law 445 for the Atlantic Coast titling in 2002. In Guatemala, only after the peace agreements in 1996, the identification of the indigenous people and the necessity to consider them as priority groups for land access was recognized. In the case of Panama the indigenous peoples were particularly active to defend the possession of their territories and the first legal reforms were done in 1938 and 1953 with the creation of the first “Comarca” *Kuna Yala*. Later, in 1972 the changes to the national Constitution opened a broader juridical framework for the recognition of new indigenous territories. In Honduras the legal interventions are very recent and

there is a project proposal for the legal regulation of land property for indigenous territories. In the case of Costa Rica, the reform of the legal framework in favor of the indigenous territories was mainly due to the ratification of the ILO Convention No. 169 (Edouard, 2010).

Finally, it is important to mention that the reforms undertaken in the region have been favored by the construction of guidelines and principles at the international level, like the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the International Labor Organization (ILO) Convention No. 169, which has not yet been ratified by all the countries in the region.³

➤ Progress of the region in the REDD process

Assuming that under the United Nations Framework Convention on Climate Change (UNFCCC), after the year 2012 a second period of Green House Gases (GHG) emissions reduction commitments will be agreed upon, (REDD) Reductions of Emissions due to Deforestation and Forest Degradation strategies could play a significant role. As a consequence, all Central American countries have shown their interest to get prepared for a REDD regime and different programs characterized by giving support to the governments were created during the last years. The main initiatives supporting Central American countries are the FCPF, UN-REDD and the regional REDD/CCAD- GIZ program.

According to Cuellar et al. (2011), the principles used by the main programs are delineating ways to address REDD issues that could increase state control over forest resources, marginalize forest people and lead aside other possible opportunities to tackle deforestation and forest degradation. Following the same authors, the core points of most REDD preparation strategies supported until now, are mainly focused on institutional coordination, methodological and technical aspects to monitor forests. Therefore, due to significant gaps of participation and consultation with diverse actors (especially with indigenous and rural communities) and other fundamental issues related to social safeguards, the preparation processes in almost all the countries could face critical challenges that need to be addressed. Otherwise the implementation of REDD strategies in Central America could lead to the achievement of emission reductions, but with very high social costs of exclusion and illegitimacy, easily enhancing bad governmental conditions in those territories.

Claims brought forward by indigenous organizations from Panamá, Costa Rica, El Salvador, Nicaragua, Honduras, Belize and Guatemala, such as the “*Cushcátan* Declaration” in August, 2012⁴, are consistent with the statements made by Cuellar. In this declaration indigenous organizations appealed the governments, and specifically the UN-REDD, the FCPF and the REDD/CCAD/GIZ programs, to correct

³ In the region the countries that ratified this convention are: Honduras, Guatemala, Nicaragua and Costa Rica.

⁴ See *Cushcátan* Declaration paragraph 8:

„8) *Hacemos un llamado a los gobiernos de Centroamérica, así como a los organismos de cooperación y ONG´s, específicamente a la GIZ (proyecto regional de REDD-CCAD y las oficinas nacionales de Centroamérica), al UN-REDD, Rain Forest Alliance y al FCPF del Banco Mundial que promueven los procesos REDD y otras iniciativas para enfrentar los efectos del cambio climático en la región que:*

a) Revisen y corrijan sus actuaciones operativas, ya que están violando derechos Indígenas, sobre todo los derechos a la consulta, consentimiento libre, previo e informado, la titularidad que tenemos sobre nuestros territorios, bosques y otros recursos naturales, acceso y equidad en la distribución de beneficios, así como el respeto a las organizaciones representativas de nuestros pueblos.“

The complete declaration was accessed online in December 2013 at: <http://www.elistas.net/cgi-bin/eGruposDMime.cgi?K9D9K9Q8L8xumopxCoqkqtouwCTYWUTCvthCnoqdy-qlhhyCPRVhfb7>

their performance. According to them the operations of these institutions “[...] are violating the indigenous rights, especially the rights to FPIC, the legal rights over the territories, forest and natural resources and the access and equal distribution of benefits [...]”.

The FCPF became operational in 2008. This program focuses on assisting countries to develop policies, organizational capacities for REDD implementation, and providing them with performance-based payments for emission reductions. The Fund provides a grant to each participating country to develop a Readiness Preparation Proposal (R-PP), in ways that are supposed to be inclusive for all key stakeholders (RUTH, 2012). Once the R-PPs are submitted and assessed with a preparation grant, the FCPF supports actions to develop a Readiness Package (R-Package) that starts with an Emissions Reduction Program Idea Note (ER-PIN). Until now all the countries in Central America except Dominican Republic and Belize, have presented their R-PP to this program. In the case of Costa Rica, there is already a grant agreement to prepare the R-Package, in the cases of Panama and Guatemala the R-PP are ready for a formal assessment and in the cases of Honduras, El Salvador, and Nicaragua, the proposals need still to be assessed by the Technical Advisory Panel (TAP).

In terms of stakeholder inclusion and social safeguards under the FCPF, the last review done by the Independent Evaluation Group of the World Bank (2012), states that the Strategic Environmental and Social Assessment (SESA)⁵ and the Guidelines for Stakeholder Engagement⁶ represent the most important added values of the program and have great potential to strengthen the governance and effectiveness of REDD. However, these mechanisms have yet to be fully implemented in almost all of the participating countries and many groups of civil society see the SESA like an attempt by the World Bank to weaken their own existing system of safeguards in order to underestimate the opportunities for multiple benefits (BICUSA, 2010). On the other hand, authors like Dooley et al. (2011) have highlighted that inside the Bank’s framework, the requirement for consultation is opposed to consent and that the R-PPs submitted by the countries do not present clear safeguards, or even sometimes do not comply to the World Bank’s own safeguards.

The UN-REDD Program was launched in 2008 to support the development of analyses and guidelines on technical aspects of REDD, such as MRV of carbon emissions and flows, as well as more social aspects, like the forests provision of multiple benefits for livelihoods and the engagement of indigenous peoples and civil society at all stages of the design and implementation of REDD strategies (UN-REDD 2011). The UN-REDD Program has two components: a) preparation and implementation of national strategies and mechanisms for REDD and b) support the development of normative solutions and standardized approaches for a REDD instrument linked to the UNFCCC.

⁵ “During the process of REDD preparation, countries must prepare SESAs to address the social and environmental challenges associated with the implementation of REDD+ measures. SESAs combine analytical and participatory approaches in two steps by: (i) identifying and prioritizing key environmental and social issues; and assessing policy, institutional, and capacity gaps to manage these priorities and recommendations; and (ii) preparing an ESMF that will be used to avoid and manage environmental and social risks and to mitigate potential adverse impacts, by applying the relevant World Bank Safeguard policies” (Ruth, 2012:18).

⁶ “These Guidelines are designed to support effective stakeholder engagement in the context of REDD+ readiness for the Forest Carbon Partnership Facility and the UN-REDD Program, with an emphasis on the participation of indigenous peoples and other Forest-Dependent Communities. The Guidelines contain 1) Relevant policies on indigenous peoples and other forest-dependent communities; 2) Principles and guidance for effective stakeholder engagement; and 3) Practical “how-to” steps on planning and implementing effective consultations” (FCPF and UN-REDD 2012:1).

According to Ruth (2012) social and environmental safeguards as well as considerations for stakeholder engagement play a major role in the UN-REDD program, and there is commitment to evaluate how well the program delivers on its stated outcomes. Even though the practical steps for stakeholder engagement are practically identical with the FCPF, the UN-REDD program emphasizes the need to free, prior and informed consent while the FCPF only considers consultation. Additionally, the UN-REDD Program in March 2012 developed a framework on Social and Environmental Principles and Criteria with the aim of promoting social and environmental benefits and reducing risks from REDD.

In Central America the only country supported by the UN-REDD program is Panamá. Cuellar et al. (2011), affirm that this program made an important change in the country's REDD preparation process, especially regarding the participation of indigenous peoples. After complaints by indigenous organizations due to the lack of inclusion in the R-PP for the FCPF in 2009, the UN-REDD program supported an agreement to strengthen the participation of the Council of Indigenous Peoples in Panama (COONAPIP) in the REDD Preparation Process. Nevertheless, some recent claims were presented by COONAPIP, denouncing the failure of UN-REDD and the ANAM to comply with their commitments.⁷

Finally, the REDD/CCAD-GIZ program was created in 2009 and the implementation started in March of 2010 with the participation of Honduras, Nicaragua, El Salvador, Panama, Belize, Guatemala, Costa Rica and Dominican Republic. The aim of the program is to improve the conditions in the region, to implement effective and sustainable compensation mechanisms to reduce CO₂ emissions from deforestation and forest degradation (GIZ, 2012). At the start of the project all the countries had presented their R-PIN to the FCPF but Costa Rica and Panamá had already presented the R-PP. That is an important consideration within the logic of the REDD/CADD/GIZ Project, because it is aimed at supporting the countries to formulate their national strategies in accordance with the FCPF process. Additionally the program is linked with different regional strategies of the Central American Environmental System (SICA) like the Strategic Regional Program for Forest Ecosystem Management (PERFOR), The Regional Strategy for Climate Change (ERCC) and the Regional Environmental Plan of Central America (PARCA) (Cuellar et al., 2011).

Regarding the social safeguards and the considerations for stakeholder engagement, the German Federal Ministry for Economic Cooperation and Development (BMZ) and the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) have a number of concepts, guidelines and strategies that are designed to be very inclusive and respectful regarding indigenous rights and participation⁸ that are

⁷ For more information see: Lang C, 2012. COONAPIP, Panama's Indigenous Peoples Coordinating Body, denounces UN-REDD. [online] available at: <http://www.redd-monitor.org/2012/08/30/coonapip-panamas-indigenous-peoples-coordinating-body-denounces-un-redd/>

⁸ For more information see: BMZ (2011) Human Rights in German Development Policy. Strategy. http://www.bmz.de/en/publications/type_of_publication/strategies/Strategiepapier305_04_2011.pdf BMZ (2006) Strategy 141: Development Cooperation with Indigenous Peoples in Latin America and the Caribbean http://www.bmz.de/en/publications/type_of_publication/strategies/konzept141.pdf Anderson, P., (2011). *Free, Prior, and Informed Consent in REDD+: Principles and Approaches for Policy and Project Development*. Published by RECOFTC and GIZ. http://www.recoftc.org/site/uploads/content/pdf/FPICinREDDManual_127.pdf

consistent with international human rights instruments like the UNDRIP. However, on the basis of the information provided and accessible in 2012 it was not possible to identify how those guidelines are implemented and observed in projects like the REDD/CCAD/GIZ program. According to information by Guillermo Mayorga, a regional Working Group on Safeguards has been formed with representation of all the countries of SICA.⁹

2. Description of the REDD/CCAD/GIZ program

➤ General aspects

The project Reducing Emissions from Deforestation and Forest Degradation in Central America and Dominican Republic (REDD/CCAD/GIZ), started in 2010 and it is planned to last for six years. The initial phase started in 2010 and it is meant to finish in 2013, and the second one should begin in 2013 and last until 2016. The initiative is promoted by the GIZ, financed by the Federal Ministry for Economic Cooperation and Development (BMZ) with an overall funding of 12 million €. The initiative is executed jointly with the Central American Commission for Environment and Development (CCAD).

On the national scale, the initiative supports the intersectoral dialogue, the development of REDD strategies and the implementation of compensation instruments adapted to the specific necessities of the local and indigenous communities. On a regional level, the program promotes the development of a joint position and focus on REDD to control the leakage of deforestation inside and between the countries (REDD-CAAD/GIZ, 2012a).

According to Jimenez (2011), and REDD-CAAD/GIZ (2012b), the program comprises three components with the following objectives and associated products:

Intersectorial dialogue: policy coherence between sectors and levels (national, regional, international) is improved in order to further forest conservation.

Products:

- The stakeholders are aware, trained and committed.
- Knowledge and communication instruments are implemented.
- The REDD strategy is formulated.
- National proposals are presented.

⁹ Information by E-Mail to INFOE on 20 October 2013 by Guillermo Mayorga, Sectorial Specialist of the REDD Programme and leading person for the first component of the program.

Compensation Mechanisms: institutional and regulatory conditions are created to implement sustainable compensation mechanisms that reduce CO₂ emissions from deforestation and forest degradation.

Products:

- Regulatory Framework for the implementation of pilot projects.
- Financial sources identified.
- Pilot REDD projects.

Monitoring and reporting: decision-makers and institutions that are required to report to the United Nations Framework Convention on Climate Change (UNFCCC) have access to the data and material they need to monitor CO₂ emissions from deforestation and forest degradation.

Products:

- Forest resources database.
- Reference scenarios.
- Monitoring, report and verification system implemented.

➤ Main Achievements

Workshops in each country were celebrated with the participation of key sectors and stakeholders, which allowed the creation of a general plan for the first period of the program and provided the basis to develop an operational plan for each country. On a regional level, common needs and parts that should comprise the REDD regional strategy were formulated. According to Mayorga (2012, pers. comm.) together, the national counterparts designated by the Ministries of Environment in each country and the regional partner CCAD identified nine topics as fundamental:

- i) Capacity building.
- ii) Set fundraising strategies for REDD, taking into account biodiversity and climate change.
- iii) Establish dialogue strategies in Central America.
- iv) Create a monitoring system at the regional level, taking into account national nodes and a regional node.
- v) Set the region's participation in international forums and initiatives.
- vi) Establish a knowledge management platform.
- vii) Identify criteria for selection of pilot areas.
- viii) Conclude experiences and propose a strategy on REDD Central America.
- ix) Environmental and social safeguards.¹⁰

¹⁰ In an E-mail communication Mr. Mayorga explains, that the order presented here does not imply a rank of priority and that the issue of safeguards is one of the most important of the Program which is proven by numerous activities in this regard. "[E]s necesario aclarar que el orden de los temas no tiene nada que ver con la importancia o prioridad de cada uno de ellos y que el tema de Salvaguardas es uno de los temas más importantes de la Agenda Regional del Programa REDD-CCAD/GIZ, prueba de ello son algunas de las acciones que se están desarrollando en países como Costa Rica (Implementación de un programa de "Formación de mediadores culturales" en el subbloque indígena pacífico central (Aradiques) y el subbloque indígena pacífico sur (Gnobes) para el diseño y fortalecimiento de los procesos de consulta dentro del marco de la estrategia nacional REDD+ en Costa Rica, que incluye el abordaje de los temas de monitoreo, reporte y verificación (MRV) y salvaguardas ambientales y

In parallel, during the years 2011 and 2012, a mapping and analysis of the relevant stakeholders was carried out and all the countries were updating the information. Some basic criteria to identify and prioritize potential areas for pilot projects and to develop a forestry inventory were identified and some indigenous communities were trained (REDD/CCAD/GIZ, 2012b). In addition, all the countries are developing an analysis of the legal framework related with deforestation and forest degradation, but there are not specific products until now (Mayorga 2012, pers. comm.)

In relation with the first component, to raise awareness and strengthen the commitment of the stakeholders, two trainings about forest management and REDD were developed, a course about forest resources monitoring, certified by CATIE was given to some relevant governmental stakeholders of all the participating countries and a round table discussion about the challenges for good forest resources governance was done. To formulate the REDD strategy the nine topics identified are under development and the PERFOR is being updated, including new issues like climate change, biodiversity, food security and REDD. Regarding the presentation of the National proposals, the progresses correspond to the REDD options included in the R-PP of each country (Mayorga 2012, pers. comm.). Furthermore, measures to involve indigenous populations have started and some meetings and workshops between indigenous organizations and the representatives of the REDD/CCAD/GIZ program are taking place. The aim of the meetings and workshops is to discuss and establish priority topics that should be included in the program and to create an agenda for climate change and socio-productive natural resources management for the indigenous communities of the region (REDD/CCAD/GIZ, 2012 c and d).

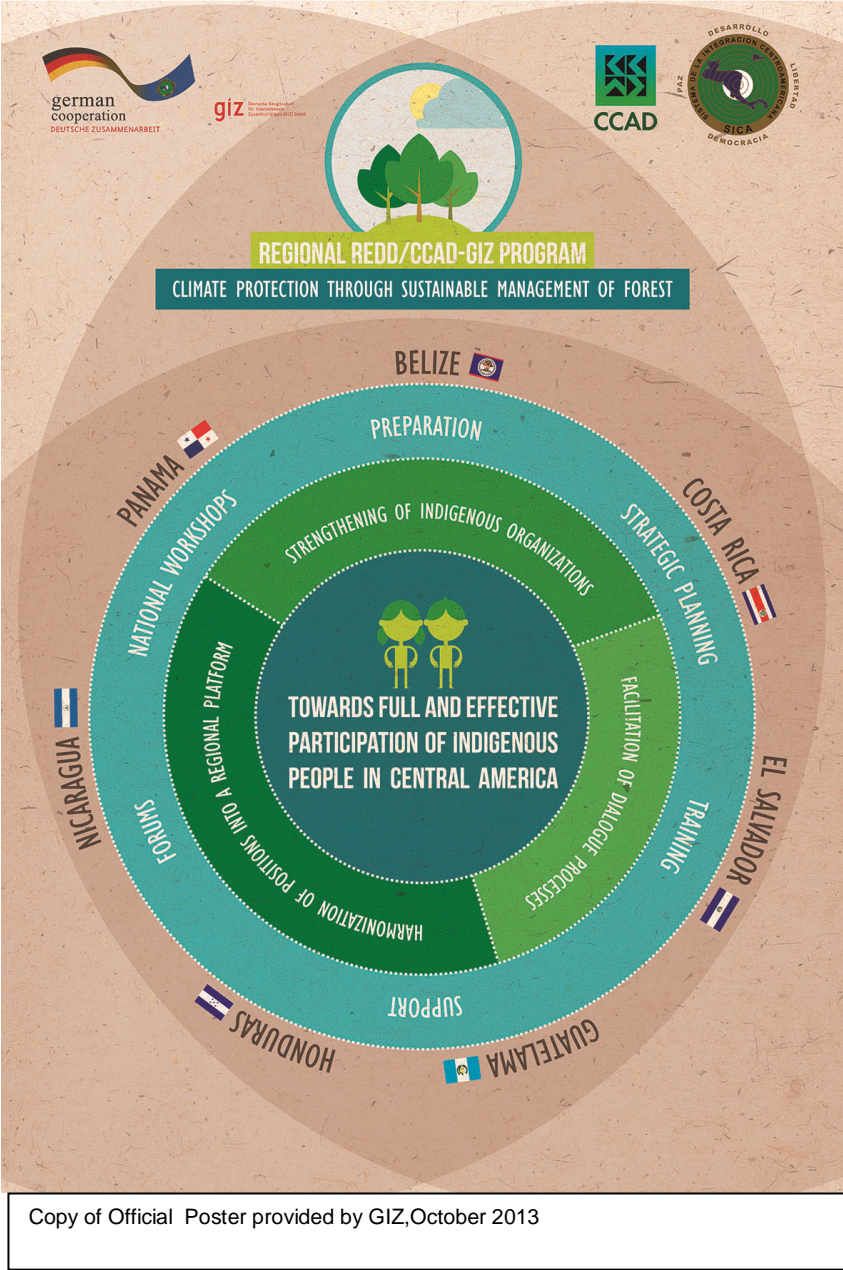
Concerning the second component of the program, on compensation mechanisms, a consultancy was done to identify important criteria for the implementation of pilot projects and to systematize the international standards for forest carbon projects. To exchange information about the procedures and requirements for project implementation, a workshop with experts on forest carbon markets and financial sources was developed (REDD/CCAD/GIZ, 2012e). Furthermore, in order to create a joint position among the countries and establish some agreements regarding the steps, mechanisms and funding instruments that the institutions and decision makers should follow for the implementation of REDD projects, the first meeting of the technical group on compensation mechanisms was held in June of the present year (REDD/CCAD/GIZ, 2012f).

Under the third component, one of the recent achievements is a forest resources database launched in October, 2012. Additionally several workshops and meetings took place to define the requirements for forest resources monitoring under the MVR context.

➤ Information on indigenous rights and participation

According to Mrs. Palm¹¹ (2012, pers. comm.) the level of involvement and participation of indigenous communities is different in each of the participating countries. The compliance with indigenous rights and international standards depends on the government, the legal framework and the progress in the REDD process of each specific country. Furthermore, as the REDD/CCAD-GIZ initiative is still in the initial phase, the implementation of pilot projects under the program has not taken place yet and all the safeguards and procedures regarding the participation and share of benefits of the indigenous peoples are still under construction.

However, indigenous rights and participation seem to be considered in almost all of the components of the program and have been identified as fundamental challenges in most of the countries (Panzel, 2012). In that sense, a worthy example to mention is that in May 2012, the REDD/CCAD-GIZ program signed an agreement with the forest and climate change program of the UICN to establish and coordinate initiatives that “*promote the participation of vulnerable groups in the process of preparation and implementation of REDD, especially indigenous groups, women and local communities*” (REDD-CAAD/GIZ, 2012g). The REDD/CCAD/GIZ program wants to improve the mechanisms and participation channels of all the stakeholders, including indigenous peoples as key stakeholders (Jimenez, 2011). Therefore, the program is supporting some countries to formulate and consult the national REDD strategies with the indigenous organizations (Pancel, 2012). The main components of the strategy and efforts in this regard are represented in the graphic to the right. In order to strengthen indigenous participation, organization and capacities a number of workshops, strategies, studies and advisory activities have been supported. These include support for the



¹¹Helen Palm is the administrative official of the program and according to the project director, the person responsible for the indigenous related aspects.

elaboration of a Strategic Plan of Political Incidence of the National Coordination of Indigenous Peoples of Panama (Coordinadora Nacional de Pueblos Indígenas de Panamá /COONAPIP), aiming to address and strengthen the political governance, environmental governance and the institutional functioning of the organization. It further includes the commissioning of a paper on Recommendations with regard to the participation of indigenous peoples and other actors in the different components of the REDD/CCAD/GIZ Program focusing on the following issues: support for indigenous organizations, application of the participatory approach in pilot areas, and other mechanism of participation. In Costa Rica, the program supported the elaboration of a proposal for discussion of a mechanism of representation of indigenous peoples and civil society in the Working Group for the National REDD+ Strategy.¹² However, it should be mentioned that these activities were undertaken while the process for the development of the national REDD+ was advancing in the different countries following the requirements and dynamics of the FCPF which led to the exclusion of indigenous peoples in some of the initial decisions and steps in these processes.

According to the president of the Council of Indigenous of Central America (CICA), Jesús Martínez (2012, pers. comm.)¹³, with the workshops and the involvement of the indigenous representatives an effort is made to *“identify how to involve the communities and from that point, pose the respect of the rights of the indigenous peoples. I think GIZ is working in a good way with this project, because the agendas are not imposed and we are constructing them step by step.”* Furthermore, Mr. Martínez mentioned that discussions about indigenous rights are addressed in the project, and according to him *“The first and most important point is the enhancement of the political willingness of governments to clarify the juridical ownership of many indigenous lands that are currently under conflict.”*

Though the statements of Mr. Martínez have not been compared yet with the studies about the causes of deforestation supported by the program, or with the opinion of other indigenous representatives in the countries, they are consistent with one of the main goals of the first component. Here, the identification of the deforestation causes, with special emphasis on the problems of land tenure, sectors and actors involved in soil use, should allow the creation of legal arrangements, including land and carbon property rights and the establishment of a plan to consult and follow the strategy with all relevant stakeholders (Jimenez, 2011). In addition, the results of the meeting on Compensation Mechanisms of the second component stated that, *“it is fundamental to develop a clear juridical definition of the ownership of the land and the property rights of the carbon, due to the fact that this is frequently an obstacle to realize the compensation payments”* (REDD-CAAD/GIZ, 2012h).

Mr. Martínez also mentioned FPIC as a point discussed during the workshops and meetings held with the indigenous representatives. On this regard he stated: *“I think the GIZ project could help us, because in many occasions the same governments do not take into consideration the indigenous communities*

¹² These are just some examples of the activities on indigenous participation supported by the program. Respective documents: COONAPIP (2011). Plan Estratégico para la Incidencia Política de la COONAPIP. Documento Borrador. Panamá, 2011 .51 pp. INFORME DE CONSULTORIA: Recomendaciones con respecto a la participación de pueblos indígenas y otros actores en los distintos componentes del Programa REDD/CCAD/GIZ-EKF . Presentado por: Angelika Kandzior. San Salvador, El Salvador, Noviembre 2012 . (REDD – CCAD – GIZ) PN 08.2211.4-001.00 “DESARROLLO DEL PLAN DE CONSULTA PARA LA FASE DE PREPARACION DEL PROCESO REDD (READINESS PHASE) DE COSTA RICA” Propuesta De Discusión Para El Mecanismo De Representación Indígena Y De Sociedad Civil En El Grupo De Trabajo De La Estrategia Nacional Redd, MSc. Carlos Borge , Setiembre, 2011

¹³ The statements made by Mr. Martínez were translated to English from the communications held in Spanish.

and prepare the documents like the R-PP without consulting, as was the case with the World Bank". This statement made by Mr. Martinez is also coinciding with some of the main agreements achieved under the second component on Compensation Mechanisms about social aspects. "The minimum requirements for the implementation of REDD projects in the region, should include participation of indigenous peoples, under the FPIC. The implementation of social safeguards like those of the UN-REDD and the FCPF is fundamental and should be used for all countries to develop the regional REDD strategy" (REDD-CAAD/GIZ, 2012h).

Finally, in the third component of the program, considerations for the incorporation of co-benefits, livelihoods and biodiversity, within the activities of monitoring and reporting carbon stocks are mentioned, and according to Martinez (2012, pers. comm.) "[T]he methodology used by the GIZ could be very successful because they are discussing about the Climate Change and the natural resources, and also how this problematic could be faced according to the indigenous cosmovision and our traditional ways to manage the natural resources."

Project Evaluation

Until now, some general aspects contemplated by the REDD/CCAD/GIZ program about indigenous rights and participation were mentioned. However, in the research process for the case study, there were difficulties to obtain detailed information from the GIZ team developing the initiative. For that reason, even when a comprehensive assessment of the program is not possible, in order to have some insights, based on the last ER-PIN, Readiness Progress Fact Sheets and/or the R-PPs submitted to the FCPF, the next section will present aspects of indigenous rights and participation of Costa Rica and Honduras; two countries that could partly reflect the performance and contribution of the REDD/CCAD/GIZ program, due to the fact that they have addressed a higher number of issues under the collaboration with GIZ in comparison to the other participant countries¹⁴. Additionally, it is important to mention that in the case of Costa Rica the REDD/CCAD/GIZ is supporting the country to implement the National REDD strategy with other international partners and in the case of Honduras it is supporting the national teams to formulate and consult the REDD strategy.

Costa Rica

➤ Scale and location of the proposed program

According to the ER-PIN, REDD activities will be implemented at the national level under the same modalities as the current Payment for Environmental Services Program (PESP). This means, owners of private land (3.3 million ha) are recruited with clear property rights, mainly consisting of individually owned properties and to a lesser extent communally held land (indigenous territories), zoned for forestry

¹⁴ For detailed information see Pancel, 2012. Estado de avance de REDD en la región y principales desafíos para su implementación p 50. [online] available: <http://finanzascarbono.org/comunidad/pg/webinars/group/group:3530/view/139708/avances-de-redd-en-centroamerica-y-republica-dominicana>

and agricultural use other than national parks or biological reserves. Therefore, the program will not be implemented in a single territory or large expanse of land, but rather in a set of parcels of varying sizes located on private land or in indigenous territories zoned for mixed use (old growth and secondary forests, overused pastureland, and land used for perennial crops) and distributed throughout the national territory (figure 1). In order to maximize environmental co-benefits such as soil recovery, erosion control, and improved water filtration, priority will be given to induction of secondary growth, the establishment of forest plantations and agro forestry systems on overused land. These areas are concentrated in the lowlands of the northern Caribbean slope and the central and southern Pacific slopes of the country (figure 2).

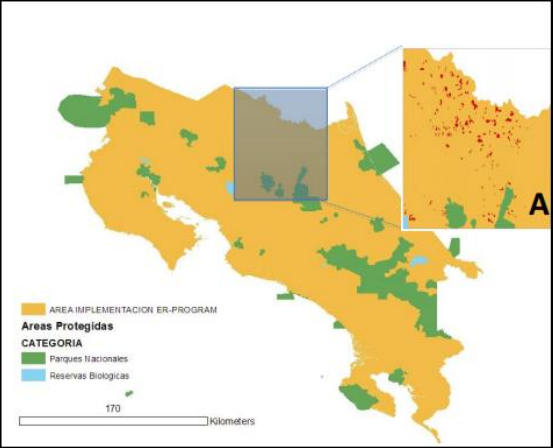


Figure 1. Program implementation area. Box A illustrates in red, an example of private land distribution in the implementation area (FCPF Carbon Fund ER-PIN Template v.3 September 8, 2012).

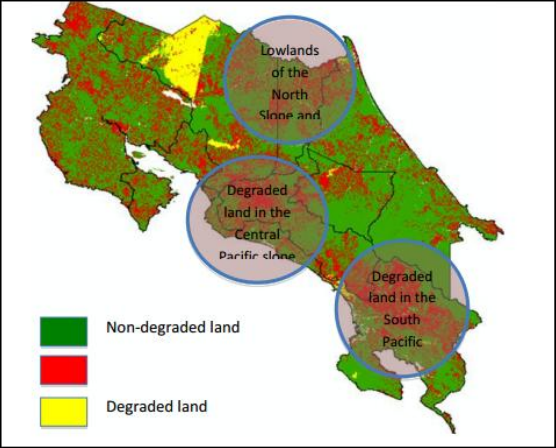


Figure 2. Location of REDD activities under REDD/CCAD/GIZ aimed at enhancing carbon stocks (FCPF Carbon Fund ER-PIN Template v.3 September 8, 2012)

➤ Indigenous peoples and their legal situation

In the Costa Rican territory there are 63,876 indigenous inhabitants, distributed in 24 indigenous reserves. The population is located in an area with a total of 334,447 ha., distributed in different regions of the country, belonging to eight ethnic groups: Cabecar Bribri, Brunca or Boruca, Ngöbe Guaymi or, Huetar, Guatuso or Maleku, Térraba or Teribe and Chorotega (figure 3).

Regarding the legal situation of the indigenous territories, the 1977 Costa Rican law stipulates that the communities living in the reserves are the legal owners, the ILO Convention No. 169 approved in Costa Rica in 1992 states the obligation of governments to "take measures necessary to identify the lands which the peoples concerned traditionally occupy, and to guarantee effective protection of their rights of ownership and possession." In addition, other legal provisions of the country declare the indigenous territories as inalienable, nontransferable and for the community's exclusive use. Furthermore, there is also the legal recognition of the exclusive right of the indigenous people to exploit their natural resources, as a consequence, the rational exploitation of natural resources (forestry, environmental

services, or other) deriving economic benefits, must be conceived as the community's patrimony and it will be through the Integral Indigenous Development Associations (ADIIs) that such income should be distributed or invested (Cajiao, 2002).

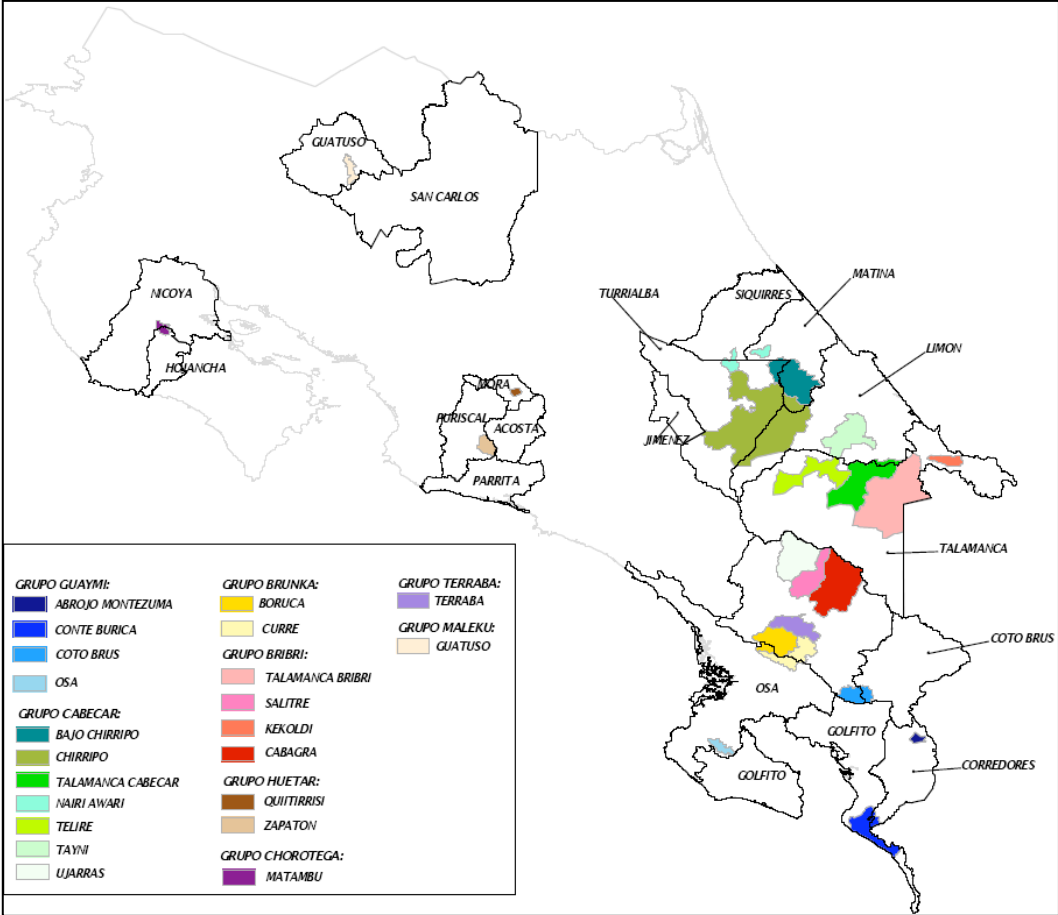


Figure 3. Indigenous territories of Costa Rica (Mesa Nacional Indígena de Costa Rica, 2011).

- Recognition of fundamental human rights and compliance with national and international human rights standards and safeguards (particularly those pertaining to indigenous peoples) as fundamental condition

In the case of Costa Rica, the ILO Convention No. 169 and the Convention on Biological Diversity are explicitly mentioned as fundamental guidelines for the REDD strategy of the country. In this sense, the R-PP has considered the possibility of developing a participation and consultation strategy with the legal entities and the rights holders of land and natural resources who may be affected by the REDD strategy; this should guarantee the achievement of both Costa Rican law and the ILO Convention 169. The rights holders are mentioned in the R-PP as the environmental services providers that could be physical or juridical persons owning natural or planted forests, including indigenous communities. This would include, the indigenous communities living inside the 24 indigenous territories that are delimited by the Costa Rican law. Furthermore, specific environmental and social safeguard policies were identified for the preparation phase as part of the R-PP. The following World Bank Operational Policies were

identified as the reference framework for the SESA in the R-PP: Environmental Assessment (OP/BP 4.01), Indigenous peoples (OP/BP 4.10), Forests (OP/BP 4.36) and Involuntary Resettlement (OP/BP 4.12). Additionally, a proposal was made to UN-REDD to design the safeguards information system for Costa Rica (ER-PIN, September 2012).

- Full and effective participation of indigenous peoples and local communities in all stages and processes of the project, including decision-making

It is explicitly mentioned in the ER-PIN that the indigenous communities and their representatives are relevant stakeholders that should be identified and included in all the preparation process for REDD+. ¹⁵ As potentially affected communities all the indigenous territories existing in the country and their respective ADIIs were identified. From the 24 ADIIs existing in the country, 20 of them were informed about the REDD preparation process previous to the first consultations, which took place during January and February of 2010 with the participation of 70 indigenous leaders representing 20 ADIIs. As a result of those consultations, the indigenous peoples proposed that the REDD strategy should not be focused only in the global carbon markets, based on the reduction of emissions of avoided deforestation, but compensation mechanisms should be included to maintain and restore forests in protected areas of public domain. Additionally, the representatives of some ADIIs stated they will be attentive to ensure that their participation is not merely decorative, but proactive during the construction of the National REDD strategy and that they intend to create their own strategy based on indigenous rights and incorporating the indigenous worldview and cultural reality of the region.

Regarding the decision making process, by the year 2011, eighteen of the ADIIs were already participating in the discussions and processes to get ready for REDD and a study supported by the GIZ was planned to identify the reasons why the other indigenous associations were not participating and to find ways to include them. Additionally with the national SESA workshop, held in May, 2011 relevant sectors of society including indigenous peoples, were informed about the Costa Rica's revised REDD. ¹⁶ Moreover, the risks and benefits of each of the REDD strategic options included in the R-PP were identified and prioritized by the participants in order to include them in the SESA's work plan that should be prepared for the next phase of the national REDD strategy preparation. Some of the most important points discussed were the sustainable management of forests, the financial mechanisms and the property rights over the land (ER-PIN, September 2012). In the case of the indigenous representatives, they considered that the structure of the methodological instrument used during the workshop "was forcing a very vertical system analyses that was inconsistent with the indigenous system that is more circular and integral"¹⁷. As a result, the indigenous representatives made an analysis not only identifying risks and benefits but also gaps that, according to them, need to be included in the REDD strategy or significant risks would be generated for the indigenous peoples. ¹⁸

¹⁵ FCPF Carbon Fund ER-PIN Template v.3 September 8, 2012. Page 34

¹⁶ See report of the workshop under: http://www.fonafifo.go.cr/paginas_espanol/noticias/EESA/MemoriaTallerNacionalSESA.pdf

¹⁷ MINAET, 2011: Memoria Taller Nacional Evaluación Estratégica Social y Ambiental (SESA). See Link under footnote 16

¹⁸ Detailed information about the outcomes of the workshop are available at:

http://www.fonafifo.go.cr/paginas_espanol/noticias/EESA.htm and regarding the indigenous input http://www.fonafifo.go.cr/paginas_espanol/noticias/EESA/Resultados/PresentacionPueblosindigenasTallerESSA.pdf

On the other hand, the construction and implementation of the REDD strategy has four main instances: the Directive Board, which is responsible for the policies design, the decision making and the conflicts resolution; the Secretariat from FONAFIFO, responsible for the coordination and execution of the REDD plan; the Executive Secretariat, responsible for the interinstitutional coordination; and the Interinstitutional Commission, responsible for the interinstitutional execution of the REDD strategy. With the support of the GIZ and the FCPF, in the year of 2011 it was decided to expand the Directive Board to include one indigenous representative and to include the traditional indigenous structures into the Interinstitutional Commission. According to the last progress fact sheet presented to the FCPF in October of 2012, there is already an established methodology to select the indigenous representatives based on a self-selection process, considering binding aspects of the ILO Convention No. 169 and the Convention on Biological Diversity. In addition, regarding the indigenous participation in the process of monitoring, reporting and verification (MRV), the design of the mechanisms has not been completed yet. But it is stated that the interinstitutional committee will revise the scope of design to ensure full and effective participation of the stakeholders.

Finally, another important aspect considered in the case of Costa Rica regarding participation processes is that in the case of grievance and complaints coming from any relevant stakeholder, it is planned to establish a mechanism to attend the complains. The REDD Executive Secretariat (within FONAFIFO) will receive and communicate the grievance and/or complaint to the Audit Office, which will coordinate with the relevant FONAFIFO department to prepare the appropriate institutional response. The grievance mechanism will include specific procedures for receiving, documenting, following up, investigating and reporting, such procedures will be managed by the Audit Office with the assistance from the REDD Executive Secretariat in coordination with the REDD Working Group (ER-PIN, September 2012).

- Compliance with the right to consultation and to free, prior and informed consent of the affected indigenous peoples and communities

According to the R-PP, in the design and implementation of REDD initiatives, it is fundamental to consider the willingness of the Government of Costa Rica to follow the principle of FPIC. Nevertheless, it is not explicitly mentioned that the initiative would not continue if there is no consent, and a process to obtain it is not clearly mentioned. The ER-PIN states, the series of early information dissemination workshops has engaged a variety of stakeholder groups in an initial dialogue on REDD, including the indigenous peoples. Additionally it is claimed that a communication strategy will be designed and carried out to guarantee the dissemination of "*culturally appropriate information to the relevant stakeholders*". This communication strategy will be aimed at the support of the SESA consultation and work plan development to help the local and regional organizations in the identification and articulation of the issues that affect them "*considering their own decision-making process, and socio-cultural channels of communications.*"

- Due consideration and respect for the rights to land, territories and resources including customary rights and rights to access and use of indigenous peoples and local communities

Regarding land rights, the R-PP states that as the indigenous communities have managed their territories under customary rights and there is no recognition of individual land property rights, the processes and mechanisms of institutional coordination for cadastral regularization should be continued and enforced. Although indigenous law stipulates that their territories cannot be rented or sold to non-indigenous peoples, inadequate management of the indigenous reserves, illegal purchase, occupation or segregation of many indigenous lands have occurred during the last decades. For over thirty years, organizations and indigenous leaders from Costa Rica have fought for the solution of a structural solution to and defend their territories, but according to the Cadastre and Registration regularization program, indigenous reserves are usurped by outsiders, the boundaries are not clear and not well defined, there are problems of legal titles because some territories have them and others do not. Consequently, indigenous peoples have no legal certainty over their territories and as a result land conflicts are common.

Therefore, the government of Costa Rica started a cadastral regularization program, which has already delimited and analyzed the land tenure situation in 15 of the 24 existent indigenous territories. Diverse situations were identified and there are non-indigenous farms inside the indigenous reserves, some cases of expropriation and some cases where the settlers living inside the reserves do not have any legal position regarding the land. Thus, as part of the REDD strategy action plan, it is proposed to design 24 different strategies, one for each particular indigenous territory, in order to remove the title deeds of the farmers and eliminate the illegal settler's occupation. This process will be carried out respecting the indigenous peoples' individual rights, finding ways that do not imply changes with regard to their legal and autonomous status.

Regarding the ownership of carbon or other ecosystem services of the forest, in the R-PP it is expressed that a forest can be transformed into an asset, materialized in an economic factor that gives value to a specific environmental service. This is a property right derived from the ownership of the forest and for this reason, transferable. In that sense, the land owner is also the carbon owner. In public domains, the carbon rights belong to the State; in indigenous territories, to the indigenous community and in private domain lands to the individual owner.

➤ Protection and enhancement of biodiversity, traditional livelihoods and sustainable development

In Costa Rica land use change depends mostly on the income produced by an alternative use in contrast to the income produced by the forest. Other factors such as the household income, the spiritual values associated to the forest or the educational level may influence the decision, but its effect is only marginal so far. In the indigenous territories, the main drivers of deforestation are the little income from forest resources for inhabitants of indigenous territories and the State's failure to prevent invaders from gaining illegal land titles in indigenous territories. Therefore the strategies outlined in the R-PP contemplate the options such as the creation of specific PESP adequate to the customary property regimes, the enabling of natural forest management and the resolution of the land tenure problems.

Regarding the environmental and social benefits, other than emission reductions, the ER-PIN mentions that the main strategies contemplated can produce co-benefits like the conservation of 35,000 ha of

forests with high biodiversity value not included in the existing system of protected areas, improve the connectivity in biological corridors, the water quality conservation and the water flow regulation. In addition, an increased demand for wood may promote forest activity and create jobs in depressed regions of the country. To monitor the co-benefits, even when the design of the mechanisms that could provide this kind of information has not yet been completed, it is stated that an inter-institutional committee created by means of a letter of understanding, will revise the scope of the design to ensure that information is provided for monitoring the compatibility of the REDD measures with forest conservation and biodiversity. In relation with the enhancement of traditional livelihoods and support of the traditional indigenous knowledge and practices of forest management, there are not specific measures mentioned.

➤ Transparent and fair Benefit sharing

According to the ER-PIN, in Costa Rica the ownership of environmental services generated by forests or plantations is considered an "asset" or "good" that belongs to the owner of the property providing the service thus, the owner can sell his carbon rights to a third party in exchange for compensation. The benefit-sharing arrangement that was developed and implemented in the PES Program in the various types of forest ownership throughout the country, will be used for the REDD Program and will be prioritized to include forests located in protected areas, indigenous reserves and private forests. In the case of indigenous territories, it will be necessary to design a new PESP model that responds to and meets the expectations of the indigenous peoples. The strategic options will be further improved by analytical studies and consultations, as for example, analysis of opportunity costs for all strategic options, including analysis of the potential costs of compensation in the case of loss of income or restricted access to natural resources by communities.

Honduras

➤ Indigenous peoples and their legal situation

In Honduras there are 381,495 indigenous inhabitants, representing 7.25% of the total population in the country. They are distributed in different regions and belong to seven ethnic groups: Lencas, Chortis, Garifunas, Tolupanes, Pech, Tawahka and Misquitos (figure 4).

Figure 4. Indigenous territories in Honduras. (OACNUDH, 2011)



The state ratified the ILO Convention No. 169 and recognizes the indigenous peoples' right to collectively own the land. Nevertheless, numerous communities continue to live in legal uncertainty regarding the possession of their lands and until now there are no clear mechanisms established to solve this problem (OACNUDH, 2011).

➤ Scope of the REDD proposal

In the case of Honduras, as the formulation of the R-PP represents only the description of steps that the country will take to prepare itself to be ready for REDD over time, there is not a proposed scale and location for REDD activities yet.

After the R-PP was submitted in December 2011, complaints from the National Confederation of Autochthonous People of Honduras (CONPAH) were submitted to the Secretariat of Natural Resources and Environment, claiming that the proposal was done without consulting the indigenous representatives and asking for the withdrawal of the proposal.¹⁹ As a consequence, a new R-PP version was submitted in November 2012, in accordance with the observations made by the Technical Advisory Panel (TAP) from the FCPF to the former version, the updated version added several issues and included sections drafted by the Technical Committee of CONPAH.

➤ Recognition of fundamental human rights and compliance with national and international human rights standards and safeguards (particularly those pertaining to indigenous people) as a fundamental condition

The R-PP specifically mentioned the ILO convention No. 169, the CBD and the UNDRIP as principles that should be the basis to develop the REDD preparation processes, especially because Honduras is signatory of those international agreements. Also, the social and environmental safeguards identified in the R-PP were the operational policies for Indigenous People (OP/BP 4.10), Environmental Assessment (OP/BP 4.01) and Forests (OP/BP 4.36) from the World Bank.

➤ Full and effective participation of indigenous peoples and local communities in all stages and processes of the project, including decision-making

According to the R-PP, during the year 2011, a process to inform five indigenous groups about the basic issues of climate change, REDD and the national proposal was conducted, but the process was not completed due to lack of time and budget. Therefore, after the events generated with the submission of the R-PP in December of 2011, the technical sub-committee on REDD started a process with the CONPAH in May of 2012 to discuss ways to improve the participation of the indigenous peoples in the REDD preparation process. From that moment on an agreement was prepared to establish a National Indigenous Board on Climate Change (MNICC) which is being formalized. Later, in July 2012, the first meeting between the MNICC and the technical sub-committee on REDD was held in order to start a

¹⁹ See the case study on Honduras and FPIC in the framework of the INFOE research for some further information as well as: http://www.forestcarbonpartnership.org/fcp/sites/forestcarbonpartnership.org/files/Documents/PDF/Feb2012/CartaCONPAH_SERNA_R_PP_Honduras.pdf

dialogue process. An agreement was reached, and the government recognized the MNICC as a significant instance that will work in coordination with the sub-technical REDD committee and not subordinated to it. However, it is part of the agreement that the MNICC will be integrated into the technical sub-committee with advisory functions but without the right to vote. On the other hand, to enhance the participation of the indigenous peoples in the process, it was decided to design a consultation process that included the following activities:

- Mapping and Identification of indigenous peoples in Honduran territory: with the support of the REDD/CCAD/GIZ program, the indigenous communities living in areas of forest vocation were identified.
- Presentation of basic concepts to be considered for REDD + processes: From June to December 2011, workshops to present basic information and concepts related with the National Strategy of Climate Change (ENCC), the REDD mechanism and safeguards of the COP 16 were developed with 171 participants.
- Methodology planning to develop introductory workshops: preliminary documents were prepared with the support of the REDD/CCAD/GIZ program to let the indigenous communities decide about the time and ways they wanted to be consulted.
- Introductory Workshops: by early 2012, there were workshops scheduled for national REDD consultations. However, given the comments received after the last R-PP was submitted, the process stopped and it was decided to restart the process in full coordination with the MNICC.²⁰

Finally, it is stated that as part of the continuity of the process, it is of great interest to work with indigenous peoples in the socialization of the current R-PP version in order to start the steps of the FPIC process.

- Compliance with the right to consultation and to free, prior and informed consent of the affected indigenous people and communities

As the R-PP is just the roadmap of the REDD strategy, a process of FPIC has not taken place yet, but it is mentioned as a fundamental aspect of the REDD preparation process which should be taken into account to: discuss a project idea that could affect the indigenous communities, to participate in the development of a detailed work plan, and to implement, monitor and evaluate the performance of the project. Furthermore, it is described as a mechanism that should be used in all the stages of the project, starting with the first contact of the project proponent and finishing with the implementation of the initiative, only if there is the consent of the affected community. In that sense, the CONPAH has developed a specific mechanism for the indigenous peoples in Honduras that respect their own representation structures.²¹

²⁰ Information summarized from : FCPF Carbon Fund Propuesta para la Preparación de Readiness R-PP Honduras. November 2012. [online] available:
<http://www.forestcarbonpartnership.org/fcp/sites/forestcarbonpartnership.org/files/Documents/PDF/Sep2012/II%20Borrador%20R-PP%20HONDURAS%20280912.pdf>

²¹ The specific mechanism was constructed partly based on the steps described in: Anderson, P. (2011). Free, Prior and Informed Consent and REDD+. Principles and Approaches for Policy and Project Development. RECOFTC y GIZ

The first step is to contact the CONPAH board to explain the idea of the planned project. If the project proponent goes directly to the communities, the planned structure for the consent process will not be respected. The board then informs the federations affected by the proposed project and they decide jointly if they are going to receive more information about the project or not. It should be clear that the consent to receive more information does not mean the consent to implement the project. Then if the CONPAH and federations agree to receive more information and enter into the process of consent, a roadmap should be developed outlining, among other things, which information is required, which are the stakeholders that will be involved and which are their responsibilities and the determination of external evaluators of the process. Additionally, effective channels of communication, accessible to the specific indigenous communities must be used. It is also very important to inform the communities that without their consent it is not possible to start any activity and that if this happens this constitutes a violation of their rights. Once all those aspects are clarified and decided an agreement should be signed by all the relevant parts.

Then, the project proponent should give all the relevant information to the indigenous communities; the information is analyzed inside the community with the help of an assistant committee. Once the information is analyzed, a decision is taken according to the internal mechanisms of the communities. If there is no consensus, more time will be needed to analyze the information. Once the decision is taken, a negotiation process between the project proponent and the indigenous communities can begin. At the moment when the negotiation process is over, meaning that aspects like the duration, scope, costs, benefits, restrictions, mechanisms of conflict resolution, ways of monitor and verify the fulfillment of the agreement over the time are clear, a formal document is signed.

Finally, the implementation process can start, but this does not mean that the CPLI is over, because it is a right that should be respected during the whole duration of the project. In that sense, for each agreement included in the final document, a supervision committee will evaluate the compliance and regulate the complaint mechanisms. Moreover, if it is necessary the communities are also free to seek external legal advice.

- Due consideration and respect for the rights to land, territories and resources including customary rights and rights to access and use by indigenous peoples and local communities

According to the ILO convention No. 169, Honduras recognizes the respect of indigenous peoples' rights to land in territories traditionally owned. Despite this, social conflicts related with the use and management of natural resources are very common in the country, especially those caused by unclear land property rights. Therefore, part of the strategies outlined in the R-PP contemplate the analysis of the legal and institutional frameworks regarding the property rights over land and carbon, and promote the regulatory framework existing for the regularization of indigenous people land rights.

- Protection and enhancement of biodiversity, traditional livelihoods and sustainable development

According to the R-PP it is expected to enhance the biodiversity conservation as well as the governance over forests systems in the country in order to improve life quality of thousands of people living in and

depending on the forest resources. Thus, a Strategic Environmental and Social Assessment (SESA) will be designed to identify the possible positive and negative impacts to the environment and live conditions of the people.

➤ Transparent and fair Benefit sharing

According to the R-PP, as the benefits that could be generated by REDD activities are not defined, it will be necessary to develop a legal framework in this regard.

4. Conclusions

➤ **REDD/CCAD/GIZ**

Due to the lack of comprehensive information, it is not possible to draw reliable conclusions on the consideration and practical implementation of indigenous rights and participation in the REDD/CCAD/GIZ initiative. However, it is worthy to mention that within the information available on the website dedicated exclusively to the activities of the program, there is significantly more detailed information about the methodological and technical aspects to monitor the forests than regarding the indigenous participation and social safeguards.

➤ **Costa Rica and Honduras**

In the case of Costa Rica, the process of FPIC does not provide for consent and the strategies outlined as consultation processes consist in descriptions of the communication strategies, which are repeatedly mentioned but not described.

In both cases the importance of creating specific mechanisms to solve legal uncertainty over indigenous territories are identified as fundamental before REDD implementation could take place, nevertheless the mechanisms to achieve that aim are not clear.

In the case of Honduras, the proposed process of FPIC is not only about consultation and seeks the consent of the communities with clearly defined steps. The implementation of the process described could enhance good governance conditions for forest management.

The necessity to create different models of PESP in Costa Rica recognizing customary property regimes is recognized, but the structure of such a new mechanism is not yet defined or described.

In both cases, the consideration of co-benefits mentions biodiversity conservation enhancement, but regarding the support or enhancement of the traditional knowledge and the traditional practices of forest management, they are disregarded.

In the case of Costa Rica, the SESA methodological framework to identify risks, benefits and design a monitoring system in order to mitigate the impacts, seems to be culturally inappropriate for the

indigenous peoples, because their representatives perceive that the methodology used does not fit the system of indigenous thought, forcing a very lineal way to analyze the problems associated with REDD strategies

In the case of Costa Rica, the distribution of possible benefits and risks are not clear, and the strategic options mentioned are only referring to the analysis of potential cost compensation.

5. Recommendations

- In the case of multiple donors supporting the same REDD preparation process, an agreement should be reached regarding the harmonization of human rights standards and safeguards, applying the requirements of the donor with the highest standards.
- The programs supporting REDD preparation processes should consider giving more relevance to other values of the forests different than carbon and invest additional efforts and resources to identify ways to evaluate and monitor these other values.
- Supported by the indigenous peoples, different methodologies aside the logical frameworks normally used to create the SESA should be created in order to have ways of analysis that integrate different models of thought and knowledge.
- The FPIC should consist of an inclusive dialogue in good faith which aims for the participation of indigenous peoples as equals and respects their right to give or deny consent. This would help avoid illegitimate processes that ultimately slow down and hinder the REDD preparation processes.

6. References

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