Protecting indigenous peoples’ rights and tenure and ensuring community benefits: Rights, benefit-sharing and REDD

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Outline:

1. What are indigenous peoples' rights?
   - Main elements of UNDRIP
3. Risks and opportunities in relation to REDD
4. Ways forward
1. What are indigenous peoples' rights?

- Collective and individual human rights recognized under international human rights law and under some MEAs
  - UN Declaration on the Rights of Indigenous Peoples (UNDRIP, 2007)) - contains minimum standards to ensure survival, dignity, well-being of indigenous peoples (Art. 43)
  - Contains 24 Preambular Paras and 46 Articles
- ILO Convention 107 on Indigenous and Tribal Populations (1957)
- CBD Article 8j and related provisions
Main elements of Indigenous Peoples' rights as contained in UNDRIP:

• **Right to self-determination** – to freely determine their political status and freely pursue their economic, social and cultural development (Article 3)

• **Right to lands, territories and resources** (Arts. 25-30)
Main elements of Indigenous Peoples' Rights:

Right to subsistence (Article 20)

- to be secure in the enjoyment of their own means of subsistence and development,
- to engage freely in all their traditional and other economic activities.

Free, prior and informed consent (FPIC) (Arts.10,11,19,28,29,32)
Main elements of Indigenous Peoples' Rights:

- **Right to development (Arts. 23, 32)** – right to determine and develop priorities and strategies for exercising right to development and for the development and use of their lands, territories and resources.
Main elements of Indigenous Peoples' Rights:

- **Right to culture and identity** – 18 articles out of 46 deal with culture and identity.

- (Articles 2, 3, 5, 7, 8, 9, 11-15, 24-25, 31, 33-36)
2. **State of recognition and protection of Indigenous Peoples' Rights**

- Constitutional amendments and recognition of multi-ethnic and multi-cultural character of nation-states
- National Laws recognizing rights of indigenous peoples (including forest laws)
- Decisions of Supreme courts and IACHR
- Policies of intergovernmental organizations
3. Risks and opportunities of REDD

3.1. Facts on Forests and REDD

- A massive carbon reservoir - 4,500 Gigatonnes
  - More CO2 than in remaining oil stocks (2,400 Gt)
  - More CO2 than in atmosphere (3,000 Gt)
- Losing 9 - 13 million hectares per year
3.1. Facts on Forests and REDD

- Significant part of remaining tropical and subtropical forests are indigenous peoples' territories.
- Multi-functional role of forests for IPs – habitat, livelihoods, ecosystem services, health services, cultural and spiritual functions.
- Forests included in REDD countries
3.1. Facts on Forests and REDD

- Most of the forests of the REDD countries selected under the Forest Carbon Partnership Facility (FCPF) of the WB are indigenous forests. Countries chosen in Sept. 2008.
- **Africa**: Gabon, Kenya, DRC, Ghana, Liberia, Madagascar
- **Asia**: Nepal, Laos, Vietnam
• **Latin America:** Guyana, Mexico, Bolivia, Costa Rica, Panama

**Funds allotted for REDD:**

• World Bank FCPF: $300 million
• FCPF Donors: Australia, Finland, France, Japan, Norway, Spain, Switzerland, UK, US
• Outside of FCPF: Norway: $600 M each year for next 6 years.
• Australia: funding Indonesia/Papua New Guinea
3.1. Facts on forests and IPs

- Persistence of conflicting claims over ownership, governance, control, use and access.
- Cause of armed conflicts and legal suits: used extensively for patronage politics by govt. officials/bureaucrats
- No satisfactory experiences and arrangements reached yet on governance of forests.
3.2. Risks for REDD

• Governance Risks
  – Highly centralized top-down management of forests: Exclusion of IPs from decision-making
  – Violations of land and resource rights of indigenous peoples, particularly forest rights
  – Judicial and physical conflicts related to contested claims over forests. (Indonesia -510 local conflicts over forests)
  – Historical and present lack of legitimacy, equity, justice in land-use planning
and benefit-sharing schemes

- **Perverse incentives**
  - Funds for REDD fall into hands of deforesters (loggers/national governments, etc.) while forest conservers are not rewarded.
  - Industrialized countries (Annex 1 countries) which have highest emissions continue business-as-usual as long as they pay poor countries to do REDD.
• Carbon trading as main means to fund REDD:
  – Reliance on private sector and carbon market to provide funding for REDD. Driven more by speculation. (increase of voluntary markets)
  – Lack of scientific proof that offsets (e.g. those carried out through CDM and voluntary markets, REDD, etc.) can really reduce GHG emissions.
  – Linking REDD mainly to carbon trading,
• diverts us from serious consideration of non-market mechanisms (e.g. rewards for ecosystem services, recognition of indigenous peoples' rights, reform of laws and policies, etc.) and other funding mechanisms (e.g. hybrid approach as proposed by Greenpeace.)
3.3. Opportunities:

– Use renewed focus on forests to call for legal reforms which recognize indigenous peoples' rights.

– Strengthen implementation of UNDRIP and national laws on IP rights.

– Possibilities of preventing deforestation can be increased.

– Benefits for indigenous peoples if the REDD architecture is designed with indigenous peoples.
• **Opportunities:**
  – Strengthens possibilities for indigenous peoples to have a foot in the UNFCCC negotiations.
  – Proposal for a Working group on local adaptation and mitigation measures of indigenous peoples.
4. Ways Forward
- Recommendations from UNPFII and other IP groups
  • that the UNFCCC establishes a Working Group on local adaptation and mitigation measures of indigenous peoples.
  • Special report on local adaptation and mitigation measures and a roadmap for indigenous peoples and climate change.
• Asia Summit on Indigenous Peoples and Climate Change (February 2009)
• Research on adverse impacts of climate change on indigenous peoples and their adaptation and mitigation measures.
• Global Summit on Indigenous Peoples and Climate Change (April 2009, Alaska)
• Develop a REDD architecture using human-rights based and ecosystem approach.

• International Expert Workshop on Indigenous Peoples, Extractive Industries and Corporate Accountability.

• Use of UNDRIP as an overarching framework for climate change measures as these relate to indigenous peoples.
Challenges for the implementation of the UNDRIP in Asia

1. Unity building amongst indigenous peoples under the framework of the UNDRIP.

2. Get hold of adequate information needed for action plans.

3. Convergence and coordination between government agencies and between UN programs, agencies, funds and other
Challenges for the implementation of UNDRIP in Asia and bilateral agencies at the country, regional and global levels.


5. Use of global indicators to monitor implementation of UNDRIP