

U4 REPORT

February 2011 No 1

REDD Integrity

Addressing governance and corruption challenges in schemes for Reducing Emissions from Deforestation and Forest Degradation (REDD)



Peter Bofin, Mari-Lise du Preez, André Standing,
Aled Williams

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Addressing governance and corruption challenges in schemes for Reducing Emissions from Deforestation and Forest Degradation (REDD)

Includes reports from three country cases:
Democratic Republic of Congo, Kenya, Tanzania

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Abstract

Donor-backed programmes for Reducing Emissions from Deforestation and Forest Degradation (REDD) intend to financially reward individuals, communities and countries that cut carbon emissions from forests as part of a global climate regime. But countries with the highest volumes of deforestation – and therefore a focus of REDD support - are also those with some of the poorest scores on established indicators of governance. Addressing challenges related to governance and corruption is an acknowledged goal among major donors supporting REDD, and actions are being taken intended to improve and monitor forest governance performance in REDD host countries. Yet despite recognition of the importance of practically addressing and analysing forest-linked governance and corruption challenges for REDD, detailed explorations of these issues have to date been scarce and potential policy approaches are still in their infancy. This U4 Report aims to add nuance to discussions on how donors might approach challenges of governance and corruption with special reference to REDD schemes. It offers a state-of-the-art review of literature on REDD, forest governance, and corruption, and draws evidence from fieldwork in three countries either embarking or about to embark on their path towards REDD implementation: the Democratic Republic of Congo (DRC), Kenya, and Tanzania.

Acknowledgements

The authors wish to thank the following for useful comments and suggestions during conceptual, preparatory, and implementation work for this study: Brian Cooksey (Tanzania Development Research Group), Vera Devine (independent consultant), Lars Ekman (Norad), Odd-Helge Fjeldstad (CMI), Liz Hart (U4), Alf-Morten Jerve (World Bank), Muzong Kodi (Chatham House), Gladwell Otieno (African Centre for Open Governance), Lise Stensrud (Norad), and Arne Strand (CMI). Any errors or inaccuracies remain the responsibility of the authors.

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Introduction

Programmes for Reducing Emissions from Deforestation and Forest Degradation (REDD) intend to financially reward individuals, communities and countries that cut carbon emissions from forests.¹ They envisage improving incentives towards either retaining standing forests or instigating more sustainable and controlled forest activity. REDD is widely considered to present a possible entry-point for improving forest governance practices in developing countries while simultaneously addressing emissions from deforestation and forest degradation as part of a global climate regime.²

REDD has widespread support from bilateral and multilateral development institutions. Through its International Climate and Forest Initiative, the Norwegian Government has - since 2007 - earmarked up to NOK 3 billion each year for REDD support (CIFOR: 2008). A UN-REDD Programme has been established to coordinate UN activities in this field, and the World Bank has established two mechanisms to assist developing countries' preparations for REDD: the Forest Carbon Partnership Facility (FCPF) and the Forest Investment Program (FIP).³ These programmes and mechanisms are accompanied by regional initiatives, such as the Congo Basin Forest Fund hosted by the African Development Bank, and the Brazilian Amazon Fund.⁴

A number of complex challenges lie ahead on the road to REDD implementation. Angelsen (in CIFOR: 2008) usefully groups these into issues of design, cost, scale, meeting country needs, setting a reference level for payments, dealing with leakages, ensuring permanence, ensuring appropriate monitoring, reporting and verification (MRV) of emissions, measuring and monitoring forest degradation, and achieving co-benefits and harm avoidance. Some of these issues relate to accounting challenges for what is likely to be a complex international carbon crediting system. Others relate to application challenges for remote technologies (such as radar image analysis) to accurately measure carbon emission reductions.⁵

Recent literature also emphasises the role of governance to REDD's success. Bond et al (2009) note that "[w]hile it has the potential to improve forest governance, planning and implementation of REDD could fail to reduce forest emissions and even create perverse incentives to increase emissions and threaten the rights and livelihoods of forest-dependent communities if governance issues are not addressed." At the same time, those countries with the highest volumes of deforestation – and therefore a focus of REDD support - are also those with some of the poorest scores on established indicators of governance. This is illustrated in Table 1 through comparison of selected 2010 World Bank Governance Indicators with FCPF countries where funds are being disbursed as of August 2010.

¹ According to UN-REDD, Reducing Emissions from Deforestation and Forest Degradation (REDD) aims to create a financial value for the carbon stored in forests, offering incentives for developing countries to reduce emissions from forested lands and invest in low-carbon paths to sustainable development. It uses the term "REDD+" to refer to programmes that go beyond deforestation and forest degradation, and include the role of conservation, sustainable management of forests and enhancement of forest carbon stocks. Since it is beyond the scope of the present study to offer insights into technical forest management issues, the term REDD is used consistently to refer to both "REDD" and "REDD+" programmes. For more information, see: www.un-redd.org/

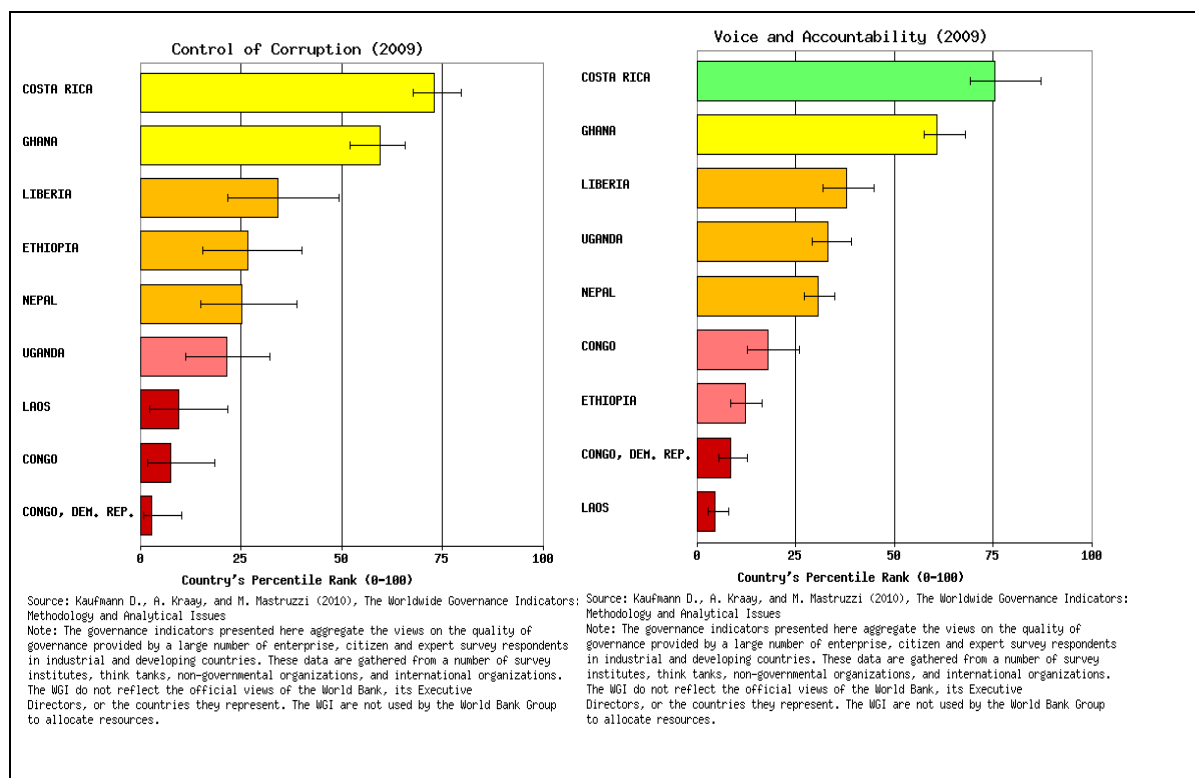
² These emissions are estimated to account for approximately 20% of total global emissions of greenhouse gases annually (CIFOR: 2008).

³ See: www.forestcarbonpartnership.org/fcp/ and www.climateinvestmentfunds.org/cif/node/5

⁴ See: www.cbf-fund.org/ and www.amazonfund.org/

⁵ Wertz-Kanounnikoff et al (2008) note that considerable progress has been made in technology development and assessment protocols since the 2001 seventh Conference of the Parties (COP) of the United Nations Framework Convention on Climate Change (UNFCCC).

Table 1: Selected 2010 World Bank Governance Indicators for Forest Carbon Partnership Facility (FCPF) Disbursing Countries (as of August 2010)



The need to address challenges related to governance and corruption is acknowledged among major institutions supporting REDD.⁶ Such concerns are sought to be addressed through a phased approach to preparatory and implementation work, although policy debates are ongoing as to the exact composition of these phases. At this stage, separation is being sought between initial planning and capacity building work (the so-called “readiness phase”), and actual implementation linked to payments. In other words, before large amounts of REDD funds begin to flow, development institutions are supporting a series of actions with the aim of building the capacity of partner countries to, among other priorities, address and monitor issues of governance. UN-REDD, for instance, aims to support country-led multi-stakeholder governance assessments to assist partner countries in understanding their governance situation, gaps and needs in relation to REDD (Davis: 2010).

This study aims to add further nuance to policy discussions within and among development institutions supporting REDD on how challenges of governance and corruption might be approached. It does so by (a) considering recent literature pertaining to corruption/anti-corruption, forest governance and REDD, and (b) offering three case reports from countries either embarking or about to embark on their path towards REDD implementation: the Democratic Republic of Congo (DRC), Kenya, and Tanzania.

⁶ For example, see: www.guardian.co.uk/environment/2009/oct/05/un-forest-protection

Method and structure

The study is based on a combination of desk and field research. Section 1 presents the results of a desk-based literature review on REDD, governance and corruption issues, and is prepared by Aled Williams. Section 2 summarises key findings from the country case reports, while Section 3 presents these reports in full.

Desk and field research underpinning the case reports was conducted by Mari-Lise du Preez (DRC), André Standing (Kenya), and Peter Bofin (Tanzania) in May-June 2010. The political-economy approach undertaken was developed jointly by the research team and focuses on the actors and institutions involved in REDD, including their formal and informal relations. Interviews were conducted with key informants drawn from bilateral and multilateral development institutions, forest-related government departments and ministries, forest-focused civil society organisations, forest community groups, and the private sector. The semi-structured interviews revolved around the following main questions:

- How might issues of corruption influence the success of REDD?
- How could REDD have a positive influence in addressing corruption in the forest sector?
- How are those responsible for REDD ensuring that issues of governance and corruption are addressed in the schemes they are supporting?

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Section One: Literature review

Aled Williams

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1 Linking corruption, illegal logging and deforestation

That corruption is an important enabler of deforestation in developing countries has been recognised by the international forest policy community for at least a decade. A UN Food and Agriculture Organisation (FAO) report from 2001 identifies forest corruption as a sub-category of a wider set of illegal forest activities, highlighting its detrimental financial, environmental and social costs (FAO: 2001).⁷ Several studies have investigated the relationship between corruption and illegal logging in detail,⁸ although it is noted that greater research is required to determine the precise amount of deforestation (and, by extension, carbon emissions) that should be attributed to corrupt activity (Tacconi et al: 2009).

Corruption within the forest sector is considered to undermine the framing, implementation and subsequent monitoring of policies aimed at conserving forest cover (Angelsen: 2009). Acts of corruption linked to the forest sector are often associated with interactions between public and private actors (Bulte: 2007) where financial or status-related incentives are offered (or sought) to deviate from an agreed framework of rules and regulations. Although such deviation is generally considered to prejudice attainment of forest conservation goals (since there is a means, albeit illegal, to circumvent formalised conservation rules), for some analysts it also helps explain why, in certain circumstances, corruption may serve to slow rates of deforestation: some actors may prefer to stick to the formal rules rather than pay the added cost of a bribe to harvest trees illegally. Some of the main links between corruption and deforestation described in recent literature are listed in Table 2.

Table 2: Links between corruption and deforestation

Stage in process	Corrupt activity	Possible impact on deforestation
Land planning	Interest groups bribe public officials to skew design and implementation of land use plans	Contributes to deforestation by undermining land use allocation process and enforcement of land use plans
	Large-scale farmers bribe politicians in exchange for agricultural subsidies	Contributes to deforestation by reducing agricultural productivity (farmers deliberately use land inefficiently to attract subsidies)
	Corruption limits private investment in agricultural land	Protects forests by limiting investments in extension of agricultural land
Harvesting	Loggers bribe forestry officials to harvest without legal permits, or to speed up the issuance of such permits	Contributes to deforestation by foregoing legal system for allocating harvesting rights
	Logging operators bribe local officials to obtain logging permits not recognised by the forestry regulatory framework	Contributes to deforestation by facilitating forms of harvesting not allowed within the legal system for forestry
	Logging concessionaires pay bribes so that over-harvesting is not monitored	Contributes to deforestation by foregoing the established system for monitoring logging activity
Transportation	Loggers bribe public officials to allow transport of illegally logged timber	Contributes to deforestation through facilitation of exit-routes for illegally harvested timber

Sources: Tacconi et al (2009) and Brown (2010)

⁷ For definitions of forest crime and forest corruption, see: http://www.fao.org/docrep/003/y0900e/y0900e08.htm#P0_0

⁸ Callister (1999); Newell et al (2000); Lawson (2001); Palmer (2001).

Since the G8 Summit of 1998, where political commitments were made to address the challenge of illegal logging, significant investments have been made in tackling the problem, including efforts to address specific issues of forest-linked corruption. The European Union, for instance, adopted in 2003 an Action Plan on Forest Law Enforcement, Governance and Trade (FLEGT),⁹ seeking – among other goals - to strengthen forest governance via capacity building in timber-producing countries, as well as encouraging transparency through provision of accurate information on forest ownership, concession systems, and legislation (Søreide: 2007). Some timber-producing countries have also recognised the importance of addressing contentious issues linked to weak forest governance: Brazil's 2006 Law for the Management of Public Forests, for example, has sought to formalise customary land rights within a clearer forest tenure framework (Lawson and MacFaul: 2010).

Although illegal logging and acts of forest corruption are not synonymous, it is widely recognised that they can be linked, and various studies deal with these practices as interrelated phenomena. A 2010 review conducted by Chatham House of the global response to illegal logging finds that efforts by forest product exporters, timber-importing countries and others, have borne some fruits (Lawson and MacFaul: 2010). Based on data from estimated reductions in illegal logging in Brazil, Cameroon, and Indonesia, the review puts forward an estimated worldwide reduction by almost a quarter over the past ten years. This is considered by the authors to translate to around 17 million hectares of forests protected, contributing to an avoidance of between 1.2 and 14.6 billion tonnes of carbon dioxide emissions. Impressive as this extrapolation sounds, another finding from the same review is also worthy of note: illegal logging continued to remain a major challenge in all producer countries studied, with illegal harvesting representing a significant proportion of total forest activity in the Brazilian Amazon, Cameroon, Ghana, Indonesia, and Malaysia. Moreover, a survey of expert opinion for the review highlighted “a relatively poor response in combating corruption and promoting transparency [... as] the most important impediment to an effective government response to illegal logging in all countries”.

2 What are possible corruption challenges for REDD?

The present stage in the evolution of REDD has been described as a critical juncture in the history of forestry research and practice: though the theories underpinning REDD are “not yet well understood or elaborated beyond a small inner circle” its practice is already underway in a number of demonstration projects worldwide.¹⁰ Scholars and policy analysts are attempting to further elaborate the prerequisites and conditions for successful REDD implementation, and a number of studies have accordingly been commissioned to examine REDD from various perspectives. Lessons from on-the-ground implementation of demonstration activities are also being learnt, some of which are incorporated into recent study findings.

Much of the literature published on REDD since the beginning of 2009 makes reference to the importance either of addressing improved forest governance or controlling forest-linked corruption in order for REDD schemes to achieve their objectives. Skutsch et al (2009) highlight, for instance, the importance of robust monitoring and verification measures since the risk of cheating in carbon markets is “always present”. They note that a main challenge will be to facilitate the functioning of bureaucracies which do not seek to consume for themselves the benefits derived from carbon stocks. Phelps et al (2009) address the potential for REDD to present incentives for potentially damaging re-centralisation of forest management in some countries, arguing that with resources at stake on the scale envisaged, some host governments may seek to portray themselves as more capable and reliable than local communities at managing their forest base. A further study (Pistorius: 2009) - commissioned by Greenpeace International and addressing REDD from a conservationist perspective - notes that since illegal forest activity is responsible for a significant proportion of deforestation and

⁹ See: <http://ec.europa.eu/environment/forests/flegt.htm>

¹⁰ Seymour, F., Director General, Centre for International Forestry Research (CIFOR), keynote address delivered to the XXIII IUFRO World Congress, Seoul, 24th August 2010.

forest degradation, governance issues present challenges for successful REDD implementation. The study considers these challenges to be especially important in countries where institutions and the rule of law are weak, and where corruption is widespread.

Despite this recognition of the importance of practically addressing and researching forest-linked governance and corruption challenges in the context of REDD, relatively few studies have so far attempted to provide detailed explorations of these challenges, or potential policy approaches for them.¹¹ Recent literature reviewed for this study nevertheless revealed an already well-defined set of possible corruption risks for REDD. These are listed in Table 3.

Table 3: Possible corruption risks for REDD

Governance level	Corruption risk
National	Agricultural or timber conglomerates bribe national politicians to undermine establishment of national REDD mechanism
	REDD project developers bribe national politicians or senior officials to promote fraudulent REDD schemes
	Public officials or politicians bribe technical staff to skew national baseline data
	Politicians and senior officials extract rents from REDD revenues
	Officials responsible for reconciling REDD projects with national accounting take bribes from project developers to double-count projects
	Agricultural or timber conglomerates bribe national officials responsible for forest protection to ignore violations of conservation laws
Sub-national	Agricultural or timber conglomerates bribe sub-national politicians and public officials to opt out of REDD implementation, or weaken REDD policies, in their areas
	Agricultural or timber conglomerates bribe sub-national officials responsible for forest protection to ignore violations of conservation laws
Local or project	REDD project host bribes official monitors either to overstate avoided emissions or understate problems of permanence/additionality of the project
	REDD project host intentionally increases emissions in lead-up to implementation in order to benefit from higher credits
	Local administrators extract rents from environmental service schemes aimed at benefiting local communities

Sources: Tacconi et al (2009) and Brown (2010)

¹¹ Among notable recent publications to have explored in some depth corruption issues relevant for REDD are: Barr et al (2010); Brown (2010); Tacconi et al (2009). A few further studies have focused on policy approaches for enhancing governance safeguards for REDD: Saunders and Reeve (2010); Davis (2010).

Since REDD activities are relatively recent, it should be noted that the above list is anticipative and forward looking. At the same time, the possible risks outlined are based on considerable analysis and knowledge of past forest governance initiatives, and examples of corruption linked to the forest sector. Allegations of corruption involving an Indonesian forestry official who helped negotiate a bilateral REDD agreement with the Government of Norway have also been reported, underlining the importance of attempts to pinpoint how such risks may manifest themselves as REDD activities evolve.¹²

From the recent literature on REDD, it would appear that possible corruption challenges fall into two main categories:

Firstly, existing petty and/or grand corruption in contexts where REDD is implemented could work against the conservationist and developmental motivations behind REDD schemes. In other words, existing problems of corruption may pose obstacles to the realisation of important elements of REDD, such as the establishment of baseline carbon data, or the monitoring of avoided emissions or benefits to local communities. These existing corruption problems may, to some extent, be located within the forest sector itself. Existing corruption challenges that go beyond forestry are, however, also of concern since large bribes could conceivably be given by, for example, timber conglomerates to national politicians or public officials to undermine the establishment of a REDD framework (Tacconi et al: 2009). Such bribery is more likely to occur in contexts where corruption in government is widespread.

Secondly, the financial resources associated with REDD could create additional incentives and opportunities for corrupt activity. The concern here is that public officials, for example, may engage in corruption to extract rents from REDD resource flows in a similar manner to which rents can be derived from windfall resources such as oil or precious minerals. Howes (2009) discusses this risk with reference to Papua New Guinea: "...the prospect of financial value being placed on the carbon content of its forests is akin to a new mineral discovery. The international revenues that could flow to PNG from attaching a monetary value to standing forests could be of huge benefit, but could also bring the 'resource curse' – namely, the risk of increased corruption, rent-seeking and exchange rate depreciation." The similarities (and dissimilarities) between the effects of REDD resource flows and rents from extractive industries in poor governance settings appears to be an area that warrants further investigation.

3 What might an anti-corruption approach for REDD look like, and could REDD potentially help reduce forest corruption?

When considering the corruption challenges it may face, it is important to recall both that REDD is still in its infancy, and that its implementation is intended to be phased-in following measured improvements in forest governance. From this perspective, the pilot schemes, scoping studies and development frameworks presently moving forward offer a potential window of opportunity to consider how serious instances of corruption involving REDD resources and projects may largely be avoided. Given the cumulative knowledge available with regard to previous forest governance reforms, the intention is that REDD should contribute to an overall *improvement* in forest governance – including a potential reduction in forest-linked corruption.

Whether opportunities are grasped for REDD to act as a catalyst for improved forest governance depends on a wide range of factors that is beyond the scope of this study to address. Whether potential corruption risks in the context of REDD will be mitigated will depend on the maturity and depth of attempts to develop appropriate policy responses on the part of development institutions and their REDD partners, at country level and beyond. There is evidence that issues of governance that could contribute to mitigating corruption risks are being considered in proposals submitted to the World Bank's FCPF and to the UN-REDD Programme. A study prepared by the World Resources Institute

¹² See: www.reuters.com/article/idUSSGE68G03P20100917

(WRI, Davis: 2010) notes that these proposals contain reference to, among other issues: stakeholder consultation; transparent and accountable REDD revenue management; participatory and transparent monitoring, reporting and verification mechanisms; consideration of reforms to improve vertical and horizontal coordination; clarification and reform of laws, including tenure laws; third party monitoring of forest management activities; and independent auditing and participatory oversight of financial management rules, including benefit sharing. At the same time, the WRI study highlights that only a few concrete procedures, processes, and rules are contained in the 16 proposals analysed to ensure that good governance is maintained in practice. According to the author of the WRI study, the depth of analysis surrounding problems of weak law enforcement and land tenure is relatively low, while provisions for assessing governance are not considered to move beyond basic concepts such as promoting transparency, accountability and responsible decision-making.

If the implication of the WRI study is that steps outlined in REDD country proposals so far are a necessary but insufficient condition for addressing governance challenges, what should an anti-corruption approach that is relevant for REDD look like? Some recent literature has attempted to elucidate national measures that could help mitigate REDD corruption risks. These can be grouped into four types of measures, summarised in Table 4.

Table 4: Possible national anti-corruption measures for REDD

Type of measure	Possible foci
Measures to improve regulatory and institutional framework	Land use planning process; allocation process for logging concessions; development of REDD framework (regulations plus institutions); Statutory oversight institutions; framework for broad stakeholder participation (including forest communities, civil society, private sector); formalisation of ownership or profit rights from forest uses.
Measures to improve accountability and transparency	Land use planning; creation of REDD baseline data; development of REDD framework (regulations plus institutions); regulatory framework for forests; allocation process for logging concessions; MRV system for non-carbon benefits (including field-based monitoring); demand-side accountability institutions; statutory oversight institutions; data on donor support to REDD projects; data on private sector involvement in REDD projects.
Measures to improve law enforcement	Capacity building to state prosecutors, formal anti-corruption institutions, judges and court officials.
Measures to reduce rents from deforestation	Reform of national forestry taxation system; addressing rents from land uses that replace forests (e.g. palm plantations).

Sources: Tacconi et al (2009) and Brown (2010)

A menu of possible anti-corruption approaches for REDD of course says little about how and when development institutions and other concerned actors should apply them to best effect. Indeed, if there is one lesson from the extensive literature on anti-corruption that is relevant for REDD, it is that policies for addressing corruption must be fit for the specific context to which they will be applied (Shah: 2006). How political, social and economic contexts will respond to the incentives that REDD involves is as yet unknown. At the same time, corruption is an adaptable phenomenon capable of mutating in response to new policy environments, incentives and threats. The cases presented in Section Three of this report represent a modest attempt to map current challenges and opportunities for REDD in relation to corruption in three countries. They should not be considered definitive

assessments of the corruption challenges or possible anti-corruption approaches for REDD in the countries studied due to limitations in the extent of fieldwork possible and the very early stages of REDD in the three countries. What they possibly achieve is an initial mapping of issues deserving of fuller investigation in later, more comprehensive, assessments of corruption risks and anti-corruption strategies.¹³

¹³ One possible methodology for conducting a risk assessment of corruption in the forestry sector, and which may be applicable to REDD, has been developed by Blundell and Harwell (2009).

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Section Two: Main findings from the country cases

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1 How might issues of corruption influence the success of REDD?

Addressing issues of governance and corruption was considered important for meeting stated REDD objectives in all three countries studied. Given the short life of REDD, the research team judged it too early to engage in a review of specific instances of corruption involving REDD funds, institutional bodies or pilot projects. What was addressed was the extent and manner in which the governance environments in which REDD schemes are currently evolving might influence the success of REDD – both in terms of the legacy of past corruption and more recent issues. Evidence was found to reinforce a view that the overall governance environment in the three countries presents obstacles to the realisation of REDD goals, with these obstacles compounded by specific challenges within forest governance. In some instances REDD could serve to enhance rather than decrease forest governance challenges, for example by providing an incentive for new forms of forest-linked corruption.

Though a degree of similarity was found in the challenges present in each country, the precise scope and nature of the issues at stake varied considerably. This underlines the necessity of further analysis of these challenges at various levels of governance, and of tailored strategies on the part of actors seeking to support positive REDD outcomes. The following section highlights the main challenges related to governance and corruption identified in the case reports, which are laid out in full in Section 3.

DRC

Notable governance-related initiatives in the DRC include the Strategic Plan for Public Finance Reform – adopted by the DRC government in March 2010 – and an initiative to improve the investment climate. If effectively implemented, these initiatives could lead to significant improvements in a country with persistent and notoriously low scores on governance-related indices. There is also talk of “zero tolerance” of corruption. However, the fact that this is not supported by clearly defined objectives or a plan of action makes it appear little more than a slogan. A number of governance and corruption challenges hold the potential to undermine REDD objectives:

- At the heart of the DRC’s governance challenges lie what can be termed “dysfunctional state-society relations”. The complicated dynamics implied by this term (and described in greater detail in the country case report) serve as the biggest threat to the successful implementation of REDD in the country.
- In terms of the governance of its abundant natural resources – both renewable (forests) and non-renewable (minerals) – the DRC today faces the legacy of a system that at its worst rewarded “bad” operators and chased away “good” ones. REDD is entering the country at the beginning stages of a slow and painstaking reform process, the results of which are uncertain. Moreover, the much-touted potential of REDD in the DRC is increasing the financial stakes for all involved.
- A tradition of using positions within public administration to levy informal taxes and fines persists within a wider context of a bloated and underpaid bureaucracy. Any REDD funds channelled via the public administration apparatus face considerable risk of leakage via petty corruption.
- Collection and recording of fiscal payments is split among several bureaucratic entities that have a poor record of information sharing. External attempts to support reform of this system through streamlining have faced considerable political resistance in the past. Poor data collection presents particular challenges for tracking revenues from the forest sector.
- There is a high level of mistrust between the local, provincial and national authorities. Fearing an unfair redistribution of resources from the national level, provincial and local authorities appear to try to retain as much revenue generated at this level as possible. Central authorities seem to view this as proof that other authorities are not to be trusted. This disconnect reinforces a general lack of information and benefit sharing within the natural resource sector.

- Key institutions for public accountability, including the General Inspectorate of Finance and the Court of Auditors, face a lack of financial and informational resources, as well as political marginalisation. At the same time, Parliament is a fledgling institution facing a challenging decentralisation process. These formal oversight institutions appear at present to lack the necessary means to provide an effective check on REDD schemes.
- It is recognised that formal institutions of governance are joined by informal and customary loci of authority. Moreover, these are not two parallel worlds: in the DRC, the formal and informal are woven together by often unspoken rules and codes of conduct. There is a tendency for reforms (including in the forest sector) to overlook these complex relations, leading to potential disconnections between these different forms of governance.

Kenya

A popular view among stakeholders is that corruption in the forest sector peaked in the mid to late 1990s, when corrupt activities led to a crisis in forest conservation and high rates of deforestation. Since significant changes in the management of forests were introduced from 2003, forest-related corruption is thought to be less of an issue today than during this previous period. There is some evidence, however, that contemporary governance and corruption challenges could influence the success of REDD objectives:

- Elements of the poor institutional culture within the former Forest Department (FD) appear, to some degree, to remain within the newly-established Kenyan Forestry Service (KFS). This is explained by some commentators as linked to the recruitment by the KFS of former FD employees allegedly involved in corrupt activity.
- The governance and institutional management of forests is complex and, to some extent, contested. At the same time, the KFS remains constrained both by a lack of funding and technical capacity. Members of the KFS identify low staff morale, a lack of proper auditing and public distrust as key challenges to its effective operation.
- Issues of impunity continue to surround the reclaiming of land stolen in the Mau Forest Complex, and there has been a lack of successful arrests or prosecutions relating to past illegal acquisitions of forest land.
- It appears that those providing data on the achievement of reforestation and the prevention of deforestation will also be among the key recipients of REDD funding. This could result in tensions created by conflicts of interest.

Tanzania

The forest sector has experienced considerable change over the past fifteen years, principally through the promotion of Participatory Forest Management (PFM) approaches. Despite development of a broadly favourable institutional and legislative framework for forests, there are instances where this has been undermined by petty corruption and patronage networks that have straddled relevant ministries and the private sector. A number of governance and corruption issues are important to consider in relation to REDD objectives:

- Collusion between public institutions, political interests and private sector business interests appears to be an ongoing issue in the forest sector. Given the potential rents available from REDD, it is likely that this will continue to be a challenge.
- Challenges in human resources are found at the District level to support the implementation of forest management schemes. Human resources are also under threat by the upcoming retirement of a sizable cadre of senior forestry officials for whom succession has not been planned.
- Although clearly expressed in relevant legislation, the role of Village and District Councils in forest management appears in reality to be limited and often ambiguous. Their importance can be in their access to rents as much as their involvement in planning and oversight.

- Effective formal oversight of the forest sector is made challenging due to a split in responsibilities at committee level between the Natural Resources Committee and the Local Authorities Accounts Committee.
- Issues of the capture of forest resources, regulation and oversight are principally discussed at the local level through existing PFM systems and newly-established REDD pilots. These same issues do not at present appear to be clearly addressed in emerging REDD structures at the national level.

2 How could REDD have a positive influence in addressing corruption in the forest sector?

Implicit in the case reports' approach to governance and corruption challenges was a view that it is perhaps all too easy to be pessimistic about the prospects for successfully meeting REDD objectives in the countries studied. Despite some evidence to suggest a level of pessimism may be warranted, counter-factual information was also gathered, suggesting that REDD could contribute to a reduction in the incidence of corruption in the forest sector – for instance by strengthening management and coordination or increasing attention to oversight and accountability in the forest sector. The following findings therefore underline the complexity of the links between forest governance, corruption and REDD schemes:

DRC

- The size of REDD in the DRC gives it agency. This leads to both opportunities and challenges. For instance, an increased profile for the Ministry of Environment, Nature Conservation and Tourism (one of the inadvertent consequences of REDD) impacts upon power relations within the DRC government.
- REDD may act as a catalyst in the process towards addressing much-needed national coordination between the forest and other sectors. As a first step, it would appear important that REDD is included in the DRC's second Strategic Document for Growth and Poverty Reduction (DSCR2P).
- REDD pilot projects currently underway offer important and long overdue learning opportunities for how forest governance might be improved. The Tanya Conservation Concession, for instance, offers lessons for how customary institutions at the local level may enter into contracts with formal institutions at national level.
- REDD-related reforms could feed into or complement other forest governance initiatives like the EU-funded Forest Law Enforcement Governance and Trade (FLEGT) process to combat illegal logging (which the DRC recently joined). Conversely, select experiences with governance-related reform in the DRC logging sector also provide learning opportunities for the design of REDD incentive structures: these include the logging title review process that aimed to clean up the industrial logging subsector and ongoing efforts to improve governance of the artisanal subsector that aim to encourage formalisation.

Kenya

- Since forest management is believed to be undermined both by a lack of capacity *and* a lack of funding, REDD may assist ongoing improvements by ensuring sufficient money is flowing into forest-related management activities.
- Given the contentious history of forest management, there is a need to bring various forest stakeholders together and, in particular, for opportunities for stakeholder interaction with the newly established KFS. Though promoting genuine stakeholder interaction is not straightforward, bringing stakeholders together is an important first step.

- REDD may provide a useful mechanism to improve data collection on forests. If done well, data on rates of deforestation and carbon storage could be an important future tool to monitor progress in forest governance.
- Linking entities responsible for REDD to public bodies involved in recovering stolen forest land, such as the Kenyan Anti-Corruption Commission (KACC) and the Land Commission, could help address continued impunity for past illegal appropriation of forests, some of which was facilitated by corruption. The sensitivities surrounding attempts to recover stolen forest land should not be underestimated, however.

Tanzania

- By providing an opportunity to further Participatory Forest Management (PFM) approaches, REDD could help nurture the kind of local political oversight that forest stakeholders stress is important for successful forest governance.
- Through helping to resolve points of contention with regard to forest land tenure rights, REDD may assist in reducing opportunities for corruption that can arise from differing interpretations of the categories of forest land provided for in legislation.
- REDD may provide a focus to further review the broadly favourable institutional framework for forests, taking into consideration findings from past studies focusing on patterns of corruption, accountability and governance in the forest sector. This touches on the importance in anti-corruption terms of proper public sector structures and technical and administrative oversight.

3 How are those responsible for REDD ensuring that issues of governance and corruption are addressed in the schemes they support?

Forest interest groups, including international development institutions, in the DRC and in Tanzania have made progress in being prepared for REDD through the agreement of development frameworks and the launching of a range of pilot projects and feasibility studies. The respective case reports note that this work includes elements that could assist in addressing potential governance and corruption challenges both during further REDD preparatory work and during actual implementation. In contrast, and linked to the very early stage of preparations for REDD in the country, fewer steps have to date been taken in Kenya. The reports acknowledge that there appears to be scope to build upon early steps to address governance and corruption challenges in emerging REDD schemes in the three countries.

DRC

- At the time that research for this study was conducted (June 2010), the DRC National Coordination Body had started working on governance safeguards for REDD.
- National bodies have been established by Prime Ministerial decree to govern the current REDD Readiness Phase. These include a National Committee, an Inter-Ministerial Committee, a National Coordination Body, and a Scientific Board. The National Committee includes cross-societal representation from members of the administration, civil society, private sector and academia, while the existence of the Inter-Ministerial Committee acknowledges the interconnectedness of forestry with other sectors.
- The Ministry of Environment, Nature Conservation and Tourism (MECNT) is positioned to initiate improved inter-sectoral coordination, with REDD acting as a catalyst. As noted above, a widely recognised first step is to include REDD in the second Strategic Document for Growth and Poverty Reduction (DSCR), and this is currently promoted by the MECNT and UNDP.

- Donor agencies are attempting to avoid overly complex coordination arrangements, with the World Bank Forest Carbon Partnership Facility (FCPF) and UN-REDD accepting a single Readiness Preparation Proposal (RPP). There are also ongoing efforts at improved donor coordination among the FCPF, the UN-REDD, and the Forests Investment Programme which could possibly be further enhanced.
- A preliminary vision for a future institutional framework for REDD implementation has been outlined in the RPP. Provision is made for several functions likely to be important from an anti-corruption perspective: a decision-making function, a planning and implementation management function, a coordination function, a dialogue and dispute resolution function, a funding centralisation function, and an auditing function. The issue of avoiding future burdens on domestic governance through the creation of additional institutional structures is one that appears to require further consideration.
- It is likely that a national REDD fund will be established as a co-financing instrument. One initial suggestion to improve donor coordination around such a fund is the creation of a national REDD project database.

Kenya

- Kenya is at a very early stage in its preparations for future REDD funding and activities. A REDD Readiness proposal has, however, been submitted to the FCPF containing recognition of past forest governance challenges. Though the report does not mention explicit anti-corruption efforts to be made in the context of REDD, it does provide for monitoring systems to be developed as a core component of early activities.

Tanzania

- A REDD Framework was drawn up in 2009, following a range of consultations with forest dependent communities, civil society, government departments and, to a limited extent, the private sector. The Framework established a REDD Task Force which is charged with developing the country's REDD strategy. The Task Force is situated in the Vice-President's Office, Department of the Environment (VPO DoE), and its membership drawn from senior officials from the Ministry of Natural Resources and Tourism (MNRT), the VPO DoE, and from Zanzibar.
- Due to audit issues between the Norwegian Government and the MNRT, the Institute of Resource Assessment (IRA) has been contracted as the managing agent for the funds that are overseen by the REDD Task Force. IRA is a semi-autonomous body based at the University of Dar es Salaam.
- Bilateral Norwegian funding (for 2009-2014) has been allocated towards the development of REDD institutions, research, and funding for pilot projects. Funding is disbursed through the IRA and the Norwegian Embassy. Spending under the REDD Framework needs to be approved by the REDD Task Force, though is not controlled by it.
- UN-REDD is concluding an agreement with the Government of Tanzania which focuses on support for the development of the REDD Strategy, capacity building in the areas of monitoring, reporting and verification, as well as support to the Forest and Beekeeping Division managing REDD.
- Efforts are being made to tie REDD activities to the FCPF framework managed by the World Bank, although no funding has yet been attached to this.
- Initial recommendations for the establishment of a National REDD Trust Fund have been drawn up. Although these recommendations are not final, they appear not to go beyond generic prescriptions of having a Board of Trustees and the need for regular audits. Further attention could be paid to ensuring that the Controller and Auditor General's recommendations are acted upon.

REDD Integrity

Addressing governance and corruption challenges in schemes
for Reducing Emissions from Deforestation and Forest
Degradation (REDD)

Section Three: Case reports

Peter Bofin, Mari-Lise du Preez, André Standing

U4 Report 1: 2011



1 Democratic Republic of Congo

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1.1 Introduction

Reducing Emissions from Deforestation and Forest Degradation (REDD) is complicated. If the designers of REDD plans could pick anywhere in the world to implement them, the Democratic Republic of Congo (DRC) would not be among the first places that spring to mind. The country is highly complex and generally poorly understood by foreign analysts. Not least of the DRC's challenges is that of the country's governance. Yet, from a climate change mitigation perspective it contains some of the most valuable forests in the world. The tropical rainforests of the Congo Basin are second in size only to those of the Amazon Basin, and around half of these forests are located in one country – the DRC.

An optimist would describe REDD in the DRC as an unprecedented opportunity to mitigate climate change, while promoting development in one of the poorest countries in the world. A realist would point out that the potential opportunities are at least matched in size by the challenges. In this context, the many technical experts working on these issues are doing a commendable job.¹⁴ At the same time, much of REDD's success in the DRC will depend not on technical factors, but on socio-political and economic ones.

REDD might be new, but many of the governance challenges it will encounter in the DRC are familiar. Despite the DRC's tumultuous history, the country's governance context has been characterised more by continuity than by change. This case report will start by describing some of the underlying dynamics of the Congolese governance system. It will look at how these dynamics have manifested themselves in the forest sector. Finally, it will discuss implications for REDD in the DRC. It will consider both the impact that governance issues (including corruption) can have on REDD and the potential impact of REDD on issues of governance.

Data collection involved a comprehensive review of primary and secondary resources, supplemented by interviews with key stakeholders within the DRC. Field research was conducted in June 2010. In terms of primary documents, extensive use was made of a study detailing the potential for REDD in the DRC (by the Ministry of Environment, Nature Conservation and Tourism in partnership with McKinsey), the DRC's Readiness Preparation Proposal (or RPP, jointly submitted to the Forest Carbon Partnership Facility and UN-REDD), and two reviews of the RPP. Interviewees were drawn from the DRC government, community representatives, the private sector, development partners, and non-governmental organisations.

1.2 A snapshot of REDD in the DRC

In March 2010, the Congolese Minister of Environment, Nature Conservation and Tourism (MECNT) presented REDD to his colleagues in the cabinet. The figures did not fail to impress:

The DRC is home to around 145 million hectares of forest. At around 2.5% per year (MECNT 2010:11), the country's deforestation rate is lower than many of its neighbours', and lower too than the global historical average of 0.6% (MECNT 2009:3). Despite this, the size of the DRC's forests means that it ranks among the top ten countries that are losing the most significant surfaces of forest cover in

¹⁴ As acknowledged by reviewers of the DRC's REDD+ Readiness Preparation Proposal (R-PP). See: Cobb (2010) and Norway (2010).

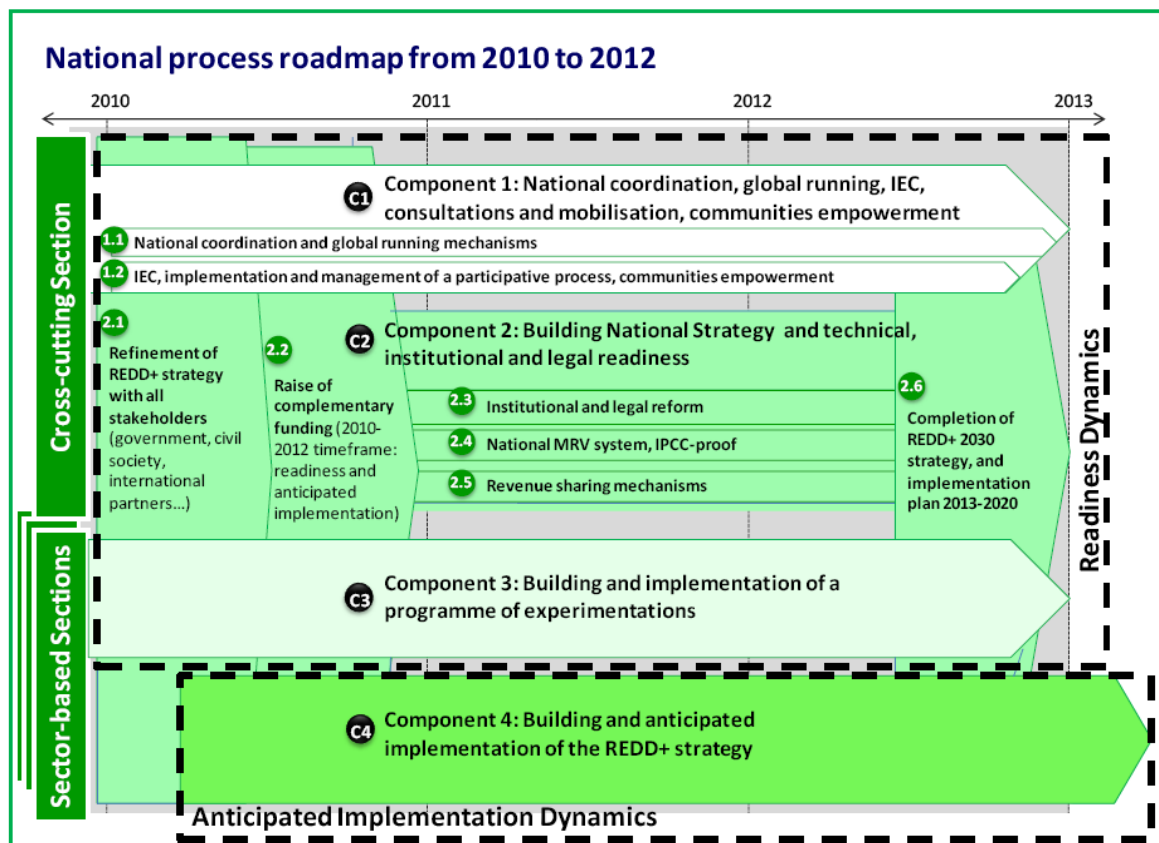
the world (MECNT 2010). This makes it an attractive target for REDD. A 2009 study on the potential for REDD in the DRC calculated a potential cumulative emissions reduction of 2.2 to 2.5 GT of CO₂e between 2010 and 2030 (MECNT 2009:4). Even at a low carbon price of USD 4 per tonne of CO₂¹⁵, a simple calculation would place the DRC's REDD potential at around USD 8 800 million over 20 years, or roughly USD 440 million per year. This is no small change for a country in which the total revenues in its annual budget adds up to about USD 700 million (CIA: 2010).

Impressive as these figures are, it should be noted that the DRC is no stranger to potential. Talk long enough with any Congolese you meet in the street and the conversation is sure to turn to the topic of the country's "geological scandal". He or she will tell you of the treasures contained in the DRC's soil; of gold, copper, cobalt, coltan, tin and diamonds. The socio-economic reality of the DRC's citizens provides a striking contrast to its much-touted potential. The most recent Human Development Index rankings (UNDP: 2010) place the DRC 168th out of 169 countries covered. This stark contrast makes the country a poster child for another phrase, namely "the paradox of plenty". Indeed, one of the main challenges faced by the DRC is the successful governance of its abundant resources, including its forests. Between the DRC's REDD potential and its realisation lies a long and hard road. One thing is certain, however: REDD is upping the stakes.

Implementing REDD in the DRC is an ambitious undertaking, as admitted time and again by those involved (MECNT 2010:5. 12, 13, 47, 61, 97, 114). Forests cover more than half of the DRC's territory and around 40 million Congolese depend directly on it for their livelihoods (Debroux *et al.* 2007: ix). The extent of the Congolese's dependence on the expansive forest cannot easily be overemphasised. Consider for instance the fact that wood and charcoal (from wood) provide an estimated 80% or more of all energy consumed in the country (Debroux *et al.* 2007: xii). In addition to the energy sector, forestry in the DRC is intricately linked at least to the agriculture, mining, transport, and infrastructural sectors (Debroux *et al.* 2007:4-6). Because of the high dependence of the Congolese on the forest, it is crucial that the sector – and by extension REDD – is included in poverty reduction strategies and broader development planning.

Like all countries involved in REDD, the DRC is only at the beginning of its REDD road. Much has been done, but much more needs to be done. It would be useful to keep in mind that by the time field research was done (mid-2010), the DRC was only a few months into its three-year readiness phase (2010 – 2012). The figure below provides a useful roadmap for this phase. According to this roadmap, a national REDD strategy stretching up to 2030 should be ready by January 2013 (MECNT 2010:5).

¹⁵ As quoted in: IWG-IFR (2009:22).

Figure 1: DRC national process roadmap from 2010 to 2012

Source: MECNT 2010:7

1.3 DRC general governance

The DRC has hovered low on governance-related indices for many years. In 2010, the country scored 2.0 out of a best possible 10 in Transparency International's Corruption Perception Index¹⁶ and ranked 182nd out of 183 in the World Bank's Doing Business index¹⁷. If effectively implemented, recent initiatives may go some way in improving these scores. Most notable are the Strategic Plan for Public Finance Reform (*Plan Stratégique pour la Réforme des Finances Publiques*, PSRFP) and the Initiative to Improve the Investment Climate (*Initiative pour l'Amélioration du Climat des Affaires*) (COREF 2010 & National Coordination for REDD+ in the DRC 2010:1-2). The PSRFP is tied to debt relief linked to the DRC's status as a Heavily Indebted Poor Country (HIPC) and has strong donor support. There is also talk of "zero tolerance" for corruption (National Coordination for REDD+ in the DRC 2010:1-2). In December 2009 a National Forum on the Fight against Corruption (*Forum National sur la Lutte contre la Corruption*) was held in Kinshasa (FONALC: 2009). By the time field research was conducted for the present study, activities had not yet progressed beyond the publication of a synthesis report to its adoption by government. The fact that the talk of "Tolérance Zéro" is not supported by clearly defined objectives or a plan of action appears to imply that the phrase is presently little more than a slogan.

Unfortunately, past experience with similar strategies does little to inspire confidence in these most recent ones.¹⁸ James Fairhead (2005:202) explains how past efforts at reform served merely to change

¹⁶See: http://www.transparency.org/policy_research/surveys_indices/cpi/2010

¹⁷ See: <http://www.doingbusiness.org/>

¹⁸ See, for instance: Kodi (2008).

the (formal) rules of the game and its beneficiaries, but not the game itself. Moreover, indices such as those mentioned above obscure the all-important underlying dynamics mentioned earlier. Rather than citing indices and discussing elaborate policies, this section will aim to describe some of the dynamics of governance in the DRC.

1.3.1 *A system of perverse incentives*

The DRC recently celebrated the fiftieth anniversary of its independence. In searching for the roots of the country's governance challenges, however, one should look even further back than Mobutu's Zaïre, to King Leopold's Congo. The rent-seeking behaviour that has come to characterise the country that we know today as the Democratic Republic of Congo is as old as the artificial giant that was carved out at the Berlin Conference in 1884.¹⁹ This has been compounded by years of political instability and uncertainty, which historically led to a focus on short-term gain at the expense of long-term sustainable development.

The UN-mandated *Special Panel Reports on the Exploitation of Natural Resources and other Sources of Wealth of the DRC*, published between 2001 and 2003, described a system that rewarded "bad" operators and chased away "good" ones. In the hostile environment of war, a small elite group of opportunist businessmen²⁰ and politicians managed to prosper at the expense of a country. While this was happening, much of the DRC's potential lay dormant.

Today, the DRC is for the most part peaceful. With the help of the international community, it pulled off historic elections in 2006. The country is arguing that it is now an opportune time for the international community to help it protect its forests. It should, however, be noted that the state inherited by the new government is still fragile and carries with it the heavy legacy of its past. The patterns that were established over time manifest themselves today in what can be termed "dysfunctional state-society relationships" (National Coordination for REDD+ in the DRC 2010:6).

1.3.2 *Débrouillez-vous!*

"Débrouillez-vous" can be translated as "fend for yourselves". The phrase acquired an ominous connotation under Mobutu Sese Seko, who famously advised his people that it was acceptable to steal from the state. In another sense, and equally relevant today, it can be translated as "making ends meet", referring to the way in which the Congolese have learnt to "make do" in very trying circumstances.²¹ The way in which the system has evolved in the DRC means that it is not always easy to disentangle these two connotations (Kodi 2008:17).

The operation of the DRC's tax system is illustrative. An important aspect of citizens' social contract with their government is the fiscal contract, where the taxes citizens pay to the government in turn entitles them to service delivery. In the DRC, however, the state has a more extractive reputation. This is most aptly demonstrated by its bloated, but chronically underpaid bureaucracy. Many civil servants are paid irregularly or not at all, and most have to think innovatively about supplementing their meagre formal income. For many the answer lies in using the legitimacy their positions accord to levy a range of informal taxes, levies and fines. Moreover, the collection and recording of fiscal payments is split among several bureaucratic entities that do not share information (Goldstuck: 2009). Despite strong technical support from the IMF, past efforts to reform this system by streamlining it faced considerable political resistance.²²

This system operates from the local to the national level, with little trust and information sharing between the various levels. The provinces view Kinshasa as the "big, black hole", where what goes in

¹⁹ For an historical account of the following twenty or so years (1885–1908), see: Hochschild (1998).

²⁰ Labelled "adventure capitalists" by the Center for Public Integrity. See, for instance: Soggott and Van Niekerk (2002).

²¹ See, for instance: Wrong (2000:147-148).

²² See, for instance: Kodi (2008:80); and Goldstuck (2009).

never comes out.²³ The provincial and local levels therefore try to retain as much revenue as possible. In turn, Kinshasa sees this as proof that the lower levels cannot be trusted. These different experiences come to the fore when attempting to track how mining and forestry revenues are shared between the national and provincial level. According to legislation, the provinces are entitled to 40% of the revenues generated from activities in these two sectors (Kodi 2008:47, 49). This system does not appear to function as planned. Those at the national level argue that any problems are due to a lack of capacity at the provincial level. Those at the lower levels often complain that they do not receive the payments that are due to them and that the problem lies with the national level.²⁴ Lower levels have responded by creating a host of local and provincial taxes. The Federation of Congolese Enterprises considers these taxes to be illegal and has threatened to order its members not to pay them. This distrust is only one part of a general disconnect that exists between the capital and the rest of the country. Actions such as the drawing up of a list of “official taxes” – one of the aims of the PSRFP (COREF 2010:8-9) – are necessary but not sufficient for dealing with some of these deep-seated tensions.

The governance system in the DRC has also impeded the growth of a reputable private sector. Even today large deposits of mineral resources remain unexploited. Part of the reason for this relates to the risk of investing in the country. One of the most fundamental risks is that contracts are not respected. This has recently led several multinational companies into international arbitration processes with the Congolese state.²⁵ With its *Initiative pour l'Amélioration du Climat des Affaires*, the DRC is hoping to attract more investment.

1.3.3 Institutions for public oversight

Institutions for public accountability – including the General Inspectorate of Finance and the Court of Auditors – face serious challenges, including a lack of financial and informational resources, and political marginalisation (Kodi: 2008, 53-70). Importantly, they also lack independence vis-à-vis the executive. According to the presidential decree that established the Court of Auditors, it is a unit of the President's Office and reports to it. The General Inspectorate of Finance has also recently been moved from the Ministry of Finance to the President's Office. There are unproven allegations that the inspectorate is used to settle political scores.

The DRC's National Assembly was officially installed in September 2006 and National Senators chosen in January 2007. Parliament also reflects the fragmented nature of the Congolese political system: there were more than 9 500 legislative candidates from 269 parties on the parliamentary election list in 2006. Today, 69 parties are represented in parliament, and there are an additional 63 independent MPs (Kroon: 2009). As parliamentarians also represent their constituencies, parliament could potentially act as an important link between Kinshasa and the rest of the country. Parliamentarians are expected to travel to their constituencies twice a year, although this is made challenging by the vast size of the country and the lack of infrastructure (Kroon: 2009).

Despite these challenges, parliament has been in ordinary and extraordinary sessions, approving and passing a vast number of laws and amendments. Currently, one of the main topics under discussion is the decentralisation process. According to the DRC constitution, decentralisation will increase the number of provinces from 11 to 26, each with their own provincial assemblies (Kroon: 2009). Decentralisation is no mean feat in a country where parliament is but one of a number of fledgling institutions. There are eight permanent committees in parliament, including one on the environment and natural resources.²⁶

²³ Author's interview: development partner representative, 2008.

²⁴ Author's interviews: DRC government officials, 2008-2010.

²⁵ See, for instance: Africa Confidential (2010:4-5).

²⁶ Author's interview: President of the Parliamentary Commission on Environment, Natural Resources and Tourism, 2010.

1.3.4 *Parallel worlds*

In large parts of Africa, informal and customary institutions exist in a realm parallel to that of formal rules and regulations. The salience of such institutions²⁷ has led scholars such as Tim Kelsall (2008:12) to refer to the informal world of politics on the continent as the “real” world. While the ideal relationship between these informal institutions with the state apparatus is up for debate, it should be noted that pre-existing but informal institutions have often been ignored in the design of new institutions. Customary institutions of governance (including chieftaincies and customary land tenure) are particularly influential in rural Africa and in areas where people feel alienated from the state (UNECA: 2007). In a country as large as the DRC, where as much as 70% of the population live in rural areas (Debroux *et al.* 2007:4), this alienation is exacerbated by a lack of infrastructure.

Another locus of authority that is not always formally recognised is the church. Research points to the church as one of few self-sustaining structures in many African countries (Kelsall 2008:13). The role of both the Catholic and the Protestant churches in the DRC is admittedly complicated.²⁸ Despite this, the church survived the wars and is today one of few institutions that can claim effective coverage of the DRC.²⁹

Finally, Friedrich Schneider (2002:5) estimated that, in the year 1999/2000, the average size of the informal economy in Africa (in terms of the percentage of GDP) was 42%. This figure is likely to be much higher for the DRC. Informal economic activities are not included in most financial figures, which should therefore be approached with caution in the DRC context.

1.3.5 *The role of development partners*

The DRC is dependent on development finance for a significant proportion of its budget. The impact of these external funding streams on incentive structures and state-society relations is important and needs to be carefully considered. This will continue to be relevant as REDD pledges translate into money. A report by the Centre for the Future State at the Institute of Development Studies (IDS) describes the potential that large aid inflows have to “reduce incentives [for increasing] economic growth in order to expand public revenue, and weaken the need to bargain with citizen taxpayers” (IDS 2010:19). This case report follows the lead of the Informal Working Group on Interim Finance for REDD (IWG-IFR 2009) by arguing that a developed/developing world partnership on REDD in the DRC should “create an *incentive structure* that turns around the economic and political logic” that currently hinders sustainable development.³⁰ The creation of such an incentive structure requires careful consideration of the role for different stakeholders, including also that of development partners.

The international community played an important role in supporting the DRC as it prepared for and held its first multi-party elections. Even as this is positive, there are those who argue that, during the DRC’s transition period, the focus on the elections led to governance issues – and specifically corruption – being neglected (Kodi 2008:52, 84). A more recent mapping of development assistance shows that, today, the largest concentration of aid is targeted towards the “good governance” agenda. Public finance management reform with support from the IMF and the World Bank is ongoing. The UNDP is also supporting a USD 390 million governance programme that will run through 2012. Despite substantial donor investment, a study evaluating ten principles for international engagement in precarious situations and fragile states (Kamitatu Etsu 2010:19-23) found that programmes that focused on state-building in the DRC have to date delivered few positive results. Admittedly, challenges of donor engagement may be explained in part by the fact that state-building is a long-term process.

²⁷ See, for instance, Economic Commission for Africa (2007) and Hyden (2005).

²⁸ For a historical overview of the role of the church in the DRC, see: Putzel et al. (2008:42).

²⁹ Author’s interview with Pastor at National Coordination of the Baptist Community of the Congo River, CBFC, 2010.

³⁰ Emphasis added by the author.

Other challenges to donor engagement with the DRC relate to an over-reliance on parallel project implementation units (PIUs) and fragmented donor engagement. In 2008 alone, 146 PIUs were operating in the DRC (Kamitatu Etsu 2010:9, 29-30). The motivation behind such PIUs – capacity constraints and governance challenges – are clear, yet the potentially perverse impacts of relying on such units remain. Despite progress through initiatives such as the DSCRCP, the Priority Action Plan and the thematic groups (discussed later), it appears that more could be done to enhance development partner coordination in the DRC.³¹

As this case report argues, the DRC's governance challenges (including corruption) have the potential to undermine REDD objectives in the country. At the same time, development partners need to be both realistic about the unintended consequences of their engagement and modest about the impact that outside actors can have on local processes.

1.4 Forest governance

The DRC's 2002 Forest Code – written with the assistance of the World Bank – has been commended for acting as a “first building block in what was essentially an almost complete legal vacuum” (Counsell 2006:16-17). In addition to the adoption of the Forest Code, reforms in the forestry sector since 2002 include a review of logging concessions (see box text below), the development of implementation decrees for the code, and reform of taxation of the wood industry. The development of implementation texts is proceeding slower than anticipated (MECNT 2010:42). The Forest Code was passed before parliament was installed, so the law was not debated in this forum; neither were the implementation decrees. The RPP admits that the passing of laws and decrees is only a first step, and that implementation of these laws remains a challenge. Tax reform in the forestry sector faces the same problems as in other sectors (MECNT 2009:43). And whereas some progress has been achieved in forest governance at the national level, implementation challenges at the local level remain.

1.4.1 *The informal forestry sector*

Similar to other sectors in the DRC, the formal logging sector is dwarfed by the informal sector. A study by CIRAD estimates that around 1.7 million m³ of informal timber floods onto the Kinshasa market each year. This can be compared with the estimated 300 000m³ of timber exploited by the 15 members of the industrial logging federation (*Fédération des Industriels du Bois*, FIB) which accounts for the bulk of the formal market. Cutting wood and charcoal production for energy needs are two of the largest drivers of forest degradation, while the biggest direct cause of deforestation is slash-and-burn agriculture. Or, as summarised by one interviewee: in the DRC, the single biggest cause of deforestation and forest degradation is poverty and the associated lack of alternatives (Du Preez & Sturman 2009:38-40).

The answer to the informal sector does not simply lie in legislation. In this sector in particular, encouraging change with disincentives appears to have proven less effective than doing so with incentives. This seems to be the reasoning behind programmes designed to encourage clandestine users to become legal (MECNT 2009:114). One such initiative is the creation of associations for artisanal exploiters, similar to the FIB mentioned above. Benefits of joining include access to information (crucial, but very difficult to obtain in the DRC), formal recognition, and increased bargaining power and resistance to harassment by officials.³² These efforts at formalising the sector face resistance from those who benefit from opacity,³³ which makes it necessary to follow a step-by-step approach. Nevertheless, the two existing artisanal associations already bring together more than 2 000 artisanal exploiters.

³¹ See, for instance: Kamitatu Etsu (2010)

³² Author's interview: representative of international NGO, 2010.

³³ Author's interview: Congolese academic, 2010.

Finally, a wealth of experience with forest governance has also been gained in field projects,³⁴ often implemented by local NGOs and networks in partnership with large international NGOs like the International Union for the Conservation of Nature (IUCN), the World Wide Fund for Nature (WWF) and Conservation International (CI). An example of a local network is Réseau CREF (*Réseau pour la Conservation et la Réhabilitation des Ecosystèmes Forestiers*) that brings together local NGOs focusing on conservation and rehabilitation of forest ecosystems in the province of North Kivu. The DRC is even home to the first forestry Clean Development Mechanism (CDM) Programme in Africa, on the Ibi-Batéké Plateau³⁵ about 150 km from Kinshasa. As argued in a study by IDS (2009), it appears that, in the DRC, small grassroots projects have a better chance of success and more local ownership than large ones (Baser 2009:4). This may be because such projects allow for experimental approaches to test what works before getting into larger-scale commitments.

A review of logging titles

Many of the logging contracts signed before and during the war were problematic: most were speculative, concluded without consideration to the real value(s) of the resource, and without consultation (Debroux *et al.* 2007: xiii). The post-Forest Code priority agenda for the re-launch of the sector therefore included a review of logging titles. In 2006, an inter-ministerial commission was established to consider the validity of 156 logging concessions, covering over 22 million hectares of forest. Those deemed valid would be converted, and the rest cancelled. At the end of this process, 65 titles covering just over 9 million hectares were deemed convertible (MECNT 2010:42). Of the original 76 companies, only 18 retained their concessions (Du Preez & Sturman 2009:12).

A further 16 concessionaires benefited from “special comments” from the commission (author’s interview with representative from FIB 2010). These still hung in the balance and another commission was appointed to look into the matter. Most of the uncertainty relates to concessions obtained during a moratorium on logging concessions. The legitimacy of the moratorium has been contested by some who argue that it would only be enforceable once published in the *Government Gazette* (in 2005), and that therefore the initial 2002 decision was illegitimate (author’s interview with logging company representative, 2009). There was also debate about overlapping legal texts, in particular about an investment code which was deemed to supersede the moratorium (author’s interview with representative from FIB 2009). By June 2010 the process was ongoing. Recalling previous discussions about contract security and commercial arbitration, it should be clear that these are no simple matters.

Despite some contestation, the overall review process was generally deemed positive (National Coordination for REDD+ in DRC 2010:2; and author’s interviews with development partners, 2009 and 2010). Most stakeholders felt that it was a transparent process and viewed it more positively than the mining title review process. The reasons for this beg further investigation. Admittedly, the enforcement and follow-up to this process is already proving challenging. It appears that some of those whose titles were cancelled in the review process have since reverted to informal, semi-artisanal exploitation (author’s interview with representative from FIB, 2010). This links again to challenges of implementing national decisions at the local level (see, for instance: Kodi 2008:50).

1.4.2 Intra-sectoral and inter-sectoral coordination

Within the MECNT, the National Programme for Forestry and Nature Conservation (*Programme National Forêts et Conservation de la Nature*, or PNFoCo in French) is responsible for translating the DRC’s strategic priorities for forestry into a coordinated action plan (Du Preez & Sturman 2009:17). A

³⁴ For examples, see: DRC REDD+ pilot projects at the end of this case study, as well as Du Preez & Sturman (2009, pp. 23-47), and Yanggen *et al.* (2010).

³⁵ See: www.ibi-village.cd

programmatic approach, like PNFoCo, is in line with the Paris Declaration on Aid Effectiveness, and in particular with the commitment to the goal of harmonisation of donor initiatives.

From 2007 onwards, a broader donor coordination process was formalised in the DRC's Country Assistance Framework (CAF). The idea was for the CAF to align its actions to the five pillars of the country's first Strategic Document for Growth and Poverty Reduction (or DSCR) – the equivalent of a Poverty Reduction Strategy Paper. These five pillars are: (i) promoting good governance and consolidating peace; (ii) consolidating macroeconomic stability and economic growth; (iii) improving access to social services and reducing vulnerability; (iv) combating HIV/AIDS; and (v) promoting community dynamics. A Priority Action Plan (PAP) was prepared, and the responsibility to oversee its implementation was designated to the Ministry of Planning (United Nations and World Bank 2008).

In addition, thematic groups (*groupes thématiques* or clusters) were established with the aim of creating a formal framework for consultation and dialogue among the relevant ministries, non-state actors, and development partners. These thematic groups are organised around the five pillars of the PRSP, with Group 13 (GT13) on the environment, water, sanitation and forestry falling under the pillar of social services. GT13 is sub-divided into two sub-groups, with sub-group two (SG2) focusing on forests and the environment. Compared to the other thematic groups that struggled to get off the ground, there has been some noticeable progress under GT13 SG2.³⁶ As with the title review process discussed above, the reasons for this beg further investigation.

However, rainforests do not grow in complete isolation. In the DRC, forestry is linked to the following sectors (and thematic groups): transport (GT5), energy (GT6), mining and hydrocarbons (GT7), and agriculture and rural development (GT8). Problems of intra-sectoral coordination in these related sectors (and the corresponding thematic groups) also impacts on the forestry sector. Moreover, inter-sectoral coordination under the Ministry of Planning remains problematic.³⁷ Ministries in the DRC often compete for resources and appear not to see the benefit of sharing information.³⁸ Past efforts at streamlining and improving effectiveness have faced resistance from those who benefit from institutional complexity.

At the regional level, it might be worth considering the experiences of regional coordination of the inter-governmental Central African Forests Commission (COMIFAC) and the multi-stakeholder Congo Basin Forest Partnership (CBFP).³⁹ It should also be noted in this context that the DRC is currently in the process of developing its second DSCR.

1.5 Governance of REDD in the DRC

This section considers the current and planned institutional architecture for REDD in the DRC. It draws lessons from the country's general governance context and from its experience with forest governance, for REDD. In addition to the issues discussed in more detail in the sub-sections below, some general governance-related challenges should be noted.

Decentralisation has been mentioned before. The lack of capacity that is apparent at the national level is worse at the level of the provinces. Increasing the number of provinces from 11 to 26 – as provided for in the DRC constitution – will place additional strain on already over-stretched state resources, of both the financial and the skilled human kind. This is relevant for REDD as, for REDD to work, it has to work at the local level, where many of the day-to-day decisions about forest use are made. Tapping other resources at these levels – such as those of local-level field projects – will be essential, but not sufficient.

Provision for a dispute resolution function for REDD is mentioned below. The form and location of such a mechanism begs careful consideration. The same is true for a prosecuting/policing function,

³⁶ Author's interviews: development partners of the DRC, 2008 and 2009.

³⁷ See, for instance: Norway (2010:1)

³⁸ Author's interview: development partner representative, 2010.

³⁹ See, for instance: Du Preez (2010:162-187).

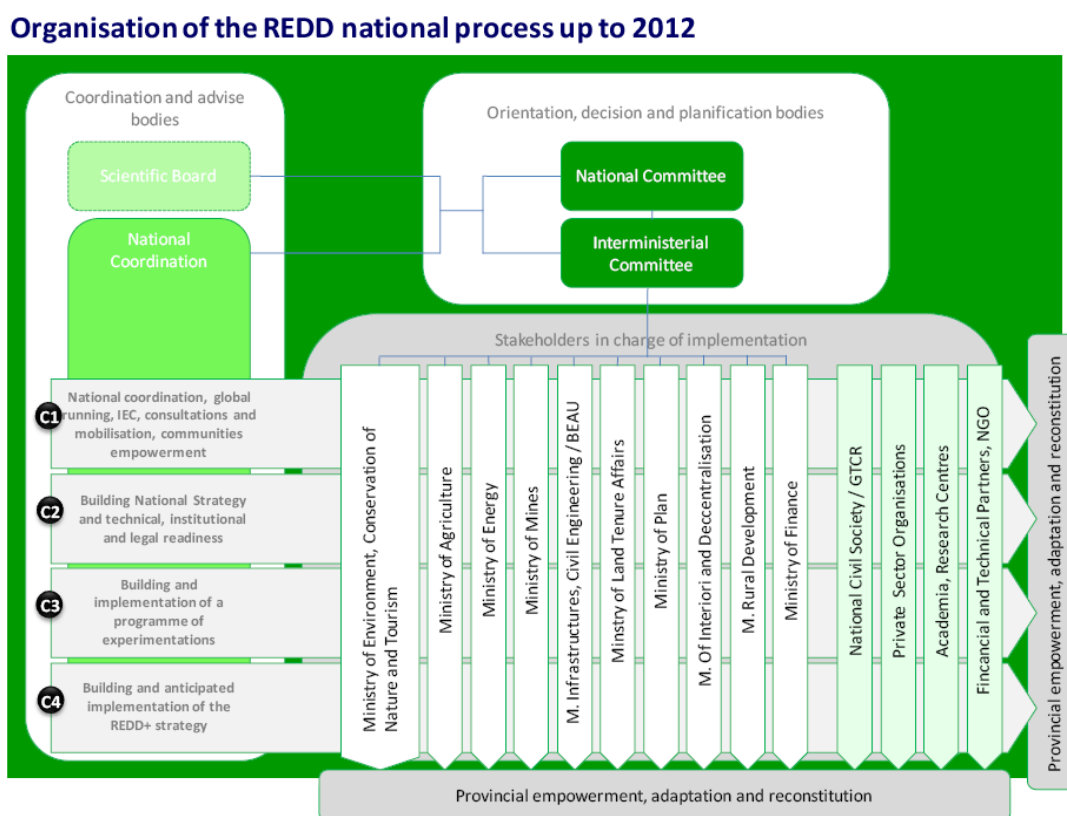
should the need for that arise. The DRC's judiciary is weak and faces serious challenges of independence and accountability.

Finally, and before moving to a discussion of the REDD architecture, the timing of the DRC's REDD process should be mentioned. The remainder of the DRC's REDD readiness phase overlaps with the country's election plans. Presidential elections are scheduled for November 2011, provincial elections for 2012 and local elections for 2013. A focus on campaigning for these elections might shift attention from REDD, even as political manoeuvring is sure to intensify during this time. The upcoming elections are an additional factor that could be added to the argument of those who describe the current timelines as "ambitious".

1.5.1 Current institutional architecture

The following institutions have been established by Prime Ministerial decree No 09140 (26 November 2009) to govern the DRC's current REDD Readiness Phase: a National Committee, an Inter-Ministerial Committee, a National Coordination Body, and a Scientific Board. The institutional structures are represented in Figure Two below:

Figure 2: Institutional structures for the REDD readiness phase



Source: MECNT 2010:15.

The National Committee is responsible for decision-making and strategic orientation. It defines the direction of the REDD process, approves the work plans of the Inter-Ministerial Committee and the National Coordination Body, provides for the monitoring, control and evaluation of the REDD process, and implements the national fund. It also establishes the forms of management and redistribution of subsidies and resources deriving from REDD (MECNT 2010:15-16). The MECNT announced the members of the National Committee by Ministerial Decree on 28 June 2010 (Endundu: 2010a). It consists of 14 members, including members from the DRC administration, civil society, private sector and academia. The National Committee is chaired by the Secretary General of Environment and Nature Conservation in the MECNT.

The Inter-Ministerial Committee is responsible for planning the implementation of the National Committee's decisions. It also designates responsibility for the execution of these decisions to relevant state structures and experts, both national and international. The establishment of this committee reflects an acknowledgement of the interconnectedness of forestry and other sectors in the DRC. The Ministerial Decree published by the MECNT on 28 June 2010 (Endundu: 2010b) announced the participation of the following ministries: Environment, Nature Conservation and Tourism (president); Agriculture; Energy; Mines; Land Tenure Affairs; Planning; Rural Development; Housing and Urban Planning; and Finance (members). Conspicuous in their absence are the Ministry of Interior and Decentralisation; and the Ministry of Infrastructure, Public Works and Reconstruction. These are two ministries who took an active part in the preparation of the DRC's RPP (MECNT: 2010:9). Considering the expansive nature of the DRC's forests and the country's plans to develop and decentralise, harmonisation of plans for REDD with those for both of these ministries will be required.

The National Coordination body assists in the proper functioning of the authorities responsible for REDD orientation, decision-making and planning (i.e. the National Committee and Inter-Ministerial Committee). As its name suggests, it also provides for coherent REDD implementation by supporting and coordinating different stakeholders. The National Coordination Body was established before the National Committee and the Inter-Ministerial Committee in May 2009. The body initially included a National Coordinator, a Chief Technical Advisor, an International Technical Expert, an Information, Education and Communication Expert, and administrative and financial assistants (MECNT 2010:16-17). The National Coordination Body is overseen by the Secretary General of Environment. The Secretary General will be assisted in his duties by the Director of Sustainable Development in the MECNT, who is also the ministerial focal point for REDD and the UNFCCC (MECNT 2010:17-18). By August 2010, the National Coordination team was expected to grow by another six people.

1.5.2 *Coordination*

The need for coordination between the forestry and other sectors has existed for a long time. Improved inter-sectoral coordination could have spill-over benefits stretching beyond the forestry sector to the other sectors mentioned above. However, improving inter-sectoral coordination in the DRC has proven a complex undertaking and REDD is not a public sector reform programme. Neither can all the burden of the DRC's development be placed on REDD (National Coordination for REDD+ in DRC 2010:1; and author's interview with development partner representative 2010). The failure of past efforts at inter-sectoral coordination were mentioned earlier and also pointed out in both the Participants Committee (PC, Norway 2010:1) and the Technical Advice Panel (TAP) reviews (Cobb 2010:3) of the DRC's RPP. As a first step, it is crucial that REDD is included in the DRC's second DSCR. This is currently promoted by the MECNT in close collaboration with the UNDP (National Coordination for REDD+ in the DRC 2010:3).

REDD has also raised the profile of the Ministry of Environment, Nature Conservation and Tourism, (MECNT), which brings with it both opportunities and threats. The institutional bodies governing the current REDD readiness phase lean heavily towards the MECNT, as reflected in the fact that individuals at the helms of all three bodies discussed above are from the MECNT. Though the motivation behind this seems obvious, the impact on power relations within the DRC should not be underestimated. As mentioned earlier, Congolese ministers were understandably impressed with the figures contained in the study on the potential of REDD. In an environment where ministries are known to compete for resources, an initiative the size of REDD could serve to exacerbate existing tensions or even create new ones.

By way of example, the Ministry of Planning – which stressed the importance of including REDD in the DSCR planning process – is responsible for oversight and coordination of the DRC's overall development strategy. In the context of REDD, however, the National Committee (led by the MECNT) approves the work plans of both the Inter-Ministerial Committee and the National Coordination Body (both of which are also presided over by individuals from the MECNT). Great skill will be required to mitigate tensions between the MECNT, the Ministry of Planning, and the three REDD institutions described above, both in the context of the REDD planning process and the DRC's national planning process.

The National Coordination Body claims that its coordinating role stops short of direct implementation of REDD activities. This was questioned in the TAP Review, which described the National Coordination Body as “an interim executing entity for REDD” and pointed to an unclear division of roles and responsibilities between the Coordination and the Inter-Ministerial Committee. The definition of these roles also raises questions about the relationship between newly established (and yet-to-be established) REDD institutions and existing formal state institutions. Even as the motivation behind establishing project implementation units (PIUs) is clear, the impact of parallel or overlapping systems on national structures should be considered (Kamitatu Etsu 2010:9, 29-30).

Beyond the DRC, and in the absence of a multilateral forest agreement, the fragmented nature of the global forestry architecture is reflected in the sheer number of forestry governance initiatives (see, for instance: Du Preez 2010). These provide lessons,⁴⁰ but so many different initiatives also place additional burdens on countries with weak capacity. International policy-makers are advised to think carefully when designing new institutions for REDD. Some evidence that this is already being done can be found in the DRC, where a single Readiness Preparation Proposal (RPP) was accepted by both the World Bank Forest Carbon Partnership Facility (FCPF) and UN-REDD. There are also ongoing attempts to coordinate efforts among the FCPF, the UN-REDD and the Forests Investment Programme (Forest Investment Program Sub-Committee: 2010).

1.5.3 *Institutions beyond the current phase*

The institutions described thus far are those for the current REDD Readiness Phase (2010 – 2012). The RPP also gives a preliminary vision of an institutional framework for future REDD implementation. Provision is made for several functions, including a decision-making function, a planning and implementation management function, a coordination function, a dialogue and dispute resolution function, a funding centralisation function and an auditing function. It is foreseen that the decision-making and planning functions will be placed under either the Prime Minister’s or the President’s office, and that the coordination function will be linked to the MECNT.

The TAP Review notes that the design of future REDD institutions requires some additional consideration. It warns that the creation of a multitude of new institutions will place too heavy a burden on the DRC’s fragile state architecture (Cobb 2010:3). The DRC responded that it will seek to streamline the architecture so as to improve effectiveness (National Coordination for REDD+ in the DRC 2010:7). This should be encouraged in as far as the aim would be to create a simplified structure with well-defined institutions that discourage political manoeuvring. However, and as described earlier, past efforts at streamlining and improving effectiveness have faced resistance. As the TAP review (Cobb 2010:10) points out: technocratic plans are of limited applicability in the challenging DRC context.

1.5.4 *Money matters*

At this stage, REDD funds are raised mainly in the form of public development finance (Forest Investment Program Sub-Committee 2010:19-28). The DRC’s RPP calculated an expected budget of USD 22.652 million for the readiness phase (2010 – 2012). By the time the RPP was published (March 2010), just less than half of this had been raised. This is summarised in the table below (MECNT 2010:93-94):

⁴⁰ This was one of the main goals of a May 2010 Expert Workshop on Monitoring Governance Safeguards in REDD+, held at the UK Royal Institute of International Affairs, Chatham House, London.

Table 5 REDD readiness funds

UN-REDD and FCPF funds ‘in progress’	UN-REDD (UNDP)	UN-REDD (FAO)	UN-REDD (UNEP)	FCPF	ITTO
USD 1.227 million	USD 2.185 million	USD 2.343 million	USD 972 000	USD 3.4 million	USD 600 000

The RPP is also meant as a co-financing instrument with other funders. At the UNFCCC negotiations, six donor countries – Australia, France, Japan, Norway, the UK, and the US – pledged a total of USD 3.5 billion between 2010 and 2012 to “fast-start” the REDD+ process (Forest Investment Program Sub-Committee 2010:5). Norway and the UK pledged EUR115 million to the Congo Basin Forest Fund (CBFF),⁴¹ over three years (Forest Investment Program Sub-Committee 2010:19-28). It should be noted, however, that the implementation cost for the REDD pilot projects is not included in the RPP budget (MECNT 2010:93-94). These pilots are funded through different channels than the rest of the readiness process. Before discussion moves on to the idea of a national REDD fund, an initial suggestion to improve donor coordination is the creation of a national (or even an international) REDD database, similar to the one for the Clean Development Mechanism.⁴²

As mentioned, in DRC there exists some coordination between the FCPF and UN-REDD. Nevertheless, some challenges of coordination and coherence could arise owing to different ways of channelling development assistance, most notably between the non-earmarked approach of the Paris Declaration and the earmarked approach of global funds. The Paris Declaration approach is exemplified by the World Bank-supported DSCR process and in the DRC’s forest sector (the PNFoCo), whereas the global funds approach is preferred by many UN agencies. These two models of aid effectiveness are quite different and to some extent even divergent. A recent IDS Practice Paper (Isenman and Shakow: 2010) considers the strengths and weaknesses of both models and then suggests how they can complement each other, calling on donors to “think twice” about how the principles of Paris (and Accra) can be built into new funds from their initiation.

Global funds are gaining in popularity and nowhere more so than in the environmental and climate change context. This is true also for the DRC, whose RPP suggests the creation of a centralised fund for the management of carbon revenues (MECNT: 2010). Plans for this fund are still in their early stages, but a study has been commissioned to inform the creation of what is foreseen will be a national “basket fund” governed and operated separately from the state (MECNT: 2010). The design of such a fund is also expected to benefit from a period of limited but flexible experimentation with revenue generation and distribution mechanisms. Even at these early stages, reviewers have expressed concern that the RPP’s suggestion of a national REDD fund, with an additional 11 provincial funds (which would presumably have to grow to 26 as the DRC’s decentralisation process progresses) might be unfeasible. The PC Review of the DRC’s RPP suggested that alternative options should be explored (Norway: 2010).

In addition to the lessons taken from the REDD pilot projects (see below), there are also other funds to learn from. The Congo Basin Forest Fund mentioned above is managed by a secretariat based at the African Development Bank. In Brazil, there is the Amazon Fund. Both of these could provide some lessons for the proposed DRC REDD fund. However, both the CBFF and the Amazon Fund are relatively new. Perhaps better lessons could be drawn from similar funds that have existed for a longer time (albeit in different sectors). Notable examples include the multilateral fund linked to the Montréal

⁴¹ For more information, see: www.cbf-fund.org

⁴² See: cdm.unfccc.int/index.html

Protocol on Substances that Deplete the Ozone Layer (Saunders and Reeve: 2010) and the GAVI Alliance's⁴³ International Finance Facility for Immunisation (IFFIm).⁴⁴

The Paris Declaration model has sometimes been accused of focusing too heavily on the principle of alignment to country systems and, in the process, of paying insufficient attention to serious corruption risks. The funds model has been accused of the opposite: of setting up too many of their own processes and in doing so, placing additional burdens of alignment on poorly capacitated states. This risk has been mentioned above. On the positive side, funds have been known to set advanced standards of transparency by, for instance, publishing documents on their websites that donor agencies would usually consider confidential. Even so, a GAVI corruption scandal in Uganda shows that even systems specifically designed in ways that improve governance are not foolproof.⁴⁵

The GAVI scandal in Uganda and another involving Norwegian support to the Ministry of Natural Resources and Tourism in Tanzania (Jansen: 2009) point to the limitations of entrusting accountability to weak national oversight bodies. Considering the challenges faced by the DRC's statutory oversight bodies, including the General Inspectorate of Finance and the Auditor General, multi-stakeholder oversight could serve to reinforce accountability. The involvement of parliament in REDD discussions to date in the DRC is commended and should be built upon going forward. At the same time, and considering the potential size of REDD funding in the DRC, the role for its public financial management institutions, and in particular the Ministry of Finance, should be considered.

Another issue that begs consideration is the way that money will flow to the provincial and local levels. In the DRC, serious distrust exists between Kinshasa and the villages. At the same time, lower levels of government face capacity constraints that are even more serious than at the national level. Despite this, examples exist of local financial management and systems of accountability.⁴⁶ Interviewees explained that "often the best ruler is the closest ruler." Some agreed with Elinor Ostrom (1990) that a degree of self-monitoring at the local level is possible, as long as "money is nailed to a tree."⁴⁷ Ultimately, when it comes to financial flows, transparency is crucial. At the same time, the need for early-stage flexibility is acknowledged (Cobb: 2010). The current challenge is to have flexibility but not opacity or uncertainty. In designing the system for revenue distribution from REDD it is crucial that lessons are learnt from innovative systems in field projects.

1.5.5 The private sector

REDD planning in the DRC involves much discussion about the involvement of the public sector (both the DRC and development partners) and civil society (both international and local). Less is said about the role of the private sector. When prompted, an official in one of the newly established REDD institutions explained that REDD requires money. In the readiness phase, most of the money has so far been raised from the public sector, with a focus on development finance. To ensure credibility with development partners, it is crucial to illustrate the involvement of civil society. Thus far, REDD has managed without much private sector involvement. In the case of the DRC, it might well be possible to raise required supplementary funding for the readiness phase from development partners.

Ultimately, however, REDD aims to attract both public and private finance and investment (IWG-IFR: 2009). Looking forward, there exists a clear funding shortfall, despite the substantial pledges from development partners. The actual cost to halve global deforestation has been estimated at USD 17 – 28 billion per year (O'Sullivan *et al.* 2010:5), substantially more than the USD 3.5 billion "fast-start" pledges announced at Copenhagen. A study looking into the potential for raising private sector financing for REDD implementation argues as follows: "Given the size of the funding gap and the

⁴³ www.gavialliance.org

⁴⁴ www.iff-immunisation.org/01_about_iffim.html

⁴⁵ For more information, see: Mukisa (2010)

⁴⁶ Author's interview: international NGO representative involved in implementing REDD pilot project, 2010.

⁴⁷ Author's interview: *ibid*, 2010.

ability to regulate private sector investments, the benefits of private sector engagement outweighs the risk” (O’Sullivan *et al* :2010). The study continues to argue that both the quantity and quality of private sector investment in REDD is likely to depend on how private sector actors perceive the risks of getting involved. These risks are significantly impacted upon by the design of REDD mechanisms and policies (O’Sullivan *et al* :2010). For these reasons, it is useful to keep in mind the perspective of the private sector from the outset.

When it comes to the design of REDD markets, many governments would prefer a system where countries participate in international REDD markets at the country level only and where credits are held by the central government. However, the private sector would generally rather prefer a system that allows for sub-national policy measures, programmes and projects rewarded with internationally approved carbon credits (O’Sullivan *et al.*: 2010). This option is loosely modelled after the Clean Development Mechanism (CDM). Such an option would require greater capacity at lower levels of government. A study of successful CDM projects in sub-Saharan Africa (UNEP Finance Initiative: 2009) stresses the importance of multiple revenue sources and risk-sharing between public and private actors. It also links the success of CDM projects to an enabling environment for investment (UNEP Finance Initiative: 2009). Clearly, the issues raised here have significant implications for the way in which REDD is designed in the DRC.

The potential role for the private sector stretches beyond that of raising financing. Thus far, the most visible private sector actors in REDD-related projects are the consultants who do monitoring (for example SGS or LTS) and the large multinationals that offset their carbon emissions.⁴⁸ However, there is scope for private sector involvement all along the environmental services value chain.⁴⁹ In the interviews, a development partner representative suggested the creation of local environmental service companies in the DRC. This is not as far-fetched as it might seem. A local Congolese company – Novacel - already manages the Ibi-Batéké carbon sink CDM project (UNEP Finance Initiative: 2009). The same company leads one of the REDD pilot projects (National Coordination for REDD+ in the DRC: 2010).

The type and calibre of private sector actors is, of course, important. One would like to prevent a situation where REDD is hijacked by speculators, in ways similar to what occurred in the DRC’s mining and forestry sectors. In REDD terms, this could involve speculators buying cheap forestry carbon credits at current low prices only to sell them later at higher prices, without any positive impact on deforestation, forest degradation, or local development.⁵⁰ A situation worse than that could occur if the only private sector actors REDD attracts are criminal ones – a concern expressed by Interpol (Vidal: 2010).

1.5.6 *Flying with the pilots*

For REDD to work in the DRC, it has to work at the local level since it is here that many daily decisions about forest use are made. Some commentators note that the national level will need to realise that it cannot govern forests “by remote control”, with plans and policies from Kinshasa.⁵¹ At the same time, for an initiative as large as REDD to work, the national level is required. Fortunately and unfortunately, the capital and the villages are in REDD together.

The REDD pilot projects process currently underway is an important one. It involves both sector-based and geographically integrated pilot projects. Some of these projects are new and others build on existing ones. As mentioned, a wealth of experience exists in individual projects at local level. For instance, there is the case of the Tayna Conservation Concession where customary institutions at the

⁴⁸ An example is the Walt Disney Corporation’s corporate social investment in the Tayna Conservation Concession project in eastern DRC.

⁴⁹ See for instance Orbeo, a joint venture between Rhodia and Société Générale: <http://www.orbeo.com/> involved in the Ibi-Batéké CDM project in the DRC.

⁵⁰ Author’s interview: representative of international NGO implementing REDD pilot project in the DRC, 2010.

⁵¹ Author’s interview: international NGO representative implementing REDD pilot in the DRC, 2010.

local level have entered into a contract with formal institutions at the national level so as to ensure conservation of a large forested area (Mehlman: 2010).

If care is taken to assimilate lessons from the pilot projects, the process could catalyse a long-overdue knowledge exchange and learning process. A table containing information about the geographically integrated and sectoral pilot projects - and the schematic representation of lessons to be extracted from them - follows below:

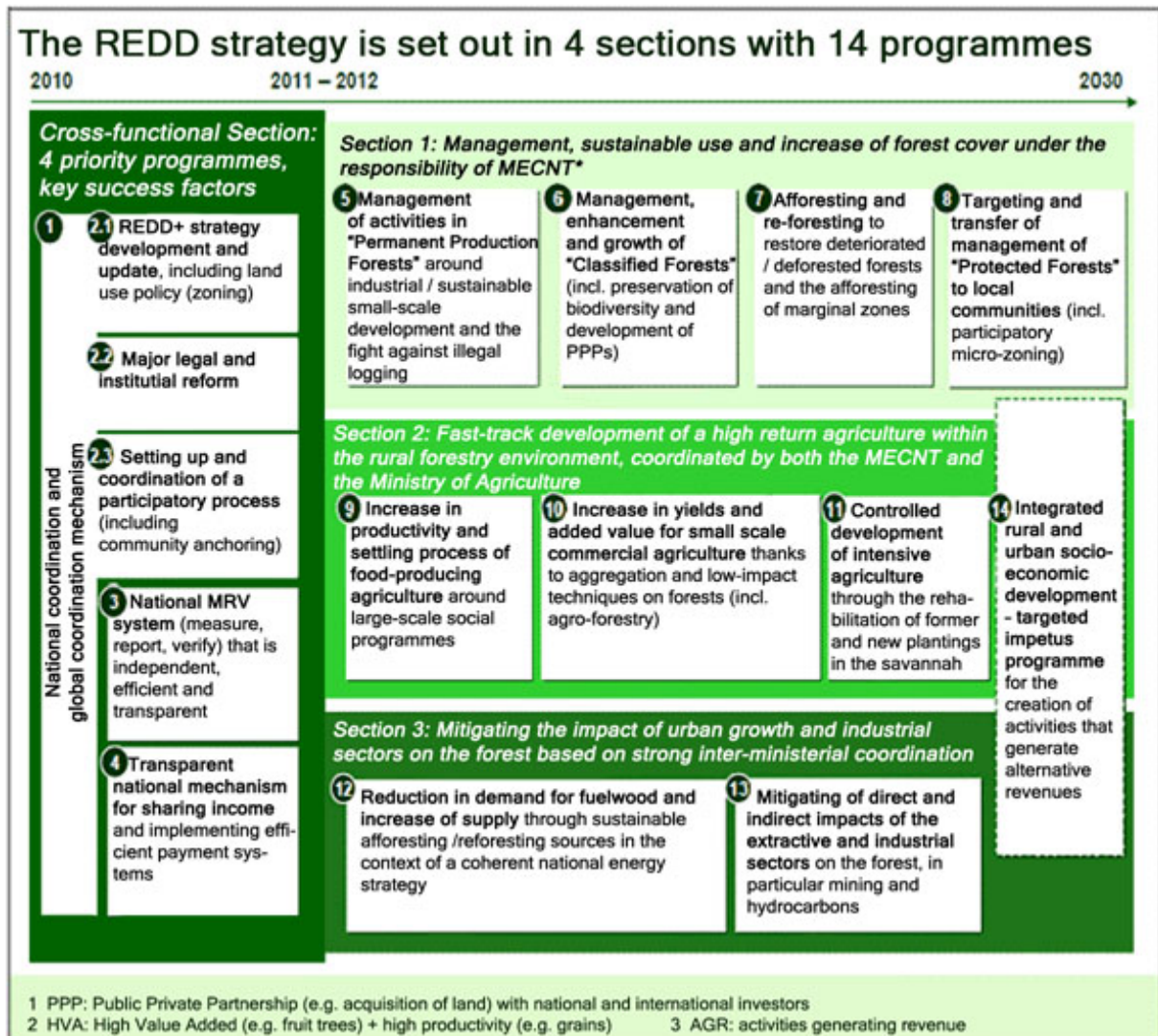
Table 6: Geographically integrated and sectoral REDD pilot projects (as in the DRC's response to the TAP review (National Coordination for REDD+ in the Democratic Republic of Congo 2010)):

Project	Location	Project leader	Nature of project	Lessons (linked to schematic in Figure 3)
Luki biosphere reserve project in the Mayombe forest	Moanda territory in the Province of Bas-Congo	WWF	Integrated rural development in an area under pressure from deforestation	1, 2.3, 3, 4, 6, 7, 8, 9, 10
ÉcoMakala project	Territories of Goma, Nyragongo and Ruthshuru in the Province of North Kivu	WWF	Small-scale planting project in a basin that supplies firewood to Goma. Including production and marketing of briquettes, improved charcoal production techniques, dissemination of improved stoves, law enforcement and land tenure mediation.	1, 2.1, 2.3, 3, 4, 6, 7, 12
Isangi project	Territory of Isangi in Province Orientale	Civil society with support from UN-REDD (UNDP)	Integrated rural development project and land use in an area deemed to come under increased pressure in the future. Includes Community Forest Management (participatory zoning) and activities in permanent production forests	1, 2.2, 2.3, 5, 6, 8, 9, 14
Agro-forestry project of South Kwamouth	Territory of Kwamouth in Bandundu Province	Private sector (Novacel SPRL)	Integrated rural development project in a degraded forest area that supplies firewood to Kinshasa	1, 2.3, 3, 7, 10, 11, 12, 14
Mambassa project	Territory of Mambasa in Province Orientale	Civil society with support from UN-REDD (UNDP)	Integrated rural development project and land use in an area deemed to come under increased pressure in the future. Includes Community Forest Management (participatory zoning) and activities in permanent production forests	1, 2.2, 2.3, 5, 6, 8, 9, 14
Project support to civil society and government in the context of REDD in Equateur Province	Équateur Province	Woods Hole Research Center, USA	Capacity building of civil society and provincial government as part of REDD, including the development of a planning tool for the implementation of alternatives to deforestation and the monitoring, reporting and verification of social and environmental impacts.	1, 2.1, 2.3, 3, 9

Table 6: Geographically integrated and sectoral REDD pilot projects (as in the DRC's response to the TAP review (National Coordination for REDD+ in the Democratic Republic of Congo 2010)) continued:

Project	Location	Project leader	Nature of project	Lessons (linked to schematic in Figure 3)
Project in the Maringa-Lopori-Wamba Landscape	Territories of Djolu and Befale in Équateur Province	African Wildlife Foundation (NGO)	Proposed settlement of the slash and burn agriculture, improvement conditions of market access and development of community forestry management (participatory micro-zoning) in a low-pressure zone with extensive agricultural practices.	1, 2.1, 2.3, 3, 8, 9
Community agro-forestry project on the Ibi-Batéké plateau and in Bas-Congo		Directorate of Reforestation and Horticulture, MECNT	Agro-forestry project in an area that supplies timber and firewood to Kinshasa.	7, 12
Implementation of local community forests in the Democratic Republic Congo		Directorate of Forest Management, MECNT	Project that supports local and indigenous communities. This includes the process of obtaining rights and supporting the sustainable management of their forests.	8
Co-management of reserves in North Kivu Province (Tayna Project)	North Kivu	ICCN and local communities, with support from Conservation International	Creation and co-management of two reserves by local communities in partnership with ICCN. The project tracks drivers of deforestation and proposes alternative livelihoods.	2, 3, 4, 6, 7, 9, 12, 13, 14

Figure 3: REDD readiness strategy as expressed in four sections and 14 programmes:



Source: National Coordination for REDD+ in the DRC 2010:12-16 (Unofficial translation from the original French).

1.6 Conclusion

The DRC’s ambitions for Reducing Emissions from Deforestation and Forest Degradation (REDD) is matched by the ambitions of those who identified it as a highly cost-effective and relatively easy climate change mitigation option. A good dose of modesty is required on both sides: REDD is complicated and the DRC is a complex environment in which to implement it. Considering the size of the task at hand, one issue that needs to be revisited is the timelines of the current readiness phase. Both the international community and DRC government officials in Kinshasa are keen to progress speedily, as reflected in the regular use of terms like “fast start” and “quickly”. However, those at the local level who have been involved in project implementation for some time speak from experience when they warn that current timelines are too ambitious. The types of changes that are required to get ready for REDD go beyond paper reforms and will more than likely take longer than initially anticipated. It will also be difficult to keep the focus on REDD while politicians at all levels will be gearing up for election campaigns.

Getting ready for REDD is much more than a technical enterprise. The DRC faces serious governance challenges as discussed above, which, if not dealt with, could undermine REDD objectives. At the same time, the size of the REDD process in the DRC gives it agency. Governance in the DRC will

have an impact on REDD, but REDD will also affect governance in the DRC. This impact could be either positive or negative, or possibly positive on one level and negative on another. In addition to emphasising the all-important and complex governance context for REDD in the DRC, some early policy considerations include:

- Ensuring the incorporation of REDD in the DRC's second Strategic Document for Growth and Poverty Reduction (DSCR2) process.
- Thinking carefully about the design of institutions for REDD. Too many new institutions would merely put additional strain on already weakly capacitated state structures. Newly designed institutions and processes will come face to face with existing institutions, both formal and informal. The way in which new institutions will relate with existing state structures must be considered. The potential influence of new institutions on existing power relations should also be taken into account. Lessons from the current readiness phase should inform the design of institutions for the future implementation phase. The potential role for the private sector must also be considered from the outset.
- Ensuring and enhancing development partner coordination and coherence of REDD activities. Coordination between the World Bank's Forest Carbon Partnership Facility (FCPF) and the UN-REDD is noted and should be further encouraged. Special attention might need to be paid to potential inconsistencies between the Paris Declaration model and the so-called "Global Funds" model, and how to reconcile them.
- Clarifying the way in which REDD funds will be managed, even at this early stage, is important. Innovative ideas can be drawn from other financial management arrangements, including forest funds like the Congo Basin Forest Fund and the Amazon Fund, and beyond forestry from the multilateral fund linked to the Montréal Protocol and the International Finance Facility for Immunisation (IFFIm) linked to the GAVI Alliance. Lessons from REDD pilots could also inform the design of systems for revenue distribution.

2 Kenya

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2.1 Introduction

This report is written at a very early stage of REDD in Kenya. The Kenyan Forestry Service (KFS) has recently submitted its REDD Readiness Preparation Proposal (R-PP) to the World Bank's Forest Carbon Partnership Facility (FCPF). This proposal is for preparatory work to start in 2011 and to end in 2014, with a requested budget of just under USD 10 million. The proposal includes the establishment of a dedicated National REDD Coordinating Office to be staffed by 15 people. International development agencies in the country have yet to commit funding for the development of REDD activities, but this is almost certain to happen in the near future. Despite a lack of available estimates for how much money Kenya could receive in the future from REDD, expectations among forest stakeholders are high. Most interviewees believed REDD will represent a large source of funding in the future and will provide an impetus for change in the management of forests. Some of those interviewed noted REDD could lend further support for the decentralization of forest governance - a policy goal that has long been seen as the best solution for managing the country's remaining indigenous forests but, for various reasons, has remained elusive.

Given the early stage of REDD in Kenya, discussion of the relationship between REDD and corruption can only be anticipative. It is clear, however, that corruption has been a feature of forest governance in Kenya for some time. Many interviewees for this report argued that corruption in the forestry sector peaked in the mid to late 1990s, and that corrupt activity led to a crisis in forest conservation and very high rates of deforestation. Significant changes occurred in the management of forests from 2003, and a popular view today is that corruption in the management of forests is not as problematic as previously. Nevertheless, there is evidence that corruption remains an important challenge for the sustainable and equitable exploitation of Kenya's remaining forests and tree plantations. By extension, it is an issue that appears necessary to consider in the planning phases of REDD.

This report has a straightforward structure. The first section gives an historical overview of corruption and governance challenges in the country. This is in order to provide the necessary context to understand the contemporary situation of forestry reform, including the implementation of the new Kenyan Forestry Act, which came into effect in 2007. The second section provides a discussion of the main corruption challenges facing REDD in Kenya. The report concludes with a reflection on policy ideas and areas for further investigation.

Field research was undertaken with the point person for REDD at the KFS, representatives of leading NGOs, the United Nations Environment Programme (UNEP) and consultants working on forest governance issues. The interviews were constrained by three factors. First, not all individuals requested for interview were available at the time of conducting fieldwork, and it is noted that follow-up work with a broader set of stakeholders would be beneficial. Second, corruption is still considered a highly sensitive subject in Kenya and most interviewees were reluctant to be quoted directly on this topic. Third, interviewees expressed a belief that it was too early to discuss REDD in detail and were somewhat unwilling to enter into discussion of potential issues ahead.

In addition to interviews, this report draws on existing published and grey literature. There has not been the sort of detailed analysis of corruption in the forest sector in Kenya as has been available

elsewhere.⁵² Some key policy documents and reports have, however, been produced with regard to REDD and to forest management:

- The REDD Readiness proposal submitted to the FCPF has been credited to a long list of government and non-governmental forest stakeholders in Kenya. This report essentially responds to the proposal guidelines provided by the FCPF. It contains up-to-date facts and figures reviewed by stakeholders in the country, and provides a useful summary of the accepted understanding of challenges and opportunities in the forest sector. It contains some critical analysis of past forest governance, including issues of corruption, although it suggests a more positive present and future.
- A 2006 report commissioned by the World Bank provides an environmental assessment of the Kenya Forest Act. The report includes an in-depth analysis of forest governance, including findings from two case studies of local forest governance and participatory forest management (PFM). Though this report is somewhat dated, due to slow implementation of the Forest Act much of the analysis and concerns around PFM remain valid. This report will be referred to here as World Bank (2006).
- In 2007, a report was prepared by the KFS for the African Forest Law Enforcement and Governance initiative. This unpublished report contains useful detail on attempts to address forest corruption and illegal logging in the country.
- A programme report published in 2009 was commissioned by the Government of Finland for the “Miti Mingi Maisha Bora” project. This is a five-year project with a total budget of just under EUR 23 million to support forest sector reform in the country. Finland has contributed EUR 18.6 million for this project with the remainder to be contributed by the Government of Kenya. This document provides a frank and in-depth review of Kenya’s forest needs, including a stakeholder analysis and a review of the capacity and performance of the KFS. It is arguably the most thorough and up-to-date document on these issues, and is referred to here as MMMB (2009).

Other literature and media reports are referred to in the present report. Overall, however, the available literature on forest governance in Kenya is rather limited. This suggests that further in-depth analysis on governance and corruption, particularly at a local community level, could be worthwhile as part of ongoing REDD activities.

2.2 An overview of forests

Closed canopy forest once covered most of Kenya’s moist and elevated central and western landscape, as well as a narrow band of land stretching along its coast. Before human encroachment, it was thought that some 12% of the country was covered by this closed canopy forest. Forest cover is now conservatively estimated to be just over 1.5%. According to Kenya’s R-PP document, this equates to approximately 3.5 million hectares of forest, which includes indigenous forests, open woodlands and plantations. Indigenous closed canopy forest is estimated at just over 1 million hectares, but it is thought that only a small amount of this represents intact primary forest characterised by indigenous trees and a healthy forest ecosystem. This situation is dynamic: according to the R-PP document, Kenya is estimated to lose some 12,000 hectares of closed canopy forest each year.

Although Kenya is not as heavily forested as other countries in the region, its remaining forests play an important economic, social and cultural role. 10% of Kenya’s population lives within 5 km of forests and rely on forest resources for their livelihood (Geller et al: 2007). In 2007, it was estimated that forests contribute 1% to Kenya’s GDP (FAO: 2007), though this figure is likely to be a considerable underestimate given the large informal economy that relies on forest and forest-based products. Indeed, some 90% of all wood harvested in Kenya is thought to be for wood fuel, with over half of this being for subsistence and non-commercial use (MMMB: 2009). Moreover, whereas the

⁵² Such as the study in Tanzania by Traffic. See: (Milledge: 2007).

annual revenue from state-owned plantations is currently Ksh 460 million, the Finnish government's study suggests that this figure could increase to Ksh 2.5/3 billion given improvements to management systems (MMMB: 2009). Additional to this is the informal charcoal industry estimated to be worth Ksh 32 billion a year and which directly employs about 700,000, who in turn support over 2 million dependants (MMMB: 2009).

In addition to the direct value of wood products, the importance of tree cover for maintaining water catchment areas is increasingly appreciated. Water is a scarce and valuable asset, and is used for direct human consumption, agriculture, and energy: 70% of power in Kenya is hydroelectric (Kenya Forest Service: 2010). It has become a matter of national concern that deforestation has directly threatened water security in the country, including in Nairobi.

Although Kenya has 3.5 million hectares of closed canopy forest, there is a much larger area of arid- and semi-arid land (sometimes known as "bush-land") characterised by sparser tree cover. Around 24.5 million hectares of land falls under this category, and it is mostly found in the drier western and northern regions. 25% of Kenya's population lives in this region, which is considered an area particularly vulnerable to the effects of climate change, water shortages and deforestation. Whether forest cover in these regions will be supported by REDD remains unclear and will depend on what definition is used for forests.⁵³

The governance and institutional management of forests in Kenya is complex and, to some extent, contested. State-owned indigenous forests and tree plantations fall under the management of the KFS, previously the Forest Department. At present, the KFS is responsible for most of the 1 million hectares of remaining indigenous forest and about 120,000 hectares of tree plantations (20,000 hectares of which is not stocked). Further tracts of forest that lie within the boundaries of national parks and reserves are the responsibility of the Kenya Wildlife Service (KWS).

Apart from the forest land controlled by central government agencies, substantial forested areas are owned by commercial operators and local authorities. Rough estimates are that 800,000 hectares of private land is devoted to commercial tree plantations. Approximately 100,000 hectares of nominal forest land falls under the ownership of local authorities (the so-called "trust lands"). The latter are thought to be in very poor condition, and it is unclear how much of this estimated 100,000 hectares in fact remains forested.

2.3 Corruption and deforestation

Deforestation in Kenya, as elsewhere, is driven by a complex set of factors, not least population expansion, rural poverty and the growth of agriculture. It is beyond the scope of this report to provide a detailed analysis of the drivers of deforestation in the country. Suffice to say there has been a tremendous growth in Kenya's population over the past decades, with much of this occurring in the fertile western and central highlands, where the most densely forested lands used to exist. There is some evidence to suggest that forms of corruption and weak governance have played a role in facilitating the loss of forest cover.

2.3.1 *The "crisis years" in forest governance*

Prior to the 1990s, Kenya was recognised for having a relatively well-run forestry sector. According to international donor reports, by the 1980s it was arguably one of Africa's leading countries in this regard (World Bank: 2006b). With technical and financial assistance from bilateral donors and the World Bank, Kenya developed a progressive framework for the improved governance of forest resources, which placed an emphasis on decentralisation and the involvement of local communities in managing forest resources. This situation began to unravel in the mid 1980s, however, and by the 1990s, the management of forests in Kenya was considered to be in "crisis".

⁵³ For a brief discussion on the implications for REDD's successes caused by different definitions of forests, see Sasaki and Putz (2009).

The nature of this apparent crisis was multi-faceted. The importance of forests as economic and social assets appears to have decreased, and the government department responsible for the management of state owned forests and tree plantations (then called the Forest Department) was underfunded and understaffed. During this time, the FD became known for administrative corruption, managerial incompetence, and policy failure. One of the areas in which this manifested itself was the allocation of licenses for logging in state plantations. It is estimated that between 1995 and 1999, annual revenues from forests decreased from Ksh 240 million to Ksh135 million due to irregularities and embezzlement (World Bank: 2007*b*). By 1999, 75% of all timber licenses were given to unregistered operators, and bribes were reported to be commonplace. In the same year, it was estimated that the FD was owed some Ksh 93 million in uncollected royalty fees (World Bank: 2007*b*).

In the same period, there was an escalation of illegal logging and the related charcoal industry. These activities were significantly facilitated by the normalisation of bribe payments involving FD staff and other civil servants and officials. As the MMMB report bluntly states: “The previous government institution charged with the management of forest resources was poorly resourced, low in capacity and widely considered to be one of the most corrupt institutions in the country” (MMMB: 2009).

It is commonly claimed that the FD was undermined by incompetence and poor management during the 1990s. One of its most controversial decisions involved an outright ban of logging from state owned plantations in 1998. This appeared to be a poorly considered reaction to uncontrolled illegal logging in previous years, resulting in the collapse of the formal saw mill industry, the loss of some 30,000 jobs, and a further reduction in revenues for the FD. What added to the controversy surrounding this decision was the protection of three of the larger saw mill companies, who were exempted from the ban, and supplied with wood at low cost. The resulting inefficiencies in the timber industry were further exacerbated by the fact that government-owned plantations were neglected. This meant that Kenya increasingly relied on expensive imports of logs from Tanzania and Malawi. This mismanagement, combined with the impact of public sector downsizing, meant that the number of FD staff was reduced from 8,096 in 1992 to 4,216 in 2001 - a reduction of nearly 50% (KFS: 2007).

Land grabbing

Evidence of bribery and mismanagement involving the FD during the 1990s should be placed in a somewhat wider context. It was during this troubled era of forest stewardship that the problem of land grabbing became particularly acute, as documented by the Ndung’u Commission established in 2004. Put simply, during the 1990s, vast areas of formerly protected forests and state owned tree plantations were illegally acquired by citizens, companies and religious organisations. The Ndung’u report described how this illegal acquisition of forested lands involved the very top level of Kenyan society, with the previous President Arap Moi and his family rumoured to be the largest benefactors. However, the report also made clear that illegal acquisition of land was rampant at the level of local communities, and that this, in turn, caused a significant reduction in the forested areas put aside as “trust lands” for communities:

Instead of playing their role as custodians of public resources including land, county and municipal councils have posed the greatest danger to these resources ... the most pronounced land grabbers in these areas were the councillors them-selves...The corruption within central government has been replicated at the local level through the activities and omissions of county and municipal councillors.” (sic. cited in Southall: 2005)

To facilitate this large-scale land grab, the running of the FD became characterised by political interference. It has been claimed, for example, that there were dubious appointments of senior members of staff, with more qualified individuals being overlooked (World Bank: 2007*b*). This is reported to have been a further contributing factor to low morale within the FD, and ensured that some of the department’s most committed staff resigned from the organisation (World Bank: 2007*b*).

The illegal plunder of forested lands worsened prior to national and regional elections, with the most contentious losses occurring in the period leading up to the national elections in 2002. During this

period, forest land was used to buy rural votes and reward supporters of the Moi government. One of the most important parts of the country where this occurred was in the Mau Forest Complex, including the region that is the historical land of the Ogiek people. In this region, approximately 107,000 hectares of formally gazetted forests were illegally excised during the 1990s and early 2000s, with over half of this being lost in 2001 (Mau Task Force Report: 2008).⁵⁴ Part of this land was given to non-indigenous groups requiring resettlement who were falsely reported to be Ogieks. Large areas of forest land were also awarded to politicians and civil servants, some of which was converted into tea or wheat plantations. By the early 2000s, forest cover of the Mau was reduced by approximately 25% of what it had been less than a decade earlier (Mau Task Force Report: 2008).

Given such examples, several Kenyan commentators have argued that forest land has been one of the key commodities used by the state to influence voting behaviour.⁵⁵ It has also been argued that the illegal appropriation of public land has been critical to the formation and consolidation of Kenya's political elite (Southall: 2005).

Centralisation and isolation

Within this context, previous intentions of decentralising forest governance and promoting the rights of indigenous forest people lost importance as a policy objective. In fact, the 1990s became an era in which the centralisation of power over forests appears to have been strengthened. In addition, in the late 1990s, most important foreign donors in Kenya's forestry sector, including the World Bank and the Government of Finland, discontinued funding and support to the conservation and improved management of forests in the country.

The FD's loss of credibility extended to other government departments, which should, in theory, have been important partners in managing Kenya's forests. This appears to have further undermined the FD's ability to act as a responsible steward of forests and plantations. As the MMMB report claims, there were "sub-optimal" relations with the KWS, which resulted in a duplication of efforts (MMMB: 2009b).

During this time, public dissent over the loss of forests gained momentum. The work of the Greenbelt Movement was arguably the most high profile, and led to international media coverage which culminated, in 2004, with the awarding of the Nobel Peace Prize to the movement's leader, Wangari Maathai. Such efforts to expose corruption and illegal deforestation were countered aggressively by the authorities, with allegations of human rights abuses and false arrests common.⁵⁶

In summarising the findings of a strategic environmental assessment of Kenya's forest sector, the authors of a World Bank report offered the following picture:

"The SEA notes the adverse effect which shortcomings in existing legislation and institutional and governance weaknesses of previous administrations have had on forest environments in Kenya, including reduction in forest land cover through inappropriate excision of State Forests, poor standards of management, illegal felling, and lack of replanting of forest plantations. Similar problems have been exposed in areas of dry land tree cover. State Forests have increasingly been viewed as economic liabilities due to the ban on timber harvesting. A downward spiral of declining economic activity and corruption has left a demoralised Forest Department with reduced capacity to manage forests efficiently. This, in turn, has allowed excessive exploitation of highly sensitive forest resources by local communities leading to a reduction in biodiversity, pressure on water resources, and increased wildlife-human conflict." (World Bank: 2006)

⁵⁴ For more information, see: Report of the Presidential Task Force on the Conservation of the Mau Forest Complex (2008), accessed at: www.maurestoration.go.ke

⁵⁵ See, for instance, Klopp (2000) and Ongugo (2007).

⁵⁶ See, for example: Maathai (2006).

2.3.2 *The new Forest Act and the launch of the KFS*

Most Kenyan commentators suggest that the crisis years of forest governance came to an end after the election of a new government in 2002. Led by President Kibaki, this government promised to tackle corruption head on, starting at the top. Land grabbing and corruption within the forestry sector was one of the issues prioritised.

While the era of a new government failed to deliver its promise on tackling elite-level corruption,⁵⁷ an environment was created that allowed considerable reforms within the forestry sector, albeit at a slow pace. One of the most significant events was the suspension for alleged corruption of over 800 regional forestry officers and the removal (or redeployment) of senior management in the FD by the new Ministry of Environment (BBC News: 2003).

The changes in government attitudes towards forests that occurred after 2002 led to renewed interest in implementing policy ideas that had been shelved. The most important of these was the Forest Act that had been developed in draft in the early 1990s with the assistance of international donors. This was approved by parliament in 2005, and came into force during 2007.

It is beyond the scope of this report to provide a thorough review of the new Act and its implementation. However, key elements of the Act are important to consider in relation to REDD:

- First, the Act established the Kenya Forest Service (KFS), which replaced the discredited FD. The KFS is now a semi-autonomous corporate body with an independent governing committee. It aims to become entirely self-funded in future, and plans to retain all revenues accrued from managing state-owned forests and tree plantations. The reason for this reform lies with the assumption that a self-sustaining organisation will provide better corporate governance and incentives for responding to the needs of citizens and the private sector. For the time being, the KFS remains dependant on donor assistance and contributions from the central government budget. REDD has important ramifications for the self-sustainability of the KFS, as discussed below.
- Second, the Act improved the legal basis for community participation and benefit sharing within the forest sector, including the establishment of Community Forest Associations (CFAs). For many stakeholders, the new Forest Act represents the long awaited shift from a centralised approach to forest governance towards an era of decentralisation. The situation is perhaps not as clear-cut as this since the KFS remains a central authority over much of Kenya's forests. Moreover, under the new Act, there is a greater role for the KFS in managing forest in Trust Lands on behalf of local authorities. Under the Act, KFS can declare a forest as a "provisional forest" if it is being mismanaged by local authorities, and take over the running of the forest until such time as it is deemed "well managed".
- Third, the Act directly addresses the problem of unpredictable deregulation (or de-gazetting) of forest land, which was part of the rampant land-grabbing during the 1990s. The ability of senior ministers under the previous government to simply change the status of protected forests has therefore been countered. The process to de-gazette protected forests is now guarded by several checks and balances, including a more stringent Environmental Impact Assessment (EIA) process. This would appear to be a successful development in Kenya as it is reported that, since the early 2000s, no forests have been de-gazetted.
- Fourth, the new Act attempted to strengthen forest law enforcement, partly by increasing penalties against illegal logging and other forest crimes, but also by providing a framework for the legalisation and regulation of the informal charcoal sector. It should be noted that this latter action has yet to occur. There have also been no independent studies into forest crime in Kenya, and it is therefore difficult to gauge what impact these policies have had.

⁵⁷ See: Wrong (2009).

Although it is difficult to know how the new Forest Act and the establishment of the KFS have impacted on rates of deforestation, it does appear that institutional improvements in the forest sector have been made over the past few years. According to the World Bank's strategic assessment report of 2006, changes in management after the sacking of almost the entire FD senior management led to an increase in revenue. In 1999/2000, the FD reported annual revenues of approximately Ksh 100 million, while in 2004/2005, this amount had increased to just over Ksh 500 million (MMMB: 2009). This change in income was partly due to a price review of pulp wood sold from government plantations, but it was also caused by improved internal financial management, which was thought to have reduced opportunities for embezzlement that had been poorly policed under the previous government.

Despite such improvements, it is widely accepted that the KFS remains constrained by a lack of funds and capacity. There is also recognition by members of the KFS itself that problems of low staff morale, lack of proper auditing, and public distrust remain key challenges. Because of this, the KFS continues to distance itself from the previous era of forest governance under the FD. In a report developed for the AFLEG initiative by the KFS in 2007, for example, text that was written in bold reads:

“...there is the issue of corruption and outright criminality which has been rife in Kenya, as in many other countries. Examples of this include unlawful marking of forest produce, irregular issuance of licenses, bribery to forgo arrests/prosecution, use of bribery to gain promotions, etc. This has been the most devastating threat to forest law enforcement and governance—an issue that is in decline since 2003 following the new political dispensation under the NARC government” (Kenya Forest Service: 2007).

It is challenging to offer an informed view on whether corruption has indeed been significantly reduced in the forest sector over the last few years. Not all commentators think that it has. A policy brief issued by the Kenya Forest Working Group (2006) points out that the recruitment of new KFS personnel has often led to the re-employment of former FD staff previously involved in illegalities and corruption. The implication is that the poor institutional culture under the FD remains, at least in part, within the new KFS.

2.3.3 *The impact of degradation and deforestation in the Mau Forest Complex*

Alongside implementation of the Forest Act, another significant event in the past few years has been the public reaction to degradation of the Mau Forest Complex. This reaction has been important in influencing political attitudes towards the value of forests in the country, and is important to note in the context of REDD.

Although deforestation in the Mau has been a subject of national and international concern for many years, it was with the successive national droughts in the mid to late 2000s that the issue reached the consciousness of the president and senior ministers. Severe water shortages in Nairobi led the country's political elite to take note of what environmentalists had been saying for some years: the loss of forests in Kenya has ramifications for the entire country and will continue to cause dire economic and social consequences unless addressed.

In response to this situation, Prime Minister Raila Odinga created a Task Force on the conservation of the Mau in August 2008, while an emergency law enforcement unit comprising personnel from the army, the police, KWS, and KFS, was given a mandate for stemming further illegal encroachment in the area. The Task Force report, published in March 2009, put forward a series of proposals for how to reforest and protect the area, including revoking past land titles and prosecuting those involved in fraud and corruption.

At the time of writing, these recommendations have not been implemented, and it would appear that the government favours a less confrontational approach to reclaiming land in this region. This is understandable as the Mau has long been an area of ethnic tension. However, the response to the Mau Task Force report may also be explained by the fact that many of the benefactors of illegal land

grabbing remain in public office today. Indeed, there has been a popular outcry over the possibility that those politicians and officials who gained land in the Mau illegally will be generously compensated if they agree to give up this land.⁵⁸

Despite this incomplete approach to dealing with past corruption in the Mau, public reactions to the loss of trees in the forest complex appears to have galvanised popular support for forest conservation in general, and helped increase public awareness of the wider impact of corruption in the forest sector. Some commentators appear concerned that such interest may be focused too heavily on the Mau, while other forest areas that are not as important politically continue to be ignored. On the other hand, the importance of planting trees and protecting indigenous forests is afforded broad recognition in recent government documents and public statements. The Kenyan government's "Vision 2030" developed in 2007, for instance, states that the country will return to the time when 10% of its land was covered in closed canopy forests. In 2009, the then Minister of Environment, John Michuki, announced that Kenya must plant 4.1 million hectares of trees, at an estimated cost of USD 20 billion over 20 years (Korosp: 2009). Although it is unlikely that such ambitious targets are achievable, some commentators note they represent an important commitment by government to "head in the right direction".

The apparent change in government attitudes towards forests, combined with the passing of the new Forest Act in 2005, has allowed key donors to re-engage and, during the mid 2000s, substantial development funds for forest conservation became available. In 2010, USAID and the EU, for instance, provided a combined USD 10 million for reforestation efforts in the Mau. The Finnish government also supported a collaborative five year project with the Ministry of Forestry and Wildlife for forest sector reform, with funding assistance amounting to just under EUR 19 million.

2.3.4 Reclaiming stolen forest land: Tackling elite level corruption vs. evicting the poor

The Kenyan authorities' reluctance to take back stolen forest land in the Mau would seem to be in line with the well-documented failings of the country's anti-corruption efforts.⁵⁹ This would, however, be telling only part of the story. Over the past few years, Kenya's Anti-Corruption Commission (KACC) has shown some success in reclaiming illegally obtained forest, particularly in the suburbs of Nairobi. In July 2010, for example, land worth Ksh 1.7 billion that was originally owned by the KFS and KWS was reclaimed by the KACC. The value of the forested land reclaimed by the KACC since 2004 has been estimated as Ksh 6 billion (Barasa et al: 2010). Although this land has been given back to the authorities, it is not clear how much, if any, of it will be reforested.

It should be noted, however, that land reclaimed by the KACC represents a small percentage of forested areas illegally obtained over the past few decades. Moreover, there has been a conspicuous lack of successful arrests or prosecutions. Some commentators believe that the land so far reclaimed represent the pickings of low hanging fruit, while the more substantial areas of land taken by members of the Kenyan elite remains unchallenged. As the National Coordinator of Kenya's Land Alliance, Odenda Lumumba, states:

"There has not been a high profile land case, yet the government claims commitment to fighting land grabbing. Big land cases take years to resolve as the culprits hold big government offices that enable them to meddle with court processes...The government

⁵⁸ The authors of the Mau Task Force report did not publish the names of those individuals it believed acquired land through corruption. However, Prime Minister Odinga tabled a list of the main culprits to parliament. This list included 49 individuals and companies, including senior politicians and church leaders (Rugene and Wafula: 2010). There have to date been no obvious indications that the accused will be brought to trial.

⁵⁹ See for example: Wrong (2009).

have not dealt with impunity and people will continue to commit such crimes in the future unless it takes a firm stand and prosecutes land grabbers.”⁶⁰

What may bring further change is the passing of Kenya’s new constitution, voted for by Kenyans on 4th August 2010. An outstanding feature of the new constitution relates to strengthening the ability of the Kenyan state to reclaim stolen land, including the establishment of a new Land Commission. This issue proved to be one of the main points of public debate leading up to the vote for the new constitution. Those politicians explicitly opposed to the new constitution were accused of doing so to protect their ill-gotten land. Whether the new constitution facilitates the recovery and fair redistribution of lands taken by corrupt means represents an important test.

If Kenya can continue to reclaim formerly forested land and return some of this to its forest status, this may be an important contribution to reforestation that is relevant to REDD in the country. Perhaps unsurprisingly, given the political sensitivities surrounding this issue, it is not mentioned as an option in the R-PP proposal. In taking REDD initiatives forward, however, it may make sense to involve agencies who are active in recovering stolen forested land, such as the KACC and the proposed Land Commission.

Efforts towards reclaiming stolen land from politically powerful and wealthy Kenyans can be contrasted to the approach adopted by the Kenyan authorities in evicting rural poor from forests. Since 2004, there has been an escalation of forced evictions carried out for the official reason of conserving forests. This was detailed in a global survey of forced evictions undertaken by the Centre on Housing Rights and Evictions (COHRE: 2006). In this survey it was stated that, between 2004 and 2006, approximately one hundred thousand people in Kenya were forcibly evicted from six forest areas (ibid, p. 25). Numerous reports claim that government agencies responsible for these evictions have used excessive violence and are guilty of human rights abuses, including burning down homes and schools, and raping women.

Thus, while it was noted above that illegal acquisition of forest lands have been integral to the consolidation of Kenya’s political elite and important in sustaining patronage politics, reclaiming forests, sometimes in the name of conservation, continues to be politicised.

2.4 The relationship between REDD and forest governance

The brief overview of Kenya’s forest sector offered above illustrates why it is valid to consider what the implications of REDD are in terms of corruption. It is relevant to address not only how corruption may undermine the success of REDD, but also how REDD may provide incentives for corruption, including potentially new forms of corruption. Given the early stage of REDD in Kenya, analysis here can only point out main areas of concern and some of the weaknesses in existing approaches to mitigating corruption in forest governance.

In considering questions on corruption and REDD, it would be easy to be pessimistic. It is important to stress, however, that almost all interviewees believed REDD could make a positive contribution to forest governance in the country. There were three main reasons given for this.

First and foremost, most interviewees shared a view that REDD will bring substantial funding that can assist ongoing improvements in forest management, including at the local community level. Most believed forest management is undermined both by a lack of capacity *and* a lack of funding. No one can know at this stage how much money REDD will involve in Kenya, nor is anyone sure whether the money will stem from carbon trading markets or from a central global fund. Nevertheless, interviewees expressed belief that more money flowing into forestry would lead to improvements. As one interviewee put it: “If we can earn money from planting trees and protecting our forests, then this can only be a good thing.”

⁶⁰ Interview reported in Adili, May 2010, a news bulletin produced by Transparency International, Kenya office, available at: www.tikenya.org

A second point expressed by interviewees was that REDD represents a useful initiative to bring stakeholders together in Kenya. This is clearly important, given the history of forest governance under the FD. The KFS is keen to improve its legitimacy with other stakeholders and REDD necessitates, or encourages, stakeholder interaction. One can see this from the various committees and working groups established by the KFS so far to develop the R-PP. It would, of course, be naïve to imagine stakeholder engagement is straightforward, and one interviewee claimed there were already tensions between different organisations and interest groups. Nevertheless, if REDD does manage to bring diverse stakeholders together - including CFAs - then this could be considered a positive achievement.

A final point made by interviewees is that REDD will be a useful mechanism to improve data collection on forests in Kenya. This is a point also raised in the R-PP. If done well, new data on rates of deforestation and carbon storage could be an important tool to monitor progress in forest conservation in the country. At the moment, it is difficult to monitor progress in forest conservation due to insufficient statistics. Among other activities, it is proposed in the R-PP that the KFS will engage local communities in the collation of new data, including through the use of mobile phone surveys.

But what of the corruption risks and challenges? Few interviewees seem to have given much thought to these questions. Moreover, although Kenya's R-PP document mentions in some detail the governance challenges that the forestry sector has faced, there is no explicit mention of anti-corruption efforts in the R-PP proposal itself. This would suggest that the subject of corruption and the development of REDD is not yet mainstreamed in REDD debates and planning in the country. As the following pages suggest, there are some key issues of corruption and REDD which stakeholders should consider.

2.4.1 Carbon fraud and the challenges of independent monitoring of REDD activities

In considering how corruption may undermine the success of REDD, one of the main possible concerns lies with fraud and dishonesty relating to real achievements in forest governance. Essentially, REDD rewards good management, reversing deforestation and improving the state of degraded forests. Levels of funding - be it from markets or from donors - should be dependent on the extent to which on-the-ground improvements have been made.

But data that should illustrate such on-the-ground improvements may be open to problems of precision and misinterpretation. As noted above, deforestation has become an important public issue, acknowledged by the government and the donor community for some years. Large amounts of money have been put aside for the reforestation of the Mau Forest Complex, and ambitious targets set in Kenya's "Vision 2030". Given these developments, it may be difficult to show conclusively in the future whether improvements in forest cover were generated by REDD or by other forest-related initiatives.

Apart from the challenge of determining which improvements are due to the additional impetus provided by REDD, more straightforward opportunities for fraud and the massaging of data are likely to exist – not only at the national level, but also at a more localised level. Despite the early days of REDD, there have been examples reported elsewhere of this problem,⁶¹ hence references to the concept of "carbon fraud". In interviews for this report, a representative of WWF in Kenya expressed that fraud and false claims were matters of concern: "This is something that worries us and could represent a disaster for REDD and will seriously undermine public support for it."⁶² Other interviewees, however, were not convinced about the possibility of fraud and it appeared to be an issue that had not been considered widely, with most interviewees preferring not to speculate on potential negative aspects. Moreover, more than one interviewee - including the focal point for REDD at the KFS - thought that the integrity of REDD activities in Kenya would be strongly upheld due to stringent monitoring systems that would be developed as a core component of early REDD activities.

⁶¹ See, for example: Global Witness (2010).

⁶² Author's interview: Representative of WWF in Kenya, 2010.

This is something that is written into Kenya's R-PP and is included in the template for proposals by the World Bank.

Whether effective and independent monitoring systems will be developed for REDD in Kenya is extremely difficult to know. To date, the KFS has provided few details about how a monitoring system will work, although the R-PP document does state that it will monitor not only the success of improving carbon storage, but also social and economic benefits. What appears almost certain is that data used to monitor the achievements of reforestation and the prevention of deforestation in Kenya will emanate from multiple sources, and that the system of data collation will rely on information from communities, the private sector, as well as from forest scientists. Kenya will therefore have a system in place to collate data to report on the success and impact of REDD. However, this should not be mistaken for an independent monitoring system, and some sort of external verification mechanism is not planned for by the KFS at present.

Developing a reliable independent review system for REDD is likely to be challenging. Those providing data on the achievement of reforestation and the prevention of deforestation will also be among the key recipients of REDD funding, meaning there could be tensions created by conflicts of interest. Mapping potential conflicts of interest, and taking measures to mitigate these, could therefore be an activity in Kenya before large sums of REDD money begin to flow.

To some extent, a safeguard to fraud and dishonesty in the reporting of achievements may be countered by deploying independent audits undertaken by external experts. This too, however, needs to be approached carefully: it is possible that such an auditing system can lack credibility due to vested interests and commercial considerations. Consultants may realise that negative reviews of REDD may be counter-productive for attracting further work in the sector. Similar "principle-agent" problems have been identified in the operation of the Clean Development Mechanism (Brown: 2010), as well as among international eco-labelling initiatives, including the Forest Stewardship Council (Council et al: 2002) and the Marine Stewardship Council (Standing: 2009).

It may well be the case that a large part of the task of upholding the integrity of REDD will fall to local NGOs and civil society in Kenya. These institutions could provide the necessary checks and balances for claims made by KFS and others about REDD achievements. It should be appreciated, however, that almost all NGOs involved in forest conservation see REDD as a source of future funding. Every NGO and independent consultant interviewed for this report had either secured paid work on REDD, was part of one or more of the committees set up for REDD by the KFS, or was developing funding proposals related to REDD implementation.

Active involvement in REDD by individual NGOs does not imply that the overall integrity and independence of Kenyan civil society is in doubt. It would nevertheless appear reasonable to consider the extent to which there is sufficient capacity on the part of civil society actors that are independent of REDD activities and funding to highlight possible fraud and corruption. At this juncture, it should be recalled that not only is Kenya a country where fraud and corruption have long been a feature of forest management, it is also a country lacking a strong tradition of tackling such abuses publicly and through the criminal justice system. NGO representatives interviewed for this report highlighted that although Kenya is a more open society than it was ten years ago, it is still extremely risky to make allegations of corruption and fraud, particularly involving senior officials. It was also pointed out that those who are critical of government tend to be isolated or discredited as a result. It is therefore reasonable to predict that if local NGOs in Kenya gain a reputation for challenging REDD, they may be isolated from the government-run committees tasked with its implementation and oversight as a result.

The challenge of how to effectively monitor REDD implementation has recently gained increasing scrutiny from international analysts and commentators. Chatham House, UNDP, and Global Witness, among others, have been discussing how on-going monitoring of forest governance can be achieved and how this could be integrated with REDD implementation (Saunders and Reeve: 2010). Policy debates on these issues are ongoing, and independent monitoring of REDD achievements is something that Kenyan stakeholders could actively pursue in the next phase of preparing for REDD. An

independent peer review mechanism involving both local and international experts who may not have any obvious commercial interest in REDD is perhaps one option to consider, as would be the creation of an independent complaints procedure. The international donor community in Kenya could also consider support and training to those NGOs and investigative journalists in Kenya who might be able to play a watchdog role.

2.4.2 *Benefit sharing and community participation*

A second way in which corruption could undermine the success of REDD relates to the way in which the benefits of the initiative are disbursed. It is often assumed that the success of REDD is in part dependant on the ability of REDD funding and activities to benefit the rural poor who are reliant on forests for their livelihoods (Peskett et al: 2008). Without a clear developmental dividend, REDD may not receive widespread support, both within forest communities themselves as well as within the wider donor community.

It is useful to note that a recurring theme in interviews for this report was the realisation that REDD may not bring significant and obvious benefits to the rural poor - at least in the short to medium term. This seems a reasonable position to take. A recent study by the UN REDD Programme (2010) considered how projected benefits from REDD could be effectively distributed in Vietnam. The study suggested that high transaction costs make it unlikely that REDD funds, if controlled and disbursed via central government, would have any meaningful direct impact on the rural poor. There are alternative ways of distributing REDD funds, including a more decentralised approach, which might increase the ability of community organisations to directly tap into REDD money. For the time being, however, it appears that the current thinking in Kenya is for a more centralised system. Further detail on this aspect of REDD in Kenya is expected over the next year or two.

Because analysts recognise that short to medium term benefits of REDD might not be obviously realised by rural communities, there is concern over heightened expectations of REDD in the country. Several interviewees, including from the KFS, claimed that people in Kenya, particularly at a community level, think REDD is going to be a straightforward mechanism that rewards those who can successfully plant trees. It is unclear whether consultations between the KFS and community based organisations have encouraged this view. The KFS explained in interviews, however, that it is difficult to suppress this view among communities, particularly as media stories link REDD with “billions” of dollars:

“People are already asking how much money they will get from REDD for each tree on their farms. They want to know whether REDD is going to pay them not to cut down their trees and when they can expect the first cheque. It is very difficult to answer these questions as no one really knows. Expectations are too high, which is a problem.”

Not all interviewees agreed that expectations were high. Another interviewee working for a Kenyan forestry NGO explained it differently:

“Kenyans have seen so many tree planting schemes come and go. REDD is no different and most people no longer believe the government when they say they will get money. There have been bad experiences in the past and there is a lack of trust among many people. I can take you to many areas where lots of money has been spent on planting trees. You won't find so many trees there now.”

One issue it is relevant to consider when discussing whether REDD will actually benefit the poor is the straightforward concern that REDD funding, controlled via central government, may be vulnerable to fraud and embezzlement. There are reasons to suspect this may be a risk in Kenya given previous examples of large-scale theft of government and donor funds, both at a national and regional level. In 2008, for instance, a scam involving maize subsidies led to the embezzlement of public money amounting to approximately USD 26 million, with the Minister of Agriculture, who is still in office, accused of being the primary beneficiary (Ross: 2010). More recently it has come to light that the

Minister of Education, along with other senior officials, embezzled over USD 1.5 million from a dedicated fund to provide free education to poor Kenyan families. This scandal meant that both the United Kingdom and the United States of America withdrew donor funding for education reform in the country (Ross: 2010).

The ability to undertake accurate and credible financial audits of REDD funds, from central government right the way down to local communities, will be influenced by a number of variables. These include whether REDD funding will be integrated into the budget and activities of the KFS, or whether it will be controlled as a separate entity, attached to distinct deliverables and expenditures. An added complexity could be that REDD funds may be used for activities and purposes covered by other funding, be it from central government or from donors.

Inequality and conflicts of interests

The relatively straightforward loss of REDD funds through embezzlement is one matter. Another more complex concern lies with the inequitable use of REDD funding. One can foresee that difficult decisions will have to be taken about which forest areas will receive financial rewards and spending, and which stakeholders in Kenya will benefit as opposed to others. If one thing is clear from Kenya's past, it is that there is a complex blurring between public and private office in the forest sector. There have been persistent allegations that the main Kenyan timber companies have been unduly favoured by the government, including being made exempt from the timber ban imposed in 1999 and being given preferential pricing to raw timber from state plantations (MMMB: 2009).

In a recent analysis of REDD in Indonesia by the Centre for International Forestry Research (CIFOR) the following warning was raised which would seem equally applicable for Kenya:

“To the extent that REDD+ is structured to provide financial incentives to the largest emitters of forest-based carbon, it is likely that a substantial portion of the funds could be allocated to large-scale forestry enterprises, pulp and paper producers and oil palm companies. Many of these companies have close ties to state elites and are, therefore, well positioned to secure access to REDD+ funds, particularly those distributed by government agencies.” (Barr et al: 2010)

REDD and the political economy of community forests

When considering the challenge of effective and equitable benefit sharing from REDD, it is of importance to think about the role REDD may play in the political economy of forests from a community perspective. As described above, although Kenyan stakeholders have been familiar with the concept of Participatory Forest Management (PFM) for some time, it is only recently that official policy has attempted to strengthen the decentralization of forest governance. This is far from straightforward to achieve satisfactorily, and there are reports that decentralisation is opening up new opportunities for corruption and rent-seeking.

A 2007 paper by the Kenyan Forestry Research Institute (KFRI) warned, for example, that non-community based outsiders, interested in short-term profits rather than sustainable resource management, were dominating certain CFAs (See Ongugo: 2010, and Walubengo: 2007). A report by the World Bank (2006) highlighted the considerable governance challenges in establishing effective CFAs, including maintaining democratic voting procedures and achieving transparent management of funds. Put simply, although the intention of the new Kenyan Forest Act is to promote community-based ownership of forests, the new legal structure may inadvertently create challenges, including opening-up opportunities for politically connected and wealthy individuals to gain a new route to controlling land and resources.

It should also be noted that the KFS is itself an ambiguous player in the political economy of community forests. The new Forest Act clearly states the intention to improve community management of forests and to empower local resource users. However, it also gives new powers to the KFS to take over the management of forests where mismanagement is evident. The KFS therefore has both a forestry regulatory function as well as a forestry management function (MMMB: 2009).

Securing REDD funding may have a bearing on how KFS chooses to exercise these dual powers, and it is possible that REDD may act as an incentive for the expansion of KFS control over community forests in an era when many stakeholders hope for decentralisation and the further empowerment of CFAs.

It is worth noting here that there has been a lack of research into corruption, resource conflict and forestry management at a local level in Kenya. This seems to be an important gap in analysis of the political ecology of forests in the country. It is not unreasonable to foresee that those excluded from the control and management of local forests may be subject to increasing criminalisation by those assuming new roles. This is not to suggest forest decentralisation inevitably creates such problems, but rather that it *can* do when managed poorly or when processes are exploited by unscrupulous operators. Reviewing and monitoring the local economic and social impact of REDD is something that will be undertaken by the proposed National REDD Coordination Office, and it is factored into the R-PP budget, as is encouraged by the World Bank's template for these funding proposals. It is important for this work to be based on rigorous research methodologies that can capture realities on the ground.

2.4.3 *Could REDD have a corrosive impact on forest governance?*

The previous point about the implications of REDD on the local political economy of forests illustrates one possible way that REDD funding could inadvertently lead to worsening forest governance: it could provide the incentive for new forms of corruption that ultimately marginalise those without power. Moreover, we could also envisage that REDD funding may inadvertently have a bearing on the process of decentralisation. It will be important to reflect on these issues in the coming years and, in particular, examine the extent to which REDD funding is used to further the development of CFAs.

A related concern lies with the ongoing reliance of the KFS on external donor assistance. The establishment of the KFS was premised on the need to develop better governance of forests, and one of the identified problems was the poor financial performance of the former FD, which made it reliant on donor and central government funding. From the establishment of the KFS it has been an expressed goal to increase revenues from forestry and tree plantations so that the service can become self-sustaining. This point was raised in the programme planning document for Finland's support for reform of the forestry sector. Here, it was estimated that the current KFS annual revenue of Ksh 500 million could increase to Ksh 3 billion over the next five years if effective management systems were put in place.

The importance of self-sustainability remains open to differing views. There is, however, growing recognition that one of the drivers of poor governance in the natural resource sector is reliance on sovereign rents (such as donor funds) which may actually decrease incentives for state institutions to become more accountable and efficient.⁶³ A better model for responsible and democratic resource governance is said to be achieved where state departments rely on domestic revenue streams, such as taxes and levies.

In Kenya, short-term external funding such as that which may come from REDD could be used beneficially to build capacity within the KFS. There are also planned activities which may strengthen partnerships between the state and forest communities. There is, however, also a risk that external funding available from REDD, if it is significant, could act as a disincentive for reform in the forest sector.

The risks of relying on REDD funding was raised by an interviewee for this report in relation to the local level. It was a matter of concern to the interviewee that, after spending years working with forest based communities to educate them on the importance of self-sustainable means of harvesting trees and forest products, REDD will bring in an apparently contradictory incentive structure. In theory, REDD essentially tells forest communities that the value of sustaining forests lies in their international

⁶³ A discussion of this issue is provided by Brian Cooksey in relation to corruption and donor funding in Tanzania (Cooksey: 2003).

value for climate change mitigation: “We are going to pay people to save trees based on what companies in the West want. That’s fine if the money keeps coming, but if it stops we might find it difficult to tell the same people that the real value of keeping the forest is not the cash that this brings from foreigners, but how it can sustain their communities and their culture”.⁶⁴

The idea that REDD in some ways contradicts previous ideas on forest governance is consistent with critiques of REDD distracting from longer standing policy work. A report by Human Rights Watch in Indonesia (2009) notes that the promise of such large funds coming from REDD and carbon trading markets has drawn attention away from other reforms, including forest governance and law enforcement initiatives. In Kenya, one senses that work planned in the R-PP is very similar to previous work under AFLEG and other donor projects, such as the one funded by Finland. It is difficult to know whether this will lead to synergy in forest work or to duplications. If it is the former, REDD could be a positive development in reforming the working culture of the KFS to that of an organisation based on efficiency and service delivery. If it is the latter, however, the opposite may also hold true.

2.5 Conclusion

This report has offered a discussion on the relationship between corruption and REDD in Kenya. In doing so, it has provided a brief summary of corruption and governance challenges in the forest sector. This illustrates that forms of corruption - such as embezzlement, collusion in illegal logging and land grabbing – appear to be linked both to deforestation in the country and to the marginalisation of forest-based communities. These challenges seem to have been particularly problematic during the 1990s and early 2000s, with a sense among interviewees that the worst abuses occurred in the past. There are sound reasons for this optimistic appraisal of forest governance in Kenya: The new Forest Act provides a comprehensive and progressive framework for reform, including the decentralisation of the forest sector; and the new KFS is showing signs that it is indeed an improvement over the discredited Forest Department.

The report has also suggested, however, that corruption remains an important issue in Kenya and presents real risks to the success of REDD. In particular, there appear to be incentives for fraud and dishonesty in reporting on achievements in REDD activities. There are also risks that corruption may undermine the equitable sharing of benefits from REDD funding, not least through conflicts of interest in the management of the forest sector. REDD may also create incentives for new forms of corruption and have perverse, if unintended, consequences on forest governance. In particular, REDD is likely to play an important role in ongoing attempts to achieve PFM and decentralisation reforms. It may well support these reforms. At the same time, REDD could potentially change the political economy of forests in ways that marginalise those without power, and even act as a barrier to decentralisation.

The relationship between REDD and corruption in Kenya is therefore complex. The problem of large-scale land grabbing seems to have been halted for the time being and there are some signs that Kenya may reclaim areas of stolen forest. Moreover, the KFS has improved financial reporting and is taking steps towards becoming a more efficient and better run organisation than the former FD. Nevertheless, many of the drivers of deforestation in the country remain, and the pressures placed on forests by expanding agriculture and continuing population growth look set to increase. There are no obvious reasons why we should expect the opportunities and incentives for corruption within the forestry sector to disappear. This is particularly relevant in the policing of illegal logging and the charcoal industry where law enforcement still appears to be ineffective.

It is a moot point whether Kenyan forest authorities - including the KFS - have considered corruption risks in any detail when preparing for REDD. The R-PP document is conspicuous for its lack of anti-corruption activities planned for the next three years of REDD preparations. There are several current policy ideas that could help remedy this situation. These include strengthening the independent review system of REDD and conducting an explicit mapping of potential conflicts of interest. Another suggestion is that the National REDD Coordinating Committee should work closely with organisations

⁶⁴ Author’s interview (2010).

established to tackle corruption in the country, including the KACC and the proposed new Land Commission.

3 Tanzania

By Peter Bofin

Independent researcher and consultant

*"It is too early to look at governance."*⁶⁵

3.1 Introduction

Tanzania's forest interest groups, including international development institutions present in the country, have made clear progress in being prepared for Reducing Emissions from Deforestation and Forest Degradation (REDD) through agreement of a development framework and the launching of a range of pilot projects and feasibility studies. They are also attempting to shape the REDD agenda to suit Tanzanian conditions in terms of the nature of its forests and its forest management systems. REDD offers the potential to greatly scale up support to the forestry sector and has the potential to leverage benefits at individual, community and global levels.

Yet challenges remain. Global, national and sub-national level mechanisms for REDD are emerging, with - in the case of Tanzania - governance issues being dealt with in a way that does not appear to take account of the country's well-documented political economy of forestry.⁶⁶ Issues of the capture of resources, regulation and oversight are principally discussed at the local level through existing Participatory Forest Management (PFM) systems and newly established REDD pilot projects. These same issues, however, do not at present appear to be clearly addressed in emerging structures proposed at national level. The proposed - and now widely accepted - REDD management model for Tanzania is notable for the relatively narrow range of interest groups it incorporates, and the absence of clearly articulated relationships with existing statutory oversight institutions, such as Parliament and the Controller and Auditor General.

This case report is based on a review of available literature, and supplemented by interviews with key informants representing development partners, government agencies, civil society organisations, and the private sector. Desk-based and field research was undertaken in May 2010 in Dar es Salaam.

The report's understanding of governance is informed by a political economy approach and focuses on the interrelated institutions, incentives, and interest groups in the forestry sector. It draws on previous work in this area, work on the forestry sector in Tanzania, and on forest governance more widely. It addresses the scale and importance of the sector, the political economy of forestry in the recent past, and how institutions and interest groups at the national level are currently aligning themselves towards REDD.

Section Two of the study considers the scale and economic importance of Tanzania's forest resources. It then maps out the existing governance framework for Tanzania's forestland. Section Three analyses REDD in Tanzania: its current interim structures and activities, its funding and proposed future structures. This section concludes by identifying key governance and corruption issues to be considered in REDD planning. Section Four analyses how these issues are being addressed. The final section offers some conclusions.

3.2 Tanzania's forests

3.2.1 Scale

Tanzania's forest resources are substantial. It is estimated that some 35.3 million ha of forestland are to be found in the country. Of this, reserved forests account for 16 million ha, national parks for

⁶⁵ Author's interview: Tanzanian government official, 2010.

⁶⁶ See Milledge (2007) and Jansen (2009) in particular.

another 2 million ha, while the remaining 49% is to be found on what is termed General Land (URT: 2009).

Both the National REDD Framework and a series of nationwide consultations have identified a number of drivers of deforestation and forest degradation. These drivers include uncontrolled harvesting for building materials or charcoal, encroaching human settlement and related activities, degradation by fire and wildlife, as well as illegal logging.

The official estimate, based on UN Food and Agriculture Organisation (FAO) supported surveys, is that 412,000 ha of forest are lost each year (URT: 2009). Yet, this is contested: a recent estimate reached by Conservation International is that the annual loss amounts to 230,000 ha (Liganga: 2010). The previous FAO estimate from 1992 had been 92,000 ha each year. Nevertheless, the figure of 412,000 is an accepted working figure.

3.2.2 *Economic importance*

Tanzania's forests supply a remarkable 75% of building materials, 90% of household energy needs, and play a vital role in the protection of water catchments. Their importance in the supply of traditional medicine is also well-documented (Milledge: 2007).

In terms of GDP, Sulle and Nelson (2009: 46) report World Bank estimates that informal and non-industrial use of forest resources probably adds an extra USD 35-50 to per capita income that is not accounted for in official figures. The Ministry of Natural Resources and Tourism (MNRT) has estimated this contribution to GDP at 20.1% (Blomley and Saidi: 2009). Charcoal production and trade alone is estimated to have a value of USD 650 million annually (World Bank: 2009).

At the local level, income from forests can be considerable. Blomley and Saidi give four examples of a range of forest types with potential annual income per village ranging from USD 23,700 to USD 60,300 (Blomley et al: 2009). Milledge et al have estimated that "some 16% (and up to 60% seasonally) of households from villages located near forests in southern Tanzania benefited from logging and timber trade during 2005" (Milledge: 2007). The variables – forest type, size, type of management plan, local political dynamics – are many, but such figures can be used to make a strong *prima facie* case for the development potential of well managed forests.

Revenue-generating potential from forests is also considerable. Milledge estimates that up to USD 58 million was lost annually to the Forestry and Beekeeping Division (FBD) of the Ministry, due to under- collection of royalties at District level (Milledge: 2007).

3.2.3 *Forest governance*

Policy and legislation

The policy framework for forest management is provided by the National Forest Policy of 1998. This is given legislative expression in the Forest Act of 2002, and depends on the Land Act and Village Land Act of 1999, as well as the Local Government Act of 1982. The Forest Act is notable for its stated aim of allowing for forest management to take place at the lowest administrative level of government when possible.

This legislative framework has allowed the development of Participatory Forest Management (PFM) approaches that are recognised for their innovation in terms of decentralising control over forest resources. PFM approaches are recognised by donors, civil society organisations, and government agencies as being the basis for successful REDD implementation in Tanzania. Indeed, PFM is the basis for most existing pilot REDD initiatives in the country, and a distinguishing feature of its national approach to REDD, which is public sector- and community-oriented, with little involvement so far from the private sector.

Table 7: Forest Governance in Tanzania

Designation	Management Level	(Potential) Role of Community
National Forest Reserve	Managed by Central Government for protective, productive or reserve purposes	Joint manager, under Joint Forestry Management mechanisms
Local Authority Forest Reserve	Managed by District Authorities for protective and productive purposes	Joint manager, under Joint Forestry Management mechanisms
Village Forest Reserve	Managed by village authorities: including community reserves, unreserved forest on village land and designated reserves	Owner-manager, under Community Based Forestry Management mechanisms
Private Forest	Forest on Village Land held by Customary Right of Occupancy	None

Source: Adapted from Blomley (2009)

Less than 12% of Tanzania’s forestland is currently under PFM management, using either Joint Forest Management (JFM) or Community Based Forest Management (CBFM) mechanisms. Nevertheless, its spread has been rapid over the past twelve years given its centrality to the government forestry management strategy and its take up by NGOs. Its potential to contribute to poverty alleviation and to address environmental issues makes it particularly attractive.

Forest and land management depend on clear tenure rights, and herein lies an area of contention. The Land Act and the Village Land Act allow for three categories of land: Reserve Land, General Land, and Village Land. The latter is land within village boundaries. Reserve Land is land reserved by government for particular purposes, such as Forest Reserves or National Parks. General Land is a residual but contentious category. Under the control of the Lands Commissioner, it is defined as land that is not under the other categories and may include Village Land that is “unused” (Sulle and Nelson: 2009).

In practice, there are differing interpretations of these categories from civil society and government actors. The amount of unreserved forestland falling in the category of General Land is not clear, though when added to that falling under Village Land, the total is nearly half of all forestland according to the REDD Framework (URT: 2009a). Some civil society groups stress wording in the legislation that refers to Village Land as that which has customarily been used by villages. On this basis, they suggest that much of what is considered General Land is likely to fall under village jurisdiction (TFWG: 2009). How this is resolved, and how competing potential uses of “General Land” are addressed will be crucial to REDD’s scale and also to how benefits may be shared.

Administration

Table 7 above implies lines of funding and accountability. Under Tanzania’s policy of “decentralisation by devolution”, Districts report to the ministry with responsibility for local government: the Prime Minister’s Office, and Regional and Local Government (PMO-RALG). Accordingly, support to CBFM or JFM on Local Authority or Village Forest Reserves is the role of the District Forest Officer (DFO), reporting to the District Executive Director (DED). Such support therefore needs to be funded under PMO-RALG budgets and managed by the District under PMORALG. At the same time, National Forest Reserves and any support to JFM in such reserves remains the responsibility of MNRT in terms of management, support and funding.

Thus, the DFO is accountable directly to the DED who reports to PMO-RALG for matters that are the responsibility of the District. For issues concerning the National Forest Reserve as well as implementation of policy and legislation, the DFO (via the DED again) is accountable to FBD in MNRT. Given that most forest land is under District or Village jurisdiction, the bulk of funding for forest management flows to the Districts via PMO-RALG.

Cost and benefit sharing

Cost and benefit sharing under PFM schemes – on which REDD in Tanzania will be based – differ greatly between CBFM and JFM. Relevant legislation allows for considerable benefits to be enjoyed under CBFM regimes at local levels. This includes powers to levy and retain fines; to confiscate illegal harvest and keep the sale proceeds; and the choice of retaining up to 100% of revenue from the sale of forest products at village level.

Challenges remain in the areas of capacity at District level to support such schemes, as well as the fear of iniquitous benefits either through design (allowing local elites to capture most benefits) or through graft (whereby better placed officials may use their position to extract rents).

Cost and benefit sharing, particularly benefits from forests under JFM regimes, is not particularly clearly laid out in legislation. MNRT has proposed to the Treasury that 60% of harvest timber royalties be retained by FBD, and that the remaining 40% remain with participating communities. This proposal has been with the Treasury since 2009 and had not been officially responded to at the time of writing.

Given that JFM has been promoted for Tanzania's catchment forests in particular, it is of special relevance to REDD. Their value is clearest at the level of the country as a whole – water sources for domestic, commercial, and power generation – and internationally – as carbon sinks and the biodiversity they contain. However, benefits to local communities are much less given consumption restrictions on such catchment forests.

Implementation and oversight

Oversight may be technical (from the Ministry), administrative (from the District Executive Director), or political or public (from the Village and District Council and Parliament). Given that most of Tanzania's forestland comes under District level jurisdiction, it is at that level where initial oversight will come.

Of four Regions in South West Tanzania reviewed in 2003 and 2004, two had no Forestry Officers at all (they should have had one each). The same Regions had a deficit of 113 District level Forestry Officers (Milledge: 2007). This shows that there are limits to the capacity of local government to adequately manage forest resources, and that the technical and administrative oversight available is also limited.

Human resources are also threatened by the upcoming retirement of a sizeable cadre of senior forestry officials, for whom succession has not yet been planned. These retirements are likely to further limit the effective management and oversight of the forestry sector.

The role of Village and District Councils is clearly expressed in the relevant legislation. Yet their powers are limited and ambiguous in reality, and their importance can be in their access to rents as much as their planning and oversight role. Most villages themselves will not be in a position to take forward PFM initiatives due to the cost and bureaucracy involved. Parallel to that, they may be discouraged by District Administrations who may be unwilling to cede control of forests to villages (Milledge: 2007). As noted above, disputed definitions of what constitutes Village Land and what constitutes General Land indicate that there is also reluctance on the part of central government to cede control of land resources.

At national level, Parliament is limited in the oversight role it can provide. Individual MPs may be in a position to raise constituency level issues. But more important issues of policy formulation and oversight of implementation are hindered for two main reasons.

Firstly, committee oversight is split between the Natural Resources Committee and the Local Authorities Accounts Committee. As a political priority, forest issues are not high on the agenda. There is no sector interest bloc that can successfully advocate on the issue, in the way that, for example, MPs representing pastoralist areas work together.

Secondly, the prevalence of the FBD and development partners in the sector has historically led to PFM being seen as a primarily technical issue rather than an issue of wider public interest *per se*. Stakeholders nevertheless stress the importance of local political oversight⁶⁷ in managing such natural resources and have identified it as being crucial to successful PFM and subsequently successful REDD projects. By contrast, national level oversight appears to have been given little consideration.

Corruption in the forestry sector

The most comprehensive review of patterns of corruption, accountability and governance in the forest sector was undertaken by Traffic (Milledge: 2007). This focused on illegal logging in Southern Tanzania, which experienced a logging boom in response to increased international demand. In this context, illegal logging was able to flourish due to a complex mix of factors. While recognising the broadly favourable institutional and legislative framework for forests, the review revealed this to be undermined by extensive petty corruption and patronage networks that straddled relevant ministries and the private sector.

These networks were allowed to flourish due to tolerance of corrupt practices within government and limited oversight from the Prevention and Combating of Corruption Bureau (PCB, as it then was). Limited transparency at all levels of the timber trade from Village to national levels further compounded the problem, leading to massive losses to Village, District and National level accounts.

The World Bank (2009) describes similar collusion between political elites and business interests in the charcoal trade which allows unregulated harvesting, transport, and trade to take place. This is estimated to account for 80% of the charcoal business, amounting to a value of USD 500 million and representing lost revenue of USD 100 million annually (World Bank: 2009).

A more reflective analysis of how donor support to natural resources can be captured has been provided by Eirik Jansen in his analysis of Norway's support to the MNRT's Management of Natural Resources Programme (MGRP) from 1996 to 2006 (Jansen: 2009). Jansen urged caution in relying on statutory audit authorities, warned of over-reliance on outsiders and of the "pipeline problem" in aid: also known as the imperative to disburse. He also identified the importance of understanding the political economy of the natural resources sector and how both political and economic interests can combine to skew planned developmental intentions.

A final evaluation of the programme and a subsequent audit indicated considerable fraud to have taken place. As a consequence, bilateral Norwegian funding to MNRT was suspended until outstanding audit queries were satisfactorily addressed. A final refund of approximately USD 2 million was agreed in 2010 after unprecedented negotiations. This sum is to account for expenditure that could not be accounted for or was not agreed under the programme.⁶⁸

3.2.4 Key governance and corruption issues for REDD in Tanzania

From the above review of Tanzania's forestry sector, a number of issues that are vital for REDD emerge. Some of these issues are rooted in the context of forestry management and previous donor support to the same in Tanzania. Other issues emerge from the new context that REDD brings. How

⁶⁷ Author's interviews: donor representative and NGO representative, 2010

⁶⁸ The East African, November 30, 2010, Tanzania forced to refund embezzled funds to Norway, by Mike Mande and Joseph Mwamunyange, <http://www.theeastafrican.co.ke/news/Tanzania%20forced%20to%20refund%20embezzled%20funds%20to%20Norway/-/2558/1063182/-/edvvsq/-/index.html>

these are addressed will be important in ensuring that REDD is well governed and that opportunities for corruption are identified and addressed.

The central issue is how financial flows from REDD will be managed and how they will be shared. The scale of these flows is expected to be substantial. Donor officials estimate that payments could amount to USD 300 million annually at the upper end of the range. This would be the equivalent of over 35% of current General Budget Support. REDD will need to align incentives and ensure oversight in such a way that it contributes to the public good. A key mechanism for delivering on this aim will be the, as yet un-established, National REDD Trust Fund.

How baseline and verification mechanisms are institutionalised and overseen will also be key to a well-governed REDD scheme in Tanzania. Determining actual potential, and ensuring verification that is acceptable internationally will depend on an accurate assessment of physical forest scale through the ongoing National Forest Resources Monitoring and Assessment (NAFORMA) exercise. How that data will be used to determine a carbon baseline is not yet clear and is the subject of one of the studies currently commissioned under the REDD Framework (see Table 7 below).

Early clarification of new structures and relationships in the public sector will be important in order to allow clear demarcation of responsibilities and a shared understanding of the same. The forest sector has undergone considerable changes in the past fifteen years, principally through the promotion of PFM. Parallel to this, there have been reforms in public administration, financing of local government administrations and accountability relationships, along with a shift of donor support away from individual projects and towards policy and sector budget support.

Ensuring adequate staffing and technical and administrative oversight will be crucial to ensuring high levels of accountability. It is recognised that the costs of PFM can be considerable (Milledge: 2007) and, given staff needs in the forest sector and the added issues of baseline determination and future monitoring, costs of REDD implementation are likely to be higher again.

Similarly, donor coordination will be important in order to allow for clear lines of accountability to donors in the readiness phase while not over-burdening government agencies with multiple reporting lines.

Clarification of legal definitions particularly concerning contestation between General Land and Village Land will also be important. Related to this is competition around land use, particularly for General Land and how that will be managed.

Collusion between public institutions, political interests and private sector business interests appears to be an ongoing issue in Tanzania's forestry sector. Given the potential rents available from REDD and the reported sequestration of forest land by "well connected people"⁶⁹ in anticipation of REDD funding, it is likely that this will continue to be a challenge.

Political accountability, at both local and national levels, will be essential in ensuring adequate accountability and oversight. While it may not be possible to programme this, it can be encouraged. Finally, it would be expected that lessons captured in recent publications, cited above, would be explicitly acknowledged in REDD planning and future implementation.

3.3 REDD in Tanzania

3.3.1 REDD structures

The REDD Framework is a key document that was drawn up in 2009 following a range of consultations with forest dependent communities, civil society, government departments and, to a limited extent, the private sector. It determines the main issues to be addressed in Tanzania's REDD Strategy, reflects the agreed priority issues between stakeholders, and describes who will be involved in resolving them. The document is important for shaping REDD in Tanzania and is considered in

⁶⁹ Author's interview: Tanzanian government official working in the natural resources sector, 2010.

more detail below. The activities envisaged in the REDD Framework are to be overseen by the REDD Task Force.

Norway is the key bilateral donor for REDD in Tanzania and its support is officially governed by the 2008 Letter of Intent agreed with the Vice President's Office (URT: 2008). This support is currently captured in the National Framework for REDD, hereinafter referred to as "The REDD Framework" (URT: 2009). REDD structures in Tanzania take into consideration audit issues from the MNRP arising from allegations of corruption within this programme. These concerns inform the design of support from Norway in particular.

3.3.2 *The REDD Task Force*

Development of REDD is driven by the REDD Task Force which is charged with establishing the country's REDD strategy. The Task Force is situated in the Vice President's Office, Department of the Environment (VPO DoE). Its membership is drawn from senior officials in FBD of MNRT and VPO DoE and one official from Zanzibar. A VPO DoE official chairs the Task Force.

3.3.3 *Funding*

Funding for this process is primarily provided by Norway bilaterally, although funding is also channelled via UN-REDD and the FCPF.

Due to the audit issues noted above, Norway has refrained from providing bilateral funding through government channels for natural resources programmes (though it remains active in contributing to General Budget Support as well as to the health sector). Consequently, the Institute of Resource Assessment (IRA) has been contracted as the managing agent for the funds that are overseen by the REDD Task Force. IRA is a semi-autonomous body based at the University of Dar es Salaam.

Norway has allocated around USD 73 million over five years (2009-2014) towards the development of REDD in Tanzania. This includes support to the Secretariat, the establishment of institutions, research and funding for pilot REDD projects. Funding is disbursed through both the IRA and the Norwegian Embassy. Spending under the REDD Framework needs to be approved by the REDD Task Force, though is not controlled by it.

UN-REDD is concluding a one year agreement with the Government of Tanzania for USD 4.2 million. Of this amount, USD 2.4 million comes from Norway, with the balance coming from the Food and Agriculture Organisation (FAO) and the United Nations Environment Programme (UNEP). This focuses on support to development of the REDD Strategy, capacity building in the areas of Monitoring, Reporting and Verification (MRV) as well as support to FBD in managing REDD.

UN-REDD support is to be channelled towards FBD in MNRT. Documentation describes FBD as "overall coordinator at the national level" (UN-REDD, 32) and also as the "REDD national authority" (UN-REDD, 27) while support has the purpose of building FBD's capacity to implement the REDD Strategy for Tanzania.

At the time of writing, the FCPF was finalising a framework agreement with the Government of Tanzania, though there is no funding attached to this. Rather, it is an effort to tie Tanzania to the FCPF framework. FCPF is managed by the World Bank and has considerable support from Norway. FCPF also recognises FBD as the "national REDD focal point" in Tanzania.

3.3.4 *Key activities under the REDD Framework*

The main activities under the REDD Framework are: (i) the funding of pilot projects that experiment with different modalities of implementing REDD at local level and (ii) the commissioning of studies to inform the establishment of an institutional framework for REDD.

Table 8 summarises the pilot NGO projects.

Table 8: NGO REDD Pilot Projects

NGO Grantee	Location, time scale and amount	Distinguishing elements
Tanzania Forest Conservation Group	Five years USD 5,914,353	Supporting meso-level institution (Mjumita) to house a cooperative to be the intermediary between communities, and national or international level institutions.
Mpingo Conservation Project	Kilwa District, Lindi Region Four years USD 1,948,123	Implementing REDD through PFM approaches and incorporating Forest Stewardship Council standards for timber harvesting in REDD areas.
Jane Goodall Institute	Kigoma/Rukwa Three years USD 2,759,641	Establishment of inter village CBOs as aggregating authorities; community trained in monitoring biomass and carbon stocks.
Africa Wildlife Foundation	Kondoa District Three years USD 2,061,794	Integration of REDD with Joint Forest Management schemes in forest reserves
CARE	Zanzibar Four years USD 5,539,175	Expansion of Community Forest Management Areas and focus on development of meso-level aggregating institution
TATEDO	Shinyanga Region Four years USD 2,012,752	Application of Community Based Forest Management approaches to privately owned forest resources; establishment of local aggregator.

Source: NGO-Embassy of Norway contract agreements. Available at:

http://www.norway.go.tz/News_and_events/agreements_and_contracts/

Table 9 outlines the studies that have been commissioned so far. All NGO projects are performance-based and seek to market voluntarily certified carbon credits internationally.

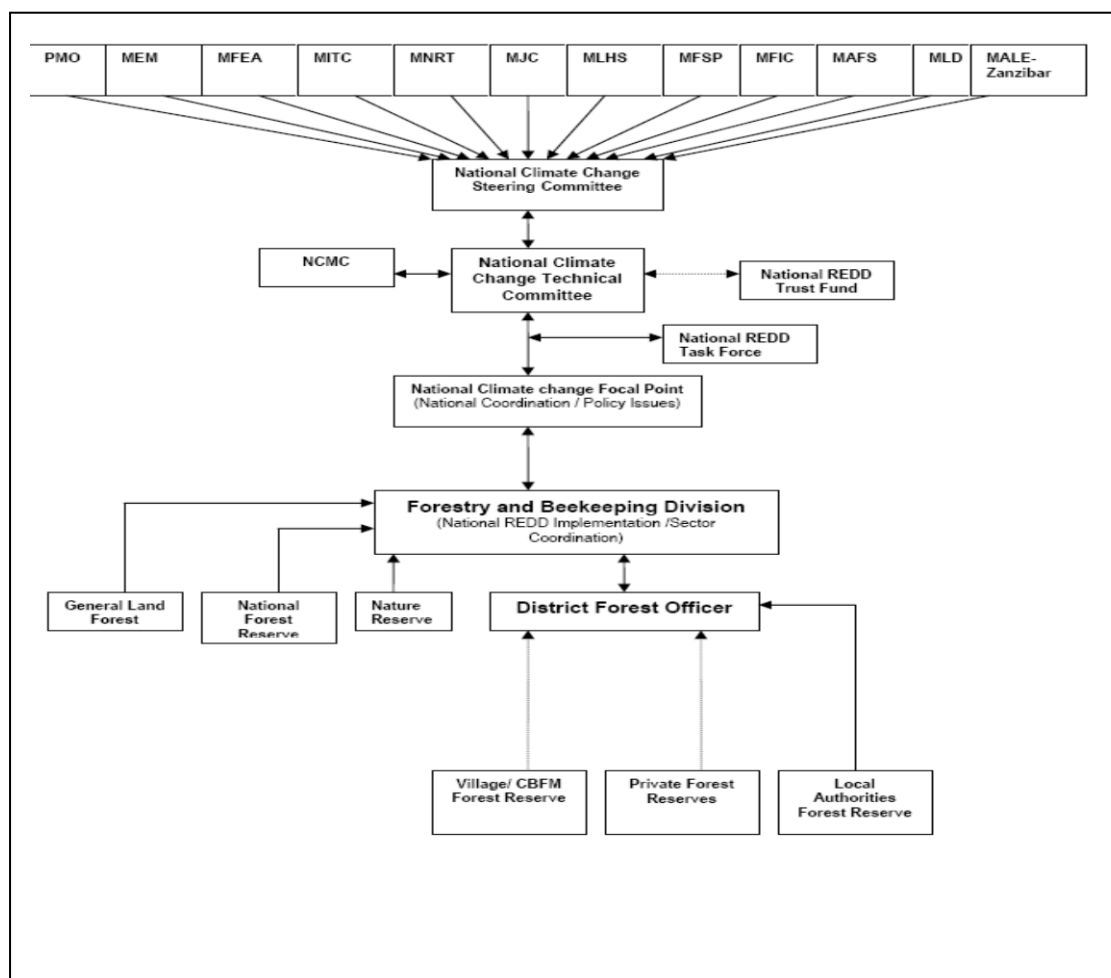
Table 9: Studies commissioned under the REDD Framework

Title of study	Institution awarded contract
Modalities of Establishing and Operationalising a REDD Trust Fund for Tanzania and Associated Financial Flow Management	FORCONSULT and Sokoine University of Agriculture
Role of REDD for rural development: <ul style="list-style-type: none"> • Cost benefit analysis of different land uses in the context of REDD • Governance issues • Role of REDD in reducing poverty • Incentives and co-benefit sharing 	Institute of Resource Assessment, University of Dar es Salaam
Documentation of Information and Communications Needs for REDD Knowledge Management in Tanzania	Regalia Media Limited
Legal and institutional framework review in the context of REDD intervention.	Legal Environmental Action Team
Existing carbon trade and opportunities for carbon marketing in Tanzania	FORCONSULT and Sokoine University of Agriculture

Source: Tanzania REDD Initiative website: <http://www.reddtz.org/content/view/16/9/>

3.3.5 Proposed REDD institutional structures

While the final National REDD Strategy will ultimately lay down the institutional structures to underpin REDD, a proposed structure is already gaining wide acceptance among REDD stakeholders within Tanzania. This proposed structure is reproduced as Figure 3. It is notable for being built around the FBD of the MNRT, though this, in itself, need not surprise us given FBD's mandate.

Figure 3: Proposed REDD reporting structure

Source: United Republic of Tanzania (2009a: 33)

Members of the most senior organ - the National Climate Change Steering Committee - are exclusively drawn from government. In practice, it is acknowledged that the bulk of REDD programming will rely on technical expertise within the FBD (URT: 2010).⁷⁰

The key institutions contained in the new structure are the National REDD Trust Fund and the National Carbon Monitoring Centre (NCCM). Neither exists at this stage. The National REDD Trust Fund will have the responsibility of marketing Tanzania's REDD-based carbon credits and distributing the proceeds on an agreed benefit sharing ratio. It is also likely to have the responsibility of receiving REDD grants. Most stakeholders in Tanzania strongly advocate a mixed "market and fund" approach in order to address market fluctuations and to act as a means of paying for environmental services.

Proposals for the shape of the National REDD Trust Fund were expected to be ready in the second half of 2010, as were proposals for the NCCM.

3.4 How are key governance and corruption issues being addressed in Tanzania's REDD Framework?

Section 2 concluded with an overview of challenges to be borne in mind as REDD moves forward in Tanzania. Having laid out the current structure of REDD activities in Section 3, this Section considers

⁷⁰ The same draft FCPF proposal notes that private sector and civil society are represented on the NCCSC. This is not reflected in the REDD Framework document, however.

how these challenges are currently being addressed. An overview of the accountability framework for REDD is provided, based on a review of the literature and interviews.

3.4.1 *The accountability framework of REDD*

The following analysis presents each of the challenges laid out in Section 2 and considers to what extent accountability – through public scrutiny and formal oversight – has been incorporated.

The National REDD Trust Fund

Initial recommendations for the establishment of a National REDD Trust Fund have been drawn up. The recommendations are not final (Forconsult: 2010). Both the REDD Framework and the terms of reference for the study stressed the importance of learning from other models, contractual frameworks and benefit sharing models.

While the study records stakeholders' concerns about misuse of funds, its analysis makes little attempt to describe or characterise risks; nor does it make an attempt to identify the source of risks for such a fund. Recommendations for oversight of the National REDD Trust Fund do not go beyond generic prescriptions of having a Board of Trustees and the need for regular audits. Passing mention is made of the desirability of having a statutory role by the Controller and Auditor General (CAG). No attention is paid to ensuring that the CAG's recommendations are acted on – a chronic weakness in Tanzania's public audit system. No mention is made of oversight by Parliament.

From the proposed reporting structure (see Figure 3) these issues appear not to have been considered thus far. Beyond the National Climate Change Steering Committee, the structures primarily involve the forestry sector. One interviewee from outside government suggested that there was concern among government officials about having clear lines of accountability to institutions outside the sphere of forestry.

In the Tanzanian context, the importance of a post is often reflected in whether it is a presidential appointment or not. Given the potential importance of REDD, it would appear to warrant such an appointment. REDD's scale also suggests that it would benefit from the scrutiny of two other institutions that are gaining in influence – the Controller and Auditor General and Parliament.

A further issue of note is to what extent the national reporting structure will include management of donor funds alongside market responsibilities. Both are likely to require different types of risk management, financial controls, and oversight mechanisms. Unless these roles are clarified at an early stage, the risk of abuse or mismanagement is likely to remain. For the management of donor funds, a range of lessons could be learned from the structures of the Global Fund for AIDS, Malaria and Tuberculosis with regard to transparency issues and the involvement of relevant stakeholders in the management of resources. The reporting structure for REDD should also seek to avoid the pitfalls of structures that are parallel to the mainstream public service.

Monitoring, reporting and verification mechanisms

Ultimately, it is envisaged that MRV activities be the responsibility of the as yet un-established National Carbon Monitoring Centre (NCCMC). Tanzania's ability to compete in international carbon markets, as well as to attract donor funding for the establishment of REDD structures, will initially depend on the effectiveness of this new body.

What is missing from the REDD Framework document is consideration of external relationships of oversight and accountability. Like the National REDD Trust Fund, the issues of who appoints, from where appointees are drawn, and which bodies have statutory oversight functions will be crucial and need to be given careful and deliberate consideration.

Clarification of new reporting structures in the public sector

The reporting structures as outlined in Figure 3 imply considerable changes to funding flows and reporting lines, with PMO-RALG being removed from the structures and FBD being placed on centre stage. Any new funding flows and changes to administrative structures result in winners and losers.

This needs to be acknowledged openly and addressed appropriately. This is of particular importance given the reputation of the FBD in particular, and the MNRT more broadly, with regard to entrenched corrupt practices.⁷¹

The current balance of responsibilities between FBD and PMORALG will be changed by the introduction of new state institutions. These include the National REDD Trust Fund and NCMC. But there is also the Tanzania Forestry Service, the responsibilities of which have not been outlined and which is in the process of being established. A further layer of institutions is likely to emerge at the meso-level: community-based organisations or cooperatives entrusted as forest management agents and carbon aggregators.

Technical and administrative oversight

As the forestry sector is currently structured - with responsibilities split between the Districts, PMORALG and FBD - clear lines of oversight and accountability are not in place. This is not aided by the proposed reporting structure for REDD which appears to contradict current arrangements (e.g. by suggesting that District Forest Officers report directly to FBD) without ensuring buy-in from other interested parties (such as PMORALG and the President's Office, Public Service Management).

Donor coordination

The key donor coordination group is the Development Partners' Group (DPG). Environmental issues are under the remit of the DPG-Environment (DPG-E), and include REDD. However, coordination issues for REDD are a special case as, in the words of one interviewee, "there is only one donor".

As a bilateral donor, Norway had been refraining to channel funds through government until audit issues with the MNRT were resolved. At the same time, it is the principal donor for UN-REDD which does fund MNRT and FBD. Norway is also a substantial contributor to the FCPF which, although not being requested for funding in Tanzania, is engaging on policy matters with other donors.

Wider communication appears to be imperfect. Interviewees from both donors and recipients were unsure if UN-REDD funding had started yet or not. Informational asymmetries could be curtailed by ensuring coherence between the budgets for the three sources of REDD funds in Tanzania. If it is not possible to have complete harmonisation of budget years, audit procedures, procurement requirements and so on, structures could still be established to ensure that budgets and reports can be shared.

Clarification of legal issues regarding land classification

Land classification was one of the most contentious issues to emerge from the interviews. Issues of land are prominent in the REDD Framework document and have also been raised by the NGO community. It appears that further clarity is required on how the Land Act and Village Land Act are to be interpreted with regard to land that has customarily been used by villages. This should allow for this type of land to be recognised and distinguished from other General Land, the extent of which is contested. NGOs give the example of Kilwa District, where they claim that all land – with the exception of forest reserves - is Village Land. On the other hand, the REDD Framework states that 49% of all forests are on General Land. The importance of precise definitions of categories of land (and of the institutions to support them) is clear.

3.5 Conclusion

The forestry sector in Tanzania has historically been characterised by questionable governance and ensuing corruption. Given the importance of Norway to REDD in Tanzania, as well as internationally, MNRT audit issues have influenced funding, structures and relationships. This includes ongoing relationships between government officials and donor offices, as well as how aid itself is channelled.

⁷¹ Research by the CITES Panel of Experts in response to Tanzania's request to sell its ivory stockpile reported widespread allegations of the involvement of anti-poaching staff as well as senior staff of the Wildlife Division in poaching and ivory trading (CITES: 2010).

The Traffic report's analysis of illegal logging and corruption in the forestry sector appears to have had little influence on REDD planning thus far. Tanzania's political economy and patterns of rent seeking in natural resource sectors do not appear to be overtly considered. Some issues raised in the report – such as staffing levels in FBD and PCCB's knowledge and skills with regard to natural resources issues – which seem to be relatively straightforward, have not been dealt with in the REDD Framework or in other REDD documentation.

The accountability framework for REDD is characterised by being primarily vertical, and for mainly involving public officials. The role of public representatives and of the public itself appears to come into play at those levels where public representation is notably weak i.e. at District level and below. This is incorporated most obviously into NGO pilot projects which seek to devise institutions and processes that ensure that communities are aware of their entitlements.

This tendency arises from a process whereby the acceptance of REDD - and its incorporation into the management of Tanzania's forest resources - has occurred primarily through discussion, compromise, and programming between donor country officials, Tanzanian public officials, and forest-oriented NGOs in the context of international climate negotiations. Yet, a major policy shift entailing the creation of a new asset class (carbon locked in standing forests) has occurred. The institutions of public scrutiny and oversight do not appear to have been adequately incorporated to reflect this shift.

Another notable characteristic is the limited role played by private sector interests in shaping REDD in Tanzania. REDD has so far been led by the public sector and by civil society. This reflects how REDD in Tanzania has been rooted in PFM approaches that are primarily driven by the public sector.

Arising from this is the third characteristic: an inclination for processes to be driven by technical interests from both the public sector and civil society. In contrast, there is little, if any, involvement of formal oversight bodies such as Parliament or the Prevention and Combating of Corruption Bureau (PCCB). Tanzanian ministries with little obvious involvement in REDD thus far include PMORALG, the Ministries of Land and Human Settlements Development as well as the Ministry of Agriculture, Food and Cooperatives.

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U4 Report 1:2011 (February)

Project Number:
29504

Indexing terms:
Corruption
Natural Resources
Forestry
REDD

Photo:
treesftf on flickr.com

This U4 Report is also available at:
www.u4.no/publications

Abstract

Donor-backed programmes for Reducing Emissions from Deforestation and Forest Degradation (REDD) intend to financially reward individuals, communities and countries that cut carbon emissions from forests as part of a global climate regime. But countries with the highest volumes of deforestation – and therefore a focus of REDD support – are also those with some of the poorest scores on established indicators of governance. Addressing challenges related to governance and corruption is an acknowledged goal among major donors supporting REDD, and actions are being taken intended to improve and monitor forest governance performance in REDD host countries.

Yet despite recognition of the importance of practically addressing and analysing forest-linked governance and corruption challenges for REDD, detailed explorations of these issues have to date been scarce and potential policy approaches are still in their infancy. This U4 Report aims to add nuance to discussions on how donors might approach challenges of governance and corruption with special reference to REDD schemes. It offers a state-of-the-art review of literature on REDD, forest governance, and corruption, and draws evidence from fieldwork in three countries either embarking or about to embark on their path towards REDD implementation: the Democratic Republic of Congo (DRC), Kenya, and Tanzania.