

***DISCUSSION DRAFT***

***This Draft does not at this time reflect any official positions of the GCF, its members, or any other individuals or institutions***

**Governors' Climate & Forests Task Force (GCF)**

**TASK 1 REPORT:**

**GCF Design Recommendations for Subnational REDD Frameworks**

**August 7, 2011**

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## I. SUMMARY & BACKGROUND

The GCF is a unique subnational collaboration between 15 states and provinces from the United States, Brazil, Indonesia, Nigeria, and Mexico that seeks to integrate Reduced Emissions from Deforestation and Forest Degradation (REDD) and other forest carbon activities into emerging greenhouse gas (GHG) compliance regimes and other market and non-market opportunities.<sup>1</sup> It provides a very strategic forum for generating and exchanging recommendations and options for both the technical and political components of REDD+. The overarching rationale upon which the GCF is premised holds that any successful effort to bring REDD into climate policy requires multiple efforts at multiple levels of governance. The GCF was therefore conceived as an effort to leverage the fact that certain key states and provinces around the world are in a position to be early movers on the effort to bring REDD into climate policy, thereby bolstering overall momentum for the issue and enhancing national and international efforts to demonstrate how REDD can work in practice. Put another way, the GCF represents an effort to move into what might be called the proof-of-concept stage for REDD.

To this end, the GCF has been working since early 2009 to “put the pieces together” by building a platform for cooperation between GCF states in the U.S. considering integrating international forest carbon offsets in state and regional GHG compliance systems (California and Illinois) and tropical forest GCF states and provinces developing subnational REDD programs for compliance market and other financing opportunities (Aceh, Acre, Amapa, Amazonas, Campeche, Central Kalimantan, Chiapas, Cross River State, East Kalimantan, Mato Grosso, Papua, Para, and West Kalimantan).<sup>2</sup> The goal is to create a common understanding of the key substantive and procedural elements of REDD programs, facilitate the development of interoperable REDD programs in the GCF states and provinces, and provide an important model for national-level linkages in the future.

At the GCF’s 2010 meeting in Aceh, Indonesia, the member states and provinces determined that while the GCF will continue pursue the larger objectives of its Joint

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<sup>1</sup> The GCF grew out of 2008 Memoranda of Understanding signed at the 1<sup>st</sup> Governors’ Global Climate Summit in Los Angeles, CA. The MOU states and provinces initiated the GCF in 2009, which has continued its work with support from the Packard Foundation, Moore Foundation, and ClimateWorks Foundation.

<sup>2</sup> **Question for GCF consideration:** throughout need to consider language focused on compliance markets and ways to open the report up to voluntary markets, fund-based sources of support, etc.

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Action Plan and three Working Groups,<sup>3</sup> the primary focus of the Working Groups and members in the near-term will be on 4 Work Tasks and related outputs.<sup>4</sup>

The primary objective of Task 1 (Subnational REDD Frameworks) is to develop this report presenting GCF design recommendations and options for subnational (state- and province-level) REDD frameworks. The GCF considered Task 1's initial draft report at its September 13-17, 2010 meeting in Santarém, Brazil, and through this revised draft is developing final GCF design recommendations for circulation at the 17<sup>th</sup> Conference of the Parties to the UNFCCC (COP-17) in Durban, South Africa.<sup>5</sup>

The design recommendations in this report build off of the Options Paper (*Regulatory Design Options for Subnational REDD Mechanisms*) developed by GCF Advisor William Boyd for the February 2010 Technical Workshop on REDD Regulatory Design facilitated by the GCF Secretariat and hosted by the California Resources Agency,<sup>6</sup> results and follow-up from the Technical Workshop, a draft paper completed for the GCF by Terra Global Capital (*Reconciliation Architectures for Nested REDD Credits in Compliance Markets*) designed to provide some thoughts for the GCF's consideration and attached as Appendix 1 to this report,<sup>7</sup> input from the Task Group 1 members, and other REDD developments including California's cap-and-trade regulation<sup>8</sup> and the UNFCCC Cancun Agreements. **It does not at this time reflect any official positions of the GCF, its members, or any other individuals or institutions.**

The report provides an overview of some of the key issues and design recommendations for REDD offset program design from both the "demand" and "supply" side perspectives. Although much of the GCF's substantive discussions have to date focused on early signals from the ongoing California cap-and-trade rulemaking, which still provides the most relevant example of a compliance market's possible requirements for

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<sup>3</sup> The Joint Action Plan and Working Group documents are available at <http://www.gcftaskforce.org/documents.html>.

<sup>4</sup> The Aceh Meeting Summary is available in English, Indonesian, and Portuguese at <http://www.gcftaskforce.org/documents.html>.

<sup>5</sup> The 2010 members of the GCF Task 1 Group were Barbara Bamberger (California), Ernesto Roessing (GCF Country Coordinator for Brazil), Natalie Unterstell (Amazonas), Fadmi Ridwan (Aceh), Luis Meneses (Acre), Marinah Embiricos (interim GCF Country Coordinator for Indonesia; East Kalimantan), Claudio Flores and Rodolfo Pereira (Para), Toby Garritt (Papua), Tia Nelson and Paul DeLong (Wisconsin), and William Boyd (GCF Senior Advisor; GCF Secretariat). Two Brazilian stakeholders, FAS and Idesam participated in this report's development and Idesam has provided input on this draft.

<sup>6</sup> The Options Paper (*Regulatory Design Options for Subnational REDD Mechanisms*) and an ARB background document prepared for the Workshop summarizing key provisions of California's Preliminary Draft Cap-and-Trade Regulation are available at <http://www.gcftaskforce.org/documents.html>.

<sup>7</sup> The Terra Global Capital paper is not cited at length in this Draft Task 1 Report. Rather, it is attached as a companion piece for review as one possible pathway for nested projects.

<sup>8</sup> Subject to final approval by California Air Resources Board in October 2011.

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a subnational REDD+ system, this report endeavors to look beyond California in order to ensure consistency (to the extent possible) with the development of REDD provisions in other forums, both regulatory and voluntary, governmental and nongovernmental. The main objective is to provide guidance that reflects and responds to the most relevant opportunities and debates regarding REDD+ design and implementation, including best practice examples from GCF member states, which could provide the basis for recommendations and options for other state systems.

This report includes “state of the art” thinking on the key components of robust REDD+ programs. The Appendices include relevant language from the U.S. federal Waxman-Markey bill (which was approved by the U.S. House of Representatives in 2009, but failed to make it through the U.S. Senate in 2010) merely for illustration purposes, because this bill represents the most representative, recent illustration of U.S. Congressional thinking on cap-and-trade and offsets from reduced deforestation. In future iterations of this report, the GCF intends to include additional, relevant examples from its member states and provinces and their respective national governments, for example the 2011 debate in Brazil over Proposed Legislation 195/2011, which aims to establish a national REDD+ system, and the public review process that accompanied it, as well Indonesia’s National REDD+ Task Force activities.

A second objective of Task 1 is to engage with third party standards (e.g. CAR, VCS, CCB+CARE, IPCC Good Practice Guidelines, World Bank methodologies, and Plan Vivo). Thus, where relevant, this report addresses how standards and methodologies developed for voluntary markets can inform and/or be incorporated into evolving compliance markets and programs in tropical forest states and provinces.<sup>9</sup> Future iterations will include more concrete examples from these standards.

The goal is to generate GCF recommendations for the design of subnational systems and regulations that nest into national systems as relevant, are workable, flexible, meet social, environmental and methodological criteria, and generate credible emissions reductions that can access a variety of funding sources,

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<sup>9</sup> Some of the key design recommendations are illustrated using examples from existing REDD activities in GCF tropical forest states and provinces, but this report does not include an exhaustive catalogue of these activities.

**Question for GCF Consideration:** The GCF needs to consider whether and how to add more of these standards into the Current Thinking/GCF recommendation sections of this report, while avoiding turning this report into a Protocol Assessment Report. The GCF also needs to determine whether and if so how this report can encompass market and other financing opportunities for REDD programs. This report is drafted with a compliance market focus (as noted in several Task 1 member reviews). Consequently, the GCF will need to decide on how to proceed on this issue. In addition, a reviewer made the suggestion to include a table of the primary state efforts in the next iteration of this report—the GCF could consider doing this with the results of the database effort of Task 3.

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The example of demand side requirements presented in this document is from California's AB 32 Cap-and-Trade Regulation, expected to become enforceable in 2012. Although many of the details remain to be worked out by the California Air Resources Board,<sup>10</sup> it is clear from the California Cap-and-Trade Regulation that California's approach to international offsets will be based on a sectoral approach as opposed to pure, project-based offsets, with the exception of project offsets that might be accepted from Canada and Mexico.<sup>11</sup> The Regulation and Staff Report accompanying it strongly signal that REDD could be the first test cases for this approach. In response, the recommendations discussed below focus specifically on requirements that would govern the generation of REDD credits on the basis of a jurisdiction-wide approach through multiple pathways, including credits issued to "nested" REDD projects that meet specific eligibility criteria and are reconciled with state/province-level accounting and credits issued by an approved external state or provincial REDD program. The report does not spend much time discussing provisions for stand-alone REDD projects, unless such provisions relate directly to the development of larger architectures for jurisdiction-wide accounting. Again, the California example is used to illustrate the evolving requirements of the only foreseeable compliance market for REDD. That said, this report is interested in determining how to connect the GCF tropical forest members with a broader set of opportunities, both market and non-market based.

This report strives to drive the discussion to a more granular level of resolution than reached by the GCF to date or provided for in the California Regulation or UNFCCC decisions. However, in doing so, the report attempts to frame particular recommendations regarding requirements, criteria, tools, and procedural options in a manner that preserves flexibility, practicability, and modularity to allow the framework to fit under various regulatory and non-regulatory architectures and funding opportunities (market and non-market), as well as to respond to different circumstances in tropical forest states and provinces.

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<sup>10</sup> The ARB Staff Report accompanying the regulation notes that "A protocol must be developed and approved by the Board to quantify, monitor, report, and verify emissions reductions achieved by REDD programs." (Staff Report at III-27); **it is important to note that** while the current Regulation's sectoral REDD provisions are very short and lacking in detail, other Offsets provisions in Subarticle 13 of the Regulation may provide guidance on what California will require from REDD on issues such as MRV, registry requirements, and liability. In addition, many provisions are undergoing revisions before final approval by the ARB in October 2011. The current "redline/strikeout" discussion draft is available at <http://www.arb.ca.gov/cc/capandtrade/meetings/072011/cap-and-trade-discussion-draft.pdf> and will be further incorporated in next iterations of this Task 1 Report.

<sup>11</sup> **Question for GCF Consideration:** Several GCF members and stakeholders want to ensure that such an approach continues to attract private sector capital to projects while robust subnational REDD programs are developed. The GCF can consider other ways of taking this into account in the Final Task 1 Report.

## II. KEY ISSUES AND GCF DESIGN RECOMMENDATIONS<sup>12</sup>

### A. SECTORAL CREDITING PATHWAYS

For REDD activities within states and provinces, there are various options for how, and to whom, REDD credits might be issued, including: (1) direct crediting to project-level activities, perhaps as nested projects within larger state or provincial accounting frameworks; (2) direct crediting to states or provinces based on reductions that result from policies or programs; and (3) recognition of credits issued under an approved state or provincial program, or perhaps some other external program. These options are not mutually exclusive. That is, one could envision REDD regulations that allowed for the possibility of multiple crediting pathways available to different states/provinces depending on particular circumstances.

Getting some clarity on crediting options upfront is important because crediting will determine how regulations are designed and affect the choice of criteria for accounting, safeguards, and other core requirements. Crediting decisions will also influence how issues such as enforceability are handled.

Assuming based on the last signals from California and the UNFCCC that credits are unlikely to go directly to stand-alone REDD projects (except perhaps in small developing countries or as part of an early offset supply), this report focuses on crediting options that involve some type of state-level accounting and/or performance. Crediting under such systems will be *ex post*; that is, credits will only issue after performance (reductions in deforestation and associated carbon emissions) has been demonstrated.

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<sup>12</sup> **Question for GCF Consideration:** Several GCF members have emphasized a need to provide more specifics on preliminary issues regarding definitions and scope of REDD activities. For example, there is general agreement that the Intergovernmental Panel on Climate Change (IPCC) definitions and frameworks are good starting points and encourage transparency and consistency between regulatory forums. With respect to scope, the general sentiment is that regulators and early mover states and provinces should consider starting with RED and incorporating degradation (REDD) as more robust methodologies for degradation are available—this was echoed in Brazilian comments to the draft report. California, for example, could wait until after 2020 (the deadline for achieving 1990 emissions levels under AB 32) to include degradation. Regulators could also consider developing forest class stratifications to capture degradation and/or use the Carnegie Landsat Analysis System (CLAS) approach. The GCF might wish to expand on the RED versus REDD or REDD+ approach here, explaining the pros and cons of these approaches.

1. **State-of-the-Art Thinking**

a. **California ARB Cap-and-Trade Regulation**

On December 16, 2010, the California Air Resources Board issued a Resolution adopting the proposed regulation with a few modifications that are still under development for final consideration.<sup>13</sup> ARB determined it would accept offsets from two primary crediting pathways that are relevant to the GCF states and provinces.

- First, ARB may issue credits to offset projects that meet the extensive requirements of Section 95973 (Requirements for Offset Projects Using ARB Compliance Offset Protocols) and are located in the “United States, Canada **or Mexico**” (emphasis added). The Staff Report notes that ARB is only currently recognizing four domestic protocols (for projects in the U.S. and its territories), but they intend to review and adopt additional offset protocols that extend to Canada and Mexico in the future.<sup>14</sup> These provisions contain a great amount of detail on issues including MRV, registries, issuance of credits, reversals, but they are not directly applicable to the sector-based offset credit provisions, under which the ARB has indicated it will consider REDD.
- In the second (Section 95991. Sector-Based Offset Credits), ARB may accept compliance instruments from sector-based offset programs in “developing countries or from subnational jurisdictions” that meet the requirements for such programs, discussed in more detail below.<sup>15</sup> The Regulation states that sector-based offset credits may be generated from REDD. REDD is the only sector specifically mentioned in the Regulations as eligible. The Staff Report contemplates that this will include:

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<sup>13</sup> See Resolution, available at <http://www.arb.ca.gov/regact/2010/capandtrade10/res1042.pdf>; see also Attachment B, page 4, section 95854, which includes change to provide greater flexibility to use offset credits to fulfill a compliance obligation in the second compliance period (increasing it from 25% to 50% of the offset limit; the first compliance period would remain at 25%, and the third at 50% of the offset limit) .

<sup>14</sup> Staff Report at III-10, 11.

<sup>15</sup> These are explained in Section 95994 and include (1) a Sector Plan; (2) MRV and Enforcement system and capability; (3) ability to demonstrate that Offset Criteria are met (real, additional, quantifiable, permanent, verifiable, and enforceable); (4) a transparent system for demonstrating Sectoral Level Performance; (5) a Public Participation and Participatory Management Mechanism; and (6) for Nested Approaches, the ability to meet offset project requirements (ability to inventory, quantify, monitor, verify, enforce, and account for all activities) and reconcile project-based reductions with sector-level accounting in the jurisdiction.

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(1) sector-based programs that achieve “sector-wide emissions reductions from mitigation policies undertaken by or in coordination with the jurisdiction;” and

(2) ARB-approved programs that issue credits “to project developers for project-level activities that are ‘nested’ within a jurisdiction-wide sectoral program. A nested system must coordinate the accounting of reductions at the project within the jurisdiction’s own sectoral planning and accounting.”<sup>16</sup>

The Staff Report notes that the next step for REDD implementation as part of the cap-and-trade program is for ARB to *work closely with REDD technical experts, scientists, stakeholders, research institutes, and the Governors’ Climate and Forests Task force to address critical technical and policy issues in order to refine guidance for a high-quality subnational REDD Program. Staff anticipates that REDD offset credits from Board-approved programs could enter the California market in 2015. Staff is, however, contemplating how pilot activities with host-jurisdictions closest to having program infrastructure in place could be considered for approval earlier than 2015. A pilot program or group of pilot programs could provide REDD credits sometime during the first compliance period.*<sup>17</sup>

**b. UNFCCC**

Although the decisions on REDD+ taken by the Conference of the Parties to the UNFCCC in Cancun (“Cancun Agreements”)<sup>18</sup> do not answer important questions such as how REDD+ will be financed and implemented, they do provide guidance on policy approaches and positive incentives for REDD+, including on the issues of references levels (national and, where appropriate, subnational), safeguards (including information about implementation), national REDD+ plans, monitoring and reporting of REDD+ activities (national and, where appropriate, subnational), implementation phases, and instructions for both the AWG-LCA and SBSTA for further work on finance options, MRV, and other issues by COP-17 and COP-18.

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<sup>16</sup> California ARB Staff Report at III-25.

<sup>17</sup> California ARB Staff Report at III-29.

<sup>18</sup> Cancun Agreements, UNFCCC Dec.1/CP.16, Outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention, available at <http://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf#page=2>.

**c. GCF National & Subnational Examples**

**Brazil – National Level Status**

At the national level, Brazil does not yet have a REDD+ law, but there are important 2010-2011 developments worth highlighting. One is Proposed Law 195/2011 introduced by Congresswoman Rebecca Garcia, which aims to create a National System for REDD+ and builds off of an earlier effort (Proposed Law 5.586/2009). Proposed Law 195/2011 aims to establish a national REDD+ system that would generate emission reduction units (called UREDD) from verified emission reductions, which would then be registered and allocated among the federal, state, municipal levels, as well as other actor such as private landowners, communities, indigenous lands, among others, responsible for the reductions. Only a part of these UREDD would generate tradable certificates, pursuant to criteria established by a National Deliberative Committee, which would also create technical rules and criteria for REDD+ projects and programs. The bill has passed the Environment and Sustainable Development Commission of the House of Representatives and is still under debate.

The other process was the creation of a set of three working groups to debate and proposed elements of a national REDD system. The process was led by the Ministry of Environment with participation of both governmental and non-governmental institutions (including representatives of GCF's Brazilian states and stakeholders). Two key points that arose from these processes were that: (1) a flexible approach to REDD+ is preferred, one that recognizes governmental and non-governmental, fund and market-based options; and (2) any national system must be integrated with subnational systems (both at the regional and project levels) to ensure the integrity and consistency of the system.

**GCF Brazilian Members**

The Brazilian GCF States have made progress in both developing and implementing REDD+ programs. In 2010, Acre passed a law establishing their "System for Environmental Services Incentives – SISA", which includes a program specific to REDD+ actions. It seeks to promote public/private initiatives on environmental services, has created a registry system to register the activities developed within its boundaries, and has established principles and criteria that activities must follow to be recognized. It also created several institutional structures to implement the program, including an Institute for Climate Change and an Environmental Services Development Company, which are currently developing rules governing their structures and procedures. Mato

Grosso and Amazonas are<sup>19</sup> developing legislation on climate change and/or environmental services, including specific provisions on REDD+. Pará and Amapá have no established laws or policies but are initiating discussions to do so.

## 2. GCF Design Recommendations

The GCF recommends preserving multiple pathways to provide flexibility for compliance and offset generation, ensuring recognition of and consistency with any existing national compliance mechanisms and accounting frameworks. Based on the current compliance market thinking noted above, however, it appears that sector-based crediting is the only option under active consideration by California. Under this crediting scenario, the regulatory recognizes “sector-based credits” issued by an approved state/province program for sector-wide emissions reductions or nested project-level activities (as contemplated in the California Cap-and-Trade Regulation) and based on performance relative to specific crediting baseline (see below). Such sector-based credits would be converted to the appropriate offset currency, *e.g.*, California Offset Credit, with proper accounting to avoid double counting, before being tendered for compliance purposes in the relevant GHG compliance system. Implementation of this option would generate the largest amount of reductions, “fast-track” the move toward state/province-level systems, and better position these states and provinces to receive REDD readiness funding. One significant challenge in considering any pathway is to determine what legal mechanisms and arrangements are available for forming such partnerships. The GCF may wish to explore this issue further and will certainly be coordinating with the California, Acre, Chiapas REDD Offsets Working Group effort.

As discussed above, while the California market presents the most concrete opportunity for market-based REDD+ offset transactions, the GCF members should design their systems in a way that preserves their ability to connect with other compliance markets that may emerge and non-compliance funding sources, such as voluntary markets and donor funds. For example, in Brazil an approach that is being widely discussed is the “stock-flow approach” discussed in more detail below, which establishes criteria for benefit-sharing among different jurisdictions, but also allows for the development of projects. The emission reductions generated by Brazil as a whole would be distributed among scales according to a defined formula. The portion allocated to states as a whole

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<sup>19</sup> By July, 2011

be apportioned according to a state's carbon stocks (stock) and reduction of deforestation (flow).<sup>20</sup>

**B. STATE/PROVINCE-LEVEL ACCOUNTING**

For all of the crediting options discussed above, some type of state/province-level accounting would be necessary, which would ultimately synch up with national-level accounting as it is developed. This report divides the discussion of the GCF's recommendations for state/province-level accounting into the following four areas:

- Reference Level Baselines and Crediting Baselines
- State/province REDD plans and programs
- GHG inventory requirements
- Registry requirements
- Project Nesting and Reconciliation/Integration Architectures

This is followed by a separate section on monitoring, reporting and verification of performance (MRV), recognizing that this is a somewhat artificial distinction and that MRV could easily be included under State-Level Accounting.

**1. Reference Level Baseline and Crediting Baseline**<sup>21</sup>

**a. Current Thinking**

**(1) California ARB Cap-and-Trade Regulation**

A quantitative crediting baseline would be a deforestation (or emissions) level below which a state or province can generate sector-based credits. The California Regulation does not specify how the baselines would be established. Rather, much of the detail for sector-based offsets is left to future development by ARB. The only mention of baselines in the Regulation itself is in the requirement that the sector-based program contain a "transparent system for determining and reporting when it meets or exceeds its crediting baseline(s), and evaluating the performance of the program's sector during each program's crediting period relative to the business as usual or other emissions

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<sup>20</sup> There would be a National Committee that would define the percentage of total emission reductions that could be turned into CREDD

<sup>21</sup> Note for GCF Consideration: there are many papers out on nesting from e.g., Terra Global Capital, TNC, and Pedroni, Estrada, and Cenamo. We need to make a decision about whether to add a "Current Thinking" paragraph from various entities and individuals or to add text boxes for the leading ideas, etc. This is true throughout the paper.

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reference level.”<sup>22</sup> These baselines could be prescribed by future regulatory language or accompanying guidance documents.

The Staff Report accompanying the regulation gives a more detailed indication of what might be required. “Programs must establish a business-as-usual reference-level baseline that accurately reflects the sector’s historic and/or potential future GHG emissions for that jurisdiction’s entire sector. The program would need an agreed level of deviation from the reference-level baseline, or *crediting baseline*, which is achieved through the jurisdiction’s direct policies and mitigation actions. Sector-based credits could then be used for compliance once GHG emissions are reduced beyond the program’s established crediting baseline. Emissions reductions must be verified by a third party to ensure reductions are real, additional, quantifiable, and permanent.”<sup>23</sup> The Staff Report also notes that the REDD Program “must set a GHG emissions reference level that represents a conservative estimate across a jurisdiction’s forest sector. Staff’s initial thinking is that this reference level should be derived from absolute deforestation based on historic emissions averaged over a 10-year period and adjusted if necessary.”<sup>24</sup> With respect to the crediting baseline, the Staff Report notes that the REDD program “must set a crediting baseline based on specific targets for 2020 and beyond.”<sup>25</sup>

**(2) UNFCCC**

The Cancun Agreements request developing countries to develop a national forest reference emission level and/or forest reference level “or, if appropriate, as an interim measure, subnational forest reference emission levels and/or forest reference levels.”<sup>26</sup> The provision directs developing countries to establish these in accordance with national circumstances and with provisions contained in decision 4/CP.15 and with any further elaboration of those provisions adopted by the Conference on the Parties. Decision 4/CP.15 states that developing country Parties in establishing forest reference emission levels and forest reference levels should do so transparently taking into account historic data, and adjust for national circumstances, in accordance with relevant decisions of the Conference of the Parties.<sup>27</sup>

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<sup>22</sup> California ARB Cap-and-Trade Regulation § 95994(a)(4).

<sup>23</sup> California ARB Staff Report at III-25.

<sup>24</sup> California ARB Staff Report at III-28.

<sup>25</sup> California ARB Staff Report at III-28.

<sup>26</sup> Cancun Agreement, ¶71(b).

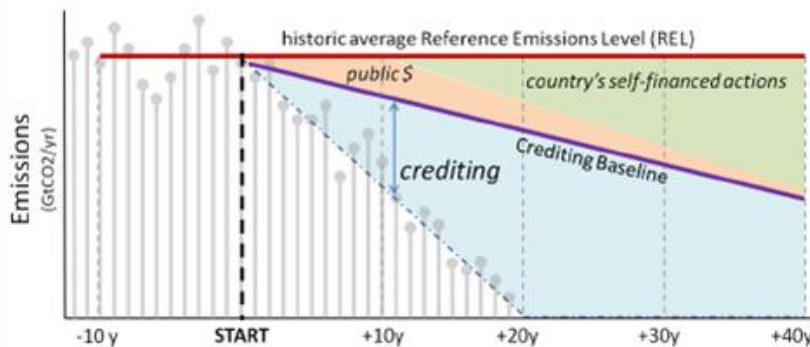
<sup>27</sup> Decision 4/CP.15, ¶7 available at <http://unfccc.int/resource/docs/2009/cop15/eng/11a01.pdf#page=11>

### (3) GCF National & Subnational Examples

#### b. GCF Design Recommendations

California has indicated a preference for establishing sector-based crediting provisions by defining an initial reference level baseline and a crediting baseline. The following recommendations are thus organized in two parts: (a) reference level baseline; and (b) crediting baseline.

#### Graph illustrating distinction between reference level and crediting baseline



Source: Griscom et al. (TNC), Establishing Efficient, Equitable, and Environmentally Sound Reference Emissions Levels for REDD+: A Stock-Flow Approach.

#### (1) Reference Level Baseline<sup>28</sup>

Based on input from GCF members and technical experts, the GCF recommends establishing a reference level baseline using:

(a) average historical annual deforestation rates based on spatially-explicit activity data from remote sensing<sup>29</sup> for 5-10 years<sup>30</sup> from a specified period (e.g. 1995-2005). There is also the possibility of adjusting this rate every 5-10 years;

(b) carbon emissions factors for relevant forest classes based on the IPCC tiers 2 or 3 with confidence intervals stated. Forest class emissions factors should use statistically

<sup>28</sup> **Question for GCF input:** the GCF might wish to consider include whether to recommend that baseline determination be validated by a third party and whether to recommend that historic average is adjusted every ten years] Moving forward, Task 1 and the GCF states and provinces will generate and circulate the information specified in (a) and (b) and propose ideas for resolving (c).

<sup>29</sup> **Question for GCF consideration:** the GCF could include more detailed criteria.

<sup>30</sup> **Question for GCF consideration:** will this data requirement unnecessarily exclude certain states/provinces because of lack of available data during the relevant time period? Is it nonetheless the best option?

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conservative values for offset calculations, where “conservative values” means choosing forest class emissions factors that generate the least amount of credits; and

(c) incorporating an adjustment factor that addresses high forest stock/low historic deforestation scenarios (e.g. Amazonas, Amapá, Papua).<sup>31</sup> This adjustment factor may need to have quantitative limits in terms of how much the adjustment factor can change historical baseline estimates. The GCF may also wish to consider other mechanisms for taking into account low threat/high forest stock scenarios.

The GCF’s Indonesian provinces have expressed that Reference Level Baselines need to take into account a fair and balanced combination of historical and projected deforestation. Projected deforestation needs to be defined by clear and transparent standards, criteria and indicators that can be applied across all states/ provinces (such as (number of) license applications, demand for land, spatial planning, GDP, etc.). Without a fair and balanced inclusion/ integration of projected baselines in REL, participation of GCF Indonesia member provinces will be severely inhibited if not infeasible.

## **(2) Crediting Baseline<sup>32</sup>**

The GCF states and provinces have to date expressed different viewpoints on how to establish the crediting baseline.

**Option 1:** Establish a crediting baseline that is a downward straight-line trajectory with step-wise reductions (to be further defined) and a target<sup>33</sup> of 50% reductions in gross

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<sup>31</sup> **Question for GCF consideration:** how should adjustment factor be developed? Andrea Cattaneo suggested that one possibility is not to pre-specify how much stocks should factor into the initial baseline determination, but rather to allow this to be determined through a context-specific negotiation process between states or provinces (where such a process makes sense). The regulatory language could read: “baselines for a state/province will be (a) its [5 or 10-year] historical rate or the average historical deforestation rate for the country, whichever is lowest; or (b) state/province baselines may be negotiated between participating states and will be accepted as long as the baseline rate for the participating states combined is no higher than their combined [5-10-year] historical rate (weighted for stocks) or of the average historical deforestation rate for the country, whichever is lowest.”

<sup>32</sup> **Question for GCF consideration:** from the Technical Workshop in February, there was some questioning of the feasibility or desirability of the federal language regarding a trajectory toward zero “net” deforestation. Need to determine if important to include anything on this. Other questions the GCF might wish to consider include whether and how often to revisit the crediting baseline (every 10 years?) and whether to consider breaking down the reference level baseline and crediting baseline into smaller geographical units or strata based on broad institutional and biophysical conditions.

<sup>33</sup> **Question for GCF consideration:** need to seek clarification from California about what it is currently contemplating.

deforestation<sup>34</sup> from the reference level baseline by 2020, with the additional requirement to maintain xx% of stocks.<sup>35</sup> Crediting is only possible if emissions are below the crediting baseline in each crediting period.

**Option 2:** Start with the reference level baseline as the crediting baseline for the first “compliance period” in a statistically appropriate way, using IPCC frameworks for uncertainty analysis and use to generate highly-conservative crediting baselines. For subsequent compliance periods, states or provinces can use performance below the crediting baseline in the first crediting period, and improved (e.g., Tier 3) activity data and emissions factors, as a as new crediting baseline for next crediting period, and so on.<sup>36</sup>

The Brazilian GCF states propose that there not be a crediting baseline per se. Instead, they suggest that a percentage of reductions that will be recognized as offsets after verification be specified. For example, Brazilian Proposed Law 195/2011<sup>37</sup> provides for a certain percentage of the total of achieved reductions that can generate offset credits. REDD units (“U-REDD”) would be reductions used to meet the Brazilian target or to access voluntary funds or other financial sources not based on offsets. UREDD units would be distributed after a political negotiation at the federal level using the stock and flow approach. Another part of total reductions would qualify as offset credits (C-REDD), based on to be specified principles and criteria and would be distributed among the different jurisdictional levels/entities by a Multi-sectoral Committee

The GCF’s Indonesian members anticipate that reductions of no more than 10% less than the Reference Level Baseline as being workable in the current environment, with the assumption that the provinces’ shares of the national reduction commitment can be included as part of this reduction.

## 2. State-/Province-wide REDD Plan/Strategy/Program

### a. Current Thinking

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<sup>34</sup> **Question for GCF consideration:** Task 1 members suggested adding an explanation of net versus gross deforestation and the pros and cons of using each.

<sup>35</sup> **Question for GCF/stakeholder consideration:** need to clarify.

<sup>36</sup> **Question for GCF consideration:** Toby Garrit’s memo on “commercial safeguards” (see Appendix 2 at 3) recommends this approach.

<sup>37</sup> In the case of the National Proposed Legislation, the REDD units (U-REDD) are distributed after a political negotiation at the federal level bearing in mind the stock and flow approach. The reduction certificates (C-REDD, or offset credits) represent a portion of the reduction of emissions for offsets. A board (committee) shall establish which will be the proportion of U-REDD that turn int<sup>38</sup> Cancun Agreements, ¶¶71(a), 72.

**(1) California ARB Cap-and-Trade Regulation**

California's Regulation contains six requirements for sector-based offset programs, one of which is that states/province must have a "Sector Plan" for reducing emissions from the sector. No additional detail is provided, however the other five required criteria provide some guidance to states and provinces about what their program must contain. They are listed in the Table below.

In addition, the Staff Report notes that a forest sector plan would need to demonstrate that it:

- "Assesses the local drivers of deforestation in its jurisdiction; identifies reforms and policies to address these drivers; identifies emissions from deforestation; and identifies systems to be used for data collection, monitoring, and the development of institutional capacity necessary to implement a deforestation reduction program." (Staff Report at III-27) and
- "Establishes a timeframe for implementing the program and transitioning to low emissions development with respect to emissions from forest and land use activities."

### CALIFORNIA'S INITIAL REQUIREMENTS FOR REDD PROGRAMS

**Sector Plan.** “The host jurisdiction has established a plan for reducing emissions from the sector.”

**Monitoring, Reporting, Verification, and Enforcement.** “The program includes a transparent system that regularly monitors, inventories, reports, verifies, and maintains accounting for emission reductions across the program’s entire sector, as well as maintains enforcement capability over its reference activity producing credits.”

**Offset Criteria.** “The program has requirements to ensure that offset credits generated by the program are real, additional, quantifiable, permanent, verifiable and enforceable.”

**Sectoral Level Performance.** “The program includes a transparent system for determining and reporting when it meets or exceeds its crediting baseline(s), and evaluating the performance of the program’s sector during each program’s crediting period relative to the business as usual or other emissions reference level.”

**Public Participation and Participatory Management Mechanism.** “The program has established a means for public participation and consultation in the program design process.”

**Nested Approach.** “If applicable, the program includes:

- (A) Offset project-specific requirements that establish methods to inventory, quantify, monitor, verify, enforce, and account for all project-level activities
- (B) a system for reconciling offset project-based GHG reductions in sector-level accounting from the host jurisdiction.”

### (2) UNFCCC

The Cancun Agreements request developing country parties to develop and implement a national strategy or action plan that addresses the drivers of deforestation and degradation, land tenure issues, forest governance issues, gender considerations and safeguards.<sup>38</sup>

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<sup>38</sup> Cancun Agreements, ¶¶71(a), 72.

**(3) GCF National & Subnational Examples<sup>39</sup>**

**b. GCF Design Recommendations**

The GCF recognizes that GHG compliance systems and other sources of REDD funding will likely require that any REDD activities (nested projects, programmatic activities, or approved state/province REDD programs) are included within and/or based upon an approved state or province plan for the land use or forest sector (what is referred to in this section as a “REDD plan/strategy/program”).

The GCF recommends that states and provinces develop a REDD plan/strategy/program that includes and addresses the following elements/criteria (or incorporates other state or province legal and policy documents that do):

- the overall objectives of the state/province REDD activities<sup>40</sup>
- state/province emissions from deforestation and forest degradation<sup>41</sup>
- REDD-relevant policies, measures and activities (state, province, and local), and/or plans for their design and implementation<sup>42</sup>
- state/provincial and local drivers of deforestation and forest degradation and reforms to state/provincial policies needed to address them<sup>43</sup>
- improvements in data collection, monitoring, and institutional capacity necessary to implement a state/province deforestation reduction program<sup>44</sup>
- a timeline for implementing the program and transitioning to low-emissions development with respect to emissions from forest and land use activities
- the geographical areas in which REDD activities will be implemented<sup>45</sup>
- the institutional arrangements for REDD program design, implementation, registry and evaluation<sup>46</sup>
- documented and mapped land tenure/land use rights for the state/province<sup>47</sup>

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<sup>39</sup> **Question for GCF Consideration:** need to identify and add examples of best practice REDD Plans here to the extent available.

<sup>40</sup> See CCBA REDD+ Social and Environmental Standards version 1 (June 2010), at 4, available in English, French, Spanish, and Portuguese at <http://www.climate-standards.org/REDD%2B/>.

<sup>41</sup> U.S. proposed federal legislation.

<sup>42</sup> CCBA at 4.

<sup>43</sup> U.S. proposed federal legislation and CCBA at 4.

<sup>44</sup> U.S. proposed federal legislation.

<sup>45</sup> CCBA at 4.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.* at 11.

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- state/province laws that support accountability and enforcement of land tenure/land use rights<sup>48</sup>
- stakeholder participation and other procedural requirements (see Safeguards discussion below)

The GCF recommends that the REDD plan/strategy/program be reviewed and approved by an outside entity, whether that is direct approval by a regulatory body like the California Air Resources Board, approval by stakeholders, and/or independent third-party certification remains to be determined by regulatory entities and the GCF members. The GCF also recommends that the REDD plan/strategy/program be updated and reviewed every 5-10 years.

The GCF's Indonesian members have expressed that REDD plan/strategy/programs need to be integrated with spatial planning. State/ province reduction programs will need to be in line with national strategy, appropriately 'nested' in a national system, consistent with national reduction commitments. Improvements in and funding for data collection, monitoring, and institutional capacity are necessary to develop and implement effective state/province deforestation reduction program.

**3. GHG Inventory/Tracking and Registry Infrastructure**

**a. Current Thinking**

**(1) California ARB Cap-and-Trade Regulation**

Again, the sector-based provisions do not contain many details, but as noted above, they do require systems for MRV and enforcement, for ensuring offsets are real, additional, quantifiable, permanent, verifiable and enforceable, and for tracking and reporting when crediting baselines are met and exceeded.<sup>49</sup> The Staff Report accompanying the Regulation notes that the program must include a robust and transparent system for inventory, monitoring, and reporting to track and evaluate GHG reduction activities for the sector's emissions performance over time. "A program must also include a registry, mechanisms for credit retirement, and protection against

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<sup>48</sup> *Id.*

<sup>49</sup> California ARB Cap-and-Trade Regulation § 95994(a)(2)-(4).

reversals where applicable. Each sector may require its own set of unique set of criteria beyond the general criteria currently included in the regulation.”<sup>50</sup>

## **(2) UNFCCC**

The relevant REDD+ texts address the need for robust and transparent national and, if appropriate, subnational forest monitoring and reporting systems, but do not discuss registries and tracking specifically<sup>51</sup>.

## **(3) GCF National & Subnational Examples**

### **b. GCF Design Recommendations**

The GCF recognizes that robust tracking and registry systems are critical to instilling confidence that compliance markets result in real and tangible emissions reductions. It also understands that regulatory agencies (e.g. California ARB) may ultimately develop and require use of their own compliance tracking registry systems or may approve state/province- or third party-developed registries. The GCF and other states and provinces are starting to consider how to develop their own state- and province-wide registries, consistent with national registry efforts if applicable, to position them to respond to these and other emerging opportunities. This is critical to enabling jurisdictions to adequately track of emission reductions generated and possibly transacted on different scales (national/state), as well as to establish principles and criteria for REDD+ programs related to the development and registration of activities. This is a big undertaking that has never before been tackled and will take time and resources. One option for states and provinces is to work with existing registries,<sup>52</sup> but this is a decision the states have not yet made.

The GCF recommends the following general criteria for state- and province-wide tracking and registry systems in the GCF states and provinces to ensure consistent and robust tracking and registry systems across the GCF states and provinces that can guarantee the integrity of the system and avoid double counting:

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<sup>50</sup> California ARB Staff Report at III-26; *see id.* at II-28 (“The program must include a retirement mechanism for removing the credits that have been used for compliance from the state-level accounting system, crediting baseline, and credits retired”).

<sup>51</sup> Cancun Agreements, ¶71(c), Appendix II.

<sup>52</sup> Several Task Members and Terra Global Capital recommend using existing registries such as Markit.

- Links to national-level registry (or “nested” within a national system/registry) where relevant
- Ability to track issuance, ownership, and retirement information on all offset credits
- Assignment of individual serial numbers to offset credits
- Public accessibility
- Capability to transfer information on all transactions to external registries and tracking systems
- Third-party certification or auditing
- Links to all project and MRV information
- Ability to integrate nested projects where relevant

In addition, as a next step, Task 1 members suggested this area as one for which a Technical Workshop would be useful.

#### **4. Project Nesting and Reconciliation Architectures**

One of the most discussed topics when it comes to subnational REDD+ structures is the nesting architectures. This relates both for projects nesting into a state system but also for a state system to nest into a national architecture. This is due to the fact that there are many subnational states and provinces developing their REDD+ programs and systems but, at the same time, the signals sent from UNFCCC as well as markets is that there should be a national system in place, in order to improve national forest governance, avoid double counting, leakage and others. This does not mean that these subnational systems will then be merged into a single national one, but the idea is to establish an integrated framework where national and subnational systems work connected and under the same strategy.

##### **a. Current Thinking**

###### **(1) California ARB Cap-and-Trade Regulation**

California’s sector-based offset provisions contemplate that developing country states/provinces may use a nested approach. If they do, the state/province must:

(1) have offset project-specific requirements that establish methods to inventory, quantify, monitor, verify, enforce, and

(2) account for all project-level activities and a system for reconciling offset project-based GHG reductions in sector-level accounting from the host jurisdiction.<sup>53</sup>

The Staff Report accompanying the regulation does not contain any more detail on nesting.

## **(2) UNFCCC**

The UNFCCC does not specifically address issues regarding scale integration.

## **(3) GCF National & Subnational Examples**

### **Proposed Brazilian Legislation**

The current versions of the National and State proposed REDD+ legislation in Brazil provides for an integrated accounting for emissions reductions at the state and federal levels, including program and project reductions. For example, the Proposed Law discussed above allows a portion of the national emission reductions to be allocated to programs and projects defined by each State. It also establishes the requirements that a state must meet to receive these allocations. This proposal differs from the nested approach as it is understood in The Nature Conservancy and Terra Global Capital reports discussed below.

## **(4) Recent Nesting Literature**

Need to summarize key points from recent thinking on nesting, e.g.:

- *Nested Projects and REDD+ Briefing Document*, Forest Trends and ClimateFocus, 2010
- *Options Paper – Regulatory Design Options for Subnational REDD Mechanisms*, William Boyd, University of Colorado Law School (prepared for the GCF), 2010;
- *Brazil's Emerging Sectoral Framework for Reducing Emissions from Deforestation and Degradation (REDD) and the Potential to Deliver Greenhouse Gas Emissions Offsets from Avoided Deforestation in the Amazon's Xingu River Basin*. Electric Power Research Institute. 2010;
- *Making GCF/ARB REDD feasible for private sector investment*, Tobias Garritt, GCF Representative, Province of Papua, Indonesia (discussion draft of 2010);

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<sup>53</sup> California Regulation, § 95994(a)(6).

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- *A Nested Approach to REDD+: How could it be implemented?*, Lucio Pedroni, Manuel Estrada, and Mariano Colini Cenamo in “Pathways for Implementing REDD+”, UNEP RISOE Centre, 2010;
- *Integrating Project and National REDD+: The Importance of the Private Sector*, Naomi Swickard, Kim Carnahan in “Pathways for Implementing REDD+”, UNEP RISOE Centre, 2010;
- *An Integrated REDD Offset Program (IREDD) for Nesting Projects under Jurisdictional Accounting*, Terra Global Capital (prepared for the GCF), 2010;
- *A Nested Approach to REDD+ - Structuring effective and transparent incentive mechanisms for REDD+ implementation at multiple scales*, The Nature Conservancy and Baker & McKenzie, 2010;
- *Engaging the Private Sector in the Potential Generation of REDD+ Carbon Credits: An Analysis of Issues*, Robert O’Sullivan, Charlotte Streck, Timothy Pearson, Sandra Brown and Alyssa Gilbert, supported by The UK Department for International Development (DFID), 2010.

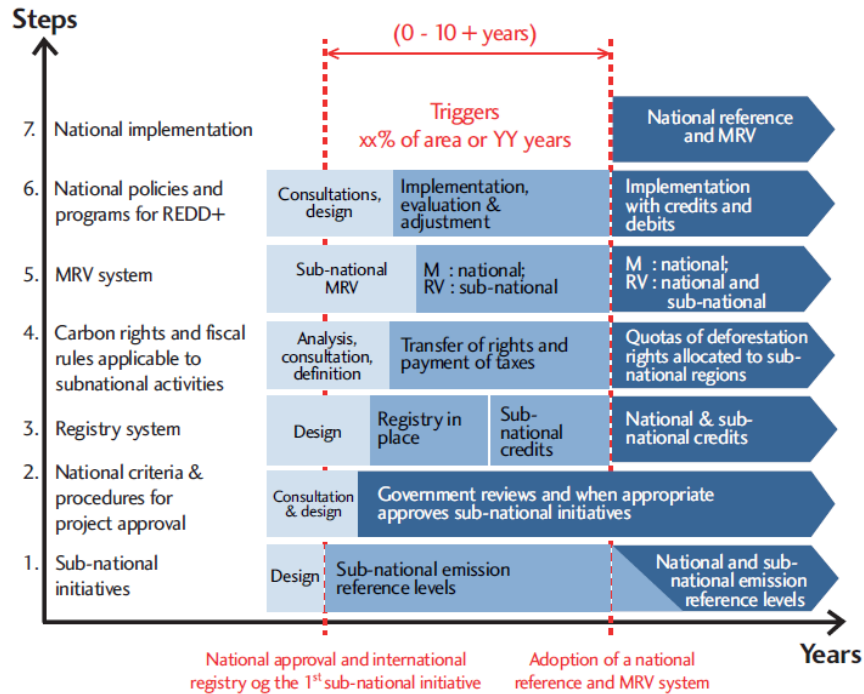
The TNC paper proposes a step by step approach to establish this integrated accounting (section Carbon Accounting, pp. 12-16): i) establish a national reference level; ii) divide the national territory in reference regions (which can be states) and establish a reference level for each region, making the sum of the parts equal to the national reference level; iii) establish the reference level for each project and express it as a percentage from the total reference level for the region/state (exceptions: when a given project considers carbon sources or sinks which are not accounted for in the national system, such as, for example, degradation or reforestation, only the portion related to the regional/state reference level will be considered); iv) establish a protocol for nesting, detailing the methods to define and revise the reference levels, monitor emissions, assess leakage and permanence.

The Terra paper discusses in more detail some technical aspects related to carbon accounting (section 2.3, pp 28-36): principles for quantifying emissions reductions and for establishing reference levels, space and time delimitations, how to handle historical deforestation rates and other factors which influence the reference level, measurement of carbon stocks, and the establishment of geographically explicit reference levels.

The paper on Nested Approach (Pedroni, Porrua and Cenamo) states that a registry system for approved initiatives, reference emissions levels, monitoring and carbon trading reports would facilitate the implementation of a “nested approach”, given that it allows transparency in carbon accounting, avoiding therefore double accounting of

national and subnational emissions reductions. The registry for subnational activities would include their space and time delimitations, emissions reference levels and verified emissions reductions and carbon credits, therefore assuring a consistent and adequate process for the definition of subnational reference levels and avoiding double accounting.

Regarding timelines and implementation steps, the Pedroni et al. paper presents the following example:



### b. GCF Design Recommendations

GCF members have suggested that project nesting mechanisms need to be flexible and should be able to coherently integrate state activities with a future national system/strategy. They also noted that a visual diagram or conceptual examples of how this would work would be very helpful. The Brazilian states have noted that there are different approaches to nesting (or the “integrated approach” to REDD as they prefer to call it). For them, the key issue is coordinating state- and national-level REDD programs and reductions. Some approaches they are exploring are: stock-flow; linking GCF states, and programs developed for specific categories of land use (such as indigenous lands) integrated into a national strategy.

### **Stock-flow Approach**

The stock-flow approach has many supporters in Brazil. It aims to create a system in which both the reduction of emissions in threatened forest areas (flow) and forest conservation actions in areas not immediately threatened (stock) are rewarded through the allocation of emission reductions. A design option for the allocation of these credits could be to base it on historical rates of deforestation comparing to the annual reduction of deforestation (emissions) generated by PRODES,<sup>54</sup> which would be considered the ceiling of credits generated by the country in a given year. From this basis, there could be an internal negotiation of the allocation according to the contribution of each State to reduced emissions from deforestation and the amount of remaining forest stocks. Each State would develop their own proposals for allocating the state's credits within their respective territories.

### **Internal Allocation Within the States**

Allocation could be made based on land type (e.g. private lands, indigenous lands, state lands, etc.). This could also allow a certain amount to be distributed to projects, thus incentivizing early action by private parties and those wishing to access the voluntary market. Another possibility is to use modeling to determine allocation, thus identifying the areas under direct deforestation pressure ("flow" areas) and those which not under immediate deforestation pressure ("stock areas").

Whatever the approach taken, it is necessary to ensure that the allocation system benefits those responsible for reducing emissions from deforestation and conserving forests, such as local indigenous peoples and other forest-dependent communities.

The Brazilian states identified the following nesting principles that must be followed: (1) project and state accounting must be integrated and consistent with national accounting; and (2) in the absence of a national system, states could establish preliminary registries that can integrate with a future national REDD+ system.

## **C. MONITORING, REPORTING, VERIFICATION OF PERFORMANCE**

In addition to coordination with national-level MRV as relevant to a particular state or province, MRV is important at two levels: (1) state/province-level performance and (2)

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<sup>54</sup> PRODES is the name of the system by which the Brazilian National Institute for Space Research (INPE) monitors and calculates deforestation in the Amazon on an annual basis.

project-level performance (in the case of a nested approach). In addition, GCF recommendations regarding MRV – at either the state/province or project-level – need to address whether and, if so, how much MRV should be subject to independent third-party verification.

Under a nested project pathway, it is important to avoid to the extent possible any redundant accounting requirements that are more appropriately handled at the state/province level. For example, under a nested pathway, project-level leakage can be accounted for at the state/province level. Likewise, additionality, which would derive from the overall performance relative to the pre-established crediting baseline, should not matter as much under a nested approach if the project performs and the state performs below the crediting baseline. Permanence (or reversals) might also be handled differently under these pathways (see Enforceability discussion below).

**1. MRV of State/Province Performance**

**a. Current Thinking**

**(1) California ARB Cap-and-Trade Regulation**

The California Regulation will require REDD programs to include a “transparent system that regularly monitors, inventories, reports, verifies, and maintains accounting for emission reductions across the program’s entire sector, as well as maintains enforcement capability over its reference activity producing credits.”<sup>55</sup> The Staff Report accompanying the Regulation states that “[i]nventory and monitoring for land-use sectors should reflect, at a minimum, Intergovernmental Panel on Climate Change (IPCC) Tier 2 methodologies, which apply country or region-specific emission factors and higher temporal and spatial resolution rather than more general default factors and course resolution.”<sup>56</sup> Later, the Staff Report states that a REDD program must use the most up to date and comprehensive accounting of sources and sinks “available to the host jurisdiction...consistent with estimates of carbon stocks and emissions based on forest classes” defined in the IPCC Good Practice Guidance.<sup>57</sup>

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<sup>55</sup> California ARB Cap-and-Trade Regulation § 95994(a)(2).

<sup>56</sup> Staff Report at III-25-26.

<sup>57</sup> Staff Report at III-28.

Presumably, more specific MRV requirements regarding sector and nested project performance may be spelled out in the future in § 95996 “Reserved for Sector-Specific Requirements” or additional guidance documents. For approved programs, some of the MRV criteria/requirements may also be elaborated in the governing linkage agreement or other arrangement with the program (i.e., state/province or other body).

## (2) UNFCCC

The Cancun Agreements request developing country parties seeking to implement REDD+ activities to develop a national forest reference emissions level and/or forest reference level or “if appropriate, as an interim measure subnational levels, as well as to develop robust and transparent national forest monitoring system, with “if appropriate” subnational monitoring and reporting as an interim measure.<sup>58</sup> The Agreements also direct SBSTA to develop a work program concerning MRV for consideration at COP-17.<sup>59</sup> For both reference levels and monitoring, the Cancun Agreements direct countries to take into account the provisions in UNFCCC decision 4/CP.15.<sup>60</sup> The COP-15 decision on methodological guidance for REDD+ requests developing country Parties:

- “To use the most recent Intergovernmental Panel on Climate Change guidance and guidelines, as adopted or encouraged by the Conference of the Parties, as appropriate, as a basis for estimating anthropogenic forest-related greenhouse gas emissions by sources and removals by sinks, forest carbon stocks and forest area changes;”
- “To establish, according to national circumstances and capabilities, robust and transparent national forest<sup>61</sup> monitoring systems and, if appropriate, sub-national systems as part of national monitoring systems that:”
  - “Use a combination of remote sensing and ground-based forest carbon inventory approaches for estimating, as appropriate, anthropogenic forest-related greenhouse gas emissions by sources and removals by sinks, forest carbon stocks and forest area changes;”

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<sup>58</sup> Cancun Agreements, at ¶71(b), (c); footnote 7 adds “Including monitoring and reporting of emissions displacement at the national level, if appropriate, and reporting on how displacement of emissions is being addressed, and on the means to integrate subnational monitoring systems into a national monitoring system.”

<sup>59</sup> Cancun Agreements, at ¶75, Appendix II(c).

<sup>60</sup> Cancun Agreements, at ¶71(b), (c).

<sup>61</sup> The decision contains the following footnote here: “Taking note of, if appropriate, the guidance on consistent representation of land in the Intergovernmental Panel on *Climate Change Good Practice Guidance on LULUCF*.”

- “Provide estimates that are transparent, consistent, as far as possible accurate, and that reduce uncertainties, taking into account national capabilities and capacities;” and
- “Are transparent and their results are available and suitable for review as agreed by the Conference of the Parties.”

### (3) GCF National & Subnational Examples

#### Indonesia

It is contemplated that national mechanisms and/or approved third-party methodologies will dictate how MRV is handled. Capacity building for provinces needs to ensure effective implementation of national MRV systems.<sup>62</sup>

#### b. GCF Design Recommendations

The GCF recommends criteria for MRV of state/province performance that retain the flexibility to incorporate further technological developments. MRV criteria for different crediting pathways, if allowed by GHG compliance systems and others, will clearly contain overlapping criteria.

The GCF recommends that general MRV criteria include:<sup>63</sup>

- The use of spatially explicit remote sensing for assessing land cover change (activity data)
- The use of field measurements in the activity area
- Consistency of MRV approach with IPCC guidance and guidelines and use of IPCC emissions factors
- MRV for social and environmental safeguards and benefit flows (public and private)
- Verification of MRV by accredited third parties
- Public availability and transparency of MRV data (see inventory/registry discussion above)

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<sup>62</sup> **Question for Indonesian members:** is there an update?

<sup>63</sup> **Question for GCF consideration:** all listed below are for discussion purposes and feedback only. The GCF should develop more coherent and possibly less detailed MRV criteria.

- Mechanisms for accounting for leakage including, where relevant and feasible, links to national-level accounting
- Quantification of uncertainty and incorporation of additional flexibility on uncertainty levels, for example possibly adopting a conservative approach that uses the bottom of an uncertainty range to avoid having to meet offset level uncertainty requirement that may be unworkable for some states and provinces<sup>64</sup>
- Specific guidance on frequency of MRV
- Other<sup>65</sup>

## 2. MRV of Nested Project Performance

To be developed.

### a. **Current Thinking**

#### (1) **California ARB Cap-and-Trade Regulation**

The Regulation specifies that if a jurisdiction uses a nested approach, its program must contain offset project-specific requirements that establish methods to inventory, quantify, monitor, verify, enforce, and account for all project-level activities as well as a system for reconciling project reductions with sector-level accounting for the jurisdiction.

#### (2) **UNFCCC**

The UNFCCC decisions do not address this issue.

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<sup>64</sup> **Question for GCF consideration:** this comment was a result of the February Technical Workshop, where some participants expressed concern that the +/- 5% offset level uncertainty requirement in the current PDR is difficult to impossible to achieve. +/- 10-20% may probably more realistic, with the natural consequence being that uncertainty has to be stated, defended and only conservative estimates of credit generation can be used, thus encouraging states and provinces to reduce uncertainties over time.

<sup>65</sup> **Question for GCF consideration:** several Task 1 members commented that if the GCF is going to recommend more specific MRV requirements, it should build off of existing MRV approaches —should the GCF could get more specific and/or reference relevant elements of VCS/CCBA, CAR, CDM and/or other MRV approaches?

**(3) GCF National & Subnational Examples**

**b. GCF Design Recommendations**

The GCF recommends that any credits issued to nested projects be based on project-level performance as determined by the application of an approved “quantification methodology,” with additional and/or modified requirements specific to nested projects. These additional or modified requirements could be suggested by the GCF, developed by compliance market regulatory bodies, or left to the discretion of other 3<sup>rd</sup> party methodology developers.

Additional nested project MRV requirements **could/should** include:<sup>66</sup>

- Specific provisions regarding accounting for leakage at the state/province level, if attributable to the REDD activities
- Specific provisions regarding accounting for reversals tied to state-level performance over time
- Guarantee that State projects/programs can be adequately included into national MRV system

Some of the issues that are still being discussed and remain unsolved include the situation where a project meets its emission reduction targets, but the state or country do not. In an integrated system, there should be ways to ensure that the complying entity is not penalized in these circumstances.

**D. SAFEGUARDS: GENERAL**

Safeguards, particularly those involving protection of rights and benefit sharing, is an important and sensitive area and one that poses particular implementation challenges. As noted above, MRV could be required for all safeguards and on the revenue and other benefit flows (public and private).<sup>67</sup> Safeguards are under development in a variety of ongoing multi-stakeholder processes in a number of GCF states and provinces (e.g. Acre, Amazonas, Mato Grosso, Brazil Social & Environmental Principles and Criteria for

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<sup>66</sup> **Question for GCF consideration:** add more recommendations taken or adapted from existing literature?

<sup>67</sup> Regulators could incorporate safeguards principles and criteria already under development via stakeholder processes in states and provinces in tropical forest countries. In addition, potential investors will be looking to the regulations to provide clarity regarding the safeguards review/certification requirements.

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REDD+, and Aceh) and other fora, including the Forest Carbon Partnership Facility, UN-REDD,<sup>68</sup> and CCBA and Care International.<sup>69</sup>

In Cancun, negotiators agreed to a set of social and environmental safeguards that countries will use in implementing national (and subnational) REDD+ programs.<sup>70</sup> The Ad Hoc Working Group on Long-term Cooperative Action (AWG-LCA) REDD+ text calls on REDD+ countries to develop national strategies or action plans that, among other issues, address the safeguards enumerated in Appendix I and to develop a “system for providing information on how the safeguards referred to in appendix I to this decision are being addressed and respected throughout the implementation of activities referred to in paragraph 70 above, while respecting sovereignty.”<sup>71</sup> While the Cancun Agreements contain clear safeguards obligations, they do not provide much in the way of implementation guidance.

The CCBA and Care International’s recently issued REDD+ Social and Environmental Standards, version 1 (June 2010)<sup>72</sup> lays out “generic” “principles and criteria” for social and environmental safeguards (including benefit-sharing) that apply across countries. It then provides a generic “framework for indicators” that are used to meet the principles and criteria, focusing on measuring elements of effective and accountable governance, rightly identifying them as essential institutional pre-conditions for achieving the positive outcomes the institutions wish to see. While originally designed for forest-carbon projects, they are now developing standards that can be used to design and implement REDD+ programmes at national or state level. The idea is for countries, states, provinces, and others to use this framework for indicators to develop a tailored implementation approach that responds to its particular context and circumstances.

To the extent possible, the, GCF recommend that states follow the safeguards established by the UNFCCC. In the meantime, recognized standards, such as CCBA, can

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<sup>68</sup> A report prepared for the *Expert Workshop on Monitoring Governance Safeguards in REDD+* sponsored by Chatham House and the UN Collaborative Programme on REDD

<sup>69</sup> See also J. Saunders and R. Reeve, *Monitoring Governance Safeguards in REDD+* Expert workshop, Chatham House (May 2010), available at <http://illegal-logging.info/uploads/Paper1REDDplusGovernanceMonitoringMeeting2425May2010.final.pdf>, at 15 (discussing CARE and CCBA standards and principles).

<sup>70</sup> Cancun Agreements, FCCC/CP/2010/7/Add.1 (15 March 2011), available at <http://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf#page=2>.

<sup>71</sup> Cancun Agreements, FCCC/CP/2010/7/Add.1 (15 March 2011), at ¶¶71(d), 72 available at <http://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf#page=2>.

<sup>72</sup> CCBA REDD+ Social and Environmental Standards version 1 (June 2010) at 3, available in English, Indonesian, Spanish, and Portuguese at <http://www.climate-standards.org/standards/using.html>.

be used as a guide for safeguards design, as can other treaties or agreements to which various countries are a member.<sup>73</sup>

The safeguards discussion below is divided into five subsections: (1) Environmental Safeguards; (2) Protection of Rights/Interests; (3) Benefit Sharing; (4) Multi-Stakeholder Processes; and (6) Operational Provisions.

**1. Safeguards: Environmental**

The relevance of certain environmental safeguards may depend upon the scope of eligible activities, for example REDD+ has different environmental implications than REDD. Defining environmental safeguards in a way that maintains flexibility to address activities as they become eligible may help address this issue. Moreover, to the extent that a crediting baseline is tied to a “zero net deforestation” target (as it is in the proposed U.S. federal legislation), specific environmental safeguards may be necessary to demarcate what types of forest activities can count toward meeting such a target.

**a. Current Thinking**

**(1) California ARB Cap-and-Trade Regulation**

The sector-based crediting provisions currently do not have any specific language on environmental safeguards.

**(2) UNFCCC**

Appendix I of the Cancun Agreements on REDD+ guidance and safeguards states that REDD+ activities “should:”

- be “consistent with the objective of environmental integrity and take into account the multiple functions of forests and other ecosystems;”
- “[p]romote sustainable management of forests;”and

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<sup>73</sup> **Question for GCF consideration:** Depending on how specific the GCF wishes to get in its design recommendations for safeguards, CCBA provides a detailed source for potential environmental, protection of interest/rights, benefit-sharing, and multi-stakeholder process safeguards. Some have expressed concerns that these standards were written to be more stringent than anticipated requirements for compliance markets.

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- be “consistent with the conservation of natural forests and biological diversity, ensuring that [such activities] are not used for the conversion of natural forests, but are instead used to incentivize the protection and conservation of natural forests and their ecosystem services, and to enhance other social and environmental benefits,”<sup>74</sup> noting the need for sustainable livelihoods for indigenous peoples and local communities.

**(3) World Bank Forest Carbon Partnership Facility (FCPF), the Forest Investment Program (FIP), and UN-REDD.**

The World Bank’s Operational Policies (OPs) and procedures apply to the FCPF. To date, the Bank has focused on the six most relevant Operational Policies as sources of safeguards for REDD+ programs<sup>75</sup>:

- Natural Habitats
- Forests
- Indigenous Peoples
- Involuntary Resettlement
- Environmental Assessment
- Physical and Cultural Resources.

In addition, the Bank has indicated that two other of its policies apply: (1) access to information; and (2) accountability/grievance mechanism. Countries participating in the FCPF are required to conduct a Strategic Environmental and Social Assessment (SESA) of proposed REDD+ policies that identifies social and environmental risks relative to the World Bank safeguards and to develop an Environmental and Social Management Framework (ESMF), which defines mitigation actions. The current framework does not yet contain monitoring mechanisms for demonstrating the effectiveness or enforcement of safeguards.

Other international institutions that would like to access the funding made available by donors to the FCPF have undertaken a program of comparing their institutional safeguards to those of the World Bank.<sup>76</sup>

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<sup>74</sup> Cancun Agreements, FCCC/CP/2010/7/Add.1 (15 March 2011), App. 1, at ¶¶1(d), k), 2(e), available at <http://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf#page=2>.

<sup>75</sup> Other OPs may apply, but the Bank determined that other OPs are of lesser relevance.

<sup>76</sup> The InterAmerican Development Bank and UNDP are currently the two proposed Multiple Delivery Partners’ looking to demonstrate “substantially equivalent” safeguards.

UN-REDD is also in the process of developing and adopting safeguards for program implementation. This effort is being led by UNDP. UN-REDD has distinguished its approach from the World Bank's by explicitly embracing Free Prior and Informed Consent (FPIC) as guiding its implementation of REDD+ activities and taking a "rights-based" approach to the development of REDD+ programs, although what this means remains somewhat unclear.

**(4) REDD+ Social and Environmental Standards Initiative & GCF State and Province Test Jurisdictions**

As mentioned above, the Climate, Community & Biodiversity Alliance and CARE International have developed a REDD+ initiative that is considered by many to be the global "best practice" approach to the development of national and subnational REDD+ safeguards. After an in depth review process, including stakeholder review, the first version of the standards was released in June 2010. CCBA/CARE suggest the following steps in the roll-out of these standards in national and subnational jurisdictions:

1. Creation of a country-level (or subnational-level) Standards Committee
2. Interpretation of indicators within the country/provincial context
3. Development of an assessment process relevant to the particular jurisdiction:
  - a. Monitoring – collection of information to evaluate performance
  - b. Reviewing – by stakeholders to ensure information is accurate and credible
  - c. Reporting – communicating the assessment and ensuring transparency

At this stage, the primary means of enforcement is the full and effective participation of rights holders and stakeholders in conjunction with performance reporting by host jurisdictions. Third-party verification may be an option developed in the future.

GCF members Acre and Central Kalimantan are two of five test jurisdictions for REDD+ SES. The GCF state Chiapas may become a test jurisdiction in the future.

**(5) Additional GCF National & Subnational Examples: Socioenvironmental Principles and Criteria for REDD – Imaflora and others (Brazil)<sup>77</sup>**

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<sup>77</sup> Available at [http://www.imaflora.org/upload/repositorio/PC\\_redd\\_imaflora\\_english.pdf](http://www.imaflora.org/upload/repositorio/PC_redd_imaflora_english.pdf)

In 2009 and 2010, a Brazilian effort spearheaded by Imaflores and other partners gathered many civil society institutions to construct “socioenvironmental principles and criteria for REDD.” The participants and authors of the principles and criteria included representatives from indigenous groups, rubber tappers and traditional communities, as well as small households in settlement projects. The REDD+ Social and Environmental Principles and Criteria aimed to provide guidance for the development and implementation of forest carbon projects and REDD+ government programs, the selection of recipients for national and international financial resources, and evaluation and independent validation of REDD+ projects in Brazil.

The main objective of this initiative was to strengthen forest governance, making information as transparent as possible, ensure meaningful public participation in the decision making process, coordinate stakeholders activities, and respect and recognize the rights of traditional populations and Indigenous Peoples. These Principles and Criteria provide guidelines to protect social and environmental safeguards in the design and implementation of REDD projects and programs, and to help them to effectively reduce deforestation, conserve biodiversity, increase social benefits and respect indigenous peoples’, traditional communities’ and local farmers’ rights.

#### **b. GCF Design Recommendations**

Recognizing the importance of environmental safeguards, the GCF recommends the following general principles for REDD activities:

- REDD activities must be designed and implemented to maintain and restore native forest species and ecosystems where practicable, and to avoid the introduction of invasive nonnative species.<sup>78</sup>
- REDD credits must not be issued for activities that result in the conversion of natural forests or other ecosystems.
- In determining state/province-level performance relative to a reduced deforestation target within a certain time period, increases in forest carbon stocks associated with certain defined forestry activities cannot be used to meet such target.

In the absence of clear signals from the compliance markets, the GCF will in the near-term consider whether, and if so how, to elaborate on these general principles, in part by engaging with third-party standards organizations in the process of developing

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<sup>78</sup> This may not be as relevant if the focus is exclusively on REDD rather than REDD+.

environmental safeguards (which may eventually be approved and used by compliance market regulators and other entities).<sup>79</sup>

## 2. Safeguards: Social

### a. Current Thinking

#### (1) California ARB Cap-and-Trade Regulation

The sector-based crediting provisions currently do not have detailed requirements for the protection of social safeguards. However, the Regulation does require that sector-based programs include a public participation and participatory management mechanism, which provides for public participation and consultation in the program design process.<sup>80</sup> The Staff Report further explains that a state or province's REDD program must establish and incorporate an effective process "that provides for the consultation and full involvement of forest-dependent communities in affected areas during the planning, design, implementation, monitoring and evaluation of program activities."<sup>81</sup> These issues could be further fleshed out in section § 95996 (Reserved for Sector-Specific Requirements).

#### (2) UNFCCC

In addition to the provisions noted above, the Cancun Agreements specifically request developing country parties to ensure the "full and effective participation of relevant stakeholders, inter alia indigenous peoples and local communities."<sup>82</sup> In addition, countries should promote and support "[r]espect for the knowledge and rights of indigenous peoples and members of local communities, by taking into account relevant international obligations, national circumstances and laws, and noting that the General

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<sup>79</sup> **Question for GCF consideration:** development by 3<sup>rd</sup> parties was the preferred option at the February Technical Workshop, with independent third-party certification of nested projects and/or programs against the approved standards. Some Task 1 members and Terra Global Capital Report recommend using the CCBS REDD+ Social & Environmental Standards in drafting safeguards. How does the GCF want to proceed? Does it want to consider adding other principles, criteria, and indicators itself, using CCBA and Care International REDD+ Social & Environmental Standards as a starting point?

<sup>80</sup> See California ARB Cap-and-Trade Regulation §95994(a)(5).

<sup>81</sup> California ARB Staff Report at III-28.

<sup>82</sup> Cancun Agreements, FCCC/CP/2010/7/Add.1 (15 March 2011), at ¶72, available at <http://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf#page=2>.

Assembly has adopted the United Nations Declaration on the Rights of Indigenous Peoples.”<sup>83</sup>

### **(3) GCF National & Subnational Examples**

#### **b. GCF Design Recommendations**

The GCF recognizes that REDD programs and projects must adhere to strong protection of rights safeguards, both in their design and implementation. While the definition and framing of these safeguard requirements may vary depending on whether they apply to nested projects or to a state/province credit-issuing program, they will generally cover the same areas. The GCF recommends the following general protection of rights safeguards for REDD activities for further elaboration in the future:

- REDD must be designed and implemented in a manner that gives due regard to the rights and interests of local communities, indigenous peoples, and vulnerable social groups. More specifically, these safeguards requirements could include:
  - Identification of stakeholders whose rights are potentially affected;
  - No involuntary relocation of stakeholders;<sup>84</sup>
  - Establishment of public and transparent grievance documentation and resolution process;
  - Prohibition of “uninvited” encroachment by REDD activities on private property, community property, or customary rights unless free, prior informed consent is obtained from those whose rights to lands, territories, or resources will be affected.
  
- REDD activities must be designed and implemented with full and effective participation of local communities and indigenous peoples that are affected or benefitted by the REDD activity [project, program, etc.] prior to and during the design, implementation and evaluation of REDD activities. More specific safeguards the GCF could consider include:
  - Procedures to ensure that stakeholders have access to adequate information, in local or indigenous languages where appropriate, about the relevant REDD activities;

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<sup>83</sup> Cancun Agreements at Appendix I, ¶12(c).

<sup>84</sup> Workshop participant noted that RED should be aligned with rights/interests of indigenous peoples; REDD+ poses more challenges.

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- Procedures to ensure that stakeholders have access to adequate legal advice about the rights with respect to REDD activities;
- Procedures to ensure the opportunity to participate in the planning, implementation, and evaluation of REDD activities;
- Public and transparent grievance documentation and resolution process (see above);
- Prohibition of “uninvited” encroachment unless free, prior informed consent (see above).

As with environmental safeguards, in the absence of clear signals from the compliance markets, the GCF will in the near-term consider whether, and if so how, to elaborate on these general principles, in part by engaging with third-party standards organizations in the process of developing environmental safeguards (which may eventually be approved and used by compliance market regulators and other entities).<sup>85</sup>

**3. Safeguards: Benefit Sharing**

**a. Current Thinking**

**(1) California ARB Cap-and-Trade Regulation**

The sector-based crediting provisions do not have any specific language on benefit sharing.

**(2) UNFCCC**

As noted above, the Cancun Agreements decision on REDD+ includes safeguards for protection of rights and interests, but does not include anything specific about benefit sharing.

**(3) GCF National & Subnational Examples**

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<sup>85</sup> **Question for GCF consideration:** like with environmental standards, development by 3<sup>rd</sup> parties was the preferred option at the February Technical Workshop, with independent third-party certification of nested projects and/or programs against the approved standards. How does the GCF want to proceed? Is it feasible for the GCF to agree on these or other principles and standards? At what level of specificity? Does it want to consider adding other principles, criteria, and indicators, e.g. from those in the recently released CCBA and Care International REDD+ Social & Environmental Standards ver. 1 (June 2010), UN REDD, FCPF, and other relevant program documents?

## Indonesia<sup>86</sup>

In early July 2009, Indonesia's Ministry of Forestry released what are believed to be the world's first set of revenue-sharing rules governing forest carbon projects, P.36/Menhut-II/2009 Regarding Procedures for Licensing of Commercial Utilisation of Carbon Sequestration and/or Storage in Production and Protected Forests (dated May 22, 2009).<sup>87</sup> Attachment III to the regulation provides a revenue-sharing chart, where the distribution occurs to three categories: (1) government; (2) community; and (3) developer. The government share ranges from 10-50%, community share 20-70%, and developer share 20-60% depending on the permit holder/developer type. The government's share is divided between the central government (40%), the provincial government (20%), and the district government (20%).

## Brazil

**National.** In the national proposed legislation on REDD, one of the principles of the national REDD+ system must be the “full and effective participation of the different segments from the Brazilian society in the REDD+ actions, emphasizing the indigenous peoples, traditional populations and small scale farmers, in such actions that affect their territories and surroundings, considering and recognizing their role in the conservation of natural ecosystems.”

According to article 12, within the programs or REDD+ projects developed in indigenous lands and protected areas, the financial resources generated should return primarily to those areas, prioritizing environmental protection and sustainable development activities and the forest-dependent populations in the area, if relevant.

According to article 13, the programs or projects developed in indigenous territories, conservation units or quilombolas lands, should guarantee the participation of the population living in those areas in all steps and decision making processes, including the definition, negotiation, and sharing of benefits, through free, prior and informed consent obtained in meetings conducted specifically for this purpose.

According to article 15, paragraph 2, REDD+ projects on private lands must respect rules permitting access to these areas by traditional populations, which must also be included

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<sup>86</sup> **Question for GCF consideration:** this is an example of where other illustrations from “supply” programs might be incorporated—consider whether and how to best do this here and throughout.

<sup>87</sup> P.36/Menhut-II/2009, available at [http://www.dephut.go.id/files/P36\\_09.pdf](http://www.dephut.go.id/files/P36_09.pdf); unofficial English translation available at [www.climatechange.ca.gov/forestry\\_task\\_force/documents/belem/INDONESIA\\_Permenthut\\_36\\_09\\_Voluntary\\_Carbon\\_unofficial\\_translation\\_English.pdf](http://www.climatechange.ca.gov/forestry_task_force/documents/belem/INDONESIA_Permenthut_36_09_Voluntary_Carbon_unofficial_translation_English.pdf); see also S. Creagh, Indonesia issues first forest-carbon revenue rules, Reuters (July 10, 2009), available at [http://www.reuters.com/article/homepageCrisis/idUSJAK485584.CH\\_.2400](http://www.reuters.com/article/homepageCrisis/idUSJAK485584.CH_.2400).

as beneficiaries of the revenues generated by the project, if their contribution to the REDD+ actions can be proved.

**b. GCF Design Recommendations**

As with protection of rights/interests, what constitutes an effective and fair benefit-sharing mechanism (for credits/revenues and other direct benefits REDD activities generate) are likely to vary under different state/province circumstances.

In light of the desire to retain some flexibility in implementation approaches, the GCF recommends the general benefit-sharing principles specified below and will in the near-term consider whether, and if so how, to elaborate on these general principles. To do so, the Task 1 members will engage with third-party standards organizations and other entities considering how to design and implement fair and effective benefit-sharing mechanisms.<sup>88</sup>

General safeguards provisions on benefit-sharing might include the following:

- REDD activities must be designed and implemented in a manner that generates direct benefits for the local communities and indigenous peoples (and other relevant stakeholders) that are affected by the activities.
  - Nested projects must adequately distribute revenues and benefits generated among the relevant identified stakeholders
  - Approved state/province credit-issuing programs must include institutional mechanisms (stakeholder-targeted projects, trust funds, revenue distribution programs, etc.) to ensure distribution of offset credits and/or revenues and other direct benefits. Such requirements could include reference to a particular allocation “rule” or “methodology” for distributing credits or revenues, such as the stock-flow approach.
- REDD activities must include procedures to ensure that specific benefit distribution mechanisms or programs are objective, transparent, accountable, auditable, etc.

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<sup>88</sup> **Question for GCF consideration:** like with environmental and protection of rights/interests standards, the February Technical Workshop preferred development by 3<sup>rd</sup> party (with independent third-party certification of nested projects and/or programs against the approved standards) over development and assessment by regulatory agency.

**4. Safeguards: Multi-Stakeholder Processes**

Multi-stakeholder consultation processes are one tool for ensuring that the above-noted safeguards and REDD activities more generally are developed and implemented in a way that is transparent and responsive to the concerns and needs of governments, local communities, indigenous peoples, NGOs, the private sector, international organizations, and other stakeholders. These processes can provide a forum for sharing information, discussing needs, building capacity, and jointly developing solutions for improving REDD activities and frameworks and ensuring more equitable and sustainable forest use. They are widely viewed as essential to successful, equitable, and sustainable forest management activities, particularly where there is uncertainty about land ownership and forest rights.

**a. Current Thinking**

**(1) California ARB Cap-and-Trade Regulation**

As discussed above under Social Safeguards, the Regulation's six requirements for sector-based offset crediting programs include the mandate that the program include a "Public Participation and Participatory Management Mechanism" for public participation and consultation in the program design process.<sup>89</sup>

**(2) UNFCCC**

As noted above under Social Safeguards, the Cancun Agreements include provisions requesting developing country parties to ensure full and effective participation of relevant stakeholders, but does not specify how to do this.

**(3) GCF National & Subnational Examples**

**Brazil & Indonesia.** As noted above, civil society groups in Brazil, led by the Amazon Working Group and Imaflorea convened a bottom-up approach to developing social and environmental safeguards "as a contribution to the establishment of public policies

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<sup>89</sup> See Proposed Regulation Order, available at <http://www.arb.ca.gov/regact/2010/capandtrade10/capv1appa.pdf>.

addressing REDD+.” The guide was developed<sup>90</sup> using a consultative process that involved more than 200 groups and individuals. It provides a user-friendly, step-by-step approach to the development of safeguards at the national or subnational level in other countries interested in developing similar processes. Indonesian civil society engaged in a similar process that led to a set of principles for safeguards and the issuing of the “Common Platform on Saving Indonesia’s Forests to Protect the Global Climate.”<sup>91</sup>

## **b. GCF Design Recommendations**

### **(1) Elements of multi-stakeholder processes in tropical forest states and provinces**

As with other key elements of REDD activities discussed above, the GCF recommends general criteria for safeguards and multi-stakeholder processes that retain some flexibility in how states and provinces demonstrate compliance. This will allow for legal, cultural, and other differing circumstances in the states and provinces.

The GCF recommends building upon nine standard best practice and internationally recognized principles for such processes: (1) transparency; (2) inclusivity; (3) information; (4) timeliness; (5) representation; (6) flexibility; (7) clarity; (8) accountability; and (9) continuity.<sup>92</sup> The GCF also recommends that states and provinces develop a Consultation and Participation Plan before and/or while they develop their REDD Strategy, as countries participating in the Forest Carbon Partnership Facility Readiness Mechanism are requested to do. Implementation of the Plan could be part of the MRV process for safeguards.<sup>93</sup>

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<sup>90</sup> See “Developing Social and Environmental Safeguards for REDD+”, available at several locations on the web, including at Rainforest Alliance (<http://rainforest-alliance.org/publications/redd-safeguards-guide>) and Forest Trends ([http://www.katoombagroup.org/~foresttr/publication\\_details.php?publicationID=2573](http://www.katoombagroup.org/~foresttr/publication_details.php?publicationID=2573)).

<sup>91</sup> See “Beyond Carbon: Rights-based Safeguard Principles in Law,” Bernadinus Steni, Editor; Perkumpulan HuMa, 2010. This document and the ‘Common Platform’ are available in both Bahasa Indonesia and English. These publications and the resulting platform of standards are less operational in focus and design than those promulgated by Brazilian civil society.

<sup>92</sup> See Dow, Jocelyn, V. Radzik, and D. Macqueen, Review of Guyana LCDS Consultation Process (International Institute for Environment and Development (2007), at 30-31, available at <http://www.iied.org/pubs/pdfs/G02590.pdf>. Pages 103-104 of the Review explain the FPIC process, page 122 contains additional references on stakeholder consultation, which may also be useful. Pages 30-31, 113-114 provide more information on how these nine standards were built out and approached.

<sup>93</sup> **Question for GCF consideration:** this report could cross-check with other mechanisms that are specific to REDD, e.g. Forest Carbon Partnership Facility National Consultation and Participation for REDD, available at <http://www.forestcarbonpartnership.org/fcp/> under “Templates and Guidance” as well as the CCBA standards, and determine how much detail the GCF recommendations wish to contain.

**(2) Existing Examples from GCF States and Provinces<sup>94</sup>**

To be completed.

**5. Safeguards: Accountability**

**a. Current Thinking**

**(1) California**

No accountability-forcing provisions for safeguards yet appear in the California Regulation.

**(2) UNFCCC**

The Cancun Agreements request that developing countries undertaking REDD+ activities develop a “system for providing information” on how environmental and social safeguards are being “addressed and respected.”<sup>95</sup>

**(3) GCF National & Subnational Examples**

The CCBA and Care International REDD+ Social and Environmental Standards Initiative is in the process of considering different MRV options that achieve participation, ownership by stakeholders, enhanced transparency and accountability, and improved performance. The CCBA and Care International REDD+ Social & Environmental Standards Initiative plans to approach MRV of safeguards as it does its implementation indicators; in other words while CCBA and Care International may establish more general principals and criteria, the MRV process will be defined by the participating jurisdictions themselves to ensure that it is culturally responsive and effective. Generally speaking, there has been very little work thus far to develop grievance and accountability mechanisms for REDD+ programs in any of the forums discussed above under Safeguards.

**b. GCF Design Recommendations**

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<sup>94</sup> **Question for GCF consideration:** The GCF states and province have spearheaded several multi-stakeholder processes for their REDD activities that could be incorporated here, but need assistance selecting best practices.

<sup>95</sup> Cancun Agreements at ¶71(d).

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The GCF recommends that compliance with the above-described safeguard principles and more detailed standards developed by third-party standards organizations be subject to independent third-party certification, with the recognition that states and provinces will need certainty about what that review and certification process will entail in order to retain the interest of investors.

**E. ENFORCEABILITY, LIABILITY, AND RISK MANAGEMENT**

There are many risks associated with REDD projects and programs. For example, a REDD project or program may not for various reasons deliver real, additional, verifiable emissions reductions, it may experience reversals (intentional or unintentional) over time, or it may encounter other legal, regulatory, market and political risks. An added risk for nested projects is that the project will perform but the state or province will not. Companies with private capital and communities with traditional land rights will not invest in or commit to REDD if return on investment is contingent upon large-scale collective action (regional/national emissions performance) without the appropriate assurances and safeguards, especially if such large-scale collective action either at an ARB or state/ province level remains under development without clear monitoring and reporting mechanisms and agreement on baseline scenarios. There are also early discussions about integrating safeguards standards like free prior and informed consent (FPIC), carbon rights, and land tenure security into risk analysis. In order to address these risks (including their implications for private sector and local community investment),<sup>96</sup> emerging compliance markets and other REDD regimes are exploring various enforcement, liability, and risk mitigation mechanisms.

Enforceability poses distinct challenges in the international context. In a compliance market context, where the credits are issued by an approved external program, it may be possible to handle some elements of enforceability through whatever agreement governs the relationship with the external program. But this becomes problematic when the external program is a state or province in a foreign country.<sup>97</sup>

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<sup>96</sup> Local communities as much as private companies should be seen as 'investors' in REDD, with communities being the 'core' investor given the substantial opportunity costs for communities to divert their landholdings from traditional exploitation in the form of oil palm and logging to REDD.

<sup>97</sup> Terra Global Capital draft paper at 11 states that participating states/provinces must submit themselves to the laws of the Compliance Mechanism and to international arbitration.

One alternative is to handle enforceability through a liability rule that imposes liability for reversals on the regulated entity that tenders an international offset credit for compliance purposes, an option that may be unpopular with regulated entities and otherwise problematic. Other options for addressing the reversal problem include insurance, credit reserves/buffers, sovereign guarantees, mitigation payments, and/or temporary crediting (about which many states have expressed concern). Such approaches may not be enough by themselves to satisfy any “enforceability” requirements that may emerge and thus may have to be used in combination with a liability rule. Finding a solution to the enforceability challenge in the context of international sector-based crediting without imposing unduly burdensome transactions costs will be very important.<sup>98</sup>

**1. Current Thinking**

**a. California ARB Cap-and-Trade Regulation**

The Regulation emphasizes the importance of enforceability, but its sector-based offset provisions do not prescribe measures for ensuring this requirement is met.<sup>99</sup> The Staff Report accompanying the Regulation provides that “[a] program must also include a registry, mechanisms for credit retirement, and protection against reversals where applicable.”<sup>100</sup> The Report further states that the program must establish a “statewide forest sector performance insurance mechanism to ensure projects are not penalized for reversals against the jurisdiction’s crediting baseline.”<sup>101</sup>

**b. UNFCCC**

The Cancun Agreements include “Actions to address the risk of reversals” in its Appendix on safeguards that developing countries seeking to implement REDD+ activities should promote and support.<sup>102</sup>

**c. GCF National & Subnational Examples<sup>103</sup>**

[Acre?]

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<sup>98</sup> **Question for GCF consideration:** the GCF should consider (1) whether it has additional or more specific recommendations?; and (2) whether it would like to add more about possible MOUs/Linkage Agreements/Other Legal Arrangements/Interoperability.

<sup>99</sup> California ARB Cap-and-Trade Regulation, § 95994(a)(2), (3); enforcement and liability are addressed in other sections of the regulation, **need to check with California** on applicability to sector-based offset provisions.

<sup>100</sup> California ARB Staff Report at III-26.

<sup>101</sup> California ARB Staff Report at III-28.

<sup>102</sup> Cancun Agreements at Appendix I, ¶12(f).

<sup>103</sup> **Question for GCF Consideration:** Need GCF member input.

**d. Recent Studies<sup>104</sup>**

VCS and CAR use pooled buffer accounts to address the risk of reversals. For *avoidable* reversals, CAR's Forestry Protocol (version 3.1) specifies that the project must surrender unsold credits. The Terra Global Capital draft paper (see Appendix 1 at 16-17, 42) suggests creating performance pools.

TNC and Baker & McKenzie offer variations on these options in their paper A Nested Approach to REDD +: Structuring Effective and Transparent Incentive Mechanisms for REDD+ Implementation at Multiple Scales (2010)<sup>105</sup>. Variations include insurance policies for non-catastrophic changes (possibly with deductibles to avoid perverse incentives), partial risk guarantees, performance reserve accounts, procurement of replacement REDD credits, state or provincial government (or national government if feasible) guarantees, a global fund (from levies placed on subnational activities) that can be used to purchase REDD credits or insurance, and combinations thereof.

**2. GCF Design Recommendations**

The GCF recommends retaining flexibility to structure risk mitigation structures that respond to different state and province circumstances, while at the same time outlining a framework for robust mechanisms that will provide assurances to regulators, private sector and community investors, and other stakeholders. For example, if a GHG compliance system (e.g. California or the U.S.) establishes sector-based crediting, specific risk mitigation instruments and/or mechanisms could be specified in any required Linkage Agreement, Memorandum of Understanding, or other legal arrangement to ensure that the system is "made whole" in the event of a reversal.

These instruments could include one or more of the measures noted above, including (1) buffer reserves/ performance reserve account - a portion of credits issued to the country or sub-national actor during times of performance would be retained in a reserve account and could not be traded or retired. In the event of sub-national performance and country non-performance (or project performance and sub-national non-performance), credits from the buffer reserve would be automatically issued to the performing entity; (2) sovereign guarantees – payment default guarantee from host national/ state/ provincial government could be done as actual payments or provision of

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<sup>104</sup> **Question for GCF Consideration**: need to streamline/further assess for final report.

<sup>105</sup> available at [http://www.nature.org/initiatives/climatechange/files/nested\\_paper\\_final\\_60110.pdf](http://www.nature.org/initiatives/climatechange/files/nested_paper_final_60110.pdf), at 20-25

replacement credits; (3) residual liability rules (possibly imposing liability on the state/province issuing the credits or on the covered entities; (4) insurance – such as the Multilateral Investment Guarantee Agency (MIGA), part of the World Bank, which offers risk assistance and insurance products for project investors in developing countries; and (5) other safeguards (such as mitigation payments, establishment of a global fund mechanism to protect performing REDD actors, etc.).<sup>106</sup>

Note that commercial safeguards adopted by states/ provinces could and most likely should be a combination of the above approaches. The GCF also recommends that states and provinces develop a Consultation Plan whereby they coordinate with national bodies to harmonize the development of such safeguards. Such safeguards should be linked with monitoring mechanisms to detect reversals.

For nested projects, potential reversals could be managed under the project accounting standard or the sectoral accounting framework. In other words, if the reductions required from projects are deep enough, this can mitigate or negate the impact of any reversals.

#### **F. EARLY ACTION/PHASED-APPROACH PATHWAYS**

Given that a number of states and provinces in tropical forest countries may not be ready for full sectoral accounting and crediting for several years, some have proposed that compliance market and other systems include provisions that would allow for a “phased approach” in order to catalyze immediate emissions reductions for crediting in initial compliance periods, retain private sector and community investment interest in these projects, and to incentivize the development of full sectoral frameworks over the longer term. Such an approach might take a number of forms, from identification of key elements of an early action window for eligible project-based credits to come into the initial compliance period to the encouragement of nested project and/or programmatic pilot activities in early mover states and provinces (or both).

This has also been included on the Cancun agreements, which establishes a “phased approach” to REDD+ as noted below.

#### **1. Current Thinking**

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<sup>106</sup> **Question for GCF consideration:** consider adding more detail about these mechanisms.

**a. California ARB Cap-and-Trade Regulation**

The California Regulation recognizes offset credits for early action, but only from offset projects located in the United States.<sup>107</sup>

**b. UNFCCC**

The Cancun Agreements recognize that governments will implement REDD activities “in phases,” including the development and implementation of national strategies or action plans, policies and measures and capacity-building, followed by implementation that could involve further capacity-building, technology transfer and results-based demonstration activities, and evolving into results-based actions that “should be fully measured, reported and verified.”<sup>108</sup> They also recognizes that the implementation of the REDD+ activities, including the choice of a starting phase, depends on the specific national circumstances, capacities and capabilities of each developing country Party and the level of support received.

**2. GCF Design Recommendations**<sup>109</sup>

**Option 1:** As a prerequisite for participation in a “phased approach” pathway, require states and provinces to establish: (1) specific forest sector reference levels and GHG target; (2) a plan to reduce forest sector emissions across the state and move to full forest sector accounting and crediting (see discussion above) within a limited number of years, which many GCF states and provinces have done or are in the process of doing; and (3) a state/province-wide monitoring program to track progress towards achieving GHG targets. These commitments could be secured through agreements with the relevant jurisdictions or stated in specific regulations/laws (for compliance markets) or through agreements with other relevant funding entities and organizations (for other funding opportunities). . It may be that different funding opportunities will recognize stand-alone REDD projects in states and provinces. However, the GCF states and provinces recognize that the preference for projects nested under a full sectoral

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<sup>107</sup> California Regulation, § 95590(b)(4).

<sup>108</sup> Cancun Agreements, ¶173.

<sup>109</sup> **Question for GCF Consideration:** the February Technical Workshop did not reach this issue, so the GCF has 2 options presented intact for consideration; the GCF may also wish to review the proposal by Terra Global Capital in its revised paper (see Appendix 1 at 43-45), which contains a three-phase approach for transitioning from a project-based to a fully functioning, state-wide sectoral program. The GCF could also consider adding something here on readiness funding.

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accounting framework (for example in California's regulations) have a sound basis in a desire to avoid leakage and other issues associated with stand-alone projects. .

**Option 2:** Establish limited window into first compliance period for early pilot/demonstration nested pathways and/or state/province-level programs, perhaps as identified through the GCF process. Identify key elements in regulations that would apply to such pilot activities, including project-level accounting on the basis of best-practice, pre-approved standards or protocols and certain initial elements of state/province REDD program (*i.e.*, GHG target, REDD plan, state/province monitoring program, etc.).

### **III. NEXT STEPS<sup>110</sup>**

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<sup>110</sup> **Question for GCF Consideration:** First step is to resolve questions/notes posed throughout the report and finalize 2011 version. Other ideas for moving forward, what the members would like this report to embody, become, etc? It can be a evolving document, with a new version produced each year with developments in program evolution and thinking.