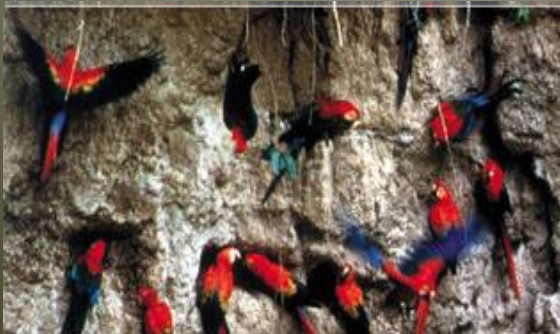


PERU: Legal Framework & Institutional Arrangements for Subnational REDD+





Institutional Framework

Forest sector

- ✓ Many public and private actors involved in forest processes
- ✓ Forest related activities include the participation of 3 ministries:
 - Environment (for protection)
 - Agriculture (for production)
 - Production (for transformation)
- ✓ By governmental level, also a variety of actors confluence:
 - National level (for guidelines)
 - State level (for operational and monitoring)
- ✓ Forest tenure include different kind of owners and managements:
 - Protected areas (public and private administration)
 - Forest concessions (companies and individuals / timber, non timber, ecotourism)
 - Indigenous and non-indigenous communities
- ✓ Legal issues (two major laws recently approved)
 - A forest law
 - A previous consultation law (to indigenous people)
- ✓ Related to REDD, Peru has just been approved its R-PP by FCPF-WB and also is part of UN-REDD. Based on that, a participatory process has been carried out to design and systematize what has been improving in this field
- ✓ It must be highlighted the high degree of participation in some of these processes (as Forest Law and R-PP) not being the same in other ones (as being part of the delegation in COPs)



Institutional Framework

REDD Design Process

- ✓ Environment Ministry is the focal point for UNFCCC
- ✓ Climate Change Unit (in MINAM) leads Peruvian position at international negotiations
- ✓ A steering committee is being proposed to involve the participation of regional governments and other sectors
- ✓ Advisory groups for different climate change issues (including one for REDD) are also designed to assist CCU
- ✓ Civil society participates in these AG
- ✓ Civil society (but not only) is also organized in REDD Roundtable (at a national and State levels)
 - At a national level, NGOs are predominant while at State level, Regional Governments use to lead it
 - National REDD Roundtable is divided in 4 working groups: financial, technical, legal and communicational
 - There are 7 REDD State Roundtables (being Madre de Dios one of the most actives)
 - The main goal of these Roundtables is to inform, consult and influence policies regarding REDD
 - Madre de Dios REDD Roundtable has been enhanced with a previously conformed Technical Consortium (integrated by almost the same institutions), that had the task to develop a regional reference scenario



Legal Framework

Forest, Environmental Services and Indigenous Consultation Process

- ✓ Three core laws were open for public comments during 2010:
 - Forest Law (as part of FTA with US)
 - Environmental Services Law (focused on carbon storage)
 - Previous Consultation Law (in accordance with ILO 169 Convention)
- ✓ As mentioned, only 2 of them have been approved while neither of them have its regulation yet, which is a pre-condition for any law to be applicable
- ✓ The new FL gives to the concessionaire the right to access to benefits from the ES protected as a consequence of its activity. No additional regulation seems to be required with it
- ✓ The PCL is a long-time dream of IP. It must be remarked, however, that the results of the consultation process don't imply a link to the final decision of the government
- ✓ ESL became less important and lost its moment, not being part of the national debate up to now, after a long time being in the center of the controversy
- ✓ This is only another sign of the degree of (des)coordination and fight for competences between sectors
- ✓ An interesting scheme included in R-PP proposes that the new entity in charge of REDD+ should be adhered to the Prime Minister Office (transversal and coordination office of the whole sectors)



Supervision/Monitoring

Institutions and/or mechanisms

- ✓ Conventional monitoring forest activities is under the competence of OSINFOR (monitoring that harvesting practices are following which was established in the management documents)
- ✓ Forest Carbon Monitoring (M of MRV) is not clear enough yet (as many of the issues related with REDD) for the Environment Ministry
- ✓ EM has been in charge of preparing the National Communications to UNFCCC, including emissions from LULUCF sector (representing 48% of total Peru emissions)
- ✓ It is mentioned in R-PP that a national standardized system for MRV should be implemented with the financial support of FCPF-WB
- ✓ Different institutions and methods are being tested and offered to governmental entities, such as LiDAR, CLASlite among others
- ✓ It becomes a target as, through time, many public and private institutions have measured deforestation in different ways, some of the becoming official for some regions (such as Madre de Dios, who did its Ecological Economic Zoning with technical support of IIAP)
- ✓ Technical guidelines are also being defined in REDD standards introducing an additional consideration in this process



Governance

Civil Society and Governments

- ✓ Civil society is composed by NGOs, indigenous organizations, private companies, forest producers and academia
- ✓ NGOs include a variety of organizations (international NGOs as WWF, TNC, CI and local NGOs, as CIMA, AIDER, ACCA as the most known)
- ✓ Indigenous are organized in 2 national root organizations: AIDSESEP and CONAP, being the first one the oldest and most known organization but also the most opposite to REDD issues, while CONAP has had a more favorable view about REDD as an opportunity.
- ✓ AIDSESEP tried to link its approval of R-PP with a commitment of Government to end the titling of all the requests of new indigenous territories
- ✓ However, since this year, AIDSESEP started to promote workshops to enhance the concept of a REDD Indigena
- ✓ Some timber concessions have decided to jump to the inclusion of environmental services in their commercial package. Most of them don't see the extra economic potential of accessing to this mechanism. Only one specialized company is investing in REDD projects.
- ✓ Academia is not enough involved in supplying with relevant information to close gaps of information. Most of the studies, promoted by foreign universities for thesis, are related with qualitative analysis.



Accountability and Registry Mechanisms

Criteria

- ✓ No formal registries are in process of being implemented even though R-PP mentions as an expected output from the implementation of this program:
 - A REDD+ National Registry designed, validated and institutionalized
- ✓ Probably the first step is the definition of eligibility criteria for a REDD action, which could be related with the strategy and/or with the in-field results
- ✓ Some of these criteria should include a minimum acceptable standard of information that partners (specially communities) need to know before being involved in long term agreements
- ✓ Strategy must be a consequence of diagnosis. Based on different researches, migratory agriculture is the main cause of deforestation over agro industrial crops and cattle ranching as in other countries
- ✓ Other studies found out that sustainable activities use to be more profitable than migratory agriculture (usually for subsistence) but they are not implemented by investment barriers or scale or accessibility or knowledge of processes and markets.
- ✓ Legal framework is also an incentive to deforest as area only can given in property if they are not forest lands
- ✓ In any case, strategy (and eligibility criteria) must be concentrated in changing the productive pattern and removing the barriers that bias the rural families' decision toward unsustainable activities
- ✓ In that sense, some REDD projects, In Peru, are focusing in adding value to sustainable forest products instead of conventional protection actions



Economic and Benefits Distribution

Mechanisms and Legal Models

- ✓ Peruvian position allows the presence of market mechanisms with non-market funds
- ✓ A result-based approach must be the basis of any payment system
- ✓ From the Environment Ministry, a National Program for Forest Conservation is being implemented, which plans to pay 3 USD / ha / year to Indigenous Communities who commit to preserve the forest. This is less than similar programs in Ecuador, Costa Rica and others.
- ✓ Transferences will be done not only against a compromise with the protection of the forest, but based on a project profile, related with some sustainable productive activity (as in the case of Ecuador)
- ✓ EM sees its program not as a REDD action (which could affect additionality) but as the + of REDD as it will be focused on areas not of interest of private initiatives (focused on threatened zones)
- ✓ As indicated in R-PP, PNBC seeks to become to work in the leakage belt of conventional REDD projects
- ✓ It must be mentioned that it is funded by government and it is at a pilot stage yet



Inter-levels coordination

Reference Scenarios, financial mechanisms

- ✓ Peru (with Colombia) has adopted a nested approach (officially level approach) which implies that sub-national reference levels are acceptable as a transitional phase while capabilities are being developed to achieve a national reference emission level
- ✓ R-PP indicates that national reference scenario will be the sum of all the sub-national reference scenarios (when available). Some political States are working on their baseline scenario while in other ones the BL scenario includes more than one political-administrative unit. It's unclear if this method to construct national BL will be accepted at international negotiations.
- ✓ This approach demands a lot of creativity and coordinated work. In Madre de Dios, for example, many initiatives (each one with its own window of time) started working on its own BL. It may be a potential risk on the credibility of this approach.
- ✓ On the other side, it is a fact that private initiatives move at a different speed than public actions. And, as people say, forest can't wait to political and technical agreements.
- ✓ In any case, it must be clear that a unique BL must be achieved in some moment in the future and previous BL are interim and must be adjusted to consensus BL.
- ✓ Border areas of different sub-national BLs will also be a potentially conflictive issue
- ✓ On the other side, scaling-up approach has been the basis for the boom of REDD projects with significant investments in the implementation of activities addressed to protect the forests



Thanks

Jorge Torres, jtorres@bosques-amazonicos.com