



Views on issues relating to indigenous peoples and local communities for the development and application of methodologies

**Submission of the Climate Action Network International
15 February 2009**

The Climate Action Network International (CAN) welcomes the opportunity to provide input to the discussions moving towards a post 2012 agreement. CAN is a coalition of more than 450 environmental and development non-governmental organizations worldwide committed to limiting human-induced climate change to ecologically sustainable levels.

CAN welcomes the invitation by SBSTA contained in document FCCC/SBSTA/2008/L.23, paragraph 11, to submit views on issues relating to indigenous peoples and local communities for the development and application of methodologies. These issues have long been missing in the negotiations on reducing emissions from deforestation and forest degradation (REDD).

However, CAN stresses that by omitting the plural 's' of the word 'peoples,' the text of document FCCC/SBSTA/2008/L.23 denies indigenous peoples their collective rights and status as peoples. This omission is a failure to comply with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the UN General Assembly with resolution no. 61/295 in September 2007. CAN urges SBSTA to correct this omission in its future work on REDD, and also calls for AWG-LCA to use the same language.

In addition, CAN stresses that respect for the rights and interests of indigenous peoples and local communities, including their rights to land, territories and resources, their traditional uses of the forest, and their rights to free, prior, informed consent and to choose their own development pathways, must be an integral part of any REDD mechanism. Therefore, these rights and interests must be addressed in the negotiations of the AWG-LCA. The fact that this issue is currently also being considered by the SBSTA must not cause the AWG-LCA to leave this issue out of its negotiations.

CAN recommendations for REDD methodologies

CAN proposes the following two principles to guide SBSTA's further work on REDD:

- REDD mechanisms must recognize and respect the rights of indigenous peoples and local communities to their lands, territories and resources, their traditional uses of the forest, and their right to free, prior, informed consent and to choose their development pathways. Implementation of REDD should directly benefit local communities and indigenous peoples and not lead to displacement of local communities or indigenous peoples from their territories and lands.
- Any approach to REDD must ensure full and effective participation by indigenous peoples and local communities in all stages of decision-making. Representative organizations of indigenous peoples and local communities must be able to participate in all relevant workshops, meetings and submissions on REDD. This participation should be supported by UNFCCC Parties, *inter alia* by establishing the same provisions for participation as those of the Convention on Biological

Diversity (CBD) and the United Nations Permanent Forum on Indigenous Issues (UNPFII). Parties implementing REDD must ensure the full and effective participation of indigenous peoples and local communities, in accordance with the right to free, prior and informed consent.

On this basis, CAN gives three recommendations for the development and application of REDD methodologies:

1. Methodologies for monitoring and reporting the social impacts of REDD must be developed as an integrated part of any REDD mechanism. This must include monitoring and reporting of the implementation by Parties of the relevant provisions of the UNDRIP and applicable national laws and international conventions to which they are signatories.
 - a. Parties must be able to demonstrate, where relevant, the involvement of indigenous peoples and local communities in the development and implementation of national and local REDD methodologies and the subsequent impact of REDD activities on these peoples.
 - b. The application by Parties of REDD methodologies, including those that protect the rights and interests of indigenous peoples and local communities, must be reviewed and monitored through transparent processes by independent third parties.
 - c. A conflict-resolution mechanism must be incorporated within the overall REDD framework to address any conflicts that might arise between governments, communities and other stakeholders.
2. Mapping and clarifying land tenure and rights to land, territories and resources in a participatory manner must be a prerequisite for establishing REDD schemes. Indigenous peoples and local communities should also, when possible, be included in ground-based measurements to complement remote sensing methodologies. Minimum standards must be developed to monitor the implementation of the provisions of the UNDRIP, applicable national laws and signed international conventions.
3. REDD policies and methodologies must ensure that REDD programmes do not lead to the displacement of indigenous peoples and local communities from their lands and territories. This must be ensured, *inter alia*, by
 - a. taking into consideration, and not undermining, traditional subsistence practices important for the livelihoods of indigenous peoples and local communities; and
 - b. encouraging retention of carbon in natural forests and excluding the conversion of natural forests to industrial forests or plantations.

In the following, the reasoning behind these recommendations will be elaborated.

REDD and the rights of indigenous peoples and local communities

The rights and interests of indigenous peoples and local communities must be at the centre of any successful and sustainable policy to address deforestation and forest degradation. The importance of respecting and protecting these rights is expressed clearly in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). The UNDRIP interprets how the existing Human Rights Covenants apply to indigenous peoples. The provisions of Articles 10, 19, 20, and 26-30 (on free, prior and informed consent; the right to subsistence; and the right to land, territories and resources) are particularly relevant for REDD.

A number of international conventions also have specific reference to the rights of indigenous peoples and local communities:

- **The Convention on Biological Diversity (CBD)** states that its parties shall “respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities” (Article 8 (j)) and “protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements” (Article 10 (c))¹
- **The Rio Declaration**, upon which the UNFCCC and the CBD are based, states, “Indigenous people and their communities and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development” (Principle 22)²
- **ILO Convention 169** states, “The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources.” (Article 15.1). This convention contains many other relevant provisions, including the right to consultation, participation and self-determination of developmental priorities (Articles 6 and 7).³

A recent report of the Office of the High Commissioner for Human Rights⁴ outlines various implications of climate change and mitigation measures for the rights of indigenous peoples and other vulnerable groups. In its concluding chapters, the report draws attention to the importance of aligning climate change policies and measures, including REDD, with overall human rights objectives. It also stresses states’ obligations under international human rights law to consult and cooperate with indigenous peoples to obtain their free, prior and informed consent before adopting measures that may affect them (Paragraphs 79 and 80).

In the spirit of striving for harmony between REDD mechanisms and these international instruments, any REDD mechanism under the UNFCCC must be built on and respect these human rights. Experience from the Clean Development Mechanism has shown that synergy between climate action and sustainable development, including the promotion of rights, does not happen automatically. Therefore, the rules, methodologies and incentive structures set up for REDD must be fully and explicitly in line with the rights and interests of indigenous peoples and local communities.

The role of indigenous peoples and local communities in REDD

Ensuring the rights and interests of indigenous peoples and local communities in the design of REDD is not solely a matter of state obligations towards these groups. It will also contribute to effectiveness and permanence of REDD programmes, as noted recently by the CBD Ad Hoc Technical Expert Group on Biodiversity and Climate Change.⁵

¹ The full text of the Convention on Biological Diversity can be found at <http://www.cbd.int/convention/convention.shtml>

² The full text of the Rio Declaration on the Environment and Development can be found at <http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>

³ The full text of ILO Convention 169 can be found at <http://www.unhcr.ch/html/menu3/b/62.htm>

⁴ Report of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights. A/HRC/10/61, 15. January 2009, Advance Edited version. To be presented at the Tenth session of the Human Rights Council in March 2009. The report is available at <http://www2.ohchr.org/english/bodies/hrcouncil/docs/10session/A.HRC.10.61AEV.pdf>

⁵ Draft findings of the Ad Hoc Technical Expert Group on Biodiversity and Climate Change, p. 9, CBD Secretariat, November 2008. The report is available at <http://www.cbd.int/doc/meetings/cc/ahteg-bdcc-01/other/ahteg-bdcc-01-findings-en.pdf>

Indigenous peoples and local communities have a fundamental role to play in managing and monitoring forest lands. These peoples will normally be the first to notice illegal logging and other irregular activities taking place in their territories. They may therefore play an indispensable role in “early warning” for REDD. One example of this is found in Sipora, a small island south of Sumatra, Indonesia, where the Mentawai inhabitants and local NGOs in 2006 documented illegal logging, leading to the conviction of those involved.

When the rights of indigenous peoples and local communities to their lands, territories and resources are formalized, their protests over logging in their territories carry more weight and their interests in protecting their own forests generally increase. This adds to the importance of ensuring the rights of these peoples, as well as encouraging and strengthening their ability to protect their forests and their rights to claim REDD related benefits. Moreover, the economic value placed on forest carbon under REDD gives new urgency to unresolved land tenure conflicts in tropical forests. To achieve permanent reductions in degradation and deforestation and to avoid social conflicts, the benefits of REDD must be distributed in an equitable manner. Ensuring land rights is an important prerequisite in this regard.

Several examples exist to show that indigenous peoples and local communities that have acquired land rights successfully defend their land against commercial logging and conversion to agricultural and other land uses. Research has shown, for instance, that the 416 indigenous territories in the Brazilian Amazon, with 104 million hectares, are virtually free from deforestation.⁶ The Xingu indigenous territory in Brazil is a particularly telling example. Here the indigenous inhabitants patrol and protect their area against loggers, with the result that the area has retained almost complete forest cover. This is in stark contrast to the surrounding areas, which are rapidly being logged and turned into agricultural land.^{7, 8}

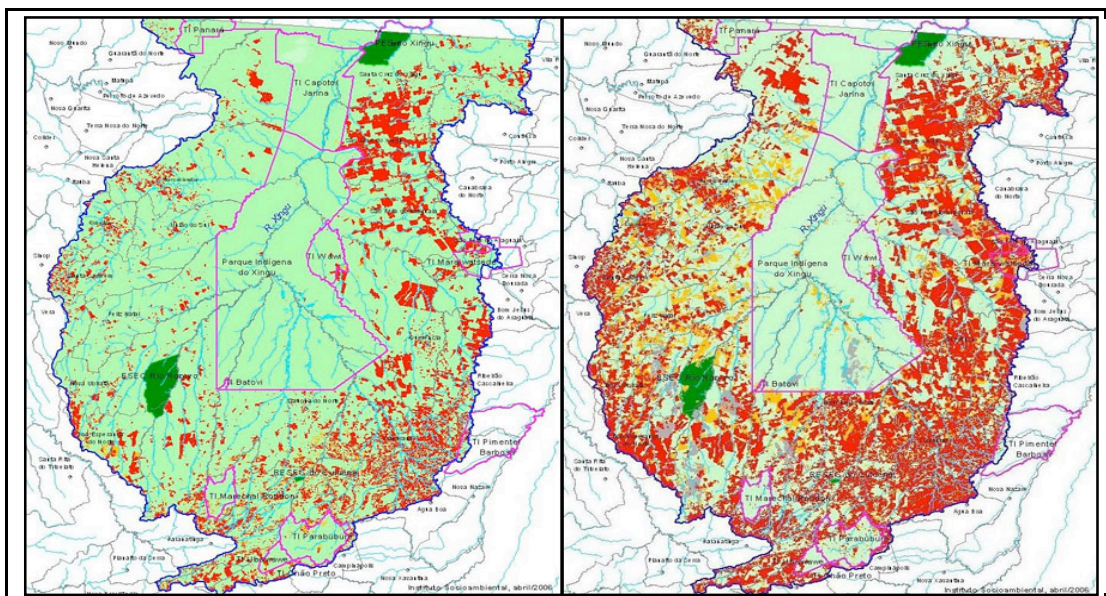


Figure: Deforestation around the Xingu reserve, Brazilian Amazon, in 1994 (left) and 2005 (right). Source: Instituto Socioambiental.

⁶ Soares-Filho et al (2008). Reduction of carbon emissions associated with deforestation in Brazil: the role of the Amazon region protected areas program (ARPA). WWF/IPAM

⁷ In the Brazilian Amazon deforestation is 1% in the indigenous territories, compared to 2% in protected areas in general, 8% in State level Sustainable use protected areas, and 19% outside the protected areas.

⁸ Nepstad, D.; Schwartzman, S.; Bamberger, B.; Santilli, M.; Ray, D.; Schlesinger, P.; Lefebvre, P.; Alencar, A.; Prinz, E.; Fiske, G.; Rolla, A., “Inhibition of Amazon deforestation and by parks and indigenous reserves”, Conservation Biology 20: 65–73, 2006.

Increasingly, indigenous peoples and local communities have also become involved in land demarcation. Through 'ground based participatory mapping' these peoples and communities use GPS technology to mark off their territories.⁹ This first step will facilitate official demarcation and land titling. The collaboration between indigenous communities and governments may increase the understanding and respect in the government for traditional forest use. In Indonesia GPS technology has enabled the Orang Rimba in Sumatra, living inside the national park Bukit Duabelas, to show the forest authorities how they use the forest. As a consequence the Forest Ministry has divided the national park into 'user zones' that take Orang Rimba's traditional uses of the forest into account.

Methodological requirements for avoiding adverse effects of REDD on rights

While strengthening the rights of indigenous peoples and local communities has proven to increase the long-term protection of tropical forests, evidence suggests that forest governance practices which result in the eviction or displacement of these peoples and communities from their lands and territories could have severe negative ecological effects, as well as obvious negative social consequences. Studies of previous displacement of local communities in connection with forest conservation has found that "the consequences of the displacement and resettlement process itself have in turn a set of degrading effects on forest ecosystems".¹⁰

One important measure to avoid the displacement of indigenous peoples and local communities is to make sure that REDD policies and methodologies encourage the retention of carbon in natural forests, and exclude the conversion of natural forests to industrial forests or plantations. The establishment of large-scale monoculture plantations has in many cases resulted in the eviction of communities from their lands.¹¹ A gross accountancy methodology must be adopted in order to encourage the retention of carbon in natural forests, and exclude the conversion of natural forests to industrial forests or plantations.

To avoid displacement it will be important to avoid targeting the sustainable, traditional subsistence practices of indigenous peoples and local communities through REDD. Traditional subsistence practices, e.g. many forms of shifting agriculture, often have very little impact on forest carbon stocks. Targeting the traditional practices of indigenous peoples and local communities would increase the risk of displacement and eviction of these vulnerable groups without addressing the real drivers of emissions from deforestation and forest degradation.

An important measure to avoid wrongfully targeting such traditional practices is to include indigenous peoples and local communities in the process of establishing REDD methodologies and strategies, and to assess the total, long-term effects of these peoples' traditional practices on carbon stocks in an inclusive and transparent manner.

⁹ Mark Hopkins, "Conservation: Mark of respect", Nature 448: 402-403, 2007

¹⁰ Michael M. Cernea and Kai Schmidt-Soltau: "Biodiversity conservation versus population resettlement: Risks to nature and risks to people" (Bonn, Germany: 2003), available at http://www.cifor.cgiar.org/publications/corporate/cd-roms/bonn-proc/pdfs/papers/T4_FINAL_Cernea.pdf

¹¹ Frances Seymour, "Forests, Climate Change and Human Rights: Managing Risks and Trade-Offs", (Bogor, Indonesia: 2008), pp 11-12.