

ECOSYSTEMS CLIMATE ALLIANCE

Response to calls for submissions
on the UNFCCC processes

5 February 2009



global witness



HUMANE SOCIETY
INTERNATIONAL



Ecosystems Climate Alliance (ECA) is a network of Environmental and Social NGOs¹ committed to keeping natural terrestrial ecosystems intact, on and in the ground, and out of the atmosphere, in an equitable and transparent way. Avoiding emissions of terrestrial carbon stored in the soils and biomass of forest, peatland and wetland ecosystems represents the largest potential single opportunity for cost-effective greenhouse gas mitigation. We strive for strong, equitable and transparent incentives for avoiding the degradation of such terrestrial carbon stores and for rehabilitating degraded land. Our network provides support to negotiations of the architecture for the Copenhagen and subsequent climate change agreements. In line with the IPCC recommendations to keep temperature rises within the 2 degree Celsius limit, any new climate treaty should be comprehensive and ambitious.

This position paper covers issues relating to REDD, Annex 1 LULUCF options and SBSTA in response to specific submission invitations and deadlines in February 2009.²

SUMMARY

1. Natural Ecosystems

- An overarching policy that has the protection of primary forests and other natural ecosystems (including peatlands) as the highest priority must be adopted.
- The recovery or restoration of forest and other natural ecosystems, including peatlands, must also be ensured.
- Comprehensive LULUCF emissions and removals must be recognized, measured, and accounted. This includes wetlands and peatland soils, deforestation and forest degradation.
- Any REDD mechanism must be focused on the reduction of gross emissions from forest, wetland and peatland degradation (including deforestation).
- Current definitional and monitoring deficiencies and perverse LULUCF rules must be tackled.
- The carbon in natural ecosystems is resilient and therefore biodiversity conservation is a core benefit rather than a co-benefit.

2. Indigenous Peoples and Local Communities

- REDD must respect and promote the rights of indigenous peoples and local communities, and must not adversely affect their rights and benefits pursuant to other international instruments, treaties, agreements or recommendations.

3. Good Governance

- REDD must be designed to provide strong incentives for building good governance of forests at national level, including genuine multi-stakeholder engagement, good fiscal governance, participatory law reform and improved forest law enforcement.

4. Compliance

- REDD must include provisions to measure levels of compliance through robust mechanisms for monitoring, reporting and verification incorporating independent third party review, and to address non-compliance.

¹ Comprising Environmental Investigation Agency (EIA), FERN, Global Witness, Humane Society International, Rainforest Foundation Norway, The Rainforest Foundation U.K., Wetlands International and The Wilderness Society.

² 1. Assembly Document FCCC/AWGLCA/2008/16/Rev.1, as per the invitation for submissions in FCCC/SBSTA/2008/L.23, (regarding III. C).

2. Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol (AWG-KP) at its sixth session with regard to the definitions, modalities, rules and guidelines for the treatment of land use, land-use change and forestry (LULUCF) in the second commitment period.

3. Subsidiary Body for Scientific and Technological Advice (SBSTA) with regard to its views on issues relating to Reducing Emissions from Deforestation in Developing countries (REDD) as per the invitation for submissions in FCCC/SBSTA/2008/L.23 (10).

5. Financial Incentives

- Reliable, adequate, transparent and long term funding for REDD must be made available by Annex I countries, in addition to their official development assistance (ODA) commitments.
- Annex 1 countries cannot use REDD as an opportunity to avoid making deep and real cuts to domestic emissions.
- Independent and well governed national trust funds should be established to enable the equitable distribution of benefits, like funds and services, directly to local communities and indigenous peoples.
- In many countries, participatory legal reviews to clarify tenure and access rights will be necessary before funds from REDD can or should be distributed.

6. Demand-side Management

- Leadership is required from developed countries to apply demand-side management to focus on reducing demand for, and trade in, forest products (especially those produced unsustainably or in contravention of national and international law), through policies in their own countries as well as support for relevant policies and measures in developing countries.

1 NATURAL ECOSYSTEMS

(i) Preamble

Reduction of terrestrial carbon emissions is, for most countries, a very attractive and low cost way to reduce net emissions. This should therefore be accompanied by ambitious targets for the second commitment period of the Kyoto Protocol (KP). The reduction of these emissions in non Annex 1 countries needs to occur in addition to deep emissions cuts in Annex 1 countries.

(ii) Policy priorities

Parties should embrace a clear set of policy priorities to maximize emissions reductions in the LULUCF sector and any future REDD mechanism. These priorities, articulated below (1-4) from highest priority to the lowest, reflect mitigation potential for both developed and developing countries and represents an approach that will also maximize biodiversity conservation.

1. The protection of carbon stocks in primary forest and other primary ecosystems (including peatlands) from logging, conversion to plantations or agriculture and other forms of degradation.
2. The recovery or restoration of degraded forest and other degraded natural ecosystems, including peatlands.
3. The development of ecologically sustainable forest management systems in logged areas that are currently the subject of industrial logging practices.
4. Afforestation and reforestation with a diverse range of local species in areas of degraded land incapable of natural recovery.

The conversion of natural ecosystems to plantations is not an acceptable mitigation strategy.

(iii) Measuring and accounting for carbon in natural ecosystems

LULUCF

The current accounting approach under the Kyoto Protocol for LULUCF is activities-based and only mandatory for emissions from deforestation and removals from afforestation and reforestation; voluntary activities identified are not comprehensive.

- The inherent problems with this approach will only be resolved by the adoption of a comprehensive land-use based accounting system.
- The IPCC has pointed the way to this approach in 2006 guidelines.
- In order to operationalise such an approach measurements of carbon stock changes need to be undertaken when and where they occur.
- These must be related to a meaningful ecological baseline – carbon carrying capacity.

- A reappraisal of the carbon stocks in all natural ecosystems needs to be undertaken to ensure parties incorporate all 5 carbon pools (including soils) as per the 2006 IPCC guidelines.
- This will necessitate the adoption of Tier 3 methodologies.

It is highly unlikely that this will be possible in the timeframes available in the current negotiation. For the next commitment period parties need to identify a work program and a suitable set of references to the IPCC to ensure that this approach is available for LULUCF in the commitment period after next, post 2017. However, the current perversity that allows conversion of natural forest to plantation should be addressed immediately.

For the next commitment period, additional activities need to be identified and where necessary appropriate definitions developed. Accounting and reporting for these activities must be mandatory.

We submit that accounting and reporting for the following activities must be mandatory:

- Deforestation (emissions);
- (NEW) Forest degradation (emissions);
- Afforestation (removals);
- Reforestation (removals);
- (NEW) Organic soil (peatland) degradation (emissions);
- (NEW) Organic soil (peatland) restoration (removals);
- (NEW) Wetland degradation (emissions);
- (NEW) Wetland restoration (emissions and removals); and
- Forest management (removals). All emissions currently reported for this activity would be subsumed into the new activity of forest degradation. Note it is proposed that plantations should be treated separately to natural forest and could be accounted for as a voluntary activity under cropland management.

The emissions and removals from these activities should be measured using a stock change approach and then accounted for using comprehensive net – net accounting. The impacts of natural disturbance on accounts have been raised as a barrier to comprehensive and mandatory accounting. A number of highly distortionary solutions have been proposed by parties.

A possible solution would be to only factor out statistically extreme events, utilising an ecologically appropriate timescale. However, without some capping or credit withholding mechanism this could still end up creating distortions in terms of emission reductions commitments.

Globally and over the long term, these impacts together with the positive impacts (up to a point) of increased CO₂ levels on plant growth will tend to be balanced out by removals.

REDD

Parties are still evolving methodological approaches to measuring and accounting for emissions reductions from forest degradation and deforestation. It was acknowledged at the experts meeting on forest degradation in Bonn in October 2008 that a carbon stock change rather than activities based approach should be adopted. A stock based approach is preferred as it easily allows for the expansion of emissions reduction accounting into other ecosystems where degradation is occurring. There are a number of definitional issues, however, that need to be resolved to avoid perverse outcomes.

We recognise that many developing countries will be unable to implement a stock change approach in the short term. Capacity building and investment should, therefore, be an immediate priority to support these countries in implementing a stock change approach to measuring and accounting for emissions reductions. Until national capacity is built, an interim arrangement may

be needed during the first commitment period, e.g. through the provision of technical assistance from developed countries.

All changes in forest and peatland carbon stores and sinks should be publicly reported on an annual basis where possible. As a minimum changes from the base year (or base period) should be measured at the beginning and end of the first commitment period, with the provision that capacity will be built to enable annual reporting thereafter.

Changes in gross emissions from forest and peatland degradation (including deforestation) from the base year or base period should be accounted for over the length of the commitment period.

REDD should not support commercial logging in primary forests. It will be critical to develop methodologies that ensure the retention of primary forests, particularly in countries with low historical deforestation and degradation, and thus low emissions from this sector.

(iv) Definitions

ECA has identified a number of (but not exhaustive) definitional issues below that must be addressed and will provide further guidance including possible definitions in a later submission.

Problems with existing definitions

Definitions of “Forest” and “Deforestation” need to be changed:

- The definition of “Forest” does not separate plantations from natural forests.
- It explicitly excludes areas ‘temporarily unstocked’ from accounting.
- The definition of “Deforestation” sets the bar for deforestation so low that in many biomes, ecosystem collapse will have occurred long before the threshold is reached.
- These definitions do not comprehensively address deforested and unforested peatland areas, which include substantial carbon stores in their soils, such that activities that negatively affect wetland functioning for carbon storage or sequestration can be dealt with.
- These definitions cannot be used to address degradation issues.
- In their current form it would be possible to provide incentives under a REDD mechanism for plantation conversion of primary and partially degraded forests (including forested peatlands) to plantations.

Definition of “Forest management” needs to be amended:

- It is so vague it can mean anything.
- Forest land suffers because of the problems with the definition of “Forest”.
- The forest land concept and lack of clarity around it has meant parties have adopted inconsistent reporting and accounting methods. Some parties have restricted reporting and accounting to forest under active management, whilst other parties are reporting on and accounting for forests under any type of management tenure, even when large areas are in a natural or primary condition.

New Definitions required.

In order to start to deal comprehensively with natural ecosystems in LULUCF and potentially in the future in non Annex 1 countries new definitions will be or may be required for:

- “Forest degradation”
- “Wetland”
- “Wetland degradation”
- “Wetland restoration”
- “Organic soil (Peatland)”
- “Organic soil (Peatland) degradation”
- “Organic soil (Peatland) restoration”

(v) Biodiversity conservation

REDD should explicitly exclude projects that have a negative impact on biodiversity since the biodiversity of natural systems gives their carbon stocks resilience. Further, parties should be encouraged to actively seek biodiversity benefits through REDD projects and tools being developed to assist countries in this regard. For example, the UNEP World Conservation Monitoring Centre is developing an atlas of carbon and biodiversity conservation priorities.

2. INDIGENOUS PEOPLES AND LOCAL COMMUNITIES

REDD policies must be built upon, and not undermine, international agreements like the Convention on Biological Diversity (CBD) and international declarations and treaties confirming indigenous peoples' and local communities' rights, including the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).³

Where REDD schemes and projects will influence indigenous peoples and local communities living in forests, the following principles, derived from the UNDRIP, must be respected, protected and ensured:

- Free, prior and informed consent
- Meaningful participation
- The right to self-determination and self-government
- Equitable benefit-sharing
- Land tenure and land rights
- The right to management and customary use of natural resources

REDD schemes should respect, protect and ensure indigenous peoples' right to self-determination and self-government. By ensuring the free, prior and informed consent and the meaningful participation of forest communities in REDD schemes the chance of social dislocation or unrest is minimized, and the likelihood of permanent reductions in degradation and deforestation is increased. The local support for REDD plans will increase when benefits are distributed in a just and equitable manner. To ensure that these principles are followed, any REDD scheme should be developed and implemented through broad consultation and multi-stakeholder processes.

The economic value of forest carbon under REDD gives new urgency to the many unresolved land rights conflicts in tropical (and subtropical) forest areas. In many countries, participatory legal reviews to clarify tenure and access rights will be necessary before funds from REDD can or should be distributed. By establishing the rights of forest dwellers, including indigenous peoples, to their territories, their claim for REDD benefits are strengthened and their ability to protect their forests reinforced.⁴ Forest peoples' will be able to continue managing their natural resources according to their traditions, and may protect the land and resources against intruders. They may also claim justice and reparation through the legal system when their forests are illegally degraded or deforested by others.

If the rights and needs of forest dependent peoples are not addressed and respected in REDD schemes, social instability and lack of support for measures taken will threaten the effectiveness and permanence of REDD and could ultimately cause its demise.

³ While UNDRIP and the ILO Convention 169 deal with the rights of indigenous peoples, article 27 of the International Covenant on Civil and Political Rights on minorities' right to culture is also valid with regard to non-indigenous forest groups

⁴ In the Brazilian Amazon the proportion of lands that are deforested is only 1% in the indigenous territories, compared to 2% in 'Federal strictly protected areas', 8% in State level sustainable use protected areas, and 19% outside the protected areas.

3. GOOD GOVERNANCE

(i) Participatory law reform

An essential requirement for REDD to succeed is the provision of strong incentives for building good governance, including improving forest law enforcement and reforming laws where necessary. Governments need to be open to participatory forest law reform that enables local communities to become partners in a forest-climate regime. Many potential participant countries have serious problems with illegal activities and high levels of deforestation. Unclear or unjust forestry laws are one of the drivers of illegal and unsustainable logging and render enforcement meaningless.

(ii) Transparency and inclusiveness

The design, implementation and monitoring of REDD mechanisms must be transparent and inclusive. In particular, all REDD-related data and all global and national transfers of REDD funds must be transparent and open for public scrutiny. Inclusiveness through broad engagement creates ownership of national REDD schemes. We recommend the establishment of national multi-stakeholder REDD groups, involving rights holders and stakeholders, particularly indigenous peoples, local communities and civil society, to engage in REDD 'readiness', including developing national REDD plans and systems for monitoring and verification. Civil society must play an active role in the process, both operationally and in policy terms.

Multi-stakeholder engagement should not just seek information, advice and opinions, but be participatory and involve real decision making throughout the process (prior informed consent) to ensure the adopted REDD scheme is acceptable to affected and interested parties, including environmental and social NGOs and all rights holder groups, such as local communities and indigenous peoples. The first and most essential step is for governments to ensure all participants have faith in the process at the outset. This requires the development of clear terms of reference for engagement or requirements to be agreed by all participants, which outline the planning, programming and feed-back stages of the process and make clear how inputs may affect the final outcome.

(iii) Accountability and responsiveness

Financial and other incentives are needed to ensure institutions are accountable and responsive to change. Making performance a condition for REDD funding, against a set of governance indicators, would create incentives for governments to improve governance, act efficiently, reduce social inequalities and engage with other stakeholders in forest conservation.

In addition, forest communities and indigenous peoples must have financial incentives to manage forests sustainably. This can be achieved by clarifying and recognising land tenure rights of local communities, devolving management responsibility to local residents, sharing the responsibility between local residents and government, or by granting concessions to the community.

(iv) Coordination

A national approach (e.g. national-level accounting, regulatory frameworks, reference levels, monitoring and enforcement systems) is the best way to achieve improved coordination of REDD initiatives between relevant government institutions and other actors, both vertically and horizontally, i.e. from central to local level and across government agencies. National coordination reduces transaction costs, addresses intra-national displacement of emissions and ensures the integrity of baselines. To avoid carbon leakage in areas where large forests are shared among several countries regional initiatives and approaches⁵ would complement and strengthen national initiatives. Similarly, regional enforcement mechanisms would enable coordination of enforcement measures to combat illegal logging and trade and strengthen national agencies.

⁵ Regional approaches may be considered in areas like the Congo Basin and the Amazon.

(v) Capacity building

Capacity building should be country-specific using governance indicators to support and direct it. As well as strengthening government institutions to ensure effective forest management and equitable enforcement of REDD-related legislation, capacity building needs to be directed towards indigenous peoples, local communities and civil society to enable effective engagement in REDD design and implementation. The UNFCCC Secretariat is the most appropriate institution to coordinate programmes on capacity building.

(vi) Conflict resolution mechanisms

Independent complaint and conflict-resolution mechanisms must be incorporated within the overall framework, and must be available both at national and international level to address any conflicts which might arise between governments, communities and other stakeholders.

4. COMPLIANCE - Monitoring, Reporting and Verification

A REDD agreement should include provisions to measure levels of compliance through mandatory and robust systems for monitoring, reporting and verification.

(i) What should be monitored, reported and verified

(a) Scientific and technological monitoring should report on:

- All land use changes.
- Reduction of gross emissions from deforestation, forest degradation and peatland degradation.
- Changes in forest and peatland carbon stocks and carbon carrying capacity.
- The effects on biodiversity health.

(b) Governance and social monitoring is necessary to report on:

- Progress with implementing good governance practices in relation to REDD (transparency, inclusiveness, accountability, responsiveness, coordination and capacity).
- Relevant activities by national authorities in relation to the management of forests, with a view to enhancing good governance and reducing illegality.
- All transfers of REDD funds.
- The impact of REDD on indigenous peoples and local communities and steps taken on conflict resolution.⁶

A set of performance based governance indicators need to be developed to ensure that a REDD mechanism can be robustly implemented.

(c) Demand-side monitoring must report on:

- Implementation of measures in developed countries to reduce demand for and trade in forest products produced unsustainably or in contravention of national and international law.

(ii) How to monitor, report and verify

(a) Scientific and technological monitoring:

⁶ With the aim of ensuring compliance with the United Nations Declaration on the Rights of Indigenous Peoples and Article 8 (j) of the Convention on Biological Diversity as well as other relevant international, customary and national laws, including respect for the right to free, prior and informed consent (FPIC) of Indigenous Peoples and local communities.

Compliance should be measured by a stock change approach (see section 1(iii) Measuring and accounting for carbon in natural ecosystems). The most recent IPCC guidelines (National Greenhouse Gas Inventories Volume 4, 2006) and/or any subsequent new guidance should be adopted as the basis for measuring and determining carbon stocks, emissions and emission reductions for forests and organic soils (peatlands). The Bonn expert meeting recognised significant capacity restraints on some developing countries to measure and monitor REDD compliance. Thus capacity building should be directed towards supporting these countries in developing the methodology needed for a stock change approach (see also section 1 (iii) 'REDD').

It is inadequate to rely on information derived from national forest inventories to monitor degradation as these were established for different purposes and are generally unreliable and inaccurate. It is also inadequate to rely on remote sensing alone. Ground-based monitoring, involving local communities, is an essential component of national monitoring systems.

(b) Governance and social monitoring:

Governance and social monitoring will require a set of performance based indicators linked to financial incentives. Assessments will need to be conducted on a regular basis.

(c) Demand-side monitoring:

Developed countries should be required to report annually on demand-side measures.

(d) Independent monitoring and verification:

Independent third party monitoring and verification must be an integral part of the system, applying to both developed and developing countries. At international level, a minimum requirement should be independent ex-post verification by an international review team, similar to the expert review system established for Annex I countries under Article 8 of the Kyoto Protocol. At national level, mechanisms for independent third party monitoring and verification need to be established in cooperation with relevant government departments, civil society and the private sector. Capacity building programmes should include development of such systems.

5. FINANCIAL INCENTIVES

There needs to be new (i.e. additional to existing ODA), substantial, predictable and sustained long term funding for REDD, made available by Annex1 countries, to support community, local, sub-national and national efforts. REDD funding should meet certain fundamental principles to ensure good governance, equitable distribution and certainty that funds will be directed at achieving REDD goals.

REDD funds should be used for both direct REDD activities and activities that help to build the social, institutional and legal framework needed to address the causes of deforestation. These activities include support for local communities and indigenous peoples engaging in REDD activities, capacity-building, institutional strengthening, setting up and undertaking sound consultation processes with local rights holders and stakeholders, conservation, conversion of logging concessions, improved forest management and other actions to maintain or increase the natural forest stock.

A major proportion of REDD benefits, including funding and services, should go directly to local communities and indigenous peoples to support their efforts in maintaining forests in accordance with REDD goals and objectives. Resources will need to be dedicated to clarifying the tenure rights of forest dependent communities through legal reform before funds for REDD activities can

be distributed. Insecurity and lack of tenure and resource rights is one of the key causes of deforestation and forest degradation. REDD consultation processes should open political space for dialogue between local communities and their governments to challenge, where necessary, existing legal regimes and any injustices within.

To ensure that REDD funding and benefits go directly to local communities and indigenous peoples, independent and well governed national trusts funds should be established. This would avoid the transfer of financial resources via conventional, and sometimes inefficient, government institutional arrangements. The trust funds should have multi-stakeholder representation and be coordinated at a national level with independent oversight. These trust funds would generate a permanent income stream to allow local communities and indigenous peoples that have foregone a forest degrading development option to pursue an alternative development strategy.

REDD must incorporate a fiscal oversight mechanism to ensure that REDD transactions are transparent and that the benefits derived from the mechanism are distributed to land owners and those with access rights, including indigenous peoples.

6. DEMAND-SIDE MANAGEMENT

Demand-side management policies must be introduced to reduce demand for, and trade in, forest products, especially those produced unsustainably or in contravention of national and international law. Demand-side management policy approaches must be consistent between developed and developing country parties, promote good governance and address drivers of deforestation in international trade.⁷

A coherent policy approach necessitates that parties understand ecosystem carbon (wood fibre from natural forests or peatlands) in the same way that they understand fossil fuels: as a carbon-dense resource whose extraction, use and emission to the atmosphere is largely driven by industrial and commercial demand, both legal and illegal. This approach makes clear the need to manage not only supply but also demand for commodities whose production is linked to ecosystem carbon emissions. Demand management also supports all potential carbon financing mechanisms by addressing leakage on a systemic scale.⁸

To lay the framework for improved forest governance, law enforcement and demand management, parties should implement coordinated measures to reduce their consumption of wood products produced in contravention of other countries' sovereign laws and international law.

Further, developing countries willing to implement policies and measures to combat illegal logging and trade in a measurable, reportable and verifiable manner should receive support from developed countries through financing, technology transfer and capacity building as per paragraph 1(b)(i) and 1(b)(ii) of the Bali Action Plan.

Such policies and measures include, *inter alia*, bilateral or regional enforcement mechanisms, training for judges and prosecutors on forest and anti-corruption laws, capacity building for forest law enforcement authorities, and establishment of independent forest monitoring programs, and timber tracking systems.

⁷ We concur with the conclusion of the Council of the European Union that "(12) Illegal logging is one of the direct drivers of deforestation and forest degradation, and strengthening forest law enforcement, governance and institutions at local and national level as well as tackling the trade in and consumption of illegally harvested timber are necessary for any effective policy response[.]" In 'Addressing the challenges of deforestation and forest degradation to tackle climate change and biodiversity loss - Council conclusions', 16852/08, Annex to General Secretariat Information Note, 5 Dec 2008.

⁸ Examples of such existing and proposed measures include but are not limited to the E.U.'s Forest Law Enforcement, Governance and Trade regulation, national procurement policies, and the U.S. Lacey Act.

The Position Paper represents the views of the following organizations. Contact details for each organisation are listed below.

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