

Carbon righteousness: how to lever pro-poor benefits from REDD+

A growing focus on mitigating climate change by reducing emissions from deforestation and forest degradation (REDD and REDD+) is prompting the creation of a new form of private property — the ‘carbon right’ — that can be bought and sold in domestic or international markets. But to make REDD+ work for the poor, carbon trading schemes will have to ensure that a wide range of forest-dependent groups and communities benefit. In part, this means carefully assessing how carbon rights are assigned — to ensure they support the rural poor who rarely hold formal land ownership or tenure rights but who are key players in putting sustainable forest management into practice on the ground. It also means rethinking eligibility criteria for REDD+ projects so that they include economic, social and environmental standards and co-benefits.

Policy pointers

- **Policy and law on carbon rights** need to look beyond the question of property and strengthen the wider networks of rights and interests associated with carbon.
- **REDD+ benefits** should support community-based natural resources management.
- **The creation of carbon rights** provides an opportunity to build fairness and equity into a new commodity and market place.
- **More innovative thinking** is required on how to integrate interests and rights of the poor into a future REDD+ governance and market regime.

In recognition of the fact that forests in developing countries are key to mitigating climate change, the international community is promoting schemes that reward developing countries and landholders for reducing emissions from deforestation and forest degradation (REDD). REDD+ takes a step forward to also include conservation, sustainable forest management and the enhancement of forest carbon stocks.

While current REDD readiness activities are predominately financed through public funding, the involvement of the private sector would help mobilise a high level of finance in the medium and longer term. Therefore some countries are creating a new form of private property — the carbon (sequestration) right, or ‘credit’ — that can be bought and sold on national or international markets (see Carbon rights in Brazil and Carbon rights in Australia).

But thinking about how forests are managed on the ground involves a much wider set of rights than simple ownership of carbon, from land tenure to free movement.¹ And many indigenous and other forest dependent communities fundamentally oppose the idea

that a forest’s ability to store carbon can somehow be separated from its wider benefits and functions.²⁻⁴ There are also widespread concerns that tradable property rights will little benefit the millions of poor people that depend on forests for their livelihoods.

What are carbon rights?

REDD+ strategies, policies and programmes encompass a wide range of meanings when it comes to defining carbon rights (see Figure). A narrow understanding focuses on the title of ownership to sequestered carbon as a possible trading commodity. Here, stored carbon is seen as a self-contained, intangible asset with a monetary value — similar to an intellectual property right or a company’s brand value. This type of carbon right is created through law or contract based on, for example, ownership of the land or management activities that reduce emissions, or enhance stocks, of carbon.⁵

Turning carbon into a new form of property in this way supports REDD+ in that it recognises the benefits of maintaining carbon stocks and sequestering carbon in forests.⁶ But these activities will only generate

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money if appropriate emissions trading or fund-based compensation regimes are established where carbon rights can be bought and sold. A statutory or voluntary mechanism will play a crucial role in allocating carbon property rights, and governing their transfer and trading.

Making REDD+ work, especially for the poor, is not simply about turning carbon into a new tradable commodity. This may create new economic opportunities, but forest-dependent

communities may be short-changed and subject to unfair competition with powerful elites for access to resources. And, because drivers of deforestation are complex and change over time, a narrow focus on carbon property may miss opportunities and barriers to successfully reducing deforestation and forest degradation in the broader context.

The sequestering forest provides a continuous link to a wider set of rights, including land use and tenure, employment, accommodation and free movement. And so a broader understanding of carbon rights also takes into account the civil, political, social, economic and cultural rights of all forest-dependent people.²

Almost all REDD+ actors — from local conservation nongovernmental organisations to the World Bank — recognise the need to strengthen customary, land use and general human rights, as well as processes involving a degree of free prior informed consent.^{7,8}

REDD+ proponents increasingly portray the relationship between these rights and carbon ownership in terms of benefit sharing — broader carbon rights play an

important role in determining who benefits from REDD+ policies, programmes and activities. The goal is that ‘others’, who do not own carbon rights in the narrow sense, should also benefit from these activities and any carbon trading.⁹

Some REDD readiness activities therefore aim to directly empower indigenous and forest-dependent communities and to strengthen their forest access rights. But REDD+ strategies, policies and programmes also support communities without any carbon-related rights by improving the wider legal framework or building the capacity of local authorities for effective and transparent natural resources governance. The Figure illustrates the different layers of carbon related rights and interests, and the immediate implications for benefits distribution.

Better benefit sharing

Forests represent vast economic resources that support livelihoods in a myriad of ways. This complexity is ignored in strict definitions of carbon rights that assign ownership to a single attribute of the forest — carbon.¹⁰ Many of the rural poor depend heavily on forests for firewood, water, food, animal fodder and medicines. They rely on forests for key ‘environmental services’ such as keeping agricultural pests and diseases at bay, and the provision of fertile soils, pollinators, and arguably better water quality and quantity.

These people rarely hold formalised rights and cannot easily access planned REDD+ schemes. There are concerns that carbon payments will primarily benefit large landowners, carbon traders or governments.¹¹ How can we ensure a more pro-poor approach that benefits a wider range of forest-dependent groups and communities?

One option is state ownership of such rights to help distribute more fairly the revenues derived from REDD+. It’s not a sure-fire bet though. In New Zealand, legislation brought in to reduce emissions in 2002 (the Climate Change Response Act) was subsequently identified as a key driver of deforestation between 2004 and 2008. By keeping hold of the credits and liabilities of storing carbon in forests, the government allegedly removed the financial incentive for forest owners to keep trees that they had planted. In 2008, the Climate Change Response (Emissions Trading) Amendment Act reversed the ‘nationalisation’ of carbon rights devolving their ownership to forest owners.¹²

A more successful strategy to protect natural resources and support pro-poor development, already used with effect in many developing countries, is community-based natural resources management. Indeed, there is increasing evidence that such locally controlled forestry often provides the key to stable, long-term

Carbon rights in Brazil¹⁶

In Brazil, carbon rights are being addressed in a proposal for framework REDD+ legislation. The new law would create two categories of carbon rights, or ‘units’: general REDD units (UREDDs) and certified REDD units (CREDDs).¹⁷

UREDDs would be non-market-based, non-tradable units equal to one tonne of verified emission reductions or removals from eligible national REDD+ activities. The holder of a UREDD would be eligible for non-compensatory benefits from various national and international funding resources.

Under specified criteria determined by a National REDD Commission, some UREDDs would be eligible for conversion into CREDDs. These are market-based, tradable carbon rights that can be used to offset greenhouse gas emissions under a national regulation system or to sell on the international market, under an applicable bilateral or multilateral agreement.

CREDDs would only be given with proof of undisputed land ownership and registration, and guaranteed permanence and continuity of REDD+ projects. The bill envisages special benefit sharing and participation rights for indigenous communities where REDD+ projects are carried out on their land.

multifunctional forest landscapes.¹³ Across the world, indigenous and other forest-dependent communities have prevented forest loss despite high rates of deforestation along their boundaries. REDD+ should reinforce participatory management structures and informal access rights. Local stakeholders need to have legally recognised and enforceable entitlements to benefit from carbon payments.

A righteous trade?

To date none of the approaches under discussion to implement an international REDD+ regime ensure that benefits are delivered to a wider range of forest-dependent groups and communities.¹¹ Whether a scheme is based on government budgets, markets or funds, as things stand now, payments will still be tied to the carbon property title. The question then is whether it is still possible under this scenario — where carbon rights are artificially created as a new commodity — to institutionalise mechanisms that combine forest protection with equitable benefit sharing.

Unlike bananas or coffee, these carbon rights are neither a tangible product nor part of a well established value chain. Their attributes and value will depend on law and policy decisions. The amount of sequestered carbon does not directly equate to tradable emission reduction ‘credits’. Instead, statutory or market regulations will have to assign specific attributes and eligibility criteria that fit with the wider REDD+ framework — for example, imposing ongoing management responsibilities on specific areas of forest land, or the obligation to maintain carbon stocks for at least 100 years.

In principle, such eligibility criteria could include economic, social and environmental standards and co-benefits. In this way, the price of carbon would reflect not only reduced emissions but also, for example, investments in local infrastructure, job creation, involvement of indigenous communities or effective implementation of customary tenure rights.¹⁴ These criteria for different national markets could vary depending on a country’s circumstances and institutional capacity.¹⁵

Alternatively, credits could be allocated to stakeholders other than the registered land holders (or users) whose forest-related rights are affected by REDD+ activities — for example, a local forest-dependent subsistence farming community.

As a basic rule, a high carbon price would encourage forest owners not to cut down trees. But a ‘good’ price also depends on revenue that can be achieved through other uses. A trading authority or central bank type body will need to be established to monitor if and to what degree relevant standards and criteria

Carbon rights in Australia¹⁸

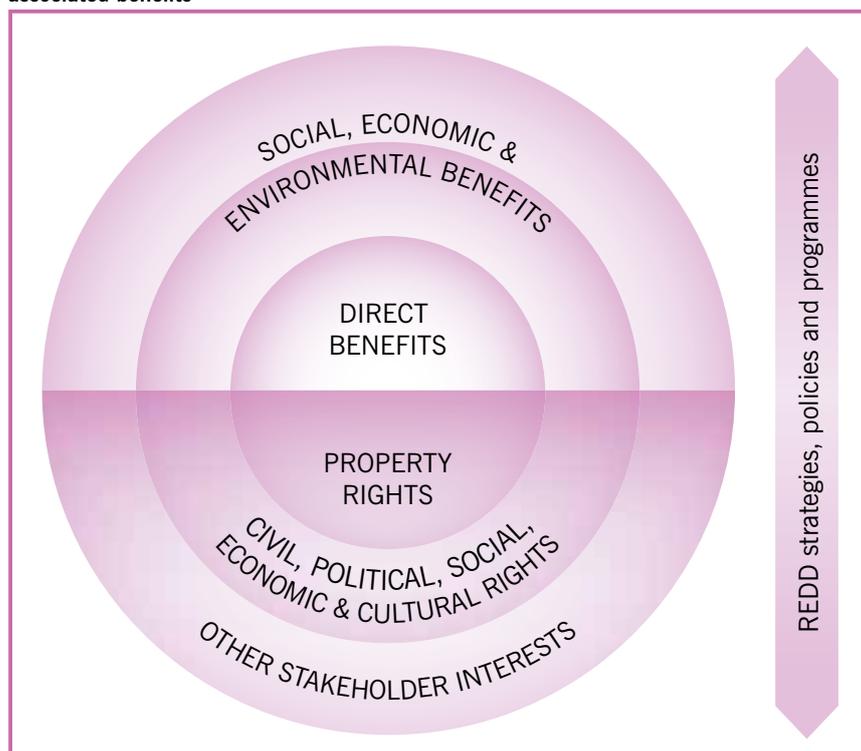
All six Australian states have laws to define carbon rights. At the national level, draft legislation — called the Carbon Farming Initiative (CFI) — would allow forest carbon to be traded as part of a national emissions trading scheme.¹⁹

The CFI distinguishes rights associated with sequestration projects, which are exclusive and run with the land.²⁰ This is because such projects must comply with specific permanence obligations, including liability if the project does not last beyond a minimum time frame.

In addition to bio-sequestration projects, eligible activities under the CFI include native forest protection projects and emissions avoidance projects. Credits are issued to the person or organisation responsible for carrying out the project. All projects must be entered into the land registry or other documents so future buyers or leasers know that it is subject to obligations associated with the project.

Whether native title holders and other categories of indigenous land can hold carbon rights under the CFI remains unclear.²¹

Figure. REDD strategies span a wide range of definitions for carbon rights, and associated benefits



are met. Such a body should also be able to intervene in markets to promote certain activities, counter new drivers of deforestation or protect beneficiaries from major price fluctuations.

Creating a new property for REDD+ provides a unique opportunity to rethink how the benefits of forest resources can be shared more equitably. Fair trade and equity considerations should be built into the product and the criteria determining its value. Subsequent efforts to ‘green’ the value chain, create a ‘gold standard’, or

make it socially more responsible and accessible to everyone would be redundant.

Potential designs for REDD+ carbon trading schemes are often based on the understanding that payments will be made for a tonne of carbon (sequestered in trees) or at a flat rate per hectare of land. But participating in these schemes is likely to carry high transaction costs, for example to negotiate contracts or monitor compliance. This means it will be proportionately more expensive for smallholders. To more fairly distribute the costs of and benefits from participation, schemes could provide a declining payment for each additional unit of land. This would result in diminishing payment as land size increases. In such a way, participation of small landholders is encouraged while ensuring that large landholders do not rip-off the benefits associated with REDD+.

Looking forward

In principle, REDD+ could provide a route to local empowerment and poverty alleviation. But to do so, further thinking is required on the mechanism needed

to ensure that it effectively reaches people whose livelihoods depend on the forest.

The creation of carbon rights for REDD+ offers the opportunity to build fairness and equity into a new commodity and market place. If a market-based approach is to succeed in both reducing emissions and delivering benefits to the forest-dependent poor, securing rights for investors and communities is crucial. There is everything to play for: creating a new commodity and market place with inbuilt fairness and equity would break new ground and mark a real achievement on the righteousness agenda.

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Notes

■ ¹ See, for example, Takacs, D. 2009. *Forest Carbon: Law and property rights*. Conservation International, USA. ■ ² REDD-net. 2011. Carbon Rights and REDD+. REDD-Net Bulletin Asia-Pacific 03; ■ ³ Goldtooth, T. in Indigenous Peoples Groups Say Carbon Markets Violate Rights and Threaten Cultural Survival. 2010. Huntington News; ■ ⁴ Earth Peoples. 2009. *Indigenous Peoples Guide: False solutions to climate change*. See: www.earthpeoples.org/CLIMATE_CHANGE/Indigenous_Peoples_Guide-E.pdf ■ ⁵ Norton Rose. 2010. *Forest carbon rights in REDD+ countries: a snapshot of Africa*. ■ ⁶ Baker & McKenzie. 2009. *Background Analysis of REDD Regulatory Frameworks. Report prepared for the Terrestrial Carbon Group*. ■ ⁷ REDD-net. 2010. Carbon rights in REDD+: Towards a common understanding. Key points emerging from a COP16 side event hosted by REDD-net; ■ ⁸ UNFCCC Conference of the Parties, Decision 1/CP.16, The Cancun Agreements: Outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention, paras.70-79 and Appendix I, contained in document FCCC/CP/2010/7/Add.1 ■ ⁹ Peskett, L. *et al.* 2008. *Making REDD work for the poor*. Poverty Environment Partnership. ■ ¹⁰ Foss, K., Foss, N. 2001. Assets, attributes and ownership. *International Journal of the Economics of Business* 8(1). ■ ¹¹ Vatn, A., Vedeld, P. 2011. *Getting Ready! A Study of National Governance Structures for REDD+*. Noragric Report No. 59. Department of International Environment and Development Studies, Noragric. ■ ¹² Cox, G., Peskett, L. 2010. *Commodifying carbon to reduce deforestation: lessons from New Zealand*. Overseas Development Institute, London. ■ ¹³ Macqueen, D. 2011. *Investing in locally controlled forestry*. Growing Forest Partnerships Briefing. IIED, London. ■ ¹⁴ Schwarte, C. 2010. Social Safeguards in REDD: A review of possible mechanisms to protect the rights and interests of indigenous and forest-dependent communities in a future system for REDD. *Journal of Sustainable Development Law and Policy* 6(1). ■ ¹⁵ Scholz, I., Schmidt, L. 2007. *Reducing Emissions from Deforestation and Forest Degradation in Developing Countries: Meeting the main challenges ahead*. German Development Institute. ■ ¹⁶ See also: Chagas, T. 2010. Forest Carbon Rights in Brazil. REDD-net case study. ■ ¹⁷ Bill of law 5586/2009 ■ ¹⁸ See also Hepburn, S. 2009. Carbon rights as new property. *Sydney Law Review* 31(2) 239. ■ ¹⁹ Carbon Credits (Carbon Farming Initiative) Bill 2011 ■ ²⁰ Carbon Credits (Carbon Farming Initiative) Bill 2011. Part 3, Division 8, Clause 43 ■ ²¹ Department of Climate Change and Energy Efficiency 2010. *Design of the Carbon Farming Initiative*. Consultation Paper. Department of Climate Change and Energy Efficiency, Australia.

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