

Nepal REDD+ Implementation Framework



REDD Implementation Centre
Ministry of Forests and Soil Conservation
Babar Mahal, Kathmandu, Nepal

August 2015

Produced by: Sagendra Tiwari
Individual Free-lancing Consultant

Produced for: REDD Implementation Centre,
Ministry of Forests and Soil Conservation,
Nepal

Copyright: © REDD Implementation Centre,
Ministry of Forests and Soil Conservation, Nepal

Version: Final

Disclaimer:

Although the REDD Implementation Centre, Ministry of Forests and Soil Conservation, Nepal, commissioned this study, neither the REDD IC nor the government assumes any responsibility for the accuracy, completeness, or usefulness of any information in the report.

ACKNOWLEDGEMENTS

The consultant would like to express his gratitude to the Ministry of Forest and Soil Conservation, REDD Implementation Center (RIC) for providing this opportunity to undertake this study on REDD+ Implementation Framework proposal development. Special thanks are due to everybody in RIC including Mr. Man Bahadur Khadka, Mr. Narendra B. Chand, Ph.D., Mr. Mohan Paudel, Ph.D., Mr. Ram Asheswor Mandal, Ph. D. and Mr. Rajendra Kafle. Professionals in RIC untiringly provided all necessary support from the beginning of the study until the national consultation in course of this work. Thanks are also due to professionals working on REDD+ in WWF, ICIMOD, UNDP, USAID, FECOFUN, NEFIN and other national/international agencies for sharing their knowledge and learning with regard to different aspects of REDD+ implementation in Nepal.

At the regional level, the regional directors - Mr. Prakash Pyakurel (Biratnagar), Mr. Rajdev Prasad Yadav (Birendra Nagar), Mr. Balram Adhikari (Dhangadhi) and Mr. Shantamuni Tamrakar (Pokhara) provided their invaluable support through coordinating regional stakeholder consultations and participating actively. It goes without saying that the support from the staff of the regional directors' and respective DFO's offices was crucial for the success of all consultations. DFOs and officials of Gorkha and Chitwan districts proactively arranged community and district level consultations in these districts in coordination with stakeholders e.g., FECOFUN, NEFIN and HIMAWANTI. Understanding the views of REDD+ stakeholders and rights holders at community, district and regional levels was extremely valuable to shaping up the implementation framework. And it would not have been possible without their support. The consultant expresses his sincere thanks to all the forestry professionals, field staff, CSOs and CBOs at the regional, district and community levels.

The success of REDD+ implementation largely depends on an implementation framework that is all inclusive and caters to the needs, interests and concerns of all engaged in its implementation at multiple levels and ensures a democratic governance mechanism. In this vein, the consultant expresses his sincere appreciation for all men and women who participated in multiple level consultations and devoted their time and shared their views and perspectives in interactions, interviews and consultations in course of this work.

Last but not the least, thanks are due to all who in any ways contributed in this study yet are not being specifically mentioned here.

Sagendra Tiwari

Consultant

EXECUTIVE SUMMARY

This study report presents the REDD+ Implementation Framework Proposal for Nepal's REDD+ implementation. Nepal needs a REDD+ institutional mechanism which is implementable and cost-effective. This proposal report accordingly, has tried to frame the implementation framework making best use of existing entities, institutions and human resource and proposing appropriate legal, institutional and governance reforms so as to improve upon the effectiveness and efficiency of REDD+ program implementation.

The Global REDD+ mechanism is founded on and is evolving around the performance based payment. For the REDD+ countries, this boils down to digging deep into the issues surrounding the demonstration of performance and instituting all possible measures to address them including legal, institutional and governance arrangements in the implementation framework for sustained performance outcomes. The proposal report has internalized this concept into its methodological approach.

Five issue papers on key issues of REDD+ implementation in Nepal, e.g. i) forest tenure and carbon ownership rights, ii) financing mechanism, iii) benefit sharing mechanism, iv) feasibility assessment of hybrid approach and v) issues and options surrounding the national carbon registry were prepared based on literature review from within Nepal and globally available study and research papers. Insights, ideas and options for resolving these key issues in Nepal's context were drawn, and taken for the community, district and regional level consultations with all relevant REDD+ stakeholders. This draft proposal report on Nepal's REDD+ Implementation framework is prepared and refined based on nine multiple level multi-stakeholder consultation outputs.

The proposal report is presented in two parts. In part 1, chapter 1 provides the country context with respect to Nepal's rationale to engaging in REDD+, its objectives and guiding principles, and the kind of implementation framework it would need for effective REDD+ implementation. Chapter 2 elaborates on the roles of actors and institutions, and the institutional arrangements in national REDD+ architecture. Chapter 3 then provides an institutional assessment of Nepal's existing REDD+ actors, institutions and institutional arrangements.

In part 2, chapter 4 builds on the five issue papers (refer to annex 2 to 6) and presents an analysis of the findings from these issues. Some additional relevant issues are also analyzed and their possible solutions are recommended to be instituted in Nepal's REDD+ implementation framework. Accordingly, the refinements in forest act, national parks and wildlife conservation act and other relevant legal/institutional frameworks have been proposed to strengthen forest tenure rights and their security, harmonization of forest tenure rights, inclusion of carbon ownership rights and benefit sharing. Development of new legal frameworks pertaining to establishment and operationalization of Nepal's carbon registry, REDD+ financing mechanism

and the institutionalization of REDD+ benefit sharing mechanism have also been proposed including the necessary legal reforms to strengthen the forestry sector governance.

And finally, a proposal for Nepal's REDD+ implementation framework is presented in chapter 5. It proposes a three-tier national REDD+ institutional structure that builds on the existing entities and institutional structure and suggests new entities e.g. Nepal REDD+ Authority (a further improved autonomous, self-governing entity that builds on the existing multi-stakeholder Apex Body for highest level policy steering and lead agency for international dialogue and negotiations for effective REDD+ implementation), a national REDD+ carbon registry and a REDD+/Carbon Payment Authority at the central level. The proposed institutional structure is anticipated to accommodate the future needs of national REDD+ architecture after federalization of the country.

Building on the major functions of a national level REDD+ architecture, and the key tasks to be performed by its entities at multiple levels, the modalities, roles and responsibilities of these entities has been elaborated to the extent possible at this stage. Nevertheless, learning by doing in course of REDD+ implementation will be instrumental in further elaborating the roles and responsibilities of these entities and improving the working modalities. The last section provides an action plan and a tentative estimate of the funds required for preparing for the execution of the implementation framework.

ACRONYMS AND ABRIVIATIONS

ACOFUN:	Association of Collaborative Forestry User Group, Nepal
ADB:	Asian Development Bank
ANSAB:	Asia Network of Sustainable Agricultural Business
BZ-CF:	Buffer Zone Community Forestry
CAs:	Conservation Areas
CARE:	Cooperative for American Relief Everywhere (an international NGO)
CBFM:	Community Based Forest Management
CBOs:	Community Based Organizations
CF:	Community Forests/Forestry
CFUGs:	Community Forest User Groups
CFM-UG:	Collaborative Forest Management User Group
DANAR:	Dalit Alliance for Natural Resources (a NGO in Nepal)
DDC:	District Development Committee
DFSCC:	District Forestry Sector Coordination Committee
DFO:	District Forest Office/Officer
DFRS:	Department of Forest Research and Survey
DNA:	Designated National Authority
DNPWC:	Department of National Parks and Wildlife Conservation
DoF:	Department of Forests
EPA:	Environment Protection Act
ER-PIN:	Emissions Reduction Project Idea Note
FCPF:	Forest Carbon Partnership Fund
FECOFUN:	Federation of Community Forest User Groups Nepal
GO:	Government Organization
GoN:	Government of Nepal
GMF:	Government Managed Forest
HIMAWANTI:	Himalayan
HPPCL:	Herbal Plants Processing Company Limited
IUCN:	International Union for Conservation of Nature
LhF:	Leasehold Forestry
LhFUG:	Leasehold Forestry User Group
MFSC:	Ministry of Forest and Soil Conservation
MPFS:	Master Plan for Forestry Sector
MoSTE:	Ministry of Science, Technology and Environment
M & MRV:	Measurement and Monitoring, Reporting and Verification
NAFAN	National Forum for Advocacy Nepal
NFMIS:	National Forest Management Information System
NEFIN:	Nepal Federation of Indigenous Nationalities
NPs:	National Parks
NTFPs:	Non-Timber Forest Products
NTNC:	National Trust for Nature Conservation
PAs:	Protected Areas
PF:	Protection Forest

PROFOR	Program on Forests (a multi-donor partnership)
REDD:	Reduced Emissions from Deforestation and Degradation of Forest
RL/REL:	Reference Level/Reference Emission Level
R-PP:	Readiness Preparation proposal
SESA:	Social and Environmental Safeguards Assessment
TAL:	Terai Arc Landscape
TFPs:	Timber Forest Products
UNFCCC:	United Nations Framework Convention on Climate Change
UN-REDD:	United Nations REDD Program
USAID:	United States Assistance for International Development
USD:	United States Dollar
VDCs:	Village Development Committee
WRs:	Wildlife Reserves

TABLE OF CONTENTS

Acknowledgements

Acronyms and Abbreviations

Executive Summary

PART 1

1. INTRODUCTION

1.1 The Rationale behind Nepal's participation in REDD+

1.2 REDD+ in Nepal: Objectives and Guiding Principles

1.3 Status of Nepal's REDD+ Readiness Preparation

2. REDD+ IMPLEMENTATION FRAMEWORK: OBJECTIVES AND EXPECTED OUTPUTS

3. INSTITUTIONAL ASSESSMENT IN NEPAL'S REDD+ CONTEXT

3.1 Actors, Institutions and Institutional Mechanism

3.2 Multi-sector and Multi-level Actors of REDD+ in Nepal

3.3 Analysis of Actors' Stake in REDD+

3.4 Existing REDD+ Relevant Policy and legal/Institutional Framework

PART 2

4. KEY ISSUES SURROUNDING THE REDD+ IMPLEMENTATION FRAMEWORK

4.1 Forest/Land Tenure

4.2 Carbon Ownership Rights

4.3 Revenue and Benefit Sharing Mechanism

4.4 Governance

4.5 Partnerships

4.6 Legal

5. NATIONAL INSTITUTIONAL FRAMEWORK PROPOSAL

5.1 National Institutional Structure

5.2 Major functions of the National REDD+ Architecture and the Roles & Responsibilities of Entities including Flow of Information and Incentives

5.3 Recommendation for Legal Reforms

5.4 Action Plan for operationalizing the REDD+ Implementation Framework

List of Figures and Tables

Figure 1: Elements of a National REDD+ Architecture

Figure 2: Nepal's Existing REDD+ Architecture

Figure 3: Proposed Institutional Structure for Nepal's REDD+

Figure 4: Proposed Three-Tier National REDD+ Institutional Structure

Table 1: Multi-sector and Multi-level Actors of Nepal's REDD+

Table 2: Non-government Actors of Nepal's REDD+

Table 3: REDD+ Actors' Analysis

Table 4: Proposed Action Plan for Operationalization of REDD+ Implementation Framework

Annexes

1: Terms of Reference

2: Issue Paper 1: Feasibility of a Hybrid Approach for REDD+ Implement

3: Issue Paper 2: Justifying Appropriate Financing Mechanism for REDD+

4: Issue Paper 3: Forest Tenure and Carbon Rights in Nepal

5: Issue Paper 4: Designing an Appropriate Benefit Sharing Mechanism for REDD+

6: Issue Paper 5: Issues and Options of Establishing a National Carbon Registry

7: List of people met in regional and district consultations

PART 1

1. INTRODUCTION

1.1 The Rationale behind Nepal's Participation in REDD+

Nepal is a small mountainous country endowed with a unique mosaic of physical, environmental, floral, faunal and cultural diversity owing to its remarkable topographic and altitudinal and climatic variations within a relatively small landmass. Historically, forests have remained at the core of Nepalese people's livelihoods apparent in the maintenance of an intricate relationship between forestry, farming and livestock management.

The country has however, been facing unabated deforestation and forest degradation due to rapid rate of population growth and demographic changes in its landscape. This has had serious consequences on country's environmental resilience and economic growth. The situation has been in a deteriorating trend since last one decade with climate change impacts evident in increased events of flood and draught, untimely rainfalls, decreased farm production and many more. Although, relatively low rate of deforestation and forest degradation has been reported in last couple of decades attributed to the success of community based forest management initiatives, especially in the mid-mountains, the country still sustains tremendous pressure on its forests owing to an ever increasing demand for land and forest products.

Efforts to check deforestation and forest degradation in Nepal, just as in many developing countries, remained confined within forestry sector with no remarkable outcomes so far. It has often failed to address some major drivers of deforestation and forest degradation outside forestry sector e.g., agricultural expansion, infrastructure development, changing demand for goods and services and changes in prices and incentives in society. REDD+ promises an opportunity to addressing such factors and has become motivating factor for Nepal to participate in REDD+

A preliminary estimate by UN-REDD (2014) reveals that participation in REDD+ may help Nepal get USD 20 to 86 million per year. Moreover, Nepal views REDD+ as an opportunity to advancing sustainable forest management and improving forestry sector governance. Participation in REDD+ will also help Nepal fulfil its international obligations on global sustainable development agenda.

1.2 REDD+ in Nepal: Objectives and Guiding Principles

The long term objective of Nepal's REDD+ as stipulated in the draft national REDD+ strategy document is "to strengthen the integrity and resilience of forest ecosystems, and improve socio-economic and environmental values of forests for communities by improving policy and legal

measures, augmenting institutional functioning, and enhancing stakeholders' capacity and capability.”

Accordingly, the defined **specific objectives** are:

- 1) To reduce carbon emissions by intensifying sustainable management of forest resources and minimizing the effects of drivers of deforestation and forest degradation across the ecological regions;
- 2) To ensure fair and equitable distribution of carbon, non-carbon and environmental benefits of forests among rights holders;
- 3) To increase livelihood assets, food security and diversify employment opportunities of forest dependent people, particularly the poor and marginalized;
- 4) To improve and harmonize policy and legal frameworks to harness carbon and co-benefits; strengthen institutional capability and improve governance of forest agencies;
- 5) To establish and maintain a robust Forest Management Information System with strong monitoring, reporting and verification mechanisms

The Guiding Principles agreed to achieve these objectives include:

- 1) Synergetic alignment with country's overall development strategies
- 2) Building on the successful community-based approaches and practices
- 3) Enhanced coordination and harmony among different sectors and agencies
- 4) Utilizing and building on the existing capacity and capabilities
- 5) Capturing fully the wide range of ecosystem benefits
- 6) People-centric practices and approaches
- 7) Equitable benefit sharing and social justice
- 8) Social, environmental, cultural and economic safeguards
- 9) Effective and efficient monitoring and information system
- 10) Transparency and accountability

1.3 Status of Nepal's REDD+ Readiness Preparation

Nepal engaged with FCPF in 2008 and with UN REDD as an observer country in 2009. It established a three - tier institutional structure and operational mechanism for REDD readiness

preparation and initiated a consultation process for the development of REDD readiness proposal (R-PP). The R-PP got approval and funding in October 2012. Over this period, Nepal continued its work towards REDD readiness preparation and started implementing the R-PP from FCPF support and other complementary program support from Nepal-based conservation and development partners. More recently, Nepal has secured Target Specific Programme (TSP) support from UN-REDD in order to give continuity to its readiness preparation.

Nepal has undertaken a range of studies/assessments and achieved some milestones towards its readiness preparation. Major studies accomplished till to-date include drivers of deforestation, reference (emission) level (RL/REL), measurement and monitoring, reporting and verification (M and MRV), Social and Environmental Safeguards Assessment (SESA), CGE modelling, total economic valuation of forest, development of national forest information system including an on-going capacity enhancement process at multiple levels. Recently, Nepal has submitted a sub-national level Emission Reduction Project Idea Note (ER-PIN) to FCPF for Terai Arc Landscape (TAL) area. The first draft of the national REDD+ strategy has been submitted and is undergoing consultations. The R-Package and other activities under its REDD+ Readiness package are under development. Nevertheless, some outstanding works towards readiness preparation remain yet to be accomplished, for instance:

- A national REDD+ architecture with appropriate institutional and governance mechanism accommodating all REDD+ actors and institutions, and ensuring effective and efficient interaction among them needs to be put in place;
- Institutions such as a national carbon registry (clearing house) and a national REDD+ financing institution needs to be defined and institutionalized within the broader REDD+ institutional framework;
- Legal issues associated with forest land tenure and ownerships especially within the remit of diverse models of community based forest management being practiced in Nepal need to be further reviewed and refined, and the carbon ownership rights needs to be defined and clarified to create multi-stakeholder interest and commitment for REDD+ implementation at multiple levels;
- In the remit of existing models of CBFM, it is broadly assumed that the customary rights of indigenous people and ethnic communities are well-recognised and respected. However, the existing policy and legal/institutional arrangements fail to categorically ensure such customary rights which are mandatory to ensure compliance with REDD+. Legal reforms will be needed to address such issues.
- Issues surrounding benefit sharing have broadly been tackled especially in case of CBFM models being practiced in Nepal. However, experiences have shown that their adequacy and ability to address equity issues remain questionable. Given the performance based payment

provision in REDD+, benefit sharing further needs to be legitimate, fair, equitable, transparent and well governed. A thorough review of existing benefit sharing mechanisms, their relevancy and shortfalls in terms of fairness, equity and governance arrangement is required for legal and governance reforms. This should pave way for the institutionalization of an appropriate benefit sharing mechanism relevant to REDD+ implementation.

2. REDD+ IMPLEMENTATION FRAMEWORK: OBJECTIVE AND EXPECTED OUTPUT

The primary objective of this assignment is to develop an implementable and cost-effective institutional mechanism to initiate REDD+ in Nepal. This requires to be done through;

- 1) Review of issues including governance and legal aspects, relevant to REDD+ in the country setting; [some of the key issues to be reviewed include ownership of carbon rights, equitable revenue sharing mechanisms, national carbon registry, revenue streams, benefit distribution from national, regional, district and local levels, participation of women, indigenous, disadvantaged and marginal groups]
- 2) Feasibility assessment of the hybrid approach (indicated by R-PP) of REDD+ implementation, (including legal requirements under national laws and international agreements, with a perspective of addressing the issues; [the hybrid approach provides for simultaneous financing of local projects and the development of a national-level institutional architecture]
- 3) Elaboration of key governance concerns and potential arrangements needed to engage in and track REDD+ activities and transactions; and
- 4) Review of current institutions, policies and laws and partnerships in order to develop recommendations for improving the institutional arrangements and legal requirements;

The output of the assignment is expected to be a well-articulated, sufficiently referenced and comprehensive final proposal report on REDD+ Implementation Framework for Nepal which includes i) Institutional Setup, ii) Legal reforms and iii) resource requirements (*refer to the ToR in Annex 1 for details*).

3. INSTITUTIONAL ASSESSMENT IN NEPAL'S REDD+ CONTEXT

This section presents an assessment of actors, institutions and the institutional interactions among actors in the context of REDD+ in Nepal.

3.1 Actors, Institutions and Institutional Mechanism

Relevant actors and institutions of REDD+ together form a system that defines the REDD+ implementation framework.

- **Actors** are the formally or informally existing entities (individuals and/or organizations). They could be within or outside the government and active from national down to local level. They could be government organizations (GOs), Civil Society organizations (CSOs), non-government organization (NGOs) and/or private firms;
- **Institutions** are interpreted as conventions, norms and/or legal rules that form the actors and regulate the relationships between them (Scott 1995; Vatn 2005). In REDD+, institutions are intended to manage i) flow of information on changes in forest carbon stocks between levels and ii) flow of incentives to carbon rights holders;

An Institutional Assessment is concerned with ways in which institutions are formed and function. It basically looks into:

- 1) Distribution of rights and responsibilities among actors,
- 2) Cost of coordination among them (transaction cost), and
- 3) Ways in which the actors' interest, motivation and perspectives will be influenced by the institutional structure.

An institutional assessment must also provide clarity as to whether the institutions put in place are legally appropriate, and are widely supported within the democratic governance framework. Institutions could be built on existing institutions and would need to include:

- A REDD+ policy steering authority at central level and institutions to manage technical, financial, administrative and supervisory aspects at national, sub-national/district and local levels
- An MRV system institution - that will gather and verify information on actual reductions in forest emissions and report to national and international counterparts;
- A REDD+ payment institution responsible to channel funds from international to sub-national and local level according to the volume, location and type of emission reductions

A National REDD+ Architecture is interpreted as:

- An institutional structure that defines the capacities and responsibilities of different actors including GOs, NGOs, CSOs and private sector involved in REDD+; and
- Rules that define interaction among actors/entities;

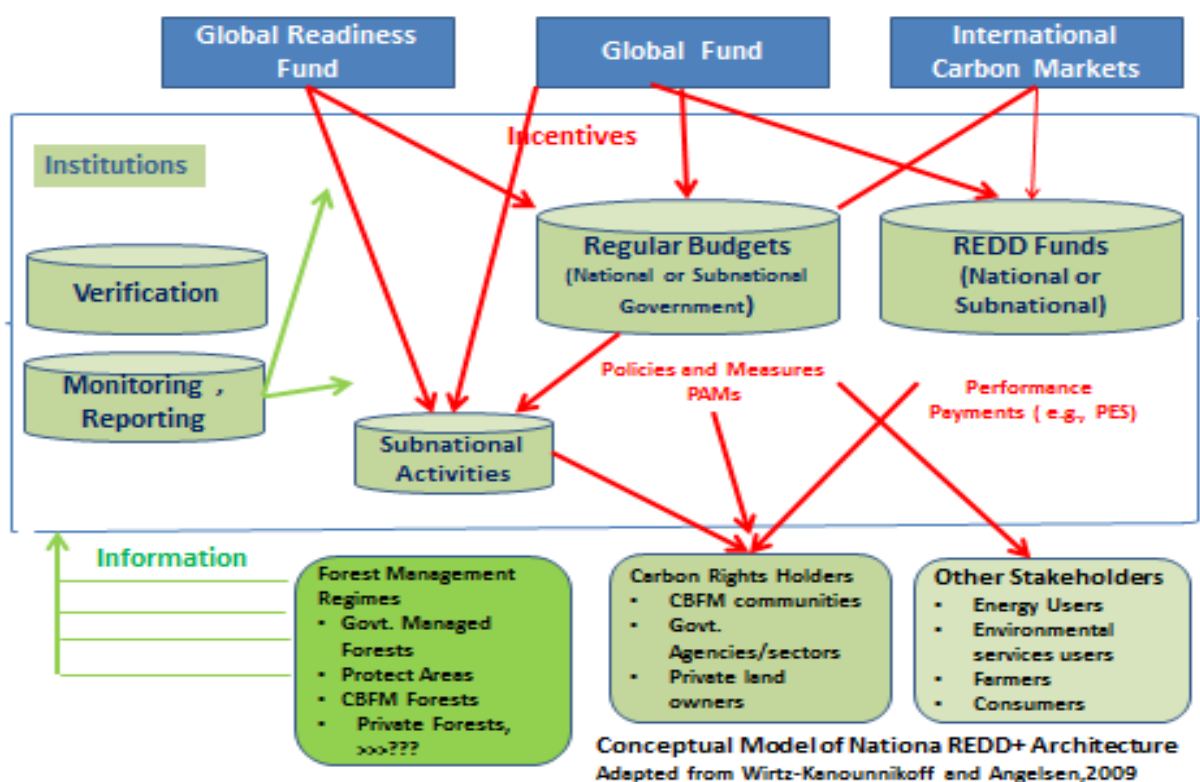
Such rules clarify how the coordination between actors will take place including communication, negotiation, control and management. The operational format of these institutions will be reflected in the cost of coordination and the motivation cost of human resources within the institutions.

Wirtz-Kanounnikoff and Angelsen (2009) have provided the **Key Elements of a National REDD+ Architecture** as shown in the flow diagram (Figure 1, next page). It also provides the flow of *information* and *incentives* along the *institutions* (widely known as **3Is** in global REDD+ discourse). Institutions in national REDD+ architecture need to remain flexible since they will be changing as a country will progress through three phases of REDD+ implementation (readiness preparation, early implementation and technical/institutional strengthening, and full-fledged implementation). For instance, sub-national activities are likely to be particularly important during early phases of REDD+ implementation, it could however, change to a national approach in the long run (Wertz-Kanounnikoff and Angelsen, 2009).

3.2 Multi-sector and Multi-level Actors of REDD+ in Nepal

Entities dealing with forest and natural resources within a nation state, and the entities impacting on and/or impacted by the change in forest and natural resource conditions at all levels could be termed as the actors of REDD+ in that nation state. A tentative list of actors of Nepal's REDD+ from central down to the local level¹ is presented in table 1 below.

Figure 1: Key Elements of a National REDD+ Architecture



¹ An institutional assessment of the actors of Nepal's REDD+ undertaken in course of the MRV system development Project (working document No. 3) commissioned by REDD Cell is available for reference in the web site of the REDD Implementation Center.

Table 1: Multi-sector and Multi-level Actors in Nepal's REDD+ Architecture

Levels/Sectors	Government Actors	Bi/Multi-level development Agencies	NGOs/CSOs
Central level	Ministries of: <ul style="list-style-type: none"> • Forest and Soil Conservation, • Agriculture and Cooperatives • Science, Technology and Environment • Energy • Finance • Land Reform • Water Resources • Physical Infrastructure & Transportation • Industries • Local Development • Tourism and Civil Aviation National Planning Commission (NPC)	<ul style="list-style-type: none"> • DFID • UNDP, • World Bank, • International Center for Integrated Mountain Development (ICIMOD) • WWF Nepal • Finland Government development Assistance • Others relevant 	FECOFUN, ANSAB, HIMAWANTI Forest Action ACOFUN, NEFIN, DANAR Nepal, NAFAN, IP Alliance, Associations of TFPs and NTFPs traders, tourism and hydro-power promoters etc.
Regional level	NRM related regional directorates Regional Forestry Directorate, Training Center	Regional level NRM and forestry projects	Regional Chapters of I/NGOs, CSOs and IP Alliances
District level	DDC, NRM related district offices	Forestry/NRM/CC adaptation projects,	District chapters of national NGOs/CSOs
Local Level	Forest and NRM related offices		CFUGs, LhFUGs, Relevant CBOs

3.2.1 The Government Actors

Ministry of Forests and Soil Conservation and its Departments

The main actor of Nepal's REDD+ is the ministry of forest and soil conservation (MFSC) as the highest government authority at policy level. It is mandated for sustainable forestry, watershed management, forest ecosystems and biodiversity conservation. Three of its five departments, e.g. Forests (DoF), National Parks and Wildlife Conservations (DNPWC) and the Forest Research and Survey (DFRS) are directly involved in REDD+ from central down to local level. The DoF is responsible for protection and management of all national forests - especially the forests not included in the protected area system and neither being protected and managed under any community based forest management regime. Such national forests are legally categorized as government managed forests (GMF) and protected forests (PFs), and comprise almost 3 million ha (>50%). The DoF is the largest among all MFSC departments governing Nepal's forests. It has its field offices at the district level and below at the range post level (a district may have as many as 3-4 forest range posts led by a forest officer depending on its size and coverage of forests).

The DNPWC is mandated for forest and wildlife protection within the PA system. PA system comprises national parks, wildlife reserves, hunting reserves, conservation areas and buffer zones including the CFs within them and covers over 1 million ha (17.6%) of Nepal's forests. It works through its authorities and staff in all PAs.

The DFRS, as per Nepal's R-PP has been identified as the national MRV system implementing entity. The R-PP envisages its prime responsibilities in four key activities e.g.,

- 1) Periodic execution of forest assessments for deforestation and degradation monitoring,
- 2) Design, maintenance and operationalization of National Forest Information Management System (NAFIMS),
- 3) Coordination for the collection and flow of sub-national level information, and
- 4) Dissemination of NAFIMS and MRV system deliverables to all relevant stakeholders through web portal.

DFRS will operationalize the MRV system and therefore, will need to build its institutional and technical capacities to run the NAFIMS and MRV system in the long run in an effective, efficient and transparent manner although it does not have any field presence.

Departments of Soil (and Water) Conservation (DoSC) and Plant Resources (DoPR) may have indirect stakes in REDD+. Forestry sector has its parastatals to procure and meet market needs of timber, NTFPs and medicines e.g. the Timber Corporation of Nepal (TCN), Forest Production Development Board, Herbal Plants production and Processing Centre (HPPCL). These agencies could also be considered having some stake in REDD+

Other Relevant Sector Agencies

Land, water and other natural resources based sectoral development policies and the associated development programs e.g. roads and infrastructure, irrigation, hydropower, mining etc., often give rise to and foster various direct and indirect drivers of deforestation and forest degradation. It has globally been recognized that sectors impacting on land, forest and watersheds must also design and implement REDD+ friendly policies and measures that promotes green economy and support to eliminate the underlying causes of such drivers. In this vein, sector ministries e.g., i) Agriculture and Cooperatives, ii) Land Reform, iii) Water Resources, iv) Physical Infrastructure and Transportation, v) Local Development vi) Energy, vii) Science, Technology and Environment, viii) Mining and ix) Tourism have been identified as REDD+ actors. The pivotal role of National Planning Commission (NPC) and the Ministry of Finance (MoF) in Nepal's development planning justifies their inclusion as REDD+ actors. Relevant line ministries having presence in regional, district and local levels by default become the actors of REDD+.

Accordingly, the district and local government bodies e.g. district and village development committees (DDCs and VDCs) also emerge as the REDD+ actors.

3.2.2. International Development Partners

Multi and Bilateral development agencies, inter-governmental and international non-government organizations e.g., UNDP, World Bank, ADB, DFID, ICIMOD, WWF, IUCN and CARE have been working in Nepal on climate mitigation, NRM and poverty issues. UNDP has UN-REDD and Poverty and Environment Initiative programs. The World Bank has been assisting through FCPF. The government of Finland has been assisting in the Forest Resource Assessment Project. ICIMOD has been working on CC issues and has implemented a REDD+ pilot project in partnership with ANSAB and FECOFUN. DFID jointly with SDC has been assisting in the implementation of a multi-stakeholder forestry program (MSFP) which has a strong REDD+ component. Similarly, the WWF Nepal jointly with CARE Nepal, NTNC and FECOFUN has been implementing a USAID funded HARIYO BAN program which also has a large REDD+ component. These development partners of Nepal play meaningful role in shaping up the national REDD+ implementation framework.

3.2.3. The Non-Government Actors of REDD+

Community²-based REDD+ Actors: Community based local forest managers engaged in protection, and use of CFs, BZ-CFs, CoF, CAs, leasehold and religious forests are the key actors of REDD+ in Nepal. They are formally recognized forest managing entities (collaborative forestry excluded) engaged in managing over 32% of Nepal's forests. In CF alone over 18,000 user groups are managing 29.2% of Nepal's forests.

Federations, CSOs and NGO Actors

Many I/NGOs, CSOs and federations including the federation of community forest user groups Nepal (FECOFUN) became active since the operationalization of CBFM in Nepal. Most of these entities intend to enhance the knowledge and capacity of CBFM practitioners and assist them safeguard their interests, concerns and rights through policy advocacy. Given the commendable work many such entities have been doing since last two decades, they also have a stake in REDD+ and they must be recognized as actors. It is not possible to mention all such actors however the matrix below provides a brief outline of key actors.

² "Community" in this document is interpreted in its broadest sense to include all casts, ethnicity and groups of indigenous people living in any single helmet of a village, with their traditional and/or indigenous rights to all and/or different parts of their forest and forest lands. They become a community for the cause of forest protection and use once they form a user group together and get involved in community-based forest management under their own institutional arrangement.

Table 2: Non-government Actors of REDD+

Actor	Focus/Coverage	Aim/Objective
FECOFUN (established 1995)	<ul style="list-style-type: none"> A nation-wide network of CFUGs to strengthen their role in forestry sector policy making process Membership of above 8.5 million Claims to have become a social movement in Nepal 	To develop means of livelihoods and generate opportunities to reduce poverty through sustainable management of forests through approaches e.g., consensus building, wider people's participation, good governance, empowerment, self-respect and self-reliance.
NEFIN (established 1991)	<p>Nepal Federation of Indigenous Nationalities – a UN working group member</p> <ul style="list-style-type: none"> an autonomous national level umbrella organization of 48 indigenous peoples/nationalities organization 	To safeguard their rights over land, forest resources and carbon as per the ILO 169; They have their plan of work based on their 19 point position paper.
DANAR Nepal (Established 2007)	Dalit Alliance for Natural Resources – an NGO of dalits, women and forest rights activists, represented in national stakeholders forum	<p>To advocate for and secure rights over natural resources e.g., land, water and forests</p> <ul style="list-style-type: none"> Advocates for i) social inclusion and participation of dalits and women in REDD processes, ii) free prior informed consent and rights to decision making, iii) alternative livelihoods options wherever REDD+ threatens the dalit's livelihoods. Calls for effective and equitable implementation of safeguards as per social and environmental standards and improved rights of dalits in Forest Act
NAFAN (Established in 2004)	National Forum for Advocacy Nepal – A common forum of right-based NGOs Focuses on i) CF, ii) REDD forestry and CC and iii) Policy analysis, dialogue and expertise provision	Working for socio-economic development, gender equality, access of under privileged and marginalised communities to natural/environmental resources
HIMAWANTI Nepal	The Himalayan Grassroots Women's NRM Association is an NGO having offices in 33 districts. Focuses on women's capacity and networking for knowledge sharing on NRM policies. HIMAWANTI is a member of REDD+ national stakeholder forum.	To promote solidarity among grassroots women in order to enhance their access to natural resources and benefits accruing from NRM in equitable manner.
ANSAB (Established in 1992)	The Asia Network for Sustainable Agriculture and Bio-resources is an NGO committed to conservation of biodiversity and livelihoods improvement.	It undertakes applied studies for the implementation of innovative and enterprise oriented solution for conservation and sustainable use of bio-resources. ANSAB engaged in a NORAD funded REDD+ pilot project in Nepal jointly with ICIMOD and FECOFUN in three pilot watersheds of Chitwan, Dolakha and Gorkha districts of Nepal. Learning generated from this pilot project is considered extremely useful for participation of community based forest

		managers in Nepal's REDD+. Recently ANSAB has been selected by the World Bank as the regional intermediary organization for the FCPF capacity building program for 2014/15.
Forest Action (established in 2000)	Learning oriented professional CSO actively engaged in influencing public policy process and empowering forest and NRM dependent communities including poor, marginalized and vulnerable groups.	It has been playing an active role since the beginning of REDD+ process through professional contribution in the preparation of R-PP. It is represented in multi-stakeholder forum and RWG.
ACOFUN (established in 2007)	Association of collaborative forestry users, Nepal is active in block forests of Terai and Chure districts.	ACOFUN's objective is to advocate for the rights of distant and excluded forest users in forestry related policies and programs.
National Indigenous Women's Federation (NIWF) Nepal (registered in 2000)	A network of 31 indigenous women's organization strives to ensure the right to participate in all state structures with their distinct identity.	The Network working to Ensure constitutional, legal, political, social, cultural, religious, educational, economic and customary rights of indigenous women are an important stakeholders in National REDD+ implementation
WOCAN/WLC Nepal	Women Organizing for Change in Agriculture and NRM (WOCAN) – WLC Nepal works to build the leadership of women in agriculture and natural resource management for organizational transformation for gender equality through an innovative approach of partnering with motivated professional and rural women.	WOCAN works as a watch dog and provides a knowledge sharing and policy advocacy forum on issues related with safeguarding of women's rights in agriculture and natural resource management in the context of climate change impact.
Forest, Environment Workers' Union		

Other relevant REDD+ actors likely to come forward over the time could be a) Associations of private forestry practitioners, b) Timber and non-timber forest products entrepreneurs and traders, 3) Tourism promoters, 4) Hydropower promoters etc.

3.3 REDD+ Actors Analysis

It is important to understand which of the actors have what kind of stake in Nepal's REDD+. The table below provides a preliminary idea of what are the stakes and interests of different actors and how they could influence the implementation of REDD+ in Nepal.

Table 3: REDD+ Actors' Analysis

Actor's Category	Actor	• Stake	Influence	Interest
Government	MFSC: DFRS, DoF, DNPWC	Promote SFM and Climate mitigation; Carbon enhancement; Strengthening of FMIS and MRV system;	Influences potential funding sources; payment mechanism and carbon market; Reports to UNFCCC;	Retain leadership and control over national REDD+ mechanism; Benefit from REDD+;

	Other Sectoral Line Ministries	Contribution in low carbon development; Emissions removal accounts of their respective sectors;	Policy and Measures (PAMs) to support eliminating drivers of D and D and nation-wide low carbon strategy;	To contribute in green economic development;
Beneficiary Community Groups	Community-based forest managers, CFM groups, Buffer zone communities	Involve in REDD+ actions; Ensure carbon measurement is participatory and locally governed;	Local forest protection and enhancement; Sustained flow of forest products and services;	Ensure maximum possible benefits from carbon payment accrues to them;
NGOs, CSOs, IP Alliance, etc.	FECOFUN, ACOFUN, NEFIN, NAFAN, HIMAWANTI and others	Ensure good governance in favor of IPs, women, forest dependents and disadvantaged in communities;	Capable to advocate on behalf of people and mobilize them and CBOs on REDD + relevant issues;	Retain people's and CBO's trust and confidence with respect to REDD+ related issues of public interest
International Development Agencies	UNDP, DFID, USAID, SDC, ICIMOD, WWF, CARE etc.	Ensure SFM, livelihoods security, poverty alleviation and good governance in REDD+	Capable of influencing policy processes and outcomes;	Maintain the public policy influencing;

3.4 REDD+ Relevant Institutions and Institutional Arrangements

3.4.1 Institutions

Forestry sector institutions from central down to local level have been functional in Nepal since over five decades now. The DoF provides its services to village based CFUGs through its field offices at district and sub-district levels all over the country. DNPWC has its field offices in all PAs under its management, and the CFUGs within CAs and PA buffer zones get technical services from park authorities, CA and BZ committees as appropriate. Community based institutions (e.g., CFUGs, BZCFUGs, CFMUGs and LhFUGs) are established and functional in case of all CBFM regimes wherever they exist in the country.

MoSTE as the designated national authority (DNA) for the UNFCCC was established in 2005. A high level Environment Protection Council (EPA) under the chairmanship of the Prime Minister of Nepal was formally constituted in 1998 which is more or less dormant at this stage. With growing concerns regarding climate mitigation and global initiation of REDD, a high level Nepal Climate Change Council has been established in 2009 in order to i) coordinate and guide the climate change policy formulation and implementation, ii) integrate climate aspects in country's long term development policies, iii) take necessary measures to make climate change a national development agenda, and iv) coordinate for procurement of additional benefit for Nepal from CC related international negotiations and decisions

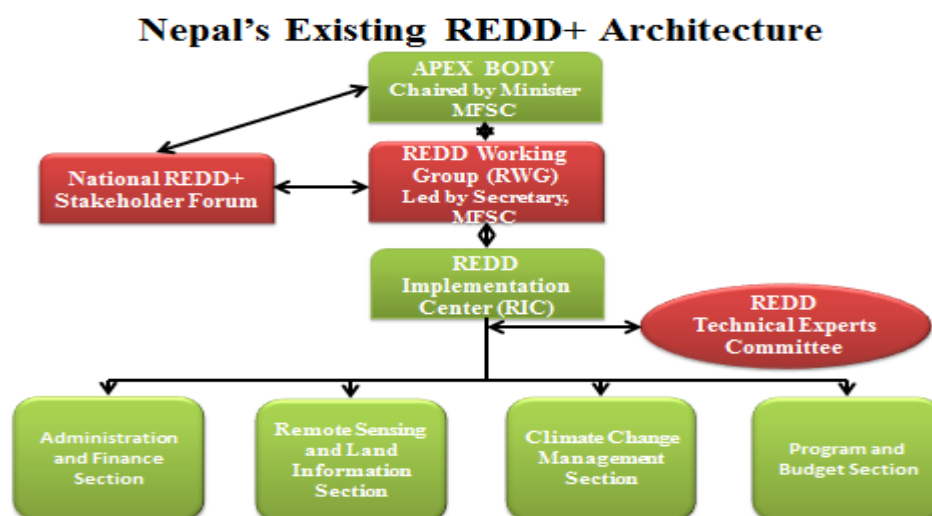
As stipulated in Nepal's R-PP 2010, the DoF jointly with local government bodies e.g. DDCs and VDCs will be responsible for REDD+ actions and sustainable forest management (SFM) in government managed and protected forest (GMF and PF) categories of forests; DNPWC for forests within PAs; and DNPWC together with CA Councils and BZ Committees for forests within CAs and BZ areas. At the district and local levels CBFM institutions with technical support from DFO field staff will undertake REDD+ actions.

DFRS is functional at the central level and is mandated for operationalizing, maintaining, upgrading and strengthening of the national forest information management system (NFIMS) and MRV system crucial for national implementation of REDD+. MFSC has established a multi-stakeholder institution at district level by the name of District Forestry Sector Coordination Committee (DFSCC) to guide and steer effective management of GMF especially in 12 districts where the collaborative forestry program is being implemented.

New institutions have emerged since Nepal's move towards REDD+ readiness preparation. In January 2009, MFSC created a three-tiered institutional structure which comprises:

- A 49-member multi-stakeholder and multi-sector high level “Apex Body” for REDD+ policy steering and coordination chaired by the Forest Minister;
- At operational level, a REDD Working Group (RWG) from within the national REDD+ stakeholder forum chaired by the Forest Secretary; and
- REDD Implementation Centre provides leadership at national level with policy and program development and coordination among stakeholders at multiple levels. This is a formal entity within the MFSC organizational structure presently responsible for the

Figure 2:



Implementation of all program activities associated with REDD readiness preparation in Nepal.

Experience so far in course of REDD+ readiness preparation related program activities reveals that:

- The highest level REDD+ policy steering authority – the Apex Body, a multi-stakeholder institutional arrangement is an informal body, it has too many members (49), it lacks legal recognition crucial for international negotiations/dialogue. Moreover without legal arrangements it is not likely to secure multi-sectoral support and cooperation crucial for effective implementation of REDD+.
- RIC which is mandated to implement the policy decisions of the Apex Body needs more staffing and staff capacity to do so. In RIC, the inclusion of a section for effective social and environmental assessment (SEA) and monitoring functions should also be seriously considered.

3.4.2 Existing Institutional Arrangements

A) Forestry Sector

Policies and legal/institutional frameworks governing the management of lands, forests and water resources are the key institutions relevant to REDD+. This sub-section takes an account of the sector specific REDD+ relevant policies and legal/institutional frameworks.

Existing forest policies and regulations are i) Master Plan for the Forestry Sector, 1989, ii) Revised Forestry Sector Policy, 2000, iii) Forest Act, 1993, iv) Forest Regulations, 1995. More recently the GoN has approved the Forestry Sector Policy 2013 which underscores forest based climate mitigation and REDD+. In order to ensure smooth implementation of policies, acts and regulations, many supportive instruments e.g., strategies, directives, manuals and guidelines have been issued e.g., forest fire management strategy, leasehold forest policy, forest encroachment strategy, CF, CFM and DFSCC formation and operational directives, guidelines for inventory of CFs and for carbon measurement.

Policies and legal/institutional frameworks governing the conservation of ecosystem, biodiversity and genetic resources of Nepal are i) National Parks and Wildlife Conservation (NPWC) Act 1973, ii) NPWC Regulation 1974, iii) Wildlife Reserve Regulation 1974, iv) Buffer zone management regulation 1995, v) CA management regulation 1996 and vi) CA government management regulation 2000, vii) National Wetland Policy, 2012. Viii) National Biodiversity Strategy and Action Plan 2014. Additionally, a) PA specific regulations have been enacted for in case of Chitwan, Khaptad, Bardia and Kanchenjunga; b) Procedures of wildlife farming, breeding and research, for handing over the PA land for infrastructure development and directives for compensation for damage due to wildlife etc. have also been issued.

Also promulgated is the soil and watershed conservation act 1982 which remained unimplemented until recently. There exist NTFPs development policy, 2004 supplemented by guidelines for NTFPs based industries 2005, resin collection directives 2007, forest products collection and sales directives, 2000 and forest products auction procedure directives 2003.

A relatively comprehensive list of forestry sector policies and legal/institutional frameworks indicates that each of these emerged in response to felt needs. However, whether the people who get impacted by or impact on these policies were consulted in course of these policy formulation is questionable. In general Nepal's forest policies tend to be more holistic and embrace integrated approach to addressing issues associated with conservation of forest ecosystems and contributing in livelihoods improvements following an adaptive forest management approach. However, the relevant forest and NPWC acts and regulations have broadly failed to capture the "people-centric" development focus of the forest policy, and have become rather strict and with strong enforcement mechanisms. For instance, the forest nationalization act 1957 failed to recognise the traditional collective land/forest rights of indigenous/ethnic communities under different land use systems (e.g., Kipat system in eastern hills and Kharka system in western hills).

Forest carbon as an ecosystem service or product is yet to be included in the forestry sector policy and legal frameworks and accordingly the carbon ownership rights will need to be clarified in order to facilitate the implementation of REDD+.

B) Other REDD Relevant Sectors

Land, forest, mining, agriculture, water resources, energy, local development, physical infrastructure, mining and many other sectors have close inter-dependence. However, most of these sectors have often failed to internalize such inter-dependence in their sectoral policies and working strategies. Consequently, it has resulted in contradictory policy and overlapping jurisdictional provisions with respect to the protection of forests and associated natural resources. Forestry sector has sustained such a situation due to contradictory policy and institutional provisions of particularly the local development, infrastructure, water resources, energy and mining sectors. For instance,

- National Land Use Policy 2012, Land Acquisition Act 1977, Land Reform Act 1964 and Guthi Corporation Act 1976 are the key land related policy documents. They recognize the forest land use, but lands remaining unclaimed within any other land use category are often recorded under the forest land use with no regard as such to whether there exists any tree/forest on that land. Such lands could be river beds, steep hill slopes, fallow lands, and snow covered areas etc.
- Water Resources Act, 1993 provides legal arrangements for determining beneficial uses of water preventing social, environmental and other hazardous effects. Section 16 of the

act provides for land acquisition for the project. Water resources strategy, 2002 provides especially for disaster management and environment, water supply, irrigation, hydropower and other economic activities e.g., industry, tourism, fisheries and navigation. It however, does not provide for possible overlaps with forest land use and approaches to tackle such overlaps.

- Local Self-Governance Act (LSGA), 1999 provides ownership of all local forests to the local government bodies and authorizes the VDCs, municipalities and DDCs to sell forest resources within their boundaries to generate income. This provision contradicts with forest act and regulations. Consequently, the fertile lands of downstream terai are increasingly getting transformed in to river sands due to heavy and indiscriminate digging of river beds for construction materials (boulders, pebbles, sands) along the river systems especially in Churia region. Although mandatory legal provisions exist for initial environmental examination (IEE) prior to such activities.
- Mines and Minerals Act 1985 - clause 3 stipulates that “All minerals lying or discovered on the surface or underground in any land belonging to an individual or the government within Nepal shall be the property of the Government of Nepal”. Forest lands are the property of GoN even when they are handed over to communities for forest management with joint jurisdiction of DoF and relevant communities. The provision in the mines and minerals act fails to recognize this joint jurisdictional authority over community managed forest lands since it does not have provisions for safeguarding the forest use rights of local forest management entities under such circumstances.

PART 2

4 KEY ISSUES SURROUNDING THE REDD+ IMPLEMENTATION FRAMEWORK

This chapter presents an assessment of key issues surrounding the implementation of REDD+ in Nepal. A detailed review of issues such as carbon ownership rights, financing mechanism, revenue and benefit sharing, feasibility of the hybrid approach to implementation and the national REDD+/carbon registry has been undertaken separately in the form of issue papers (refer to annexes 2, 3, 4, 5 and 6). This section builds on the conclusions drawn in those issue papers and further analyses some additional issues associated with the REDD+ implementation framework.

4.1 Forest Tenure

As per Nepal's R-PP (2010), "A key principle is that carbon rights should be linked to land and forest tenure rights to minimize complexities and there will be a less direct link between forest management responsibility and the potential benefits from carbon trading....."

Forest Tenure Issues under Nepal's different forest management regimes that are likely to have an implication on REDD+ implementation, are discussed as follows:

1) Status of forest tenure in CBFM Category

- **In CF:** i) Forest tenure is secured but for how long? - is not clarified in legal terms. It is rather hooked up with the period for which CF operational plans (OPs) are approved. CF-OPs are approved normally for 5 to 10 years with provision of extension; ii) Elite dominance and control constrain full and equitable realization of Forest tenure by women, poor, dalits, and indigenous/ethnic groups in the communities; iii) Full realization of forest tenure is controlled/constrained by the government by imposing restrictions on clear felling, annual allowable cut and on certain expenses; iv) Tax is imposed on collective rights holder institutions despite the legally provided guarantee of 100% benefit; v) The government retains the right to revoke the forest tenure.
- **In LhF:** collective forest tenure period is fixed at 40 years, rest remaining the same as in case of CF.
- **In Religious forests:** i) Forest tenure remains secured and for unlimited period, but sale of forest products for commercial purposes is restricted; the government retains the right to revoke forest tenure.
- **In Collaborative Forestry** i) Forest tenure is unlimited, ii) Forest tenure holders get 50% of the benefit, remaining 50% going to the government; iii) District Forest Coordination

Committee (DFCC) coordinates the management planning and decisions in the interest and benefit of tenure holders, and local and national government agencies; iv) CoF as a CBFM regime, and the forest tenure made under this regime remains unrecognised in legal terms by the Forest Act, 1993; The government retains the right to revoke the forest tenure.

- ***In BZ-CF***: collective forest tenure is secured for unlimited period, including an additional 30 – 50% of revenue generated from PA. However, sale of forest products to outsiders is prohibited. CF management right is guaranteed to the extent that it is in line with and supportive to the BZ management plan prepared by the BZ council in technical guidance and approval of the PA authorities. Right to revoke the forest tenure rests with the government.
- ***In CAs***: collective forest tenure is secured for unlimited period, but the management plan is prepared in consultation with the community representatives only and approved by the government. Right to revoke the forest tenure rests with the government.

2) Status of forest tenure in “government managed forests” category,

- ***Protected Forests***: Protected Forest Councils have been constituted, however, local people’s access and use rights within these forests are yet to be defined in legal terms.
- ***Government managed forests***: State has 100% land and forest tenure, however, local people’s access to forest and their collection of basic forestry products for household consumption e.g., fuel wood, fodder, NTFPs etc. is generally unrestricted. For commercial purposes however, the license/permit holders’ access and forest products harvesting is regulated.
- ***NPs/WRs***: All kinds of access and use is strictly prohibited, however, particular areas within NPs/WRs are opened seasonally every year for a defined period for local people to collect thatch grass.

3) **Insecurity of forest tenure** (access, use, benefit and management rights) is apparent in case of afore-mentioned CBFM regimes. However, as per the Forest Act, 1993 (article 68) the government has legal authority to acquire full or part of such forests and release for priority national plans as and when deemed necessary . Insecurity of forest tenure is induced through this legal provision which often becomes apparent owing to the occasionally issued executive orders that contradict and go against the policy and legal provisions and curtail the rights of forest tenure holders.

4) **Vulnerability with regard to full realisation of forest tenure for women, poor, dalits and indigenous people** sustains since these rights holders are not able to fully realize their forest tenure owing basically to the persistence of *intra-community inequality and inequity*. *Social discrimination and exclusion based on caste, class, gender and ethnicity* has thrived since

Nepali society is hierarchically structured and remarkably differentiated. Consequently, elite dominance and intentional negligence of the voice of these groups of people has fostered inequality and inequity in participation and decision-making process.

- 5) **Weak governance** is reflected in the institutional inability of relevant government entities to enforce law. Governance remains weak due to the conflicting claims over forest lands and products and intentional violation of legal provisions by political elites and powerful government authorities under the cover of security and social welfare.

4.2 Carbon Ownership Rights

Carbon which is potentially or actually sequestered is an intangible resource (IUCN, 2009) and hence, needs to be treated as an *intangible product of forest ecosystem services*. No single operational definition of carbon ownership rights is available at international scale. Carbon ownership right is subject to different interpretations, and is likely to differ in different legal contexts. Creating ownership over carbon therefore, poses some regulatory challenges, as is the case in Nepal where forest lands and associated natural resources remain in public (government) domain unless legally defined.

Carbon could be considered either as a new form of property or in the form of a derivative right associated with its trading since it creates new markets and funds. Carbon as a property would need to be defined as to what exactly is being owned – i) sequestered carbon (regulated by forest use rights); ii) carbon sequestration potential (regulated by forest management rights); and/or iii) carbon sinks (regulated by forest land ownership). Carbon as property gets complicated here since it is associated with forest, tree and land ownership and/or the rights to manage these resources.

As derivative rights, the ownership of sequestered carbon makes sense only when it gets commoditized either through getting integrated in national/international emission trading regimes or getting monetized through funds based approaches. This further indicates that the rules governing emissions trading will influence these derivative rights and therefore, will have implications for carbon rights. For instance, non-state actors and especially indigenous people's communities have secured procedural and substantive rights over forest through international laws and treaties. Cancun REDD+ agreement emphasizes on recognizing the rights of indigenous peoples and local communities.

In approaches to REDD+ where title of carbon rights are relevant at local level, there could be two major options for establishing carbon ownership rights:

- 1) The first major option is a simple ownership over the sequestered carbon under which the carbon ownership and rights to sequestration potential are linked with land and forest ownership. This provides a flexibility of defining carbon as a natural resource and ecosystem service facilitating clarification on who owns carbon credits associated with REDD+.

Corbera et al. (2011) however, argue that where land ownership and carbon ownership rights coincide, landowners would see the economic value of their forests increase and would potentially be able to access a new financial asset to complement (or substitute) existing income streams. On the contrary, if carbon is considered a public/state controlled commodity, the long-term commitment that the generation of REDD+ credits implies will irremediably affect landowners' land use options. In this case, REDD+ incentives may not reach or reach only partially and indirectly, through governmental programs to rural actors. This will further have negative implication on the welfare of the most disadvantaged who live within or next to forested areas, such as indigenous communities and forest-dependent villages and dwellers. Moreover, the state, not the particular landowners would be held responsible for carbon losses before the international community.

- 2) The second major option is usufruct rights over the land and forest that contain carbon. This option enables the local managers and users of the forests not having forest land ownership, to claim their carbon rights and benefit from it as long as the property (forest) is not damaged. This option is workable on private as well as public lands. Under this option, the owner of the carbon sequestration potential could be different from the owner of the carbon sink, who might also be different from the owner of the sequestered carbon.

Corbera *et al.*, (2011) suggest that governments could consider carbon as no different from other resources such as trees or non-timber forest products. In this way, carbon would become an asset for actors holding long-term usufruct rights in public forests, for communities holding collective titles and for private forest owners. In this case, carbon can be considered a state or public property (resource) only in those forests that are directly and uniquely administered by the state. Forest tenure and carbon rights would thus become intrinsically linked to each other, and a multiplicity of systems for realizing the value of carbon may evolve across geographical and administrative scales. This provides the most appropriate scenario for Nepal where 1) most forest lands are in public domain; 2) government entities are entrusted to protect and manage national forests not formally handed over under any CBFM regime; and 3) communities all over the country are entrusted to protect, manage and use the forests that they have traditionally used and that have been formally handed over to them with legally defined collective forest tenure.

4.3 Revenue and Benefit Sharing Mechanism

“Benefits” in REDD+ could be termed as “the transformed form of financing”. Once a country will receive such financing, it will have to create incentives and rewards for all relevant domestic stakeholders and rights holders engaged in emissions removal and sustainable forest management (Lutterell et al., 2012). Benefit sharing mechanism forms a central design aspect of REDD+ given the critical role it plays in creating incentives to reduce carbon emissions. Benefits could be in cash, in kind or in terms of capacity enhancement and infrastructural development.

Performance based payments received by a country either under fund based or market based mechanisms is the revenue or gross benefit. The revenue or the gross benefit includes the implementation, transaction and opportunity costs of performance. The actual or net benefit will need to be calculated only after deducting all the associated costs of performance.

The extent to which the access to benefits is conditional upon performance will depend upon i) type of performance expected, ii) type of funding being delivered, and iii) the design of the benefit distribution mechanism. The design of the benefit distribution mechanism, in turn, will partially depend on the existing *de jure* and *de facto* land/forest tenure situation (USAID, 2012).

Lutterell et al., (2013) have mentioned six rationales to justify those who should benefit from REDD+. These are i) legal rights, ii) emissions reduction, iii) stewardship, iv) cost compensation, v) facilitation and, vi) pro-poor rationales. In a country context however, the three fundamental bases for who should benefit from REDD+ are a) objective of REDD+, b) objective of benefit sharing and c) what constitutes benefit.

Some key determinants of benefit sharing mechanism are a) the stakeholders of benefits, b) carbon ownership rights, c) carbon accounting and reporting mechanism, d) financing mechanism, and e) linkage between revenues and associated costs. The determinants b, c, d and e have been analysed in four working papers annexed with this report.

As regards the stakeholders of benefits, the three main stakeholder categories of Nepal's REDD+ benefits are 1) community based entities involved in managing forests in case of all CBFM regimes, 2) the government at national, subnational and local levels engaged in sustainable forest management and 3) the private forest owners engaged in managing forests on their private property. Nepal's REDD+ institutional mechanism envisages the engagement of multi-stakeholder bodies comprising relevant NGOs, CSOs, IP alliance and federations, academia and private sector representatives. The benefit sharing mechanism might also consider allocating funds to cover a reasonable cost for the engagement of these multi-stakeholder bodies as the fourth stakeholder category of REDD+ benefits.

At national and subnational levels, the government will be required to implement policies and measures (PAMs), cover up the cost of implementation and strengthen the institutional and MRV capacity. The government would need to allocate funds for this purpose through different sectors and at multiple levels using the share of the incentives allocated to it. Local CBFM entities will be obliged to strengthen the SFM and address poverty and livelihoods issues from the share of benefits allocated to them.

For stakeholders to support REDD+, the legitimacy of benefit related decision-making mechanism and institutions, consideration of context, and attention to processes are critical. Ensuring legitimacy of benefit sharing requires attention to fair distributional outcomes, and consensus on relevant entities' authority to make decisions including the procedural equity.

Lessons learned from abroad

Lessons from “The Amazon Fund” in Brazil reveal that minimal government intervention, transparency and accountability are critical for legitimate benefit sharing mechanism. Equally important is the provision of independent monitoring and auditing of financial transactions. And these could be ensured by operationalizing multi-stakeholder governance structure for financing and benefit sharing mechanism.

In case of Indonesia, REDD+ revenue distribution is linked with the management/use rights over a particular forest regime with a share to government and to the developer. Hence, in case of protected areas, government would receive 50% while communities will get 20% and the developer will get 30%. However, in case of community forests, the community and the developer will get 50 and 30% respectively whereas the government will get 20%. Moreover, out of the total share received by the government, 40% is retained by the central government, 20% is provided to the state/provincial and 40% to the district government.

In Vietnam, the benefit sharing mechanism has three distinct types e.g., i) an Inter-governmental budgetary support – which is transferred from central down to provincial level that further is transferred to district and local level as program support or performance based support to sub-national level for environmental conservation, ii) a targeted funds support outside fiscal regulation - which is largely dependent on administrative discretion, and iii) the sub-national governments have autonomy to participate in development projects and raise tax from them for the environmental conservation.

Lessons from within Nepal

Benefit sharing mechanism in practice under the PA management system reveals that 30-50% of revenue received from the government by the buffer zone committee is allocated for conservation activities (30%), community development (30%), income generation activities (20%) and conservation education (10%), leaving 10% as administrative cost of the BZ committee. BZ committee follows a participatory planning process and allocates these funds to BZ user groups against their approved annual conservation and development plan in a transparent and equitable manner.

A second example is the benefit distribution in Melamchi hydropower under which the eight VDCs located upstream of the dam site receive 12% of the 20% of total revenue allocated by the Nepal Electricity Authority (NEA) to the Makwanpur DDC. This is a kind of payment for environmental services made to the upstream VDC communities but it has so far not been invested in the meaningful protection of the watershed.

Lesson from the NORAD funded REDD+ pilot project in Nepal confirms the need and significance of multi-stakeholder governance arrangement in payment mechanism at local forest management unit (watersheds were the FMUs in this project) level. It also reveals that in Nepal's context, benefit distribution should follow a differentiated payment approach and consider social variables in addition to carbon storage/sequestration in order to ensure that REDD+ benefits is realized by marginalized groups and that remains free from elite capture. This pilot project demonstrates that i) procedural equity is crucial which can be institutionalised through a multi-stakeholder entity at forest management unit (FMU) level; ii) distributional equity can be achieved through giving weightage to not only the performance but also to specific groups of people who suffer most due to REDD+ actions meaning social and pro-poor inclination.

4.4 Governance

Governance in forestry is concerned with the norms, processes, instruments, people, and organizations that control how people interact with forests. Governance has been one of the biggest concerns for effective implementation of REDD (Robedo et al. 2008). Key features of good forest governance as per the governance diagnostic tool (used by PROFOR in Liberia for forest governance assessment) include 1) adherence to the rule of law; 2) transparency and low levels of corruption; 3) stakeholder inputs in decision making, 4) accountability of all officials, 5) low regulatory burden, and 6) political stability (Nalin, K. and K. Rosenbaum, PROFOR, 2012). An indicative assessment of the status of forest governance situation in Nepal using similar parameters reveals that:

- Status of adherence to rule of law remains very poor in Nepal due primarily to continued political instability, socio-cultural evils and civil frustration;
- Forest sector sustains inadequate human resources, relatively low human resource capacity, inadequate annual resource allocation and inefficient functioning mechanism – all adding up to poor performance of forestry institutions to maintain rule of law;
- There is absence of responsive and decentralized government structure; Meaningful coordination among different levels of government and among sectors impacting on and/or impacted by land, forests and natural resources does not exist. Neither can be found an effective conflict management mechanism to tackle the potential conflict.
- There is a widely held attitude of *using information as power* in individual interest constraining the desired level of transparency even while the legal/institutional mechanism is in place to safeguard the rights to information and transparency (right to information, citizen charter etc.)
- Corruption remains unabated. The government's efforts to checking it have yet to be meaningfully effective.

- Government agencies formulate development policies that have implications on general public's welfare without adequate engagement of people and their institutions. There is little public consultation, if at all, with people's representatives. Organizing stakeholder and public consultations on policy matters and engaging those impacted by government policies in policy making process rarely exists in its real sense.
- Legacy of upward accountability continues. Office bearers in civil service and civil society organisations often remain answerable to their higher authorities rather than to the people whom they are supposed to serve;
- There exist too many policies and legal institutional arrangements in each development sector. Most of these policy and legal instruments are fairly complicated and difficult for general people to understand/interpret. Little or no harmony can be found among different sector's policies and legal instruments. The policy and regulatory environment in general is subject to multiple perspectives of interpretations, and consequently creates higher regulatory burden.

Springate-Baginski and Wollenberg (2010) have underscored key governance issues to be addressed as REDD+ initiatives get under way. These include:

- 1) How the balance of incentives, benefits, rights and political participation across interest groups, and different levels of decision making and administration can assure local benefits to forest communities?
- 2) How incentives can go beyond providing compensation to be actively pro-poor? How can REDD+ also guard against harm to forest communities? Incentives and co-benefits need to be weighted by the level of risks to forest communities. Risk analysis should consider capture of benefits by elites, market pressures, changes in cultural values related to conservation and risks that marginalized groups become more marginalized.
- 3) How can **'breathing space' for local livelihoods** be created for forest communities to maintain aspects of their forest-dependent livelihoods if they need or choose to do so?
- 4) How can governance structures and processes **ensure local rights** to carbon, forest and land, and adherence to the principle of free, prior and informed consent?
- 5) What are the roles of local government and what institutional arrangements would **facilitate meaningful political participation** by local indigenous groups and communities?
- 6) What constitutes **'good enough'** REDD governance to reduce deforestation and forest degradation? How should REDD governance differ from forest governance?

- 7) What kinds of checks and balances need to be put in place across levels of governance and amongst different interest groups to **ensure that marginalized groups have a say** in the REDD decisions that affect them?

Achieving ‘good forest governance’ for REDD+ is an ambitious agenda that involves a range of issues, including the use of institutions, structures of authority and even collaboration to allocate resources and coordinate or control activity in society or the economy (Bell 2002). It requires

- Recognition and enforcement of forest, land or carbon rights, including those of indigenous groups;
- Inclusion, participation and influence of forest communities and civil society in policy processes, institutional arrangements and setting management priorities;
- Effective, transparent and accountable forest management practices, and third party verification and scientific advisory groups to provide technical input;
- Effective, fair and proportionate enforcement and sanctions for illegal activities (including corruption);
- Responsive decentralized government, coordination between local and higher levels of government, inter-sectoral coordination, checks and balances to prevent domination by any one level or branch of government; and
- Mechanisms for managing conflict effectively.

As per the opinions of the experts engaged in the forest governance learning group Asia, a poorly designed and implemented REDD+ mechanism is likely to lead to a backlash against CF. REDD may catalyse conflict escalation between communities and government. Where land use rights are not safeguarded and if local communities are not engaged in REDD+, governments may be tempted to reconsolidate control over previously devolved forests. The learning group has suggested that bottom up approach and participation in decision making, office bearers’ and civil servant’s accountability towards people and law enforcement should be strengthened to achieve effective governance in REDD+. Additionally,

- Well validated and simplified information should flow in a transparent manner so as to eliminate the potential confusion likely due to contradictory information flow;
- Conservation oriented forest management should by no means undermine the basic forest needs of forest dependent people;

- All inclusive multi-stakeholder council must be created and engaged in all steps of REDD+ including policy, planning and execution and special care must be taken to ensure that local people's rights over the forest is safeguarded;

In conclusion, it is evident that governance is associated with attitude and efforts to establishing good governance will require commitment from all stakeholders and rights holders of REDD+ at multiple levels including government, civil society and community groups. So no prescription can be provided for achieving good governance. It should rather be tackled through appropriate institutional arrangements for checks and balances in course of the execution of respective actors' roles, responsibilities and right and duties.

4.5 Partnerships

Partnership is crucial for meaningful co-operation, coordination and harmonized approach to working jointly on issues of common concern. Land and nature based resources hold multi-level and multi-sector stakes and therefore, their management in isolation does not provide sustainable solution. The significance of partnership for sustainable forestry was realized in early 1970's which evolved in the form of community forestry and became successful to a larger extent. Presently, other forms of community based forestry e.g., LhF, CoF, BZ-CF and CA management are in practice. Yet deforestation and forest degradation continues and is indicative of shortfalls in partnerships. Often the inability to visualize common concern over the resources and the potential sustainable outcomes/benefits of working in partnerships has been at the crux of the issue of partnerships in Nepal. Studies relating to underlying causes of continued deforestation and forest degradation in Nepal reveal that many such causes lie outside the remit of forestry sector and could be effectively addressed through appropriate partnerships. Partnership issues are within and between the sectors and at multiple levels as explained in following points:

Within forestry sector: Despite the existing mechanism of coordinated/joint planning between within-the-sector departments, one rarely finds successful examples of operational level partnerships between forest, soil conservation, wildlife and plant resources departments.

Between the sectors: Sector specific line ministries have rarely been able to pre-empt the potential negative impact of their sector focused development on other interfacing sectors. Consequently, no single sector has been able to contribute in the overall sustainable economic development. National Planning Commission (NPC) mandated to facilitate inter-sectoral coordination and promote partnerships between line ministries concerned with natural resources, environment and overall economic development has largely failed to do so due to various reasons. As of to-date, one finds conflicting policies and contradicting legal provisions with overlapping jurisdictions over the resources.

Within central and local government agencies: Within the framework of a bottom-up approach to development planning, each district level line agency needs to justify its sector

specific activities at local/district level and get approved from the DDC general assembly. DDCs as the district level government have however not been able to coordinate and promote harmony in planning and foster operational level partnership between relevant sectoral agencies and demonstrate sustainable outcomes. The underlying reasons are i) unwillingness of district government bodies and central level line agencies to work jointly, ii) inter-sectoral divergences in institutional and implementation modalities, iii) People's elected representatives in VDCs and DDCs have limited development based knowledge and attitude, iv) there is a wide held belief among them that government line agencies are responsible for development.

4.6 Legal

Legal issues are visible in forestry and other REDD+ relevant sectors as touched upon in sub-section 3.4.2 B existing institutional arrangement and 4.1 forest tenure. Five discussion papers also elaborate on the legal/institutional issues associated with the implementation of REDD+ in Nepal. Key issues related with legal aspects of REDD+ implementation are as follows:

In the forestry sector,

- The customary collective land/forest rights of IPs that existed prior to forest nationalization back in 1957 remained unrecognized in forestry sector legislations;
- Forest tenure/usufruct rights in case of CF recognized under the existing forestry sector legislation is legally insecure;
- Collaborative forestry regime and modalities associated with this regime remains formally unrecognized under the existing forest act and regulations
- Rights of women, IPs, poor and disadvantaged to fully realize their forest tenure is not safeguarded and the existing arrangements to avoid elite dominance is ineffective;

Moreover,

- Policy and legal/institutional frameworks of sectors e.g., local self-governance, land use, energy, and mining etc. have conflicting provisions that create jurisdictional overlaps over forests and forest lands;
- Law enforcement in forestry sector is poor and inefficient primarily due to inadequate HR and facilities in the field further manifested by low HR capacity, inadequate funds and physical facilities. At the policy-makers' level, forestry is regarded more as a resource and revenue holding sector rather than a sector enabling sustainable economic growth and development. This can be evidenced from persistent i) government decisions enabling conversion from forest land use to other land uses; ii) haphazard construction of rural roads from within the forests in hills and mountains against the existing forestry and environmental

regulations, iii) inadequate funds allocation to forestry sector compared to what this sector provides in return for sustainable economic growth and environmental integrity.

In the context of REDD+ implementation,

- Existing legal frameworks of the forestry sector do not recognize forest carbon and neither do they clarify the carbon ownership rights;
- Climate Change Policy 2011 (article 8.2.3) elaborates on the scope of climate mitigation through REDD+ and article 8.3.2 provides for carbon trade through CDM. It may be considered appropriate to include REDD+ with regard to carbon trade.
- New entities e.g., REDD+/carbon payment authority and National REDD+/carbon registry need to be defined and provisioned in legal terms to operationalize them; Legal/institutional frameworks will be required to establish and operationalize these entities.
- Roles, responsibilities and accountabilities of existing forestry sector entities needs to be revisited, reviewed, refined and adjusted in legal terms to enable them engage in the implementation of REDD+;
- The organisational structure and functions of the forestry sector needs to be reviewed in the context of changing roles of forestry sector stakeholders and changing development environment of the country. The role of forestry sector in forest based climate mitigation e.g., REDD+ and payment for environmental services demands improvements in institutional structures and mechanisms.

5. NATIONAL REDD+ IMPLEMENTATION FRAMEWORK PROPOSAL

This chapter builds on the assessment and analysis presented in chapters 1 to 4 and proposes an implementation framework for Nepal's REDD+. It provides an institutional structure and mechanism for interaction among entities with respect to flow of information and incentives. Moreover, it details out the indicative roles and responsibilities of entities within the institutional structure which of course will need to be refined as the lessons are learned through learning by doing.

5.1 National Institutional Structure

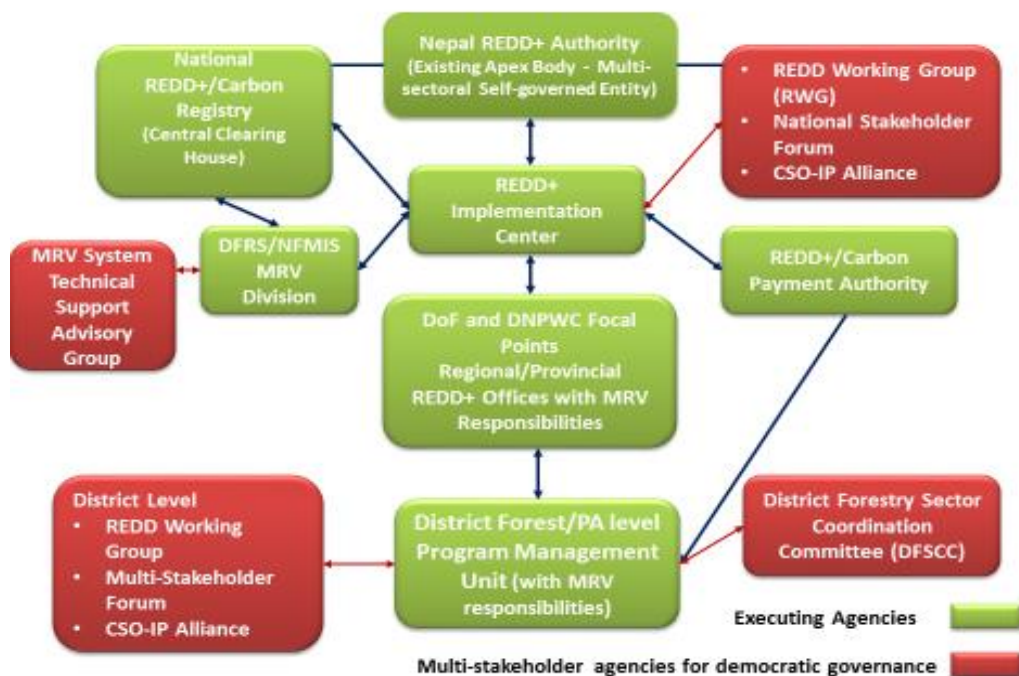
In order to ensure effective, efficient and democratically governed REDD+ implementation, the design of the REDD+ institutional structure builds on:

- Making best use of existing institutional structure to the best possible extent;

- Engaging multi-stakeholders at different levels and enabling them effectively participate in, contribute to and benefit from REDD+ implementation;
- Ensuring fair representation of CSOs, CBFM groups including women, IPs, poor and dalits within them at appropriate levels and enhancing their capacities;
- Ensuring that local stakeholders and forest managers in all forest management regimes (CF, CoFM, government managed forests, protection forests, and PAs) participate and engage in field based monitoring;
- Ensuring that REDD relevant data is generated through periodic monitoring of forests, through a tested and institutionalized internal verification system and simplified information on measurement and reporting is readily available at all levels and to all actors;

A three-tier REDD+ institutional structure for Nepal is proposed (Figure 3 and 4) as it fits well with the existing forestry sector institutional set up and holds potentiality of getting adjusted with the anticipated three tier governance structure of yet to be emerging federal Nepal. The proposed structure is in line with the institutional structure proposed under the MRV study report and the draft National REDD+ strategy draft report.

Figure 3: Proposed National Institutional Structure of REDD+

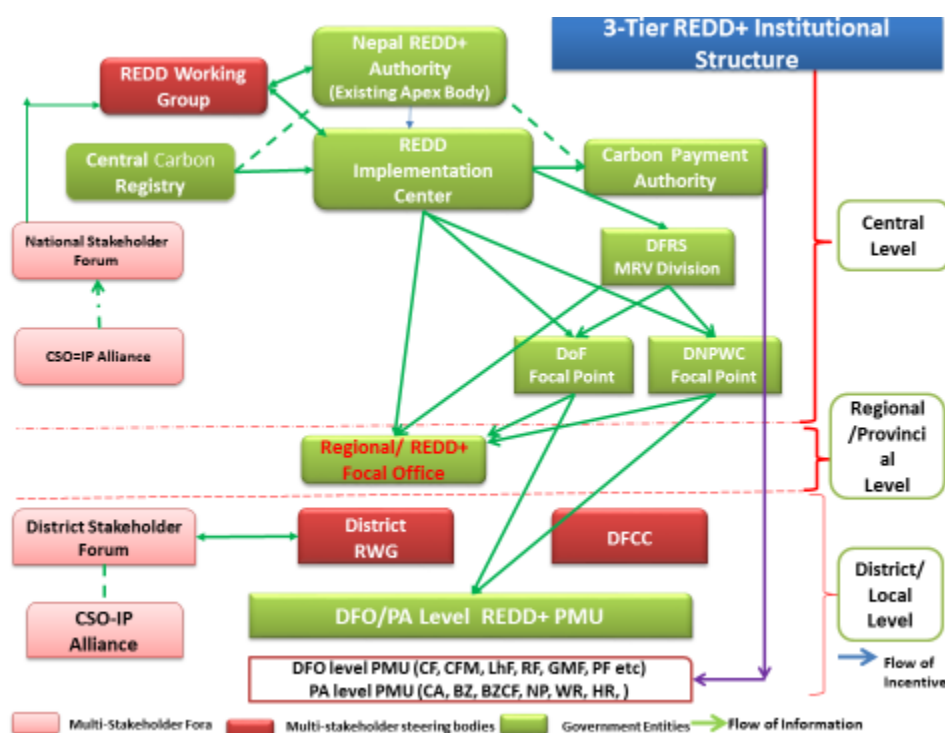


All entities functional under different CBFM regimes as per the Forest and NPWC Acts are maintained within the proposed institutional structure. The institutional structure for the REDD

readiness preparation created in the MFSC including entities within it e.g., the national stakeholder forum, CSO-IP Alliance, REDD Working Group (RWG) and the REDD Implementation Center (RIC) have been maintained under the proposed institutional structure. Improvements have however, been suggested in case of the highest level policy making Apex Body and it is proposed that given its crucial role at national and international REDD+ policy arena, it be transformed and restructured as “Nepal REDD+ Authority” with legal mandate and formal multi-stakeholder governance structure and functional mechanism.

In order to ensure multi-level engagement of multi-stakeholders in the implementation of REDD+, new entities e.g., district level CSO-IP Alliance, stakeholder forum, REDD working group and REDD Network at forest management unit (FMU) level tested under the NORAD funded REDD pilot project have been proposed.

Figure 4: Proposed 3-Tier National REDD+ Institutional Structure



Presently, a District Forestry Sector Coordination Committee (DFSCC) has been established in districts where the collaborative forestry is being implemented. It seems that the mandate of DFSCC will overlap with that of the district level RWG. It is therefore, suggested that in districts where CoF is practiced, the district level RWG be given the responsibility of DFSCC adjusting the membership of RWG as appropriate.

For the implementation of REDD+ policy and measures (PAMs) and programs including emission reduction programs (ERPs) the establishment of new entities at the central level e.g., 1)

a Nepal REDD+ Authority (which will be a restructured form of existing Apex Body with legal recognition and formally recognized operational rules), 2) an independent central REDD+/carbon Registry and a REDD+/carbon Payment Authority is proposed. The registry and the payment authority will be outside the formal organizational structure of MFSC however, they will be operational within the overall policy guidance and coordination of Nepal REDD+ Authority. They will be governed by independent boards of directors formed from among the selected members of REDD+ multi-stakeholders. The services of these entities will be available to the forestry sector as well as to other development sectors engaged in implementing Nepal's low carbon development strategy and REDD strategy through PAMs. The sectors e.g., energy and agriculture could come under the remit of carbon mitigation through their PAMs and programs such as payment for environmental services and get benefited from performance based payments.

As stipulated in Nepal's R-PP, the department of forest research and survey (DFRS) of MFSC will maintain, operationalize, update and strengthen the national forest management information system (NAFMIS) and the MRV system as proposed by the MRV system development project accomplished in course of REDD readiness preparation. The DFRS will undertake the organizational reforms and adjust and procure human resources as proposed in the MRV system report.

At the national level, DoF and DNPWC are the two central level entities responsible for managing Nepal's forest land use. They are working in partnerships with district and local government agencies in case of GMF, PAs, PFs. They are also working with different formally recognized civil society/community based entities that have forest tenure/usufruct rights to protect, manage, use and utilize forests handed over to them under different CBFM regimes. Accordingly, REDD+ Focal points have been proposed in both the departments to deal with REDD related matters within the forest areas of their respective jurisdictions.

Presently, the existing office of the regional director provides guidance, supervision, monitoring and evaluation services including capacity strengthening to all district level forestry sector offices and represents the MFSC in the region. The RD's office is likely to get transformed in to provincial department of forestry sector once the provinces have been created after federalization of the country. In both the circumstances, an entity to oversee the REDD related matters will be required at the regional/provincial level. Accordingly, a regional REDD+ focal office has been proposed at this stage. After the federalization, this REDD+ focal office could be merged into the Provincial departments of forestry sector.

The DFO at the district level and the warden's office at the PA level represent the DoF and DNPWC respectively at the field level. They will need to provide all technical, institutional, capacity and implementation support to REDD+/emission reduction programs/projects (ERPs). Accordingly, a DFO/PA level program/project management unit (PMU) has been proposed in

districts where the REDD+ programs will be implemented. REDD+ programs/projects in such districts will be governed under the multi-stakeholder governance mechanism.

5.2 Major functions of the National REDD+ Architecture and Roles & Responsibilities of Entities including Flow of Information and Incentives

Vatn and Angelsen (2009) inspired by Meridian Institute (2009b) have identified four major functions within a national REDD+ architecture e.g., 1) overall responsibility and coordination, 2) channeling international funding, 3) monitoring and reporting and 4) verification and safeguards. This sub-section builds on the key tasks under each of the four major functions and details out the roles and responsibilities of different entities in the proposed national REDD+ institutional structure.

Major Function 1: Overall Responsibility and Coordination

Entities to undertake this function in the proposed institutional structure are i) Nepal REDD+ Authority, ii) central level RWG and iii) RIC at the national and international level; iv) DoF and DNPWC focal points at the national level; v) regional REDD+ focal office at the regional/provincial level vi) DFO and PA level PMUs at the district and forest management unit levels.

Nepal REDD+ Authority, the inter-ministerial and multi-stakeholder entity having members from NGOs, CSOs and private sector at national level, will be the highest level lead entity for Nepal's REDD+ policy and strategic steering.

The RIC with support from RWG and in close coordination with DoF/DNPWC REDD+ focal points and regional and district level institutions will be the lead executing agency of REDD+ programs as per the policy guidance and decisions of Nepal REDD+ authority. A tentative list of key tasks under this function to be performed by these entities is:

- 1) National REDD+ Strategy development, approval and implementation
- 2) Aligning REDD+ Strategy with low carbon economic development strategy/plan
- 3) Conducting consultations at all levels and with all stakeholders
- 4) Facilitating necessary policy processes to define REDD+ related activities in non-forest sectors and assigning clear sectoral responsibilities
- 5) Defining rights and responsibilities of different levels of government
- 6) Establishing necessary new actors with the capacity and authority to implement the strategy;

- 7) Reviewing and regularly assessing the strategy's implementation and outcomes based on agreed indicators; and
- 8) Participation in the international REDD+ discourse, dialogue, negotiation and agreements
- 9) International REDD+ Reporting to relevant international bodies, or delegating this responsibility to technical agencies.

The Nepal REDD+ Authority will replace the existing Apex body for the highest level policy and coordination functions and will assume the role of lead national entity for all REDD+ related international dialogues, discourse and negotiations.

The existing **Apex body** which is responsible for coordinating at the highest level of stakeholders on REDD based climate mitigation policy issues is a loose institutional arrangement made through a governmental decree. It has a fairly large membership (49 members) from NPC and 11 ministries. Furthermore each ministry appoints three additional members – one each from among its government organizations, CSOs/NGOs and private sector. Given that 11 government stakeholders are engaged, an equal number of membership from CSOs/NGOs and private sectors and one from NPC should make it a 23 membered body which should consider to have a 5 to 7 membered highest level committee of the Nepal REDD+ Authority for its effective functioning. As per the existing arrangement, the Apex Body is chaired by the Minister of MFSC. This seems fine but might not be considered appropriate internationally given that Environment Ministry is the formally recognized designated national authority for the UNFCCC, within the premises of which the international REDD+ mechanism is functional. Moreover, REDD+ is inter-sectoral and multi-stakeholder mechanism by nature and its national leadership should reflect this nature to the extent possible for better coordination and effective implementation. So the other possible options for the leadership of Nepal REDD+ Authority should be considered. Two such options could be the Chief Secretary of the Government of Nepal or the Secretary of the National Planning Commission. This is subject to further discussion and consideration for the government and the MFSC.

The Nepal REDD+ Authority will be legally recognized under the Climate change Policy and National REDD+ Strategy. The authority will develop its rules and regulations for its formation and procurement of membership, further clarify the roles and responsibilities of its members/office bearers and develop its operational modalities to be approved by the Government of Nepal to be the legitimate national level lead entity for REDD+ and forest based climate mitigation policy and programs implementation.

The RWG informed from the CSO-IP alliance and the national stakeholder forum will provide strategic guidance to the RIC and ensure that the policy decisions of the Apex body are executed by the RIC in effective and efficient manner.

The RIC will function as the frontline executing/performing entity of the National REDD+ Authority. It will take lead role in performing the key tasks mentioned in the points above with support and guidance from RWG as per the policy decisions of the Nepal REDD+ Authority, track the progress and report periodically to the RWG and the Authority. RIC will also coordinate with the entities at different levels of governance and guide and assist them in transparent, effective, efficient and equitable implementation of REDD+ program. It will also be responsible for communication and outreach and capacity development of REDD+ stakeholders at all levels. The RIC will be accountable to REDD+ stakeholders at all levels and report its performance to the RWG and Nepal REDD+ Authority.

The regional REDD+ focal office will coordinate with RIC, DoF and DNPWC focal points and MRV division and provide technical, institutional, capacity and administrative support to the district/local level REDD+ PMUs working as a bridge between central and local level entities. It will also take initiatives for enhancing and maintaining the REDD related technical capacity in the region and mobilize the regional training centers to strengthen the institutional and technical capacity of CBFM entities and other stakeholders for implementing REDD+ programs..

The DoF and DNPWC focal points will be responsible for maintaining highest level of coordination with RIC and implementing the REDD+/emission reduction programs/projects. They will coordinate with the Regional REDD+ focal office and provide required technical, capacity and administrative support to their respective DFO/PA PMUs.

The DFO/PA level PMU will be established in districts where REDD+/ER programs/projects will be planned for implementation. RWG will be convened in the program districts and the PMU will have management, MRV, and environmental and social safeguards section to be led by a coordinator who will also be responsible for communication, outreach and capacity development aspects.

Major Function 2: Channeling International Funding

The main entity to undertake this function will be the REDD+/carbon Payment Authority. It will work in coordination with the central carbon registry and RIC at the national level and will be assisted by the DFO/PA level PMUs at local level. A tentative list of key tasks for the Payment Authority under this function will be:

- 1) Disbursing resources to approved REDD+ policies, programs and projects;
- 2) Establishing a system of payments (incentives and compensation) to carbon rights holders – individuals, communities, companies or government agencies – for emission reductions and carbon stock enhancement;
- 3) Securing legitimate benefit sharing, including distribution of potential rents; and

- 4) Establishing a transaction registry for REDD+ payments to comply with international and national standards of transparency, accountability and fiduciary standards;

The REDD+ funding will follow the mechanism of a “separate fund within government administration”. Nepal has been effectively implementing the Poverty Alleviation Fund (PAF). The REDD+/Carbon Payment Authority will be established in accordance with legal procedures followed for the establishment of PAF. However, there will be some significant differences in the formation of its management board. This authority will have board members i) from among the multi-level and multi-sector REDD+ stakeholders, ii) The primary REDD+ rights holders e.g. CBFM entities including their central level representative organizations, iii) DoF, DNPWC, iv) local government bodies including their central level organization and v) private forestry entities will have equitable representation in the board and efforts will be made to achieve a proportionate presence of government and non-government actors in the board, iii) The selected stakeholder categories will follow a set of agreed criteria and select their board member(s) rather than the government nominating such board members.

This authority will have its own regulations for the performance of its functions. The government will just be responsible for the administration of REDD+ fund on behalf of the payment authority. The government under no circumstances will channel the REDD+ funding without the approval of the payment authority and for the purpose other than for which the fund has been procured. The authority will make necessary policies, rules and procedures to ensure payments are made directly to relevant rights holders and the government will channel the funds as per the decisions of the payment authority.

Major Function 3: Monitoring and Reporting

The MRV function of countries will have to be undertaken at national level as per the Cancun Agreement (1/CP.16). Hence the entity responsible for this function will be the MRV division of the DFRS. Key tasks of MRV division will be:

- 1) Developing national standards, in line with international protocols and good practice, to measure changes in forest carbon stocks;
- 2) Establishing or developing an independent national organization with the required capacity to monitor and verify information;
- 3) Coordinating and harmonizing carbon accounting and MRV systems across sectors and scales;
- 4) Establishing non-carbon MRV systems, including social and environmental safeguards;
- 5) Establishing transparent and coordinated systems for managing information, ensuring that all relevant information is publicly available to all stakeholders;

- 6) Reporting to the relevant national and international agencies and providing relevant information to carbon market actors as appropriate;

The MRV full cost proposal (2014) submitted to the RIC has identified i) institutional and ii) technical functions of the MRV system, under which the specific tasks to be performed will be:

Institutional functions

- Developing protocols and operationalizing technical units to gather/acquire and analyze the data related to forest carbon at national, sub-national and local levels (measurement and monitoring)
- Establishing and operationalizing a unit responsible for collection of relevant data in central database for national estimates and international reporting as specified in IPCC GPG including uncertainty assessment and improvement plans (reporting);
- Detailing out the measurement parameters for co-benefits, social and environmental safeguards and other monitoring parameters including roles and responsibilities at different levels of the system;
- Establishing an independent framework for verifying the long-term effectiveness of REDD+ actions at multiple levels and by different actors (verification).

Technical functions

- Measuring the changes in forest carbon stock at national level;
- Evaluating the progress/performance of the country's national REDD+ strategy
- Monitoring the periodic change in forest carbon stock and reporting; and
- Monitoring the changes in forest carbon stock at a scale equivalent to where the payment is liable (e.g., payment at sub-national/project level and/or to a community engaged in REDD+ strategy implementation)

Both the institutional and technical functions is suggested to be harmonized between national and sub-national levels in an effective and innovative nested approach so as to ensure meaningful engagement of Nepal's CBFM entities in implementation of REDD+.

The DFRS/MRV division will make necessary institutional and technical improvements as proposed in the MRV full cost proposal and make adjustments in the HR procurement and allocation to operationalize, manage, maintain and strengthen the MRV system.

A MRV System Technical Support/Advisory Committee will be formed to support for research, technology and capacity development including the institutional strengthening of M and MRV system. It will help maintain transparency in the functioning of M and MRV at national level and ensure that the perspectives of relevant MRV stakeholders and forest managers are captured in course of management, maintenance and strengthening of the MRV system.

Participatory forest carbon measurement and monitoring will be practiced in case of all CBFM units of REDD+. A partnership approach is also likely between local and central government agencies in case of GMF categories. A pool of trainers will be created and maintained at the regional/provincial level to strengthen the forest/carbon measurement/monitoring capacity of members of REDD+ program implementing entities. The MRV full cost proposal provides the details on this.

Major function 4: Verification and Safeguard

Independent Organization(s) will be needed to audit and approve REDD+ results and publish results to support the WATCHDOG function. The key task of such organization(s) will include:

- Overseeing that MRV for carbon is implemented in accordance with national and international standards;
- Verifying or certifying ERs to be rewarded by national or international funds or donors or to be credited in the voluntary or compliance markets;
- Overseeing the operation of social and environmental safeguards;
- Implementing and overseeing grievance procedures.

An independently functional central government entity (to be called “National REDD+/Carbon Registry” or “Nepal Central Clearing House”) will be established to undertake this function. This entity could be housed within the MFSC (for REDD+ purpose) or within the MoSTE in case if LCEDS is effectively implemented and relevant sectors implement PAMs to contribute in REDD+, and CDM. A management board of stakeholder line ministries e.g., MoSTE, MFSC, MoLD, MoLR, MoE, other relevant non-government stakeholders and carbon rights holders will be institutionalized to steer and manage the functions of this entity.

The national REDD+/carbon registry will be created, developed and institutionalized to serve as a recording and tracking registry system for all carbon (and non-carbon?) credits arising from Nepal’s REDD+ programs (and potentially, from other mechanisms that integrates overall climate mitigation measures e.g., CDM) in the country (refer to annex 6 for details). At the outset, the national registry could aim at developing its registry capacity to issuance and unit

tracking level with an option to getting technically strengthened with added functionalities to a trade registry phase.

Legal provisions for the registry will require to be made either under the framework of national REDD+ strategy/policy or under the climate change policy (2011). Additionally, a national REDD+ registry procedures and guideline should be developed and approved. It should provide appropriate institutional arrangement for the functioning of national REDD+ registry and regulate its management and operationalization.

Flow of Information and Incentives along the Institutions: Vertical and horizontal interaction among the entities from central down to local level is shown in figure 3 and flow of information and incentives is shown in figure 4 above. The points below further elaborate on the flow of information and incentive:

- Once a REDD+ program/project is developed and approved by the Nepal REDD+ Authority, all the project details will be recorded in the registry database in prescribed formats. The baseline project area specific reference scenario with respect to the national RL scenario will be recorded for tracking during the program/project implementation period and the MRV system will keep track for measurement and MRV purposes.
- As project is implemented, the information with respect to project activities and safeguards implementation, and the change in forest carbon will flow periodically down from forest management unit (FMU) level to the central MRV system.
- MRV system will facilitate participatory forest carbon monitoring at the FMU level, validate the measurement, track 'leakage', 'additionality' and 'permanence' related information of the project area, and maintain the information in its system.
- MRV system validated information will then flow to the carbon registry which will keep track on all relevant information related to project's overall performance including the activities, results and safeguards. This information will further flow to the UNFCCC managed international tracking log (ITL) to initiate for verification and unit allocation.
- Verified information (in terms of positive or negative CERs) will again be returned to the REDD+ carbon registry which will form the basis for payment.
- The payment, be it from the global/international funding sources, under the compliance arrangements, under the bilateral arrangements or from the carbon trading arrangements, will be released to the REDD+/Carbon Payment authority.
- The national REDD+/carbon payment authority will be responsible to disburse incentives to all relevant stakeholders and carbon rights holders at different levels from individual to government entity as per the agreed and approved benefit sharing mechanism.

5.3 Recommendation for Legal Reforms

Issue/discussion papers annexed with this framework proposal report provide details on the areas in which legal reforms will be required. This section provides specific legal reforms required for the REDD+ implementation framework.

5.3.1 Legal refinements for strengthening forest tenure and clarifying carbon ownership rights

- 1) Provide legal recognition to the customary collective land/forest rights of indigenous people and ethnic communities (that existed prior to forest nationalization act 1957) in parallel with legally recognized forest tenure/usufruct rights. And accordingly, amend the Forest Act, 1993, NPWC Act, 1973 and all existing regulations within the purview of these acts.
- 2) Remove inequalities in forest tenure arrangements under Forest Act and NPWC Act. There exist differences in forest tenure arrangements formalized in case of three different models of conservation area management. Forest tenure under all CBFM models must be harmonized to create incentive for communities to protect and manage forests.
- 3) Clarify tenure (period) of forest tenure in case of CF, provide legal mechanisms to address persistent inequity in realizing the forest tenure due to 1) elite dominance and control and 2) restriction imposed on certain expenses. Restriction imposed on annual allowable cut and on clear felling must also be justified on legal grounds as measures to promote sustainable forest management and control any intended/unintended change in forest land use.
- 4) Make legal provision for collaborative forestry and clarify/define collective forest tenure of communities under this model of CBFM. Define the objective, composition, roles, responsibilities and functions of DFCC given its critical role in CoF.
- 5) Review and redefine the roles and responsibilities of legal entities and position holders mentioned under Forest/NPWC Acts to accommodate the implementation of REDD+.
- 6) People living in and around GMFs have traditionally enjoyed the right to access, graze cattle, and collect a variety of forest products for their household use. Forest authorities have so far been regulating the protection and utilization provisions in these forests and there have been little if any, forest management of these GMFs. Once REDD+ programs are implemented, legal provisions will be required to clarify how these traditional forest use rights of local people in GMFs will be secured while managing them.
- 7) Review and refine the operational guidelines, manuals and directives issued for implementation of CBFM regimes to make them compatible with REDD+ implementation.

8) Define Forest Carbon as “an intangible product of forest ecosystem services” enabling all relevant entities legally entrusted to manage the concerned forest landscapes to claim forest carbon ownership rights as follows:

- Carbon sequestered in government managed forests categories (e.g., GMFs, NPs, WRs) will be treated as a resource in national forests and an asset for the government to claim carbon ownership rights;
- Carbon sequestered in national forests managed under different CBFM modalities will be treated as a resource in national forests and an asset for relevant communities who collectively hold legally recognized and/or customary rights to protect, manage and use such CBFM areas. Communities engaged in CBFM will collectively have the carbon ownership rights. Carbon rights holder CBFM communities will however not be legally authorized to sale or transfer their carbon ownership rights to a third party (state/government being the second party) and they will be liable for full or part of the costs involved in realizing the benefit from carbon.
- Carbon sequestered in private forests will be treated as a resource in private property domain, and an asset for relevant property holder(s) to claim carbon ownership rights. Carbon ownership rights holders of private property shall not be legally authorized to sale and/or transfer their carbon rights to a third party (state/government being the second party). They shall also be liable for full or part of the costs involved in realizing the potential benefit from carbon as negotiated with the national entity governing REDD+.

5.3.2 Legal Arrangement for REDD+ Funds Management and Benefit Sharing Mechanism

- 1) Draft a regulation for REDD+ funds management within the framework of a “separate fund within government administration”, in close consultation with REDD+ actors at multiple levels and with multi-stakeholders. The regulation should be approved and enacted to establish a legitimate, democratically governed and transparent REDD+ financing mechanism. The issue/discussion paper on financing mechanism should form the basis for consultation and drafting of the regulation.
- 2) Draft a benefit sharing mechanism on 3E principles for legitimizing incentive distribution from REDD+ payments through extensive stakeholder consultations at multiple levels, finalize it and execute. The mechanism should institute an inclusive and transparent governance arrangement at multiple levels. It should ensure equity in benefit sharing among carbon ownership rights holders at multiple levels and among different groups of rights holders in each level. The mechanism should provide the simplest possible procedure for carbon rights holders to get informed about all aspects of the benefit sharing in a transparent manner. Such a mechanism should be developed and executed within the broader framework

of REDD+ strategy. The issue/discussion paper on benefit sharing mechanism should form the basis for developing a draft for wider stakeholder consultation.

5.3.3 Legal Arrangement for establishment of Nepal REDD+ Authority and National REDD+/Carbon Registry

- 1) Draft and finalize through appropriate consultation Rules and regulation for the formation of Nepal REDD+ Authority within the framework of National Climate Change Policy and National REDD+ Strategy. Develop its operational procedures and modalities and get it approved from the Government of Nepal. Institutionalize the Nepal REDD+ Authority as per the for the legal provisions.
- 2) Draft/finalize through consultation, a regulation for the creation, development and operationalization of a National REDD+/carbon registry within the purview of national REDD+ strategy or climate change policy, 2011 and enact it. The regulation should provide for organization, mandate and governance arrangement of national REDD+/carbon registry including the roles, responsibilities and accountabilities of the competent authority, registry administrator and account holders in the effective operationalization of the registry. It should also clarify the functional linkages of the registry with other entities within the National REDD+ architecture and with entities in the UNFCCC/ITL within the global REDD+ mechanism. The issue/discussion paper on carbon registry (refer to annex 6) should form the basis for drafting such a regulation.
- 3) Design an internet based national REDDD+/carbon registry data base including procedures and guideline to facilitate its functioning as a tool to capture, process, store and report on all relevant data and information related to REDD+ projects and programs in a way that is verifiable and accessible to various categories of stakeholders or end-users for decision making purposes.

5.3.4 Legal arrangement for strengthening Governance

- 1) Make public consultations legally mandatory prior to finalization of all policies, laws and bi-laws so that those who are likely to get impacted by and/or make an impact on the effective implementation of such legal frameworks are engaged in law framing process, own the law and feel proud to abiding by the law.
- 2) Review and refine existing legal provisions related to rights to information to ensure their effective implementation in real life situation.
- 3) Frame and enact legal provisions to ensure effective execution of law including safeguards for the law executioners and strengthening of rule of law.
- 4) Frame and enact legal provision to ensure zero tolerance to corruption.

5.4 Action Plan for operationalizing REDD+ Implementation Framework

Nepal's development priorities have shifted towards reconstruction and rehabilitation after the devastating earthquake that hit hard recently. Ongoing works under the REDD+ readiness preparation that was a priority program is not likely to get same level of attention from the government and the people for at least next couple of years. Under the existing environment, the activities required for operationalizing the REDD+ implementation framework is likely sustain delays due to relatively low priority and inadequate resource allocation. The action plan proposed in this section takes account of the existing development scenario of the country while proposing this action plan.

Majority of activities to be undertaken for effective operationalization of the REDD+ implementation framework require framing and/or refinements of legal, institutional, governance and administrative nature which will also demand extensive consultation at multiple levels. Activities such as legal reforms in forest/land tenure and tenure security are topics of wider public interest and time and resource consuming and bear the risk of getting stuck at various levels and stages of dialogues. Estimation of cost/resources in case of activities e.g., setting up of a national REDD+/carbon registry is not possible at this stage since it is a new type of institution shaping up globally relatively recently and the resource requirement will depend largely on the concerned country's immediate as well as future registry needs guided by its policy. This section attempts to provide a tentative action plan and a rough estimate of the resource requirement in order to prepare the ground for operationalizing the REDD+ implementation framework.

Table 4: Proposed Action Plan for Operationalizing REDD+ Implementation Framework

Key Activities	Means of Verification	Timeline	Responsible entities	Estimated resource needs (USD)³
1. Enabling policy and institutional environment				
1.1. Formalize REDD+ Implementation framework	GoN approved document available	By July, 2016	RIC/MFSC	
1.2. Formalize National REDD+ Strategy	GoN approved document available	By July, 2016	RIC/MFSC	
2. Enabling legal frameworks for the establishment of new entities and institutions				
2.1. Draft, consult and finalize rules and regulations and operational modalities for the Nepal REDD+	Draft report, consultation reports, final GoN approved	By July 2017	MFSC, RIC	50,000

³ Government inputs through HR engagement and contribution in cash and/or kind is not included in the estimated resource needs.

Authority and secure GoN approval.	Rules, regulations and operational manual etc.			
2.2. Draft, consult, finalize the National Carbon Registry legal framework and the relevant operational procedure for the account holders and users	Consultation reports, GoN approved legal and operational documents available	By July, 2017	RIC/MFSC in partnership with MoSTE and MoLJ	50.000
2.3. Draft, consult, finalize legal framework for REDD+ financing mechanism	Consultation reports, GoN approved document available	By July, 2017	RIC/MFSC jointly with MoLJ	50.000
2.4. Draft, consult, finalize legal framework for REDD+ Benefit sharing Mechanism	Consultation reports, GoN approved document available	By July, 2017	RIC/MFSC jointly with MoLJ	50.000
3. Enabling Legal Reforms				
3.1. Draft, consult and finalize legal reform on forest/land tenure and carbon ownership rights security	Revised Forest Act, NPWC Act and relevant regulations, available	By July 2020		80.000
3.2. Draft, consult and finalize legal reforms to strengthen forestry sector governance	Consultation reports, GoN approved legal document available	By July 2018		30.000
4. Enabling Organizational and Administrative Reforms				
4.1. Draft an operational manual for REDD+ implementation that clarifies roles, responsibilities, and protocols for interaction among entities and individuals within the institutional structure	Approved REDD+ Program Operational manual available	By July 2016		30.000
4.2. Finalize HR needs in RIC, DoF, Regional Directorate, DNPWC, DFO/PA authority and the organizational reforms required to implement REDD+ program	Revised/approved organograms; Approved new HR positions			10.000
4.3. Finalize the organizational reform in the DFRS as per its mandate to operationalize NAFMIS and MRV system	Revised/approved organograms; Approved new HR positions			5.000
5. Enabling technical/technological environment				
5.1. Create/procure an internet based national carbon registry database system with linkage to MRV system and other relevant entity system				100.000
				USD 455.000

References

1. Angelsen, A., C. Sterck, L. Peskett, J. Brown and C. Lutterell; (2008): What is the Right Scale for REDD? The Implications of National, Subnational and Nested Approaches. Brief info. No. 15, CIFOR, Bogor, Indonesia
2. Angelsen, A., Brockhaus, M., Kanninen, M., Sills, E., Sunderlin, W. D. & Wertz-Kanounnikoff, S. (Eds.). (2009); Realizing REDD+: National strategy and policy options, Bogor, Indonesia: CIFOR.
3. Angelsen, A., Brockhaus, M., Sunderlin, W. D. & Verchot, L. V. (Eds.), (2012); Analyzing REDD+: Challenges and choices, Bogor, Indonesia: CIFOR.
4. Charlotte, S (2009): Right and REDD+: Legal and Regulatory Considerations in Angelsen *et al.* (ed.) Realizing REDD+: National Strategy and Policy Options, CIFOR
5. Chokkalingam, U. (2010); Design Options for a Forest Carbon Legal Framework for Lao PDR: Drawing Lessons from Across the Globe, FSIP-JICA/SIDA and GTZ-ClipAD.
6. Corbera, E. et al., (2011): Rights to Land, Forests and Carbon in REDD+: Insights from Mexico, Brazil and Costa Rica; Forests 2011, 2(1), 301-342;
7. Conservation International (CI), TNC, WCS et al., (2010): The Scale (National/Sub-national) of REDD+ - A Discussion Paper.
8. Cortez, R., R. Saines, B. Griscom, M. Martin, D. De Deo, G. Fishbein, J. Kerkering and D. Marsh; (2010): A Nested Approach to REDD+: Structuring effective and transparent incentive mechanism for REDD+ implementation at multiple scales; The Nature Conservancy, Becker and McKenzie;
9. C. Schneider; (??): The Nested Approach to REDD+; Carbon Decision International and Conservation International
10. Davis, C., Nogueron, R. and Javelle, A-G, (2012); Analysis of Institutional Mechanisms for Sharing REDD+ Benefits; Property Rights and Resource Governance Project, USAID.
11. FAO (2012); Forest Carbon Tenure in Asia Pacific: A comparative analysis of legal trends to define carbon rights in Asia Pacific; FAO LEGAL PAPERS ONLINE No. 89 2012
12. FCPF (2013); FCPF Carbon Fund Methodological Framework Discussion Paper No. 10: REDD+ Registry Systems for the Carbon Fund.
13. GoN/MFSC (2010): REDD+ Readiness Proposal (R-PP), Nepal

14. HMG/MFSC (1993, 1995): Forest Act, 1993 and Forest Regulations, 1995 of Nepal
15. HMG/MFSC (1973): National Parks and Wildlife Conservation Act
16. IUCN (2009): Legal Frameworks for REDD: Design and Implementation at the National Level, John Costenbader (ed.), International Union for Conservation of Nature, Gland, Switzerland.
17. Karky, B.S., (2012): Pilot REDD+ in Community Managed Forest in Nepal; International Center for Integrated Mountain Development (ICIMOD) Nepal
18. Khatri, D.B., Karki, R., and Bushley, B. (2010): REDD+ Payments and Benefit Sharing Mechanisms in Nepal, Forest Action.
19. Karsenty, A., et al., (2012): “Carbon rights”, REDD+ and payments for environmental services. Environ. Sci. Policy (2012), article in press,
<http://dx.doi.org/10.1016/j.envsci.2012.08.013>
20. Kashwan, P. and R. Holahan; (2014): Nested Governance for Effective REDD+: Institutional and Political Arguments; International Journal of the Commons, Vol.8, No. 2, 2014;
21. Larsen, A. M., (2009): Tenure matters in REDD+: Lessons from the Field in Angelsen *et al.* (ed.) Realizing REDD+: National Strategy and Policy Options, CIFOR
22. Luttrell, C., L. Loft, M. F. Gebara, D. Kweka, M. Brockhaus, A. Angelsen, and W. D. Sunderlin. 2013. Who should benefit from REDD+? Rationales and Realities. *Ecology and Society* 18(4): 52. <http://dx.doi.org/10.5751/ES-05834-180452>
23. MFSC/GoN, (2010); Nepal's Readiness Preparation Proposal: REDD. Kathmandu: Ministry of Forest and Soil Conservation, Government of Nepal.
24. Mohammed, E. Y. (2011): Pro-poor benefit distribution in REDD+: who gets what and why does it matter? REDD Working Paper. IIED, London.
25. Pham, T.T., Brockhaus, M., Wong, G., Dung, L.N., Tjajadi, J.S., Loft, L., Luttrell C. and Assembe Mvondo, S. 2013 Approaches to benefit sharing: A preliminary comparative analysis of 13 REDD+ countries, Working Paper 108, CIFOR, Bogor, Indonesia.
26. Peeva, V., (2001); Development of a National Registry in Bulgaria: Options and Recommendations Centre for Energy Efficiency EnEffect.
27. Pescett, L. (2011): Benefit sharing in REDD+: Exploring the implications for poor and vulnerable people, Policy Note, World Bank and REDD-net.

28. P. Xuan To, R. O'Sullivan, J. Olander, S. Hawkins, P.Q. Hung and N. Kitamura; (2012): REDD+ in Vietnam: Integrating National and Sub-national Approaches. Forest Trends, Climate Focus, JICA jointly with Vietnam Administration of Forestry.
29. Rosenback, W. Whittemore, J., and DeBoer, J. (2013); A project submitted in partial fulfillment of the requirements for the degree of Master of Science (Natural Resources and Environment) at the University of Michigan
30. Scholl, Johannes (ed.) (2011); National REDD+ Registries: An Overview of Issues and Design Options; German Development Bank (KfW) on behalf of BMZ and in cooperation with Forest Carbon Partnership.
31. Skutsch, M. M., Karky, B. S., Rana, E. B., Kotru, R., Karki, S., Joshi, L., Pradhan, N., Gilani, H. & Joshi, G.; (2012); Options for Payment Mechanisms under National REDD+ Programs, ICIMOD Working Paper 2012/6. Kathmandu: International Center for Integrated Mountain Development
32. Spergel, B. & Wells, M., (2009); Conservation trust funds as a model for REDD+ national financing in Angelsen, A. (ed.) *Realising REDD+: National Strategy and Policy Options*. Bogor: CIFOR.
33. Sunderlin, W. D. et al. (2009): Forest tenure Rights and REDD+ from Inertia to Policy Solutions in Angelsen et al. (ed.) *Realizing REDD+: National Strategy and Policy Options*, CIFOR
34. Vatn, A. & Angelsen A., (2009): Options for a National REDD+ Structure, in Angelsen, A. (ed.) *Realising REDD+: National Strategy and Policy Options*. Bogor: CIFOR.
35. Vatn, A. & Vedeld, P. O., (2011); Getting Ready! : A study of national governance structures for REDD+, Aas, Noragric.
36. Vatn, A. & Vedeld, P. O., (2013): National governance structures for REDD+. *Global Environmental Change*, 23, 422-432.
37. The World Bank and REDD-net (2012); Carbon Rights in REDD+: Policy Note based on Peskett, L. and Brodnig, G., (2011): Carbon Rights in REDD+ Exploring the Implications for Poor and Vulnerable People, World Bank and REDD-net.

Annex 1: Terms of Reference (ToR)

Annex 2: Issue/Discussion Paper 1

Assessing the Feasibility of a Hybrid Approach for REDD+ Implementation in Nepal⁴

1. Introduction

“Scale” in REDD+ is a strategic arrangement that clarifies the level of accounting and crediting a REDD+ country would adopt for its emissions removal under the international agreement. Three crediting scales e.g., i) national implementation, ii) subnational implementation and iii) a hybrid of national and subnational implementation known as nested approach have been formalized under the global REDD+ mechanism. Some reports have included a fourth category termed “project approach” (e.g. Cortez et al., 2010) which basically is a sub-category of sub-national implementation. Countries participating in REDD+ are required to decide one or a combination of two crediting scales out of the three available options.

Building on Nepal’s positive experiences with community based forest management (CBFM), that have successfully addressed the complex drivers of deforestation and forest degradation in certain physiographic regions, Nepal’s R-PP has proposed for a hybrid of national and sub-national implementation approaches. Quoting the R-PP, “a hybrid of national and sub-national implementation approaches would allow strategic issues (i.e., policy, legal and tenure arrangements) to be addressed at the national level, while benefit sharing, financing and monitoring can follow sub-national approaches taking advantages of existing and proven multi-stakeholder mechanisms at these levels”.

2. Purpose and Approach

The purpose of this working paper is to assess the feasibility of hybrid approach of REDD+ implementation in Nepal including necessary legal requirements under national laws and international agreement, with a perspective of addressing the issues associated with this approach.

This feasibility assessment builds primarily on the review of internationally available literature relevant to accounting and crediting scale. The finding of the review is further evaluated based on learning accumulated in the process of readiness preparation in Nepal. This working paper

⁴ This working paper (prepared by the consultant Sagendra Tiwari) is intended to develop an understanding on the topic based on literature review and analysis in Nepal’s context. The underlying purpose is to generate knowledge and rationale to facilitate a multi-level and multi-actor sharing of ideas, concerns and perspectives on the topic to be recommended for National REDD+ Implementation Framework.

then forms the basis for consultation with selected REDD+ professionals and stakeholders. The underlying purpose is to answer the questions e.g., i) What are the potential relative advantages of hybrid approach of REDD implementation for Nepal?, ii) To what extent the hybrid approach will enable addressing issues (e.g. policy, legal and tenure arrangement) at national level and resolving governance and other issues associated with measurement and MRV, financing and benefit sharing at sub-national/local level?. The final outcome of the consultation will form the basis for the selection of hybrid approach to be included in Nepal's REDD+ implementation framework.

3. Understanding the Crediting Scales

A national approach envisions payments to be issued to the national government of the REDD+ country based on performance against a national reference level. Under this approach, local/sub-national geographic areas and specific projects are not entitled to receive any direct rewards from international carbon buyers, even if they make substantial emission reduction.

A sub-national (or project) approach would require both REDD+ accounting and implementation to be focused on a defined geographic area or project site(s). REDD+ activities could be implemented by individuals, communities, NGOs, private companies, and/or different levels of government. Monitoring, reporting, verifying (MRV) and payments would be performed only for sites in question.

A hybrid (nested) approach enables payments to go directly to projects that achieve reductions, and also to the national level if there is a proven overall reduction. Project and national accounting would need to be harmonized, and any emission reduction credits issued at the sub-national level would be deducted from the national accounting. This would likely lead to deficits at the national level, which would be offset through the rewards allocated when the country consistently makes proven national reductions (Center for People and Forest, 2009, Angelsen et al., 2008; IUCN, 2009).

A critical review of the globally available studies, assessments and research on crediting scales enables a comparison among approaches as shown in the matrix below:

Matrix showing a Comparison of Three Approaches of Scales

Approach/ Parameters	National Approach	Sub-national (or project) Approach	Hybrid (Nested) Approach
How it works?	Incentives (credits and/or funding) flow to the national government based on <u>performance against a national reference level.</u>	Incentives flow to a subnational governmental entity (e.g. a state, municipality, province, district or project) based on <u>performance against a sub-national (project) reference level.</u>	Incentives can flow directly to subnational entities and/or project developers as well as to national governments based on a <u>dual accounting system that has been "trued up" at the national level.</u>
Pre-requisite	<ul style="list-style-type: none"> • Clear national RL/REL • A nation-wide monitoring 	<ul style="list-style-type: none"> • Clear sub-national/Project RL/REL 	<ul style="list-style-type: none"> • Clear national RL/REL • A nation-wide monitoring system

	system	<ul style="list-style-type: none"> • A sub-national and/or project level MRV system 	<ul style="list-style-type: none"> • Defined sub-national reference regions
Pros	<ul style="list-style-type: none"> • Strong country ownership, • Allows for national policies and measures to address drivers • Provides for low-cost (non-PES) policies • Addresses domestic leakage; • Relatively lower MRV and transaction costs 	<ul style="list-style-type: none"> • Enables early involvement • Easy participation; • Wide participation by poor countries and those with weak governance; • Attractive to private investors; • Capable of targeting poor people. 	<ul style="list-style-type: none"> • Enables phased or joint private/public approaches; • Enables differentiated compensation mechanism; • Enables simultaneous implementation of policy based as well as action based emission reductions at national and local levels; • A flexible approach that allows subnational projects to be compensated (where independently verified) even if no net reductions achieved at national level • Attractive for provincial/ local governments, NGOs, private sector
Cons	<ul style="list-style-type: none"> • May not mobilize private investment or local government involvement; • Bears the risk of capturing of projects by powerful elite; Favorable for middle-income countries 	<p>Weak government involvement Involves domestic leakage concerns; Unable to address broader deforestation drivers rooted in policy and market failure</p>	<ul style="list-style-type: none"> • Requires complex carbon accounting methodologies, • High MRV costs (requires disaggregated national data) • Requires clearly defined risk sharing system, • Requires effective institutional arrangement to manage flow of incentives, • Requires transparency and maintenance of motivation • Bears the challenges of harmonization between national and subnational levels;

National approach is advocated for creating country ownership, instigating the implementation of policy measures that result in larger scale emission reduction, and effectively addressing leakage, and transaction costs. Emission reductions in this case would be monitored and verified through a national level MRV and RL and rewarded through allocation of tradable carbon credits, by financial transfers from a global fund or other mechanisms. No direct credits would be issued internationally for activities that reduce emissions at the subnational level.

Sub-national approach is advocated for early participation at the readiness preparation phase while the country in question has yet to gain technical, policy and institutional capacity and get ready for full participation in REDD+. The focus under this approach remains largely on area/project specific on-the-ground REDD+ actions, while extra-sectoral and macro level issues underpinning drivers are likely to remain overlooked. Addressing domestic leakage under this approach is not possible.

Hybrid (nested) approach is most flexible of three approaches. It allows countries to begin with subnational activities and to move gradually to a national approach (Pedroni et al., 2010). It provides for co-existence of both subnational and national implementation and allows both projects and government to earn REDD+ credits, in a similar way as the Joint Implementation (JI) mechanism under the Kyoto Protocol (IUCN 2009). It represents the most likely scenario for REDD+ in many countries, particularly in the short to medium term when subnational activities will continue and be credited by an international mechanism in parallel with national-level accounting and crediting (Wertz-Kanounnikoff, and Angelsen, 2009). Hence, the project developers and subnational program implementers may either participate in a national program and receive credits from national government, or remain outside the national program and receive international credit issuance directly (Pedroni et al., 2010). This flexibility can accommodate the needs of different countries and stimulate fast start implementation by the private sector, national and sub-national governments.

The challenge in the implementation of hybrid approach is twofold, i) it needs to harmonize the two levels and ii) It needs to be backed up by appropriate risk management strategies e.g. performance reserve accounts or contracts between parties for replacement of REDD+ credits.

Kashwan and Holahan (2014) report that REDD+ proponents typically argue for one of two forms of nested REDD+ architecture: (i) a ‘hybrid’ approach, which provides for simultaneous financing of local projects and the development of a national-level institutional architecture (Sunderlin and Sills 2012); and, (ii) an MRV-focused multi-level approach designed to cope with the uncertainties surrounding binding international agreement about REDD+ (Pedroni et al. 2009).

The unique commonality among all three approaches is that under each approach, crediting REDD+ activities would require:

- 1) To abide by the internationally agreed rules for monitoring, reporting and verification (MRV);
- 2) A system for payment;
- 3) Institutional arrangements e.g., i) at national level, a designated national authority to approve projects, and ii) at the international level a supervisory body and a centralized project and credit registry;

4. Feasibility of Hybrid Approach for REDD+ in Nepal

4.1 Nepal’s framework conditions supportive for hybrid approach

Nepal is a small developing country with remarkable diversity in topography, climate, ecology and forest composition. The country is in the process of political, economic and governance transformation at this stage. Although how long it will take to accomplish this transformation

remains unpredictable, what is clear is that local/district, provincial and central governance framework structures are likely to emerge under a federal governance system of Nepal.

Forests, human settlements and agricultural lands are intermingled in Nepal, and not many big patches of contiguous forests (> 10,000) exist, with some exceptions in Terai and Siwaliks and inside the protected areas. The livelihoods of rural Nepal is largely shaped up around the products and services produced out of an intricate relationship between farming, forestry and livestock management indicating a high dependency on forest ecosystems.

Nepal has achieved commendable success in checking the rapid rate of deforestation and forest degradation through community based forest management, especially in the hills and mountains. Yet, it has not been able to arrest the on-going deforestation and forest degradation. It sustains lack of scientific, productive and sustainable forestry especially in government managed forests. Scientific and sustainable management of forests under all management regimes and especially in government managed forests is crucial for Nepal in order for it to have meaningful participation in REDD+. Similarly, the protected areas e.g., national parks, wildlife reserves and conservation areas, whether they are government managed, NGO managed or community managed must also be protected/managed within the basic minimum requirements of REDD+.

Unabated pressure on forest in Nepal is rooted broadly in conflicting claims and jurisdictions of development sectors (e.g., agriculture, mining, local development, energy, water resources, physical infrastructure and public works etc.) on forest and forest lands, and policy and market failure. Harmonization of policies in line with REDD+ and implementation of policy measures are urgently needed for effective forest-based emission removals.

A hybrid approach in case of Nepal will enable simultaneous implementation of REDD+ at national and local/subnational level. It will provide an opportunity to further strengthen and enhance the scope and coverage of its already functioning CBFM initiatives through formalizing and strengthening of a multi-level, multi-stakeholder institutional governance mechanism for conservation and sustainable use of forest resources. Local/subnational REDD+ actions will have added incentive for SFM whereas as at national level it will enable harmonization of sectoral policies and implementation of policy measures to attain the 3E+ criteria of REDD+ in Nepal.

4.2 Nepal's REDD+ readiness preparation is supportive for hybrid approach implementation

Nepal is at the point of accomplishing the first phase of its REDD+ readiness preparation. A broad framework of Nepal's national REDD+ architecture has been put in place through multilevel, multi-stakeholder engagement processes. Considerable work has been done on setting up RL/REL and MRV system and formulation of national REDD+ strategy. Multi-stakeholder institutions are emerging at local, district and regional levels with enhanced REDD+ awareness and capacity at multiple levels. The REDD+ readiness preparation has further benefitted from learning accumulated through the implementation of a NORAD funded REDD+ pilot project and

other REDD+ initiatives implemented by REDD+ stakeholders. This level of readiness will facilitate the sub-national implementation while in due course the technical and institutional capacity is further strengthened through learning by doing.

Nepal's REDD+ strategy (draft) strives to capture the potential co-benefits of REDD+ to contribute in national priorities of poverty alleviation. It needs to capture the measures to fully value the wide range of ecosystem benefits coming from forest including maintenance of biodiversity, soil and water conservation, sustainable development and economic growth as well as value of timber and non-timber forest products. Through early start of the sub-national implementation, CBFM being practiced in 1/3rd forest area of Nepal could benefit from REDD+.

A comprehensive national MRV system is critical for justifying subnational implementation within the national MRV framework. Nepal's MRV system (full cost proposal) has already proposed institutional and technical frameworks and a roadmap for operationalizing MRV at national and sub-national/local level including the anticipated capacity needs of CBFM units and their potential role in forest carbon measurement and monitoring. So the ground work for accounting and crediting simultaneously at national and sub-national level has been completed so as to enable payment at local/subnational level against REDD+ actions while the national MRV system operationalizes and gets strengthened over the years.

The concept of a national carbon registry and a financing authority and financing mechanism with horizontal linkages with MRV and vertical linkages at regional and district/local level have been proposed in MRV full cost proposal and further supplemented by national REDD+ strategy (draft, 2015). The structure and function of these institutions including their interaction with other institutions within REDD+ national architecture is a work in progress.

Nepal has already submitted a SMF (sustainable management of forests) focused Emission Reduction Program Idea Note (ER-PIN) for Terai Arc Landscape (TAL) area to FCPF (Forest Carbon Partnership) Carbon Fund in March, 2014. This ER-PIN builds on the works undertaken in course of REDD+ readiness preparation till to-date. This is a subnational project that uses the technical, methodological and institutional approaches in line with those proposed under the national RL/REL framework and MRV system indicating that Nepal is already way ahead towards going for a hybrid approach.

Nepal's readiness process has followed a system that allows projects to get off the ground quickly and produce high-quality REDD+ credits with direct benefits to forest peoples, national governments, and investors. Nepal has followed a system in which every stakeholder has a direct stake in the performance of projects within a national system. There are high chances that linking the performance of projects and overall national emissions reductions will encourage project developers to reduce in-country leakage and encourage the government to support the success of REDD+ activities through implementation of policy and measures under hybrid approach.

5. Issues Associated with Hybrid Approach and required legal reforms

This section reviews the issues and challenge associated with hybrid approach from Nepal's perspective and tries to explore possible policy and legal provisions to resolve such issues.

- 1) Two potential challenges of REDD+ implementation under the hybrid approach has been mentioned in previous section. As regards the challenge of harmonization of national and subnational implementation, Nepal's national MRV system has been founded on its successful CBFM initiatives and provides technical and institutional approaches to be adopted for both national and subnational implementation simultaneously. Hence, all subnational projects to be developed in future would need to set up their RL and MRV design in line with national RL/REL and MRV system so that they can be harmonized with Nepal's national MRV system.
- 2) A second challenge of hybrid approach involves risk of incentivizing the local/subnational level positive performance even while the overall national performance shows negative balance. This challenge can be dealt with by formulating appropriate risk management strategy at the planning stage of the local/subnational project. Myers Madiera (2008) has suggested that *buffers, credit banking, and reserve accounts* could be some strategic risk management options under which a percentage of the credits that could be generated are held in reserve by a host country to counter the risk that deforestation will increase in future. Institutionalized multi-level multi-stakeholder governance arrangement will help Nepal evaluate the risks associated with project/local/subnational performance based payment and formulate appropriate risk management strategy on case to case basis.
- 3) Other key issues that potentially will have an implication on the choice of a crediting scale are i) clarification of land tenure and forest use rights including carbon rights, ii) strengthening of the relatively weak institutions and governance in forestry sector, iii) eliminating conflicting and contradicting jurisdictions surrounding forest and land use.
- 4) Clarification of land tenure, forest use rights including defining and clarification of carbon rights is a work in progress. A level of forest land tenure and use (and management) rights has been legally recognized under community forestry, buffer zone community forestry and leasehold forestry and informally in case of collaborative forestry. In the context of REDD+ however, the critical issues that need clarification and resolution are i) long term land tenure and forest use security in case of all CBFM modalities being practiced; ii) legalizing/formalizing the land tenure and forest use rights arrangements in case of collaborative forestry, iii) legally eliminating the existing inequalities related to benefit sharing mechanism among CBFM modalities in general, and between CF in national forest and CF in buffer zone and between conservation areas under community, NGO and government management regimes in particular. Yet another issue is the lack of formal recognition of customary/traditional land and forest rights of indigenous people and ethnic

communities in Nepal. The existing forest governance arrangement till to-date seems to have taken it for granted that villagers getting organized as a forest user group and claiming for the use and management rights over a forest area as community forest based on their traditional forest use right comprise all sects of society including both men and women from economically and socially marginalized, indigenous and ethnic communities. This however, does not seem to be the situation in Nepal with enhanced awareness among people on social and political fronts in general, and regarding REDD in particular. Forest Act and regulation, and the National Parks and Wildlife Conservation Act and relevant conservation area management regulations need to be reviewed and revised in line with the issues mentioned above.

Carbon in REDD is the key element for performance based payment and it is associated with forest and land tenure. Clarifying carbon right is interlinked with land tenure and forest use rights. Hence carbon as a commodity or a forest ecosystem service needs to be defined and legally recognized in the context of land tenure and forest use rights so as to enable the local forest owners/managers visualize their stake, interest and incentive in REDD+ with regard to their carbon rights.

- 5) Weakness in forest institution and governance arrangement is characterized by lack of physical, financial and human resources to promote sustainable forest management as a competent service sector. This weakness is manifested in forestry sector's historical image as a controlling and regulating agency mandated to supply timber, fuelwood and other forest products. A new vision for forestry institutions that appreciates the enhanced role of forests in sustainable development from economic as well as environmental perspectives has become crucial. Country's policy makers and development planners need to recognize the extent to which forests impact on sustainable economic growth and development and get impacted by economic development policies. REDD has emerged as an opportunity for Nepal to take initiation for transformation of forest institutions through appropriate institutional and governance reforms and create a new image of forest institution.
- 6) The policy and legal frameworks of key development sectors e.g., local development, agriculture, mining, energy, water resources, infrastructure and physical works for instance, contradict with forest policy and legal frameworks often creating conflicting jurisdiction over the resources. This consequently has a negative implication on on-going efforts to forest conservation and restoration. An urgent need for Nepal is to harmonize development sector policies with due consideration to role of forests in overall sustainable economic development of the country.

6. *Legal Requirements to effectively address the issues associated with hybrid approach*

The primary focus of an international REDD regime is likely to remain on carbon stocks and flows. On the contrary the national legal frameworks regulating the country participation in REDD+ will need to

approach REDD within the broader concept of governance of ecosystem services and accounting for the intrinsic values of forest and their services.

Subnational implementation will enable local/district/provincial governments and/or private sectors enter into the international carbon market only when the rights of local communities to forest land and carbon are clarified and secured. Kanninen et al., (2010) has articulated that successful implementation of REDD+ will, in most cases, require strengthening the stake of local communities for managing their forest carbon assets and allowing them to benefit fully from emerging carbon markets and other funding schemes. National governments will need to renew their institutions and adopt new approaches to handle these challenges by including the role of forests in climate change mitigation as an integral part of their development plans and policies.

Under hybrid approach the subnational REDD+ implementation will be able to handle monitoring, financing and benefit sharing, yet the national government will need to guarantee that forests remain intact and standing on permanent basis. In order to achieve such sustainable outcome, the national government will need to undertake legal reforms with respect to i) land tenure and forest use rights recognition and longer term security in line with REDD requirements, ii) clarification of community capacity and role in MRV, iii) access to information and guarantee of multi-level multi-stakeholder participation in REDD and REDD relevant national legal reforms (IUCN, 2009)

7. Recommendations

Relating the framework condition of Nepal's forestry sector with the arguments presented in the works of a wide range of researchers including that of Pedroni et al., 2009, Sunderlin and Sills, 2012 and Kashwan and Holahan, 2014, It is recommend that Nepal should go for a hybrid approach of accounting and crediting scale keeping its strategic focus on:

- 1) Implementing forest-based mitigation actions at local, district/sub-national level further strengthening the existing multi-level, cross-sectoral and multi-stakeholder institutional governance mechanism that have emerged in course of successful implementation of CBFM initiatives and further evolved in course of REDD+ readiness preparation in Nepal;
- 2) Reforming and harmonizing policies and implementing policy and measures (PAM) to addressing the drivers of deforestation and forest degradation rooted in policy and market failure and compliment on-the-ground REDD+ actions;
- 3) Enabling simultaneous financing of local/subnational REDD+ actions and the institutional, technical and capacity strengthening of national REDD+ architecture including institutional and technical strengthening to develop a comprehensive and fully operational national MRV system;

References

38. Cortez, R., R. Saines, B. Griscom, M. Martin, D. De Deo, G. Fishbein, J. Kerkering and D. Marsh; (2010); A Nested Approach to REDD+: Structuring effective and transparent incentive mechanism for REDD+ implementation at multiple scales; The Nature Conservancy, Becker and McKenzie;
39. Kashwan, P. and R. Holahan; (2014); Nested Governance for Effective REDD+: Institutional and Political Arguments; International Journal of the Commons, Vol.8, No. 2, 2014;
40. P. Xuan To, R. O’Sullivan, J. Olander, S. Hawkins, P.Q. Hung and N. Kitamura; (2012); REDD+ in Vietnam: Integrating National and Sub-national Approaches. Forest Trends, Climate Focus, JICA jointly with Vietnam Administration of Forestry;
41. C. Schneider; (??); The Nested Approach to REDD+; Carbon Decision International and Conservation International
42. Conservation International (CI), TNC, WCS et al., (2010): The Scale (National/Sub-national) of REDD+ - A Discussion Paper.
43. Angelsen, A., C. Sterck, L. Peskett, J. Brown and C. Lutterell; (2008; What is the Right Scale for REDD? The Implications of National, Subnational and Nested Approaches. Brief info. No. 15, CIFOR, Bogor, Indonesia

Justifying Appropriate Financing Mechanism for Nepal's REDD+⁵

1. Background

Financing mechanism relates to one out of three key elements of national REDD+ architecture that is “*incentive*”, the other two being *information* and *institutions* (3Is). It will need to have governance arrangement to get operationalized and hence, will require institution and rules to guide its functions and interactions with other relevant institutions and actors. Channeling of international funding is one out of four major functions of national REDD+ architecture. Performing this function, the likely major tasks as pointed out by Vatn and Angelsen (2009) will include:

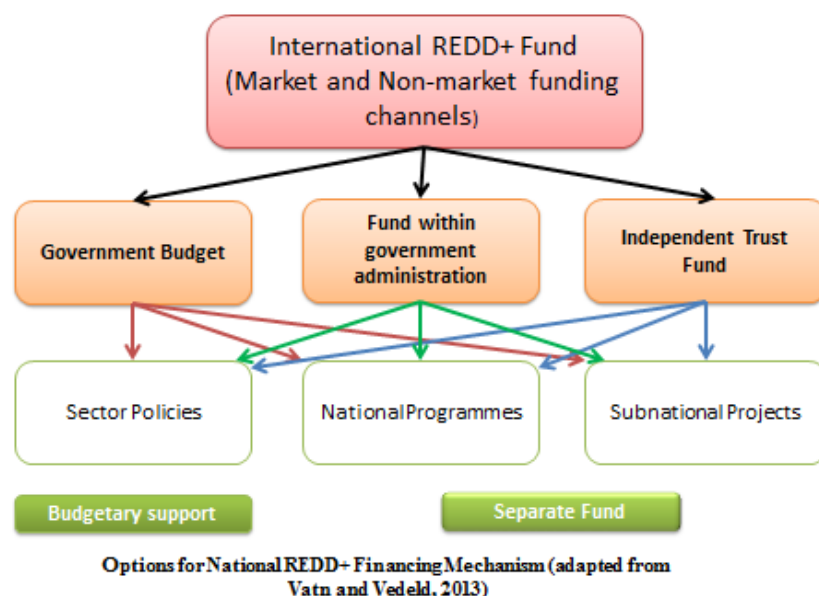
- Resource disbursement for approved REDD+ policies, programs and projects,
- Establishing a system of payments (incentives and compensation) to carbon rights holders (individuals, communities, government agencies or companies) for emission reduction and carbon stock enhancement,
- securing legitimate benefit sharing, including distribution of potential rents; and
- Establishing a transaction registry for REDD+ payments to comply with international and national standards of transparency, accountability and fiduciary standards.

Literature on national REDD+ architecture globally advocate for one out of four approaches to the national governance of REDD+ financing e.g., i) a national government managed fund, ii) a fund independent of government administration, iii) project support and iv) budgetary support to the government (Vatn and Angelsen, 2009, Vatn and Vedeld, 2011, 2013). However, the MRV function of countries will have to be undertaken at national level as per the Cancun Agreement (1/CP.16) and it makes it apparent that international REDD+ funds are not likely to flow directly to subnational or project level. This therefore, makes it logically justified that the countries establish a national financing mechanism selecting one out of existing three options.

Nepal is about to accomplish phase 1 of its REDD+ readiness preparation and needs to prepare for entering into phase 2, and start pilot projects to enhance its institutional, technological and human resource capacity of implementing REDD+ adopting a “learning by doing” approach. Hence, Nepal requires finalizing an appropriate financing mechanism that meets the criteria of

⁵ This discussion paper (prepared by the consultant Sagendra Tiwari) is intended to develop an understanding on the topic based on literature review and analysis in Nepal's context. The underlying purpose is to generate knowledge and rationale to facilitate a multi-level and multi-actor sharing of ideas, concerns and perspectives on the topic to be recommended for National REDD+ Implementation Framework.

political legitimacy, good governance, multilevel and multi-sectoral coordination capacity, and ability for broader reforms. As argued by Vatn and Angelsen (2009), meeting these criteria is necessary for national financing mechanism as they are indicative of the possible outcome of effectiveness, efficiency, equity and co-benefits (3E+).



2. Purpose and scope

Purpose of this discussion paper is to thrash out the best possible approach of financing mechanism within the existing framework condition of Nepal (e.g., socio-political and governance situation). The specific objective is to present an analysis of most viable approach of financing mechanism for Nepal for further discussion and consultation with stakeholders at multiple levels.

This discussion paper reviews literature on financing mechanism and largely builds on a recent study on national REDD+ Fund Management arrangement for Nepal commissioned by UN-REDD Program and undertaken by Forest Action Nepal. A comparative analysis of options is undertaken from Nepal's perspective for consultation with stakeholders at multiple levels.

3. Assessment of Existing Options of Financing Mechanism

It has become apparent that all types of international REDD+ funds will be received in the national REDD+ funding institution from where it will be channeled to relevant sectors, subnational governments and projects as appropriate. There will not be direct channeling of international funds to projects within the country which eliminates the project support approach.

This section presents and explanation of the remaining three approaches of financing mechanism.

3.1 Budgetary Support to the Government

The government administers the received international fund within its budgetary system and makes expenditure as per the requirement of the funding source and in accordance with UNFCCC guidance. Under this option the REDD+ funds channeled to the country is treated just as the development assistance, and managed as per the government rules and regulation for procurement, disbursement and accounting.

This option has relatively high political legitimacy in countries with strong democratic political system and transparent functioning (Vatn and Vedeld, 2013), since people's elected government becomes accountable for effective, efficient and equitable mobilization of REDD+ funds. Yet, ensuring the participation of especially the non-government actors in decision making at multiple levels, in the spirit of REDD+ however, is constrained under this option unless special policy and legal arrangements are put in place.

This option provides strong country ownership and instigates the government for inter-sectoral coordination and policy intervention. This option is deemed effective in addressing leakage at macro-economic level and ensuring additionality of REDD+ finance. But this option bears high risk of government diverting the fund for other purposes and performance based payment not reaching to those engaged in enhancing forest and sequestering carbon.

With the use of government's existing administrative structure this option provides cost efficiency. It may however also impose lengthy bureaucratic processes and become cost inefficient.

The risk of mismanagement of fund and corruption will require to be mitigated through comprehensive yet transparent and credible MRV system which is at the heart of performance based incentive mechanism.

3.2 Separate fund within the government administration

A separate fund within government administration if established carefully could be capable of retaining the advantages of budgetary support (e.g., political legitimacy, strong country ownership and reduced transaction cost) and eliminating many of the weaknesses associated with budgetary support.

This option also enjoys strong country ownership and government control but it has high potential for instituting mechanism to ensure participation of non-government stakeholders from multiple levels to influence fund management decision making. However, the capability of non-government stakeholders for influencing decision-making through participation yet remains

questionable since it will be determined by their percentage representation, the process implied for their selection, capacity of representatives to influence the decision-making and level of autonomy the option has to make decisions (Vatn and Vedeld, 2013). Moreover, the level of transparency and accountability under this option will largely be determined by the rules governing the operation of fund. It is crucial that all stakeholders involved in governing mechanism of this type of fund are able to articulate their voices in decision-making process.

This option could potentially prove effective since the government seating in the lead role of fund management will be able to undertake policy measures and coordinate inter-sectoral efforts to drivers rooted in policy and market failure. The government will also be able to minimize leakage. But the risk of fund diversion to other purposes will still remain (for instance, the reforestation fund of Indonesia as documented in Barr et al. 2010). Vatn and Vedeld, (2013) note that owing to dominant presence in this system, the management body may not have required autonomy to make rules and maintain flexibility in channeling of funds.

Efficiency will be relatively high as in budgetary support approach due to minimization of administrative cost since the fund will be channeled from the government treasury and follow government accounting system. In parallel however, it will need to develop simplified and fast bureaucratic processes to minimize the likely risk of enhanced transaction cost due to lengthy and slow bureaucratic processes that generally is issue in developing countries.

Risk of mismanagement of funds, corruption (Karsenty and Ongolo, 2012) and fiduciary⁶ risks cannot be totally eliminated under this option just as under budgetary support option. System based and robust governance arrangement supported by transparent and accountable MRV system and instituting double accounting system will help minimize such risks.

Government will have greater opportunity to address poverty and encourage meaningful participation of poor and marginalized groups and ensure equitable distribution of REDD+ benefits under this option as in budgetary support option

3.3 Independent Trust Fund (outside government administration)

This option is basically similar to a Conservation Trust Fund. The rationale behind this option (Vatn and Vedeld, 2013) lies in its ability to eliminate shortcomings associated with government managed funds e.g., bureaucratic rigidity, inflexibility in processes, instituting rules, risk of mismanagement and diversion of funds, corruption. Conservation trust funds have been functioning in many countries (including Nepal e.g., National Trust Fund for Nature Conservation, NTNC) and international literature have considered it to be good option for independent national REDD+ fund management (Spergel and Wells, 2009).

⁶ Fiduciary risk indicates a type of risk that accounts for the possibility of a trustee/representative who is not optimally performing in the beneficiary's best interests.

A multi-stakeholder governing body with significant representation of non-government actors is claimed to be making this option independent and autonomous with negligible political and government interference. However, this option is relatively weak in instilling country ownership, and its independence per se does not assure accountability and/or transparency in developing countries.

Competing interest of stakeholders is likely to hamper this option's effectiveness and it may not be competently able to address the drivers rooted in sectoral policies and programs since the government engagement will be limited. Flexibility of adjusting and making rules in response to the changing context however, will enable this option adjust with and sustain international fluctuations and shocks associated with funding. This option is claimed to have capability of attracting diverse funds including from private source.

Studies have indicated a relatively higher transaction costs under this option as compared to other two options since it will require a dedicated fund management structure. One can argue that higher transaction cost could be worth it compared to cost associated with cumbersome bureaucratic processes and administrative hurdles likely in government administered fund.

It has been argued that an independent fund could minimize risk of mismanagement, corruption and facilitate strong safeguards. However, mismanagement and corruption is not exceptionally within let alone the government bureaucracy in developing countries. Likelihood of elite control and conflict of interest among stakeholders puts independent funds also in risk of mismanagement and corruption. Multiple stakeholder representation in decision-making under this option however raises the likelihood of instituting policies sensitive to equity issues.

1. Lessons from globally emerging national REDD+ fund management structures and similar funds.

The Forest Action study (draft 2014) assessed seven globally emerging REDD+ funding structures on parameters e.g., governance structure, fund distribution and financial integrity using a number of criteria under each parameter. These are: 1) The Amazon Fund, Brazil, 2) FONAFIFO, Costa Rica, 3) Indonesian Climate Change Trust Fund, 4) Guyana REDD+ Investment Fund, 5) Tanzania National REDD+ Trust Fund (proposed), 6) Viet Nam national REDD+ Fund, and 7) Mexican Forest Fund.

A summary of the findings of this assessment reveals that as regards the governance structure, there is no "one size fits all" kind of formula for instituting national governance structure. Multi-stakeholder engagement within the existing country context has been the prime basis coupled with attributes of independent functioning and formalization within existing legal framework. Considerable variations exist as regard flow of finance, administration system, audit requirements, spatial scale and beneficiaries under each of the evolving national financing

mechanism. Common major concerns under all these evolving financing mechanisms are lack of transparency, appropriate safeguards, risk of mis-allocation of funds and/or corruption.

The emerging lesson for Nepal is that it should be able to design and frame its REDD+ financing mechanism to ensure maximum possible governance arrangement. Financing mechanism should have arrangements for check and balance between government and non-government actors, and it should be hooked up properly with a transparent and credible MRV system. Moreover, the mechanism should have good procedure for program and financial monitoring and auditing.

2. Lessons from Nepal's own experience of national funds management

Seven different national funds being managed in Nepal were assessed in order to draw lessons for REDD+ financing mechanism development. A summary of these funds is presented in the table below.

Matrix showing governance framework of national funds in Nepal

Fund	Governing Mechanism	Financial Integrity
<i>National Trust Fund</i>		
1. National Trust for Nature Conservation (NTNC)	Semi-autonomous, established under specific act with specific purposes, government-led, multi-stakeholder governing body, members nominated by chairperson, legal provision to ensure participation of special target group	Good monitoring, minimal fiduciary risk, performance based fund flow in PAF coupled with public auditing, MIS supported management decision making, yet the risk of elite dominance as proposal is submitted by elites in the community
2. Poverty Alleviation Fund (PAF) Nepal		
<i>Fund within government administration</i>		
3. Nepal Peace Fund 4. Alternative Energy Promotion Center (AEPC) 5. Road Board Nepal (RBN)	Established through specific regulation, multi-stakeholder committee governed, government representative dominance, AEPC has NGO and private sector representatives, board members nominated by chairperson, the board makes operational decision, a secretariat led by government makes policy decisions	Often delayed release of funds from government treasury negative impacts on performance; Exposed to diverse fiduciary risk; Public-private partnership arrangement in AEPC ensures transparency, reduces risk of corruption;
<i>Budgetary support</i>		
6. School Sector Reform Program (SSRP) 7. Local Governance and Community Development Program LGCDP)	Concerned ministry establishes a policy level body led by secretary and represented by relevant government and donor agencies. NGOs, CSOs not included. Concerned line agencies implement the program.	Fund flow through government's red book procedure follows lengthy process, does not reach in time and takes its toll in quality delivery of output LGCDP weak in reaching to beneficiaries; high fiduciary risk, weak/no output monitoring; Program efficiency is often enhanced through direct funding but bears the risk of elite capture in absence of effective stakeholder participation.

5.1 What is learned from Nepal's own experience?

In case of national trust funds,

- Multi-stakeholder structure exists which is crucial to ensuring their legitimacy and public acceptance. But the representatives of the non-government actors are picked up by the chair (the government - by default), which questions their legitimacy and public acceptance. Representatives of the non-government actors must come through their internal governance processes based on their own criteria for representation.
- Both the funds are semi-autonomous meaning they are authorized to draft their bi-laws subject to approval from the government. Should REDD+ financing mechanism have similar kind of autonomy or should be fully autonomous?
- Literature report relatively high transaction costs involved in establishing trust funds. In case of PAF, such transaction cost has been reduced through a mechanism of direct channeling of funds in the accounts of local beneficiaries. Lesson is reduction of transaction cost is possible even in trust funds.

In case of funds within government administration,

- The governing body maintains the multi-stakeholder structure yet the government representatives remain in majority. This arrangement is likely to have implication on the process of decision-making and overall governance. Proportionate presence of government and non-government actors could enhance the political legitimacy and public acceptance of this options
- Administrative costs can be kept low by procuring staff on deputation and hiring for only few indispensable positions.
- This arrangement is prone to have issues of transparency and corruption, and hence demands special measures to ensure transparency and remain corruption free.

In case of budgetary support option,

- It does not suit for REDD+ financing mechanism non-government actors at multiple levels are excluded in the governance under this option.

- This option sustains political interference, delays due to lengthy and time consuming bureaucratic processes, fiduciary risks, inefficient transparency and result-based monitoring arrangements.
- Yet a multi-stakeholder governance arrangement with proportionate representation of government and non-government actors, supported with a transparent and accountable monitoring system for performance based equitable payment mechanism could not only minimize fiduciary risks, but also create desired political legitimacy and public acceptance of this option.

3. *Conclusion and Recommendation*

6.1 Conclusion

Vatn and Angelsen (2009) use four criteria namely political legitimacy, good governance, coordination capacity and links to broader reforms for assessing the institutional options. This review building on the learning accumulated from within Nepal and abroad, relates the above criteria with Nepal's experience of managing such funds to draw conclusion for national REDD+ financing mechanism for Nepal.

Political legitimacy is ensured through equitable representation of all relevant stakeholders/actors at multiple levels of an institution. Options e.g., trust funds and separate funds with government administration stand high under this criterion. However, the potential of legally instituting arrangement to meet this criterion in budgetary support option cannot be eliminated.

Good governance is characterized by attributes e.g., transparency and accountability, protection and improvement of rights, responsibilities and participation, distribution of power and wealth and motivational aspects including reduced risk of corruption. These attributes have higher potential to be instituted in the options e.g., trust fund and separate funds within government administration although these can be adequately built in the budgetary support option as well provided multi-level multi-actor equitable governance structure is adopted in this option.

Enhancing coordination capacity of the institution across the sectors, levels of government and with private sector and civil society will largely depend on the process of formation of the governing body rules for its management. And this is viable under any of the three options.

Links to broader reforms is reflected in the realization of the need for change in property rights structures and systems for participation. Realization of these higher level responsibilities within a national REDD+ financing institution is possible only when a multilevel multi-actor institution is established to function with autonomy to institute rules in the interest of its beneficiaries and stakeholders linking with overall national interest.

Political legitimacy, good governance, coordination capacity and links to broader reforms form the basis to achieve effectiveness, efficiency, equity and co-benefits outcomes in REDD+ institutions.

6.2 Recommendation

Nepal needs to make best use of experience it has accumulated from managing national funds under all three available options of fund management. Additionally, Nepal also needs to respect the raised awareness and higher expectation of its people indicated in the on-going socio-political transformation of the country.

Clearly, the options e.g., national trust fund or a separate fund within the government administration, both are coming up strongly as appropriate for Nepal subject to certain improvements to achieve REDD+ relevant specific requirements as indicated in this review. However, the possibility of budgetary support option can also not be eliminated provided Nepal government is committed to instituting multi-level multi-actor governance arrangement and meeting other basic requirements of national and international REDD+ mechanism.

References

- Angelsen, A., Brockhaus, M., Kanninen, M., Sills, E., Sunderlin, W. D. & Wertz-Kanounnikoff, S. (Eds.). (2009); *Realizing REDD+: National strategy and policy options*, Bogor, Indonesia: CIFOR.
- Angelsen, A., Brockhaus, M., Sunderlin, W. D. & Verchot, L. V. (Eds.), (2012); *Analyzing REDD+: Challenges and choices*, Bogor, Indonesia: CIFOR.
- MFSC/GoN, (2010); *Nepal's Readiness Preparation Proposal: REDD*. Kathmandu: Ministry of Forest and Soil Conservation, Government of Nepal.
- Skutsch, M. M., Karky, B. S., Rana, E. B., Kotru, R., Karki, S., Joshi, L., Pradhan, N., Gilani, H. & Joshi, G.; (2012); *Options for Payment Mechanisms under National REDD+ Programs*, ICIMOD Working Paper 2012/6. Kathmandu: International Center for Integrated Mountain Development
- Spiegel, B. & Wells, M., (2009); *Conservation trust funds as a model for REDD+ national financing* in Angelsen, A. (ed.) *Realising REDD+: National Strategy and Policy Options*. Bogor: CIFOR.
- Vatn, A. & Angelsen A., (2009): *Options for a National REDD+ Structure*, in Angelsen, A. (ed.) *Realising REDD+: National Strategy and Policy Options*. Bogor: CIFOR.
- Vatn, A. & Vedeld, P. O., (2011); *Getting Ready! : A study of national governance structures for REDD+*, Aas, Noragric.
- Vatn, A. & Vedeld, P. O., (2013): *National governance structures for REDD+*. *Global Environmental Change*, 23, 422-432.

Forest Tenure and Carbon Rights in Nepal: Assessment of Existing Legal/Institutional Arrangements and Refinements Needed to Implement REDD+⁷

1. Introduction

Clarification of forest tenure and carbon rights is essential for the sustainable success of REDD+ implementation in Nepal. Recent literature suggest that clear allocation of carbon rights is equally a prerequisite for REDD+ actions, even though it does not itself ensure a reduction of deforestation (UN-REDD, 2009). The underlying assumption is that REDD+ implementation would consist of PES schemes that make forests economically competitive by paying those who reduce deforestation and degradation and enhance forest carbon stocks. Without clear title to land, trees and carbon, it is difficult to establish a PES or REDD+ payment system (Charlotte, 2009). Clarification of forest tenure plays critical role in the implementation of REDD+ strategy and helps the national REDD+ implementation meet the 3E criteria (effectiveness, efficiency and equity) of success (Larsen et al., 2012)

Sunderlin et al., 2009 define “land tenure” as the right, whether defined in customary or statutory terms that determine who can hold and use land (including forests and other landscapes) and resources, for how long, and under what conditions. A number of legal interests over forested land are relevant to REDD+ policies, including property right, right to use the land (e.g., usufruct, leases, indigenous land rights) without holding full property, formal/informal rights to manage land and extract timber and mining rights (Charlotte, 2009). FAO has bundled these rights in a broad concept of forest tenure which includes ownership, tenancy and other arrangements for the use of forest (FAO 2009 c as referred by Charlotte, 2009). Forest tenure has been termed ‘a bundle of rights’ over a piece of forest, a tree or a group of trees. The “bundle of rights” includes rights and specific benefits derived from them (access, withdrawal and benefits), management (overall decision-making including rights of exclusion), and alienation (ownership, right to compensation, right to sale). These rights could be realized by law (*de jure*) or by practice based on understanding or tradition (*de facto*) (Bruce, 1989, cited in Acharya et al, 2008). Sunderlin et al. (2009) define forest tenure as the right, whether defined in customary or statutory terms, which determine who can hold and use forest lands and resources, for how long, and under what conditions. The existing forest rights arrangement in case of Nepal is more or less in line with the Sunderlin et al. and FAO defined “forest tenure” comprising bundle of rights including access, withdrawal and benefits, overall management decision-making including rights

⁷ This working paper (prepared by the consultant Sagendra Tiwari) is intended to develop an understanding on the topic based on literature review and analysis in Nepal's context. The underlying purpose is to generate knowledge and rationale to facilitate a multi-level and multi-actor sharing of ideas, concerns and perspectives on the topic to be recommended for National REDD+ Implementation Framework.

of exclusion and alienation (ownership, right to compensation and right to sale) in case of community forestry.

2. Purpose

Nepal's REDD+ Readiness Proposal (R-PP, 2010) states that *"A key principle is that carbon rights should be linked to land and forest tenure rights to minimize complexities and there will be a less direct link between forest management responsibility and the potential benefits from carbon trading..... Similarly, clear and legally defined benefit-sharing mechanisms that can deliver benefits to communities at the grassroots level will be an important factor for REDD's success."*

The main purpose of this review is to make an assessment of existing forest rights/tenure situation in Nepal based on national and international literature review, and suggest legal/institutional refinements that embrace clarification and alignment of carbon rights with different forest management regimes in practice. The working paper draws conclusion for multi-stakeholder consultation at multiple levels to form the basis for inclusion of forest tenure and carbon rights aspects in Nepal's REDD+ implementation framework.

3. Status of forest land tenure and Carbon rights in Nepal's forests

All forests and forest lands in Nepal, under whatever management regimes are "National Forests" except for forests on legally registered private lands, termed "private forests". Hence, the legal land ownership of lands on which exist community forests (CF), collaborative forests, (CoF), religious forests (RF) and leasehold forests (LhF) as per the forest act 1993 (67) lies with the government. Communities organized in to forest user groups have legally been provided the right to protect and manage the delineated part/patch of national forest and use/utilize the forest products⁸ therein. Forest rights holders are legally not entitled to alter the forest land use. There are some differences in the recognized forest rights in case of different community based forest management (CBFM) regimes. CFs, CoF and LhF are extended in ... ha/sq.km (..... % of total forest area) in which the ----- households (....) have their forest tenure⁹ recognized to larger extent.

Nepal's protected areas (PAs – extended in an area of 34,000 sq. km.) are also part of national forests governed and conserved by the Department of National Parks and Wildlife Conservation (DNPWC) on behalf of the government, National Trust for Nature Conservation (NTNC) and/or a network of local communities for their specific natural, wildlife, aesthetic and cultural

⁸ Nepal's Forest Act (1993) defines forest products as 'all the products available in the forests including timber, leaf, branches, stone, sand, soil, minerals, wild animals and water'. However, carbon remains excluded since the concept of forest carbon is relatively new and it is yet to be clarified whether carbon should be defined as a forest product or an ecosystem services.

significance. Buffer zones (BZ – the outer fringe of PAs) of 12 PAs and the 6 conservation areas (CAs) together make up for about 21,000 sq.km within which also exist CFs protected and used by local communities with legally recognized and/or customary forest tenure provisions. However, forest tenure provisions under CFs, CoF as per the forest legislation, and that under the NPWC Act, 1973, and under different CA management regulations have remarkable inconsistencies between and among them.

Forests other than those mentioned under management regimes noted above fall in to the category of “government managed forests” (GMF), parts of which have recently been declared “protected forests” (12, extended overha) for intensive conservation actions based on their ecosystem and biodiversity significance. Owing to the lack of institutional capacity and resources within the Department of Forests (DoF), these “government managed forests” remain unmanaged in real sense. Poor forest governance coupled with low government priority and resource scarcity have taken their toll on these forests pushing them further towards an “open access” regime where everybody enjoys access and rights.

Nepal’s forestry sector legislation does not recognize the customary forest rights, and more so in case of high mountain areas (national REDD+ strategy draft, 2015). Legislations related to national parks and wildlife conservation has limited reference of the indigenous people’s customary forest use rights. Customary land and forest use rights are not reflected in the existing statutory arrangements made for any community based forestry regimes except in CF guidelines (2008), which mentions the protection of customary forestry practices and traditional knowledge system.

4. Forest tenure issues likely to have implication on REDD+ Implementation

A brief overview of the forest tenure related issues that are likely to have implications on the implementation of REDD+ in Nepal is discussed in this section based on an analysis of Nepal’s forestry legal frameworks.

1) Under the CBFM Category

CF: i) Forest tenure is secured but for how long is not clarified in legal terms. It is rather hooked up with the period for which CF operational plans (OPs) are approved. CF OPs are approved normally for 5 to 10 years with provision of extension; ii) Elite dominance and control constrain full and equitable realization of Forest tenure by women, poor, dalits, and indigenous/ethnic groups in the communities; iii) Full realization of forest tenure is controlled/constrained by the government by imposing restrictions on clear felling, annual allowable cut and certain expenses; iv) Tax is imposed on collective rights holder institution despite legal guarantee of 100% benefit; v) Forest tenure is transferable, vi) Right to revoke the forest tenure rests with the government

LhF: collective forest tenure period is fixed at 40 years, rest remaining the same as in case of CF.

Religious forests: i) Forest tenure is secured, tenure is unlimited but sale of forest products for commercial purposes is restricted, Forest tenure is transferable and right to revoke the forest tenure rests with the government.

Collaborative Forestry i) forest tenure is unlimited, ii) Forest tenure holders get 50% of the benefit, remaining 50% going to the government; iii) District Forest Coordination Committee (DFCC) coordinates the management planning and decisions in the interest and benefit of tenure holders, local and national government agencies; iv) CoF as a CBFM regime and forest tenure made under this regime is not legally recognized by the Forest Act, 1993; Forest tenure is transferable, but government has right to revoke the forest tenure.

BZ CF: collective forest tenure is secured for unlimited period including an additional 30 – 50% of revenue generated from PA, but sale of forest product to outsiders is prohibited. CF management right is guaranteed to the extent that it is in line with and supportive to the BZ management plan prepared by the BZ council in technical guidance of PA authority and approved by the PA authority. Right to revoke the forest tenure rests with the government.

CA: collective forest tenure is secured for unlimited period, but the management plan is prepared in consultation with community representatives and approved by the government. Right to revoke the forest tenure rests with the government.

2) *Under the “government managed forests” Category,*

Protected Forests: Protected Forest Councils have been constituted including people and local government’s representatives; Local people’s access and use rights are yet to be legally defined.

Government managed forests: State has 100% land and forest tenure, however, local people’s access and basic forestry products for household needs e.g. fuel wood and fodder is generally unrestricted; Access and harvesting of forest/products for commercial purposes is regulated for licensees.

NPs/WRs: All kinds of access and use are strictly restricted, however, particular areas within NPs/WRs are opened every year seasonally for a defined period for local people to collect thatch grass.

3) ***Insecurity of forest tenure*** (access, use, benefit and management rights) exists in case of afore-mentioned CBFM regimes as per the Forest Act, 1993 (article 68) which authorizes the government to legally acquire full or part of such forests and release for priority national plans as and when deemed necessary. Often the government issues executive orders that

contradict and go beyond the policy and legal provisions to curtail the rights of forest tenure holders, which further adds to the insecurity.

- 4) ***Realization of forest tenure for women, poor, Dalit and indigenous people remains vulnerable.*** Women, poor, Dalit and indigenous people are not able to fully realize their forest tenure owing basically to the persistence of intra-community inequality and inequity. Social discrimination and exclusion based on caste, class, gender and ethnicity has thrived historically since Nepali society is hierarchically structured and remarkably differentiated. Consequently, elite dominance and intentional negligence of the voice of these groups of people has fostered inequality and inequity in participation and decision-making making process. Appropriate legal measures are indispensable to overcome this issue for REDD+ to succeed and sustain in Nepal.
- 5) **Weak forest governance** is reflected in the institutional inability to enforce law, conflicting inter-sectoral claims over forest land and forest products and intentional violation of policy and legal provisions by powerful government institutions and political elites under the cover of societal welfare and economic development. A system of participatory and consultative process to policy and legal frameworks formulation, and institutional restructuring capable of establishing the “rule of law” become indispensable for strengthening forest governance.

5. Understanding the Concept of Carbon Rights in relation to Forest Tenure in Nepal

The concept of carbon rights is complex as it emerged in the context of REDD+, and remains embodied with forest and land tenure issues (Karsenty et al., 2012). Carbon which is potentially or actually sequestered is an intangible resource (IUCN, 2009) and hence needs to be treated as an intangible product of forest ecosystem services. Creating ownership over carbon therefore, poses some regulatory challenges (IUCN, 2009), which is the case in Nepal, as lands - forested and/or with other natural resources and ecosystem services are in public domain.

Peskett and Brodnig (2011) argue that carbon rights is poorly defined since there does not exist single operational definition of carbon rights at the international scale. Defining carbon rights is subject to different interpretations and is likely to differ in different legal contexts. Carbon can be considered as a new form of property in forest ecosystems. Carbon can also be considered in the form of derivative rights associated with its trading as it creates new markets and funds aimed at reducing carbon emissions or enhancing removals.

Carbon as a property would need to be defined as to what exactly is being owned - sequestered carbon (regulated by forest use rights), carbon sequestration potential (regulated by forest management rights) or carbon sinks (regulated by land ownership). Carbon as property gets complicated here since it is associated with forest, tree and land ownership and/or right to manage these resources.

As derivative rights, the ownership of sequestered carbon makes sense only when it gets commoditized either through getting integrated in national/international emission trading regimes or getting monetized through funds based approaches. This further indicates that the rules governing emissions trading will influence these derivative rights and therefore, will have implications for carbon rights. For instance, non-state actors and especially indigenous people's communities have secured procedural and substantive rights through international laws and treaties. Cancun REDD+ agreement emphasize on recognizing the rights of indigenous peoples and local communities.

Carbon rights being the determinant of benefits sharing mechanism will have implications in terms of equity however, its relevance is likely to vary between three approaches of scale to REDD+. Literature reveals that carbon rights at local level become most relevant under the hybrid approach with subnational and/or project implementation. Hence, governments opting for a hybrid approach for of REDD+ would need to safeguard the carbon rights of poor, vulnerable groups and indigenous peoples and put in place the implementation of an effective, efficient and equitable benefit sharing mechanism.

A policy note on carbon rights in REDD+ published by the World Bank and REDD-net based on Peskett and Brodnig (2011) suggests that in approaches to REDD+ where title of carbon rights are relevant at local level, there could be two major options for establishing carbon rights.

The first major option is simple ownership over carbon sequestered under which carbon ownership and rights to sequestration potential are linked with land and forest ownership. This provides a flexibility of defining carbon as a natural resource and carbon as an ecosystem service facilitating clarification on who owns carbon credits associated with REDD+. Corbera et al. (2011) however, argue that where land ownership and carbon rights coincide, landowners would see the economic value of their forests increase and would potentially be able to access a new financial asset to complement (or substitute) existing income streams. On the contrary, if carbon is considered a public, state-controlled commodity, the long-term commitment that the generation of REDD+ credits implies will irremediably affect landowners' land use options. In this case REDD+ incentives may not reach—or reach only partially and indirectly, through governmental programs to rural actors, including the most disadvantaged who live within or next to forested areas, such as indigenous communities and forest-dependent villages and dwellers. The state—and not the particular landowners—would be held responsible for carbon losses before the international community.

The second option is usufruct rights over the land and forest that contain carbon - This option enables the local managers and users of the forests that they don't own to claim their carbon rights and benefit from it as long as the property (forest) is not damaged. This option is workable on private and public lands. Under this option the owner of the carbon sequestration potential

could be different from the owner of the carbon sink who might also be different from the owner of the sequestered carbon.

In the same vein, Corbera et al. (2011) suggest that governments could consider carbon as no different from other resources such as trees or non-timber forest products. In this way, carbon would become an asset for actors holding long-term usufruct rights in public forests, for communities holding collective titles and for private forest owners, and it would be considered a public resource only in those forests directly and uniquely administered by the state. Forest tenure and carbon rights would thus become intrinsically linked to each other and a multiplicity of systems for realizing the value of carbon may evolve across geographical and administrative scales. This is the most appropriate scenario for Nepal where 1) most forest lands are in public domain; 2) government entities are entrusted to protect and manage part of these forests not formally handed over under one or the other CBFM regime; and 3) communities all over the country are entrusted to protect, manage and use the forests formally handed over to them with legally defined collective forest tenure.

6. Proposed Legal and Institutional Reforms to Strengthening Forest Tenure and Clarifying Carbon Rights

This review reveals that reforms in land and forest tenure to suit to the needs of REDD+ should be considered as a process oriented and time consuming undertaking. It involves intensive consultations at multiple levels and with a wide range of stakeholders. However, it does not impose any constraint to implement REDD+ at national, subnational and local levels since implementation is considered useful for digging deep in to the issues associated with forest tenure, carbon rights and benefit sharing through learning by doing. On the basis of this review including the review of relevant forest and national parks regulations, the following legal reforms is deemed necessary to facilitate the implementation of REDD+ in Nepal and foster Nepal's experiential learning towards REDD+ implementation.

1. Forest Act, 1993 and NPWC Act, 1973 and all existing regulations within the purview of these acts need to legally recognize customary forest rights of indigenous people and ethnic communities as and where applicable in parallel with legally recognized forest tenure (as defined by FAO with specific "bundle of rights").
2. There exists inequality in forest tenure under two acts. Additionally, there are differences in forest tenure formalized in case of three different models of conservation area management. Forest tenure under all CBFM models must be harmonized to create incentive for communities to protect and manage forests.
3. In case of CF, define tenure (period) of forest tenure, provide mechanisms to address the inequity in realizing the forest tenure due to 1) elite dominance and control and 2) restriction imposed on certain expenses. Restriction imposed on annual allowable cut and on clear

felling should be justified as legal measures to promote sustainable forest management and control any intended or unintended change in forest land use.

4. In case of collaborative forestry, it needs to have legal recognition along with the collective forest tenure of communities under this model of CBFM. It also needs to formally define the composition, roles, responsibilities and functions of DFC DFCC given its critical role in CoF.
5. Duties, roles and responsibilities of legal institutions and individuals mentioned under both the acts should be reviewed and redefined to suit to the implementation of REDD+ in Nepal.
6. In case of government managed forests, people living in and around have traditionally enjoyed the right to access, graze cattle, and collect a variety of forest products including fuelwood, fodder, fruits, nuts, tubers, and medicines for their household use. Forest authorities have so far been regulating the protection and utilization provisions in these forests and there have been little if any, forest management of these government managed forests. Once the REDD+ implemented, legal provisions will be required to clarify how these traditional forest use rights of local people will be secured in these government managed forests.
7. Operational guidelines for all existing CBFM models should be reviewed and refined to make them compatible with REDD+ implementation.
8. Forest Carbon should be legally defined as “an intangible product of forest ecosystem services” enabling all relevant entities legally entrusted to manage the concerned forest landscapes to claim forest carbon rights as follows:
 - Carbon sequestered in government managed forests categories (e.g., GMFs, NPs, WRs) should be treated as a resource in national forests and an asset for the government to claim carbon rights;
 - Carbon sequestered in national forests managed under different CBFM modalities should be treated as a resource in national forests and an asset for relevant communities who collectively hold legally recognized and/or customary rights to protect, manage and use such CBFM areas. Communities engaged in CBFM will collectively have the carbon rights. Carbon rights holder CBFM communities will however not be legally authorized to sale or transfer their carbon rights to a third party (state/government being the second party) and they will be liable for full or part of the costs involved in realizing the benefit from carbon.
 - Carbon sequestered in private forests should be treated as a resource in private property domain, and an asset for relevant property holder(s) to claim carbon rights. Carbon rights holders of private property domain should not be legally authorized to sale and/or transfer their carbon rights to a third party (state/government being the second party). They should also be liable for full or part of the costs involved in realizing the potential benefit from carbon as negotiated with the national entity governing REDD+.

References

1. Charlotte, S (2009): Right and REDD+: Legal and Regulatory Considerations in Angelsen *et al.* (ed.) Realizing REDD+: National Strategy and Policy Options, CIFOR
2. Corbera, E. et al., (2011): Rights to Land, Forests and Carbon in REDD+: Insights from Mexico, Brazil and Costa Rica; *Forests* 2011, 2(1), 301-342;
3. FAO (2012); Forest Carbon Tenure in Asia Pacific: A comparative analysis of legal trends to define carbon rights in Asia Pacific; FAO LEGAL PAPERS ONLINE No. 89 2012
4. GoN/MFSC (2010): REDD+ Readiness Proposal (R-PP), Nepal
5. HMG/MFSC (1993, 1995): Forest Act, 1993 and Forest Regulations, 1995 of Nepal
6. HMG/MFSC (1973): National Parks and Wildlife Conservation Act
7. IUCN (2009): Legal Frameworks for REDD: Design and Implementation at the National Level, John Costenbader (ed.), International Union for Conservation of Nature, Gland, Switzerland.
8. Karsenty, A., et al., (2012): “Carbon rights”, REDD+ and payments for environmental services. *Environ. Sci. Policy* (2012), article in press, <http://dx.doi.org/10.1016/j.envsci.2012.08.013>
9. Larsen, A. M., (2009): Tenure matters in REDD+: Lessons from the Field in Angelsen *et al.* (ed.) Realizing REDD+: National Strategy and Policy Options, CIFOR
10. Sunderlin, W. D. et al. (2009): Forest tenure Rights and REDD+ from Inertia to Policy Solutions in Angelsen et al. (ed.) Realizing REDD+: National Strategy and Policy Options, CIFOR
11. The World Bank and REDD-net (2012); Carbon Rights in REDD+: Policy Note based on Peskett, L. and Brodnig, G., (2011): Carbon Rights in REDD+ Exploring the Implications for Poor and Vulnerable People, World Bank and REDD-net.

Annex 5: Issue/Discussion Paper 4

Designing an Appropriate Mechanism of Benefit Sharing for Nepal's REDD+ Implementation¹⁰

1. Concept of Benefit in REDD+

“Benefits” in REDD+ could be termed as “the transformed form of financing” that a country participating in REDD+ will receive and create incentives and rewards for all relevant domestic stakeholders and rights holders engaged in emissions removal and sustainable forest management (Lutterell et al., 2012). However, fund received from international channel is not the “net benefit”, it is rather “gross benefit” which could be realized only after certain investments in implementing REDD+ policy measures and actions on the ground. It clarifies that benefit from REDD+ should be interpreted as “net benefit” after factoring in the associated costs.

Benefits could be in monetary as well as in non-monetary forms. While the direct cash payments is monetary benefit, provision of goods, services, capacity and infrastructure, forest tenure security, improved governance, increased availability of forest products, improved ecosystem services etc. form the diverse range of non-monetary benefits (IUCN, 2009; USAID, 2012). Lutterell et al., (2013) have argued that given the critical role of benefits in creating necessary incentives to reduce carbon emissions, benefit sharing mechanism forms a central design aspect of REDD+ implementation.

Matrix 1: Benefit and Cost Streams in REDD+

Benefit Streams	Associated Cost Streams
<ul style="list-style-type: none">Government and donor funds in readiness and piloting phasePerformance based paymentSale of Carbon credits	Program/Policy/ project implementation involved Direct costs e.g., <ul style="list-style-type: none">Implementation costTransaction Cost
<ul style="list-style-type: none">Benefits from changes in forest use e.g., higher income from forest products, indirect ecosystem benefits	<ul style="list-style-type: none">Opportunity Costs of Forest Conservation and Sustainable Management
<ul style="list-style-type: none"><u>Indirect benefits</u> e.g., enhanced governance strengthened tenure rights, technology transfers, local economy stimulation	Costs involved due to reduced agricultural income

Adapted from Lutterell *et al.* (2013)

The extent to which the access to benefits is conditional upon performance will depend upon the i) type of performance expected, ii) type of funding being delivered and the design of the benefit

¹⁰ This working paper is intended to develop an understanding on the topic based on literature review and analysis in Nepal's context. The underlying purpose is to generate knowledge and rationale to facilitate a multi-level and multi-actor sharing of ideas, concerns and perspectives on the topic to be recommended for Nepal's National REDD+ Implementation Framework.

distribution mechanism. The design of the benefit distribution mechanism, in turn, will partially depend on the existing *de jure* and *de facto* land/forest tenure situation (USAID, 2012).

Lutterell et al., (2013), based on an analysis of national policy processes of six countries and drawing on data from CIFOR's Global Comparative Study on REDD+, have documented six rationales for who should benefit from REDD+ as follows:

- 1) Benefits should go to actors with legal rights ("legal rights" rationale);
- 2) Benefits should go to those actors achieving emission reductions ("emission reductions" rationale);
- 3) Benefits should go to low-emitting forest stewards ("stewardship" rationale);
- 4) Those actors incurring costs should be compensated ("cost compensation" rationale);
- 5) Benefits should go to effective facilitators of REDD+ implementation ("facilitation" rationale);
- 6) Benefits should go to the poorest ("pro-poor" rationale).

Studies have asserted that given the wide range of rationales and interests at play, the objectives of REDD+ and benefit sharing must be clearly established and the term "benefit" defined before effective benefit-sharing mechanisms can be designed (Pham *et al.*, 2012; Lutterell et al., 2013). For stakeholders to support REDD+, the legitimacy of decision-making institutions, consideration of context, and attention to process are critical. Building legitimacy requires attention not only to fair distributional outcomes but also to consensus on relevant institutions' authority to make decisions and to procedural equity.

2. Objective

Nepal's R-PP (2010) has clearly articulated that clear and legally defined benefit-sharing mechanisms that can deliver benefits to communities at the grassroots level will be an important factor for the success of REDD+ in Nepal. Further quoting Borner and Wunder (2008), the R-PP has reiterated that despite the variation of opportunity costs and other costs all over Nepal due to remarkable differences in nature, type and intensity of drivers in different geographic regions, a hybrid approach of accounting and reporting that embraces sub-national implementation could enable design a differentiated benefit sharing mechanism that is clear and equitable and legally justifiable.

The objective of this working paper is to assess the options for appropriate benefit sharing mechanism in REDD+ for Nepal including institutional arrangement. This working paper is based on review of globally evolving benefit sharing arrangement in REDD+ and in-country learning and experience in this regard.

3. Key Determinants of Benefit Sharing Mechanism

3.1 Carbon Rights

As per Libertarian justice theory, benefits should be distributed to those with legal claim or right, whether statutory or customary. However, rights to carbon sequestration and storage (carbon rights) have not been legally clarified in most countries. Hence, most countries are obliged to assume existing land and forest tenure rules and current policies for rights to forest resources as the basis for allocating payments for carbon emission reductions (Cotula and Mayers, 2009 quoted in Lutterell et al. 2013). Peskett and Brodnig (2011) have articulated two distinct aspects of carbon rights on the basis that legal rights vary within bundle of “property rights”, and land or forest ownership does not necessarily give the owner a legal right to benefit from carbon sequestration or reductions in carbon emissions. These aspects are: i) carbon is contained in land, trees and soil, and therefore, right to carbon not necessarily need to coincide with property rights to land and forests; ii) the right to benefit from selling carbon credits is distinct from property rights to sequestered carbon. So where no explicit law exists on right to sequestered carbon, legal rights to sell carbon credits can be associated with the right to the underlying asset, resources or activity.

Relating this discussion with Nepal’s context reveals that:

- Property rights of all lands and forests within Nepal remain vested with the government of Nepal (GoN) except for the lands/forests legally registered as private property. This could be interpreted as i) the right to carbon sequestration potential and ii) right to carbon sink are still with the government in all national forests, whereas right to the sequestered carbon could be considered to be with local forest manager and user communities wherever they have legally been recognized for one or the other CBFM regime.
- Collective and exclusionary rights to forests for management, utilization, use and benefit have been legally assured to communities all over Nepal practicing different CBFM models in almost 40% of Nepal’s forest lands although customary rights of indigenous people over lands and forests yet remains to be legally recognized and clarified. GoN needs to clarify and legally recognize the collective rights of communities and indigenous people to sequester carbon in forests they have rights over for management, use and benefit, and benefit from carbon;
- Nepal’s local governance act and regulations contradicts with forest act and recognizes the property rights of local government over lands and forests contained within a village development committee boundary. While Nepal would need to sort out such conflicting claim of property rights between two sectors, it will also need to recognize the role and functions of local government agencies in implementation of REDD+.

- GoN manages > 60% of the forest lands as government managed forests, protected areas and protected forests. The GoN therefore, is also eligible for claiming benefit from carbon credits; Additionally, GoN is also eligible for claiming a share of benefit from carbon sequestered in community managed forests all over the country since it holds the property rights over all such forest lands and is legally eligible to claim the rights to sequestration potential and right to carbon sink;

3.2 Actors

From international down to local forest managers' level, diverse institutions and actors from government, non-government, civil society, community groups and private sector will get involved in REDD+ implementation. Which institutions and actors will perform what functions and what benefit they will be eligible for will have an implication on benefit sharing. The table below provides an indicative list of actors who probably have a role in REDD+ in case of Nepal. Institutional mechanism would be required for benefit sharing across actors and at multiple levels based both on distributional and procedural equity.

Table 1: REDD+ Institutions, Actors and their likely Roles at Different Governance Level

Governance Level	Institution	Actors	Likely role/function
1. Central government	1. Apex Body 2. Central Carbon Registry 3. Financing institution 4. REDD Implementation Center 5. MRV/NFIMS Institution	Relevant sector ministries, International development partner/(I)NGOs/CSO-IPA, Private sector and expert representatives MoFSC MoFSC/DFRS	International dealings, project registration, policy, steering, Inter-sectoral coordination, policy measures implementation, ensuring multi-sector and multi-level governance in MRV and benefit sharing Day to day coordination, management and supervision of REDD+ Implementation Operationalization, management, maintenance and updating of transparent and credible measurement, monitoring, reporting and verification system
2. Regional/ Provincial government	REDD+ Focal Office	DoF/DNPWC	Technical backstopping, Capacity building, M and MRV support
3. District/local government	1. DFCC 2. DRWG 3. CSO/IP Alliance 4. District/PA PMU	DDC, DFO, NP/WR authorities, line agencies represented in DFCC, FECOFUN, CSOs and IPA representatives	Policy and strategic guidance, conflict resolution, capacity enhancement, M and MRV and relevant support
4. Local/ Community	Ilaka level REDD Network Village Forest Coordination Committee (VFCC),	CFUGs, BZ-CFUGs, LhFUGs, CFM-UGs, DFO, Park authorities and BZ Committee	Technical support and backstopping, carbon measurement, data recording, record keeping, data entry in to national MRV system, Benefits distribution and management,

3.3 Accounting and Reporting

It is now widely accepted that a national benefit sharing mechanism would need to ensure that the implementation of REDD+ becomes effective, efficient and equitable. If REDD+ revenues are to continue to flow, national and local approaches to balancing trade-offs between effectiveness, efficiency, and equity need to align with those of REDD+ donors and investors and with any international standards that may emerge (USAID, 2012). One out of many determinants of benefit sharing mechanism is which out of three approaches to REDD+ accounting scheme fits well in the country context and the extent to which it balances the trade-offs between effectiveness, efficiency and equity.

Within Nepal's framework condition, a hybrid approach to accounting has been considered feasible as it would allow payments to go directly to sub-national projects that achieve reductions, and also to the national level if there is a proven overall reduction. Project and national accounting would need to be harmonized, and any emission reduction credits issued at the sub-national level would be deducted from the national accounting. This would likely lead to deficits at the national level, which would be offset through the rewards allocated when the country consistently makes proven national reductions. The approach would enable Nepal embark on "phased" and "community/government partnership" approach in REDD+ with differentiated compensation mechanism. It will also enable sub-national projects to be compensated with nationally verified national M and MRV system in place even if the country overall has a negative balance. Although generating disaggregated national data will mean a high M and MRV cost at national level, it will still form the rationale for continued upscaling and strengthening of national MRV system.

It has often been suspected that the devolution of carbon monitoring at community, local/district government level bears the risk of elite capture and corruption resulting in diminishing local interest and priority in carbon sequestration. These issues however could be minimized through formalization of nationally agreed general forest management goals and minimum standards for forest practices which is well institutionalized through CBFM models in Nepal.

Benefit sharing mechanism in Nepal will need to make vertical as well as horizontal allocation of benefits at all levels. Vertical allocation depends on where the value addition occurs and on the opportunity costs at each level. In case of Nepal, the government will need to bear the cost of measurement and MRV, implementing policy, administration and governance reforms. Too many stakeholders both horizontally and vertically resulting due to multi-level and multi-stakeholder governance will have an implication on economy of scale further compounding the relative costs of implementation of REDD+. Approaches will however, need to be innovated to address them with enhanced learning and experience.

3.4 Financing Mechanism

A separate working paper on appropriate financing mechanism for Nepal has concluded that the available three options have both merits and demerits and that the specific country context (e.g., socio-political structure and governance situation) and multi-stakeholder consultation should form the basis for deciding appropriate financing mechanism. Nepal has gained experience of implementing programs within the frameworks of both an “independent trust fund” and a “separate fund within government administration”. However, the government so far has maintained its upper hand in formation and operationalization of both of these funding mechanisms through nomination of the board members, appointment of the chair and policy and regulatory control.

The GoN, in case of REDD+, anticipates a sizable volume of funds transaction in Nepal. It also is going to be a key claimant of REDD+ benefits for being engaged in REDD+ through implementation of policy and measures at national level, conservation and sustainable forest management in protected areas and government managed forests. It will also need to be compensated for the international negotiations, and national coordination of REDD+. It therefore, seems logical that the government will prefer “a separate fund within government administration”. However, other stakeholders at multiple levels including CBFM communities (managing approximately 30% of Nepal’s forests), civil society organizations, NGOs etc. preferably are likely to advocate for “an independent trust fund” given the poor governance situation, lengthy bureaucratic processes and high risk of unabated corruption in the country.

A “separate fund within government administration” imposes strict conditions for additionality, but is effective in controlling leakage and ensuring inter-sectoral coordination. A well-functioning administrative structure could make it low cost and it also gains competitiveness with increase in REDD+ volume. However, the greatest risk associated with this mechanism is that the fund might be used to balance the state budget which can be eliminated by instituting an equity-based multi-stakeholder governance mechanism for receiving and channeling the payments.

Davis et al. (2012) argue that the benefit sharing mechanisms operating through various levels of government administration are often associated with challenges e.g., lack of downward accountability (e.g., in Tanzania and in Nepal as well), weak capacity of local administration (e.g. in Nepal and DRC) including corruption and inefficiency. However, there is also evidence that these challenges can be mitigated through robust institutional design, strengthened community-level institutions, and accumulated experience with a given system as demonstrated by CF in Nepal. Nepal’s financing mechanism therefore, needs to be democratically governed within a multi-stakeholder framework at multiple levels so as to enable an effective, efficient and equitable benefit sharing mechanism that is crucial for the success of REDD+ in Nepal.

3.5 Link between cost and benefit

The distinct type of costs involved in the implementation of REDD+ are i) implementation cost, ii) transaction cost and iii) opportunity cost. Maintaining the interest and motivation of local forest managers in REDD+ and making it sustainable will largely depend on sustained flow of incentives to REDD+ implementers. This however could be realized only by keeping the associated costs as minimum as possible. Opportunity costs in case of REDD+ could be defined as the benefits linked to deforestation and degradation of forests that is likely to be forgone by an individual and/or whole community when REDD+ is implemented. In Nepal's case, rural households largely depend on forests for a wide range of products and services to sustain their subsistence farming and livelihoods. Hence, all different rural uses of forests e.g., fuelwood, fodder, leaf litter, fruits, nuts, seeds and medicines collection cannot be forgone while implementing REDD+. Transaction costs are the costs involved in ensuring participation of all relevant stakeholders at multiple levels. Multilevel and multi-stakeholder approach to implementing REDD+ therefore, is likely to involve relatively higher cost. Implementation costs are dependent on effectiveness of the institutions the efficiency in institutional interactions meaning more clear are the roles and responsibilities of institutions and more efficient are the human resources therein, the lower will be the implementation costs of any action. Unnecessary bureaucratic processes and complicated procedures higher will they make together the implementation and transaction costs of implementing REDD+.

Davis et al., (2012) in their study in five countries documented that REDD+ could bring limited benefits to communities due to the high transaction and implementation costs necessary to support community participation. It is often suggested that transaction and implementation costs are inflated by the number of intermediary institutions involved in delivering benefits to the community level (IUCN 2009). In addition, larger numbers of intermediaries can create inefficiencies that slow benefit delivery and bureaucracy that increases opportunities for corruption. There was not any evidence that one type of benefit sharing mechanism would perform better than the others with respect to minimizing transaction costs. However, efforts to minimize transaction costs must be balanced with other costs and benefits associated with a particular institutional design. Project based mechanism promise drastic reduction in transaction costs, it however, bypasses the national and local governments and enable the intermediaries become dominant and capture relatively higher percentage of benefits. Angelsen et al. (2009) articulates it to be a situation of threatened legitimacy and weakening of existing accountability mechanisms.

Benefit sharing mechanism operating through various levels of government administration are often associated with different sets of challenges e.g. lack of downward accountability, weak capacity of local administration, inefficiency and corruption. However, there are evidences that these challenges can be mitigated through strengthened community level institutions and their

accumulated experience with given system as demonstrated in Nepal by CF and other CBFM institutions.

4. Lessons from Globally Evolving National Benefit sharing Mechanisms

Brazil: A study undertaken by Forest Action (Khatri et al., 2010) has analyzed the evolving REDD+ benefit sharing mechanism of Brazil under “The Amazon Fund”. The study has asserted that multi-stakeholder governance structure of the fund operated by the Brazilian National Development Bank supported by an independent monitoring and auditing of financial transactions through engagement of a third party has ensured negligible governance intervention, transparency and accountability in benefit sharing. It has also made special efforts to enhance cost efficiency by lowering down the transaction costs of REDD payments that will eventually result in trickling down of more REDD payments at the community level. This assertion however, could not be taken for granted.

Indonesia has developed a REDD+ benefit sharing mechanism under which the Ministry of Forestry on behalf of the central government assumes the responsibility of implementing REDD+ and managing REDD+ payments to forest stewards, managers/users in different forest regimes. The role of state, district and local government agencies is to encourage mutual accountability in managing REDD funds. Ministry of Forestry is supported by a national REDD Working Group represented by relevant sector ministries, non-government and civil society actors. These members raise concerns relevant to their sectors and engage in enhancing equity, transparency and governance with respect to benefit sharing. Benefit sharing is linked with forest management regime and benefit goes to the relevant community groups. Indonesia has formalized the role of a developer who facilitates the entire REDD+ process including negotiation with funding agencies and/or markets for percentage share to be availed from the carbon project.

REDD+ revenue distribution is linked with the management/use rights over a particular forest regime with a share to government and to the developer in Indonesia. Hence in case of protected area, government would receive 50% while community will get 20% and the developer will get 30%. However, in case of community forests, the community and the developer will get 50 and 30% each whereas the government will get 20%. Out of the total share received by the government, 40% is retained by the central government, 20% is provided to the state/provincial and 40% to the district government.

Vietnam: REDD program objective in Vietnam is to address deforestation and forest degradation through capacity building at national and local level to be coordinated and managed by the Department of Forestry (DoF). A multi-stakeholder body including all relevant government ministries and CSOs was engaged in REDD readiness preparation. The diverse ethnic communities and their forest rights have been formally recognized and their branches have been set up in two districts where the REDD activities are being piloted.

Three distinct type of benefit sharing mechanism exist for financing environmental services in Vietnam e.g., i) Inter-governmental budgetary support is transferred from central down to provincial level that further is transferred to district and local level as program support or performance based support to sub-national level for environmental conservation, ii) targeted funds support outside fiscal regulation largely dependent on administrative discretion, and iii) autonomy to the sub-national governments to participate in development projects and raise tax from them for the environmental conservation.

5. Lessons from within-Nepal Benefit Sharing Mechanisms

Basically three types of benefit sharing mechanisms related to watershed services and forest protection can be observed within Nepal. They are i) hydropower benefit sharing for Kulekhani watershed protection ii) Protected Areas revenue sharing with buffer zone communities and iii) incentive sharing in NORAD funded REDD+ Pilot project .

5.1. Kulekhani Hydropower Benefit sharing for watershed protection

In case of hydropower, communities of eight VDCs upstream the water reservoir of Kulekhani hydropower (92 MW) receive 20% of approximately NRs 25 million (12% of the total revenue generated by Nepal Electricity Authority) allocated to the Makwanpur DDC having the power plant and water reservoir. This is a kind of payment for environmental services (PES) since last eight years allocated to eight upstream VDCs for forest and watershed protection against the approval of their annual plan for conservation and development. However, the VDCs so far have spent major portion of such fund in infrastructure development rather than in forest and watershed protection. This could not be considered as PES since forest dependent communities and forest user groups remain excluded from decision making and annual plan development.

5.2 Protected Areas Revenue sharing for Forest and Wildlife Conservation

PA revenue sharing mechanism is founded in recognition of role of communities living around PAs in forest and wildlife protection including their rights to basic forestry products and services for sustainable livelihoods. The Park authorities annually allocate 30 to 50% of the total revenue generated from that park in preceding year for the implementation of a buffer zone management plan prepared by the buffer zone committee and approved by the park authority. Fund received under this mechanism is allocated for conservation activities (30%), community development (30%), income generation activities (20%) and conservation education (10%) leaving 10% as administrative cost of the buffer zone committee. Buffer zone committee follows a participatory planning process and allocates these funds to all BZ user groups against their approved annual conservation and development in a transparent and equitable manner.

5.3 Incentive Sharing in NORAD Funded REDD+ Pilot Project Nepal

A NORAD funded REDD+ pilot project was implemented in three watersheds of three districts of Nepal (Dolakha, Gorkha and Chitwan). The pilot project watersheds comprised 10,266 ha of CF area managed by 18,000 HHs organized in 105 CFUGs. This pilot project aimed at designing a payment mechanism applicable in all CFs and contributing in the development of National REDD+ Strategy. Institutions e.g., watershed level REDD+ networks and monitoring committees were innovated to guide and facilitate the REDD+ actions in pilot sites. REDD networks were represented by all participating CFUGs that facilitated implementation of project activities including carbon change measurement. Incentives were provided to respective REDD networks for their contribution in sustainable forest management. Rosenback et al. (2013) have reported that The Watershed REDD Networks are then responsible to distribute the money to individual CFUGs. This mechanism bridges the community and the national level, satisfying both the need to centrally administer payments, and to make payments to households that reflect local heterogeneity in participation and costs. The payment system distributes funds to CFUGs based on a system that not only recognizes the amount of carbon stored and sequestered, but that also takes into account social variables. Only 40% of payment values are based on forest carbon enhancement, with the remaining value weighted to favor households with a greater number of indigenous (10%), Dalit (15%), and female (15%) members, to favor households in poverty (20%). This mechanism may help to ensure that REDD+ benefits are felt by marginalized groups, and to avoid elite capture. In sum, the project's differentiated payments are intended to encourage equality and provide social co-benefits, and have led to an increase in wealth for many households and have incentivized sustainable forest management.

Two key lessons emerging out of this pilot are i) Procedural equity is crucial in benefit sharing mechanism which this pilot project has demonstrated by innovating REDD Network as a multi-stakeholder institution at pilot forest management unit (FMU) level; ii) distributional equity cannot be achieved considering only the performance of a CFUG but also needs to consider which particular group of people within the CFUGs suffer most due to REDD+ actions and it should also have a pro-poor inclination to achieve social co-benefits.

6. *Suggested Approaches to Designing Nepal's REDD+ Benefit sharing Mechanism*

Literature review reveals that two elements of national REDD+ architecture e.g., flow of **Information** and **Incentives** are integral part of national benefit sharing mechanism which requires appropriate institutional arrangement to enable it achieve 3E parameters of REDD+. Information on carbon measurement and monitoring including internal validation/verification flows vertically upward to MRV system on to carbon registry and to independent verification, and downward from MRV system to subnational and local carbon sequestering entities.

Funds/revenues flow from international to national funds and from there gets channeled horizontally and vertically down to sub-national to district and local carbon rights holders.

Lessons learned from evolving benefit sharing mechanism of Brazil, Indonesia and Vietnam including in-country experiences reveals that following approaches should be useful for national REDD+ benefit sharing mechanism of Nepal.

- 1) Carbon rights should be established based on the working paper on carbon rights and the points discussed under subsection 3.1 in this working paper.
- 2) Objective of REDD+ implementation and that of benefit sharing should be established including clarity on the nature/form of benefits e.g. direct payment (monitory), and/or capacity, infrastructure, livelihoods improvement (non-monetary) etc.
- 3) Objective of benefit sharing should clarify and relate to the types of performance expected and that of funding that is expected and/or targeted at.
- 4) Objective of benefit sharing must also make it clear as to which or all of rationale will be applied among e.g., legal/customary rights, emissions reduction, stewardship, facilitation, cost compensation and pro-poor rationale. This should provide clarity as to which among various institutions and actors involved in Nepal's REDD+ implementation in various capacities and at multiple levels will be qualified for sharing revenues/benefits.
- 5) Funds/payments received from international source once deposited in the national account would need to follow a standard process and procedure for vertical and horizontal flow and distribution. In case of Nepal, it will need to flow to sub-national/project level and further down to local/community level to the groups engaged in REDD+ actions for horizontal distribution among households/individuals, women, poor, indigenous peoples and forest dependents. Horizontal flow at national level will take place through transfer revenue to sectors involved in policy and measures implementation for REDD+. At the sub-national/district level sharing of revenue/benefit might take place among DDC/DFCC, DFO, Park authorities, regional/subnational forest authorities and other NGOs, CSOs, and IP alliance. The process and procedure involved in flow of revenues/benefits both horizontally and vertically, should be efficient and transparent among stakeholders at multiple levels.
- 6) The legitimacy of any benefit sharing mechanism will depend on the extent to which it will ensure the distributional as well as the procedural equity which has been demonstrated under the NORAD funded pilot project.
- 7) The multi-stakeholder bodies established to support REDD+ from central down to local FMU level should have decisive role in formulating benefit sharing policies, processes and procedures to be executed by the funding entity.

7. Proposal for Nepal's REDD+ Revenue Sharing

Based on the outcome of this review and the lessons learned till to-date, the table below provides a tentative proposal for Nepal's REDD+ revenue sharing mechanism under different forest management regime. At this stage it is not clear what kind of policy and measures (PAMs) will be undertaken by various sectors (e.g. energy, land management and water resources etc.) to contribute in addressing cross-sectoral drivers of deforestation and forest degradation in Nepal. Which different stakeholders other than local level CBFM practitioners, DoF and DNPWC will have claim over REDD+ revenues at national, sub-national and local level for their contribution in REDD implementation in Nepal. So the horizontal distribution of REDD revenue especially at national and sub-national level is difficult to propose. However, the NORAD funded project has already demonstrated a horizontal benefit sharing mechanism at local CBFM level which has given due consideration to both carbon and non-carbon benefits and also justifies the legal rights, pro-poor and stewardship rationales of REDD+ benefit sharing. This review reveals that the procedural and distributional equity of benefit sharing be maintained at the local FMU level in general but how this can best be achieved should remain at the discretion of the local institution such as FMU level REDD network as innovated under the NORAD funded pilot project. At national and sub-national levels, it should be the respective multi-stakeholder bodies to work out the most appropriate horizontal distribution of REDD+ revenues.

Table 2: Proposed REDD+ Revenue Sharing Percentage in Different Forest Management Regimes

Forest Management Regime	Revenue sharing Percentage		
	Central government	Sub-national/district government	Local forest management entity
Government managed forest	40	30	30
National Parks and Wildlife Reserves	50	30	20
Conservation Areas and Buffer Zones	30	20	50
Collaborative Forest Management areas	30	30	40
Community Forests, Leasehold forests and Religious Forests, Buffer Zone CF	20	20	60

References

- Davis, C., Nogueron, R. and Javelle, A-G, (2012); Analysis of Institutional Mechanisms for Sharing REDD+ Benefits; Property Rights and Resource Governance Project, USAID.
- Mohammed, E. Y. (2011): Pro-poor benefit distribution in REDD+: who gets what and why does it matter? REDD Working Paper. IIED, London.
- Karky, B.S., (2012): Pilot REDD+ in Community Managed Forest in Nepal; International Center for Integrated Mountain Development (ICIMOD) Nepal
- Khatri, D.B., Karki, R., and Bushley, B. (2010): REDD+ Payments and Benefit Sharing Mechanisms in Nepal, Forest Action.
- Pham, T.T., Brockhaus, M., Wong, G., Dung, L.N., Tjajadi, J.S., Loft, L., Luttrell C. and Assembe Mvondo, S. 2013 Approaches to benefit sharing: A preliminary comparative analysis of 13 REDD+ countries, Working Paper 108, CIFOR, Bogor, Indonesia.
- Pescett, L. (2011): Benefit sharing in REDD+: Exploring the implications for poor and vulnerable people, Policy Note, World Bank and REDD-net.
- Rosenback, W. Whittemore, J., and DeBoer, J. (2013); A project submitted in partial fulfillment of the requirements for the degree of Master of Science (Natural Resources and Environment) at the University of Michigan
- Luttrell, C., L. Loft, M. F. Gebara, D. Kweka, M. Brockhaus, A. Angelsen, and W. D. Sunderlin. 2013. Who should benefit from REDD+? Rationales and Realities. *Ecology and Society* 18(4): 52. <http://dx.doi.org/10.5751/ES-05834-180452>

Issues and Options of Establishing a National REDD+/Carbon Registry for Nepal¹¹

1. Concept of REDD+/Carbon Registry

A REDD+/carbon registry system is a repository for information on REDD+ actions preserving knowledge of facts, events, documents, maps, the details of ownership and value, etc. in a verifiable format (FCPF, 2013). It basically is a tool that can help capture, process, store and report on all relevant data and information related to REDD+ projects and programs in a way that is verifiable and accessible to various categories of stakeholders or end-users for decision making purposes.

At national level the significance of this tool lies in its ability to facilitate the operation of a REDD+ participant country's REDD+ implementation framework (policies, rules and requirements) irrespective of where the ERs generated (by REDD+ programs) are transacting within a market framework. Hence, the definition of a country's implementation framework processes becomes a pre-requisite in registry development and roll-out. In a REDD+ context, a central registry can aggregate and track multiple levels of REDD+ activities (national, subnational and project-based) and can provide governments and donors with transparent and meaningful data from which to make results-based payments.

2. Key Requirements of a National REDD+/carbon registry (Scholl, 2011) as suggested by experts are:

- It should ensure environmental integrity that can be achieved by a) policy or standard that sets the eligibility requirement for a bona fide emission reduction programs (ERPs) and b) recording and tracking ERPs, ER and REDD+ units or results-based payments. It should be able to track domestic leakage as well as double counting;
- It should promote transparency through recording the details of REDD+ programs (ERPs), units, regional/sub-national and/or national reference scenarios;

¹¹ This discussion paper (prepared by the consultant Sagendra Tiwari) is intended to develop an understanding on the topic based on literature review and analysis in Nepal's context. The underlying purpose is to generate knowledge and rationale to facilitate a multi-level and multi-actor sharing of ideas, concerns and perspectives on the topic to be recommended for National REDD+ Implementation Framework.

- It should ensure efficiency through establishing a financially and operationally efficient management system. It however, should be able to adhere to a mixture of internationally agreed policy requirements and additional domestic requirements once an international REDD+ mechanism has been established.

Scholl (2011) has noted that a REDD+ registry could be created as part of a broader national REDD+ strategy and would ideally be placed in the context of the legal and institutional framework established to govern and oversee the implementation of the REDD+ program(s). In order to promote participation and access of all relevant actors, the procedures and guidelines for the operation of the REDD+ registry should be based on simple, transparent, and expeditious rules. Issues to be dealt with through these guidelines and procedures may include: (i) relevant institutional arrangements for the operation of the registry; (ii) verification of information and approval procedures; (iii) authorized participants; and (iv) effect on title and rights to REDD+ benefits.

Options to finance national REDD+ registry infrastructure whilst ensuring quality design and use could include (i) national donors and governments grouping funds to finance extension/set-up and ongoing operation and maintenance of existing infrastructure in certain jurisdictions for a period of time so that users were insulated from costs initially; (ii) volume-based charges to national governments; and (iii) volume-based charges to users.

REDD+ registries could be i) compliance market registries and ii) voluntary market registries. The compliance market registries are founded on the basis of Kyoto Protocol and comprises a network of national registries and one central ‘international transaction log’ (ITL) operated by the UNFCCC Secretariat. The Kyoto registry system currently operates in a manner that ensures environmental integrity by accurate tracking and holding of Kyoto units. Annex I registries are managed by the individual countries and are designed to carry the transaction types such as, *issuance, transfer, acquisition, cancellation, replacement, retirement, and carry-over* of Kyoto units. Issuance may include issuance of new units such as Removal Units or conversion of one type of unit (e.g. an AAU) into another type of unit (e.g. an ERU for a JI project). This conversion for ERUs effectively stops double counting in JI projects that are necessarily included in the national reporting and inventories. These national registries are required to interact electronically with the UNFCCC ITL, which validates requested activities on the network and communicates across the registry system.

The voluntary carbon market contains a number of different carbon offset accounting standards - all with differing rules, infrastructure requirements and in most cases without any overarching standards body actively approving issuance and treatment of the units created. Most major standards are linked with a third party registry provider and some standards authorities (such as the Voluntary Carbon Standard Association (VCSA) or The Gold Standard) have established a very structured approach to registry operations including drafting operating procedures and audit

requirements. Other standards authorities are less involved in the registry functions and procedures. There is a measurable trend towards registry usage in the voluntary carbon market given the confidence, transparency, efficiency and credibility that registry use helps deliver to sellers and buyers in that market (particularly in the absence of a compliance framework underpinning these standards).

At the operational level, a registry essentially is an infrastructure comprising technology, rules and operational processes. Users open accounts, hold various forms of units and communicate with a central operations body or system regarding the movement of those units. However, the compliance market registry infrastructure, being underpinned by an international agreement, has, by necessity, stronger inter-connectivity than voluntary market registry infrastructure.

It must be noted that the registry technology is essentially database driven and is not particularly complex to implement if designed correctly from the beginning. Clear policy considerations and government/finance requirements are the complex elements.

3. *The structure of a national REDD+/carbon registry:*

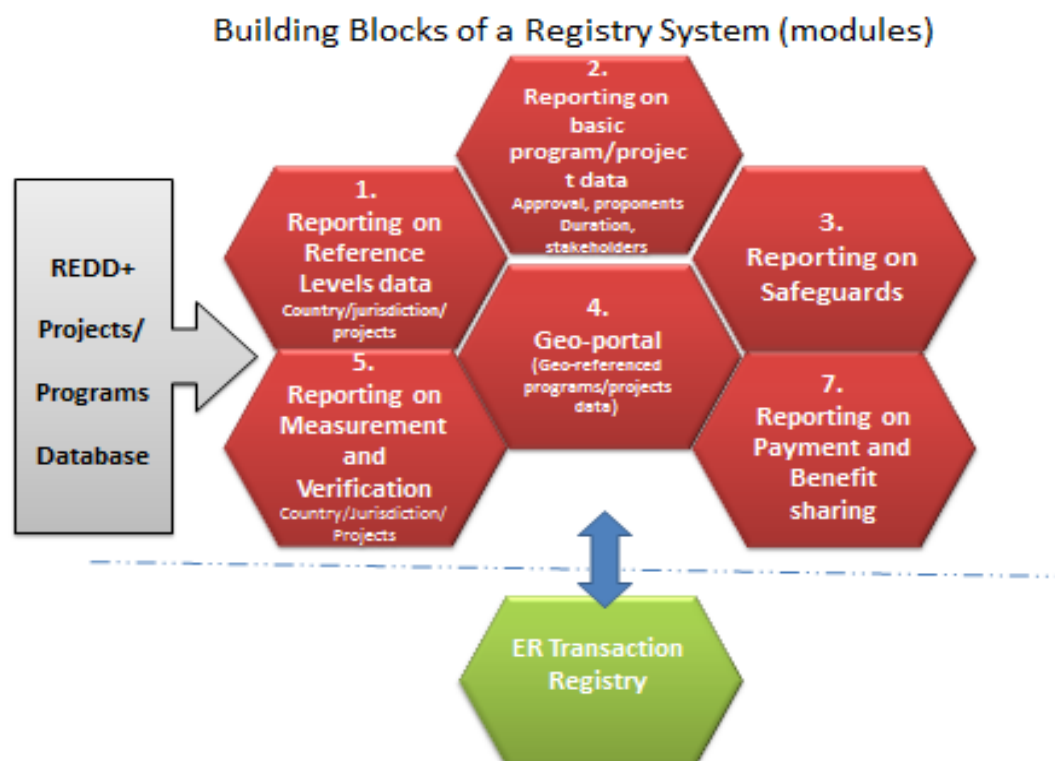
A national REDD+/carbon registry system in the context of carbon fund (CF) has two main components (FCPF, 2013) – A REDD+ program/project database and an ER transaction registry. The REDD+ program/project database supports the registering and reporting on REDD+ projects/programs on following parameters:

- Managing official approvals and compiling/distributing information on location of project/program proponents;
- Collecting/distributing geo-referenced information on the location of REDD+ projects/programs;
- Collecting/distributing information on reference levels (RL/REL) at different scales;
- Collecting and distributing on MRV data to specific REDD+ projects/programs;
- Collecting/distributing information on how safeguards are addressed and respected in specific REDD+ projects/programs;
- Collecting/distributing information on CF payments and benefit sharing for specific REDD+ projects/programs;

Additionally, it could fulfil other functions by having components for MRV system and/or safeguards information system. It could also add components to support efficient handling of REDD+ information between the government and the national REDD+ participants.

An ER transaction registry organizes the process of creating (issuing) offsets units with unique serial numbers and supporting the transfer of ERs between account holders with the registry and to other linked trading registries. The use of ER transaction registry refers to the system that supports:

- The serialization of ERs that have been issued under a recognized standard or framework,
- Account holders systems to manage positions and settlements for ER transaction,
- Accounting for non-permanence risk management (buffer reserves)
- Reporting and
- The linking to other ER transaction registries e.g., i) a trading platform and ii) a GHG reporting tool will be implemented.



FCPF (2013) mentions four options for development and operation of registry systems for the Carbon Fund (CF) as follows:

1. ***“De minimis” Registry system*** is simplest among the four. REDD+ projects/programs documentation is transferred to the carbon fund and posted on both FCPF and REDD+

country designated websites. The World Bank creates ERs for the REDD+ projects/programs using Climate Asset Registry System (CARS) (or third party system).

2. *Use existing registry systems:* The participant country could use from among existing registry systems to support the required functions as per the FCPF's requirements. It however, could also issue ERs directly under an existing standard and in such cases it will need to meet the requirements of both FCPF CF and that of other standard. The use of existing registries would function as follows:

- Relevant REDD+ projects/programs documentation is registered in an existing project/program database (UNFCCC-CDM, Annex 1 registries or VCS or other) and made available to the public. Additional information that cannot be managed by existing systems could be posted on FCPF or REDD+ country website or existing systems could be modified to fulfil the additional needs of the Carbon Fund.
- REDD Country sellers and buyers use existing ER transaction registry and open account as any account holder would do.
- ERs are "created" in REDD+ country seller's account and transferred to buyers based on the competent authority's orders.
- Tranche B participants ERs are irrevocably retired in participant's account.
- Tranche A participants ERs may be transferred to other account in the same registry or in linked ER registries.

3. *Outsource Registry system administration and Registry IT development to a third party:* Some or all data management functions could be outsourced. An international organization could be requested to provide registry services for a fee. A private service provider or other third party providing the infrastructure but operated within country could be arranged. REDD+ countries could share outsourcing, development and operating costs for a common infrastructure. For the latter variant, the World Bank could support the elaboration of the technical specifications for such a system and assist with a common procurement process.

4. *REDD+ countries buy or build and operate a REDD+ registry system.* Existing software elements will be instrumental for this option. World Bank could provide standard minimum technical requirements and guidelines to the countries willing to develop their own registry infrastructure and operate their own system. The support will help ensure that the national REDD+ registry systems are comprehensive of all relevant information and are managed and periodically updated according to set administrative procedures, audited annually and accessible to the public (through internet or other less preferable means).

A proper balance between simplicity and sophistication of the national REDD+ registry system will largely depend on two variables. 1) Number and size of REDD+ programs/projects envisaged, their frequency, and the existence of nested projects/programs and 2) Number of buyers including the number of transaction. To achieve this, simple systems can be devised where information can be made public and regularly updated manually on an existing website. At the same time, highly secured IT infrastructure can be created to manage user accounts and produce real time statistics.

4. Legal/Institutional Aspects for REDD+/Carbon Registry System Operation:

Scholl (2011) suggests that a REDD+ registry could be created as part of a broader national REDD+ strategy and would ideally be placed in the context of the legal institutional framework established to govern and oversee the implementation of REDD+ programs. It should be created on the basis of simple, transparent and expeditious rules in order to promote participation and access the procedures and guidelines for its operation. Issues to be dealt with through rules, guidelines and procedures may include i) relevant institutional arrangements for the operation of the registry, ii) verification of information and approval procedures, iii) authorized participants and iv) effect on title and rights to REDD+ benefits.

Required institutional arrangements for the operation of national REDD+/carbon registry should be defined in the national procedures and guidelines. This should include registry requirements, appointment of an authority to oversee the operation of the registry. The entity responsible for overseeing the registry and its operations could be the same as the entity responsible for other aspects of REDD+ in the country. In this case, the same national entity in charge of, inter alia, endorsing reference levels, enacting guidance for stakeholder participation, and approving REDD+ subnational activities could be tasked with supervising the registry operator. Alternatively, the country could outsource the role of supervising the registry operator to a third party, such as a board or private entity (that may work under the authority and guidance of a national entity and pursuant to agreed operational procedures).

In order to ensure that the registry operates in accordance with relevant regulations, the registry operator should be made accountable to a national authority. This could be done by legislation or by contract. Domestic laws may however place restrictions on whether or not the regulatory functions can be outsourced to entities outside the government, making this the default option. The role of registry operator could be outsourced to a third party provider in case if the country does not possess the technological, financial, infrastructural or human resources capacity to design, build and operate this type of electronic database on a daily-basis. Additionally, such infrastructure requires continued investment which third party providers are generally best placed to provide. Legally, outsourcing the role of a registry operator to a third-party provider may be less of a problem as the registry would not be designed to take qualitative decisions, but simply to record and register information in accordance with agreed procedures and standards.

Whoever operates the registry, the operator must avoid conflicts of interest or improper influences when carrying out its administrative functions, enable third party/regulator access and approval where required, ensure data integrity and registry security (e.g. against fraud or theft) and guarantee long term data capture, auditability, storage and retrieval.

Entities responsible for carrying out the verification of the information to be recorded and the approval of ERPs could be defined in the national procedures and guidelines. Verification is normally carried out by independent auditors following pre-agreed and established standards, while in the compliance market final approval is left to a regulatory body. The options available to the countries are i) design the REDD+ registry in a manner in which only the information verified by an independent auditor and subsequently approved by the competent national authority would be recorded and uploaded; ii) have the verification and final approval functions consolidated with the appointed national authority that communicates with the registry; iii) have the registry operator performing verification of information and deciding on the registration of activities in the REDD+ registry.

The first two options place the least administrative burden on the registry and promote registry efficiency and cost effectiveness. Additionally, the first option may also promote greater transparency in relation to the quality and accuracy of the information recorded in the registry. It would be necessary for the national REDD+ registry guidelines to determine the scope of the auditing and approval requirements.

FCPF (2013) in its CF discussion paper provides a brief account of the registry system operation as follows:

- 1) ***The Registry Administrator*** manages the system according to fixed procedures or regulations and executes the orders of the competent authority (and in some cases of account holders) concerning the registration of project developers, the approval of REDD+ projects/programs, the creation (issuance), transfer and retirement of ERs. The administrator receives a mandate to carry out its mission, it should not be involved in the development of REDD+ projects or programs and should not make decisions.
- 2) ***The Competent Authority*** makes decisions and gives orders to the registry administrator concerning the registration of project developers, the approval of REDD+ projects/programs, the creation (issuance), transfer and retirement of ERs.
- 3) ***The Account Holder*** gives orders to the registry administrator concerning the transfer and retirement of ERs in his possession.

These roles can be divided between REDD+ countries, and a centralized registry system administrator (the World Bank as trustee and potentially Third parties). Regardless of the choice all key roles and data management functions need to be performed. It will therefore be necessary

to determine who will be in charge of registry system administration, who will be the competent authority and who will hold accounts in the ER transaction registry. It is important to consider that this division of labour could vary from country to country depending on country contexts and capacities. The details of the division of labour between actors under the different development options are shown in the table below:

Role	“De minimis” registry System	Use existing system	Outsource	Buy or build and operate
Registry Operator	World Bank	Existing registry administrator	Private Service Provider	REDD+ Country
Competent Authority	World Bank	World Bank or Standard Administrator	REDD+ Country	REDD+ Country
Account Holder	Carbon Fund Participants only	REDD+ Country+ 3 rd . Parties	REDD+ Country+ 3 rd . Parties	REDD+ Country+ 3 rd . Parties

5. Proposed Options for Nepal

Nepal needs a national REDD+/carbon registry system for recording and tracking a) REDD+ activities on the ground and their associated carbon emissions and removals, and b) national level emissions reductions and reconciliation with sub-national project activity emissions reductions. The registry would allow for holding, transfer and retirement of credits, and ensure no double counting of same credits takes place. The registry should ideally serve as a recording and tracking system for all carbon (and non-carbon?) credits arising from Nepal’s REDD+ programs (and potentially, from other mechanisms in future that integrates overall climate mitigation measures) in the country.

MFSC responsible for forestry sector development and leads the national the REDD+ initiatives in the country while the MoSTE is the DNA for Nepal in the UNFCCC. There is also likeliness that other line ministries will be implementing policy and measures (PAMs) for addressing the drivers of deforestation and forest degradation within the framework of Nepal’s Low Carbon Development Strategy (LCDS). Therefore, establishing an independent national carbon registry entity to be managed by a management authority/board of relevant line ministries may be considered. Alternatively, it can be housed and managed by the MFSC for national REDD+ carbon registry purposes and the registry could extend its services to other line ministries as and when they participate in emissions removal programs.

Nepal can either develop or manage its own national carbon registry or use the services of established commercial registry service providers. Such service providers are supposed to have the technical capacity and infrastructure which they will need to adapt the system to meet general REDD+ and Nepal’s specific requirements. It may however, neither be cost effective nor helpful in building domestic carbon registry capacity. Nepal should therefore, define, develop and establish a credible and operational national carbon registry system that caters to its immediate and potentially future needs of a national registry.

Developing its own REDD+/carbon registry system would enable Nepal maintain its position as national registry's competent authority and registry operator. It could also involve as an account holder together with other third party account holders.

In order to provide legal ground to Nepal's national REDD+/carbon registry, under the framework of the national REDD+ strategy/policy or under the climate change policy, provision for the registry should be made. Additionally, a national REDD+ registry procedures and guideline should be developed and approved. It should provide appropriate institutional arrangement for national REDD+ registry and regulate its operationalization and functioning.

Phased approach to National REDD+/Carbon Registry Development

The global REDD+ mechanism is still under an evolving stage. REDD+ countries are still striving to strengthen their technical and institutional capacities around REDD+ readiness and implementation. Under such circumstances there could be three distinct phases of implementing a national REDD+ registry.

1. ***ERP tracking phase:*** will enable to capture core information for each discrete ERP and track the activity and its performance with the registry. Performance can be measured in tonnes of CO₂ reduced or removed;
2. ***Issuance and unit tracking phase:*** With the strengthening of national MRV systems capacity and consolidation of national and sub-national reference levels, the ERP outcomes could be recorded and their respective REDD+ units issued and/or results-based payments tracked by the registry.
3. ***Trade registry phase:*** Registry infrastructure may be expanded by utilizing additional functionality and participate in international REDD+ markets in response to expanded domestic as well as international REDD+ markets.

Nepal should consider developing its national REDD+ registry to phase 2 capacities at this stage with possibility of adding additional functionality of the infrastructure to expand the registry to a trade registry level.

Suggested design features for Nepal's National Carbon Registry System

- It should be an internet based registry system that is automated and can be updated as and when required. It should be a user-friendly system that allows for electronic inputs and submission of applications and forms. It should enable convenient tracking, reporting and effective auditing.
- A step by step guideline for all registry operations and procedures should be developed and be available online.

- It should have all the building blocks of the structure of a carbon registry system as mentioned in the previous section.
- It should allow for entry of all information as mentioned in the REDD+ program/project data base.
- It should provide simplest possible process of creating offsets units with unique serial numbers and support the transfer of ER units between account holders within the registry and to other linked trading registries.
- It should be capable of effectively tracking double counting that may happen due to i) multiple interventions claiming the same ER, ii) the same ER being recorded/issued more than once or iii) the same ER being sold to more than one buyer.
- The accountability of the registry should be ensured through simplified operational processes and checks. Every REDD+ unit must have a unique serial number yet it should enable the holders to be informed about the underlying environmental benefit the unit represents.
- Efficiency of the registry should be ensured through clear guidance on levels of access to registry for all relevant actors (e.g., users with registered ERPs and units, general public and registry administrator). It should also clarify the linkages across the registries (via data exchange, standards, document management, and reporting and auditability).
- Registry should record and provide information to help consolidate various levels of accuracy. Reference scenarios may be established at the sub-national, regional and national level and they should identify different rates of deforestation within their boundaries and they should be consistent.
- Registry should be designed to support a number of policy options to address a situation where national emissions exceed a national reference scenario. It could for instance, contain a buffer/reserve account that could be drawn upon if the country has negative balance of emissions. This buffer account would be filled from a percentage of units issued. Another option is the cancellation or voidance of already issued units in an amount that corresponds to the deficit. A fourth option could be periodic expiration of units which are only re-issued if the performance is maintained. In case sub-national performance shows a positive balance at a timeframe when national level shows a negative balance, the REDD+ policy will need to state how this is addressed. A registry can perform a number of functions that would be set by policy to address the implications this could have on well performing subnational activities.

- Registry should be able to track safeguards compliance and co-benefits. It could be designed to track non-carbon ERP features e.g., compliance with benefit sharing arrangements (in case they are precisely defined in national rules or under the chosen standard or international program), with procedures for local communities' involvement and participation in ERPs.

References

1. Chokkalingam, U. (2010); Design Options for a Forest Carbon Legal Framework for Lao PDR: Drawing Lessons from Across the Globe, FSIP-JICA/SIDA and GTZ-CliPAD.
2. FCPF (2013); FCPF Carbon Fund Methodological Framework Discussion Paper No. 10: REDD+ Registry Systems for the Carbon Fund.
3. Peeva, V., (2001); Development of a National Registry in Bulgaria: Options and Recommendations Centre for Energy Efficiency EnEffect.
4. Scholl, Johannes (ed.) (2011); National REDD+ Registries: An Overview of Issues and Design Options; German Development Bank (KfW) on behalf of BMZ and in cooperation with Forest Carbon Partnership.

Annex 7: List of People Met during District, Regional and National Consultations

1. District Consultation Gorkha (Date Baisakh 07/2072)

S.N.	Name	Position	Organization	Contact	Email
1	Hom B. Balchhaundi	AFO	DFO Gorkha	9846050298	hbalchhaundin@gmail.com
2	Shyambabu Kattel	Chair	FECOFUN Gorkha	9846046000	
3	Kamal P. Lamichhane	Member	FECOFUN Gorkha	9846271394	
4	Ram Babu Thapa	Member	REDD Network	9856030628	
5	Rolak B. Thapa	coordinator	Watershed	9846124938	
6	Premdhaj Thapa magar	Secretary	NEFIN Gorkha	9846056051	
7	Krishna B. Pulami	chair	Sana khola CFUG		
8	Bhuraman Ghimire	Secretary	REDD Network	9846106939	
9	Subhash Ghimire	Treasurer/CF	REDD Network member		
10	Kajiram Rokka	Chair	NGO Federation Gorkha	9846042623	
11	Kulraj chalise	Engineer	DDC Gorkha		
12	Samjhana Shrestha	member	Laxmi Women CFUG		
13	Kavita Aryal	Secretary	FECOFUN Gorkha	9846070425	
14	Ram B. Khadka	Member	FECOFUN Gorkha		
15	Arun Adhikari	F.coordinator	CARE Nepal Hariyo Ban	9841268939	
16	Ekraj Angai	Forest Guard	DFO Gorkha	9846611681	
17	Vikas Niraula	Coordinator	Com. Dev. Project Gorkha		
18	Meena Adhikari	mahasachib	FECOFUN		
19	Sitaram Shrestha	Director	Shree Swara V.D. Centre		
20	Rabikala Khanal	Chair	Democratic NGO Federation		

Two Community level consultations organized in Ghaledanda and Raneekhola CFUGs

2. District Consultation Chitwan (Date Baisakh 10/2072)

S.N.	Name	Position	Organization	Contact	Email
1	Balbhadra Bhandari	AFO	DFO Chitwan	9845044520	
2	Rajeev Neupane	Representative	SDBC-Society Nepal	9845055558	Neupane.rajeev@gmail.com
3	Man Bahadur Khadka	Representative	Kayer khola watershed	9845656111	
4	Punya prabha Adhikari	Chair	HIMAWANTI Chitwan	9485506693	
5	Shanti Sharma	AFO	DFO Chitwan		
6	Bhagwati Bagale	AFO	DFO Chitwan		

Community level consultations organized in Shaktikhor with three CFUGs namely Pragati, Janapragati and Latauri CFUGs

3. Regional Consultation Eastern Region Biratnagar (Date May 08/2015 Baisakh 25/2072)

S.N.	Name	Designation	Organization
1	Prakash Nath Pyakurel	Regional Director	Eastern Regional Directorate of Forests, BRT.
2	Dr. Sudarshan P. Regmi	Regional Director	ERD of Livestock, Biratnagar
3	Arun K. Ghimire	--	ERD Agriculture,
4	Tirtha Raj Joshi	DFO	DFO Ilam
5	Deepak Jnawali	DFO	DFO Morang

6	Gyanendra Mishra	DFO	DFO Sunsari
7	Meelan K. Rai	President	District Coordination Committee, NEFIN, Morang
8	Mahendra Chaudhari	DFO	DFO Panchthar
9	Saukhin Bantawa	Reporter	BFM 91.2 Biratnagar
10	Judha Prakash Rai	REDD Facilitator	Gramin Sudhar, CF
11	Rabindra K Rai	Secretary (District)	FECOFUN Morang
12	Leela Bahadur Gupta	Joint Secretary	Hariyaali CFUG
13	Anirudha K. Sah	AFO	ERFD, Biratnagar
14	Yadav Dhital	DFO	DFO Dhankuta
15	Hiralal Kushwaha	DFO	DFO Terhathum
16	Laxmi P. Nepal	Accounts Officer	ERFD Biratnagar
17	Raj Kumar Rai	Coordinator	Latimoda CFUG
18	Rewat Bahadur Karki	President	Private Forestry Stakeholders Federation
19	Rakesh Niraula	Section Officer	ERFD, Biratnagar
20	Deelip P. Gupta	AFO	ERFD
21	Mana Kumar Karki	Accounts officer	ERFD
22	Sunand Keshari Pokharel	Subba	ERFD
23	Pitambar Khatiwada	Admin Assistant	ERFD
24	Peetambar Katuwal	Admin Assistan	ERFD
25	Prakash Katuwal	Admin. Assistant	District Soil Conservation office
26	Anta Nath Baral	--	--
27	Amar Kumar Gurung	Member	-----?
28	Ranganath Chapagain	Secretary	Private forestry Stakeholder Federation

4. Regional Consultation, Mid-western Region Nepalganj (Date Jestha 01/2072)

S.N.	Name	Designation	Organization
1	Rajdev P. Yadav	Regional Director	Regional Forest Directorate, Mid-West
2	Pushpa Raj Bartaula	DFO	DFO Banke
3	Bhairav P. Ghimire	DFO	DFO Bardia
4	Ganesh Pant	Chief Warden	Banke National Park
5	Govind Sharma	Vice President	Nepal Reporters Federation Banke
6	Kumar Shrestha	Reporter	Samachar Patra representative
7	Managal Chaudhari	Vice president	NEFIN Banke
8	Dilli Giri	President	FECOFUN Banke
9	Shridhari Pande	Field Coordinator	CARE Nepal Banke Office
10	Badri Binod Dhakal	Asstt. Warden	Banke National Park
11	Tek B. Rawal	AFO	DFO Surkhet
12	Narayani Rupakheti	Warden	Krishnasar conservation area, Bardia
13	Surendra Yadav	District Plants Officer	DPPO, Banke
14	Prabha Shrestha	Officer in charge	Women and Children Development Banke
15	Narayani Wali	Secretary	HIMAWANTI, Banke Nepal
16	Ganesh B. Khadka	AFO	DFO Banke
17	Mahato Kanhu	Office Assistant	DFO Banke
18	Kamal B. Gurung	Driver	DFO Bardia
19	Shri bahadur Sijwal	Driver	DFO Surkhet
20	Raju Chaudhari	Driver	Banke NP
21	Ram Bahadur Sunar	Driver	Women and Children Development Banke

5. Regional Consultation Far-western Region Dhangadhi (Date Jestha 03/2072)

S.N.	Name	Designation	Organization
1	Balram Adhikari	Regional Director	Far-western Regional Forest Directorate
2	Ved Kumar Dhakal	Warden	Shuklaphanta Wildlife Reserve
3	Tika Dutta	chairperson	NeFUG
4	Raj Bahadur Air	SA. BA. SA.	Mohana
5	Dhakka Bikram Shahi	Barban CF	
6	Tej Taramai Magar	Office bearer	NEFIN
7	Yadav P. Bhandari	Office bearer	FECOFUN
8	Laxmi KC	Office bearer	HIMAWANTI
9	Laxman Bhadr Bohara	Officer encharge	District Plants Protection Office
10	Kali Ram Chaudhari	AFO	Regional Directors Office
11	Narayani Kotal	Chair person	Dalit Service Sangh
12	Hari singh Khadka	Tax Officer	Regional Tax Office
13	Shuresh Singh	DFO	DFO Kanchanpur
14	Ram Chandra Subedi	AFO	Basanta Protected Forest Office
15	Hari Bangsha Acharya	DSCO	DSCO Kailali
16	Jagdish Prasad Gupta	AFO	DFO Kailali
17	Chetraj Bhatta	Office Assistant	FWRFD
18	Deen Raj Joshi	Accountant	FWRFD
19	Prem Raj jaisee	Office Assistant	FWRFD

6. Regional Consultation Western Region Pokhara (Date Jestha 07/2072)

S.N.	Name	Designation	Organization
1	Shantamuni Tamrakar	Regional Director	WRFD, Pokhara
2	Prabhat Sapkota	DFO	DFO Kaski
3	Sanjay Tiwari	AFO	Panchase Protected Forest Office
4	Uddhav B. Ghimire	DSCO	DSCO, Kaski
5	Aruna Thapamagar	Office Chief	ENPRED/MSFP
6	Mahijal Sherchan	--	ENPRED Nepal
7	Shambhu khati Pariyar	Member	Sa U. Sa Kaski
8	Dr. Gehendra Man Udas	Social Worker	Free lancer
9	Bharati Shrestha	Vice president	HIMAWANTI
10	Neeru Thapa	Officer	NTNC-ACAP
11	Yam Bahadur Rumba	AFO	DFO Kaski
12	Sher Bahadur Rokaya	Ranger	DFO Kaski
13	Khandananda Sharma	Under secretary	WRFD
14	Kedar Baral	Training Officer	WRFD Training Center
15	Krishna Awasthi	Officer	DDC Kaski
16	Ashok Kumar Mahat	Vice president	-----
17	Madhav Prasad Baral	AFO	DFO Kaski
18	Arun Parajuli	Ranger	DFO Kaski
19	Krishna Kumar Nepali	Chairperson	HIMAWANTI
20	Dharma raj Poudel	Admin Officer	NDO Kaski
21	Govind Bahadur Thapa	AFO	WRFD, Kaski
22	Sher Bahadur Karki	AFO	WRFD, Kaski
23	Ramananda Dhungana	Jamadar	DFO Kaski
24	Durga B. Sunar	Vice President	Dalit District Parishad

25	Kamal Prasad Pun	Section Officer	DFO Kaski
26	Krishna Prasad Baral	Coordinator	NGO Federation Kaski
27	Subhash Poudel	Office Assistant	DFO Kaski
28	Sunita Chhetri	Office Assistant	DFO Kaski

7. National Consultation Kathmandu (Bhadra 09/2072, Aug. 26, 2015)

S.N.	Name	Designation	Organization
1	Mr. Man Bahadur Khadka	Chief (Joint Secretary)	REDD Implementation Centre, MFSC
2	Mr. Yama raj Pokharel	Deputy D.G	Dept. of Forest Research and Survey
3	Mr. Ganesh Jha	Representative	MFSC
4	Mr. Netra N. Sharma (Sapkota)	Donor Representative	USAID Nepal
5	Ms. Trishna Singh Bhandari	REDD Consultant	ICIMOD
6	Ms. Rama Ale Magar	Chair	HIMAWANTI
7	Mr. Yadav Prasad Kandel	REDD Professional	WWF Nepal
8	Mr. Sunil Kumar Acharya	Representative	Department of Plant Resources, MFSC
9	Mr. Ganesh Bishwokarma	Representative	RECOFTC Nepal
10	Dr. Mohan Poudel	Professional	REDD Implementation Centre, MFSC
11	Mr. Tunga Bhadra Rai	Representative	NEFIN
12	Mr. Dhruba Acharya	Team member	REDD Strategy Development consultant's team
13	Mr. Bholu Khatiwada	Representative	NAFAN?
14	Mr. Gopal Bhattarai	Representative	Dept. of National Parks and Wildlife Conservation
15	Dr.. Ram Asheshwar Mandal	Professional	REDD Implementation Centre, MFSC
16	Mr. Mohan K.C.	Professional	REDD Implementation Centre MFSC
17	Mr. Chudamani Shrestha	Professional	REDD Implementation Centre, MFSC
18	Mr. Sagendra Tiwari	Free-lancing Consultant	REDD+ Implementation Framework development