



Climate and Forests



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## BACK TO OFFICE REPORT (BTOR)

Submitted by: Celina Kin Yii Yong

Date Submitted: 23 July 2019

1. Practice Area: BPPS/SD

2. Service Line: REDD+

3. Mission Period (incl. of travel days): 13 – 20 July 2019

### 4. Type of Service/Mission

- Technical advisory and backstopping

### 5. Client(s)

- UNDP PNG: Dirk Wagener (RR), Tracy Vienings (DRR), Ed Vrkic (Senior Climate Change Advisor)
- FCPF PMU: Mirzo Isoev (CTA), Lydia Nenai (Stakeholder Engagement Officer), Sam Moko (National Coordinator), Jordan Bulu (Technical Specialist), Doe Kwarara (Project Administration and Financial Assistant), Michael Nelson (Driver and Clerk)
- Climate Change and Development Authority (CCDA): Ruel Yamuna (MD), Gwen Sissiou (General Manager, REDD+ & Mitigation), Terence Barambi (Manager REDD+)

### 6. Purpose of Mission

- Provide technical support on advancement of safeguards.
- Discuss program progress and emerging priorities around policy and legal reviews and nesting.
- Consult on options to move forward with available funding opportunities for GCF.

### 7. Documents, Materials, Resources from Mission.

- Key points from the Climate Change (Management) Act 2015 relevant to the engagement with carbon market. (Annex 2)

### 8. Mission Member(s) (include Consultants, if any)

#### 1. Annexes

1. Mission agenda
2. Summary from CCMA revision.

#### • Brief Summary of the Mission:

##### Safeguards, SIS and SOI

- CCDA has proposed an outline for the SOI. A draft ToR to produce a design and operationalize the Safeguards Information System (SIS), as well as the draft the first Summary of Information (SOI) is under finalization. The target for completion is December 2019/January 2020. This is the last remaining requirement under the UNFCCC Warsaw Framework to be completed.
- There are considerable technical and operational challenges for the SIS in PNG given that a majority of the management information systems across sectors are not fully operational and most of the information are only available in hard copies. The exception is PNGFA's Forest Resource Management Information System and CEPA's Environmental Management Information System.

- Both the SIS and SOI will be informed by the on-going work related to the safeguards screening (SESP) and management framework (ESMF), and a review of the institutional capacity to implement the PLRs and mitigate risks identified in the SESP against the RFIP.
- The Technical Working Committee on Social and Environmental Safeguards (TWC SES) will lead this work, supported by an expert group, which will be a subset of the TWC SES. Additional experts may be included on an ad-hoc basis.

#### **Revision of REDD+ Technical Annex in the Biennial Update Report (BUR)**

- CCDA submitted its first BUR with a REDD+ Technical Annex with results presented for 2014 (3.96 million tCO<sub>2</sub>) and 2015 (5.05 million tCO<sub>2</sub>) on 19 April 2019.
- Prior to the International Consultation and Analysis (ICA) in September 2019, CCDA, with assistance from FAO, intends to revise the following before the end of August 2019. There have supposedly been consultations and clarifications with UNFCCC and GCF, who have affirmed these revisions are possible. The implication arising from the second point (linear projection to average annual historical emissions), especially if it can be successfully carried out without submitting a new FRL, needs to be better understood in terms of advice for other High Forest Low Deforestation (HFLD) countries.
  - Change the objective in the REDD+ TA to say they will seek RBP;
  - Using the same data submitted in the technical assessed FRL in 2017, modify its current FRL from a Linear projection to Average annual historical emissions in order to meet a requirement in the GCF funding proposal score card.
- In preparation to seek payments from the GCF REDD+ Results-based Payment pilot program with FAO as a potential Accredited Entity, FAO will also assist CCDA to establish a registry by tapping into the GCF Readiness Fund, and potentially a GCF Simplified Approval Process for REDD+ if different components of the registry cost above US\$1 million.

#### **Policy reviews**

- *National Sustainable Land Use Plan (NSLUP)*: This NSLUP and a yet-to-be-operationalized centralized land use management system are intended for the purpose of reviewing the Physical Lands Act, particularly in relation to use of land. In preparation for the 4 regional consultations regarding the NSLUP, the following action items are important:
  - Coordination among and across land use sectors – DLPP with DAL, PNGFA, CEPA, DNPM – to clarify how they will work together on decisions related to land use.
  - Integration with or coherence across existing multiple land use plans and local processes, e.g., ward to district to provincial level planning (vertical) and across different land use sectors (horizontal). With the 97% customary land ownership, it is important to recognize that landholders (customary and private freehold) are in the driving seat.
  - Ensuring that the civil society and key local stakeholders are informed and contributing to the process and outcome because they are often the link supporting implementation in the wards. There is tremendous sensitivity around lands, so robust stakeholder engagement must be in place to ensure the NSLUP is not (mis)perceived as another land-grabbing tool.

#### **GCF**

- In preparation for the RR to discuss with World Bank regarding potential collaboration over a GCF proposal with REDD+ related outputs, the following actions will be taken:
  - CO to identify why the GoPNG is not interested to take up existing loans from the Bank.
  - Review and compare the WB's PNG Country Program against the NRS and RFIP to identify common entry points, which are likely to be related to agriculture commodities. This would be in line with the theory of change for REDD+ in the country as shared, with entry points identified post-January 2019 mission. This will be followed by preparing a short concept note of the identified work area for the RR to present a business case with WB.

### Financing Emissions Reductions in PNG / Carbon Market Roundtable

- GoPNG is very keen to open PNG up to possibilities offered through carbon market, to be led by CCDA and wishes to showcase this during the UN SG Climate Summit in September 2019. This roundtable is seen as a step towards a more comprehensive climate finance and investment strategy, in line with the National Executive Council's commitment to biodiversity offsetting and more private sector engagement. This one-day event targets senior bureaucrats, representatives from Australia and New Zealand governments, key private sector stakeholders and potential investors, development partners assisting with climate finance and experts on blended climate finance, Article 6 and carbon markets, and MRV; it is intended to ensure that these target audience share a common understanding of the Paris Agreement rulebook requirements regarding transparency, ITMOs and trading carbon credits.
- However, during an internal meeting between CCDA, FAO, FCPF/UNDP and USAID, while the following building blocks/architecture necessary to meet these objectives remain unclear, there is opportunity to put in some measures through the review of the Climate Change (Management) Act and any subsequent legal instrument to operationalize the act, e.g., regulations:
  - *Achieving the NDC*: quantifiable targets are still work in progress and there is yet, minimal consideration in terms of where and how they will be met, if there will be any surplus and what and how these will be used. It is expected that the on-going development of the NDC implementation plan will identify potential ERs by sector and assess the cost. Completion date has not been identified.
  - *The Climate Change and Green Growth Trust Fund*: While this fund is seen as an amalgamation of multiple trust funds prior to the CCDA's establishment, its credibility has been hampered by the Public Monies Management and Regularization Act, expected to lapse in 2020, which allows Finance and Treasury to exert tighter control measures over the use of public funds from the trust accounts of statutory authorities. In effect, CCDA has not been able to utilize the 7% levies and administration fees for climate change related activities.
  - *Nesting: Legal carbon ownership* rests with the 97% customary landowners, currently governed through a climate change project agreement. Social risks: misrepresentation of the Incorporated Land Groups (legal entity formed by customary landowners to engage in commercial transactions), the lack of genuine FPIC, overtaxed GRMs with a REDD+ GRM designed, but yet to be operationalized, are high. There is minimal to no consideration yet in terms of how risks will be managed and implications on environmental integrity of the units: under performance or reversal, double counting of ERs. Similarly, there is only a dawning understand of the technical challenges: how national FREL will be disaggregated at provincial levels (baseline setting or subnational allocation), data and methodological mismatches between national government and forest carbon projects. FAO will support the building of a registry, but there is yet no starting date.
- In moving forward, it was agreed that:
  - *Preparatory stage*: CCDA will hold an internal meeting to discuss key technical and policy phases required and identify a realistic end date for when it will be ready to engage in the forest carbon market; Hold bilateral meetings with key central and line agencies (PNGFA, DNPM, Treasury, Finance, DAL, CEPA, Transport, MRA) and develop key messages; reconfigure the proposed carbon market roundtable to raise awareness of PNG's ambitions for climate change and rename the roundtable to Financing Emissions Reductions in PNG.
  - CCDA will revise the outline of a paper it has commissioned Baker McKenzie to prepare for the roundtable.
  - FCPF/UNDP will share emerging lessons from its nesting pilots in Cambodia to inform the process in PNG.

- **Key findings:**

- **Data sharing**

- In 2018, the State Attorney General (SAG) was tasked to identify an appropriate legal instrument to resolve and enable data sharing across the whole-of-government. There is currently no resolution yet and will have implications on the SIS.
- An interim measure, for the purpose of meeting the needs of the SIS, is to facilitate a MoU on data sharing between CCDA with PNGFA, DAL, DLPP, CEPA and DNPM. CCDA needs to lead this, supported by the PMU.
- There are 2 action items proposed when CCDA convenes these meetings with the 5 agencies identified:
  - *Prepare a letter to the SAG inquiring the status of the resolution/legal instrument for data sharing.*
  - *Build understanding and consensus for a MoU and commence drafting.*
- **Key lessons learned derived from the mission:**
- None from this mission.
- **If applicable, identify a headline for a storyline (article or case study) and provide contact details of focal point in country who can provide additional information:**
- The PMU will share a list of knowledge products to be produced in 2019, from which a storyline will be identified.

**Follow-up Action Matrix**

<b>Actions to be taken (including events, information and communication materials planned as result of this mission)</b>	<b>By Whom</b>	<b>Expected Completion Date</b>
Finalize SIS and SoI ToR	Lydia, Celina, Mirzo	24 July
Facilitate discussions on MoU for data sharing	Lydia, Mirzo, Celina	30 September
Prepare concept note on common entry points for a GCF proposal for RR to discuss with WB	Mirzo, Celina	1 August
Review revised financing ER roundtable concept note and agenda, outline for Baker McKenzie background paper, share lessons on nesting from Cambodia	Bruno H, Celina	Upon availability, expected by end of July
Follow discussions related to revision of the BUR with REDD+ TA	Celina, Kim	31 August

**Distribution List (BTOR sent to):**

UNDP CO: Dirk Wagener, Tracy Vienings, Ed Vrkic; UNDP BRH: Mazen Gharzeddine; UNDP Climate and Forests team: Tim Clairs, Bruno Hugel, Kim Todd, Bruno Guay, Jen Laughlin; FCPF PMU: Mirzo Isoev, Lydia Nenai, Sam Moko, Jordan Bulo.

## Annex 1: Mission Agenda

Date	Agenda Item
Sunday, 14 July	AM: <ul style="list-style-type: none"> <li>• Arrive in Port Moresby</li> </ul> PM: <ul style="list-style-type: none"> <li>• Mission preparation</li> </ul>
Monday, 15 July	AM: <ul style="list-style-type: none"> <li>• Work from hotel and PMU office</li> </ul> PM: <ul style="list-style-type: none"> <li>• Meeting with CCDA on safeguards work</li> <li>• Meeting with PMU and CO on program progress</li> </ul>
Tuesday, 16 July	AM & PM: <ul style="list-style-type: none"> <li>• Meeting with CCDA on safeguards, SIS and SOI</li> </ul>
Wednesday, 17 July	AM & PM: <ul style="list-style-type: none"> <li>• Meeting with CCDA and PNGFA on safeguards, SIS and SOI</li> </ul>
Thursday, 18 July	AM: <ul style="list-style-type: none"> <li>• Meeting with DLPP on SIS and NSLUP</li> <li>• Meeting with Exxon Mobile on their experiences implementing safeguards</li> </ul> PM: <ul style="list-style-type: none"> <li>• Work from PMU Office</li> </ul>
Friday, 19 July	AM: <ul style="list-style-type: none"> <li>• Meeting with PNGFA on SIS and NSLUP</li> <li>• Meeting with CO</li> </ul> PM: <ul style="list-style-type: none"> <li>• Meeting with CCDA, CO, FAO, PMU on proposed carbon market roundtable</li> </ul>
Saturday, 20 July	PM <ul style="list-style-type: none"> <li>• Depart for Bangkok</li> </ul>

## **Annex 2: Relevant provisions of the CCMA on a Carbon trading/market/system and projects and a possible Carbon Roundtable**

### CC Trust Fund and sources of Climate finance:

- Section 37 of the CCMA creates the Climate Change and Green Growth Trust Fund, which was created to consolidate all other existing trust funds prior to the establishment of the CCDA so that there was only one main trust fund to hold CC related funds. The sources of funding which qualify as “CC funds” are defined in section 39 of the CCMA. Subsection (1) and (q) to (t) relate to funds drawn from or arising from REDD/REDD+, national sequestration of targeted GHG emissions and CDM projects. Subsection (2) provides for the type of activities the Trust fund is able to fund.
- Section 38 of the CCMA imposes Climate levies on activities that generate substantial amounts of GHGs. It also imposes Climate administration fees on national and international donors, persons or entities for the management/implementation of climate change related activities within the country. The rate charged is 7%.

### *Related issues from the CCMA review stakeholder consultations:*

- Although the review does not focus on the financial sources, it does assess the financial flows of CC funds. In this respect, they identified the fact that CC was not prioritized as part of the national or subnational (provincial/district) budgets and as a result there were no budget allocations for CC projects provided as part of the annual PSIP (Provincial Services Improvement Program) and DSIP (District Services Improvement Program) funds. This also applies to the other sources of funding such as Public Private Partnerships and similar sources of government funding.
- The review picked up inconsistencies between the above mentioned sections of the CCMA and the recently enacted **Public Monies Management and Regularization Act** (PMMR Act). This Act basically strips the CCDA of its powers to hold all non-tax funds/monies within the Trust Account. The purpose of the PMMR was to create an avenue by which Finance and Treasury was able to invade the Trust accounts of Statutory Authorities like the MRA, NFA and PNGFA and CCDA (who have the largest revenue because they partly generate and use their own sources of revenue) to finance the recent APEC in the event of shortage of funds. The GoPNG stated that it was to instil tighter measures of control over the use of public funds within these agencies, however, this is yet to be determined. The Act will lapse in 2020.

### CC projects and contractual obligations with customary landowners:

- Part VIII deals with the Recognition of Landholders and their rights in relation to CC projects under the Act.
- Section 87 refers to the need for FPIC to obtain consent from landholders.
- Section 88 and 89 specifically recognizes the rights of customary landholders and the process/criteria for obtaining the consent of the customary landholders in relation to CC projects.
- Within section 89 if the CCDA or any other entity wish to enter into a CC agreement with the customary landholders they must make sure the LOs set up an ILG and must have registered title to their land. Subsection (2) makes an exception to the need for an ILG if 85% of the majority of LOs provide their consent to the CC project.
- Section 90 and 91 deal with the details of CC Projects. Section 3 defines “climate change related project agreement” as *any agreement between the Authority the customary owners of the land and forest resources and the project proponent relating to an agreement on REDD, REDD+, CDM or other voluntary carbon offset projects and any future climate change emission reduction*

*mechanism agreed to by the governments that will facilitate for sustainable development and reduction of greenhouse gas emissions.*

- Section 90 defines the criteria for a CC project and includes the need for it to: - *be in writing, specify monetary benefits to be received by the LOs, specify the nature of the project, specifies a proper term of duration, boundaries of the project area on a map, specify any other green growth or climate compatible land use option, if any.* Under subsection (2) this agreement needs to be lodged with the Office of the State Solicitor in order to be accepted and a legal clearance to be issued. Any failure to comply with this renders it void.
- Section 91 details the rights one is able to exercise as part of the CC Project. This includes land user rights but not ownership rights. This enables persons to enter on land and build, maintain, use roads, wharves, bridges, Buildings and other infrastructure on this land.
- Part IX deals with the issue of benefit sharing and allocation of incentives as a result of CC projects. Section 93 deals with landholder participation and benefits however, it does not specify the details of how they are to participate or benefit from these projects. These are subject to Regulations which are to provide for this process.

#### *Related issues from the CCMA review stakeholder consultations*

- Landowners and local communities at these consultations often raised the issue that ILGs are not always the most appropriate legal mechanism for landowners to form at the local level because the criteria are quite cumbersome however, legally, they are the most secure. Under an ILG there are allocations made for gender considerations, it minimizes the risk of fraud and also provides for a formal and legally acceptable system for engaging in business development especially with the GoPNG, finance institutions, banks, international companies and other private businesses. There are instances in which there is inappropriate representation, however, these are normally due to internal disputes over leadership roles in the community/LO clan/group etc.

#### Need for Regulations to govern the carbon marketing process

- Section 114 gives the Head of State, Acting on the advice of the Minister, powers to make Regulations prescribing anything under the Act.

#### *Related issues from the CCMA review stakeholder consultations*

- This was a recurring complaint within the reviews because many issues relating to details on the types of standards to enforce, processes that are covered as part of MRV, adaptation and mitigation plans and considerations were not detailed. Carbon accounting would fall within the same argument. There are no regulations in place to govern this process or system as per the national legislation. These are detailed within international instruments, private agreements or contracts.

#### Managing developers and functions of the CCDA.

- Section 11 of the CCMA outlines the functions of the CCDA.

#### *Related issues from the CCMA review stakeholder consultations/Opinions*

- There is no specific reference to developers apart from the one in section 3 which makes mention of project proponents in relation to Climate Change Projects. The above-mentioned provisions on CC projects govern any contractual relationships between landowners and project developers which could possibly arise from REDD/REDD+ projects including VCS/VCM projects. There are no specific details. These need to be covered in the regulations.