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Carbon Rights in Mozambique-a Case Study

Prepared by Darryl Vhugen for the Land Tenure and Forest Carbon Management, LTC Workshop, University of Wisconsin Madison, Oct 21-22, 2011

THE LARGER STUDY

- Part of larger study commissioned by USAID to assess experience with defining rights to receive benefits related to forest carbon under REDD+
- Study examined five countries, including Mozambique, which was selected primarily due to its innovative community land law
 - Indonesia, Mexico, Nepal, Tanzania
- Specific objective: assess the extent to which national laws establish secure right to benefit from forest-based emission reductions or storage of carbon
- Interviews with government, NGO, community, project developer representatives

MOZAMBIQUE STUDY AREAS



BACKGROUND

- Forests cover 50% of land area
- Half of forest loss due to illegal logging and fire to clear farmland
- 40-70% of surface area burns annually
- REDD+ strategy not yet complete
- Mozambique receiving assistance from WB, Brazil, IIED and other NGOs
- 2 functioning pilot projects (more in development)

LAND LAWS

- All land belongs to the State
- Individuals and communities can get perpetual use rights (DUATS)

Traditional and Good Faith Occupancy

- Available to individuals and communities
- Provide perpetual use rights
- Delimitation and registration not required but makes right more secure

Proof of 10-year Occupancy

- Available to individuals and communities
- Provide perpetual use rights
- Delimitation and registration not required but makes right more secure

Renewable 50-year

- Intended for investors
- Mandatory consultation/agreement with community (but often does not occur)

LAND LAWS

- Community land rights recognition key to respecting customary practices and law
- Delimitation and registration complex and expensive
 - 1,000-20,000 HA delimitation costs US\$2,000-8,000
 - Less than 10% of national territory delimited
 - Parcel size ranges from 10-500,000 HA
- Mandatory investor consultation but largely ineffective
 - FPIC on paper.
 - Communities lack knowledge and negotiating skills

FOREST LAWS

- All forest resources belong to the State
- Local communities can use forest resources for personal consumption (subsistence)
- State recognizes no other customary/inherent rights (contrary to Land Law)
- All non-subsistence uses require license (simple license or forest concession)
- For forest concessions, developer must consult but community may not have right to refuse (no FPIC)

MOZAMBIQUE-CARBON RIGHTS

- Land Law and Forestry Law not in harmony in carbon context:
 - Land Law gives land holder right to use land and resources for subsistence or commercial purposes subject to restrictions on extraction of forest resources
 - But Forestry Law interpreted to allow only subsistence use without license; no “commercial” use
- Receipt of carbon benefits probably not subsistence use; is it “commercial”? Individuals or communities required to obtain forestry license to receive carbon benefits or sell carbon credits?
- If Land Law prevails, local communities more likely entitled to benefits under existing law

NHAMBITA PROJECT

- Enviroterade pilot project distributing carbon benefits based on contracts
- Developer helped communities to delimit and register land
- Communities verify boundaries of individual plots
- Smallholders get T.A. on improving productivity and reducing emissions
- 3,000 households complying with land use plans and receiving share of revenues received by Enviroterade sale of offsets under Plan Vivo standard
- Transaction costs too high so will proceed only with large community-controlled forests (+ 100,000 HA)
- Mozambique likely to direct REDD+ funds through national-level institution. Can this accommodate Nhambita-type projects?

MOZAMBIQUE: ISSUES/SUGGESTED CHANGES

- Current law really does not establish carbon rights holder
- Draft strategy calls for “an instrument” to determine rights to carbon
- Must harmonize Land Law and Forestry Law so Land Law controls.
- Allow communities/individuals to receive REDD+ benefits without a license; clarify that non-extractive commercial use is allowed
- Give women greater role in community decision-making as REDD + benefits likely to flow to villages not individuals.
- How to balance payment for performance with social goals (e.g., providing REDD benefits to adjacent, non-forest communities)
- Encourage developers/government to accelerate delimitation and certification of communities with forestland

WILDLIFE RETURNING TO GORONGOSA





THANKS FOR YOUR ATTENTION