Taking stock of Copenhagen: outcomes on REDD+ and rights

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1. Introduction

When parties and observers arrived in Copenhagen last December (2009), for two weeks of intense negotiations, it was already clear that no legally binding agreement was expected to be agreed upon, and there were many outstanding issues that required further work and negotiations. Nevertheless, a certain level of optimism surrounded the negotiations on REDD+.

As a matter of fact, political consensus among Parties on the need to quick-start action and support REDD+ had built up at various level before COP15. High level meetings were held at the UN, the proposals of the Informal Working Group on Interim Financing for REDD (IWG-IFR) were high on the G20 and REDD countries agendas, and negotiations in the REDD working group were proceeding at a faster pace than other negotiating baskets.

Throughout the last months of 2009, therefore, there seemed to be reason to expect a significant outcome on REDD in Copenhagen. Some observers suggested that REDD+ would be used by some governments as a form of ‘green washing’ to cover up a broader failure of COP15 to deliver on binding commitments to reduce CO₂ emissions, while others promoting REDD+ considered that concrete results on REDD could turn out to be at least one positive

* Forest Peoples Programme has produced this information note at the request of some Indigenous Peoples' Organizations to provide some background and analysis of the outcomes of REDD negotiations in Copenhagen, and to suggest options for further action.
outcome on tackling climate change, protecting forests, and providing financial resources for
developing countries.

Indigenous Peoples’ organisations had been lobbying hard to ensure a strong reference to the
need to uphold indigenous peoples’ and local communities’ rights in REDD and in the broader
climate policies to be adopted in Copenhagen, and have indeed scored some achievements in
garnering a broad support from various constituencies, from government to civil society
organizations and social movements.

The first week of activities of the working groups on the AWG-LCA in Copenhagen, as far as
REDD was concerned, led to some apparent achievements in terms of the recognition of the
relevance of indigenous peoples’ and local communities’ rights, and in particular to an explicit
reference to the UN Declaration on Indigenous Peoples’ Rights in the pre-COP negotiations.

These were lost once the discussion moved from the merely technical to the mostly political
level, and negotiation on REDD fell behind other more crucial priorities such as that of
ensuring that no binding commitment be taken by Annex I countries and the US to reduce
greenhouse gas emissions.

Much has been said about Copenhagen, how the conduct of the Danish presidency created the
premises for a failure. Questions have also been raised about the decision of the US
Administration and President Barack Obama to negotiate an accord with the newly formed
BASIC (Brazil, South Africa, China and India) coalition and ignore the normal rules of
consensus-based agreement might mean the marginalization of the UNFCCC. Several Parties
point out that the hasty negotiations and lack of transparency in the development of the
Copenhagen Accord has done serious damage to the trust among Parties under the Convention
– that will require major efforts to rebuild in 2010 and beyond.

As far as REDD is concerned, while no agreement was achieved on the inclusion of proper
safeguards on indigenous peoples’ and local communities’ rights, a clear political message was
sent by Parties that more money has to be pledged to support readiness phases, and that market
solutions could also be considered. For their part, indigenous peoples and social justice
organisations sent a powerful message that rights have to be addressed in any global deal on
forests and climate.

In the meantime, while intergovernmental negotiations will carry on to finalise agreement on the
broader REDD framework, including safeguards on indigenous peoples and local communities’
rights, it seems that pledged funds will most likely be delivered through institutions such as
UNREDD and the World Bank to support country level REDD, and REDD-related carbon
trading solutions might also gain ground.

In this context, advocacy work on indigenous peoples’ and local communities’ rights might have
to ensure coordination among different, but converging tracks within and outside the UNFCCC
process. On the inside, there will be a need to focus on consolidating strong language on rights
in the negotiating text that will go to COP16 in November. At the same time there is a need to
keep track of developments relating to FCPF and UNREDD as well as the activities of bilateral
and plurilateral initiatives, such as that launched by the Government of Norway. Furthermore,
there remains a need to rearticulate a critical analysis of REDD and ensuing proposals that
might allow REDD-plus and offsets to become an easy way out for countries that do not want
to commit to climate justice by reducing their emissions and accepting to compensate for their
climate debt.
2. Copenhagen outcomes at a glance

- Governments did not reach a global forest and climate agreement on REDD+ at the 15th Conference of the Parties (COP15) of the United Nations Framework Convention on Climate Change (UNFCCC) held in Copenhagen (Denmark) in December 2009.
- Negotiations ended in confusion with the hasty ‘noting’ of a Copenhagen Accord developed by just a few government Parties (largely behind closed doors).
- The last-minute strained negotiations of the high-level ministerial segment put aside most draft texts on REDD+ that had been developed in the run up to Copenhagen, and during the first one and a half weeks at COP15.
- Key draft decisions on REDD+ will now go forward to further negotiations towards a legally binding instrument to be discussed at COP16 in Mexico.

Key outcomes in draft COP decision on REDD to go forward to COP16

- Contains an important explicit reference to the need to safeguard Indigenous Peoples’ and local communities’ rights and to respect traditional knowledge in the operative section – affirming that these safeguards ‘should be promoted…taking into account relevant international obligations’;
- Notes that the UN Declaration of the Rights of Indigenous Peoples (UNDRIP) has been adopted by the UN (though it does not spell out that UNDRIP must be recognised and respected)
- Includes safeguard language on the need to address drivers of deforestation and forest degradation, land tenure issues, forest governance and gender considerations in development and implementation of national [sub-national in brackets] REDD strategies
- Recognises the traditional practices of indigenous peoples in the Draft decision on agriculture
- Includes a recommendation (in brackets) inviting the UNFCCC Subsidiary Body on Scientific and Technological Advice (SBSTA) to address methods to monitor safeguards
- Fails to directly recognise the right to free, prior and informed consent (FPIC)

Monitoring, reporting and verification (MRV): adopted by COP15

- The SBSTA decision on REDD methodologies recognizes the need to engage indigenous peoples and local communities as well as their potential contribution to MRV, without addressing rights or the need to involve rights holders in the design of MRV

The Copenhagen Accord:

- contains no binding commitments by Annex I countries to reduce their CO₂ emissions
- supports REDD+ calls for scaled-up financing, including through carbon trading
- proposes to establish a ‘Copenhagen Green Climate Fund’, but its status and operationalisation is uncertain
- seems to allow start-up funding to be channelled through existing international financial institutions and REDD initiatives, such as World Bank FCPF and UNREDD Programme
- does not mention rights or safeguards at all
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3. The REDD road to Copenhagen

The outcome of REDD negotiations in Copenhagen cannot be fully understood without a brief recap of the negotiating process that developed throughout 2009 and that intensified from August 2009 until COP15.

In August 2009 at the AWG-LCA meeting held in Bonn, the Indigenous Peoples’ Caucus agreed on three key principles that would inform the advocacy efforts on REDD and in general on the various parts of the Bali Action Plan.

These three principles and overarching goals were;

a. inclusion of indigenous peoples’ and local communities’ rights and of explicit reference to the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in any text coming out from the negotiations;

b. recognition of the right to Free, prior and informed consent (FPIC)

c. recognition of the relevance of traditional knowledge (TK)

Negotiations held in Bonn in August resulted in the adoption of draft language that retained reference, although in brackets, to UNDRIP and prior, informed consent, although falling short of adopting the internationally recognised definition of FPIC and still retaining reference to the ‘national exception.’ This would have meant that national legislation would have prevailed and that UNDRIP would be relevant only in its absence.

The two-week negotiations held in Bangkok in late September delivered a text that was expected to represent an advanced draft for further negotiation in Barcelona and Copenhagen, which still retained a reference to UNDRIP in brackets - in spite of the fact that some Parties had continued to oppose that, and only wanted to commit to the general need to recognise the rights of indigenous peoples and local communities. The text had reference to Free and Prior Informed Consent in brackets:

In accordance with relevant international agreements, [such as the United Nations Declaration on the Rights of Indigenous Peoples,] and taking into account national circumstances and legislation, respect the knowledge and rights of indigenous peoples [including their free, prior, informed consent,] and members of local communities, and promote the full and effective participation of all relevant stakeholders in actions referred to in paragraphs 2 and 5 above.

This text was then reconsidered for negotiation in Barcelona in early November 2009. The scenario that emerged at this point envisaged reference to indigenous peoples’ rights in a political declaration and REDD likely to be dealt more broadly within an annex to a COP decision. A COP Decision on REDD was likely to focus on capacity building and support for readiness.

Other pending issues that were to be addressed in Copenhagen were related to governance structures and safeguards on conservation of biological diversity, although the safeguard section contains reference to international agreements related to biodiversity. As far as indigenous peoples’ and local communities’ rights were concerned, the consolidated language will need further refining and reworking, but the fact that reference to UNDRIP and FPIC was still in the text, albeit in brackets, showed that the issue is considered as key by negotiators, and that the indigenous peoples caucus had gone far in generating support from a broader coalition of
parties and non-governmental organizations. Such a capital will prove key in the follow-up to COP15 when the details and specifics of REDD will have to be discussed and finalised, in what, AWG-LCA Chair Zammit Cutiajar had already announced as a ‘Marrakech-like’ process on REDD.

4. What happened in Copenhagen?

REDD was discussed and negotiated at various levels and produced a series of varied outcomes that need to be examined in full to have an indicative picture of bottlenecks, opportunities and gaps, as well as future advocacy opportunities in the lead up to COP16.

The first one was of the REDD sub-Working Group of the Ad-hoc Working Group on Long-term Action (AWG-LCA) that produced a draft COP decision that was then sent to the COP for further negotiation and approval. In this framework it is also worth looking at other draft COP decisions that can be relevant for REDD, notably the one on Finance and that on Agriculture.

The second is the discussion on REDD at the Ministerial and High-Segment level in COP15 in order to have an idea of the different unresolved issues that will remerge in the successive rounds of negotiations.

The third is the content and political significance of the Copenhagen Accord, that in spite of its limited reference to REDD, still represents in the minds of many REDD advocates, mostly governments and institutions such as UNREDD and FCPF, a political endorsement for further action under existing frameworks.

The fourth is the outcome of the SBSTA discussions on methodological implications of REDD, and in particular the issue of the engagement of indigenous peoples in Monitoring, Reporting and Verification.

In general, the significance of the REDD+ negotiation in Copenhagen was determined by the negotiations at the Ministerial level and High-Segment level of the Heads of Government and Heads of State that produced only a ‘politically’ binding document that was ‘noted’ - and not adopted - by some Parties but without the consensus of the whole.

While mentioning REDD+ and the need to provide funding, the so-called ‘Copenhagen Accord’ falls short of spelling ou the details and guarantees these schemes should be following, or any reference to quantitative levels, both as regards funding and commitments to reduce deforestation.

At the same time, however, the ‘Copenhagen Accord’ can be read as a mandate to the international community to continue supporting REDD+ readiness and to implement pilot projects that would generate criteria and experiences that would inform the further negotiations on REDD in 2010.

Additionally, the lack of binding commitment to reduce emissions and the ‘political’ endorsement of REDD+ might turn into a strong message in support of approaches such as carbon trading as a mitigation mechanism. Under these circumstances the support to REDD ensuing from COP15 (15th Conference of the Parties) would result in a direct incentive for
countries to continue depending on fossil fuels, expanding the fossil fuel frontiers in indigenous lands and hence increase pressure on indigenous peoples’ and local communities’ rights and their resources and lands.


The importance of looking at the draft COP decision on REDD that was produced by the REDD Working Group of the AWG-LCA is evident after careful reading of the COP decision to extend the mandate of the AWG-LCA to report to COP16.

The COP decision that extends the mandate of the Working Group on LCA for 2010 directs LCA to continue work on the basis of the report made to COP15 (FCCC/AWGLCA/2009/L.7/Rev.1 and Add.1, Add.2/Rev.1, Add.3–7, Add.8/Rev.1 and Add) and subsequent deliberations and initiatives thereby undertaken.

The report of the LCA to the COP includes the draft decisions on various aspects and issues of the Bali Action Plan, among which is the outcome document of the REDD working group (SEE FURTHER INFORMATION BELOW).

This means that the whole set of outcome documents of the various working groups would be considered as a basis for discussion in the lead up to COP16. Therefore, gains achieved in that document might be consolidated, and shortcomings possibly resolved during the process of negotiation of the materials that sent to COP16 for inclusion in a legally binding instrument.

As far as the language on the rights of indigenous peoples is concerned, the draft COP decision refers to it in the ‘operative’ section, as follows:

Further affirms that when undertaking activities referred to in paragraph 3 below, the following safeguards should be [promoted] [and] [supported]:

2...
(c) Respect for the knowledge and rights of indigenous peoples and members of local communities, by taking into account relevant international obligations, national circumstances and laws, and noting that the General Assembly has adopted the United Nations Declaration on the Rights of Indigenous Peoples;

(d) Full and effective participation of relevant stakeholders, including in particular indigenous peoples and local communities in actions referred to in paragraphs 3 and 5 below;

Paras 3 and 5 are about developing mitigation plans and national plans. The Para 6 also says:

6. Requests developing country Parties when developing and implementing their national strategy or action plan, [or subnational strategies] to address, inter alia, drivers of deforestation and forest degradation, land tenure issues, forest governance issues, gender considerations and the safeguards identified in paragraph 2 above, ensuring the full and effective participation of relevant stakeholders, inter alia, indigenous peoples and local communities;

It should be pointed out that while the reference to safeguards is anchored to a vague operational language (should be ‘promoted ‘ [and] [supported]), the draft COP decision on REDD has bracketed text that
11. [Requests that the promotion and implementation of all activities referred to in paragraphs 3, 5, 6 and 7 above, including consideration of the safeguards referred to in paragraph 2 above, and early action, be supported in accordance with [paragraph 1 (b) above and] relevant provisions agreed by the Conference of the Parties including:
(a) [Decision x/CP.15 (finance)];]

The draft COP decision on Agriculture also contains language on indigenous peoples’ rights in its preamble:

Recognizing the interests of small and marginal farmers, the rights of indigenous peoples and traditional knowledge and practices, in the context of applicable international [instruments] [obligations] and national [legislation] [laws], and national circumstances,

It goes without saying that inclusion in pre-ambular text does not imply a commitment to operationalise those rights. Nevertheless, it should also be stressed that recognition of IP traditional knowledge and practices in agriculture might well mean that traditional methods such as swidden agriculture should not be ‘criminalised’ as being drivers of deforestation.

The draft COP decision leaves - however - way too much discretion to REDD countries to decide which phase of REDD to start with. Note in particular the discretionary draft language:

8. Recognizes that the implementation of the activities referred to in paragraph 7 above, including the choice of a starting phase, depends on the specific national circumstances, capacities and capabilities of each developing country Party and the level of support received;

This could allow governments to jump through the first two phases, (notably Readiness and Implementation) and immediately start with the third phase, related to carbon trading. This possibility would mean that those phases where safeguards and procedural rights might have to be ensured would be bypassed. It would in fact risk shrinking the scope of REDD to carbon trading and carbon markets, a possibility that is also corroborated by the part of the Copenhagen Accord where it refers to the possibility of using market mechanisms to fund adaptation and mitigation action.

7. We decide to pursue various approaches, including opportunities to use markets, to enhance the cost-effectiveness of, and to promote mitigation actions.

It was expected that some language on indigenous peoples’ rights (or at least noting indigenous peoples’ rights vulnerability to climate change) could be included in the ‘political declaration’ building up on the draft text on ‘Shared Vision’. Unfortunately, the ‘Copenhagen Accord’ did not retain any reference all to rights. Nevertheless, the draft ‘Shared Vision’ that was sent to the COP offers opportunities for further advocacy on rights in the lead-up to COP16.

4. b. SBSTA decision on methodological implications of MRV of REDD, and engagement of Indigenous peoples

A draft resolution was produced in the SBSTA (Subsidiary Body on Scientific and Technical Advise) meeting held in Bonn in June 2009 where it became evident that SBSTA was not intending to take up any language related to indigenous peoples’ rights, and rather focus on the mere technical and methodological aspects related to REDD and MRV. At that time it was clarified that the AWG-LCA is the competent body to deal with any discussion on indigenous peoples’ rights, being this a more ‘political’ body, while SBSTA is only competent for technical and methodological issues.
Hence, it was not a surprise that the final COP decision on the SBSTA working program on REDD and MRV falls short of including reference to Indigenous Peoples' rights and of a rights-based approach in its relevant deliberations, but rather focuses on the methodological aspects of indigenous peoples’ and local communities’ engagement:

Recognizing the need for full and effective engagement of indigenous peoples and local communities in, and the potential contribution of their knowledge to, monitoring and reporting of activities related to decision 1/CP.13, paragraph 1 (b) (iii)

The resolution also

3. Encourages, as appropriate, the development of guidance for effective engagement of indigenous peoples and local communities in monitoring and reporting;

The Indigenous Peoples’ Caucus had been calling for a broader approach to MRV ‘beyond carbon’ as well as suggesting that an ad-hoc expert workshop on indigenous methodologies for MRV take place before next SBSTA 32, with a view to explore options for the setting up of an indigenous peoples’ expert group on REDD and MRV. This proposal was not considered in the final outcome but led to the commitment to hold an expert workshop on MRV where issues related to indigenous peoples’ and local communities’ engagement and relevant criteria, as well as a broader approach to MRV might be considered.

The draft COP decision on REDD has also bracketed text that can be used for SBSTA-level advocacy, since it gives mandate to

SBSTA to /Requests the Subsidiary Body for Scientific and Technological Advice, at its [xx] session, to develop modalities for measuring, reporting and verifying the support provided by developed country Parties to support the implementation of safeguards and actions referred to in paragraphs 2 and 3 above;

4. c. The debate on REDD at the Conference of the Parties’ and Head of State and Governments level and REDD in the Copenhagen Accord

As far as REDD is concerned, the negotiations at the COP level did not solve some of the outstanding issues that were left in brackets in the AWG-LCA working group on REDD.

No agreement was met on quantitative goals to reduce or halt deforestation and many observers considered the reluctance of REDD countries to take any such commitment to be a negotiating tactic to push donor countries to commit to allocate financial resources for REDD.

Nevertheless, the negotiations did not bring any substantial result on the matter. As far as safeguards (on rights, biodiversity and conversion of forests) were concerned, these were kept in the operational section, but apparently with a weaker language. No final decision was taken on whether to support a national or sub-national approach to REDD and in particular on reference levels, the latter being actively supported by Colombia and the US.

Nevertheless, the way the Copenhagen Accord is being considered and sold by its proponents might well represent a political endorsement for any financial commitment and further action on REDD. As a matter of fact the Copenhagen Accord has a specific paragraph on REDD:
6. We recognize the crucial role of reducing emissions from deforestation and forest degradation and the need to enhance removals of greenhouse gas emissions by forests and agree on the need to provide positive incentives to such actions through the immediate establishment of a mechanism including REDD-plus, to enable the mobilization of financial resources from developed countries.

And two others on financing and REDD+

10. We decide that the Copenhagen Green Climate Fund shall be established as an operating entity of the financial mechanism of the Convention to support projects, programmes, policies and other activities in developing countries related to mitigation including REDD-plus, adaptation, capacity-building, technology development and transfer.

The further definition in legal and operative terms of the Copenhagen Green Climate Fund would happen in COP16 once the legally binding instrument is likely to be adopted. In the meantime, pending the definition of such a mechanism, any developed countries’ contributions to REDD might go through existing institutions notably the World Bank and UNREDD, as well as via bilateral/plurilateral deals.

This seems to be the gist behind another paragraph of the Copenhagen Accord, according to which

*Scaled up, new and additional, predictable and adequate funding as well as improved access shall be provided to developing countries, in accordance with the relevant provisions of the Convention, to enable and support enhanced action on mitigation, including substantial finance to reduce emissions from deforestation and forest degradation (REDD-plus), adaptation, technology development and transfer and capacity-building, for enhanced implementation of the Convention. The collective commitment by developed countries is to provide new and additional resources, including forestry and investments through international institutions, approaching USD 30 billion for the period 2010–2012 with balanced allocation between adaptation and mitigation.*

Pending a definition of the Climate Fund, much of the funds that will be allocated from now until COP16 - and possibly beyond – would be channeled through ‘international institutions’ notably the World Bank and UNREDD.

The push to immediately allocate funds for REDD and develop a financing mechanism, and the lack of commitment in the Copenhagen Accord to identify strong performance criteria and safeguards for the proper use of those funds, opens a space for advocacy, beyond the mere REDD discussion.

As a matter of fact, it’d be possibly useful to focus some attention on the debate on financial resources and instruments, since that is where some support might have to be generated for stringent criteria and standards, such as eligibility criteria, as advanced by the Norwegian government and others. At the same time, however, the advocacy effort at the UNFCCC level will have to be linked to constant monitoring of the UNREDD and World Bank processes, both at the international and national level.

In general terms, the outcome of COP 15 and the positions and statements that circulated thereafter, point to a loss of credibility of UNFCCC and to the subsequent risk of atomization of multilateral initiatives, in favor of a plurilateral approach, that would marginalise the role of the UNFCCC in the lead up to COP16. In Copenhagen and soon after, various governments
announced their decision to allocate finds to specific REDD projects (Amazon Fund, Indonesia REDD, etc), while others announced the intention to allocate a total of 3.5 billion USD to support fast-track action on REDD readiness in 2010. All these developments require careful monitoring; both for their specific implications, but also for the possible shock waves they might send to the UNFCCC process.

The 3.5 billion USD commitment to support fast-track REDD initiatives was announced by the UK government on Dec 16th, shortly before the adoption of the Copenhagen Accord. Australia, France, Japan, Norway, the United Kingdom, and the United States have collectively agreed, in the context of an ambitious and comprehensive outcome in Copenhagen, to dedicate USD 3.5 billion as initial public finance towards slowing, halting and eventually reversing deforestation in developing countries.

The joint statement read as follows:

> Actions to reduce emissions from forests can help to stabilize our climate, support livelihoods, provide biodiversity conservation, and promote economic development. As part of an ambitious and comprehensive deal, we recognise the significant role of international public finance in supporting developing countries’ efforts to slow, halt and eventually reverse deforestation. With this in mind, we collectively dedicate USD3.5 billion of fast-start climate change financing for ‘REDD+’ over the 2010 to 2012 period. We regard this as an initial investment in developing countries that put forward ambitious REDD+ plans and that achieve forest emission reductions according to their respective capabilities. We collectively commit to scaling up our finance thereafter in line with opportunities and the delivery of results. We invite other donors to join us in this effort to make early action on REDD+ a reality.

At a press conference held on January 20, 2010 in Bonn, Yvo de Boer, the Secretary of the UNFCCC, said that this money is not pledged to the UNFCCC and that ‘existing institutions’ such as UNREDD and the World Bank ‘could be avenues for funding’, since the UNFCCC has not yet adopted a REDD framework to channel resources through.

As far as the UNFCCC process is concerned, two meetings of the two working groups on LCA and Kyoto Protocol are confirmed, the first to take place in Bonn in late May, the other (COP16) in Mexico in late November. Yvo de Boer did not rule out the possibility of a preparatory meeting before June and also said that there will be an intense negotiation period before COP16, so it is possible that additional meetings will be scheduled.

At the same time, other meetings planned in the follow-up to COP15 might be worth monitoring. One is a meeting scheduled for spring and announced by Stoltenberg, the Prime Minister of Norway, that will launch an initiative with countries such as Brazil, Indonesia, Guyana, Gabon and Papua New Guinea to coordinate initiatives on the ground and coordinate actions to support REDD in the lead up to COP16 in Mexico.

Last, but not least, it might be worth monitoring developments of the activities of the Informal Working Group on Interim Finance for REDD supported by the G20 and a wide range of REDD countries, and whose secretariat is hosted by the Government of Norway. It is very likely that their proposals will be taken into consideration at various levels, such as for instance the next meetings of the G20-G8 and Major Economies Forum (MEF) in Canada.
Notes

Copy of the Draft AWG-LCA decision on REDD plus is available at the following address:


Other related documents (draft COP decisions on Shared Vision, Agriculture, Finance) :
http://unfccc.int/meetings/ad_hoc_working_groups/lca/items/5243.php

For the text of the Copenhagen Accord, and the SBSTA decision on REDD -see
http://unfccc.int/meetings/cop_15/items/5257.php