

# Inter-Ethnic Association for the Development of the Peruvian Amazon - AIDSESEP

Indigenous Analysis and Proposals about the RPP (3<sup>rd</sup> version) of REDD in Peru  
(17 Feb. 2011)

## 1. Guarantee the Right to Collective Territories of Indigenous Peoples

The Peruvian State has a historic social debt regarding the collective territories of indigenous peoples. AIDSESEP has reiterated this in the REDD process and the RPP drafts continue to not include effective solutions, a substantial requirement for any REDD strategy. For the nth time, we demand the immediate demarcation of hundreds of un-recognized communities; other recognized communities that don't have land titles; communities that require territorial enlargement; 8 Communal Reserves; 5 Territorial Reserves that have been studied; and the titling of collective territories as indigenous peoples as allowed for in ILO Convention 169 and not only as the "communal parcels" that were imposed as of 40 years ago.

It is impossible for REDD to separate the unity between Forests–Territories–Peoples. In order to avoid that in Peru REDD increases social conflicts, ends up caught up in it and becomes socially un-viable, the RPP should plan for the actions and budgets needed to pay off this historic social debt. Here we enumerate our observations and proposals to solve the diverse confusions, gaps, or contradictions that the RPP presents around our territorial rights:

- a) Needs to change the focus throughout the RPP that is ultimately expressed in the table of initial indicators for monitoring and evaluation (p. 125, table 6-1) in which the indigenous demands and rights in general are minimized and marginalized to procedural issues (consultation) that, while important, are insufficient. Issues of content, referring to the serious territorial problems that will condition REDD, are only dealt with in terms of ***superficial goals that are reduced to achieving "more information" and "proposals of territorial regularization and geo-referencing"***. In the indicators of the REDD process, the RPP only gets to "diagnostics" while in the impact indicators it is important to identify in which REDD initiatives there would be land conflicts and to design "measures" to overcome them. There is an excessive bias and passivity in this topic, that should be overcome with an effective political will to accelerate the concrete processes (field demarcation and administrative resolution) to solve this historic debt throughout the Amazon region and not only in cases where there are REDD+ initiatives. Also lacking is a deep analysis around land tenure (pg. 43), instead only dealing with the issue in a ***superficial and descriptive manner***. Not taken into account are the reiterated analysis of AIDSESEP around the details of the problem of regularization and consolidation for indigenous territories in over 15 million hectares (estimated) and the solution strategies thereof. On page 93 it is indicated that amongst the three principle and critical problems of REDD are found territorial titling, the overlap of territorial rights, and due consultation with indigenous peoples. The text even indicates the need to respect the safeguards mentioned in the United Nations Framework Convention on Climate Change (UNFCCC) and the World Bank. Contradictorily, this "priority" is thereafter forgotten and postponed in attention, and replaced with the ***simple follow-up of a REDD monitoring and evaluation***

**system.** Effective solutions are not included, except for simple “diagnostics” in the projects indicated by MINAM, MINAG, and the Peruvian state. This is an open contradiction between discourse and concrete action.

- b) Needs to improve the focus on the problems around land tenure, because there is no design for the implementation of actions toward respecting and titling of lands which are occupied, owned by or utilized by the communities, and those which require expansion; and this serious question is reduced to only a **“new geo-referencing” (pg. 57) of already titled lands; new “diagnostics”** (pg. 60) of this already-known demand’ and “design” of actions to solve pending titling with just \$14,142 (pg 59) which is an insignificant amount, both in terms of the dimension of territorial social debt and the proportion of voluminous REDD funds that are being projected. This reflects a lack of political will to carry out solutions.
- c) Needs to correct and clarify that the official register is not going to “offer a solution to the overlap in territorial rights” (pg. 72) given that it is only a process and system to register. What is really necessary is to implement processes of demarcation in the field and expedition of titles that can be entered in public registers, all of which ultimately resulting in the mentioned official centralized register.
- d) Needs to add to the necessary normative improvements for REDD (pg. 87) the need to update the legislation related to indigenous territories, in particular in the Amazon, given that the law in effect (Legislative Decree 22175) is outdated having been established 18 years prior to Peru’s ratification of ILO 169 (RL 26253). Years ago “communal parcels” were initiated and imposed, which have not stopped being implemented, but to date the right to **titling of used collective territories** of indigenous peoples is in effect. It would be absurd to suppose that the mentioned international treaty should be circumscribed by a legal norm of lower legal hierarchy and 40 years old. It should be the reverse, and the RPP doesn’t recognize the need for the primacy of ILO 169 in the part referring to the titling of territories (not only consultation) and to proceed in its legislative implementation, through a reform of the laws in force that ratify the right to collective titling as Peoples (not only as “communities”) for the integrity of lands occupied ancestrally by indigenous peoples.
- e) Needs to stop marginalizing the territory issue within projects and funds designed within the RPP. Need to incorporate them in the state budgets of:
- Funds for forests (pg. 70, table 2b-4) for 152,000 euros that are being requested from JICA, KFW, FAO, and others;
  - The 88.2 million Euros (pg. 68) in REDD projects from KFW, GTZ, World Bank, USAID, GEO;
  - The 152 million Euros (pg. 70) in projects around deforestation of USAID, Finland, CAF, FAO, JICA, KFW;
  - The component “2.a Evaluation of Land Use” for \$241,428.57 (pg. 59) in which there are only \$14,142.86 for “actions for land titling” which is an unacceptable 0.58% of the component;

- The component “2.b REDD Strategies” for \$825,285.71 (pg. 78); “2.c REDD Implementation Framework” for \$1,335,929 (pg. 92); “2.d Social and Environmental Impacts” for \$124,071.43 (pg. 100); “2.e Develop Reference Scenarios” for \$2,511,785.71 (pg. 108), in which there is not one cent for the territorial demand.
- f) Needs to add that the social-environmental safeguards should not only include those of the UNFCCC and the World Bank (pg. 12) but also those found within ILO 169 and the United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP). Need to add amongst the safeguards to be completed (pg. 94) in relation to Convention 169 of the ILO, that these are not limited to prior consultation and consent, but also other complementary rights like amongst others that of territorial regularization and consolidation – even more important if there are direct or indirect overlaps with REDD projects given the consequent social conflicts. Needed are safeguards referring to the right of indigenous peoples to decide and control the development processes around them, as in the case of REDD, and to not be excluded from the alternatives that we have proposed for an “Indigenous REDD”, that is to say culturally appropriate.
- g) Needs to overcome the ***confusion about the spaces and channels for solutions to the issue of indigenous territory***. Need to mention (pg. 17) that the Regional Governments have the abilities to title indigenous territories, which facilitates a solution to this issue that doesn’t depend on the central State. Need to overcome the confusion within the RPP about the relationship of territorial regularization with COFOPRI (pg. 19) given that this is an entity in the process of being deactivated for reasons of internal corruption and is transferring its territorial titling functions to regional governments, all of which is recognized within the RPP itself (pg. 19). Need for rigorousness within the RPP in terms of not recognizing that this all has to do with a historic territorial debt, due to the lack of political will on the part of the current and previous governments to continue with the titling of communities (pg. 30). In many cases AIDSESEP had to obtain the funds for this work, replacing what was and continues to be a state obligation.
- h) Needs to correct the exclusion of indigenous peoples, when the help on the part of MINAM is announced (pg. 46), in turning over of 12,292,144 hectares for “Forests in permanent production for concessions” in addition to 17,207,201 hectares for “un-characterized areas”; without considering the overlap in both cases with areas requested by indigenous communities for territorial regularization and consolidation: possession, titles, expansions, collective territories as peoples, Communal Reserves, and Territorial Reserves. There are statistics for everything, minus for the long-standing demand of indigenous communities for their territorial rights. This is repeated in one of the state objective for REDD, referred to in the “conservation of 54 million hectares of forest” (pgs 9, 16, 77) which is overlapping the indigenous territorial demand that isn’t even mentioned.
- i) Needs to overcome the confusion around communities whose titles ***“made in a traditional manner, haven’t been registered”*** (pg. 30). The “updating of plans” does not annul the right to title which has been won and recognized by the State in previous years, even if done using “traditional methods.” There is a lack of coherence, given the recognition that “it is important to update and register” these titles. Therefore funds should be dedicated

(which they are not) to wrap up this pending task that continues to be an obligation of the state and not the communities.

- j) Needs to recognize and not avoid ***the issue of indigenous territories in Natural Protected Areas*** (i.e. Pacaya Samiria and others) on pg. 44, table 2-1. The document should recognize the social conflict produced within said conservation areas when the state imposes them over areas previously occupied or used by indigenous peoples, working against their right to territorial titling as outlined in ILO 169.

## 2. Right to Non-Exclusion of “Indigenous REDD” Proposals

The RPP should recognize and promote the right of indigenous peoples to develop “Indigenous REDD” initiatives, redefined in relation to our cosmo-vision and collective rights, as part of a right to decide and control the strategies of so-called “development” in our territories and environments (in agreement with ILO 169 article 7), which includes REDD processes given the profound social and environmental impacts implied. Recognize the right to not be excluded or marginalized from REDD processes for having proposed inter-cultural modifications to these policies and strategies. Below we enumerate our observations and proposals to diverse confusions, holes, or contradictions that the RPP represents to this specific right:

- a) Needs to specify (pg. 34) the right to propose and develop our own initiatives to control, decide, redefine or modify inter-culturally REDD processes in our territories. Add to page 75 the right of indigenous peoples to construct “Indigenous REDD” that might or might not coincide, case dependent, with the policies and methodologies that are being defined by the UNFCCC and the Peruvian State. This is a logical consequence of the RPP’s objective of “incorporating in a holistic manner the indigenous cosmo-vision into this document” (pg. 29).
- b) Need for the RPP to mention the ***indigenous proposals for the intercultural modification of REDD in Peru***, that include amongst other aspects:
- Consider the forests in the entirety of their ecosystem services (water, biodiversity, soils, climate, spirituality) and not only in terms of carbon, avoiding that “forestry or agro-forestry plantations” (worse are the biofuels) be considered “forests” within REDD
  - Solve the requirements of territorial consolidation and the Framework Law on Prior Consultation before starting to process REDD contracts in order to avoid social conflicts
  - Right to territory that includes titles, expansions, Communal Reserves, Territorial Reserves, and collective territories of People
  - Include indigenous territorial management and avoid the control of the forests by third parties (financiers of REDD contracts)
  - Include low-intensity integral indigenous management of natural resources: Forestry, hydro-biological, agro-forestry
  - REDD contracts should be coherent with ILO 169 and UNDRIP, which should be included in clauses so that these two norms prevail over other articles in those contracts
  - REDD contracts with shorter time-frames, adjustable on an annual basis

- Priority given to a direct relationship with communities in coordination with their organizations (local, regional, national) and reduction of intermediaries in the execution of REDD projects
  - In the case of REDD initiatives within protected areas under community administration such as Communal Reserves, respect for the autonomy of such administration and coordination with indigenous organizations (local, regional, national)
  - Indigenous capacity building, information and dissemination about ecosystem services and REDD
  - Social inclusion and no discrimination in REDD, avoiding a situation in which even with indigenous alternative proposals about REDD, funds pass by indigenous peoples and are instead given to loggers, plantations, national parks
  - Indigenous REDD initiatives developed outside of the carbon market and financial speculations that would bring pressure on our territories and organizations
- c) Need for coherence around a **holistic vision** of forests and their services, substantiated in Indigenous REDD alternatives, given that on page 116 it is indicated that “REDD+ processes have learned that the vision of forest dwellers is integrated”, even though this is not then translated within the strategies because the RPP continues to emphasize and be biased toward carbon markets. Need to overcome the reductionism to only focus on carbon and balance out with a focus around the forest’s holistic services, increasing the scarce budget in the line of “**other benefits**” (pg. 118, table 4b) of only \$70,714.29, which is 5.7% of that budgeted around carbon under “emissions and capture” (pg 114, table 4a) for \$1,223,286, and only 0.5% of the total estimated costs which add up to \$11,895,536 (pg 122). Such holistic visions shouldn’t need to pass through the state channel of the public budget of the SNIP (National System of Public Investment) (pg 177), which use criteria biased in favor of a financial and mercantilist logic, inadequate for including the intercultural adjustments with our Indigenous REDD proposals.
- d) Needs to fill in the gaps around the causes and solutions to deforestation (pg. 61, table 2b-1). Need to mention the state’s abandonment and marginalization of indigenous community forestry management, which is carried out in a holistic, integrated (wood, non-wood, hydro-biological, agro-forestry, etc), and sustainable manner, in small scale and with minimal impacts. The State (MINAM, PNCB, REDD) should stop giving us the cold shoulder and favoring the large logging concessions, which pushes communities toward the mafia networks of illegal logging. Our communities can manage our forests in an autonomous, balanced, and legal manner, but we need the government’s help in certain basic procedures (technical assistance, capacity building, appropriate technologies). In the absence of the State, the mafias “facilitate” or “substitute” these processes but with the cost of destroying the forests and making the communities responsible for these unwarranted actions. The State responds with simple repression, without assigning funds to promote community forest management. They don’t even have functionaries specialized in communities, like they do for the concessions. Just recently in 2006 the State drafted the one regulatory norm (RJ 232-2006-INRENA) for community forest management, which is a small step forward in terms of intercultural adjustment to this process. But now with the new Forestry Law this norm is forgotten and replaced with generic declarations around

“management with the indigenous cosmo-vision” without assigning any financial or human resources to make it a reality.

- e) Need for clarifications in the normative part of the RPP, adding (pg. 82) that Peru should implement the ***U.N. Declaration on the Rights of Indigenous Peoples (UNDRIP)***, not only because this is an agreement of the UN, but also because the Peruvian State supported its approval, in addition to it being part of a “family” of international norms around human and indigenous rights that guide the actions of the judges of the Inter-American Court of Human Rights, under the jurisdiction of which Peru is found. Additionally, need to correct in the part about the relationship between international and national norms the error that ***Convention 169*** is reduced to the aspects of “***poverty and development***” (pg. 82) when in reality it contains cross-cutting inter-cultural areas, in addition to dimensions of climate change, natural resources, and biodiversity.
- f) Need within the RPP to guarantee an ***indigenous participation that is not simply decorative, but instead influential in the decisions***. On page 30 there is a long enumeration of events in Peru with civil society and indigenous peoples, but no indicator of the effective results thereof and in which issues the indigenous proposals were taken into consideration. The norms outlined in the section on Biodiversity and Climate Change don't incorporate indigenous peoples' proposals. Our experience with SERNANP is not “outstanding in participation” instead in fact it has not solved the long-standing indigenous proposals such as the five Communal Reserves that were studied years ago and have not been implemented: Napo Curaray, Tigre Corrientes, Chamira, Huimeki, Airo Pai. In terms of the ***coordination spaces***, the RPP doesn't mention that in the Dialogue Table 1 around the tragic events in Bagua on 05.06.2011, the outcome was an imposition of the government's racist attacks on the indigenous movement. In the case of the other three Dialogue Tables, time was wasted in debates given that the results were neither taken up by the State nor passed along to other bodies for their implementation. AIDSESEP has not proposed the methodology of “***consultations***” using indigenous “***promoters***” (pg. 39) created unilaterally by the State and which could provoke conflicts with the communities' traditional leadership. The national REDD Working Group, as important as it is, cannot and should not replace indigenous peoples and our own organizational structures. This should neither be the case in terms of our demands for free, prior, and informed consultation with indigenous peoples, included in the part about monitoring and evaluation of REDD implementation and the impacts it will cause (pg. 124), nor in terms of our own mechanisms to take decisions and control REDD processes.
- g) Amongst the “roles and functions around REDD management” (pg. 27), need to incorporate the organization of an ***Indigenous Peoples Working Group*** made up of our organizations, and not dilute and confuse our participation along side organizations with a different nature and objectives, such as the NGOs, universities, etc that participate in the REDD Working Group. Within said group (pg. 20) AIDSESEP's participation is simply one more within numerous groups and our proposals are not necessarily taken up by the REDD WG, as they are similarly not in the RPP drafts or the general REDD proposal, with such this all means simply a scheme of decorative indigenous participation.

### 3. Indigenous Rights in the Normative Framework of REDD: Forestry, Consultation, and Environmental Services

The REDD process in Peru lacks a normative framework, which is ostensibly being processed in the new laws around forests, prior consultation, environmental services, and the role of INDEPA. Regarding all this, the RPP continues in the error of exaggerating the supposed positive aspects of these proposed laws and is not realistic in registering the contradictions therein, much less considering the respective indigenous proposals. We reiterate our observations and alternatives around these processes:

- a) Need to correct the confusions within the RPP in its analysis of the ***Prior Consultation Law*** (pgs. 23, 87) and to clearly indicate that the process is blocked by the government, which will generate more conflict and instability around REDD. The Framework Law on Consultation approved on 19.05.2010 by all the political parties within the national Congress, had the backing of indigenous organizations. The law having been vetoed by the President of the Republic and paralyzed over the last nine months, with the support of business sectors and conservative politicians, the State's lack of political will to truly respect the right of prior consultation has been brought to light. They are intending to distort this right, in the process of attempting to condition consultation only in cases of direct impact, only with indigenous landholders, only consulting what the State deems as necessary and with manipulated intermediaries. Need to advise clearly that REDD is not viable in Peru without a framework law on prior consultation, which has already been defined by indigenous peoples as the law approved on 19.05.2010 and which has been supported by the International Labor Organization.
- b) Need to correct the exaggerations about the importance of the current ***INDEPA (Institute for the Development of Andean, Amazonian, and Afro-Peruvian Peoples)*** (pg 19) given that its Governing Council has been de-activated after being the only institution integrated with representatives of indigenous organizations, and additionally it has been demoted in its administrative categorization, now subordinate to the Ministry of Culture. All of this implies that neither said Ministry nor INDEPA itself is qualified nor much less legitimized as intermediaries with Peru's indigenous peoples. This is a serious gap in State institutions that will make more difficult the implementation of REDD and any other connected processes around forests and the Amazon.
- c) Need to correct the evaluation of the RPP that the new proposed ***Forestry Law*** is going to "facilitate" (pg. 16) the implementation of REDD when in fact it is going to create conflict in relation with indigenous rights and demands. It is also not the case that this law (pg. 23) "influences the viability of REDD schemes" but instead that it makes them un-viable given that it will facilitate the handing over of more than 10 million hectares (pg. 85) to diverse kinds of concessions (forestry, tourism, conservation, REDD) overlapping them with areas that are occupied, used or otherwise possessed by hundreds of indigenous communities. The sixth final provision of this law does not include the concept from ILO 169 of territorial "occupation, use, or possession" of indigenous communities as a safeguard in order to

respect their territorial rights and avoid overlap, instead substituting this with the invention of “having bureaucratic steps in place.” Additionally, the proposed law continues to marginalize State assistance for autonomous forestry management by indigenous communities. It would also not strengthen forestry organization (pg. 43) because it does not include prior consultation and consent in forestry zoning. The State (Congress, MINAG, MINAM) continues to not include AIDSESEP’s proposals to solve these incoherencies and discriminations of the proposed law, which violate ILO 169 and UNDRIP.

- d) Need to clarify that the ***Environmental Services Law*** (pg. 22) should be improved to not allow the destruction of environmental services in the case of extractive industry or infrastructure mega-projects; don’t bias the protection of environmental services toward its commercialization through “environmental businesses” and allow innovative forms of protection between communities and international cooperation; don’t avoid prior consultations with communities in cases of “environmental services business” initiatives. AIDSESEP’s observations were communicated on 05.11.2010 to the Congressional committee that is debating this law, which were not reflected in the RPP.

#### **4. Prior Consent and Putting Brakes on the Invasion of the “REDD Bubble” within Territories and Communities**

The State strategy of allowing the free development of local REDD initiatives, parallel to the uncertain construction of different regional and national REDD scenarios (pg. 64) all with different timelines, is already producing a multiplicity of REDD business initiatives. These are creating pressure on indigenous communities, including the exaggeration and manipulation of expectations, plus speculation in land, forests, carbon capture, and supposed future incomes in the millions. The result is an acceleration of pressure and interests within our communities, provoking internal divisions, confusion, and chaos around the interpretation of REDD, its implementation and future impacts. There are so many “REDD models” according to new interest groups and so many versions and promises as well as carbon market entrepreneurs that are appearing in Peru. This is neither prudent nor constructive.

On page 89 of the RPP it is recognized that within certain “future REDD scenarios”, depending on the decisions made at the UNFCCC and carbon markets, the “State should reconsider its REDD strategies relative to early initiatives”; which is also repeated on page 102 about “reference scenarios”. This all reiterates the fragility and uncertainty of the “sub-national” REDD process in Peru, which is pressuring communities to commit themselves even though the continuation thereof is not secure. This creates a pressure that divides communities and is even speculative and uncertain. The State permits this, even encouraging it.

There is a need to put into practice now that which has been proposed for an uncertain future around the monitoring and evaluation system (SESA)(pg. 96) in relation to the compliance of ***State responsibility*** in REDD processes in the sense of supervising proponents of REDD initiatives to make sure they carry out due consultation and consent processes with the communities they are trying to convince, which should be free, prior, informed, and culturally appropriate. These consultations are not being complied with currently and the State is allowing this avalanche of



REDD interests and pressures to move forward. We can't believe that regulations that are not currently respected will exist in the future.

There is need to alert people and take preventative measures in the face of a speculative market and pressure on indigenous territories, provoked by the numerous REDD+ initiatives currently moving forward with direct and indirect support of the State. On pages 187 – 193 the RPP mentions 35 of such initiatives, which are creating exaggerated expectations around 10,730,836.97 hectares, in their majority in the Amazon and with ostensible benefits with speculative funds of \$6,130,160. In 19 of the registered initiatives indigenous communities are involved, including projects # 2,3,5,6,7,8,9,10,11,12,13,15,17,21,23,24,25,32,34 (annex 2b). This is going to continue growing and generating even more ambitions, interest groups, pressure to control land, control forests, and have supposed “indigenous alliances”, and to enter in conflicts and induce divisions within communities and their organizations. All this in function of processes that are not secure or defined, which can then change in different way under different scenarios. This crisis over lands, rights, and false expectations have already presented themselves in other countries with REDD processes. The State cannot be a passive observer and complicit at the same time to social conflicts in function of a new financial bubble and expectations. Within the RPP there is a vacuum around this question. The State should promote compliance with the due free, prior, and informed consent in all of these experiences and all new initiatives that present themselves.

We request that Peruvian State authorities (MINAM, MINAG, Amazonian Regional Governments, Defensoría del Pueblo, National Congress, and others); in addition to international functionaries within the REDD process (FCPF, FIP, World Bank and their TAP evaluation team, IDB, UNDP, and others) and the representatives of the countries that are financing REDD processes (Norway, United States, Finland, Holland, Germany, England, Spain, Japan, Switzerland, and others) take into account our observations and proposals for the Peru RPP (in its third version), with the objective of improving its formulation and not pressuring its approval. We ask all of the mentioned entities to coordinate bi-lateral meetings in order to dialogue about these proposals and coordinate their implementation.

Steering Council of AIDSESEP

(signature)

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