

**Land Tenure and Land Management Issues for REDD Preparation in Guyana:  
Framing the Agenda for Policy Discussion**

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## **1. Introduction and Country Context.**

The purpose of this paper is to frame a discussion about the main elements of the land tenure and land management context in Guyana as they relate to the preparation of public programming for the introduction of measures for Reductions of Emissions from Deforestation and Degradation (REDD) in Guyana, with particular attention to issues which may complicate the introduction of REDD mechanisms if they are not resolved. Guyana's extensive forest regions, low population density in forest areas and large proportion of state ownership of forests in many ways make Guyana an ideal location for the implementation of policies for reducing emissions from deforestation and land degradation. At the same time, a set of issues related to indigenous land tenure, demarcation of indigenous community land, resource rights, land use planning and land information systems may complicate the introduction and implementation of such policies. Discussion of these issues now may thus help to prepare the way for successful introduction and implementation of REDD in Guyana. This paper therefore intends to frame an agenda for discussion, but does not detail the political and legal debates which surround some of these issues, or present the technical options for the resolution of the issues identified, or likely costs of these options.

Guyana's geography and history have determined its patterns of settlement, economic activity, land use and culture. The coastal fringe is the area of most of the population (90%), urban settlement and agriculture (rice and sugar primarily) and has been the focus of the most development of infrastructure including the land administration system. Most of this land is small freehold parcels and state leases in agricultural areas. (see map of regions).

The rest of the country is sparsely populated with 60,000 indigenous people living in approximately 140 settlements and their satellite communities, spread out along riverine corridors. Starting about 100 kms inland a zone of mixed savannahs with sandy, acidic soils and intermittent forest clusters extends west and south. This zone is sparsely populated with indigenous villages. To the west of this zone is dense forest. In the southwest area of Region IX bordering the Rupununi River, another region of inland savannah is found.

## **2. Identifying Forest Ownership: State Lands and Amerindian Lands.**

Most of the inland regions of Guyana are State property, owned and managed by the state (about 86% of the area). Another 14% of this area is under indigenous land tenure (referred to in Guyana as Amerindian Villages and Amerindian Districts). Amerindian communities are dispersed throughout Guyanese territory and consist of 106 communities recognized during the investigation carried out before independence, and a set of satellite and newer communities which have come into existence thereafter, usually as offshoots or satellites of the originally identified communities. When the satellite and newer communities are taken into account the number of total communities rises to approximately 140. Amerindian lands are held in communal ownership and cannot be sold or transferred. Forests on Amerindian lands belong exclusively to the Amerindian community which can exploit them under management plans which must be approved by the Guyana Forest Commission. Not all Amerindian lands are forested.

There is a set of ten indigenous communities which have not yet received definitive title for their land and whose submissions to government through the Ministry of Amerindian Affairs are under review. A group of six communities in the Upper Mazaruni River area are titled but have challenged the area titled to them in a court case which is on-going (and indeed has been under litigation for 11 years).

Amerindian peoples have exclusive rights to forest products on titled lands. They have exclusive rights to small and medium-scale mining, but the State reserves a right for large-scale mining. According to the Amerindian Act (2006) the State may carry out large-scale mining over the objection of the Amerindian community to mine in the village's land area for purposes of the public interest. This has led to disputes in at least two cases. Amerindian peoples have extensive rights to subsistence hunting and fishing on State lands.

Newer Amerindian communities which do not fulfill the criteria of having 25 years of existence by 2004 or 150 residents are not eligible for title under the Amerindian Act. This situation creates a policy challenge because it is unclear if the intention is that the newer communities will be titled in the future (in which case it may be prudent to reserve land areas for them) or if they will not be titled, in which case there is a risk that they will remain in an insecure legal status with potential social, environmental and economic vulnerabilities, or if there would be an intermediate solution such as creating a perpetual use right or management plans for these areas while maintaining the State's ownership. Each option would have implications for the potential introduction of REDD schemes on these areas, or presumably in the negotiations

around benefit-sharing in a national REDD context. This is a policy area which belongs chiefly to the Ministry of Amerindian Affairs.

### **3. Ownership and access to subsurface mineral rights: issues in locating exploration and extraction sites while preserving forests.**

Subsurface mineral rights on all land in Guyana are the patrimony of the State. Exploration permits and mining rights and concessions are granted by the Guyana Geology and Mines Commission (GGMC). Exploration permits, mining concessions and mines may overlap with forestry concessions and State land under other surface uses. On Amerindian lands, Amerindian communities have rights to carry out small and medium mining projects. They cannot carry out or enter into agreements for large scale mining projects without prior agreement of GGMC and GGMC may authorize large-scale mining projects on community land. In the case such a project does not receive the consent of the Amerindian community, government has the right to overrule the community to carry out the project. So far that situation has not occurred, but one case is reportedly pending.

Under Guyanese law, according to Section 6 of the *1989 Mining Act*, the State is the owner of all mineral resources. It provides that, "[s]ubject to the other provisions of this Part, all minerals within the lands of Guyana shall vest in the State." Using Section 6, the government asserts the right to issue mining permits anywhere in Guyana, including on

Amerindian titled lands, although current regulations limit small- and medium-scale mining on titled lands. The government estimates that minable minerals are found in some 5 to 10 per cent of the national territory, but exploration and prospection is encouraged over a much wider area in order to determine where these minerals are. REDD schemes may require that the location of these exploration permits and active mines and their access routes be excluded from forest areas subject to REDD management. Doing this will require a the cooperation of GGMC to make the location of exploration permits, access routes and active mines available to REDD managers and a strong enforcement of unsanctioned mining activity.

#### **4. State land management for forestry, REDD and other uses.**

State land can be leased for agricultural or other uses through an application to the Department of Lands and Surveys. Smallholder leases for rice and sugar production are the norm in coastal agricultural areas. Forest concessions on State land can be granted through application to the Guyana Forestry Commission. Mining exploration permits and concessions to mine are granted by GGMC. Unauthorized mining in small scale operations is reported by some sources to be widespread.

#### **5. Framing a discussion of land tenure and land management issues for REDD preparation.**

The following section of this paper calls attention to eight issues in land and resource tenure in Guyana which are relevant to the preparation phase for REDD and whose discussion in detail

with all stakeholders as part of the preparation for REDD would likely strengthen the legal and informational basis for long term forest carbon and resource management.

Definition of the State domain and indigenous domains and their full demarcation is another issue for discussion. There are still 10 untitled Amerindian settlements from the original list prepared at independence. Without the completion of the titling of these communities, the communities will have a harder time to make claims on benefit streams emerging from REDD and there is the potential for disputes between the untitled communities and the State.

As mentioned above, newer indigenous communities also pose a policy challenge for Guyana, requiring a determination of how these areas will be treated from a legal point of view in the future. Boundary demarcation of existing Amerindian villages has lagged behind titling as well. The did not determine the number of indigenous communities without demarcated boundaries, but the issue was emphasized is by both indigenous representatives and government officials. Demarcation is important in order to protect communities from illegal encroachment and will be important in any REDD scheme to determine forest tenure boundaries.

A related issue concerns the requests for extensions of titled communities, of which at least seven are pending. It is not entirely clear to this author what criteria and procedures are used to rule on the extension requests. In a REDD scenario where there is an increased monetary value to standing timber, even in inaccessible location, extension claims and demarcation issues could become more problematic. There is therefore a need for these issues to be addressed during the preparation phase for REDD. Participatory and low-cost demarcation methodologies could

potentially resolve some of the constraints, but would need to be accompanied by policy processes to clarify criteria, procedures, institutional competencies for resolving questions of new communities, extension of existing communities and demarcation of boundaries.

Mining claims in indigenous communities pose another challenge to successful land management in Guyana. Although beyond the scope of this paper, it is evident from discussions with indigenous representatives that the provisions of the Amerindian Act which permit exploration and large-scale mining in Amerindian communities over the objection of the community may lead to problems. Indeed, at least two cases (in Chinese Landing and Arau Village) have already led to serious and on-going disputes about this process, with allegations being made about inadequate consultations, inadequate environmental impact assessment and preparation and social conflict about the management of the process. In preparing for REDD these issues will likely come under increasing international scrutiny and may be influential considerations to international investors interested in Guyana's carbon sources.

A third land issue whose resolution is important in REDD preparation is the case (currently in court) of a traditional land claim by six villages in the Upper Mazaruni River area. Essentially the villages claim that a larger area should be titled to them based on traditional use and the establishment in the 1950s of an Amerindian District encompassing the larger area than what subsequently titled to the villages. The case has been under litigation for eleven years. In the meantime extensive mining has continued in the disputed areas with adverse environmental consequences. Without the resolution of this issue before the introduction of REDD schemes, the government and its development partners could be held up for intense international scrutiny

around the length of time of the court case, the potential liability for environmental damages in the disputed area and question about the final tenurial status of the disputed area.

A fourth area which calls for attention for the start-up of REDD in Guyana has to do with Land Use Plans. Currently only a few areas of Guyana are covered by land use plans (see map). But the introduction of REDD schemes will likely require that there be a much fuller coverage of land use planning in the forested areas of the country, because these areas will potentially be the object of a complex, national system of carbon storage and management, especially if the scale of REDD becomes national. The exigencies of REDD schemes at a national scale would mean that detailed land use and management plans be developed for almost the entire country, specifying mineral exploration and exploitation, forestry uses, conservation areas, road and transportation planning and the planning of human settlements. The Department of Lands and Surveys is responsible for land use planning and the creation of plans. To date, however, land use plans only exist for parts of the country, primarily along the coast and the major road corridors.

Related to land use planning is the designation of conservation areas. A few areas like Iwokrama and the Wai Wai conservation area in Konashen District in the extreme south of the country have been established by specific legal instruments. REDD preparedness would likely require a fuller definition of the types of planned additional conservation areas in the future and the types of conservation use restrictions which will place on these areas and the management arrangements for them. Indeed, REDD schemes might originate in conservation areas where strong forest protections are already legally in force.

Another land use which has been scantily prepared for until now but which will take on more importance under REDD planning is the recognition of non-indigenous settlements in the country's interior and the provision of land areas for future human settlement. These settlements are mostly small aggrupations of residences for miners which are currently being regularized in a somewhat ad hoc manner by the State. In the future land use planning and a policy on the siting and creation of new settlements will likely be required to ensure that these settlements do not impinge on REDD-related land use agreements.

All these issues suggest a need to strengthen Guyana's land information systems to manage the expanded land management requirements of a national REDD framework, whose management rests with the Lands and Surveys Commission. This Commission has been substantially upgraded over the last ten years through a technical assistance arrangement with DFID and support for a land and resource information system from GTZ. Facilities have been upgraded and technical staff trained. The commission maintains 1:50,000 maps for all of Guyana on which land tenure arrangements and land use designations are overlaid (indigenous communities, for example). However, the data on mining designations and forest designations are held respectively by the GGMC and the GFC, not directly by the Lands and Surveys Commission. This means that while theoretically a complete set of georeferenced land tenure uses and other designations could be assembled which depicts the universe of rights and claims (i.e., mining exploration permits, mining concessions, forest concessions, indigenous lands, untitled indigenous communities, claims for new communities, claims of extension of indigenous communities), such a set does not actually exist in a unified operational format at the current

time. This means that it is not easy to understand the possible set of overlapping or conflicting use designations which may pertain to any specific location. But this depiction is presumably a prerequisite for the type of detailed land management schemes which are expected to provide clarity and security for REDD schemes. Related to this issue is the question of the acquisition and management of remotely sensed imagery, whose sourcing, analysis and use will likely form an important part of REDD planning and management.

A final point to be made is that land policy-making and land governance, particularly as it relates to REDD preparation is not yet an integrated function of the Guyanese government. State lands, Amerindian lands, forest management and mining activities are not being managed in an integrated fashion as a national REDD concept would likely call for. To date the problems created by this lack of integration and coordination have been localized and often occur in remote areas. They have also been only marginally noticed by the international community. Both situations are likely to change with the preparation for REDD schemes which will call for integrated nation-wide management and control of land uses subject to rigorous monitoring and international scrutiny. Guyana has the bases to be able to implement such an integrated policy and land management system, but will likely call for focused attention on inter-agency coordination and stronger intersectoral policy-making processes to accomplish it in the period of preparation for REDD.

