



WORLD  
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ISSUE BRIEF

# USING ACCOUNTABILITY: WHY REDD+ NEEDS TO BE MORE THAN AN ECONOMIC INCENTIVE

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## EXECUTIVE SUMMARY

The global effort to save forests in developing countries, known as “REDD+,”<sup>1</sup> would benefit from a set of tools that hold governments to account for their commitments. These accountability tools need to be integrated into national REDD+ programs.

A set of accountability tools affecting the reputational, financial, and legal interests of the government at the national and subnational levels would enable oversight institutions, individuals, and civil society to hold governments to account for the objectives that REDD+ programs hope to achieve. In particular, oversight actors need accountability tools to uphold social and environmental objectives beyond emission reductions in order to change the status quo required to achieve REDD+.

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Governments and NGOs have discussed the concept of accountability for national governments in relation to international obligations, but how national and subnational governments will be accountable domestically is a much more complicated question.

This issue brief explores the complicated realities of how accountability tools functioned in land-use planning, zoning, and permitting processes in a pair of case studies from Brazil and Indonesia and draws lessons for government or civil society designers of REDD+ programs. One case study focuses on how presidential decrees on land zoning are helping oversight actors achieve political accountability in Mato Grosso, Brazil. The other examines the role

of the Indonesian primary forest and peat land conversion moratorium on the oil palm permitting process.<sup>2</sup>

The case studies are based on research by and experiences of the World Resources Institute's Governance of Forest Initiative networks in Brazil and Indonesia. The objectives of reviewing the case studies are to:

- Better understand what accountability tools are and how they function in practice;
- Explore the conditions needed for accountability tools to work; and
- Identify the functions of accountability tools in helping countries achieve their REDD+ objectives.

We found that accountability tools had at least one of three main functions: bringing actors to the table to negotiate reforms, protecting people or the environment during the design and implementation of laws and policies, and giving oversight actors the ability to enforce the implementation of agreed rules. In each case, several factors played a role in the successful use of accountability tools, including the clarity of the relevant laws, the strength of oversight institutions, and the strength of the economic incentive.

Based on this research, we make the following suggestions to government and civil society actors participating in the design of national REDD+ programs:

1. REDD+ program designers may want to consider how to include accountability tools in REDD+ laws and programs that will engage and hold to account subnational politicians and admin-

istrators responsible for land allocation and use processes.

2. Where REDD+ laws, regulations and/ or other related program documents are being drafted, specific inclusion of civil society participation may help strengthen its ability to function as accountability actors, thereby also supporting more formal government institutions playing that role. Granting civil society other roles, such as a monitoring role, may also strengthen its ability to be an oversight actor.
3. During the design of REDD+ programs, economic and/or legal accountability tools should be linked to social and environmental outcomes for REDD+, as well as to greenhouse gas (GHG) emission reductions. Reputational tools are unlikely to be sufficient.
4. REDD+ designers may want to consider how REDD+ incentives, laws, and programs will provide or integrate accountability tools aimed at achieving three functions: bringing actors to the table, including marginal voices, and enforcing implementation.
5. REDD+ designers should consider how best to build on existing laws and institutions that are clear and effective. Layering REDD+ laws and programs over ineffective laws may reduce the ability of oversight actors to hold government actors to account. It is also important to clarify who has oversight for REDD+ laws and regulations, and make sure they have the authority to do the job.

## INTRODUCTION

### Background

Citizens, governments, civil society, and the private sector are increasingly interested in changing the global trend of forest loss and degradation. This interest stems, in part, from a growing awareness of the links between forests and climate change. In 2007, this awareness led to the kick off of a global process aimed at developing a way to support countries<sup>3</sup> that slow, halt, and reverse deforestation and forest degradation. This initiative is called REDD+.<sup>4</sup>

At the same time, direct and indirect human pressure on forest landscapes from agriculture, urbanization, climate change, pollution, and other threats continues to grow.<sup>5</sup> As a result, everyone—from local communities to governments—needs to make difficult decisions about whether and how to counter these pressures on forests.

There is no single approach to addressing the threats to forests. In each country, diverse sets of stakeholders—including national and subnational authorities, domestic and international companies, local communities, indigenous peoples, and nongovernmental organizations (NGOs)—hold a variety of values and perspectives, which may be conflicting. Reaching agreement among these competing demands on forest lands is difficult. Implementing agreements, once they are codified into laws, policies, and programs, is even more challenging. The most important remaining forests are often vast and far from population centers, thus much of what occurs in these areas escapes the attention of the public and those responsible for implementing the agreements. For

these reasons, methods for holding people accountable to their obligations are vital.

Brazil and Indonesia are home to large proportions of the world's remaining forests.<sup>6</sup> As a result, they are host to a number of important processes affecting forest lands. The governments of these two countries are active in international climate negotiations and in the REDD+ discussions and they have committed to taking REDD+ actions. This report presents two particularly interesting cases from Brazil and Indonesia. The first concerns the land-use planning and zoning process in Brazil's state of Mato Grosso. The second looks at efforts to improve the oil palm permitting processes in Indonesia. These two cases exemplify the importance and the difficulty of ensuring accountability. They demonstrate the value of using different types of accountability tools to create change, including tools that affect the reputational, economic, and/or legal interests of the person or institution being held to account.

By highlighting these two experiences, the author hopes to shed light on the importance of accountability to the success of international, national, and subnational programs to achieve REDD+, and identify some tools that can be used to achieve such accountability.

### What is Accountability?

Accountability is the ability of an actor—called an oversight actor in this brief—to hold others responsible for their actions. It is also the ability of citizens to hold their government responsible for the actions it has taken on behalf of society.<sup>7</sup> Most countries have many types of oversight actors involved in checking and

Accountability tools have one of three main functions: bringing actors to the table to negotiate reforms, protecting people or the environment during the design and implementation of laws and policies, or giving oversight actors the ability to enforce the implementation of agreed rules.

balancing the activities of different sectors of government (Fukuyama 2013) (See Table 1).

Within government there are two broad categories of accountability that have slightly different objectives (Brinkerhof 2001).<sup>8</sup> The objective of *political accountability* is to create a space for multiple voices and values so that laws, policies, and procedures that reflect the will of the people<sup>9</sup> can be developed. A politically accountable government actor is broadly responsive to the public's needs and demands.

## POTENTIAL OVERSIGHT ACTORS

### OVERSIGHT ACTORS WITHIN GOVERNMENT

- Supreme audit institutions
- Courts<sup>a</sup>
- Comptrollers general
- Law enforcement agencies
- Central state oversight of local governments
- Parliamentary hearings
- Legislative committees
- Administrative review councils
- Anticorruption agencies
- Advisory boards
- Interministerial committees
- Ombudsman offices
- Other agencies via “sunshine” and freedom of information laws

### OVERSIGHT ACTORS OUTSIDE THE GOVERNMENT

- Members of the public
- Experts in national or international standard-setting bodies
- Donors
- Citizen oversight committees
- Civil society watchdog organizations
- Experts in policy research (e.g., think tanks or universities)
- Journalists
- Associations or associative movements

<sup>a</sup> Depending on the context, courts may be considered to be outside of the government. In some jurisdictions the judicial branch is explicitly separated from the government to ensure its independence. Even in such cases there may be some crossover because the executive can play a role in appointing members of the judiciary.

The objective of *administrative accountability* is to check on actors in positions of public responsibility, normally in administrative agencies,<sup>10</sup> to ensure they are effectively implementing their mandates.

These two categories of accountability are directly relevant to government actors that manage and impact forest lands, including those relevant to achieving REDD+ goals.

An actor can be said to be accountable if he or she is willing to be transparent about his/her actions, be monitored and questioned by others, and accept criticism if warranted. However, many individuals or institutions do not wish to be accountable (Fukuyama 2013), possibly because of pressure from interest groups, because they are pursuing individual objec-

tives, because they do not share basic beliefs about the role of government, or because they have insufficient resources or knowledge of how to be transparent. Figure 1 shows a scale of political and administrative behavior ranging from acting solely for individual gain to being fully accountable.

When politicians and government administrators are not open and transparent about their decisions and when they resist accountability, oversight actors need to:

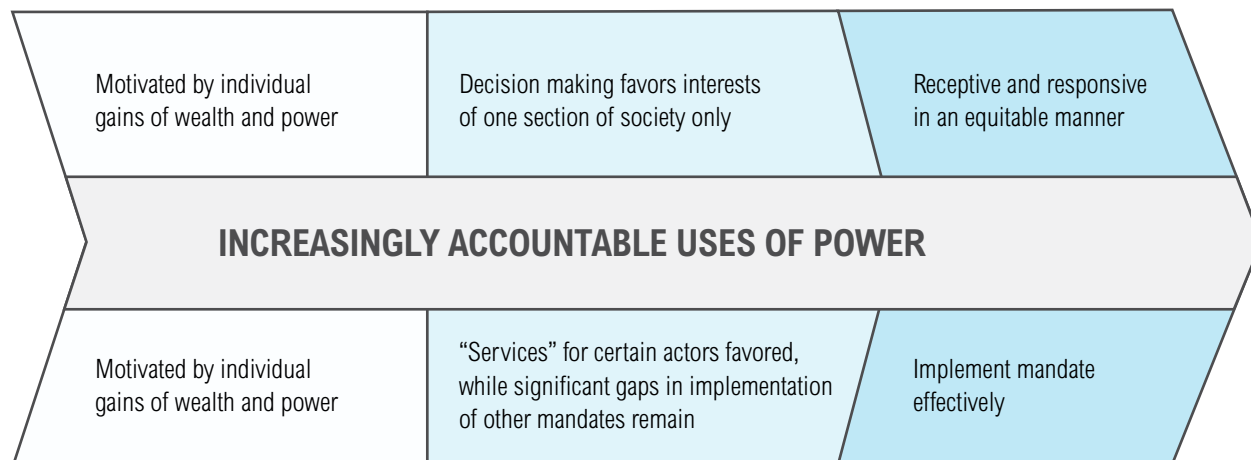
- Search for the information necessary to understand what actions are being taken and their impact;
- Create spaces for discussion; and
- Use accountability tools to change the accountable actor’s behavior.

*Accountability tools* are the “systems, procedures, and mechanisms” that oversight actors can use to “impose restraints on power and authority and/or create incentives for appropriate behaviors and actions” (Brinkerhof 2001, 3). Figure 1 provides an example of how power can be used in a manner that is more or less accountable. In his 2001 conceptual overview of accountability, Brinkerhof discusses three main accountability tools. The most common is *reputational accountability*, in which the oversight actor threatens to make accountable individuals or institutions look bad in the public eye if they are not fulfilling their mandates. This tool can be used via the creation of published reports, news stories and op-eds, public posters, and even by providing information directly to other oversight actors. The incentive for the accountable actor to behave appropriately is to avoid damage to his or her reputation. Often reputational accountability precedes the use of economic and legal tools. *Economic accountability* also takes many forms. Appropriate behavior is incentivized via the potential gain or loss of financial support, such as payments for a specific activity, access to markets or clients, and/or the threat of fines. *Legal accountability* is the tool most often associated with accountability. Appropriate behavior is incentivized to avoid litigation and possible fines and imprisonment. Often oversight actors will use more than one accountability tool, or all three in combination, especially when seeking deeper institutional or cultural change.

FIGURE 1

## INCREASINGLY ACCOUNTABLE USES OF POWER

## POLITICAL ACCOUNTABILITY



## ADMINISTRATIVE ACCOUNTABILITY

**Accountability and REDD+**

Conversations around REDD+ started when negotiators from Papua New Guinea and Costa Rica proposed a simple concept: actors in developing countries should get paid if they demonstrate that they have reduced emissions from deforestation at the national level. This vision remains, though answers to the key questions—Who should get paid? What should they get paid for? And what should payment look like?—are more complicated.

In addition, at the 2010 Conference of the Parties to the Climate Convention in Cancun, Parties agreed that in addition to emission reductions, countries would need to demon-

strate that they have addressed and respected a certain number of social, environmental, and procedural considerations (i.e., the REDD+ safeguards) by providing information to the international community about how they did so (i.e., via the REDD+ safeguard information system). The REDD+ safeguards were developed to address concerns that REDD+ activities, if developed without the participation of indigenous peoples and local communities, could infringe on local people's rights to land or natural resources and/or reduce biodiversity.

At the international level, REDD+ comes with a built-in accountability tool linked to the economic interests of the REDD+ country: if a country

promises to engage productively in REDD+, but fails to deliver emission reductions, it can lose funding. In addition, failure to live up to expectations could potentially affect the country's international reputation, since the United Nations Framework Convention on Climate Change's (UNFCCC) reporting rules<sup>11</sup> and emphasis on transparency<sup>12</sup> require that REDD+ countries disclose their actions to the international community.



Accountability tools and actors linked to these international processes are vital. However, the following case studies demonstrate why these accountability tools are insufficient for achieving REDD+ in a country. It is unlikely that existing accountability tools at the national and subnational levels will be sufficient to change the behavior of actors who are currently profiting from the status quo. Thus, a focus on creating effective domestic accountability tools for national and subnational government actors as part of the REDD+ process is crucial.

## Land Use Planning, Zoning, and Permitting

While countries can take many approaches to achieving their REDD+ goals, generally they need to:

- Identify the tradeoffs between different land uses that impact forests;
- Find ways to divert activities away from forested lands;
- Mitigate the impacts of activities on forest cover; and
- Find areas where forests can be restored.

Although no country has completed these steps specifically to meet the REDD+ objectives, land-use planning, zoning, and permitting processes<sup>13</sup> represent a useful proxy for the types of political and administrative challenges faced by governments seeking to implement REDD+. Land-use planning is largely a political process that seeks to define how to best manage the tradeoffs among different land uses. Zoning is the spatial tool used to define areas where certain uses are allowed. Permit-

ting is the administrative process by which individuals or institutions get permission to undertake an activity allowed in the designated zone. The permitting process often includes rules for how to mitigate for the social and environmental impacts of the activity.

The development and implementation of REDD+ incentives mimic these processes, and the REDD+ incentives should both affect and be affected by them. For example, the successful integration of a REDD+ goal and incentives into national plans should have an impact on macro land-use planning discussions and decisions. Decisions to give permits to actors who will deforest lands without seeking to mitigate the environmental outcomes will, in turn, impact the ability to achieve REDD+.

The Brazilian case study focuses on the accountability tools used during a state zoning law process that was halted by stakeholders who disagreed with both the process and the content of the law. The Indonesian case study focuses on the accountability tools used to support a national process led by the REDD+ task force to improve land-use allocation tools, including zoning plans and permitting processes, to address the expansion of oil palm plantations into forested areas.

These experiences from Brazil and Indonesia provide useful lessons for REDD+ initiatives. The next two sections include a short description of the context in which the accountability actions took place, the role of different accountability tools in each process, a discussion of the enabling elements that supported and/or challenged the implementation of the accountability tools, and a discussion

of the linkages of each case study to REDD+. The final section summarizes common lessons from the case studies for REDD+ and offers recommendations for REDD+ policy and program designers.

## ACCOUNTABILITY IN BRAZIL'S MATO GROSSO SOCIOECONOMIC ECOLOGICAL ZONING LAW

In early 2011, the state legislature of Mato Grosso passed the Socioeconomic Ecological Zoning (ZSEE) Law,<sup>14</sup> which opened 5 million hectares of forest areas for conversion to agriculture. Within a month of the governor sanctioning the new law, IMAZON—a Brazilian institute that tracks deforestation in the Brazilian Amazon—documented a more than 500 percent spike in deforestation in the state. In February 2012, following a high-profile civil-society campaign and a public action lawsuit, the law was suspended through an injunction by Mato Grosso's state court. The next month, Brazil's Federal Zoning Commission ordered the state government to redraft the law. In August 2013, the state court upheld a decision that an expert team should be created to review the law. During the redrafting, implementation of the ZSEE law has been halted.

This case study is an example of how oversight actors used accountability tools to check unsustainable land use in the face of political pressure to increase deforestation.<sup>15</sup> It demonstrates important lessons for those designing REDD+ programs in places like Mato Grosso where private actors interested in converting forests to agriculture are protected by government actors. The lessons show the need for:

- Multiple robust accountability tools to bring government actors to the negotiating table;
- Legal tools to ensure civil society is allowed to engage and is protected during the policymaking process;
- Resources for long-term engagement and monitoring of these processes by multiple oversight actors, especially civil society; and
- Clear laws and mandates and strong oversight institutions.

## Background

Mato Grosso is a state at the southern edge of the Brazilian Amazon. Forests once covered about 58 percent of the state; now, about 39 percent of the original Amazon forests and 42 percent of original savannah forests have been deforested (Strassburg, et al. 2012, 8).

These dramatic changes in Mato Grosso's forested lands are the result of multiple pressures. For example, the state has been the focus of numerous federal initiatives aimed at promoting natural resource extraction to boost the national economy, developing infrastructure projects, initiating land-redistribution programs and state colonization projects, and supporting the mining and livestock sectors through incentives and concessions (Jepson 2006, 293). These initiatives, as well as drivers at the state level, have resulted in significant increases in cattle ranching and agricultural production, the latter often by large land owners.<sup>16</sup>

In addition to environmental consequences, these changes have had significant social consequences for the diverse communities (e.g., small and medium landowners, indigenous

peoples groups, agrarian reform settlers) living in the frontier areas where governance is poor (Sauer and Leiter 2011). Conflicts over land rights have often resulted (Sullivan 2013).

Passing the ZSEE law was a long process. In 1993, the State of Mato Grosso, supported by a World Bank grant, started to develop technical zoning documents (Office of the Governor 2008). After much back and forth between technical experts and the government, a formal consultation process with civil society began in March 2008 when the governor of Mato Grosso created the Commission on Socioeconomic and Ecological Zoning,<sup>17</sup> which included various state, national, and civil society groups (Office of the Governor 2008).

At the time, Governor Blairo Maggi<sup>18</sup> gave commission members three days to review the draft 283-page plan and the 24-page bill. The ZSEE bill was submitted to the legislative assembly the following month (Office of the Governor 2008), and the assembly took over the process of public consultations sponsoring 17 seminars and 15 public hearings between June 2008 and July 2009.<sup>19</sup>

Civil society actively engaged with the process. In August 2008 the Social Mobilization Work Group, a coalition of about 130 civil society organizations, was organized to build the capacity of stakeholders and prepare for the meetings (Moreira dos Santos Neto 2013). One concern about the consultation process was that it was moving too quickly to fully inform and get the participation of affected actors, especially those in rural areas. Another concern was that the attitude of some stakeholders during meetings was stifling other stakeholders' willingness to talk (Moreira dos

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Santos Neto 2013). As a result, the group requested the presence of state prosecutors at consultation meetings. Nevertheless, on December 4, 2009, when the draft bill was forwarded to the state legislative zoning commission, it had been reviewed and discussed by many members of civil society and was considered a reasonable way forward (Moreira dos Santos Neto 2013).

However, in March 2010, all but one member of the state zoning commission rejected the Mato Grosso ZSEE bill, and wrote another bill. No consultation process was held for the new bill. From that moment, civil society in Mato Grosso shifted from providing input to using accountability tools to try to stop the new ZSEE bill from becoming law.

## The Accountability Process and Tools

The legal backbone for accountability actions taken by the oversight actors against the Mato Grosso zoning bill was the 2002 Presidential Decree 4.297, signed by President Luiz Inácio Lula da Silva and amended in 2007.<sup>20</sup> As amended, the decree provides standards and requirements for the development of regional, state, or local socioeconomic ecological zoning plans or laws, and gives oversight actors the powers to ensure their implementation. The decree followed many years of unsuccessful land-use planning and zoning processes by the federal government.<sup>21</sup>

In particular, Decree 4.297/2002 describes:

- The overarching goal of the ZSEE, including to seek “ecological, economic and social sustainability, in order to reconcile economic growth and protection of natural resources, for the benefit of present and future generations, as a result of recognizing the intrinsic value of biodiversity and its components”;<sup>22</sup>
- Procedural requirements for designing the plan, including broad democratic participation, sharing of actions and responsibilities among various levels of public administration and civil society, and an appreciation of multidisciplinary scientific knowledge;<sup>23</sup> and
- Substantive requirements covering, for example, the scale of mapping and protections for conservation areas.<sup>24</sup>

The amendment, Decree 6.288/2007, added an incentive for state government actors to engage in a program largely driven by a federal agenda. States that develop a zoning law and have it approved by the federal government may apply for a more relaxed forest cover requirement for lands zoned for agricultural activities. By allowing states to request a drop from the 80 percent forest cover required by the Forest Code to 50 percent forest cover, this incentive spoke directly to the most powerful constituents— large land owners.<sup>25</sup>

The 2002 decree gives a number of federal government institutions oversight power over the creation of state zoning laws.<sup>26</sup> It created the Federal Zoning Commission— a body formed by representatives of 14 ministries— to analyze and approve state land-use plans before submitting them to the National Environmental Council, which then submits the plans to the President for approval.

*Reputational accountability:* Three types of actions were taken by oversight actors between 2010 and 2011 aimed at pointing out the inconsistencies between the ZSEE bill being put forward by the legislative assembly, the Presidential decrees on zoning, and other policy processes in the state.

First, each time the legislative assembly released a new proposal, civil society prepared documents demonstrating its impact on the physical and cultural resources that were supposed to be protected by the ZSEE.<sup>27</sup> The reports identified the negative impacts on deforestation and water resources stemming from the legislative assembly’s proposal to zone much of Northwest Mato Grosso—the state’s last heavily forested area—as

appropriate for cattle ranching and soybean cultivation. Civil society reports also highlighted that 13 or 14 areas meant to be Indigenous lands<sup>28</sup> would be zoned to other uses as a result of the ZSEE bill (Azevedo 2011, Fanzeres 2011, ICV 2011, Firori 2011).

Second, civil society held several meetings with public prosecutors to discuss the process by which the proposals were being generated, as well as substantive concerns. Given the numerous procedural requirements included in the presidential decrees, as well as in other laws guiding the development of state laws in Brazil, oversight actors felt that the legislative assembly was not following due process.

Third, to encourage the governor to veto the bill, civil society mobilized the director of zoning in the Ministry of Environment in Brasilia to discuss concerns about the bill with the governor.

The reports and meetings clearly had some impact on the legislative assembly, as the next drafts of the bill included some concessions. However, despite these efforts, Governor Silval Barbosa accepted the bill from the legislative assembly that many felt had significant flaws, and signed it into law in April 2011.

After the bill was approved, Legislative Assembly President Jose Gerardo Riva denied any wrongdoing by the legislative assembly in an opinion column in a local paper and through television ads<sup>29</sup> (Fanzeres 2011). Nevertheless, the law was very different from the draft bill that had gone through the consultation process. In addition, multiple oversight actors argued that the law might include illegal components. The assembly and governor apparently felt they could handle the “reputational risks” of their actions, perhaps not



surprising given the number of legal actions already pending for a number of the legislators.<sup>30</sup>

*Legal accountability:* Once the governor signed the ZSEE bill into law, oversight actors used a new accountability tool. They began to build a case for the revision or reversal of the law in court or during review at the federal level. State prosecutors—together with civil society—compiled evidence regarding the law’s technical problems, the lack of consultation on its final drafts, and “procedural fraud” that occurred during the final months when the bill passed back and forth between Governor Barbosa and the legislative assembly in a manner not recognized by current administrative procedures (State Prosecutor Dominic Savio, cited in Torezzan 2011).

This evidence was sufficiently robust to convince the state court and the Federal Zoning Commission to reject the zoning law in 2012 (Midia News 2012). The Federal Zoning Commission ruled that Mato Grosso must make changes to address social and environmental requirements and resubmit its plan (Marinho 2012).

At the time of writing, the state had tried, but failed to overturn the court’s decision, and was stalling on revisions. Meanwhile the court mandated that the state undertake a technical review of the 2011 law and determine a process for finalizing the land use plan (Torezzan 2013).

*Economic accountability:* The economic accountability tool had a very different function from the reputational and legal tools in this process. The role of this tool was simply to create an incentive for state government actors to engage in a program—developing a ZSEE plan and law—largely driven by a federal agenda. The incentive was that state legislators could promise their most powerful constituents—large land owners—a reduction in the forest cover requirement for their agricultural properties if the zoning law was developed. Given the dominance of large land owners in positions of power in the state government of Mato Grosso, this tool potentially presented a personal incentive as well.

This carrot was in the 2007 Presidential decree, perhaps explaining why the process moved more rapidly from 2008 to 2011, than it did from 1993 to 2008, when the zoning plan was in the hands of technocrats. However, changes to the Forest Code in 2012 counteracted the incentive created by the 2007 decree by reducing reforestation requirements to 50 percent for large land owners who had already cleared their lands beyond 80 percent, effectively granting the incentive without the ZSEE having been completed.

Although the Forest Code requires that states develop a ZSEE in five years, contacts in the State Environment Agency (SEMA) and other stakeholders, observed that the legislative assembly appears to be in no hurry to tackle the revisions needed for the court and the Federal Zoning Commission to accept the Mato Grosso law.

The next steps in revising the ZSEE law are unclear and the political space is diminishing. Actors concerned with water, biodiversity, small family farms, indigenous peoples’ lands, soil health, and other issues, are left with little recourse to restart the zoning discussions. The only possibility to hold the government to account is the state court’s requirement that a technical review of the 2011 ZSEE law be started (Torezzan 2013), though the outcome is uncertain.

### **The Effectiveness of Accountability Tools in the Mato Grosso Case**

The ability of oversight actors to halt the implementation of the Mato Grosso ZSEE law is a significant achievement given the political leadership and the pressure by state and federal actors to clear forest lands. Although the outcome is to be determined, the current situation is a testament to the strength of the accountability tools and oversight actors engaged in the process. A few observations are relevant about how legal and institutional circumstances facilitated the accountability process in Mato Grosso.

First, the legal requirements for public participation in the presidential decrees provided a basis for civil society to demand a say during the zoning process in 2008 (Acseledrad 2001, 158). Civil society collected much of the information needed for oversight actors to take reputational and legal actions in 2010 and onward.

Equally important was the ability of civil society to organize and build the capacity of other stakeholders. Because leaders of a few Mato Grosso civil society groups recognized the importance of the process

in 2008 and consolidated the Social Mobilization Work Group (GTMS), the groups were able to speak with a united voice. GTMS helped build capacity in many ways, including by inviting public prosecutors and other oversight actors to the group's workshops to inform members about their rights and how to recognize when the process deviated from mandates in the presidential decrees. Also important was the ability of civil society to stay engaged for a long period (from 2008 to 2012). Many are still engaged, though the political process is currently stalled.

Second, the GTMS engaged government oversight actors—the civil prosecutors and the Federal Zoning Commission—early in the process. Although this engagement began partly to protect civil society actors, it also gave the government oversight actors the opportunity to participate in the process and collect their own data and impressions. The ability and willingness of these oversight institutions to engage demonstrated their independence from the political forces facing the state legislature and governor.

The procedural and substantive requirements in the presidential decrees were also vital for the state court and federal commission to take action once it was clear that the legislative assembly and governor were not going to make changes to the ZSEE law without legal action. Without the relative clarity of the requirements, it would have been much harder for the oversight actors to hold the government of Mato Grosso to account in court or during the Federal Zoning Commission review.

Finally, the role of an economic incentive tool is interesting, though difficult to track. As seen by the length of the

ZSEE process (from 1993 to 2011), one of the biggest challenges to getting a ZSEE law in Mato Grosso was creating political space for the discussion. Without having the actors at the table to discuss a bill, the legal and reputational tools protecting social and environmental concerns would not have mattered.

The economic incentive in the 2007 Presidential decree appears to have put the process on a faster track. Suddenly there was a benefit to legislators finishing the ZSEE. The disappearance of the incentive after the 2012 changes to the Forest Code brought the process back to a slow crawl. The importance of having an economic incentive to bring actors to the table should not be underestimated.

## ACCOUNTABILITY IN THE INDONESIAN MORATORIUM ON OIL PALM PERMITTING

In 2010, the governments of Indonesia and Norway signed a letter of intent agreeing to a joint REDD+ partnership to reduce GHG emissions from deforestation, forest degradation, and peat land conversion in Indonesia. It included a “two year suspension on all new concessions for conversion of peat and natural forest” and is commonly referred to as the “moratorium” (Government of Indonesia 2011, 3). The role of the moratorium was to give those involved in land-use allocation and administration time to incorporate REDD+ goals into existing laws and processes. In May 2011, the Government of Indonesia released Presidential Instruction (INPRES) 10/2011, instructing government ministries to fulfill their obligations under Indonesia's agreement with Norway, and

outlining tasks and roles for each ministry during the moratorium, such as improving the policies managing land-lease and timber-exploitation permits. By establishing the moratorium, Indonesia met one part of the agreement with Norway linked to the first phase of funding, and took a step toward potential further funds related to emission reductions.

Much has been written about the role of the moratorium in reducing deforestation and related GHG emissions, as well as improving the transparency and coordination of the management of forested lands (Murdiyarto, et al. 2011; Austin, Sheppard and Stolle 2012). The REDD+ Task Force, in charge of coordinating actions to improve land allocation processes during the moratorium, planned a number of actions, including: creating “OneMap,” a representation of the biophysical and land-use characteristics of Indonesia agreed to by all stakeholders (Tahilramani 2013a); completing or revising spatial plans, physically delineating, gazetting, and/or zoning forest areas; developing an online, publicly accessible database of all forest permits; strengthening the permit review processes; and formalizing community lands and land-use plans into the spatial planning process (Austin 2013).

All of these actions could significantly improve the management of land in Indonesia. However, the first challenge has been getting government actors, such as the Ministry of Forestry, the governors, and the district regents (Bupati), to engage in the reform processes.

Since the first moratorium was signed,<sup>31</sup> civil society and other oversight actors have sought to increase

the political space needed to discuss the management and governance reforms indicated in the INPRES. They have also sought to hold actors who break the moratorium to account. All three accountability tools (reputational, legal, and economic) have been used in attempts to improve administrative accountability. Civil society and oversight actors have created dossiers with evidence of infractions by government actors, produced reports, raised awareness through national and international media, and sued government and corporate actors.

This case study shows that the moratorium was not designed in a manner that has strengthened administrative accountability around the oil palm permitting process. As a result, even with the goodwill of many government actors and the support of civil society, those who wish to address the shortcomings of the permitting process will have a difficult time bringing government actors to the negotiating table, let alone designing and implementing a better permitting process that would allow Indonesia to meet its social and environmental goals, without creating additional accountability tools.

If achieving REDD+ in Indonesia or in other countries includes changing the oil palm—or other land allocation—permitting processes, lessons from this case study can help REDD+ program designers. One of the most important lessons may be the need to think more carefully about how to use accountability tools to change the behaviors of administrators at various levels of government, as well as the behaviors of private companies. This case study also highlights the importance of making permitting processes transparent and regulated

by clear rules that integrate social and environmental requirements. Like the Brazil case, this case shows the importance of civil society and other oversight actors being able to monitor and hold government actors to account.

## Background

Indonesia is famous for its diverse forest ecosystems and numerous endemic forest-dwelling species (Koh, Pin, and Wilcove 2008; Mittermeier, et al. 1998)—and for its high rate of deforestation (Hansen, et al. 2009). Oil palm production is one of the most significant drivers of deforestation in Indonesia. For example, oil palm production has increased about 12 percent a year since 1990 (Index Mundi n.d.) and continued growth is expected (Casson 2013).

While the economic potential of oil palm is well documented (Sandker, Suwarno, and Campbell 2007), so are its social and environmental impacts, especially for local and indigenous communities (Gillespie 2001; McCarthy and Zen 2010, 154–57). For example, according to a recent report by Human Rights Watch (2013), President Susilo Bambang Yudhoyono's office acknowledged 8,495 agrarian conflicts in 2012, of which 2,002 were “likely to erupt into violence” (Prakoso, Lutfia, and Sihaloho 2012). In Sumatra, where the majority of oil palm plantations are located, land disputes have frequently turned violent. Fires set to clear the land are also a significant concern (Carlson, et al. 2012), as well as land clearing without actual plantation development<sup>32</sup> (Caroko, et al. 2011, 10). As in Brazil, much new development is projected to occur in “frontier” areas (Gillespie 2001, 20) where formal land titles and commercial agriculture are not prevalent.

Numerous experts have written about the management changes needed to improve oil palm plantation development in Indonesia. Suggestions have included: limiting the expansion of oil palm plantations into forest areas (Caroko, et al. 2011; Gingold, et al. 2012), improving environmental impact assessments (EIA 2012; McCarthy and Zen 2010), implementing administrative and enforcement procedures (Caroko, et al. 2011; McCarthy and Zen 2010; Murdiyarso, et al. 2011), improving legislation to recognize local community rights during negotiations around land-use allocation (Human Rights Watch 2013; Gillespie 2001), implementing the new freedom of information act (Human Rights Watch 2013), removing limitations on actions that can be taken by nongovernmental organizations (NGOs) and civil society, and putting in place more effective conflict resolution mechanisms (Human Rights Watch 2013; Caroko, et al. 2011). McCarthy and Zen expressed a view shared by many observers when they wrote, “The underlying problems of underdeveloped state capacity and [administrative] accountability of state officials continue to undermine regulatory approaches” (McCarthy and Zen 2010, 2). It is not surprising that many of the accountability actions taken in the context of the moratorium have been aimed at improving administrative accountability.

## The Accountability Processes and Tools

INPRES 10/2011 does not provide clear hooks for oversight actors to hold government actors to account. The legal standing of the INPRES is unclear and there are few substantive or procedural requirements in the document. In addition, the economic incentives resulting from the INPRES are weak.

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Therefore, while civil society is actively monitoring the moratorium, and its efforts have been recognized and supported by the REDD+ Task Force, it has not always been able to hold government actors to account. Below are some of the better known accountability activities.

*Reputational accountability:* Since the beginning of the moratorium, civil society has published several reports demonstrating negative social and environmental impacts of poor administrative accountability in the oil palm permitting processes. However, reports that were not picked up by other oversight actors or used in further action, have had little impact so far.

*Legal accountability:* The INPRES is a nonlegislative instrument. Experts have interpreted this designation to mean there are no legal consequences if government actors do not implement it (Murdiyarso, et al. 2011, 2). As a result, oversight actors have sought other ways to enforce or support the moratorium via existing laws or regulations. The Tripa Swamp Case, a significant legal effort to hold the governor of Aceh Province to account for granting a permit allowing oil palm development in a peat area, is a good example. The case also demonstrates the practical challenges of using existing land-use laws to improve government accountability.

Just three months after the 2011 INPRES was signed, WALHI, an Indonesian NGO, reported that the governor of Aceh argued that his province was excluded from development by National Spatial Planning Governance Regulation 26/2008, and that he opposed the moratorium, which banned new development on peat lands. He issued a permit in

an area that overlaps an important biodiversity hotspot, the Leuser Ecosystem, which includes a deep peat swamp (WALHI 2012).

WAHLI brought the case to the Banda Aceh Administrative Court, suing the governor for overlooking environmental considerations and procedures when granting the permit, and the company, PT Kallista Alam, for not consulting with communities in the area, a requirement that falls on companies (Gillespie 2001). The court dismissed the action, reasoning that WALHI should have first tried to settle the issues directly with the company (WALHI 2012). When WALHI appealed the decision in the Medan High Court, the judge ruled to revoke the permit (WALHI 2012).

This ruling, however, was not the end. In December 2012, PT Kallista Alam brought a case in the Banda Aceh Administrative Court against the governor of Aceh, demanding the permit be reinstated. WAHLI joined the governor as a codefendant. In April 2013, the Banda Aceh court ruled that the permit reversal decision was not legally binding because the case leading to the permit cancellation was being reviewed by the Supreme Court. Supreme Court review had also been prompted by the company. At the time of writing, the status of the case in the Supreme Court was unclear. PT Kallista Alam started clearing the land even before the permit was granted and has continued to act as though it has the right to carry on operations (Hansan 2012).

The difficulties of implementing a legal accountability tool related to a land-use allocation process are not limited to civil society. In 2012, following the first decision by the

Banda Aceh Administrative Court on the Tripa Swamp case, the REDD+ Task Force recommended that the Ministry of Environment and the police further scrutinize PT Kallista Alam's actions. The REDD+ Task Force reported to the Medan High Court that the land-use permit granted by the governor was illegal, because it was for lands covered by the moratorium. It also prompted the Ministry of Environment and the Attorney General's Office to file a civil case against the company. The company did not appear for the court date and no subsequent legal actions appear to have been taken.

*Economic accountability:* In theory, the moratorium should create an economic incentive for government actors and other administrators to participate in the oil palm permitting reform process by blocking the ability of government actors to get revenues from granting permits. Potential access to Norwegian funding in the future may drive some government actors to participate.

Economic incentives to participate in the reform process however, are small. For example, some interpretations of the moratorium exclude very little land from development that is not already excluded via the 2008 National Spatial Planning Regulation, which means that governments that have been abiding by this regulation are likely forgoing little, if any, revenue while the moratorium is ongoing (Austin, Sheppard, and Stolle 2012; Murdiyarso, et al. 2011). In addition, the management (e.g., improved land zoning and permitting processes) and governance (e.g., increased transparency and accountability around these processes) improvements scheduled to take place during the moratorium



may reduce the income of the individuals who grant permits, as it has been found that there is much graft around granting land-use permits in Indonesia (see Box 1).

If the moratorium strengthened the ability of oversight actors to impose fines for violations of existing laws, it could provide an economic incentive for government to join the reform processes and participate in the creation of a new structure, but it is not clear that it does.

Finally, information generated by oversight investigations can drive the investment and purchasing decisions of company investors and customers, with possible repercussions for governments also. For example, corporate actors might avoid developing facilities in areas where a local government is not granting permits that are perceived as legal and sustainable, thereby costing the government income.

So far however, there is only one known example of investigations driving investment decisions. It involves PT Menteng, an Indonesian oil palm company. A report by two civil society organizations, the Environmental Investigation Agency (EIA) and Telepak revealed that PT Menteng was clearing forested peat land without the proper permits. They also published that there were financial links between PT Menteng and the Norwegian pension funds. As a result, the pension funds realized that they were not meeting their legal requirement to avoid investing in companies that cause environmental and social harm<sup>33</sup> and thus reduced their holdings in the two oil palm companies from \$41.5 million to \$3.5 million (Sawitri 2012).

## The Effectiveness of Accountability Processes

The effective use of accountability tools to support the Indonesian moratorium has been limited. Even the best example—the Tripa Peat Swamp Case—is still being contested. Conversely, the government is slowly making progress on trying to address the issues, though for many the progress is painstakingly slow (Austin 2013).

In general, the moratorium has not made using accountability tools any simpler or more effective, since it adds another mandate to a very complex set of overlapping and contradictory policies, laws, and regulations. The importance of simplicity for holding governments to account

is demonstrated by the effectiveness of the Indonesia Corruption Eradication Commission (KPK) for bringing similar actors—for example, provincial governors—to account for corruption (see Box 1). The combination of targeted laws and an institution with sufficient power to investigate and initiate legal cases has been more effective than legal actions using the permitting and land use laws.

The moratorium does not provide oversight actors the accountability tools to address underlying governance issues. Numerous governance issues and their impacts have been highlighted by the REDD+ Task Force in presentations about the moratorium, which have raised

### BOX 1

## THE KPK AND LAND-USE PERMIT GRAFT

The Indonesia Corruption Eradication Commission (KPK) has sanctioned multiple government actors who use the licensing process for their own gains. In recent years, the KPK has won fraud cases against public officials at the highest levels. For example, the KPK won conviction of a provincial governor, Suwarna Abdul Fatah, for illegally granting permits for 1 million hectares of oil palm plantations. The governor was sentenced to four years imprisonment and required to pay IDR 250 million (US\$20,000). Fines and imprisonment were also imposed on the company director, the head of the forestry department, and head of the provincial office of the Ministry of Forestry (Suprapdiono n.d.).

The KPK also won a number of cases against district regents (Bupati) relating to land-use permitting graft. In a recent case, a regent in Central Sulawesi was found guilty of accepting a IDR 3 billion (US\$250,000) bribe in exchange for expediting a permit for the oil palm plantation company, PT Hartati Inti Plantation (HIP). He was sentenced to seven years and six months in jail and fined IDR 300 million (US\$25,000), the heaviest fine given an official to date (Gunawan and Yuntho 2013). HIP owner Siti Hartati Murdaya Poo was also found guilty and is serving 32 months in jail and fined IDR 150 million (US\$13,000) (Tahilramani 2013b).

The KPK has also brought oversight actors to account for oil palm concession fraud. For example, it brought a case against a judge in the Jakarta High Administrative Court, and a member of House Commission IV on agriculture, plantations, maritime affairs, fisheries, and food for accepting bribes (Suprapdiono n.d.).



## LAND AND RESOURCE CONFLICT BETWEEN LOCAL COMMUNITIES AND OIL PALM COMPANIES

Pier Gillespie (2001) notes that many laws related to managing land-use transfers in Indonesia from community use to plantation use put local communities at a disadvantage. Among other challenges, communities are often not in a position to block the land transfers or even to negotiate good terms. In Law 18 on Plantations, the process is put in terms of “reaching an agreement concerning land surrender” (Gillespie 2001, 25). This law, he argues, makes clear the “superior position of a plantation’s rights over land” (Gillespie 2001, 25). Finally the lack of government oversight in the negotiation process, which is directly between plantations and local communities, means that communities do not have support if companies are uncooperative or aggressive (Gillespie 2001, 25).

Given the initial unequal relationship, it is not surprising that, during its investigations, Human Rights Watch was able to identify a number of situations where violence erupted. Local communities, growing frustrated by companies breaking their promises and the lack of support by local governments and other institutions, at times have taken drastic actions, such as setting fires to plantations, to get attention.

In two of the three cases discussed in the Human Rights Watch report, communities turned to local government, courts, and even mediation bodies to help them, but to no avail. For example, in 2011, one community sought redress for grievances from local government institutions and the courts, but “finding no remedy, the residents protested in front of the local parliament” (Human Rights Watch 2013, 33).

Resolving such situations, recognizing both the legal difficulties and the significant emotional challenges, is likely to require time, resources, and a significant rebuilding of relationships between government and civil society actors.

issues such as inequitable distribution of forestry income, lack of recognition of indigenous peoples’ rights, and unwarranted restrictions on access to information about forest concessions and land claims. However, the moratorium does not even mention the need for the participation of local communities in the various moratorium reforms, such as permitting processes reforms. Because these types of reforms are not specifically reinforced by language in the moratorium, there is a risk that current procedures will be solidified, and procedural rights

like transparency and participation will not be adopted, even where they exist in laws (Human Rights Watch 2013). As can be seen in Box 2, the results can be significant.

The REDD+ Task Force and civil society organizations have been the most active actors in accountability actions around the moratorium. Although the REDD+ Task Force’s steady acknowledgment of civil society’s reports about moratorium infractions indicates that it feels a responsibility for the implementation of the moratorium, its seeming inability to resolve

many of the cases noted above is problematic. This trend could continue for the new implementing body, the REDD+ Agency.

This trend is very different from KPK’s legal actions in relation to graft in the forestry sector (see Box 1). The KPK is enforcing a different set of laws,<sup>34</sup> but it has tools for bringing government actors who are profiting from illegally granting forest and oil palm concessions or related crimes to account. While some of the KPK cases predate the moratorium, they give an example of an oversight actor that at least indirectly supports the objectives of the moratorium, and has been more successful than the REDD+ Task Force. Bringing these allies together could strengthen the moratorium in the future.

## FINDINGS AND RECOMMENDATIONS

The Mato Grosso and Indonesian experiences illustrate at least five common findings related to accountability around land-use planning and permitting processes. Building on these findings, we offer recommendations for incorporating accountability mechanisms in developing national REDD+ programs.

### 1. Include Accountability Tools in National and Subnational Laws and Programs

*Finding 1:* As can be seen in both case studies, engaging subnational politicians and administrators was a vital aspect of implementing land-use related laws in Brazil and Indonesia. Engaging subnational actors will be vital in any country where implementation of land and forest laws

and policies have been devolved or decentralized. As the case studies show, without the engagement of sub-national actors, plans at the national level can effectively be slowed or even blocked. Using economic and/or legal accountability tools may be necessary to engage subnational government actors who may have a different agenda than that of the national government.

*Recommendation:* REDD+ program designers may want to consider how to include accountability tools in REDD+ laws and programs that will engage and hold to account subnational politicians and administrators responsible for land allocation and use processes.

*Further observations:* Linking national and local laws with accountability tools may be an effective approach. In the Brazil case, for example, the presidential decree on zoning provided a legal linkage to integrate states and municipalities into the federal ZSEE program, and both a legal requirement and an economic incentive for them to participate. Both incentives were needed, though it is still not clear if they were sufficient.

In the Indonesian case, we learned that it is difficult to create robust accountability tools when the legal structure linking national and subnational land-use allocation actors is unclear. Civil society and the REDD+ Task Force found that, as a result, powerful local actors were able to counter reputational and legal accountability actions, and avoid participating in the reform processes.

In Indonesia, aiming economic accountability tools at the subnational level might partially help address this issue. For example, the

REDD+ Task Force and the REDD+ Agency could find constructive ways to channel the Norwegian funding to further reward good performance by governments at the subnational level. Currently there appears to be no direct link between the actions that need to be taken during the moratorium and the Norwegian funding.

In general, those designing REDD+ programs may want to consider creation of an economic incentive for local governments and other stakeholders to participate. The strategic use of legal and economic accountability tools may help the REDD+ program be successful.

## 2. Make a Role for Civil Society

*Finding 2:* Civil society groups can be more effective oversight actors where there is an enabling legal framework to support them. In Brazil, for example, the procedural requirements for civil society participation in the Brazilian zoning decree was central to the ability of oversight actors to ultimately hold the Mato Grosso legislature to account for failing to get public input in changing the ZSEE bill in the medium term.

*Recommendation:* Where REDD+ laws, regulations and/or other related program documents are being drafted, specific inclusion of civil society participation may help strengthen its role as an accountability actor, thereby also supporting government oversight institutions. Granting civil society other roles, such as a monitoring role, may also strengthen its ability to be an oversight actor.

*Further observations:* In both Brazil and Indonesia, civil society actors played a central role in holding gov-

REDD+ program designers may want to consider how to include accountability tools in REDD+ laws and programs that will engage and hold to account subnational politicians and administrators responsible for land allocation and use processes.

ernment to account for its social and environmental promises. Although not all civil society actions were successful, often government oversight actors would have been less effective without research, information, public actions, and even lawsuits generated by civil society.

In both case studies, civil society actors needed to understand and participate in policy and accountability processes over time to be effective. Supporting civil society to participate in REDD+ processes that may last years is vital. Finally, the ability of civil society to apply legal

accountability tools, as WAHLI did in Indonesia, may be important in places where formal oversight actors are overstretched or unwilling to tackle certain issues.

The Cancun REDD+ Agreement includes language requiring government transparency and inclusion of local communities and indigenous peoples during the design and implementation of REDD+ programs.<sup>35</sup> In addition, discussions have been held about the role of local communities and civil society in monitoring REDD+ processes. As the two case studies demonstrate, following through on commitments to good governance will be critical to the successful implementation of REDD+, as transparency and participation underpin the ability of civil society to monitor the activities of government and hold it to account.

### 3. Link Accountability Tools to Social and Environmental Outcomes

*Finding 3:* Without accountability tools supporting the social, environmental, or procedural outcomes stated in laws, policies, and programs, oversight actors have little recourse when they are overlooked. Without accountability tools, there is a risk of even legal language becoming meaningless and the status quo continuing during the design and implementation of the policies and programs. This situation is most clear in the Brazil case, where state prosecutors and the Federal Zoning Commission would not have been able to request changes to the law had the procedural, social, and environmental requirements not been clearly provided. The addition of the Zoning Commission, a body specifically required to oversee the zoning laws

created by the states, with the power to request changes, ensured there was a mechanism to review whether the requirements had been met.

*Recommendation:* During the design of REDD+ programs, economic and/or legal accountability tools should be linked to social and environmental outcomes for REDD+, as well as to GHG emission reductions. Reputational tools are unlikely to be sufficient.

*Further observations:* Brazil's federal zoning decree's emphasis on social, environmental, and procedural considerations has been central to ensuring that ZSEE discussions do not result in simply upholding the status quo. Though not framed as "safeguards" in this process, the language effectively functioned as safeguard language.

In comparison, the Indonesian INPRES did not clearly link the REDD+ safeguards to more general social, environmental, or governance standards. Nor did the INPRES address gaps in the current rules or support the implementation of such standards by drawing attention to such issues. Stakeholders found that existing laws and regulations were not sufficient in most cases to protect social, environmental, and procedural rights. The lack of Indonesian legislation protecting the rights of local communities, for example, is a significant gap in terms of using legal tools to create change.

The language in the Cancun Agreement on REDD+, which requires countries to develop information systems to demonstrate that they are addressing and respecting the Cancun REDD+ safeguards, will be an important tool in facilitating the inclusion

of detailed language in REDD+ programs. However, compliance with such language should be either linked directly to financial incentives or established as a legal requirement. Reputational accountability, as can be seen in the Indonesia and Brazil cases, is unlikely to be sufficient.

### 4. Accountability Tools Serve Three Functions

*Finding 4:* In both case studies, the accountability tools served three functions: (1) bringing key actors to the table to negotiate changes in land use management; (2) supporting the inclusion of marginalized peoples' voices and environmental issues; and (3) enforcing the implementation of laws and agreements. Though in some cases the tools (e.g., the economic incentives in the Indonesia case) may not be strong enough to be fully effective, it is clear that one accountability tool is unlikely to be able to achieve all needed objectives.

*Recommendation:* REDD+ designers may want to consider how REDD+ incentives, laws, and programs will provide or integrate accountability tools aimed at achieving three functions: bringing actors to the table, including marginal voices, and enforcing implementation.

*Further observations:* Further research may identify which accountability tools are most effective for each function. Whereas economic incentives seem especially helpful in bringing actors to the table, reputational and legal incentives can help ensure that procedural considerations are followed and social and environmental outcomes are achieved.

## 5. Build on Effective Laws and Institutions

*Finding 5:* In both case studies, where there were clear laws and institutions with a clear accountability mandate with the powers to uphold it, accountability actions were more successful, even if not yet transformative. For example, in Indonesia the KPK has been able to hold high-level officials to account for graft, whereas legal cases more directly related to the moratorium and the National Spatial Plan law have not been nearly as successful. One factor appears to be the clarity of the corruption laws compared with the land-use laws in Indonesia. The second is the KPK's ability to both investigate and bring forward cases. In Brazil the prosecutors enjoy these same two powers, which appears to be an important aspect of their success.

*Recommendation:* REDD+ designers should consider how best to build on existing laws and institutions that are clear and effective. Layering REDD+ laws and programs over ineffective laws may reduce the ability of oversight actors to hold government actors to account. It is also important to clarify who has oversight for REDD+ laws and regulations, and make sure they have the authority to do the job.

*Further observations:* Legal accountability tools, while vital for accountability, are insufficient to achieve change on their own. Therefore institutions with the capacity to facilitate participation processes and provide information to stakeholders are also vital. A functioning system requires many parts.

In conclusion, we found that accountability tools had at least one of three main functions: bringing actors to the table to negotiate reforms, protecting people and/or the environment during the design and implementation of new laws and policies, or overseeing the implementation and enforcement of rules. A set of accountability tools affecting the reputational, financial, and legal interests of the government at the national and subnational levels would enable oversight institutions, individuals, and civil society to hold governments to account for the objectives that REDD+ programs hope to achieve. In particular, oversight actors need accountability tools to uphold social and environmental objectives beyond emission reductions in order to change the status quo required to achieve REDD+.



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## ENDNOTES

1. “Reducing Emissions from Deforestation and Forest Degradation (including forest degradation, and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks)” or “REDD+” has emerged from negotiations under the United Nations Framework Convention on Climate Change (UNFCCC), as a potential climate change mitigation mechanism in forest and other land use sectors.
2. Note, the moratorium is relevant to timber as well as oil palm permitting processes impacting forest and peat lands, but this paper focuses on its oil palm aspects.
3. Developing countries have been the focus of this initiative.
4. The 2007 Bali Action Plan of the UNFCCC recognized and expanded the original REDD proposal to include forest degradation, and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks, which upgraded it to REDD+.
5. See, for example, Lambin and Meyfroidt 2011 and Allen, et al. 2010.
6. Brazil is thought to have 13 percent of the world’s remaining forests—second only to Russia. Indonesia is thought to have about 10 percent of the world’s tropical forests and has the ninth greatest forest cover.
7. John Locke noted that “when decision-making power is transferred from a principal (e.g. the citizen) to an agent (e.g. the government), there must be a mechanism in place for holding the agent to account for their decisions and if necessary for imposing sanctions, ultimately by removing the agent from power” (Lindberg 2009, 3). Other researchers have said that accountability “concerns the mechanisms through which those who are affected . . . can exercise countervailing powers” or “instruments in shaping or controlling the process for bringing about positive outcomes” (Agrawal and Ribot 1999, 5).
8. Brinkerhof also considers financial accountability as a category. Often, though not always, it may be considered a subsection of administrative accountability and is not discussed at length in this paper, though it is fundamental.
9. Laws and regulations capturing the goals of international agreements would also fall in this category.
10. This requirement is in accordance with a well-established rule in administrative law, that is that all government decisions must be lawful in terms of being based on written-formal law as well as *rechtmäßig*, which refers to not only being grounded in written-formal law but also in being just (Harlow2007).
11. The extent of the reporting under UNFCCC will depend on the measurement, reporting, and verification (MRV) requirements ultimately set up through the international agreement.
12. See for example, Lyster 2011, Larson and Petkova 2011, and UNFCCC 2010.
13. Not all countries use this exact terminology or have exactly the same relationship between each of the processes, nevertheless similar processes can be found in many places.
14. Law 9.523/11.
15. The Forest Code establishes, among other requirements, a proportion of rural land that land owners should maintain permanently as forest (Legal Reserves), sets forest restoration requirements for those that deforest their lands, and prohibits the clearing of vegetation in sensitive areas, such as on steep slopes and along the margins of rivers and streams. The first version was written in 1965. The Institute of Applied Economic Research estimates that alterations to the Forest Code made in 2012 may result in as much as 79 million hectares, an area the size of Chile, of additional deforestation allowed in the Amazon depending on how it is implemented.
16. Soy production, for example, has increased about 9.5 percent per year since 1990 (Strassburg, et al. 2012, 5) and the total planted area of soy is expected to increase by 1.7 million hectares by 2020 (MAPA 2011).
17. Decree 1.139/ 2008
18. Blario Maggi was the governor of Mato Grosso from 2003 to 2010, and is one of the largest soy producers in Brazil, potentially in the world (see “Lula’s Comfortable Win,” *The Economist*, October, 30, 2006).
19. Rapporteur’s report, Cesar Alexandre, Integral to the Substitute bill ZSEE (adapted).
20. Decree 6.288/2007
21. The term “zoning” is mentioned in the 1981 National Environmental Policy and in 1990 an interministerial body was created with the specific task of coordinating the federal government’s Ecological-Economic Zoning (EEZ) Program for the Legal Amazon. The role of these zoning projects, was to “identify the territory’s potential (social, economic and environmental), to classify areas according to various desirable patterns of use” (Acselrad 2001, 157) and to safeguard against new projects having negative social and environmental impacts. However, during the 1990s, the Ecological-Economic Zoning programs for the Amazon faced a number of challenges, including lack of transparency around process, lack of participation of local actors, lack of technical capacity, lack of coordination between different state and federal actors and plans, and lack of clarity and even disagreement around the objectives of the zoning process (Acselrad 2001, 158).
22. Article 4.1 of Decree 4.297/2002
23. Article 4 of Decree. 4.297/2002
24. Article 19 of Decree 4.297/2002
25. Included as Article 21-A in the 2002 Decree, based on the 2007 Decree.
26. Article 18 of Decree 4.297/2002

27. See Azevedo 2011, ICV 2011.
28. It should be noted that this is not the only ongoing policy process where state and federal legislative actors have attempted to reverse the legal right of Indigenous Peoples to land. See for example Watson 2013.
29. Mr. Riva's letter can be found at <http://www.oecoamazonia.com/images/stories/file/Set2011/Note%20of%20clarification%20of%20the%20Legislative%20Assembly%20of%20MT.pdf>
30. For example, Legislative Assembly President Jose Riva has more than 250 cases open against him, including from a huge crackdown on illegal logging in Indigenous Peoples' lands that started in 2010, but at the time of writing had not yet led to any enforcement actions.
31. Note the moratorium has been renewed for two more years.
32. According to estimates by Slette and Wiyono (2011) nearly "11 million ha of land had been allocated for oil palm estates ... [but] on average, less than half of this area has actually been developed into productive plantations."
33. See regulation on risk management and internal control at Norges Bank, laid down by the Ministry of Finance on December 17, 2009 pursuant to Section 30a, third paragraph, of Act 28 of May 24, 1985 on Norges Bank and the Monetary System.
34. Namely the KPK is enforcing Law 31 of 1999 on the Eradication of the Criminal Act of Corruption as amended by Law 20 of 2001.
35. See the REDD+ safeguards (UNFCCC 2010).

## ABOUT THE AUTHORS

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