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Review of Nigeria's NPD submitted to the 7th Policy Board meeting of the UN-REDD Programme

Provisions on Enforcement and Non-carbon Monitoring 13 October 2011

This assessment examines the National Programme Document (NPD) submitted by Nigeria for consideration at the 7th Policy Board meeting of the UN-REDD Programme in Berlin, Germany (13 – 14 October 2011).¹

This assessment focuses on how the NPD addresses illegality, corruption and law enforcement issues and what type of system is proposed to monitor and assess governance and social and environmental impacts (non-carbon monitoring).

This review also looks at how the National Programme Document has addressed comments made by Global Witness on the previous draft in March 2011.

Introduction

Nigeria has proposed a two track approach to implement its National Programme under UN-REDD:

- (i) At the national level – the Programme focuses on institutional and technical capacity building; and
- (ii) The 2nd track is institutional and strategy building and demonstration activities in Cross River State (which is Nigeria's most forested state, containing over 50% of the country's remaining tropical high forest).

We are encouraged that Nigeria has taken some positive steps towards protecting its forests with a moratorium on logging in Cross River State since December 2008, which we understand is supported by a well-resourced state-level Anti-Deforestation Task Force.

Nigeria proposes to start with implementation of REDD+ in Cross River State and build up to other states, and eventually encompass the whole country. This approach is to be supported by a Preliminary National Strategy, which will be undertaken by Nigeria to support the eventual expansion of REDD+ across the Nigeria's other states (see p. 54 of the National Programme Document).

This proposal should be viewed in the broader context of the Cancun Agreement on REDD+ (Decision 1/CP.16 of the UNFCCC). In particular, that Agreement provides REDD+ can be implemented and

¹ NPD available on the UN-REDD website at: <http://www.un-redd.org/PolicyBoard/7thPolicyBoard/tabid/54129/Default.aspx>

monitored at the sub-national level, but only where this is appropriate, and as an interim measure (paragraph 71 of Decision 1/CP.16). Given this context, further details should be provided on how quickly Nigeria intends to move from implementing REDD+ in Cross River State, to national implementation, and why this time frame is appropriate in the circumstances.

The principal concern with sub-national implementation of REDD+ is, of course, the risk of emissions displacement (commonly referred to as “leakage”). In particular we are concerned by the risk of illegal cross-border trade between Cross River State and the other states in Nigeria and with its neighbouring countries, such as Cameroon. Leakage is addressed in the National Programme Document, although further information would be welcome.

Even though most of Nigeria’s forests are in Cross-River state, the drivers of deforestation and forest degradation may come from the other states. Of particular concern is that the National Programme Document (p.22) acknowledges that a ban on timber export has lowered domestic timber prices and pushed up domestic demand. This increases the risk of leakage.

An assessment of intra-national displacement risks and measures is planned (p. 54), but more information is needed on what concrete actions Nigeria intends to undertake to address this problem, both within the country and across borders with its neighbours.

The NPD recognises that internal leakage is a significant risk for REDD+ in Nigeria. The National Programme Document acknowledges that in the other states of Nigeria, “forest laws are often obsolete and weakly enforced”. There is also an admission that National, state and local forest authorities often lack capacity, proper training or equipment. This needs to be addressed in the NPD.

The review of the National Programme Document is set out on the following pages.

Nigeria NPD, October 2011

1. Does the NPD adequately address weak law enforcement, illegality and corruption as drivers of deforestation and forest degradation?

Nigeria's National Programme Document (NPD) acknowledges a number of different activities driving deforestation and forest degradation, which are in turn driven by underlying factors including 'governance, macro-economic and capacity issues' (p. 22 of the NPD). According to the NPD, responsibility for the implementation of forest management lies at state level. However, it also notes that the state level "management capacity of the state forestry departments and local organisations is mostly low, with poor funding, low staff morale, limited technical training and often high levels of government corruption" (p. 22). In addition, the NPD accepts that "across the board at the state level, forest laws are often obsolete and weakly enforced" (p. 23).

Corruption is identified as having a "high" impact on deforestation and forest degradation both within Nigeria as a whole and more specifically within Cross River State (CRS). (See Table 3 on page 23). With regard to Cross River State, the NPD recognises "poor conservation and poor enforcement of forest laws, policies and regulations" as a driver of deforestation (p.23).

The NPD does not describe the role that illegality plays in driving deforestation and forest degradation in Nigeria. However, it does propose the establishment of an Anti-Deforestation Task Force to control illegal timber harvesting, implying that illegality plays some role and needs to be tackled.

Global Witness' review of Nigeria's draft NPD dated March 2011 recommended that it include greater detail in its analysis of the drivers of deforestation/forest degradation, which was limited in that draft to five paragraphs and a short table. However, the current draft provides no further detail. In a revision table of responses to comments made on the previous draft (p.4), the document states that although the drivers of deforestation and forest degradation in Nigeria are well known, it has elected not to state them fully here in order to not undermine a multi-stakeholder exercise to discuss them based on better studies.

The NPD does not specifically identify the primary actors involved in weak law enforcement, illegality or corruption. Global Witness also made this point in its review of the previous NPD draft, but no additions have been made in the new document.

The NPD provides little information on current efforts at the federal level to address weak law enforcement. It does, however, note the establishment of the Nigerian Environmental Standards, Enforcement, and Regulatory Agency (NESREA) which may help address weak law enforcement through issuing appropriate regulations (p. 19). However, the NPD provides insufficient detail on this.

The NPD also notes the establishment of Cross River State's Anti-Deforestation Task Force to "control illegal timber harvesting" and implement the moratorium on logging, which has been in place since December 2008 and was recently extended indefinitely. The NPD states that the government has committed "significant human and financial resources to the Task Force" (p. 25), and that so far about US \$50,000 has been committed so far to enforcement of the anti-deforestation programme in CRS (p. 36).

Global Witness previously recommended that the NPD include a specific assessment of the institutional capacity needed to strengthen law enforcement. According to the revision table (p. 8), this was discussed at recent technical consultations and the document now includes some more details about the types of training, and who will be targeted, for capacity building. There are short points on pp. 58-9 on the need for training for the national REDD+ Secretariat and the CRS REDD+ Unit staff on fiduciary matters and responsibility and other areas. In any case, the revision table notes, outputs 1.2 and 1.3 contain capacity needs assessments (as well as financing some of the proposed actions that may emerge from such assessments).

Regional cooperation with Nigeria's neighbours (particularly Cameroon) is vital if it is to properly tackle weak law enforcement, illegality and corruption in the forest sector. The NPD recognises the need for regional cooperation in the implementation of REDD+, but fails to address specific law enforcement cooperation.

In response to Global Witness' previous recommendation on this point, the revision table (p. 8) notes that Section 5.6 explores "potential regional-level implementation partners". However, for none of these partners is any work on regional law enforcement described.

According to the NPD, Nigeria plans to undertake an assessment to examine the risk of displacement (or leakage) (p. 54). Global Witness' review of the March 2011 draft NPD recommended that further information be provided on what concrete actions Nigeria will undertake to address this problem both within the country and with its regional neighbours. The new Programme includes some measures to address this, including stating that monitoring efforts will prioritise states bordering on CRS to minimise the risk of leakage, and that the preliminary national strategy for expanding REDD+ nationally will have as a goal to reduce the risks of displacement of deforestation/degradation as a consequence of CRS's initial REDD+ work (p. 59).

Nigeria's desire to take regional leadership on REDD+, through cooperation with ECOWAS, is welcome.

Recommendations

1. A number of statements could be elaborated further to provide a clearer picture of how weak law enforcement, illegality and corruption impair efforts to combat deforestation and forest degradation.
2. Statements which could be elaborated upon include:
 - "Underlying factors such as governance, macro-economics and capacity issues" are mentioned. What are these factors and how do they drive deforestation and forest degradation?
 - At the state level "forest laws are often obsolete". The NPD could provide a description of which laws are considered obsolete and the impacts/results. Moreover, the NPD could also describe those forest laws which are *not* considered obsolete, and this analysis could inform the law reform process.

- The NPD describes high levels of government corruption. What form does this corruption take? How far up the government ladder does corruption permeate?

3. The NPD should also elaborate further on the role illegal trade, both within Nigeria and between Nigeria and its regional neighbours, plays as a driver of deforestation and forest degradation and how this is impacted by corruption and weak law enforcement.

4. While governance issues and corruption are cited as having indirect influence on deforestation and forest degradation, it would be informative to understand the extent to which the primary actors pursue illegal activities, take advantage of weak governance or are implicitly involved in corruption and how this accentuates their impact on deforestation and forest degradation. This would be particularly beneficial in the context of the discussion on agricultural expansion, logging and fuel wood harvesting/charcoal production.

5. The proposal would be improved by an assessment of the actors involved in any illegal trade, both within Nigeria and between Nigeria and its regional neighbours.

6. The mandate of the NESREA and the Anti-Deforestation Task Force to address the problems of weak law enforcement and corruption should be elaborated.

2. Does the NPD adequately address the need to monitor social, environmental and governance safeguards?

Although the NPD makes express reference to monitoring of the REDD+ safeguards from the Cancun Agreement and plans a two-stage Participatory Governance Assessment, it fails to plan for an ongoing system to monitor governance under the REDD+ mechanism, either in Cross River State or in Nigeria as a whole.

Box 3 (p. 45) recognises the REDD+ safeguards from the UNFCCC Cancun Agreement. In addition, Box 2 (p. 30) lists “key issues for MRV of REDD+ that complies with IPCC guidelines on greenhouse gas estimates”, one of which is to be the “inclusion of ‘REDD+ Safeguards’ in the monitoring system” because they “improves governance”. Moreover, the NPD states that the monitoring system (phase 2) will include information on social and environmental safeguards, including governance (p. 28).

The NPD states that both the national MRV system and the monitoring system for Cross River State will include monitoring of the Cancun Agreement safeguards (p. 61), with work on social and environmental safeguards initially and principally carried out in Cross River State (p. 62). However, when discussing the development of the monitoring systems both nationally and for Cross River State, the NPD makes insufficient mention of safeguards.

Section 4.5 (p. 62) on “Social & environmental dimensions” sets out plans for work on social and environmental safeguards including analysis, stakeholder consultation, and identification of indicators and establishment of monitoring, reporting and recourse mechanisms for safeguards. The same section states that “field-level demonstration activities will also address social and environmental safeguards, testing their design and monitoring from a pragmatic perspective.”

Within the Outcomes and Outputs of the Results Framework (p. 53), one of the expected results of Outcome 3 is the establishment of a “cadre of trained experts and interested stakeholders on key REDD+ readiness issues” such as forest monitoring and social and environmental safeguards (p. 53). However, the sections of the NPD that provide further detail on the monitoring and MRV systems (Section 4.4 (p. 61) on “Technical dimensions – the monitoring and MRV systems” and Annex 7) mention safeguards only briefly as an element to be monitored but give no detail on how this will be done.

The NPD describes a Participatory Governance Assessment (PGA) process for REDD+ (p. 35), supported by UNDP’s Oslo Governance Centre which will produce baseline information on governance, a policy paper on critical governance issues, an online information platform, consultative fora to discuss governance, and a capacity development programme to address the findings of the PGAs and improve uptake of PGA data into policymaking (p.46-47).

The PGA will involve a preparatory phase to develop methodology for up to four states, as part of which an initial consultation has been held and a workplan for the first phase of the PGA/REDD+ process agreed for June-Dec 2011 (which unfortunately has not been included within the annexes to this document). A second phase will follow at some point in 2012, financed as part of the National Programme. This will pilot the methodology in CRS and possibly a second state, plus include a capacity development programme to address the findings of the PGAs (p. 65-66).

The initial list of key governance issues to be addressed by the PGA, as identified in the first consultation (p. 47) are:

- The quality and implementation of relevant policies and legislation;
- Institutional capacities of government agencies at all levels;
- The creation and effectiveness of an anti-corruption strategy that will be specifically designed for REDD+;
- Opportunities for civil society and forest dependent communities to participate in the REDD+ decision making process; and
- The design of a fund to channel REDD+ investments and of a system for the distribution of benefits.

Despite Global Witness’ previous recommendation that the NPD should, at least, identify who is to carry out monitoring of social, environmental and governance safeguards, the new NPD provides no further clarity. On p. 61 it details four institutions that will be responsible for different areas of the MRV system, but does not designate responsibility for monitoring the social, environmental and governance impacts and benefits of readiness activities or the ongoing REDD+ mechanism.

Nigeria’s draft NPD provides for “independent” monitoring as part of the MRV system, although this is to be carried out by staff from the GHG unit who are “not directly involved in the inventory compilation/development process (e.g. Independent evaluation)” rather than by genuinely independent third parties (p. 102-3).

The National Advisory Council (NAC) on REDD+ will also review, approve and provide continuous guidance and support to REDD+ implementation. Similarly, the latest NPD intends that CRS should become a centre of excellence for the monitoring of safeguards in the field by forest-dependent communities and other stakeholders (p. 60-61).

A National Technical Committee (NTC) on REDD+, which consists of “specialists on forestry, climate change and development affairs”, is mandated to “make recommendations on the effective planning and implementation of REDD+” and liaise “between respective REDD+ institutions, stakeholder groups, UN-REDD agencies and Development Partners for effective planning and implementation of REDD+ activities” (p. 24).

Recommendations

1. The NPD recognises the importance of social, environmental and governance safeguards and makes reference to the need to develop and monitor them. However, the monitoring system has not yet been designed. The NPD should, at least, identify more clearly how the system will be developed and who will implement the monitoring referred to. It is important that any system developed be transparent and independent.
2. The NPD needs to elaborate on the mechanism and processes by which the National Advisory Council on REDD+ is to review, approve and provide support for REDD+ implementation. The NPD now provides two (not entirely identical) lists of membership of the National Advisory Council (p. 68). Despite Global Witness’ recommendation from its previous review, there is no further detail on the level of autonomy that the National Advisory Council will have and, therefore, the independence and transparency level of the monitoring system. This would also be useful with regard to the National Technical Committee on REDD+.
3. Furthermore, the relationship between the National Advisory Council and the National Technical Committee is still unclear. It is apparent they both have roles supporting REDD+ implementation and could potentially be tasked with assessment and monitoring. However, the hierarchy and level of feedback between the two is not explained. Providing a clearer picture of the relationship between these bodies would be constructive.

3. Other issues

The NPD states that during the design of Nigeria’s National Programme, stakeholders were consulted and asked to define potential risks, benefits and safeguards. One particular governance risk identified by stakeholders was a lack of transparency in funding (p. 45).

In response, the NPD proposes the development of a REDD+ database and archiving system which will take the form of a ‘multi-purpose’ national forest inventory (NFI). This database will form the basis for a future REDD+ registry and is to ensure the transparency of future financial flows (p. 105).

The new draft of the NPD includes brief mention of plans for training of staff both at the national REDD+ secretariat and the CRS unit staff on “fiduciary matters and responsibility” (p. 58-9).

Recommendations

1. The NPD has acknowledged concerns about a potential lack of transparency of REDD+ funds and briefly suggests a mechanism to address this issue. However, this is not discussed in sufficient detail. The proposal should elaborate further on the design of the suggested REDD+ database, for example whether it will provide for independent assessment and auditing of financial flows.
2. Fiscal transparency should receive greater attention in the NPD, especially in light of the recognition of high levels of government corruption.