



LAW
ENVIRONMENT AND
DEVELOPMENT
JOURNAL

LEAD

REDD: THE COPENHAGEN EFFECT

Feja Lesniewska

ARTICLE



VOLUME
6/1

LEAD Journal (Law, Environment and Development Journal)
is a peer-reviewed academic publication based in New Delhi and London and jointly managed by the
School of Law, School of Oriental and African Studies (SOAS) - University of London
and the International Environmental Law Research Centre (IELRC).

LEAD is published at www.lead-journal.org

ISSN 1746-5893

*The Managing Editor, LEAD Journal, c/o International Environmental Law Research Centre (IELRC), International Environment
House II, 1F, 7 Chemin de Balexert, 1219 Châtelaine-Geneva, Switzerland, Tel/fax: + 41 (0)22 79 72 623, info@lead-journal.org*

ARTICLE

REDD: THE COPENHAGEN EFFECT

Feja Lesniewska

This document can be cited as
Feja Lesniewska, 'REDD: The Copenhagen Effect',
6/1 *Law, Environment and Development Journal* (2010), p. 102,
available at <http://www.lead-journal.org/content/10102.pdf>

Feja Lesniewska, Deputy Director, Law Environment and Development Centre (LEDC), School of Oriental and African Studies, University of London, 10 Thornhaugh St, London, WC1H 0XG, United Kingdom,
Email: feja@soas.ac.uk

Published under a Creative Commons Attribution-NonCommercial-NoDerivs 2.0 License

TABLE OF CONTENTS

1. Introduction	104
2. REDD after Copenhagen	105
3. Principles	105
4. Targets	106
5. Finance	107
6. Environmental safeguards	108
7. Social Safeguards	109
8. Conclusion	110

'What is this REDD? What kind of animal is it, we just don't know'. Jajang Kurniawan, a farmer in West Java, Indonesia.¹

1

INTRODUCTION

A decision at UNFCCC COP 13 in Bali, Indonesia December 2007 permitting demonstration activities gave a green light to reduced emissions from avoided deforestation and degradation plus (REDD)² before any legal agreement on principles, rights, safeguards, finance, monitoring, reporting and verification was reached.³ The decision, founded upon a 'learning by doing' ethos, would bring, it was hoped, important insights from these pilot projects for negotiators who were involved in developing a legal architecture for a REDD mechanism within the UN climate change regime. This knowledge would complement the mountains of research findings conducted by economists, lawyers and forest policy experts within international organisations, including non-governmental organisations and indigenous peoples' networks which has fed into the UNFCCC process through various channels since COP 13 December 2007. Over the course of two years numerous new pilot REDD projects were initiated under different organisations programmes including the World Bank's Forest Carbon Partnership Fund,

UN-REDD, alongside government schemes (e.g Norway and Australia), volumes of research and policy papers written, and hundreds of hours of meetings on REDD occurred. Much of these efforts were intended to influence the outcome of the UNFCCC COP15 at Copenhagen December 2009. As the final gavel fell closing COP 15 in the early hours of 19 December 2009 no legally binding agreement on REDD was reached. The only formal COP 15 decision adopted in Copenhagen on REDD extended the initiative for further demonstration activities. This outcome was expected by many, although the Copenhagen Accord, a non-UN agreement which the COP 'noted' did surprise most.⁴ The earliest a UN decision on the REDD legal architecture will be taken will now be at COP 16 in Mexico in December 2010.

The REDD articles in this LEAD edition are representative of a growing body of academic legal scholarship which explore the numerous law and policy challenges that a REDD mechanism must confront including: finance; environmental and social safeguards (particularly for forest-based communities); monitoring, reporting and verification; tenure and property rights, and a complaints mechanism. Each of these REDD articles inquire how particular legal tools and policies can assist in resolving specific issues, including securing tenure rights and equitable distribution of benefits, realising co-benefits (particularly development), creating social safeguards and ensuring participation of forest peoples. These articles all demonstrate a faith in international law's potential to create a framework within which, along with the talisman of good governance, can secure all the benefits that REDD promises. This is akin to the win-win-win formula which is common to many advocates of neo-liberalist approaches to the global environmental law.

The remainder of this article will illustrate how currently within the UNFCCC a win-win-win REDD formula is far from being guaranteed. It will examine the effects Copenhagen had on REDD negotiations and consider the implications more broadly.

1 See REDD: A New Animal in the Forest, Life Mosaic, December 2009 film, available at <http://www.lifemosaic.net/filmsforcopenhagen.php>.

2 Throughout this article the acronym REDD will be used to refer to 'policy approaches and positive incentives on issues relating to reducing emissions from deforestation and forest degradation in developing countries; and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries' - increasingly the acronyms REDD-plus or REDD+ are used to indicate these co-benefits.

3 Reducing Emissions from Deforestation in Developing Countries: Approaches to Stimulate Action, Decision 2/CP.13, in Report of the Conference of the Parties, Thirteenth Session, Bali, 3-15 December 2007, Doc. No. FCCC/CP/2007/6/Add.1 (2008), available at <http://unfccc.int/documentation/decisions/items/3597.php?such=j&volltext=2/CP.13#beg>.

4 Foundation for International Environmental Law and Development, REDD-Plus (London: Foundation for International Environmental Law and Development, Briefing Paper, 2009), available <http://www.field.org.uk/files/FIELDCopenhagenREDDplusbriefENGLISH.pdf>.

2 REDD AFTER COPENHAGEN

At the UNFCCC COP 15 in Copenhagen December 2009 a few hoped, despite much evidence to the contrary, that a post-2012 legally binding agreement would be forthcoming to prevent long term 'dangerous anthropogenic climate change'.⁵ More sceptical observers thought that an agreement on REDD would be concluded if nothing else. Going into Copenhagen REDD was tabled on the agenda of several bodies but most importantly: the Ad Hoc Working Group on Long Term Cooperative Action (AWG-LCA) and the Subsidiary Body on Scientific and Technological Advice (SBSTA). The content of the negotiation texts, along with tabled non-papers, included many issues: technical (monitoring, reporting, and verification), financial, environmental and social safeguards, forest community rights, carbon property rights, forest definitions and emission reduction targets. Copenhagen produced no legally binding agreement on REDD. It did result however in a decision on methodology, extended the mandate of the AWG-LCA to continue negotiations including on an agreed REDD text, and 'took note of' the surprise 'politically binding' Copenhagen Accord.

The political effect and future legal significance, both within the UN climate regime and elsewhere, of the Copenhagen Accord has already prompted a great deal of debate. It may have an important impact on the future manner in which the UNFCCC regime functions. The Copenhagen Accord was drafted by 28 countries (constituting over 85 per cent of historic and current global greenhouse gas emissions) during the final hours of COP 15 in December 2009. In the closing COP Plenary Parties agreed, although with great bitterness expressed by some countries, to take note of the Accord.⁶ The implications of this are that the Copenhagen Accord is not legally binding, and as such remains a political diplomatic

document.⁷ Regardless of this it is important to examine the Copenhagen Accord as it may have important ramifications for the overall climate change agreement/s, including a REDD mechanism, in the next couple of years.

The next section will provide an assessment of the UNFCCC COP15 REDD related outcomes on the following key issues: principles, targets, finance, social and environmental safeguards. There is no separate section on a REDD complaints mechanism as Copenhagen made no contribution to the developments necessary on this issue. A brief speculation on the effect of Copenhagen on the preparatory meetings for UNFCCC COP 16 in Mexico provides a conclusion.

3 PRINCIPLES

Principles underpin any legal mechanism and are central to the normative interpretation which is given in its implementation. The UNFCCC has as its normative basis a number of key principles.⁸ At Copenhagen guiding 'principles' within an international REDD mechanism were relegated to the non-operative section of the AWG-LCA's ongoing negotiating text.⁹ The bracketed text which states that Parties *affirm* that the following [principles][principles and provisions of the

5 *Id.*

6 These included Columbia, Bolivia and Tuvalu.

7 Jacob Werksman, 'Taking Note' of the Copenhagen Accord: What it Means? (Washington DC: World Resources Institute, 2009), available at <http://www.wri.org/stories/2009/12/taking-note-copenhagen-accord-what-it-means>.

8 Article 3, United Nations Framework Convention on Climate Change, Rio de Janeiro 9 May 1992 31 *Int'l Leg. Mat.* 849 (1992).

9 See Paragraph 1 of Policy Approaches and Positive Incentives on Issues Relating to Reducing Emissions from Deforestation and Forest Degradation in Developing Countries; and the Role of Conservation, Sustainable Management of Forests and Enhancement of Forest Carbon Stocks in Developing Countries, Draft decision -/CP.15, Ad Hoc Working Group on Long-term Cooperative Action under the UNFCCC, Doc. No. FCCC/AWGLCA/2009/L.7/Add.6 (2009). available at <http://unfccc.int/resource/docs/2009/awglca8/eng/l07a06.pdf>.

Convention] guide the implementation of activities brackets 'principles' in reference to the UNFCCC convention. Further in the text certain principles are re-emphasised including: sovereignty and sustainable development.¹⁰ Common but differentiated responsibility is not cited. Although under the rules of international law any UNFCCC REDD mechanism would be subject to the principles which are a key operative component of that Convention restatement of such principles, as was done in the Kyoto Protocol, provides further weight to their importance in the interpretation of an agreement.¹¹ This would similarly apply to REDD under the Copenhagen Accord if it is incorporated into the UNFCCC regime. The Copenhagen Accord does not explicitly state anything in terms of principles under REDD. It does however state that it is 'guided by the principles of the Convention', and also includes references to common but differentiated responsibility, equity, sustainable development and sovereignty throughout the text.¹²

The challenge remains of embedding the principles within a UN REDD mechanism. As the number of 'demonstration' REDD activities initiated throughout tropical developing countries rises it becomes increasingly difficult to ensure that key principles underpin them. Efforts to create effective safeguards, particularly social ones, are making some headway although still appear to be inadequate in a number of important ways.

4 TARGETS

International disagreement remains regarding what temperature increase will enable all humankind to

avoid 'dangerous anthropogenic climate change'.¹³ The Copenhagen Accord states that keeping any rise 'below 2 degrees Celsius' is necessary.¹⁴ It is recognised that 'deep cuts in emissions are required' in order to hold to this temperature rise.¹⁵ The Copenhagen Accord invites countries to pledge quantified economy wide emissions targets for 2020 if an Annex 1 country or to outline their nationally appropriate mitigation actions (NAMAs) which will be taken by 31 January 2010.¹⁶ The Copenhagen Accord does not specify targets for GHG emissions reductions for any sector including forestry.

The Barcelona session Report of the AWG-LCA contained the main negotiating text on REDD at Copenhagen.¹⁷ The Report included a proposed target to 'reduce gross deforestation in developing countries by at least 50 per cent by 2020 compared to current levels'.¹⁸ As approximately 20 per cent of total GHG emissions result from deforestation and degradation a 50 per cent reduction would contribute significantly to climate change mitigation efforts.¹⁹ This target, which was bracketed in the text prior to COP15, was not included in the final text.²⁰ REDD targets were part and parcel of the entire emissions reductions targets endgame, as one NGO representative stated 'It's hardly surprising that developing countries won't agree to commit to global targets for reductions in deforestation, when rich countries aren't prepared to commit to global targets for reductions of industrial emissions and

10 *Id.* Paragraphs 1(d) and 1(e).

11 Article 31, Vienna Convention on the Law of Treatises, Vienna, 23 May 1969, 8 *Int'l Leg. Mat.* 679 (1969), available at http://untreaty.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf.

12 Copenhagen Accord, Draft Decision -/CP.15, Conference of the Parties to the UNFCCC, Fifteenth Session, Copenhagen, 7-18 December 2009, Doc. No. FCCC/CP/2009/L.7 (2009).

13 See United Nations Framework Convention on Climate Change, note 8 above, Article 2.

14 See Copenhagen Accord, note 12 above, Paragraph 1.

15 *Id.* Paragraph 2.

16 *Id.* Paragraphs 4 and 5; Appendix I and II.

17 See Annex 3(C), in Report of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention, Seventh Session, Bangkok, 28 September - 9 October 2009, and Barcelona from 2 to 6 November 2009, Doc. No. FCCC/AWGLCA/2009/14 (2009), available at <http://unfccc.int/resource/docs/2009/awgla7/eng/14.pdf>.

18 *Id.*

19 Nicholas Stern, *The Economics of Climate Change, The Stern Review* (Cambridge: Cambridge University Press, 2007).

20 Any item or language that has not been agreed to by the time the UN meeting is held appears in *bracketed text* in the conference documents.

adequate financial commitments.²¹ It is this text that will be carried forward into the next session of the newly mandated AWG-LCA in Bonn, June 2010.²²

5 FINANCE

Prior to Copenhagen finance for REDD totalled \$4.12 billion USD, the bulk of this came from the Norwegian Forest and Climate Initiative.²³ This falls far short of the Elisach Review's estimation of \$17.33 USD billion per annum by 2020 required to achieve a 50 per cent reduction in global deforestation, a figure which was seen by many as a substantial underestimation.²⁴ As the articles in this LEAD journal emphasise finance remains one of the central issues in how any REDD mechanism is to function. Firstly the generation of finance and whether it is through a trust fund, a market mechanism or some kind of hybridisation continues to be negotiated. Secondly how funds will be distributed under which ever mechanism is decided upon is a complex technical legal question but also one which touches on the underlying principles such as equity, common but differentiated responsibilities, sovereignty and sustainable development.

The Copenhagen Accord refers directly to REDD, and specifically on financing the mechanism. It

recognises 'the crucial role of reducing emission from deforestation and forest degradation and the need to enhance removal of greenhouse gas emission by forests and agree on the need to provide *positive incentives* to such actions through the *immediate establishment of a mechanism* including REDD-plus, to *enable the mobilisation* of financial resources from developed countries' [emphasis added].²⁵ Various approaches are decided upon, 'including opportunities *to use markets*, to enhance the cost-effectiveness of, and to promote mitigation actions [emphasis added].²⁶ The aim being to provide 'scaled up, new and additional, predictable and adequate funding as well as improved access' to developing countries. 'The collective commitment by developed countries is [given] to provide new and additional resources, including forestry' ... 'approaching USD 30 billion for the period 2010-2012'.²⁷ The Accord further states based on the condition of 'meaningful mitigation actions and transparency on implementation [by developing countries], developed countries [will] commit to a goal of mobilising jointly USD 100 billion dollars a year by 2020 to address the needs of developing countries. This funding will come from a wide variety of sources, public and private, bilateral and multilateral, including alternative sources of finance. New multilateral funding for adaptation will be delivered through effective and efficient fund arrangements, with a governance structure providing for equal representation of developed and developing countries. A significant portion of such funding should flow through the Copenhagen Green Climate Fund'.²⁸ The Parties to the Copenhagen Accord agreed to it being 'operational immediately'.²⁹ Other than individual pledges by governments this was the only commitment to REDD funding which occurred during the Copenhagen. All decisions on finance within the UNFCCC were deferred until COP 16 2010.

21 See Accra Caucus on Forests and Climate Change, Press Release, 13 December 2009, available at http://malumnalu.blogspot.com/2009/12/accra-caucus-on-forests-and-climate_13.html.

22 Outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention, UNFCCC Draft Decision -/CP.15, Copenhagen, 18 December 2009, available http://unfccc.int/files/meetings/cop_15/application/pdf/cop15_lca_auv.pdf.

23 Global Canopy Programme, *The Little Climate Finance Book: A Guide to Financing Options for Forests and Climate Change* (UK: Global Canopy Programme, 2009), available at <http://www.odi.org.uk/resources/download/4619.pdf>.

24 Johan Eliasch, *Climate Change: Financing Global Forests - The Eliasch Review* (London: Earthscan, 2008).

25 See Copenhagen Accord, note 12 above, Paragraph 6.

26 *Id.* Paragraph 7.

27 *Id.* Paragraph 8.

28 *Id.* Paragraph 8.

29 *Id.* Preamble.

6

ENVIRONMENTAL SAFEGUARDS

Another key aspect to REDD is ensuring its environmental integrity. To achieve environmental integrity a number of factors must be realised: baselines must be agreed; project, national and international, 'leakage' be prevented; a level of 'permanence' must be guaranteed and projects must not be 'additional' to 'business as usual' scenarios within the forestry and land use sector. The technical obstacles to ensuring these are immense. The uncertainties on these issues were core to the exclusion of REDD from the UNFCCC legal regime negotiations prior to 2007. Despite important scientific and technical improvements uncertainties remain which could compromise the environmental integrity of any REDD sub-national project or national programme. The uncertainties and consequent questions of accuracy of emissions reductions claims have important implications for the design of both an international REDD legal framework and related national regulations, especially in terms of liability for claimed emission reductions. Investments in REDD 'readiness'³⁰ frequently focus on establishing the necessary institutional, knowledge and skills base within developing countries to undertake effective MRVs.³¹ Yet all too often MRV negotiations are narrowly focused on carbon calculation levels. However, to guarantee the co-benefits, which a REDD-plus mechanism is intended, it is necessary that non-carbon environmental safeguards are included in MRV.³²

The Copenhagen Accord states that:

Mitigation actions taken by Non-Annex I Parties will be subject to their domestic measurement, reporting and verification the result of which will

be reported through their national communications every two years. Non-Annex I Parties will communicate information on the implementation of their actions through National Communications, with provisions for international consultations and analysis under clearly defined guidelines that will ensure that national sovereignty is respected...[However, financially] 'supported nationally appropriate mitigation actions [NAMAs] will be subject to international measurement, reporting and verification in accordance with guidelines adopted by the Conference of the Parties'.³³

Most REDD countries are non-Annex I Parties; as such they would be responsible for bi-annual MRV national communications on domestic action. Developing country parties were charged by COP15 'to establish, according to national circumstances and capabilities, robust and transparent national forest monitoring systems and, if appropriate, sub-national systems as part of national monitoring systems'³⁴ Under the non-decision text of the AWG-LCA SBSTA is requested to undertake a programme of work on methodological issues.³⁵ As this decision was not adopted by the COP15 a number of procedural questions remain as to whether this working group will form.

The Copenhagen Accord also outlines that any 'financially supported NAMAs' will be subject to international MRV guidelines yet to be decided by the COP. Currently the majority of REDD activities are financed by developed country parties and/or international organisations. Assuming this pattern continues the responsibility for environmental

³⁰ 'readiness' applies to the considered necessary preparatory investments to ensure that a REDD project at either national or sub-national level will be effective in reducing deforestation and degradation.

³¹ Most notably UN REDD.

³² Personnel comment by Kate Dooley, FERN, 28 January 2010.

³³ See Copenhagen Accord, note 12 above, Paragraph 5.

³⁴ See Paragraph 1(d) of Methodological Guidance for Activities Relating to Reducing Emissions from Deforestation and Forest Degradation and the Role of Conservation, Sustainable Management of Forests and Enhancement of Forest Carbon Stocks in Developing Countries, UNFCCC Draft decision -/CP.15, Copenhagen, 18 December 2009, available at http://unfccc.int/files/na/application/pdf/cop15_ddc_auv.pdf.

³⁵ *Id.* Paragraph 15.

integrity oversight for REDD projects in developing countries could largely fall to an international body. Existing projects are MRV by institutional bodies which are involved such as the World Bank, UN or NGOs. To ensure environmental integrity and consistency of REDD projects it is necessary that environmental safeguards are agreed upon and a governance approach to implement them is finalised as soon as possible in a manner which is inclusive of those directly impacted by the mitigation activities such as forest peoples. The evidence to date is not encouraging in this regard.³⁶

7 SOCIAL SAFEGUARDS

In the only reference to forest peoples role in MRV a COP15 decision ‘*Encourages* [developing countries], as appropriate, the development of guidance for effective engagement of indigenous peoples and local communities in monitoring and reporting’³⁷ This single ‘encouragement’, and only under the discretion of when ‘appropriate’, to develop guidance falls far short of ensuring the rights of indigenous peoples and forest communities which are outlined in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).³⁸ Where language

is contained in UNFCCC REDD related documents on social safeguards, including references to participation, tenure and property rights, it tends to be weak and frequently up to the discretion of States to implement. Within the UNFCCC the haste to ensure environmental integrity has resulted in scant attention being given to the importance of rights based social safeguards, leading to a discourse developing, reminiscent of cost-benefit analysis approaches to environmental decision making, evaluating the necessary trade-offs between forest people’s rights and climate change.³⁹

The non-decision AWG-LCA REDD text by the closing of COP 15 did recognise that ‘**Respect** for the knowledge and rights of indigenous peoples and members of local communities, by **taking into account** relevant international obligations, national circumstances and laws’, ‘should be promoted’[emphasis added].⁴⁰ It also noted that ‘the General Assembly has adopted the United Nations Declaration on the Rights of Indigenous People’.⁴¹ A ‘**request**’ is made of developing country Parties who develop and implement a national (or sub-national) REDD plan to ‘**address**, inter alia, drivers of deforestation and forest degradation, land tenure issues, forest governance issues, gender considerations and ... ensuring the full and effective participation of relevant stakeholders, inter alia, indigenous peoples and local communities’ [emphasis added].⁴² Given the vague and imprecise language being adopted in these draft UNFCCC texts, and also that the focus of the Copenhagen Accord itself is primarily finance and environmental safeguards, there is legitimate cause for concern for the substantive and procedural rights of indigenous peoples and forest communities’ social safeguards.

It is likely that the short sighted failure to prioritise social safeguards will back fire and result in less than effective (economically and environmentally) REDD projects, and also unnecessary suffering by

³⁶ Victoria Corpuz-Taui, Statement by the Chair of the UN Permanent Forum on Indigenous Issues on the occasion of the Launch of the Forest Carbon Partnership Facility, Bali, Indonesia, 10 December 2007, available at www.forestpeoples.org/documents/forest_issues/unpfii_statement_fcpf_dec07_eng.pdf.

³⁷ See Methodological Guidance for Activities Relating to Reducing Emissions from Deforestation and Forest Degradation and the Role of Conservation, Sustainable Management of Forests and Enhancement of Forest Carbon Stocks in Developing Countries, note 34 above, Paragraph 3. The draft decision also include in the preamble ‘*Recognizing* the need for full and effective engagement of indigenous peoples and local communities in, and the potential contribution of their knowledge to, monitoring and reporting of activities relating to decision 1/CP.13, paragraph 1 (b) (iii)’; *Id.* Preamble.

³⁸ United Nations Declaration on the Rights of Indigenous People, New York, 13 September 2007, UN Doc. A/RES/61/295 (2007).

³⁹ Frances Seymour, ‘Forests, Climate Change and Human Rights: Managing Risks and Trade-offs’, in Stephen Humphreys ed., *Human Rights and Climate Change*, 207, 229 (Cambridge: Cambridge University Press, 2010).

⁴⁰ See Draft decision -/CP.15, note 9 above, Paragraph 2(C).

⁴¹ *Id.* Paragraph 2(C).

⁴² *Id.* Paragraph 6.

impoverished indigenous and local forest communities.⁴³ Increasingly the full and effective participation of forest based communities is understood to be fundamental to any REDD programme realising the objectives of reduced emissions, along with the co-benefits of ecosystems protection and poverty alleviation.⁴⁴ There may be no place for trade-offs.

8 CONCLUSION

UNFCCC COP 15 produced no legally binding agreement. Within the UNFCCC few substantive decisions were taken. The two AWG on LCA and KP were given a mandate to continue deliberations. As this article illustrates in terms of REDD the ongoing text for the AWG-LCA is a castrated version of that which entered COP 15; losing targets, substantive language on indigenous peoples and forest communities rights and weakening safeguards. The Copenhagen Accord language relating to REDD emphasises market based financial mechanisms and

environmental safeguards. A SBSTA decision also continued to encourage REDD demonstration activities.⁴⁵

In the coming months before UNFCCC COP16 in Mexico numerous meetings both within the UNFCCC and externally will take place. Prior to 31 January 2010 countries wishing to submit targets and/or NAMAs for the Copenhagen Accord need to do so.⁴⁶ This has led certain country groupings to meet before hand including the EU (15 January 2010) and the BASIC group on 24 January 2010.⁴⁷ Other countries less supportive of the Copenhagen Accord aligned with Bolivia which announced in January its intention to host a Peoples' World Conference on Climate Change and Mother Earth's Rights on 20 to 22 April 2010. All these high-level governmental meetings will discuss a REDD legal mechanism and how best to move forward regarding the issues covered in this article. There are other important fora for the development of REDD such as UNREDD, the Forest Carbon Partnership Facility, several prominent organisations such as the International Tropical Timber Organisation, the Food and Agriculture Organisation, the UN Forum on Forests and the UN Convention on Biological Diversity. However it may be the private sector initiatives which need the closest scrutiny as their activities are often less open to the public gaze.

Copenhagen COP15 will go down in history for what is yet to be determined. For many observers and delegations it was a missed opportunity to agree on deep emissions cuts of greenhouse gases across all sectors that would prevent dangerous anthropogenic climate change for all countries. The win-win-win outcome that the REDD articles in this LEAD edition optimistically believed was possible assuming appropriate rights and safeguards were put

43 See 'Indonesia Warns of REDD Carbon Cowboys', Jakarta Post, 26, October 2009, available at <http://www.carbonpositive.net/viewarticle.aspx?articleID=1700>. See also EFF Calls on Government of PNG, Development Partners and AusAID to Protect PNG from Carbon Scams, Eco-Forestry Forum, available at http://www.redd-monitor.org/wordpress/wp-content/uploads/2009/09/EFF_PNG_REDD_advertisement.pdf.

44 See Tom Griffiths, *Seeing RED: Avoided Deforestation and the Rights of Indigenous Peoples and Local Communities 10* (UK: Forest Peoples Program, 2007), available at http://www.forestpeoples.org/documents/ifi_igo/seeing_redd_update_draft_3dec08_eng.pdf; L.Peskett et al., *Making REDD Work for the Poor* (London: Overseas Development Institute, 2008), available at <http://www.odi.org.uk/resources/download/2580.pdf>; CCBA and Care International, *Draft REDD+ Social and Environmental Standards*, 2 October 2009, available at <http://www.illegal-logging.info/uploads/REDDSEdraft100209.pdf>; Global Witness, *Building Confidence in REDD: Monitoring Beyond Carbon*, December 2009, available at http://www.globalwitness.org/media_library_detail.php/869/en/building_confidence_in_redd_monitoring_beyond_carb.

45 See Methodological Guidance for Activities Relating to Reducing Emissions from Deforestation and Forest Degradation and the Role of Conservation, Sustainable Management of Forests and Enhancement of Forest Carbon Stocks in Developing Countries, Draft decision -/CP.15, Copenhagen, 18 December 2009, available http://unfccc.int/files/na/application/pdf/cop15_ddc_auv.pdf.

46 See Copenhagen Accord, note 12 above, Paragraphs 4 and 5.

47 BASIC – Brazil, South Africa, India and China.

in place is not immediately on the horizon. But history is a fickle judge and in the longer term Copenhagen COP15's legacy may be more generous. This remains to be seen, and is by no means guaranteed.⁴⁸

⁴⁸ Simone Lovera, 'REDD Realities', in Edgardo Lander et al eds., *Contours of Climate Justice – Ideas for Shaping New Climate and Energy Politics* (Uppsala: Dag Hammarskjöld Foundation, Critical Currents No. 6, 2009).

*LEAD Journal (Law, Environment and Development Journal) is jointly managed by the
School of Law, School of Oriental and African Studies (SOAS) - University of London
<http://www.soas.ac.uk/law>
and the International Environmental Law Research Centre (IELRC)
<http://www.ielrc.org>*

