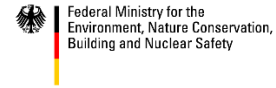




Supported by:



based on a decision of the German Bundestag

**TITLE:** Land tenure issues facing Paraguay ahead of REDD+ Implementation.

**WRITTEN BY:** Ezequiel Santagada, Institute of Environmental Law and Economic (IDEA).

**PUBLICATION DATE:** November 2013.

**KEYWORDS:** ParLu, land tenure, Paraguay Land Use, Paraguay, REDD+.

**OBJECTIVES:** This report analyzes the land tenure regimes in Paraguay. For the purposes of the implementation of a REDD + program in the country, this analysis was necessary because forests are located on State-owned property or on private property. Therefore, any problems with specific tenure regimes can potentially impact the conservation of natural forests or investments that have been made to maintain them.

## **MAIN RESULTS:**

Major conclusions:

1. First, with regard to protected areas under public domain that sit on government lands, it is necessary that the lands are titled with boundaries that have been measured and clearly demarcated. Any uncertainty regarding the exact area and boundaries of protected areas threatens their integrity and the natural resources within, particularly at the edges or boundaries of protected areas. The Secretary of the Environment (SEAM), as an entity of the State responsible for the management of protected areas, should undertake these initiatives. Regarding the lands under private ownership that are within the public areas and under public domain, SEAM should commission specialized experts to evaluate and make decisions.
2. Secondly, with regard to rural settlements, the National Institute of Rural and Territorial Development (INDERT) should measure and title the “commons,” public land not held privately, and apply standards of conservation of natural forests like any other property. Such action would not require legislative reform, only the clarification of the legal status of the “commons.” Similarly, it should be verified that the occupants of colonial lots are in fact the beneficiaries of the agrarian reform policy, and any other occupants should be evicted. All farmers who have already met the requirements under agrarian reform should begin to receive the titles for their land. An important regulatory standard is the Resolution 437/12 of the National Cadastral Service (SNC),

which requires, for the first sale of lots awarded by INDERT, the cancellation of recorded debt and compliance with Article 90 of Law 1863/01 (that 10 years have elapsed since the award and cancellation of the price of the lot). REDD+ projects in rural settlements would be perfectly feasible from the point of view of security of land tenure, provided that the properties have titles from INDERT or are farmer-beneficiaries of agrarian reform; it would also be feasible in measured communal areas and titled lands.

3. Thirdly, the indigenous rights of property ownership in Paraguay are included in the concept of public policy since the National Constitution recognizes their culture; therefore, their legal system and rights are sustained. However, Paraguay still does not have legislation that establishes a clear regime of recognizing property rights of the indigenous. Such a regime would take into account the special significance the land has for indigenous people, and with technical support providing evidence for the existence of traditional or ancestral lands, any land dispute could be settled appropriately, instead of arbitrarily leaving the decision to a non-indigenous landholder. However, for the purposes of implementing REDD+ projects that will be carried out by non-indigenous people, an administrative procedure should be established to avoid working in areas where land tenure is challenged by indigenous groups. Instead, such groups should be given adequate information and invited to participate and consult in the process according to the standards of international law. Further, if an indigenous community proposes the implementation of a REDD+ project on their lands, there would be no obstacles in implementation, particularly if the funds to finance the project did not depend exclusively on the market mechanisms.
4. Fourth, in regards to Mennonite colonies, there are no legal obstacles for implementing REDD+ projects, understanding the organizational structure based on cooperatives and associations around which they are centered, who most times are also the holders of land tenure.
5. Finally, in any project that involves private land rights, it is important not to be associated with any estate that could be considered an unproductive estate. A good way to avoid such a situation is by requiring the possession of an environmental license and evidence of its compliance. For the same reason, in order to avoid significant problems with the property in which a project will be implemented, the presentation of property titles with cadastral nomenclature must be presented. In the case of estates without a cadaster, it would be enough for landowners to undergo a legal measurement and eventual demarcation.

## **MORE INFORMATION**

Full report available at: [http://www.parlu.org/fileadmin/user\\_upload/IDEA -  
\\_Reporte\\_sobre\\_problematika\\_de\\_la\\_tenencia\\_de\\_la\\_tierra.pdf](http://www.parlu.org/fileadmin/user_upload/IDEA_-_Reporte_sobre_problematika_de_la_tenencia_de_la_tierra.pdf)