

Legal and Institutional Analysis for the Oromia Forested Landscape Program

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Outline

1. Institutional arrangements

2. Benefit sharing

3. Policy and regulatory reforms (enabling environment)

Assignment

Analysis of the Legal and Institutional Framework for a National and Regional REDD+ Program in Ethiopia

Climate Focus. Consultancy company with offices in Amsterdam, Washington D.C., Berlin, Bogota and Bangkok, and internationally recognized experts in REDD+ policy and legal advice.

Consortium Members

- CONSCIENTIA Training, Consultancy & Research PLC
- UNIQUE Forestry and Land Use GmbH



1. Institutional arrangements



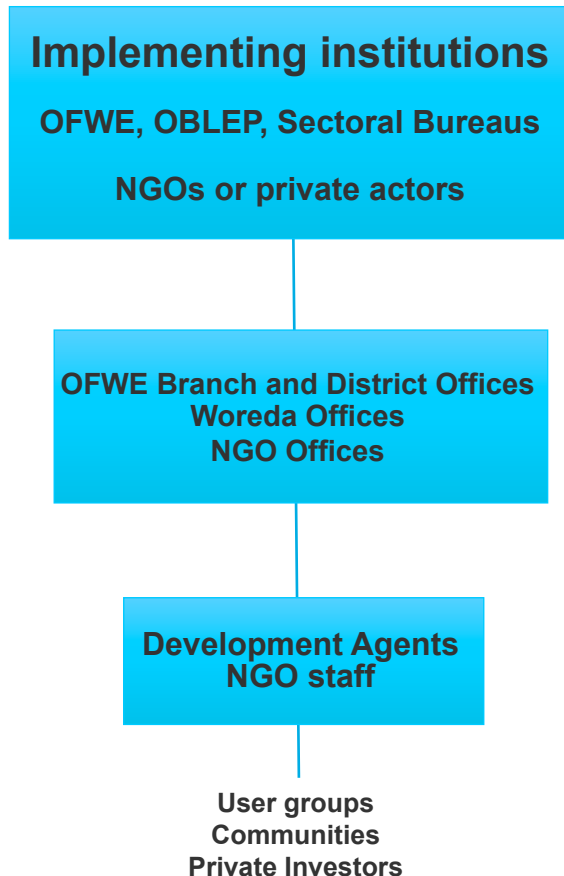
Implementing institutions

Functions

- Implement REDD+ activities (SFM, AR) along their vertical structure
- Planning, budgeting, procurement, reporting, monitoring and evaluation
- Land administration and governance (enabling environment)

Recommendations for up-front finance or government action

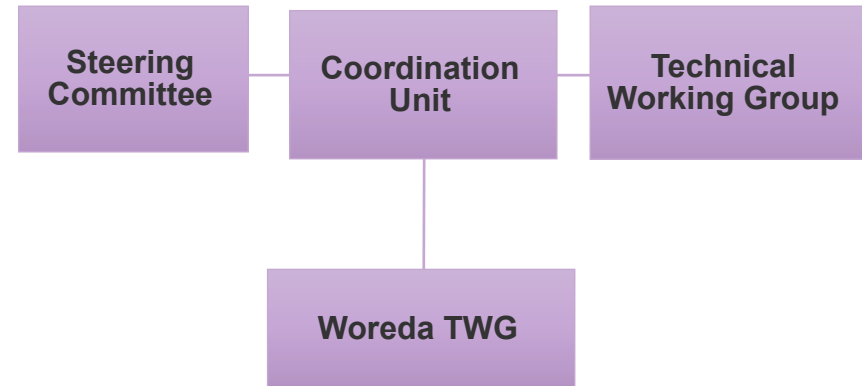
- Strengthen decentralized structure for local implementation: Forestry Development Agent reporting to OFWE but integrated with the Woreda Agriculture Office



REDD+ Institutions

Functions

- Coordination, planning, decision-making and linking with high-level political power
- Multi-stakeholder support and technical advice
- Ensure that the program meets REDD+ requirements of the Strategic Framework
- Safeguards and MRV (national level)
- Cross-sectoral policy coordination for REDD+



Recommendations for Readiness

Process:

- Update TOR to regulate roles and processes (President)
- The Oromia REDD+ Coordination Unit should report directly to the President
- Update MOU to further clarify the relation with the federal government (MRV, safeguards, decision-making, horizontal policy coordination)

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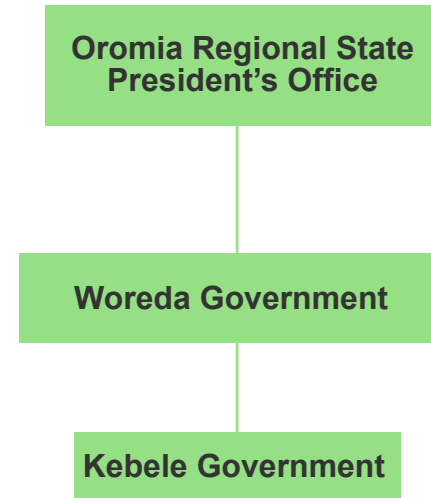
QUESTIONS FOR DISCUSSION

- How can the government encourage the REDD-relevant initiatives to coordinate towards the OFLP vision?
- Could a REDD+ steering committee eventually evolve into a CRGE institution?
- Should there be a steering committee or a TWG at Woreda level? What is the function? Can it build on the SLMP's institution?

Government oversight

Functions

- Decision-making, supervision and monitoring of the effective implementation of REDD+ activities
- Setup and oversight of institutional arrangements, horizontal and vertical coordination



QUESTIONS FOR DISCUSSION

- What role will the government play in REDD+ institutions at Woreda and regional level?



Basic structure

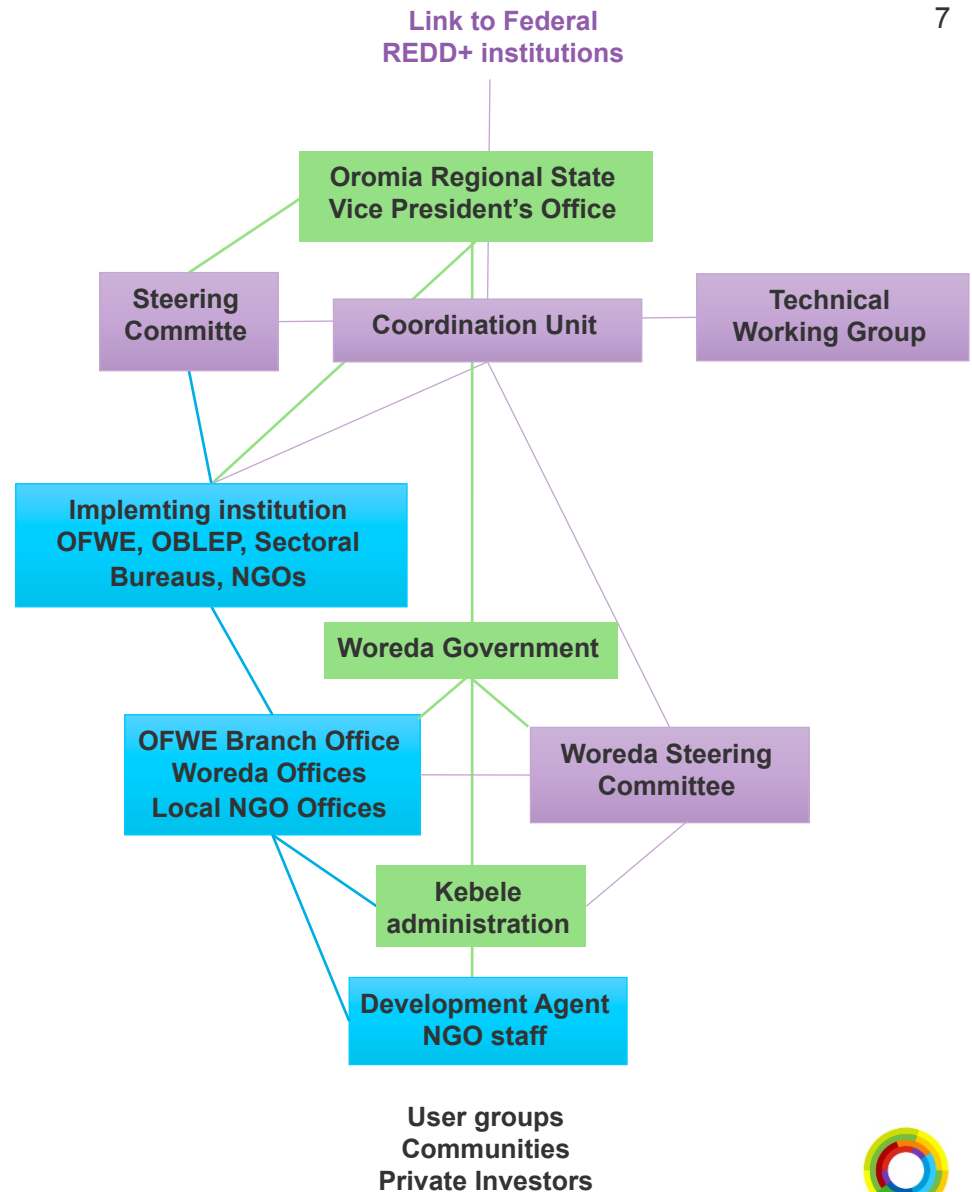
- Executing institutions
- REDD+ institutions
- Governmental oversight

RECOMMENDATIONS

- Keep it as simple as possible
- Establish a basic framework that can be expanded e.g. for other sectors, existing initiatives, financial institutions
- Leave flexibility for different implementation structures and levels of integration

QUESTIONS FOR DISCUSSION

- What role will an emerging Bureau of Forestry and Environment play for coordination and decision-making?
- Can the local implementing organizations report to the Coordination Unit?

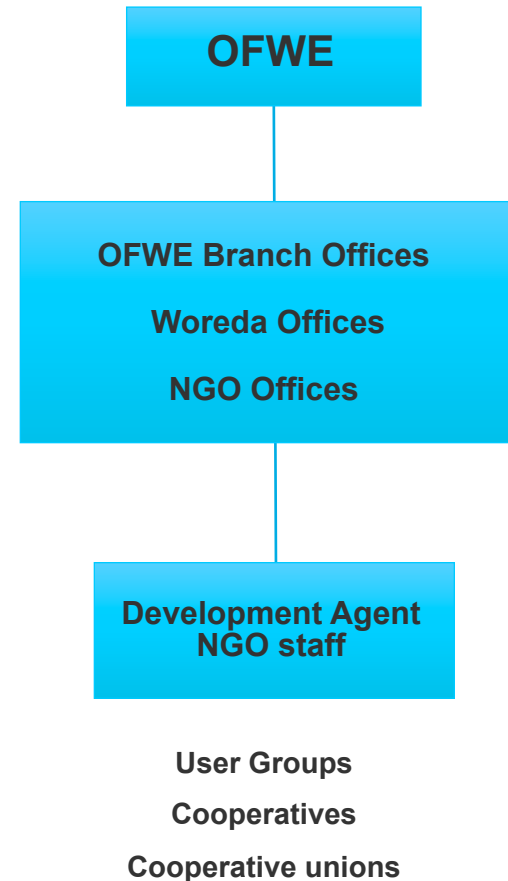


Implementation arrangements for sustainable forest management

Objective: reduce poverty in forest areas by increasing forest-based incomes from timber and NTFP value chains while involving communities in forest management.

Interventions:

1. **Reinforce PFM in existing areas and expand to new areas** by supporting the institutional PFM process
2. **Technical assistance** for sustainable and economically viable forest management and business-oriented value chains: silvicultural interventions for timber production, other livelihood improvement from forest coffee management, honey and other NTFP production



Facilitators of implementation:

- OFWE branch and Woreda offices
- Forestry DA integrated in WOA
- Support by NGOs

Legal and institutional mechanism:

- Forest management agreement between OFWE branch office and forest user group defines rights, responsibilities and sharing of products
- Cooperative by-laws govern responsibilities, forest product use and benefit sharing within the group, sharing with communities, share-holding etc.
- User group obtains user rights certificates from OBLEP and Woreda equivalent in coordination with OFWE
- Cooperatives register with the Cooperative Promotion Office at Woreda level

Monitoring and evaluation:

- Community monitoring and evaluation complemented by monitoring through the DA

PFM institutional process

I. MOBILIZATION

Step 1: Getting started

Step 2: Familiarization of PFM processes

II. PLANNING

Step 3: Forest resource assessment and management planning

Step 4: Organizing and legalizing community institutions

III. IMPLEMENTATION

Step 5: Capacity building and skill development

Step 6: Participatory monitoring, evaluation and revision



Implementation arrangements for establishing forest

Objective: Reduce pressure on existing forests by providing sustainable sources of timber, poles and wood fuel while creating wealth and jobs in rural areas

Interventions:

1. **Assisted Natural Regeneration (ANR):** Technical assistance and support to participatory planning for the rehabilitation of degraded lands
2. **Woodlot establishment:** Technical assistance and support to participatory planning for treeplanting on individual farmland
3. **Commercial plantation establishment:** Joint venture between private business/investors and OFWE; Engage small-scale woodlot owners in outgrower scheme, providing technical and financial assistance



1. Assisted Natural Regeneration (communal land) 2. Woodlots (private farmland)

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Implementors: Community members form user groups

Facilitators of implementation:

- OFWE branch and Woreda offices for state forests land
- Woreda office of agriculture
- DAs including Forestry DA integrated in WOA
- Support by NGOs

Legal mechanism:

- Business plan to be approved by Woreda Steering Committee or SLMP technical committee
- Cooperative by-laws govern responsibilities, forest product use and benefit sharing within the group, sharing with communities, share-holding etc.

Monitoring and evaluation:

- Participative monitoring and evaluation complemented by monitoring through the DA

Implementors: Private farmers that form user groups

Facilitators of implementation:

- OFWE branch and Woreda offices
- Woreda office of agriculture
- DAs including Forestry DA integrated in WOA
- Support by NGOs

Legal mechanism:

- Business plan to be approved by Woreda Steering Committee (or SLMP technical committee if existing)
- Cooperative bylaws for some activities
- MoU: User groups & Kebele Watershed Team (for SLMP Woredas)

Monitoring and evaluation:

- Participative monitoring and evaluation complemented by monitoring through the DA



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3. Commercial plantation

Implementor: Joint venture between OFWE and private investor, possibly with outgrower scheme

Facilitators of implementation:

- OFWE branch and Woreda offices
- Forestry DA integrated in WOA

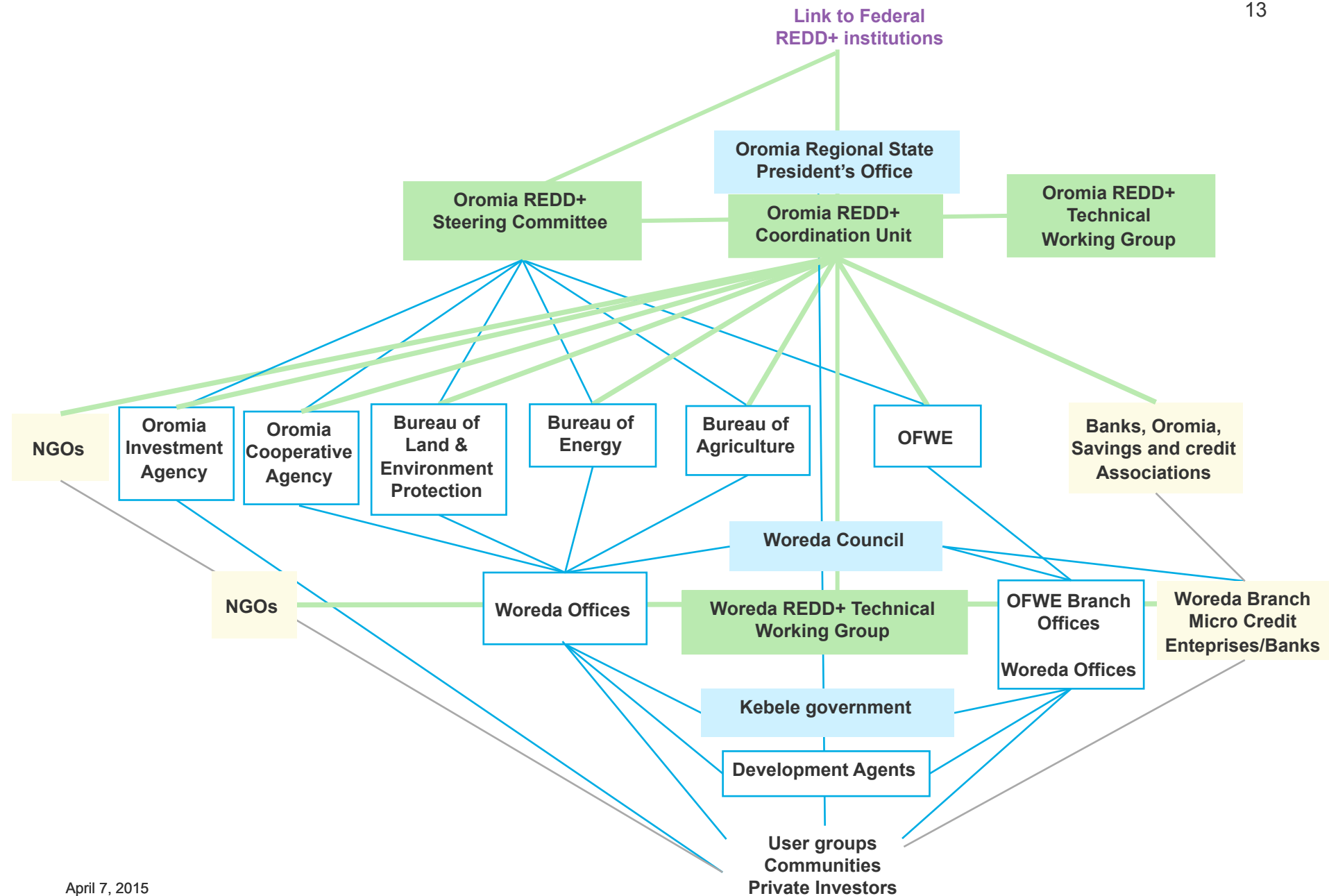
Institutional and legal mechanism:

- Call for proposals by OFWE
- Joint development of a business plan
- Joint venture agreement specifying cost sharing, responsibilities, revenue sharing and risks sharing
- Provisions can be made for sharing profits with communities where they provide inputs or are otherwise affected

Monitoring and evaluation:

- Government involvement ensures monitoring





2. Benefit sharing (results-based payments)



Benefit sharing policy

International and national REDD+ finance can facilitate the transition to a sustainable and economically viable land use sector, and this transition can only be achieved through smart incentives that change behavior of all actors.

Recommendations:

- Keep it simple and transparent with few parameters that can easily be determined and do not raise debates for each specific case
- Leave flexibility to tailor to local contexts and proposed activities

Benefit sharing should promote non-carbon benefits for local communities such as increased income from new land use practices, natural resource-based small enterprises development, improved yields, more secure ecosystem services.

The majority of benefits should be distributed to the local communities.



What are benefits?

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What do we mean with benefits:

- **Results-based finance**
 1. passed on as performance-based payments
 2. or set at the level needed to stimulate change
- **Direct benefits:** Payments or other financial and non-financial incentives
- **Indirect benefits** (livelihood, environment, economic, governance) are essential for change and should be promoted but sharing is not defined by the policy



Decisions for a benefit sharing policy

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A. What activities receive benefits?

Examples:

- Focus on forestry activities or include other sector activities?
- Allocate a percentage to enabling environment?
- Nested projects?
- Reinvestment?

B. At what administrative unit are results (reduced deforestation) measured?

- Woreda, zone or jurisdictional?

C. Who receives benefits? Who further distributes benefits?

- User group or private investor
- Community (Kebele administration)
- Implementing organization (e.g. OFWE)
- Regional government (e.g. for enabling measures)

D. How is performance of beneficiaries measured and how much benefit will they receive?

- Based on activity, output, or results (reduced deforestation or increase in forest cover)

E. What types of benefits should be shared and would there be any conditions?

- Direct payments or other technical and financial incentives
- Assistance or conditions for investment
- Sharing of indirect financial and in-kind benefits

F. Who takes the risk?



2. Enabling environment: Policy and regulatory reforms



Implementation & governance

Recommendations

1. Adopt regulations, directives and guidelines to provide clear steps and a review framework for implementation (e.g. demarcation and resource mapping procedures, dealing with forest crimes, PFM, EIA etc.)
2. Support implementation of guidelines and directives through awareness, outreach and trainings for implementing institutions
3. Empower communities in forest management and to resolve land and forest disputes internally where possible through a PFM tribunal
4. Adopt directive for the Kebele administration to not tax illegally occupied land
5. Strengthen routine enforcement of Office of Land and Environment against illegal occupants



Institutional capacity and mandates

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Recommendations

1. Support **capacity building and institutional strengthening** (e.g. equipment, long-term training programs that include qualifications, support to professional programs)
e.g. on forest management planning, business-oriented extension, and other administrative, social and participative aspects, REDD+ MRV and safeguards
2. Further **study problem of staff turnover** within local government institutions and identify incentives to address this
4. **Clarify institutional mandates**, e.g. forest administration, issuing forest products pass permits
5. **Clarify mandates and relationship between OFWE and emerging MEF** structure at regional level
6. Consider **OFWE's budget allocation** to commercial and non-commercial functions
7. **Clarify mandate of Oromia and national-level institutions for EIA**, since in Oromia the mandate is with OBLEP and at the Federal level with sectoral ministries



Land use planning, resource mapping and demarcation

Recommendations

1. Adopt regulations and/or guidelines for resource mapping and demarcation to avoid ad hoc implementation, and to harmonize process, coordination and technologies
2. Regulations should set out grievance mechanisms and participation process
3. Promote greater participation and community involvement in the land use planning process to support ownership (e.g. PFM, PRA tools)
4. Dedicate more resources to resource mapping and demarcation
5. Integrate REDD+ planning into the resource mapping so it takes account of intended REDD+ activities and appropriate land categorizations



Participatory Forest Management

Recommendations

1. Adopt PFM regulation under Oromia Forest Proclamation based on national reform, to define roles, responsibilities, process and review framework
 - a. *Minimum standards for PFM process, legal agreements, management plan*
 - b. *Review framework, independent and participative M&E*
2. Strengthen representation and capacities of OFWE for extension and establish Woreda representations in forest areas
3. Organize training program to build technical capacity for extension and administration (e.g. sound management plans)
4. Establish PFM community tribunal that would have power to address PFM-related disputes e.g. appealing decisions, claims regarding irregularities, local conflicts

Key Recommendations

1. Place more focus on participation during the PFM process
2. Emphasize facilitation of forest-based or alternative livelihoods through user rights and extension
3. Improve technical capacity ecologically and economically sound management planning



Tenure, rights, and certification

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Recommendations

1. Adopt regulations for certification on communal forest lands and private forest on agricultural land
2. Clarify OFWE's role to give timber rights to communities as they are valued in OFWE's capital and consider increasing the capital
3. Dedicate more resources to communal certification of forest land



Coordination and investment planning

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Recommendations

1. Establish a formal process to **coordinate horizontal and vertical policy planning relevant to REDD+** in the REDD+ steering committee, to maximize synergies and mitigate negative impacts
2. **Incentivize institutions for coordination**, e.g. by establishing formalized procedures for the sharing of capacities, establishing consultation requirements
3. **Establish a multi-sector coordination platform** e.g. an Oromia Land Administration and Use Task Team to complement the national coordination process, SLM platform
4. For the **allocation of land for investment at national level**: Introduce provision that avoid forest areas being allocated to the land bank or allow OFWE to veto the inclusion of forest; Link to MRV;
5. Develop regulation on **environmental impact assessment**, in particular for the management framework, review and M&E, follow-up, and dispute resolution mechanism
6. **Strengthen capacity of OBLEP** for implementation and enforcement



Summary of recommendations

1. Strengthen institutions

- **Training** including long-term programs and support to education programmes
- **Awareness building** and outreach
- Promote participation and empower local institutions
- **Clarify mandates**

2. Regulatory or policy reforms

- Adopt regulations, guidelines or directives to **guide and streamline processes for the implementation** of land and forest administration
- Ensure **participation** and provide for **grievance mechanisms**
- **Incentivize institutional coordination**

3. Scaling up of resource mapping, demarcation and certification

- ➔ Avoid setting up new mechanisms or duplicating processes
- ➔ Coordinate with and add additional resources to scale up existing relevant programs SLMPII, LIFT, USAID LAND, REILA etc.
- ➔ In coordination with the national process, establish an Oromia Land Administration and Use Task Team for institutional coordination
- ➔ Coordinate with national reforms (e.g. land bank and EIA)

