

Developing a REDD+ Benefit Sharing Mechanism for Fiji

Deliverable 3: Final Report
on assessment of existing benefit sharing mechanisms, legal provisions, potential beneficiaries, benefit types and institutional arrangements

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Abbreviations

ASPA	Agriculture Sector Policy Agenda
BSM	Benefit sharing mechanism
CBD	Convention on Biological Diversity
COP	Conference of Parties
CSO	Civil society organization
DBFCC	Drawa Block Forest Community Cooperative
EIA	Environmental Impact Assessment
EMA	Environmental Management Act
ER	Emissions reductions
ERP	Emissions reduction program
ERPA	Emissions reductions payment agreement
ERR	Emissions reductions & removals
FCPF	Forest Carbon Partnership Facility
FFHCP	Fiji Forest Harvesting Code of Practice
FRCS	Fiji Revenues and Customs Services
FRL	Forest Reference Level
IBRD	International Bank for Reconstruction and Development (World Bank)
ILO	International Labor Organization
IRDF	Integrated Rural Development Framework
LOU	landowning unit
MOA	Ministry of Agriculture
MOE	Ministry of Economy
MOF	Ministry of Forestry
MIT	Ministry of Infrastructure and Transport
MRMD	Ministry of Rural and Maritime Development
MRV	Measurement, reporting and verification

MSD	Management Services Division
MTA	Ministry of iTaukei Affairs
NBSAP	National Biodiversity Strategy and Action Plan
NCCCC	National Climate Change Coordination Committee
NCCP	National Climate Change Policy
NDP	National Development Plan
NEC	National Environment Committee
NGO	Non-governmental organization
NTROC	National iTaukei Resource Owners Council
RDF	Reforestation of Degraded Forests
REDD+	Reducing emissions from deforestation and forest degradation, plus conservation, sustainable management of forests, and enhancement of forest carbon stocks
RIL	Reduced Impact Logging
RSC	REDD+ Steering Committee
SESA	Strategic environmental & social assessment
TLTA	iTaukei Lands Trust Act
TLTB	iTaukei Land Trust Board
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNFCCC	United Nations Framework Convention on Climate Change
YMST	Yaubula Management Support Teams

1.Introduction

Fiji adopted a Fiji National REDD+ Policy in 2011 that provides the framework for the planning, coordination, and implementation of REDD+ activities led by the REDD+ Unit in the Ministry of Forests and overseen by the National REDD+ Steering Committee (RSC). Fiji is participating in the Forest Carbon Partnership Facility (FCPF) and received a FCPF REDD+ readiness grant of USD 3.8 million in 2015. Currently, Fiji is conducting various REDD+ readiness activities to develop a National REDD+ Strategy and to prepare an Emission Reduction (ER) Program for submission to the FCPF Carbon Fund. This study led by Conservation International has assisted Fiji to design a national REDD+ benefit sharing mechanism that can be applied to the ER program.

The following objectives were defined in the terms of reference for this assignment.

“The overall objective is to develop a benefit sharing mechanism of REDD+ for Fiji. The benefit sharing mechanism should be fair and acceptable to relevant stakeholders. The overall objective will be achieved by focusing the study on the following specific objectives:

- To identify the relevant beneficiaries and their eligibility and the general principles on how such benefits will be distributed (the “mechanics” of the benefit sharing arrangement)
- To identify policy, legal and regulatory frameworks, and civil society and political discourses influencing benefit sharing
- To develop different options for a benefit sharing mechanism and to suggest a benefit sharing mechanism appropriate for the country.

The benefit sharing mechanism should have the following characteristics

- The benefit sharing mechanism should be designed in a consultative, transparent and participatory way appropriate to the country.
- The design of the benefit sharing mechanism should respect customary rights to lands and territories and reflect broad community support so that REDD+ incentives are applied in an effective and equitable manner.
- The benefit sharing mechanism process should build upon the national readiness process including SESA and taking into consideration existing benefit-sharing arrangements.
- The benefit sharing mechanism should comply with relevant applicable country laws including relevant international conventions and agreements and customary rights.”

The development of the benefit sharing mechanism has been conducted through a participatory and transparent process building on earlier work conducted to support the development of the National REDD+ Strategy and the design and implementation of the ER Program. This includes the Strategic Environmental and Social Assessment (SESA) that identified social and environmental risks and opportunities associated with various strategic options and five types of benefit sharing models that exist in the country. In addition, preparatory work for the development of the ER Program described in the draft ER Program Document (December 2018) summarized earlier work to clarify the legal and institutional context for generating emissions reductions and sharing benefits derived from them.

This report is the second deliverable D2: Draft report on existing benefit sharing mechanisms, legal provisions, assessment of potential beneficiaries and benefit types, and institutional arrangements

2. Clarifications on benefit sharing for REDD+

“The distribution of benefits generated from REDD+ implementation is important for the creation of the necessary incentives and measures to reduce carbon emission. It must be considered fair by stakeholders and should be widely accepted.”¹

The REDD+ program will be successful only with a fair and transparent cost and benefit sharing arrangements. All stakeholders participating in Emission Reduction (ER) activities should be rewarded according to their contributions to reduced deforestation, degradation, conservation and carbon stock enhancement. Local stakeholders are concerned about fair benefit sharing in REDD+. On the other hand, there are the direct, indirect, hidden and unforeseen costs and consequences of emission reductions activities that have to be borne by different stakeholders.

For the purposes of this assignment, the following definition of benefit sharing is adopted:

*Benefit sharing in the context of REDD+ is the intentional transfer of monetary and non-monetary incentives (goods, services or other benefits) to stakeholders for the generation of emissions reductions and removals (ERRs) and other objectives funded by payments received under result-based payments or an Emissions Reduction Payment Agreement (ERPA)*².

Carbon-funded Benefits can be used to provide:

- *Monetary Benefits* in the form of cash received by beneficiaries or
- *Non-Monetary Benefits* in the form of goods, services or other benefits (e.g. technical assistance, capacity building, in-kind inputs or investments such as seedlings, equipment, buildings etc.).

Note that the FCPF Carbon Fund Methodological Framework (2016)³ categorizes a third type of benefits - *Non-Carbon Benefits* – which do not form part of the benefit sharing mechanism.

- *Non-Carbon Benefits* are any benefits other than Monetary or Non-Monetary Carbon-funded Benefits produced by or in relation to the implementation and operation of an ER Program. Non-Carbon Benefits may be in-kind benefits (e.g. improvements of local livelihoods, improved forest governance structure, clarified land tenure arrangements, enhanced biodiversity and other ecosystem services etc.) or may be financial benefits (e.g. revenues from sale of timber or non-timber forest products, or from increased agricultural yields).

A *benefit sharing mechanism* under REDD+ clarifies how funds received Carbon-funded Benefits linked to emissions reductions performance are used to provide benefits to stakeholders (such as different levels of governments, the private sector, and communities) and the way such benefits are distributed at each stakeholder level. The benefit sharing mechanism needs to specify vertical allocations between national- and local-level stakeholders and horizontal allocations, between and within communities, households, private sector and other stakeholders. The benefit sharing mechanism also clarifies the full set of institutional arrangements, governance structures, and institutions that distribute finance and other net benefits from REDD+ implementation and identifies the flow of funds and legal arrangements.

¹ From the TOR for this assignment

² Adapted from Note on Benefit Sharing for Emissions Reductions Programs Under the Forest Carbon Partnership Facility and BioCarbon Fund Initiative for Sustainable Forest Landscapes (January 2019 version)

³ [FCPF Carbon Fund Methodological Framework](#)

3. Methods and process followed for the development of the benefit sharing mechanism in Fiji

In order to meet the objectives and complete the tasks of this assignment, the following methodology was followed, through a transparent and participatory process:

3.1 Preparation of methodology, work plan and consultation plan

The methodology, work plan and consultation plan described in this document were developed by the project team and were validated at an inception workshop held on 12 March 2019 at the Southern Cross Hotel in Suva with 29 participants (17 men and 12 women) from government, donors, private sector and civil society including NGOs and representatives of land owners (see Report of the Inception Workshop for the Benefit Sharing Mechanism). Most of the participants (24) are members of the REDD+ Steering Committee.

3.2 Review of lessons learned on REDD+ benefit sharing mechanisms in other countries

When considering how to design the benefit sharing mechanism for REDD+ in Fiji, it was instructive to consider lessons learned on REDD+ benefit sharing mechanisms in other countries. This analysis was done in the following steps:

- a. Review of recommendations on REDD+ benefit sharing from existing reviews, analyses and guidance documents

The International Team Leader shared an analysis of recommendations on REDD+ benefit sharing from existing reviews, analyses and guidance documents conducted by Conservation International under a study underway for the World Bank on 'Benefit sharing in jurisdiction-level results-based land use programs. This was presented at the inception workshop and included in the inception report.

- b. review of benefit sharing mechanisms for REDD+ that are in development in other countries

A few countries are further ahead than Fiji in designing their REDD+ benefit sharing mechanisms. The following four countries have published advance draft benefit sharing plans: Chile, Mozambique, Ghana and the Democratic Republic of Congo. These were analyzed and compared to understand features that could be relevant for the design of the benefit sharing mechanisms in Fiji. These examples were presented at the inception workshop and included in the inception report.

3.3 Legal, regulatory and policy review and analysis

It is essential to have a clear understanding of the legal and policy context for benefit sharing in REDD+ in Fiji, and to ensure that the proposed benefit sharing mechanism is underpinned by a clear legal mandate.

The results-based nature of REDD+ finance requires a legal definition of the REDD+ benefits that are to be shared. In addition, the entitlement to a share of REDD+ benefits have to be defined in a legal instrument in order to provide legal certainty, inspire confidence and prevent disputes.

The benefit sharing mechanism should comply with Fiji's relevant laws and with customary rights. It should be consistent with and, as far as possible, contribute to implementation of related national policies,

strategies and plans, including on development, climate change, forestry, biodiversity, agriculture and other sectors that may be relevant. The benefit sharing mechanism should also respect and be guided by relevant international conventions and agreements that Fiji is a party to.

A key factor that shapes the REDD+ benefit sharing mechanism in Fiji is the determination of carbon rights, that is the determination of what entities have the rights to generate, transfer, receive finance and benefit from emissions reductions. Emission reduction and removals are attributed from reducing deforestation and forest degradation, enhancement of carbon stocks and forest conservation.

The legal and policy analysis considered the following elements:

- Review of policies, laws and regulations and their implications for a benefit sharing mechanism including for the determination of benefits and beneficiaries, as well as for financial management and institutional arrangements for the distribution of benefits;
- Review of international conventions and agreements that Fiji is a party to and implications for benefit sharing mechanism;
- Review of outputs from carbon rights analysis, as they become available, and implications for benefit sharing mechanism;
- Review of dispute resolution mechanisms including Feedback Grievance Redress Mechanisms relevant to benefit sharing;
- Options for institutional and financial arrangements based on review.

3.4 Review of benefit sharing mechanisms existing in Fiji potentially relevant to REDD+

It is beneficial for the benefit sharing mechanism for REDD+ to learn from and build on existing mechanisms in Fiji. A review was conducted to identify and assess the relevance of existing benefit sharing arrangements in Fiji (see Section 4). The following existing benefit sharing mechanisms were reviewed:

- The iTaukei Lands Trust Board
- The Land Bank
- Charitable Trusts
- Companies benefit sharing mechanism - Fiji Pine and Fiji Energy examples
- Sovi Basin Trust Fund
- Drawa Forest Project - example of a cooperative
- Nakauvadra Reforestation Model
- Emalu REDD+ Project

3.5 Development of options for the benefit sharing mechanism in Fiji

Based on the review of the legal and policy context, as well as the existing benefit sharing mechanisms in Fiji, the project team developed options for the following elements of the benefit sharing mechanism and identified a set of questions to lead the discussion through stakeholder consultations.

- Identification of beneficiaries
- Eligibility criteria
- Identification of benefits
- Criteria for allocation between beneficiary groups
- Conditionality for receiving benefits
- Nested projects
- Delivery system
- Financial management and flow of funds

- Governance arrangements, roles and responsibilities
- Disclosure, Communication and dissemination of information
- Monitoring, evaluation and adaptive management
- Feedback, grievance and redress mechanism

3.6 Consultations

The national inception workshop held on 12 March 2019 provided an opportunity for initial consultation on the objectives and principles of the benefit sharing mechanism.

Regional consultations were held with stakeholders as follows:

- Lautoka on 1-2 April 2019 (22 participants)
- Labasa on 4-5 April 2019 (20 participants)

These consultations were held back to back with consultations on the study being undertaken on carbon rights. Participants at the regional consultations included: Division Commissioners; all members of the Divisional REDD+ working group; Private Sector such as Fiji Pine Ltd, Sawmiller Association and others; Provincial Council from Nadroga Navosa & Ba, representatives from REDD+ pilot projects including Emalu, as well as all trained REDD+ training of trainers certificate holders.

In addition, the project team consulted with the REDD+ Unit, the Conservator of Forests and other relevant staff in the Ministry of Forestry. The team also sought clarification and guidance from the Solicitor General's office, with the Ministry of Economy and other relevant agencies.

After the regional consultations, a High Level Consultation was undertaken on 6-7 May 2019 at Warwick Resort, Coral Coast with 47 participants from Ministry of Forests, Ministry of Lands, Ministry of Rural and Maritime Development, Ministry of iTaukei Affairs, Ministry of Agriculture, Attorney General's office, TLTB, Provincial Council, GIZ, FAO and IUCN. Many of the above participants are members of the REDD+ Steering Committee. The High-Level Consultation provided an opportunity to share the findings from divisional and inception workshops and to seek guidance on outstanding issues.

3.7 Refinement of options

Based on the consultations, the options were refined and discussed with the Ministry of Forestry before being consolidated into this assessment of potential beneficiaries, existing benefit sharing mechanism, legal provisions, appropriate principles for consideration at the country context.

3.8 Preparation of final report

A final report will be prepared including results of the consultations and proposed options for the benefit sharing mechanism for REDD+ in Fiji.

4. Existing benefit sharing mechanisms

Existing models of benefit sharing mechanisms in Fiji include:

- iTaukei Land Trust Board (TLTB): Fiji's indigenous people (iTaukei) own close to 90% of the land in the country. The TLTB is responsible for protecting and managing iTaukei land ownership rights as vested in the iTaukei Land Trust Act, Section 4.5. TLTB is also responsible for facilitating commercial transactions relating to leases and licenses. The TLTB collects premiums, lease rentals (twice annually), and other land resource transaction fees – and distributes the lease rental money to the landowners,

itself receiving a 10% administration fee. TLTB disburses the funding in equal parts to the bank account of each individual member of a land-owning unit (LOU) over 18 years (for those under 18, funds are invested to generate interest, and disbursed at 18 years).

- Land Bank: iTaukei landowners have the option to have their lands administered by the government through the Land Bank (under the Land Use Decree, section 4.5) on the condition that 60% of the members agree. Under this arrangement, LOU elect members who are approved by the Prime Minister to act as trustees, representing the interest of the LOU. The trustees receive payments on behalf of the LOU and are then responsible for its distribution according to the specifications in their deed. There are no administration fees as the state guarantees payment and the lease distribution.
- Mineral royalties: The 2013 Constitution reaffirms the State ownership of all minerals in or under any land or water and provides for the entitlement of landowners and owners of customary fishing rights to receive a fair share of royalties or other money paid to the State for minerals extracted from their land. The Fair Share of Mineral Royalties Act passed in 2018 stipulates that any royalty must be shared in the following manner— (a) 20% of the royalty to the State; and (b) 80% of the royalty to the owner of the land and /or qoliqoli areas (beach, lagoon and reef).
- Trusts and Charitable Trusts: The funds managed by trustees under Trustee Act or under the Charitable Trust Act, are distributed by the Trust to the beneficiaries nominated in the trust deed, and in accordance with the rules set in the deed. A charitable trust has tax exemptions. For a charitable trust, a charitable purpose must be fulfilled by the trust, which specifically includes poverty relief, education, religion, and other purposes of public nature, in addition to anything declared by the Attorney General.
- Company: Non-profit organizations can be incorporated as a company limited by guarantee (under the Companies Act 2015), whereby members take on a share of the risk associated with business operations. Registering as a company limited by guarantee also permits registration with not-for-profit status, which features the same tax exemptions as a charitable trust.
- Co-operative: Members actively co-manage co-operatives (as registered under the Co-operative Act 1996) in pursuit of advancing shared socio-economic interests and providing benefits for members. Co-operatives are run by a board of directors with annual meetings and internal regulations. Once registered, a co-operative may also apply for tax exemption status for a period of eight years.

Specific examples of benefit sharing arrangements in Fiji include:

- Sovi Basin Protected Area

The Sovi Basin benefit sharing model involves cash benefits as lease payments to landowners combined with in-kind benefits as community development projects linked to community conservation agreements that engage the entire local communities (landowners and non-landowners) in forest protection.

The Sovi Basin Protected Area is secured under 99-year Conservation Lease issued by TLTB to the National Trust of Fiji (NTF) who adopted co-management system in partnership with landowners. The Sovi Basin program follows a trust fund model. The Sovi Basin Trust Fund was established with USD\$ 3.9 with funding support from Global Conservation Fund and Fiji Water Foundation. Monetary lease payments to landowners were started from 2009 and non-monetary benefits provided to beneficiaries from 2017. The

Trust Fund was established offshore in Singapore, and the National Trust for Fiji manages disbursements. The Trust Fund aims to provide benefits in perpetuity from the interest of the fund to support the conservation of the Sovi Basin Protected Area.

The primary objective of the program is conservation of the Sovi Basin Protected Area (16,304 ha) as an important lowland rainforest habitat for several key endemic and threatened species. The secondary objective is providing socio-economic development benefits to the beneficiaries – landowners and communities of four surrounding villages – in exchange for their collaboration to reduce threats to the Protected Area (namely, removal of African tulips and reforestation).

Landowners receive annual lease payments in cash, which totaled FJD\$98,000/year in 2018. Shared between the nine landowner groups (mataqali), this represents a payment of FJD\$2.50/ha/year. The National Trust pays lease rental to TLTB that in turn disburses funds to the landowners.

In addition, the paramount chief of each of the four communities surrounding the Sovi Basin Protected Area signs a community conservation agreement (CCA) committing to protect and monitor the forest in exchange for FJD\$ 10,000/year (*non-monetary benefit*). The use of funds is guided by the community development plan and designed to give benefits to everyone in the village (including landowners and non-landowners), so villagers decide how the funds are used. For villages with a bank account, the National Trust disburses money based on signed community meeting minutes and invoices about the use of funds; for the three villages without a bank account, the service provider is paid directly by the National Trust to prevent any potential misuse of funds. Implementation of funds generally involves support for activities like clean water supply, improvements/renovations for community halls, agriculture production (especially taro), and fish farming.

- Drawa Project

The Drawa benefit sharing model involves cash benefits as lease payments to the landowners with remaining carbon funds being shared as additional cash payments to the landowners and a women's group and a youth group. In addition, the local communities' benefit from livelihood projects that are paid from non-carbon community development support funds that have been received from other philanthropic donors.

The Drawa project follows a co-operative model. The Drawa Block Forest Community Cooperative (DBFCC) was established in 2011 and is composed of ten members which include the eight LOU (mataqali) that own the forest area plus a women's group and a youth group. The DBFCC has a 30-year REDD+ lease with TLTB for the conservation of the Drawa forest. The project is validated and verified under the Plan Vivo standard and began Emissions Reduction (ER) trading in 2018. The DFCC is responsible for managing the distribution of both the carbon and non-carbon benefits, while another organization (Live & Learn) provides business, governance, and technical support. The project has a 30-year agreement under the Nakau Program, which is a regional network of fair-trade carbon and conservation projects. Under this arrangement, the Nakau Program and Live & Learn each take a 20% administration fee, leaving 60% of the carbon revenues from the sale of ERs for the local beneficiaries. Lease operating costs are paid to the landowners through TLTB then DBFCC equally distributes the remaining funds to the ten co-operative shareholders.

- Nakauvadra Community Based Reforestation Project

The Nakauvadra benefit sharing model involves cash payments for tree planting and purchase of seedlings from tree nurseries managed by members of the local communities, combined with in-kind benefits in the form of additional revenue generating activities. No lease payments are made to landowners.

The primary goal of the Nakauvadra project is reforestation to sequester carbon, but it also aims to demonstrate carbon enhancement and behavior change through community engagement. Under this arrangement, willing landowning communities agreed to offer their land to be used for reforestation for 30 years, without any leasing costs. In exchange, the communities received employment, training, and income-generating opportunities, financed by Fiji Water's upfront purchase of carbon credits from the project.

Funds were distributed directly to village committees, who then distributed the monetary benefits as contractual payments to the members of the community involved in planting and maintenance activities. The traditional meeting structures were used to provide the necessary oversight.

Planting commenced in 2009 and ended in 2014, with some replanting in 2017 and 2018 to repair damage from Cyclone Winston. A total of 64 reforestation plots were planted ranging from 1 hectare to 100 hectares covering a total of 1,135ha. The project operated on a large scale with 26 villages participating in the project, representing 5,000 inhabitants, and involving 50 LOU. In addition to over USD\$600,000 cash benefits through employment of 300 people to plant 350,000 trees and sale of seedlings from 6 community nurseries generating income for 200 households, the project also provided in-kind benefits through donation of 35 beehives and training on honey making techniques. Other benefits included fishponds, planting of pandanus trees for women, fruit trees along fire breaks and supply of climate resilient crop varieties such as sweet potato, taro and yams.

- Emalu REDD+ Pilot Site

The Emalu forest was selected as a pilot site for the National REDD+ program in 2012 with an area of 7,347 ha of predominantly pristine forest. It has been issued a REDD+ Conservation lease of 99 years with a condition that it is handed over to the landowners in the 30th year. Clearing for agriculture and conventional logging are the two biggest threat to the pilot site. Avoided deforestation and forest degradation as well as removals through carbon enhancement activity are targeted REDD+ activities.

In terms of benefit sharing, the Emalu land owning unit is currently receiving monetary benefits from the lease money through TLTB as well as non-monetary benefits through the alternative livelihood projects for the community such as beehives, reforestation, agroforestry and training opportunities.

Existing benefit sharing mechanisms are considered under two categories: (1) institutional arrangements (TLTB, Land Bank, charitable trusts, cooperatives and companies) and (2) demonstrations of benefits sharing (Sovi Basin Protected Area, Drawa Project, Nakauvadra Community Based Reforestation Project and Emalu REDD+ Pilot Site). A comparison of the existing benefit sharing modalities discussed above and their relative strengths and challenges for the REDD+ benefit sharing mechanism are outlined in Table 1. This analysis provided important input for the development of the REDD+ benefit sharing mechanism described in Chapters 6-12.

Table 1: Strengths and weaknesses of various mechanisms in relation to REDD+

BSM	Strengths for REDD+ benefit sharing	Challenges for REDD+ benefit sharing
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● institutional arrangements		
TLTB	<ul style="list-style-type: none"> ● Proven track record since 1940 ● Clear process and benefits to landowners ● Premiums are upfront payments ● Landowners can be fined for breach of lease agreements (e. g. if trees are cut) ● Already accommodates special lease type for REDD+/conservation ● Affords long-term certainty and limits conflicts, given TLTB's vast historical data bank for all landowning units (LOU) in Fiji ● Interface of LOU data with external institutions systems such as banks makes direct payments to members easy and removes imperceptible practices associated with manual distribution ● Has dispute and grievances provisions for the landowners. ● Equal dividend payment to individual members of the landowning unit. ● Allows for flexible payments systems towards commercial and social projects under an assignment as collectively preferred by landowning units. ● Funds are invested for landowners under 18 years old until they become adults. ● Has the systems and reach to landowners all over Fiji. ● Considers the future land needs of the landowners. 	<ul style="list-style-type: none"> ● Only deals with landowners ● Relies on initiative of landowners to allocate funds for alternative livelihoods ● All benefit-sharing arrangements may be restricted within the allowable ambit of leases and licenses regulations ● Subject to limitation of laws and regulations ● There are two types of land market in Fiji, one is regulated and the other is market based. All agricultural leases are governed by ALTA where rent is regulated at 6% of Unimproved Capital Value (UCV). TLTB charges a new lease consideration or premium based on land classifications ● Open market is applied to all leases (non-agricultural leases) under a willing seller/ willing buyer basis ● Lack of capacity to assign value to customary rights and interests on land such as intangible value. (This a challenge not only for TLTB, but for Fiji) ● Administration fee, which is a charge of 10% on monies received on behalf of landowning units, are considered high.
Land Bank	<ul style="list-style-type: none"> ● Government has control of land so can decide on land use without further negotiation ● Issues cadastral leases ● Readily available and accessible for leases ● Direct payments of lease monies to LOU Trustees ● Administrative procedures are all managed by the Land Use Unit ● 100% payment of lease rentals to the LOU with no administrative costs paid to the Land Use Unit. ● Longer tenure of leases for commercial and agricultural purposes ● Protected leases. ● Guarantee of payment by the state ● Allows members of an LOU to determine how their wealth should be distributed and managed 	<ul style="list-style-type: none"> ● No opportunity to question the process ● Only deals with landowners ● No non-monetary benefits ● Lack of capacity to value cultural rights, biodiversity, and intangible values as there is no legislated requirement to incorporate above factors to form part of land value ● Land Use Unit of the Ministry of Lands is mandated the benefit of the LOU ● Political stability may affect appointment of trustees. The Prime Minister has the discretion to approve and appoint the elected members as trustees of the LOU or seek further names for appointment. ● Affordability of long-term leases over large parcels of land. ● Does not consider the future use of the landowners.

		<ul style="list-style-type: none"> • No legal redress mechanism in place to address disputes amongst the LOU when lease monies are released to trustees. •
Charitable trusts	<ul style="list-style-type: none"> • Landowners empowered to manage their financial resources from lease rental • They are free from taxation • Trust is governed by the trust deed act. • For charitable purposes only. • Non - profit organizations. 	<ul style="list-style-type: none"> • Lack of transparency and oversight leads to lack of trust in financial management • Registration formality under the act is limited. • Benefit is shared to the public and not only the targeted community. • The purpose is limited to relief of poverty, advancement of education, advancement of religion, and other similar purposes of a public nature. • Public accountability is limited. • Nonprofit entity.
Cooperatives	<ul style="list-style-type: none"> • Flexible and less onerous to create and manage • Can include non-landowners • Oversight by Ministry of Public Enterprise/Department of Cooperatives • Ownership usually rests with members, i.e. landowning unit or community • Primary purpose is to serve the needs of the members • Administered by the board and delivers a dividend and bonus as share of the surplus every year. • Equal sharing of benefits to all members. • Opportunities to other groups and new members to join • Tax holiday for up to eight years if registered. 	<ul style="list-style-type: none"> • Some degree of lack of transparency leads to lack of trust in financial management • Driven by market forces • The returns are lower as its main purpose is to service members and not maximise profits. • Requires at least eighty per cent (80%) of members to be permanent full-time employees
Companies	<ul style="list-style-type: none"> • A company limited by guarantee and incorporated under the Companies Act 2015. • Separate entity that can support long-term sustainability of the targeted community initiatives 	<ul style="list-style-type: none"> • Driven by market forces • More sophisticated set-up (administrative costs, risks and complexities). • More capital upfront • Can incur investment losses • A legal or accountancy firm engaged to meet all the regulatory requirements. • To apply for a not-for-profit / tax exemption status, the articles of association to indicate how the assets will be distributed if company ceases operations.
<ul style="list-style-type: none"> • demonstrations of benefits sharing 		
Sovi Basin	<ul style="list-style-type: none"> • Provides a model for monetary benefits (cash) to landowners combined with non-monetary benefits to entire communities to 	<ul style="list-style-type: none"> • The transaction costs for annual negotiation and disbursement for the non-monetary benefits are high. The Sovi Basin Trust Fund

	<p>create incentives for all people in the surrounding communities to participate in conservation. This approach recognizes rights and opportunity costs.</p>	<p>covers salaries for 2 staff but also needs significant time and support from the National Trust Director and CI staff whose time is not covered.</p> <ul style="list-style-type: none"> • The landowner who owns 80% of the land in the Sovi Basin Protected Area thinks that non-monetary funds should be allocated to each village based on the proportion of land owned, which would give their village a larger share. However, this would not provide sufficient incentives for the other villagers. • Costs of reforestation and labor to remove African tulips are currently not covered.
Drawa	<ul style="list-style-type: none"> • Monetary benefits include lease payments and equal share of the remainder between 8 LOU and to 2 associations • Plan Vivo documentation is detailed and transparent with independent verification • Cooperative is flexible so LOU can join or leave 	<ul style="list-style-type: none"> • Only 60% of the carbon revenues go to local stakeholders • The reference level and MRV will need to be aligned with national approach – which will change the ERs generated and the methodology used. It will no longer be possible to use Plan Vivo methodologies and sell Plan Vivo credits. ERs generated and exported from Fiji will need to be canceled from the national account in the future.
Nakauvadra	<ul style="list-style-type: none"> • The local communities received significant benefits as they were paid to plant trees and they received in-kind benefits. • Upfront payments paid for the costs and labor of tree planting. • A lot of benefits flowed to the community from the work they carried which led to good behavioral changes to protect the forests in some communities 	<ul style="list-style-type: none"> • No further carbon finance will be received. Fiji Water paid up front for the planting costs and other in-kind benefits in exchange for all ERRs generated over 30 years from 2009. No further funds will be transferred. No funds are available for maintenance of the trees after 2019. • ERRs generated must be canceled from the national account to avoid double payment for the same ERRs. • No lease arrangements so no ongoing cash payments to landowners but they did receive 4x normal planting rate. • Upfront payment maybe doesn't cover opportunity cost for next generation. • Low transparency on the funding received and how it was distributed within the community. Though a lot of benefits flowed to the community, it was not clear who received what and this is quite common in the community setting. The benefits flow in for the work that was done and not for the behavioral changes in the community over time.
Emalu	<ul style="list-style-type: none"> • One landowning unit in one village - makes it simple 	<ul style="list-style-type: none"> • Does not consider beneficiaries from other villages closer to the project site that were

	<ul style="list-style-type: none"> • Non landowners have received benefits through training program as well as livelihood projects that were developed for the village 	<p>displaced but are not part of the landowners' village.</p> <ul style="list-style-type: none"> • Benefits are not performance based, as there is no conservation agreement for the non-monetary community benefits and there is no formal arrangement with the communities.
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5. Legal, regulatory and policy review and analysis

5.1 Introduction

A sound legal basis for the REDD+ benefit sharing mechanism (BSM) is essential in providing legal certainty, inspiring confidence of all stakeholders, preventing disputes and importantly in achieving the emissions reduction objectives of REDD+ in Fiji.

The BSM legal regime should comply with and contribute to:

- international law, most importantly the UN climate agreements because REDD+ operates in the context by the rules and of the UN climate negotiations, and also other multilateral environmental and relevant international agreements ratified by Fiji;
- national inter-sectoral and sectoral policies, strategies and plans; and
- national laws and regulations.

Other important considerations in the determination of all elements of the benefit sharing mechanism are the cultural context of Fiji including its customary land tenure system, as well as the views and preferences of stakeholders expressed during the divisional and national BSM consultations.

The review of international and national legal and policy frameworks that may influence Fiji's REDD+ benefit sharing mechanism is structured around the key elements of the benefit sharing mechanism:

- REDD+ beneficiaries;
- REDD+ benefits and their distribution between beneficiary groups, and
- REDD+ institutional arrangements, for the governance and distribution of benefits.

This review does not cover carbon rights, and Feedback, Grievance and Redress Mechanisms (FGRM) for REDD+, as they are addressed in separate studies.

5.2 Beneficiaries

5.2.1 Beneficiaries - introduction

The identification of who, or which stakeholders' groups, should be beneficiaries of REDD+ monetary or non-monetary carbon benefits should be guided by the ultimate objective of the benefit sharing mechanism to create incentives to achieve long term emissions reductions, and be consistent with the relevant international and national laws and policies. The identification of potential beneficiaries should also be guided by the principles and objectives of REDD+ Benefit Sharing Mechanisms articulated in or

inferred from international agreements, as they have been and that were defined for Fiji during the consultations conducted as part of this study.

The divisional consultations conducted for the purpose of the REDD+ BSM study have identified the following categories of beneficiaries: (i) those with legal rights; (ii) those essential to facilitate/enable results (e.g. government, private sector, NGOs etc.), (iii) those incurring costs; as well as (iv) good stewards (currently maintaining resources) and (v) those whose behavior needs to change.

The following review of (1) International law (2) National Policies, and (3) National laws and regulations aims to highlight the relevant provisions that may assist in identifying the potential beneficiaries of REDD+ and the legal basis underpinning their claims to benefits.

5.2.2 International Law and REDD+ beneficiaries

Multilateral Environmental Agreements ratified by Fiji, and particularly the 'Rio Conventions' (UNFCCC, CBD, and UNCCD) typically emphasize a social objective in addition to their respective environmental objectives. REDD+ BSM is one of the tools that may contribute to these social objectives.

The UNFCCC and associated climate agreements do not prescribe any particular approach for REDD+ BSM nor do they provide much practical guidance on how to implement REDD+ BSM at national level. Parties are expected to decide the appropriate architecture and processes for REDD+ BSM based on national circumstances and capacity, and in line with respective law and policy framework.

Some limited guidance on who may be considered as beneficiaries of REDD+ benefits may however be found in UNFCCC COP decisions and agreements on REDD+. Annex 1 of the UNFCCC COP 16's Cancun Agreement⁴⁵ calls for a broad participation of all stakeholders in REDD+ activities, with emphasis on indigenous and local communities. The Paris Agreement encourages the Parties to the convention to ensure that REDD+ activities are implemented on the basis of equity, and in the context of sustainable development focusing on efforts to eradicate poverty. In the context of communally owned land holding as in the case of Fiji, this points to the need to consider REDD+ beneficiaries beyond the individuals or groups with legal rights to land, forests or emissions reductions and removals.

The Paris Agreement has been noted for containing the first express mention of human rights in a climate change treaty. Recital 12 of its Preamble states:

"Acknowledging that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity."

⁴ UNFCCC COP 16, 2010, The Cancun Agreement calls for the parties to ensure "the full and effective participation of relevant stakeholders, inter alia, indigenous peoples and local communities" in REDD+ activities. Art. 72

⁵ The Paris Agreement adopted at UNFCCC COP 21, 2016 encourages the parties to achieve a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases, including forests on the basis of equity, and in the context of sustainable development and efforts to eradicate poverty (art.4)

The Convention on Biological Diversity (CBD) contains provisions on benefit sharing in relation to the utilization of genetic resources, further detailed in the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (ABS). The ratification of the Nagoya Protocol by Fiji which has prompted the development of a national ABS regulatory framework including the implementation of the Free Prior and Informed Consent (FPIC) principle, a principle that is also to be part of the REDD+ regime in Fiji.

A human-rights approach is encouraged by climate and other multilateral environmental agreements and has been endorsed in Fiji's policies. The international human rights instruments are thus relevant to the implementation of climate mitigation mechanisms, including REDD+ and should influence the definition of BSM beneficiaries. In particular, the recognition of the rights of indigenous people are at the core of the UN Declaration on the Rights of Indigenous People. Although Fiji has not signed the Declaration, it is an integral part of Fiji's law and policy framework and is recognized in the Constitution.

It should also be noted that Fiji is a Party to the International Labor Organization Indigenous and Tribal Peoples Convention (ILO C169) that asserts that *"The rights of the peoples concerned to the natural resources pertaining to their lands shall be specifically safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources."* [Art. 15(1)].

5.2.3 Fiji policies that may influence the definition of beneficiaries

Fiji has adopted a range of cross-sectoral and sectoral policies, strategies and plans, that support REDD+ activities and should be considered in the design of the REDD+ BSM. Their provisions relating to potential BSM beneficiaries are highlighted in the brief review below (in chronological order).

1. **National Climate Change Policy (NCCP), 2019**

The new NCCP 2018-2030 was endorsed by Cabinet and announced in May 2019, replacing the 2012 National Climate Change Policy. The policy will guide sustainable development of the Fijian economy through 2030, consistent with the priorities of the National Development Plan and Fiji's National Determined Contributions to the Paris Agreements' commitments. The new NCCP adopts a "woven approach to resilient development", that aligns with a strategic approach to achieving the Sustainable Development Goals. The objectives and strategies of the NCCP are presented in three clusters: (1) foundation (national risk governance and global climate action); (2) dimensions (climate change adaptation and mitigation); and (3) pathways (capacity development, sustainable financing and private sector transition and engagement). Notably, the policy mandates the establishment of new bodies and new institutional arrangements; calling for new climate change legislation - a Climate Change Act (discussed further in this study).

The NCCP focuses on mitigation and adaptation outcomes. Forests are included through the objective to preserve and enhance Fiji's natural carbon sinks and carbon reservoirs. Although there is no specific provision for REDD+ benefit sharing in the NCCP, the founding principles and values of the NCCP's objectives are consistent with the principles and objectives of the REDD+ benefit sharing mechanism as they have emerged in the consultative meetings. Of relevance are the NCCP's:

- pillar of a human rights-based and gender inclusive approach;

- guiding principles of inclusivity and social cohesion;
- values of inclusivity and equity; and
- the call for the design of climate change-related interventions to capture the needs of all social groups, in particular vulnerable groups, through a participatory approach.

The National Adaptation Plan (2018) and the Low Emissions Development Strategy (2018) are associated climate change related policies that REDD+ benefit sharing mechanism will support.

2. 5-Year - 20-Year National Development Plan 2017-2021 and 2017-2036

Fiji's National Development Plan (NDP) highlights Fiji's policy alignment to the Sustainable Development Goals and the Paris Agreement. Part of the strategy towards emissions reductions and climate neutrality include the development of plantations, support to reforestation, forest conservation and sustainable forest management, with an increased involvement of the private sector in forest management.

3. National Biodiversity Strategy and Action Plan 2017- 2024 (NBSAP)

The Goal of the NBSAP is *'To conserve and sustainably use Fiji's terrestrial, freshwater and marine biodiversity, and to maintain the ecological processes and systems which are the foundation of national and local development'*.

The principles underpinning Fiji's NBSAP most relevant to the definition of beneficiaries include:

Principle 1 Community participation and ownership: recognizing the ownership of natural resources in Fiji and calling on wide stakeholder participation to reduce the risk to habitat loss due to climate change and natural disaster;

Principle 2 Biodiversity as the foundation for all development: Biodiversity is as a collective responsibility of all levels of the society incorporating inter-generational equity to ensure the sustenance of current and future generations of Fijians.

Principle 4 Gender Mainstreaming: recognizing the importance of integrating gender views and concerns into implementation of nature-based solutions.

Principle 6 Managed and Protected Areas (for species protection, forest, watersheds and marine) should be comprehensive and representative: sustainable management, restoration and protection of Fiji's natural forest is the single most important means of conserving the vast majority of Fiji's endemic flora and fauna.

Principle 8 Financial sustainability and accountability: ensuring long term strategic planning and resource mobilization that sustains conservation over time and recognizing the need for accountability at all levels of governance.

4. Green Growth Framework for Fiji (GGFF), 2014

The GGFF acknowledges the obligations of Fiji under Multilateral Environmental Agreements. Its guiding principles include the 'responsible stewardship of Fiji's ecosystem'. This may be interpreted in the context of REDD+ to include all stakeholders who contribute to responsible stewardship of forest resources.

5. 2020 Agriculture Sector Policy Agenda “Modernizing Agriculture” (ASPA) 2014

The Agriculture Policy Agenda’s goal to “*Establish a diversified and economically and environmentally sustainable agriculture economy in Fiji*” points to including in the REDD+ BSM beneficiaries the commercial and small-scale farmers who adopt sustainable and climate-smart farming practices. ASPA also promotes innovation for climate-smart agriculture practices that generate both adaptation and mitigation benefits

6. Fiji REDD-Plus Policy, 2011

The Fiji REDD-Plus Policy acknowledges that majority of Fiji’s forests are owned by Fiji’s indigenous people and that their knowledge and rights shall be guaranteed, with reference to Declaration on the Rights of Indigenous Peoples (UNDRIP) and , the Convention for the Safeguarding of the Intangible Cultural Heritage (UNCSICH), and other international instruments on rights of indigenous people.

The Policy calls for the safeguards to be ensured for all REDD-Plus initiatives and projects in Fiji, and its provisions bearing on the definition of BSM’s beneficiaries include the following policy principles:

- full and effective participation of indigenous people and other relevant stakeholders;
- equitable distribution of benefits to rights owners;
- consideration of gender issues in all phases of decision-making and implementation;
- no conversion of natural forests but will reward the protection and conservation of natural forests and their ecosystem services, and
- enhance other social and environmental benefits.

7. Fiji Forest Policy Statement, 2007

With the goal to attain “the sustainable management of Fiji’s forests to maintain their natural potential and to achieve greater social, economic and environmental benefits for current and future generations”, some principles and objectives of the Forest Policy Statement may contribute to the determination of REDD+ beneficiaries. They include:

- Increased engagement by landowners and communities in sustainable forest management and an equitable distribution of benefits from forest products and processes including ensured protection of intellectual property rights.
- Enhanced national capacity to manage and develop the forest sector in a collaborative approach with involvement of all stakeholders.

8. Integrated Rural Development Framework (IRDF)

The Integrated Rural Development Framework (IRDF) was proposed in 2009 and in principle endorsed by Cabinet but is yet to be formally adopted

The IRDF proposes to shift from a sectoral to an integrated approach to rural development, planning and implementation, through a participatory comprehensive cooperation between all institutions and stakeholders at national, provincial and local levels, combining top-down and bottom-up approaches. When adopted the Commissioners of the 4 Divisions (Central, Western, Eastern and Northern Divisions) will have full powers to control human and capital resources to drive and coordinate the economic development program of their respective Division, in line with the National Development Plan. This includes rural roads, water supply, electricity, public health, education, agriculture, fisheries and, importantly in the context of REDD+, forests. IRDF is to be implemented through the creation of multi-stakeholder boards at Divisional, Provincial, and District levels. The IRDF also provides for building community resilience and ownership of their own agenda, with capacity strengthening at community

levels for contributing to provincial and divisional planning. This inclusion of all members of villages and communities as part of a multi-stakeholder communication and decision-making process with two-ways communication channels from communities to government has been identified as a useful platform for the implementation of REDD+ benefit sharing mechanism.

5.2.4 Review of national legislation that may influence the definition of REDD+ beneficiaries

The review of national laws and regulations is mostly useful in identifying REDD+ stakeholders with legal rights and those who are essential to the emissions reduction activities.

5.2.4.1 Potential Beneficiaries by virtue of legal rights

1. Landowners

The *Land Transfer Act* provides a secure system of land title by registration and applies to all three categories of land title ownership: Freehold, State or iTaukei lands. The *Land Transfer Act* defines land to include everything on or under the land, including all trees and timber, unless specially excepted⁶. An example of such exception is the ownership of all minerals which is vested in the State by the *Constitution*, and the *Minerals Act*. Almost 90% of land and forests in Fiji are owned communally by iTaukei landowning units (LOU).

2. iTaukei landowners

iTaukei landowners, or Landowning Units (LOU) have been owners and custodians of lands and forests in Fiji for generations and remain the largest group responsible for land management with opportunities to contribute to conservation and sustainable management of forests, consistent with the Fiji's laws. These include iTaukei Land Trust Board and Ministry of Lands Land Use Unit for designated land to scrutinize the issue of leases and licenses for appropriate land uses. Eligibility to participate in REDD+ benefit sharing may encourage LOU to adopt practices mitigating the impact of drivers of deforestation (such as forest fires, unsustainable agriculture) and enhance carbon storage through forest conservation measures or community woodlots reducing the harvesting of native forests, thus contributing to emissions reductions and removals.

The *Constitution of the Republic of Fiji* recognizes the rights of ownership and protection of iTaukei⁷ lands and entrenches this right by stating that those lands shall not be permanently alienated⁸. The only exception is the compulsory acquisition of those lands by the State for public interest purpose and on just equitable compensation terms⁹.

⁶ s. 2(1) of the Land Transfer Act. "Land includes land, messuages, tenements and hereditaments, corporeal and incorporeal, of every kind and description, together with all buildings and other fixtures, paths, passages, ways, watercourses, liberties, privileges, easements, plantations, gardens, mines, minerals and quarries, and all trees and timber thereon or thereunder lying or being unless any such are specially excepted".

⁷ as well as Rotuman and Banaban lands

⁸ s. 28 of the Constitution of the Republic of Fiji, 2013.

⁹ s. 27 of the Constitution of the Republic of Fiji, 2013.

Close to 90% of land in Fiji, is owned communally according to iTaukei customs iTaukei owners are defined in the iTaukei Lands Act as the mataqali (sub-clan) or other division or subdivision of the iTaukei having the customary right to occupy and use any native lands.¹⁰

The iTaukei Lands Act asserts iTaukei land ownership according to customs, subject to any regulations made by the iTaukei Land Trust Board (TLTB)¹¹. Notably, iTaukei land cannot be sold except to the State, by compulsory acquisition for public purposes only where fair and equitable compensations payable. It reverts back as iTaukei land if no it is longer required for public purposes. It can however be leased up to a maximum term of 99 years but only by the TLTB or by the Ministry of Lands for land held in the Land Bank under the Land Use Act."

Customary rights to take and use of forests and forest products

Ownership of land and trees does not immune landowners from compliance with the provisions of legislations such as the iTaukei Lands Act or the Forest Act. Customary rights of iTaukei landowners are preserved by law. A forestry license is not required for the exercise of customary hunting, cutting and taking and fishing rights for domestic purpose¹² under the iTaukei *Land (Forest) Regulations*. The *Forest Act* similarly protects the customary rights of individual landowners to cut or remove forest produce from iTaukei land. Any commercial transaction of timber or non-timber forest product is permitted subject to fulfilment of license condition. It is also noted that the iTaukei Lands Trust Act requires consent of the landowners when iTaukei land is leased and these rights do not apply to forest or nature reserves.¹³

3. Carbon rights owners

In the context of this Benefit Sharing Mechanism study, forest carbon rights are considered in terms of rights to benefit from payments for emissions reduction and removal (ERR) at jurisdictional level, that is the national level where the emissions reductions are calculated. The Government of Fiji, through the Ministry of Economy, has entered into a binding agreement with the International Bank for Reconstruction and Development (IBRD) acting as the trustee of the Forest Carbon Partnership Facility (FCPF), for the exclusive right to trade emissions reductions and removals resulting from the 'Reducing Emissions and Enhancing Livelihoods in Fiji' Program.

The legal definition of forest carbon ownership and rights is subject to a separate study. It is noted however that during the High Level Benefit Sharing Mechanism and Carbon Rights Consultation meeting held on May 6th-7th in Fiji, a clear preference has emerged for a system whereby the ownership of forest emissions reductions and removals is vested with the owners of the land and the trees, in line with Fiji's tradition of land ownership, and the right to trade emissions reductions and removals at jurisdictional level is assigned to the State, consistent with the letter of intent between the Ministry of Economy and IBRD.

4. Lease and license holders

Lease and license holders have rights as outlined in the conditions or terms of their lease or license. They may be beneficiaries because of these rights, for example forest conservation or REDD+ leaseholder. , or because eligibility to a share of REDD+ benefits would incentivize them to adopt practices that result in

¹⁰ s. 2 of the iTaukei Lands Act

¹¹ s.3 of the iTaukei Lands Act

¹² Reg. 7, *iTaukei Land ((Forest) Regulations*

¹³ s.21, Forest Act 1992

emissions reduction and removals (for example timber harvesting license holders adopting sustainable forest management practices or agricultural lease holders practicing agroforestry).

Holders of Leases and licenses on iTaukei land

With iTaukei lands representing approximately 90% of all land in Fiji, most land and forests leaseholders are lessees of iTaukei lands.

The iTaukei Land Trust Board (TLTB) was established by the iTaukei Land Trust Act (TLTA) to administer (or “control” in the language of the Act) iTaukei land for the benefit of iTaukei landowners¹⁴. The TLTB’s role, powers and responsibilities as trustee of iTaukei landowners are defined in the TLTA. The TLTB may lease and grant rights on iTaukei land by way of license “as it deems proper” and consistent with the *iTaukei Land Trust (Leases and Licenses) Regulations*¹⁵, including ensuring that the land is not being used by the landowners and will not be required for their use, maintenance or support.¹⁶

The standard conditions applicable to each of the various categories of leases granted by the TLTB are prescribed in Schedule 4 of the TLTA. They include, inter alia, residential, agricultural, gardening leases, as well as “special purpose” leases. The latter has enabled the TLTB to create new categories of leases that are of particular interest in the context of REDD+, such as conservation leases (e.g. Sovi Basin conservation lease) or REDD+ conservation leases (e.g. the Emalu REDD+ lease). The maximum length of leases granted by the TLTB is prescribed at 99 years,¹⁷ except for agricultural leases that have a 30-year term under the Agricultural Landlords and Tenants Act.

Lessees of designated land under the Land Use Act

iTaukei lands designated¹⁸ and held in the Land Bank under the *Land Use Act* are no longer managed by the TLTB but by the Land Use Unit, in the Ministry of Lands and Mineral Resources. Leases granted by the Land Use Unit are protected leases¹⁹ with a term of up to 99 years.²⁰ They may be issued with terms and conditions determined by the Land Use Unit, without consultation with, or recourse available to the landowners²¹, considering that any lease “*shall take into consideration at all times the best interest of the landowners and the overall wellbeing of the economy*”²².

Tenants of Agricultural lands.

Unsustainable agricultural practices are a key driver of deforestation and forest degradation in Fiji. Tenants of agricultural land have both rights to the land and need incentives to practice sustainable and climate-smart agriculture.

¹⁴ s.4 iTaukei Land Trust Act 1940 [Cap 134]

¹⁵ s.4 &10 iTaukei Land Trust (Leases and Licenses) Regulations 1985, as amended.

¹⁶ s. 9 iTaukei Land Trust Act

¹⁷ Reg.6, iTaukei Trust Land (Leases and Licenses) Regulations

¹⁸ with the consent of landowners (Reg. 4, Land Use Regulations 2011) and at the discretion of the Prime Minister (s.6, Land Use Act)

¹⁹ A protected lease may not be in any way the object of a sublease or of any change or any suit in a court of law without the written consent of the Director of Lands (s.12 of the Land Use Act)

²⁰ s.10 Land Use Act

²¹ Part 7, Land Use Act

²² s.11, Land Use Act

The *Agricultural Landlords and Tenants Act* (ALTA) applies to most agricultural land in Fiji, with the intent to harmonize the rights and obligations in all contracts of tenancy of agricultural land, which includes fruit farming and forestry²³. However, ALTA does not apply to all agricultural lands. Exempts are:

- land with an area less than 1 hectare (which effectively exempts a large population of small farmers in Fiji)
- tenancies held by members of a registered cooperative society of agricultural land, where the society is the landlord
- all land in iTaukei reserve.

An interesting feature of ALTA, from the perspective of emission reduction benefits, is the obligation of tenants to practice “good husbandry”, defined as to include applying minimum standards necessary to protect and conserve the soil, maintenance of the fertility of the agricultural holding, control of pests, diseases and noxious weeds²⁴.

Tree Plantations

Land is defined to include the trees and timber²⁵, but when forests are planted on leased land with the consent of the landowner (plantations), the ownership of the trees resides with the lessee during the term of the lease.

The operation of forest plantation activities requires compliance with the regulations applying to forestry/timber harvesting activities, except for mahogany plantations which are exempted from the Forest Act 1992²⁶, and are poised to be also exempted from the new Forest Act when the Forest Bill is passed²⁷.

Forestry licenses

A land lease does not authorize the lessee to fell or extract timber on the leased land without a license²⁸ and the consent from the relevant authority representing the landowner (Director for Land for State land or TLTB for iTaukei land). The Ministry of Forests, under the *Forest Act*, regulates all forests and forest produce (except mahogany plantations) through licensing. There are 2 types of timber extraction licenses: long term concessions (10-30 years) and shorter-term licenses, with the annual licenses being the most common for native forests harvesting native forests. The prevalence of annual or short-term forest harvesting licenses does not create any incentive to manage forests sustainably. In response to this situation, the *Forest Bill* introduces a new type of licenses, the Forest Management License. Under the new Forest Act, when enacted, the Conservator of Forests will have the power to issue a Forest Management Licenses for the purposes of creating long term tenures for persons, organizations or companies which can demonstrate a commitment to sustainable forest management in the planting and

²³ s.2 of the Agricultural Landlords and Tenants Act defines agricultural land as “*land, together with any buildings thereon, used or proposed to be used predominantly for the growing of crops, dairy farming, fruit farming, forestry, horticulture, bee keeping, poultry keeping or breeding or the breeding, rearing or keeping of livestock*”

²⁴ s.13, Agricultural Landlords and Tenants Act

²⁵ Land Transfer Act

²⁶ s.2A of the Forest Act 1992 as amended by s.17 and Schedule 3 of Decree No.16 2010, Disapplication of the Forest Act, provides that “This Act does not apply to land that is mahogany plantation”

²⁷ s.53 Forest Bill 2016

²⁸ Both the iTaukei Land (Forest) Regulations (Regs 3 & 4) and the Forest Act (s. contain a requirement for a license to fell, cut or harvest trees and forest produce)

harvesting of trees within a forest plantation²⁹. The holder of such license will have a stronger case for eligibility to a share of REDD+ benefits.

Fiji Forest Harvesting Code of Practice (FFHCP)

The 1990 FFHCP was revised in 2013 to align with *Fiji Forest Policy Statement's* objective of sustainable forest management by setting minimum standards and best practice, such as buffer zones and harvesting plan, with '*special attention (to) be given to areas of biological and archaeological significance*' and with the aim to '*to design a mutually acceptable and practical Harvesting Plan*'. Compliance with the FFHCP is attached to the license issued by the Ministry of Forests. The Code applies to all forests in Fiji, native and plantation forests, and is legally binding.

Environmental Impact Assessment (EIA)

Any activity or undertaking that is likely to alter the physical nature of any land requires approval from a government authority and requires an environmental impact screening. Commercial logging is one of the activities listed in Schedule 2 of the *Environmental Management Act* requiring approval from the EIA administrator (i.e. the Department of Environment).

Large commercial Pine and Mahogany plantations

Pine and mahogany plantations constitute the majority of tree plantations in Fiji. Plantations are expected to increase with the impetus of the NDP, with an increasing role of the private sector.

One of the largest tree plantation industries in Fiji is the pine plantation industry. Pine plantations are regulated under the *Forest Act* and the *Fiji Pine Act 1990* which established Fiji Pine Limited, a private company with the government holding the majority of shares. The Fiji Pine Trust is established under this Act. The Trust administers the Forest Industry Assistance Fund. This Fund is designed to further the Government's economic goals for the forestry industry and provides assistance to the forest industry including the development of landowners in the form of advisory, financial, managerial, marketing and any other assistance relating to the industry.

The *Mahogany Act 2010* regulates the mahogany plantations and shifts the Ministry responsible for the mahogany plantation forests from the Ministry of Forests to the Ministry of Public Enterprises, with the stated objective to maximize the economic benefits for the country, as well as benefit the landowners through fair returns. The *Forest Act* no longer applies to mahogany plantations. Another feature of the Mahogany Act is the 'de-reservation' of any plantation located in a forest or nature reserve, enabling logging. The Act establishes the Mahogany Industry Council, an autonomous entity responsible for supervising and directing the maintenance and development of the national mahogany industry and overseeing the Fiji Hardwood Corporation Limited (FHCL), which owns the majority of mahogany forests, and Fiji Mahogany Trust in the performance of their functions and the attainment of the objectives of the Act.

5. Beneficiaries of trusts, cooperatives or companies

A trust is a legal entity created by a deed under common law and the *Property Law Act*³⁰. A trust deed is a private law document whereby trustees are appointed to hold or manage a property (money, assets, land, etc.) on behalf and in the best interest of the beneficiaries. A trust deed sets out the relationship or association between parties, the nature of the property held in trust, and the beneficiaries of the trust,

²⁹ s.21 Forest Bill 2016

³⁰ ss.4-6 Property Law Act 1971 [Cap 130]

conferring them a legal right. All trusts are regulated under *Trustee Act*. Beneficiaries of trusts can be any entity named in the trust deed, such as LOU, communities, NGOs, Private sector.

Fiji is well familiar with trusts, and LOU commonly have established trust to manage community funds. For example, the TLTB, pursuant to the *iTaukei Land Trust Act*, requires LOU to elect trustees to manage assignment of lease funds. Prior to the complete digitalization of the Vola ni Kawa Bula that allowed the direct transfer of funds to members of the LOU, TLTB distributed (and in some instances still distributes) land rental benefits to LOU trustees for them to redistribute to the members of the LOU members. The *Land Use Act* also requires that the LOU of designated land elect trustees to receive and redistribute the funds.

Beneficiaries may derive their rights to benefits from other types of legal entities, such as such as a charitable trust under the *Charitable Trust Act*, a statutory trust created by an Act of Parliament such as the TLTB and the National Trust Fund, a cooperative established under the *Cooperatives Act* or a company created under the *Companies Act*. These are discussed further are discussed below in the section on Institutional Arrangements.

5.2.4.2 Potential beneficiaries by virtue of their essential role in facilitating or enabling emissions reductions and removals

The results-based nature of REDD+ calls for the BSM to consider the entities that play an essential role or have responsibilities (but not a right) with respect to land, forests, and their use in facilitating or enabling emissions reductions and removals even though they may not necessarily have a legal ownership of or use rights to the land or trees.

In this category could be included:

- (i) Stakeholders who may not have a legal right to land and forest but whose support is needed for the success of the ERR activities e.g. forest-dependent community members who are not landowners but are users of forests and forest products (usually as a result of informal arrangements with the landowners);
- (ii) Stakeholders that could play a role in distribution of REDD+ benefits – These entities may be considered as recipient of a fixed amount or a percentage of benefits to finance or compensate for the expenses associated with their continued their role in the benefit sharing mechanism.

They include:

- Statutory Trusts (TLTB, Land Use Trustees, National Trust of Fiji, Environment Trust Fund)
- Government Ministries and Departments at national level: Economy, Forests, iTaukei Affairs, Rural Development, Infrastructure and Transport
- Subnational levels: Divisional Boards/ Working groups, Provincial Councils, District Councils, YMSTs
- The private sector: private companies, investors in REDD+ activities)
- CSOs/NGOs facilitating REDD+ activities.

These are reviewed in the Institutional Arrangements section below.

5.3 Benefits

5.3.1 Benefits - introduction

This section provides a review of international conventions and agreements, and of national policies and legislation relevant to REDD+ benefits and their distribution

The activities conducted in the context of REDD+ generate a broad range of environmental, social and economic benefits that are classified in two categories: carbon benefits, which are derived from results-based finance related to emissions reductions and removals, and non-carbon benefits, which are all other benefits. The BSM is concerned with the sharing mechanism of carbon benefits only, whether they are distributed in the form of monetary benefits, or non-monetary benefits.

Forest carbon benefits that will be shared between beneficiaries according to the benefit sharing mechanism model adopted in Fiji, will be generated by the sale of emission reductions credits through Emissions Reduction Purchase Agreements (ERPA). The purchase price is calculated on the basis tons of carbon dioxide equivalent of emissions reductions and removals additional to the emissions reference level. In Fiji, at the jurisdictional (national) level, where the emissions reference level is calculated, carbon benefits from the Emission Reduction Program (ERP) will be received by the Ministry of Economy³¹, on behalf of the Republic of Fiji, pursuant to the Letter of Intent (LOI) signed in December 2016 by the Minister for Economy with the International Bank for Reconstruction and Development (IBRD) (the Parties), the latter acting as trustee of the Carbon Fund of the FCPF. The Parties agreed to negotiate and execute ERPAs for the transfer of emission reductions from Fiji's Emission Reduction Program during the exclusivity period of the LOI³². The IRBD will purchase the Emission Reductions, provided that they comply with the World Bank Safeguards and the General Conditions applicable to the ERPA for Forest Carbon Facility-ERP, at a price agreed by the Parties and with an agreed maximum contract volume of 3.6 million tons of carbon dioxide equivalent, a modest volume by international standards.

REDD+ benefits and their distribution, as all elements of the BSM, ought to be determined in compliance with the rules of relevant international law, national policies and legislation, reviewed below.

5.3.2 International law and REDD+ benefits

The Paris Agreement (art.5) encourages the parties to take action to conserve and enhance, as appropriate, sinks and reservoirs of greenhouse gases, including forests. The Agreement also encourages the Parties to implement and support, including through result-based payments, the Cancun Safeguards and positive incentives for activities relating to REDD+, as well as joint mitigation and adaptation approaches for integral and sustainable management of forests. It reaffirms the importance of incentivizing non-carbon benefits associated with such approaches. The Warsaw Framework recognizes the importance of incentivizing non-carbon benefits for the long-term sustainability of the implementation of the REDD+ activities. It emphasizes that results-based finance may come from a wide variety of sources, public and private, bilateral and multilateral, including alternative sources. REDD+

³¹ The LOI provides for a ministry other than the Ministry of Economy to represent Fiji in the negotiation and execution of ERPA, provided that this decision is made and the Trustee notified at the beginning of the ERPA negotiations.

³² The LOI was amended to extend the exclusivity period from 24 months to 44 months from the date of signature of the LOI.

benefits under the international climate regime are generated through a national system, and the Cancun Agreement requests developing countries to develop a national strategy or action plan for REDD+, and a national forest reference emission level and/or forest reference level.³³

In considering the system adopted for the distribution of benefits, and in particular between the beneficiary groups (horizontal) it should be consistent with the international safeguards requirements (World Bank Environmental and Social Safeguards and the Cancun Agreement's safeguards), including the principles of inclusiveness, efficiency and transparency, as well as the respect of indigenous peoples' rights and gender inclusiveness. Fiji's LOI with the IBRD in the context of the FCPF expressly requires the compliance with the World Bank Safeguards as a condition of purchase of emission reductions.

5.3.3 Fiji policies that may influence REDD+ benefits and their distribution

The *5-Year 20-Year National Development Plan 2017-2021 and 2017-2036* mentions the REDD+ financial benefits that will be generated through the identification of more areas under the Fiji REDD+ Programme to protect the forests (carbon benefits). The NDP also highlights that the expansion of the REDD+ Programme will support Fiji's commitment to reduce carbon emissions, an additional non-carbon benefit.

The *2020 Agriculture Sector Policy Agenda "Modernizing Agriculture" 2014* promotes innovation for climate-smart agriculture practices that generate both adaptation and mitigation benefits, noting that this should result in less forest conversion to agriculture for food security.

Fiji REDD-Plus Policy 's provisions on the REDD-Plus Programme objectives include to "*maximize benefits arising from carbon and climate-related financial instruments.*"

The Policy lists the safeguards to be ensured for all REDD-Plus initiatives and projects in Fiji, including: "no conversion of natural forests but will reward the protection and conservation of natural forests and their ecosystem services, and will enhance other social and environmental benefits"

Fiji Forest Policy Statement highlights the non-carbon benefits of forest conservation measures (ecosystem conservation, biodiversity)

5.3.4 National legislation that may influence REDD+ benefits and their distribution

There are already existing in Fiji several models of benefit sharing arrangements, mostly (but not exclusively) for the distribution of benefits to iTaukei land and fishing rights owners. This review of the legislation endeavors to highlight the provisions in existing laws and regulations prescribing the various systems for the vertical and horizontal distribution of benefit systems, as well as the form (monetary and/or non-monetary) and the terms of their distribution to beneficiaries.

While the *2013 Constitution* reaffirms the State ownership of all minerals³⁴ in or under any land or water, it also provides for the entitlement of land owners and owners of customary fishing rights to receive a fair share of royalties or other money paid to the State in respect of the grant by the State of rights to extract minerals from that land or the seabed in the area of those fishing rights. A written law is to be passed to

³³ Cancun Agreement, Part C. 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, para 71

³⁴ s. 163 (1) defines minerals to include: all minerals extracted from land or seabed and includes natural gases

provide the framework for the calculation of what constitutes of ‘fair share’, taking into account a series of factors including risks, benefits and costs.³⁵

The *Fair Share of Mineral Royalties Act* was passed in 2018 to give effect to section 30 of the Constitution. The Act stipulates that any royalty must be shared in the following manner— (a) 20% of the royalty to the State; and (b) 80% of the royalty to the landowner. Royalties are to be held in trust by the Ministry of Lands and Mineral Resources until such time as the royalty is shared in accordance with this Act.

iTaukei Land Trust Act (TLTA) and iTaukei Land Trust (Leases and Licenses) Regulations

The benefits that LOU may derive from encumbrances on their lands include premium payments, rent for leased land, and royalties for the timber harvesting, forest concessions³⁶ and gravel extraction licenses. The balance of the payments received from the lessees and licensees to the board is distributed to the LOU mostly in monetary form after deduction of the 10% administration fee and other costs not exceeding 25%.³⁷

Prior to the *iTaukei Land Trust (Amendment) Act 2010*, the rents landowners were paid by the TLTB twice yearly either in cash to the beneficiaries or to the LOU trustees tasked with their distribution. The TLTA (s.11) defined the share entitlement following the iTaukei landowners’ hierarchy with 70% shared between the members of the LOU and 30% received by the chiefs.³⁸

Issues with the transparency and fairness of this system prompted law reform with the *iTaukei Land Trust (Amendment) the Act 2010* establishing the equal rent distribution system. The balance of the premium and rent received by the Board is now distributed to all the living members of the LOU, in equal proportion, through online banking (where possible). The system became effective after the digitalization of the Vola ni Kawa Bula for all provinces in 2016. In the interim the lease monies were deposited in Trust account set up and registered for this purpose by each LOU and the Trustees were tasked with the distribution of lease monies equally to all their living members.

The TLTB does in some cases distribute non-monetary benefits. A LOU may request to the TLTB, (with a majority of 60% of adult members), an “assignment of lease funds” under Section 14 (3) (e) of the TLTA, whereby the deduction of a percentage of the total lease funds is assigned to a special account for development purposes before the rest of the funds are being distributed equally to each living member of that LOU.

The purposes of assigning a portion of the total lease funds include: to assist the landowners in having a pool where they can source funds from for the purpose of education, vanua obligations, village development, etc. within each LOU (tokatoka/mataqali/yavusa); or to assist landowners starting a business. Assignment of lease funds is approved by the TLTB on a case-by-case basis, taking in consideration the annual income of the LOU in previous years through lease monies. If approved, deductions or assignment start on a monthly basis. Assignment of lease funds is most appropriate in cases

³⁵ s. 30(2) of the Constitution’s list of factors to be included are: (a) any benefit that the owners received or may receive as a result of mineral exploration or exploitation;

³⁶ s. 17(1) of the Forest Act provides for Royalties relating to iTaukei land to be paid either to the TLTB or to the Department of Forest that will then pay it to the TLTB for distribution to the landowners. The Forest Bill contains similar provisions.

³⁷ (s.14(1) of the Act and Reg.11 of the iTaukei Land Trust (Leases and Licenses) Regulations).

³⁸ s.11 of the TLTA: Lewa Ni Mataqali (Members of the LOU) – 70%; Turaga ni Mataqali (Chief of the Mataqali) – 15%; Turaga Qali (Chief of the Yavusa)– 10; and Turaga iTaukei – 5%.

where the revenues from leases are small due to a small area of land to lease and/or a large number of LOU members.³⁹

Other forms of non-monetary benefits can be negotiated as leases or licenses conditions by the TLTB such as share equity in the company seeking the lease or license, or employment in the company for members of the LOU.

Land Use Act - The designation of land under the Land Use Act has for the LOU the advantage of the absence of deduction for administration cost, so they receive 100% of the rent from leased land, once the designation has been approved. Another advantage is having their land surveyed free of charge. The trustees elected by the LOU and approved by the Prime Minister, are tasked with receiving the rent payments and with their distribution according to the provisions of the trust deed.

Trustee Act and Charitable Trust Act - The funds managed by trustees under Trustee Act or under the Charitable Trust Act, are distributed by the Trust to the beneficiaries nominated in the trust deed, and in accordance with the rules set in the deed. A Charitable Trust has tax exemptions benefits. It should be noted that a Company registered as a Company Limited by Guarantee under the *Companies Act 2015*, may also benefit from similar tax exemptions when registered as a not-for-profit company by Fiji Revenues and Customs Services (FRCS).

Co-operatives Act - Co-operatives are incorporated entities managed by a Board of Directors. The benefits for co-operatives take the form of dividends and bonus being a share of the surplus distributed equally to its members. It thus does not seem the most appropriate for the distribution of non-monetary benefits to communities.

5.4 Institutional arrangements

5.4.1 Institutional arrangements - introduction

This section contains a review of international conventions and agreements, and of national policies and legislation relevant to the institutional arrangements for REDD+ benefit sharing.

Fiji has a solid institutional architecture in place for the management of land, native forests and plantations, and other natural resources, as well as for and the distribution of benefits to landowners that should provide the basis for REDD+ BSM.

The review of international law and national policy and law relevant to the institutional arrangements for REDD+ benefit sharing mechanism is intended to facilitate the design of the institutional arrangements for:

- The governance of the benefit sharing mechanism;
- The flow of benefits to the intended beneficiaries; and
- Monitoring and evaluation of implementation and impacts of REDD+ BSM.

³⁹ Source: www.tltb.com.fj/Landowners/Equal-Rent-Distribution)

5.4.2 International law and institutional arrangements for REDD+ benefit sharing

The institutional arrangements for benefits sharing, like all aspects of the ER program, are to be developed in the context of national circumstances, capacity, and compliant with national laws and policies. They should also be consistent with international law the UNFCCC REDD+ and, as required under the Letter of Intent for the Potential Transfer of Emissions from the ER Program in Fiji, with the World Bank Environmental and Social Safeguards.

The Cancun Safeguards [§2(b)] calls for “transparent and effective national governance structures, taking into account national legislation and sovereignty”, when undertaking REDD+ activities.

The Warsaw Framework suggests that the national entity or focal point designated to serve as liaison with the secretariat and bodies under the UNFCCC on coordination of support and may also be nominated to receive and obtain results-based payments.

5.4.3 National policies and legislation that may influence the institutional arrangements for the REDD+ benefit sharing mechanism

5.4.3.1 Considerations for entities that may play a role in the governance and distribution of benefits

Fiji REDD+ Policy contains requirements for the governance structure of REDD+ that should also guide the institutional arrangements for benefit sharing.

Fiji REDD-Plus Policy, calls for “a transparent multi-stakeholder governance structure” that is “capable of:

- ensuring the participation and consultation of all relevant stakeholders in REDD-Plus activities;
- delivering efficient and effective decisions;
- enhancing donor and buyer confidence;
- using existing structures and, where possible, modifying them to suit the implementation of the Fiji REDD-Plus Programme;
- standing up to an independent, external, expert third party review.”⁴⁰

On the basis of the REDD-Plus Policy requirements to use existing structures for REDD+ governance, this part reviews the legislation that establishes and regulates the (1) national government ministries, departments and agencies, (2) statutory trusts, (3) subnational public institutions and entities, and (4) local or community level entities from the perspective of the role they may play in the governance and/or distribution of REDD+ benefits.

5.4.3.2 National Level: Government Ministries, Departments and Agencies

1. Ministry of Economy

The Ministry of Economy is responsible for the management of government resources. While the Ministry of Environment is responsible for the implementation of most multilateral environmental agreements. The Ministry of Economy (MOE) is the legal representative of the Republic of Fiji and is the national focal point to the UNFCCC. The Climate Change and International Cooperation Division (CCICD), is based in MOE which is responsible for addressing climate change issues in Fiji, guided by the National Climate Change

⁴⁰ Para 5.5, Fiji REDD-Plus Policy, 2011

Policy (NCCP 2019) and in collaboration with government agencies, non-government organizations, regional and international agencies and development partners. Under this mandate, the MOE was granted Cabinet approval to sign the December 2016 *“Letter of Intent to enter into Emission Reduction Payment Agreement”* with the International Bank for Reconstruction and Development (IBRD) as the trustee of the FCPF Carbon Fund, an exclusive and binding agreement for the transfer of ERs from the program “Reducing Emissions and Enhancing Livelihoods in Fiji”⁴¹.

The arrangements for implementation and governance architecture for the NCCP are characterized by a commitment to *“intergovernmental and society-wide accountability and responsibility for environmental protection and climate risk management”*. The National Climate Change Coordination Committee (NCCCC) replaces the National Climate Change Country Team and is comprised of Permanent Secretaries and nominated representatives from government ministries, departments and agencies. It is tasked to coordinate and monitor on behalf of Fiji’s government the implementation of the NCCP and related plans. The NCCP also mandates existing and new entities for the oversight the coordination of the implementation of the NCCP.

Entities mandated with an oversight function include:

- The National Adaptation Plan Steering Committee;
- The Low Emissions Development Strategy Steering Committee;
- The Cabinet Committee on Climate and Disaster Risk for improved high level oversight of climate and disaster risks and responses;
- The Private Sector Advisory Board, to provide a platform for information exchange and coordination between government and the private sector on climate change initiatives and impacts.

Entities mandated with a coordination function include:

- Sector and Ministry-based Climate Change Focal Points
- The Climate Change and International Cooperation Division is to play a central role in the coordinating the implementation of the NCCD, through seven areas of engagement, including coordination of climate finance, implementation support and reporting, and international reporting.
- Local and Sub-national Government, including district offices and provincial council are set to play a vital role in the delivery of the NCCP’s objectives at the community level, including through a demand-driven and bottom up approach. Non-state actors will be engaged to support processes.

The National Climate Change Act (NCC Act), expected to come into effect during the first implementation period of the Paris Agreement (2019-2020) will establish a legal framework for planning, implementing and monitoring of Fiji’s response to climate change as defined in the NCCP, including the enhancement of carbon sinks and carbon reservoirs. The NCC Act is to create revised institutional arrangements and governance architecture and put in place processes for the implementation of the NCCP.

The NCCP provides fairly detailed guidance for the drafting of the NCC Act. In relation to establishing in law the governance architecture for Fiji’s response to climate change the NCC Act will:

- Establish clear coordination and oversight mechanisms for progressing inter-governmental and cross sectoral actions,

⁴¹ The exclusivity period was extended to 44 months from December 2016.

- formalize the terms of reference for a support network of climate change focal points across government,
- update the terms of reference and mandate of the National Climate Change Coordination Committee (NCCC) and require formal interactions with the National Environment Committee and National Security Committee
- anchor NCCP's call to revise environmental policies and environmental impact criteria to improve alignment with climate and disaster management objectives; and
- establish the accountability and legal foundation for progressing the NCCP's Human Rights-Based and Gender-Responsive policy requirements.

2. Ministry of Forests

The Ministry of Forests is responsible for the management of Fiji's forests under the Forest Act 1992, and for the implementation of Fiji's Forest Policy Statement.

The entities within the Ministry of Forest designated for the administration of the Act are the Conservator of Forests, the Forestry Board, and Forestry Committees.

The Conservator of Forest is appointed by the Permanent Secretary with the approval of the Minister responsible for forestry. The Conservator's duties are the supervisions of the working and enforcement of the Act, and advise the Minister on this, as well as taking steps to enforce the Act where necessary or expedient. (ss.2&3). The Conservator of Forest chairs the Forestry Board.

The purpose of the Forestry Board is to advise the Minister on matters relating to forestry policy [s4(1)] as well as the preparation and revision of the national forestry plan, and other matters that the chairperson considered necessary.

The Forestry Board is a multi-stakeholder body and may appoint Forestry Committees for specific matters relating to forestry, to advise the FB on those matters. Members of the Forestry Committees are appointed on the basis of their expertise in the said matter (s.5). The composition of the Forestry Board, [s.4(2) as amended by Decree No7 2011], consists in the following members:

- a- the conservator of forests, chairperson
- b- the permanent secretary responsible for forestry, or his/her representative
- c- the Director for Town and Country Planning, or his/her representative
- d- 7 other persons appointed by the Minister, including representatives of:
 - i. the iTaukei Land Trust Board
 - ii. the Land Conservation Board
 - iii. five (5) persons, representing landowners, forest owners, forest users, forest industry and the public interest.

The Forest Act 1992 empowers the Forestry Board to appoint Forestry committees comprising experts in the particular matter for which the committee is formed, and whose role is to advise the Board. The REDD+ Steering Committee was established in 2010 under these provisions, with the Ministry of Forests taking the lead role as national REDD+ focal point in charge of overall REDD+ coordination and implementation. In addition, the Ministry of Forests hosts the national REDD+ Unit, established in 2014. The Conservator of Forests approves all REDD+ ER Project proposals and activities after consulting with the REDD+ Steering Committee.

The *Forest Bill 2016* (the Bill) provides much needed legal basis for the management of forests in line with the Forest Policy Framework, the Environmental Management Act, as well as with Fiji's international commitments for sustainable management of natural resources and climate change. The Bill contains signaling the lead role that the Ministry of Forest is poised to keep in Fiji's REDD+ activities, carbon trading, with the implications that may be inferred for the benefit sharing mechanism.

From the outset the Bill sets the objective of the Forest Act *"to ensure the protection, sustainable management and use of Fiji's forests and to provide social, economic and environmental benefits to Fijians for the current and future generations"*, and new provisions in support of this objective, inter alia the classification of forests based on its functions, ecological characteristics and management regime⁴², new licensing provisions including the requirement for a Forest Management License for all forest plantations (except mahogany plantations), creating long term tenure for persons, organizations or companies which can demonstrate a commitment to sustainable forest management in the planting and harvesting of trees within a forest plantation⁴³.

The Bill redefined the key entities responsible in the administration of the Act, to include the Department of Forests in addition to the Conservator of Forests and the Forestry Board.

The Bill introduces a detailed list of duties for the Conservator of Forests⁴⁴. Especially relevant to REDD+ they include: 'promote negotiation on external financial and technical assistance'; 'approve forestry programs and projects including those on forest carbon'; and 'represent or cause to be representing Fiji's interest in international forest related conferences, meetings and forums'.

The Conservator of Forests plays a central role in all the Forest carbon trading provisions of the Bill⁴⁵, receiving and granting (or not) approval for all applications prior to the implementation and contractual arrangement relating to the sale of carbon credits relating to projects, programs and activities in the Fijian forest sector that involves the transfer of forest carbon property rights under REDD+.

The Bill provides for regulations under the Act to cover the licensing, generation, validation, verification and registration of Fiji forest carbon certificates, standards and procedures for project implementation and approval under REDD+. In the interim, all of Fiji's forest carbon projects under REDD+ must be dealt with by a Forestry Committee established under the Board.

The Department of Forests' duties under the Bill⁴⁶ are also detailed and include, of particular relevance to REDD+ activities such as to plan, monitor and control the conservation of protected areas in collaboration with Department of Environment, Ministry of Lands and the iTaukei Land Trust Board".

The members of the Forestry Board⁴⁷, include the Director of Environment (or representative) and a representative of the department of Agriculture. Other members include the Conservator of Forest (Chairperson), the Director of Town and Country Planning (or representative), a representative of the TLTB, and 5 members representing landowners, forest owners, forest users, forest industry and the public

⁴² s.13(1) Forest Bill 2016, The Department of Forests must classify forests based on forest functions, ecological characteristics and management regimes in the following categories: a) multiple use forests, b) forest plantations, and c) protection forests that may include mangrove forests, National Heritage sites and nature reserves.

⁴³ s.5 Forest Bill

⁴⁴ s.4(2) Forest Bill

⁴⁵ s.33 Forest Bill

⁴⁶ s.5 Forest Bill

⁴⁷ s.6 Forest Bill

interest. In addition, the Board may invite persons who are experts in their fields to provide advice to the Board on specific issues during the meetings of the Board.

The provisions relating to Forestry Committees, composed of experts appointed by the Board for the purpose of providing expert advice, are also revised in the section on 'Forestry and Licensing Committees' of the Bill.⁴⁸ Some of the matters for which a Forest Committee may be appointed include 'scrutinizing of license applications, and forest carbon trading.

3. Ministry of Lands and Mineral Resources, Department of Lands, Land Use Unit

As briefly discussed earlier, the Land Use Unit was established by the Land Use Act in 2010 within the Ministry of Lands to administer designated lands (Part 3) held in the Land Bank, with the purpose to use land to the best interest of land owners (iTaukei or State Land), and to provide longer tenure of lease for the sustainable development of the agricultural and commercial sector. (s.3)

Designated land, once the landowner has agreed to its designation, may be used for any purposes deemed fit by the Land Use Unit and consistent with the objective of the Act, for the duration of the lease. Leases are protected leases of a term up to 99 years, which would qualify for REDD+ projects or other emission reduction activities should the Land Use Unit opt for such use of designated lands.

4. Ministry of iTaukei Affairs

The Ministry of iTaukei Affairs is regulated by the iTaukei Affairs Act and regulations and is responsible for developing, implementing and monitoring government programs focused on the governance and wellbeing of the iTaukei people. The Ministry provides a direct link between Government, iTaukei institutions and its administration across the fourteen provinces. The Act establishes the iTaukei Affairs Board as a body corporate (s.4) that may make regulations on matters relating to the Provincial Councils, including 'the recruitment, training and appointment of officers to carry out functions under the provisions of this Act'(s.6).

National iTaukei Resource Owners Council (NTROC) was established in 2012 with the endorsement of the iTaukei Affairs Board as the iTaukei Yaubula Committee, before it was renamed to its current name. NTROC consists of Provincial Council nominees. Its objectives are to (i) promotes the capacity development of the iTaukei to make informed decisions on sustainable management of their natural resources; (ii) ensure the participation of the iTaukei in a decision-making process that affects their natural resources; and to build a resilient iTaukei community against climate change. NTROC sits in the National Environment Committee (NEC) and the Forestry Board as representatives of forests owners.

The Ministry of iTaukei Affairs also oversees the Yaubula Management Support Teams (YMST) at established at Provincial and sub-provincial levels, as well as the Conservation Officers in each Province. Department of Agriculture

Agricultural land use and land use change for agriculture, at community level or at a larger commercial scale, are significant contributors to greenhouse gas emissions and, along with unsustainable farming practices are one of the main drivers of deforestation and forest degradation in Fiji. The Department of Agriculture, under the Ministry of Agriculture, Environment and Waterways, is called to play a significant role in the governance of BSM and in the implementation of agriculture-related REDD+ activities, such as climate-smart agricultural practices including agroforestry; community woodlots; and alternative livelihood activities such as bee keeping, establishment of tree orchards and others.

⁴⁸ ss10 & 11, Forest Bill

The *‘Fiji 2020 Agriculture Policy Agenda’* emphasizes the importance of establishing “*a diversified and economically and environmentally sustainable agriculture economy in Fiji*”. The Land Resources Planning and Development Division of the Department of Agriculture has developed a rural land use plan. The Department of Agriculture is also responsible for managing and enforcing the conditions attached to agricultural land leases, including good husbandry. There is a scope for requirements for sustainable or ‘climate smart’ agricultural practices, including agroforestry, that are REDD + activities and may be eligible for carbon benefits.

6. Department of Environment

The Department of Environment, currently in the portfolio of the Ministry of Agriculture, Environment and Waterways, is responsible for matters relating to protection of the protection of natural resources, the control and management of developments (through the environmental impact assessment (EIA) process, waste management and pollution control, through the implementation and enforcement of the Environmental Management Act (EMA). The Department is also the focus point for Fiji’s obligations under most multilateral environmental agreements ratified by Fiji including the Convention on Biodiversity (CBD) and the Convention on the International Trade of Endangered Species (CITES) but excluding the UNFCCC.

EMA establishes the National Environmental Council (NEC), a multi-stakeholder entity with the Permanent Secretary for Environment as chairperson and the Director for Environment as Secretary. Its members include the permanent secretaries for land, mineral resources, agriculture, fisheries, forests, and iTaukei Affairs, Health, Tourism, as well as the General Manager of the TLTB, the President of the Local Government Association, and one representative of the non-governmental organizations, of the general business community, of the manufacturing industries and one of the academic community⁴⁹.

The NEC monitors and oversees all matters relating to environmental management in Fiji, and its functions include, inter-alia, to facilitate a forum for discussion of environmental issues; to make resolutions on public and private sector efforts on environmental issues; to ensure that commitments made at regional and international fora on environment and development are implemented; and to advise the Government on international and regional treaties, conventions and agreements relating to the environment.

The Council may appoint any technical committee necessary to advise it on matters affecting environmental protection and resource management. Such established committees include the Integrated Coastal Zone Management Committee, Protected Areas Committee as well as each of the thematic areas under NBSP.

EMA provides for a statutory trust fund, the Environmental Trust Fund, discussed below. The Act also provides for the establishment of a Resource Owners Committee to advise the Council on any environment matter affecting their resources.

The convergence between the responsibilities of the Department of Environment and that of the Ministry of Forests in relation to the protection and sustainable management of natural resources is recognized in the Forest Bill 2016 which provides for closer collaboration, with the Director of Environment to become a member of the Forestry Board, and with the Department of Forests’ functions including to plan, monitor and control the conservation of protected areas in collaboration with Department of Environment, Ministry of Lands and the iTaukei Land Trust Board; and to advise Government on forest-related matters under international agreements and conventions, in close collaboration with the Department of Environment.

⁴⁹ s.7(1) of the Environmental Management Act as amended.

7. Ministry of Rural and Maritime Development

The MRMD's functions include to manage and coordinate government efforts in rural and maritime development, generate economic growth and improve the standards of living in rural communities, guided by the Integrated Rural Development Framework (IRDF) and in support of the Bill of Rights provisions of the 2013 Constitution.

As was highlighted above in the review of policies, the IRDF establishes two-ways channels of communications between the communities from all Fijian ethnic background and the national government agencies through multi-stakeholder boards at district, provincial and divisional levels. Divisional strategic planning, consistent with the National Development Plan, is the responsibility of the Divisional Commissioner who is to develop it with the assistance of National Planning Officers, and in coordination with all the heads of Departments working in the region and at all levels of the integrated development structure. These characteristics makes the integrated rural development architecture an effective platform for the planning and implementation of REDD+ activities as well as for the planning and channeling of the benefits that may arise from REDD+. This was recognized with the establishment of REDD+ Working Groups at divisional level.

8. Ministry of Infrastructure and Transport (MIT)

Infrastructure development is one the main drivers of deforestation identified in the SESA and the Drivers of Deforestation and Forest Degradation studies.

Fiji's critical public utilities (electricity and water) are provided by Government Commercial Statutory Authorities, the Water Authority of Fiji and Energy Fiji Ltd, under the supervision of the Ministry of Infrastructure and Transport (MIT) , who is directly responsible for related policy formulation, planning and design, regulatory implementation and enforcement, coordination and implementation of programs, projects and services.

In relation to water resources management, the responsibility of ensuring the effective management of water and sewage activities and the protection, management and conservation of water resources is vested in the Water Authority of Fiji, a commercial statutory authority established and regulated under Water Authority Promulgation 2007. The Minister for Infrastructure and Transport has the power to make regulations for the use, conservation and management of water resources and can limit development activities such as logging and mining which may affect water quality, thus has the potential to play a significant role in emissions reduction.

In relation to electricity generation, the Electricity Fiji Limited is a public company limited by shares as a result of the corporatization of the Fiji Electricity Authority, established under the Electricity Act 1966. Electricity Fiji Limited is responsible under the Act for providing and maintaining power supply and enforcing the regulations under the Act. The infrastructure associated with electricity generation in Fiji, dominated by hydro power, can cause significant environmental impact and potentially cause forest degradation for example from hydrology changes caused by weirs.

5.4.3.3 Statutory Trusts

1. The iTaukei Land Trust Board (TLTB)

The TLTB administers almost 90% of the land and forests in Fiji. It is an incorporated statutory legal entity that was established as a board of trustees by the iTaukei Land Trust Act (TLT Act), 'An Act Relating to the Control and Administration of iTaukei Land', with the mandate to administer iTaukei lands for the benefit of their owners (s.4.1). Before the Board can grant a lease or license it must be satisfied that the land is

not being used by the landowners and will not be required for their use, maintenance or support (s. 9), and seek the approval of the majority of the LOU adult members. The Board is also responsible to monitor compliance of lessees and licensees with the conditions of their lease or license.

Another core function of the Board is the collection and the distribution of the revenues from iTaukei lands, in the form of premium, rent and royalties.

The distribution of revenues from the leasing or licensing of the land to each member of the LOU (according to the iTaukei Land Trust and Licensed (Amendment) Regulations of 2010) is generally monetary. However, there are provisions for the LOU to request for the “Assignment of lease funds” under Section 14 (3) (e) of the TLTA, and to finance this way community projects, comparably to non-monetary benefits.

2. National Trust of Fiji

The National Trust of Fiji (NTF) is an incorporated statutory trust established in 1970 by the National Trust of Fiji Act for the protection of the natural, cultural and national heritage. The Trust is empowered to enter into binding covenants (i.e. agreements) with landholders; and, (to make by-laws for the regulation and protection of Trust properties (s.10). This provision may be used for the Trust to enter into voluntary agreements with landowners for conservation and/or emission reductions purposes, restricting the use of the land for a term determined in the agreement. If iTaukei land is concerned, the conservation agreement will be entered through the TLTB. The Sovi Basin is an example of conservation covenant entered by NTF with iTaukei landowners for conservation purpose.

3. Department of Environment - Environmental Trust Fund

The Environmental Management Act provides (s.55) for an Environmental Trust Fund, to be administered by the Department of Environment, for prescribed purposes, including ‘debt for nature swap’ which potentially could include REDD+ projects. The Act states that the operation of the Fund is to be subject to “prescribed rules” and consistent with the *Financial Management Act 2004*.

5.4.3.4 Sub-national public institutions and entities

1. Divisions, Divisional Commissioners

Fiji is divided in 4 administrative regions called Divisions: The Central Division, Western Division, Northern Division and Eastern Division.

Each Division is headed by a Divisional Commissioner, appointed by the Ministry of Agriculture, Rural and Maritime Development and National Disaster Management. The Divisions are concerned with the rural and maritime development and the development and the welfare of all Fijians, rather than with that of a particular ethnic group. The divisions have already assumed an important role in REDD+, with the establishment of Divisional REDD+ Working Groups in the Northern and Western Divisions, the main divisions where proposed ER activities will be established. The REDD+ Working Group is a multi-agency committee to directly oversee and monitor implementation in REDD+ sites.

2. Provincial Councils, Yaubula Management Support Teams, Conservation Officers

The iTaukei Affairs Act provides for the constitution of Provincial Councils by the iTaukei Affairs Board (TAB), in each of Fiji’s 14 Provinces. Provincial Councils are a body corporate, and may, inter alia, purchase and sell real and personal properties, hire staff. They may also and ‘make by-laws for the health, welfare and good government of (...) Fijians” (i.e. iTaukei) “residing in or being members of the community of the

province as may be authorized by regulation'. The executive head of the Provincial Council is the 'Roko Tui', usually a high chief appointed with the approval of the iTaukei Affairs Board. A Provincial Council consist of representatives of sub-divisions of the province. Districts (Tikina) and Villages (Koro). In recent years, a Conservation Officer was appointed in each Province to advise Provincial Council on environmental matters and provide a channel of communication between the Provincial Council and the communities for any concern relating to environmental issues. The Environment Unit of the TAB, established in 2012 to comply with s. 15(1) of the Environmental Management Act, and now plays a leading support role to Yaubula Management Support Teams (YMST) in the Provinces of Fiji.

Yaubula Management Support Teams (YMST) are a multi-stakeholders co-management structures that operate at provincial level – as well as at District and village levels - to enhance engagement with communities to strengthen natural resource stewardship through consultation, natural management planning and training, as well as assuming an advisory role with public authorities on those matters.

Members of YMSTs typically include representatives of communities (Districts/villages), Government Departments, NGOs and the private sector as well as the Provincial Conservation Officer.

YMST have been identified in public consultations as potential key actors in REDD+ activities and benefit sharing arrangements.

5.4.3.5 Local or Community level: Trusts, Cooperatives, Companies

The mechanism is set up for the governance of REDD+ benefits and their distribution from the national level (the Ministry of Economy) through the national, subnational levels to the beneficiaries that have been identified as eligible for their land, forest or carbon rights and/or for the role they play in the activities resulting in emissions reductions. An entity representing the beneficiaries has to be created in order to enter into an agreement, such as a REDD+ lease or to be registered for REDD+ activities, and to receive and manage the benefits, either in a monetary, or non-monetary form, in an accountable manner.

These entities representing the beneficiary communities may take various forms. Section 1-5 discusses possible modalities of such entities including Trust, Charitable Trust, Cooperative or Company.

The legislation pertaining to these entities is discussed below, together with a rapid assessment of their suitability for the purpose of REDD+ benefit sharing.

1. Trustee Act 1966

The Trustee Act regulates all trusts, including the rules for the appointment and discharge of trustees, their powers and authorized investments by trustees. Particular for each trust, such as the objectives, appointment of trustees and its beneficiaries, are defined in the trust deed, and ought to be compliant with the Act. Trustees may be individuals or companies. In legal terms, trusts are considered as a relationship and do not constitute a legal entity separate from its trustees, who thus are personally liable for the debts of the trust. The Trustees Act however has provisions for indemnities and protection of the trustees and gives power to the court to relieve trustees from personal liability when they acted in good faith.

2. Charitable Trusts Act 1945

The Charitable Trusts Act makes provision for trust established for charitable purposes, which are defined in the Act. They include relief of poverty, advancement of education, advancement of religion and physical education and other public interest purposes. The Attorney general has the power to extend the

application of the Act to other purposes declared of a charitable nature⁵⁰, which was exercised recently to declare “the conservation of the environment “ in the definition of charitable purposes⁵¹.

The trustees of a charitable trust may apply for the registration of the trustees as a corporate body. An incorporated charitable trust has legal entity, and may enter into contracts, hire staff, and do all things that legal entities may do. The incorporation of the trust also introduces a degree of separation between the trustees and the trust as legal entity.

An additional and significant benefit afforded to charitable trusts is the exemption from taxes.

3. Co-operatives Act 1996

Co-operatives are incorporated entities owned by its members and managed by a Board of Directors.

The Act defines "co-operative" as an association of persons who have voluntarily joined together to achieve a common end through the formation of a democratically controlled organization, making equitable contributions to the capital required and accepting a fair share of the risks and benefits of the undertaking in which the members actively participate”. Co-operative are a form of company and as such are legal entities separate from their board and their members, which limits their liability. Monetary benefits from co-operatives take the form of dividends and bonus being a share of the surplus distributed equally to its members. Once registered, a co-operative may apply for a tax holiday for up to eight years.

To register a co-operative, the Act requires that:

(1) in the case of service co-operatives, at least fifty-one percent of a co-operative trade is done with its members; and

(2) in the case of workers' co-operatives, at least eighty percent of the permanent full-time employees, as defined in the Employment Act, shall be members of a co-operative and all members shall be employees in the co-operative.

4. Companies Act 2015

A company established by communities could take the form of a company limited by guarantee, incorporated under the Companies Act 2015. This type of companies do not have shareholders but members who agree to subscribe a certain amount in the event of the company being wound up. Once registered a company limited by share may apply to Fiji Revenues and Customs Services (FRCS) for not-for-profit-status, giving it the same tax exemptions that is afforded to charitable trusts.

⁵⁰ s.2, Charitable Trust Act 1945

⁵¹ Legal Notice Nb.7 of 2018, declares of charitable purpose under the Act: “(a) the provision of electricity to rural communities and households in Fiji that do not have access to electricity; and (b) the conservation of the environment”.

6. Objectives and principles for the REDD+ benefit sharing mechanism in Fiji

The following objectives and principles were proposed by participants in the Inception Workshop held and were discussed and affirmed at the Divisional consultation workshops and the High-level consultation workshop.

Objectives

- Develop climate-resilient communities
- Empower communities to take ownership of their sustainable development to improve their livelihoods
- Conserve native forests and increase community woodlots and plantations, helping to generate more emissions reductions and removals

Principles

- Benefit sharing should be
 - equitable and fair, respecting land and tree ownership and customary rights, considering opportunity costs, and considering effort and costs needed to implement activities
 - inclusive, with special attention to participation of women, youth and ethnic minorities
 - effective in providing incentives for further action to reduce emissions and increase removals
 - efficient, ensuring that maximum benefit flows to the beneficiaries
 - transparent
 - flexible to enable adaptive management
 - comply with relevant laws and support meeting international agreements
 - based on commitment and performance
- Local communities are expected to benefit the most
- Beneficiaries should participate voluntarily through free, prior and informed consent, enabling their consideration of options and alternatives
- Non-monetary benefits should be prioritized
- Consideration should be given to non-carbon benefits

In addition, participants in the consultation workshops identified the following REDD+ activities as being most appropriate to be incentivized and encouraged through benefit sharing:

- Community-based tree planting
- Agroforestry
- Forest Conservation: maintaining natural forest

On the other hand, participants considered that the following REDD+ activities could potentially be financed from other sources:

- Sustainable Forest Management – Compliance with the Forest Harvesting Code of Practice (FFHCOP) 2013/Regulation and Enforcement by the Ministry of Forestry.

- Plantation development–reforestation in plantation areas to contribute to carbon enhancement e.g. Agarwood, Teak

7. Beneficiaries and benefits

7.1 Identification of beneficiaries and benefits

Different actors have different rights, influence and responsibilities with respect to each of the REDD+ activities proposed to implement strategies to address drivers of deforestation and barriers to carbon stock enhancement in Fiji. In addition, each group of actors is expected to receive some non-carbon benefits or potentially face costs related to lost opportunities or implementation costs. Focusing on the REDD+ activities proposed in the Emissions Reductions Programme Document, Table 1 identifies the different actors with rights and influence related to the successful implementation of different types of activities that will be implemented for REDD+. These include forest conservation, sustainable management of native forest, carbon enhancement - plantations (private plantations, Fiji Pine and Fiji Hardwood), carbon enhancement - community planting (woodlots and riparian zones for flood mitigation), carbon enhancement (agroforestry and alternative livelihoods). A short description of each activity is included in Table 2.

When considering the most effective, efficient and equitable use of carbon finance to provide carbon benefits, it is important to consider the type of incentive that will be most appropriate, taking into consideration the non-carbon benefits each group of actors is expected to receive from implementation of the activity. These non-carbon benefits are also identified in Table 2. The non-carbon benefits include those inherent to the implementation of the activity (such as improved yields from agroforestry, or maintenance of water catchment, and those benefits which should be provided from other sources such as government budgets.

Fiji is expected to generate relatively few ERRs from REDD+ activities compared with other countries (only around 3 million expected over 5 years from implementation of the ERP). This means that the carbon finance cannot be expected to cover all the costs of implementation of the REDD+ strategy. Where government funds can be provided to support the implementation of REDD+ activities, for example for training and incentives, these have been included and considered as non-carbon benefits.

Assessing the expected opportunity costs and non-carbon benefits helped to identify appropriate beneficiaries and benefits for the carbon finance and the benefit sharing mechanism, also identified in Table 2.

The aim for carbon finance is to provide incentives for further actions to reduce emissions while recognizing the rights of different actors the lands, resources and past actions that generated the carbon finance. Table 2 presents the consensus developed through discussions at each consultation and is proposed for the benefit sharing mechanism for REDD+ in Fiji.

Table 2. Identification of beneficiaries and benefits for different REDD+ activities

ERP Activities	Main Actors	Rights or influence related to the activity	Roles and responsibilities for ensuring success of the activity	Beneficiary Group	Types of Benefits: Non-carbon benefits (from other sources not ER payments)	Types of Benefit: Carbon Benefits (from ER payments)
Forest Conservation The intervention supports forest conservation and maintaining carbon sinks, the protection of watershed areas and ensuring clean water sources, the continuous supply of nutrients and soil fertility to maintain and enhance crop production. Forest conservation is related to long term management of forest resources with the aim of supporting areas that will remain forested in perpetuity. Without this intervention, important forest sites within Fiji will continue to face threats from degradation (logging) and deforestation (conversion).	Owners of land – iTaukei or other	Rights to lease land	Consent to lease for conservation	Owners of land who consent to a conservation lease	+ Lease payment from the conservation lease holder and compensation cost	
		Rights to manage forest on own land	Landowners protect the forest	Owners of land who register to adopt forest conservation on their forest lands	+ Income from ecotourism	Monetary: Lease payment and compensation cost
	Private sector or NGO lease holder	Right to benefits from forest conservation	Protect the forest	Private sector or NGO lease holder	+ Income from ecotourism + Enhanced forest protection	
	Villages/ communities that use the forest	Rights to basic needs; building materials, firewood, food. Threat to forest	Protect from fire, illegal use of forest resources, monitor and enforce forest laws	Village/communities that use the forest	+ Maintained supply of forest products, (e.g. timber, firewood) and ecosystem services etc.	Non-monetary: Community development project

	Ministry of Forests	Rights to monitor trade of forest resources	Oversight of all REDD+ activities, technical support, coordination, monitoring and enforcement	Ministry of Forests	Budgetary allocation for REDD+	Monetary allocation
	District Council	Coordinate and influence community decisions	Advisory role			
	Provincial Council	Governance Support	Advisory role			
	Yaubula Management Support Team	Coordinate and influence community decisions	Advisory role			
	iTaukei Land Trust Board	Rights to provide leases on behalf of landowners	Support lease and benefit negotiation with iTaukei landowners			
	Ministry of iTaukei Affairs	Sets policies may affect community decisions	Advisory role			
Sustainable Management of Native Forest This intervention aims to address the establishment of long-term Forest Management Licenses and the application of the revised FFHCOP that integrates reduced impact logging (RIL) principles	Owners of land – iTaukei or other	Rights to lease land	Consent to lease for sustainable management of forests or for plantation	Owners of land who consent to forest management or plantation lease	+ Lease payments, market premium, rent, stumpage paid by lease holder	
		Rights to manage own forest	Owners of land plant and harvest trees and crops, protect trees	Owners of land managing their own forests/plantation who register to adopt sustainable management of forests/plantation	+Timber revenue + Training on RIL principles and monitoring FFHCOP from MOF - Pay own lease payment	

<p>including application of diameter limit tables.</p> <p>Specific activities include:</p> <ul style="list-style-type: none"> Public/Private Partnership and dialogue to establish Forest Management Licenses Application of the new FFHCOP that incorporates Reduced Impact Logging and diameter treatment through close collaboration between private sector, statutory bodies and Government agencies Public/Private Partnership between communities and logging companies to co-manage native forest resources through implementation of the FFHCOP in all Forest Management License Areas <p>Enable and support multi stakeholder dialogue and decision through the District and Provincial REDD+ Working Groups to support the Divisional REDD+ Working Groups</p>					+ Enhanced protection of forest/plantation	
	Larger private sector lease holders	Rights to use land to plant trees, harvest wood etc.	Developer – plant trees, harvest wood, protect trees, finance	Private Forestry Companies registered to do REDD+ activities	- Loss in timber revenue from adoption of Reduced Impact Logging + Increased security from longer term leases for 50 years + Training on RIL principles and monitoring FFHCOP from MOF + Enhanced protection of forest/plantation	
	Villages/communities that use the forest	Access Rights for traditional use meeting basic needs; building materials using naturally growing trees, firewood, food. May also pose threat to forest plantation	Protect from fire and illegal use of forest resources, monitor and enforce forest laws, paid labor	Villages/communities that use the forest	+ Maintained supply of forest products, (e.g. timber, firewood) and ecosystem services etc. + Training to use waste timber for revenue from MOF	Non-monetary: Community development project
	Ministry of Forests	Rights to monitor trade of forest resources	Oversight of all REDD+ activities: Authorization for logging, monitoring and enforcement	Ministry of Forests	Budgetary allocation for REDD+	Monetary allocation
	District Council	Coordinate and influence community decisions	Advisory role			

	Provincial Council	Governance Support	Advisory role			
	Yaubula Management Support Team	Coordinate and influence community decisions	Advisory role			
	iTaukei Land Trust Board	Rights to provide leases on behalf of landowners	Support lease and benefit negotiation with iTaukei landowners			
	Ministry of iTaukei Affairs	Sets policies may affect community decisions	Advisory role			
Carbon Enhancement: Plantations (Private Plantations, Fiji Pine and Fiji Hardwood) Fiji Pine Ltd. and Fiji Hardwood Corp. are private Government owned companies that manage plantation estates in Fiji. Fiji Pine Ltd have an estate estimated at 76,171 ha while Fiji Hardwood Corp holds 58,978ha. This intervention aims to support establishment of plantation areas in logged	Owners of land – iTaukei or other	Rights to lease land	Consent to lease for sustainable management of forests or for plantation	Owners of land who consent to forest management or plantation lease	+ Lease payments, market premium, rent, stumpage paid by lease holder	
		Rights to manage own forest	Owners of land plant and harvest trees and crops, protect trees	Owners of land managing their own forests/plantation who register to adopt sustainable management of forests/plantation	+Timber revenue + Training on RIL principles and monitoring FFHCOP from MOF - Pay own lease payment + Enhanced protection of forest/plantation	
	Larger private sector lease holders	Rights to use land to plant trees, harvest wood etc.	Developer – plant trees, harvest wood, protect trees, finance	Private Forestry Companies registered to do REDD+ activities	- Loss in timber revenue from adoption of Reduced Impact Logging + Increased security from longer term leases for 50 years	

<p>over forest estates and the application of the FFHCOP.</p> <p>The following activities apply to Fiji Pine Ltd. and Fiji Hardwood Corps.</p> <ul style="list-style-type: none"> • Capacity building on the requirements of the FFHCOP • Strengthening of monitoring and evaluation of planted areas. <p>Implementation of the Fire Management Strategy</p>					+ Training on RIL principles and monitoring FFHCOP from MOF + Enhanced protection of forest/plantation	
	Villages/communities that use the forest	Access Rights for traditional use meeting basic needs; building materials using naturally growing trees, firewood, food. May also pose threat to forest plantation	Protect from fire and illegal use of forest resources, monitor and enforce forest laws, paid labor	Villages/communities that use the forest	+ Maintained supply of forest products, (e.g. timber, firewood) and ecosystem services etc. + Training to use waste timber for revenue from MOF	Non-monetary: Community development project
	Ministry of Forests	Rights to monitor trade of forest resources	Oversight of all REDD+ activities: Authorization for logging, monitoring and enforcement	Ministry of Forests	Budgetary allocation for REDD+	Monetary allocation
	District Council	Coordinate and influence community decisions	Advisory role			
	Provincial Council	Governance Support	Advisory role			
	Yaubula Management Support Team	Coordinate and influence community decisions	Advisory role			

	iTaukei Land Trust Board	Rights to provide leases on behalf of landowners	Support lease and benefit negotiation with iTaukei landowners			
	Ministry of iTaukei Affairs	Sets policies may affect community decisions	Advisory role			
Carbon Enhancement: Community Planting (woodlots and riparian planting – flood mitigation) Successful models for community forestry exist in Fiji such as the Fiji Pine Trust and the Nakauvadra Community Based Reforestation Project and Reforest Fiji. Fiji Pine Trust focuses on community development and expansion of Fiji Pine (<i>Pinus Caribbea</i> var. <i>hondurensis</i>) while the latter focused on mix planting of native species, mahogany and teak aimed at ecosystem restoration. Willingness of local landowning units to engage with tree planting and availability of idle and degraded lands makes this intervention promising.	iTaukei Landowning Units	Rights to manage own land, to plant and harvest trees	Landowners plant and harvest trees and crops, protect trees	Landowning Units that register to plant trees on their own land	+ Revenue from timber + Training on basic forest management principles (planting and maintenance) from MOF + Enhanced protection of woodlots	Monetary: Lease payment Monetary or Non Monetary: Incentives for tree planting (e.g. RDF model \$244/ha)
	Villages/communities that use the forest	Rights to basic needs; building materials, firewood, food. Threat to forest.	Protect trees from fire and illegal use of forest resources, monitor and enforce forest laws	Villages/communities that use the forest	+ Maintained supply of forest products, (e.g. timber, firewood) and ecosystem services etc.	Non-Monetary: Community development project
	Ministry of Forests	Rights to monitor trade of forest resources	Oversight of all REDD+ activities: monitoring and enforcement	Ministry of Forests	Budgetary allocation for REDD+	Monetary allocation
	District Council	Coordinate and influence community decisions	Advisory role			
	Provincial Council	Governance Support	Advisory role			

<p>Intervention will entail community agreement to undertake planting trees and a long-term commitment that all members of the clan will protect and support the maintenance and care of the planted trees to be protected from fire, indiscriminate cutting or alternative future land use – at the very least, for 30 years being the average timber cycle for native and introduced species in Fiji. With Fiji's rich cultural heritage, the approach will combine traditional modes of communication aligned to FPIC while guided by REDD+ Communications Plan.</p> <p>The Fiji Government launched its 4 million tree initiative in February 2019. This initiative is supported by the community planting with areas planted well over the 4million trees to buffer expected survival rate of 70-80%.</p> <p><u>Flood Mitigation</u></p> <ul style="list-style-type: none"> ● Increase service and intervention by Ministry of Agriculture and Ministry of Forestry Extension Services through Agroforestry advice to 	Yaubula Management Support Team	Coordinate and influence community decisions	Advisory role			
	iTaukei Land Trust Board	Rights to provide leases on behalf of landowners	Support lease and benefit negotiation with iTaukei landowners			
	Ministry of iTaukei Affairs	Sets policies may affect community decisions	Advisory role			

<p>local farmers and distribution of climate resilient crops varieties from the Koronivia Research Station;</p> <ul style="list-style-type: none"> Public/Private Partnership and dialogue through field school exchange among farmers facilitated by the Ministry of Agriculture and Ministry of Forestry Extension Services; <p>Note: trees will be planted at 4mx5m along 400m x 50m on either side of the riverbank with vetiver grass planted 3 rows at the edge using spacing of 0.5mx0.5m. the result is at least 4 ha of forest on either side of the riverbank with</p>						
<p>Carbon Enhancement: Agroforestry and alternative livelihoods</p>	<p>Owners of land –iTaukei or other Larger private sector lease holders</p>	<p>Rights to lease land</p>	<p>Consent to lease for agroforestry</p>	<p>Owners of land who consent to an agriculture lease</p>	<p>+ Lease payments, market premium, rent, stumpage from the lease holder</p>	
		<p>Rights to manage own land in a sustainable manner</p>	<p>Owners of land plant and harvest trees and crops, protect trees, finance</p>	<p>Owners of land who register to adopt agroforestry on their land</p>	<p>+ Revenue from crops and timber + Training on forest management (planting and maintenance) from MOF and training on agroforestry from MOA - Pay own lease payment</p>	

Shade Grown Agriculture

- Establishment of kava, vanilla and other shade tolerant crops;
- Aimed at mid-slope and lower slope cultivation to avoid deforestation;
- Assume that alley cropping design may be relevant to maximize production by local farmers such that kava, vanilla and other shade grown crops are intercropped in agroforestry system;
- The proportion of forest that will be retained in 1ha is estimated at 0.3ha to meet the definition of forest;
- At national level, intervention is aimed

		Rights to use land for agriculture	Plants and harvest crop and trees, protects trees, provides finance	Private Companies registered for REDD+ activities	+ Improved yields from agroforestry + Training on forest management from MOF and agroforestry from MOA + Enhanced protection of trees	
Small farmer lease holders < 5 ha		Rights to use land for agriculture	Developer – plan and harvest crops and trees, protect trees, finance	Small farmer lease holders < 5 ha	+ Training on forest management from MOF and agroforestry from MOA, possibly with subsidy + Enhanced protection of trees	Monetary or Non-monetary: Incentives (e.g. seedlings, materials)
Villages/ communities that use the forest		Use for basic needs; building materials, firewood, food. Threat to forest	Protect from fire and illegal use of forest resources, monitor and enforce forest laws	Village/ communities that use the agroforestry area	+ Maintained supply of forest products, (e.g. timber, firewood) and ecosystem services etc.	Non-monetary: Community development project
Ministry of Forests		Rights to monitor trade of forest resources	Oversight of all REDD+ activities: Authorization for logging, monitoring and enforcement	Ministry of Forests	Budgetary allocation for REDD+	Monetary allocation
District Council		Coordinate and influence community decisions	Advisory role			
Provincial Council		Governance Support	Advisory role			

at 1000ha per year hence the area of avoided deforestation is 300ha per year.	Yaubula Management Support Team	Coordinate and influence community decisions	Advisory role			
	iTaukei Land Trust Board	Rights to provide leases on behalf of landowners	Support lease and benefit negotiation with iTaukei landowners			
	Ministry of iTaukei Affairs	Sets policies may affect community decisions	Advisory role			
	Ministry of agriculture	Sets policies may affect farmer decisions	Advisory role			

In summary, the beneficiaries and benefits of the REDD+ benefit sharing mechanism will depend on the REDD+ activities that are implemented, as follows:

- a) For all REDD+ activities:
 - Villages/communities that use the forest area will receive non-monetary benefits in the form of a community development project; and
 - Leaseholders and owners of land conducting REDD+ activities on their own land will receive non-carbon benefits from:
 - Enhanced forest or plantation protection from fire and illegal activities through community collaboration
 - Training from Ministry of Forestry and Ministry of Agriculture (covered by government budgets).
- b) For community-based tree planting and riparian reforestation, in addition to a) above:
 - iTaukei landowning units that consent to plant trees on their land will receive a monetary or non-monetary benefit as an incentive to plant trees (e.g. Reforestation of Degraded Forests – RDF-initiative which pays \$244/ha, or could be seedlings and equipment); and
 - iTaukei landowning units will receive a monetary benefit lease payment.
- c) For agroforestry by smallholders (less than 5 ha), in addition to a) above:
 - Smallholders will receive a monetary or non-monetary benefit as an incentive to plant trees and adopt agroforestry (e.g. cash payment as for Reforestation of Degraded Forests - RDF - or seedlings and equipment).
- d) For forest conservation, in addition to a) above:
 - Owners of land will receive a monetary benefit lease payment and compensation costs for the foregone rights to harvest timber.

7.2 Eligibility criteria and process for establishing eligibility

The Forest Bill 2016 requires that all REDD+ activities are to register with the Ministry of Forestry. In addition, Clause 21 of the Forest Bill 2016 refers to the issue of Forest Management License. This clause may be expanded to reflect REDD+ activities (referred to in this document as a REDD+ License). The Ministry of Forestry is committed to review the Forest Bill 2016 and resubmit for parliamentary review and endorsement by December 2019.

All beneficiaries must register with the Ministry of Forestry to be eligible for REDD+ benefits. Registration with the Ministry of Forestry will result in issuance of a REDD+ License which is conditional upon the issuance of a REDD+ Lease by either TLTB or the Ministry of Lands/Land Bank. The twostep process of lease and license will support the clarification of rights to receive REDD+ benefits and recognition of rights to trade emissions reductions through the lease conditions and will allow technical oversight and monitoring of all REDD+ activities by the Ministry of Forestry through the license conditions. The Ministry of Forestry REDD+ Unit is committed to developing Standard Operating Procedures following the general expectation of REDD+ leases and licenses outlined below.

A REDD+ Lease issued by TLTB or Ministry of Lands/Land Bank will include:

- Assignment of ownership of any ERRs generated to the government to allow international trade in return for benefits;
- Identification of the co-signatory Community Trust that will contribute to conservation of the forest in return for non-monetary benefits in the form of community development projects;
- Conservation conditions to be respected by all parties and a monitoring clause that establishes penalties for non-compliance;
- Type of benefits for which the lease holder is eligible e.g. tree planting incentives, agroforestry incentives;
- Type of benefits for which the owner of lands is eligible e.g. lease payments, compensation costs;
- Variation clause recognizing that all carbon benefits including lease payment, incentives for planting, and allocations for community development projects may vary depending on carbon revenue;
- 50-year term except (i) 30 years agroforestry and (ii) 99 years for conservation.

A REDD+ License issued by the Ministry of Forestry will include:

- Conditionality on prior approval and issue of REDD+ Lease by TLTB/ Ministry of Lands/Land Bank
- Type of REDD+ activity pursued and a detailed management plan with a map showing the boundaries
- Implementation plan and monitoring schedules
- Conditionality of benefits and types of benefit.

A summary of the beneficiaries and eligibility criteria is provided in Table 3.

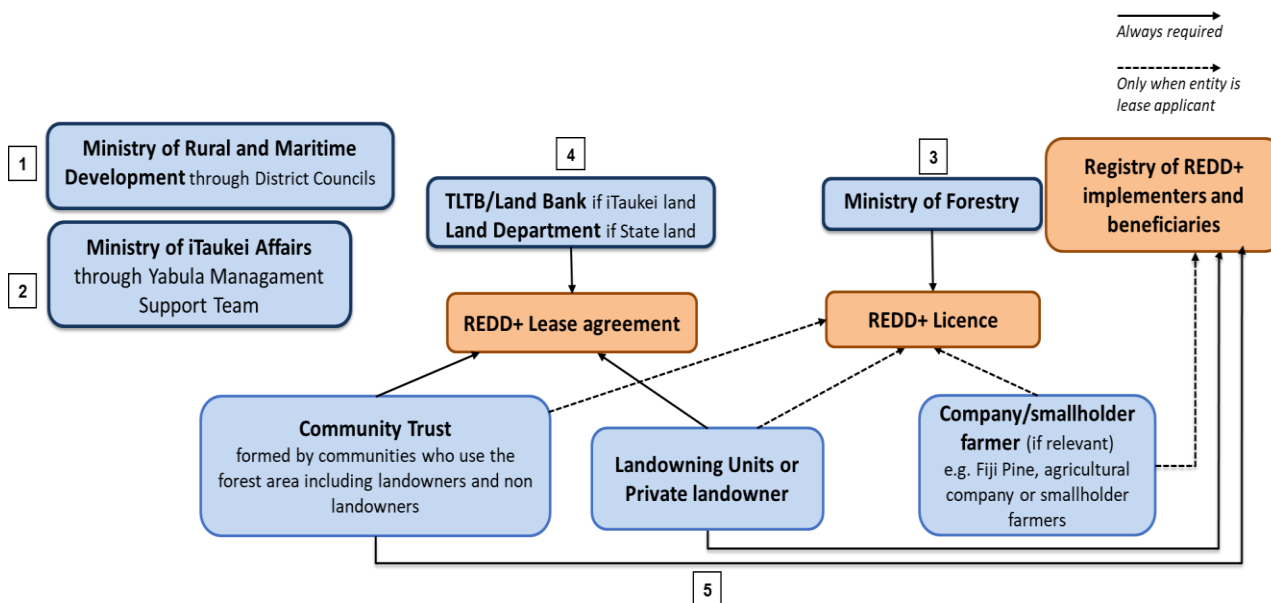
The Ministry of Rural and Maritime Development (MRMD); is the focal point for the policy on Integrated Rural Development Framework which aligns well with REDD+ activities. In collaboration with TLTB, MRMD is well positioned to assist communities to establish a Community Trust as well as to facilitate the registration process for REDD+ Leases and Licenses. A flow chart of the registration process including establishment of REDD+ Lease and License is outlined in Box 1

Table 3. Beneficiaries and eligibility criteria

Beneficiary	Eligibility criteria
Owners of land	<ul style="list-style-type: none"> • Registration with Ministry of Forest/Conservator of Forests, area and location of land and REDD+ activity to be undertaken. • Can be iTaukei land owning unit, private landowner, or Department of Lands for State Land
Lease holder	<ul style="list-style-type: none"> • Registration with Conservator of Forests, area and location of land and activity to be undertaken, open to all leaseholders on iTaukei, State or Private Land. • Community Trust can be lease holder e.g. for forest conservation • iTaukei land owning unit can be lease holder e.g. for sustainable forest management or community-based planting • Private company can be leaseholder for any activity except community-based planting • Private individual can be leaseholder for any activity e.g. smallholder for agroforestry

Communities	<ul style="list-style-type: none"> iTaukei or non-Taukei village/settlements that register to participate in the REDD+ activities. The registry is held by the Ministry of Forestry. A Community Trust must be established for all REDD+ activities composed of all local residents who use the forest area for customary purposes, including landowners and non-landowners Should be no smaller than one village, including all surrounding residents (e.g. 3-4 per District) Community Trust(s) must be a co-signatory of each REDD+ Lease agreement, even if not the lease holder, to hold them accountable for forest protection in return for non-monetary carbon benefits in the form of community development projects A Community Trust can participate in several lease agreements e.g. where they use forest in several smallholder agroforestry leases but will only be eligible for one allocation of funds for a community development project The Ministry of iTaukei Affairs through TLTB and the Yaubula Management Support Teams and the Ministry of Rural and Maritime Development through the District Councils support establishment of the Community Trust
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Box 1.: Process for establishment of lease, license and registration for REDD+



1. District Councils under MRMD Integrated Rural Development Framework support development of Community Trust and REDD+ Lease and License

2. YMST support establishment of Community Trust and of the REDD+ Lease and License

3. Lease applicant seeks pre-registration for REDD+

- The lease applicant must pre-register for a REDD+ License indicating the area of land and intended REDD+ activity.

- *As part of pre-registration, MOF, TLTB or Land Bank/Lands Department or the owners of land, and the lease applicant conduct a site visit to establish eligibility for the REDD+ activities and determine the sustainable management plan to include in the license*
- *The lease applicant develops a sustainable management plan to meet the requirements of the REDD+ activity and submits to MOF for approval e.g. protect the forest from: fire, illegal logging, indiscriminate logging, unauthorized agriculture*
- *MOF issues a provisional REDD+ License specifying approved REDD+ activities and the land area where they will be implemented etc.*
- *The lease applicant submits the provisional REDD+ License to TLTB/Land Bank/Lands Department/owner of lands to request a REDD+ Lease*
- *On submission of a REDD+ Lease and approved sustainable management plan, MOF issues a REDD+ License to the lease holder*
- *MOF maintains a registry of REDD+ implementers and beneficiaries*

4. For iTaukei land, TLTB or Land Bank negotiates the lease between the landowning units and the Community Trust (and with the Company or private farmer if relevant).

- *Identification of the co-signatory Community Trust that will contribute to conservation of the forest in return for non-monetary benefits in the form of community development projects*
- *REDD+ Lease includes:*
 - *Conservation conditions to be respected by all parties and a monitoring clause that establishes penalties for non-compliance*
 - *Types of benefits for which the lease holder is eligible eg tree planting incentives, agroforestry incentives*
 - *Type of benefits for which the owner of lands is eligible e.g. lease payments, compensation costs*
 - *Assigns ownership of ERRs to Government to allow international trade in return for benefits*
 - *Benefits include community development projects to be identified with District Councils*
 - *Variation clause recognizing that all carbon benefits including lease payment, incentives for planting, and allocations for community development projects may vary depending on carbon revenue*
- *50 year term except (i) 30 years agroforestry and (ii) 99 years for conservation*

5. Once the REDD+ Lease and REDD+ License are established the Trust, owner of land and Company or individual (if relevant) and can register for REDD+ with MOF. The issuance of the REDD+ License is conditional on a REDD+ Lease and vice versa.

7.3 Conditions for receiving benefits

Stakeholder consultation at the Benefit Sharing Workshops noted that it is imperative to determine from the outset the conditions on which beneficiaries may fully realize rewards for their efforts. However, it is noted that lease payments to landowners are not performance based. Lease payments are based on contractual agreements where monetary land rental is paid by the lessee annually regardless of the status of REDD+ activity. Stakeholders noted that many landowners are not willing to pay land leases on their own land hence, lease payments to landowners involved in REDD+ activities on their own land may be an incentive for participation. The conditions for such leases will include a variability clause that allows the amount of land rental to change depending on carbon finance received. TLTB/Ministry of Lands/Land Bank will negotiate the amount with MOF as advised by REDD+ Steering Committee and approved by the Forestry Board.

Recognizing that incentives for community-based tree planting and riparian planting are based on hectares planted and survival rates, it is suggested that current practice of monetary and non-monetary benefits adopted in alignment with existing “Reforestation of Degraded Forests Project (RDF) – One Million Trees a year by the Ministry of Forestry. The RDF pays one-off cash payment of \$244/ha for small holder agroforestry as well as one-off upfront provision of seedlings and equipment for \$100/ha. It is further suggested that the above rewards or payment from Carbon Fund be issued on condition of survival of seedlings planted where the actual amount/modality can be adjusted on approval of the Forestry Board.

In summary, conditions for receiving benefits are as follows:

- a) Lease payments to landowners are not performance based:
 - Monetary payment of a uniform amount/ha (same amount) regardless of REDD+ activity paid annually;
 - Variability clause in lease allows amount to change depending on carbon finance received. TLTB/Ministry of Lands will negotiate the amount with MOF advised by REDD+ Steering Committee and approved by the Forestry Board.
- b) Benefits received for community-based tree planting are performance based according to hectares planted and survival rates:
 - Monetary or non-monetary e.g. one-off cash payment per Reforestation of Degraded Forests which pays FJ\$196/ha for preparation and planting and FJ\$48 for maintenance and weeding after 3 months (FJ\$244/ha total) Incentives for smallholder agroforestry;
 - Monetary or non-monetary e.g. one-off upfront provision of seedlings and equipment or \$100/ha any performance element following RDF model;
 - Amounts/modality can be adjusted on approval of the Forestry Board.
- c) Community Development Projects
 - Uniform base amount is allocated for all eligible community trusts according to funds available regardless of REDD+ activities;
 - Conditions and penalties are established in the REDD+ Lease;
 - Adjustments down or up can be made based on MOF assessment of implementation of forest management plan and lease/license stipulations – MOF reports to the REDD+ Divisional Working Group that proposes adjustments to REDD+ Steering Committee for approval and inclusion in the plan for use of carbon funds prepared by MOF;
 - Adjustments for each village can be made down or up for example by 10% increments each year, such that the annual amount allocated to each trust does not surpass the maximum approved amount for Community Development Projects in a given year;
 - For example,
 - deforestation or excessive logging in a forest conservation area would result in a reduction of 10%, which could only be redeemed in a future year by replanting the degraded area. Further deforestation would result in loss of an additional 10% etc.
 - <60% survival after 1 year gets deduction of 10%, replanting to show >80% survival increases by 10%.
 - Funds can be accumulated over several years; and
 - Funds for first year of registration are pro-rata based on whole months registered for REDD+.

8. Allocation between beneficiary groups

Fiji experiences cyclone season between January and May. Projections indicate more intense hurricanes in increasing frequency across all the group of islands in Fiji. Storms that result in heavy damage typically occur every ten years, however with climate change the frequency of such damaging storms is anticipated to increase. Therefore, the risk of a storm event impacting REDD+ interventions exists. Damage from heavy storms is typically more significant in exotic plantation forests compared to secondary native forest areas and decreases further in primary forests. To mitigate potential losses, areas identified for reforestation projects will undergo a prior assessment of suitability (i.e. aspect, soil type, species composition, management regime) with the aim of minimizing losses. At the same time, it is proposed that 5% of the benefits from carbon payments should be set aside as a performance buffer to cater for possible loss associated with climate change.

The government will need to provide services through the Ministry of Forestry to address REDD+ coordination, MRV, safeguards and grievance mechanism. Benefits from Carbon Fund must be allocated to cater for this through approval of the Forestry Board. It is therefore suggested to allocate a maximum of 10% and a minimum of 3% to the Ministry of Forestry. The Forestry Board will decide on the specific percentage allocated.

The remaining funds (85-92% depending on decision of the Forestry Board) will be allocated equally according to the following guidelines:

- Priority allocation to:
 - Lease payments to landowners (for Community-based tree planting, agroforestry and forest conservation);
- Secondary allocation (based on needs and potential other budgets):
 - Incentives for community-based tree planting;
 - Incentives for smallholder agroforestry;
 - The remainder of the funds is to be allocated for Community Development Projects which should represent the majority of carbon finance received.

Community Development Projects are allocated according to the following guidelines:

- 50% of benefits allocated for REDD+ activities such as seedlings, surveillance and monitoring, removal of invasive species, procurement of safety gear, rain suits, cameras, tools for agriculture, beekeeping, fisheries, ecotourism, fire-fighting tools to create and maintain firebreaks and others;
- 50% of benefits allocated for community development such as school renovation, health centres, church renovation, boreholes, solar lighting, scholarships, etc.
- Preference to projects that benefit a larger proportion of the community, including women, youth and any vulnerable and marginalized people
- Ineligible non-monetary items to include the purchase of chainsaws, hunting and fire tools/equipment, projects that disproportionately benefit any individual or family.

9. Nested projects

As national REDD+ frameworks develop in Fiji, the demonstration project activities (e.g. Drawa Project, Nakauvadra Community Based Reforestation Project) will need to be brought under broader accounting frameworks to ensure that any carbon credits issued to projects or programs “add up”—maintaining environmental integrity while catalyzing action at multiple scales of implementation⁵². Integrating local and national levels of action has come to be referred to as “nesting”. Nesting can refer to province-level accounting integrated into national level systems or accounting for project-level activities within the broader national (or subnational) system.

Fiji’s REDD+ Nesting Guidelines

In alignment with the REDD+ Policy, Fiji has selected a phased approach to developing and applying nesting arrangements. With REDD+ projects already in place, such a stepwise approach will allow alignment with Cancun UNFCCC decision on subnational activities, allowing countries to make use of subnational accounting and monitoring as an interim measure before transitioning to a national REDD+ system. The Cancun Agreement anticipates that a national system for measurement, reporting and verification (MRV) would be completed and accepted that assesses emissions reductions for results-based finance. Fiji has developed a nesting guideline as outlined in Table 4 articulating the pathway it intends to adopt with clear timelines. The nesting system will ensure that REDD+ projects align to national accounting and reporting for REDD+ within the framework of the national forest monitoring system comprising national forest reference level, MRV, database and REDD+ registry components with which REDD+ projects need to comply. The main milestones in the schedule and associated roadmap are:

- **Enactment of the Forest Bill 2016** which will lay the regulatory foundation for operation of REDD+ projects
- **Establishment of carbon trading regulations**
- **Development of a draft technical proposal for nesting that will incorporate consensus among stakeholders.**
- **Publication of Draft Nesting Guidelines** to enable projects to be nested in the national system and avoid double counting of reductions.
- **Conduct a public consultation period** for socialization and finalization of the guidelines
- **Finalization and Adoption of the Guidelines**

The Government of Fiji is expected to approve the nesting guidelines for REDD+ projects by December of 2020, including a set of regulations and procedures to monitor, account, report and transact emission reduction credits from projects, including compliance with the national forest monitoring system.

Status of REDD+ Projects

⁵² Forest Trends and Climate Focus. Nested Approaches to REDD+: An overview of Issues and Options. <https://theredddesk.org/resources/nested-approaches-redd-overview-issues-and-options>

The REDD+ Policy for Fiji was launched in 2010. As outlined in Section 4 above, public and private demonstration projects are already implemented at subnational or project level to reduce emissions from deforestation and forest degradation. These projects include the Drawa Project and Nakauvadra Community Based Reforestation Project.

The Drawa project has completed validation and verification under the Plan Vivo standard. According to the project's 2017 Annual Report⁵³ a total 55,600 credits were generated between 2012 – 2015 of which 12,000 credits have been issued. As an early mover, the Drawa Rainforest Conservation Project made its first sale of carbon credits in 2018. **The estimated net annual emissions removals from the Drawa project represents 1.5% of the annual emissions reductions expected under the ER Program.** Ministry of Forestry has communicated information relating to the requirements for the project to comply with the nesting guidelines to be approved by Government of Fiji during 2020. Meanwhile, it is proposed to exclude the Drawa Project Area from the ER program accounting area to avoid double counting. However, once the nesting guideline is established, the Drawa project will be expected to align with the national forest reference level and national forest monitoring system during the period 2021-2025.

The Nakauvadra Community Based Reforestation project is an ecosystems services project financially supported by Fiji Water in partnership with Conservation International as delivery partner. The Project has been validated against the Climate Community and Biodiversity Standards but to date, it has not been verified against the CCB Standards⁵⁴. The validation/ verification of Nakauvadra project under the CCB Program does not result in the issuance of tradable climate, community and biodiversity benefits as ***the CCB Standard cannot to be used for claiming quantified GHG emissions reductions or removals to be used as offsets***⁵⁵. The project also does not intend to apply any other standard for verification and issuance of carbon credits. A maximum of 5 years is allowed between validation and subsequent verifications under the CCB Standards⁵⁶, which the Nakauvadra project has exceeded. Further, there is no plan for Nakauvadra project to operate as an emissions reduction project in the future. For these, reasons, Nakauvadra project is not considered a REDD+ project for the purpose of certification, issuance and transfer of emission reduction credits and is therefore, excluded from the processes related to the nesting of REDD+ projects in Fiji.

Emalu forest is a pilot site for the National REDD+ programme, selected in 2012, located South West of Viti Levu, the largest island in Fiji. The land has an area of 7, 347Ha covered predominantly by pristine forest. The Mataqali Emalu is the traditional landowner of the Emalu pilot site and their traditional residence is Draubuta Village. There are more than 30 registered members of the Mataqali, and the majority are female mostly living outside Draubuta Village. Socioeconomic surveys were conducted in Draubuta, Viti Levu and Nakoro village in Noikoro district of the province of Navosa. Participatory rural appraisal (PRA) tools were used to assess the socioeconomic status and gather baseline information for

⁵³ The Drawa Project 2017 Annual Report is available form the [Plan Vivo website](#).

⁵⁴ Validation demonstrates that a project has been designed so that it is likely to deliver multiple benefits, while verification demonstrates that multiple benefits have been delivered.

⁵⁵ <http://verra.org/wp-content/uploads/2017/06/CCB-Program-Rules-v3.1.pdf>

⁵⁶ http://verra.org/wp-content/uploads/2016/11/CCB_Standards_Rules_v3.0_content_map.pdf

the 3 villages. The Emalu pilot site land is owned by the clan of Emalu (mataqali Emalu) and their traditional village of residence is Draubuta village. Majority of the members are women with most married and living away from the village. The main source of food and income for all three villages is agriculture. The main challenges include poor road conditions and the lack of capacity and opportunities for farmers to further develop their resources. Transport is limited to carriers that service the area only on selected days. There are 3 primary schools that cater for nine villages in the district of Noikoro and include Draubuta, Nakoro and Viti Levu however, there is no secondary school in the district. Parents send their children in Sigatoka or outside of Sigatoka. Communication is restricted to landline phones with intermittent reception and services. Electrical power is supplied through diesel generators, batteries and solar lamps and energy sources for cooking is largely kerosene and wood fuel. The carbon stock of the Emalu forest were carried out by the Fiji Forestry Department and supported by REDD+ technical working group members. A total of 516,121tCO₂e is estimated across lowland forest (220,818 tCO₂e), upland forest (216,526 tCO₂e) and cloud forest (33,777 tCO₂e).

Table 4. Schedule and roadmap for development and application of Fiji's REDD+ Nesting Guidelines

No	Activities	2019			2020			
		May-July	Aug-Oct	Nov-Dec	Jan-March	April-June	July-Sept	Oct-Dec
1	National Forest Reference Level							
2	Enactment of the Forest Bill 2016 by the Parliament							
3	Carbon Trading Regulation							
4	Publication of Draft Technical Proposal for Nesting Guidelines							
5	Consultation Period							
6	Finalisation of Technical Proposal							
7	Approval of Nesting Guidelines							

Benefit Sharing and REDD+ Project Nesting

All REDD+ projects beyond 2025 are expected to align to the enacted Forest Bill, carbon trading regulations, the REDD+ Nesting Guidelines and the REDD+ Benefit Sharing Plan. The REDD+ Benefit Sharing Plan will be based on the principles and elements outlined in this report. To this end, the Benefit Sharing Plan is expected to be completed by Dec 2109.

10. Institutional arrangements for management of funds and delivery of benefits

The Ministry of Economy was granted Cabinet Approval to negotiate carbon trade and be the focal point for Fiji to the World Bank. The Warsaw Framework suggests that the national entity or focal point designated to serve as liaison with the secretariat and bodies under the UNFCCC on coordination of support and may also be nominated to receive and obtain results-based payments. Key institutions that may support delivery of benefits are outlined in Box 2 and summarized in Table 5.

Table 5: Institutions responsible for delivery of benefits

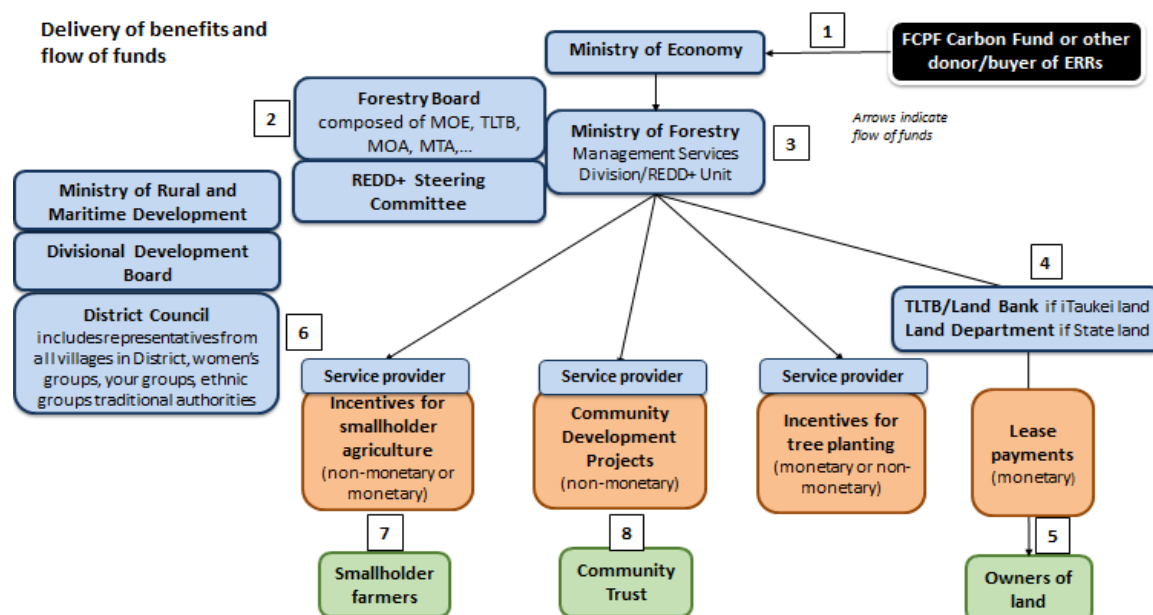
Agency	Benefits Delivered	Beneficiaries
Ministry of Rural & Maritime Development	Community/Village projects	Community Trust
iTaukei Land Trust Board/ Ministry of Lands/Land Bank	Lease payments & conservation	iTaukei Lease owners
Ministry of Forestry	Non-monetary benefits such as seedlings, rain suits, cameras, tools for agriculture, surveillance and monitoring, safety gear, rain suits, cameras, tools for agriculture, beekeeping and others	Small holder farmers
	Buffer Funds	All beneficiaries
	Safeguard, Monitoring and other costs	All beneficiaries

11. Disclosure, Communication and dissemination of information

All information pertaining to REDD+ activities should be disclosed for public information. These include:

- All benefits received and distributed by Village, District and Division for benefits managed by MRMD (village development projects and agroforestry incentives), by TLTB (lease payments and conservation costs), by MOF (community planting incentives)
- List of beneficiaries registered for REDD+
- ERRs generated, carbon finance received, and amounts allocated to each beneficiary group
- Annual plan for benefit sharing approved by Forestry Board, including lease payment amount/ha and maximum allocation for Village Development Project
- Evaluation reports of performance for each license

Box 2: Institutional arrangements for the management of funds and delivery of benefits



1. Ministry of Economy receives funds from FCPF Carbon Fund or other donor/buyer of ERRs
2. Forestry Board approves plan for use of carbon funds proposed by Management Services Division (MSD)/REDD+ Unit in consultation with REDD+ Steering Committee, based on registered REDD+ beneficiaries, lease agreements, and results of MOF monitoring of conservation conditions
3. MOF retains maximum 10% (3% proposed for ERP) for government plus amount needed for incentives for tree planting by communities. Amount included for such purposes in the plan for use of Carbon Funds will vary depending on availability of other funds
4. As an interim measure, TLTB holds a 5% buffer which is invested for future needs, then released on approval of Forestry Board before establishment of a REDD+ Trust Fund
5. Owners of land are beneficiaries of monetary benefits in form of lease payments and compensation costs (where relevant). Lease payments may be variable depending on carbon finance received. iTaukei landowning units (LOU) may decide to assign lease payments to community development projects. LOU can also benefit from monetary or non-monetary incentives for tree planting
6. Smallholder farmers are beneficiaries of non-monetary or monetary benefits e.g. seedlings, tools, equipment etc.
7. Community Trust proposes community development projects of which 50% are designated for REDD+ activities, 50% for community development
 - Community development projects are included in District Land Use Plan and Management Plan that identifies community development project priorities for villages in the District
 - Divisional Development Board approves community development projects proposed by District Council

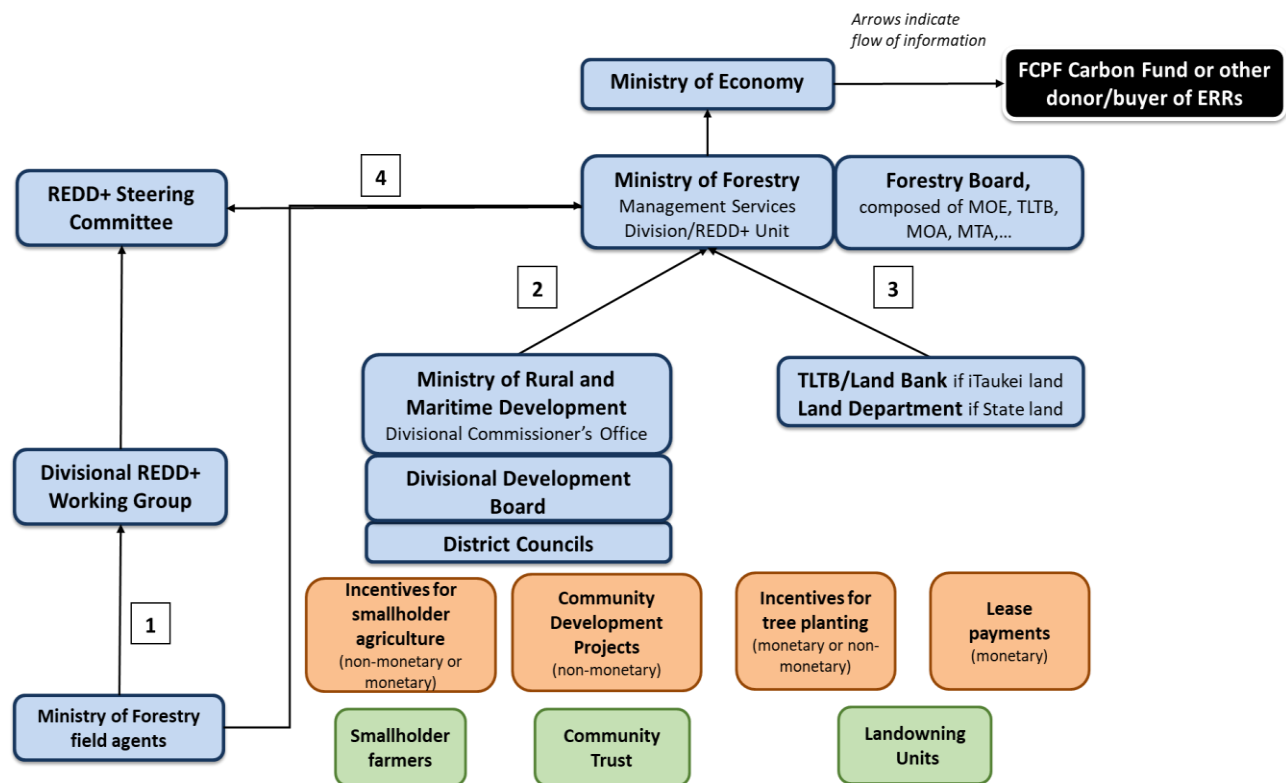
- Community development projects are implemented by relevant ministry (e.g. Ministry of Agriculture for agriculture) or other service provider

8. Community Trust members are beneficiaries of non-monetary benefits in the form of Community Development Projects

12. Monitoring arrangements

At the national level, it is recommended that the Ministry of Forestry Extension Officers will monitor all REDD+ activities and report on performance of beneficiaries with respect to commitments in the REDD+ Licenses and Leases. Technical reports are presented to the Forestry Board through prior validation from the Divisional Working Group and endorsement by the REDD+ Steering Committee. Reports on the monetary benefits are submitted by TLTB and Ministry of Lands/Land Bank to the Ministry of Forestry who then presents to the Forestry Board for endorsement prior to submission to the Ministry of Economy. At the national focal point, the Ministry of Economy will report to the FCPF Carbon fund. A flow chart depicting the monitoring framework is outlined in Box 3.

Box 3: Monitoring and Reporting Arrangements for Benefits Sharing



1. Ministry of Forestry field agents report on performance of beneficiaries with respect to commitments in REDD+ Licenses and Leases

2. *Technical reports on implementation of community development projects and incentives for smallholders*
3. *Financial reports on lease payments and buffer funds (if these are managed by TLTB)*
4. *MSD/REDD+ Unit prepares annual report of benefits shared and performance on REDD+ activities and conservation commitments, and proposes plan for use of carbon funds for next period in consultation with REDD+ Steering Committee for approval by Forestry Board*

13. Potential benefit amounts

Based on the design of the Emissions Reductions Program (ERP) prepared for submission to the FCPF Carbon Fund and the expected ERRS at US\$ 5/ton, the following benefits could be expected (see Table 6):

- Total ERRs generated over 5 years less non-permanence buffer: 2,367,093
- Total payments expected from FCPF Carbon Fund at USD 5/ton: 11,835,465
- Total payments expected in Fiji Dollars (FJD) at 2.1514 FJD/USD: 25,462,819
- Performance buffer at 5% of payments received: FJD 1,273,141
- Government allocation at 3% of payments received: FJD 763,885
- Remaining funds available for benefits: FJD 23,425,794
- Allocation for Community Project: FJD 12,878/year
- Lease payments – FJD 10/ha
- Compensation costs to landowners for protected areas – FJD 3/ha

14. Conclusions & Recommendations

A participatory process was followed to design a REDD+ benefit sharing mechanism for Fiji, building on existing legislation and institutions in a manner that ensures recognition of existing policies and laws where majority of benefits go to local communities.

The review of Fiji's existing policy, legislation and institutional framework relevant to REDD+ benefit sharing mechanism showed that a solid basis is already in place to establish a mechanism consistent with the principles and objectives encouraged by international law and determined nationally.

Some policy and legal issues have been identified and call for a few legal and administrative adjustments to ensure the effective operation of the benefit sharing mechanism in terms of governance of the mechanism and of distribution of ER benefits.

The key policy and legal issues that have been identified along with the recommendations to address them are summarized below.

Table 6: Estimates of benefits associated with REDD+ emissions reduction program

Year	2020	2021	2022	2023	2024	2025	Total
Area needing REDD+ lease payments (ha)	13408	20886	37295	46195	49293		167077
Area needing incentive payment for planting (ha)	1600	2400	3200	4000	4800		
Villages needing community projects	101	208	322	443	572		1647
Anticipated ERRs	373,688	372,732	548,797	537,658	534,218		2,367,093
Payments expected (USD)				6,476,085		5,359,380	11,835,465
Payments expected (FJD)				13,932, 649		11,530,170	25,462,819
Less 3% to government and 5% buffer (FJD)							23,425,794
Incentives @ FJD 244/ha							1,171,200
Community Projects (FJD) @ FJ\$12,878/village/year							21,214,004
Lease payments (FJD) @ FJD 10/ha							1,670,770
Compensation cost (FJD) @ FJD 3.5/ha							541,020

1. Dichotomy between the right to trade and ownership of forest carbon (emissions reductions and removals)

The Ministry of Economy is the focal point for the UNFCCC and, as such, following the recommendation from the Cancun Agreement and aligned to the Cabinet Decision No. CP(16)148 of 13/9/16; is the entity that will negotiate and trade emissions reductions on behalf of the Government of Fiji, through Emissions Reduction Purchase Agreements (ERPA), as well as receive the payment for emissions reductions. During the term of the exclusivity period (44 months from December 2016), the Ministry of Economy will negotiate and trade exclusively with the trustee of the FCPF, the IBRD.

Legal issue: Legal basis for the right to trade of emissions reductions by the Ministry of Economy.

Consistent with the recommendations of the carbon rights study, and pending a Government decision on forest carbon rights and their transfer, the likely scenario that has emerged from the consultations with government agencies and other stakeholders is that there will be a dichotomy between ownership of forest carbon and right to trade forest carbon credits; with the forest carbon rights remaining attached to the tree owners, the right to trade carbon has to be formally and legally transferred to the Ministry of Economy by carbon rights owners.

Recommendations: The right to trade emissions reductions to be transferred to the Ministry of Economy as a condition of eligibility to carbon benefits. This could be achieved by making the transfer of rights to trade emissions reductions:

- a condition of registration for REDD+ activities reflected in the REDD+ license issued by the Conservator of Forests – and thus of eligibility to a share of benefits;
- a condition of a lease entered by the entity undertaking REDD+ activities with the TLTB – for iTaukei lands
- or with the Department of Lands for State land and designated lands under the Land Use Act.

2. Absence of specific provisions for the institutional governance and distribution of REDD+ benefits
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The Ministry of Forestry is the lead government agency for REDD+ as mandated by Fiji's REDD+ Policy. There is currently no legislation in force specifically addressing REDD+. The Forest Act 1992 gives broad powers to the Forestry Board that have enabled the establishment of the REDD+ Steering Committee tasked with the overall REDD+ coordination and implementation. In addition, the Ministry of Forests hosts the national REDD+ Unit that was established in 2014. The Conservator of Forests approves all REDD+ Project proposals and activities after consulting with the REDD+ Steering Committee.

The Forest Bill 2016 gives a clear mandate to the Ministry of Forestry to take the lead role in the implementation and coordination of REDD+ activities. The Conservator of Forests assumes the key responsibilities for the implementation of REDD+. The Bill does not make direct reference to the registration of REDD+ projects but provides for the Conservator to approve forestry programs and projects including those related to forest carbon. The Conservator of Forests has the power to issue new Forest Management Licenses, created for the purposes of ensuring long term tenure for persons, organizations or companies which can demonstrate a commitment to sustainable forest management in the planting and harvesting of trees within a forest plantation.

The Bill makes provision for regulations under the Act to prescribe *"The licensing, generation, validation, verification and registration of Fiji forest carbon certificates, standards and procedures for project*

implementation and approval under REDD+” and mandates “a Forestry Committee established under the Board” to deal with all of Fiji’s forest carbon projects under REDD+.

Legal issue: Absence of specific provisions in Fiji-REDD-Plus policy, the Forest Act 1992 and the Forest Bill 2016 for the institutional governance and distribution of REDD+ benefits.

Recommendations:

- Forest Bill to be amended to make provision for:
 - the creation of a **REDD+ Registry** / Emissions Reductions Registry, referring to the regulations under the Act detailing processes and conditions of registration.
 - the creation of a **REDD+ Trust Fund** /Forest Emissions Reduction Fund for the purpose of 1) receiving the proceeds of the trade of emissions reductions from the Ministry of Economy, and 2) disbursing and distributing these funds in the form of benefits according to the rules prescribed by regulations under the Act;
 - **REDD+ licenses** that include entitlement to ‘seed’ funding, and proceeds of sale of ER generated
 - amendment of the composition of the **Forestry Board** to include the Permanent Secretary for Rural and Maritime Development (noting that the Forest Bill already provides for the PS Environment and PS Agriculture to be members of the Forestry Board);
 - amendment to the functions of **the Conservator of Forests** to include his/her responsibility relating, inter alia, to the issuance of REDD+ licenses; coordination with TLTB or Department of Lands in relation to REDD+ leases; REDD+ Registry; and MRV
 - amendment to the **functions of the Forestry Board** to include its role relating to the benefit sharing mechanism, including the determination of the percentage of benefits distributed to the REDD+ licensees;
 - express reference to the **REDD+ Steering Committee**, and further provisions detailing the functions of the Steering Committee and associated committees (REDD+ Unit, REDD+ Thematic Working Groups) in regulations under the Act.
- Amended Forest Bill to be enacted and **Regulations under the new Forest Act** to be drafted and passed to give effect to the new Forest Act. The regulations should contain the following provisions:
 - the procedure and conditions for the registration in the REDD+ Registry of entities created to conduct REDD+ activities;
 - procedures and standard provisions for REDD+ licenses
 - the procedures and operational rules for the Forestry Emissions Reduction Fund, including relating to respect for social and environmental safeguards;
 - criteria for the Forestry Board decision-making process for the allocation of benefits to the registered project proponents and beneficiaries.

3. Harmonization between the National Climate Change Act and the Forest Bill

The National Climate Change Policy (NCCP) does not contain any express reference to REDD+ or to REDD+ benefit sharing mechanism, nor does it contain any express mention of REDD+ in the directions given for the drafting related legislation. However, the NCCP contains provisions on mitigation actions relating to the enhancement of carbon sinks and carbon reservoirs (that would include REDD+), and directs the development of a proposed National Climate Change Act to address enhancing sustainable financing for national climate risk management, including to:

- Support Fiji's ability to secure international climate finance, attract private sector investment, and initiate innovative blended financial arrangements;
- Enable Fiji to participate in cooperative and market-based mechanisms established through the Paris Agreement, and;
- Create the mandate to establish emissions reduction incentive schemes.

In addition, considering the important role of forests conservation, reforestation and sustainable management in maintaining essential ecological services described in Fiji's National Adaptation Plan⁵⁷, it may be expected that the NCC Act will contain provisions for the governance of REDD+ activities as part of the implementation of the National Adaptation Plan (NAP).

Legal issue: REDD+ is part of Fiji's response to climate change, and as such falls within the scope of the NCCP and of the proposed National Climate Change Act enabling the implementation of the NCCP and NAP. On the other hand, Fiji's REDD-Plus policy clearly mandates the Ministry of Forestry to assume the lead role for REDD+ governance and implementation. The Forest Bill 2016 currently has provisions for REDD+ but needs provisions relating to REDD+ registration, benefit sharing governance and institutional arrangements in alignment to the National Climate Change Policy.

Recommendations:

It is recommended that alignment is made between the Forest Bill and the proposed NCC Act which should clearly address REDD+ and its benefit sharing mechanism as part of Fiji's climate change response, and

- reaffirm the role of the Ministry of Forestry as lead ministry for REDD+,
- refer to the (new) Forest Act for the provisions on REDD+ and benefit sharing mechanism, and
- ensure coordination and harmony between the institutional arrangements for the implementation of the NCCP and the REDD-Plus policy and the legislation enabling these policies.

<h4>4. Institutional arrangements for the governance of the benefit sharing mechanism - Integrated Rural Development Framework</h4>
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The principle for the proposed Framework for Integrated Rural Development was endorsed by Cabinet in 2009, and it appears that some of its institutional features at divisional, provincial and district levels have been put in place and operating but the policy document is yet to be finalized and endorsed for adoption by Government (at this stage the Framework is government internal document not accessible to the public).

The Ministry of Rural and Maritime Development's core function is to manage and coordinate the government's efforts for development nationwide as determined in the National Development Plan. The Integrated Rural Development Framework proposes a combined top-down and bottom-up approach to achieve the NDP's objectives through the strategic divisional, provincial and district plans. The Framework proposes institutional arrangements with councils established at divisional, provincial and district levels tasked with the development and implementation of these plans. This institutional architecture provides a fitting platform for the governance and implementation of REDD+ and Emissions Reduction Program. The proposed arrangements for implementation of REDD+ activities are centered at the divisional level to strengthen the enabling conditions for emissions reduction. This entails the development of integrated land

⁵⁷ Fiji's National Adaptation Plan (NAP) 2018 is expected to substantially support efforts to achieve Goal 15 which is to protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification (the agriculture component is especially relevant for fulfilling Fiji's commitments under the United Nations Convention to Combat Desertification and the new Strategic Framework (2018-2030), and halt and reverse land degradation and halt biodiversity loss.

use plans and three divisional landscape governance structures for an improved regulatory framework supporting REDD+, and strengthened law enforcement, as well as an improved forest information system to support forest sector planning and decision making, with the assistance of divisional REDD+ Working Groups, multi-agency committee tasked to directly oversee and monitor implementation in REDD+ sites.

Recommendation: The drafting of the Integrated Rural Development Framework policy should be finalized and adopted, and the proposed institutional arrangements should be put in place and operationalized at all levels.

5. Institutional arrangements for beneficiaries

Several types of entities can be created by communities for the purpose of REDD+ BSM, ranging from basic community trusts, charitable trusts to co-operatives and companies. Their respective legal basis and characteristics as well as the pros and cons of the models used in the existing REDD+ projects in Fiji have been discussed in this study.

Recommendation: From a legal standpoint, the recommendation is for communities/ beneficiary groups of Emission Reduction benefits to create an incorporated entity, such as a charitable trust or a company limited by guarantee, that has legal personality.

Such entity has the capacity to:

- register for Emissions Reduction activities and become eligible for a share of carbon benefits;
- apply for REDD+ license;
- enter into a REDD+ lease agreement with TLTB or the Ministry of Land's Land Use Unit; as well as to
- receive and disburse and/or distribute carbon benefits

Additional advantages of both charitable trusts (under the Charitable Trust Act) and companies limited by guarantee (under the Companies Act) include:

- a degree of separation between the trustees of a charitable trust or the directors of a company limited by guarantee limiting their personal liability;
- eligibility for tax exemption; and
- strengthened accountability and transparency.