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Australia and Forest Carbon Partnerships – Indigenous Land Rights



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Reforming Forest Tenure

- Critical REDD+ issue is to ensure that rights of indigenous and local communities are recognized and respected.
- Key way to ensure this – securing formal tenure rights over custodial land.
- Tenure Reform Challenging (FAO)
 - Reform should be part of holistic and integrated reform agenda supported by related forest policy, legislation and institutional arrangements
 - Improved governance systems are critical for ensuring that reformed tenure arrangements can be translated into meaningful outcomes
 - When pre-existing customary rights are recognized or new rights are formally granted, supportive mechanisms must be put in place.





Reform in Plural Legal Systems

- Plural legal systems – 2 different legal systems.
- In plural legal systems – customary rights to land are recognized and protected as being valid in their own right.
- Formalizing customary tenure considerations:
 1. Conflicting Interests in Land – “just compensation” for loss of property rights
 2. Large Degree of Diversity of customary tenure laws: build State Law Capacity and Willingness to Recognise
 3. Granting of customary rights – must be backed up by access to justice considerations.





Reform in Non-plural legal systems

- In non-plural legal systems indigenous land rights claims have to rely upon state law to recognize their land rights.
- Indigenous groups have to fulfill state law requirements in order for their claim to be recognized.
- Access to Justice Issues
 - Law Reform Proposals
 - Change Evidential requirements
 - Reducing costs/time associated with bringing such claims.



+ REDD+ Safeguards- UNDRIP - Tenure

REDD Safeguards

- “full and effective participation”
- Notes UNDRIP Obligations
- Do not address tenure

UNDRIP

- “free, prior and informed consent”
- Self Determination Rights
- Rights to Land/Property



Carbon Farming Initiative (CFI)

- The *Carbon Credits (Carbon Farming Initiative) Act 2011* was passed on 23 August 2011 and became operational in December 2011.
- The objectives of the Act are to:
 - Implement certain obligations that Australia has under the Climate Change Convention and Kyoto Protocol;
 - Create incentives for people to carry out certain offsets projects;
 - Increase carbon abatement in a manner consistent with the protection of Australia's natural environmental and in a manner that improves Australia's resilience to the effects of climate change



+ Additionality and Risk: Positive/Negative Lists



+ Positive/Negative List - Indigenous

Positive Opportunities

Savanna Fire Management

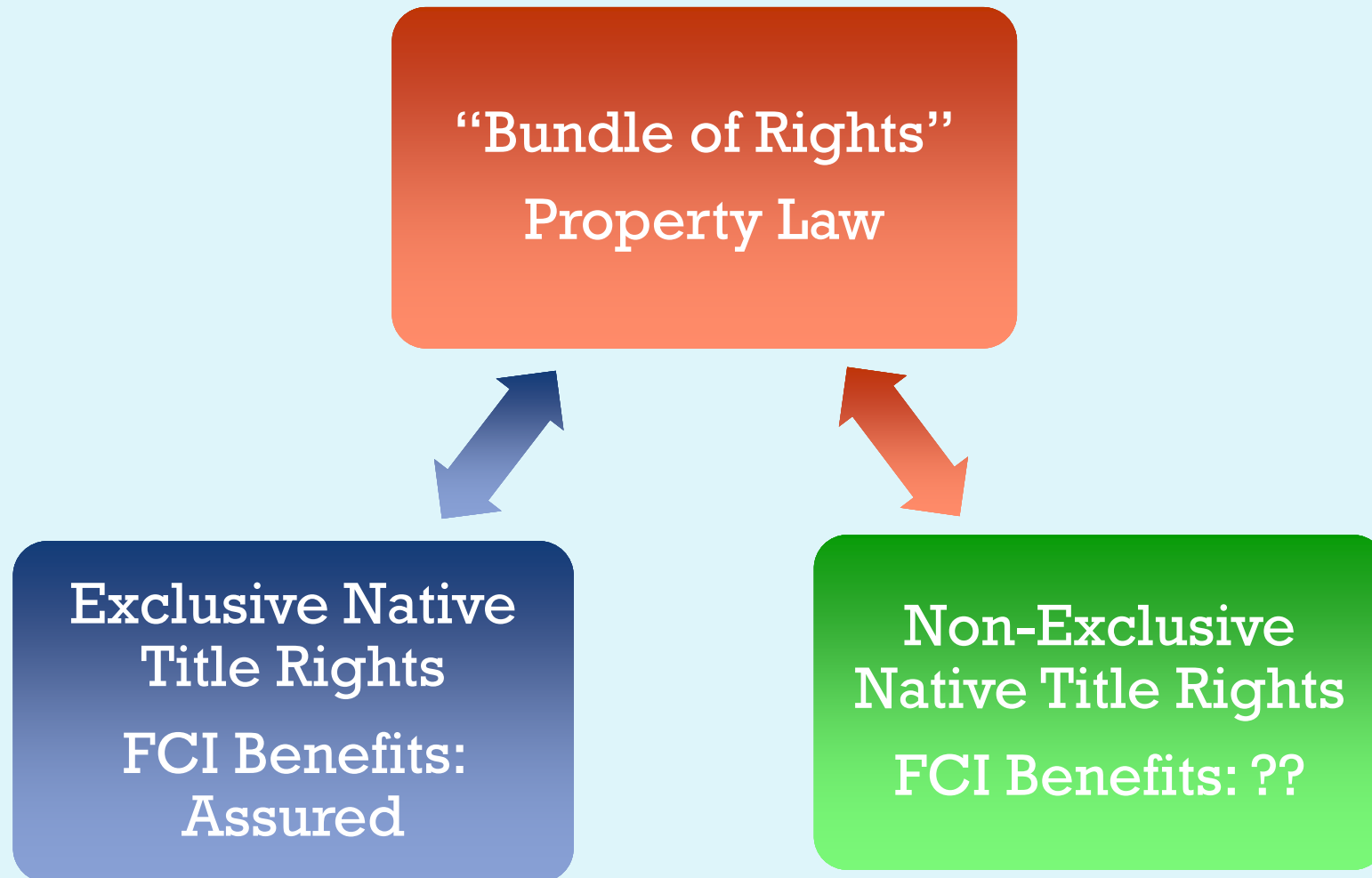
Feral Camel

Environmental Plantings

Negative Limitations

Long Standing Forests : hope that REDD+ conservation payment may be included

+ Indigenous Land Rights and CFI



+ Indigenous Carbon Farming Fund

**\$5.2 million
research and
development
fund.**

- Research and Reporting tools for CFI Methodologies

**17.1 million
capacity building
and business
support stream
fund**

- Assist indigenous communities to participate: information, tools, legal advice.

+ Kalimantan Forest Climate Partnership (KFCP)



- Funded under International Forest Carbon Initiative.
- \$30 million dollar investment with 4 objectives
 1. Reduce (GHG) emissions by providing incentives and technical means;
 2. Develop methods and capacity to measure and monitor GHG emissions;
 3. Develop and test equitable and practicable payment mechanisms
 4. Build institutional and technical readiness of the local government and villages to implement REDD



Land Tenure: KFCP Site



- Site previously used for Mega Rice Project (1996-1998) – government paid compensation to those suffering livelihood loss (created different understandings re tenure rights)
- Conflicting land rights
 - Dayak community – in process of claiming customary rights
 - District government and NGO's supporting Dayak community in claiming customary rights.
 - Central Government – Ministry of Forestry: State Forest Land
 - Local government wants to claim some of the land for Palm Oil Development.



Community Engagement

- Community wary of outside interference – MRP experience.
- NGO's have identified the following concerns in
 - Lack of transparency from the KFCP concerning its objectives and REDD+ plans
 - Lack of information on the supposed benefits of the KFCP for locals - \$30 million budget does not seem to be reaching local level.
 - Concern that the KFCP has not responded to verbal and written requests from the villagers to establish rubber gardens
 - Inability of KFCP to learn from the traditional knowledge as to which species grow in the different soils
 - **Lack of commitment from KFCP to recognise and respect the customary rights in land of the villages affected by the project**
 - In the Mantangai Hulu villages – consultation carried out with the now retired village head, did not involve the whole community or take into account the community's own decision making institutions.



+ Conclusions

- REDD+ Safeguards need to address tenure – vital for ensuring that benefits are shared and for sustainability of projects.
- Australia – has done a better job of providing opportunities for indigenous Australians to benefit from FCI – though always room for improvement.
- KFCP Project site – logical choice on ecological and poverty criteria
- KFCP Project site – land tenure arrangements complex. REDD+ investment should be used to assist in formalizing indigenous land rights.