



El Ministro de Relaciones Exteriores

San José, July 22st, 2020
DM-1314-2020

**Mr. Yannick Glemarc
Executive Director
Secretariat of the Green Climate Fund
Republic of Korea**

Subject: Legal title to REDD+ results presented by the Government of Costa Rica to the Green Climate Fund for results-based payments

Dear Mr. Glemarc,

Pursuant to paragraph 15 of the Terms of Reference for the pilot programme for REDD+ results-based payments adopted by the Green Climate Fund (GCF) Board in decision B.18/07, in my capacity as Minister of Foreign Affairs and Worship, I hereby state that, in accordance with national policies and regulation, the Ministry of the Environment and Energy, has the legal authority to receive REDD+ results-based payments from the GCF on behalf of Costa Rica. The Government of Costa Rica is not aware of any legal actions, claims, or pending legal proceedings, properly publicized, affecting the REDD+ results offered by Costa Rica to the GCF, before any court or tribunal of arbitration, which can reasonably be expected to substantially or negatively affect the ability of the Costa Rican government to comply and execute its obligations.

In Costa Rica, the reduction of deforestation and the increase in forest area since the 1980s is explained by a combination of command and control policies and measures (enacted by the Forest Law No. 7.575 of 1996, as well as the National Strategy for Fire Management (enacted by Decree N. 26.399/ 1997 and later on substituted by Decree N. 37.480/ 2013) and the positive effects of incentive programs, including the payments for environmental services scheme. The legal authority of the Ministry of the Environment and Energy to receive REDD+ results-based payments from the GCF on behalf of Costa Rica derives from the article 50 of Constitution, the General Environmental Law N. 7554/ 1995, the Forest Law N. 7.575/ 1996 and the General Law N. 7.152/ 1990.

The General Environmental Law N. 7.554/ 1995, article 48, establishes the "*obligation of the State to conserve, protect and manage forest resources*". The Forest Law N. 7.575/ 1996, article 1, establishes as the essential and priority function of the Costa Rican State to "*ensure the conservation, protection and administration of natural forests and the production, exploitation, industrialization and promotion of forest resources*". These functions are under the responsibility of the Ministry of the Environment and Energy, mandated by the General Law N.



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7.152/ 1990, article 2, to "promote and manage the legislation on conservation and the rational use of natural resources, with the objective to promote sustainable development, and ensure compliance with the law". The Ministry of the Environment and Energy mandate encompasses forest areas in both public and private lands. Article 19 of the Forest Law regulates forest areas in private properties, which "will not be allowed to change the use of the land, nor to establish forest plantations" unless authorized by the government. Costa Rican Criminal Courts have reaffirmed this Forestry Law provision and, based on the principle of forest irreducibility, have ordered private landowners to restitute the affected forest area to its prior state (*Tribunal de Casación Penal, sentencias números 366-2003, 396-2003 y 450-2003*).

In addition to that, the centralized process for the approval of the external commercialization of REDD+ carbon credits established under the Ministry of the Environment and Energy by the Executive Decree N. 40.464/ 2017 provides further assurances that no other party has a competing claim to the REDD+ results offered by the Government of Costa Rica to the GCF for payments.

For more details, please refer to the analysis on Legal title to REDD-plus results included in Section E.6.1 of the funding proposal.

REDD+ results-based payments received by Costa Rica from the GCF will be recorded in an interim registry to ensure that there are no double payments for results. By 2021 this interim registry will be replaced by a central registry within the National Metric System for Climate Change (SINAMEC).

Rest assured that if, despite the existing regulation and safeguard measures in place, competing claims were to be presented by a third party, the Government of Costa Rica will take full responsibility and necessary legal measures.

Sincerely,



Rodolfo Solano Quirós
Minister of Foreign Affairs and Worship
Republic of Costa Rica