Indigenous people in Brazil own carbon rights, law firm finds | Carbon

By Greenbang on Dec 09, 2009 in Carbon, Featured



A groundbreaking legal opinion released today <u>could clear the way for indigenous people in Brazil to gain carbon-trading rights</u> for their native lands.

The international law firm of Baker & McKenzie found that the Surui tribe of the Brazilian Amazon owns carbon-trading rights for any future global warming deals related to the rainforest regions inhabited by the tribe. The opinion was commissioned by Forest Trends, a Washington, DC-based conservation group that works to protect forests around the world.

"This study confirms that we have the right to carbon, and is also an important political and legal instrument to recognise the rights of indigenous people for the carbon in their standing forests," said Chief Almir Narayamoga Surui, leader of the Surui tribe. "It helps in our dialogue with the government, businesses, and other sectors, strengthening the autonomy of indigenous peoples to manage our territories."

Chief Almir, who has received several assassination threats in the past and for a time fled to the United States for his safety, has been one of several Surui leaders trying to win national and international support on environmental issues.

The new legal finding is also likely apply to other indigenous groups in Brazil, which is home to 40 per cent of the world's rainforests.

"This really is a landmark opinion," said Michael Jenkins, president and CEO of Forest Trends. "What we have been able to demonstrate here is that there will be opportunity and a path forward for indigenous groups to participate in emerging markets from a global warming deal. In fact, the indigenous groups would now be part of the solution."

Over the last several years, many indigenous groups have expressed concern that a climate change deal would be yet another international agreement that eroded their rights. In response, Forest Trends asked Baker & McKenzie to research whether Brazilian law would allow the Surui and other indigenous groups in Brazil to claim benefits under any deals involving the Reduced Emissions from Deforestation and Degradation (REDD) arrangements now being considered in the climate talks in Copenhagen.

Under REDD deals, the law firm found, the Surui indigenous group would be able to oversee management of the forest as well as reap any economic benefits from carbon trading arrangements.

While the Baker & McKenzie opinion is not binding, it applies to a country — Brazil — that's shown strong federal government support for indigenous groups.

The finding said the conclusion was based on the Brazilian Constitution and legislation, which "provides for a unique proprietary regime over the Brazilian Indians land ... which reserves to the Brazilian Indians ... the exclusive use and sustainable administration of the demarcated lands as well as ... the economic benefits that this sustainable use can

generate."

The finding could be a huge boost to the survival of the Surui tribe, which has endured many threats to its existence. The Surui, with support from Forest Trends and other partners, have developed a project looking to international carbon offset finance to help them preserve their imperiled forest and way of life. With just 1,200 members overseeing 600,000 acres of land in the Amazon basin — three-quarters the size of the state of Rhode Island — the Surui tribe first came in contact with Brazilians of European descent only 40 years ago.

The result was an almost immediate series of tragedies, with the tribe's population reduced from more than 5,000 to 290 people from disease for which members had no immunity. In more recent years, illegal loggers have invaded the Surui's land, and 11 regional indigenous leaders have been assassinated — killings believed to be directed by logging and mining captains.

However, the tribe has organised many political and legal efforts in recent years, winning major support from the Brazilian national government and conservation organizations such as Forest Trends. A major mapping project with the Amazon Conservation Team and Google Maps has also documented the natural and human history of the tribe's land over the years.

"This finding should greatly help the Surui and, by extension, other indigenous groups in Brazil," said Beto Borges, Director of Communities and Markets Programs at Forest Trends. "Not only do the indigenous groups have the ethical right for carbon credits projects on their land and because of their stewardship role over the generations, but this finding now means they have the legal right as well. It's a major step forward."

