

Cambridge Centre for Climate Change Mitigation Research  
and UNEP World Conservation Monitoring Centre

Cambridge **Conservation Initiative**

# Overcoming the Legal Barriers to REDD+ Implementation:

## Legal aspects of REDD+ environmental safeguards

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## PURPOSE OF THIS DOCUMENT

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This briefing by UNEP-WCMC is designed to provide publicly available resources outlining key background information regarding the environmental safeguards applicable to REDD+, as part of the project '*Overcoming the legal barriers to REDD+ implementation*'. As such, it aims at:

**i)** Informing REDD+ countries about the specific legal issues they might need to address in order to promote and support REDD+ environmental safeguards

**ii)** Informing project developers currently designing and implementing REDD+ demonstration projects (such as FFI's global REDD+ programme operating in Cambodia and Viet Nam) what issues they need to address in their project design in order to be in line with environmental safeguards. This brief is not primarily concerned with the application of privately developed REDD+ standards such as those of the Climate, Community and Biodiversity Alliance (CCBA), but rather with how REDD+ safeguards and standards at the international and national level might affect private REDD+ projects.

**iii)** Informing REDD+ countries and REDD+ project developers alike about the implications of the development of a 'National Approach to safeguards' for the eventual 'nesting' of projects within a national REDD+ Programme. The issue of nesting is often approached in the existing literature from the angle of carbon accounting and rarely under that of safeguards implementation. This brief is an attempt to address this deficit, by looking at ways to reconcile the concurrent implementation of various safeguards processes at different scales.

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<sup>1</sup> led by the Cambridge Centre for Climate Change Mitigation Research (4CMR) under a grant by the Cambridge Conservation Initiative (CCI)

## INTRODUCTION AND DEFINITION OF CONCEPTS

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As REDD+ discussions were taking shape and gaining momentum, concerns have been raised that it could incur environmental impacts on forests, through the financing of forest management strategies that are focused on carbon only. These concerns have led to the design of ‘safeguards’ to ensure that no harm would result from the implementation of REDD+. Conversely, it is increasingly recognized that if such safeguards were respected, a well-planned REDD+ implementation could result in environmental benefits such as biodiversity and ecosystem services being retained or restored.<sup>2</sup>

The application of these safeguards requires countries to address a number of policy challenges, some of which are of a legal nature (the ‘legal barriers’ to REDD+ implementation). This brief aims at informing both REDD+ countries and REDD+ projects developers about the legal issues associated with the implementation of environmental safeguards across international, national and project scales. The focus of this brief is on the legal implications of the **environmental** aspects of REDD+ safeguards. REDD+ safeguards also contain a number of **social** aspects, with their own legal implications, such as the respect of the rights of indigenous peoples. The contribution of Dr Richard Irvine to this project “*A review of ethnographic research on REDD+ projects in the Southeast Asia region: What lessons can we learn?*” can usefully be consulted on this topic.

The following three tiers of analysis are used in addressing the legal aspects of REDD+ implementation:

Firstly, **international legal frameworks**, and especially the decisions of the United Nations Framework Convention on Climate Change (UNFCCC) on REDD+ safeguards are the reference points that should guide both the development and implementation of national policies and laws to address safeguards. In addition to the UNFCCC safeguards decision of 2010, a number of pre-existing international legal instruments and policy processes offers potential synergies for the implementation of environmental safeguards.

Second, countries undertaking REDD+ activities will need to develop **national approaches** that enable them to address the requirements set out at the international level through their national-level actions.<sup>3</sup> ‘National approach to safeguards’ refers to the way in which Policies,

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<sup>2</sup> Harvey, C. A., Dickson, B. & Kormos, C. Opportunities for achieving biodiversity conservation through REDD. *Conservation Letters*. 3, 56–61 (2010)

<sup>3</sup> See also: Peskett, L. & Todd, K. *Putting REDD+ Safeguards and Safeguard Information Systems Into Practice*, UN-REDD Programme Policy Brief series, UN-REDD Programme (2013). Available at

Laws and Regulations<sup>4</sup> (PLRs) in a given national context set out the safeguards that have been established for REDD+, as well as the design of a Safeguard Information System with which a country intends to communicate to the UNFCCC on their implementation. For the purpose of this analysis we distinguish between existing PLRs that are relevant to the implementation of environmental safeguards and those that have been developed to address REDD+-specific issues.

As national REDD+ programmes take shape, the question of the integration of smaller-scale **REDD+ projects** within them (often referred to as ‘nesting’) becomes more acute. Yet, the exact terms of their integration within a national REDD+ programme, including the applicable national approach to safeguards, often remain unclear. This uncertainty, combined with the likelihood of impending legal reforms, is a source of legal insecurity for project developers. As a result, a proactive approach is recommended that anticipates the legal consequences of the implementation of environmental safeguards at the national level.

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[http://www.unredd.net/index.php?option=com\\_docman&task=doc\\_download&gid=9167&Itemid=53](http://www.unredd.net/index.php?option=com_docman&task=doc_download&gid=9167&Itemid=53)

<sup>4</sup> ‘Policy’ refers to the public policies of national governments which express political choices about public objectives; ‘regulations’ are the regulatory provisions which seek to implement government policies by creating rights and obligations for different actors within the applicable jurisdiction; ‘law’ refers to a formal document with the power to impose requirements within the applicable jurisdiction, which has been authorised by an appropriate public body.

## I. INTERNATIONAL LEGAL FRAMEWORKS: SETTING THE SCENE FOR ENVIRONMENTAL SAFEGUARDS IMPLEMENTATION

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As is the case with any policy, the implementation of REDD+ entails a number of risks and opportunities. These risks and opportunities are addressed by the ‘Cancun safeguards’, a critical part of the REDD+ framework that is being negotiated under the United National Framework Convention on Climate Change (UNFCCC).

The decisions of the UNFCCC, whose legal implications are described in more detail below, constitute the most obvious international legal instrument concerned with REDD+ safeguards (1.1). In addition, a number of pre-existing international legal instruments and international policy frameworks (1.2) are also relevant.

### 1 LEGAL CONSIDERATIONS IN THE APPLICATION OF THE CANCUN SAFEGUARDS

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These safeguards have been adopted in response to concerns that REDD+ might bear social and environmental risks, but also in recognition that, if appropriately implemented, it may contribute to a range of policy goals in addition to climate change mitigation, such as promoting biodiversity conservation and securing the provision of ecosystem services (including water regulation, timber production, erosion control and the supply of non-timber forest products). Social benefits, such as improved livelihoods (including from carbon payments), clarification of land tenure, and stronger governance may also arise from an appropriate implementation of REDD+. The Cancun Agreements decision<sup>5</sup>, in its paragraph 70 defines REDD+ as the following set of activities: (a) Reducing emissions from deforestation; (b) Reducing emissions from forest degradation; (c) Conservation of forest carbon stocks; (d) Sustainable management of forests; (e) Enhancement of forest carbon stocks.”

Paragraph 69 of the same decision states that when implementing the activities thus defined, a set of safeguards listed in Appendix I to this decision (and usually referred to as the ‘Cancun safeguards’) “should be promoted and supported.” Accordingly, **Appendix I** Paragraph 2 reads that “When undertaking the activities referred to in paragraph 70 of this decision, the

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<sup>5</sup> UNFCCC, *The Cancun Agreements: Outcome of the Work of the Ad Hoc Working Group on Long-Term Cooperative Action Under the Convention*, Decision 1/CP.16, FCCC/CP/2010/7/Add.1.

following **safeguards** should be promoted and supported.” A list of seven safeguards follows, the content of which is summarized in the box opposite.

Further, paragraph 71(d) requests countries to develop a system for providing information on how the safeguards ... are being addressed and respected throughout the implementation of [REDD+ activities]while respecting sovereignty”. This provision was later elaborated upon at the 17<sup>th</sup> conference of the parties in Durban, in decision 12/CP.17<sup>6</sup> of 2013, which calls for such information to be provided through a “Safeguards Information System” (SIS).

The term ‘safeguards’ is reminiscent of the vocabulary of financial institutions such as the World Bank, whose internal policies strive to prevent or mitigate potential harm from investment or development activities.<sup>7</sup> The Cancun safeguards differ slightly however, in that they are not only about limiting the potential negative impacts of REDD+ but also about enhancing the potential benefits beyond carbon. In that sense, they are as much ‘principles’ of ‘best practice’ than safeguards. Moreover, the Cancun safeguards for REDD+ are also in part about preventing risks that REDD+ does not provide the expected return on investment, by calling countries to ensure that they address the risks of reversal and leakage.

Notwithstanding the lack of clarity over the consequences of the non-application of safeguards, the legal implications of which are discussed in more details below (2), countries will need to assess the knowledge gaps, institutional capacities and legal frameworks required for their implementation (1).

#### The Cancun safeguards address the following issues:

- a) Consistency with objectives of national forest programmes and relevant international conventions and agreements;
- b) Transparent and effective national forest governance structures;
- c) Respect for the knowledge and rights of indigenous peoples and members of local communities
- d) The full and effective participation of relevant stakeholders, in particular indigenous peoples and local communities;
- e) Conservation of natural forests and biological diversity and enhancement of other social and environmental benefits;
- f) Actions to address the risks of reversals;
- g) Actions to reduce the displacement of emissions.

Of particular relevance for this brief is safeguard (e) whose original text stipulates that REDD+ activities are:

*“consistent with the conservation of natural forests and biological diversity, ensuring that the actions referred to in paragraph 70 of this decision are not used for the conversion of natural forests, but are instead used to incentivize the protection and natural forests and their ecosystem services, and to enhance other social and environmental benefits”.*

<sup>6</sup> UNFCCC, *Decision 12/CP.17, FCCC/CP/2010/7/Add.1*.

<sup>7</sup> Eg., Operational Policy 4.01 on Environmental Assessment which aims at mitigating the potential negative impacts associated with the Bank’s lending operations.

## 1.1. Implementation

The language of the Cancun text is very general and does not define, in the context of REDD+, what constitutes an adequate safeguard, nor how to prioritize different values (e.g. carbon versus biodiversity versus social benefit). The UN-REDD Programme, a collaborative initiative of the United Nations to support readiness for REDD+, has sought to provide countries with a guiding framework to assist countries in developing their own approach to safeguards through the development of the Social and Environmental Principles and Criteria (SEPC). The SEPC are complemented by the draft Benefits and Risks Tool (BeRT)<sup>8</sup>, designed to help countries to identify the social and environmental issues in UN-REDD funded work.

REDD+ readiness however, is also supported by other institutions, each of them with their own set of safeguards policies. The Forest Carbon Partnership Facility (FCPF) of the World Bank is also partnering with a number of REDD+ countries, sometimes the same as UN-REDD, and applies a Safeguards framework derived from the Bank's Operational Policies: the Strategic Environmental and Social Assessment (SESA) which leads to the elaboration of an Environmental and Social Management Framework (ESMF).

These instruments differ in terms of whether they are aimed at helping countries to operationalize the UNFCCC safeguards (which is one objective of the UN-REDD Programme's Social and Environmental Principles and Criteria (SEPC)) and/or demonstrating compliance with donor safeguards (e.g. World Bank safeguards apply to activities, projects and programs supported by the FCPF).<sup>9</sup> In addition, safeguards developed following a 'bottom-up'<sup>10</sup> approach have been put forward by the Climate, Community and Biodiversity Alliance (CCBA) and CARE International, a consortium of development and conservation NGOs, through their 'REDD+ Social and Environmental Standards' (REDD+ SES)<sup>11</sup>.

The following table<sup>12</sup> summarizes the relationship between the Cancun safeguards and the three international safeguards initiatives (SEPC, SESA and REDD+ SES). It illustrates to what extent the application of these different frameworks could promote the Cancun safeguards, underlining that different sets of safeguards pursue different objectives. It is useful for policy-makers at the national level and project developers to bear this distinction in mind depending on who they are accountable or reporting to.

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<sup>8</sup> Can be consulted here: [http://www.un-redd.org/Multiple\\_Benefits/SEPC\\_BeRT/tabid/991/Default.aspx](http://www.un-redd.org/Multiple_Benefits/SEPC_BeRT/tabid/991/Default.aspx)

<sup>9</sup> Peskett, L. & Todd, K., Putting REDD+ Safeguards and Safeguards Information Systems into practice, UN-REDD Programme Policy Brief, Issue 3, 2013. Available online at [http://www.unredd.net/index.php?option=com\\_docman&task=doc\\_download&gid=9167&Itemid=53](http://www.unredd.net/index.php?option=com_docman&task=doc_download&gid=9167&Itemid=53)

<sup>10</sup> The REDD+ SES were developed through a series of multistakeholder workshops engaging a diverse range of stakeholders, several comments and review periods with feedback from countries and other stakeholders.

<sup>11</sup> <http://www.redd-standards.org/>. Although developed by the same organisation, the REDD+ SES are for national level and not the same document as the project level CCBA REDD+ standards.

<sup>12</sup> Adapted from Boyle, J. & Murphy, D., Designing Effective REDD+ Safeguard Information Systems: Building on existing systems and country experiences, 2012, ASB and IISD

In that regard, it is important to remember that the Cancun safeguards are born out of negotiations on an international mechanism that should eventually provide the overarching architecture for all REDD+ actions, and will therefore need to be addressed whoever the implementer or the funder is.

**Table 1 - Table of overlap between the Cancun safeguards and the three international safeguards initiative (adapted from Boyle and Murphy, 2012)**

Cancun safeguards	UN-REDD SEPC and BeRT	FCPF SESA and ESMF	REDD+ SES
(a) Consistency with existing laws	✓		✓
(b) Transparent governance and sovereignty	✓		✓
(c) Respect for knowledge of indigenous people, UNDRIP	✓	✓	✓
(d) Full and effective participation of stakeholders	✓	✓	✓
(e) Conservation, biological diversity and enhancement of benefits	✓	✓	✓
(f) Address risk of reversals	✓		✓
(g) Reduce displacement of emissions	✓		✓

## 1.2. Enforcement

The language of the Cancun text does not define either how countries will be held to account should they fail to implement the prescribed safeguards<sup>13</sup>. It only calls for countries to “provide information on how they promote and support safeguards”. Decision 12/CP.17 UNFCCC ‘Guidance on systems for providing information on how safeguards are addressed and respected and modalities related to forest reference emission levels and forest reference levels as referred to in decision 1/CP.16’ reiterated this and provided broad additional guidance on systems for providing information on how safeguards are addressed and respected. The frequency with which this information should be provided is currently being discussed in the

<sup>13</sup> McDermott, C. L., Coad, L., Helfgott, A. & Schroeder, H. Operationalizing social safeguards in REDD+: actors, interests and ideas. *Environmental Science and Policy*, 21: 63-72 (2012)

UNFCCC with the likely outcome being that it will be consistent with the provisions for submissions of national communications from Parties not included in Annex I to the Convention and on a voluntary basis to a dedicated web platform on the UNFCCC website.

This request to provide information does not amount to legal enforcement, even in the softer form of ‘non-compliance procedures’ common to Multilateral Environmental Agreements (MEA). Under other MEAs, non-compliance response mechanisms exist under which parties may be required to provide additional information on how they intend to comply with their obligations or be issued cautions<sup>14</sup>. In some cases, there can also be imposed penalties such as suspension of privileges brought by the agreement or trade sanctions<sup>15</sup>. These mechanisms also exist under the UNFCCC, but are limited to the implementation of the Kyoto Protocol.<sup>16</sup> Nothing in the current text of the REDD+ negotiations indicates that such mechanisms would apply to the implementation of the Cancun safeguards, or to resolving potential conflicts between donor countries and host countries around this issue.

In the future, Parties to the UNFCCC may choose to put measures in place to determine when a Party has failed to adequately implement the REDD+ safeguard requirements, including reporting requirements, and the measures that such non-compliance will trigger. Some commentators have put forward that a successful non-compliance and dispute resolution mechanisms will need to allow direct access to such a mechanism for actors whose rights are protected by the safeguards.<sup>17</sup> For reasons of sovereignty however, national-level mechanisms are more likely to offer avenues for legal recourse or other forms of grievance to those affected by REDD+ on the ground.<sup>18</sup>

Therefore, at present the Cancun safeguards are not subject to legal enforcement through non-compliance and dispute resolution procedures. With a REDD+ mechanism built around results-based economic incentives rather than legal enforcement, it is possible that the application of safeguards might become part of the eligibility criteria for performance based payments, however, this will depend on future decisions by the Conference of the Parties with respect to a future international REDD+ mechanism.

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<sup>14</sup> See Montreal Protocol to the Vienna Convention for the Protection of the Ozone Layer, Article 8 and decision X/10

<sup>15</sup> See Convention on International Trade in Endangered Species, Resolution Conf. 14.3, sec 30; Montreal Protocol Article 8.

<sup>16</sup> The Compliance Committee for the Kyoto Protocol was established in October 2001, at Conference of the Parties (COP) 7 by the Marrakech Accords ([Decision 11/CP.7](#)).

<sup>17</sup> ClientEarth and WRI (2011) Lessons from International and Regional Instruments, A ClientEarth and World Resources Institute Submission to SBSTA. Accessible at <http://www.clientearth.org/reports/submission-redd+safeguards-final.pdf>

<sup>18</sup> As appears from the recommendations of a joint UN-REDD Programme and World Bank FCPF guidance on grievance mechanisms, in preparation.

## 2 POTENTIAL SYNERGIES BETWEEN THE CANCUN SAFEGUARDS AND RELEVANT INTERNATIONAL AGREEMENTS AND POLICIES FOR FORESTS

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The text of the Cancun safeguards explicitly calls for consistency of REDD+ implementation with national programmes and relevant international commitments.<sup>19</sup> As requested by the UN-REDD programme, UNEP-WCMC has conducted a review of international agreements that support the Cancun safeguards. This review<sup>20</sup> aims to highlight to participant countries how respecting the safeguards might provide synergies for compliance with other international commitments.

This review was carried out by listing international agreements relevant to the implementation of the Cancun safeguards, then identifying specific provisions in these agreements which, if complied with, would work towards addressing the Cancun safeguards. The analysis, presented in **Annex I** is carried out for safeguard e), and uses the Social and Environmental Principles and Criteria of the UN-REDD Programme as a guiding framework for identifying relevant provisions in international agreements.

In addition to these existing multilateral agreements, a number of international processes are of potential relevance for the implementation of safeguards, and especially to the provision of information related to their implementation, required by decision 12/CP.17 of the UNFCCC, which calls on countries to establish a “Safeguards Information System” (SIS).

Reporting duties under the FAO Forest Resources Assessment<sup>21</sup> (FAO FRA), the EU Forest Law Governance Enforcement and Trade<sup>22</sup> (EU FLEGT), and the Forest Stewardship Council principles and criteria for forest certification<sup>23</sup> (FSC) are three examples of processes that produced information that could feed into a REDD+ SIS.

The following table<sup>24</sup> summarizes how participation in these processes overlaps with some of the implementation and reporting requirements of the Cancun safeguards. It is important to note that participation in these processes does not automatically amount to respecting the

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<sup>19</sup> As set out by safeguard (a): “[REDD+] actions complement or are consistent with the objectives of national forest programmes and relevant international conventions and agreements;”

<sup>20</sup> Still in progress at the date of publication.

<sup>21</sup> The Global Forest Resources Assessments (FRA) are produced every five years in an attempt to provide a consistent approach to describing the world’s forests and how they are changing. The Assessment is based on two primary sources of data: Country Reports prepared by National Correspondents and remote sensing that is conducted by FAO together with national focal points and regional partners. See: <http://www.fao.org/forestry/fra/en/>

<sup>22</sup> The EU FLEGT is Europe’s response to illegal logging. It consists in the development of bilateral trade accords (known as Voluntary Partnership Agreements of VPA) with timber exporting countries to ensure the legality of exported timber, and EU legislation to ban illegally-produced wood products from the EU market. See: <http://www.euflegt.efi.int/portal/>

<sup>23</sup> The Forest Stewardship Council is an international, non-governmental organisation dedicated to promoting better management practices in productive forests. FSC runs a global forest certification system with two key components: Forest Management and Chain of Custody certification. This system allows consumers to identify, purchase and use timber and forest products produced from forests managed according to FSC certification practices.

<sup>24</sup> Adapted from Boyle, J. & Murphy, D., *Designing Effective REDD+ Safeguard Information Systems: Building on existing systems and country experiences*, 2012, ASB and IISD

safeguards or the requirement to provide information on how the safeguards are addressed and respected. The text of decision 12/CP.17 only sets a number of guiding principle for the design of such a system, and countries are free to decide how they might go about fulfilling this request. The aim of this table is to highlight how some existing processes could be used by countries as ‘building blocks’ of an integrated SIS, thereby limiting the burden of multiple reporting processes.

**Table 2 - Relevance of forest-related policy processes to the implementation of REDD+ safeguards**

REDD+ Safeguard (cross reference with the paragraph numbers in Appendix 1)	FRA	FLEGT	FSC P&C
(a) Consistency with existing laws	✓	✓	✓
(b) Transparent governance and sovereignty	✓	✓	✓
(c) Respect for knowledge of indigenous people, UNDRIP		✓	✓
(d) Full and effective participation of stakeholders		✓	✓
(e) Conservation, biological diversity and enhancement of benefits	✓	✓	✓
(f) Address risk of reversals	✓		
(g) Reduce displacement of emissions	✓		

As an example to illustrate this approach, preliminary consideration regarding the relevance of these processes for safeguards implementation and reporting are presented below for two example countries, Viet Nam and Cambodia:

#### ***EU FLEGT***

Engagement with the EU FLEGT mechanism is likely to have spurred the adoption of laws and regulations that would also serve the purpose of some of the Cancun safeguards including e) and g). Negotiations for a bilateral Voluntary Partnership with Viet Nam are well advanced, and should include a definition of timber and timber products and of the conditions in which these products are legal (domestic natural and plantation timber, imported timber). Cambodia, in contrast, is only in the information/pre-negotiation of the VPA, and no such definitions should therefore be available in the near future. Voluntary Partnership Agreements, because they require a definition of “legal” forest products, entail an analysis of forest laws and regulations related to forests which might also be relevant to legal aspects of the application of environmental REDD+ safeguards.

**FAO FRA**

The 2010 FAO FRA country reports, and the preparations for the 2015 report, might yield information on forest categories that are especially relevant for environmental safeguards. Both countries have submitted national reports for the 2010 FAO FRA, which contain useful information such as national forest categories and definitions, which are necessary to apply Cancun safeguard e). More details about national forest categories and definitions is given in the review of national laws in section 3.

**FSC**

As far as FSC is concerned, only 6 FSC certificates have been awarded to forestry activities in Viet Nam (for a total of 45,170 ha,) whereas Cambodia has no FSC certified forests at all. FSC certification<sup>25</sup> can form a base for the development of Sustainable Conservation of Forest as a REDD+ activity and indicate previous experience and capacity in the area of environmentally conscious management of forests. FSC certification assessments might also have produced information relevant for the assessment of the ‘naturalness’ of forests, which could inform the implementation of Cancun safeguard e).

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<sup>25</sup> The FSC is not the only certification scheme in existence, although it is one of the most authoritative; other certification schemes could also be relevant

## II. LEGAL ASPECTS OF NATIONAL APPROACHES TO SAFEGUARDS

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The text of the Cancun decision leaves much room for national interpretation, and countries are therefore encouraged, in the preparedness phase backed up by the UN-REDD Programme, to develop a ‘National Approach to Safeguards’.

‘National approach to safeguards’ refers to the way in which the country applies the Cancun safeguards. This is likely to involve (i) defining the goals of the safeguards approach; (ii) review of existing and development of new Policies, Laws and Regulations<sup>26</sup> (PLRs), and (iii) the design of a Safeguard Information System with which a country intends to communicate to the UNFCCC on the implementation of the safeguards.<sup>27</sup>

This section aims at highlighting the relevant questions that might be applicable to a review of Policies, Laws and Regulations to address environmental safeguards. They may consist of existing PLRs that may likely not have been established exclusively for REDD+ or new PLRs that have been developed specifically for REDD+. This review will be useful for countries undertaking such an exercise, but also for project developers in that it highlights those areas of legislation that are likely to require reform as countries implement REDD+, and thereby threaten the legal security of some aspects of their projects.

Where relevant, and in the respect of sovereign democratic processes, project developers should seek to communicate to the national REDD+ Programme or to the legislative authorities an account of their early experience of REDD+ implementation within the current legal frameworks to inform the gap analysis based on actual practice.

The table below presents a potential methodology for the gap analysis of PLRs, starting with relevant provisions of the Cancun text (the “environmental” safeguards, as well as the further guidance provided by the decision on environmental aspects), through to the guidance offered by the SEPC, and down to relevant questions for reforms<sup>28</sup>. This may help countries to structure their gap analysis of PLRs and/or development of new legislation to address potential gaps. From the standpoint of REDD+ project developers, it may also help to

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<sup>26</sup> ‘Policy’ refers to the public policies of national governments which express political choices about public objectives; ‘regulations’ are the regulatory provisions which seek to implement government policies by creating rights and obligations for different actors within the applicable jurisdiction; ‘law’ refers to a formal document with the power to impose requirements within the applicable jurisdiction, which has been authorised by an appropriate public body.

<sup>27</sup> Peskett, L. & Todd, K., Putting REDD+ Safeguards and Safeguards Information Systems into practice, UN-REDD Programme Policy Brief, Issue 3, 2013.

<sup>28</sup> Adapted from the draft Benefits and Risks Tools of the UN-REDD Programme, accessible at [http://www.un-redd.org/Multiple\\_Benefits/SEPC\\_BeRT/tabid/991/Default.aspx](http://www.un-redd.org/Multiple_Benefits/SEPC_BeRT/tabid/991/Default.aspx)

highlight important areas of the law that are relevant for the design of their projects, in the absence of clear guidelines from the national government. It also highlights what areas of legislation are likely to be subjected to changes, and could allow a review of the potential risks and opportunities that may arise from such changes.

Table 3 – Potential methodology for the review of Policies, Laws and Regulations using the SEPC as a guiding framework

Text in decision 1/CP.16 Appendix I	Social and Environmental Principles and Criteria	Potential legal questions
<p>Safeguard (e) requires that activities “are <b>consistent with the conservation of natural forests</b> [...], ensuring that the actions ... are <b>not used for the conversion of natural forests</b>, but are instead <b>used to incentivize the protection and conservation of natural forests and their ecosystem services ...</b>”</p>	<p><b>Principle 5 – Protect natural forest from degradation and/or conversion</b></p> <p>Criterion 18 – Ensure that REDD+ activities do not cause the conversion of natural forest , to planted forest, unless as part of forest restoration, and make reducing conversion of forests to other land uses (e.g. agriculture, infrastructure ) a REDD+ priority</p> <p>Criterion 19 – Avoid or minimise degradation of natural forest by REDD+ activities and make reducing degradation due to other causes (e.g. agriculture, extractive activities, infrastructure ) a REDD+ priority</p> <p>Criterion 20 – Avoid or minimise indirect land-use change impacts of REDD+ activities on forest carbon stocks, biodiversity and other ecosystem services</p>	<ol style="list-style-type: none"> <li>1. Is there a clear definition of natural forest in use in the country (which includes guidance about age, composition, and degree of degradation)?</li> <li>2. Does the forest legislation distinguish between categories of forest (secondary/primary and native or naturally growing/planted)?</li> <li>3. Do these categories provide a more protective status for natural forest (e.g. through restriction of certain activities, types of concessions that can be granted, coverage by protected areas)?</li> <li>4. What evidence is there that this status is effective in limiting conversion and likely to remain so?</li> </ol>

<p>Safeguard (e) also requires that activities “are <b>consistent with the conservation ... biological diversity...</b>”</p>	<p><b>Principle 6 – Maintain and enhance multiple functions of forest including conservation of biodiversity and provision of ecosystem services</b></p> <p>Criterion 21 – Ensure that land-use planning for REDD+ explicitly takes account of potential synergies and trade-offs between the multiple functions of forest and the benefits they provide, respecting local and other stakeholders’ values</p>	<p>5. Are there any specific laws related to the protection of biodiversity?</p> <p>6. Is there a list of species that benefit from a special protection status in law?</p> <p>7. What are the different categories of protected areas in the law? What are the activities allowed in each of these categories?</p> <p>8. Does the law define future quantitative objectives for coverage of the territory by protected areas?</p> <p>9. What measures are in place to limit adverse impacts on forest ecosystems? (Environmental Impact Assessment and Strategic Environmental Assessment requirements)</p>
<p>Point (d) of Paragraph 1 states that [REDD+] activities should</p> <p>the objective of <b>environmental integrity</b> and <b>take into account the multiple functions</b> of forests and <b>other ecosystems;</b>”</p>	<p><b>Principle 6 – Criterion 22 – Ensure that planted and natural forests are managed to maintain and enhance ecosystem services and biodiversity important in both local and national contexts</b></p>	<p>11. Are there any prohibitions on deforestation and degradation in areas prone to erosion or of importance for watershed management?</p> <p>12. Is there a legal status for community forests and how does it take in account the multiple functions of forests?</p> <p>13. Are carbon rights for different types of land tenure clarified in the law? Does the law clarify the ownership of rights over other forest resources and services?</p>

<p>Safeguard (g) is “Actions to <b>reduce displacement</b> of emissions.”</p> <p>+ Point (d) of Paragraph 1 states that [REDD+] activities should</p> <p>the objective of environmental integrity and take into account the multiple functions of forests and <b>other ecosystems;</b>”</p>	<p><b>Principle 7 - Avoid or minimise adverse impacts on non-forest ecosystem services and biodiversity</b></p> <p>Criterion 23 – Avoid or minimise adverse impacts on carbon stocks, other ecosystem services and biodiversity of non-forest ecosystems resulting directly from REDD+ activities</p> <p>Criterion 24 – Avoid or minimise adverse impacts on carbon stocks, other ecosystem services and biodiversity of non-forest ecosystems resulting indirectly from REDD+ activities (including those of indirect land-use change impacts and intensification of land use)</p>	<p>14. Given the definitions in the law, are there any outstanding issues in distinguishing non-forest ecosystems from forests?</p> <p>15. How well understood and taken in account is the biodiversity of non-forest ecosystems in national conservation objectives?</p> <p>16. Do identified unique and threatened ecosystem types benefit from some protection under the law?</p> <p>17. What measures are in place to limit adverse impacts on non-forest ecosystems? (EIA and SEA requirements)</p>
<p><b>Safeguard (f) Address risk of reversals</b></p>		<p>10. On forest land under control of private parties, what is the duration of the concession types that might support REDD+ activities?</p>

### III. IMPLICATIONS OF THE NESTING OF PROJECTS FOR LEGAL ASPECTS OF ENVIRONMENTAL SAFEGUARDS IMPLEMENTATION

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The purpose of the ongoing climate negotiations is that REDD+ will ultimately be implemented, accounted for and rewarded at the national level through international payments, either from a fund or carbon markets. However, notwithstanding the uncertainties around the exact shape of a REDD+ mechanism, non-governmental and private-sector actors have started implementing REDD+ actions on the ground.

As national REDD+ programmes take shape, the question of the integration of these projects within them (often referred to as ‘nesting’<sup>29</sup>) becomes more acute. Yet, the exact terms of their integration within a national REDD+ programme, including the applicable national approach to safeguards, often remain unclear. While integrating the carbon accounting at these different scales is an obvious requirement for these actions to be recognized as an efficient means to bring about real, additional and permanent emissions reductions, the implications in terms of environmental (and social) integrity are often overlooked.

This uncertainty, combined with the likeliness of impending legal reforms, is a source of legal insecurity for project developers. As a result, it could be helpful to adopt an approach that anticipates the legal consequences of the implementation of environmental safeguards at the national level. This question is relevant not only to project developers, whose actions will be accountable to the government, but also to governments aiming to ensure that all REDD+ actions being undertaken on their territory promote and support the Cancun safeguards.

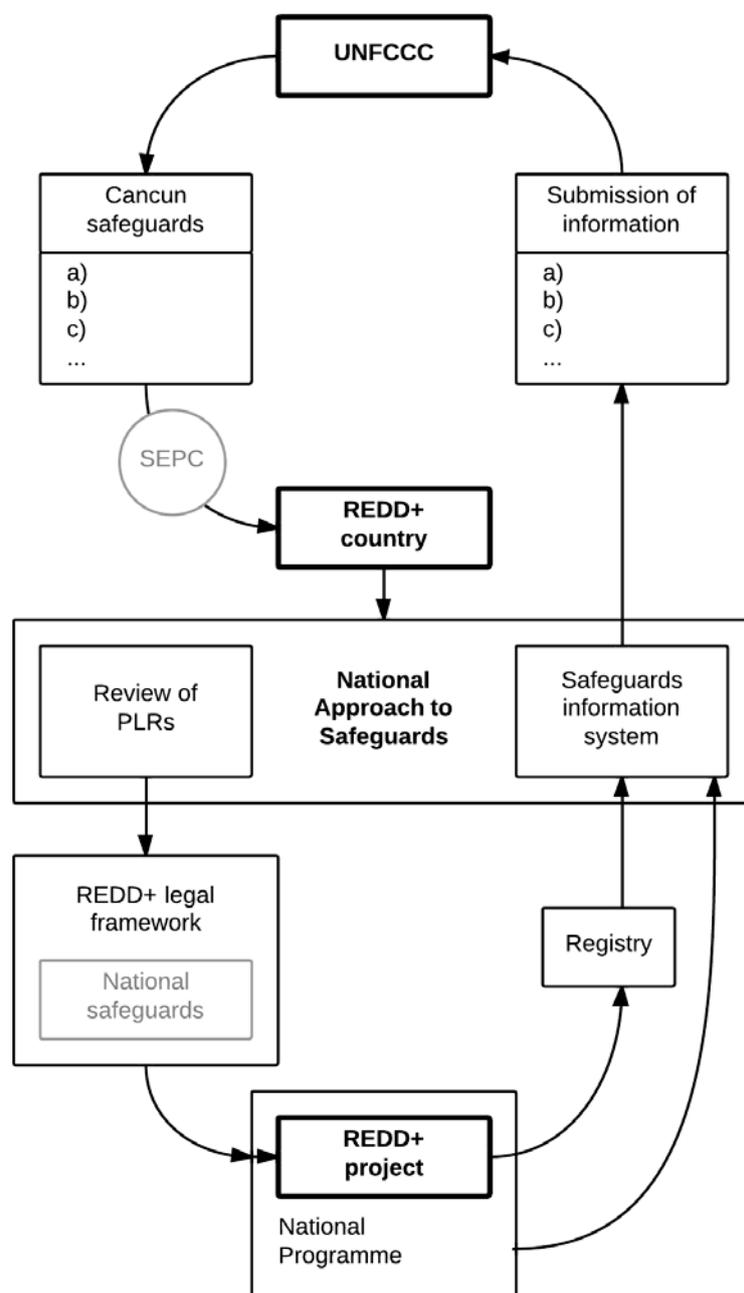
**For project developers**, this means that they should try, as much as possible and whilst ensuring fair representation of all stakeholders, to be involved in the development of a national approach to safeguards by engaging in the consultation processes organized by the government. This should be used as an opportunity to highlight some of challenges they have identified when trying to implement REDD+ actions on the ground, including legal barriers that may exist in the current legislative framework. The table of questions from section II can be used in combination with the project’s objectives to identify relevant provisions of the legislation that will prevent it becoming an impediment in later stages of the project implementation.

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<sup>29</sup> The ‘nesting’ considered here is that of actions led by actors that are not governmental in any way. This is distinct from so-called sub-national or jurisdictional approaches, which are concerned with the implementation of REDD+ at existing administrative scales, through regional governments or federal entities.

**The governmental institutions** in charge of developing the national approach to safeguards, on the other hand, should bear in mind that projects on the ground might already have collected information on the country-specific challenges of REDD+ implementation, either from the legal framework itself, or that could be overcome or mitigated by changes to it. REDD+ national programmes should also bear in mind that the questions of safeguards implementation, and provision of information on how safeguards are addressed, will need to extend to ‘nested’ REDD+ implementation, and that a system for doing so will be required. In the following chart, an example of possible architecture is presented for the nesting of safeguards implementation and provision of information.

**Figure 1 – Possible architecture for the nesting of safeguards implementation and provision of information across the international, national and project level.**



In this system, the country has decided, as part of its **national approach to safeguards**, to develop its own set of “**national safeguards**” which apply the **Cancun safeguards** and all other safeguards framework it works within (e.g. in this example, the **SEPC**), while being grounded in nationally relevant experience collected from early REDD+ projects. These national safeguards are part of a wider **REDD+ legal framework** which includes both adjusted pre-existing **PLRs** and new PLRs resulting from a thorough gap analysis.

As part of the national legal framework, they automatically apply to **REDD+ projects** that are developed on the country’s territory and constitute one aspect of a wider **national REDD+ programme**.

This application of the safeguards through PLRs is reinforced by the provision of tailored information on the potential risks and benefits of different types of REDD+ actions, specifically targeted at project developers. A national **registry** of REDD+ projects is also built to track information on the location, timeline and nature of REDD+ actions being implemented across the country by private developers.

This registry will eventually form part of the **safeguards information system** allow the REDD+ national programme to produce aggregated as well as more detailed data on project-scale implementation, as one of several aspects of REDD+ implementation in the country, which can be used for the provision of information to the UNFCCC on how safeguards are being addressed.

## IV. CONCLUSIONS

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Making sure that REDD+ environmental safeguards are fully addressed – albeit not a legal obligation – will be a key aspect of a successful implementation of REDD+ that minimizes risks and enhances environmental benefits. The ongoing REDD+ negotiations within the UNFCCC have decided on a set of seven safeguards, some of which are concerned with the potential harm that REDD+ could present for natural forests, as well as further guidance calling for a proper accounting of the multiple functions of forests. In addition to this overarching standard applicable to all REDD+ actions, a number of safeguards initiatives have been put forward by supporters of REDD+ readiness such as the UN-REDD Programme, the World Bank FCPF and the REDD+ SES.

Faced with such a multiplicity of international frameworks to work with, it may be helpful to REDD+ countries could to assess where their efforts to implement existing international commitments, already works towards the implementation of one or more sets of safeguards.

National legal frameworks, where poorly fit or incomplete in their coverage of REDD+ relevant issues and concepts, could represent a significant barrier to the effective implementation of safeguards. By including a thorough review of applicable policies, laws and regulations in the early stages of their national programmes, REDD+ countries could overcome this barrier. Moreover, if appropriate reforms are undertaken, they could help ground the implementation of REDD+ safeguards by giving it a robust legal basis.

In doing so, countries will be well advised to fully take into account any pre-existing privately developed REDD+ projects on their territory. The resolution of the ‘nesting’ arrangements for their incorporation in the national REDD+ implementation should include clear guidelines on how REDD+ safeguards, from the Cancun text through to nationally-developed PLRs, are applicable to them. Conversely, the early experience of REDD+ implementation thus gathered might help governmental institutions to design a national approach to safeguards that is mindful of country-specific realities.

It may also be useful to include a feedback loop to ensure that project-derived information on how well the legal framework addresses the implementation of REDD+ safeguards is channeled back to the national level, and further to the UNFCCC as part of a Safeguard Information System.

For REDD+ countries wanting to curb their forest-related emissions, adapting their legal frameworks will likely be a crucial step to bring about effective and durable change. If amendments to legal frameworks are to be the backbone of REDD+ implementation, they will need to address REDD+ safeguards in both their social and environmental dimensions. A potential barrier to REDD+ implementation, legal frameworks could turn into an opportunity if such amendments build on the potential synergies from existing international commitments, national policies, laws and regulations and project-level implementation.



## V. ANNEX I. – RELATION OF CANCUN SAFEGUARD (E) TO OTHER INTERNATIONAL AGREEMENTS.

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### **Cancun safeguard (e) provides that:**

*Actions are consistent with the conservation of natural forests and biological diversity, ensuring that actions referred to in paragraph 70 of this decision are not used for the conversion of natural forests, but are instead used to incentivize the protection and conservation of natural forests and their ecosystem services, and to enhance other social and environmental benefits*

The criteria in the left-hand column, below, are drawn from the SEPC. On the right-hand side, excerpts from a selection of international agreements relevant for that criterion are listed. The following legally binding agreements have been considered:

- Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- International Labour Organization Convention 169 (ILO 169)
- Kyoto Protocol to the UNFCCC
- The Convention on Wetlands (Ramsar)
- United Nations Convention Against Corruption (UNCAC)
- United Nations Convention on Biological Diversity (CBD)
- United Nations Convention on the Elimination of All Forms of Racial Discrimination (UNCERD)
- United Nations Convention to Combat Desertification (UNCCD)
- United Nations Framework Convention on Climate Change (UNFCCC)

In addition, the following non-legally binding international agreements have been considered:

- Non-Legally Binding Instrument on all Types of Forest (NLBI)
- The Millennium Development Goals (MDGs) of the United Nations Millennium Declaration (UNMD)
- United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)
- The Aichi Biodiversity Targets
- World Heritage Convention

This could help countries realise the potential for synergies between addressing the safeguards and complying with other agreements that they may be parties to.

In addition, the exercise in itself is useful for addressing Cancun safeguard (a), which calls on countries to be consistent in their REDD+ implementation with national programmes and relevant international commitments.

Related criteria	Relevant text from other international agreements
<p><b>Criterion 20</b> – Avoid or minimise indirect land-use change impacts of REDD+ activities on forest carbon stocks, biodiversity and other ecosystem services</p>	<p>“1. The objective [...] to combat desertification and mitigate the effects of drought [...]</p> <p>“2. [...] will involve long-term integrated strategies that focus simultaneously [...] on improved productivity of land, and the rehabilitation, conservation and sustainable management of land [...]” <a href="#">UNCCD Art 2.6</a></p> <p>“6. Encourages Parties to focus their implementation of the UNCCD on integrated, sustainable ecosystem-based activities in order to benefit fully from synergies;” <a href="#">UNCCD Decision 12/COP.6</a></p> <p>“That the implementation of land use, land-use change and forestry activities contributes to the conservation of biodiversity and sustainable use of natural resources” UNFCCC <a href="#">Decision 16/CMP.1, para. 1(e)</a></p>
<p><b>Criterion 21</b> – Ensure that land-use planning for REDD+ explicitly takes account of potential synergies and trade-offs between the multiple functions of forest and the benefits they provide, respecting local and other stakeholders’ values</p>	<p>“Each Contracting Party shall, [...]: Endeavour to provide the conditions needed for compatibility between present uses and the conservation of biological diversity and the sustainable use of its components” <a href="#">CBD Article 8 (i)</a></p> <p>“When designing, implementing and monitoring afforestation, reforestation and forest restoration activities for climate change mitigation consider conservation of biodiversity and ecosystem services through, for example: [...]</p> <p>(v) Strategically locating afforestation activities within the landscape to enhance connectivity and increase the provision of ecosystem services within forest areas;” <a href="#">CBD COP 10 Decision X/33 para. 8 (p)</a></p> <p>“To achieve the purpose of the instrument, [...], Member States should: (d) Develop and implement policies that encourage the sustainable management of forests to provide a wide range of goods and services [...];</p> <p>(t) Promote [...] understanding of the importance of and the benefits provided by forests and sustainable forest management, [...]; V. <a href="#">National policies and measures, para. 6 NLBI</a></p>
<p><b>Criterion 22</b> – Ensure that planted and natural forests<sup>[4]</sup> are managed to maintain and enhance ecosystem services and biodiversity important in both local and national contexts</p>	<p>“Protection and enhancement of sinks and reservoirs of greenhouse gases [...]; promotion of sustainable forest management practices, afforestation and reforestation” <a href="#">Kyoto Protocol Art 2.1.(a)(ii)</a></p> <p>“In forest landscapes subject to harvesting, clearing and/or degradation, implement, as appropriate, improved land management, reforestation and forest restoration prioritizing the use of native communities of species, to improve biodiversity conservation and</p>

associated services while sequestering carbon and limiting the degradation and clearing of native primary and secondary forests;”  
**CBD [COP 10 Decision X/33](#) para. 8 (o)**

“When designing, implementing and monitoring afforestation, reforestation and forest restoration activities for climate change mitigation consider conservation of biodiversity and ecosystem services through, for example: [...]

(ii) Prioritizing, whenever feasible, local and acclimated native tree species when selecting species for planting;

(iii) Avoiding invasive alien species;

(iv) Preventing net reduction of carbon stocks in all organic carbon pools; [...]

**CBD [COP 10 Decision X/33](#) para. 8 (p)**

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**Criterion 23** – Avoid or minimise adverse impacts on carbon stocks, other ecosystem services and biodiversity of non-forest ecosystems resulting directly from REDD+ activities

“When designing, implementing and monitoring afforestation, reforestation and forest restoration activities for climate change mitigation consider conservation of biodiversity and ecosystem services through, for example: Converting only land of low biodiversity value or ecosystems largely composed of non-native species, and preferably degraded ones; [...]

**CBD [COP Decision X/33](#) para. 8 (p)**

“RECALLING Resolution VIII.3 on Climate change and wetlands: impacts, adaptation and mitigation (2002), which [] called upon Contracting Parties to manage their wetlands in such a way as to increase their resilience to climate change and extreme climatic events and to ensure that in their climate change responses such as revegetation, forest management, afforestation and reforestation, such implementation does not lead to serious damage to the ecological character of wetlands.” [Ramsar Resolution X.24/CP.10](#)

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**Criterion 12** – Ensure equitable, non-discriminatory and transparent benefit sharing among relevant stakeholders with special attention to the most vulnerable and marginalized groups

“Member states should [...] support the protection and use of traditional forest-related knowledge and practices in sustainable forest management with the approval and the involvement of the holders of such knowledge and promote fair and equitable sharing of benefits out of their utilization, according to national legislation and relevant international agreements” [NLBI, Art 6, para. \(f\)](#)

“Member states should [...] promote and strengthen public understanding of the importance of and the benefits provided by forests and sustainable forest management, including through public awareness programmes and education” [NLBI, Art 6, para. \(t\)](#)

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**Criterion 13** – Protect and enhance economic and social

“By 2020, ecosystems that provide essential services, including services related to water, and contribute to health, livelihoods and

well-being of relevant stakeholders, with special attention to the most vulnerable and marginalized groups

well-being, are restored and safeguarded, taking into account the needs of women, indigenous and local communities, and the poor and vulnerable” **Aichi Biodiversity Targets, Strategic Goal D, Target 14.**

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**Criterion 17** – Ensure consistency with and contribution to national biodiversity conservation policies (including National Biodiversity Strategies and Action Plans), other environmental and natural resource management policy objectives, national forest programmes, and international commitments on the environment

“The Contracting Parties. Desiring to enhance and complement existing international arrangements for the conservation of biological diversity and sustainable use of its components” Preamble to the [CBD](#)

“Urges Parties and other Governments to incorporate relevant objectives and related activities of the programme of work into their national biodiversity strategies and action plans and national forest programmes and promote compatibility and complementarity between these plans/programmes and other related initiatives” [CBD COP 6 Decision VI/22 para. 28](#)

“Invites Parties to undertake national-level implementation and to coordinate their work relating to forest biological diversity at an international level, particularly in respect of work relating to the Convention on Biological Diversity, the United Nations Forum on Forests, as well as other relevant bodies, and to achieve greater integration and collaboration between their implementing agencies at the national level through, [...] joint strategies or policies, and coordinating committees at political and/or technical levels; [CBD COP 6 Decision VI/22 para 29](#)

“Strengthen cross-sectoral efforts for integrated approaches in order to increase consistency among the various levels of policies that affect forest biodiversity [...]” [CBD COP 9 Decision IX/5 para. 2\(i\)](#)

“Notes the ongoing discussions on issues relating to [REDD+] under the [UNFCCC] and its importance in helping achieve the objectives of both the [CBD] and the [UNFCCC]; and encourages Parties to promote the importance of biodiversity considerations in ongoing discussions on this issue” [CBD COP 10 Decision X/33 para 3](#)

“Consider the achievement of multiple benefits, including ecological, social, cultural and economic benefits, between ecosystem-based approaches for climate change mitigation and adaptation activities;” [CBD COP 10 Decision X/33 para 3 \(m\)](#)

« Acknowledging the large potential for synergies between the activities referred to in paragraph 1 above and the implementation of the Strategic Plan for Biodiversity 2011–2020 and its Aichi Biodiversity Targets, urges Parties, other Governments, and relevant organizations

to fully implement the relevant provisions and decisions of the Convention on Biological Diversity and the United Nations Framework Convention on Climate Change in a coherent and mutually supportive way »; [CBD COP 11 Decision XI/19 para 6](#)

“Recognizing the importance of promoting sustainable management of forests and co-benefits, including biodiversity, that may complement the aims and objectives of national forest programmes and relevant international conventions and agreements” [UNFCCC Decision 4/CP.15](#)

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**Criterion 18** – Ensure that REDD+ activities do not cause the conversion of natural forest<sup>30</sup> to planted forest, unless as part of forest restoration, and make reducing conversion of forests to other land uses (e.g. agriculture, infrastructure) a REDD+ priority

“Protection and enhancement of sinks and reservoirs of greenhouse gases [...]; promotion of sustainable forest management practices, afforestation and reforestation” [Kyoto Protocol Art 2.1.\(a\)\(ii\)](#)

“Implement ecosystem management activities, including the protection of natural forests, [...], the sustainable management of forests considering the use of native communities of forest species in reforestation activities [...]” [CBD COP Decision X/33 para. 8\(n\)](#)

“To prevent and mitigate losses due to fragmentation and conversion to other land uses” – [CBD COP 6 Decision VI/22, Objective 6 Annex, Programme element 1](#)

“Member States reaffirm [...] shared global objectives on forests [...]: Reverse the loss of forest cover worldwide through sustainable forest management, including protection, restoration, afforestation and reforestation, and increase efforts to prevent forest degradation; **IV. Global objectives on forests, Global objective 1.** [NLBI](#)

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**Criterion 19** – Avoid or minimise degradation of natural forest<sup>[3]</sup> by REDD+ activities and make reducing degradation due to other causes (e.g. agriculture, extractive activities, infrastructure) a REDD+ priority

“Promote and implement sustainable forest management and the ecosystem approach to maintain forest biodiversity and ecosystem functions, [...], promote forest restoration and minimise deforestation and forest degradation so as to achieve the goals and objectives of the programme of work including addressing climate change” [CBD COP 9 Decision IX/5 para. 1\(k\)](#)

“Ensure that possible actions for reducing emissions from deforestation and forest degradation do not run counter to the objectives of the Convention on Biological Diversity and the implementation of the programme of work on forest biodiversity [...]” [CBD COP 9 Decision IX/5 para. 2\(a\)](#)

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<sup>30</sup> This document uses the term « natural forest » synonymously with « naturally regenerated forest » as per definition provided by FAO.

“In forest landscapes subject to harvesting, clearing and/or degradation [...], limiting the degradation and clearing of native primary and secondary forests” **CBD COP 10 Decision X/33 para. 8(o)**

“Member States reaffirm [...] shared global objectives on forests [...]: Reverse the loss of forest cover worldwide through sustainable forest management, including protection, restoration, afforestation and reforestation, and increase efforts to prevent forest degradation; **IV. Global objectives on forests, Global objective 1. NLBI**

“To intensify our collective efforts for the management, conservation and sustainable development of all types of forests” **UNMD Section IV, para. 23**

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**Criterion 24** – Avoid or minimise adverse impacts on carbon stocks, other ecosystem services and biodiversity of non-forest ecosystems resulting indirectly from REDD+ activities (including those of indirect land-use change impacts and intensification of land use)

“Based on national circumstances, increase positive and reduce negative impacts of climate change mitigation [...] measures on biodiversity *inter alia*, based on results from strategic environmental assessments (SEAs) and environmental impact assessments (EIAs) that facilitate the consideration of all available climate-change mitigation and adaptation options;” **CBD COP 10 Decision X/33 para. 8 (u)**

“In planning and implementing effective climate change mitigation [...] activities, [...] take into account impacts on biodiversity and the provision of ecosystem services and avoid the conversion or degradation of areas important for biodiversity through [...]” **CBD COP 10 Decision X/33 para. (v)**

“By 2020, at least 17 per cent of terrestrial and inland water [...], especially areas of particular importance for biodiversity and ecosystem services, are conserved through effectively and equitably managed, ecologically representative and well connected systems of protected areas and other effective area-based conservation measures, and integrated into the wider landscapes and seascapes” **Aichi Biodiversity Targets, Strategic Goal C, Target 11.**

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