

The Jurisdictional REDD+
program's governance
arrangements that guarantee the
application of the UNFCCC
REDD+ safeguards

Guidance

REDD+ activities, regardless of their type of funding source, are to be implemented in such a way that is consistent with the UNFCCC REDD+ safeguards (also referred to as Cancun Safeguards)[1] (See Box 1).

Box 1 UNFCCC REDD+ Safeguards[2]

- Actions complement or are consistent with the objectives of national forest programmes and relevant international conventions and agreements;
- Transparent and effective national forest governance structures, taking into account national legislation and sovereignty;
- Respect for the knowledge and rights of indigenous peoples and members of local communities, by taking into account relevant international obligations, national circumstances and laws, and noting that the United Nations General Assembly has adopted the United Nations Declaration on the Rights of Indigenous Peoples;
- The full and effective participation of relevant stakeholders, in particular indigenous peoples and local communities, in actions referred to in paragraphs 70 and 72 of this decision;^[3]
- Actions are consistent with the conservation of natural forest and biological diversity, ensuring that action 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. (Taking into account the need for sustainable livelihoods of indigenous peoples and local communities and their interdependence on forests in most countries, reflected in the United Nations Declaration on the Rights of Indigenous Peoples, as well as the International Mother Earth Day.)
- Actions to address the risks of reversals; and
- Actions to reduce displacement of emissions.

The UNFCCC REDD+ Safeguards language and associated guidance constitute an international framework of social, environmental and governance principles, under which any REDD+ related activity should be implemented. The wording of the UNFCCC REDD+ Safeguards focus and refer to obligations created by international legal instruments, many of which grant substantive (e.g. the rights of indigenous peoples and local communities) and procedural rights (e.g. right to participate in decision making processes).

Additionally, an integral piece of this framework is UNFCCC REDD+ Safeguard (a), which requires REDD+ activities to, inter alia, complement or be consistent with the relevant international instruments that REDD+ countries have signed, ratified, or otherwise agreed to. These instruments pertain not only to the environment, but also to human rights and indigenous peoples rights. Ensuring consistency with these relevant international instruments should not be seen as an additional requirement that REDD+ countries must fulfil to implement REDD+. Instead, it should be seen as a way of implementing existing international obligations to which countries have already committed themselves.^[4]

[1] Agrees that, regardless of the source or type of financing, the activities referred to in decision 1/CP.16 paragraph 70, should be consistent with the relevant provisions included in decision 1/CP.16, including the safeguards in its appendix I UNFCCC Decision 2/CP.17 paragraph 63

[2] UNFCCC, Decision 1/CP.16, Appendix 1, paragraph 2.

[3] Paragraph 70 states that: The Conference of the Parties "Encourages developing country Parties to contribute to mitigation actions in the forest sector by undertaking the following activities, as deemed appropriate by each Party and in accordance with their respective capabilities and national circumstances: (a) Reducing emissions from deforestation; (b) Reducing emissions from forest degradation; (c) Conservation of forest carbon stocks; (d)

The UNFCCC does not offer any explicit guidance or references on the use of a country's governance arrangements to respond to REDD+ safeguards requirements. However, implicit references that clearly promote such use are included in the UNFCCC guidance on the design of a system for providing information on the safeguards, which encourages countries to "build upon existing systems"[5], and by the fact that the wording of the Cancun safeguards themselves grant substantive and procedural rights already recognized, protected and promoted by most countries' legal frameworks. These references clearly indicate the intention of the Parties to the UNFCCC to encourage REDD+ countries to respond to safeguard requirements through their own domestic governance system.

Relevant governance arrangements[6] - such as Policies Laws and Regulations (PLRs)-are considered by jurisdictions as the foundation through which they can guarantee the application of the UNFCCC REDD+ safeguards throughout the implementation of their REDD+ actions. Building on existing governance arrangements has allowed jurisdictions to respond effectively to safeguards commitments in a rigorous yet flexible manner. However, gaps, weaknesses and/or possible inconsistencies in these arrangements are also to be expected and would need to be identified and addressed. Additionally, and more critically, is ensuring there is a clear determination of 'how' these governance arrangements apply to the specific scope and nature of the REDD+ actions[7].

Guidelines

Drawing on international best practices from jurisdictions in responding to the UNFCCC' guidance, there are two key aspects that need to be considered when using relevant governance arrangements[8] to guarantee the application of the UNFCCC REDD+ safeguards throughout the implementation of their REDD+ actions.

Identifying the relevant governance arrangements and determining 'how' these governance arrangements apply to the specific scope and nature of the REDD+ actions.

The legal framework of a country is made up primarily of laws, policies and regulations (PLRs), as well as plans and programmes that can assist in implementing these PLRs (see Box 2). The PLRs and the plans/programmes of a country define what the country commits to promote and protect.

Relevant and applicable international agreements and conventions, on the environment, human rights and indigenous peoples, when adopted by a country (when signed, ratified, or otherwise agreed to), are also considered to be part of the country's legal framework. Accordingly, international treaties may be: i) directly applied[9] in whole or in part; ii) be implemented by enactment of new PLRs; or iii) implemented by revision of the current PLRs.

It is critical that jurisdictions can clearly identify and articulate 'how' these governance arrangements apply to the specific scope and nature of the REDD+ actions. Notably, TREES requires Participants demonstrate the relevant governance arrangements are in place and evaluates whether these can ensure that the implementation of REDD+ actions will be in conformance with the TREES structure and process indicators. [10]

Sustainable management of forests; (e) Enhancement of forest carbon stocks." And paragraph 72 states that the COP: "Also requests developing country Parties, when developing and implementing their national strategies or action plans, to address, inter alia, the drivers of deforestation and forest degradation, land tenure issues, forest governance issues, gender considerations and the safeguards identified in paragraph 2 of appendix I to this decision, ensuring the full and effective participation of relevant stakeholders, inter alia indigenous peoples and local communities." UNFCCC, Decision 1/CP.16, paragraphs 70, 72

Box 2: What are laws, policies, regulations, plans and programs?

- Policies provide political direction for the adoption, implementation and interpretation of laws. For example, a national forest policy sets the goals and long-term direction of the protection and development of the national forest estate without necessarily specifying how this is to be achieved.
- Laws define and regulate rights and obligations that must be guaranteed, without covering operational aspects. For example, a national forest law will seek to implement a national forest policy by defining specific rights and duties that must be recognized and implemented, e.g. recognition of the participation of indigenous peoples in forest decision making processes.
- Regulations are issued by different government line ministries, departments and agencies to carry out the intent of the law. For example, the Ministry of Forestry may issue a regulation to provide technical guidance and economic incentives for tree planting, and which seeks to implement a specific provision on forest landscape restoration in the national forest law.
- Plans generally provide guiding quantitative targets and qualitative principles for programmes and projects. For example, a national plan for protecting mangrove forests might set a target for protecting 50% of existing mangrove forests.
- Programmes operationalize the goals and objectives of plans. Programmes are spatially, temporally and technically explicit about the actions or activities and resources (budget) needed to achieve the plan's goals. For example, a national awareness-raising programme for protecting mangrove forests in the priority jurisdictions where >50% of mangroves occur.

Identifying any gaps and recommendations to address such gaps

It is likely that a jurisdiction's existing PLRs can be used to ensure that the design and implementation of REDD+ actions are in line with REDD+ safeguards. However, it is also likely that there will be certain gaps and/or weaknesses. In this regard, it is important the jurisdiction:

1. Identify if the gaps/weaknesses could be addressed by strengthening the relevant PLRs and/or institutional mandates (e.g. strengthening the mandate of an existing institution), and
2. Specify how the above is to be achieved (e.g. plan for conformance) and who is to lead it (e.g. a specific ministry).

In crafting the above recommendations, jurisdictions should consider what is feasible, both in terms of politics and time. For example, in certain cases reforming existing laws that broadly apply in the country (e.g. law on access to information) may be feasible, but in other cases it might be easier to create a new and specific ordinance that is to be applied in the context of REDD+.

[4] Rey, D., Roberts, J., Korwin, S., Rivera, L., and Ribet, U. (2013) A Guide to Understanding and Implementing the UNFCCC REDD+ Safeguards. ClientEarth, London, United Kingdom.

[5] UNFCCC Decision 12/CP.17 paragraph 2 (f)

[6] This tool defines Governance arrangements as the collective frameworks and mechanisms a country has (or plans to put) in place to make decisions and implement actions relevant to safeguards; comprises the following main components - legal framework, institutional framework, information systems, grievance redress mechanisms and non-compliance mechanisms.

[7] Direct REDD+ actions are understood to be those that seek to achieve results in terms of emissions reductions and/or enhanced removals. Examples include reforestation, fire prevention or energy switching programmes. Enabling REDD+ actions: aim to create an appropriate environment for effective and efficient interventions, often targeting indirect drivers or barriers to the 'plus' activities. Enabling REDD+ actions may include capacity building, land-use planning, clarification of tenure frameworks and measures aimed at improving governance, such as transparency in resource and land allocation. While essential to the success of REDD+, their carbon potential may be difficult or impossible to quantify.

[8] This tool defines Governance arrangements as the collective frameworks and mechanisms a country has (or plans to put) in place to make decisions and implement actions relevant to safeguards; comprises the following main components - legal framework, institutional framework, information systems, grievance redress mechanisms and non-compliance mechanisms.

[9] Will depend or vary according to the methods the country's employs for the 'incorporation' of international law into domestic law.

[10] TRES Registration Document - section 6: "The VVB evaluates the description provided in the TRES Registration Document, of the relevant governance arrangements (e.g., policies, laws, and institutional arrangements) that are in place and evaluates whether these can ensure that the implementation of REDD+ actions will be in conformance with the indicator." The VVB evaluates the description provided in the TRES Registration Document, of relevant institutional mandates, processes, procedures, and/or mechanisms that are in place and enforced and evaluates whether these can ensure that the implementation of REDD+ actions will be in conformance with the indicator.

Climate Law & Policy

Capacity Building Material

