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Lessons from International and Regional Instruments

A ClientEarth and World Resources Institute Submission to SBSTA

Executive Summary and Recommendations

Part I. Context: ClientEarth and the World Resources Institute believe that effective implementation of the REDD+ safeguards adopted by COP-16¹ will be essential to successful REDD+ projects and programs. At COP-16 Parties determined that the Subsidiary Body for Scientific and Technical Advice (SBSTA) should develop guidance relating to the safeguard information system referred to in paragraph 71(d)² of decision 1/CP.26 (the Cancun Agreements). Together with Observers, Parties have been encouraged to submit their views on what guidance is needed. Specifically, submissions were welcomed on the following elements of safeguard information systems: characteristics; design; provision of information; potential barriers, if any, to providing information on addressing and respecting safeguards; and other relevant issues.

There are differing opinions about the meaning of the language in paragraph 71(d) concerning a safeguard information system. In particular, there are remaining questions around whether the information system referred to will be national or international. Our view, based on the language in the Cancun Agreements and additional research, is that systems are required at both national and international levels to ensure implementation of the REDD+ safeguards. At the national level, measures will be implemented and information will need to be generated about how the REDD+ safeguards are being addressed and respected domestically. Information about these measures, as well as the process by which they were defined, will then need to be reported to an international safeguard information system. This system will function as a collection for information on domestic safeguard systems and can potentially be used as the basis for a more complete international safeguard system.³ SBSTA guidance to Parties should facilitate an improved understanding of the meaning of the REDD+ safeguards, as well as the types of measures that may be applicable for addressing and addressing the REDD+ safeguards.

¹ These are the safeguards found in paragraph 2 of Appendix I to decision 1/CP.16.

² This paragraph speaks to “a system for providing information on how the safeguards referred to in appendix I to [the Cancun] decision are being addressed and respected throughout the implementation of the activities referred to in paragraph 70 above, while respecting sovereignty.”

³ See our section on “Definition of Terms” starting on page 6 to see how we use the terms “REDD safeguard systems,” etc., in this document.

This submission recognizes that REDD+ safeguards contain human rights, environmental, and governance objectives that are included in a number of international and regional instruments to which Parties have already agreed. While we have not looked at every relevant instrument, we were able to identify three ways in which international and regional instruments can provide valuable insights to SBSTA as they develop the guidance on safeguard information system. First, they can provide a better understanding of the REDD+ safeguards (Part II). Second, they provide examples of measures required at the domestic level to ensure that the objectives of the safeguards are met (Part III). These measures should be reported on in the safeguard information system. Finally, reviewing these international instruments will help countries identify where they already have relevant capacity from existing international obligations, which can help them define how the REDD+ safeguard system would function and what additional capacity they may need to develop (Part III).

In addition to the usefulness of international and regional instruments in developing the guidance to Parties on what should be included in the safeguard information system, they can also help identify the additional steps the LCA could take as part of developing the international safeguard system, including non-compliance and dispute resolution processes (Part IV).

We note that this submission is focused on what we learned from our analysis of the language in international agreements and instruments and on very specific aspects of the safeguard information system. Our submission should be seen as complementary to other submissions by civil society organizations, for example to that of CAN, which focus in more detail on how to collect information for the safeguard information system at the national level.

Part II. Better Understanding the REDD+ Safeguards: In order to develop national REDD+ safeguard systems, countries will need to interpret the language of the COP decisions in more detail. Developing a full interpretation will require a domestic process and assessment of domestic circumstances, including which relevant international and regional instruments the country has ratified. Language included in existing international and regional instruments provides a starting point for this interpretation. This is especially the case of REDD+ safeguards (a) through (e).

As part of the safeguard information system (SIS) guidance, SBSTA should:

II-1. Provide an initial list of the relevant⁴ international instruments related to each safeguard.

II-2. Provide guidance to help Parties interpret the safeguards, which at a minimum would include language from the international instruments that reflect the same human rights, environmental, and governance objectives described in the REDD+ safeguards. A sample list of what language that guidance could include is provided in Part II of this document, in Tables II-1, II-2, II-3 and II-4.

II-3. Recommend to Parties that a process for interpreting safeguards (f) and (g) be undertaken once the international GHG accounting rules for REDD+ have been defined and there is a better understanding of how displacement and reversals will be addressed.

Part III. Identifying Relevant Measures and Overlapping Domestic Systems: In developing their REDD+ safeguard systems, countries can build on existing national approaches for ensuring human rights, environmental, and governance objectives, including domestic systems that are required by obligations under international and regional instruments. By identifying and providing guidance on the types of existing domestic systems that are likely applicable to the REDD+ safeguard system, SBSTA can help Parties identify

⁴ Recognizing that there may be new instruments developed over time.

where they may already have existing systems to build on, as well as the types of activities for which they would likely need to provide information.

As part of the SIS guidance, SBSTA should:

III-1. Provide a list of the basic components of a safeguard system and a recommendation that Parties undertake a review and assessment of the current systems and measures they have in place to ensure that they are protecting and implementing the rights and goals described in the REDD+ safeguards. Such a review should help countries assess their existing capacities as well as gaps and challenges. This will at a minimum include a review of:

- a. existing laws and policies, including administrative procedures;
- b. institutions and their capacity to implement existing provisions, as well as an assessment of their ability to apply new provisions linked to meeting the REDD+ safeguards. This assessment should include the ability to undertake capacity-building activities and enforcement activities, create or use systems for sharing information, and identify resources for participatory decision-making processes;
- c. enforcement measures, including monitoring systems;
- d. grievance and recourse mechanisms; and
- e. how these systems, institutions, and mechanisms work in practice.

III-2. Provide guidance on the methods Parties should use in assessing their existing systems and measures and how such a review should be undertaken.⁵ Specifically, SBSTA should suggest that Parties engage stakeholders in the assessment process and that they make publicly available: 1) their assessment, including the questions considered and the analysis undertaken; and 2) information describing the steps or actions Parties plan to undertake to address any gaps identified.

III-3. Provide guidance to Parties on how they should describe whether and how such activities are consistent with measures to be taken relating to relevant international instruments that the country has ratified or decided to apply voluntarily. This document could then be used to track the development and implementation of the safeguard system over time.

Part IV. Developing the Structure of the Safeguard Information System: The international and regional instruments and their accompanying compliance systems can serve as models and support for the structure of the REDD+ safeguard information system itself. That is, existing systems contain relevant tools, procedures, and mechanisms that can help inform and support the design of the safeguard information system. Looking at existing international systems is also necessary to clarify the relationship between these systems and the REDD+ safeguard information system. SBSTA should thus guide Parties toward looking at the existing systems in order to examine linkages between the REDD+ safeguard information system and these systems, and ensure that these systems are aligned.

As part of the SIS guidance, SBSTA should:

IV-1. Provide guidance on existing sets of indicators/guidelines that are available to assist Parties in their REDD safeguard assessment and reporting processes, such as indicators associated with other

⁵ For example, how the assessment itself should apply the principles of transparency and participation in the development of the assessment.

international and regional instruments⁶. In addition, SBSTA should encourage harmonization of reporting between the safeguard information system and other instruments, as appropriate, and encourage Parties to take advantage of synergies in reporting requirements.

IV-2. The reporting requirements in other international and regional instruments relevant to the REDD+ safeguards and recommend that the SBSTA design similar requirements, for example a reporting template, for the safeguard information system.

As part of developing the SIS, SBSTA should identify:

IV-3. The non-compliance processes and mechanisms and dispute settlement processes of other international instruments and the need to develop such processes in a UNFCCC context. SBSTA should recommend that the LCA create the legal framework for such processes and mechanisms and emphasize to Parties that such mechanisms should allow access to the public and non-governmental organizations.

IV-4. Where direct communications between the UNFCCC and other relevant bodies could be implemented. SBSTA should also recommend that the LCA officially recognize the competency and jurisdiction of relevant bodies in applying measures directly related to the REDD+ safeguards, and the importance of considering relevant measures taken by these bodies when assessing Party compliance with the REDD+ safeguards.

IV-5. SBSTA should encourage Parties to provide additional financial and technical support to REDD+ countries to ensure that these countries are able to implement the REDD+ safeguards, and encourage REDD+ countries to seek technical support from existing institutions linked to the relevant international and regional instruments.

⁶ For example, the CBD provides national reporting guidelines for the Fifth National Reports due the 31st March 2014. Similarly the ITTA provides a set of indicators criteria and indicators for the sustainable management of tropical forests including a reporting format.

Lessons from International and Regional Instruments

ClientEarth and World Resources Institute Submission to SBSTA

I. INTRODUCTION

In December 2010, as part of the language agreed to by Parties to the United National Framework Convention on Climate Change (UNFCCC) in Cancun, it was determined that the Subsidiary Body for Scientific and Technical Advice (SBSTA) should develop guidance relating to paragraph 71(d) by COP-17.⁷ In June 2011, Parties to the UNFCCC discussed the development of a guidance document that would outline what information should be included in systems that track how safeguards referred to in Appendix I to decision 1/CP.16 are addressed and respected. SBSTA subsequently invited Parties and accredited observers to submit their views on such methodological guidance.

The remainder of this submission is divided into four parts: Part II provides examples of language that can be drawn from existing international instruments to help Parties interpret each safeguard in a more complete and consistent manner (see pages 8–13). Part III considers the measures that international and regional instruments list to protect human rights and promote environmental and governance objectives in order to think about the type of measures countries may use to implement, monitor, and enforce the REDD+ safeguards, and the types of information Parties might therefore collect to demonstrate that they are addressing and respecting the REDD+ safeguards (see pages 13–16). In Part IV, we describe how other international instruments can provide a model and support for the structure of the safeguard information system itself (see pages 17–20).

In developing this submission we reviewed 22 international instruments that are relevant to the REDD+ safeguards. These are listed in Appendix B, which also indicates which instruments Parties have signed, ratified, or otherwise agreed to. In Appendix C, we analyze the relevance of these instruments to each REDD+ safeguard. We believe that our research is adequate to show the value that existing international obligations can bring to discussions about the REDD+ safeguards and the safeguard information system. It should be noted, however, that our analysis of instruments relevant to the REDD+ safeguards is not complete. There are many additional international and regional instruments of relevance that we have not included in this submission,⁸ as well as documents that provide more in-depth interpretations of the instruments considered, such as COP decisions and the findings of international courts and treaty bodies. In addition, this submission does not incorporate a comparison with other safeguard systems implemented internationally including, most notably, the safeguards in use by the World Bank. While these safeguards will be important for SBSTA to consider, they are in a different category than the international and regional instruments we have analyzed and so we have chosen to not include them here. In preparation for the December 2011 COP-17 in Durban, we will produce a longer document based on further research into additional instruments, interpretations of those instruments, and the safeguards of other institutions such as the multilateral development banks.

⁷ This paragraph speaks to “a system for providing information on how the safeguards referred to in appendix I to [the Cancun] decision are being addressed and respected throughout the implementation of the activities referred to in paragraph 70 above, while respecting sovereignty.”

⁸ Some, but not all, of these additional instruments are listed in Appendix A. Note, for instance, that our analysis does not include a review of instruments related to gender, children, or workers’ rights.

1. Definition of Terms

One of the challenges associated with the SBSTA assignment related to the REDD+ safeguards is to clarify the meaning of relevant terms. Different actors appear to be using similar words to mean different things. In this section we therefore provide suggested definitions of key terms. These definitions are based primarily on our research on international and regional instruments, as well as our review of other safeguard systems. The remainder of this document uses these terms defined here.

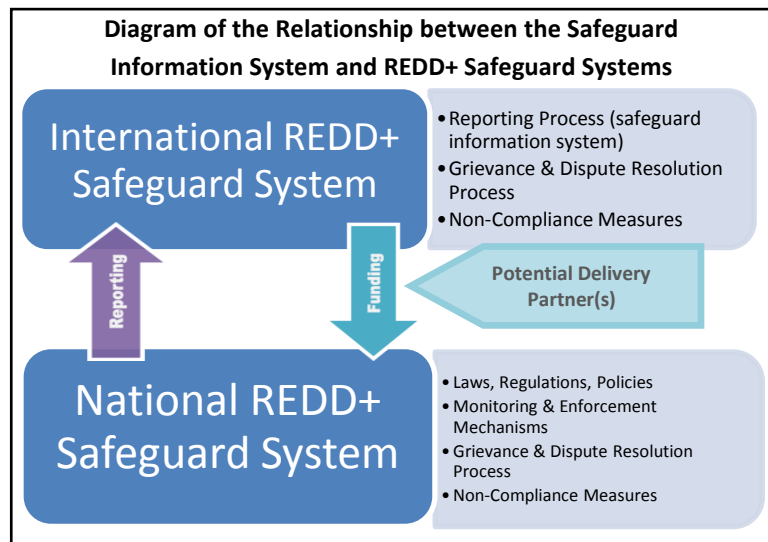
Safeguards: There is no universally agreed upon definition of “safeguards.” However, existing safeguard systems⁹ indicate that the term “safeguard” refers to measures to anticipate, minimize, mitigate, or otherwise address adverse impacts associated with a given activity. Safeguards are most commonly associated with multilateral financial institutions, although other institutions implement safeguards as well. Safeguards are generally accompanied by safeguard systems to ensure effective implementation.

Safeguard System: A safeguard system consists of institutions, processes, and procedures to implement, monitor, and enforce safeguards.¹⁰ Such systems include: rules (such as laws, regulations, policies, and/or standards) to guide activities; enforcement mechanisms to ensure that rules are complied with; monitoring to ensure that the rules are followed and enforced and to assess if changes are needed in the regulatory framework; grievance and dispute settlement processes that provide access to redress and remedy; non-compliance measures to respond to a failure to comply with the safeguards; and institutions to oversee and implement these elements. Arguably, safeguards are not safeguards without such an implementation system.

REDD+ Safeguards: In this document, the term “REDD+ safeguards” refers to paragraph 2 of Appendix I to decision 1/CP.16 (the Cancun Agreement).

REDD+ Safeguard Systems: In order for the REDD+ safeguards to be considered safeguards, they need to be associated with safeguard systems to ensure implementation. It is currently unclear which system(s) will oversee implementation of the REDD+ safeguards. Our understanding is that there is a need for two safeguard systems within the REDD+ context: one system that will operate at the national level of each REDD+ country, and another that will function at the international level.

National REDD+ Safeguard System: In our understanding, national REDD+ safeguard systems function domestically within REDD+ countries to ensure that the objectives of the REDD+ safeguards are reached. Domestic systems will include all elements of a safeguard system: rules, enforcement mechanisms, monitoring systems, grievance and dispute settlement processes, non-compliance measures, and relevant institutions.



⁹ For example, we considered the World Bank’s safeguard system as well as those of other multilateral development banks.

¹⁰ See, for example, *The Safeguards System of the International Atomic Energy Agency*, available online at http://www.iaea.org/OurWork/SV/Safeguards/documents/safeg_system.pdf.

International REDD+ Safeguard System: Based on the standard definitions of safeguards, our research on international and regional instruments, and on the language in decision 1/CP.16—that an international system is also called for to help oversee implementation of the REDD+ safeguards. A fully functioning international system would include: a reporting system, non-compliance and dispute resolution processes, and an institution (or institutions) to oversee these elements.

Safeguard Information System (SIS): We understand the information system called for in paragraph 71(d) of decision 1/CP.16 to be part of an international safeguard system. Our understanding is that this information system is meant to help ensure that Parties meet the objectives of the REDD+ safeguard—that is, that their domestic safeguard systems are adequate.¹¹ The safeguard information system centers on a process whereby REDD+ countries report to the international community on how they are meeting the requirements embodied in the REDD+ safeguards. It is not currently clear which institution(s) will oversee implementation of the international safeguard system and what non-compliance or dispute resolution mechanisms might be associated with the information system.

International and Regional Instruments: “International and regional instruments” refer in this submission to a variety of conventions, declarations, agreements, sets of principles, and similar documents to which a number of countries have agreed. Some of these instruments are legally binding, either through ratification/accession by State Parties (e.g., ILO Convention No. 169) or as customary international law (e.g., certain provisions of the Rio Declaration on Environment and Development¹²); other instruments serve to interpret these legally binding instruments.

Compliance Systems: In the context of this submission, “compliance systems” refers to the actions taken by countries to ensure effective implementation of their obligations set forth in international and regional instruments, including the obligations outlined in the REDD+ safeguards. In the case of the REDD+ safeguards, there are two compliance systems. At the domestic level, REDD+ safeguard systems function to ensure that the Party is in compliance with the REDD+ safeguards. At the international level, the safeguard information system and related processes function to ensure that the Parties are complying with their obligations.

Non-Compliance Systems: In the context of this submission, non-compliance systems are processes that are available when there is a failure to comply with obligations outlined in international and regional instruments, including the REDD+ safeguards. At the national level, non-compliance systems come into play when actors violate laws, regulations, policies, or other rules in place as part of the safeguard system. On the international level, non-compliance systems come into play when Parties fail to comply with their obligations, either by failing to meet reporting requirements, or by failing to put in place adequate safeguard systems. This submission focuses primarily on this latter type of non-compliance system.

Dispute Resolution Processes: Dispute resolution processes come into play when there is a need to settle disputes between actors. Such processes tend to come in the form of negotiation, mediation, arbitration, or through use of a judicial system. At the international level, dispute resolution processes can take place between Parties, or between a Party and a private actor or non-governmental organization. There may at times be overlap between dispute resolution processes and non-compliance systems, particularly if the dispute is taken to court.

¹¹ Note that where REDD+ countries receive money from multilateral institutions with their own safeguard systems, these institutions may either apply their own procedures or agree that there is domestic equivalency and rely on the rules, institutions, and practices that this represents to ensure that the human rights, environmental, and governance goals are addressed and respected.

¹² See, for instance, UNEP, 1994, *Concepts and Principles of International Environmental Law: An Introduction*, p. 15–33.

II. BETTER UNDERSTANDING THE REDD+ SAFEGUARDS

The REDD+ safeguards in the Cancun Agreement are a positive step toward protecting against social and/or environmental damage/harm in the context of support for readiness and REDD+. Questions remain as to how they will be interpreted. In order to develop an appropriate safeguard information system, a clearer understanding must be developed as to what the REDD+ safeguards mean, as well as their scope. Many international and regional instruments protect and promote the same rights and goals as the REDD+ safeguards. These instruments are often more detailed than the language in the Cancun Agreement's Appendix I(2), so can be used to help interpret the REDD+ safeguard language.

Below are some examples of how language in international and regional instruments relates to the interpretation of each REDD+ safeguard. This section is intended to help SBSTA identify where and how other international instruments can provide guidance for Parties when interpreting the REDD+ safeguards, which will both help Parties ensure that they are meeting safeguard (a) and help ensure some level of consistency with regards to interpretation of the safeguards at the international level.

1. Safeguard A

Safeguard (a) requires that REDD+ *“actions complement or are consistent with the objectives of national forest programmes and relevant international conventions and agreements.”*

The safeguard calls for an awareness of not only existing domestic programs, but also of the relevant international instruments that the Parties have signed, ratified, or otherwise agreed to. In the case of safeguard (a), interpretation in large part means defining those international instruments that are relevant to REDD+, as well as the implementation measures these instruments require from Parties. When providing guidance to Parties on the safeguard information system, SBSTA can assist Parties by directing them toward relevant international instruments.

We have begun to compile a list of the international and regional instruments that are relevant to the interpretation and implementation of the REDD+ safeguards (see Appendix A). We have generally focused on instruments that apply to a significant number of (potential) REDD+ countries. The degree to which each agreement is relevant to each member state will vary within national contexts. For instance, instruments will generally be more relevant to those states that have ratified/acceded or otherwise agreed to the instruments in questions.¹³ Certain instruments will also be more or less relevant based on the demographic or environmental features of the nation. For instance, the Ramsar Convention¹⁴ will be more relevant to those nations with a significant number of forests in or near wetlands.

2. Safeguard B

Safeguard (b) states that countries shall provide: *“Transparent and effective national forest governance structures, taking into account national legislation and sovereignty.”*

Interpreting this safeguard will require defining what “transparent and effective” governance looks like at the national level. It will be useful for SBSTA to provide further clarity on the meaning of these terms as guidance to Parties. In our analysis we looked separately at the terms “transparent” and “effective.” We found that

¹³ See Appendix B for a list of potential REDD+ countries and the instruments that they have ratified.

¹⁴ Convention on Wetlands of International Importance (1976).

transparent governance is associated particularly with a right to information found in several international instruments.¹⁵

Effective governance, in turn, relates more generally to proper governance of forests. The definition of “effective...governance structures” is broader and more difficult to define than transparency, and it is not spelled out as clearly in international or regional instruments.¹⁶ The instruments do suggest, however, that effective structures include, among other things: appropriate laws and regulations, proper enforcement mechanisms, and adequate distribution of rights and benefits. Effective governance also requires the granting and enforcement of procedural rights, that is, access to information, participation, and justice. Table II-1 provides a more detailed analysis of the elements of transparency and effective governance. Employing language found in international and regional instruments, it provides interpretive language that may be of use in developing guidance for a safeguard information system.

Table II-1 – Interpretation of Safeguard B

	Safeguard Language	Interpretation from Other Instruments
Safeguard B	<i>“Transparency... national forest governance structures”</i>	The public has a right to access information at the local, regional, and national levels in the possession of public authorities or the private sector that is relevant to forest-related decision-making processes, including information regarding decision-making processes. ¹⁷
	<i>“Effective national forest governance structures”</i>	The public has a right to participate at the local, regional, and national levels in forest-related decision-making processes, and decisions are made by appropriate actors following national and international laws. ¹⁸
		Public administration is effective, efficient, honest, equitable, and accountable. ¹⁹
		Laws and regulations that govern forest management at the regional, national, state/provincial, or local/municipal level are enacted and enforced. ²⁰
		Indigenous peoples, local communities, forest owners, and other relevant stakeholders have a right to access effective judicial and administrative proceedings, including redress and remedy. ²¹
		Forest tenure rights are clear and secure, and benefits are distributed equitably. ²²
Economic, social, and environmental considerations are integrated into decisionmaking at all levels and in all ministries. ²³		

¹⁵ See, for instance, the Universal Declaration of Human Rights (art. 19); International Covenant in Civil and Political Rights (art. 19); American Convention on Human Rights (art. 13); U.N. Declaration on Indigenous Peoples (art. 10); Principle 10 of the Rio Declaration on Environment and Development; Agenda 21-Chapter 8 (art. 8.4. letter f).

¹⁶ There are, however, numerous documents that have come out recently that define “forest governance” more completely and may be helpful for countries doing assessments. The Governance of Forest Initiatives Framework of Indicators, for example, could help countries identify which institutions, rules, and practices support transparency, participation, coordination, and accountability and where there are significant gaps that need to be addressed.

¹⁷ Universal Declaration of Human Rights (art. 19); Rio Declaration on Environment and Development (arts. 10, 17, 20, 22); International Covenant in Civil and Political Rights (art. 19); American Convention on Human Rights (art. 13); International Tropical Timber Agreement (letter L); U.N. Declaration on Indigenous Peoples (art. 10); Agenda 21-Chapter 8 (art. 8.4. letter f).

¹⁸ Universal Declaration of Human Rights (art. 19); Rio Declaration on Environment and Development (arts. 10, 17, 20, 22); International Covenant in Civil and Political Rights (art. 19); American Convention on Human Rights (art. 13); International Tropical Timber Agreement (letter L); U.N. Declaration on Indigenous Peoples (art. 10); Agenda 21-Chapter 8 (art. 8.4. letter f).

¹⁹ Agenda 21, Chapter 1 (art. 2.32).

²⁰ International Tropical Timber Agreement (letter M and N); ILO Convention 169 (art. 7); Convention on Biological Diversity (art. 8 letter K, art. 14); Non-Legally Binding Instrument on all Types of Forests (letter n); Agenda 21-Chapter 8 (arts. 8.13, 8.14, 8.15).

²¹ Rio Declaration on Environment and Development (art. 10); International Covenant on Civil and Political Rights and its First Protocol (art. 50); American Convention on Human Rights (art. 25); U.N. Declaration on the Rights of Indigenous Peoples (art. 8).

²² International Tropical Timber Agreement (letter M and N); ILO Convention 169 (art. 7); Convention on Biological Diversity (art. 8 letter K, art. 14); Non-Legally Binding Instrument on all Types of Forests (letter n).

²³ Agenda 21-Chapter 8 (art. 8.4. letter a).

3. Safeguard C

Safeguard (c) states that countries shall have: *“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 reference in safeguard (c) to rights and international obligations makes it clear that for an interpretation of this safeguard we must draw on instruments related to international human and indigenous rights. SBSTA’s guidance to Parties would thus benefit from clarifying the internationally recognized rights held by indigenous peoples and local communities. International instruments of relevance to safeguard (c) include both those specific to indigenous peoples’ rights—such as the U.N. Declaration on Indigenous Peoples and the ILO Convention concerning Indigenous and Tribal Peoples in Independent Countries (the ILO Convention 169)—as well as more general human rights. These instruments specify the rights of indigenous and local communities including, for instance, rights to land, self-determination, and livelihoods. Table II-2 compiles the rights that our research uncovered in relevant international instruments.

Table II-2 – Interpretation of Safeguard C

	Safeguard Language	Interpretation from Other Instruments
Safeguard C	“Respect for the knowledge and rights of indigenous peoples”	Indigenous peoples have rights to lands and territories which they have traditionally owned, occupied, or otherwise used or acquired; this includes lands not exclusively occupied by indigenous peoples, but to which they have traditionally had access for their subsistence and traditional activities. ²⁴ Indigenous people must not be removed from their land without their free, prior, and informed consent. ²⁵
		Indigenous peoples have a right to self-determination. ²⁶
		Indigenous peoples have a right to govern themselves. ²⁷
		Indigenous peoples have social, economic, political, and cultural rights with respect to their identity, customs, traditions, and institutions. ²⁸
		Indigenous and traditional forest-related knowledge is protected and used, and benefits from this knowledge are fairly and equitable shared. ²⁹
		Indigenous peoples enjoy the full measure of human rights and fundamental freedoms without discrimination. ³⁰
	“Respect for the knowledge and rights of indigenous peoples and local communities”	Local communities enjoy the full measure of human rights and fundamental freedoms without discrimination. ³¹
		Local communities have clear rights to lands and territories which they have traditionally owned, occupied, or otherwise used or acquired. ³²
		Local people have full realization of their social, economic, political, and cultural rights. ³³
		Local people have the right to work, to free choice of employment, to just and favorable conditions of work, and to protection against unemployment. ³⁴

²⁴ UNDRIP (art. 26); ILO 169 (arts. 13–15); Agenda 21 (Chapter 26, art. 26.3(A)(ii)).

²⁵ ILO 169 (art. 16).

²⁶ ILO 169 (art. 7); UNDRIP (arts. 3, 4, 23, 25).

²⁷ UNDRIP (arts. 4, 5); ILO 169 (art. 6(1)(c) and art. 7).

²⁸ ILO 169 (art. 20-b); Convention on Biological Diversity (CBD; arts. 8(j), 10); Nagoya Protocol (art. 7); Agenda 21 (Chapter 26, art. 26.3(A)(iii)).

²⁹ Convention on Biological Diversity (arts. 8(j), 10(c)); Nagoya Protocol; Non-Legally Binding Instrument on All Types of Forests (letter F); ILO 169 (art. 7).

³⁰ ILO 169 (arts. 3, 2-a); UNDRIP (arts. 1, 2, 9).

³¹ ILO 169 (arts. 3, 2-a); UNDRIP (arts. 1, 2, 9).

³² American Convention on Human Rights (art. 21).

³³ ILO 169 (art. 20-b); Convention on Biological Diversity (arts. 8(j), 10); Nagoya Protocol (art. 7).

³⁴ Universal Declaration on Human Rights (art. 23)

4. Safeguard D

Safeguard (d) states that Parties should encourage: *“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 the decision.”*

Interpretation of the safeguard requires understanding the meaning of “full and effective participation” and of “relevant stakeholders.” SBSTA guidance will benefit from including further explanation of this language.

Effective participation will be achieved using different types of engagement depending on the situation. Participation can include everything from sharing information, which is a one-way flow of information, to empowerment, where decision-making powers are transferred to a stakeholder or rights holders.³⁵ Our analysis found that international instruments interpret “full and effective participation” to mean, in part, recognition and implementation of procedural rights (also known as access rights). Upholding procedural rights means: providing relevant information to stakeholders in a timely and culturally appropriate fashion; ensuring stakeholder participation in decision-making processes at local, regional, and national levels, while respecting traditional decision-making and governance systems in indigenous lands and territories; and providing stakeholders with access to recourse mechanisms to challenge decisions regarding participation in decision making. While providing these procedural rights may not be sufficient to ensure participation in decision-making and implementation processes, stakeholder participation will not be full or effective without them. “Relevant stakeholders,” in turn, must be interpreted. Table II-3 provides further details.

Table II-3 – Interpretation of Safeguard D

	Safeguard Language	Interpretation from Other Instruments
Safeguard D	<i>“Full and effective participation of relevant stakeholders, in particular, indigenous peoples and local communities”</i>	The public, in particular local and indigenous people, has a right to access information at the local, regional, and national levels in the possession of public authorities or the private sector that is relevant to environmental decision-making processes. ³⁶ Information on how to participate in decision-making processes is proactively provided to relevant stakeholders. ³⁷
		Indigenous peoples, local communities, forest owners, and other relevant stakeholders have a right to participate in decision-making processes in a transparent and culturally appropriate manner, at the local, regional, and national levels. ³⁸
		Indigenous peoples, local communities, forest owners, and other relevant stakeholders have a right to access effective judicial and administrative proceedings, including redress and remedy, to challenge the substantive and procedural legality of any decision, act, or omission relating to participation in environmental decisionmaking. ³⁹

³⁵ For a more complete description of different types of stakeholder participation processes, see F. Daviet, “A Draft Framework for Sharing Approaches for Better Multi-Stakeholder Participation Practices,” available at: <http://un-redd.org/Publications/tabid/587/Default.aspx>.

³⁶ Universal Declaration of Human Rights (art. 19); Rio Declaration on Environment and Development (arts. 10, 17, 20, 22); International Covenant in Civil and Political Rights (art. 19); American Convention on Human Rights (art. 13); U.N. Declaration on the Rights of Indigenous Peoples (art. 10); Non-Legally Binding Instruments on All Types of Forests (Article 6 letter A); African Charter on Human and People’s Rights (art. 9).

³⁷ Agenda 21 (Chapter 26, art. 36.8–36.10).

³⁸ Universal Declaration of Human Rights (arts. 19,21); Rio Declaration on Environment and Development (arts. 10,17, 20, 22); International Covenant on Civil and Political Rights (arts. 19, 25); American Convention on Human Rights (art. 13); Protocol of San Salvador (art. 22); U.N. Declaration on the Rights of Indigenous Peoples (art. 18); ILO Convention 169 (art. 6); Non-Legally Binding Instrument on All Types of Forests (letter C, W); Agenda 21- Chapter 11 (art. 11.3); African Charter on Human and Peoples Rights (art. 13).

³⁹ Rio Declaration on Environment and Development (art. 10); International Covenant on Civil and Political Rights and its First Protocol (art. 50); American Convention on Human Rights (art. 25); U.N. Declaration on the Rights of Indigenous Peoples (art. 8).

Safeguard Language	Interpretation from Other Instruments
"Relevant stakeholders"	"Relevant stakeholders" is broadly defined to include all members of the public potentially affected by the decisions in question. ⁴⁰

5. Safeguard E

Under safeguard (e), Parties are to manage REDD+ programs/projects so 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."*¹

¹*"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."*

From the international instruments, we gathered language to help interpret both terms within the safeguard, as well as the term "consistent actions." Our analysis found that consistent actions include, among other things: the creation of protected areas, implementation of sustainable forest management, and fair and equitable benefit sharing of resources. Table II-4 contains further findings related to the interpretation of safeguard (e).

Table II-4 – Interpretation of Safeguard E

Safeguard Language	Interpretation from Other Instruments
Safeguard E <i>"Actions are consistent with the conservation of natural forests and biological diversity... incentivize the protection and conservation of natural forests and their ecosystem services, and...enhance other social and environmental benefits"</i>	"Biological diversity" means the variability among living organisms from all sources including, inter alia, terrestrial, marine, and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species, and of ecosystems. ⁴¹
	"Ecosystem" means a dynamic complex of plant, animal, and micro-organism communities and their non-living environment interacting as a functional unit. ⁴²
	Conserve biological diversity, the sustainable use of its components, and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources. ⁴³
	Implement sustainable forest management of all types of forests, and enhance the contribution of forests to the achievement of the Millennium Development Goals, in particular with respect to poverty eradication and environmental sustainability. ⁴⁴
	Increase significantly protected areas and other areas of sustainably managed forests, as well as the proportion of forest products from sustainably managed forests. ⁴⁵
	Maintain and increase the ecological, biological, climatic, socio-cultural, and economic contributions of forest resources. ⁴⁶

⁴⁰ Rio Declaration on Environment and Development (art. 23); International Covenant on Civil and Political Rights (art. 23); Universal Declaration of Human Rights (arts. 19, 21).

⁴¹ Convention on Biological Diversity (art. 2).

⁴² Convention on Biological Diversity (art. 2).

⁴³ Convention on Biological Diversity (art. 1).

⁴⁴ Non-Legally Binding Instrument on All Types of Forests (art. 1(b)).

⁴⁵ Non-Legally Binding Instrument on All Types of Forests (Global objective 3).

⁴⁶ Agenda 21 (Chapter 11, art. 11.12(a), (d)).

6. Safeguards F and G

Safeguards (f) and (g) call, respectively, for “actions to address the risks of reversals” and “actions to reduce displacement of emissions.”

These safeguards differ from safeguards (a) through (e) in that they relate closely to the goals of REDD+ itself. Safeguard (f) seeks to ensure that emissions reductions are long lasting, while safeguard (g) looks to ensure that total global emissions are reduced, not only emissions in certain areas. The emphasis on GHG emissions reductions in these safeguards will need, at least in part, to be resolved through discussions about accounting, reporting, and compliance rules for emissions reductions developed under the UNFCCC. Parties will benefit from considering safeguards (f) and (g) not only in terms of the safeguard information system, but also in relation to requirements and arrangements at the national level for GHG emissions accounting and registries. SBSTA guidance should therefore suggest that Parties clearly incorporate safeguards (f) and (g) in their rules and requirements for GHG emissions accounting and reporting related to REDD+.

International instruments can also be useful to interpret these safeguards. We have identified provisions that relate to the management of forests, including effective law enforcement, clear land tenure arrangements, support for new livelihoods and cross-sectoral coordination, as well as provisions that relate to transboundary environmental obligations (see Appendix D). However, since the link between international instruments and these safeguards is less clear at this juncture, we have chosen not to include a more detailed interpretation here.

Recommendations to SBSTA related to interpretation of the REDD+ safeguards.

As part of the SIS guidance, SBSTA should:

- II-1.** Provide an initial list of the relevant⁴⁷ international instruments related to each safeguard.
- II-2.** Provide guidance to help Parties interpret the safeguards, which at a minimum would include language from the international instruments that reflect the same rights, environment, and governance goals described in the REDD+ safeguards. A sample list of the language that guidance could include is provided in Tables II-1, II-2, II-3, and II-4.
- II-3.** Recommend to Parties that a process for interpreting safeguards (f) and (g) be undertaken once the international GHG accounting rules for REDD+ have been defined and there is a better understanding of how displacement and reversals will be addressed.

III. IDENTIFYING RELEVANT MEASURES AND OVERLAPPING DOMESTIC SYSTEMS

Though all safeguard systems will have similar overarching characteristics, at the national level countries may use different approaches or measures for ensuring that the rights and objectives described in the REDD+ safeguards are being addressed and respected during the implementation of REDD+ activities. The differences will in part depend on whether there are existing systems in place to ensure the rights and objectives described in the REDD+ safeguards will be implemented,⁴⁸ and/or if additional measures are necessary.

⁴⁷ Recognizing that there may be new instruments developed over time.

⁴⁸ “Implementation” refers to inter alia, all relevant laws, regulations, policies, and other measures and initiatives that Parties adopt and/or take to meet their obligations under a multilateral environmental agreement and its amendments, if any (Guidelines on

International and regional instruments provide examples of measures that Parties may wish to use in order to address and respect the rights and objectives reflected in the REDD+ safeguards. The measures discussed include, for instance:

- a. Codifying rights and objectives in domestic legal provisions and policies (see an example in Box III-1);
- b. Creating or improving institutions tasked with implementing/enforcing such provisions;
- c. Building the knowledge of stakeholders about their rights and capacity to enforce them;
- d. Providing venues and defining procedures that allow impacted stakeholders to bring forward grievances and have access to recourse mechanisms;
- e. Improving the implementation and enforcement of existing provisions;
- f. Improving the monitoring processes intended to assess whether rights and objectives are being protected and promoted; and
- g. Creating, improving, and implementing relevant administrative procedures, especially those related to transparency and participation, as well as for improving the coordination between institutions and relevant plans.

Appendix D provides a list of the types of measures related to specific safeguards that have been identified in relation to the various international instruments we have considered.⁴⁹

Box III-1: Example in Overlaps between International Instruments and REDD+

Parties to the international and regional instruments are often required to adopt appropriate and necessary domestic legal measures. Several of the instruments surveyed contain a duty to legislate, that is, specific language obligating states to adopt national legislation aimed at promoting compliance.

For example, the American Convention on Human Rights⁵⁰ refers to the need to legally recognize, and take necessary measures to give effect to, rights to access information. Additionally instruments like the Rio Declaration on Environment and Development and the Universal Declaration on Human Rights⁵¹ also call for the effective implementation of access to information.⁵² As a result, a number of countries likely already have provisions to make certain types of information publicly available. When creating a REDD+ safeguard system, Parties will need to assess the type of information that should be made available regarding REDD+ activities, and whether current legal provisions are sufficient.

Another example is the language found in ILO 169⁵³ which calls for the adoption and strengthening of appropriate policies and/or legal instruments to protect indigenous rights, freedoms, and property, including the right to preserve customary and administrative systems and practices. Similarly, UNDRIP also calls for the protection of indigenous peoples rights.⁵⁴ It is possible that countries, as a result of these instruments, have sufficient legal provisions in place to protect indigenous peoples' rights as required in the REDD+ safeguards. In other cases, legislation passed to meet ILO or UNDRIP requirements could be built upon to define how existing tenure rights relate specifically to REDD+, such as in relation to the carbon stored and emitted from different pools (e.g., trees, tree stems, soils, fallen branches, etc.).

Relevant stakeholders should be engaged throughout these evaluation processes.

Compliance with and Enforcement of Multilateral Environmental Agreements, UNEP, available online at <http://www.unep.org/DEC/docs/UNEP.Guidelines.on.Compliance.MEA.pdf>).

⁴⁹ Additional measures and guidance for how to implement such measures can be found in other documents that would likely be relevant and provide further guidance for Parties seeking to develop their national safeguard systems.

⁵⁰ American Convention on Human Rights (art. 2).

⁵¹ Universal Declaration on Human Rights (art. 19).

⁵² Rio Declaration on Environment and Development (Principle 10).

⁵³ ILO 169 Convention (arts. 2, 7).

⁵⁴ UNDRIP (art. 31).

Therefore, consideration of measures included in international and regional instruments relevant to REDD+ safeguards can be useful to Parties when they:

- 1. Identify existing capacity and systems to meet the rights and objectives outlined in the REDD+ safeguards**

Parties may have already applied measures defined in relevant international and regional instruments (listed in Appendix D), either because of having ratified/acceded the specific instrument or for other reasons. If so, it may be that these could be easily adapted for, or may already apply to, the REDD+ system with few or no additional measures being taken.

For example, mechanisms to provide local communities with appropriate and effective grievance and dispute resolution mechanisms may have already been set up by countries that have ratified ILO 169. The ability of individuals or communities to bring forward cases to the Human Rights Council could also be considered a part of the system. These same systems could be used to mediate REDD+ disputes, and therefore would be considered a part of the country's REDD+ safeguard system and could be reported as such to the safeguard information system. Monitoring functions are another area where countries could use systems set up in order to comply with existing international instruments.⁵⁵ Where gaps are identified, however, Parties will need to determine and then describe what additional steps they plan to take.

- 2. Determine appropriate additional measures that need to be taken**

Parties will need to determine whether they will develop measures that are very specific to REDD+ activities and programs, or measures that meet broader rights and goals identified in the REDD+ safeguards that are not limited to REDD+ processes and activities (see Box III-2). In either case, the measures outlined in international and regional instruments could be used by any Party, whether or not they have ratified/acceded to it, as an initial source of guidance when determining how to ensure they address and respect the rights and objectives listed in the REDD+ safeguards. As noted in Section II of this document, where countries have ratified/acceded to a specific international or regional instrument, they may need to use measures described in the relevant instrument to be consistent with REDD+ safeguard (a).

Box III-2: Using Broad Measures to Meet Objectives Described in the REDD+ Safeguards

Historically, when applying safeguards, actors like multilateral financial institutions have used measures narrowly focused on a specific activity or project being financed in order to “safeguard” the rights and objectives reflected in international instruments which they are bound to respect.⁵⁶ However, in more recent years the multilateral institutions have increasingly recognized that project-by-project measures, while useful as stopgap measures, may not be the most effective method for reaching broader national objectives of development and capacity building. As a result, financial institutions have placed growing emphasis on broader measures applied by domestic institutions, whether financed by the multilateral institution or not.

For example, in the World Bank Operating Policy 4.10, the bank and implementing actors in the country are required to ensure that indigenous peoples participate in the decision-making processes around the development of a bank-funded project occurring on their land. While a good step, this does not help indigenous peoples living in

⁵⁵ Nations already allow third party monitoring in connection with, for instance, the Ramsar Convention, the Convention on International Trade of Endangered Species (CITES), the Covenant on Civil and Political Rights (and its first protocol), and the Covenant on Economic, Social, and Cultural Rights.

⁵⁶ See, for instance, the World Bank Operating Policies or the safeguard policies of the Asian, African, and Inter-American Development Banks.

the next community over, where a bank without those procedures is funding a similar project. This risk will always exist unless the country has explicit requirements in its own legal code—and the measures to enforce them—that any actor doing business on land owned or managed by indigenous peoples, or undertaking activities that may impact on other rights they have, must request the consent of that community and must include them in all decision-making processes at all levels and phases (formulation, implementation, and evaluation), as is stated in ILO 169. Where such a law did exist, however, it would apply equally to someone financing a dam or developing a REDD+ project.

Parties will need to consider the challenges and opportunities to developing measures that would apply narrowly to REDD+ activities or more broadly. While the latter may be more difficult, it would mean the measures implemented would not only have value for the integrity of the REDD+ activities taken, but for addressing the drivers of deforestation and governance more broadly.

Recommendations to SBSTA related to safeguard systems and measures.

As part of the SIS guidance, SBSTA should:

III-1. Provide a list of the basic components of a safeguard system and a recommendation that Parties undertake a review and assessment of the current systems and measures they have in place to ensure that they are protecting and implementing the rights and objectives described in the REDD+ safeguards. Such a review should help countries assess their existing capacities as well as gaps and challenges. This will at a minimum include a review of:

- a. existing laws and policies, including administrative procedures;
- b. institutions and their capacity to implement existing provisions, as well as an assessment of their ability to apply new provisions linked to meeting the REDD+ safeguards. This assessment should include the ability to undertake capacity-building activities and enforcement activities, create or use systems for sharing information, and identify resources for participatory decision-making processes;
- c. enforcement measures, including monitoring systems;
- d. grievance and recourse mechanisms; and
- e. how these systems, institutions, and mechanisms work in practice.

III-2. Provide guidance on the methods Parties should use in assessing their existing systems and measures and how such a review should be undertaken.⁵⁷ Specifically, SBSTA should suggest that Parties engage stakeholders in the assessment process and that they make publicly available: 1) their assessment, including the questions considered and the analysis undertaken; and 2) information describing the steps or actions Parties plan to undertake to address any gaps identified.

III-3. Provide guidance to Parties on how they should describe whether and how such activities are consistent with measures to be taken relating to relevant international instruments that the country has ratified or decided to apply voluntarily. This document could then be used to track the development and implementation of the safeguard system over time.

⁵⁷ For example, how the assessment itself should apply the principles of transparency and participation in the development of the assessment.

IV. LESSONS FOR THE STRUCTURE OF THE SAFEGUARD INFORMATION SYSTEM

The previous parts of this submission sought to provide ideas and details on how existing international and regional instruments could provide direction for domestic REDD+ safeguard systems and how these instruments can therefore be useful in SBSTA's efforts to develop methodological guidance for reporting on these systems. The international and regional instruments and their related institutions can, in addition, help inform the design of the international safeguard information system itself, and can support the implementation of this system. The following sections outline two areas in particular where international and regional instruments and related institutions can be helpful. These two areas are the reporting and the enforcement processes.

It may be beyond SBSTA's mandate to formulate all elements of the international safeguard system. For the safeguard information system to function effectively, however, these elements will need to be clarified as well. SBSTA should therefore recommend that the LCA take actions on those areas beyond SBSTA's jurisdiction.

1. The Reporting Process

Nearly every relevant international or regional instrument requires Parties to self-report on their performance on the objectives embodied in the instrument (see Table E1 of Appendix E for more detailed information). The instruments frequently require Parties to report on the development and implementation of, for instance, national programs, legislation, policies, and measures relevant to the instrument. These existing reporting processes can provide examples and models to guide development of reporting requirements for the safeguard information system.

The report preparation process offers an occasion for each State Party to conduct a comprehensive review of the measures it has taken to align national laws and policies with the provisions of the instrument in question, monitor progress on compliance with the instrument, assess future needs and goals for more effective implementation, and plan and develop appropriate policies to achieve these goals.⁵⁸

a. Types of Reporting

The international instruments (and their implementing documents) often provide guidelines and indicators to assist Parties in gathering information and reporting on domestic compliance with the instrument in question. Parties to the Convention on Biological Diversity, for instance, are developing accompanying indicators to guide them toward meeting biodiversity goals,⁵⁹ while the International Tropical Timber Organization has developed criteria and indicators for sustainable management of tropical forests.⁶⁰ In addition to more detailed indicators, other instruments are often accompanied with reporting templates, which help guide Parties through the reporting process and ensure that national reports cover all relevant

⁵⁸ These objectives are taken from document HRI/MC/2004/3. A full explanation of the objectives of reporting can be found in CESCR's general comment number 1:

[http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/38e23a6ddd6c0f4dc12563ed0051cde7?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/38e23a6ddd6c0f4dc12563ed0051cde7?Opendocument).

⁵⁹ Subsidiary Body on Scientific, Technical, and Technological Advice (SBSTA), 2011, "Suggested Indicators for the Strategic Plan for Biodiversity 2011–2020 and the Aichi Biodiversity Targets," August 5, available at: <https://www.cbd.int/doc/?meeting=sbstta-15>.

⁶⁰ International Tropical Timber Agreement (ITTO), "Revised ITTO criteria and indicators for the sustainable management of tropical forests *including reporting format*." (The ITTO currently operates under the International Tropical Timber Agreement [ITTA] of 1997.) In addition, other relevant sets of indicators include the REDD+ Social and Environmental Standards, the WRI Governance of Forests Initiative, and the FAO/World Bank Framework for Assessing and Monitoring Forest Governance.

areas.⁶¹ The use of common templates and indicators for reporting has served multiple purposes in several international and regional instruments.⁶² First, they have provided a uniform reporting format to facilitate the analysis of information provided by the different Parties. Second, they have assisted Parties in evaluating and communicating how effectively they are complying with their international obligations.

b. Harmonization of Reporting

In light of the number of instruments that already require reporting processes, it may also be useful to harmonize these processes with the safeguard information system, as appropriate. Such harmonization could help ensure that Parties are not unnecessarily burdened by duplicative reporting requirements. Some efforts are already underway to encourage harmonization of reporting requirements for other non-UNFCCC instruments.⁶³

That being said, harmonization between reporting requirements can prove challenging, particularly since instruments do not always require identical information, or information at the same level of detail. Moreover, it would be a difficult task to harmonize all relevant instruments to which states are Parties with the safeguard information system. Where official harmonization is not possible, countries should nonetheless be encouraged to consider the links between different reporting processes to avoid duplication of efforts and inefficient use of resources. The safeguard information system should be designed in such a way to encourage such efficiency.

Box IV-1: Example of reporting requirements relevant to UNFCCC REDD+ safeguards

The ICESCR requires State Parties to “Indicate the ways and means by which the State party recognizes and protects the rights of indigenous communities, if any, to ownership of the lands and territories which they traditionally occupy or use as traditional sources of livelihood. Also indicate the extent to which indigenous and local communities are duly consulted, and whether their prior informed consent is sought, in any decision-making processes affecting their rights and interests under the Covenant, and provide examples.” (Section B of the guidelines on treaty-specific documents to be submitted by States parties under articles 16 and 17 of the ICESCR.)

2. Non-Compliance and Dispute Resolution Procedures

Many of the international and regional instruments define specific procedures for responding to Parties who fail to implement the requirements set forth in the instrument in question. For instance, non-compliance procedures may require countries to provide additional information with regards to how they will comply with their obligations,⁶⁴ or may include the imposition of warnings and penalties, such as suspension of privileges,⁶⁵ trade sanctions,⁶⁶ and liabilities. The instruments also frequently include dispute resolution

⁶¹ See, for instance, CITES Annual Report Guidelines and Biennial Report Format and the Template for Submitting Voluntary Information on progress related to the Non-Legally Binding Instrument on All Types of Forests.

⁶² CBD, Report on the Reporting Mechanisms under the Convention and other Conventions, available at: <http://www.cbd.int/doc/meetings/wgri/wgri-01/official/wgri-01-10-en.pdf>.

⁶³ For more information on efforts and pre-conditions for the harmonization of reporting requirements under relevant international and regional instruments, see: <http://www.cbd.int/cooperation/preconditions-harmonization-unesp-wcmc-en.pdf>; <http://www.unep-wcmc.org/medialibrary/2010/11/05/b1d9b90a/18Harmonizing%20info%20management.pdf>; and <http://www.fao.org/DOCREP/005/Y4171E/Y4171E53.HTM>.

⁶⁴ See, for instance, article 22 of the ILO Constitution, which governs ILO Convention No. 169, and allows the Committee of Experts on the Application of Conventions and Recommendations to submit “direct requests” for more information on specific subjects.

⁶⁵ See Convention on International Trade in Endangered Species, Resolution Conf. 14.3, sec 30.

processes to resolve disputes or grievances between Parties, or between a Party and its citizens. Such dispute/grievance processes can in many cases be initiated by individuals (see Table E3 in Appendix E).

Box IV-2: Example of non-compliance procedures

The Ramsar Bureau can invite the Party concerned to submit additional reports, monitor the site, negotiate a solution and it may bring the matter to the attention of the Standing Committee, which can bring the issue to the COP.

UNFCCC Parties will need 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. In addition, it will also need to find a solution for dealing with disputes. A key component to successful non-compliance and dispute resolution mechanisms is to allow access to such a mechanism for actors whose rights are protected by the safeguards. UNFCCC Parties will also need to determine the relationship between the safeguard system and pre-existing and relevant non-compliance and dispute resolution processes from other international and regional instruments.

Box IV-3: Example of relevant procedures for dispute settlement

The ICCPR first optional protocol sets out an elaborate procedure for the resolution of disputes over a State's fulfillment of its obligations through which individual complaints (claims that her or his rights have under the covenant or convention have been violated by a State party) can be brought to the attention of the Human Rights Committee. The procedure applies only to States parties to the ICCPR which have made a declaration accepting the competence of the Human Rights Committee in this regard.

The Human Rights Committee meets three times a year to receive complaints from persons within their jurisdiction alleging violations of their rights under the Covenant.

3. Coordination of Support and Technical Assistance for Measures related to the Safeguards

a. Interpretive and Technical Support⁶⁷

The institutions associated with international and regional instruments have developed expertise related to the rights or objectives that instruments are meant to protect and/or promote (see Table IV-II in Appendix E). This pre-existing expertise could be of significant assistance to Parties and SBSTA as they work to develop an understanding of the rights and objectives reflected in the REDD+ safeguards and to create and implement proper REDD+ safeguard systems and an international safeguard information system. For example, the Inter-American Court on Human Rights may provide the interpretation of the Inter-American Human Rights Convention or of other treaties concerning the protection of human rights in the American States.⁶⁸ The Court, at the request of a member state of the Organization of American States, may even provide the member state with its opinions regarding the compatibility of any of its domestic laws with the aforesaid international instruments. Similarly, the Human Rights Committee under the International Covenant on Civil and Political Rights can elaborate so-called "general comments," which are designed to assist States Parties to give effect to the provisions of the Covenant by providing greater detail regarding the substantive and procedural obligations of States Parties.

⁶⁶ See Convention on International Trade in Endangered Species, Resolution Conf. 14.3, sec 30.

⁶⁷ Technical support is broadly defined to include capacity building and training, cooperation in scientific endeavors and research, or transfer of technology.

⁶⁸ American Convention on Human Rights (art. 64).

b. Financial Support

Almost every international and regional instrument surveyed in this submission includes provisions that require developed country Parties to provide technical and financial support to implementing countries (see Table E4 in Appendix E for further information). Since REDD+ nations are all developing countries, they are likely to require financial assistance to be capable of ensuring adequate implementation of the safeguards. UNFCCC Parties should therefore provide support to these countries, similar to that provided in connection with other relevant instruments. In order to capitalize upon synergies between the different activities, such support should be coordinated with pre-existing assistance related to international and regional instruments and other UNFCCC programs. It should also be additional to pre-existing funding, to ensure that implementation of other instruments does not suffer reduced support.

Recommendations to SBSTA related to reporting, non-compliance, and financial and technical support.

As part of the SIS guidance, SBSTA should:

IV-1. Provide guidance on existing sets of indicators that are available to assist Parties in their safeguard assessment and reporting processes, such as indicators associated with other international and regional instruments⁶⁹. In addition, SBSTA should encourage harmonization of reporting between the safeguard information system and other instruments, as appropriate, and encourage Parties to take advantage of synergies in reporting requirements.

IV-2. The reporting requirements in other international and regional instruments relevant to the REDD+ safeguards and recommend that the SBSTA design similar requirements, for example a reporting template, for the safeguard information system.

As part of developing the SIS, SBSTA should identify:

IV-3. The non-compliance processes and mechanisms to resolve grievances and disputes of other international instruments and the need to develop such functions in a UNFCCC context. SBSTA should recommend that the LCA create the legal framework for such processes and mechanisms and emphasize to Parties that such mechanism should allow adequate access to the public and non-governmental organizations.

IV-4. Where direct communications between the UNFCCC and other relevant bodies could be implemented. SBSTA should also recommend that the LCA officially recognize the competency and jurisdiction of relevant bodies in applying measures directly related to the REDD+ safeguards and the importance of considering relevant measures taken by these bodies when assessing Party compliance with the REDD+ safeguards.

IV-5. SBSTA should encourage Parties to provide additional financial and technical support to REDD+ countries to ensure that these countries are able to implement the REDD+ safeguards, and encourage REDD+ countries to seek technical support from existing institutions linked to the relevant international and regional instruments.

⁶⁹ For example, the CBD provides national reporting guidelines for the Fifth National Reports that are due the 31st March 2014. Similarly the ITTA provides a set of indicators criteria and indicators for the sustainable management of tropical forests, including an specific reporting format.

Appendix A: Relevant International and Regional Instruments*

1. Related to Safeguard B

- American Convention on Human Rights “Pact of San Jose, Costa Rica” (ACHR) (1969)
- Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights “Protocol of San Salvador” (1988)
- African Charter on Human and Peoples’ Rights (1981)
- Agenda 21 (1992)
- Convention on the Elimination of All Forms of Racial Discrimination (CERD) (1965)
- Convention for the Safeguarding of Intangible Cultural Heritage (2003)
- Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)
- Convention on the Rights of the Child (1989)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1979)
- Declaration on the Right to Development (1986)
- Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms (1998)
- International Covenant on Civil and Political Rights (ICCPR) (1966)
- International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966)
- International Labour Organisation Convention Concerning Indigenous and Tribal Peoples in Independent Countries (ILO Convention No. 169) (1989)
- Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (“Convention of Belem Do Para”) (1995)
- Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (2008)
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (OP-CEDAW) (1999)
- Mercosur Framework Agreement on Environment (2004)
- Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits arising from their Utilization (ABS) to the Convention on Biological Diversity (2010)
- Non-Legally Binding Instruments on All Types of Forests (NLBI on Forests) (2007)
- North American Agreement on Environmental Cooperation (NAAEC) (1993)
- Rio Declaration on Environment and Development (Rio Declaration) (1992)
- The United Nations World Charter for Nature (1982)
- Universal Declaration of Human Rights (UDHR) (1948)

2. Related to Safeguard C

- Agenda 21 (1992)
- Convention on Biological Diversity (CBD) (1992)
- Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)
- Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities (1992)
- International Labour Organisation Convention Concerning Indigenous and Tribal Peoples in Independent Countries (Convention No. 169) (1989)
- Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits arising from their Utilization (ABS) to the Convention on Biological Diversity (2010)
- Non-Legally Binding Instruments on All Types of Forests (NLBI on Forests) (2007)
- United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) (2007)
- Rio Declaration on Environment and Development (1992)

3. Related to Safeguard D

- African Charter on Human and Peoples' Rights (1981)
- Agenda 21 (1992)
- American Convention on Human Rights "Pact of San Jose, Costa Rica" (ACHR) (1969)
- Cartagena Protocol on Biosafety to the Convention on Biological Diversity (The Biosafety Protocol) (2000)
- Convention on Biological Diversity (CBD) (1992)
- Convention on Environmental Impact Assessment (EIA) in a Transboundary Context (1991)
- Convention on the Conservation of Migratory Species of Wild Animals (CMS or Bonn Convention) (1979)
- Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (1973)
- Convention on Nature Protection and Wild Life Preservation in the Western Hemisphere (1940)
- Convention for the Safeguarding of the Intangible Cultural Heritage (2003)
- Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration) (1972)
- International Convention for the Protection of Birds (1950)
- Mercosur Framework Agreement on Environment (2004)
- Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits arising from their Utilization (ABS) to the Convention on Biological Diversity (2010)
- Non-Legally Binding Instruments on All Types of Forests (NLBI on Forests) (2007)
- Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests (Forest Principles) (1992)
- North American Agreement on Environmental Cooperation (NAAEC) (1993)
- Ramsar – Convention on Wetlands of International Importance (Ramsar Convention) (1971)
- Rio Declaration on Environment and Development (1992)
- United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) (2007)
- United Nations Convention to Combat Desertification (UNCCD) (1994)
- UNEP draft Principles of Conduct in the Field of the Environment for the Guidance of States in the Conservation and Harmonious Utilization of Natural Resources Shared by Two or More States (UNEP draft Principles) (1978)
- UNESCO Universal Declaration on Cultural Diversity (2001)
- UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage (1972)
- Universal Declaration of Human Rights (UDHR) (1948)

4. Related to Safeguard E

- Agenda 21 (1992)
- ASEAN Agreement on the Conservation of Nature and Natural Resources (1985)
- Convention on Biological Diversity (CBD) (1992)
- Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (1976)
- Convention on the Conservation of Migratory Species of Wild Animals (CMS or Bonn Convention) (1979)
- Convention on Nature Protection and Wild Life Preservation in the Western Hemisphere (1940)
- Inter-regional Framework Cooperation Agreement between the European Community and its Member States, on the one part, and the Southern Common Market and its Party States on the Other Part (1999)
- International Tropical Timber Agreement (ITTA) (1985/2006)
- Mercosur Framework Agreement on Environment (2004)
- Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits arising

- from their Utilization (ABS) to the Convention on Biological Diversity (2010)
- Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests (Forest Principles) (1992)
- Non-Legally Binding Instruments on All Types of Forests (NLBI on Forests) (2007)
- Rio Declaration on Environment and Development (1992)
- WTO/GATT Agreements

5. Related to Safeguard F and G

- African Convention on the Conservation of Nature and Natural Resources (1968)
- Convention on Biological Diversity (CBD) (1992)
- Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (1976)
- Convention on the Conservation of Migratory Species of Wild Animals (CMS or Bonn Convention) (1979)
- Convention for the Protection of the Natural Resources and Environment of the South Pacific Region (1986)
- Inter-regional Framework Cooperation Agreement between the European Community and its Member States, on the one part, and the Southern Common Market and its Party States on the Other Part (1999)
- International Tropical Timber Agreement (ITTA) (1985/2006)
- International Labour Organisation Convention Concerning Indigenous and Tribal Peoples in Independent Countries (Convention No. 169) (1989)
- Mercosur Framework Agreement on Environment (2004)
- Non-Legally Binding Instruments on All Types of Forests (NLBI on Forests) (2007)
- Regional Convention for the Management and Conservation of the Natural Forest Ecosystems and the Development of Forest Plantations (1993)

*Please note this is not an exhaustive list and its intention is to illustrate the numerous international instruments relevant to the REDD+ safeguards.

Appendix B: International Instruments Applicable to States Participating in REDD+

P: Party
S: Signatory

+ : Voted in Favour
- : Voted Against

A: Abstained
DNV: Did Not Vote

*: No Vote—Adopted by Consensus

Relevant Int'l Instruments	CBD	Nagoya Protocol to the CBD	CMS	Ramsar	CITES	Univ. Decl. of HR	ACHR	San Salvador Protocol	African Charter on Human Rights	ICCPR	First Optional Protocol to the ICCPR	ICESCR	ILO Conv. No. 169	UNDRIP	Rio Declaration*	Agenda 21*	NLBSTF*	ITTA	NAAEC	Conv. on Nature Protection & Wildlife Pres. in the Western Hemisphere	Mercosur	Interregional Framework Cooperation Agreement Between the EU & Mercosur	
Algeria	P	S	P	P	P	Applies			P	P	P	P		+									
Argentina	P		P	P	P	Applies	P	P		P	P	P	P	+						P	P	P	
Azerbaijan	P		Non-Party Participant	P	P	Applies				P	P	P		A									
Bangladesh	P	S	P	P	P	Applies				P		P		A									
Bhutan	P				P	Applies								A									
Bolivia	P		P	P	P	Applies	P	P		P	P	P	P	+				P			Associate Member		
Brazil	P	S	Non-party Participant	P	P	Applies	P	P		P		P	P	+				P		P	P	P	
Burkina Faso	P		P	P	P	Applies			P	P	P	P		+									
Cambodia	P		Non-party Participant	P	P	Applies				P	S	P		+				P					
Cameroon	P		P	P	P	Applies			P	P	P	P		+				P					
Central African Republic (CAR)	P	S	Non-party Participant	P	P	Applies			P	P	P	P		+				P					
Chile	P		P	P	P	Applies	P	S		P	P	P	P	+						P	Associate Member		
China	P		Non-Party Participant	P	P	Applies				S		P		+				P					
Colombia	P	S		P	P	Applies	P			P	P	P	P	A (now endorses)				P			Associate Member		
Congo	P		P	P	P	Applies			P	P	P	P		+				P					
Costa Rica	P	S	P	P	P	Applies	P	P		P	P	P	P	+						P			
Dominican Republic	P			P	P	Applies	P	S			P	P		+				P		P			
Democratic Republic of the Congo (DRC)	P		P	P	P	Applies			P	P	P	P		+									
Ecuador	P	S	P	P	P	Applies	P	P		P	P	P	P	+				P		P	Associate Member		
El Salvador	P			P	P	Applies	P	P		P	P	P		+						P			
Equatorial Guinea	P		P	P	P	Applies			P	P	P	P		+									
Ethiopia	P		P		P	Applies			P	P		P		DNV									
Fiji	P		Non-party Participant	P	P	Applies							P	DNV				P					
Gabon	P	S	P	P	P	Applies			P	P		P		+				P					
Ghana	P	S	P	P	P	Applies			P	P	P	P		+				P					
Guatemala	P	S		P	P	Applies	P			P	P	P	P	+				P		P			
Guyana	P				P	Applies				P	P	P		+				P					
Honduras	P		P	P	P	Applies	P			P	P	P	P	+				P					
Indonesia	P	S	Non-party	P	P	Applies				P		P		+				P					

Relevant Int'l Instruments	CBD	Nagoya Protocol to the CBD	CMS	Ramsar	CITES	Univ. Decl. of HR	ACHR	San Salvador Protocol	African Charter on Human Rights	ICCP	First Optional Protocol to the ICCPR	ICESCR	ILO Conv. No. 169	UNDRIIP	Rio Declaration*	Agenda 21*	NLBSTF*	ITTA	NAAEC	Conv. on Nature Protection & Wildlife Pres. in the Western Hemisphere	Mercosur	Interregional Framework Cooperation Agreement Between the EU & Mercosur
			Participant																			
Kenya	P		P	P	P	Applies			P	P		P		A								
Lao PDR	P			P	P	Applies				P		P		+								
Liberia	P		P	P	P	Applies			P	P	S	P		+				P				
Madagascar	P		P	P	P	Applies			P	P	P	P		+				P				
Mexico	P	S		P	P	Applies	P	P		P	P	P	P	+				P	P	P		
Mongolia	P			P	P	Applies				P	P	P		+								
Mozambique	P		P	P	P	Applies			P	P				+								
Nepal	P		Non-party Participant	P	P	Applies				P	P	P	P	+				P				
Nicaragua	P			P	P	Applies	P	P		P	P	P	P	+						P		
Nigeria	P		P	P	P	Applies			P	P		P		A				P				
Pakistan	P		P	P	P	Applies				P		P		+								
Panama	P	S	P	P	P	Applies	P	P		P	P	P		+				P		P		
Papua New Guinea	P		Non-party Participant	P	P	Applies				P		P		DNV				P				
Paraguay	P		P	P	P	Applies	P	P		P	P	P	P	+						P	P	P
Peru	P	S	P	P	P	Applies	P	P		P	P	P	P	+				P		P	Associate Member	
Philippines	P		P	P	P	Applies				P	P	P		+				P				
Solomon Islands	P		Non-party Participant			Applies						P		DNV								
South Sudan						Applies								DNV								
Sri Lanka	P		P		P	Applies				P	P	P		+								
Sudan	P	S	Non-party Participant	P	P	Applies			P	P		P		+								
Suriname	P			P	P	Applies	P	P		P	P	P		+				P		P		
Tanzania	P		P	P	P	Applies			P	P		P		+								
Thailand	P		Non-party Participant	P	P	Applies				P		P		+				P				
Uganda	P		P	P	P	Applies			P	P	P	P		+								
Vanuatu	P		Non-party Participant		P	Applies				P				DNV				P				
Vietnam	P		Non-party Participant	P	P	Applies				P		P		+								
Zambia	P			P	P	Applies			P	P	P	P		+								

P: Party
S: Signatory

+ : Voted in Favour
- : Voted Against

A: Abstained
DNV: Did Not Vote

*: No Vote—Adopted by Consensus

APENDIX C: International Instruments and their relevance to the REDD safeguards*

Instruments	Safeguard B	Safeguard C	Safeguard D	Safeguard E	Safeguard F	Safeguard G
Agenda 21	1	1	2	1		2
ACHR	2	3	1			
San Salvador Protocol				1		
African Charter		3	1			
CBD		2		1		3
CMS				1		
CITES				1	3	
Conv. on Nature Protection & Wildlife Pres. in the Western Hemisphere				1		
ICCPR	2	2	1			
First Optional Protocol ICCPR						
ICESCR	2	2				
ILO 169	2	1	1	3	3	
ITTA	2	3		3	2	2
Interregional Framework Cooperation Agreement Between the EU & Mercosur				3	3	3
MERCOSUR	1		2	2		
NAAEC	2		2			3
NLBATF	1	2	2	1	3	3
Nagoya	2	1	1	3		
Ramsar				2		
Rio Declaration		1	1		2	2
UNDRIP	2	1	2			
UNDHR	2		1			

*Indicators 1–3 denote level of relevance, with 1 being most relevant. Please note this is an estimated relevance based on our own analysis and is meant to serve as a draft illustration of the connection between these instruments and the REDD+ safeguards.

Appendix D: Measures Described in International and Regional Instruments

For safeguards (b) through (g) we have provided a list of measures that are captured in the relevant international instruments we analyzed. The list of measures is incomplete, but has been provided to give Parties and Observers a sense of the types of measures that could be taken.

For safeguards (f) and (g) we have provided an initial list of potential of measures to help start the discussion on how these safeguards could be interpreted. However, as noted in our recommendations, further discussions are required.

REDD Safeguard (b): Transparent and effective national forest governance structures, taking into account national legislation and sovereignty.

Measures to Protect the Rights and/or Goals Mentioned in Safeguard B

“Transparent...national forest governance structures”

1. Provide legal recognition and take necessary measures to give effect to the rights to access to information.⁷⁰
2. Establish and improve appropriate national institutions entrusted with the promotion and protection of the right to information.⁷¹
3. Collect, compile, update, and distribute pertinent information from state institutions and relevant private bodies to the public.⁷²
4. Promote awareness in the public at large of the importance of considering environment and development in an integrated manner, and establish mechanisms for facilitating a direct exchange of information.⁷³
5. Develop or improve mechanisms to ensure public access to information and to facilitate the involvement of indigenous peoples, local communities, forest owners, and other relevant stakeholders in decisionmaking at all levels.⁷⁴
6. Eradicate mismanagement of public and private affairs, including corruption.⁷⁵

“Effective national forest governance structures”

1. Regularly assess and, as needed, improve the laws and regulations and the related institutional/administrative machinery at the national/state and local/municipal level that govern forest management, with a view to rendering them effective in practice.⁷⁶
2. Develop and implement integrated, enforceable, and effective laws and regulations that are based upon sound social, ecological, economic, and scientific principles.⁷⁷
3. Strengthen cooperation and cross-sectoral coordination among sectors affecting or affected by forest management.⁷⁸ Includes the integration of relevant cross-sectoral plans, programs, and strategies.⁷⁹

⁷⁰ American Convention on Human Rights (art. 2); Universal Declaration on Human Rights (art. 19); Rio Declaration on Environment and Development (art. 10).

⁷¹ African Charter on Human and Peoples Rights (art. 26).

⁷² Rio Declaration on Environment and Development (art. 10); Agenda 21-Chapter 11 (art. 11.4(a)); Non-Legally Binding Instrument on all Types of Forests (art. 6(a)); Nagoya Protocol (art. 14).

⁷³ Agenda 21-Chapter 8 (art. 8.11 letter c).

⁷⁴ Agenda 21-Chapter 8 (objective 8.3) and Chapter 11 (article 11.4 letter c); Non-Legally Binding Instrument on all Types of Forests (article 6 letter W); American Convention on Human Rights (art. 2); MERCOSUR (art. 3).

⁷⁵ Agenda 21-Chapter 1 (art. 2.32).

⁷⁶ Agenda 21-Chapter 11 (arts. 11.2, 11.3) and Chapter 8 (art. 8.3. letter a, art. 8.17); Non-Legally Binding Instrument on all Types of Forests (Article 6 letter N, W).

⁷⁷ Agenda 21-Chapter 8 (arts. 8.13, 8.14); Non-Legally Binding Instrument on all Types of Forests (article 6 letter d).

4. Establish judicial and administrative procedures for legal redress and remedy of actions affecting the environment that may be unlawful or infringe on rights under the law. These should provide access to indigenous peoples, local communities, forest owners, and other relevant stakeholders with a recognized legal interest.⁸⁰
5. Secure adequate financial resources for forest protection and conservation.⁸¹ Includes the development of financing strategies that outline the short-, medium-, and long-term financial planning for achieving sustainable forest management.⁸²
6. Ensure adequate enforcement of forest-related laws, to combat and eradicate illicit trade practices over timber, wildlife, and other forest biological resources.⁸³
7. Clarify and recognize the rights of ownership and possession of indigenous peoples, local communities, forest owners, concession holders, and other relevant stakeholders over lands and territories.⁸⁴

REDD Safeguard (c): 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.

Measures to Protect the Rights and/or Goals Mentioned in the Safeguard

“Respect for the knowledge and rights of indigenous peoples”

1. Ratify and implement existing international conventions relevant to indigenous peoples.⁸⁵
2. Adopt or strengthen appropriate policies and/or legal instruments that will protect indigenous rights, freedoms, and property, including the right to preserve customary and administrative systems and practices. This process should be undertaken with the participation of the indigenous peoples concerned.⁸⁶ Respect indigenous peoples customs and customary law, including their institutions and structures, such as judicial and administrative bodies or councils.⁸⁷
3. Strengthen the active participation of indigenous peoples in the formulation of policies, laws and programs relating to forest management.⁸⁸ Carry out surveys and research on indigenous knowledge of trees and forests and their uses to improve the planning and implementation of sustainable forest management.⁸⁹
4. Establish or implement, in conjunction with indigenous peoples concerned, a process to adjudicate the rights of indigenous peoples pertaining to their lands, territories, and resources, and guarantee effective protection of their rights to ownership and possession. The process must give due recognition to indigenous peoples laws, traditions, customs, and land tenure systems.⁹⁰

⁷⁸ Non-Legally Binding Instrument on all Types of Forests (art. 6 letters K, N, L).

⁷⁹ Non-Legally Binding Instrument on all Types of Forests (art. 7 letter C); Convention on Biological Diversity (art. 6); Agenda 21- (Chapter 1 art. 2.34); MERCOSUR (article 3).

⁸⁰ Agenda 21 (Chapter 8 art. 8.18); UNDRIP (arts. 27, 28); North American Agreement on Environmental Cooperation (arts. 6 and 7).

⁸¹ Non-Legally Binding Instrument on all Types of Forests (art. 7 letter A).

⁸² Non-Legally Binding Instrument on all Types of Forests (art. 6 letter I, art. 7 letter C and G).

⁸³ Non-Legally Binding Instrument on all Types of Forests (Principle B, art. 6 letter N, art. 7 letter H and I).

⁸⁴ ILO Convention 169 (arts. 14, 15, 16, 17, 18).

⁸⁵ Agenda 21 (Chapter 26 art. 26.4 letter a).

⁸⁶ UNDRIP (art. 31), ILO 169 (arts. 2, 7).

⁸⁷ ILO 169 (arts. 8, 9, 12).

⁸⁸ Agenda 21 (Chapter 26 art. 26.3 letter b and c).

⁸⁹ Agenda 21 (art. 11.14(d)).

⁹⁰ UNDRIP (art. 27), ILO 169 (arts. 14, 15, 17).

5. Develop or strengthen national arrangements to ensure that agencies and appropriate institutions and mechanisms exist to protect and fulfill the rights of indigenous peoples. It is essential to ensure that they have the means necessary for the proper fulfillment of the functions assigned to them.⁹¹
6. Develop or strengthen mechanisms to ensure the active participation of indigenous peoples in decision-making processes at all levels and phases (formulation, implementation, and evaluation) that may affect the rights or freedoms of indigenous peoples.⁹² This includes obtaining from indigenous peoples concerned their free and informed consent prior to the approval of any action affecting their rights or freedoms.⁹³
7. Provide effective mechanisms for the prevention of, and redress for, any action that violates or undermines the rights or freedoms of local communities, especially concerning their rights to ownership and possession of lands and territories.⁹⁴
8. Provide access for indigenous communities to forest resources and relevant markets in order to support livelihoods and income diversification from forest management.⁹⁵

“Respect for the knowledge and rights of...local communities”

1. Ratify and implement existing international conventions relevant to human rights, including the rights of local communities.
2. Strengthen the active participation of local communities in the formulation of policies, laws and programs relating to forest management.⁹⁶ Carry out surveys and research on local knowledge of trees and forests and their uses to improve the planning and implementation of sustainable forest management.⁹⁷
3. Involve local communities in a transparent and participatory manner in decision-making processes that affect their rights.⁹⁸
4. Provide effective mechanisms for the prevention of, and redress for, any action that violates or undermines the rights or freedoms of local communities, especially concerning their rights to ownership and possession of lands and territories.⁹⁹ Provide local communities with appropriate and effective grievance and dispute resolution mechanisms in order to enforce their rights,¹⁰⁰ particularly with regards to land claims.¹⁰¹
5. Provide access for local communities to forest resources and relevant markets in order to support livelihoods and income diversification from forest management.¹⁰²

REDD Safeguard (d): 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 the decision.

Measures to Protect the Rights and/or Goals Mentioned in Safeguard D

1. Provide legal recognition and take necessary measures to give effect to the rights to access to information, participation, and justice.¹⁰³

⁹¹ ILO Convention 169 (art. 33).

⁹² Agenda 21-Chapter 26 (arts. 26.3 (B)-(C), 26.6); ILO 169 (arts. 4, 6, 7, 15, 16, 17, 22,23, 27, 28, 33).

⁹³ UNDRIP (art. 32); ILO 169 (art. 16).

⁹⁴ UNDRIP (arts. 8, 10, 20, 40); ILO 169 (arts. 14, 15, 18).

⁹⁵ CBD arts 8(j); Non-Legally Binding Instrument on All Types of Forests (letter Y).

⁹⁶ Agenda 21 (Chapter 26, art. 26.3 letter b and c).

⁹⁷ Agenda 21 (Chapter 11, art. 11.14(d)).

⁹⁸ Non-Legally Binding Instrument on All Types of Forests (principle C).

⁹⁹ UNDRIP (arts. 8, 10, 20, 40); ILO 169 (arts. 14, 15, 18).

¹⁰⁰ ILO 169 (arts. 9, 10, 1112, 14(3)); UNDRIP (art. 40).

¹⁰¹ ILO 169 (art. 14).

¹⁰² CBD (art. 8(j)); Non-Legally Binding Instrument on All Types of Forests (letter Y).

2. Establish and improve appropriate national institutions entrusted with the promotion and protection of the right to information, participation, and justice.¹⁰⁴
3. Collect, compile, update, and distribute to the public pertinent information from state institutions and relevant private bodies.¹⁰⁵
4. Develop or improve mechanisms to ensure public access to information and to facilitate the involvement of indigenous peoples, local communities, forest owners, and other relevant stakeholders in decisionmaking at all levels.¹⁰⁶
5. Guarantee indigenous peoples, local communities, forest owners, and other relevant stakeholders' access to judicial, quasi-judicial and/or administrative proceedings challenge the substantive and procedural legality of any decision, act, or omission relating to participation in environmental decisionmaking, including access to redress and remedy.¹⁰⁷
6. Promote education and awareness raising to ensure that indigenous peoples, local communities, forest owners, and other relevant stakeholders are aware of these rights, that they have the capacity to exercise them, and understand the corresponding obligations and duties from part of the State to fulfill them.¹⁰⁸
7. Promote awareness in the public at large of the importance of considering environment and development in an integrated manner, and establish mechanisms for facilitating a direct exchange of information.¹⁰⁹
8. Carry out environmental impacts assessments for proposed actions or activities that are likely to have significant impacts on indigenous peoples, local communities, forest owners, and other relevant stakeholders' rights. Environmental Impact Assessments must guarantee their effective participation.¹¹⁰

REDD Safeguard (e): 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.

Measures to Protect the Rights and/or Goals Mentioned in the Safeguard E

1. Identify and monitor, through sampling and other techniques, the components of biological diversity and forest quality at national and sub-national levels, and maintain and organize data derived from these identification and monitoring activities.¹¹¹ States should pay particular attention to those areas requiring urgent conservation measures and those which offer the greatest potential for sustainable use.¹¹²

¹⁰³ American Convention on Human Rights (art. 2); Universal Declaration on Human Rights (art. 19); Rio Declaration on Environment and Development (art. 10); Agenda 21 (chapter 8 art. 8.13).

¹⁰⁴ African Charter on Human and Peoples Rights (art. 26); Agenda 21 (chapter 8, art. 8.26).

¹⁰⁵ Rio Declaration on Environment and Development (art. 10); Agenda 21 (Chapter 11, art. 11.4 letter (a) and Chapter 8, art. 8.21 letter C); Non-Legally Binding Instrument on all Types of Forests (art. 6 letter a); Nagoya Protocol (art. 14).

¹⁰⁶ Agenda 21 (Chapter 8 art. 8.3.) and Chapter 11 (art. 11.4(c)); Non Legally Binding Instrument on all Types of Forests (art. 6(W)); American Convention on Human Rights (art. 2); MERCOSUR (art. 3).

¹⁰⁷ Rio Declaration on Environment and Development (art. 10); International Covenant in Civil and Political Rights and its First Protocol (art. 50); American Convention on Human Rights (art. 25); U.N. Declaration on the Rights of Indigenous Peoples (art. 8); North American Agreement on Environmental Cooperation (arts. 6, 7).

¹⁰⁸ Rio Declaration on Environment and Development (art. 10); International Covenant in Civil and Political Rights and its First Protocol (art. 50); American Convention on Human Rights (art. 13); ILO Convention 169 (art. 6); Convention on Biological Diversity (art. 8 letter J); Non-Legally Binding Instrument on All Types of Forests (art. 6 letters T and V); African Charter on Human and Peoples Rights (art. 25).

¹⁰⁹ Agenda 21 (Chapter 8 art. 8.11).

¹¹⁰ Convention on Environmental Impact Assessment (EIA) in a Transboundary Context.

¹¹¹ Convention on Biological Diversity (art. 7); Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (art. IX).

¹¹² Convention on Biological Diversity (art. 7).

2. Map and categorize forests in a manner that indicates different types of natural forests, forest quality, and forest plantations.¹¹³
3. Identify, monitor, and regulate processes and activities that threaten natural forests and biodiversity,¹¹⁴ such as invasive alien species,¹¹⁵ fire,¹¹⁶ pollution,¹¹⁷ disease,¹¹⁸ and human activities such as poaching and over-grazing.¹¹⁹
4. Adopt suitable laws and regulations for the protection and preservation of flora and fauna within national jurisdictions.¹²⁰ Regulate the use of biological resources and wood products, including the trade of such resources.¹²¹
5. Create, develop, or expand protected forest areas,¹²² in particular areas with high biodiversity;¹²³ make use of buffer zones and corridors.¹²⁴
6. Develop or adapt national strategies, plans, or programs that act as incentives for the conservation and sustainable use of biological diversity. This includes the National Biodiversity Strategies and Action Plans.¹²⁵
7. Promote conservation and sustainable use of biological diversity through coordination and integration of relevant sectoral or cross-sectoral plans, programs, and policies.¹²⁶
8. Raise awareness of the issues of environmental protection and the rational use of natural resources.¹²⁷
9. Encourage research with contributes to the conservation and sustainable use of biological diversity.¹²⁸
10. Protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation.¹²⁹
11. Introduce and undertake environmental impact assessment of programs, policies, and actions that are likely to have significant adverse impacts on biological diversity, with a view of avoiding or minimizing such effects.¹³⁰
12. Strengthen existing institutions and/or establish new ones responsible for the conservation of biological diversity.¹³¹

¹¹³ Agenda 21 (Chapter 11, art. 11.13).

¹¹⁴ Convention on Biological Diversity (art. 7(c)).

¹¹⁵ Convention on Biological Diversity (art. 8(h)-(g)); Convention on Migratory Species (art. III(4)(c)).

¹¹⁶ Non-Legally Binding Instrument on All Types of Forests (sec. V(6)(o)); Convention on Biological Diversity, Aichi Target 8; Agenda 21 (Chapter 11, art. 11.10).

¹¹⁷ Convention on Biological Diversity (pin cite); Agenda 21 (art. 11.10, 11.13(g)).

¹¹⁸ Non-Legally Binding Instrument on All Types of Forests V(6)(o); Agenda 21 (Chapter 11, 11.13(g)).

¹¹⁹ CITES (pin cite); Agenda 21 (Chapter 11, arts. 11.10, 11.13(g)).

¹²⁰ Convention on Nature Protection and wildlife preservation in the western hemisphere (art. 5).

¹²¹ Convention on Biological Diversity (sections 7(c), 8(c)(i),10); CITES.

¹²² Non-Legally Binding Instrument on All Types of Forests (global objective 3, art. 6 letter P and Q); Convention on Nature Protection and wildlife preservation in the western hemisphere (art. 2).

¹²³ Convention on Biological Diversity (sections 8(a)-(b),(d)); Non-Legally Binding Instrument on All Types of Forests (sec. V(6)(p)); Convention on Migratory Species (sec. III(4)); Agenda 21 (Chapter 11, art. 11.13(b) and Chapter 26, art. 26.3 letter a).

¹²⁴ Agenda 21 (Chapter 11, art. 11.13(c)).

¹²⁵ Convention on Biological Diversity (art. 6(a), arts. 10, 11); Agenda 21 (Chapter 15, art. 15.4 letter B and art. 15.5 letter J).

¹²⁶ MERCOSUR framework agreement on environment (art. 3); Convention on Biological Diversity (art. 6(b), art. 10 (e)); Agenda 21 (Chapter 15, art. 15.11 letter D, and Chapter 15, art. 15.5 letter B).

¹²⁷ Interregional framework cooperation between EU and southern common market (art. 17); Agenda 21 (Chapter 15, art. 15.5 letter M).

¹²⁸ Nagoya Protocol (art. 8); Agenda 21 (Chapter 15, art. 15.5 letter C, and art. 15.5 letter F).

¹²⁹ Convention on Biological Diversity (art. 10(c)); Agenda 21 (Chapter 15, art. 15.5 letter E).

¹³⁰ Convention on Biological Diversity (art. 14); Agenda 21 (Chapter 15, art. 15.5 letter K).

¹³¹ Agenda 21 (Chapter 15, art. 15.11).

REDD Safeguard (f): Actions to address the risks of reversals and **REDD Safeguard (g):** Actions to reduce displacement of emissions

Measures to Protect the Rights and/or Goals Mentioned in the Safeguard

1. Promote sustainable utilization and conservation of forests and other relevant resources in domestic laws and policies.¹³²
2. Regulate liability and compensation for actions that affect the conservation and management of forests.¹³³
3. Implement effective law enforcement to combat and eradicate illegal forest-related practices.¹³⁴
4. Design and implement capacity-building and awareness-raising programs on sustainable forest management.¹³⁵
5. Implement science and research programs that may advance sustainable forest management and resource management approaches.¹³⁶
6. Map and monitor forest cover.¹³⁷
7. Employ tools to assess impact on the environment of projects that may significantly affect the conservation and management of forests.¹³⁸
8. Create and implement regional agreements to reduce cross-border displacement of deforestation.¹³⁹ Seek regional harmonization of laws, regulations, procedures, policies, and practices taking into account the differing environmental, social and economic realities between the countries.¹⁴⁰
9. Create clear and secure land and territory rights and clear and equitable distribution of benefits.¹⁴¹
10. Provide access for local communities and indigenous peoples to forest resources and relevant markets in order to support livelihoods and income diversification from forest management.¹⁴²

¹³² Non-Legally Binding Instrument on all Types of Forests (letter A, C, N); Convention on Biological Diversity (art.8, 14); Convention in International Trade in Endangered Species (art. 7); ILO Convention 169 (art. 7); Protocol of San Salvador (art. 11); International Tropical Timber Agreement (letter M); ILO Convention 169 (art. 7); MERCOSUR (art. 6).

¹³³ Rio Declaration on Environment and Development (Principle 13).

¹³⁴ Non-Legally Binding Instrument on all Types of Forests (Section 6 letter N).

¹³⁵ Non-Legally Binding Instrument on all Types of Forests (art. 6 letters F, T,U, V); ILO Convention 169 (arts. 21, 22, 23); International Tropical Timber Agreement (letter Q and R); Convention on Biological Diversity (art. 8 letter J, art 10); Interregional framework cooperation agreement between EU and the Southern Common market (art. 17).

¹³⁶ Non-Legally Binding Instrument on all Types of Forests (letters R, S); Convention on Biological Diversity (arts. 9, 10).

¹³⁷ Convention on Biological Diversity (art. 7).

¹³⁸ Non-Legally Binding Instrument on all Types of Forests (art. 6-C).

¹³⁹ Convention on Migratory Species (art. IV).

¹⁴⁰ MERCOSUR (art. 6).

¹⁴¹ International Tropical Timber Agreement (letter M and N); ILO Convention 169 (art. 7); Convention on Biological Diversity (art. 8 letter K, art. 14); Non-Legally Binding Instrument on all Types of Forests (letter n).

¹⁴² CBD arts 8(j); Non-Legally Binding Instrument on All Types of forests (letter Y).

Appendix E: Compliance Measures in Other International Instruments

Table E1: Reporting Measures*

Instrument	Review Format		National Performance Review ¹⁴³			Reviewing Body/ Committees ¹⁴⁴
	Template	Guidelines/ Indicators ¹⁴⁵	Reporting Obligation	3 rd Party Verification ¹⁴⁶	3 rd Party Monitoring ¹⁴⁷	
Ramsar	x		x	x	x	Ramsar Bureau
CITES	x		x	x	x	CITES Secretariat
ITTA		x	x			International Tropical Timber Council
CDB		x	x			COP
ACHR			x			Inter-American Commission on Human Rights
Protocol of San Salvador			x			General Assembly Organization of American States
ICCPR and 1 st optional protocol		x	x		x	Human Rights Committee (HRC)
ICESCR		x	x		x	Economic and Social Council (ECOSOC) and HRC. U.N. Permanent Forum of Indigenous Peoples can provide expert advice and recommendations to ECOSOC

¹⁴³ National Performance Review information is the most common compliance mechanism through which Parties are required to report on the measures they have taken to implement a particular multilateral instrument, usually by submitting annual reports on their relevant laws or policies.

¹⁴⁴ Bodies or institutions to which States Parties are obliged to submit regular reports on how the rights are being implemented. For example, under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights.

¹⁴⁵ There are guidelines/indicators on treaty-specific information/documents to be submitted by State Parties when reporting on their national performance.

¹⁴⁶ Third-Party Verification is the process of testing the accuracy of performance information provided, usually through on-site inspections. For example, the Ramsar and the UNFCCC/Kyoto Secretariats conduct on-site verifications, mainly to obtain performance information.

¹⁴⁷ Third-Party Monitoring of performance engages a non-Party in reporting on national implementation of the international or regional instrument. For example, under CITES, TRAFFIC, an NGO affiliated with WWF, has a role in providing information. Another example is from Article 2 of the first optional protocol of the ICCPR that enables the Human Rights Committee (HRC) to receive and consider communications from individuals claiming violations of any rights set forth in the Covenant, provided that the State has recognized the competence of the HRC to receive such complaints. Complaints may also be brought by third Parties on behalf of individuals provided they have given their written consent or where they are incapable of giving such consent.

Instrument	Review Format		National Performance Review ¹⁴³			Reviewing Body/ Committees ¹⁴⁴
ILO 169		x	x		x (indirectly)	Committee of experts on the application of conventions and recommendations (CEACR) and the Committee on the Application of Standards (CAS)
MERCOSUR						
Inter-regional framework cooperation agreement between the EU and the Southern Common Market						
NAAEC			x		x	Secretariat
African Charter on Human and People's Rights			x			African Commission on Human and People's Rights

* Boxes are left blank where the measure is not relevant for the stated instrument.

Table E2: Non-Compliance Response Procedures and Measures^{148*}

Instrument	Established Procedure	Trigger			Decision Making Body		Measures/ Penalties ¹⁴⁹
		Any State	Secretariat/Committee	Other (individuals)	COP	Body/Committee/ Commission	
Ramsar	x		x		x	x	x
CITES	x	x	x	x	x	x	x
ITTA	x	x				x	x
CBD							
ACHR	x		x			x	x
Protocol of San Salvador	x		x			x	x
ICCPR	x	x	x	x		x	x
ICESCR	x	x		x		x	x
ILO 169	x		x	x		x	x
MERCOSUR	x	x		x		x	x
Inter-regional framework cooperation agreement between the EU and the Southern Common Market	x	x				x	x
NAAEC	x			x		x	x
African Charter on Human and People's Rights	x	x				x	x

* Boxes are left blank where the measure is not relevant for the stated instrument.

¹⁴⁸ Multilateral non-compliance procedures must be distinguished from traditional dispute resolution procedures/conflict resolution mechanisms. The objective of multilateral non-compliance procedures is to identify Parties' constraints or difficulties to comply with their obligations and to facilitate better compliance in a non-adversarial manner. For example, the Ramsar Bureau can invite the Party concerned to submit additional reports, monitor the site, or negotiate a solution. It may also bring the matter to the attention of the Standing Committee, which can bring the issue to the COP.

¹⁴⁹ Instruments often enable imposition of penalties on non-compliant Parties. Penalties can include, among others: warnings, suspension of privileges, trade sanctions, and liability. For example, CITES includes the suspension of privileges and trade sanctions, as the Secretariat can take control of issuing permits and can suspend trade in CITES listed species.

Table E3: Dispute Resolution Procedures*

Instrument	Established Procedure	Trigger			Decision Making Body		
		Any State member	Secretariat	Other (individuals)	COP	Committee/Commission/Council	Court
Ramsar							
CITES	x	x	x	x	x	x	
ITTA	x	x				x	
CBD	x	x				x	x
ACHR	x	x		x		x	x
Protocol of San Salvador	x	x		x		x	x
ICCPR and First Optional Protocol	x	x		x		x	
ICESCR	x	x		x		x	
ILO 169	x	x		x		x	
MERCOSUR	x	x		x		x	x
Inter-regional framework cooperation agreement between the EU and the Southern Common Market							
NAAEC	x	x		x		x	
African Charter on Human and People's Rights							

* Boxes are left blank where the measure is not relevant for the stated instrument.

Table E4: Financial and Technical Assistance Provided*

Instrument	Primary Implementation Assistance	
	Technical	Financial ¹⁵⁰
Ramsar	Implementation Guidelines developed by Ramsar Bureau, information exchange and Clearing House Mechanism	Ramsar Small Grants Fund
CITES	Capacity building	x
ITTA	Capacity building	x
CBD	Technical and scientific cooperation, capacity building, technology development	Global environmental facility
ACHR	Technical assistance, primarily by providing interpretation of the Convention or other treaties concerning human rights. Can even provide opinions regarding the compatibility of domestic laws with the aforesaid instruments	
Protocol of San Salvador	Technical assistance through recommendations and interpretations	
ICCPR	The Human Rights Committee elaborates so-called general comments, which are designed to assist States Parties to give effect to the provisions of the Covenant by providing greater detail regarding the substantive and procedural obligations of States Parties.	
ICESCR	Limburg principles for the Implementation of the Covenant, technical cooperation and assistance	
ILO 169	Technical assistance through recommendations and interpretations	
MERCOSUR	Technical and scientific cooperation, capacity building, technology development, information sharing	
Inter-regional framework cooperation agreement between the EU and the Southern Common Market	Technical and scientific cooperation, capacity building, technology development	x
NAAEC	Technical cooperation	
African Charter on Human and People's Rights	Technical assistance through recommendations and interpretations	

* Boxes are left blank where the measure is not relevant for the stated instrument.

¹⁵⁰ Provisions in the instruments specifically require financial assistance by developed countries.