

A vibrant tropical forest scene with various palm trees and lush green foliage. The top portion of the image is partially obscured by a semi-transparent dark green overlay containing text. The bottom portion shows a dense thicket of palm fronds in sharp focus.

Climate  
Law & Policy  
Global Impact Partner

*Booklet*

# ART TREES Safeguard C



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In doing so, this project seeks to strengthen the high-integrity carbon market for Nature-Based Solutions (NBS) to climate change that provide economic, social and environmental benefits for the countries and local communities producing the carbon credits.

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# Objective and structure of this document

The objective of this document is to provide a clear understanding of the scope and coverage of this safeguard and what IP and LCs should expect from national and subnational government led processes when demonstrating conformance with TREES indicators under this safeguard.

The analysis contained therein is based on the authors' practical experience and international best practice. Direct quotations from TREES will be appropriately cited and quoted in italic.

This booklet is divided into two sections and associated questions:

- **What is TREES Safeguard 'C' and how does it protect IP and LCs?** This section will explain the scope and coverage of this safeguard, and how it recognizes and protects the rights of IP and LCs.
- **What to expect when demonstrating conformance with TREES safeguard 'C'?** This section will explain what IP and LCs should expect from national and sub-national governments when demonstrating conformance with TREES indicators under this safeguard.

# 1. What is TREES Safeguard ‘C’ and how does it protect IP and LCs?

As a reminder, TREES Safeguard C and in alignment with Cancun Safeguard C calls for *“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”*<sup>1</sup>. This safeguard has three themes and we examine their scope below:

- THEME 3.1 Identify indigenous peoples and local communities, or equivalent.
- THEME 3.2 Respect and protect traditional knowledge.
- THEME 3.3 Respect, protect, and fulfil rights of indigenous peoples and/or local communities, or equivalent.

## THEME 3.1 Identify indigenous peoples and local communities, or equivalent

To address and respect this theme, national and sub national governments are expected to identify where IP and LCs are situated in correlation to the spatial planning for the REDD+ actions. The aim is to avoid adverse impacts on the rights of indigenous peoples, their lands, territories, resources, and a first step is to determine where they are situated.

To address and respect this theme is also important to consider that indigenous peoples, as distinct people, are equal to all other peoples, but have a specific right to self-determination, which must be recognized and respected in accordance with applicable international law. The International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR) roughly define the right to self-determination as the ability of a people to freely pursue their economic, social and cultural development, to freely dispose of their

<sup>1</sup><https://www.artredd.org/wp-content/uploads/2021/12/TREES-ESG-Safeguards-Guidance-Document-Aug-2021.pdf>



natural wealth and resources and to be secure in their means of subsistence. UNDRIP asserts the right of indigenous peoples to self-determination, as well as the right to autonomy in matters relating to their internal affairs. In addition UNDRIP affords indigenous peoples the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully—if they so choose—in the political, economic, social and cultural life of the country.<sup>2</sup>

Indigenous peoples must be guaranteed the right to determine whether or not to participate in REDD+ actions and what those actions will look like in their territories. Respecting the right of self-determination also requires that REDD+ initiatives not interfere with indigenous peoples' self-government and autonomous management of their lands, territories and resources. Reports<sup>3,4,5</sup> have repeatedly shown that equitable conservation, which empowers and supports the environmental stewardship of IP and LCs represents the primary pathway to effective long-term conservation of biodiversity, particularly when upheld in wider law and policy.

## THEME 3.2 Respect and protect traditional knowledge

To address and respect this theme, national and sub national governments are expected to recognize, respect and protect traditional knowledge and heritage of the IP and LCs in the context of the design and implementation of REDD+ actions. Knowledge of IP and LCs in international law is often referred to within the context of intangible cultural heritage, or specific traditional knowledge passed down from generation to generation within IP and LC communities<sup>6</sup>.

<sup>2</sup>UNDRIP, Articles 3-5.

<sup>3</sup>Dawson, N. M., B. Coolsaet, E. J. Sterling, R. Loveridge, N. D. Gross-Camp, S. Wongbusarakum, K. K. Sangha, L. M. Scherl, H. Phuong Phan, N. Zafra-Calvo, W. G. Lavey, P. Byakagaba, C. J. Idrobo, A. Chenet, N. J. Bennett, S. Mansourian, and F. J. Rosado- May. 2021. The role of Indigenous peoples and local communities in effective and equitable conservation. *Ecology and Society* 26 (3):19. <https://doi.org/10.5751/ES-12625-260319>

<sup>4</sup>WWF, UNEP-WCMC, SGP/ICCA-GSI, LM,TNC , CI, WCS, EP, ILC-SC, CM, IUCN, The State of Indigenous Peoples' and Local Communities' Lands and Territories: A technical review of the state of Indigenous Peoples' and Local Communities' lands, their contributions to global biodiversity conservation and ecosystem services, the pressures they face, and recommendations for actions Gland, Switzerland (2021)

<sup>5</sup><https://climatefocus.com/wp-content/uploads/2022/06/Sink-or-swim-IPLC-lands-and-NDCs.pdf>

<sup>6</sup><https://www.iied.org/why-traditional-knowledge-indigenous-peoples-rights-must-be-integrated-across-new-global>

As a result, IP and LC knowledge in international human rights law ranges from the protection and recognition of oral traditions to traditional knowledge relevant to genetic resources for food and agriculture. It is characterised by the continuity of a type of knowledge over time or amongst generations. Some examples of IP and LC knowledge that will be particularly relevant to be recognized, respected and protected and considered in the design and implementation of REDD+ actions is the knowledge of traditional medicine and herbs, knowledge and practice of traditional forest livelihoods linked to conservation, knowledge on plant genetic resources, knowledge on the spiritual value of forests and knowledge on flora and fauna.

### THEME 3.3 Respect, protect, and fulfil rights of indigenous peoples and/or local communities, or equivalent

To address and respect this theme, national and sub national governments are expected to recognize and foster full respect for indigenous peoples' human rights as recognized under applicable law, including but not limited to their rights to self-determination, their lands, resources and territories, traditional livelihoods and cultures. In practice, this means REDD+ actions should be designed and implemented in alignment with applicable international protections for IP and LCs, including the UN Declaration on the Rights of Indigenous People – which is universally applicable.

In this vein, and in alignment with this theme, national and sub national governments are expected to recognize that indigenous peoples or communities are entitled to enjoy and exercise their human rights without discrimination, and that the special relationship that indigenous peoples have with their lands, territories, resources, and cultural heritage is integral to their physical, spiritual and cultural survival.



## 2. What to expect when demonstrating conformance with TREES safeguard ‘C’?

This section will explain what IP and LCs should expect from national and sub-national governments when demonstrating conformance with TREES indicators under this safeguard. Please note the TREES Safeguards Guidance document provides a prescriptive list of the validation and verification body’s (VVB) requirements for the provision of information on each safeguard<sup>7</sup>. This section is instead intended to provide a clear understanding for IP and LCs of the types of information they should expect to see from national and subnational government led processes when demonstrating conformance with TREES indicators under this safeguard, and which is most relevant to them.

As a reminder, under each theme TREES has three types of indicators that national and subnational governments would need to demonstrate conformance with. The guidance document from TREES states the following in relation to each type of indicator:

- **Structural Indicators:** *demonstrate that relevant governance arrangements (e.g., policies, laws, and institutional arrangements) are in place in the country or applicable jurisdiction(s) to ensure that design and implementation of REDD+ actions is done in line with relevant safeguards theme. These arrangements may be part of the national or subnational legal framework or may be REDD+ specific arrangements.*<sup>8</sup>
- **Process Indicators:** *demonstrate that appropriate processes, procedures or mechanisms are in place to enact and enforce the arrangements outlined in the Structural indicator.*<sup>9</sup>
- **Outcome Indicators:** *demonstrate implementation outcomes for each theme are being monitored. For the outcome indicator for all themes, Participants will need to identify and describe the selected monitoring parameters including how a successful outcome is defined, monitoring methods to be used and a summary of collected data. If the data analysis does not indicate a successful outcome, a description of how the governance arrangements or supporting processes, procedures or mechanisms (structure or process indicators) will be modified should be included.*<sup>10</sup>

<sup>7</sup><https://www.artredd.org/wp-content/uploads/2022/01/TREES-Val-and-Ver-Standard-v2-Dec-2021.pdf>

<sup>8</sup><https://www.artredd.org/wp-content/uploads/2021/12/TREES-ESG-Safeguards-Guidance-Document-Aug-2021.pdf>

<sup>9</sup>ibid

<sup>10</sup>ibid

## THEME 3.1 Identify indigenous peoples and local communities, or equivalent

Based on international best practices, IP and LCs should expect to see the following relevant information from national and subnational government led processes when demonstrating conformance with each of TREES indicators under this theme:

### **Structural indicator**

- Full list of the legal, policy, and/or regulatory arrangements in place, and associated procedures related in whole or in part to this theme, which apply to the design and implementation of REDD+ actions.
- List of ratified relevant international treaties, conventions, and agreements relevant to this theme (i.e. related to human rights and IP and LCs).
- Description of how the identified the legal, policy, and/or regulatory arrangements in place are aligned with relevant and ratified international conventions and agreements
- Description of how the identified legal, policy, and/or regulatory arrangements apply to the design and implementation of REDD+ actions, with a view of guaranteeing the identification and self-determination of IP and LCs.

### **Process indicator**

- A full breakdown of the relevant public institutions in place for the REDD+ actions and associated mandates relevant to this theme.
- Description of any processes and procedures executed with regards to this theme, in particular any activities/ processes undertaken to identify IP and LCs in correlation to the spatial planning of REDD+ actions.

### **Outcome indicator**

- Description and evidence of how the identification of IP and LCs has been conducted in correlation to the spatial planning of REDD+ actions, and in alignment with their right to self-determination.



## THEME 3.2 Respect and protect traditional knowledge

Based on international best practices, IP and LCs should expect to see the following relevant information from national and subnational government led processes when demonstrating conformance with each of TREES indicators under this theme:

### **Structural indicator**

- A full list of the legal, policy, and/or regulatory arrangements in place, and associated procedures related in whole or in part to this theme, which apply to the design and implementation of REDD+ actions.
- A full list of ratified relevant international treaties, conventions, and agreements relevant to this theme.
- Description of how the identified the legal, policy, and/or regulatory arrangements in place are aligned with relevant and ratified international conventions and agreements
- Description of how the identified legal, policy, and/or regulatory arrangements apply to the design and implementation of REDD+ actions, with a view of guaranteeing respect and protection of traditional knowledge.

### **Process indicator**

- A full breakdown of the relevant public institutions in place for the REDD+ actions and associated mandates relevant to this theme.
- Description of any processes and procedures executed with regards to this theme, in particular any activities/ processes undertaken to protect and respect the traditional knowledge to IP and LCs.

### **Outcome indicator**

- Description and evidence of how the REDD+ actions have been designed and implemented in correlation to the recognition and protection of traditional knowledge.

## THEME 3.3 Respect, protect, and fulfil rights of indigenous peoples and/or local communities, or equivalent

Based on international best practices, IP and LCs should expect to see the following relevant information from national and subnational government led processes when demonstrating conformance with each of TREES indicators under this theme:

### **Structural indicator**

- A full list of the legal, policy, and/or regulatory arrangements in place, and associated procedures related in whole or in part to this theme, which apply to the design and implementation of REDD+ actions.
- A full list of ratified relevant international treaties, conventions, and agreements relevant to this theme.
- Description of how the identified the legal, policy, and/or regulatory arrangements in place are aligned with relevant and ratified international conventions and agreements.
- Description of how the identified legal, policy, and/or regulatory arrangements apply to the design and implementation of REDD+ actions, with a view of guaranteeing the respect and protection of the rights of IP and LCs .

### **Process indicator**

- A full breakdown of the relevant public institutions in place for the REDD+ actions and associated mandates relevant to this theme.
- Description of any processes and procedures executed with regards to this theme, in particular any activities/ processes undertaken to recognize, protect and respect the rights of IP and LCs.

### **Outcome indicator**

- Description and evidence of how the REDD+ actions have been designed and implemented in correlation to the recognition, protection and respect for the rights of IP and LCs. For instance, how the impacts (positive and negative) to IP and LCs were identified (as well as prevented and/or mitigated- as relevant) in the context of the design and implementation of the REDD+ actions.