

Proposal for additional provisions for the ART TREES standard

(Architecture for REDD+ Transactions)



Alianza
Mesoamericana
de Pueblos y Bosques
Mesoamerican Alliance of People and Forests

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Objective of the Document



The Mesoamerican Alliance of Peoples and Forests (AMPB) aims to establish through this document **a proposal to improve** the integrity of jurisdictional transactions of the **ART TREES standard and respect for the rights** of Indigenous Peoples and Local Communities (IPs and LCs).

What is LEAF?

The **LEAF** Coalition was launched by an initial group of governments and leading companies with the goal of mobilizing at least US\$1 billion in funding to support tropical and subtropical forest jurisdictions in achieving substantial reductions in their emissions from deforestation¹.

LEAF structure

LEAF involves the following key players:

-  **Emergent:** U.S. non-profit organization, which provides a platform to facilitate transactions to provide funding for these programs, and serves as the administrative coordinator for LEAF.
-  **ART:** stands for Architecture for REDD+ Transactions, a voluntary global initiative organized by Winrock International. ART has a standard called TREES. This standard is used to measure, monitor, report and verify jurisdictional REDD+ results².

¹ <https://leafcoalition.org/>

² <https://www.artredd.org/>

How are emission reductions issued in LEAF?

ART will issue verified emission reductions (called “TREES credits” under the TREES standard) to **participating jurisdictions** that reduce emissions from deforestation and forest degradation. Each of these represents **one ton of CO₂e**.

What is a jurisdiction?

In the field of carbon markets, the word jurisdiction is generally used to refer to the **territory over which a government has power or authority** and jurisdictions are regularly considered at the national (country) or sub-national level. **Jurisdiction is the territorial basis on which deforestation reduction targets and carbon projects are set³.**

LEAF invites proposals from all eligible national and sub-national jurisdictions (one level below the national level jurisdiction), both tropical and subtropical, that meet the ART TREES forest area requirements.

How are LEAF coalition funds mobilized for IP and LCs?

According to the LEAF Coalition’s official website, the participation of IP and LCs is “guaranteed” through **the Cancun safeguards**, in accordance with relevant international obligations, national circumstances and laws.

TREES requires third-party verification of safeguards compliance and includes a series of detailed structural, process and performance indicators.

³ <https://www.forest-trends.org/publications/entendiendo-leaf-y-art-trees/>

What are the Cancun safeguards?

The United Nations Framework Convention on Climate Change (UNFCCC), at the 16th Conference of the Parties (COP16), agreed that countries should 'interpret' the principles framed in the Cancun safeguards in the context of their country, as principles, policies, and tools to minimize the risks and promote the potential benefits associated with the implementation of REDD+ actions⁴.

What is the REDD+ mechanism?

The origin of REDD+ dates back to a proposal submitted by Papua New Guinea and Costa Rica in 2005 at the 11th Conference of the Parties (COP 11, Montreal, Canada) to the United Nations Framework Convention on Climate Change as a model and framework for global climate change mitigation.

REDD stands for "Reducing Emissions from Deforestation and Forest Degradation"; the + symbol implies that in its implementation there are components of conservation, sustainable management of forests with the participation of local people, and enhancement of forest carbon stocks.

Private companies and governments set a goal for developing countries to build their National REDD+ Strategies (NRS) to manage carbon credit trading in order to contribute to REDD+



After 15 years since the launch of REDD+ and the expectation that countries would implement their ENAREDD+, it is true that there has been a widespread failure, with exceptions such as Costa Rica.

⁴ http://reddcr.go.cr/sites/default/files/centro-de-documentacion/redd_hoja_5_las_salvaguardas_de_redd.pdf

So from 2020 onwards, some companies have started to buy carbon directly from countries, but the lack of control in some cases and the need to substitute functions that should have been performed by ENAREDD+ in terms of safeguards have led to the emergence of what is now known as “High Integrity Carbon Credit Certification”, in which initiatives such as the LEAF Coalition are playing an important role.

Why AMPB analyzed the proposal to guarantee rights for IPs and LCs in the ART TREES standard?

Since September 2021, the Mesoamerican Alliance of Peoples and Forests (AMPB) has held meetings with member organizations and allies to analyze the opportunities, threats, and challenges of this program for Mesoamerica.

A relevant point in the experiences and lessons learned in carbon markets in the Mesoamerican region and in Latin America is the limited tools to guarantee the rights of IPs and LCs in carbon transactions.

Within the framework of ART TREES, the certification of 33.4 million CO₂ credits to the government of Guyana generated reactions and complaints from the Indigenous Peoples of Guyana for not being duly consulted. This confirmed what the AMPB has been arguing in its discussions with ART TREES.



For this reason, it is considered that improvements need to be made in the short term to the ART TREES standard, to ensure that future jurisdictional transactions are fair and effective for Indigenous Peoples and Local Communities (IPs and LCs).

The Cancun safeguards are limited tools to guarantee IPs' and LCs' rights in ART TREES standard jurisdictional transactions

The ART TREES standard follows the document, "THE REDD+ ENVIRONMENTAL EXCELLENCE STANDARD (TREES)," of the year 2021. It bases its environmental and social principles on the decisions that have been made at the Conferences of the Parties (COP) to the United Nations Framework Convention on Climate Change (UNFCCC), including the Paris Agreement, the Warsaw Framework for REDD+, and the Cancun Safeguards.



The safeguard policies in section 12 of the TREES standard are **based on the Cancun safeguards**, breaking them down to 16 key thematic areas. Each theme has a structural indicator, a process indicator, and an outcome indicator, which must be **validated and verified within five years of the jurisdiction's adherence to ART**.

Each REDD+ standard including ART TREES has different ways to evaluate safeguards policies, which often end up in **very general and limited tools**, and which will vary according to how countries adopt or interpret them based on their current legal framework.

Because TREES considers jurisdictions through national governments (i.e., the highest level of government that exists in the country), or sub-national governments, it is likely **to continue the trend of simulating the ability to actually understand and identify the concept of “safeguards” in the processes associated with carbon credits.**

The vast majority of countries, through the governments that can apply to LEAF, have already **defined** (in the REDD+ mechanism) **the scope of the Cancun safeguards in their national context.** ART argues that, as compliance with **a comprehensive set of safeguards** is a requirement under the TREES standard, **the rights of IPs and LCs are guaranteed.** But in fact, in LEAF’s first call for proposals in 2021, **none of the proposals made by jurisdictions had a consultation process, thus violating one of the main TREES safeguards.**

“Compliance” with the Cancun safeguards is achieved through self-reporting or reports **that are not subject to challenge by an affected third party, especially for IPs and LCs.**

In some countries in the region where REDD+ Cancun safeguards have been implemented. **There are patterns of rights violations of IPs and LCs that are verifiable and have been documented for several years.** Therefore, ART cannot “disguise” the local reality just by including **extensive rights-based language, as this does not provide any mechanism to ensure that the rights of IPs and LCs are respected,** nor any way for communities to challenge their government.

The language of IPs’ and LCs’ rights in the ART TREES standard

TREES **uses “rights-based” language to define criteria for “structure, process, and outcome indicators”** for safeguards, however, TREES version 2.0 removed the ability of indigenous communities to **qualify as a jurisdiction.** This means, only a national government or a large sub-national jurisdiction (i.e., a state or province) can qualify and **is not obligated to share benefits with local communities. This is a very clear social risk that will not be**

“assessed” in the safeguards reports that governments submit to ART because the TREES standard is not determinative of the rights of IPs and LCs.

According to the ART TREES standard, incorporating high environmental integrity includes taking into account data uncertainty and risks of leakage and reversals to avoid double counting and results in units emitted that are interchangeable with units from other sectors to promote national ambition and contribute to the Paris Agreement goals, including progress towards meeting Nationally Determined Contributions (NDCs).

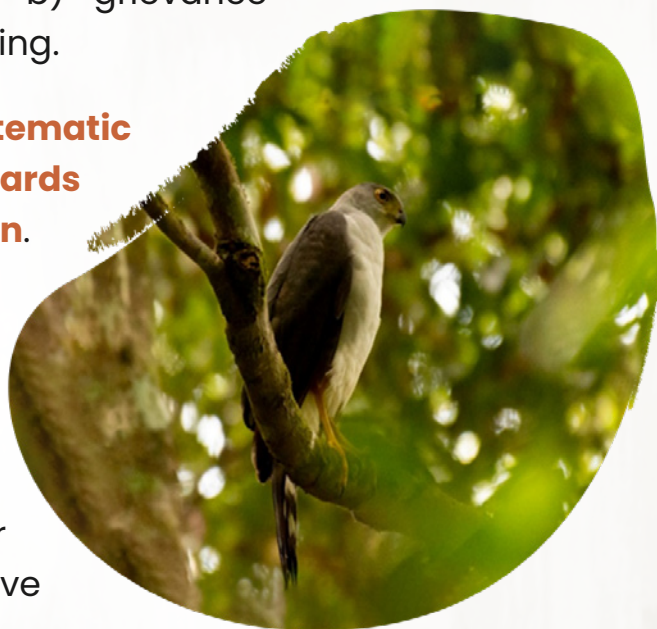
A definition of **“environmental integrity” should not be based on technical language where governments demonstrate to ART that they have identified and mitigated the problems that put emission reductions at risk**, rather than ensuring that the rights of affected communities are respected.

In other words, according to ART’s policy, the lack of consultation is considered an “emissions risk” for the project, **rather than a right of local communities.**

From a technical point of view, the ART TREES standard formats do not have **clear requirements** for the interests of the ICs and LCs in a) consultation in accordance with Convention 169, b) grievance mechanisms and c) formal benefit sharing.

ART TREES is explicit that evidence of **“systematic non-compliance” with safeguards must be resolved prior to verification.**

However, the protocol does not define what constitutes “systematic” non-compliance. Given that a jurisdiction defines its own requirements and does not need to demonstrate full compliance with the safeguards for five years, it will likely be difficult to prove systematic non-compliance.



The standard does not require the jurisdiction to **adhere to the UN Declaration on the Rights of Indigenous Peoples**, nor does it make it mandatory for jurisdictions to recognize the rights to their territories and forests, and the carbon it holds or sequesters.

Proposed additional provisions on the rights of IPs and LCs within the ART TREES standard

AMPB is aware that detailing all the technical aspects on the rights of IPs and LCs that could be “improved” in LEAF and the ART TREES standard is ambitious. Therefore, the proposal described below is based on providing technical elements for reflection and discussion to chart a new course of action, if possible in the short term, on these gaps identified and detailed earlier in the document.

The following are the minimum aspects that we demand should be included in the ART TREES standard on the rights of IPLCs. Suggestions are presented in a **“preventive and non-reactive”** manner, beyond the Cancun safeguards, so that they can be negotiated if considered by LEAF for the next round of approvals of ART projects, especially in Mesoamerica, on an equal footing with governments, for a truly participatory process of development.



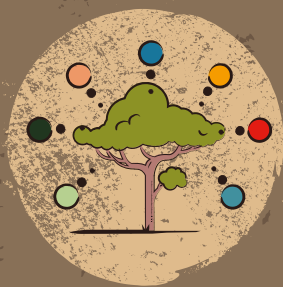


1. Improve communication between the government and Indigenous Peoples and Local Communities through an effective and verifiable strategy.

ART safeguards compliance relies on government self-reporting, without any procedure for IPs and LCs to comment on or review such self-reporting.

By opting for a single interlocutor (national or sub-national governments), LEAF seems to **underestimate complex political relationships within jurisdictions and this situation is even more serious in the case of indigenous peoples' and local communities' territories**, due to the current discriminatory and even repressive policies towards Indigenous Peoples and farmer organizations.

For jurisdictional applications to ART TREES, IPs and LCs **do not have access to** analyze the government's Concept Note or Registration Report as it applies to the standard. This is because there is no meaningful exchange of information, while the opportunity for questions, time to evaluate the proposal, and follow-up meetings to provide feedback is put on the back burner by governments. Therefore, it is necessary that the standard requires dynamic communication strategies to be implemented for IPs and LCs in their own language and in the specific cultural context of ART TREES. This provision should generate verifiable agreements and minutes while the concept note is being developed and during the life of the agreement between the government and LEAF that is independent of each country's particular adoption of the Cancun safeguards.



2. The ART TREES standard on IPs' and LCs' rights must be pre-emptive rather than reactive, beyond the Cancun safeguards, in order for a high integrity carbon credit to be traded.

Systematic non-compliance with safeguards must be resolved before the first verification. ART "TOLERATES" up to 5 years of non-compliance by governments, i.e. it allows governments to do business for 5 years infringing on our rights. (There is no application of the precautionary principle).



3. Enable IPLCs to validate "compliance" with the Cancun safeguards, not only based on government "self-reporting" to the ART TREES standard.

ART disguises rights violations by using language that should respect rights, but does not provide mechanisms to ensure compliance. In addition, it lacks tools to reduce the tendency of governments to simulate consultations and

does not adequately assess governments' understanding and ownership of the concept of "safeguards" in carbon crediting processes.

ART does not adhere to the UN Declaration on the Rights of Indigenous Peoples, which contains such relevant issues as our self-determination, defining our own development, not being expelled from our lands of cultural use, our own system of government, defining communication mechanisms, the right to apply our spirituality, among others—all relevant to the protection of forests.

Incorporating strict criteria in the ART TREES standard for formal accountability mechanisms in the government's safeguards reports requires extensive socialization and validation by civil society and the jurisdiction's IPs and LCs. It is important to record the meetings in minutes or legal instruments that guarantee compliance and follow-up on each indicator requested by ART TREES on safeguards.



4. Incorporate a new template, tool or methodology to the ART TREES standard that identifies the actual rights of IPs and LCs independent of the safeguards criteria or indicators.

The effort to conserve forests and/or reduce deforestation should be made known not only to the owners or possessors of the land or forests, as is the case of many governments, but also to those who are not owners but live from the forest or implement activities that maintain the forest (and reduce deforestation in the areas, through their management and use). In other

words, carbon rights of those implementing the legislation, which in the case of Mesoamerica, are mostly IPs and LCs, should be recognized.

This could be a *sine qua non* condition, since it only requires minimal changes in the standard and in the legislation of the countries. Therefore, the suggestion is to design and include a new template, tool or methodology that exclusively addresses the current status of the actual rights of the IPs and LCs independent of each country's compliance or adoption of the Cancun safeguards.

This document should be a tool built in a participatory manner between the IP and LC organizations implementing forestry activities and the proponent with a preventive risk management approach to identify the actual rights of IPs and LCs in the jurisdiction where a potential project will be implemented; this tool or methodology should be part of the ART TREES standard and reflected in the documentation.






5. Incorporate efficient complaint and grievance mechanisms for IPs and LCs specific to ART TREES jurisdictions.

If a government has consistently failed to respect indigenous peoples' rights, ART waits five years for governments to "make amends". When LEAF carbon is being traded year-to-year and retroactively, under the process called in Costa Rica "Contract for Certified Emissions Reductions", for example, LEAF

is buying credits from Costa Rica from 2017 and 2018. Why the five years of waiting to rectify the situation when the credits are already many years old?

Jurisdictional programs depend on existing institutions so, for example, if a government has consistently failed to respect indigenous peoples' rights or has not carried out adequate FPIC, REDD+ or the ART TREES standard will not provide additional protections. Therefore, it should be a requirement or eligibility criterion for proponents (governments) to implement effective and easily accessible grievance and complaint mechanisms to exclusively address violations of IP and LC safeguards and rights, prior to the certification phase of the standard.

Such a mechanism should at least meet the following objectives:

-  **Identify and resolve implementation problems in a timely and cost-effective manner:** It is expected to operate as an early warning system, helping to identify and address potential problems before they escalate, avoiding disputes that could consume excessive resources.
-  **Identify systemic issues:** Information from the mechanism's cases can highlight recurring, escalating, or growing complaints, which helps identify underlying systemic issues related to enforcement capacity and processes that need to be addressed.
-  **Improve TREES results:** Through the timely resolution of issues and problems, the mechanism will be able to contribute to the timely achievement of REDD+ objectives.



6. Allow access to more information on the IPLCs during the review conducted by the independent auditors of ART TREES.

In the case of Indigenous Peoples, the territorial representative organizations do not have a tool to identify and verify the independent auditors, nor to agree with the government on the content of due diligence requests and who auditors talk to in the country.

For jurisdictional programs, governments claim compliance by citing the existence of laws and policies; they often omit information on how those laws are implemented and how well they are enforced, so independent auditors for the ART TREES standard must review additional information to check for affected communities that are not solely dependent on the government (using Guyana as an example) as part of their due diligence.

The jurisdictional approach opens the possibility for independent auditors to identify criteria for information that guarantees the rights of Indigenous Peoples and Local Communities, in order to demonstrate a genuine interest on the part of the standard and that the design phase of the proposal was carried out collectively before validating or verifying a project/program.



7. Promote the creation of pre-investment funds for IPLCs within the framework of the ART TREES standard.

ART does not assess whether the government has directly or indirectly invested funds for the preparatory processes for certification and agreements for an eventual market with LEAF.

Just as the countries had a previous readiness stage in order to establish policies, institutions and tools for REDD+, Indigenous and local community organizations also require it, and for different purposes:

- a. to ensure that everyone has the minimum information to become involved;
- b. to have specialists in the estimation of carbon (sequestered and captured), and who negotiate with external actors;
- c. to be able to build or update their Life Plans;
- d. to be able to establish the institutional framework that will require a participatory use of the funds received.



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