

# Safeguarding Principles and Do-No-Harm Approaches for Climate Actions

Best practice, tools and guidance for safeguarding principles and do-no-harm assessments of climate actions and relevant considerations for negotiations under Article 6 of the Paris Agreement

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This policy brief is produced by the Sustainable Development Dialogue ('Dialogue') on the implementation of Article 6 of the Paris Agreement under the UNFCCC process. It provides a summary of Party and stakeholder views expressed during a series of six engagement events held between January - June 2018. Views stated in this document are those of the authors<sup>1</sup> and do not represent any consensus among the Parties involved. The Dialogue is currently supported by Belgium, Germany, Liechtenstein, Norway, Sweden and Switzerland and receives technical assistance from UNEP-DTU Partnership and the Gold Standard Foundation.

## Part 1 - Unpacking the issue: what are 'Safeguarding Principles' and why they matter?

### Safeguarding principles and do-no-harm assessment

Development activities are designed to achieve specific development objectives and rely on various forms of development finance for all or part of their financing needs. Years of development work have shown that albeit designed to deliver positive outcomes, development interventions also present inherent risks and can lead to unintended consequences. The development community is tackling this challenge through various approaches also referred to as safeguards. In the context of climate negotiations, the term 'safeguards' usually refers to

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environmental integrity, that is ensuring real mitigation outcomes are achieved and avoiding double counting. In international development language, it usually refers to social and environmental safeguards encompassing a range of issues including, but not limited to, human rights, gender equality, health and safety, land tenure. Whether used in a climate or broader development context, safeguards aim to identify, prevent and mitigate negative, unintended consequences that may arise from a given intervention.

### **Why it matters**

The need for credible safeguards directly stems from the interconnected nature of development issues, including climate change. Interventions are never one-dimensional. The growing knowledge base on positive and negative correlations between specific development outcomes calls for appropriate safeguarding mechanisms. Safeguards, however, are not only about the effectiveness of development interventions, more importantly, safeguards are about building and re-building trust in delivery mechanisms.

The carbon markets' primary focus on mitigation outcomes and failure to recognise the need for rigorous social and environmental safeguards led to severe criticisms, including accusations of human rights violations. This and the growing awareness that mitigation actions can negatively impact other development objectives led to an increase in public opinion's distrust of the carbon markets. Credible safeguards cannot only help ensure that climate finance does not undermine development outcomes; most importantly, credible safeguards are a pre-requisite to gain public support for climate actions.

### **Best practices for safeguarding principles of climate mitigation actions**

Despite a relative diversity in safeguarding principles and approaches, there are some notable commonalities between them, which have become globally accepted best practices.

The United Nations Development Programme's social and environmental standards (UNDP, 2014) and the Adaptation Fund's environmental and social

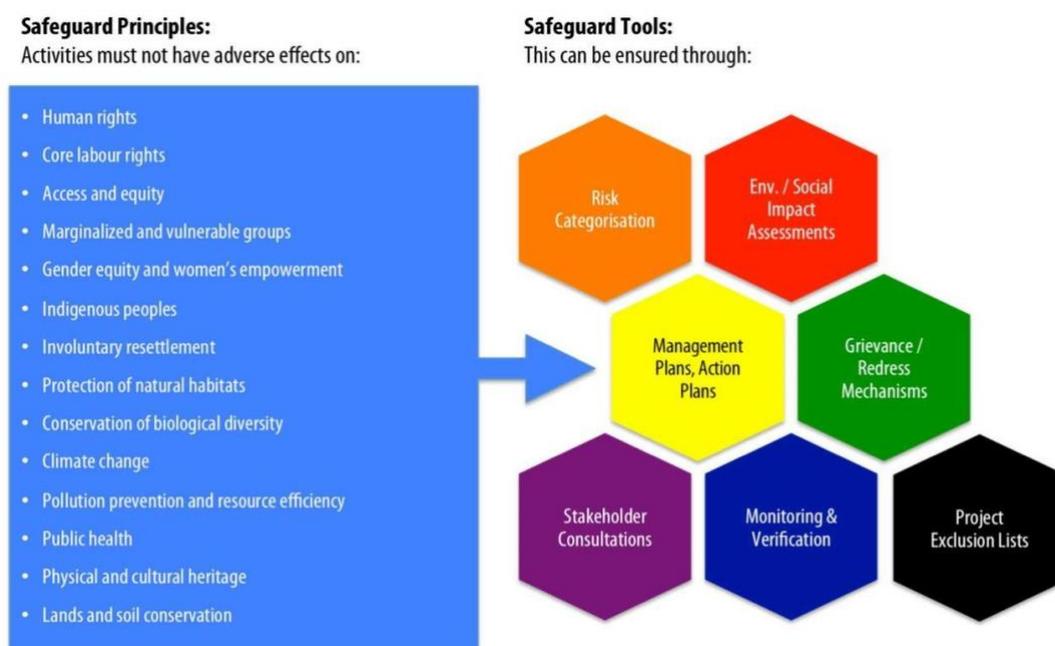
policy (Adaptation Fund 2013) offer a good benchmark to what needs to be safeguarded (See Figure 1). Common issues include human rights, gender equity and women’s empowerment, indigenous people, involuntary resettlement, conservation of biodiversity to name a few.

Most commonly used safeguarding approaches and tools include risk categorisation, environmental and social impact assessment, management of action plans, stakeholder consultations, grievance and redress mechanisms, monitoring and verification, transparency requirements, exclusion lists (Arens, Mersmann 2018).

Gold Standard for the Global Goals [offers a practical example](#) of how these various approaches and principles can be applied in a carbon market context. It combines the following requirements:

- Demonstrate positive contributions to at least 3 Sustainable Development Goals
- Demonstrate ‘no harm’ across a range of issues (following UNDP guidance)
- A mandatory stakeholder consultation
- Ongoing monitoring throughout the duration of the project

*Figure 1: Overview of Safeguarding Principles and tools for their implementation (Arens, Mersmann 2018)*



## Part 2 - Considerations relevant to the Article 6 work programme to be decided at COP24

### Party submissions

In advance of COP23 Parties were invited to submit their views on the Article 6 approaches to the UNFCCC Secretariat by October/November 2017 (SBSTA 47). The Secretariat received a total of 22 submissions. With respect to 'safeguards' eight submissions<sup>2</sup> covered the issue with varying degrees of detail. A summary of the views is shown in Table 1 below.

*Table 1: Parties' submissions on safeguarding principles differentiated across the three Article 6 approaches*

	<b>Art. 6.2</b>	<b>Art. 6.4</b>	<b>Art. 6.8</b>
<b>Safeguarding principles</b>	<ul style="list-style-type: none"> <li>• Host country confirms that transactions and activities are in conformity with obligations on human rights</li> <li>• Stakeholder consultation and grievance procedures by countries</li> <li>• Assess and address possible negative impacts (social and economic)</li> </ul>	<ul style="list-style-type: none"> <li>• Participating Parties have to ensure/confirm that the activity is consistent with and represent no threat to human rights</li> <li>• The body has to define rules for the consultation of stakeholders during the design and the implementation of the activity</li> <li>• Grievance procedures</li> </ul>	<ul style="list-style-type: none"> <li>• Assess and address possible negative impacts (social and economic)</li> <li>• Ensure conformity with obligations on human rights</li> <li>• Manage grievances raised by stakeholders</li> </ul>

<sup>2</sup> These 8 submissions did not include those that solely referred to the need to be 'consistent with sustainable development' as this was not deemed specific enough to assume a reference to safeguards. Some submissions solely refer to safeguards in the context of human rights obligations (e.g. EU) whilst some refer to the need to mitigate negative social and economic impacts (e.g. Like Minded Developing Countries (LMDC) and Arab Group).

Among the eight submissions analysed in the table above, three broad dimensions of safeguarding principles are covered, namely:

1. Ensuring no threat to human rights
2. Ensuring no negative impacts (social and economic)
3. Enabling proper management of grievances

The only submission that specifically refers to these three broad dimensions is the one from the Environmental Integrity Group (EIG).

### **Analysis of Party and stakeholder views – convergence and divergence**

This section presents analysis of feedback from Parties and stakeholders during the six SD Dialogue events with an aim to identify key areas of convergence and divergence of views. All events followed Chatham House Rules, which mean that views can be documented but not ascribed to a particular Party or stakeholder.

The discussions focused on whether guidance on safeguarding principles was needed or could be useful and on whether there was a need to ensure activities would meet certain minimum requirements (e.g. human rights). Participants were relatively evenly shared between those who welcomed guidance and those who either rejected any form of guidance or felt that this was not really needed. Participants who welcomed guidance were mostly in favour of voluntary guidance stating that these could become informal benchmarks over time. It was also noted that guidance should be practical, that it should build on experiences to date and that it should be tailored to the specific needs of climate actions.

In general, participants consistently emphasised the central role played by host countries in ensuring appropriate safeguards, with some participants noting lack of capacity or weak regulations as potential barriers to implementation. In the context of Article 6.4, the role of the Supervisory Body was discussed, and whether its mandate included safeguards or whether this was the role of the host country. There was some level of consensus on the need for the Supervisory Body to provide specific rules (e.g. grievance mechanisms) and enforce minimum

requirements, but significant divergences on what those rules and minimum requirements should include (e.g. human rights only or also some form of impact assessments coupled with ongoing MRV), on how non-compliance with these requirements should be dealt with (e.g. cancellation of units) and by whom (e.g. host country vs. Supervisory Body).

## **Part 3 – The Subsidiary Body for Scientific and Technological (SBSTA) Chair informal notes and Dialogue text recommendations**

### **The SBSTA Chair informal notes**

Draft elements of text are presented in the SBSTA Chair informal notes issued prior to the SB48 and were revised in the negotiations. Elements relevant to the issue of safeguards are summarised below.

**Article 6.2 guidance on cooperative approaches:** In the participation requirements, the co-chair text requires the Participating Party to have a process to ensure that Internationally Transferred Mitigation Outcomes (ITMOs) do not result in environmental harm and do not adversely affect human rights. It further contains a chapter on addressing negative, social and economic impacts. Details provided show that this section is more related to response measures than to safeguards as understood from the sustainable development literature. The text does not provide any explicit provisions or details on the safeguards, nor how possible safeguards can be implemented and verified.

**Article 6.4 rules, modalities and procedures for the mechanism:** The co-chairs text requires, in some of the proposed options, the host party to provide explanations as to how a proposed Article 6.4 activity conforms to the host Party's obligations on human rights. It sets, in one of the proposed options, an eligibility criteria not including activity types that have negative environmental impacts. It further provides for the host party to confirm to the Supervisory Body that the proposed Article 6.4 activity respects safeguards adopted by the same

body. This implies that the Supervisory Body will develop safeguards, however it is not clear whether safeguards are understood in a broad, sustainable development context or in a more specific environmental integrity context. There is no provision for a process that could check the adequacy and appropriateness of the information provided to the Supervisory Body. Nor is there any mention of the frequency in which such conformation should be provided. Similar to the Article 6.2 text, the text in Article 6.4 does not provide for elements for assessing the appropriateness and adequacy of the reported information. As part of the mitigation activity cycle, it includes a provision for the protection of human rights. This provision provides stakeholders, participants and participating Parties with the possibility to inform the Supervisory Body of alleged violations of human rights resulting from an Article 6.4 activity. It however does not specify what the Supervisory Body is to do with this information and what actions it can undertake and their consequences on the mitigation activity.

**Article 6.8 draft decision on the work programme under the framework for non-market approaches (NMA):**

In one of the options under the chapter related to reporting, the co-chairs text requires Parties to report on how the NMAs contributed to sustainable development and poverty eradication. No reporting is required on the compliance with safeguards as well as no details on the extent of information to be provided or on whether a judgement on their appropriateness and completeness will be made.

**Text recommendations**

*The following recommendations have been produced by the Dialogue experts. Please note that the proposed text does not reflect consensus and will be updated prior to COP24.*

**Article 6.2:**

- Provide a clear definition of safeguards that is consistent throughout all Article 6 approaches
- Include provisions on roles and responsibilities of the involved parties in relation to compliance with safeguarding principles

- Encourage the use of tools for the assessment and monitoring of the safeguarding principles. Those tools could be developed by the participating parties or through the adoption of an existing tool such as the Equator Principles.
- Include provisions in case of breach of the safeguards
- Include provisions for grievance mechanisms allowing third parties to draw attention to the host Party on potential breaches by a project activity and provide for a process to deal with these complaints and their implications on the ITMOs generated.

**Article 6.4:**

- Provide a clear definition of safeguards that is consistent throughout all Article 6 approaches
- Include provisions on roles and responsibilities of the Parties and the Supervisory Body in relation to compliance with safeguarding principles
- Provide for the use of tools for the assessment and monitoring of the safeguarding principles. Those tools could be developed by the Supervisory Body, the participating parties or through the adoption of an existing tool such as the Equator Principles.
- Include provisions in case of breach of the safeguards (e.g. cancelling of ITMOS)
- Elaborate the provisions for grievance mechanisms allowing third parties to draw attention to the participating Parties and Supervisory Body on potential breaches by a mitigation activity and provide for a process with clear roles, responsibilities and consequences when dealing with these complaints

**Article 6.8:**

- Develop common approaches to ensure that negative impacts for sustainable development goals are avoided

**Thanks:**

The Sustainable Development Dialogue acknowledge and give thanks to the reviewers of the Sustainable Development Safeguards policy brief.

**Sources:**

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