

REPUBLIC OF KENYA



Ministry of Environment and Forestry

A NATIONAL APPROACH TO SAFEGUARDS AND A SAFEGUARDS INFORMATION SYSTEM FOR REDD+ IMPLEMENTATION

The Country Approach to REDD+ Safeguards

DECEMBER 2021



**FOREST
CARBON
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FOREWORD

I am honoured to write this foreword to Kenya's Country Approach to REDD+ Safeguards. As many readers will know, REDD+ was approved by State Parties to the United Nations Framework Convention on Climate Change (UNFCCC), including Kenya, to provide a mechanism for results-based payments for developing countries to address drivers of deforestation and forest degradation. REDD+ actions as well as policies and measures (PaMs) focus on reducing deforestation and rehabilitation of degraded forests in order to reduce Greenhouse Gas (GHG) emissions and deliver resilience benefits to communities and the environment. As a developing country facing serious challenges from climate risks and vulnerability, implementation of REDD+ interventions are therefore a priority for us. A REDD+ National Strategy has been developed and was validated at the same time as this Country Approach to Safeguards. A Country Approach to Safeguards requires Kenya to identify how, within national circumstances, it will be possible to address and respect the Cancun Safeguards and other global or national safeguards applicable to REDD+ actions.

The Cancun safeguards, adopted by the 16th Conference of Parties (CoP 16) in 2010, stipulate seven (7) protections to be respected whenever REDD+ actions are being implemented. These form the basis of Kenya's approach to safeguards for REDD+ and this document conveys our country's approach all in one document.

I am aware there have been stakeholder consultations during development of this Country Approach to Safeguards. Importantly, the final decision has been to retain the seven Cancun safeguards as the primary point of reference for all REDD+ actions. In order to ensure that obligation under Cancun, global and national safeguards are all respected and complied with, a set of indicators have been derived under each of the seven safeguards.

In addition, definitions have been provided for each indicator, thus clarifying what is being assessed. Further guidance has been provided for stakeholders implementing REDD+ actions, who would like to report how they are addressing and respecting each of the safeguards and indicators. The guidance includes the kind of information required, and the manner of reporting to the Safeguards Information System (SIS) developed for this purpose. We are also happy that our SIS is mostly automated, and also includes a grievance redress mechanism.

It is my belief, and that of the Ministry of Environment and Forestry that with this Country Approach to Safeguards, and the Safeguards Information System, Kenya's REDD+ readiness period has come to a successful conclusion. The complete outputs also include: the REDD+ National Strategy; National Forest Monitoring System; Forest Reference Level; Strategic and Environmental Assessment (SESA) of the REDD+ Strategy; Environmental and Social Management Framework.

On behalf of the Ministry, I would like to commend the United Nations Development Programme (UNDP) for spearheading the effort to successfully complete Kenya's REDD+ readiness process. We look forward to commencing reporting and tracking how REDD+ interventions are complying with the National REDD+ safeguards system.

Hon Keriako Tobiko, EGH.CBS.SC.

Cabinet Secretary

Ministry of Environment and Forestry

ACKNOWLEDGEMENT

Kenya's updated Nationally Determined Contributions to the Paris Climate Change Agreement, submitted to the UNFCCC in 2020 identified the forest sector as a priority area to move Kenya towards a low-carbon, climate-resilient development pathway. The updated NDC identified the forest sector as having a mitigation potential of 40.2 million tonnes CO₂ by 2030 of which 20.8 million tonnes CO₂ is committed in the NDC. Kenya seeks to establish and operationalize its REDD+ architecture, as an incentive mechanism, in line with the policy frameworks developed as requirements for REDD+ implementation under the UNFCCC.

The Ministry of Environment and Forestry, with the support of United Nations Development Programme (UNDP) and financing from the Forest Carbon Partnership Facility (FCPF), embarked and delivered on the key REDD+ instruments for Kenya. The REDD+ National Strategy is one of the pillars delivered thus putting Kenya in the league of UNFCCC countries that have developed the REDD+ Architecture.

The Safeguards Information System and its accompanying instrument (Country Approach to Safeguards- CAS, SESA and ESMF) was developed through an intensive, and wide stakeholders' engagement. My appreciations go to the stakeholders who have devoted their time, energy and expertise to midwife this strategy. They include the independent commission, i.e., the National Lands Commission (NLC), National Gender and Equality Commission (NGEC), the Kenya National Commission on Human Rights (KNCHR), Ethic & Anti-Corruption Commission (EACC), Indigenous peoples and local Communities representatives (IPLC), National Communities Forest Association (NACOF), Kenya Forest Service, National Environmental Management Authority (NEMA), Kenya Forest Research Institute (KEFRI), Kenya Water Towers Agency (KWT), Council of Governors (COG), all the county governments through their caucuses, Kenya Association of Manufacturers, Kenya Private Sector Alliance, UNDP Climate and Forest team, and JICA who submitted their comments online.

I also want to appreciate the overall leadership and coordination that was provided by Mr. Alfred Gichu, Ag Head of Conservation Directorate and the National REDD+ Coordinator/Focal point, Ministry of Environment and Forestry, the UNDP REDD+ Project management Unit led by Dr. Harun Warui (Project Manager), Judy Ndichu (Technical Specialist) and Patrick P. Ole Twala (SE & Safeguards Specialist) for their dedication and leading of the various technical working group to deliver this monumental output and putting Kenya on the path to REDD+ Implementation stage.

Finally, I want to acknowledge the dedicated work of the REDD+ technical working groups who worked at various stages to deliver the REDD+ National Strategy for Kenya.

Dr Chris Kiptoo, CBS

Principal Secretary,

Ministry of Environment and Forestry

WORD OF SOLIDARITY FROM UNDP

UNDP has been working in close collaboration with the Government of Kenya and its people since inception in 1966. As the UN's development arm advocating for change and connecting countries to knowledge, experience, and resources to build a better life, UNDP is committed to ensure that this partnership continues to grow in strength. With regards to protecting the environment, UNDP aims at strengthening environmental governance and the sustainable use and management of natural resources while mitigating environmental degradation and loss of biodiversity. In this regard, UNDP has been providing continuous support to the Government of Kenya in domesticating the various Multilateral Environmental Agreements; including the UNFCCC and its Paris Agreement, the Convention on Biological Diversity, the Nagoya Protocol among others in order to ensure the sustainable forest conservation and management. Additionally, we have supported the formulation of various policies and regulations that sustain Kenya's leadership globally around sustainable development.

Since Kenya has been in the readiness phase of REDD+ for the last couple of years, UNDP has been at the forefront to ensure that the country adheres to the various commitments made particularly to the UNFCCC with relation to the Cancun Safeguards, other REDD+ safeguards, and national safeguards. Working closely with the Ministry of Environment and Forestry and various stakeholders, we have been able to develop this Country Approach to Safeguards (CAS) that will ensure that legal protections are applied to REDD+ actions, policies, and measures (PAMS) during the implementation phase that will tackle the drivers of deforestation in Kenya. Indeed, our commitment goes beyond developing these safeguards that have been identified but will ensure that they are applied and that the existing relevant governance arrangements in the country are improved. This will ensure that Kenya meets the developed safeguards requirements as indicated in this CAS document. Thus said, this CAS will ensure that the rights and obligations identified will be protected and promoted during REDD+ implementation in the Country.

UNDP stands committed to continue partnering with the Ministry of Environment and Forestry to support the efforts of forest conservation and management in Kenya. Allow me to applaud the Ministry under the leadership of the CS – Tobiko Kerioki, and direction of the PS – Dr. Chris Kiptoo and guidance of the National REDD+ Coordinator – Alfred Gichu for the strides made so far in ensuring that the country achieves its readiness phase and is ready for the implementation of REDD+. Let me reiterate that through our UNDP's Climate Promise; we will continue to support Kenya towards its achievement of the national climate change agenda while ensuring that the rights of all is protected

Walid Badawi

UNDP Resident Representative in Kenya

EXECUTIVE SUMMARY

Context of the Country Approach to REDD+ Safeguards

Kenya, as a Party to the UNFCCC is required to implement REDD+ actions, policies and measures (PaMs) specified in paragraph 70 of Decision 1/CP.16. Appendix 1 of this Decision has set out seven (7) safeguards (Cancun Safeguards) that must be addressed and respected when implementing REDD+ actions and PaMs falling within scope of the activities in Para 70. Kenya, as a developing country Party aiming to implement REDD+ actions, is required by Decision 1/CP.16 to establish a Safeguards Information System (SIS) which demonstrates how the Cancun Safeguards are being addressed and respected throughout implementation of the REDD+ actions and PaMs falling within scope of the paragraph 70 of that Decision. Part of this process is to develop a Country Approach to Safeguards (CAS) through which Kenya interprets the Cancun safeguards, and other safeguards applicable to REDD+ interventions (e.g., through financing sources), to determine how they can be addressed and respected within our governance framework.

Safeguards are defined in this report as the protections applied, through specific measures, to ensure that REDD+ actions, policies and measures (PaMs) implemented in Kenya are consistent with the objectives of the REDD+ National Strategy and ensure that risks are managed and mitigated and benefits realised. These protections, for purposes of REDD interventions in Kenya, are derived from the Cancun Safeguards, and other national and international safeguards selected as relevant for the country. This bouquet of safeguards is then interpreted in context of the national governance system to ensure they are able to reflect the application of these safeguards, the relevant governance systems and arrangements include policies, laws, and regulations [PLRs]; institutional arrangements; and information systems and sources; and conflict resolution and enforcement mechanisms.

Further, these governance systems have been assessed to gauge their fitness or adequacy to deliver on the mission of the REDD+ National Strategy. Thus, the Country Approach to Safeguards (CAS) identifies the protections that apply to the REDD+ actions, or policies and measures (PaMs), that Kenya has selected as the means for addressing the drivers of deforestation and forest degradation and the barriers to the sustainable management, conservation, and enhancement of carbon stocks in the national context.

The value or utility of Kenya's CAS is therefore how it will (over time) guide the country's steps to maintain compliance with the multiple applicable national safeguard requirements. In addition, the country's PLR has set out normative and mandatory legal protections compatible with the international safeguards. The Constitution, for instance, stipulates among others values and principles of national governance, as well as a human rights framework. These are bare minimums and any conduct beneath them is prohibited, and where such occurs, it is deemed to be in violation of the Constitution (unconstitutional), which is also the supreme law of Kenya.

Goal of the Country Approach to Safeguards

Kenya's Country Approach to Safeguards (CAS) embodies rights and obligations which must be recognised, protected, and promoted throughout the implementation of the proposed REDD+ interventions, regardless of their source and type of financing. The goal of Kenya's approach to safeguards is:

To determine how to fulfil the Cancun (and other applicable) Safeguards, which having been clarified for Kenya's national circumstances and context under the Constitution and applicable Policies, Laws and Regulations (PLRs), and can ensure that REDD+ actions and PAMs contribute to the objectives of the REDD+ National Strategy.

This document provides the overall framework for Kenya's Country Approach to Safeguards. Importantly it should be read in conjunction with the more detailed Strategic Environment and Social Assessment (SESA) and the Environmental and Social Management Framework.

Methodology applied to develop the Country Approach to Safeguards

The development of the Country Approach to Safeguards was underpinned by two key considerations: (a) review of available literature including treaty obligations, comparable countries, and governance frameworks; and (b) ensuring there is stakeholder consultations and consensus throughout the process. For the latter, there were earmarked stakeholder consultations as documented, and further, a Technical Working Group (TWG) was appointed by the Ministry of Environment and Forestry to function as the reference group for this task, together with the SESA, ESMF and development of the Safeguards Information System (SIS). The membership of the TWG was drawn from national government, constitutional commissions, counties, civil society, indigenous peoples, local communities and private sector.

In terms of development of the Country Approach to Safeguards, several key technical actions were undertaken with feedback from the TWG. These are:

- (1) *Unbundling the obligations contained in the Cancun Safeguards.* This was necessary in order to determine the objectives and underlying principles of each of the Cancun Safeguards, and thereafter the specific rights and obligations that ought to be respected in order for the safeguards to be complied with.
- (2) *Review of other global safeguards or standards applicable to REDD+ actions, policies and measures (PaMs) in Kenya.* In this case, there was recognition that REDD+ interventions will be financed from various sources of funds, many of which apply specific safeguards. For that reason, it was necessary to understand which are these safeguards and their implication for REDD+ actions in Kenya.
- (3) *Review of various policies plans and programmes of the Kenyan government in order to identify potential REDD+ interventions to which the Country Approach to Safeguards would be applicable.* The list generated is not exhaustive and will be subject to change. The sources of REDD+ actions include the REDD+ National Strategy, National Climate Change Action Plan, National Forest Programme, Climate Smart Agriculture Strategy, among others.
- (4) *A review of Kenya's PLR framework (policies, laws, regulations, plans or programmes relevant for safeguards implementation and compliance).* This is necessary to ensure that the Country Approach to Safeguards and SIS are developed based on Kenya's framework pertaining to addressing drivers of deforestation and sustainable management of forests. Further, through the review of the legal framework, the extent to which the existing framework provides for instance, effective participation and whether key PLRS are in fact functioning, rather than just being available on paper (respecting) will be important. A gap analysis has been undertaken.
- (5) *Clarification of the Cancun Safeguards in accordance with Kenya's national circumstances.*

This is a necessary step in order to determine how the rights and obligations under those safeguards can extend protections for REDD+ actions and PaMs within the Kenyan governance framework. In undertaking this task, the Country Approach to Safeguards interprets the Cancun safeguards within the national governance framework in two distinct steps:

Step 1 – examination of the rights and obligations under the Cancun safeguards in context of the various global safeguards systems

This step entailed an examination of the rights and obligations under the UNFCCC Cancun Safeguards in context of the various global safeguards systems. The purpose of the step is to assess whether the rights and obligations under the Cancun safeguards, and those under the global safeguard mechanisms are compatible for application within the Kenyan governance system. Thus, the rights and obligation unbundled from each Cancun safeguard are compared to the most suitable global safeguard.

In the end, a set of rights and obligations seen as deriving from the Cancun and the reviewed international safeguard(s) is derived.

Step 2 – Interpreting the Cancun and applicable global REDD+ safeguards under Kenyan PLRs

This is the second step of interpreting the Cancun and applicable global REDD+ safeguards. The methodology seeks to assess whether the common obligations from Cancun and other global safeguards can be implemented within the Kenyan governance system of policies, laws and regulations. The analysis applies the following considerations:

- (a) The rights and obligations under each Cancun safeguard are applied against those drawn from the Kenyan PLR framework.
- (b) The common obligations drawn from assessment of Cancun and other global safeguards in Section 4.1 are used to frame the protection interventions that can be applied in Kenya to expand scope of REDD+ safeguards system. These are matched carefully against the respective obligations under Kenya PLR.
- (c) Institutions with relevant mandates that can implement the protection interventions are also set out.

Recommended safeguards and indicators for REDD+ Actions and PaMs undertaken in Kenya

In the final part, Kenya's set of safeguards accompanied by a list of indicators that represent the widest scope to meet the obligations under various global and national safeguards is presented. This exercise was informed by analysis, and contributions from stakeholders.

The CAS recommends that Kenya adopts the seven Cancun Safeguards for purposes of REDD+ actions and PaMs. This is because upon review, the seven are well aligned with other global safeguards (e.g., multilateral banks, voluntary markets standards, etc.) applicable for REDD+ interventions.

For each safeguard below, specific indicators have been recommended. The definitions for each indicator, the reporting requirements, manner of reporting and responsibility for reporting have been set out in Separate Annex 7.1. These indicators have consolidated various key actions drawn from the obligations through the analysis conducted in steps 1 and 2 in order to attain comprehensiveness and robustness. These form the basis for structuring of the Safeguards Information System (SIS) designed for reporting how the safeguards and indicators are being addressed and respected by various entities implementing REDD+ actions, policies and measures.

Below are the recommended safeguards and respective indicators:

Safeguard 1: Actions complement or are consistent with the objectives of national forest programmes, policy and legal environmental or climate change obligations, and relevant international conventions and agreements.

Indicators	<i>1a.</i> REDD+ actions and PaMs protect ecosystem services in order to fulfil, protect and respect the human right to a clean and healthy environment
	<i>1b.</i> REDD+ actions and PaMs undergo Strategic Environmental and Social Assessment (SESA), or Environmental and Social Impact Assessment (ESIA), as appropriate, and be monitored through environmental audits (EA)
	<i>1c.</i> REDD+ actions and PaMs respect the right to acquire and own land and uphold formal and customary tenure rights by persons, indigenous peoples, and communities
	<i>1d.</i> REDD+ actions and PaMs mainstream climate change considerations to support the national low carbon climate resilience development pathway objective
	<i>1e.</i> REDD+ actions and PaMs support the national strategy to achieve and maintain a tree cover of at least 10% of the national land area
	<i>1f.</i> REDD+ actions and PaMs support the objectives of the national forest programme, and the strategic outcomes of the REDD+ National Strategy
	<i>1g.</i> REDD+ action and PaMs comply with obligations under treaties and conventions ratified by Kenya

Safeguard 2: Transparent and effective national forest governance structures, taking into account national legislation and sovereignty

Indicators	<i>2a.</i> The governance arrangements for REDD+ actions are coherent and operate in a transparent and accountable manner
	<i>2b.</i> REDD+ actions and PaMs are gender responsive and embody gender equality and disaggregation
	<i>2c.</i> REDD+ decision making public bodies apply the principle that no less than two-thirds of members should belong to one gender
	<i>2d.</i> REDD+ actions and PaMs map out and integrate the needs for vulnerable members of society on account of gender and social exclusion
	<i>2e.</i> Adequate information about the REDD+ National Strategy, actions and PaMs and the REDD+ safeguards is publicly available, and in a simple and clear understandable language
	<i>2f.</i> Public agencies undertaking REDD+ actions ensure fair administrative action for stakeholders and put in place adequate and accessible grievance redress mechanisms
	<i>2g.</i> REDD+ actions and PaMs include or establish grievance redress mechanisms that are functional, accessible and capable of being partial, fair and enforcing compliance of outcomes
	<i>2h.</i> Institutional and legal mandates are implemented to ensure integrity in management and use of REDD+ finances with integrity, transparency and accountability

Safeguard 3: : 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.

Indicators	3a. REDD+ actions and PaMs support community land rights security through an inventory together with adjudication, registration and issuance of title deeds
	3b. REDD+ actions and PaMs support, enhance and hasten permanent resolutions of historical land injustice claims by indigenous peoples and local communities
	3c. REDD+ actions and PaMs support, respect, promote and compensate for utilization of the traditional knowledge and cultural heritage of local communities is respected
	3d. Agreements are negotiated with local communities for access and benefit sharing for REDD+ actions on public forests
	3e. All agreements negotiated with indigenous peoples and local communities for REDD+ actions and PaMs ensure that acceptance or rejection of such agreements by the IPLCs is based on the Free, Prior and Informed Consent of their members
	3f. REDD+ actions and PaMs respect, protect and promote the traditional decision-making mechanisms of indigenous peoples and local communities, where these exist and do not contravene human rights and fundamental freedoms, and do not result in outcomes that are repugnant to justice or morality
	3g. REDD+ actions and PaMs respect, protect and promote the traditional dispute resolution mechanisms of indigenous peoples and local communities, where these exist and do not contravene human rights and fundamental freedoms, and do not result in outcomes that are repugnant to justice or morality

Safeguard 4: The full and effective participation of relevant stakeholders, in particular indigenous peoples and local communities in the actions referred to in paragraphs 70 and 72 of Decision 1/CP.16.

Indicators	4a. Stakeholders are given opportunity for meaningful contribution during decision making for REDD+ actions and PaMs
	4b. The Free Prior and Informed Consent (FPIC) of indigenous peoples and local communities is obtained for REDD+ actions and PaMs affecting them, including access and benefit sharing, for projects on public forests
	4c. REDD+ actions and PaMs which are subjected to FPIC are clearly documented with accepted procedures to govern the process and outcomes, including access to all necessary information in understandable form and content
	4g. Any REDD+ investment projects, or other actions on community land are preceded by FPIC, and an environmental and social assessment

Safeguard 5: That actions are consistent with the conservation of natural forests and biological diversity

Indicators	5a. Natural forests, and areas of High Conservation Value due to their outstanding biological, ecological, or cultural contribution are identified and protected
	5b. REDD+ actions and PaMs avoid conversion of natural forests to other land uses
	5c. REDD+ actions and PaMs are compatible with agricultural value chains through climate smart interventions to relieve pressure on forests
	5d. REDD+ actions promote and incentivize payment for ecosystem services as benefits
	5e. REDD+ actions and PaMs do not result in net negative impacts on the well-being of stakeholders
	5f. REDD+ actions and PaMs are screened to identify any potential negative impacts (socio-economic, environmental) likely to cause on the well-being of people (with mapping for vulnerability resulting from gender and social exclusion) and mitigation actions put in place
	5g. REDD+ actions and PaMs are screened to identify any potential negative impacts (socio-economic, environmental) likely to cause on the well-being of people (with mapping for vulnerability resulting from gender and social exclusion) and mitigation actions put in place
	5h. REDD+ actions and PaMs enhance forestry interventions that promote non-extractive socio-economic benefits
	5i. REDD+ actions and PaMs enhance support harmonization or coordination between forest management planning and physical planning of adjacent (non) forest land to avoid conversion of forest land
	5j. REDD+ actions and PaMs promote development and implementation of management plans for forests established on community land, and for private <i>plantation forests</i>

Safeguard 6: Actions to address the risks of reversals

Indicators	6a. REDD+ actions and PaMs effectively address drivers of deforestation and forest degradation
	6b. REDD+ actions and PaMs include interventions to attain Land Degradation Neutrality
	6c. REDD+ actions and PaMs integrate interventions for realization of Kenya's specific commitments and targets to avoid, minimize and reverse land degradation
	6d. Measures are integrated to address the risk of reversals which might lead to a reduction in the benefits achieved by REDD+ actions and PaMs
	6e. GHG emission reductions or removals from REDD+ actions and PaMs are verified

Safeguard 7: Actions to reduce displacement of emissions

Indicators	7a. REDD+ actions and PaMs avoid deleterious outcomes such as displacement of GHG emissions
	7b. REDD+ actions and PaMs ensure any involuntary displacement includes full resettlement and compensation with replacement of socio-economic and environmental benefits to avoid creating drivers of deforestation elsewhere
	7c. REDD+ actions and PaMs screen for and avoid creating GHG emissions leakage of any form (international, market, activity shifting, ecological) and put in place mitigation measures
	7d. REDD+ action and PaMs enhance participatory and harmonized land use planning in forests and other adjacent land uses to avoid emissions displacement
	7e. REDD+ actions and PaMs support alternative socio-economic activities to shift people from displacement of emissions
	7f. REDD+ actions and PaMs integrate disaster risk reduction strategies to avoid, minimize or mitigate involuntary displacement that results in activity-shifting emissions leakage

LIST OF ABBREVIATIONS AND ACRONYMS

ART TREES	Architecture for REDD+ Transactions: The REDD+ Environmental Excellence Standard
CAJ	Commission on Administrative Justice
CAS	Country Approach to Safeguards
CCB	Climate, Community & Biodiversity
CCD	Climate Change Directorate
CFAs	Community Forest Associations
CIDP	County Integrated Development Programmes
EACC	Ethics and Anti-Corruption Commission
EIA	Environmental Impact Assessment
EMCA	Environmental Management and Coordination Act
ESIA	Environmental and Social Impact Assessment
ESS	Environmental and Social Standards
ESMP	Environmental and Social Management Plan
FAO	Food and Agriculture Organization of the United Nations
FCPF	Forest Carbon Partnership Facility
FPIC	Free, Prior and Informed Consent
GEF	Global Environmental Facility
GHG	Greenhouse Gas
IPLC	Indigenous Peoples and Local Communities
JNR	Jurisdictional and Nested REDD+
KEFRI	Kenya Forestry Research Institute
KNCHR	Kenya National Commission on Human Rights
KFS	Kenya Forest Service
LDN	Land Degradation Neutrality
MoEF	Ministry of Environment and Forestry
NCCAP	National Climate Change Action Plan

LIST OF ABBREVIATIONS AND ACRONYMS

NECC	National Environment Complaints Committee
NEMA	National Environment Management Authority
NET	National Environment Tribunal
NSEC	National Gender and Equality Commission
NLC	National Land Commission
PaMs	Policies and Measures
PLR	Policies, Laws, Regulations
REDD+	Reducing Emissions from Deforestation and Forest Degradation (+)
REDD+ SES REDD+	Social and Environmental Standard
SDG	Sustainable Development Goal
SEA	Strategic Environmental Assessment
SESA	Strategic and Social Environmental Assessment
SIS	Safeguards Information System
TWG	Technical Working Group
VCS	Verified Carbon Standard
UNFCCC	United Nations Framework Convention on Climate Change
UNGP	United Nations Guiding Principles on Human Rights and Business

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1 INTRODUCTION

Kenya, as a developing country Party aiming to implement REDD+ actions, is required by Decision 1/CP.16 to establish a Safeguards Information System (SIS) which demonstrates how the Cancun Safeguards are being addressed and respected throughout implementation of the REDD+ actions and PaMs falling within scope of the paragraph 70 of that Decision. These activities (in paragraph 70) include:

- (a) Reducing emissions from deforestation
- (b) Reducing emissions from forest degradation
- (c) Conservation of forest carbon stocks
- (d) Sustainable management of forests
- (e) Enhancement of forest carbon stocks

Appendix 1 of this Decision has set out seven (7) safeguards (Cancun Safeguards) that must be addressed and respected when implementing REDD+ actions and PaMs falling within scope of the activities in paragraph 70 of Decision 1/CP.16.

Part of this process is to develop a Country Approach to Safeguards (CAS) through which Kenya interprets the Cancun safeguards, and other safeguards applicable to REDD+ interventions (e.g., through financing sources), to determine how they can be addressed and respected within our governance framework. This is because Kenya is cognizant that REDD+ actions and PaMs being undertaken within its territory maybe financed by sources that apply separate safeguards including those applied by multilateral banks, voluntary carbon markets, or under national law. Through the Country Approach to Safeguards, clear protections and indicators are identified through which entities implementing REDD+ interventions will demonstrate how they are addressing and respect them. The Safeguards Information System (SIS) has been designed on the basis of the safeguards and indicators identified by the Country Approach to Safeguards, in order to provide the means for reporting, verification and validation. A separate report on the SIS has been prepared.

Safeguards are defined in this report as the protections applied, through specific measures, to ensure that REDD+ actions, policies and measures (PaMs) implemented in Kenya are consistent with the objectives of the REDD+ National Strategy and ensure that risks are managed and mitigated and benefits realised. These protections, for purposes of REDD+ interventions in Kenya, are derived from the Cancun Safeguards, and other national and international safeguards selected as relevant for the country. This bouquet of safeguards is then interpreted in context of the national governance system to ensure they are able to reflect the application of these safeguards. The relevant governance systems and arrangements include policies, laws, and regulations [PLRs]; institutional arrangements; and information systems and sources; conflict resolution and enforcement mechanisms.

Further, these governance systems have been assessed to gauge their fitness or adequacy to deliver on the mission of the REDD+ National Strategy. Thus, the Country Approach to Safeguards (CAS) identifies the protections that apply to the REDD+ actions, or policies and measures (PaMs), that Kenya has selected as the means for addressing the drivers of deforestation and forest degradation and the barriers to the sustainable management, conservation, and enhancement of carbon stocks in the national context.

The value or utility of Kenya's CAS is therefore how it will (over time) guide the country's steps to maintain compliance with the multiple applicable national safeguard requirements. In addition, the country's PLR has set out normative and mandatory legal protections compatible with the international safeguards. The Constitution, for instance, stipulates among others values and principles of national governance, as well as a human rights framework. These are bare minimums and any conduct beneath them is prohibited, and where such occurs, it is deemed to be in violation of the Constitution (unconstitutional), which is also the supreme law of Kenya

In line with the Terms of Reference, the development of this CAS has been characterized by the following key actions:

- 1) Setting the goal of the national approach to safeguards
- 2) Setting the scope of the national approach to safeguards
- 3) Review of PLR framework and gap analysis
- 4) Reviewing the national institutional framework, based on the PLR framework
- 5) Clarification of the international safeguards applicable to REDD+ actions and PaMs through an interpretation in context of the national PLR framework
- 6) Development of indicators for final standards for REDD+ actions and PaMs
- 7) These indicators will be the basis for reporting how the national safeguards are being complied with when REDD+ actions and PaMs are being undertaken
- 8) Ensuring there is meaningful participation by the stakeholders who were mapped as critical in contributing to the CAS

This report is divided into 5 sections. Section 2 explain the meaning and content of safeguards in context of risk management and human rights protection. Section 3 sets out the country approach to safeguards, including the goal and scope. In section 4, the report undertakes clarification or interpretation of the Cancun and other global safeguards for the Kenyan national circumstances. Section 5 sets out the recommend REDD+ safeguards for Kenya together with the indicators, whose definition is further explained in the separate Annex 7.1.

2 UNDERSTANDING NATURE AND CONTENT OF SAFEGUARDS

This report has considered two categories of safeguards. These are:

- (a) Risk-based, or risk management safeguards

Risk management safeguards set out interventions to ensure that the socio-economic and environmental activities being undertaken do not result in harm to the environment, or people.

The appropriate risk classification is based on relevant considerations, including type of project, location, sensitivity, scale of project, nature and magnitude of potential environmental and social risks and impacts, and the capacity and commitment of the borrower to manage environmental and social risks and impacts in a manner compatible with the ESS. Therefore, risk-based safeguards require understanding of the likelihood harmful impacts to people and the environment, and the development of interventions to either avoid/reduce this likelihood, or to manage the adverse impacts where avoidance is not possible. National safeguard systems also include elements of risk management, such as exemplified by Strategic Environmental and Social Assessments (SESA), Environmental Impact Assessments (EIA), Environmental Audits (EA).

In implementation of the United Nations Guiding Principles on Human Rights and Business (UNGPs), the conduct of human rights due diligence by corporations has emerged as a primary tool to ensure that businesses identify the human rights risks and impacts of their activities, and take measures to avoid or mitigate them, and where the harm has already occurred, ensure that the victims have access to an effective remedy.

- (b) Human rights-based safeguards

The scope of human rights, and fundamental freedoms includes the socio-economic rights, civil and political rights, and the human right to a clean environment recently recognized by the UN Human Rights Council. Civil and political rights include critical freedoms including expression (speech), assembly, movement as well as public participation. Under international law, States have core obligations to respect, protect and fulfil these human rights and fundamental freedom. Under Kenya's Constitution, the State, and every State organ have a fundamental duty to observe, respect, protect, promote and fulfil the rights and fundamental freedoms in the Bill of Rights.

The purpose of recognising and protecting human rights and fundamental freedoms is to preserve the dignity of individuals and communities and to promote social justice and the realisation of the potential of all human beings. Therefore, the rights and fundamental freedoms set out in the Bill of Rights are the framework for social, economic, environmental and cultural policies. These rights and fundamental freedoms are justiciable such that any denial, violation, infringement, or threat can be enforced by the High Court upon a petition by any person on their own behalf; on behalf of another person who cannot act in their own name; as a member of, or in the interest of, a group or class of persons; or a person acting in the public interest.

Importantly, the human rights and fundamental freedoms guaranteed by Kenya's Constitution belong to each individual and are not granted by the State. Further, they cannot be limited by the State except by law, and this can only be permissible to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including those set out in article 24 of the Constitution, as set out in Box 1 below.

Box 1: Some of the relevant factors to be taken into account when considering the limitation of human rights

- (a) (a) the nature of the right or fundamental freedom
- (b) (b) the importance of the purpose of the limitation
- (c) (c) the nature and extent of the limitation
- (d) (d) the need to ensure that the enjoyment of rights and fundamental freedoms by any individual does not prejudice the rights and fundamental freedoms of others, and
- (e) (e) the relation between the limitation and its purpose and whether there are less restrictive means to achieve the purpose.

While safeguard systems have been bifurcated into risk-based, and human rights-based, the above assessment of their content demonstrates existence of overlaps. Risk-based systems such as the World Bank or FAO ESS also pay attention to and rely on human rights mechanisms for implementation. Human right due diligence is focused on respecting, protecting and fulfilling human rights. States have an irreducible obligation to respect and protect human rights therefore providing legal and justiciable means to implement safeguards. Illustratively, on the one hand, risk-based safeguards will aim to avoid or minimize likelihood of harm or impacts on the environment. On the other hand, the human right to a clean and healthy environment solely relies on protection of the environment from harm (e.g., through risk-based safeguards), in order for the right to be fulfilled. For purposes of the CAS therefore, a hybrid approach integrating both categories of safeguards as appropriate was adopted.

3 THE GOAL OF THE COUNTRY APPROACH TO SAFEGUARDS

The selected Country Approach to Safeguards (CAS) identifies the protections that apply to the REDD+ actions, or policies and measures (PaMs), that Kenya has selected as the means for addressing the drivers of deforestation and forest degradation and the barriers to the sustainable management, conservation, and enhancement of carbon stocks in the national context.

The rights and obligations embodied in the CAS must then be recognised, protected, and promoted throughout the implementation of the proposed REDD+ actions, regardless of their source and type of financing. It is important to affirm that the process of identification, improvement, and application of these Country Approach to Safeguards has been participatory.

3.1 Objective of the CAS

The proposed REDD+ actions and PaMs should align with the mission of the REDD+ National Strategy, and its objectives which are set out in Box 2 below.

Box 2: Specific objectives of the REDD+ National Strategy

1. Increased forest and tree cover
2. Enhanced productivity of the forest
3. Increased investments in forest development
4. Protecting existing forest cover
5. Integrated good governance in forest development
6. Enhanced forest based economic, social and environmental benefits
7. Enhanced livelihoods of the Indigenous Peoples and Local Communities

Source: Kenya, REDD+ National Strategy, November 2021

In this context, the goal of Kenya's Country Approach to Safeguards is framed as follows:

To determine how to fulfil the Cancun (and other applicable) Safeguards, which once clarified for Kenya's national circumstances and context under the Constitution and applicable Policies, Laws and Regulations (PLRs), can ensure that REDD+ actions and PAMs, contribute to the objectives of the REDD+ National Strategy.

Understanding the Cancun and other safeguards which have a bearing on REDD+ actions and PaMs in Kenya is critical.

3.1.1 Unbundling the obligations in the Cancun Safeguards

The seven Cancun REDD+ safeguards are also classified into four thematic areas. These thematic areas demonstrate the benefits which the individual safeguards will enhance, and how they contribute to Kenya's REDD+ objectives:

- a) Enhancing governance – No. 1, 2 and 4
- b) Ensuring REDD+ actions Do No-harm – No. 3, and 5(a)
- c) Securing multiple benefits – No. 5(b) and (c)
- d) Assuring mitigation effectiveness – No. 6 and 7.

These thematic categories will, during implementation, enhance the contribution of each safeguard and cluster of indicators to the protection of the environment and people.

Below, is the unbundling of each of the seven Cancun safeguards in the Kenyan context as agreed with stakeholders:

1. **Cancun Safeguard 1.** Actions complement or are consistent with the objectives of national forest programmes and relevant international conventions and agreements..

Thematic category of safeguard: Governance

Objective	Underlying principle	Deriving right or obligation
<ul style="list-style-type: none"> Harmony with national forest objectives Symbiotic harmony between national development goals, and forestry goals Protection of ecosystem services Coherence in design and execution of institutional mandates Alignment with obligations under ratified treaties and conventions 	<ul style="list-style-type: none"> Sustainable development by balancing of socio-economic and environmental needs. This includes sustainable development goals (SDG). Ecologically sustainable development where environmental integrity is outcome of development actions PLR coherence with coherent horizontal and vertical integration of institutional mandates Climate change mainstreaming 	<ul style="list-style-type: none"> Human right to a clean and healthy environment Obligation to mainstream sustainable forest/land management across land use sectors Mainstreaming climate change considerations in forestry, land use and national development programmes Obligation to put in place coherent governance structures and mandates. Obligation to implement treaty provisions and decisions in line with the Constitution

2. **Cancun Safeguard 2.** Transparent and effective national forest governance structures, taking into account national legislation and sovereignty.

Thematic category of safeguard: Governance

Objective	Underlying principles	Deriving rights or obligations
<ul style="list-style-type: none"> Transparency in forest governance Access to forest information Transparency and integrity in financial management Effectiveness through compliance mechanisms Conflict management and grievance redress and handling mechanisms 	<ul style="list-style-type: none"> Transparency, accountability and good governance Availability of, and access to forestry information Dissemination of forestry information to the public Enhancement of management integrity (finance, processes etc.) Reporting mechanisms with oversight Monitoring and evaluation of actions Grievance redress mechanisms 	<ul style="list-style-type: none"> Transparent, accountable and good forest governance Right of access to information Fair administrative action Financial integrity Reporting and oversight Effective compliance framework

3. **Cancun Safeguard 3.** 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

Thematic category of safeguard: Do no harm

Objective	Underlying principles	Deriving rights or obligations
<ul style="list-style-type: none"> Ensuring equity, social inclusion Recognition and protection of the rights of indigenous peoples Community level co-management of forest resources and benefits sharing Respect for land rights of indigenous peoples and local communities Respect for international law obligations, agreements and decisions of courts Recognition of indigenous knowledge, culture and practices 	<ul style="list-style-type: none"> Equity and social inclusion Respecting land, and land use rights of indigenous peoples and local communities Secure land tenure rights Compliance with international law Resolving historical land injustices in a timely and judicious fashion Respect for indigenous knowledge, culture and practices. 	<ul style="list-style-type: none"> Human rights to acquire and own property including land Guaranteeing security of tenure for land rights held by indigenous peoples and local communities Resolution of historical land injustice claims Implementing local community co-management agreements for forests with clear benefit sharing arrangements Promotion of indigenous knowledge, culture and practices.

4. **Cancun Safeguard 4.** The full and effective participation of relevant stakeholders, in particular indigenous peoples and local communities, in the actions referred to in paragraphs 70 and 72 of Decision 1/CP.16.

Thematic category of safeguard: Governance

Objective	Underlying principles	Deriving rights or obligations
<ul style="list-style-type: none"> Providing opportunity for stakeholders to participate in structuring consultation mechanisms Full, effective and meaningful stakeholder participation in decision making and implementation of actions Higher standard to protect participation of indigenous peoples and local communities in REDD+ decision making and implementation of actions and PaMs. 	<ul style="list-style-type: none"> Voice for indigenous peoples and local communities during decision making on matters affecting them Notification and public consultation of proposed development by the proponent Identification of indigenous and local communities and stakeholders likely to be affected by the proposed development Establishment of mechanisms for indigenous and local community participation 	<ul style="list-style-type: none"> Right to meaningful stakeholder participation Access to information Access to courts and tribunals to address grievances Mechanisms for notification of actions and PaMs affecting Indigenous Peoples and local communities; the identification of those affected by the REDD+ interventions; and putting in place mechanisms for their meaningful participation Free Prior and Informed Consent (FPIC) where appropriate.

5. **Cancun Safeguard 5.** That actions are consistent with the conservation of natural forests and biological diversity, ensuring that the actions referred to in paragraph 70 of Decision 1/CP.16

- 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.

Thematic category of safeguard:

- a) Do No-harm – 5(a)
- b) Securing multiple benefits – 5(b) and (c)

Objective	Underlying principles	Deriving rights or obligations
<ul style="list-style-type: none"> • Conservation of natural forests and biodiversity is enhanced • Conversion of natural forests to other land uses is avoided • The focus on ecosystem services protection is enhanced • Social and environmental benefits are enhanced 	<ul style="list-style-type: none"> • Protection of natural forests • Avoided conversion of natural forests to other land uses • Expansion of REDD+ activities to areas outside natural forests to enhance ecosystem services, and available socio-economic and environmental benefits 	<ul style="list-style-type: none"> • Protecting integrity of natural forests and biodiversity • Avoiding conversion of natural forests • Reversing plantation forests to natural forests • Harmonizing forest management planning with land use planning of contiguous or adjacent non-forest land for compatible or complementary uses to minimize forest conversion, degradation or deforestation • REDD+ actions and PaMs avoid or minimize adverse environmental impacts and instead maintain and enhance biodiversity and ecosystem service priorities • Ensuring social and environmental benefits are accessible

6. **Cancun Safeguard 6.** Actions to address the risks of reversals.

Thematic category of safeguard: Assuring mitigation effectiveness

Objective	Underlying principles	Deriving rights or obligations
<ul style="list-style-type: none"> • Identify and address drivers of deforestation and forest degradation 	<ul style="list-style-type: none"> • Screening actions and PaMs for drivers of deforestation and forest degradation • Mainstreaming REDD+ objectives, climate change considerations and environmental obligations into development programmes that are potential drivers of deforestation and forest degradation • Identify land use management options to reduce GHG emissions from forestry and agricultural land • PaMs to reduce vulnerability to impacts of extreme weather events, which can cause reversal 	<ul style="list-style-type: none"> • REDD+ actions and PaMs effectively address drivers of deforestation and forest degradation • REDD+ actions and PaMs comply with environmental obligations and mainstream climate change actions • Implementation of NDC priorities for GHG emissions reductions in forestry and agriculture • Mainstream environmental obligations into development actions that drive deforestation and biodiversity loss

7. **Cancun Safeguard 7.** Actions to reduce displacement of emissions.

Thematic category of safeguard: Assuring mitigation effectiveness

Objective	Underlying principles	Deriving rights or obligations
<ul style="list-style-type: none"> • Avoiding primary GHG leakage which occurs when a policy, programme or project displaces a deforestation driver rather than addressing it e.g., by shifting the driver or deforestation agents to another area. • Avoidance of secondary GHG leakage which occurs if the policy or project creates incentives for third parties to increase deforestation, for example by shifts in supply and demand of land, products and services affected by the project or policy. 	<ul style="list-style-type: none"> • Harmonized national approach to safeguards to avoid displacement triggers • Clear obligations on REDD+ actions and PaMs implementing entities (public, private) to report through SIS when safeguards are triggered. • Harmonization between forest and other land use planning in a participatory manner • Alternative socio-economic opportunities for actors involved in drivers of deforestation to avoid displacement 	<ul style="list-style-type: none"> • Nationwide harmonized approach to REDD+ safeguards to avoid primary and secondary displacement of GHG emissions • Avoid involuntary displacement without full resettlement as it may create a driver of deforestation elsewhere • Reporting obligations where actions and PaMs by public/private entities trigger REDD+ safeguards. • Participatory and harmonized land use planning between forests and other land uses • Alternative socio-economic opportunities to shift people from drivers of deforestation

4 REVIEW OF PLR FRAMEWORK AND GAP ANALYSIS

This section describes the policy, legal and regulatory framework relevant to REDD+ actions. These have already been detailed in the REDD+ National Strategy and demonstrate that Kenya already has a set of policies relevant to REDD+ implementation. Therefore, the scope of REDD+ safeguards in Kenya can apply to this broad array of actions and PaMs so that they do not result in harm to people and the environment, are able to secure multiple benefits, contribute to enhanced REDD+ governance, and protect the effectiveness of GHG emissions reductions.

Table 2: REDD+ actions and relevant policies

Source of policy action	Importance	Potential REDD+ Action / PaMs
2018-2022 National Climate Change Action Plan	Principal means to mainstream climate change considerations; and implement NDC domestically	<p>Strategic Objective 2: Increase food and nutrition security by enhancing productivity and resilience of the agricultural sector in as low-carbon manner as possible</p> <ul style="list-style-type: none"> Improved productivity of pastoralists through climate smart agriculture interventions, including re-seeding of 10,000 hectares of rangelands in 23 ASAL counties <p>Strategic Objective 4 which aims to increase forest/tree cover to 10% of total land area, rehabilitate degraded lands, including rangelands and increase the resilience of wildlife</p> <ul style="list-style-type: none"> Afforest and reforest degraded and deforested areas in counties Reduce deforestation and forest degradation Restore degraded forest landscapes (ASALs and rangelands) Promote sustainable timber production on privately-owned land Conserve land areas for wildlife
The National Forest Policy (Draft of 2021) ¹	When approved, will be principal forest policy	<ul style="list-style-type: none"> Maintain environmental stability and conserve biodiversity through preservation and conservation of indigenous forests Reverse forest degradation and deforestation by rehabilitating forests without compromising the natural profile of the forest Increase substantially and maintain forest cover of at least ten percent of the land area of Kenya through afforestation and reforestation programmes on all denuded and degraded forest lands and areas outside forests Contribute towards achieving Kenya's Nationally Determined Contribution (NDCs) Targets Integrate climate change mitigation and adaptation measures in forest management through REDD+ (Reducing Emissions from Deforestation and Forest Degradation plus) mechanisms to minimize the impacts of climate change Incentivize sustainability in private and community owned and managed forests by promoting investment in commercial tree growing, forest industry and trade and facilitate assured returns, with enabling regulations

1. Although currently a Draft Policy, it has been examined here because it stipulates major policy actions likely to be implemented when it is eventually approved.

Source of policy action	Importance	Potential REDD+ Action / PaMs
National Forest Programme 2016-2030	It forms a reference for forest management and aims to meet local, county, national and global needs by linking national and international partner-ships.	<ol style="list-style-type: none"> Promoting sustainable forest management Increasing forest cover to at least 10% Increasing food, water and energy security; 4. Enhancing environmental resilience to climate change Creating an enabling environment for investments in forestry Enhancing efficiency, effectiveness and skills throughout forest value chains Promoting public-private partnerships Segregating roles and responsibilities of actors and implementing institutions/agencies Mainstreaming the full value of forests in the national economy Promoting equitable benefit-sharing mechanisms Increasing community participation in forest development Making forestry information accessible to improved awareness and decision making Improving forestry education and research and technical skills development Ensuring broad-based economic empowerment in the private sector, gender, youth and special groups Promoting alternative energy sources and efficient use Advancing good governance, reducing bureaucracy and increasing transparency in forest value chains
The REDD+ National Strategy (2021)	Facilitate the achievement of the forest sector objectives of reducing GHG emissions for sustainable results-based payments	<p>Implementing five strategic options for REDD+</p> <ol style="list-style-type: none"> Scaling up afforestation, reforestation and landscape restoration programmes Enhance governance and policy implementation to prevent conversion of forests to other land uses Increase productivity of public plantation forests Enhancing efficiency, effectiveness and skills throughout forest related value chains Mobilise finance for implementation of REDD+ in Kenya
2017-2026 Climate Smart Agriculture Strategy	Prioritizes climate smart interventions to lower GHG emissions and build resilience in the agriculture sector	<ul style="list-style-type: none"> Mainstream Sustainable Natural Resource Management to reduce emissions as a co-benefit e.g., agroforestry/farm forestry and adoption of practices that encourage inclusion of trees in the farming system Development of Measurement, Reporting and Verification Systems to help in improving the transparency in reporting of actions and mitigation measures in the agriculture sector.

Source of policy action	Importance	Potential REDD+ Action / PaMs
National Strategy for Achieving and Maintaining over 10% Tree Cover by 2022	The current strategy to implement the constitutional obligation to achieve and maintain a national tree cover of at least 10%	<ul style="list-style-type: none"> • Produce 1.8 billion quality tree seedlings by 2022 needed to increase tree cover to 10% • Enhance conservation and protection of natural forests on public, community and private lands and rehabilitation of degraded areas • Rehabilitation and conservation of mangroves • Establish commercial forest plantations on public, private and community lands • Implement the Agriculture (Farm Forestry) Rules, 2009 • Restoration of degraded landscapes in the Arid and Semi-Arid Lands (ASALs) • Implementation of national forest policies legislations and Strategies • Urban Forests and Green Spaces
Land Degradation Neutrality Commitments	Kenya's Commitments under the UNCCD	<ul style="list-style-type: none"> • Interventions to land degradation neutrality by 2030 • Interventions to avoid, minimize and reverse land degradation

Kenya's PLR framework (policies, laws, regulations, plans or programmes) relevant for safeguards implementation and compliance was reviewed in order to ensure that the national approach and SIS are developed based on Kenya's framework pertaining to addressing drivers of deforestation and sustainable management of forests. Further, through the review of the legal framework, the extent to which the existing framework provides for instance, effective participation and whether key PLRS are in fact functioning, rather than just being available on paper (respecting) will be important. A gap analysis has been undertaken and set out in section 4.10. Annex 7.2 sets out the comprehensive matrices through which review of the PLR was undertaken.

4.1 Constitution of Kenya

Provision	Impact on REDD+ objectives to address drivers of degradation
Values and principles of national governance	<ul style="list-style-type: none"> • Mandatory for state and public officers, and all persons who apply Constitution; make, apply or interpret any law; or make any public policy decisions • Values and principles include social inclusion; rule of law; public participation; sustainable development; transparency accountability and good governance • Courts have ruled that failure to integrate the mandatory principles and values in public decision processes could invalidate such decisions for violation of Constitutions
Human rights	<ul style="list-style-type: none"> • Chapter four incorporates a Bill of Rights setting out fundamental rights and freedoms • The rights and freedoms belong to each person and not granted by the State • Including civil and political rights (e.g., public participation, access to information, fair administrative action, etc.), socio-economic and cultural rights (water, food, health); and the right to a clean and healthy environment • Provides for a right to acquire and own land, and protection of that land from compulsory acquisition by the State except for a public purpose, or in the public interest and only then upon payment of just compensation in a prompt manner • Kenyan state has an obligation to respect, protect, fulfil and promote these rights • Independent constitutional commissions established under article 58 of Constitution to promote respect for human rights and develop a culture of human rights in the Republic
Principles of land management	<ul style="list-style-type: none"> • Stipulated in article 60 to ensure that land in Kenya is held, used and managed in a manner that is equitable, efficient, productive and sustainable • The principles include: equitable access to land; security of land rights; sustainable and productive management of land resources; transparent and cost effective administration of land; sound conservation and protection of ecologically sensitive areas; elimination of gender discrimination in law, customs and practices related to land and property in land; and encouragement of communities to settle land disputes through recognized local community initiatives consistent with this Constitution. • These principles are applicable to all categories of land – public (including public forests and national parks), private and community land
Classification of land	<ul style="list-style-type: none"> • Land in Kenya has been categorized as public land, private land and community land

Provision	Impact on REDD+ objectives to address drivers of degradation
Environmental obligations on the state and people	<ul style="list-style-type: none"> Article 69(1) stipulates key obligations on Kenyan State in order to ensure protection, respect and fulfilment of the human right to a clean and healthy environment. These include : <ul style="list-style-type: none"> ensure sustainable exploitation, utilization, management and conservation of the environment and natural resources, and ensure the equitable sharing of the accruing benefits work to achieve and maintain a tree cover of at least ten per cent of the land area of Kenya protect and enhance intellectual property in, and indigenous knowledge of, biodiversity and the genetic encourage public participation in the management protection and conservation of the environment protect genetic resources and biological diversity establish systems of environmental impact assessment, environmental audit and monitoring of the environment eliminate processes and activities that are likely to endanger the environment; and utilization the environment and natural resources for the benefit of the people of Kenya. Key to note the obligations include increase national tree cover to a minimum of 10% - which is a key strategy for addressing drivers of deforestation and forest degradation on forests and other land uses. It also includes the obligation to undertake environmental assessments and audits to identify and manage harmful environmental practices and impacts Article 69(2) imposes a duty on each person to cooperate amongst themselves and with the state to ensure there is ecologically sustainable development and use of natural resources.
Right of access to court on environmental matters	<ul style="list-style-type: none"> In addition to the general right to approach court to enforce any of the human rights, a specific right is granted under article 70 to approach court to enforce a breach, or a threatened breach of the right to a clean environment A person making such an application does not have to demonstrate that any person has incurred loss or suffered injury.
Devolved government	<ul style="list-style-type: none"> Constitution provides for two levels of government: one national government, and 47 country government The mandates of each level of government are specified in the Fourth Schedule Specifically, the national government is responsible for protection of the environment and natural resources with a view to establishing a durable and sustainable system of development Counties are responsible for implementation of specific national government policies on natural resources and environmental conservation, including soil and water conservation, and forestry Importantly, REDD+ actions will traverse sectors that are traditionally drivers of deforestation such as agriculture and urban development - which are mandates of either level of government, hence collaborative action remains key. The strategic outcomes set out by the REDD+ strategy is to be implemented by each level of government according to their mandates, and/or in collaboration

Provision	Impact on REDD+ objectives to address drivers of degradation
Independent judiciary	<ul style="list-style-type: none"> Constitution guarantees an independent judiciary with courts from magistrate's courts, high court, court of appeal and supreme court Tribunals with mandate to resolve disputes from decisions of public agencies (e.g., National Environment Tribunal) are set up by different laws, with appeal lying in the Environment and Land Court
Independent constitutional commissions and offices	<ul style="list-style-type: none"> Chapter fifteen provides for independent constitutional commissions and independent offices. They are independent and not subject to the control of any person or office Several of these commissions have mandates relevant to REDD+ actions: <ul style="list-style-type: none"> Kenya National Commission on Human Rights - responsible for protection of all human rights National Gender and Equality Commission - responsible for gender and equality National Land Commission - has mandate concerning public land, and land policy. Ethics and Anti-Corruption Commission - has mandate with respect to integrity and enforcement against corruption. Commission on Administrative Justice - Kenya's independent Ombudsman.

4.2 Environmental management

Kenya has enacted the Environmental Management and Coordination Act (EMCA) to implement the constitutional provisions guaranteeing human right to a clean and healthy environment and requiring establishment of systems for environment. Below is a succinct appraisal of EMCA provisions that can enhance Kenya's ability to govern and promote REDD+ objectives:

EMCA provision	Relevance to REDD+ interventions
Requirement for Strategic Environmental Assessments (SEA)	<ul style="list-style-type: none"> S. 57A requires SEA to be undertaken for all policies, programmes and plans prepared by public authorities, and/or determined by NEMA as likely to have significant effects on environment The REDD+ National Strategy meets the definition of a plan in this sense and has been subjected to a SESA
Provision for Environmental Impact Assessment and Audits	<ul style="list-style-type: none"> Provision for EIA to be undertaken for all projects falling within scope of Second Schedule to EMCA. This aims at identifying social and environmental impacts and putting in place mitigation measures An Environmental Management Plan (EMP) is mandatory to accompany the EIA licence Courts have determined that EIA is mandatory in Kenya, and other licences lack validity if EIA licence is not obtained Environmental Audits mandatory annually for each project operating under an EIA licence, to check for compliance. A control audit can be undertaken by NEMA for high-risk projects, or upon public complaints EIA regulations (2003) put in place to guide the procedure for undertaking
NEMA oversight over lead agencies	<ul style="list-style-type: none"> NEMA (s. 12) has oversight authority over environmental lead agencies (including Kenya Forest Service, counties, etc) and can direct them how to undertake their mandate properly or take over the mandate effectively then surcharge the relevant public agency

EMCA provision	Relevance to REDD+ interventions
National Environment Tribunal (NET)	<ul style="list-style-type: none"> EMCA establishes NET with mandate to determine disputes from decisions of NEMA. The NET also has mandate under Forest Conservation and Management Act to determine disputes from decisions under that law.

4.3 Forestry conservation and management

The Forest Conservation and Management Act (FCMA) was enacted in 2016 to implement obligations for sustainable forest management under article 69 of the Constitution.

Below is a succinct appraisal of its provisions that can enhance Kenya's ability to govern and promote REDD+ objectives:

EMCA provision	Relevance to REDD+ interventions
Establishment of Kenya Forest Service	Created with a mandate to manage all public forests in Kenya
Categorization of forests	Categorized as public forests, private forests, and community forests
Community participation	Makes provision for forest adjacent communities to register community forest associations and make application to participate (through user rights and benefits) in management of public forests.
Management planning	Requires mandatory management planning of all public forests. This is the mode of land use planning applied for all protected public forests in Kenya.
Offences	Makes provision for offences where prohibited actions are undertaken inside forests. Offences include forfeiture of illegally obtained forest produce, private property and custodial sentence.
Disciplined service	Makes provision for designation of a specific cadre of the staff of the service to be a uniformed and disciplined force who then receive requisite paramilitary and skill at arms training.
Licensing for trade in forest products	<ul style="list-style-type: none"> Governs licensing for trade in timber products. These include permits; timber licence; special use licence; contracts; joint management agreement or concession agreements Requires establishment of chain-of-custody system for the verification of the origin of forest products from public, community and private forests and the compliance of license holders Requires development of regulations for the grading and valuation of timber and other forest products
Incentives and benefits sharing	Requires investors in forests to share the benefits of their investment with local communities by applying various options including but not limited to infrastructure, education, employment and social amenities and in accordance with rules made under this act or other relevant laws.

EMCA provision	Relevance to REDD+ interventions
Fiscal incentives	Permits provision of tax and other fiscal incentives to increase investments in forest land use and forest resource utilization in order to promote forest conservation and management, and to prevent or abate forest degradation.

4.4 Climate Change

Kenya's Climate Change Act (No. 11 of 2016) was enacted in 2016 and contains important provisions to aid Kenya in the pathway towards a low-carbon climate resilient development. These have a direct bearing on REDD+ interventions and objectives.

Provision	Relevance to REDD+ interventions
Climate Change Council	<ul style="list-style-type: none"> Establishes high level Climate Change Council chaired by the President to provide oversight, and approve National Climate Change Council decisions Industry, civil society, marginalized communities, academia and devolved governments represented on the Council
National Climate Change Action Plan (NCCAP)	<ul style="list-style-type: none"> Makes provision for development of a five-year NCCAP to identify key climate actions that should be mainstreamed across different sectors of the economy at all levels of government NCCAP is also means for implementation of the Nationally Determined Contribution (NDC) locally.
Mainstreaming mandate	<ul style="list-style-type: none"> Provides that main mechanism for implementing climate action is through mainstreaming of climate change considerations in different sectors/levels of government from planning, budgeting and implementation Requires national government agencies to undertake mainstreaming including establishment of climate change units for coordination, and report through the Council to parliament Requires counties to undertake mainstreaming by integrating NCCAP into their County Integrated Development Plans, and report to County Assemblies
Climate Change duties	<ul style="list-style-type: none"> Empowers Climate Change Council to identify and impose climate change duties on any public or private entities in Kenya Empowers NEMA to supervise and enforce compliance with such duties
Incentives for promotion GHG emissions mitigation	<ul style="list-style-type: none"> Makes provision for granting of incentives for entities taking actions to <ul style="list-style-type: none"> encourage and put in place measures for the elimination of climate change including reduction of greenhouse emissions and use of renewable energy put in place measures to mitigate against the adverse effects of climate change are involved in the conduct of accredited training in programmes that are aimed at eliminating climate change <p>such incentives may be necessary for climate change mitigation, and more specifically REDD+. s.</p>

Provision	Relevance to REDD+ interventions
Climate Change Fund	Makes provision for a Climate Change Fund to finance priority climate change actions and interventions approved by the Council
Right of access to court	<ul style="list-style-type: none"> Permits any person to apply to the Environment and Land Court alleging that a person has acted in a manner that has or is likely to adversely affect efforts towards mitigation and adaptation to the effects of climate change. The Court may make an order or give directions that it considers appropriate to: <ul style="list-style-type: none"> (a) prevent, stop or discontinue an act or omission that is harmful to the environment (b) compel a public officer to take measures to prevent or discontinue an act or omission that is harmful to the environment; or (c) provide compensation to a victim of a violation relating to climate change duties. The applicant does not have to demonstrate that a person has incurred loss or suffered injury
Provision for meaningful public participation	<ul style="list-style-type: none"> Makes it mandatory for public entities at each level of government, at all times when developing strategies, laws and policies relating to climate change, to undertake public awareness and conduct public consultations Requires that these public consultations must be undertaken in a manner that ensures the public contribution makes an impact on the threshold of decision making Requires the making of regulations on design and procedure to ensure efficacy of public consultations to ensure that they make an impact on the threshold of decision making on climate change at all levels of government
Requirement for a gender responsive public engagement strategy	<p>Requires the Cabinet Secretary to formulate, and the council to approve a national gender and intergenerational responsive public education and awareness strategy on climate change and implementation programme.</p> <p>This is important to ensure that REDD+ actions and other climate change interventions are gender inclusive</p>

4.5 Physical and land use planning

Article 66(1) of the Constitution empowers the State to regulate the use of any land for various purposes including land use planning. In accordance with article 10 (values and principles) and article 60 (principles of land management), land use planning should integrate sustainable development considerations, public participation and ensure social inclusion among other considerations. Physical and land use planning will be an important element of governance for efficacy of REDD+ actions because it provides the mandates and functions that can assign land uses outside protected forests and national parks for REDD+ actions. Kenya's physical and land use planning governance framework is described below, with the Physical and Land Use Planning Act (PLUP) as the primary law, informed by Sessional Paper No. 1 of 2017 on National Land Use Policy:

Provision	Relevance to REDD+ interventions
National spatial planning	Macro-level planning for socio-economic and environmental activities based on land use zones. Kenya has a National Spatial Plan developed for the 2015-2045 period. This should be assessed for purposes of aligning REDD+ actions.
County spatial planning	<ul style="list-style-type: none"> County Governments Act (2012) requires each county government to develop a spatial plan to accompany each County Integrated Development Plan (CIDP). Lamu, Makueni (etc.) are amongst counties that have published county spatial plans that assign development activities in terms of zones and balance Council of Governors adopted spatial planning guidelines in 2018
Physical planning	<ul style="list-style-type: none"> Physical planning is defined as the active process of organizing the physical infrastructure and its functions to ensure orderly and effective siting or location of land uses, and it encompasses deliberate determination of spatial plans with an aim of achieving the optimum level of land utilization in a sustainable manner PLUP provides for national and county physical planning <ul style="list-style-type: none"> National physical and land use planning: national physical plan, undertaken by Director General of Land use and physical planning. Inter-county physical and land use planning. County physical and land use planning. Local level (within a county) physical and land use planning Special areas planning Provision is made for county powers concerning development control, include development approvals, change of user approvals etc. Physical and land use planning, and development permitting is important as it determined which activities can be undertaken on which land. Further, when this is undertaken without coordination with (adjacent forest or national park) land, this could result in deleterious actions.

4.6 Land sector

Kenya has an extensive land sector legal and governance framework. This includes Sessional Paper No. 3 of 2009 on National Land Policy which preceded the Constitution and laid the basis for extensive land governance reforms. Several laws regulate the land sector and they are reviewed below:

Land sector law	Impact on REDD+ actions
Land Act, 2012	<ul style="list-style-type: none"> Makes provision for governance of public land including manner and basis for allocation of public land Provides procedure to be followed during compulsory acquisition of private or community land. Defines what amounts to a public purpose during compulsory acquisition of private land; and governs the procedure Amended in 2019 to permit State to occupy compulsorily acquired land for up to a year before payment of compensation putting at risk definition of prompt payment Also amended to put in place a Tribunal to determine disputes on land acquisition from the National Land Commission. Tribunal has not constitutional independence like the NLC Provides for ownership and transactions in private land in Kenya

Land Registration Act, 2012	<ul style="list-style-type: none"> • Makes provision for registration of land rights and transactions in private and community land in Kenya
National Land Commission Act, 2012	<ul style="list-style-type: none"> • Provides for the composition and operations of the National Land Commission • Section 15 empowers the Commission to receive and determine historical land injustice claims submitted by various indigenous and local communities across Kenya. Statutory period for submission of claims expired on 21 September 2021
Community Land Act, 2016	<ul style="list-style-type: none"> • Provides for registration of communities as legal entities on basis of ancestral heritage or community of interest • Provides for registration of community land rights • Establishes community land committee elected to manage community land interests • Guarantees gender equality, including in membership and decision making • Provides that all investor agreements should be preceded by Free Prior informed consent, including environmental and social assessments • Gives community power to undertake land use planning including with assistance of county government

4.7 Wildlife conservation and management

The Wildlife Conservation and Management Act governs all wild flora and fauna in the country. It includes protection of wildlife, whether on protected areas (national parks, reserves, etc.) or on private or community land. It provides for establishment and management of protected areas (parks, reserves, marine protected area, conservancy or sanctuary). The Kenya Wildlife Service is responsible for the conservation of wildlife and management of national and marine parks, including management planning. Conservancies are important to REDD+ actions because they include conservation of land for wildlife use outside protected areas, thereby providing incentives and benefits to keep land uses compatible with reducing drivers of deforestation and forest degradation. Establishment of wildlife corridors have a similar benefit, but it is important that land tenure rights of communities and other landowners are respected.

4.8 Agriculture and crops

The Agriculture and Food Authority Act provides for various legal tools that can be deployed for sustainable land management in the agriculture sector. These include:

1. Land development guidelines.

To be implemented by county governments, they are set up by the Cabinet Secretary for Agriculture in consultation with the NLC and on advice by the Agriculture and Food Authority (AFA), and may require the adoption of such system of management or farming practice or other system in relation to land in question (including the execution of such work and the placing of such things in, on or over the land, from time to time) as may be necessary for the proper development of land for agricultural purposes.

2. Rules on preservation, utilization and development of agricultural land.

The Cabinet Secretary for Agriculture in consultation with the NLC and on advice by the Agriculture and Food Authority (AFA) may make general rules for the preservation, utilization and development of agricultural land in Kenya, including on:

- (a) prescribe the manner in which owners (whether or not also occupiers) shall manage their land in accordance with rules of good estate management

- (b) prescribe the manner in which occupiers shall farm their land in accordance with the rules of good husbandry

- (c) advise on the control or prohibition of the cultivation of land or the keeping of stock or any particular kind of stock

3. Land preservation guidelines.

The Cabinet Secretary for Agriculture, on the advice of the Authority, and in consultation with the National Land Commission, for the purposes of the conservation of the soil, or the prevention of the adverse effects of soil erosion on any land, may prescribe national guidelines for any or all of the following matters:

- (a) prohibiting, regulating or controlling the undertaking of any agricultural activity including the firing, clearing or destruction of vegetation when such prohibiting, regulating or controlling is deemed by the Cabinet Secretary to be necessary for the protection of land against degradation, the protection of water catchment areas or otherwise, for the preservation of the soil and its fertility

- (b) requiring, regulating or controlling

- (i) the afforestation or re-afforestation of land

- (ii) the drainage of land, including the construction, maintenance or repair of drains, gullies, contour banks, terraces and diversion ditches

- (iii) salination, acidification and saltification of soil

- ((c) requiring the uprooting or destruction, without payment of any compensation therefore, of any vegetation which has been planted in contravention of a land preservation order

- (d) requiring the supervision of unoccupied land

- (e) prohibiting, restricting or controlling the use of land for any agricultural purpose excluding livestock

Where REDD+ interventions are being undertaken on agricultural land, analysis should be carried out to determine whether any of these legal measures are in operation, and how they impact drivers of deforestation and forest degradation.

Kenya has enacted a Crops Act (2013) for promoting the development and farming of various crops. Important to this are scheduled crops, which refers to certain food and cash crops determined as important value chains in the national agricultural sector and therefore mechanisms are in place to promote their development. The current 2019-2029 Agriculture Transformation and Growth Strategy (ASTGS) has identified 13 crop value chain that can be developed for smallholder farmer production in order to increase value chains. In this case, implementation of the mechanisms under the Crops Act to support scheduled crops, and the incentives proposed by the ASTGS should be screened through the 2017-2026 Climate Smart Agriculture Strategy lens to ensure support to climate resilience and reduction of GHG emissions and that they are not drivers of deforestation and forest degradation

4.9 Review of institutional mandates

Below is a summary review of institutional mandates relevant to REDD+ actions in Kenya. These are also the institutions that may either (a) implement REDD+ actions and therefore be responsible for ensuring compliance with selected country safeguards, or (b) due to their specialized nature or independent mandates be proposed to verify whether implementing entities have complied with safeguards.

Institution	Mandate relevant to REDD+ actions
Ministry of Environment and Forestry	Assigned policy function by the President of Kenya concerning forestry, climate change and REDD+
NEMA	Principal government agencies on environmental matters; responsible for approving SESA, ESIA and Environmental Audits. Has oversight function over all environment lead agencies.
Kenya Forest Service	Has mandate to manage all public forests in Kenya; responsible for implementing community participation in management and benefits sharing in public forests.
Kenya Wildlife Service	Has mandate to protect and conserve all wildlife in Kenya and manage all national parks and marine protected areas in Kenya. Promote connectivity in wildlife conservation between protected areas and other land uses through establishment of corridors
Kenya Water Towers Agency	Established to co-ordinate and oversee the protection, rehabilitation, conservation, and sustainable management of water towers
Kenya Forestry Research Institute	Empowered under Forest Conservation and Management Act to develop research and development programmes to provide information and technologies for sustainable development of forestry and allied natural resources.
Kenya National Commission on Human Rights	<ul style="list-style-type: none"> Is an independent constitutional commission under the Constitution Has mandates that include to: <ul style="list-style-type: none"> promote respect for human rights and develop a culture of human rights promote the protection and observance of human rights in public and private institutions monitor, investigate and report on the observance of human rights in all spheres of life
National Gender and Equality Commission	<ul style="list-style-type: none"> Is an independent constitutional commission under the Constitution Has mandates that include to: <ul style="list-style-type: none"> promote gender equality and freedom from discrimination in accordance with Article 27 of the Constitution monitor, facilitate and advise on the integration of the principles of equality and freedom from discrimination in all national and county policies, laws, and administrative regulations in all public and private institutions

Institution	Mandate relevant to REDD+ actions
Commission on Administrative Justice	<ul style="list-style-type: none"> Is an independent constitutional commission under the Constitution Has mandates that include to: <ul style="list-style-type: none"> investigate any conduct in state affairs, or any act or omission in public administration by any State organ, State or public officer in National and County Governments that is alleged or suspected to be prejudicial or improper or is likely to result in any impropriety or prejudice investigate complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct within the public sector report to the National Assembly bi-annually on the complaints investigated under paragraphs (a) and (b), and the remedial action taken thereon inquire into allegations of maladministration, delay, administrative injustice, discourtesy, incompetence, misbehaviour, inefficiency or ineptitude within the public service facilitate the setting up of, and build complaint about, and handling capacity in the sectors of public service, public offices and state organs work with different public institutions to promote alternative dispute resolution methods in the resolution of complaints relating to public administration.
National Land Commission	<ul style="list-style-type: none"> Is an independent constitutional commission under the Constitution Has mandates that include to: <ul style="list-style-type: none"> ensure that all public lands are managed in the public interest admit and determine historical land injustices to encourage the application of traditional dispute resolution mechanisms in land conflicts monitor and have oversight responsibilities over land use planning throughout the country.

For the Safeguards Information System proposed for Kenya, a distribution of institutional mandates has been proposed based on the institutional analysis undertaken in this section.

4.10 Gap analysis

Based on the review above, a gap analysis has revealed the following:

- Kenya has a fairly robust mechanism for handling conflicts and grievances. In addition to the courts, there are tribunals (e.g., National Environmental Tribunal), or the National Environment Complaints Committee (NECC). The latter is empowered under EMCA to hear grievances from the public. The Ethics and Anti-Corruption commissions is empowered to handle grievances and whistleblowing relating to integrity and corruption, while the Commission on Administrative Justice is the national ombudsman to receive and deal with grievances relating to public administration. Its mandate includes determining grievances relating to access to information. All constitutional commissions have a mandate to undertake investigations and to monitor the human rights and freedoms under their purview
- The human rights framework in Kenya is robust and comprehensive and it is enforced by an independent judiciary

- c) The role of devolved governments in implementing REDD+ actions remain fundamental as they are charged with many functions that are central to addressing drivers of deforestation and forest degradation
- d) Benefits sharing arrangements for communities participating in management of public forests through CFAs should be enhanced beyond user rights where REDD+ actions and investments are concerned
- e) The Community Land Act has enabled application of Free Prior & Informed Consent ahead of any decisions regarding acceptance of investment agreements. However, the communities will require access to independent technical advice to present the pros and cons of the proposed investments
- f) Public participation in Kenya is mandatory. The Climate Change Act has set a higher threshold for ensuring there is meaningful public consultation. While Free Prior and Informed Consent is generally not required (except under Community Land Act) there is need for binding frameworks that defined the procedure and protections for indigenous peoples and local communities. Importantly, the circumstances under which FPIC is mandatory should be stipulated, as has been done under the Community Land Act. It should be necessary that IPLCs should also undertake FPIC to secure internal consensus and avoid elite capture of their agenda.

5 CLARIFYING THE CANCUN SAFEGUARDS IN ACCORDANCE WITH NATIONAL CIRCUMSTANCES.

Clarification of the Cancun Safeguards in accordance with national circumstances is a necessary step in order to determine how the rights and obligations under those safeguards can extend protections for REDD+ actions and PaMs within the Kenyan governance framework. In undertaking this task, the Country Approach has selected to interpret the Cancun Safeguards within the national governance framework in two distinct steps:

5.1 Step 1 – examination of the rights and obligations under the Cancun Safeguards in the context of the various global safeguards systems

This step entails an examination of the rights and obligations under the Cancun Safeguards in context of the various global safeguards systems.

The purpose of the step is to assess whether the rights and obligations under the Cancun Safeguards, and those under the global safeguard mechanisms are compatible for application within the Kenyan governance system. In order to achieve this, Tables 4.1.1 to 4.1.7 below set out the rights and obligation unbundled from the Cancun Safeguards and compares this to the most suitable global safeguard.

Tables 4.1.1 to 4.1.7 below demonstrate a tabular assessment whether the Cancun Safeguards are compatible with the other international safeguards applicable to REDD+ actions and PaMs that maybe implemented in Kenya:

5.1.1 Table 4.1.1 – Cancun Safeguard 1: Actions complement or are consistent with the objectives of national forest programmes and relevant

Right or Obligation under Cancun safeguard	Deriving rights or obligations from global safeguards (such as the World Bank's and UNDP SES)
<ul style="list-style-type: none"> Human right to a clean and healthy environment Obligation to mainstream sustainable forest/land management across land use sectors Mainstreaming climate change considerations in forestry, land use and national development programmes Obligation to put in place coherent governance arrangements Obligation to implement treaty provisions and decisions in line with Constitution 	<ul style="list-style-type: none"> Safeguard ecosystem services to protect human right to a healthy environment Screening actions for environmental and social risks, including climate impacts Active mainstreaming of climate change considerations (adaptation/mitigation) in forestry, land use and national development programmes Implementation of REDD+ obligations under ratified treaties Identify and assess the environmental and social impacts (including gender) and climate change vulnerability issues of Bank lending and grant financed operations in their area of influence Avoid or if not possible minimize, mitigate and compensate for adverse impacts on the environment and on affected communities Ensure that affected communities have timely access to information in suitable forms about Bank operations and are consulted meaningfully about issues that may affect them Identify funding proposal's environmental and social risks and impacts Adopt mitigation hierarchy: anticipate, avoid; minimize; compensate or offset Improve performance through an environmental and social management system Protection and conservation of biodiversity Integration of conservation needs and development priorities Projects and programs prior screening to identify Environmental and Social Risks and potential Impacts Projects and programs are classified based on the level and magnitude of potential risks and impacts Projects and programs are assessed, designed and implemented consistent with the mitigation hierarchy, ensuring that any Environmental and Social Risks are addressed accordingly Screening short- and long-term risks posed by climate change and other natural hazards and integrating measures into project or programme Disadvantaged or Vulnerable Groups or Individuals that are or may be affected by a project or program are identified during project screening and differentiated mitigation measures incorporated; and protection to ensure they do not face discrimination or prejudice in accessing benefits and resources. Special needed addressed in any Environmental and Social Management Plan, or equivalent Disability inclusion Screening and action on adverse Gender-Related Impacts, Including Gender-Based Violence and Sexual Exploitation and Abuse Submit a list of all national and local laws and regulations in the host country that are relevant to the project activities. Provide assurance that the project is complying with these and, where relevant, demonstrate how compliance is achieved.

Table 4.1.2 – Cancun Safeguard 2 – Transparent and effective national forest governance structures, taking into account national legislation and sovereignty.

Right or Obligation under Cancun safeguard	Corresponding International Safeguard	Deriving rights or obligations from global safeguards
<ul style="list-style-type: none"> • Transparent, accountable and good forest governance • Access to information • Fair administrative action • Financial integrity • Reporting and oversight • Grievance redress mechanism • Effective reporting systems • Effective Monitoring framework • Effective Enforcement mechanisms 	Verified Carbon Standard	Disclose sufficient and appropriate GHG-related information to allow intended users to make decisions with reasonable confidence.

Table 4.1.3 – Cancun Safeguard 3: 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

Right or Obligation under Cancun safeguard	Example of corresponding international safeguard	Deriving rights or obligations from global safeguards
<ul style="list-style-type: none"> • Human rights to acquire and own land • Guaranteeing security of tenure for land rights held by indigenous peoples and local communities. • Resolution of historical land injustice claims • Implementing local community co-management agreements for forests with clear benefit sharing arrangements 	<p>CCBA</p> <p>G 5 (1-2) – Legal Status and Property Rights</p> <p>Respect for Rights to Lands, Territories and Resources and Free, Prior and Informed Consent</p>	<ul style="list-style-type: none"> • Describe and map statutory and customary tenure/use/access/management rights to lands, territories and resources in the project zone including individual and collective rights and including overlapping or conflicting rights • Describe measures needed and taken by the project to help to secure statutory rights • Demonstrate that all property rights are recognized, respected and supported
	Convention on Biological Diversity, article 8j	<p>Obligation for Kenya, within national legislation to:</p> <ul style="list-style-type: none"> • Respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity • Promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices • Encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices
	GCF interim performance standards	<ul style="list-style-type: none"> • Ensure full respect for indigenous peoples. • Sustainable and culturally appropriate development benefits and opportunities. • Free, prior and informed consent in certain circumstances.

Right or Obligation under Cancun safeguard	Corresponding International Safeguard	Deriving rights or obligations from global safeguards
	Climate, Community and Biodiversity (CCB) standards – G 3 – Stakeholder engagement	<p>Obligation to describe or explain:-</p> <ul style="list-style-type: none"> How full project documentation has been made accessible to communities and other stakeholders,, <ul style="list-style-type: none"> how summary project documentation (including how to access full documentation) has been actively disseminated to communities in relevant local or regional languages and how widely publicized information meetings have been held with communities and other stakeholders. How relevant and adequate information about potential costs, risks and benefits to communities has been provided to them in a form they understand and in a timely manner prior to any decision they may be asked to make with respect to participation in the project The measures taken, and communications methods used to <ul style="list-style-type: none"> explain to communities and other stakeholders the process for CCB validation and/or verification by an independent validation/verification body, providing them with timely information about the validation/ verification and facilitating direct and independent communication between them or their representatives and the validation/ verification body How communities including all the community groups and other stakeholders have influenced project design and implementation through effective consultation, particularly with a view to optimizing community and other stakeholder benefits, respecting local customs, values and institutions and maintaining high conservation values All consultations and participatory processes have been undertaken directly with communities and other stakeholders or through their legitimate representatives, ensuring adequate levels of information sharing with the members of the groups <p>The measures needed and taken to enable effective participation, as appropriate, of all communities, including all the community groups that want and need to be involved in project design, implementation, monitoring and evaluation throughout the project lifetime, and describe how they have been implemented in a culturally appropriate and gender sensitive manner.</p>
	Climate, Community and Biodiversity (CCB) standards – G 5 (2-3) - Legal Status and Property Rights Respect for Rights to Lands, Territories and Resources and Free, Prior and Informed Consent	<p>Obligation on project proponent to:</p> <ul style="list-style-type: none"> Demonstrate with documented consultations and agreements that: <ul style="list-style-type: none"> The project will not encroach uninvited on private property, community property, or government property The free, prior and informed consent has been obtained of those whose property rights are affected by the project through a transparent, agreed process Demonstrate that project activities do not lead to involuntary removal or relocation of property rights holders from their lands or territories and does not force them to relocate activities important to their culture or livelihood. <ul style="list-style-type: none"> If any relocation of habitation or activities is undertaken within the terms of an agreement, the project proponents must demonstrate that the agreement was made with the free, prior and informed consent of those concerned and includes provisions for just and fair compensation

5.1.5 **Table 4.1.5 – Cancun Safeguard 5: Actions are consistent with the conservation of natural forests and biological diversity, ensuring that the actions referred to in paragraph 70 of Decision 1/CP.16**

This requires that the actions:

- 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.

Right or Obligation under Cancun safeguard	Corresponding International Safeguard	Deriving rights or obligations from global safeguards
<ul style="list-style-type: none"> Protecting integrity of natural forests and biodiversity Avoiding conversion of natural forests Reversing plantation forests to natural forests Harmonizing forest management planning with land use planning of contiguous or adjacent non-forest land for compatible or complementary uses to minimize forest conversion, degradation or deforestation 	CCB B1- Biodiversity Without-Project Scenario	<ul style="list-style-type: none"> Protecting integrity of natural forests and biodiversity by pre-project biodiversity description and using appropriate methodologies on threats Describe how the without-project land use scenario would affect biodiversity conditions in the project zone Identify zones of high conservation value related to biodiversity and maintain or enhance identified HCVs Avoid conversion of natural forests Reversing plantation forests to natural forests Harmonizing forest management planning with land use planning of contiguous or adjacent non-forest land for compatible or complementary uses to minimize forest conversion, degradation or deforestation
	CCB CM2-Net positive community impacts	<ul style="list-style-type: none"> Assess the impacts on each of the identified community groups resulting from project activities under the without-project scenario The assessment of impacts must include changes in well-being due to project activities and an evaluation of the impacts by the affected community groups Describe measures needed and taken to mitigate any negative well-being impacts on community groups and for maintenance or enhancement of the high conservation value attributes consistent with the precautionary principle Demonstrate that the net well-being impacts of the project are positive for all identified community groups compared with their anticipated well-being conditions under the without-project land use scenario (described in CM1)
	CM3 – Other Stakeholder Impacts To ensure project activities at least 'do no harm' to the well-being of other stakeholders	<ul style="list-style-type: none"> Identify any potential positive and negative impacts that the project activities are likely to cause on the well-being of other stakeholders Describe the measures needed and taken to mitigate the negative well-being impacts on other stakeholders Demonstrate that the project activities do not result in net negative impacts on the well-being of other stakeholders
	World Bank ESS 6 Recognizes that protecting and conserving biodiversity and sustainably managing living natural resources are fundamental to sustainable development	<ul style="list-style-type: none"> Protect and conserve biodiversity and habitat Apply to mitigation hierarchy and the precautionary approach in the design and implementation of projects that could have an impact on biodiversity Promote the sustainable management of living natural resources Support livelihoods of local communities, including Indigenous Peoples, and inclusive economic development, through the adoption of practices that integrate conservation needs and development priorities

5.1.6 Table 4.1.6 – Cancun Safeguard 6: Actions to address the risks of reversals.

Right or Obligation under Cancun safeguard	Corresponding International Safeguard	Deriving rights or obligations from global safeguards
<ul style="list-style-type: none"> REDD+ actions and PaMs effectively address drivers of deforestation and forest degradation REDD+ actions and PaMs comply with environmental obligations and mainstream climate change actions 	<p>Verified Carbon Standard</p> <p>CCBA G1. Project Goals, Design and Long-Term Viability <i>Risk Management and Long-term Viability</i></p> <p>REDD+ SES Principle 3: The REDD+ program improves long-term livelihood security and well-being of Indigenous Peoples and local communities with special attention to women and the most marginalized and/or vulnerable people. Criteria 3.2 The REDD+ program is adapted based on assessment of predicted and actual impacts in order to mitigate negative, and enhance positive, impacts on Indigenous Peoples and local communities with special attention to women and the most marginalized and/or vulnerable people.</p>	<p>Vcus shall not be issued under the VCS Program for GHG emission reductions or removals that have not been verified.</p> <ul style="list-style-type: none"> Identify likely natural and human-induced risks to the expected climate, community and biodiversity benefits during the project lifetime and outline measures needed and taken to mitigate these risks. Describe the measures needed and taken to maintain and enhance the climate, community and biodiversity benefits beyond the project lifetime. <p>The REDD+ program is adapted in order to mitigate negative, and enhance and sustain positive, impacts on Indigenous Peoples and local communities.</p> <ul style="list-style-type: none"> Includes measures to address the risk of reversals that might lead to a reduction in the benefits achieved by the REDD+ program.

Right or Obligation under Cancun safeguard	Corresponding International Safeguard	Deriving rights or obligations from global safeguards
<ul style="list-style-type: none"> Nationwide harmonized approach to REDD+ actions and PaMs to avoid deleterious outcomes through displacement of GHG emissions from incoherence. Avoid involuntary displacement without full resettlement as it may create a driver of deforestation elsewhere. Participatory and harmonized land use planning between forests and other land uses. Alternative socio-economic opportunities to shift people from drivers of deforestation. 	<p>Verified Carbon Standards</p> <p>CCB standards</p> <p>CL3. Offsite Climate Impacts (Leakage) Increased GHG emissions that occur beyond the project area caused by project activities (leakage) are assessed and mitigated and accounted for in the demonstration of net climate impacts.</p> <p>B3. Offsite Biodiversity Impacts Negative impacts on biodiversity outside the project zone resulting from project activities are evaluated and mitigated.</p>	<ul style="list-style-type: none"> Accounting for AFOLU Buffer credits to be cancelled to cover carbon known, or believed, to be lost Quantification of GHG emissions reductions shall include assessment for market, activity shifting, and ecological leakages based on the provided methodology. Leakage occurring outside the host country (international leakage) does not need to be quantified Specific carbon pools and GHG sources, including carbon pools and GHG sources that cause project and leakage emissions, may be deemed de minimis and do not have to be accounted for if together they omitted decrease in carbon stocks (in carbon pools) or increase in GHG emissions (from GHG sources) amounts to less than 5% of the total GHG benefit generated by the project The adopted methodology shall establish the criteria and procedures by which a pool or GHG source may be determined to be <i>de minimis</i> Determine the types of leakage² that are expected and estimate offsite increases in GHG emissions due to project activities using an approved or defensible methodological approach. Where relevant, define and justify where leakage is most likely to take place. Describe the measures taken to mitigate leakage. Non-CO2 emissions must be included if they are likely to account for more than 20% of the total leakage emissions (in terms of CO2-equivalent) following the procedures for including or excluding non-CO2 emissions.³
	<p>CW3 – Other Stakeholder impacts To ensure project activities at least 'do no harm' to the well-being of other stakeholders</p> <p>World Bank ESS 5 land acquisition, restrictions on land use and involuntary resettlement</p> <p>ESS5 recognizes that project-related land acquisition and restrictions on land use can have adverse impacts on communities and persons</p>	<ul style="list-style-type: none"> Identify any potential positive and negative impacts that the project activities are likely to cause on the well-being of other stakeholders Describe the measures needed and taken to mitigate the negative well-being impacts on other stakeholders Demonstrate that the project activities do not result in net negative impacts on the well-being of other stakeholders Avoid involuntary resettlement or, when unavoidable, minimize involuntary resettlement by exploring project design alternatives Avoidance of forced evictions Mitigate unavoidable adverse social and economic impacts from land acquisition or restrictions on land use by: (a) providing timely compensation for loss of assets at replacement cost and (b) assisting displaced persons in their efforts to improve, or at least restore, their livelihoods and living standards, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher Conceive and execute resettlement activities as sustainable development programs, providing sufficient investment resources to enable displaced persons to benefit directly from the project, as the nature of the project may warrant Ensure that resettlement activities are planned and implemented with appropriate disclosure of information, meaningful consultation, and the informed participation of those affected

2. Categories of emissions leakage:

- Market leakage occurs when projects significantly reduce the production of a commodity causing a change in the supply and market demand equilibrium that results in a shift of production elsewhere to make up for the lost supply.
 - Activity-shifting leakage occurs when the actual agent of deforestation and/or forest or wetland degradation moves to an area outside of the project boundary and continues its deforestation or degradation activities elsewhere.
 - Ecological leakage occurs in WRC projects where a project activity causes changes in GHG emissions or fluxes of GHG emissions from ecosystems that are hydrologically connected to the project area.
3. The GHG emissions estimate must include non CO2 emissions such as CH4 and N2O (in terms of CO2-equivalent⁸⁰) and GHG emissions from sources⁸¹ such as biomass burning, fossil fuel combustion, use of synthetic fertilizers and the decomposition of N-fixing species, etc., if those GHG emissions sources are cumulatively likely to account for more than 20% of the project's expected total GHG emissions in the with-project scenario. **GHG sources may be excluded from this estimate where cumulatively emissions from those sources are less than 20% of the project's expected total GHG emission in the with-project scenario.** To determine which sources may be excluded, sources are ranked in order of their relative contribution to the total GHG emissions in the with-project scenario, starting with the lowest source and added until the total cumulative level of 20% is reached (i.e., GHG sources with the lowest cumulative contribution up to 20% may be excluded from the estimate). The threshold of 20% has been adopted as a reasonable limit for demonstration of net climate benefits so that it is not necessary to measure emissions sources if cumulatively they are clearly lower than this level.

5.1.8 Conclusion on comparison of rights and obligations between Cancun safeguards and applicable national and project-level REDD+ safeguards

In the end, a set of rights and obligations seen as deriving from the Cancun Safeguards and the reviewed international safeguard(s) is set out in the far-right column of each table. This deriving set of rights and obligations (drawn collectively from Cancun Safeguards and other global standards) will subsequently be applied against the obligations from the Kenyan Policy, Law and Regulatory (PLR) framework in step 2. This aimed to answer the question whether, from this analysis, common obligations can be framed to enable Kenya to track and report how REDD+ actions and PaMs are complying with the multiple safeguards, regardless of the type and source of financing.

5.2 Step 2: Interpreting the Cancun and applicable global REDD+ Safeguards under Kenyan PLRs

This is the second step of interpreting the Cancun Safeguards and applicable global REDD+ safeguards. The adopted methodology seeks to assess whether the common obligations derived from section 4.1 above can be implemented within the Kenyan governance system of policies, laws and regulations. The analysis applies the following considerations:

- The rights and obligations under each Cancun Safeguard are applied against those drawn from the Kenyan PLR framework.
- The common obligations drawn from assessment of Cancun Safeguards and other global safeguards in Section 4.1 are used to frame the protection interventions that can be applied in Kenya to expand scope of REDD+ safeguards system. These are matched carefully against the respective obligations under Kenya PLR.
- Institutions with relevant mandates that can implement the protection interventions are also set out.

Tables 4.2.1 to 4.2.7 demonstrate how the interpretation of Cancun and global safeguard rights and obligations to Kenyan PLRs has been carried out.

5.2.1

Table 4.2.1 – Cancun Safeguard 1: Actions complement or are consistent with the objectives of national forest programmes and relevant international conventions and agreements.

Rights or obligations under Kenyan PLR	Potential Safeguard protection interventions incorporating those from other global safeguards	Potential institutional mandates to implement
<ul style="list-style-type: none"> Guaranteed under the Constitution Obligation to work to achieve and maintain a tree cover of at least ten per cent of the land area of Kenya. A national strategy in place to achieve this by 2022 SESA, ESIA and Environmental Audits required under EMCA, founded on the Constitution SESA and ESIA are important safeguards to prevent development activities (e.g., under Vision 2030, etc.) from becoming drivers of deforestation and forest degradation 	<ul style="list-style-type: none"> REDD+ actions and PaMs will protect ecosystem services in order to fulfil, protect and respect the human right to a clean and healthy environment REDD+ actions and PaMs will undergo SESA, ESIA as appropriate, and be monitored through environmental audits REDD+ actions and PaMs will support the national strategy to achieve and maintain a tree cover of at least 10% of the national land area 	<ul style="list-style-type: none"> KNCHR NLC NEMA MoEF KFS KWS
<ul style="list-style-type: none"> Compliance with national laws and policies on land tenure, and forestry 	<ul style="list-style-type: none"> Human right to acquire and own land in Kenya. Demarcation and registration of community land Public forests are protected areas Registration will provide security of tenure to communities. Protected forests are available for community participation through PFM 	<ul style="list-style-type: none"> KNCHR NLC MoEF KFS KWS
<ul style="list-style-type: none"> Mainstreaming climate change considerations in forestry, land use and national development programmes 	<ul style="list-style-type: none"> It is mandatory to mainstream climate change considerations across all sectors at the national, and county government 2018–2022 NCCAP sets out priority mainstreaming requirements Climate Smart Agriculture Strategy is one such illustration County Integrated Development Plans 	<ul style="list-style-type: none"> MoEF Climate Change Directorate Ministries/State Departments State Corporations County governments Parliament County Assemblies

Rights or obligations under Kenyan PLR	Potential Safeguard protection interventions incorporating those from other global safe-guards	Potential institutional mandates to implement
<ul style="list-style-type: none"> • Obligation to put in place coherent governance arrangements 	<ul style="list-style-type: none"> • Integrated forest governance system:: <ul style="list-style-type: none"> • Horizontal integration – National and County government mandates • Constitutional commissions • Vertical integration – <ul style="list-style-type: none"> • NLC>KFS>CFAs • NEMA>KFS • NLC>Counties • Governance system respecting devolution • Decentralization to the roles of forest-adjacent communities in access and benefits sharing. Latter requires more clarification 	<ul style="list-style-type: none"> • MoEF • NLC • NEMA • KFS • CFAs • Counties
Obligation to align with national forest programme	<p>Implementation of the National Forest Programme 2016-2030, which has the following objectives:</p> <ul style="list-style-type: none"> • Increase forest/tree cover and reverse forest degradation • Enhance forest-based economic, social and environmental benefits • Enhance capacity development, research and adoption of technologies • Increase investments in forest development • Integrate national values and principles of good governance in forest development 	<ul style="list-style-type: none"> • MoEF • KFS • KWS • Counties • KEFRI • NEMA
<ul style="list-style-type: none"> • Obligation to implement treaty provisions and decisions in line with Constitution 	<ul style="list-style-type: none"> • Article 2(6) of the Constitution • Kenya required to implement all ratified treaties, and decisions made under those treaties (e.g., CoPs) <p>All treaties signed by Kenya required to be presented to Parliament for ratification</p>	<ul style="list-style-type: none"> • MoEF • Ministry of Foreign Affairs • Parliament

5.2.2 **Table 4.2.2 – Cancun Safeguard 2: Transparent and effective national forest governance structures, taking into account national legislation and sovereignty.**

Rights or Obligations under Cancun safe-guard	Rights or obligations under Kenyan PLR	Potential Safeguard protection interventions incorporating those from other global safeguards	Potential institutional mandates to implement
Transparent, accountable and good forest governance mechanisms	Transparency, accountability and good governance is mandatory under article 10 of the Constitution	The governance arrangements for REDD+ actions should be coherent and operate in a transparent and accountable manner	MoEF KFS Constitutional commissions
Gender equality Gender equity	<ul style="list-style-type: none"> • Gender equality required by the Constitution • Gender equity mandated in appointments to public bodies 	<ul style="list-style-type: none"> • REDD+ actions and PaMs should be gender responsive and embody gender equality and disaggregation • REDD+ decision making public bodies should embrace the principle that not less than two-thirds of members should belong to one gender 	National Gender Equality Commission Kenya National Commission on Human Rights KFS
Access to information	<ul style="list-style-type: none"> • Right of citizens to access information for citizens held by State • Right of access to information for citizens held by any other person if necessary to fulfil human rights • Obligation on State to disseminate information • Obligation for each public agency to appointment an access to information officer 	Adequate information about the REDD+ strategy, actions and PaMs should be publicly available, and in a clear understandable language.	Commission on Administrative Justice All State and public agencies

Rights or Obligations under Cancun safeguard	Rights or obligations under Kenyan PLR	Potential Safeguard protection interventions incorporating those from other global safeguards	Potential institutional mandates to implement
Fair administrative action	<ul style="list-style-type: none"> • Right of any person to fair administrative action • Entitlement to receive written reasons concerning a decision 	Public agencies undertaking REDD+ actions should ensure fair administrative action for stakeholders, and put in place adequate and accessible grievance redress mechanisms	All state and public agencies
Grievances redress mechanisms	<ul style="list-style-type: none"> • Constitutional commissions in place to receive complaints on violation of human rights, corruption; and can undertake investigations • National Environment Complaints Commission established as public ombudsman • National environmental tribunal established to adjudicate grievances from decisions made by KFS and NEMA • Independent judiciary in place • Alternative justice systems including mediation, conciliation, etc. 	REDD+ actions and PaMs should include or establish grievance redress mechanisms that are functional, accessible and capable of being impartial, fair and enforcing compliance of outcomes.	<p>Formal institutions – EACC, KNCHR, CAJ, NGEC, NET</p> <p>Informal and traditional mechanisms</p>

Rights or Obligations under Cancun safeguard	Rights or obligations under Kenyan PLR	Potential Safeguard protection interventions incorporating those from other global safeguards	Potential institutional mandates to implement
<ul style="list-style-type: none"> • Financial integrity 	<ul style="list-style-type: none"> • Role of independent offices of controller of budget and auditor general in regulating and auditing public expenditure (e.g., KFS) respectively • EACC set up to investigate and take appropriate action on corruption • Financial Reporting Centre created by the Proceeds of Crime and Anti-Money Laundering Act 2009 to assist in identification of the proceeds of crime and combat laundering of illegally obtained funds 	Institutional and legal mandates should be applied to ensure integrity in management and use of REDD+ finances with integrity, transparency and accountability	<p>Parliament</p> <p>National Treasury</p> <p>MoEF</p> <p>KFS</p> <p>State agencies</p> <p>Counties</p> <p>Auditor General</p> <p>Controller of Budget</p> <p>Financial Reporting Centre</p> <p>EACC</p>

Table 4.2.3 – Cancun Safeguard 3: 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

Rights or Obligations under Cancun safeguard	Rights or obligations under Kenyan PLR	Potential Safeguard protection interventions incorporating those from other global safeguards	Potential institutional mandates to implement
Guaranteeing security of tenure for land rights held by indigenous peoples and local communities	<ul style="list-style-type: none"> Inventory of all community land is undertaken Adjudication and registration of community land Resolution of historical land injustice claims by Indigenous peoples and local communities over lands currently held as public forests but classified as community land in the Constitution 	<ul style="list-style-type: none"> REDD+ actions and PaMs should support securing of community land rights through adjudication, registration and issuance of title deeds REDD+ actions and PaMs should support, enhance and hasten permanent resolutions of historical land injustice claims by indigenous peoples and local communities 	Ministry of Lands County governments NLC Investors
Respect for traditional knowledge and cultural heritage	Protection of traditional knowledge and cultural heritage	REDD+ actions and PaMs should support, respect and compensate for utilization of the traditional knowledge and cultural heritage of local communities is respected.	Indigenous peoples Local communities MoEF KFS
Implementing local community co-management agreements for forests with clear benefits sharing arrangements	<ul style="list-style-type: none"> Agreements with forest-adjacent communities permit their participation in public forest management Agreements should specify and clarify the rules on access and benefits sharing 	Agreements should be negotiated with local communities for access and benefits sharing for REDD+ actions on public forests.	MoEF KFS

Table 4.2.4 – Cancun Safeguard 4: The full and effective participation of relevant stakeholders, in particular indigenous peoples and local communities, in the actions referred to in paragraphs 70 and 72 of Decision 1/CP.16.

Rights or Obligations under Cancun safeguard	Rights or obligations under Kenyan PLR	Potential Safeguard protection interventions incorporating those from other global safeguards	Potential institutional mandates to implement
Right to meaningful stakeholders' participation Mechanisms for notification of actions and PaMs affecting Indigenous Peoples and local communities; the identification of those affected by the REDD+ interventions; and putting in place mechanisms for their meaningful participation	<ul style="list-style-type: none"> Constitution provides for mandatory public participation, which includes consultation during decision making. Climate Change Act (s.24) requires that: <ul style="list-style-type: none"> (1) Public entities at each level of government shall, at all times when developing strategies, laws and policies relating to climate change, undertake public awareness and conduct public consultations (2) Public consultations shall be undertaken in a manner that ensures the public contribution makes an impact on the threshold of decision making Courts have held that effective mechanisms of public consultations must be put in place: identification of those affected by the decision; setting out the manner for meaningful consultations; and facilitating meaningful participation. Also, compliance with the law is the minimum standard per the High Court 	<ul style="list-style-type: none"> Stakeholders should be given opportunity for meaningful contribution during decision making for REDD+ actions and PaMs Stakeholders affected by REDD+ actions and PaMs should be identified and consulted meaningfully Meaningful consultation of stakeholders for REDD+ actions and PaMs does not require concurrence, but feedback should be provided concerning how the inputs were taken into account. Mechanisms should be put in place to facilitate meaningful participation of indigenous peoples and local communities in consultations for REDD+ actions and PaMs 	All
	Free Prior and Informed Consent where appropriate.	Community Land Act requires FPIC and environmental and social assessment prior to signing of any investor agreements	<ul style="list-style-type: none"> The FPIC of indigenous peoples and local communities should be obtained for REDD+ actions affecting them including access and benefit sharing for projects on public forests Any REDD+ investment projects, or other actions on community land should be preceded by FPIC, and an environmental and social assessment

Rights or Obligations under Cancun safeguard	Rights or obligations under Kenyan PLR	Potential Safeguard protection interventions incorporating those from other global safe-guards	Potential institutional mandates to implement
<ul style="list-style-type: none"> Protecting integrity of natural forests and biodiversity Avoiding conversion of natural forests Reversing plantation forests to natural forests 	<p>Incentivizing large scale tree growing programs in private land</p> <p>Creating mechanisms for afforestation and tree growing on community lands to enhance cultural, environmental and biodiversity benefits and relieve pressure on forests</p> <p>Increasing afforestation and reforestation activities programmes in drylands</p> <p>Promotion agroforestry as a climate smart agriculture intervention</p> <p>Agricultural value chains should be promoted to provide more socio-economic benefits.</p>	<ul style="list-style-type: none"> Natural forests, and important biodiversity areas should be identified and protected REDD+ actions and PaMs should not result in net negative impacts on the well-being of stakeholders REDD+ actions and PaMs should be screened to identify any potential negative impacts (socio-economic, environmental) likely to affect the well-being of people (with mapping for vulnerability resulting from gender and social exclusion) and mitigation actions put in place There should be compatibility between agricultural value chains and REDD+ actions and PaMs REDD+ actions should promote and incentivize payment for ecosystem services as benefits REDD+ actions and PaMs should enhance forestry interventions that promote non-extractive socio-economic benefits 	<p>MoEF</p> <p>KFS</p> <p>CFA</p> <p>NEMA</p> <p>KEFRI</p> <p>County government</p>
<ul style="list-style-type: none"> Harmonizing forest management planning with land use planning of contiguous or adjacent non-forest land for compatible or complementary uses to minimize forest conversion, degradation or deforestation Uncoordinated land use planning and permitting of land use actions triggers drivers of deforestation e.g., from community or private land into a public forest. 	<ul style="list-style-type: none"> Preparation and utilization of management plans for public forests, and community forests Preparation of physical and land use plans for private and community land (some adjacent to forests) Development control actions over private, community and (non-protected) public land such as change of users permits and zoning Uncoordinated land use planning and permitting of land use actions triggers drivers of deforestation (e.g., from community or private land into a public forest) 	<ul style="list-style-type: none"> REDD+ actions and PaMs should support harmonization or coordination between forest management planning and physical planning of adjacent (non) forest land to avoid conversion of forest land REDD+ actions and PaMs should support development and implementation of management plans for forests established on community land 	<p>Director General of Physical and Land Use Planning</p> <p>County governments</p> <p>KFS</p> <p>KWS</p>

5.2.6 Table 4.2.6 –Cancun Safeguard 6: Actions to address the risks of reversals..

Rights or Obligations under Cancun safeguard	Rights or obligations under Kenyan PLR	Potential Safeguard protection interventions incorporating those from other global safeguards	Potential institutional mandates to implement
<ul style="list-style-type: none"> REDD+ actions and PaMs effectively address drivers of deforestation and forest degradation REDD+ actions and PaMs comply with environmental obligations; and mainstream climate change and NDC obligations. 	<ul style="list-style-type: none"> REDD+ National Strategy with strategic outcomes to address drivers of deforestation and forest degradation Principles of land management under the Constitution require sustainable land management Sustainable land management and good land husbandry required by the Agriculture and Food Authority Act <p>Sustainable forest management under FCMA</p> <p>Kenya has committed to achieve Land degradation neutrality (LDN) by the year 2030, and has given specific targets to avoid, minimize and reverse land degradation.</p>	<ul style="list-style-type: none"> REDD+ actions and PaMs effectively address drivers of deforestation and forest degradation REDD+ actions and PaMs should support interventions to attain LDN REDD+ actions and PaMs should support interventions for the realization of Kenya's specific commitments and targets to avoid, minimize and reverse land degradation Integrate measures to address the risk of reversals that might lead to a reduction in the benefits achieved by the REDD+ program GHG emission reductions or removals should be verified REDD+ actions and PaMs comply with environmental obligations and mainstream climate change and NDC obligations 	<ul style="list-style-type: none"> NLC MoEF Agencies initiating compulsory land acquisition

5.2.7 Table 4.2.7 - Cancun Safeguard 7: Actions to reduce displacement of emissions.

Rights or Obligations under Cancun safeguard	Rights or obligations under Kenyan PLR	Potential Safeguard protection interventions incorporating those from other global safeguards	Potential institutional mandates to implement
<ul style="list-style-type: none"> Nationwide harmonized approach to REDD+ actions and PaMs to avoid deleterious outcomes through displacement of GHG emissions from incoherence Avoid involuntary displacement without full resettlement as it may create a driver of deforestation elsewhere Participatory and harmonized land use planning between forests and other land uses Alternative socio-economic opportunities to shift people from drivers of deforestation 	<ul style="list-style-type: none"> Payment of just compensation in a prompt manner where involuntary displacement and resettlement results from compulsory acquisition of land. Problem with amendment of law to permit payment of compensation up to 12 months after government has taken possession 	<ul style="list-style-type: none"> REDD+ actions and PaMs should have internal coherence of objects and outcomes to avoid deleterious outcomes such as displacement of GHG emissions REDD+ actions and PaMs should avoid involuntary displacement without full resettlement and replacement of socio-economic and environmental benefits as it may create a driver of deforestation elsewhere REDD+ actions should avoid creating GHG emissions leakage of any form: international, market, activity shifting, ecological, and put in place mitigation measures REDD+ action and PaMs should support participatory and harmonized land use planning between forests and other adjacent land uses to avoid displacement REDD+ action and PaMs should support participatory and harmonized land use planning between forests and other adjacent land uses to avoid displacement REDD+ actions and PaMs should support alternative socio-economic activities to shift people from displacement of emissions 	<ul style="list-style-type: none"> NLC Agencies mainstreaming land degradation neutrality MoEF NEMA County government

5.3 Conclusion from interpretation of Cancun Safeguards and other global safeguards in context of Kenyan governance framework

The analysis in section 5.2 demonstrates the following important findings –

- The Kenyan PLR and governance system is adequately comprehensive to implement obligations deriving from Cancun Safeguards and other global safeguards. Implementation challenges, including overlaps or weak enforcement can be addressed through administrative action
- There are public institutions with mandates which are aligned with the potential REDD+ safeguard interventions deriving from clarification of the Cancun Safeguards and other global safeguards

6 ASSESSMENT OF ENVIRONMENT AND SOCIAL IMPACTS OF REDD+ STRATEGIC OPTIONS

6.1 Overview of Impacts of Implementing the Strategic Options

These impacts are summarised in **Tables 7-1** (environmental) and **7-2** (social). All of these impacts will be cumulative, many arising from several options. But it is not possible to provide a quantitative indication of their significance or extent.

Table 7-1. Summary of environmental impacts of implementing the strategic options for REDD+.

Positive	Negative impacts
Improved conservation of biodiversity & fragile ecosystems Improved ecosystem services More sustainable forest, natural resources, land & environmental management Reduced deforestation/Illegal logging Improved forest quality Increased tree planting Reduced biomass extraction / increased biomass Enhanced biodiversity Improved traditional forest management practises Reduced pollution (fertilizers, pesticides, household smoke/CO) Reduced methane emissions Alternative energy sources Improved soil fertility / productivity/water retention Reduced land degradation/restored degraded lands Reduced soil erosion, landslides, flooding Maintenance of watersheds/aquifers Enhanced scenic value/sense of place Decreased carbon emissions/increased carbon sequestration/maintain carbon stocks Removal of alien invasive species Reduced grazing pressure Creation of micro-habitats Reduced environmental risks/hazards/disasters (including fire)	Forest loss/degradation from improved access to forest Encroachment (intensification may lead to agricultural expansion); Providing agricultural inputs (e.g., leaf litter, organic mulch, fodder). Loss of forest and deforestation by promotion of energy efficiency Habitat loss and fragmentation/ biodiversity loss due to forest management practices Decline of biodiversity in compensatory plantation Habitat fragmentation by infrastructure development Slope destabilization, soil erosion, landslides due to agricultural intensification and infrastructure development Loss of ecosystem services Chemical pollution from agricultural intensification

Table 7-2. Summary of environmental impacts of implementing the strategic options for REDD+.

Positive	Negative
<u>Improved Rights and Access</u> <ul style="list-style-type: none"> Improved rights and access to land and forests Increased supply of, access to, & value of forest products Improved benefits-sharing Improved market access/surplus products for markets Better access to forest products/NFTP Improved livelihood and poverty reduction Investments in alternative livelihoods Improved livelihoods, income, economic opportunities, enterprise development Increased employment 	<u>Social Exclusion and Displacement</u> <ul style="list-style-type: none"> Exclusion of landless, poor & marginalised eviction, loss of land/property Social exclusion Exclusion/devaluation of women Exclusion/elimination of cultural / spiritual values & traditional practices Ignoring/displacing traditional/ indigenous knowledge Small farmers & local enterprises outcompeted, displaced
<u>Social Inclusion and Gender Empowerment</u> <ul style="list-style-type: none"> Increased voice for women Social inclusion/gender balance Reduced workload (drudgery for women) Gender friendly technologies introduced Reduced social gaps 	<u>Leading to Inequity</u> <ul style="list-style-type: none"> Inequity in benefits-sharing (loss of) Elite capture of resources, benefits and access, etc. Inequitable/loss of access to forest resources/ products Increased costs of transactions, labour, time Land grabbing
<u>Increased Participation, Knowledge and Ownership</u> <ul style="list-style-type: none"> Maintain strengthened cultural norms/services Increased knowledge/capacity for forest management Increased use of local, indigenous/ & traditional knowledge & practices Increased participation/ownership Environmental and social awareness Strengthened local organisations 	<u>Loss of Livelihood</u> <ul style="list-style-type: none"> Reduced food production Loss of /limited access to employment Loss of livelihoods, income, economic opportunities
<u>Enhanced Accountability</u> <ul style="list-style-type: none"> Reduced corruption/bribery Reduced conflict Reduced illegal activities 	<u>Loss of Authority/Autonomy and Induced Risk and Dependency</u> <ul style="list-style-type: none"> Loss of user/traditional rights, or access to forest products & resources Health risks Lack of awareness/information Not accessible to poor, marginalised groups Dependence on external inputs Monopolies setting prices (e.g., timber) Politicisation of community decisions
	<u>Social Conflict and Violence</u> <ul style="list-style-type: none"> Violence against women Human-wildlife conflict

Table 7-3. REDD+ Strategy Option 1: Scaling up afforestation, reforestation and landscape restoration programmes

Investment Areas	Social Benefits	Environmental Benefits
<ul style="list-style-type: none"> Incentivize tree growing investments on private land. Create mechanisms for afforestation in community lands to enhance cultural, environmental and biodiversity benefits Increase afforestation and reforestation activities through landscape restoration in drylands Promote PES systems including carbon by the private sector Improve productivity of agricultural, livestock and tree crop value chains 	<ul style="list-style-type: none"> Capacity building of local stakeholders for income generation Easy access to forest resources Improved local economy mainly because of forest-based enterprises, ecotourism, and integrated planning Smoke-free kitchens at the households using biogas and improved cookstoves Women may not need to spend hours collecting firewood once they start using biogas for cooking Money generated from reduced emissions from sources and enhanced removals by sinks will have a significant support for community development, focusing on forest-dependent people in particular Increased income and savings Increased knowledge and experience related to agroforestry Improved food security and nutritional status. Help diversification of income. Increased firewood supply. Enhance ecosystem service for local community forest product provision for local community. Enhanced communities access a number of non-timber forest products for household needs like grass Increasing local economic opportunities including where possible jobs for people from local communities and deliberate use of local services The fall in prices of forest products such as firewood and charcoal Supply for forestry products of lignum and fodder will increase Reduce time and energy required to access forest product Improve human settlements and quality of life Improved rights and access to land and forests Increased supply of, access to, & value of forest products Improved benefits-sharing Improved market access / surplus products for markets Better access to forest products/NFTP Improved livelihood and poverty reduction Investments in alternative livelihoods Improved livelihoods, income, economic opportunities, enterprise development Increased employment 	<ul style="list-style-type: none"> Sustainable management of forests Enhanced carbon sequestration Maintained ecosystem services Reduced deforestation and forest degradation Biodiversity conservation Promotion of natural regeneration Landscape restoration Protection of vulnerable species (flora and fauna) Maintained ecological integrity of the project area Improve biodiversity and forest quality Enhancement of ecosystems services (water availability and other erosion control) in a sustainable manner Reduce deforestation and forest degradation. Enhance sustainable forest development Create sustainable forest use Help to create healthy regeneration, forest boundary respected, enrichment plantings, open access regulated Re-appearance of wildlife Improved soil fertility and yields Reduce pressure on forest resource for fuel wood Soil conservation, erosion control and water conservation Trees planted in agricultural land will help as wind breaks Hold soil in place during and after harvest of farm crops. This allows for ground moisture levels to remain regular, reduces soil degradation and erosion Ensure the continuous recruitment of potential crop trees by protecting browsing & grazing in the existing forest Encourage regeneration of flora diversity Enhance biodiversity conservation Enhance carbon stock in the forest area Help maintenance of landscapes and scenic views Contribute reduced deforestation, forest degradation and carbon emissions Natural and ecological forest will be protected from destroying available, and the ecological environment will be improved and protect indirectly Increase the capacity of water conservation. Increase habitat of wildlife, form the biological corridor, be in favour of biodiversity protection Improvement in ecosystem services Increase forest resource coverage

Table 7-4. REDD+ Strategy Option 2: Enhance governance and policy implementation to prevent conversion of forests to other land uses

Investment Areas	Social Benefits	Environmental Benefits
<ul style="list-style-type: none"> Enhance protection of existing forest resources Support implementation of the national values and principles of good governance Enhance capacity of County Governments, private sector and Communities to implement the devolved forestry functions Review and harmonize policies, laws and institutions relating to forest management Support implementation of management plans for all forests 	<ul style="list-style-type: none"> Easy access to forest resources Good governance Equity in benefits sharing Inclusive decision making Streamline benefits sharing mechanism Reduction of corruption in REDD+ Enhanced capacity to conserve forests Create coherent vision that outlines a path towards sustainable forest management Facilitate policy harmonization and implementation Create legal framework among key stakeholder to reduce deforestation 	<ul style="list-style-type: none"> Sustainable management of forests Enhance carbon sequestration Maintain ecosystem services Reduced deforestation and forest degradation Promotion of natural regeneration Enhance landscape restoration Protection of vulnerable species (flora and fauna) Maintain ecological integrity of the project area Ensure the continuous recruitment of potential crop trees by protecting browsing and grazing in the existing forest Put restriction on expansion of farmland into forest. Enhance carbon sequestration/ maintain carbon stock Improve forest fire management Increase contributions of forests to watershed management, soil and water conservation and forest products utilized in other economic sectors such as health, food, and manufacturing and construction activities Encourage biodiversity conservation Enhance natural resource conservation and local community involvement on reduction of deforestation and forest degradation. Make sustainable and long-term land improvement and management practices forest land into other land use Make sustainable and long-term land improvement and management practices

Table 7-5. REDD+ Strategy Option 3: Increase productivity of public plantation forests

Investment Areas	Social Benefits	Environmental Benefits
<ul style="list-style-type: none"> Efficient and effective management of public forest plantations Support participation of non-state actors in public plantation programmes Enhance transparency in management including information sharing 	<ul style="list-style-type: none"> Capacity building of local stakeholders for income generation Easy access to forest resources Improve local economy mainly because of forest-based enterprises, ecotourism, and integrated planning Involvement of non-State actors in public plantation programmes Money generated from reduced emissions from sources and enhanced removals by sinks will have a significant support for community development, focusing on forest-dependent people in particular Increased income and savings Increased knowledge and experience related to agroforestry Improved food security and nutritional status Help diversification of income Increased firewood supply Enhance ecosystem service for local community forest product provision for local community Enhance communities access a number of non-timber forest products for household needs like grass Increasing local economic opportunities including where possible jobs for people from local communities and deliberate use of local services The fall in prices of forest products such as firewood and charcoal Supply for forestry products of lignum and fodder will increase Reduce time and energy required to access forest product Improve human settlements and quality of life Improve conservation of biodiversity & fragile ecosystems Improve ecosystem services More sustainable forest, natural resources, land & environmental management Reduce deforestation/illegal logging Improve forest quality Increase tree planting Reduce biomass extraction / increased biomass Enhance biodiversity Improve traditional forest management practises Reduced pollution (fertilizers, pesticides, household smoke/CO) Reduce methane emissions Alternative energy sources Improve soil fertility / productivity/water retention Reduce land degradation / restored degraded lands. Reduce soil erosion, landslides, flooding Maintenance of watersheds/aquifers Enhance scenic value/sense of place Decrease carbon emissions/increased carbon sequestration/maintain carbon stocks Removal of alien invasive species Reduce grazing pressure Creation of micro-habitats Reduce environmental risks/ hazards / disasters (including fire) 	<ul style="list-style-type: none"> Sustainable management of forests Enhanced carbon sequestration Maintained ecosystem services Reduced deforestation and forest degradation Enhance biodiversity conservation Promotion of natural regeneration Enhance landscape restoration Protection of vulnerable species (flora and fauna) Maintain ecological integrity of the project area Ensure the continuous recruitment of potential crop trees by protecting browsing and grazing in the existing forest Put restriction on expansion of farmland into forest Enhance carbon sequestration/ maintain carbon stock Improve forest fire management Increase contributions of forests to watershed management, soil and water conservation and forest products utilized in other economic sectors such as health, food, and manufacturing and construction activities Enhance natural resource conservation and local community involvement on reduction of deforestation and forest degradation Make sustainable and long-term land improvement and management practices forest land into other land use

Table 7-6. REDD+ Strategy Option 4: Enhance efficiency, effectiveness and skills throughout forest related value chains

Investment Areas	Social Benefits	Environmental Benefits
<ul style="list-style-type: none"> Promote cost-effective technologies to achieve high emission reductions at large scale Improve the forest resource value chain 	<ul style="list-style-type: none"> Improve local economy mainly because of forest-based enterprises, ecotourism, and integrated planning Smoke-free kitchens at the households using biogas and improved cookstoves Women may not need to spend hours collecting firewood once they start using biogas for cooking Money generated from reduced emissions from sources and enhanced removals by sinks will have a significant support for community development, focusing on forest-dependent people in particular 	<ul style="list-style-type: none"> Promote cost-effective technologies to achieve high emission reductions at large scale Improve the forest resource value chain Improve local economy mainly because of forest-based enterprises, ecotourism, and integrated planning Smoke-free kitchens at the households using biogas and improved cookstoves Women may not need to spend hours collecting firewood once they start using biogas for cooking Money generated from reduced emissions from sources and enhanced removals by sinks will have a significant support for community development, focusing on forest-dependent people in particular Sustainable management of forests Enhance carbon sequestration Maintain ecosystem services Reduce deforestation and forest degradation Enhance biodiversity conservation Promotion of natural regeneration Enhance landscape restoration Protection of vulnerable species (flora and fauna) Maintain ecological integrity of the project area Improve soil fertility and yields Reduce pressure on forest resource for fuel wood. Soil conservation, erosion control and water conservation Trees planted in agricultural land will help as wind breaks Hold soil in place during and after harvest of farm crops. This allows for ground moisture levels to remain regular, reduces soil degradation and erosion Ensure the continuous recruitment of potential crop trees by protecting browsing & grazing in the existing forest Encourage regeneration of flora diversity Enhance carbon stock in the forest area Help maintenance of landscapes and scenic views Contribute reduced deforestation, forest degradation and carbon emissions Protect the natural and ecological forest and improve the ecological environment Increase the capacity of water conservation Increase habitat of wildlife, form the biological corridor, be in favour of biodiversity protection Improvement in ecosystem services Increase forest resource coverage

Table 7- 7. REDD+ Strategy Option 5: Mobilise Finance for implementation of REDD+ in Kenya

Investment Areas	Social Benefits	Environmental Benefits
<ul style="list-style-type: none"> Strengthen national capacity for mobilization of local and international funds Establish a multi partner trust fund for forestry development Build capacity of local experts to certify and monitor REDD+ projects 		<ul style="list-style-type: none"> Sustainable management of forests Enhanced carbon sequestration Maintained ecosystem services Reduced deforestation and forest degradation Enhance biodiversity conservation Promotion of natural regeneration Enhance landscape restoration Protection of vulnerable species (flora and fauna) Maintain ecological integrity of the project area

6.2 Mitigation Measures for the Proposed REDD+ Strategic Options

Table 7.8. Strategic Option: Scaling up afforestation, reforestation and landscape restoration programmes

Strategic Option: Scaling up afforestation, reforestation and landscape restoration programmes	
Environmental Risk	Mitigation Measure
<ul style="list-style-type: none"> • Increase risk of land appropriation and conversion of natural forests • Limit availability of firewood • Extensive use of pesticides and chances of low-quality hybrid seeds • Promotion of productive activities can cause alteration of the ecosystem and damage to certain forest species of commercial interest • Displacement of emissions due to the potential prioritisation of productive activities to be implemented without considering local livelihoods of indigenous communities and local economy • Changes in species composition • Loss of biodiversity in harvesting sites • Increase water pollution • Risk of monoculture • Loss of species of cultural values • Loss of resilience to pest and pathogens. • Risk of encroachment in harvesting sites • Flooding • Loss of underground water level • Forest fires • Risks to unique habitats • Alteration of the ecosystem and threats to native biodiversity • Introduction of invasive alien tree species can replace valuable native species which are comparatively less aggressive • Loss of local biodiversity due to monocultures • Payments may transform demography of the area and result in depletion of natural resources • • • 	<ul style="list-style-type: none"> • Avail forest products and non-timber forest products which the community depends on the forest from other sources. • Share benefits to the community from the income accrued due to the protection of forest • Increase the awareness of the community through training and education • Allow community use of the resource without cutting the trees e.g., for ritual, cultural practices • Educate and train the community on the value of the forests • Empower indigenous grievance redress mechanisms • Share benefits from the wildlife hunting/ ecotourism so that community feels ownership over the resource • Use integrated crop pest management practice • Plant mixed species • Allow natural regeneration under the monoculture species so that the regenerated species overtake the plantation • Plant local/indigenous tree species

Social Risks	Mitigation Measure
<ul style="list-style-type: none"> • Right holders that include but is not limited to: vulnerable individuals within communities, tribal and/or forest-dependent community(ies) if existing land tenure legal deficiencies are not addressed successfully • Exacerbation of poverty if restoration, reforestation and afforestation policies/programmes continue with current system of land tenure in which an elite class of landowners owns vast holdings worked by tenant farmers, forest owners, right holders, customary users and labourers who live in persistent poverty • Exacerbation of limited land tenure rights of women if gender equality is not adequately promoted and guaranteed as a key element of the design and implementation of restoration, reforestation and afforestation policies/programme • Limitations for the effective participation or incidence of key actors, in particular, indigenous communities when defining and prioritising sustainable forest management practices and areas. • Lack of recognition of traditional knowledge of indigenous communities • Exclusion of indigenous communities • Risks to cultural and traditional practices of access and use of resources; safety hazards associated with harvesting operation; conflicts between communities and ER program authority; rights of indigenous peoples, women, and marginalized communities; property loss; risks to burial grounds and historic sites • Risks of elite capture • Risks of exclusion • Marginalization • Corruption • Human-wildlife conflicts • Limitation/exclusion of certain right holders that include but is not limited to: vulnerable individuals within communities, indigenous and/or forest-dependent community(ies) to access agroforestry (AF) programmes if they are deemed illegible due to existing land tenure legal deficiencies. • AF systems on farms that aimed to serve as alternative sources of fuelwood may not be accessible to the poor • Lack of balance between selected productive activities and traditional livelihoods that affect local economies and prioritize productive sectors • Limitation/exclusion of certain right holders to access PES if they are deemed illegible due to existing land tenure legal deficiencies • The PES scheme could create conditions of corruption if it is not accompanied by a strengthened and transparent governance structure • Social conflicts associated with weak and/or non-transparent internal governance structures regarding access to benefits of incentives • Exacerbated marginalization of women in PES, if they are deemed illegible due to existing land tenure legal deficiencies and lack of mandate for their inclusion • Inter and intra community conflicts over benefits sharing • Cultural and social negative impacts if not appropriately designed 	<ul style="list-style-type: none"> • Intensify productivity per unit area through improved inputs to limit expansion of agriculture land • Supply improved cooking and baking stoves to the community which depends on forest for energy source. • Ploughing system shift from traditional to low or no tillage • Use customary conflict redress mechanism • Enhance the benefit of the community from the enclosed area. • Allow communities to practice the ritual and religious practices in the forest as far as these do not affect the forest • Area enclosure should leave access routes for communities to move freely. If obstruction of access route is must, another reasonably convenient route must be arranged as per the key steps outlined in the complementary Process Framework • collect seed from local sources and raise them in community owned nursery • Compensate as per the complementary RPF provisions • Ensure benefit sharing from the reforestation/ afforestation through their active involvement in the activities • Adequate compensation in kind and other means by the government based on the legal framework and the RPF • Provide controlled access to rehabilitated areas • Allow the utilization of NTFP • Implement reforestation/ afforestation on land with no competing interest (e.g., previously forested land or marginalized land) with the community • Reforestation/ afforestation should leave access routes for communities to move freely • If obstruction of access route is must, another reasonably convenient route must be arranged as per the process and procedures outlined in the complementary Process framework • Do not plant fire prone tree species • Plant mixed species to minimize the risk of fire setting naturally or deliberately • Train the community on forest fire risk and forest fire management • Construction fire break line between the forest and the properties of the community • Get prepared suppressing the fires though availing fires suppressing tools and equipment • Plant with wider spacing to allow undergrowth so that erosion will be prevented or minimal • Empower women and youth to play the role • Encourage agriculture intensification by the use of compost than chemical fertilizer especially for smallholder farmers • Use integrated pest management system which proved best than single types of pest management practice • Give awareness creation on health and safety of agro-chemicals • Use of personal protective equipment whenever applying agro-chemicals • Offer continuous and sustained education & awareness creation on the appropriate use of chemicals • Government needs to subsidize any cost related to agricultural intensification to encourage the use of the same by community, especially small holder farmers • Educate and train community on the benefit of CSA

Table 7-9. Strategic Option: Enhance governance and policy implementation to prevent conversion of forests to other land uses

Strategic Option: Enhance governance and policy implementation to prevent conversion of forests to other land uses	
Environmental Risk	Mitigation Measure
<ul style="list-style-type: none"> Strengthening/resurgence of social conflicts associated with weak and/or non-transparent internal governance structures regarding access to benefits of incentives arising from restoration, reforestation and afforestation policies/programmes 	<ul style="list-style-type: none"> Enforce land use plan to come into force Implement effective law enforcement to deter land grabbing. Government should implement land use planning Synchronize traditional and modern land use system get the best out of the combination Compensation planting required if change is from forest to agricultural lands

Table 7-10. Strategic Option: Increase productivity of public plantation forests

Strategic Option: Increase productivity of public plantation forests	
Environmental Risk	Mitigation Measure
<ul style="list-style-type: none"> May brings food insecurity as farmlands devoted to plantation Loss of livestock due to communal land (such as grazing lands) allocation for tree planting Animal protein malnutrition (meat & milk) due to loss of livestock grazing lands shift for tree plantings Increased risk of land appropriation and conversion of natural forests Limited availability of firewood Extensive use of pesticides and chances of low-quality hybrid seeds Promotion of productive activities can cause alteration of the ecosystem and damage to certain forest species of commercial interest Displacement of emissions due to the potential prioritisation of productive activities to be implemented without considering local livelihoods of indigenous communities and local economy Changes in species composition Loss of biodiversity in harvesting sites Water pollution Risk of monoculture Loss of species of cultural values Loss of resilience to pest and pathogens Risk of encroachment in harvesting sites Flooding Loss of underground water level Forest fires Risks to unique habitats Alteration of the ecosystem and threats to native biodiversity Introduction of invasive alien tree species can replace valuable native species which are comparatively less aggressive Loss of local biodiversity due to monocultures Payments may transform demography of the area and result in depletion of natural resources 	<ul style="list-style-type: none"> Integrate several crops and tree species in the agroforestry practices Integrate the agroforestry system crops with low moisture demand Protect the farmlands with integrated soil & water conservation (biological & physical) measures Use of inputs (fertilizers and other chemicals) based on soil and plant tissue analysis for nutrient Protect the farmlands with integrated soil & water conservation (biological & physical) measures Never erode the local genetic resource; work side by side on both local and improved crop varieties to enhance food security Use personal protective equipment whenever applying chemicals Avail forest products and non-timber forest products which the community depends on Share benefits to the community from the income accrued due to the protection of forest Increase the awareness of the community through training and education Allow community use of the resources without cutting the trees (e.g., for ritual, cultural practices) Educate and train the community on the value of the forest Empower indigenous grievance redress mechanisms Share benefits from the ecotourism so that community feels ownership over the resource Use integrated crop pest management practice Plant mixed species Allow natural regeneration under the monoculture species so that the regenerated species overtake the planation Plant local/indigenous tree species

Social Risk	Mitigation Measure
<ul style="list-style-type: none"> Right holders that include but is not limited to: vulnerable individuals within communities, tribal and/or forest-dependent community(ies) if existing land tenure legal deficiencies are not addressed successfully Exacerbation of poverty if restoration, reforestation and afforestation policies/programmes continue with current system of land tenure in which an elite class of landowners owns vast holdings worked by tenant farmers, forest owners, right holders, customary users and labourers who live in persistent poverty Exacerbation of limited land tenure rights of women if gender equality is not adequately promoted and guaranteed as a key element of the design and implementation of restoration, reforestation and afforestation policies/programme Limitations for the effective participation or incidence of key actors, in particular, indigenous communities when defining and prioritising sustainable forest management practices and areas Lack of recognition of traditional knowledge of indigenous communities Exclusion of indigenous communities Risks to cultural and traditional practices of access and use of resources; safety hazards associated with harvesting operation; conflicts between communities and ER program authority; rights of indigenous peoples, women, and marginalized communities; property loss; risks to burial grounds and historic sites Risks of elite capture Risks of exclusion Marginalization Corruption Human-wildlife conflicts Limitation/exclusion of certain right holders that include but is not limited to: vulnerable individuals within communities, indigenous and/or forest-dependent community(ies) to access Agroforestry (AF) programmes if they are deemed illegible due to existing land tenure legal deficiencies AF systems on farms that aimed to serve as alternative sources of fuelwood may not be accessible to the poor. Lack of balance between selected productive activities and traditional livelihoods that affect local economies and prioritize productive sectors Limitation/exclusion of certain right holders to access PES if they are deemed illegible due to existing land tenure legal deficiencies The PES scheme could create conditions of corruption if it is not accompanied by a strengthened and transparent governance structure Social conflicts associated with weak and/or non-transparent internal governance structures regarding access to benefits of incentives Exacerbated marginalization of women in PES, if they are deemed illegible due to existing land tenure legal deficiencies and lack of mandate for their inclusion Inter and intra community conflicts over benefit sharing. Cultural and social negative impacts if not appropriately designed 	<ul style="list-style-type: none"> Intensify productivity per unit area through improved input so that areal expansion of agriculture land Supply improved cooking and baking stoves to the community which depends on forest for energy source Ploughing system shift from traditional to low or no tillage Use customary conflict redress mechanism Enhance the benefit of the community from the enclosed area. Allow communities to practice the ritual and religious practices in the forest as far as these do not affect the forest Area enclosure should leave access routes for communities to move freely. If obstruction of access route is must, another reasonably convenient route must be arranged as per the key steps outlined in the complementary process framework Collect seed from local sources and raise them in community owned nursery Compensate as per the complementary RPF provisions Ensure benefits sharing from the reforestation/afforestation through their active involvement in the activities Adequate compensation in kind and other means by the government based on the legal framework and the RPF Provide controlled access to rehabilitated areas Allow the utilization of NTFP Implement reforestation/afforestation on land with no competing interest (e.g., previously forested land or marginalized land) with the community reforestation/afforestation should leave access routes for communities to move freely If obstruction of access route is must, another reasonably convenient route must be arranged as per the process and procedures outlined in the complementary process framework Do not plant fire prone tree species. Plant mixed species to minimize the risk of fire setting naturally or deliberately Train the community on forest fire risk and forest fire management. Construction fire break line between the forest and the properties of the community Get prepared suppressing the fires though availing fires suppressing tools and equipment Plant with wider spacing to allow undergrowth so that erosion will be prevented or minimal Empower women and youth to play the role Encourage agriculture intensification by the use of compost than chemical fertilizer especially for smallholder farmers Use integrated pest management system which proved best than single types of pest management practice Give awareness creation on health and safety of agro-chemicals Use of personal protective equipment whenever applying agro-chemicals Offer continuous and sustained education & awareness creation on the appropriate use of chemicals Government needs to subsidize any cost related to agricultural intensification to encourage the use of the same by community, especially small holder farmers Educate and train community on the benefit of CSA

Table 7-11. Strategic Option: Enhance efficiency, effectiveness and skills throughout forest related value chains

Strategic Option: Enhance efficiency, effectiveness and skills throughout forest related value chains	
Environmental Risk	Mitigation Measure
<ul style="list-style-type: none">Increased use of energy inefficient stove may indirectly lead to high biomass energy demand and consumption which in turn cause deforestationCost to poor local communitiesDifficult to adopt the technology due to cultural barriers (e.g., Preference to open over closed stoves for fumigation reasons)Difficult to adopt the technology in abundant forest resource areasMay be difficult to supply energy efficient cooking stoves, biogas and electricity over short period of timeMay be difficult to supply the stoves in high demand areas due to long production-marketing chainStoves in high demand areas due to long production-marketing chainExploitation by middlemen in the market chainTime taking long awareness creation and technology adoption processHigh initial investment cost may not attract rural farmersLack of management skill may discourage farmers	<p>Subsidize the seedling production cost through support by NGOs operating in the area.</p>

7 RECOMMENDED SAFEGUARDS AND INDICATORS FOR REDD+ ACTIONS AND PAMS UNDERTAKEN IN KENYA

This section has been informed by the foregoing analysis, and contributions from stakeholders.

7.1 The rationale for the recommended safeguards and indicators

Two questions informed the process of determining the type of safeguards and the indicators:

- What are the safeguards that can protect people and the environment from any risk, harm or violation of human rights by REDD+ actions and PaMs?
- What indicators can aid Kenyan implementers of REDD+ actions and PaMs to assess their compliance with each safeguard, and to report on this through the SIS?

It was recommended that Kenya adopts the seven Cancun Safeguards for purposes of REDD+ actions and PaMs. For each safeguard below, specific indicators have been recommended. These definitions for each indicator, the reporting requirements, manner of reporting and responsibility for reporting have been set out in Separate Annex 6.1.

7.2 The safeguards and respective indicators

7.2.1 Safeguard 1: Actions complement or are consistent with the objectives of national forest programmes, policy and legal environmental or climate change obligations, and relevant international conventions and agreements.

Note: the section in blue font indicates modification to the original Cancun Safeguard in order to align to the unbundled Kenyan PLR.

Indicators	1a. REDD+ actions and PaMs protect ecosystem services in order to fulfil, protect and respect the human right to a clean and healthy environment
	1b. REDD+ actions and PaMs undergo Strategic Environmental and Social Assessment (SESA), or Environmental and Social Impact Assessment (ESIA), as appropriate, and be monitored through environmental audits (EA)
	1c. REDD+ actions and PaMs respect the right to acquire and own land and uphold formal and customary tenure rights by persons, indigenous peoples, and communities
	1d. REDD+ actions and PaMs mainstream climate change considerations to support the national low carbon climate resilience development pathway objective
	1e. REDD+ actions and PaMs support the national strategy to achieve and maintain a tree cover of at least 10% of the national land area
	1f. REDD+ actions and PaMs support the objectives of the national forest programme, and the strategic outcomes of the REDD+ National Strategy
	1g. REDD+ action and PaMs comply with obligations under treaties and conventions ratified by Kenya

7.2.2 Safeguard 2: Transparent and effective national forest governance structures, taking into account national legislation and sovereignty

Indicators	2a. The governance arrangements for REDD+ actions are coherent and operate in a transparent and accountable manner
	2b. REDD+ actions and PaMs are gender responsive and embody gender equality and disaggregation
	2c. REDD+ decision making public bodies apply the principle that no less than two-thirds of members should belong to one gender
	2d. REDD+ actions and PaMs map out and integrate the needs for vulnerable members of society on account of gender and social exclusion
	2e. Adequate information about the REDD+ National Strategy, actions and PaMs and the REDD+ safeguards is publicly available, and in a simple and clear understandable language
	2f. Public agencies undertaking REDD+ actions ensure fair administrative action for stakeholders and put in place adequate and accessible grievance redress mechanisms
	2g. REDD+ actions and PaMs include or establish grievance redress mechanisms that are functional, accessible and capable of being partial, fair and enforcing compliance of outcomes
	2h. Institutional and legal mandates are implemented to ensure integrity in management and use of REDD+ finances with integrity, transparency and accountability

7.2.3 Safeguard 3: 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

Indicators	3a. REDD+ actions and PaMs support the security of community land rights through an inventory together with adjudication, registration and issuance of title deeds
	3b. REDD+ actions and PaMs support, enhance and hasten permanent resolutions of historical land injustice claims by indigenous peoples and local communities
	3c. REDD+ actions and PaMs support, respect, promote and compensate for utilization of the traditional knowledge and cultural heritage of local communities is respected
	3d. Agreements are negotiated with local communities for access and benefit sharing for REDD+ actions on public forests
	3e. All agreements negotiated with indigenous peoples and local communities for REDD+ actions and PaMs ensure that acceptance or rejection of such agreements by the IPLCs is based on the Free, Prior and Informed Consent of their members
	3f. REDD+ actions and PaMs respect, protect and promote the traditional decision-making mechanisms of indigenous peoples and local communities, where these exist and do not contravene human rights and fundamental freedoms, and do not result in outcomes that are repugnant to justice or morality
	3g. REDD+ actions and PaMs respect, protect and promote the traditional dispute resolution mechanisms of indigenous peoples and local communities, where these exist and do not contravene human rights and fundamental freedoms, and do not result in outcomes that are repugnant to justice or morality

7.2.4 Safeguard 4: The full and effective participation of relevant stakeholders, in particular indigenous peoples and local communities, in the actions referred to in paragraphs 70 and 72 of Decision 1/CP.16.

Indicators	4a. Stakeholders are given opportunity for meaningful contribution during decision making for REDD+ actions and PaMs
	4b. The Free Prior and Informed Consent (FPIC) of indigenous peoples and local communities is obtained for REDD+ actions and PaMs affecting them, including access and benefit sharing, for projects on public forests
	4c. REDD+ actions and PaMs which are subjected to FPIC are clearly documented with accepted procedures to govern the process and outcomes, including access to all necessary information in understandable form and content
	4g. Any REDD+ investment projects, or other actions on community land are preceded by FPIC, and an environmental and social assessment

7.2.5 **Safeguard 5: That actions are consistent with the conservation of natural forests and biological diversity**

The complete safeguard provides as follows:

That actions are consistent with the conservation of natural forests and biological diversity, ensuring that the 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.

Indicators	5a. Natural forests, and areas of High Conservation Value due to their outstanding biological, ecological, or cultural contribution are identified and protected
	5b. REDD+ actions and PaMs avoid conversion of natural forests to other land uses
	5c. REDD+ actions and PaMs are compatible with agricultural value chains through climate smart interventions to relieve pressure on forests
	5d. REDD+ actions promote and incentivize payment for ecosystem services as benefits
	5e. REDD+ actions and PaMs do not result in net negative impacts on the well-being of stakeholders
	5f. REDD+ actions and PaMs are screened to identify any potential negative impacts (socio-economic, environmental) likely to cause on the well-being of people (with mapping for vulnerability resulting from gender and social exclusion) and mitigation actions put in place
	5g. REDD+ actions and PaMs are screened to identify any potential negative impacts (socio-economic, environmental) likely to cause on the well-being of people (with mapping for vulnerability resulting from gender and social exclusion) and mitigation actions put in place
	5h. REDD+ actions and PaMs enhance forestry interventions that promote non-extractive socio-economic benefits
	5i. REDD+ actions and PaMs enhance support harmonization or coordination between forest management planning and physical planning of adjacent (non) forest land to avoid conversion of forest land
	5j. REDD+ actions and PaMs promote development and implementation of management plans for forests established on community land, and for private plantation forests

7.2.6 **Safeguard 6: Actions to address the risks of reversals**

Indicators	6a. REDD+ actions and PaMs effectively address drivers of deforestation and forest degradation
	6b. REDD+ actions and PaMs include interventions to attain Land Degradation Neutrality
	6c. REDD+ actions and PaMs integrate interventions for realization of Kenya's specific commitments and targets to avoid, minimize and reverse land degradation
	6d. Measures are integrated to address the risk of reversals which might lead to a reduction in the benefits achieved by REDD+ actions and PaMs
	6e. GHG emission reductions or removals from REDD+ actions and PaMs are verified

7.2.7 **Safeguard 7: Actions to reduce displacement of emissions**

Indicators	7a. REDD+ actions and PaMs avoid deleterious outcomes such as displacement of GHG emissions
	7b. REDD+ actions and PaMs ensure any involuntary displacement includes full resettlement and compensation with replacement of socio-economic and environmental benefits to avoid creating drivers of deforestation elsewhere
	7c. REDD+ actions and PaMs screen for and avoid creating GHG emissions leakage of any form (international, market, activity shifting, ecological) and put in place mitigation measures
	7d. REDD+ action and PaMs enhance participatory and harmonized land use planning in forests and other adjacent land uses to avoid emissions displacement
	7e. REDD+ actions and PaMs support alternative socio-economic activities to shift people from displacement of emissions
	7f. REDD+ actions and PaMs integrate disaster risk reduction strategies to avoid, minimize or mitigate involuntary displacement that results in activity-shifting emissions leakage

7.3 **Conclusion**

Any person (natural person, public or private entity) who is undertaking a REDD+ intervention such as a project or putting in place policies and measures will submit a report(s) regarding the safeguard triggered by the intervention. This is important because these safeguards and indicators have been recommended to ensure REDD+ interventions do no harm to people and the environment, enhance governance, enhance multiple benefits, and assure effectiveness of the GHG emissions mitigation efforts. For this reason, each person who is reporting will be required to identify the safeguard that has been triggered, and to specify which indicator has been impacted. In reporting on the indicator:

- a) the SIS system provides the indicator definition (see Separate Annex A) against which compliance is measured.
- b) After the report has been submitted, the SIS system will assign a verifier from a pool of institutions:
 - Comprising mainly of constitutional commissions that enjoy independence
 - Includes NEMA, KFS, KEFRI, Climate Change Directorate, and Ministry of Environment & Forest, among other institutions, so long as none of these institutions have a conflict of interest
 - After verification of the report, a separate institution is appointed to validate that the verification requirements have been adhered with
- c) Upon completion of the verification and validation actions, the report is considered final for the Ministry of Environment and Forestry to publish on the SIS system portal accessible to the public, and to apply the contents to develop the relevant sections of the national communication to the UNFCCC.

8 Annexes

8.1.1 Review of other safeguard or standards applicable to REDD+ actions and PaMs in Kenya

In addition to the Cancun safeguards, unbundled above, there are other safeguards systems that are application to REDD+ actions and PaMs implemented in Kenya. Below, these safeguard systems are explained in terms of their relevance to REDD+ interventions in Kenya. Subsequently, in section 5.1, these global safeguards systems are compared to the Cancun safeguards in order to demonstrate the level of alignment in rights and obligations. This is important in order to determine how well they can fit into the Kenyan PLR system and subsequently fit into the eventual safeguards and indicators recommended for REDD+ actions and PaMs in Kenya by this Country Approach. **Table 1** below is illustrative.

Table 1: Review of global safeguards or project or jurisdictional standards applicable to REDD+ actions and PaMs in Kenya

Type of Safeguard	Relevance to REDD+ actions and PaMs in Kenya	Role played by safeguard
World Bank Environmental and Social Standards	<p>The safeguards apply to a broad range of actions as seen by their coverage below:</p> <ul style="list-style-type: none"> • Assessment and Management of Environmental and Social Risks and Impacts • Labour and Working Conditions • Resource Efficiency and Pollution Prevention and Management • Community Health and Safety • Land Acquisition, Restrictions on Land Use and Involuntary Resettlement • Biodiversity Conservation and Sustainable Management of Living Natural Resources • Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities • Protection of Cultural Heritage • Obligations of private and public financial services providers. • Stakeholder Engagement and Information Disclosure 	Mandatory for borrowers with respect to World Bank financed projects or investments

Type of Safeguard	Relevance to REDD+ actions and PaMs in Kenya	Role played by safeguard
African Development Bank (AfDB) Integrated Safeguards	<p>Operational Safeguards (OS) to support screening of projects for adverse impacts. The scope of the safeguards is –</p> <ul style="list-style-type: none"> • The Bank's overarching requirements for borrowers or clients to identify, assess, and manage the potential environmental and social risks and impacts of a project, including climate change issues. This includes screening for vulnerable communities and indigenous peoples. • Involuntary Resettlement: Land Acquisition, Population Displacement and Compensation • Biodiversity and Ecosystem Services • Pollution Prevention and Control, Greenhouse Gases, Hazardous Materials and Resource Efficiency • Labour Conditions, Health and Safety 	Mandatory for borrowers with respect to AfDB financed projects or investments
Green Climate Fund (GCF)	<p>Environmental and Social Policy put in place. Currently applies the performance standards of the International Finance Corporation (IFC) as the interim standards of the Fund, with the following scope:</p> <ul style="list-style-type: none"> • Assessment and management of environmental and social risks and impacts • Labour and working conditions • Resource efficiency and pollution prevention • Community health, safety and security • Land acquisition and involuntary resettlement • Biodiversity conservation and sustainable management of living natural resources • Indigenous peoples • Cultural heritage 	The Environment and Social Policy is applied with respect to accredited entities during the development of activities and their implementation once approved.

Type of Safeguard	Relevance to REDD+ actions and PaMs in Kenya	Role played by safeguard
Global Environmental Facility Policy on Environmental and Social Safeguards	<p>Cover screening, avoiding, preventing, minimizing, mitigating, managing, offsetting or compensating any adverse impacts that GEF-financed projects and programs may have on people or the environment throughout the project or program cycle; thereby enhancing the environmental and social outcomes of such projects and programs. The general scope of the minimum standards is –</p> <ul style="list-style-type: none"> • Environmental and Social Assessment, Management and Monitoring • Accountability, Grievance and Conflict Resolution • Biodiversity Conservation and the Sustainable Management of Living Natural Resources • Restrictions on Land Use and Involuntary Resettlement • Indigenous Peoples • Cultural Heritage • Resource Efficiency and Pollution Prevention • Labor and Working Conditions • Community Health, Safety and Security 	Requires agencies implementing GEF financed programmes to demonstrate that they have in place the necessary policies, procedures, systems and capabilities to meet minimum standards
Architecture for REDD+ Transactions: The REDD+ Environmental Excellence Standard (ART TREES)	<ul style="list-style-type: none"> • Purposes – to promote the environmental and social integrity and ambition of greenhouse gas (GHG) emission reductions and removals (ERRs) from the forest and land use sector to catalyze new, large-scale finance for REDD+ and to recognize forest countries that deliver high-quality REDD+ emission reductions and removals. • Used for instance to verify emissions reductions for large-scale projects financed under the Lowering Emissions by Accelerating Forest finance (LEAF) Coalition • Credits issued under TREES can be sold and transferred to a non-Party (e.g., an airline toward meeting its CORSIA mitigation obligation) 	It is a global voluntary carbon program (architecture) to register, verify and issue high-quality REDD+ emissions reduction credits to countries and jurisdictions to attract REDD+ finance at scale

Type of Safeguard	Relevance to REDD+ actions and PaMs in Kenya	Role played by safeguard
REDD+ Social and Environmental Standard (SES) and Jurisdictional and Nested REDD+ (VERRA-JNR)	<ul style="list-style-type: none"> • Standards to guide multi-level scenarios for carbon accounting and credit on a multi-scalar level: jurisdictional, lower-jurisdictional or nested project level. Provides for benefit sharing, except in scenario 3. • The REDD+ SES consist of principles, criteria and indicators which define issues of concern and conditions to be met to achieve high social and environmental performance and a process for assessment. • They are designed for government-led programs of policies and measures implemented at national or state, provincial, or other level and are relevant for all forms of fund-based or market-based financing. • REDD+ SES provide countries with a tool to address the Cancun safeguards with qualification they do not address matters concerning accounting for GHG emissions. 	<ul style="list-style-type: none"> • Can be used by governments, NGOs, financing agencies and other stakeholders to support the design and implementation of REDD+ programs that respect the rights of Indigenous Peoples and local communities and generate significant social and biodiversity benefits.
Verified Carbon Standards (VCS)	<ul style="list-style-type: none"> • Provides the requirements for developing projects and programs, as well as the requirements for validation, monitoring and verification of projects, programs and GHG emission reductions and removals. • The scope of the VCS Program excludes projects that can reasonably be assumed to have generated GHG emissions primarily for the purpose of their subsequent reduction, removal or destruction. 	Considered the voluntary global standard for GHG emission reduction and removal projects and programs.
Climate, Community & Biodiversity (CCB) Standards	<ul style="list-style-type: none"> • Used to identify projects that simultaneously address climate change, support local communities and smallholders, and conserve biodiversity • The CCB focus more on respect for rights and generation of benefits for specific communities affected by the project, and for the impacts on biodiversity affected by the project. • The CCB comprises twenty (20) standards, consisting of seventeen (17) mandatory criteria, and three (3) optional gold level/standard criteria. • In order to earn a CCB standards approval, a project must satisfy all the 17 required criteria. • In order to achieve CCB Gold level status, projects must satisfy at least one of the optional gold-level criteria. This includes generating exceptional benefits for (a) climate change adaptation; (b) communities; or (c) biodiversity. 	<ul style="list-style-type: none"> • Voluntary standards which when adopted foster the development and marketing of projects that deliver credible and significant climate, community and biodiversity benefits in an integrated, sustainable manner. • Projects that meet the Standards adopt best practices to deliver net positive benefits for climate change mitigation, for local communities and for biodiversity.

8.2 Safeguards Indicator definition and data collection matrix

This has been annexed separately as an Excel file

8.3 Matrices reviewing Policies, Laws and Regulations

Attached as a separate file due to size

8.4 List of stakeholders consulted for the Country Approach to Safeguards

8.4.1 Members of the Technical Working Group

No	Names	Institution
1.	Alfred Gichu	Ministry of Environment and Forestry
2.	Beatrice Atemo	Ministry of Environment and Forestry
3.	Dr. Joram Kagombe	Kenya Forestry Research Institute
4.	Peninnah Mukami	The National Treasury
5.	George Tarus	Kenya Forest Service
6.	David Chege	Kenya Forest Service
7.	Stephen Mugi	Kenya Forest Service
8.	Jane Wambui	Kenya Wildlife service
9.	Dr. Benard Mogesa	Kenya National Commission on Human Rights
10.	Martin Pepela	Kenya National Commission on Human Rights
11.	Kelvin Luyegu	Kenya National Commission on Human Rights
12.	Bildad Mulanda	Kenya National Commission on Human Rights
13.	Tabitha Nyambura	National Genders and Equality Commission
14.	Benard Opaa	National Lands Commission
15.	Dr. Ann Omambia	National Environmental Management Authority
16.	Dr. Jisper Omwenga	National Environmental Management Authority
17.	Susan Kinyeki	Ethics and Anti-Corruption Commission
18.	Brian Muthoka	Council of Governors
19.	Catherine Wahome	Kenya Law Review Commission

No	Names	Institution
20.	Milka Kuto	Indigenous People Representative
21.	Martin Simotwo	Indigenous People Representative
22.	Kipkazi Wilson	Indigenous People Representative
23.	Kimaren Stanley	Indigenous People Representative
24.	Tecla Chumba	National Communities Forest Association- NACOFA
25.	Gerald Nagtiao	National Communities Forest Association- NACOFA
26.	Antony Ochino	National Communities Forest Association- NACOFA
27.	Dr. Mwangi Kinyanjui	Karatina University
28.	Dr. Robert Kibugi	Task Lead Consultants
29.	George Kombe	REDD+ Youth Representative
30.	Theresa Aoko	REDD+ Youth Representative
31.	Christina Ander	Conservation International
32.	Elijah Toirai	Conservation International
33.	Psamson Nzioki	Conservation International
34.	Mwangi Githiru	Wildlife Works- Kasingau/ Private sector
35.	Georgina Wachuka	Kenya Association of Manufacturers
36.	Eng. Fredrick Kinyua	Nyeri County Government
37.	Bessy Kathambi	University of Nairobi
38.	Joyce Langat	Kenya Water Towers Agency

8.4.2 Indigenous Peoples representatives

1. Dr Clement Lenachuru – Lecturer and former Commissioner, Ilchamus, community
2. Mr Daniel Kobei – Leader, Ogiek Peoples Development Organization (OPDP), Ogiek of Mau
3. Mr Peter Kitelo – Leader, Chepkitala Indigenous Peoples Development Program (CIPDP), Ogiek of Chepkitala
4. Mr Steve Moiko – Development Consultant, Researcher, Maasai Community
5. Dr Daniel Salau – Researcher and Academia
6. Ednah Kaptoyo, Indigenous Peoples leader, Pokot Community
7. Elijah Toirai – IPs Representative to the National REDD+ Steering Group
8. Milka Chepkorir – IPs representative to National REDD+ Steering
9. Martin Simotwo – IPs leader

8.4.3 Representatives of members of Community Forest Associations

Under the umbrella of the National Association of Community Forest Associations (NACOFA) –

- a) Chris Osunga
- b) Zipporah Matumbi
- c) Mwajuma Abdi
- d) Paul Mitei
- e) Grace Kuria
- f) Moses Githiria
- g) Mureithi Amos
- h) Peter Wandera
- i) Tecla Chumna
- j) Seth Itamano
- k) Gerald Ngatia
- l) Nyamai Munyao
- m) Charo Ngumbao

8.4.4 ICT technical staff consulted during training session on 14 December 2021

Name	Institution represented
1. Nicholas Mutua	Kenya Forest Service
2. Simon Ng'ang'a	Kenya Forest Service
3. Daniel Yeswa	Kenya Forest Service
4. Divinah Nyasaka	Kenya Forest Service
5. Eric Ngondi	National Environment Management Authority
6. Polly Wairimu	Ministry of Environment and Forestry
7. Dominic Ruto	Ethic and Anti-Corruption Commission
8. Cecilia Mbatha	Ethic and Anti-Corruption Commission
9. James Twala	Indigenous Livelihood Enhancement Partners - Kenya

