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COMISIÓN NACIONAL FORESTAL

DESIGNING A NATIONAL SAFEGUARDS SYSTEM
IN MEXICO

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Summary

The mechanism for Reducing Emissions from Deforestation and Forest Degradation (REDD+) arose under the United Nations Framework Convention for Climate Change (UNFCCC) as an option within global efforts to mitigate climate change in the forestry sector. REDD+ aims to contribute to reducing emissions of greenhouse gases associated with deforestation and forest degradation, offering financial incentives to stop or reverse the loss of forests.

In order to address potential negative impacts and efficiently promote multiple benefits of REDD+, in 2010, during the sixteenth Conference of the Parties (COP 16) to the UNFCCC in Cancun, a set of seven safeguards were agreed for REDD+. These aim not only to mitigate the risk of negative social and environmental impacts arising from the implementation of REDD+ activities, but also to promote benefits that go beyond reducing carbon emissions, such as effective forest governance, full and effective participation and the preservation of biodiversity.

Mexico has given express recognition to the REDD+ safeguards, and the draft National REDD+ Strategy (ENAREDD+) contemplates the development of a National Safeguard System (NSS) and Safeguard Information System (SIS) to monitor, report and ensure compliance with the safeguards adopted by the UNFCCC, considering the provisions of decision 12/CP.17 adopted in Durban in 2011, as well as Articles 1 and 2 of the Mexican Constitution and Article 134 Bis of the General Law on Sustainable Forestry Development.

Mexico envisions putting in place a Safeguards Information System (SIS), by building upon existing systems at national level, which will allow for submitting information in an integrated manner, as well as monitor compliance with the safeguards. However, it has been recognized that having an information system will not necessarily guarantee compliance with the

safeguards, and that it may be necessary to have a system or support structure, which considers the existing governance system of the country; particularly the legal, institutional and compliance frameworks, which combined and linked will be used to operationalize the safeguards. This system or structure is known as a National Safeguards System (NSS).

The NSS will define how the REDD+ safeguards application will be guaranteed in Mexico, and to which activities they will be applied. It will identify the laws and institutions that are to support their implementation and reporting, and the compliance aspects of the system, which will allow for the resolution of conflicts, dealing with complaints and feedback information loops.

The three main elements that comprise the NSS are:

- Legal Framework
- Institutional Framework
- Compliance Framework

To advance the design and implementation of the NSS in Mexico, a series of measures or steps have been identified. These will not necessarily be sequential, and include:

- i. Promote a process of participation and communication during the design and implementation of the NSS.
- ii. Identification and analysis of the legal, institutional and compliance frameworks relevant to the REDD+ safeguards.
- iii. Define the architecture and functioning of the NSS.
- iv. Determine how the NSS and SIS will operate between national and state levels.
- v. Design the SIS.

1. Background and International Context International

1.1 REDD+ Safeguards of the United Nations Framework Convention on Climate Change

The United Nations Framework Convention on Climate Change (UNFCCC) was adopted in 1992 in order to stabilize the global concentration of greenhouse gases. The highest authority of the UNFCCC is the Conference of the Parties (COP), which meets once a year in order to review fulfilment of the commitments of the Parties (countries), as well as the effects and progress of the measures taken.

REDD+ emerged under the UNFCCC as an option within the global efforts to mitigate climate change in the forestry sector. REDD+ aims to contribute to reducing emissions of greenhouse gases associated with deforestation and forest degradation, offering financial incentives to stop or reverse the loss of forests.

REDD + considers the following measures to be implemented according to national circumstances and capabilities of each country¹:

- a) Reducing emissions from deforestation;
- b) Reducing emissions from forest degradation;
- c) Conservation of forest carbon stocks;
- d) The sustainable management of forests;
- e) The enhancement of forest carbon stocks.

It was also decided that REDD+ actions should be implemented in stages:

1. Preparation phase: development of strategies or action plans, capacity building, institutional arrangements, among other actions.
2. Pilot phase: the implementation of policies and measures included in the national strategies or action plans, as well as demonstration of results.
3. Implementation phase: implementation of measures based on the results that

should be measured, reported and verified.

In order to address potential negative impacts and efficiently promote multiple benefits of REDD+, in 2010, during the sixteenth Conference of the Parties (COP 16) to the UNFCCC in Cancun, a set of seven safeguards were agreed for REDD + (hereinafter, the REDD + Safeguards) (see Table 1)².

The REDD + Safeguards aim to not only mitigate the risk of negative social and environmental impacts arising from the implementation of REDD+ actions, but also promote benefits that go beyond reducing carbon emissions, such as good forest governance, full and effective participation and the preservation of biodiversity.

It is important to note that the UNFCCC agreed on a set of safeguards for REDD+, as general principles to guide countries in the implementation of REDD+. The way these should be applied, interpreted and implemented will depend on the different context and circumstances in each country.

¹ Decision 1/CP.16 of the UNFCCC, paragraph 70

² Decision 1/CP.16 of the UNFCCC, Annex 1, section 2

Table 1: Safeguard UNFCCC REDD +

<ul style="list-style-type: none"> a) Actions complement or are consistent with the objectives of national forest programmes and relevant international conventions and agreements; b) Transparent and effective national forest governance structures, taking into account national legislation and sovereignty; c) Respect for the knowledge and rights of indigenous peoples and members of local communities, by taking into account relevant international obligations, national circumstances and laws, and noting that the United Nations General Assembly has adopted the United Nations Declaration on the Rights of Indigenous Peoples; d) The full and effective participation of relevant stakeholders, in particular indigenous peoples and local communities, in actions referred to in paragraphs 70 and 72 of this decision;³ e) Actions are consistent with the conservation of natural forest and biological diversity, ensuring that action 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. f) Actions to address the risks of reversals; and g) Actions to reduce displacement of emissions.
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³ Paragraph 70 states that: The Conference of the Parties “Encourages developing country Parties to contribute to mitigation actions in the forest sector by undertaking the following activities, as deemed appropriate by each Party and in accordance with their respective capabilities and national circumstances: (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.” And paragraph 72 states that the COP: “Also requests developing country Parties, when developing and implementing their national strategies or action plans, to address, inter alia, the drivers of deforestation and forest degradation, land tenure issues, forest governance issues, gender considerations and the safeguards identified in paragraph 2 of appendix I to this decision, ensuring the full and effective participation of relevant stakeholders, inter alia indigenous peoples and local communities.”

The UNFCCC has established a set of general requirements for countries wishing to implement REDD+. These are⁴:

1. Develop an Action Plan or National REDD+ Strategy.
2. Establish national reference levels to determine the current status of the balance of emissions related to deforestation and forest degradation.
3. To have a national system for measuring, reporting and verification (MRV).
4. A system for reporting on how the environmental and social safeguards are being addressed and respected.

Moreover, the UNFCCC sets other specific requirements related to REDD + safeguards, which are described below:

Requirement 1: Address and Respect REDD+ Safeguards

The UNFCCC has established that REDD+ actions, regardless of the type or source of funding, should be implemented in consistency with REDD+ safeguards⁵, and that their application should be promoted and supported⁶.

Requirement 2: Put in place a system to provide information on how REDD+ safeguards are being addressed and respected.

The governments of countries implementing REDD+ measures or actions are responsible for putting in place a system to provide information on how they are addressing and respecting REDD+ safeguards. This system is commonly referred to as a Safeguards Information System (SIS hereinafter).⁷

It is important to consider that according to the guidelines provided by the UNFCCC in relation to the design of a SIS, it must be based on 'existing systems', providing clear and consistent

⁴ Decision 1/CP.16 of the UNFCCC, paragraph 71

⁵ Decision 2/CP.16 of the UNFCCC, paragraph 63

⁶ Decision 1/CP.16 of the UNFCCC, Annex 1, paragraph 2

⁷ Decision 1/CP.16 of the UNFCCC, paragraph 71(d)

information that is accessible to all stakeholders and which is updated regularly, transparent and flexible to allow improvements over time, addressing gender considerations, implemented at national level, and provide information on how REDD+ safeguards are addressed and respected.⁸

Requirement 3: Provide a summary of information on how REDD+ safeguards are being addressed and respected

The UNFCCC requires governments of countries to provide a summary of information on how they are addressing and respecting REDD+ safeguards⁹. This summary of information should be provided regularly and included in national communications or through communication channels agreed by the COP¹⁰. This summary may also be included in the web platform of the UNFCCC¹¹.

Countries will begin reporting on safeguards through the summary information once they start implementing REDD+ activities¹². Countries access to result-based payments is conditional on providing the latest summary of information on how safeguards have been addressed and respected¹³. This summary will be available in the new information hub that will compile information related to REDD+ result based payments for the UNFCCC¹⁴.

1.2 Other international initiatives that support or require the implementation of safeguards

There are other safeguard related requirements for countries receiving international funding for REDD+ preparation and piloting phases. In the case of Mexico, these are derived mainly from multilateral initiatives such as the Forest Carbon Partnership Facility (FCPF) and Forest Investment Program (FIP), which are

implemented by the World Bank (FCPF and FIP) and the BID (FIP). These agencies or institutions act as managers of a given project and require to demonstrate compliance with the 'safeguards' contained in their operational policies and / social and environmental guidelines.

2. Context for REDD+ safeguards in Mexico

In Mexico, REDD+ should be understood as a set of strategies that promote simultaneously mitigation and adaptation actions through integrated land use management, which promotes low carbon sustainable rural development.

The model of integrated land use management with a focus on sustainable rural development that is proposed for REDD+, is a scheme that recognizes that deforestation and forest degradation originate in both internal and external processes to the forestry sector; and therefore only through a perspective of mainstreaming actions and public policies with a territorial approach will it be possible to restructure and reduce pressure on these resources.

Mexico has been preparing its National REDD+ Strategy (ENAREDD+) in a progressive and participatory manner since 2010. The ENAREDD+ aims to contribute to the mitigation of greenhouse gases (GHGs) and move to a zero percent loss of carbon in the native forest ecosystems, through policies, measures and actions that will be incorporated into planning instruments for sustainable development. The ENAREDD+ is aligned with the goals, objectives and strategic mitigation actions of the forestry sector incorporated in the National Climate Change Strategy¹⁵.

The ENAREDD+ aims to achieve the reduction of emissions from deforestation and forest

⁸ Decision 12/CP.17 of the UNFCCC, paragraph 2

⁹ Decision 12/CP.19 of the UNFCCC, paragraph 1

¹⁰ Decision 12/CP.19 of the UNFCCC, paragraph 1

¹¹ www.unfccc.int/red

¹² Decision 12/CP.19 of the UNFCCC, paragraph 4

¹³ Decision 9/CP.19 of the UNFCCC, paragraph 4

¹⁴ Decision 9/CP.19 of the UNFCCC, paragraph 11

¹⁵ http://mitigationpartnership.net/sites/default/files/encc_englishversion.pdf

degradation and conservation and increase of forest carbon stocks in the context of sustainable rural development for Mexico, whilst guaranteeing the effective application and compliance of the REDD+ safeguards and principles laid down in this strategy and the existing legal framework. For this, the ENAREDD+ includes among its objectives the development of a national safeguards system (NSS) and Safeguards Information System (SIS), to implement, report and guarantee the application of the REDD+ safeguards adopted in the UNFCCC, taking into account the provisions in decision 12/CP.17 adopted Durban in 2011, as well as Articles 1 and 2 of the Mexican Constitution and Article 134 bis of the General Law of Sustainable Forestry Development.

Safeguards are a crosscutting theme of the draft ENAREDD+ in order to ensure their application and compliance. There are therefore principles and measures relevant to safeguards in other sections of the strategy, such as: Institutional Arrangements and Capacity Building; Public Policy and Legal Framework; Communication, Social Participation and Transparency; among others.

3. The National Safeguards System (NSS) in Mexico

According to the background and context around the UNFCCC REDD+ safeguards (described in section 1 of this document), there is an international obligation for REDD+ countries to develop a SIS and provide a summary of information on how safeguards are addressed and respected.

It is important to note that although all countries must address and respect the same safeguards, the way in which these are addressed and respected in each country can vary depending on the context, national circumstances, approach to REDD+, and the stage at which they are in the design and implementation.

Mexico will provide information on addressing safeguards during all phases of implementation of REDD+. Therefore, the type of information that will be provided on how they safeguards are being addressed and respect will depend on the phase of REDD+ implementation. At the beginning of the implementation of REDD+ actions, Mexico will only be able to provide information regarding how it is prepared to address and respect the safeguards; whereas during the implementation phase the information that will be provided will include the processes and actions implemented to effectively address and respect the safeguards.

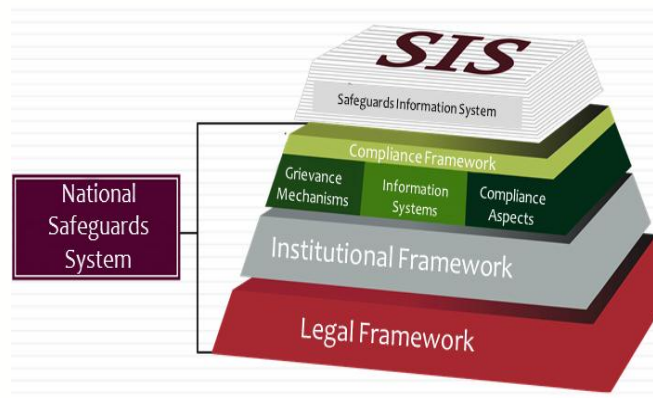
In Mexico there are plans to develop a SIS, building on existing national systems and that will allow to present information in an integrated manner and ensure compliance with safeguards. However, it has also been recognized that the development of this information system will not necessarily guarantee compliance with safeguards; therefore it is necessary to have a system or support structure, which takes into account the existing system of governance in the country, particularly the legal¹⁶, institutional¹⁷ and compliance¹⁸ frameworks, which combined and linked will be used to implement safeguards. This system or structure is known as the National System of Safeguards (NSS).

¹⁶ Comprised primarily of national policies, laws and regulations (PLRs), in addition to operational plans and programmes to implement the PLRs. Are also included the international treaties and agreements relevant and applicable to Mexico.

¹⁷ Comprised of institutions, their capacities, and the procedures for implementing the legal framework.

¹⁸ Comprised of three elements required to guarantee and demonstrate the effective implementation of the legal framework: i) information (including monitoring and reporting systems); ii) grievance redress mechanisms; and iii) non-compliance measures and mechanisms.

Figure 1. The design and implementation of a NSS, which considers aspects of the legal, institutional and compliance frameworks that are relevant to REDD+ safeguards.



The three elements that make up a NSS are the:

1. **Legal framework**, serves to define how safeguards are to be adhered to when implementing REDD+ activities. In other words, the legal framework will be used to define and regulate the safeguards adopted by the country.
2. **Institutional framework**, serves to define who will be responsible for ensuring safeguards are adhered to when implementing REDD+ activities. In other words, the relevant institutions will be responsible for ensuring the practical application of safeguards and provide information on how they are being addressed and respected.
3. **Compliance Framework**, composed and informed both by the relevant legal and institutional frameworks, serves to ensure compliance with the safeguards. The compliance framework is composed of three sub-elements:
 - a. **Grievance redress mechanisms/aspects**: serve for addressing complaints of groups or individuals whose rights (embodied in the safeguards) may be affected through the implementation of REDD+ activities.

- b. **Information systems**: serve to provide information on how safeguards are addressed and respected when implementing REDD+ activities.
- c. **Noncompliance mechanisms/aspects**: Serve to deal with any failure to address and respect the safeguards when implementing REDD+ activities.

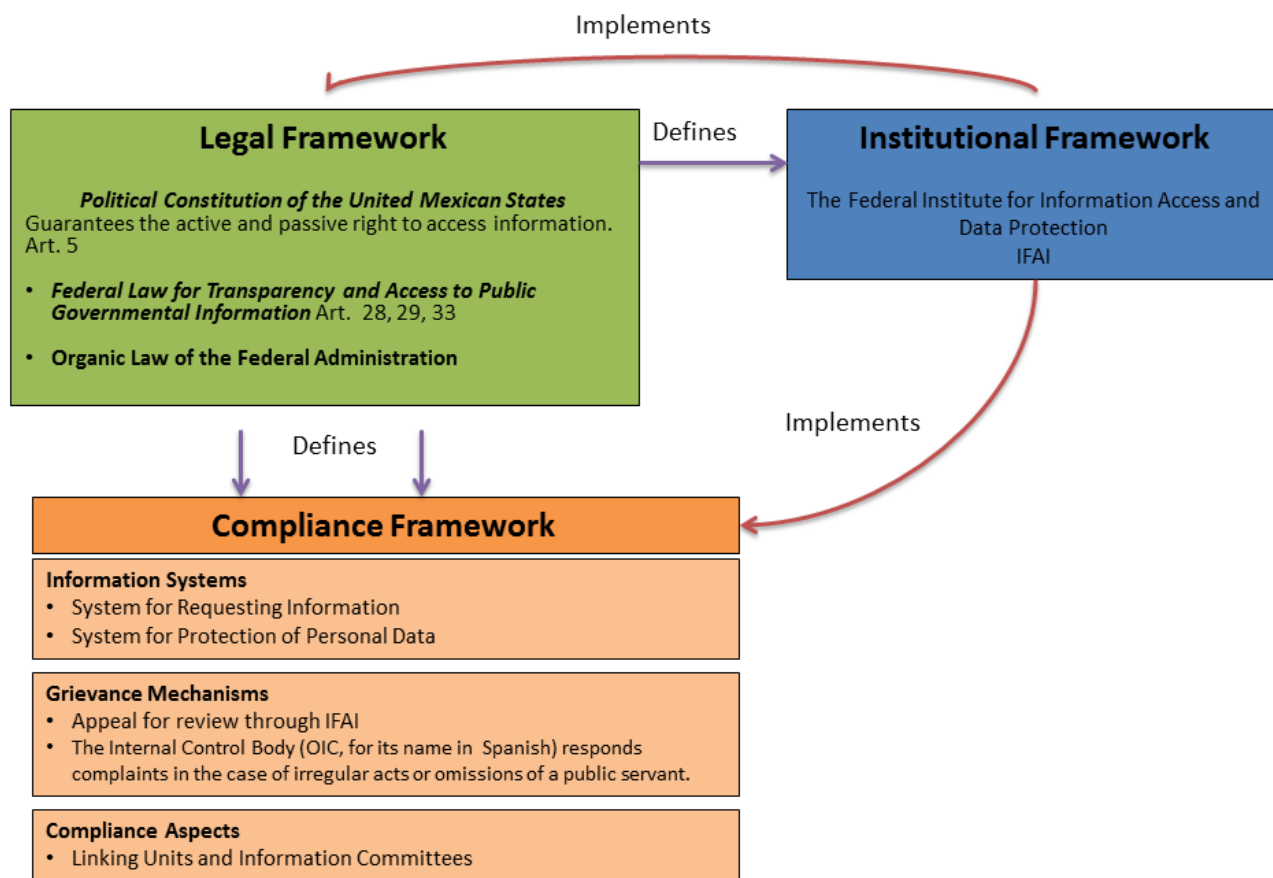


Figure 2. Example of existing elements of the legal, institutional and compliance frameworks in Mexico which would support the implementation of UNFCCC safeguard (b)

Figure 2 provides an example of how the relevant aspects of each element of the NSS could be used to address and respect safeguards. In this case, the example focuses on a component of UNFCCC safeguard (b) related to transparency and the right of access to active and passive information.

4. Designing a National Safeguards System (NSS)

There is no fixed or linear approach to developing a NSS. To advance the design and implementation of the NSS in Mexico, a series of actions and steps have been identified and are described below.

i. Promote a process of participation and communication during the design and implementation of the NSS.

The feedback from stakeholders and participatory platforms has been identified as a key element of the process. Regional workshops

for participation and the dissemination of products targeting different audiences in a culturally appropriate manner and using the most appropriate communication channels is contemplated.

ii. Identification and analysis of the legal, institutional and compliance frameworks

To design a NSS it is important to carry out the identification and analysis of the legal, institutional and compliance frameworks in order to identify which aspects of these frameworks are relevant to the REDD+ safeguards, i.e. what specific aspects exist in the legislation, procedures and institutions to ensure compliance with the safeguards and facilitate their monitoring and reporting. These analyses also allow the identification of gaps or weaknesses that could hinder the implementation of REDD+ safeguards, which will consequently need to be addressed.

Given that language of the REDD+ safeguards is a set of general principles that must be implemented according to the national context, the analysis of the legal framework will help to clarify specifically how these safeguards will be implemented in the Mexican context.

The analysis of the institutional framework will help to identify the capabilities and responsibilities of relevant institutions in the country and their role in the implementation and reporting of safeguards and in Mexico.

Likewise, the identification and analysis of the relevant compliance framework, will determine:

- The type of existing information and reporting systems and how these could be used to provide information on safeguards, including reporting procedures in place for compliance with the relevant international agreements and treaties.
- The type of existing grievance / conflict resolution mechanisms of conflicts and how they could be used for the implementation of safeguards (or lack of); and
- The existing non-compliance mechanisms that could be used for the implementation of REDD+.
- Recommendations to address gaps.

Progress

The analysis of the relevant legal framework for REDD + safeguards was conducted in 2013¹⁹. In 2014 Mexico started with the analysis of information systems and existing reporting mechanisms, focusing on the reporting mechanism provided for in the second paragraph of Article 6 of the Planning Act²⁰, in order to systematize the information reported at the federal level related to REDD+ safeguards, the institutions responsible for integrating this information and how it could be used in the future to provide information via the SIS.

iii. Define the architecture and operation of the NSS

The goal of this step is to define the specific elements of the NSS that will be used to fulfil the commitments related to REDD + safeguards, based on the inputs from the analysis of the legal, institutional and compliance frameworks, in order to determine:

- The way in which the relevant aspects of the legal framework will be used to implement safeguards;
- The way in which the relevant aspects of the institutional framework will be used to determine responsibility for ensuring safeguard compliance;
- How existing information and reporting systems will be used to provide information on the implementation of safeguards;
- How the mechanisms for resolving disputes and conflicts will be used to address complaints regarding the application of safeguards (or lack of);

¹⁹ Rey, D. & Rivera L. (2013). **Análisis del marco legal relevante y aplicable a México en Relación a las Salvaguardas**. Agencia de los Estados Unidos para el Desarrollo Internacional (USAID), Proyecto de Reducción de Emisiones por la Deforestación y la Degradación de Bosques de México (Alianza México-REDD+), México, Distrito Federal. http://www.conafor.gob.mx/web/wp-content/uploads/2014/08/Marco-Legal-Salvaguardas_FINAL_feb2014.pdf

²⁰ Art. 6 de la Ley de Planeación: "...El Ejecutivo remitirá a la Comisión Permanente del Congreso de la Unión el informe de las acciones y resultados de la ejecución del plan y los programas a que se refiere el párrafo anterior, incluyendo un apartado específico con todo lo concerniente al cumplimiento de las disposiciones del artículo 2 Constitucional en materia de derechos y cultura indígena..."

- How the existing compliance mechanisms will be used to address any breach related to the application of safeguards;

iv. Determine how the NSS and the SIS will operate between the national and state levels

The participation of States in reporting how they are addressing and respecting safeguards will be critical, so this step is to determine how existing legal, institutional and compliance State level frameworks may ensure the implementation of REDD + safeguards, and how they will be linked to the NSS and support the national reporting under the SIS.

v. Designing the Safeguards Information System (SIS)

This step aims to design the structure and operation of the SIS-based on existing information and reporting systems. This objective will require carrying out the following measures:

- Define an institutional structure to integrate all relevant information. The architecture of the institutional structure will be linked to government institutions in charge of information systems existing in different sectors and relevant to safeguards report.
- Define information systems and reporting that will be used to provide information on safeguards, including reporting procedures associated with compliance with the relevant international agreements and treaties.
- Define an information platform (either drawing on an existing, or creating a new one) to share information on how the safeguards are addressed and respected.
- Define the types of information to be provided regarding how to address and respect the safeguards, which can range from aspects of the legal framework to ensure compliance with the safeguards, to individual processes related to the safeguards that are being executed, including their geographical distribution.

Progress

In 2014 there have been two inter-institutional dialogues in order to start the conversation among relevant institutions on the reporting of REDD+ safeguards in Mexico, share experiences in the reporting of cross-sectional information, and identify existing systems that could potentially be used for the SIS and the role of institutions in monitoring and reporting information. As a result, it has been identified that the REDD+ Working Group of the Inter-ministerial Commission on Climate Change may be the ideal platform to promote interagency agreements regarding the reporting and compliance with REDD+ safeguards.

It is considered that a key feature and function of the SIS may include providing feedback to the NSS with the aim of improving the system and identifying lessons learned. Also, information related to reporting how safeguards are being addressed and respected should be disseminated periodically, proactively and in a format accessible to different audiences.



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