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Item 14 of the provisional agenda*

DRAFT OPTIONS FOR VOLUNTARY GUIDELINES ON SAFEGUARDS IN BIODIVERSITY FINANCING MECHANISMS

Note by the Executive Secretary

INTRODUCTION

1. In paragraph 20 of decision XI/4, the Conference of the Parties requested the Executive Secretary to further develop the discussion paper on safeguards (UNEP/CBD/COP/11/INF/7), based on comments from Parties and other relevant stakeholders, for submission to the fifth meeting of the Ad Hoc Open-ended Working Group on Review of Implementation of the Convention; and requested the Working Group to prepare a recommendation for consideration by the Conference of the Parties at its twelfth meeting. In paragraph 21 of the same decision, the Conference of the Parties requested the Working Group, at its fifth meeting, to discuss possible risks and benefits of country-specific innovative financial mechanisms, including on possible principles and safeguards for their use, for consideration by the Conference of the Parties at its twelfth meeting.

2. In paragraph 1 (d) of recommendations 5/10, the Ad Hoc Open-ended Working Group on Review of Implementation of the Convention requested the Executive Secretary to develop, for consideration by the Conference of the Parties at its twelfth meeting, proposals for concrete and effective actions including draft options for voluntary guidelines based on the challenges and possible risks of these mechanisms as identified in the document on possible risks and benefits of country-specific innovative financial mechanisms and safeguards. In paragraph 3 of the draft decision contained in recommendation 5/10, the Working Group recommends to the Conference of the Parties to take note of the voluntary guidelines, and to invite Parties, business organizations and other stakeholders to consider using it as appropriate, and in accordance with national legislation.

* UNEP/CBD/COP/12/1/Rev.1.

3. In response to the recommendations 5/10, the revised and expanded version of discussion paper on safeguards, *Biodiversity financing and safeguards: lessons learned and proposed guidelines* was further developed by a team of experts from Stockholm Resilience Centre at Stockholm University, and is made available as an information document (UNEP/CBD/COP/12/INF/27). Moreover, options for enhancing the use of the biodiversity financing mechanisms (BFMs)¹ and complementary safeguards were further discussed in the International Workshop on Financing for Biodiversity held in August 2014 in Kartause Ittingen, Switzerland.

4. Section I of the present note summarizes the main findings of the latest version of the discussion paper on safeguards, *Biodiversity financing and safeguards: lessons learned and proposed guidelines*, and outcomes of the International Workshop on Financing for Biodiversity, in relation to the benefits, challenges, possible risks as well as mitigation options, and safeguards in biodiversity financing mechanisms. Section II contains additional suggestions for draft decisions for consideration by the Conference of Parties at its twelfth meeting, with proposed draft voluntary guidelines contained in the annex.

I. SUMMARY OF VIEWS AND LESSONS LEARNED ON BENEFITS, CHALLENGES AND POSSIBLE RISKS OF BIODIVERSITY FINANCING MECHANISMS, AND ON SAFEGUARDS IN BIODIVERSITY FINANCING MECHANISMS

Biodiversity financing and safeguards: lessons learned and proposed guidelines – Revised and expanded discussion papers on safeguards

5. The latest version of the discussion paper on safeguards, *Biodiversity financing and safeguards: lessons learned and proposed guidelines*, examines the notion of safeguards in biodiversity financing mechanisms. Safeguards in biodiversity financing mechanisms, in this paper, refer to measures for maximizing the protection of biodiversity and people's livelihoods while minimizing negative impacts.

6. The paper finds that scaling-up biodiversity financing can be a means for meeting the objectives of the Convention and achieving the Aichi Biodiversity Targets, but both opportunities and potential impacts on biodiversity and indigenous and local communities need to be taken into account in the mobilization of resources for biodiversity. The paper concludes that guidelines could help to address unintended impacts of financing mechanisms, to maximize the opportunities and to address interacting risks and opportunities across different biodiversity financing mechanisms.

7. The paper also contains proposals for four voluntary guidelines for safeguards for biodiversity financing mechanisms. According to the revised discussion paper, these four voluntary guidelines include general elements that need to be taken into consideration when developing safeguards. Taking these general elements into account can help to build the necessary trust and consensus during the process of selecting, designing, and implementing biodiversity financing mechanisms. They build on lessons learned on risks, benefits and safeguards from country-specific financing mechanisms.

8. These proposed guidelines are based on an analysis of the opportunities, challenges and possible risks of different types of biodiversity financing mechanisms. The paper contains detailed and specific guidance, including case studies and lessons learned, for the development of safeguards that respond to the risks and opportunities of specific types of biodiversity financing mechanisms. This guidance was developed based on inputs and comments from Parties and relevant stakeholders, and also includes lessons learned from existing legal and policy processes under various international and national frameworks. Based on this work, potential benefits, opportunities, challenges and risks, as well as

¹ This term is introduced further to the conclusions of the first and second dialogue seminar on scaling up finance for biodiversity, held in Quito. Both seminars noted that the six 'innovative financial mechanisms', as referenced in the resource mobilization strategy under this umbrella term, in addition to not being actually innovative, constitute an unwieldy mix of revenue-raising mechanisms, direct financing mechanisms, and mainstreaming schemes. In line with the suggestion provided by participants of the seminars, the present note therefore uses the general term 'biodiversity financing mechanisms' for all mechanisms that are used or may be used in future to finance activities that fulfil the three objectives of the Convention.

elements which can guide the development of safeguards to address the challenges and risks and maximize the benefits and opportunities, are summarized in the table below:

	Benefits and opportunities	Challenges and risks	Guidance for safeguards
Payment for Ecosystem Services	<p>PES are positive incentives for environmentally-sound behaviour.</p> <p>PES can be a revenue stream for indigenous communities</p> <p>Governments and governmental organizations finance 97-99% of PES globally. However, the private sector has been involved in certain PES schemes.</p>	<p>Restrictions to local communities using their traditional agricultural land can lead to a loss in agro-biodiversity and ecological knowledge.</p>	<p>Indirect safeguards could address the drivers of unsustainable natural resource management (e.g. illegal logging)</p> <p>Procedural safeguards could enable the effective participation of all actors concerned, including the prior informed consent and/or approval and involvement of indigenous and local communities, in the design and implementation of PES schemes.</p>
Biodiversity Offsets	<p>Biodiversity offsets adhere to the polluter pays principle.</p> <p>By using a pool, agencies can use compensation land to create green corridors in the larger landscapes and seascapes.</p> <p>A number of private sector industries have implemented offsets voluntarily.</p> <p>Financial institutions have developed environmental safeguards systems that include biodiversity offsets. (IFC PS6, ADB Safeguards Policy)</p>	<p>The availability of offsets could result in, overall, more permissions being approved.</p> <p>Impacts in a specific area of an ecosystem, permitted through an offsetting scheme, could disturb the system as a whole and affect its resilience.</p> <p>Ecosystems and their functions, including the livelihood opportunities that they offer, may not be fully replaceable.</p> <p>Biodiversity offsets risk not accounting for the non-use and intrinsic values of biological diversity.</p> <p>Local people in one region may depend on the biodiversity in that specific area for their livelihoods.</p>	<p>Substantive safeguards could foresee the application of the mitigation hierarchy and separate the process of obtaining planning permissions from the process of determining appropriate compensation.</p> <p>Safeguards could contribute to ensure that offsets achieve conservation outcomes above and beyond results that would have occurred if the offset had not taken place. Offset design and implementation should avoid displacing activities harmful to biodiversity to other locations.</p> <p>Social safeguards could aim to fairly balance responsibilities, risks and rewards associated with a project, respecting legal and customary arrangements.</p> <p>Procedural safeguards could enable the careful and participatory assessment of the design, approval and implementation of offset mechanisms, using CBD tools such as the Akwe: kon guidelines on environmental, social and cultural impact assessment.</p>
Environmental Fiscal Reform	<p>EFR can increase revenues, while simultaneously furthering environmental goals.</p> <p>Resources acquired from the EFR can be used for a</p>	<p>Removing subsidies may be politically difficult.</p>	<p>Substantive safeguards could reduce harmful incentives, for example by calling for avoiding subsidies to environmentally unsustainable practices.</p> <p>When PES schemes are financed</p>

	<p>variety of purposes including the development of BFM, for instance PES schemes.</p> <p>EFR can also contribute to the creation of jobs and the equitable sharing of benefits.</p>		<p>by an earmarked fiscal reform, safeguards in fiscal reforms can be harmonized with those in PES schemes.</p>
<p>New and innovative sources of Official Development Assistance</p>	<p>BFM are considered to be different from ODA, but ODA can provide seed funding, and BFM can provide tools under ODA.</p> <p>Biodiversity financing mechanisms can learn from ODA on relevant issues for safeguards.</p>	<p>The absence of safeguards could jeopardize transparency, harmonization, alignment, efficiency, ownership, participatory approaches, tenure and user rights, and gender issues.</p>	<p>Procedural safeguards available include impact assessments (such as EIA, SIA and SEA) of contributions.</p> <p>Social and environmental safeguards can benefit from policy coherence, notably between trade, environment and development cooperation.</p>
<p>Market for Green Products</p>	<p>There is a large and growing array of certification and labelling schemes that have developed environmental and social performance standards for “green products”.</p> <p>The incentives cover a wide range of sectors, from the certification of biodiversity offsets to standards for carbon, timber, agricultural commodities and tourism among others.</p> <p>There is considerable potential to use certification as a means to assess and verify the application of safeguards.</p>	<p>The substantive priorities of certification schemes vary considerably. Some prioritize social benefits while others focus on standards for biodiversity conservation.</p> <p>There is a need for ongoing research and communication to ensure transparency regarding the social and environmental benefits that certifications entail.</p>	<p>Substantive safeguards could address the potential proliferation of competing labels, and provide for communication, education and transparency regarding the definition and application of different standards.</p>
<p>Biodiversity and Climate Funding</p>	<p>There is potential for win-win situations in terms of forest-based climate-change mitigation, biodiversity conservation and enhancement of the conditions for the well-being of forest-dependent peoples.</p> <p>REDD+² promotes the channelling of climate finance to reduce forest loss.</p>	<p>Potential negative impacts associated with REDD+ could include impacts on local communities or the conversion of natural ecosystems into tree plantations.</p>	<p>Appendix I to UNFCCC decision 1/CP.16 contains a list of safeguards for REDD+.</p> <p>The CBD has produced advice on the application of REDD+ safeguards for biodiversity in the annex to decision XI/19 that, if followed, can help to ensure that climate funding produces co-benefits for biodiversity and for people’s livelihoods.</p>

² 18 REDD+ is used as a shorthand for “reducing emissions from deforestation and forest degradation, conservation of forest carbon stocks, sustainable management of forests and enhancement of forest carbon stocks in developing countries”, consistent with paragraph 70 of decision 1/CP.16 of the United Nations Framework Convention on Climate Change (UNFCCC). The acronym REDD+ is used for convenience only, without any attempt to pre-empt ongoing or future negotiations under the UNFCCC.

Relevant outcomes of the International Workshop on Financing for Biodiversity, August 2014, Kartause Ittingen, Switzerland

9. The participants in the workshop discussed possible options for enhancing the use of biodiversity financing mechanisms and complementary safeguards, and considered the benefits as well as risks and challenges of individual biodiversity financing mechanisms. The Co-Chair's summary³ presented in the workshop highlighted that biodiversity financing mechanisms need to be country-specific and country-driven, while some general guidance at the global level for selecting, designing and implementing mechanisms for financing biodiversity may be useful. The participants in the workshop stressed that appropriate safeguards are important for upscaling public and private investments in biodiversity required to achieve the Aichi Biodiversity Targets. The application of safeguards was found to be one way of addressing some of the risks of biodiversity financing mechanisms. Case studies, good practices and lessons learned, capacity-building, as well as technical support are needed to support Parties in selecting, designing and implementing mechanisms for financing biodiversity.

II. ADDITIONAL SUGGESTIONS FOR THE DRAFT DECISION

10. As noted above, the Ad Hoc Open-ended Working Group on Review of Implementation of the Convention, in paragraph 3 of recommendation 5/10, recommended that the Conference of the Parties take note of the voluntary guidelines on safeguards, and invite Parties and business organizations and other stakeholders to consider using them as appropriate, and in accordance with national legislation.

11. As explained above, the latest version of the discussion paper on safeguards contains both detailed, specific guidance, including case studies and lessons learned, on how to develop safeguards for different biodiversity financing mechanisms that respond to their specific risks and opportunities, as well as general, "top-level" guidelines on how to establish safeguards in selecting, designing and implementing biodiversity financing mechanisms. Due to their generic nature, the latter are applicable to a wide range of biodiversity financing mechanisms, including those that might emerge in the future. The *Voluntary Guidelines on Safeguards in biodiversity financing mechanisms* contained in the annex to the present paper are a concise set that have been developed on the basis of the discussion paper: *Biodiversity financing and safeguards: lessons learned and proposed guidelines*. The Conference of the Parties, at its twelfth meeting, may wish to consider adopting the guidelines contained in the annex while taking note of the more detailed information in the discussion paper.

12. The Conference of the Parties at its twelfth meeting may therefore wish to consider the following elements for its decision, replacing paragraph 3 of the draft decision prepared by the Working Group:⁴

Adopts the voluntary guidelines on safeguards in biodiversity financing mechanisms, annexed to the present decision;

Takes note of the further information contained in the note by the Executive Secretary including the draft options for voluntary guidelines on safeguards in biodiversity financing mechanisms⁵ and the latest version of the discussion paper on safeguards, *Biodiversity financing and safeguards: lessons learned and proposed guidelines*;⁶

Invites Parties, other Governments, business organizations and other stakeholders to take the voluntary guidelines on safeguards in biodiversity financing mechanisms into account in selecting, designing and implementing mechanisms for financing biodiversity, with a view to effectively promoting the positive effects and avoiding or mitigating unintended negative effects;

³ Co-chair's summary of the workshop contained in document UNEP/CBD/12/INF/5.

⁴ UNEP/CBD/COP/12/4, annex.

⁵ UNEP/CBD/12/14/Add.4

⁶ UNEP/CBD/12/INF/27.

Invites Parties to consider undertaking, as appropriate, a review and assessment of existing legislation and policies governing biodiversity financing mechanisms, with a view to identifying opportunities for establishing or strengthening safeguards, and to make information on this work available to the Executive Secretary, including practical experiences and lessons learned;

Requests the Executive Secretary to compile and analyse the information provided by Parties, for consideration by the Ad Hoc Open-ended Working Group on Review of Implementation at its sixth meeting.⁷

⁷ Or, if established, the first meeting of the Subsidiary Body on Implementation.

*Annex***VOLUNTARY GUIDELINES ON SAFEGUARDS IN
BIODIVERSITY FINANCING MECHANISMS**

1. Both opportunities and risks need to be taken into account in selecting, designing and implementing mechanisms for financing biodiversity. The potential impacts of biodiversity financing mechanisms on different elements of biodiversity, as well as their potential effects on indigenous and local communities' rights and livelihoods, need to be effectively addressed. Particular attention needs to be given to the impacts on, and contribution of, indigenous and local communities as well as women, and to their effective participation in the selection, design, and implementation of biodiversity financing mechanisms.

2. Safeguards in biodiversity financing mechanisms can help to promote the positive effects and avoid or mitigate unintended negative effects on biodiversity and livelihoods.

3. These guidelines are voluntary. Parties and stakeholders, when establishing safeguards in selecting, designing and implementing mechanisms for financing biodiversity, with a view to effectively avoiding or mitigating unintended impacts of biodiversity financing mechanisms and to maximizing their opportunities, should be guided by the following:

(a) The role of biodiversity and ecosystem functions for local livelihoods and resilience, as well as biodiversity's intrinsic values, should be recognized in the selection, design and implementation of biodiversity financing mechanisms;

(b) Rights and responsibilities of actors and/or stakeholders in biodiversity financing mechanisms should be carefully defined in a fair and equitable manner, with the effective participation of all actors concerned, including the prior informed consent and/or approval and involvement of indigenous and local communities, in accordance with the United Nations Declaration of the Rights of Indigenous Peoples;⁸

(c) Safeguards in biodiversity financing mechanisms should be grounded in local circumstances, be developed consistent with relevant country-driven/specific processes and national legislation, and take fully into account relevant international agreements and guidance, developed under the Convention on Biological Diversity, the United Nations Framework Convention on Climate Change, international human rights treaties and the United Nations Declaration of the Rights of Indigenous Peoples, among others;

(d) Appropriate and effective institutional frameworks should be put in place, including mechanisms that will ensure transparency and accountability, as well as compliance with relevant safeguards.

⁸ General Assembly resolution 61/295.