

# ART TREES



TREES is a forest carbon credit standard gaining a lot of attention internationally. **TREES stands for The REDD+ Environmental Excellence Standard.** TREES is getting noticed particularly because it is promoted as a high-quality or high-integrity standard – a standard that is addressing the well-known environmental and social problems that can arise from the production of carbon credits (see Explainers 3 and 4).<sup>109</sup> In this Explainer, we focus mostly on what TREES and ART (the standard body overseeing TREES, which is discussed below) say and do to respect indigenous peoples' rights.

## TREES and indigenous peoples

When it comes to addressing risks of negative impacts from carbon credit projects and programmes on the rights of indigenous peoples, TREES has a set of rules, known as **social safeguards**, that are intended to protect the rights of indigenous peoples.<sup>110</sup> These are based on safeguards that have been agreed at the level of the UN (called the Cancun Safeguards). TREES elaborates on these and explains what it means to respect and protect rights in more detail.<sup>111</sup> It is clear that efforts have been made to develop strong protections for the rights of indigenous peoples. For instance, the safeguards require as an outcome that “Rights of indigenous peoples and local communities, or equivalent, have been identified and their respective rights have been respected, protected and fulfilled in the design and implementation of REDD+ actions”.<sup>112</sup>

That said, there are serious loopholes when it comes to how this will be achieved; the country or **jurisdiction**<sup>113</sup> producing TREES credits can **choose whether they want to comply with both national and international law or just national law** when it comes to protecting customary land tenure rights, ensuring participation and respecting FPIC.<sup>114</sup> This can represent a problem for indigenous peoples in many countries where their rights are not adequately protected in national laws.





## Box 7: A closer look at a loophole in ART safeguards

An example of the language in the ART safeguards that allow countries to apply their national level laws and avoid complying with international law obligations is safeguard B (Theme 2.3). While this safeguard states that participant jurisdictions must "have in place a legal framework, policies or programs for the recognition, inventorying, mapping, and security of customary and statutory land and resource tenure rights where REDD+ actions are implemented", it then allows for these protections of customary and statutory rights to be "anchored in relevant ratified international conventions/agreements **and/or** domestic and if applicable, subnational, legal framework" [emphasis added].<sup>115</sup>

TREES is overseen by a body called **ART (Architecture for REDD+ Transactions)**. ART is, among other things, responsible for **certifying** that countries (or sub-national jurisdictions) are complying with all of the rules of TREES (including the social safeguards) and then for issuing carbon credits.<sup>116</sup> Before ART makes a decision about certifying credits, another **external body must verify** that all the rules have indeed been followed.<sup>117</sup> ART also operates an electronic registry system where credits are registered once they have been issued.<sup>118</sup> ART also has a grievance mechanism that receives community complaints,<sup>119</sup> though as discussed in the example below, it is not clear how well it operates in practice.

The first country in the world to have forest carbon credits certified by ART is **Guyana**, where there are serious questions about the application of TREES in relation to indigenous peoples' rights,<sup>120</sup> as well as the verification process by the external body and the grievance process (see case study on the next page).<sup>121</sup>

# Case study:

## TREES and its complaints procedure: The case of Guyana

Guyana's first set of TREES credits was certified by ART in December 2022.<sup>122</sup> The certification has been controversial, in part because these credits were generated by counting all of Guyana's forests, including the forests on the titled and untitled customary lands of indigenous peoples.<sup>123</sup> Critics say that Guyana did not ensure effective participation and consent of indigenous communities before submitting its application to ART<sup>t</sup> and that therefore it failed to meet TREES requirements relating to indigenous peoples' rights to land and FPIC.<sup>124</sup> In March 2023, the largest **indigenous peoples' NGO in Guyana, the Amerindian Peoples Association (APA), submitted a complaint** to ART's internal grievance mechanism about this.<sup>125</sup>

In its reports to ART, the government of Guyana argued that it complied with TREES' requirements to respect indigenous peoples' rights. The government referred to laws and programs that aim to provide secure land tenure to indigenous communities.<sup>126</sup> However, the APA complaint to ART argues that ART did not look beyond these descriptions to see how these laws and programs actually work on the ground—for example, international human right bodies have criticised Guyana's laws and practice for insufficiently recognising and protecting the land rights of indigenous peoples.<sup>127</sup> The complaint also notes that the **external verification body** failed to look thoroughly beyond the claims made by the government.<sup>128</sup>

Among the critiques of the ART-TREES certification are that the government and ART have treated a July 2022 endorsement by the executive body of Guyana's National Toshao Council (NTC) as evidence of consent for all indigenous lands in Guyana to be included in the carbon credit programme, and to the government's proposed benefit sharing scheme.<sup>129</sup> As stressed by the APA complaint, the NTC is an advisory body established by statute in Guyana and is made up of leaders from all indigenous villages in the country.<sup>130</sup> Its executive body is composed of a small subset of village leaders.<sup>131</sup> The complaint questions the NTC's legal authority to sign over rights to emissions reductions from indigenous lands to the government, as well as the legitimacy of the NTC's endorsement of the benefits sharing mechanism.<sup>132</sup> Critics argue that using the NTC in this way has allowed the government to bypass indigenous peoples' representative institutions while creating the appearance that rights to full and effective participation and FPIC have been respected.<sup>133</sup>

TREES reportedly provided limited information regarding ART's grievance mechanism, and the APA has expressed some concerns about the legitimacy and transparency of this mechanism.<sup>134</sup> At the first stage of the complaint process, ART assigned an investigator from Winrock (the organisation that hosts the ART Secretariat) to look into the complaint.<sup>135</sup> The investigation seemingly concerned the process followed during the certification process, rather than the substance of the TREES requirements.<sup>136</sup> The investigator found no problems with this process.<sup>137</sup> Unfortunately, this approach arguably ignored most of the issues raised in the complaint about Guyana's compliance with TREES. Around the same time as it published its decision on the complaint, the ART Secretariat released new guidance on complaints.<sup>138</sup>

<sup>t</sup> As discussed below, the Government has vigorously contested this critique, pointing to an endorsement of the carbon credit scheme by the National Toshao Council, a statutorily established national indigenous advisory body.

In June 2023, the APA appealed the decision on its complaint.<sup>139</sup> The new complaints guidance provides for an appeals process only if ART deems the appeal 'eligible' for review.<sup>140</sup> Once deemed eligible, a committee would be formed to review the appeal.<sup>141</sup>

ART accepted the APA's complaint in July 2023, but changed the appeals process, informing the APA that the appeal committee would have to determine the eligibility of the appeal.<sup>142</sup> The criteria for eligibility are not transparent.<sup>143</sup> In addition, the committee that decides the appeal is made up of a member of ART's board, a member of Winrock's board, and a representative nominated by the complainant (who must be approved by ART).<sup>144</sup> This design appears to give ART a great deal of power over the outcome of complaints, raising questions about whether indigenous peoples will be able to get a fair hearing through this mechanism.

## TREES and environmental integrity

When it comes to what is often referred to as **environmental integrity** – in other words, whether the carbon credit actually represents a reduction, prevention or removal of CO2 emissions – TREES tries to address risks of credits not actually contributing to reductions in overall emissions.<sup>145</sup> This includes the problems discussed in Explainer 4. It tries to ensure that carbon credit programmes do in fact create 'additional' reductions in emissions (this is often referred to as '**additionality**') rather than simply selling credits for forest protection that would have happened anyway; address the risks that the avoidance, reduction or removal of emissions through carbon credit programmes can be reversed and are not permanent, for example, because the forest burns down (often talked about as '**reversal**' and '**permanence**'); and address the risks that the saved emissions that a credit stands for are counted twice (often called '**double counting**'). Because TREES is a new standard, there is not enough information available to say whether, in practice, application of TREES rules successfully addresses these risks. However, some critics are concerned that ART's approach of crediting **high forest low deforestation (HFLD)** areas does undermine environmental integrity.<sup>146</sup>

## Box 8: What are high forest, low deforestation (HFLD) credits?

High forest, low deforestation (HFLD) area credits represent a different approach to carbon credits. The HFLD approach is different because, originally, REDD+ finance was based on the idea of supporting a country or project that reduces deforestation in areas where there had been high levels of forest loss in the past.<sup>147</sup> The HFLD approach, on the other hand, has been created to allow countries (or sub-national areas such as indigenous territories) that have **high forest cover and historically very low deforestation rates** to also earn money from protecting their forests in the future.<sup>148</sup> Some people are critical of this approach.<sup>149</sup> They ask, if there is low deforestation in the first place, how can it be known that the credits produced actually are linked to protecting forest that would have otherwise been cut down? How can it be shown that this project is actually leading to a reduction in emissions? Could it not in fact lead to negative impacts on the climate if the area would never have been deforested anyway but the credits are being used to offset other greenhouse gas emissions? Those who support the HFLD approach say there is a lot of evidence showing that deforestation will increase in most of the tropics in the next 15 years, so the fact that forests have been intact up to now is not a signal of what will come.<sup>150</sup>

## Can indigenous peoples participate in ART as sellers of carbon credits?

In order for a country or sub-national jurisdiction (for example, a province) to be able to participate in ART, the size of the total forest area must be at **least 2.5 million hectares**.<sup>151</sup> ART says that indigenous territories meeting that requirement can participate, and if one territory is not big enough on its own, different territories can join up if together they are 2.5 million hectares or bigger.<sup>152</sup> However, ART documents suggest that only lands that national governments recognise as owned by indigenous peoples can be counted.<sup>153</sup> The registration must still happen through the government.<sup>154</sup> it is unclear how this registration would happen in practice. Additionally, sub-national jurisdictions, such as indigenous territories, will only be able to participate independently in ART until 2030. After that, ART will only approve credits for countries as a whole.<sup>155</sup>

## Endnotes

109 Architecture for REDD+ Transactions (ART), "The REDD+ Environmental Excellence Standard (Trees), August, 2021, <https://www.artredd.org/wp-content/uploads/2021/12/TREES-2.0-August-2021-Clean.pdf>.

110 ART, "Trees Environmental, Social and Governance Safeguards Guidance Document, Version 2.0, August 2021, <https://www.artredd.org/wp-content/uploads/2021/12/TREES-ESG-Safeguards-Guidance-Document-Aug-2021.pdf>

111 ART, "Trees Environmental", 2021.

112 ART, "Trees Environmental", 2021, Theme 3.3, p. 18.

113 A jurisdiction is a territory or geographic area that is governed by a given sovereign entity. An example of a sub-national jurisdiction would be a state, province, or region.

114 ART, "Trees Environmental", 2021, Theme 2.3, p. 14; Theme 3.3, p. 18; Theme 4.1, p. 18; Theme 4.2, pp. 19-20.

115 ART, "Trees Environmental", 2021, Theme 2.3, p. 14.

116 ART, "REDD+ Environmental Excellence," 2021, pp. 16-17.

117 ART, "REDD+ Environmental Excellence," 2021, p. 17.

118 ART TREES, "ART Registry," accessed September 13, 2023, <https://www.artredd.org/art-registry/>.

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120 Rainforest Foundation UK, "Credits Where They Are Not Due: A Critical Analysis of the Major REDD+ Schemes," July 2023, p. 43, [https://www.rainforestfoundationuk.org/wp-content/uploads/2023/07/Carbon-Credits\\_final\\_ENG.pdf](https://www.rainforestfoundationuk.org/wp-content/uploads/2023/07/Carbon-Credits_final_ENG.pdf).

121 Rainforest Foundation UK, "Credits Where They Are Not Due", p. 43.

122 Winrock International, "ART Issues World's First Jurisdictional Forestry Carbon Credits To Guyana," December 1 2022, <https://winrock.org/art-issues-worlds-first-jurisdictional-forestry-carbon-credits-to-guyana/#:~:text=Following%20completion%20of%20an%20independent,period%20from%202016%20to%202020>.

123 See for e.g., Stabroek News, "Carbon credits deal violates constitutional rights of Amerindians – Janki," March 22, 2023, <https://www.stabroeknews.com/2023/03/22/news/guyana/carbon-credits-deal-violates-constitutional-rights-of-amerindians-janki/>; Stabroek, "The range of tenures (property rights) that underlie the jurisdictional carbon credits sold by Guyana to oil company Hess Corporation," December 15, 2022, <https://www.stabroeknews.com/2022/12/15/features/the-range-of-tenures-property-rights-that-underlie-the-jurisdictional-carbon-credits-sold-by-guyana-to-oil-company-hess-corporation/>; Amerindian Peoples Association (APA), Complaint Letter to ART Secretariat, March 8, 2023, p. 8, <https://www.artredd.org/wp-content/uploads/2023/05/APA-Complaint-Letter-March-8-2023.pdf>.

124 The Village Voice, "Green Washing Indigenous Lands," December 11, 2022, <https://villagevoicenews.com/2022/12/11/green-washing-indigenous-lands/>; Stabroek, "The Indigenous people and carbon credits," December 11, 2022, <https://www.stabroeknews.com/2022/12/11/opinion/editorial/the-indigenous-people-and-carbon-credits/> [https://www.rainforestfoundationuk.org/wp-content/uploads/2023/07/Carbon-Credits\\_final\\_ENG.pdf](https://www.rainforestfoundationuk.org/wp-content/uploads/2023/07/Carbon-Credits_final_ENG.pdf).

125 APA, Complaint Letter to ART Secretariat, 2023. Government of Guyana's official response available on ART TREES website: <https://www.artredd.org/wp-content/uploads/2023/05/Statement-to-ART-Secretariat-re-APA-Grievance-April-3-2023.pdf>.

126 See generally ART, Guyana Forestry Commission, "TREES Monitoring Report – 2022," September 12, 2022, <https://art.apx.com/mymodule/reg/TabDocuments.asp?r=111&ad=Prpt&act=update&type=PRO&aProj=pub&tablename=doc&id1=102>.

127 APA, Complaint Letter, 2023, pp 9-10.

128 APA, Complaint Letter, 2023.

129 APA, Complaint Letter, 2023, pp. 3-4; see ART, "ART Issues World's First Jurisdictional Forestry TREES Carbon Credits to Guyana" December 1, 2022, <https://www.artredd.org/wp-content/uploads/2022/12/ART-Issues-Worlds-First-Jurisdictional-Forestry-TREES-Carbon-Credits-to-Guyana.pdf>; Aster Global, "ART-TREES Verification Report Final V2," December 1 2022, 3.7.2, p. 23, <https://art.apx.com/mymodule/reg/TabDocuments.asp?r=111&ad=Prpt&act=update&type=PRO&aProj=pub&tablename=doc&id1=102>.

130 APA, Complaint Letter, 2023, pp. 3-4; Amerindian Act, Section 41, [https://parliament.gov.gy/documents/acts/4680-act\\_no\\_6\\_of\\_2006.pdf](https://parliament.gov.gy/documents/acts/4680-act_no_6_of_2006.pdf)

131 The Executive Committee comprises 20 members. See High Commission of the Cooperative Republic of Guyana, "Elections for NTC Executives To Be Held This Year – Minister Sukhai," March 3, 2022, <https://www.guyana-hc-south-africa.co.za/2022/03/03/elections-for-ntc-executives-to-be-held-this-year-minister-sukhai>.

132 APA, Complaint Letter, 2023.

133 Village Voice, "Green Washing," 2022; Stabroek, "Indigenous people," 2022.

134 APA, Complaint Letter, 2023; APA appeal to ART TREES, June 16, 2023, on file with authors.

135 Winrock International, APA Complaint Letter to ART Secretariat, May 11, 2023, p. 5, <https://www.artredd.org/wp-content/uploads/2023/05/Letter-to-ART-Secretariat-Regarding-APA-complaint-Guyana-5.11.23-final.pdf>. ART exempts most people who work for ART or Winrock from ART's conflict of interest rule.

136 Winrock International, APA Complaint Letter, 2023.

137 ART Secretariat Statement, May 18, 2023, <https://www.artredd.org/wp-content/uploads/2023/05/ART-Secretariat-Statement-May-18-2023.pdf>.

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142 ART-TREES letter of response to APA Appeal, July 16, 2023, on file with authors.

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144 ART Complaints Guidance, May 2023.

145 See generally, ART, "REDD+ Environmental Excellence," August 2021.

146 Charlotte Streck et al., "COMMENT: We must protect intact forests, but CORSIA got it wrong," *Carbon Pulse*, April 14, 2022, <https://carbon-pulse.com/156727/>.

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150 ART, "ART Board Statement Regarding the Integrity of High Forests, Low Deforestation (HFLD) Credits," June 23, 2022, <https://www.artredd.org/wp-content/uploads/2022/06/ART-Board-Statement-Regarding-the-Integrity-of-High-Forests-Low-Deforestation-HFLD-Credits.pdf>.

151 ART, "REDD+ Environmental Excellence," 2021, p. 21.

152 ART, "Indigenous Peoples in ART Primer and Frequently Asked Questions," December 2021, <https://www.artredd.org/wp-content/uploads/2021/12/ART-IP-in-ART-Primer.pdf>.

153 ART, "REDD+ Environmental Excellence," 2021, p.22.

154 ART, "REDD+ Environmental Excellence," 2021, p.22.

155 ART, "REDD+ Environmental Excellence," 2021, p.21.