

ANNEX A: Matrix for the *Proyecto Socio Bosque de Conservación*: Policy, Law and Regulations Analysis alignment with UNDP SES Standards and Cancún Safeguards¹

SAFEGUARD A <i>Actions complement or are consistent with the objectives of national forest programmes and relevant international conventions and agreements</i>	
Criteria A.1. Complement or be Consistent with the Objectives of National Forest Programmes	
Diagnostic Question: to what extent do PLRs require consistency with the objectives of national forest programmes?	
Indicator	Explanation (identify articles/provisions) (not an exhaustive reference to all relevant PLRs)
PLRs clearly define what the national forest programme(s) is/are and requires that steps are taken to ensure that any new policy/initiative is consistent with (or at least does not contradict) existing policies/programmes).	<p>The forest law in effect in 2014 (the period subject to the request for results-based payments (RBPs) as a result of the Proyecto Socio Bosque (Socio Bosque Program) (“PSB” or “Socio Bosque”), is the Ley Forestal y de Conservación de Areas Naturales y Vida Silvestre (Law on Forests and Conservation of Natural Areas and Wildlife) (2004, amended 2014). <i>Ultimately its primary goal is the conservation and rational use of the existing forest and natural resources. It addresses forest and biodiversity aspects (flora and fauna) and establishes the prohibition of land use change in national parks and ecological reserves, since its intended use is that of conservation. It also does so in lands with forest potential in which afforestation and reforestation are established through an elaborate plan by the MAE, and promotes the sustainable forest management (MFS). Likewise, it regulates aspects related to the conformation of the State Forest Patrimony, grants attributions and functions to the MAE on the subject of forests, and, among others, addresses aspects about protective forests and vegetation, forest lands, forests private property, forest plantations, forest control and mobilization, and incentives.</i></p> <p>The PLRs that interact with and work together with the forest law so as to be consistent with its stated objectives. Together the Constitución de la República de Ecuador (Constitution), the Plan Nacional del Buen Vivir, (National Development Plan for Good Living), the Texto Unificado de</p>

¹ All English translations of Spanish policies, laws and regulations in this matrix is unofficial, see Spanish original as needed.

Legislación Secundaria de Medio Ambiente (Unified Text of Secondary Legislation of the Environment), the **Estrategia Nacional de Cambio Climático (National Climate Change Strategy)**, the **Estrategía Nacional de Biodiversidad (National Biodiversity Strategy)** and the **Política Nacional de Gobernanza del Patrimonio Natural para la Sociedad del Buen Vivir (National Policy of Governance of Natural Heritage for the Good Living Society)** constitute several of the key legal and political elements that guide the establishment of the country's natural resource governance consistent with the forestry law. Together, these instruments establish incentives, guidelines and procedures for forest control and promotion which promotes transparency, efficiency and equity in the use of forest resources and their associated benefits.

For example, the **Constitution** defends the right of the people to live in a healthy environment while also respecting the rights of nature. These rights were affirmed in the 2008 Constitution and represent the first nation to recognize the rights of Nature itself. The Constitution establishes incentives for the protection of nature and the environment, preservation of biodiversity and the development of community productive activities (Articles 71 and 267). It is the supreme law of the land for which other laws, regulations and policies must conform.

The **Política de Gobernanza de Patrimonio Natural para la Sociedad del Buen Vivir (2013-2017) (Policy of Governance of Natural Heritage for the Society of Good Living (2013-2017))** aims to guide actions and strategies that allow an institutional management of the Natural Heritage and allow their proper insertion in the economic dynamics of the country. It contemplates five strategic goals: “a) Management of a Sustainable Landscape, which refers to an articulation with the processes national and decentralized planning and development related to territorial issues linked to the change in the matrices of production and sovereignty over energy b) a national incentive program, which manages a broad portfolio of incentives that promote conservation and sustainable use of the natural heritage; c) Integral management of forests and wildlife, which refers to reducing deforestation through the application of measures to prevent, regulate, and promote sustainable management and control of forest value chains; d) Biosecurity and heritage management of genetic heritage, which focuses on the valuation and regulated use of resources genetic resources, and, finally, e) Research and monitoring, which is oriented, one side, towards local knowledge in scientific research and, on the other, to the institutionalization of information generation processes and monitoring the conservation conditions of land and marine ecosystems.”

	<p>The <i>National Policy of Governance of the Natural Heritage for the Society of Good Living 2013-2017</i> further determines as a national priority to establish a portfolio of incentives that encourage conservation and sustainable use of the natural heritage. This incentive system contemplates the conservation of forests and fragile ecosystems, active and passive restoration of degraded ecosystems, production and sustainable trade in biodiversity, valuation and sustainable use of ecosystem services, allocation of lands for conservation and sustainable use and the articulation of tax incentives.</p> <p>Consistent with the nation's forest laws, the <i>Manuel Operativo del PSB, Acuerdo Ministerial No. 130 (2011) (PSB Operations Manual, Ministerial Agreement)</i> has the goal of conserving more than 3.600.00 hectares of native forests and other forms of native vegetation with between 500 to 1500 beneficiaries and with the objectives of reducing poverty and incentivizing <i>servicios ambientales</i> (environmental services) (such as biodiversity refuges and carbon warehousing).</p> <p>Also, the National REDD+ AP provides that its overall objective is to contribute to national efforts for the reduction of deforestation and forest degradation through conservation, sustainable forest management, and the optimization of other land uses to reduce the pressure on forests, so as to reduce greenhouse gas emissions.</p> <p>All of the above is consistent with Ecuador's duties and obligations under international conventions and agreements, including the UNFCCC and the Convention on Biological Diversity.</p>
Safeguard A	
Criteria A.2. Complement or be Consistent with the Objectives of Relevant International Conventions and Agreements	
<p>Diagnostic Question: to what extent do PLRs require consistency with objectives of relevant international conventions and agreements, and this is applicable to the forestry sector?</p>	

Indicators	Explanation (identify articles/provisions)
<p>Number of relevant of international agreements that the country is Party to*</p> <p><i>(Including HR and environmental/biodiversity conventions)</i></p>	<p>Among others, Ecuador has ratified, acceded to, or accepted the application of the following international agreements and instruments:</p> <ul style="list-style-type: none"> - International Labour Organization Convention concerning Indigenous and Tribal Peoples in Independent Countries, No. 169 (ILO 169) - International Covenant on Economic, Social and Cultural Rights (ICESCR) - International Covenant on Civil and Political Rights (ICCPR) - International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) - Convention on the Rights of the Child - Convention on the Protection and Promotion of Diversity of Cultural Expressions - Convention on the Elimination of Discrimination Against Women - Convention on Biological Diversity - Convention for the Safeguarding of Intangible Cultural Heritage - Convention Concerning the Protection of the World Cultural and Natural Heritage - American Convention on Human Rights (American Convention) - Universal Declaration of Human Rights - United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) - United Nations Framework Convention on Climate Change - Decision 1/CP.16 - Convention on Biological Diversity - Decision XI/19 <p>For a more complete list see http://hrlibrary.umn.edu/research/ratification-ecuador.html; See also signatories to the conventions of the Inter-American System http://www.oas.org/es/cidh/mandato/documentos_basicos.asp and the labour conventions of the ILO System https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102616</p>

<p>How the national legal framework incorporates international law</p>	<p>Article 84 of the Constitution, “[g]uarantees of the legal and regulatory framework”, provides for the following thereby recognizing the import of both national and international laws: “The National Assembly and all bodies with legal and regulatory authority shall be obligated to adjust, formally and materially, the laws and other legal standards related to the rights provided for in the Constitution and international treaties and those that are needed to guarantee the dignity of human beings or communities, peoples and nations. In no case shall amending the Constitution, laws, other legal and regulatory frameworks or actions by the government endanger the rights recognized by the Constitution.” Furthermore, per Article 93, constitutional actions can rest on failures of government officials/institutions to comply with the legal system (which includes international treaties), including compliance with the rulings or reports of international human rights organizations, when the regulation or decision whose enforcement is being pursued contains an obligation to make it clear, express and enforceable. Indeed, Article 17 of the Constitution requires that “Judges shall administer justice subject to the Constitution, international human rights instruments and the law.” As noted below, per Article 57, the State is also to respect and recognize the rights of indigenous peoples and other local communities in accordance with international law. Also, Article 384 also provides that “The State shall draft public policy for communication, with unrestricted respect for the freedom of expression and the rights of communication enshrined in the Constitution and international human rights instruments”.</p>
<p>The current hierarchy of laws (the status of international agreement within the legal framework)</p>	<p>Article 424 of the Constitution provides that the “The Constitution and international human rights treaties ratified by the State that recognize rights that are more favorable than those enshrined in the Constitution shall prevail over any other legal regulatory system or action by public power” This is further affirmed by Article 425 which provides that “The order of precedence for the application of the regulations shall be as follows: the Constitution; international treaties and conventions; organic laws; regular laws; regional regulations and district ordinances; decrees and regulations; ordinances; agreements and resolutions; and the other actions and decisions taken by public authorities.” So treaties are of greater weight than national laws, but the Constitution appears to prevail over such laws, save where it speaks of rights that must be consistent with international law. (For instance, see Article 416 (9) providing that “The international treaties ratified by Ecuador shall be subject to the provisions set forth in the Constitution”; while Article 417 does “subject to the provisions set forth in the Constitution” all treaties ratified by Ecuador.</p>

SAFEGUARD B	
<i>Transparent and effective national forest governance structures, taking into account national legislation and sovereignty</i>	
Criteria B.1. Transparency	
Sub-Criteria B.1.1. Right of Access to Information	
Diagnostic Question: To what extent do PLRs guarantee the right to access to information?	
Indicators	Explanation (identify articles/provisions)
PLRs recognise the right to access to information	<p>Ley Orgánica de Participación Ciudadana (2011) (Organic Law on Citizen Participation), Art. 3(1) guarantees the democratization of relations between all citizens (men, women, indigenous, Afroecuadorian etc) and the State and the different levels of government which is based, among other things on “access of the citizenry to the necessary information to follow processes aimed at addressing rights and duties, social control, and accountability in the management” of public funds. Also, Art. 4 provides for “principles of participation” which includes the principle of “<i>information and transparency</i>” guaranteeing the “right to free access of citizens to public information, within the framework of the principles of responsibility and public ethics established in the Constitution and law, without prior censorship.”</p> <p>Ley Orgánica de Transparencia y Acceso a la Información Pública (2004)(The Organic Law on Transparency and Access to Public Information) provides that consistent with the Constitution, and rights affirmed in international treaties that have been ratified by Ecuador, including the rights to freedom of information recognized in Art. 19 of the ICCPR and Article 13 of the American Convention, the law applies to all government entities and all other parties with juridical personality that administer public funds, provide public services, or hold public information (like MAE and or the Ministry of Agriculture (MAG), and congress). Among other things, the law describes what public information is how institutions should make information public and what material that should include; how institutions should file and maintain their information; a requirement that the</p>

	<p>institutions covered by the law provide an annual report to the <i>Defensoría del Pueblo</i> as to how they have complied with the right to public access to information –including what requests for information they received and how they were addressed; the duty of congress to release information about all proposed laws; and what information can be withheld from the public. Title IV specifically allows a citizen to write to any institution covered by the law and request public information (per Art. 9 the institution has 10 days to respond) and per Art. 22 there is a right to a constitutional action if the right to information is denied.</p> <p><i>El Código Orgánico de Organización Territorial, Autonomía y Descentralización (COOTAD) (2010) (The Organic Code for Territorial Organization, Autonomy and Decentralization</i>, Art. 165 ensures that management of public resources by the decentralized autonomous governments must be done in a transparent manner, with public access to information, and full accountability with respect to the use of those funds.</p>
<p>PLRs provide a definition of ‘information’ (held by public authorities/accessible to the public)</p>	<p>Ley Orgánica de Transparencia y Acceso a la Información Pública (2004) (The Organic Law on Transparency and Access to Public Information), Art. 4 defines “Public Information” as “any document in any format, which is in the power of public institutions and of legal entities to which that this Law refers to, contents, created or obtained by them, that are under their responsibility or have been produced with State resources.</p> <p>In the National REDD+ AP Guía Nacional de Consulta para la Implementación de Acciones REDD+ en Tierras o Territorios Colectivos (National Guideline on Consultation for the Implementation of REDD+ Actions in Collective lands and Territories), Step 2, entitled “<i>What Information Must be Provided to the Collective</i>” provides a detailed list of material that should be provided so that the collective understands their rights, what REDD+ is, what the proposed activity involves in terms of personnel, areas to be affected, possible benefits and risks and more.</p>
<p>PLRs require the active distribution of information</p>	<p>Ley Orgánica de Transparencia y Acceso a la Información Pública (2004) (The Organic Law on Transparency and Access to Public Information, Art. 7 provides a list of the kinds and categories of information that the institutions covered by the law must make available to the public, including on a web page, and even provides that such information should “be published, organizing it by topics, items, sequential order or chronological, etc., without grouping or generalizing, in such a way that the citizen can be informed correctly and without confusion.”</p>

	In the case of Socio Bosque and the National REDD+ AP, the MAE is the lead agency and responsible for making information public and guaranteeing the right to access to information.
PLRs guarantee passive access to information (access to information on request)	Ley Orgánica de Transparencia y Acceso a la Información Pública (2004)(The Organic Law on Transparency and Access to Public Information) , Title IV specifically allows a citizen to write to any institution covered by the law and request public information (per Art. 9 the institution has 10 days to respond).
Safeguard B	
Criteria B.1. Transparency	
Sub-Criteria B.1.2. Institutions to Ensure Access and Distribution of Information	
Diagnostic Question: To what extent does the legal framework require public institutions to ensure the access and distribution of information?	
Indicators	Explanation (identify articles/provisions)
PLRs create dedicated institutions for distribution of information	<p>The MAE is responsible in the National REDD+ AP and Proyecto Socio Bosque for the distribution of information. Critical information about REDD+ activities and policies can be found at http://reddecuador.com/ and the website for the PSB (http://sociobosque.ambiente.gob.ec/) is quite extensive and provides everything from templates for the <i>convenios</i> (agreements) to the filing of monitoring and accountability reports, to all of the pamphlets with the most requested questions and answers, and all of the foundational documents and ministerial resolutions establishing the PSB framework.</p> <p>Ecuador's Ombudsman is the entity called to ensure compliance with the <i>Ley Orgánica de Transparencia y acceso a la información pública</i> (Organic Law of Transparency and access to public information). To this end, Resolution No. 007-DPE-CGAJ of the Ombudsman (2015), established the "Technical Parameters for Compliance with the Obligations of Active Transparency Established in Art. 7 of the Organic Law of Transparency and Access to Public Information - LOTAIP ", which seeks to standardize the information that is published (made public) and ensure that it is permanently</p>

	<p>updated. This resolution establishes a series of obligations and deadlines that must be met by all. More information: http://www.dpe.gob.ec/transparencia-lotaip/</p> <p>In addition to the MAE, other government institutions have competence in forest management. For instance, the MAG is in charge of the management and titling of productive lands and afforestation and commercial reforestation (timber production in plantations).</p>
<p>PLRs create a central registry for gathering information related to forest management</p>	<p>Ecuador consolidates all the information related to environmental governance through the Unified Environmental Information System (SUIA in its Spanish acronym) which can be accessed at http://suia.ambiente.gob.ec. SUIA provide provides available officially validated environmental information to the general public, allowing adequate environmental management to facilitate decision-making aligned with the National REDD+ PA. The key SUIA sub-systems for REDD+ are described below, beyond these SUIA also offers access to :</p> <ul style="list-style-type: none"> • Ministry of the Environment Grievances portal • Transparent Yasuní National Park Initiative • The Interactive Environmental Map • A Repository of Environmental Knowledge • The National System of Environmental Indicators • General information on Research and Environmental Education • National System of Protected Areas (SNAP) information system <p>Regarding REDD+, within the MAE there is a Dirección de Comunicación Social (Social Communication Directorate) that works on communication strategies for the programme.</p> <p>Ecuador also has a national Forest Reference Emissions Level (FREL) and a Sistema Nacional de Monitoreo de Bosques (National Forest Monitoring Systems(SNMB) accessible to the public (see http://redd.mma.gov.br/images/gttredd/carlosponce_equador.pdf) Through its REDD programme, currently, the MAE with the support of KFW is undertaking efforts to strengthen the country's National Forest Monitoring System with the implementation of SEPAL (Data Access System for Land Observation, Processing and Analysis for Monitoring the land surface) platform developed by the Food and Agriculture Organization of the United Nations (FAO). SEPAL will allow the detection of</p>

	<p>deforestation. At present the System contains a national forest inventory, biomas and carbon data, spatial data of the scenario of historical deforestation at the national level for periods: 1990 - 2000 - 2008-2014-2016; 2012: 91 ecosystems continental maps, bioclimate, geoform maps, phenology, and biogeography maps. In the SEPAL platform, the following processes are planned: (1) pre-processing, (2) land use change and land cover, (3) degradation, and (4) early warning of deforestation, (5) , These processes incorporate programming algorithms that allow the automatic detection of changes in the coverage and use of the land, which represents an improvement to the current method of detection.</p> <p>There is also a National Database of Vegetation Data, which contains a taxonomic management module with 63,000 records of <i>taxanes</i> of vascular flora; and the collection management module of the Vegetation Map project; and a National Database of Biodiversity Data to incorporate taxonomic records of non-vascular fauna and flora.</p> <p>Additionally, Socio Bosque Program has an internal monitoring system (Sistema de Evaluación Monitoreo y Postulación- SEMOP) (System of Evaluation, Monitoring and Application) available to the public at http://semop.ambiente.gob.ec:8085/Sisbweb/, in which periodic monitoring and follow up is given to all agreements and beneficiaries. This system was implemented in the period of results but is not of public access. Live information about conservation areas of Socio Bosque is available in the interactive map (available at http://mapainteractivo.ambiente.gob.ec/portal/)</p> <p>MAE also has REDD+ Infor Hub at http://www.reddecuador.com/ where all information about REDD+ implementation is publicly available.</p> <p>Beyond the MAE, the Ministry of Agriculture has had the SIGTIERRAS program (http://www.sigtierras.gob.ec/) since 2009 , through this program the MAG built a National Information System for Rural Lands and Infrastructure, whose objective is to establish a rural land administration system at the national level that guarantees tenure and provides basic information for land use planning.</p>
<p>PLRs provide clear procedures for request/access to information</p>	<p>See above, Art. 9 of the Ley Orgánica de Transparencia y Acceso a la Información Pública (2004) (The Organic Law on Transparency and Access to Public Information) specifically allowing a</p>

	citizen to write to any institution covered by the law and request public information (per Art. 9 the institution then has the obligation to respond within 10 days).
Safeguard B	
Criteria B.1. Transparency	
Sub-Criteria B.1.3. Accountability	
Diagnostic Question 1: To what extent do PLRs promote fiscal transparency in the forest sector?	
Indicators	Explanation (identify articles/provisions)
PLRs require that independently audited reports must be prepared showing clearly how public funds have been used by the forest agency	<p>Ley Orgánica de Participación Ciudadana (2011) (Organic Law on Citizen Participation), Art. “Art. 88.-Citizen right to accountability.-the citizens, in individual or collective form, communes, communities, indigenous peoples and nationalities, peoples Afro and Montubio, and other lawful forms of organization, may apply once a year for rendering of accountability by public or private institutions that provide public services, manage public resources or develop activities of public interest.”</p> <p>Ley Orgánica de Transparencia y Acceso a la Información Pública (2004)(The Organic Law on Transparency and Access to Public Information), Art. 7 requires the dissemination of information to the public that includes, among others “Total information on the annual budget administered by the institution, specifying income, expenses, financing and operating results in accordance with budgetary classifiers, as well as liquidation of the budget, specifying recipients of the delivery of public resources; h) The results of the internal and governmental audits of the budget exercise”</p> <p>The Law on Forestry Law and Conservation of Protected Areas and Wildlife (2004, amended 2014), Art. 77 provides for a “Forest Fund” that is exclusively invested in accordance with that which is stipulated by the Ministry of Economy and Finance and approved by the Permanent Specialized Tax Commission, and the of the tax, and the Bank of the National Congress (thereby providing checks and balances).</p>

	<p>The National REDD+ AP specifies “principles” that govern its programming which include “Transparency. Access to information in a clear, accurate and Timely approach to the implementation and financing of REDD + measures and actions, promoting mechanisms for the surrender of accounts. This information should be readily available and Directly accessible and understandable to interested parties.”</p> <p>The Manuel Operativo del PSB, Acuerdo Ministerial No. 130 (2011) (PSB Operations Manual, Ministerial Agreement) requires the delivery of reports on the use of funds with the appropriate proof/backing before the private landowner receives their next incentive payment.</p>
<p>Diagnostic Question 2: To what extent do PLRs adequately address corruption in the forest sector?</p>	
<p>Indicators</p>	<p>Explanation (identify articles/provisions)</p>
<p>PLRs provide clear measures to address corruption in the forest sector (including a definition of corruption)</p>	<p>Consultant has not aware of any definition of corruption in the forest sector. However, while the <i>Código Integral Penal – COIP</i> (The Comprehensive Penal Code – COIP) (2014) does not typify corruption as a crime, it does refer to crimes against the public administration. In addition, as described below, the Government of Ecuador has put in a number of measures to decrease corruption through improved transparency, monitoring, and contracting within the forest sector Also, see Art. 204 of the Constitution provides for the establishment of the <i>Función de Transparencia y Control Social</i> (the Transparency and Social Control [Unit] (see http://www.ftcs.gob.ec/) authorized to promote the carrying out of forest sector activities in a responsible way, with transparency, and equity; citizen’s participation, and to “prevent and combat corruption.” The entity is composed of representatives from the Council for Citizen Participation and Social Control, the Ombudsman, the Comptroller General of the State and the superintendencies.</p>
<p>PLRs foresee penalties against acts of corruption</p>	<p>Corruption is largely handled through the criminalization of actions that demonstrate corruption, increased transparency, accountability and participation of citizens and access to information over all, as well as sanctions. For instance, see the <i>Código Integral Penal – COIP (The Comprehensive Penal Code – COIP) (2014)</i> Arts. 278 (embezzlement), 279 (illicit enrichment), 280 (bribery), 282 (breach of legitimate decisions of competent authority), etc. The Ley de Contratación Pública (Public Procurement Law) (Title VI) and the Ley de la Contraloría General (Law of General</p>

	<p>Control) also provide penalties for infractions that would amount to corruption. (See also the Constitution, Articles 230 (prohibiting nepotism), and 231 (“Office of the Comptroller General shall examine and crosscheck the statements and shall investigate those cases where illicit enrichment is alleged”), and 233 (subject to the sanctions established for the offenses of embezzlement, bribery, extortion and illicit enrichment).</p> <p>Ecuador has a broad legal and institutional framework that guarantees transparency and access to public information. The Constitution of Ecuador 2008, Chapter V promotes control and transparency of public institutions and private sector that provides public services and engages in activities of public interest. Per Article 204 of the Constitution, Ecuador also has a Secretaría Nacional de Transparencia de Gestión (National Secretariat of Management Transparency) that, among other things, has the power to monitor, and denounce acts of corruption. The Congress is also debating a proposed bill to adopt an Organic Law on the Fight against Corruption (Ley Orgánica de Lucha contra la Corrupción).</p>
<p>PLRs create independent agencies mandated to fight corruption and with faculties to investigate corruption allegations</p>	<p>The Constitution addresses corruption in several articles, but Article 204-210 provides for the Secretaría Nacional de Transparencia de Gestión (National Secretariat of Management Transparency) that is charged with preventing and combatting corruption, including the power to investigate. The Secretariate is comprised of the Council for Public Participation and Social Control, the Office of the Human Rights Ombudsman, the Office of the Comptroller General, and the Superintendencies. It has organizational autonomy to ensure independence, its members are immune from prosecution in the National Court.</p>
<p>PLRs provides codes of conduct governing the engagement and behaviour of public servants</p>	<p>Articles 223-229 of the Constitution provide detailed descriptions of the characteristics that are expected of all public and civil servants working for the welfare of the people with the highest integrity and speaks to the repercussions and sanctions if they are found to deviate from the same, engage in nepotism, “cover ups” and other offenses of embezzlement, bribery, extortion and illicit Enrichment</p> <p>Acuerdo 007 of the MAE provides a Code of Ethics for MAE (April 2014) officials, available at http://www.ambiente.gob.ec/wp-content/uploads/downloads/2015/03/C%C3%B3digo-de-Etica-MAE.pdf</p>

Safeguard B	
Criteria B.2. Effective National Forest Governance	
Sub-Criteria B.2.1: Clear Land Tenure Rights	
Diagnostic Question: To what extent do PLRs recognise and protect different types of forests tenure (ownership and access)?	
Indicators	Explanation (identify articles/provisions)
PLRs recognise different types of rights over forest land and forest resources (Statutory and customary ownership, use rights)	<p>The Constitution, Art. 57(4), (5) and (6) provides for recognition of indigenous peoples' ownership over their ancestral lands. The Constitution also speaks about their right "to participate in the use, usufruct, administration and conservation of natural <i>renewable</i> resources located on their lands." Article 321 of the Constitution also "recognizes and guarantees the right to property in all of its forms, whether public, private, community, State, associative, cooperative or mixed-economy, and that it must fulfill its social and environmental role."</p> <p>The <i>Ley Forestal y de Conservacion de Areas Naturales y Vida Silvestre (Law on Forests and Conservation of Natural Areas and Wildlife) (2004, amended 2014)</i> recognizes various rights over forest lands (ownership and use) and various categories of forest lands (i.e Forest Lands, Private Property Forests, Forest Plantations etc., State forests of permanent production; Private forests of permanent production; Protective forests; and special and experimental areas)</p> <p>Ley Orgánica de Tierras Rurales y Territorios Ancestrales (2016) (Organic Law on Rural Lands and Ancestral Territories). Art. 23 provides that the state "will recognize and Guarantee in favor of communes, communities, peoples and Indigenous nationalities, Afro and Montubios, the right to conserver their community property and to maintain the possession of their ancestral and communal lands and territories to be awarded to them in perpetuity free of charge in accordance with the Constitution, covenants, conventions, declarations and other international instruments of collective rights". Per this law, it is the Agrarian Authority that provides all titles and maintains the title registry of indigenous/local community lands and other rural lands. Chapter V of this law further defines ancestral lands based on actual possession and possession since time immemorial and provides for the Agrarian Authority to delimit and title such lands in coordination with</p>

	<p>the peoples who request it; and when such lands are within protected areas, the Ministry of the Environment does the titling and delimiting in coordination with the Agrarian Authority. (New emerging law within Ecuador will place the authority to title ancestral lands with the MAE when such lands are found within protected areas, protective forests, and areas of Natural Patrimony). MAG will continue its titling duties with respect to ancestral lands where otherwise located.</p> <p>The law lacks an express recognition of indigenous peoples' rights to administer <i>all</i> the natural resources within their lands, but specifies that this right is limited to a <i>right to participate</i> in the use and conservation of <i>renewable</i> resources. Depending on how this is interpreted and implemented, including in tandem with the rights of consultation and consent, this provision can be consistent, or not, with international law which provides the right of indigenous peoples to own, use, control and administer their lands and resources. In the context of Socio Bosque and REDD+ activities, this limitation and the reserved power of the State over non-renewable resources seemed to not be implicated.</p> <p>International treaties to which Ecuador is a party also recognizes customary ownerships (which is based on traditional use and occupation, and not necessarily State titles). These include, but are not limited to the ILO 169, the American Convention, the ICCPR, the ICESCR, ICERD and UNDRIP.</p> <p>The Manual Operativo del PSB, Acuerdo Ministerial No. 130 (2011) (PSB Operations Manual, Ministerial Agreement) permits communities with titles, and indigenous peoples <i>without</i> titles but other form of State recognition of property (i.e. affirming that the lands are ancestral but not yet titled), to participate as potential <i>socios</i> for future agreements with the Government to conserve the forests in exchange for benefits.</p>
<p>PLRs provide clear legal procedures for the recognition of land (and forest land) tenure rights</p>	<p>With respect to “procedures” to guarantee land tenure, in Article 80, the Ley Orgánica de Tierras Rurales y Territorios Ancestrales (2016) (Organic Law on Rural Lands and Ancestral Territories), provides that where the peoples request it, the Agrarian Authority will “technically verify the historical, anthropological, Socio-economic, normative and cultural underpinnings of their request” prior to issuing and registering a title.</p> <p>The Protocolo que Regula los Procesos de Adjudicación de Tierras Rurales (Protocol regulating the processes of Rural land Allotment), Resolution 9 (2013) (regulating the law mentioned directly above), provides no procedure that is specific to indigenous peoples, but does provide details on what</p>

	<p>information is needed by the Government to properly allot agrarian lands (the parameters and technical characteristics for the presentation of plans and reports of rural area boundaries –all requirements of the process of adjudication and legalization).</p> <p>The <i>Reglamento a Ley Organica de Tierras Rurales Territorios Ancestrales (Regulation to the Organic Law on Rural Lands and Ancestral Territories) Executive Decree 1283 (2017)</i> does provide for requests for titling, but the process described is one of general application and contains nothing specific to the circumstances of indigenous peoples and other collectives such as Afroecuadorians and montubios, regarding the proof that would be required to establish their traditional/historic use and occupancy. If there is no other procedure, then it could be argued that Ecuador’s laws fall short of providing the kind of clear and effective procedures for the delimitation, demarcation and titling of indigenous lands. This does not seem to have been implicated by the Socio Bosque project or result in adverse impacts, but may implicate future REDD+ projects and programs.</p> <p>MAE Decreto Ministerial No. 265 (Ministerial Decree No. 265) regulates the allocation of lands for individual and collective persons in State Forest Patrimony and Protective Forests. The Decree establishes a specific procedure for indigenous peoples and communities. Whereas MAG addresses land tenure security (titles) to individuals and collectives outside of these protected areas, this decree places the authority within the MAE when dealing with protected forest areas and as such, applies in the context of REDD+ programing.</p>
<p>PLRs establish fair procedures to govern the expropriation of forest land by the state. No forced evictions, allowing evictions only in exceptional circumstances meeting lawful criteria</p>	<p>Section 7 of the Código Orgánico de Organización Territorial, Autonomía y Descentralización (Organic Code on Territorial Organization, Autonomy and Decentralization) provides that “In order to execute Social development plans, to promote programs of Urbanization and housing of social interest, management Sustainable environment and collective well-being, the Regional, provincial, metropolitan and For reasons of public utility or social interest, May declare the expropriation of property, just prior Compensation and payment in accordance with the Law.”</p> <p>Ley Orgánica de Tierras Rurales y Territorios Ancestrales (2016) (Organic Law on Rural Lands and Ancestral Territories), Art. 32 establishes that the <i>Autoridad Agraria Nacional</i> (National Agrarian Authority) has the authority “[t]o affect, to declare of public utility or of social interest; or expropriate rural land of private domain that do not comply with social function or environmental function, or constituting latifundio as provided for in this Law.” There appears to be different forms of expropriation,</p>

	<p>the typical “for public utility” types, agrarian expropriations for specific listed circumstances –not necessarily public utility. There is no reference to expropriations specifically of forest lands. Where processes are described in this law, the Agrarian Development Law and the Organic Code on Territorial Organization, Autonomy and Decentralization, the expropriation is based on law, provides for a valuation for due compensation, and appears to provide for a right of appeal. This should be studied more for future REDD+ projects that anticipate physical or economic displacements that would be equivalent to an expropriation.</p> <p>This is consistent with the Ley de Desarrollo Agrario (Codification to the law of Agrarian development), in its Arts. 36 and 37 establishing the creation of the National Institute of Agrarian Development (INDA) and authorizing it to declare the expropriation of lands (<i>tierras rústicas</i>) in specific circumstances and provides a procedure in its chapter V.</p> <p>Art. 42 of the Constitution provides that “All arbitrary displacement is forbidden”. Art. 57(11) prohibits the displacement from their ancestral lands of Indigenous communities, peoples and nations, the Afro-Ecuadorian people, the back-country people (montubios) of the inland coastal region, and communes.</p> <p>Forced evictions are also prohibited by the ICCPR and other treaties. UNDRIP, Art. 10 provides that indigenous peoples should not be forcibly removed from their lands or Territories without their FPIC and a prior agreement on just and fair compensation and, where possible, with the option of return.”</p> <p>Art. 57(7) of the Constitution provides that “If consent of the consulted community is not obtained, steps provided for by the Constitution and the law shall be taken.” (Socio Bosque is a voluntary program, however, so the matter of expropriation is not relevant).</p>
<p>PLRs provide clear land titling and registration procedures. These are accessible (not cost prohibitive)</p>	<p>There is a Registro de la Propiedad (a Property Register) and a procedure for the registration of property in Ecuador. Where indigenous peoples, local communities and other potential <i>socios</i> had difficulty navigating the Register to solicit documents needed to be eligible for participation in the PSB <i>convenios</i>, PSB staff assisted with the technical work. The PSB also worked with multiple parties to clarify problems with any titles registered so as to facilitate their participation in the programme (i.e. the registration did not cover the full extent of the lands). As to the clear titling procedures.</p> <p>See also above, regarding Article 80 of Ley Orgánica de Tierras Rurales y Territorios Ancestrales (2016) (Organic Law on Rural Lands and Ancestral Territories) and the provisions of the Protocolo que Regula los Procesos de Adjudicación de Tierras Rurales (Protocol regulating the processes of</p>

	<p>Rural land Allotment), Resolution 9 (2013), and the <i>Reglamento a Ley Organica de Tierras Rurales Territorios Ancestrales (Regulation to the Organic Law on Rural Lands and Ancestral Territories) Executive Decree 1283 (2017).</i> (See the commentaries to the same).</p> <p><i>MAE Decreto Ministerial No. 265 (Ministerial Decree No. 265)</i> regulates the allocation of lands for individual and collective persons in State Forest Patrimony and Protective Forests. The Decree establishes a specific titling procedure for indigenous peoples and other collectives. Whereas MAG addresses land tenure security (titles) to individuals and collectives outside of these protected areas, this decree places the authority within the MAE when dealing with protected forest areas and as such, applies in the context of REDD+ programing. Titling processes for indigenous peoples and other collectives is free.</p>
<p>PLRs ensure that any displacement activities carried out in fully participatory manner.</p>	<p>The National REDD+ AP and Proyecto Socio Bosque did not and does not envision any physical displacements of communities and where limitations on rights to access or use might have been considered as rising to the level of a form of economic displacement, such limitations were lawful as (consistent with the original PSB) would be based on free and informed voluntary decisions of those communities (based on consultation and consent). Mitigation measures include the briefings that the PSB staff due to ensured informed decision making, and the requirement of an approval from the highest representative body chosen by the peoples in question. Risks of harms would presumably only take place if this measure was ignored or implemented in bad faith such that consenting landowners were not actually aware of the repercussions of their decisions or somehow coerced into agreeing to the restrictions on their use rights.</p> <p>Furthermore, per the Constitution, Art. 57 (11) and per the National REDD+ AP <i>Guía Nacional de Consulta para la Implementación de Acciones REDD+ en Tierras o Territorios Colectivos (National Guideline on Consultation for the Implementation of REDD+ Actions in Collective lands and Territories)</i>, unlawful displacements (such as forced displacements) are prohibited and if a displacement was to take place, this would trigger the consultation and consent processes outlined in the Guideline which inevitably is a participatory process.</p>
<p>PLRs seek to avoid, and where avoidance is not possible, minimize and mitigate physical or economic displacement from</p>	<p>See above response.</p>

land or resource acquisition or restrictions on land or resource use	
PLRs ensure that livelihoods of any displaced persons enhanced or at least restored through compensation at full replacement costs and other assistance.	See above response.
Safeguard B	
Criteria B.2. Effective National Forest Governance	
Sub-Criteria B.2.2: Equitable Distribution of Benefits	
Diagnostic question 1: to what extent do PLRs recognise and protect the fair distribution of benefits?	
Indicators	Explanation (identify articles/provisions)
PLRs guarantee the right to fair distribution of benefits arising from the use of forest resources (including environmental services)	<p>Art. 74 of the Constitution provides that all “[p]ersons, communities, peoples, and nations shall have the right to benefit from the environment and the natural wealth enabling them to enjoy the good way of living.”</p> <p>Art 276(4) of the Constitution provides that the “development structure” of the nation will have among its objectives “To restore and conserve nature and maintain a healthy and sustainable environment ensuring for persons and communities equitable, permanent and quality access to water, air and land, and to the benefits of ground resources and natural assets.”</p> <p>One of the cornerstones of the National REDD+ AP is “Equitable economic development and quality of life, which is fundamental to improve the distribution mechanisms of the monetary and non-monetary benefits related to biodiversity conservation and the sustainable use of environmental services.” One of the (5) technical teams Working Groups of REDD+ is mandated specifically to look at the distribution of benefits.</p> <p>The Manual Operativo del PSB, Acuerdo Ministerial No. 130 (2011) (PSB Operations Manual, Ministerial Agreement) clearly provides for the distribution of incentives to eligible title holders that</p>

	submit their lands into conservation areas and attempts to address former inequities by prioritizing indigenous and vulnerable communities. MAE Ministerial Agreement N° 131 (December 2013) specifically establishes an incentive system to provide benefits to citizens that conserve, protect, and restore the environment. .
PLRs regulate benefit sharing arrangements (contracts, covenants, agreements)	The Socio Bosque project specifically provides for the Government and the landowner to enter into <i>convenios</i> (agreements) which serve as contracts between the two in which each have clear responsibilities in the arrangement for conservation in exchange for incentive distributions. (See <i>Manuel Operativo del PSB, Acuerdo Ministerial No. 130 (2011) (PSB Operations Manual, Ministerial Agreement)</i> and MAE Ministerial Agreement N° 131 (December 2013)).
Safeguard B	
Criteria B.2. Effective National Forest Governance	
Sub-Criteria B.2.3: Gender equity	
Diagnostic Question: To what extent do PLRs promote and protect gender equity?	
Indicators	Explanation (identify articles/provisions)
PLRs promote and enhance gender equity and women’s empowerment, especially with regards to benefit sharing, participation, and land tenure	A number of relevant laws and policies support an inclusive gender approach. These include (1) the Organic Law on the Popular and Solidarity Economy , which includes gender equality as one of its principles; (2) the Organic Law on Food Sovereignty , which promotes parity of men and women in social participation and public decision-making for preparing laws and formulating and implementing policies concerning food sovereignty; (3) the Ley Orgánica de Participación Ciudadana (2011) (Organic Law on Citizen Participation) , which establishes as one of its governing principles the guarantee of equal rights in participation processes providing for the “proportional participation of women and men in” decision making and calls upon the State to take “affirmative action measures” so as “to promote the real and effective participation of women in this area” (of public participation); (4) the 2013-2017 PNBV , which promotes public policies that guarantee equality for all Ecuadoreans and considers the importance of mainstreaming the gender approach throughout the national public policy

	<p>agenda; (5) Objective 6 of the National Strategy for Good Rural Living, which is based on the mainstreaming of the gender approach and the principle of interculturality in public policy to affirm equal opportunities for men and women; (6) the Agenda for Transforming Production in the Amazon, which considers the gender approach for the importance of women’s contributions to food production; (7) the Estrategia Nacional de Cambio Climático (National Climate Change Strategy), which considers women as part of the priority target groups defined in the Constitution and highlights their role as a priority sector for climate change in the country; and (8) the National Environmental Policy (2009), which incorporates strengthening of the gender, inter-generational and inter-regional vision in environmental management and fosters fair and equitable distribution of the use and enjoyment of natural resources.</p> <p>Ecuador has also ratified, acceded or otherwise endorsed numerous international instruments that address gender equity, including:</p> <ul style="list-style-type: none"> • UN Declaration on Human Rights; • International Covenant on Civil and Political Rights; • The Convention on the Elimination of All Forms of Discrimination against Women; • The Inter-American Convention to Prevent, Punish and Eradicate Violence against the Woman "Convention of Belém do Pará"; • International Covenant on Economic, Social and Cultural Rights; • The Beijing Declaration and Platform for Action of 1995; • The Declaration on the Rights of Indigenous People (Voted in favour as a member); • The International Convention on the Elimination of All Forms of Racial Discrimination; • The International Convention on the Rights of the Child; • The International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families; • Convention on the Rights of Persons with Disabilities
PLRs address gender discrimination	<p>In addition to the above, the Constitution provides for the formulation and execution of policies to achieve equality between women and men. For example, in Article 6, it states that all Ecuadorians are citizens and will enjoy the rights established in the Constitution, and therefore reaffirms the notion of equal rights between women and men. Similarly, Article 11 notes that all people are equal and will</p>

	enjoy the same rights, duties and opportunities, wherein no one can be discriminated against because of their ethnicity, place of birth, age, sex, gender identity, cultural identity, civil status, language, religion, ideology, political affiliation, judicial past, socio-political condition, economic or migratory status, sexual orientation, disability, physical differences, or health issues.
PLRs require public institutions to raise awareness on gender equity (through programmes for gender sensitisation, focal points, etc.)	In addition to the laws referenced above, the <i>Agenda Nacional de las Mujeres y la Igualdad de Género 2014-2017 (The National Agenda on Women and Gender Equality (2014-2017))</i> focuses on rights and proposes various public interventions to overcome gender inequality gaps.

Safeguard B	
Criteria B.2. Effective National Forest Governance	
Sub-Criteria B.2.4: Adequate Access to Justice	
Diagnostic Question: To what extent do the PLRs guarantee adequate access to justice in the context of forest management?	
Indicators	Explanation (identify articles/provisions)
PLRs recognise the right to access to justice	<p>The Constitution of course recognizes the right to access to justice (for instance see Chapter Eight), as to virtually all of the human rights treaties to which Ecuador is a party. Various national laws also address access to justice issues, rights to remedies, including for environmental and human rights matters, including but not limited to: the <i>Ley Forestal y de Conservacion de Areas Naturales y Vida Silvestre (Law on Forests and Conservation of Natural Areas and Wildlife) (2004, amended 2014)</i>, Arts. 78, 94 and 102; the <i>Ley de Gestión Ambiental (2004)(Law of Environmental Management)</i>, Arts. 20, 28, 44 – 46; <i>Reglamento a Ley Organica de Tierras Rurales Territorios Ancestrales (Regulation to the Organic Law on Rural Lands and Ancestral Territories) Executive Decree 1283 (2017)</i>, 32(p); <i>Ley Orgánica de Defensoría del Pueblo</i>, Arts. 2, 8, and 12-20; <i>Ley de Arbitraje y Mediación</i>, 1 and 43; Código Orgánico Integral Penal (2014) (Comprehensive Organic Criminal Code) (COIP), Arts. 245-267, 398; Código General de Procesos (COGEP), Art. 1; Código Orgánico del Ambiente (COA), Arts. 14, 23(16), 23(17), and 254.</p> <p>Most specifically the National REDD+ AP and Socio Bosque programmes are addressing the same.</p>

	<p>The Socio Bosque convenios included a specific provision that state “In the event of disputes arising from the application of this Agreement, the parties undertake to solve them directly. If controversies are not resolved through this procedure, the parties will submit, alternatively, to mediation under the terms established in Ecuador’s Law on Arbitration and Mediation before the Mediation Center of the State’s Attorney General's Office, in case that the controversy is not resolved by these means, the respective action will continue before the ordinary justice in the city of Quito, for which the executor renounces his legal domicile.” Consequently, PSB provides an escalating mechanism for <i>socios</i> --from friendly settlement, mediation, to legal action.</p> <p>A separate formal mechanism for stakeholders <i>not party</i> to a <i>convenio</i>. Relevant stakeholders, h were informed that if any concerns or grievances arose they should contact the MAE centrally or via its local directorates. The MAE then handled the grievances within its authority or forwarded it to agencies and departments with the appropriate competency to resolve the manner. An online form for presenting denuncias (complaints) was made available, see http://suia.ambiente.gob.ec/mae-transparente which brings stakeholders to MAE Transparente.</p> <p>The issue of a formalized grievance mechanism was discussed in the <i>Mesa de Trabajo REDD+</i> (a working group/multi-stakeholder roundtable for discussions) (MdT REDD+), and the result was the elaboration of a the document “”. This draft was the subject of debate and deliberation by stakeholders in the MdT REDD+ of October of 2016. Consistent with those deliberations, the new grievance redress mechanism (GRM) is to be elaborated with stakeholders ensuring consistency with UNDP’s guidance on GRMS and the widely accepted eight “effectiveness criteria” for non-judicial GRMs (see Principle 31 of the guiding principles found at, https://en.wikipedia.org/wiki/United_Nations_Guiding_Principles_on_Business_and_Human_Rights).</p>
<p>PLRs provide dispute resolution mechanisms to address disputes at all levels (describe these)</p>	<p>See above. These mechanisms do not prejudice the rights of aggrieved parties to use any other available grievance mechanism, including through national and international mechanisms, judicial, administrative, etc. A number of these mechanisms (such as litigation) provide for appeals, and as mentioned above, the “convenios” in the PSB have escalations to move from friendly settlement, to mediation to legal actions.</p>
<p>PLRs provide mechanisms for resolving disputes that are not cost prohibitive (legal aid, access to legal services and other support for the poor)</p>	<p>The Constitution 76(f)(7) and (g) ensures a right to a defense where a translator or interpreter is provided free of charge and appointment of legal counsel is also available. Grievance mechanisms provided by the Socio Bosque and REDD+ programming are not necessarily cost-prohibitive (lawyers are not required to advance the complaints through the mechanisms), however if grievances are brought before domestic court or international mechanism that are seated in other countries, costs and/or legal counsel, could be a factor.</p>

PLRs provide access to appeals	Generally, if the mechanism described above does not provide a right of appeal within the mechanism itself (i.e. to another administrative office), one can appeal before the courts of Ecuador. If domestic remedies are exhausted, international remedies are available.
PLRs provide special consideration for vulnerable groups in guaranteeing their right to access to justice	<p>International treaties and instruments to which Ecuador is a party or otherwise endorses, speak to this issue. For instance, Art. 13(2) of UNDRIP provides that “States shall... ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.”</p> <p>As noted below, the Agenda Nacional de las Mujeres y la Igualdad de Género 2014-2017 (The National Agenda on Women and Gender Equality (2014-2017)) focuses on rights and proposes various public interventions to overcome gender inequality gaps. With respect to access to Justice, the Agenda points to the Código Orgánico de la Función Judicial (Organic Code on Judicial Functions) which provides in Art. 232 jurisdiction over violence against women and the family and ensures women the right to a specialized public defender and the inapplicability of mediation or arbitration for violence against women.</p>
Safeguard B	
Criteria B.2. Effective National Forest Governance	
Sub-Criteria B.2.5: Integration of Social, Economic and Environmental Considerations into policy-making	
Diagnostic Question: To what extent do PLRs require/promote the integration of social, economic and environmental considerations in forest management?	
Indicators	Explanation (identify articles/provisions)
PLRs require that policy-making takes into consideration their potential environmental impacts (including environmental impact	A preliminary review of this matter suggests that activities foreseen in the National REDD+ AP are not covered by the environmental impact assessments (EIA) requirements in Ecuador, except perhaps the agriculture processing plants and collection centers. However, even then the planned activities are probably below the minimum size thresholds and not envisioned to result in significant adverse impacts –a key trigger for EIAs under the regulation.*

assessments prior to their implementation)	(See below referenced to <i>Texto Unificado de Legislación Secundaria de Medio Ambiente (revisado en 2015)</i> (Unified Text of Secondary Legislation of the Environment), Book VI.
PLRs require EIAs of investment projects (forestry sector, infrastructure)	<p>The EIA requirements are established by the <i>Texto Unificado de Legislación Secundaria de Medio Ambiente (revisado en 2015)</i>(Unified Text of Secondary Legislation of the Environment), Book VI of environmental quality, Title I describes the system of environmental management (Sistema Unificado de Manejo Ambiental; SUMA) that regulates the process of environmental impact assessment at national level.</p> <p>Environmental assessments apply prior to the projects, activities or works that may cause significant adverse environmental impacts. Public, private and mixed investment projects are subject to the impact studies. This is the purview of the MAE, Directorate of Environmental Quality through its Unit of Prevention of Pollution provides:</p> <ul style="list-style-type: none"> • Instructions for environmental impact assessment • Procedure for environmental licensing <p>The “Rules of implementation of social participation mechanisms” from 2008 (Decree Presidential No. 1014, Articles 9-22) establish social participation as a tool for knowledge, integration and the citizen initiative to strengthen the implementation of the process of environmental impact studies and reduce the margins of risk and environmental impact.</p> <p>The Ministerial Agreements No. 112 and 212 of 2008 establish citizen participation in the environmental licensing process approved by the Ministry of the Environment.</p> <p>*Código Orgánico del Ambiente (2017) (Organic Environmental Code), Art. 179 does provide for an environmental (not social) assessment of “those projects, works and activities that cause medium and high impact or risk” but it does not specify a separate requirement for a social impact studies nor does it say that the study must be done prior to the adoption, approval, implementation of the activity. However, to obtain an environmental license in Ecuador it is necessary to conduct a process of social participation.</p> <p>The <i>Texto Unificado de Legislación Secundaria de Medio Ambiente (revisado en 2015)</i>(Unified Text of Secondary Legislation of the Environment), Book VI, (functioning as the regulation of the Organic Code) explains that to evaluate the environmental impacts, the “socio-cultural” aspects of the activity must also be observed such as “archeology, socioeconomic organization, among others”).</p>

	<p>ILO 169, Art. 7(3) as ratified by Ecuador, does provide that “Governments shall ensure that, whenever appropriate, studies are carried out, in co-operation with the peoples concerned, to assess the social, spiritual, cultural and environmental impact on them of planned development activities. The results of these studies shall be considered as fundamental criteria for the implementation of these activities.”</p> <p>The Inter-American Court of Human Rights (IA Court) has found that the American Convention (per Art. 21, right to property) states that “if the State wants to restrict, legitimately, the [indigenous peoples’] right to communal property, it must consult with the communities affected by the development or investment project planned within territories which they have traditionally occupied, reasonably share the benefits with them, and complete prior independent assessments of the environmental and social impact of the project prior to the granting of concessions to natural resources.” (Case of the <i>Saramaka People v. Suriname</i>. 2007). In the case of the <i>Sarayaku v Ecuador</i>, the IA Court found that Ecuador violated the rights of the indigenous peoples of the Sarayaku by not conducting a social and environmental impact study prior to the grant of a petroleum concession and providing the results of such studies to the people to ensure their informed consultation.</p> <p>The National REDD+ AP Guía Nacional de Consulta para la Implementación de Acciones REDD+ en Tierras o Territorios Colectivos (National Guideline on Consultation for the Implementation of REDD+ Actions in Collective lands and Territories) provides that in order to ensure informed consultation and consent, the people/communities in question must be given a “A preliminary description of possible negative and positive impacts, as well as social and environmental risks that could be associated with the implementation of the REDD + actions.” To ensure consistency with Ecuador’s duties and obligations under international law (described above), this reference to the “preliminary description” would need to be interpreted as the sharing of the environmental and social impact (ESIA) study prior to completing the consultation process</p>
<p>PLRs require regular monitoring of social economic and environmental impacts of policy implementation</p>	<p>See above as well. The Texto Unificado de Legislación Secundaria de Medio Ambiente (revisado en 2015)(Unified Text of Secondary Legislation of the Environment), Book VI speaks throughout the document for the need to develop and implement monitoring plans to assess a range of environmental impacts. According to the Unified Text, compliance audits of the environmental and social management plan must be periodically carried out, which therefore does include a social element and consequently, a socio-economic elm.</p>

	<p>And per the Manual Operativo del PSB, Acuerdo Ministerial No. 130 (2011) (PSB Operations Manual, Ministerial Agreement). The PSB also requires each <i>socio</i> (party to a <i>convenio</i>) to submit twice a year a report confirming that they have not altered the areas under conservation and an accountability with respect to the use of the incentives per the approved Investment Plan. The former provides information on environmental impacts that contribute to the larger monitoring that PSB does around impacts (mentioned above) and the latter assists in understanding if the incentives destined to improve socio impacts are reaching the intended beneficiaries.</p> <p>In 2016, with support of the Banco Interamericano de Desarrollo, a study on the socio-cultural impacts of the PSB was conducted. Overall, positive impacts were indicated across all 14 impacts studied, with only (3) showing room for significant improvement dealing with “cultural uses, monetarization and complementarity” (study, “<i>Evaluación Socio Cultural del Programa Socio Bosque (PSB)</i>” (Evaluation (2017)).</p>
<p>PLRs address potential adverse risks to communities and workers from construction and other interventions, including measures to prevent or minimize health risks and spread of infectious diseases</p>	<p>Ecuador is signatory to various ILO conventions requiring these protections for labour rights. (See directly below).</p>
<p>PLRs promote non-discrimination, equal opportunity and fair treatment of workers, and prohibit the use of forced labour or child labour, consistent with relevant ILO conventions.</p>	<p>Ecuador’s Codigo del Trabajo (2012)(Labour Code), Article 79. On Equal remuneration states that “Equal work corresponds to equal remuneration, without discrimination on grounds of birth, age, sex, ethnicity, color, social origin, language, religion, political affiliation, economic position, sexual orientation, state of health, disability, or difference of any other nature except for specialized skills and experience in the execution of the work should be considered for the purposes of remuneration.</p> <p>Ecuador has ratified all key international conventions concerning child labor including ILO C. 138, Minimum Age, ILO C. 182, Worst Forms of Child Labor, UN Convention on the Rights of the Child, UN CRC Optional Protocol on Armed Conflict, UN CRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, Palermo Protocol on Trafficking in Persons.</p> <p>Also, the Government has established laws and regulations related to child labor, including its worst forms. The legal framework in Ecuador appears to be sufficient to address and protect children from the worst forms of child labor. More specifically:</p>

	<ul style="list-style-type: none"> • Section 5, Article 46 of the Constitution; Title V, Chapter 1, Article 82 of the Childhood and Adolescence Code (31, 32) sets the Minimum Age for Work at 15; • Title I, Article 2 and Title V, Chapter 1, Article 87 of the Childhood and Adolescence Code (32) sets Minimum Age for Hazardous Work at 18; • Title II, Chapter 1, Article 5 and Chapter 2, Article 8 of Resolution No. 016 of 2008; Article 5 of Ministerial Accord MDT-2015-0131 (33, 34) Identifies Hazardous Occupations or Activities Prohibited for Children; • Articles 82, 91, 105, and 213 of the Código Orgánico Integral Penal (2014) (Comprehensive Organic Criminal Code) (COIP) (3, 35) (2014), #290; El Tiempo, 2016 #342, prohibitions of Forced Labor; also Articles 91, and 213 Prohibits Child Trafficking.
Safeguard B	
Criteria B.2. Effective National Forest Governance	
Sub-Criteria B.2.6: Cross-Sectoral Coordination	
Diagnostic Question: to what extent do PLRs require/promote effective coordination between various agencies that play a role in forest management?	
Indicators	
PLRs define concrete mechanisms to support and encourage coordination (inter-ministerial committees, working groups, cross cutting teams, etc.)	La Ley de Gestión Ambiental (2004) (Law of Environmental Management) , Arts. 4, 9(d), (f) and (g), 11 and 12 (2004) (applicable previously to Socio Bosque, but no longer valid) established a “Decentralized System of Environmental Management as a mechanism of cross-sectoral coordination, interaction and cooperation between the different areas, systems and subsystems of environmental management and natural resources management.” This system was directed by the National Commission of Coordination, integrated by various, including the President of the MAE branch, the National Secretariat of Planning and Development, SENPLADES; and representatives of the Consortium of Provincial Councils, the Association of Municipal Councils, Development Council of the Nationalities and Peoples of Ecuador, CODENPE, the black or Afro-Ecuadorian people, the Armed Forces, and the National Council of Higher Education, and the President of the Ecuadorian Committee for the Protection of Nature and Defense of the Environment, CEDECNMA. As part of this system the MAE was to

“[c]oordinate with the competent bodies to issue and apply technical standards, manuals and general parameters of environmental protection”,... “[e]stablish strategies for administrative coordination and cooperation with the different public and private organization”; and “resolve the conflicts of competence that arise among the organisms that make up the System Decentralized Environmental Management”.

Article 12 of the law specifically provided “National Decentralized System of Environmental Management. The National System Decentralized Environmental Management will allow to integrate and articulate to the organisms and entities of the State with environmental competence with the citizenship and the social and community organizations, by means of norms and management instruments. The System will constitute the mechanism for orientation, coordination, cooperation, supervision and monitoring among the different areas of environmental management and natural resource management, and will be responsible for the protection of the rights of nature and the rest established in this Code of Conformity with the Constitution. Entities and state agencies without environmental competence shall be responsible for applying the principles and provisions of this Code.”

As required by REDD+, a system has been developed for providing information on how the activities of the PSB and other REDD+ activities are implemented to complement and ensure consistency with the Cancun safeguards and consequently, the national forest programs and relevant international conventions and agreements. This is done through the Safeguards Information System (SIS). The REDD+ SIS facilitates sharing, compiling, analyzing and reporting of project information among relevant government institutions, project bodies, and stakeholders about the safeguards, including consistency with applicable PLRs. The SIS, while constantly evolving and advancing, has been designed to date, along with a matrix of principles, criteria and preliminary set of indicators for monitoring and assessing safeguard compliance. The processes have been established and going forward, the SIS will be fully automated.

Also, the **National REDD+ AP** is prepared and implemented with the advice of the REDD+ Roundtable, thematic working groups and technical teams aimed at supporting and encouraging coordination among stakeholders. The MdT REDD+ (which originally included representative from academia; two from the private sector; two from national NGOs; one organization representing women; one representing young people; and, finally, three organizations representing indigenous groups) and was then reviewed and revised to now include 29 representatives.) While the Government has a presence, it is more to facilitate the meetings and manage the invitations, minutes, and logistics. They are not members per se, it is really a space for civil society. Working

	<p>Groups and Technical teams draw their members from the Roundtable and where necessary, access additional members, especially experts in the subject matter they are charged with addressing.</p> <p>Also, the State has various other entities with powers to coordinate across government offices (and with stakeholders) about issues of human rights and transparency, relevant to REDD+ activities, such as: the <i>National Equality Councils</i> (established by Art. 256 of the Constitution) charged with “ensuring the full observance and exercise of the rights enshrined in the Constitution and in international human rights instruments” and having the authority to looking at issues cross cutting various public policies and government entities and specifically “[t]o achieve their objectives, they shall coordinate with leading and executive entities and with specialized organizations for the protection of rights at all levels of government”; and also the <i>Transparency and Social Control Branch</i> (established by Art.205 of the Constitution) charged with promoting and fostering monitoring of public entities. It has the authority to “coordinate the plan of action of the entities of the Branch, without undermining their autonomy” (these include the Council for Public Participation and Social Control, the Office of the Human Rights Ombudsman, the Office of the Comptroller General, and the Superintendencies).</p> <p>The National Environmental Authority is the Ministry of Environment (MAE, according to Código Orgánico del Ambiente (2017) (Organic Environmental Code). Art. 23 provides “The Ministry of the Environment will be the National Environmental Authority and in that capacity it is responsible for the rectory, planning, regulation, control, management and coordination of the National Decentralized System of Environmental Management.”</p>
<p>PLRs define effective mechanisms for information sharing across different sectors and levels of government for forest management</p>	<p>Considering the above described, information sharing across sectors and different levels of governments related to forest management is fostered by mechanisms established and implemented by the MAE –in particular the SIS and the National Forest Monitoring System Management.</p> <p>MAE has consolidated all the REDD+ related- material under one user friendly website at www.reddecuador.com. This website makes access to information simpler and facilitates the sharing of information relevant to the REDD+ Action Plan and its respective activities across institutions (i.e. so that one unified system allows the Ministry of Agriculture and Ministry of Environment to see and share in real time the same maps, threat forecasts, conservation and conversion results, land ownership and concession information and more).</p>

SAFEGUARD 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

Criteria C.1. Defining Indigenous Peoples and Members of Local Communities

Diagnostic Question 1: Do PLRs define who are indigenous peoples and local communities?

Consultant note: Article 57 of the **Constitution** largely applies to the entirety of this section C: Article 57 provides the following:

Indigenous communes, communities, peoples and nations are recognized and guaranteed, in conformity with the Constitution and human rights agreements, conventions, declarations and other international instruments, the following collective rights:

1. To freely uphold, develop and strengthen their identity, feeling of belonging, ancestral traditions and forms of social organization.
2. To not be the target of racism or any form of discrimination based on their origin or ethnic or cultural identity.
3. To recognition, reparation and compensation for community groups affected by racism, xenophobia and other related forms of intolerance and discrimination.
4. To keep ownership, without subject to a statute of limitations, of their community lands, which shall be unalienable, immune from seizure and indivisible. These lands shall be exempt from paying fees or taxes.
5. To keep ownership of ancestral lands and territories and to obtain free awarding of these lands.
6. To participate in the use, usufruct, administration and conservation of natural renewable resources located on their lands.
7. To free prior informed consultation, within a reasonable period of time, on the plans and programs for prospecting, producing and marketing nonrenewable resources located on their lands and which could have an environmental or cultural impact on them; to participate in the profits earned from these projects and to receive compensation for social, cultural and environmental damages caused to them. The consultation that must be conducted by the competent authorities shall be mandatory and in due time. If consent of the consulted community is not obtained, steps provided for by the Constitution and the law shall be taken.
8. To keep and promote their practices of managing biodiversity and their natural environment. The State shall establish and implement programs with the participation of the community to ensure the conservation and sustainable use of biodiversity.
9. To keep and develop their own forms of peaceful coexistence and social organization and creating and exercising authority, in their legally recognized territories and ancestrally owned community lands.
10. To create, develop, apply and practice their own legal system or common law, which cannot infringe constitutional rights, especially those of women, children and adolescents.
11. To not be displaced from their ancestral lands.

12. To uphold, protect and develop collective knowledge; their science, technologies and ancestral wisdom; the genetic resources that contain biological diversity and agricultural biodiversity; their medicine and traditional medical practices, with the inclusion of the right to restore, promote, and protect ritual and holy places, as well as plants, animals, minerals and ecosystems in their territories; and knowledge about the resources and properties of fauna and flora.

All forms of appropriation of their knowledge, innovations, and practices are forbidden.

13. To uphold, restore, protect, develop and preserve their cultural and historical heritage as an indivisible part of Ecuador’s heritage. The State shall provide resources for this purpose.

14. To develop, strengthen, and upgrade the intercultural bilingual education system, on the basis of criteria of quality, from early stimulation to higher levels of education, in conformity with cultural diversity, for the care and preservation of identities, in keeping with their own teaching and learning methodologies.

A teaching career marked by dignity shall also be guaranteed. Administration of this system shall be collective and participatory, with rotation in time and space, based on community monitoring and accountability.

15. To build and uphold organizations that represent them, in a context of pluralism and cultural, political, and organizational diversity. The State shall recognize and promote all forms of expression and organization.

16. To participate by means of their representatives in the official organizations established by law to draw up public policies concerning them, as well as design and decide their priorities in the plans and projects of the State.

17. To be consulted before the adoption of a legislative measure that might affect any of their collective rights.

18. To uphold and develop contacts, ties and cooperation with other peoples, especially those that are divided by international borders.

19. To promote the use of garments, symbols and emblems that identify them.

20. To restrict military activities in their territories, in accordance with the law.

21. That the dignity and diversity of their cultures, traditions, histories, and ambitions be reflected in public education and in the media; the creation of their own media in their languages and access to the others without any discrimination.

The territories of the peoples living in voluntary isolation are an irreducible and intangible ancestral possession and all forms of extractive activities shall be forbidden there. The State shall adopt measures to guarantee their lives, enforce respect for self-determination and the will to remain in isolation and to ensure observance of their rights. The violation of these rights shall constitute a crime of ethnocide, which shall be classified as such by law.

The State shall guarantee the enforcement of these collective rights without any discrimination, in conditions of equality and equity between men and women.

Indicators	Explanation (identify articles/provisions)
PLRs clearly define or provide clear criteria for defining who	The national law does not define expressly who are indigenous peoples, but Ecuador’s ratification of ILO 169 suffices to provide a definition (see Art. 1 of ILO 169), and its assent to UNDRIP is sufficient to carry out future

are indigenous people and this definition/these criteria is/are consistent with international law	REDD+ programming. Also. countries participating in the drafting of UNDRIP, including Ecuador, decided that a definition was not necessary. UNREDD Guidelines on FPIC (2013) , also applicable to REDD+ programming, including PSB, provides various precedents and authorities for definition indigenous peoples (which does not have one single universal definition). According to the guideline, all of which are acceptable and can be used by Ecuador and the stakeholders in question. This similar approach is applied the UNDP Social and Environmental Standards which is applicable to future National REDD+ AP activities.
PLRs clearly define who are local communities	Local communities are also not expressly defined, but various PLRs, including the Constitution , refer not only to indigenous peoples, but Afro-Ecuadorian people, the back-country people (montubios) of the inland coastal region, and communes of Ecuador.
Safeguard C	
Criteria C.2.: Definition of traditional knowledge of indigenous peoples and local communities	
Diagnostic Question: To what extent do PLRs define what constitutes traditional knowledge of indigenous peoples and local communities?	
Indicators	Explanation (identify articles/provisions)
PLRs define traditional knowledge of indigenous peoples	Ecuador is a signatory to the CBD which provides at Article 8(j) provides that: “Each contracting Party shall, as far as possible and as appropriate: Subject to national legislation, 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 and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices”. The CBD defines traditional knowledge as “Traditional knowledge refers to the knowledge, innovations and practices of indigenous and local communities around the world. Developed from experience gained over the centuries and adapted to the local culture and environment, traditional knowledge is transmitted orally from generation to generation. It tends to be collectively owned and takes the form of stories, songs, folklore, proverbs, cultural values, beliefs, rituals, community laws, local language, and agricultural practices, including the development of plant species and animal

	breeds. Traditional knowledge is mainly of a practical nature, particularly in such fields as agriculture, fisheries, health, horticulture, and forestry. (see https://www.cbd.int/doc/publications/8j-brochure-en.pdf)
PLRs define traditional knowledge of local communities	Same as above defining traditional knowledge.
PLRs protect/regulate traditional knowledge of local communities and indigenous peoples	<p>The Constitution, Art. 57(11) affirms the rights of these peoples and communities to “uphold, protect and develop collective knowledge; their science, technologies and ancestral wisdom; the genetic resources that contain biological diversity and agricultural biodiversity; their medicine and traditional medical practices, with the inclusion of the right to restore, promote, and protect ritual and holy places, as well as plants, animals, minerals and ecosystems in their territories; and knowledge about the resources and properties of fauna and flora. All forms of appropriation of their knowledge, innovations, and practices are forbidden.”</p> <p>The Código Orgánico de la Economía Social del Conocimiento y la Innovación (Organic Code of the Social Economy of Knowledge and Innovation), Art. 5 also provide “National System of Science, Technology, Innovation and Ancestral Knowledge.- It comprises the coordinated and correlated set of norms, policies, instruments, processes, institutions, entities and individuals that participate in the social economy of knowledge, creativity and innovation, to generate science, technology, innovation, as well as rescue and enhance traditional knowledge as fundamental elements to generate value and wealth for society.”</p> <p>International treaties and instruments ratified, acceded to, or supported by Ecuador protect traditional knowledge of local communities and indigenous peoples (i.e. CBD, (8(j)) (cited above) and UNDRIP (Art. 31); CERD (per <i>General Recommendation XXIII</i> interpretation of Article 5 related to culture and traditional practices).</p> <p>Ecuador’s Estrategia Nacional de Cambios Climaticos (National Strategy on Climate Change), 2.3 calls for the saving and valuing of traditional knowledge.</p> <p>The Política y Estrategia Nacional de Biodiversidad de Ecuador (2015-2030)(National Policy and Strategy on Biodiversity) includes a national goal: “Result 18: Ecuador has established a regime of protection, preservation and promotion of Traditional knowledge and expressions Cultural traditions relevant to the conservation and sustainable use of biodiversity.”</p>

	<p>Agenda Nacional para la Igualdad de Nacionalidades y Pueblos 2013 - 2017 – ANINP (National Agenda for the Equality of Nationalities and Peoples) declares its intention to “promote the research of knowledge and ancestral knowledge, in the area of biodiversity, Ecosystems, lands, water and nature care forms, for their recovery, Recognition and practice.”</p> <p>The National REDD+ AP expressly provides in it Operating Component 4 “Capacity Building and knowledge management” that this component is “linked to the rescue, maintenance and protection of collective knowledge, and its sciences, technologies and Ancestral knowledge, in a framework of respect for cultural conditions”. Traditional knowledge is further mentioned and valued throughout the document.</p>
Safeguard C	
Criteria C.3. Recognition and Implementation of Rights in Accordance with International Law	
Sub-criteria C.3.1.: Non-Discrimination	
<p>Diagnostic Question: to what extent do PLRs recognise and protect the right to non-discrimination of indigenous peoples and local communities in accordance with international law?</p>	
<p>Indicators</p> <p>PLRs recognise and protect the right of indigenous peoples and local communities to non-discrimination in accordance with ILO 169 and UNDRIP (if applicable)</p>	<p>Explanation (identify articles/provisions)/Gaps identified</p> <p>Ecuador is a signatory to the ILO 169 and has endorsed UNDRIP –each of which recognize the rights of indigenous peoples to be free of discrimination.</p> <p>The Constitution, Art. 57(2) provides that indigenous and local communities have the collective right to “not be the target of racism or any form of discrimination based on their origin or ethnic or cultural identity.”</p> <p>The National REDD+ AP expressly affirms all of the treaties and instruments providing for non-discrimination against all peoples, including indigenous peoples and local communities.</p> <p>The Manual Operativo del PSB, Acuerdo Ministerial No. 130 (2011) (PSB Operations Manual, Ministerial Agreement) makes clear that any holder of title to property, regardless of one’s status as indigenous or not, could sign conservation/incentive agreements with the Government, as long as they satisfied the criteria of eligibility.</p>

Safeguard C	
Criteria C.3. Recognition and Implementation of Rights in Accordance with International Law	
Sub-criteria C.3.2.: Self-Determination	
Diagnostic Question: To what extent do the PLRs recognise and protect the right to self-determination of indigenous peoples and local communities in accordance with international law?	
Indicators	Explanation (identify articles/provisions)
PLRs recognise and protect indigenous peoples and local communities' right to self-determination in accordance with ILO 169 and UNDRIP (if applicable)	<p>Ecuador is a signatory to the ILO 169 and has endorsed UNDRIP –each of which recognize the rights of indigenous peoples to self-determination. The various components to the rights of self-determination are further affirmed by additional international instruments ratified by Ecuador.</p> <p>The Constitution, Arts. 1, 4, 5, 9, and 15-17 recognizes key components of the rights to self-determination, among others, the rights of indigenous peoples and local communities to their “ancestral traditions and forms of social organization”, the ownership of their ancestral lands, their right to be consulted and provide consent, the exercise of authority within their lands, “to build and uphold organizations that represent them”, to participate through their designated representatives in the development of public policies and legislative measures that may affect them.</p> <p>The Manual Operativo del PSB, Acuerdo Ministerial No. 130 (2011) (PSB Operations Manual, Ministerial Agreement) is clear about respecting the rights of indigenous peoples to possess and own their ancestral lands and participate in the use of their resources. This is the basis for which the <i>convenios</i> with indigenous peoples and local communities are pursued and concluded.</p>
PLRs recognise traditional decision-making structures (including dispute resolution mechanisms, if applicable)	<p>Article 171 of the Constitution provides that “The authorities of the indigenous communities, peoples, and nations shall perform jurisdictional duties, on the basis of their ancestral traditions and their own system of law, within their own territories, with a guarantee for the participation of, and decision-making by, women. <i>The authorities shall apply their own standards and procedures for the settlement of internal disputes</i>, as long as they are not contrary to the Constitution and human rights enshrined in international instruments.” (Emphasis added).</p>

UNDRIP further provides in its Art. 34 (“Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, *juridical systems or customs*, in accordance with international human rights standards.”). Also, Article 40 provides that “Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.”

ILO 169 provides in Art. 9 “To the extent compatible with the national legal system and internationally recognised human rights, the methods customarily practised by the peoples concerned for dealing with offences committed by their members shall be respected.”

The **Mecanismo de Quejas y Resolución de Controversias para REDD+ (Mechanism for Complaints and Resolution of Controversies for REDD+** does not address involvement of indigenous peoples’ and local communities’ traditional dispute resolution mechanisms.

The **Guía Nacional de Consulta para la Implementación de Acciones REDD+ en Tierras o Territorios Colectivos (National Guideline on Consultation for the Implementation of REDD+ Actions in Collective lands and Territories)** that was produced per the preparation of the **National REDD+ AP** provides for the recognition of the decision-making customs of the peoples in question and respect for the institutions and representatives that they choose to represent them. For instance, the Guideline provides that “the collective should adequately apply their internal processes for decision-making to implement REDD+ actions”. The **Guideline** also provides that consultations are conducted through “representative institution [of the people in question], that is, that organization or association or those that legitimately represent the collective” and in a way that respects “the manner in which they take decisions, that is, the process through which, and the necessary time for taking the decisions.”

	The Manual Operativo del PSB, Acuerdo Ministerial No. 130 (2011) (PSB Operations Manual, Ministerial Agreement) also requires that collectives that wish to submit their lands into the program requiring a conservation/incentive agreement (<i>convenios</i>) must provide an “act of approval...issued by the highest body of representation of the people or nationality” thereby respecting the governing/decision-making bodies that they choose. The Investment Plans required from each party to the <i>convenios</i> , if done by a collective, must also be approved by the representative body selected by them.
Safeguard C	
Criteria C.3. Recognition and Implementation of Rights in Accordance with International Law	
Sub-criteria C.3.3.: Rights Associated with Culture	
Diagnostic Question: To what extent do PLRs recognise and protect rights associated with culture of indigenous peoples and local communities in accordance with international law?	
Indicators	Explanation (identify articles/provisions)
PLRs protect indigenous peoples and local communities’ rights associated with culture, including respect for customs and traditions	The Constitution , Art. 57(13) affirms the rights of indigenous peoples and local communities “To uphold, restore, protect, develop and preserve their cultural and historical heritage as an indivisible part of Ecuador’s heritage.” <i>El Código Orgánico de Organización Territorial, Autonomía y Descentralización (COOTAD)</i> (The Organic Code for Territorial Organization, Autonomy and Decentralization (2010) Article 100 related to ancestral territories makes that clear that the ancestral territories of indigenous peoples, communities and nationalities, as well as of afroecuadorians and monubios which are found within natural protected areas, continue to be occupied and administered by these communities in communal form, with policies, plans and conservation and protection programs in accordance with their knowledge and ancestral practices in conformity with the conservation policies and plans of the State’s System of National Protected Areas. The article further requires that the State adopt the necessary mechanisms to facilitate recognition and legalization of these ancestral territories.

	<p>Agenda Nacional para la Igualdad de Nacionalidades y Pueblos 2013 - 2017 - ANINP (National Agenda for the Equality of Nationalities and Peoples) declares its intention to “Promote the protection of nature, lands and ancestral territories to ensure the caring for the environment, self-sustenance and the cultural identity of Nationalities and Peoples, Avoiding unnecessary contaminations and waste of their products.</p> <p>La Ley de Gestión Ambiental (2004)(Law of Environmental Management), , while no longer valid, during earlier operations of Socio Bosque this law, particularly its Art. 2, provided that environmental management in Ecuador was subject to various principles including “respect for traditional cultures and practices.”</p> <p>The National REDD+ AP affirms repeatedly that “the forest ecosystems represent for the communities, people and nationalities of the country an intrinsic, cultural and spiritual value.”</p> <p>Of course, indigenous peoples and local community rights to culture (including their right to land) and respect for their customs and traditions are well affirmed by numerous international treaties to which Ecuador is a party (i.e. ICCPR, Art.27, ICESCR, Art. 15(a), ICERD, Art. 5).</p>
Safeguard C	
Criteria C.3. Recognition and Implementation of Rights in Accordance with International Law	
Sub-criteria C.3.4.: Collective Land Tenure	
<p>Diagnostic Question: To what extent do PLRs recognise and protect rights associated with land tenure of indigenous peoples and local communities in accordance with international law?</p>	
Indicators	Explanation (identify articles/provisions)
<p>PLRs recognise collective forest ownership/use/management rights of indigenous peoples and/or local communities</p>	<p>Article 57 of the Constitution affirms that Ecuador grants protections for collective rights of the Ancestral, indigenous, Afro-Ecuadorian and coastal back-country (montubios) peoples, in conformity with the Constitution and human rights agreements, conventions, declarations and other international instrument, to among others: ownership of their ancestral and community</p>

	<p>lands and territories; <i>to participate</i> in the use, usufruct, administration and conservation of natural <i>renewable</i> resources located on their lands; to prior consultation with the aim of consent for use of <i>non-renewable</i> resources in their lands that may have an environmental or cultural impact on them; to participate in the profits earned from these projects and to receive compensation for social, cultural and environmental damages caused to them; To be consulted before the adoption of a legislative measure that might affect any of their collective rights; to keep and promote their practices of managing biodiversity and their natural environment; to participate, with the Government, in the establishment and implementation of programs or conservation to ensure the conservation and sustainable use of biodiversity within their lands; and to be free from racism or any form of discrimination based on their origin or ethnic or cultural identity.</p> <p><i>La Norma Técnica para el Control y Seguimiento de Planes de Inversión de Socios Colectivos del Proyecto Socio Bosque, Resolución N° 281 (The Technical Standard for the Control and Monitoring of Investment Plans of Collective Partners of the Socio Bosque Project, Resolution No. 281)</i>, establishes that "at all times the Ministry of the Environment (MAE) will observe and guarantee the rights established in Article 57 of the Constitution of the Republic of Ecuador and current International Treaties recognized in favor of indigenous communities, peoples and nationalities." In addition, it adds that PSB "will apply the constitutional provisions referring to indigenous communities and nationalities, without needing to be developed in other lower hierarchical norms."</p> <p>The support of collective rights by PSB is fundamental since the collective or community partners represent the highest percentage of the beneficiaries and hectares under conservation and beneficiaries. Until mid-2017, approximately 1.2 million hectares had been incorporated into the PSB, 87% of which correspond to territories of indigenous peoples and nationalities. This is done through the signing of agreements with three ethnic groups: Mestiza, Afro-Ecuadorian and indigenous, the latter includes the Kichwa, Chachi, Shuar, Zapara, Waorani, Shiwiar, Cofán and Siona nationalities (MAE 2012). Recognizing rights of self-governance of indigenous peoples over their lands, Resolution 281 also establishes that the adjustments or modifications to an Investment Plan must be made as determined and approved by the highest governing body of the people or communities in question, to be supported by assembly minutes, attendance list and other additional items.</p>
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El Código Orgánico de Organización Territorial, Autonomía y Descentralización (COOTAD)
(The Organic Code for Territorial Organization, Autonomy and Decentralization (2010))

Article 100 related to ancestral territories makes it clear that the such territories of indigenous peoples, communities and nationalities, as well as of afroecuadorians and monubios which are found *within* natural protected areas, continue to be occupied and administered by these communities in communal form, with policies, plans and conservation and protection programs in accordance with their knowledge and ancestral practices that are in conformity with the conservation policies and plans of the State's System of National Protected Areas. The article further requires that the State adopt the necessary mechanisms to facilitate recognition and legalization of these ancestral territories.

MAE Ministerial Agreement No. 33 (2013), Art. 4(9) establishes the principles considered in the implementation of REDD+ programming and activities including “the rights of communities, peoples and nationalities” affirming recognition of and guarantees to these rights “in conformity with the Constitution and the pacts, conventions, declarations and other international human rights instruments...” Also, Art. 10(1) provides for certain conditions for the implementation of REDD+ activities including the “requirements and procedures for free, prior and informed *consultation* of indigenous peoples and nationalities, Afroecuadorian and montubio peoples and communes for REDD+ activities; or, when their territories, lands and resources are affected or threatened by the implementation of REDD+ activities.” Art. 10(2) also provides that if a proprietor wishes to implement a REDD+ project, if in the “land of collective property, additionally s/he must certify the consent, the full and effective participation of the community or communities involved, as an essential requirement.”

As a technical norm implementing Ministerial Decree No. 33, the ***Guía Nacional de Consulta para la Implementación de Acciones REDD+ en Tierras o Territorios Colectivos*** (**National Guideline on Consultation for the Implementation of REDD+ Actions in Collective lands and Territories**) annexed to the National REDD+ AP was developed in participatory form and must be applied when REDD+ measures and actions are to be implemented in all or part of the territories, lands and resources of indigenous peoples, nationalities and communities; Afro-Ecuadoran peoples; and Montubio people and communes, or when their territories, lands and resources are

	<p>affected or threatened by the implementation of those actions. <i>The Guidelines include the commitment to apply the principle of free, prior and informed consent</i> based on the Constitutional and international standards that describe the minimum substantive and operational obligations States must observe to respect, protect and guarantee this right:</p> <ul style="list-style-type: none"> -Indigenous participation must start with the design of a framework for the consultation process. -The consultation must take place prior to making any decision on the proposal. -The State's role as guarantor of the right to consultation is non-transferable. -The consultation must be made in good faith and mutual trust. -The consultation must be made through suitable procedures and with women's participation. -The consultation must be made through representative institutions. -Consultation procedures must be formal, systematic, replicable and transparent. -The consultation must be accessible to the peoples and nationalities. -The consultation is part of ongoing participation. -The consultation must guarantee that indigenous peoples are co-participants of their own development.
<p>PLRs establish transparent and fair procedures to address circumstances where rights need to be extinguished or diminished</p>	<p>As noted in other sections of this chart, there is clear national law providing for expropriations (by law, with due process, and fair compensation). Where rights are to be diminished (for instance in the case of restricting access to natural resources), as indicated by other parts of this chart, the Socio Bosque project (<i>Manuel Operativo del PSB, Acuerdo Ministerial No. 130 (2011) (PSB Operations Manual, Ministerial Agreement)</i>) provide that such limitations are to be done with the consent of the peoples and communities in question and in exchange for incentive payments which continue for 20 years upon the condition of filing reports of compliance.</p> <p>Such impacts are also contemplated by the <i>Guía Nacional de Consulta para la Implementación de Acciones REDD+ en Tierras o Territorios Colectivos (National Guideline on Consultation for the Implementation of REDD+ Actions in Collective lands and Territories)</i>, and thereby requiring a prior consultation and consent processes and if there is no consent, procedures in the law for such restrictions (like expropriation) must apply. (This is also made clear in Art. 57(7) of the Constitution).</p>

Safeguard C	
Criteria C.3. Recognition and Implementation of Rights in Accordance with International Law	
Sub-criteria C.3.5: Benefit-Sharing	
<p>Diagnostic Question: To what extent do PLRs recognise and protect benefit-sharing arrangements specific to indigenous peoples and local communities in accordance with international law?</p>	
Indicators	Explanation (identify articles/provisions)
<p>PLRs define mechanisms for equitable sharing of the benefits (specific to indigenous peoples/local communities) arising out of the utilisation of forest resources and the utilisation of traditional forest-related knowledge</p>	<p>Article 74 of the Constitution provides that “Persons, communities, peoples, and nations shall have the right to benefit from the environment and the natural wealth enabling them to enjoy the good way of living. Art. 276 provides that the nation’s development structure should be aimed “To restore and conserve nature and maintain a healthy and sustainable environment ensuring for persons and communities equitable, permanent and quality access to water, air and land, and to the benefits of ground resources and natural assets.”</p> <p>Estrategia para el Desarrollo Sustentable Forestal (National Strategy for Sustainable Forest Development), in section 5.1 listing “Specific strategies for the valuation of native forests”, there is included: “[t]o assess, promote and regulate access to genetic resources and biodiversity, recognizing the Ancestral knowledge of the peoples and ensuring the <i>equitable distribution of the benefits</i>, in accordance With the provisions of the Convention on Biodiversity” (emphasis added).</p> <p>The Proyecto Socio Bosque provided for benefit sharing for indigenous peoples and local communities by including them in the groups eligible for the conservation/incentive arrangement and they in fact, received the majority of said benefits.</p>
SAFEGUARD D	
<i>The full and effective participation of the interested parties, in particular the indigenous peoples and local communities</i>	
Criteria D.1.: Definition and Regulation Meaningful Full and Effective Participation	
<p>Diagnostic Question: To what extent do PLRs guarantee effective public participation in forest related policymaking?</p>	

Indicators	Explanation (identify articles/provisions)
<p>PLRs recognise the right to public participation in decision-making (policy process and/or development projects)</p>	<p>Articles 61, 95 and 102 of the Constitution of the Republic enshrine the right to participation in matters of public interest, for which the citizens, including those domiciled abroad, individually and collectively, will participate in decision-making, planning and management of public affairs, in the populace’s control of state institutions, society, and their representatives, in a permanent process of constructing the power of the citizen.</p> <p>As described in the Summary of the REDD+ National AP, available at: http://www.buenvivir.gob.ec/ “One of the primary tools in Ecuador’s political process has been its planning. The Constitution links planning directly with building citizens’ rights. The National Decentralized Participatory Planning System (SNDPP) was created in the 2008 Constitution (Article 279) and comprises the National Planning Council, its technical secretariat (Senplades), the sectorial public policy councils of the executive branch, national equality councils, planning councils of decentralized autonomous governments, citizens’ sectorial councils and other mechanisms for participation. The basic units for participation in the system are communities, communes, hamlets, neighborhoods and urban parishes (Article 248). The system is governed by the Constitution, the General Public Planning and Finance Code (COPFP - 2010), the General Law on Citizen Participation (2010) and the General Code on Territorial Organization, Autonomies and Decentralization (COOTAD - 2010). Sectorial policy agendas focus national planning on each area of government intervention, and agendas for equality consolidate policy guidelines to include women, persons with disabilities, indigenous peoples and nationalities, children, elderly adults and persons in situations of mobility, among others.” This is to say that in the preparation and implementation of REDD+ policies, a system of laws and entities have worked to ensure public participation in the development of the policies and plans going forward.</p> <p><i>El Código Orgánico de Organización Territorial, Autonomía y Descentralización (COOTAD) (The Organic Code for Territorial Organization, Autonomy and Decentralization (2010)</i> Article 304(g) provides that the decentralized autonomous governments act per a system of citizen participation (regulated by law of each government) that, among other things, promotes the participation and involvement of the citizenry in the decisions that have to do with the development of their respective territories.</p>

Safeguard D	
Criteria D.2.: Creating an Enabling Environment for an Effective Participation	
Sub-criteria D.2.1.: Identification of Relevant Stakeholders	
Diagnostic Question: To what extent do PLRs identify or require the identification of relevant stakeholders in the decision-making process?	
Indicators	Explanation (identify articles/provisions)
PLRs require a mapping of relevant stakeholders prior to consultations	As explained in the Summary of the National REDD+ AP , among other mapping activities there was included among planning instruments “a map of the population with the greatest needs in this country: the <i>Atlas of Inequalities</i> (Senplades, 2013b), which reflects Ecuador’s progress regarding economic and social rights. The Atlas answers these questions: Who has been left out or left behind in exercising their rights? Where are they located within our national territory? What are the structural causes of the gaps encountered? This tool analyzes such dimensions as poverty, education, health and nutrition, employment, housing, social security, productive assets, land tenure, gender-based violence and time usage. The Atlas of Inequalities is a monitor of these inequalities. This instrument generates warning flags so that the public administration
PLRs define relevant stakeholders that should participate in the decision-making process	<p>Article 398 of the Constitution provides that “All state decision or authorization that could affect the environment shall be consulted with the community, which shall be informed fully and on a timely basis. The consulting subject shall be the State. The law shall regulate prior consultation, public participation, time-limits, the subject consulted and the appraisal and objection criteria used with regard to the activity that is being submitted to consultation. The State shall take into consideration the opinion of the community on the basis of the criteria provided for by law and international human rights instruments.”</p> <p><u>National REDD+ AP Guía Nacional de Consulta para la Implementación de Acciones REDD+ en Tierras o Territorios Colectivos</u> (National Guideline on Consultation for the Implementation of REDD+ Actions in Collective lands and Territories) also provides for consultation and consent of indigenous peoples and communities, and Afroecuadorian and montubio communities and comunes when REDD+ measures and actions are to be implemented in all or part of their territories, lands and, or when their territories, lands and resources are affected or threatened by</p>

	the implementation of those actions. There is also a provision for consulting and seeking the consent of those that are dependent on the forest resources (i.e. even if no title or presumably, if the activity is realized outside of their lands and territories but may be affected, along with their rights).
PLRs require engagement/representation of local communities and/or indigenous peoples in relevant forest decision making processes	<i>El Código Orgánico de Organización Territorial, Autonomía y Descentralización (COOTAD) (The Organic Code for Territorial Organization, Autonomy and Decentralization (2010))</i> Article 304(g) provides that the decentralized autonomous governments act per a system of citizen participation (regulated by law of each government) that, among other things, promotes the participation and involvement of the citizenry in the decisions that have to do with the development of their respective territories.
Safeguard D	
Criteria D.2.: Creating an Enabling Environment for an Effective Participation Sub-criteria D.2.2. Providing Access to Information	
Diagnostic Question: to what extent do PLRs require and regulate the provision of relevant and appropriate information as part of the consultation process?	
Indicators	Explanation (identify articles/provisions)
PLRs clearly define the types of information that should be provided during consultations	In the National REDD+ AP <i>Guía Nacional de Consulta para la Implementación de Acciones REDD+ en Tierras o Territorios Colectivos</i> (National Guideline on Consultation for the Implementation of REDD+ Actions in Collective lands and Territories) , Step 2, entitled “ <i>What Information Must be Provided to the Collective</i> ” provides a detailed list of material that should be provided so that the collective understands their rights, what REDD+ is, what the proposed activity involves in terms of personnel, areas to be affected, possible benefits and risks and more. <i>Ley Orgánica de Participación Ciudadana (2011) (Organic Law on Citizen participation)</i> does not list the information to be provided in the public hearings or a particular form of consultation.
PLRs require the distribution of information in a timely manner (prior to consultations)	In the National REDD+ AP <i>Guía Nacional de Consulta para la Implementación de Acciones REDD+ en Tierras o Territorios Colectivos</i> (National Guideline on Consultation for the Implementation of REDD+ Actions in Collective lands and Territories) , it is clear that information must be given

	<i>prior</i> to the peoples and communities making a decision and that the peoples and communities will have the time that is needed, according to their customs and norms, to make a decision.
Safeguard D	
Criteria D.2.: Creating an Enabling Environment for an Effective Participation	
Sub-criteria D.2.3: Appropriate Participatory Mechanisms	
Diagnostic Question: to what extent do PLRs define a clear and meaningful process/mechanism for public participation in environmental decision-making?	
Indicators	Explanation (identify articles/provisions)
PLRs define a clear process for public authorities to carry out consultations (institutional responsibilities, procedural guidelines, time-frames)	<p>The Constitution, see Arts. 204-210, establishes two mechanisms to ensure public participation in matters that affect them and more generally, public oversight of government. The <i>Transparency and Social Control Branch of Government</i> promotes and fosters monitoring of public entities and bodies and of natural persons or legal entities of the private sector who provide services or carry out activities for the general welfare, so they shall conduct them with responsibility, transparency and equity; it shall foster and encourage public participation; it shall protect the exercise and fulfillment of rights; and it shall prevent and combat corruption. There is also the <i>Council for Public Participation and Social Control</i> charged with promoting the exercise of the rights involving public participation, and establishing social control mechanisms in matters of general welfare. Its members are selected from candidates offered up by social organizations. This entity works on matters of public participation in decision-making, investigates issues of misdeeds by authorities that can lead to corruption, and matters of transparency to the public, among others.</p> <p>Ley Orgánica de Participación Ciudadana (2011) (Organic Law on Citizen participation). Title VI of this law provides for the establishment of several entities at the national and local levels empowered to help to design and opine on national development policies. These include <i>Consejos Nacionales para la Igualdad</i> (National Councils of Equality), and el <i>Consejo Nacional de Planificación</i> (the National Planning Council) which acts through its Technical Secretariate which convenes the <i>Asamblea Ciudadana Plurinacional e Intercultural para el Buen Vivir</i> (the Plurinational and</p>

	<p>Intercultural Citizen Assembly for Good Living), as a space for consultation and direct dialogue between the State and the citizens to carry out the process of formulation, approval and follow-up of the National Development Plan. There is also the Consejos Ciudadanos Sectoriales (Citizens Sectorial Councils).-which serves as another consultation body in the formulation and implementation of sector policies of national scope. Articles 72-75 provide for public hearings that can be requested by the public or called for by a government entity to discuss government activities and decisions. During such hearings the public can “1. Request information on public management actions and decisions; 2. Submit proposals or complaints on public matters; And 3. Discuss problems affecting collective interests.”</p> <p>See also, prior references to the National REDD+ AP Guía Nacional de Consulta para la Implementación de Acciones REDD+ en Tierras o Territorios Colectivos (National Guideline on Consultation for the Implementation of REDD+ Actions in Collective lands and Territories).</p>
<p>PLRs define the process for addressing inputs received from the consultations</p>	<p>Ley Orgánica de Participación Ciudadana (2011) (Organic Law on Citizen participation), following the public hearings provided for by this law, Article 75 says that any “The results achieved in the Public hearings should be timely disseminated so that citizens can follow along”.</p> <p>The Guía Nacional de Consulta para la Implementación de Acciones REDD+ en Tierras o Territorios Colectivos (National Guideline on Consultation for the Implementation of REDD+ Actions in Collective lands and Territories) provides that the government implementing entity or private actor designated to facilitate the consultations will make a list of the results of the consultation process to provide to the AN REDD+</p>
<p>PLRs regulate how public authorities should react if consultations are overwhelmingly negative (right to refuse a policy/project)</p>	<p>The Ley Orgánica de Participación Ciudadana (2011) (Organic Law on Citizen participation), nor does the Guía Nacional de Consulta para la Implementación de Acciones REDD+ en Tierras o Territorios Colectivos (National Guideline on Consultation for the Implementation of REDD+ Actions in Collective lands and Territories) (in the latter the assumption seems to be that an agreement will be reached).</p> <p>The Constitution, however, does provide in Article 57(7) related to indigenous peoples and local communities, that “[i]f consent of the consulted community is not obtained, steps provided for by the Constitution and the law shall be taken.”</p>
<p>PLRs require disclosure of how public input was reflected into the final decision</p>	<p>See above reference to Article 75 of the Ley Orgánica de Participación Ciudadana (2011) (Organic Law on Citizen Participation). The Guía Nacional de Consulta para la</p>

	<p>Implementación de Acciones REDD+ en Tierras o Territorios Colectivos (National Guideline on Consultation for the Implementation of REDD+ Actions in Collective lands and Territories).</p> <p>The latter requires the documentation of exchanges and how inputs are addressed, the Organic Law on Citizens Participation does not give specific instructions on how public hearings and engagements are documented and how the government responses to hearing inputs are reflected in final decisions.</p>
Safeguard D	
Criteria D.2.: Creating an Enabling Environment for an Effective Participation	
Sub-criteria D.2.4. Access to Justice/Conflict Resolution Mechanisms in Environmental Decision Making	
Diagnostic Question: to what extent do PLRs require and regulate access to justice in environmental decision making processes?	
Indicators	Explanation (identify articles/provisions)
PLRs clearly define/create dispute resolution mechanisms relevant to environmental decision making	<p>Ley Orgánica de Participación Ciudadana (2011) Organic Law on Citizen participation (2011), Art. 44 provides for the right of legal actions for citizens who believe their right to participation has been denied. Could be done individually or on behalf of a collective and can include all applicable legal and constitutional actions.</p> <p>The National REDD+ AP, in its preparations, has drafted with multi-stakeholders “Mecanismo de Quejas y Resolución de Controversias para REDD+(Mechanism for Complaints and Resolution of Controversies)”. It is being revised consistent with applicable law and UNDP guidance.</p>
PLRs require disclosure of how public input was reflected into the final decision	See same above response to this same question.

Safeguard D	
Criteria D.3. Effective Participation of Indigenous Peoples and Local Communities	
Sub-criteria D.3.1. Creating an Enabling Environment	
Diagnostic Question: to what extent do PLRs create an enabling environment for the meaningful participation of indigenous peoples and local communities?	
Indicators	Explanation (identify articles/provisions)
PLRs include specific provisions that require engagement/representation of local communities and/or indigenous peoples in relevant forest decision making processes	<p>The Constitution, Article 57 (7) affirming the right of indigenous peoples and collectives “[t]o free prior informed consultation, within a reasonable period of time, on the plans and programs for prospecting, producing and marketing nonrenewable resources located on their lands and which could have an environmental or cultural impact on them; to participate in the profits earned from these projects and to receive compensation for social, cultural and environmental damages caused to them. The consultation that must be conducted by the competent authorities shall be mandatory and in due time. If consent of the consulted community is not obtained, steps provided for by the Constitution and the law shall be taken. See also, Art. 57(17) affirming rights of indigenous peoples and other collectives “[t]o be consulted before the adoption of a legislative measure that might affect any of their collective rights.”</p> <p>Indigenous Peoples and local community representatives are on the MdT REDD+.</p> <p>Per the Manual Operativo del PSB, Acuerdo Ministerial, No. 130 (2011) (PSB Operations Manual). The PSB requires indigenous peoples and local communities to voluntarily decided how they wish to maintain their forests –in conservation areas provided for by Socio Bosque, or otherwise. The stakeholder inputs from these groups resulted in the changes to the various iterations of the PSB Operations Manual.</p>
PLRs define a culturally appropriate manner to distribute relevant information (non-technical, accessible)	The National REDD+ AP Guía Nacional de Consulta para la Implementación de Acciones REDD+ en Tierras o Territorios Colectivos (National Guideline on Consultation for the Implementation of REDD+ Actions in Collective lands and Territories) does provide that REDD + actions implementers must present the collective clear, accurate, simple, transparent and

	culturally relevant information Regarding REDD + and the actions they intend to implement in their land or Territory
PLRs require the incorporation of traditional/community structures for decision-making processes	<p>The Constitution, 57(9) provides that indigenous peoples, communities and Afroecuadorian and Montubio communities have the right “[t]o keep and develop their own forms of peaceful coexistence and social organization and forms of creating and exercising authority.”</p> <p>Ley Orgánica de Participación Ciudadana (2011) (Organic Law on Citizen Participation), Article 29 provides that the forms of organization of the indigenous peoples and communities and of the Afro-Ecuadorian and Montubios are to be respected and strengthened, as is respect for the exercise and representativeness of its authorities, with gender equity, developed in accordance with their own procedures and internal rules, <i>provided they</i> are not contrary to the Constitution and the law. Art. 41 provides that information on government programmes must be disseminated in Spanish and indigenous languages. Article 30 further provides “In the case of communes, communities, indigenous peoples and nationalities, peoples Afro and Montubio, their own organisational forms will be respected and strengthened, the The exercise and representativeness of its authorities, with gender equity, developed In accordance with their own internal procedures and rules, provided that they are not contrary to the Constitution and the law.”</p> <p>In the National REDD+ AP Guía Nacional de Consulta para la Implementación de Acciones REDD+ en Tierras o Territorios Colectivos (National Guideline on Consultation for the Implementation of REDD+ Actions in Collective lands and Territories) require that the consultations are done through the representative institutions of the peoples in questions, as named by them. Any application to the contrary would be counter to Ecuador’s duties and obligations under numerous international treaties, including the American Convention which, according to the Inter-American Court of Human Rights, requires states to conduct consultations and consent processes through the representatives chosen and/or designated by them and not the Government (<i>Case of the Saramaka People v. Suriname</i>. 2007)).</p> <p>Representatives of indigenous peoples and a number of their organizations have already participated in various MdT REDD+ and other dialogue spaces related to the REDD+ programming, and their traditional structures seem most visible in the PSB and in the implementation of the guideline on consultation (referenced above).</p>

	Ecuador has also ratified, acceded to, or endorsed a number of international treaties and instruments that require the State to recognize the governance structures of the indigenous peoples and local communities and their decision-making mechanisms (i.e. American Convention, ICERD, ILO 169, UNDRIP).
PLRs provide technical or financial assistance to strengthen the capacities of local communities and indigenous peoples to participate in environmental decision making	<p>UNDRIP, which has Ecuador’s support and is incorporated by reference into UNDP’s SES, Art. 29 Provides that “1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.” Also, Article 39 provides that “Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.” Such rights include those expressed in Articles 10(2), 11(2),15, 17, 18, 19, 28(1), 29(2), 30, 32, 36 and 38 addressing rights to indigenous peoples’ effective participation, consultation and consent.</p> <p>In the context of the Socio Bosque, aside from the financial incentives provided to indigenous peoples and local communities for placing their lands into conservation, the PSB staff regularly accompanies the communities and provides technical support and capacity to help them prepare their eligibility submissions for the PSB, develop their Investment Plans, monitor their conservation initiatives, and prepare their accountability reports for the use of their incentive payments.</p>
Safeguard D	
Criteria D.3. Effective Participation of Indigenous Peoples and Local Communities	
Sub-criteria D.3.2.: Free, Prior and Informed Consent	
Diagnostic Question: to what extent do PLRs recognise and regulate the right to FPIC in consistency with relevant international law?	
Indicators	Explanation (identify articles/provisions)
PLRs recognise the right to FPIC in consistency with international law (if applicable)	Article 57(7) of the Constitution provides for both consultation and consent affirming the right “To free prior informed consultation, within a reasonable period of time, on the plans and programs for prospecting, producing and marketing <i>nonrenewable</i> resources located on their lands and which

could have an environmental or cultural impact on them; to participate in the profits earned from these projects and to receive compensation for social, cultural and environmental damages caused to them. The consultation that must be conducted by the competent authorities shall be mandatory and in due time. If consent of the consulted community is not obtained, steps provided for by the Constitution and the law shall be taken.” (Emphasis added).

Consultation and consent (FPIC) was further elaborated in a multi-stakeholder format, in the ***Guía Nacional de Consulta para la Implementación de Acciones REDD+ en Tierras o Territorios Colectivos (National Guideline on Consultation for the Implementation of REDD+ Actions in Collective lands and Territories)***, annexed to the National REDD+ AP. The provisions applies to indigenous peoples and other local communities with title, those without title can produce a certification recognizing their ancestral ownership, and presumably other collectives that may depend on forest resources in that PSB area of conservation. In the Guideline, FPIC is triggered where a REDD+ activity is to take place on indigenous or local community lands or territories. It is not expressly triggered when the activity may just affect any of the collectives’ rights, beyond just their rights to their lands, resources and territories. In the future, depending on the good faith application and interpretation, this could be problematic if too limiting. In the Guideline, FPIC is also not triggered when the activity is carried out by the collective itself. It is not clear what the full extent of this means, but presumably where they decide voluntarily to submit their lands into a conservation scheme or ask the government to help them carry out a specific initiative. Depending on the circumstances, interpretation and application, this would appear to be consistent with applicable international law.

Also, this would be further consistent with Article 57 of the **Constitution** which affirms the rights of indigenous peoples in accordance with international law.

The right to consultation and consent is affirmed by various international treaties to which Ecuador is a part and for which it has duties and responsibilities to fulfil, including **ICCPR, ICESCR, ICERD, the American Convention on Human Rights, ILO 169** and Ecuador’s support for **UNDRIP**. These duties and obligations will require a future modification or interpretation of the Guideline referenced above, so consultation and FPIC is not dependent on a title.

PLRs prohibit relocation of indigenous peoples without FPIC and only after just and fair compensation, with option of return where possible.	Per acceptance of UNDRIP and ratification of the ICCPR, ICERD and other international treaties, this is a duty and obligation of Ecuador. See also Article 57(11) of the Constitution prohibiting relocation of indigenous peoples and local communities from their ancestral lands.
PLRs regulate the right to FPIC in consistency with international law, especially ILO 169 (if applicable)	See comments directly above in this subsection.
SAFEGUARD E	
<i>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</i>	
Criteria E.1.: No Conversion of Natural Forests	
Sub-criteria E.1.1. Defining Natural Forest, Biological Diversity and Ecosystem Services	
Diagnostic Question: to what extent do PLRs define the term natural forests, biological diversity and ecosystem services?	
Indicators	Explanation (identify articles/provisions)
PLRs provide a clear definition for the term natural forests (or primary, untouched forests)	<p>Law on Forestry Law and Conservation of Protected Areas and Wildlife (2004, amended 2014), Art. 9.- “Forest lands” are those that, “because of their natural conditions, location, or because they are not suitable for agricultural exploitation, should be destined to the cultivation of timber and shrub species, to the conservation of the protective vegetation, including herbaceous vegetation and consider through soil classification studies, conformity with the requirements of public interest and conservation of the environment.”</p> <p>The National REDD+ AP provides that “Native Forests” means “Arboreal ecosystem, primary or secondary, regenerated by natural succession; It is characterized by the presence of trees of different species natives, ages and varied ports, with one or more strata” where “forests” is defined as “Natural or cultivated vegetable community of at least one hectare, with trees at least five meters high and with a minimum of thirty percent of canopy cover or vegetal aerial layer. The forest can be differentiated in Native Forests and forest plantations. Covered areas of bamboo and native palms</p>

	<p>are included, provided they reach the minimum limit established in terms of minimum area, height and canopy cover. Excludes tree formations used in production systems agricultural plantations, for example fruit plantations, African palm plantations and systems agroforestry Also excluded are trees that grow in parks and gardens urban”.</p> <p>Section 2.2.1 of the Manual Operativo del PSB, Acuerdo Ministerial No. 130 (2011) (PSB Operations Manual, Ministerial Agreement) further provides the following: “A native forest is considered to be any plant formation composed of native species, and resulting from a natural process of ecological succession. In addition, that plant formation must provide two or more of the three environmental services detailed below: refuge of biodiversity, hydrological regulation, and carbon storage. It is excluded from the definition of native forest:</p> <ul style="list-style-type: none"> - Forest plantations destined to the commercialization of wood. - Plantations with exotic species. - Secondary forests that have started their process of natural regeneration after 1990 or, that evidence extraction of wood.”
<p>PLRs clearly distinguish between plantations and natural forests</p>	<p>Ley Forestal y de Conservacion de Areas Naturales y Vida Silvestre (Law on Forests and Conservation of Natural Areas and Wildlife) (2004, amended 2014), Art. 9.- “Cultivated forests” are “Arboreal formation due to the action of the man (forest plantations)” while “Natural forests” are “Formations of trees, shrubs and other plant species due to a spontaneous biological process.</p> <p>The National REDD+ AP does not recognize plantations as part of the definition of forests (bosques). However, the Manual Operativo del PSB, Acuerdo Ministerial No. 130 (2011) (PSB Operations Manual, Ministerial Agreement) does exclude from the definition of Native Forests “Forest plantations destined to the commercialization of wood.</p> <ul style="list-style-type: none"> - Plantations with exotic species.”
<p>PLRs provide a clear definition for the term biological diversity in accordance with relevant international law (especially CBD)</p>	<p>Ecuador is a signatory to the CBD which defines biodiversity as “<i>Biological diversity</i>” means the variability among living organisms from all sources including, <i>inter alia</i>, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part: this includes diversity within species, between species and of ecosystems.”</p> <p>The National REDD+ AP defines “biodiversity” exactly as defined by the CBD.</p>

	<p>Estrategía Nacional de Biodiversidad (National Biodiversity Strategy), incorporates by reference the Código Orgánico del Ambiente (the Environmental Code) (2017) which defines biodiversity very similarly as the CBD, providing that it is: "the quantity and variety of different species in a defined area, be it a terrestrial, marine, aquatic and air ecosystem. This includes the diversity within each space, between various species and between ecosystems.</p>
<p>PLRs provide clearly define the term ecosystem services in accordance with relevant international law</p>	<p>The Constitution, Art. 74 Environmental services shall not be subject to appropriation; their production, delivery, use and development shall be regulated by the State. Article 414. The State shall adopt adequate and cross-cutting measures for the mitigation of climate change, by limiting greenhouse gas emissions, deforestation, and air pollution; it shall take measures for the conservation of the forests and vegetation; and it shall protect the population at risk.</p> <p>Código Orgánico del Ambiente (Organic Environmental Code) (2017), Art. 82.- Of the environmental services. The purpose of this title is to establish the general framework of environmental services, in order to protect conservation, protection, maintenance, sustainable management and the restoration of ecosystems, through mechanisms that ensure their permanence. Art. 83.- Generation of environmental services. The maintenance and regeneration of functions ecological, as well as the dynamics of natural ecosystems or intervened, generate services that are essential for the sustenance of life and in turn produce benefits direct or indirect to the population. Art. 84.- Types of environmental services. The following types of environmental services are: 1. Provisioning services; 2. Regulation services; 3. Habitat services; 4. Cultural services; Y, 5. Others determined by the National Environmental Authority. Art. 85.- On the regulation of conservation, management and restoration activities for the generation of environmental services. The environmental services are not susceptible of appropriation. Those who by their action or omission allow the conservation, sustainable management and restoration of ecosystems and thereby contribute to the maintenance of their ecological function, their resilience and in addition to the flow of environmental services, they may be remunerated, in accordance with the guidelines issued by the National Environmental Authority. In conservation activities, management and restoration for the generation of environmental services will exist the provider and beneficiary. The National Environmental Authority will guarantee that all these activities are carried out in fair, equitable and transparent considering the associative forms of popular economy and solidary. Incentives will be developed to promote research, development and innovation initiatives for the conservation, use and management of environmental services."</p>

	<p>Texto Unificado de Legislación Secundaria de Medio Ambiente (2003)(Unified Text of Secondary Legislation of the Environment), Book II, Art. 263 provides that “Environmental Services” are “Benefits that human populations obtain directly or indirectly from the functions of biodiversity (ecosystems, species and genes), especially ecosystems and native forests and forest and agroforestry plantations.”</p>
Safeguard E	
Criteria E.1.: No Conversion of Natural Forests	
Sub-criteria E.1.2. Prohibiting the Conversion of Natural Forests	
Diagnostic Question: do PLRs prohibit the conversion of natural forests?	
Indicators	Explanation (identify articles/provisions)
PLRs clearly prohibit the conversion of natural forests to other land-uses, or other types of forests (such as plantations)	<p>Código Orgánico del Ambiente (Organic Environmental Code) (2017), Art. 99 provides that “[c]onservation of páramos, moretales and mangroves. Conservation will be of public interest, protection and restoration of the páramos, moretales and mangrove ecosystem. It is prohibited its affectation, felling and change of land use, in accordance with the law. Also, the Codes, Art. 106 provides that “[p]lans for the conservation of the natural forest. The plans for the conservation of the natural forest are zoning instruments, formulated by the State or proposed by the owners of the lands, as the case may be, to be carried out individually, collectively or associatively, sustainable productive activities and thus avoid the change of land use and the deforestation of the natural forests existing in these lands.”</p> <p>Ley Orgánica de Tierras Rurales y Territorios Ancestrales (2016) (Organic law of rural lands and ancestral territories) Art. 7 (k) Regulation of the agricultural frontier. The State regulates and controls the advance of the agricultural frontier that can affect fragile ecosystems, such as páramos, mangroves, wetlands, cloud forests, forests tropical, dry and humid, heritage zones natural, cultural and archaeological; and in general, in protected natural areas and particularly in the territories with high biodiversity or that generate services environmental. And it protects rural land from growth</p>

	<p>urban not planned. They recognize and respect current human settlements and activities productive that will have the respective management plan;</p> <p>Art. 8.1 of the Manual Operativo del PSB, Acuerdo Ministerial No. 130 (2011) (PSB Operations Manual, Ministerial Agreement) provides that its <i>socios</i> cannot change the land use of the area under conservation as subject to the PSB programme.</p> <p>The National REDD+ AP speaks to about a goal of converting 300,000 hectares of grassland to chakra systems, systems of semi-intensive agroforestry, silvopastoral systems and forest systems and speaks about the “reconversion of productive agricultural.” Also recall that the AP provides that forests include native forests and forest plantations.</p> <p>The Plan Nacional de Forestación y Reforestación (National Forestation and Reforestation Plan), committed the government to providing tax incentives and financial resources for the establishment of 750,000 hectares of commercial monoculture tree plantations.</p>
<p>If conversion is not prohibited, PLRs set controls on conversion in both public and private forests, through environmental impact assessments and mitigation.</p>	<p>[TBD]</p>

Safeguard E	
Criteria E.2. Protection and Conservation of Natural Forests and Biodiversity	
Sub-criteria E.2.1. Identifying Natural Forests and Biodiversity	
Diagnostic Question: do PLRs promote or require the identification/mapping of natural forests and biological diversity?	
Safeguard E	
Criteria E.2. Protection and Conservation of Natural Forests and Biodiversity	
Sub-criteria E.2.2: Measures to Protect Biodiversity and Natural Forests	
Diagnostic Question: Do PLRs regulate the protection of biodiversity and natural forests?	
Indicators	Explanation (identify articles/provisions)
PLRs contain provisions for the protection of natural forest areas	<p>Ley Forestal y de Conservacion de Areas Naturales y Vida Silvestre (Law on Forests and Conservation of Natural Areas and Wildlife) (2004, amended 2014), Art. 5, the MAE is specifically responsible for the “management and protection of natural forest areas.”</p> <p>Various extracts from PLRs already covered above make clear Ecuador’s commitment to protect its forests. The National REDD+ AP clearly demonstrates this as a key objective of Ecuador’s national laws, policies and strategies. The Socio Bosque project had its primary goal as avoiding deforestation.</p>
PLRs contains provisions for the protection of biodiversity (BD strategy, creation of protected areas etc.)	<p>The Constitution, Article 405. “The national system of protected areas shall guarantee the conservation of biodiversity and the maintenance of ecological functions. The system shall be comprised of state, decentralized autonomous, community and private subsystems, and it shall be directed and regulated by the State. The State shall allocate the financial resources needed to ensure the system’s financial sustainability and shall foster the participation of the communities, peoples, and nations who have their ancestral dwelling places in the protected areas in their administration and management. Foreign natural persons or legal entities will not be able to acquire any land deeds or concessions in areas of national security or protected areas, in accordance with the law.” See also, Article 407. “Activities for the extraction of nonrenewable natural resources are forbidden in</p>

	<p>protected areas and in areas declared intangible assets, including forestry production. Exceptionally, these resources can be tapped at the substantiated request of the President of the Republic and after a declaration of national interest issued by the National Assembly, which can, if it deems it advisable, convene a referendum.”</p> <p>Ecuador has a Política y Estrategia Nacional de Biodiversidad de Ecuador (2015-2030)(National Policy and Strategy on Biodiversity) which has one of its primary goals, the protection of biodiversity.</p> <p>Texto Unificado de Legislación Secundaria de Medio Ambiente (Unified Text of Secondary Legislation of the Environment), Book I, Art. 2 explains that the vision of the MAE includes “making Ecuador a country that conserves and sustainably uses its biodiversity”. Other books of the regulation provides for the protection of biodiversity, including monitoring of biodiversity in protected areas, as well as the conduct of technical studies on biodiversity, among others. The regulation also addresses administration and development of management plans for protected areas</p> <p>To aid in protection and monitoring, Ecuador has a National Database of Biodiversity Data which incorporates taxonomic records of non-vascular fauna and flora.</p> <p>The CBD, to which Ecuador is a party, also provides for protections of biodiversity and the Socio Bosque project, per its Manuel Operativo del PSB, Acuerdo Ministerial No. 130 (2011) (PSB Operations Manual, Ministerial Agreement) which included in the criteria for selecting areas of conservation the value of ecosystem services, including areas acting as biodiversity refuges.</p>
<p>PLRs contain provisions for the protection of endangered species</p>	<p>The Constitution, Art. 73 “The State shall apply preventive and restrictive measures on activities that might lead to the extinction of species, the destruction of ecosystems and the permanent alteration of natural cycles. The introduction of organisms and organic and inorganic material that might definitively alter the nation’s genetic assets is forbidden.”</p> <p>Código Orgánico del Ambiente (Organic Environmental Code) (2017), Art 24 establishing a “lists of wildlife species with some category of threat, based on national conservation and management priorities or international instruments or treaties ratified by the State”. See also the Code’s Art. 35.- “On the protection of wildlife species. For the protection of wildlife, the following</p>

	<p>conditions are established for natural and legal persons: 1. To conserve wildlife species in their natural habitat by prohibiting their extraction, except those considered for research, repopulation of species with any type of threat and those established in this Code; 2. Recognize the traditional use and exploitation of wildlife species for reasons of subsistence or medicinal cultural practices; 3. Protect all native species of terrestrial, marine and aquatic wildlife with special concern for endemic species, endangered species, migratory species and those listed by international instruments ratified by the State; 4. Protect habitats, ecosystems and areas of biological importance, on which wildlife species depend; 5. Coordinate inter-institutional actions for in situ conservation of wildlife species that are affected, or that may be affected by anthropogenic activities; 6. Promote research on wildlife to disseminate bio-knowledge within the national territory; and, 7. Others that are determined for the purpose.”</p> <p>The Política y Estrategia Nacional de Biodiversidad de Ecuador (2015-2030)(National Policy and Strategy on Biodiversity) declares per studies, the Priority Areas for the conservation of endangered species in Ecuador (see map 17) and the strategy provides in its Table 17 the 19 national results with their respective goals, and as they correspond to the Aichi Targets related to endangered species. In that table Ecuador says that it “implements comprehensive measures to avoid the extinction of the wildlife and cultivated species considered as priority” with two goals: 1) “By 2021, the country has an evaluation of the population status of a selected group of 15 species "landscape" under some category of threat” and 2) By 2021, Ecuador knows the threats and prioritizes actions for the conservation of the crocodile, harpy eagle, condor and parrot on the coast, which is executed in coordination with peoples and nationalities.”</p> <p>Of course, as a signatory to the CBD, Ecuador further commits to the conservation of genetic resources by preserving sensitive ecosystems, restoring degraded ecosystems, and adopting legislation that would protect plants and animal species that are deemed endangered.</p>
<p>PLRs regulate/control the market and trade of endangered species</p>	<p>Código Orgánico Integral Penal (2014) (Comprehensive Organic Criminal Code) (COIP), Art. 247states: "The person who hunts, fishes, captures, collects, extracts, has, transports, traffics, benefits, exchanges or trades, specimens or their parts, their constituent elements, products and derivatives, of terrestrial flora or fauna, marine or aquatic, endangered, endangered and migratory species, nationally listed by the National Environmental Authority as well as international</p>

	instruments or treaties ratified by the State, will be sanctioned with imprisonment of one to three years.
PLRs contain clear regulations regarding the planting of invasive species	<p>Texto Unificado de Legislación Secundaria de Medio Ambiente (Unified Text of Secondary Legislation of the Environment), Preliminary Title of the Basic Environmental Policies of Ecuador, section 7.1.1.2.1, provides for the creation of a national implementation plan for the control of invasive alien species. TNC supported the MAE in the preparation of the National Plan on Invasive Species.</p> <p>En su Estrategía Nacional de Biodiversidad (National Strategy on Biodiversity), one of Ecuador's 20 planned results include: "Ecuador has developed and put in place mechanisms for prevention, control, eradication and monitoring for invasive species throughout the continental Ecuador and such mechanisms have been prioritized by the MAE."</p>
PLRs define clear penalties for non-compliance with the above measures	<p>Where offenses are uncovered via forest monitoring control systems, the Código Orgánico Integral Penal (2014) (Comprehensive Organic Criminal Code) (COIP), provides sanctions for environmental crimes. (the information below is taken from http://www.heroe593.com/delitos-ambientales-ecuador-parte-1/)</p> <p>Environmental crimes, are behaviours "that, either by their own will or by imprudence, are contrary to what is established by law. The crime, therefore, implies a violation of the rules in force, which makes it worth punishment or punishment.</p> <p>The fourth chapter of Title IV of Book One of the Code contains five sections relating to infractions against biodiversity, natural resources, including non-renewable resources; and environmental management.</p> <p>-Article 245 of the COIP states: "The person who invades the areas of the National System of Protected Areas or fragile ecosystems, will be punished with imprisonment of one to three years</p> <p>-Art. 246 of the C.O.I.P. mentions: "The person who directly or indirectly causes fires or instigates the commission of such acts, in native or planted forests or páramos, will be punished with imprisonment of one to three years</p> <p>-Art. 247 of the C.O.I.P. states: "The person who hunts, fishes, captures, collects, extracts, has, transports, traffics, benefits, exchanges or trades, specimens or their parts, their constituent</p>

	<p>elements, products and derivatives, of terrestrial flora or fauna, marine or aquatic, endangered, endangered and migratory species, nationally listed by the National Environmental Authority as well as international instruments or treaties ratified by the State, will be sanctioned with imprisonment of one to three years.</p> <p>Further provisions regarding the system of sanctions for environmental infractions can be found in the <i>La Ley de Gestión Ambiental (2004)</i>(Law of Environmental Management), <i>Ley Forestal y de Conservación de Áreas Naturales y Vida Silvestre (Law on Forests and Conservation of Natural Areas and Wildlife) (2004, amended 2014)</i>, and the <i>Texto Unificado de Legislación Secundaria de Medio Ambiente (Unified Text of Secondary Legislation of the Environment)</i>.</p>
<p>PLRs promote sound environmental management and sustainable use of public/private forests (preparation of management plans, guidelines, process)</p>	<p>The <i>Ley Forestal y de Conservación de Áreas Naturales y Vida Silvestre (Law on Forests and Conservation of Natural Areas and Wildlife) (2004, amended 2014)</i> requires management plans for all contracts for the exploitation of state forests (Art. 29);</p> <p>The <i>Código Orgánico Integral Penal (2014) (Comprehensive Organic Criminal Code) (COIP)</i>, Art. 93. Provides that the “management of the National Forest Heritage will be carried out within the framework of the following fundamental provisions: ...6. Sustainable forest management. The National Forest Regime will promote sustainable forest management as a strategy to guarantee the rational use of the natural forest, excluding illegal activities such as extraction, degradation and deforestation.” Also Chapter V of the Code, “Management and Conservation of Natural Forests” provides at its Art. 9 “[g]eneral provisions for sustainable forest management.”</p> <p>This is regulated by the <i>Texto Unificado de Legislación Secundaria de Medio Ambiente (Unified Text of Secondary Legislation of the Environment)</i>, Preliminary Title of the <i>Basic Environmental Policies of Ecuador</i>, Art. 1(13) provides: “Recognizing that an effective tool for the prevention of environmental damage is the obligation, on the part of the interested party, of the Environmental Impact Study (EIA) and the proposal of Environmental Management Plans (PMA), for each case, accompanying the authorization requests to carry out activities susceptible to degrade or pollute the environment, which must be subject to the review and decision of the competent authorities. The Ecuadorian State establishes as a mandatory instrument prior to the realization of activities that could degrade or contaminate the environment, the preparation, by the interested in carrying out these activities, an Environmental Impact Study (EIA) and the respective</p>

	<p>Environmental Management Plan (PMA) and the presentation of these together with applications for authorization before competent authorities, which have an obligation to decide on this and to control the compliance with the stipulations of these studies and programs in order to prevent degradation and pollution, ensuring, in addition, adequate and sustainable environmental management. The study of Environmental Impact and the Environmental Management Plan should be based on the principle of achieving the level of action most appropriate to the respective space or resource to be protected, through the most effective action.”</p>
<p>PLRs regulate industry-specific sustainable resource production/management practices applied, including credible certification systems where appropriate PLRs regulate sustainable practices supported for small-scale producers</p>	<p>[TBA]</p>
<p>PLRs require the monitoring and evaluation management forests (M&E of implementation of management plans)</p>	<p>The <i>Código Orgánico del Ambiente (Organic Environmental Code) (2017)</i>, Art. 125 “Monitoring, Control and [Follow up]” providing for the “[p]ower of monitoring, control and follow up [seguimiento] in forestry. All actions of monitoring, control and monitoring are acts of protection of the National Forest Heritage. These actions will include the monitoring of degradation and deforestation, as well as the monitoring of the national forest inventory.”</p> <p>As described in Art. of <i>Texto Unificado de Legislación Secundaria de Medio Ambiente (revisado en 2015)(Unified Text of Secondary Legislation of the Environment), Book VI</i>, Ecuador “Unique System of Environmental Management (SUMA)” is a “set of principles, rules, procedures and mechanisms oriented to the planning, programming, control, administration and execution of the evaluation of environmental impact, evaluation of environmental risks, <i>environmental management plans</i>, risk management plans, <i>monitoring systems</i>, contingency and mitigation plans, environmental audits and abandonment plans, within the regularization, <i>environmental control and monitoring mechanisms</i>, which must be applied by the National Environmental Authority and accredited organisms.” Art. 254 of the <i>Texto Unificado</i> speaks about monitoring the Management Plans themselves.</p> <p>Further, section 7.1.4 of the National REDD+ AP titled “Forest control and regulatory reforms” provides that one its targeted action is to “Consolidate and strengthen institutional technical capacities in the different stages of forest use, to promote control and adequate follow-up in the</p>

	<p>elaboration of management plans”.</p> <p>The Socio Bosque project provides the Ministry with the authority to do on-site visits at random to confirm the reports of the socios regarding their conservation efforts consistent with the land use restrictions and provisions of the <i>convenios</i> (essentially serving as the management plan) and in the cases where the <i>convenios</i> overlap protected areas, compliance with the actual protected area management plan.</p>
Safeguard E	
Criteria E.2. Protection and Conservation of Natural Forests and Biodiversity	
Sub-criteria E.2.3: Supporting Conservation Research and Awareness-Raising	
Diagnostic Question: do PLRs support/promote conservation research and awareness raising over forest and biological diversity protection?	
Indicators	Explanation (identify articles/provisions)/Gaps identified
PLRs promote conservation research for science-based biodiversity conservation	<p>Ley Forestal y de Conservacion de Areas Naturales y Vida Silvestre (Law on Forests and Conservation of Natural Areas and Wildlife) (2004, amended 2014), Art. 5 calls on the MAE to “[p]romote and coordinate scientific research within the field of its competence” (which includes conservation). This is consistent with the State’s commitments under Article 12 of the Convention on Biological Diversity which addresses scientific research and training and cooperation to improve conservation efforts.</p> <p>Código Orgánico del Ambiente (Organic Environmental Code) (2017), Art. 133. “Scientific research, innovation and technological development and forestry extension. The National Environmental Authority, the National Authority of Agriculture, Livestock, Aquaculture and Fisheries, the Single Water Authority and the National Authority for Science, Technology and Innovation and Ancestral Knowledge will identify and propose initiatives for scientific research, innovation and technological development and forest extension based on their competences.</p> <p>In addition, there is the INABIO – the National Institute of Biodiversity. This is a Public Research Institute, --an entity attached to the MAE with legal personality and with functional,</p>

	<p>administrative, financial and budgetary independence, and with national jurisdiction created by Executive Decree No. 245 on February 24, 2014. INABIO is a institution for generating knowledge and it serves as a coordinator of biodiversity research processes for Ecuador. See http://www.biodiversidad.gob.ec/</p> <p>To further protect and monitor biodiversity, Ecuador has a National Database of Biodiversity Data to incorporate taxonomic records of non-vascular fauna and flora.</p>
PLRs promote the implementation of programmes that aim to improve public knowledge of the value of biodiversity	<p>Consistent with Article 13 of the Convention on Biological Diversity, to which Ecuador is a party, the promotes as its first priority objective of the Política y Estrategia Nacional de Biodiversidad de Ecuador (2015-2030)(National Policy and Strategy on Biodiversity) provides the following: “The Ecuadorian population has reached a level of knowledge, assessment and awareness of the importance of biodiversity and implementation of actions for its conservation and sustainable use.”.</p>
Safeguard E	
Criteria E.2. Protection and Conservation of Natural Forests and Biodiversity	
Sub-criteria E.2.4: Integration of Biodiversity in Cross-Sectoral Policies	
Diagnostic Question: Do PLRs require/promote the integration of biodiversity consideration in cross-sectoral policies?	
Indicators	Explanation (identify articles/provisions)
PLRs require the consideration and measuring of the possible impacts of forest and land use policies on biodiversity	<i>Texto Unificado de Legislación Secundaria de Medio Ambiente (revisado en 2015)(Unified Text of Secondary Legislation of the Environment)</i> , Book VI , Art. 205 “Environmental Evaluation” provides that “[t]he Competent Environmental Authority will guarantee an adequate identification and evaluation of negative impacts on the <i>biotic component</i> for which, it will establish standardized methodological guidelines for the characterization in environmental studies, which will be updated periodically as long as the scientific advances merit it; additionally it <i>will establish and approve the methodology for determining the economic valuation of goods and environmental services</i> , based on

	the technical and juridical norms and instruments create for this effect.” regulations and instruments technical and legal services created for this purpose.”
PLRs provide clear guidance on how to assess trade-offs between development (livelihoods, infrastructure, food production) and biodiversity (including modification/cancellation of the policy if potential impacts are too high)	Art. 205 of the Texto Unificado de Legislación Secundaria de Medio Ambiente (revisado en 2015)(Unified Text of Secondary Legislation of the Environment), Book VI , referring to the need for the competent environmental authority to “ <i>establish and approve the methodology for determining the economic valuation of goods and environmental services</i> , based on the technical and juridical norms and instruments create for this effect.” (Emphasis added)
Safeguard E	
Criteria E.2. Protection and Conservation of Natural Forests and Biodiversity	
Sub-criteria E.2.5: Enhancement of Other (non-carbon) Benefits	
Diagnostic Question: do PLRs promote the enhancement of multiple benefits?	
Indicators	Explanation (identify articles/provisions)
PLRs seek to maintain and increase the ecological, biological, climatic, socio-cultural, and economic contributions of forest resources	<p>National REDD+ AP provides at section 5.3.4 that avoided deforestation and forest degradation “will contribute to the maintenance of the culture and identity of communities, peoples and nationalities” and the “sustainable community forest management and initiatives for the conservation and restoration of forests” and their “culture and traditional knowledge.”</p> <p>Ley Forestal y de Conservacion de Areas Naturales y Vida Silvestre (Law on Forests and Conservation of Natural Areas and Wildlife) (2004, amended 2014), section 3.1 provides that one of the specific objectives of Ecuador’s forest policy is to restore forests and those with potential for reforestation to incorporate them into the nation’s economic development processes.</p> <p>The National REDD+ AP, Section 5.3.1 titled “<i>Biodiversity Conservation</i>” provides that “the promotion of REDD + measures and actions aimed at restoration and conservation, as well the <i>establishment of agroforestry</i> and the sustainable use of articulated forest resources to value chains in the framework of <i>bio-entrepreneurship policies and bioindustries</i>, all contributing to:</p>

	<p>1 Guarantee the continued provision of NTFPs [<i>non-timber forest products</i>] for the populations. 2 Maintain <i>biodiversity</i>. [and] 3 Generate economic alternatives...”</p> <p>See additional PLR references above addressing Ecuador’s goals of forest conservation.</p>
PLRs regulate access to, and fair and equitable sharing of benefits derived from forest biological resources (non-timber forest products)	<p>Addressed above under Safeguard B.</p> <p>See also section 5.3.1 of the National REDD+ AP, as referenced above.</p>
PLRs promote the development of alternative livelihood in forests (eco-tourism, agroforestry)	<p><i>Ley Forestal y de Conservacion de Areas Naturales y Vida Silvestre (Law on Forests and Conservation of Natural Areas and Wildlife) (2004, amended 2014)</i>, section 3.1 provides that one of the specific objectives of Ecuador’s forest policy is to “Conserve and manage existing forests and resources in protected natural areas, wetlands, mangroves and wastelands, <i>through the generation of alternative uses</i>, among which stand out among others its <i>enormous tourist potential</i> and the sustainable use of its biodiversity.” (emphasis added).</p> <p>See also section 5.3.1 of the National REDD+ AP, as referenced above.</p>
SAFEGUARD F & G	
<i>Actions to address the risks of reversals and reduce displacement of emissions</i>	
Criteria F&G.1: Monitoring and Assessment	
Diagnostic Question: to what extent do PLRs require regular monitoring and measurement of risks to forest permanence	
Indicators	Explanation (identify articles/provisions)
PLR s require the development of detailed land use and forest inventories (forest cover, forest cover change), monitoring of land-use and land-use change (including monitoring system)	Among others, the <i>Ley Forestal y de Conservacion de Areas Naturales y Vida Silvestre (Law on Forests and Conservation of Natural Areas and Wildlife) (2004, amended 2014)</i> and <i>Texto Unificado de Legislación Secundaria de Medio Ambiente (Unified Text of Secondary Legislation of the Environment)</i> , its combined books – collectively address each of these matters.

	<p>Ecuador initiated the development of its National Forest Monitoring System (NFMS) in 2013 and it was formalized by means of the Ministerial Decree No. 116. To date, the MAE is working to institutionalize the system. The NFMS incorporates measurement, monitoring, reporting and verification (M-MRV) processes at a national scale, according to national circumstances and capabilities, in line with UNFCCC REDD+ decisions. The NFMS is linked to the strategic and operative components of the Ecuador's National REDD+ AP; it is key for reporting on how Ecuador addresses and respects social and environmental safeguards. Because it monitors natural forest and because the methodologies and data generated (e.g. land-use and forest-cover maps) allow for the identification of emission displacement at a national level. Furthermore, the information generated by the system provides inputs for the design and implementation of policies regarding land-use, land management, forest governance, and natural resource management. The NFMS allows Ecuador to determine the state of forests through indicators of land-use and forest-cover change. The system's main function is to generate periodic information every 2 years, including verifiable data used for estimations and international reports of the land-use, land-use change and Forestry (LULUCF) sector green house gas (GHG) emissions.</p>
<p>PLRs require monitoring of entire forest product supply chain</p>	<p><i>See above.</i></p> <p>Texto Unificado de Legislación Secundaria de Medio Ambiente (revisado en 2015)(Unified Text of Secondary Legislation of the Environment), Book VI, Art. 243 on Supply chains provides that the National Environmental Authority, in coordination with the competent authorities, will promote in public institutions and private companies, the integral management of supply chains that promote sustainable consumption and production, prioritizing the sustainable commercialization of products and services between producers, suppliers, distributors and final consumer.</p>
<p>PLRs provide law enforcement bodies with adequate mandates, resources and expertise to conduct routine monitoring</p>	<p>See section above on corruption and penalties for environmental crimes.</p>
<p>PLRs require regular monitoring and reporting on social and environmental impacts of forest programmes</p>	<p>This has been addressed above.</p>

Safeguard F & G	
Criteria F&G.2: Measures to Tackle Reversals and Displacement	
Diagnostic Question: to what extent do PLRs aim to minimise the risks related to deforestation and forest degradation?	
Indicators	Explanation (identify articles/provisions)
PLRs promote sustainable utilisation and conservation of forests and other relevant resources	<p>Ley de Gestión Ambiental (2004) (Law of Environmental Management), Art. 3 “The process of Environmental Management, will be oriented according to the universal principles of Development Sustainable, contained in the Declaration of Rio de Janeiro of 1992, on Environment and Development.” Art. 7.- The environmental management is framed in the general policies of sustainable development for the conservation of natural heritage and the sustainable use of natural resources.” Article 12 (e) further provides that the State institutions must “[r]egulate and promote the conservation of the environment and the sustainable use of resources natural in harmony with the social interest; maintain the natural heritage of the Nation, ensure the protection and restoration of biological diversity.”</p> <p>Art. 4(d) further “declares that the purpose of autonomous governments is the “[t]he recovery and conservation of nature and the maintenance of a sustainable and sustainable environment”. Other articles as well speak of sustainable utilization of resources and conservation.</p> <p>Ley Forestal y de Conservación de Áreas Naturales y Vida Silvestre (Law on Forests and Conservation of Natural Areas and Wildlife) (2004, amended 2014), Art. 5(b) charges the MAE with the obligation to “[e]nsure the conservation and rational use of the existing forest and natural resources.”</p> <p>The Socio Bosque and National REDD+ AP follows these same principles of sustainable development and conservation.</p>
PLRs require adverse impacts (direct and indirect) to natural resources, biodiversity, ecosystem services are identified, assessed, mitigated and managed	See references above to the Texto Unificado de Legislación Secundaria de Medio Ambiente (revisado en 2015) (Unified Text of Secondary Legislation of the Environment) , Book VI, Title 1 provides “It is the obligation of the Subjects of Control [meaning regulated entities, including proprietors] to adopt all relevant measures to avoid, minimize, mitigate and correct environmental

	<p>impacts originating from production processes. This principle will be applied in projects and also to management plans or any of the nature that is addressed by this” text.”</p>
<p>PLRs implement effective law enforcement to combat and eradicate illegal forest-related practices</p>	<p>Where offenses are uncovered via forest monitoring control systems, the Código Orgánico Integral Penal (2014) (Comprehensive Organic Criminal Code) (COIP), provides sanctions for environmental crimes. (the information below is taken from http://www.heroe593.com/delitos-ambientales-ecuador-parte-1/)</p> <p>Environmental crimes, are behaviours "that, either by their own will or by imprudence, are contrary to what is established by law. The crime, therefore, implies a violation of the rules in force, which makes it worth punishment or punishment.</p> <p>The fourth chapter of Title IV of Book One of the Code contains five sections relating to infractions against biodiversity, natural resources, including non-renewable resources; and environmental management.</p> <p>-Article 245 of the COIP states: "The person who invades the areas of the National System of Protected Areas or fragile ecosystems, will be punished with imprisonment of one to three years</p> <p>-Art. 246 of the C.O.I.P. mentions: "The person who directly or indirectly causes fires or instigates the commission of such acts, in native or planted forests or páramos, will be punished with imprisonment of one to three years</p> <p>-Art. 247 of the C.O.I.P. states: "The person who hunts, fishes, captures, collects, extracts, has, transports, traffics, benefits, exchanges or trades, specimens or their parts, their constituent elements, products and derivatives, of terrestrial flora or fauna, marine or aquatic, endangered, endangered and migratory species, nationally listed by the National Environmental Authority as well as international instruments or treaties ratified by the State, will be sanctioned with imprisonment of one to three years.</p>
<p>PLRs seek to detect and reduce forest fires and other disturbances</p>	<p>Where illegal forest fires are uncovered via forest monitoring control systems, the Código Orgánico Integral Penal (2014) (Comprehensive Organic Criminal Code) (COIP), provides Art. 246 of which states: "The person who directly or indirectly causes fires or instigates the commission of such acts, in native or planted forests or páramos, will be punished with imprisonment of one to three years.”</p>

<p>PLRs promote alternative livelihoods and income diversification from forest management</p>	<p>See responses above to E.2.5</p>
<p>PLRs seek to avoid, minimize and mitigate risks posed to human health and the environment from pollutants, wastes, and hazardous materials</p>	<p>This matter is fully addressed by the <i>Texto Unificado de Legislación Secundaria de Medio Ambiente (Unified Text of Secondary Legislation of the Environment)</i> (all of its books together).</p>