

MEMORANDUM OF REVIEW

TO: ART Secretariat

FR: Charlotte Young, Winrock International General Counsel and Chief Risk and Compliance Officer

DT: May 11, 2023

RE: APA Comment/Complaint: “Comment of latest approved ART documents for Guyana and complaint about issuance of credits for 2016-2020” dated March 8, 2023

The following is the recommendation of the Reviewer regarding the above Comments/Complaint.

Executive Summary

Considering the process - Based on the nature of the complaints submitted, the Reviewer undertook to assess whether the processes in the applicable Standards were followed with respect to the issuance of carbon credits to the Government of Guyana (GoG) for the 2016-2020 time period. The Reviewer finds they were. The opportunity to comment was publicly posted by the Architecture for REDD+ Transactions (ART) Secretariat on October 26, 2021. Two sets of comments provided by the Amerindian Peoples Association (APA) on May 12, 2022 and July 22, 2022 were considered by the Validation and Verification Body (VVB), and the ART Board. The 30 day comment period was effectively, for APA, extended to nine months. APA was present during the April 2022 field visit by the VVB and was given additional opportunity to comment, receive information, and receive training.

Considering the substance of the comments - The APA comments have been considered by the ART Secretariat and the VVB and have been helpful to the process. Two additional sets of comments provided by APA were provided out of time for the 2016-2020 validation and verification process but are being considered in the current 2021 assessment, as will the March 8, 2023 Comments/Complaint and related materials received. The VVB also will provide, when in the field, APA representatives the opportunity to provide in person comments again, this time one on one with the VVB. The ART Secretariat has added several process improvements also as a result of the APA comments.

Going forward, the APA has subscribed to the ART listserv to receive notification of the availability of new and relevant participant documentation as it becomes publicly available to ensure that the APA has many opportunities to submit comments to ART regarding these submissions.

Background

1. Scope of review

This review focusses on the primary issue that appears throughout the Comments/Complaint: that the APA concerns were raised, but not heard or considered during the validation and verification process. This review assesses the process undertaken to validate and verify GoG compliance with required Standards including for inclusion of stakeholder comments into the ART carbon credit issuing decision. In addition to process, relevant substantive comments also are addressed.

Many of the comments included are beyond the mandate of ART’s requirements and will not be addressed here as discussed later in this document. Notably, ART does not act as a judge or arbiter of

intra-governmental disputes. For those comments related to the issuance of these credits, ART's role is to ensure the processes are in place and functioning for disputes to be raised and addressed. See Cancun Safeguard B, Theme 2.4, The REDD+ Environmental Excellence Standard (TREES) version 2.0, , (["TREES Standard"](#)). A positive verification can occur even if disputes are still being resolved.

As for the impact of this review, the TREES Validation and Verification Standard v. 2.0 (December 2021) (["TREES V&V Standard"](#)) at 3.11 makes clear that "No TREES credits will be invalidated once issued."

It states:

If an error is found in a previous validation or verification which necessitates either an increase or decrease in emission reductions, the adjustment required shall be made to the total emission reductions in the reporting period being verified when the error was discovered. If the emissions reductions in the current reporting period are insufficient to address the error, the remaining adjustment necessary shall carry over to the next reporting period, and so on, until the error has been fully compensated for.

TREES V&V Standard at 3.11. As the 2021 verification process is now underway, any impacts of the comments will be reflected therein.

2. Overview of Relevant TREES Standards

The TREES Standard provides "a credible standard and rigorous process to transparently register, verify, and issue REDD+ emission reduction and removal credits that ensure environmental and social integrity." TREES Standard at 2. The process, summarized, is as follows:

- 1. The Participant submits a TREES Concept to the Secretariat for review. The TREES Concept includes information listed in Annex A.*
- 2. The ART Secretariat reviews the TREES Concept for completeness and will request revisions as needed.*
- 3. The Secretariat approves the inclusion of the Participant in ART.*
- 4. Following approval, the Participant's TREES Concept is referenced in the ART Registry as Listed.*
- 5. The Participant submits the TREES Registration Document and the initial TREES Monitoring Report covering the initial calendar year(s) to the Secretariat for a completeness check. The TREES Registration Document and the TREES Monitoring Report include information listed in Annex A.*
- 6. The Secretariat reviews the TREES Registration Document and TREES Monitoring Report for completeness and will request revisions as needed. The Secretariat then approves the TREES Registration Document and TREES Monitoring Report for validation and verification.*
- 7. The Participant selects a Validation and Verification Body from the list of approved ART Validation and Verification Bodies maintained on the ART website. The Participant solicits bids and negotiates contracts directly with the selected Validation and Verification Body. The selection process will include a disclosure of conflicts of interest and mitigation measures, if conflicts are identified.*
- 8. The Validation and Verification Body conducts the validation of the TREES Registration Document and the verification of the TREES Monitoring Report in line with the requirements of Section 14 of this Standard and the TREES Validation and Verification Standard.*

9. *The Validation and Verification Body submits the Validation and Verification Report and Verification Statement to the Secretariat who reviews the documents to ensure completeness. The Secretariat will request revisions as needed.*
10. *The Secretariat submits the Participant’s final package and a recommendation to the ART Board for approval. The Board requests additional information as appropriate and approves the credit issuance.*
11. *Following Board approval, the Participant’s TREES Registration Document and Monitoring Report are referenced in the ART Registry as Registered and TREES credits are issued based on the initial verification. If the Participant has demonstrated conformance with the High Forest /Low Deforestation (HFLD) criteria and used the optional HFLD crediting approach, TREES credits issued will be labeled as HFLD.*

TREES Standard at 2.1; see also TREES Standard at 2.2, 2.3 (processes for validation, verification, and issuance; and crediting period and renewal).

Of primary relevance here is the provision regarding stakeholder input:

Stakeholders can submit comments and feedback to ART on an ongoing basis¹ by contacting the ART Secretariat. In addition, subscribers to the [ART listserv](#) shall receive notification of the availability of new and relevant Participant documentation as it becomes publicly available to ensure that stakeholders have ample opportunity to submit comments to ART regarding these submissions. Comments submitted within 30 days of notice will be directed to the Participants to be addressed and will also be provided to the Validation and Verification Body at the beginning of Validation and Verification.

TREES Standard at 2.5 (“Timelines and Deadlines”) (footnote added). The Complainants, the Amerindian Peoples Association (“APA”), are stakeholders under this provision.

The independent Validation and Verification Standard is a significant part of the integrity of the issuance of the credits. This Standard details the required validation and verification requirements and procedures that every VVB must use when evaluating whether a Participant (here, the GoG) using the TREES Standard conforms with the requirements of TREES in order to be eligible for issuance of TREES credits. The requirements for validation and verification focus on assessing data collection and reporting as well as the underlying processes and management systems supporting these efforts. The Validation and Verification Body (“VVB” or here, Aster Global) conducts the validation of the [TREES Registration Document](#) and the verification of the [TREES Monitoring Report](#).

The VVB is required, with respect to stakeholder comments, to “evaluate the ART Participant’s response to any stakeholder comments submitted regarding the TREES Registration document.” TREES V&V Standard at 13.

¹ According to the ART Secretariat, the opportunity for comments is perpetually open. If APA or anyone has suggestions or comments on ART as a whole (i.e., not specific to a particular country’s program), they can submit them to the Secretariat at any time.

3. Confidential Complaint Process

Section 16.1 of the TREES Standard provides that when a stakeholder objects to a decision made by ART representatives, a confidential complaint procedure shall be followed. Specifically:

16.1 COMPLAINTS

. . . When a Participant or stakeholder objects to a decision made by ART representatives or the application of the ART program requirements, the following confidential complaint procedure shall be followed:

I. The Participant or stakeholder sends a written complaint via email to [redd@winrock.org](mailto:red@winrock.org). The complaint must detail the following:

- A. Description of the complaint with specific reference to TREES requirements, as applicable;*
- B. Supporting documentation provided for consideration by ART in the complaint resolution process; and*
- C. Complainant name, contact details, and organization.*

II. The ART Secretariat shall assign a representative to research and further investigate the complaint. The representative assigned to handle the complaint shall not have been involved with the issue that is the subject of the formal complaint.

III. The Secretariat will provide a written response via email to the complainant detailing the Secretariat's decision on the matter.²

4. The Comments/Complaint and Responses Received

On November 9, 2022, the ART Board voted to approve the ART issuance of credits to GoG. By letter dated March 8, 2023, the Amerindian Peoples Association provided to the ART Secretariat their letter, self-described as “Comment of latest approved ART documents for Guyana and complaint about

² The TREES Standard provides for an appeal at 16.2: *If a complaint remains unresolved after the conclusion of the complaint procedure, a Participant or stakeholder may appeal any such decision or outcome reached. The following confidential appeals procedure shall be followed: I. The Participant or stakeholder sends a written appeal via email to [redd@winrock.org](mailto:red@winrock.org). The appeal must detail the following: A. Description of the appeal with specific reference to TREES requirements, as applicable; B. Supporting documentation provided for consideration by ART in the appeal resolution process, including previous communication on the complaint and all relevant details of the previously implemented complaint procedure; and C. Appellant name, contact details, and organization. II. The Secretariat will convene a committee of representatives to review and discuss the matter. The committee will include a member of Winrock Senior Management or Board, a member of the ART Board of Directors, and one external expert selected by the appellant and approved by the Secretariat, all of whom will have equal votes. The committee may also include additional technical and/or subject matter expert or experts as necessary, who will not be able to vote. The committee members selected will depend on the subject matter and nature of the appeal. The appellant will be contacted if any additional information is needed, or clarification is required. III. The decision reached by the committee shall be communicated via written response to the Participant or stakeholder. Any decision reached by the committee shall be final.*

issuance of credits for 2016-2020” (“Comments/Complaint”). The ART Secretariat assigned Charlotte Young, the Winrock General Counsel and Chief Risk and Compliance Officer (herein, the Reviewer), for review and decision. The Reviewer was not involved in the issue that is the subject of the formal complaint. Charlotte Young, as Chief Risk and Compliance Officer, serves a function independent from management at Winrock as she reports to the Board of Director’s Audit Committee as well as the CEO.

The difference between “comments” and “complaints” is not clear in the March 8 submission. The APA representative interviewed stated that the letter is all, i.e., both. Almost all of the issues (be they comments, or complaints) raised had been raised previously, to the Government of Guyana (“GoG”), the VVB, and ART in the various prior communications with comments and concerns (e.g., in May, July, September, and October of 2022).

The GoG responded to the March 8, 2023 APA Comments/Complaint by letter dated April 3, 2023. The GoG has stated in summary:

- The APA has failed to share its letter with its own constituency, the Indigenous People, or their elected representatives
- The APA has had 2 years to participate in this process, including the LCDS process, but the APA did not participate
- The APA was asked by the GoG to lead consultations, but never fulfilled that responsibility
- THE APA has several grievance mechanisms, and has used those processes, with no open grievance regarding land titling
- APA is politically active yet not transparent regarding same
- Land titling inaccuracies are not accurate.

By letter dated April 21, 2023, the GoG further responded, in summary:

- The APA’s comments are once again out of time
- The APA did not consult with Indigenous Leaders in accordance with FPIC prior to the complaints
- The Core Executive of the National Toshias’ Council has challenged APA’s assertion that it speaks for Indigenous Peoples
- GoG has followed the ART-TREES process for comment periods and public calls for comments, with “thousands of Guyanese stakeholders” engaging over 7 months; it was the APA’s choice not to engage timely.

The GOG also discusses issues that were raised by the APA with the GoG unrelated to the ART TREES Standards. April 21, 202 GoG letter to the ART Secretariat.

By letter dated April 24, 2023, the Chairman of the National Toshias’ Council stated to the ART Secretariat, in summary:

- The APA did not share their March 8 letter “with any person or agency in Guyana”
- The APA did not consult with any indigenous leaders or villages in accordance with long-standing village processes to seek free, prior and informed consent to represent our peoples in important matters which affect them
- The APA has no mandate to represent Indigenous Peoples
- The Chair of the Council is unaware of any elected indigenous leader or village which associated themselves with the complaint since it was sent 2 months ago.

The Chair urged the ART Secretariat to recognize that Indigenous Peoples of Guyana can speak for themselves, and, without FPIC, the grievance process is abused.

Process Followed

To address the APA Comments/Complaint, the Reviewer has spoken to the involved parties (APA, GoG, ART Secretariat, and the VVB). When needed the Reviewer requested additional documentation. Documents cited are listed in the Appendix.

Results of this review

1. The process set forth in the Standards was followed

A review of the process shows that no APA comments were received on time within the deadlines; that those comments that were not received on time but were received prior to the VVB report being issued were considered; and those comments that came too late in the process to consider will be considered in the ongoing 2021 validation and verification process.

a. The APA comments provided in time were considered by the GoG, VVB, and ART Board

During this process APA provided the following comments that were considered:

- May 12, 2022 Graham Atkinson e mail submitting “the attached letter and other referenced documents for your kind reference” with 3 attachments:
 - A five-page letter from the district councils and organizations, discussing among other things concerns with the LCDS consultation process, right to FPIC, Indigenous land titling, Amerindian Development Fund, and low impact mining and logging, opt in mechanism, and areas the draft LCDS must clarify; signed by 17 individuals
 - April 22, 2022 letter from the GoG to the APA Members discussing among other things the LCDS process, including full Indigenous representation; respect for the right to free prior and informed consent; national-level programmes under the LCDS; structure of LCDS implementation
 - An undated APA letter to 11 governmental parties and LEAF regarding among other things the LCDS process, LEAF, lack of consultations, land tenure

By e mail dated May 12, 2022, this May 12, 2022 APA letter and attachments were provided by the ART Secretariat to the VVB. The ART Secretariat met with the VVB on May 13, 2022 to assess whether the comments could still be meaningfully included in the validation and verification process. The ART Secretariat informed APA of the process that would be used by e mail on May 16, 2022 (“these concerns will be reviewed by the audit team as they evaluate Guyana’s conformance with our requirements and also will be forwarded to the GoG for formal response”).

The APA also provided:

- July 22, 2022 e mail Sean Mendonca (APA) with 7 news articles (Chinese Landing article, Ministry accused of attempting to block article, IAHR Denies government request for hearing article, Issenru Village article, government will meet deadlines article, government will respond article, and IAHR recommendations article)

This e mail was provided by the ART Secretariat to the VVB on July 26, 2022.

By e mail dated September 27, 2022, the GoG provided to VVB its response to the APA comments, noting that the APA comments were duplicative of comments already received and considered during the LCDS process, but assuring that the comments will continue to inform the process. The GoG stated:

As set out in the TMR / TMD, Guyana's approach to ART was included within the draft Low Carbon Development Strategy (LCDS 2030). A national consultation on the LCDS 2030 facilitated more than seven months (November 2021 to June 2022) of national, regional and community level stakeholder engagement all across Guyana with feedback, recommendations, and inputs made on the ART TREES approach, as well as feedback on other aspects of low carbon development. This process involved thousands of citizens, many of whom provided feedback, and the process fed into Guyana's ART TREES application and submissions. In particular, the process saw the updating of the approach to ART TREES as set out in Chapter Two of the finalized LCDS 2030. The comments that have been submitted as part of the verification and validation process for 2016-2020 are inclusive of this important feedback - this feedback and future feedback will continue to be taken into consideration by Guyana, and will continue to inform and guide the implementation of REDD+ implementation and the ART process in Guyana. Guyana encourages the public to remain engaged in all aspects of Guyana's LCDS including in ART TREES and to this end, the Government welcomes all comments, inputs and feedback on every aspect of low carbon development including its engagement in ART TREES. For those who did not submit comments as part of the national consultation, it was possible to submit directly to the ART Secretariat, in accordance with the procedures of ART. Comments received are taken on board in the development and revision of the ART submissions. Public engagement and comments will continue to help strengthen the process and will be dealt with in a manner that is respectful and that brings benefit to the Guyana programme. Guyana continues to welcome the interest of all stakeholders in Guyana's engagement in ART TREES. For the period in question, it is our understanding that two submissions were received by the ART Secretariat, and these were taken on board as part of the consultation which led to updating the LCDS outlined above. Any suggestions which are received by the ART Secretariat after the review period can be considered during the next period - we also encourage interested parties to submit directly to the Government so that their feedback can be received and considered as quickly as possible.

September 27, 2022 e mail from Pradeepa Bholanath (GoG) to Kevin Markham (VVB) et al. (emphasis added).

In addition to the comments, the VVB representatives met with the APA representative Sean Mendonca on April 29, 2022. The VVB has stated that the interview was interactive and engaged, and the APA representative was prepared for the meeting.³

As noted above, as part of the validation process, the VVB is required to evaluate the GoG's response to any stakeholder comments submitted regarding the TREES Registration Document. The VVB Validation Report sets forth the review of the GoG response and APA's input:

³ Note that the VVB also met with seven Indigenous Peoples groups over the course of three days. VVB Validation Report at Appendix B, page 29-31 and VVB Verification Report at Appendix B, pages 28-34, showing names and groups (7 groups of Indigenous Peoples and Toshao representatives: Alshalton (met with 28 individuals); Parabara (6), Shilinab (19); Moco Moco (16); Yupukari (18); Massara (8); Fairview (21)).

3.3.3 Public Comments

... The VVB was provided with two sets of stakeholder comments from this comment period extension by the ART Secretariat via email:

a. Email from Graham Atkinson (APA) dated 12 May 2022, which included three attachments;

...

The VVB met with Peter Persaud from TAAMOG and Shawn Mendonca from APA during the VVB site visit in April 2022. Information provided by the TAAMOG and APA representatives, as well as GOIP, another Amerindian NGO, was considered by the VVB as part of the validation and verification of the Participant's conformance with TREES safeguard requirements for REDD+ activities during the crediting period.

The VVB reviewed and evaluated the three attachments included with the email from APA dated 12 May 2022. One attachment consisted of an undated set of comments regarding the Draft LCDS signed by a number of individuals from various villages or organizations representing many regions across Guyana. None of the comments reference ART or the TREES Registration Document or TREES Monitoring Report, but the VVB determined several comments were relevant for consideration by raising concerns for whether the Government had adhered to safeguards during consultations for the Draft LCDS 2030, a document outlining a national strategy which included REDD+ initiatives and references to ART-TREES. The VVB determined focal areas related to REDD+ activities or TREES safeguards identified in this set of comments were topics the VVB had identified as part of its initial desktop review used to identify stakeholders and to inform interviews for the VVB's onsite visit. The VVB determined the Government of Guyana's response, dated 22 April 2022, was included as one of the attachments to the email from APA. The VVB reviewed the Government's responses and determined the responses identified the processes that were being followed by the Participant that were identified and evaluated by the VVB as part of the validation and verification of conformance with TREES requirements for safeguards, particularly related to consultations and FPIC for REDD+ activities.

The VVB reviewed and evaluated the third attachment included with the email from APA dated 12 May 2022. This attachment consisted of an undated letter addressed to entities identified as international donors, with members of the ART Board and others copied. The VVB noted the comments within this letter appear to be based around disagreement that the Government's response letter to the earlier set of comments on the Draft LCDS had addressed the concerns raised. The VVB noted no new focal areas related to the REDD+ activities or TREES safeguards were raised in this letter that were not included in the considerations by the VVB to identify stakeholders and to inform interview topics for the VVB's onsite visit. The Participant provided a response to the VVB that acknowledged comments received by the ART Secretariat after the original 30-day comment period ended. The VVB evaluated the Participant's response and noted the Participant's response was applicable to the comments received during May 2022. The Participant's response noted this feedback had also been provided and taken into consideration as part of the consultations for the LCDS 2030 process, and further that this feedback helped inform Guyana's updated ART TREES approach. The VVB evaluated supporting documentation provided by the Participant, including Guyana's 2020 Draft for Consultation and consultation meeting summary reports, endorsement by

the National Toshias Council of the Low Carbon Development Strategy 2030, and results of stakeholder interviews by the VVB, and determined this documentation supported the Participant's assertions that safeguards had been appropriately considered during development of the REDD+ activities and that feedback received during consultations helped inform Guyana's ART TREES strategy.

...

One additional email received by and forwarded by the Art Secretariat, from Sean Mendonca (APA) dated 22 July 2022, referencing attachments provided with the email as pertaining to the recent National Toshias Conference and illegal mining (seven news articles were attached), was identified as an informational item based on no comments on the TREES Registration Document or TREES Monitoring Report included with the news articles. However, the relevance of the National Toshias Council and the relevance of mining activities on REDD+ activities during the crediting period were considered by the VVB as part of the evaluation of safeguards. The VVB determined no response was required from the Participant for these informational items.

One additional set of comments provided to the VVB by the ART Secretariat, consisting of an email from Paul Atkinson (APA) dated 12 September 2022, was determined to have been received too far outside the comment period to reasonably inform validation and verification considerations for this crediting period. The VVB noted from the Participant's response to notification about these comments that additional comments received by the ART Secretariat after the review period can be considered during the next crediting period. The VVB notes this an opportunity for future review in the next crediting period.

In summary, the VVB determined the public comments provided through the ART Secretariat through May 2022 do not specifically reference the TREES Registration Document under validation or the TREES Monitoring Report under verification. The VVB determined however, that comments related to the Participant's national REDD+ strategy and safeguards applicable to REDD+ activities under TREES would be appropriate for evaluation. The VVB determined that the ART Participant reviewed and provided a response addressing stakeholder comments received within 30 days of the VVB on-site visit. The VVB determined through review of supporting documentation and through stakeholder interviews that the Participant had appropriately considered and addressed similar responses as part of the consultations for the LCDS 2030 process, and further that this feedback helped inform Guyana's updated ART TREES approach.

[VVB Validation Report](#) at 18-19; see also [Verification Report](#) at 19-21; Validation Report Finding 63, at 37-40 and Verification Report Finding 63, at 40-43.

Following the VVB's completion of the draft reports, the ART Board considered and discussed the comments as part of their review process prior to approving issuance. The ART Board Meeting Minutes stated:

Members of the Board discussed at length the public comments received, especially the concerns raised by the Indigenous Peoples, and reviewed how these were incorporated into the validation and verification process and assessed.

ART Board Meeting Minutes, Meeting November 9, 2022.

- b. *The APA comments received out of time will be considered for the 2021 assessment*

Two letters were sent out of time:

- September 8, 2022 APA letter to ART TREES Board (referring to May letter) from Laura George
- October 28, 2022 APA letter to ART TREES Board (further to the September letters) from Jean La Rose attaching APA Analysis

As noted above, “if an error is found in a previous validation or verification which necessitates either an increase or decrease in emission reductions, the adjustment required shall be made to the total emission reductions in the reporting period being verified when the error was discovered. If the emissions reductions in the current reporting period are insufficient to address the error, the remaining adjustment necessary shall carry over to the next reporting period, and so on, until the error has been fully compensated for.” TREES V&V Standard at 3.11. The ART Secretariat has stated that the APA comments submitted in September and October were too late to be included in the verification which ran from February - October 2022 but that those comments have been included in the ongoing 2021 Verification. The ART Secretariat told this to APA:

Dear Laura,

I wanted to follow-up on my earlier email to provide an update on the next steps. Your letter included complaints regarding the initial validation and verification which took place from February to October 2022, a complaint regarding the current validation and verification’s public comment period, which was announced by ART on January 13, 2023 via our Listserve and website, and comments for the current validation and verification process, which was initiated on March 9, 2023. The complaints and comments will be handled through two different processes.

All complaints will be addressed as outlined in TREES Section 16.1. Per Step 2, the ART Secretariat is currently assigning a representative that has not been involved in the validation and verification process to research and further investigate the complaints. We anticipate the representative being assigned next week and we will provide a formal introduction at that time.

The comments on the current verification have been forwarded to both the Validation and Verification Body and the Government of Guyana for review and inclusion in the current validation and verification process. We also forwarded copies of the letters you submitted on September 9, 2022 and October 28, 2022. These were submitted too late to be incorporated in the previous validation and verification process, but they will be included in the current validation and verification process.

I will be in touch as soon as possible on the next steps for the complaint process.

Email ART Secretariat to Laura George, APA. Moreover, the ART Secretariat will, for the 2021 process, require the GoG to respond to the comments. The VVB has indicated that the APA will be privately (without other groups present) interviewed in the field as well.

- c. *APA has been provided substantial support: access to the website and publicly available information, responses to questions, offers of training*

Relevant to APA’s concerns that the process should allow “all rightsholders and stakeholders [the ability to] actively monitor and effectively participate in the ART-TREES process” (Comments and Complaint at

2), during this process and prior to the issuance of these credits the ART Secretariat provided responses to numerous questions from APA, connected APA to its public materials, suggested the APA sign up for news “eblasts,” and offered APA staff training to understand the process. At the suggestion of the Reviewer, in April 2023 the APA signed up to the ART mailing list.

A brief summary of the interactions:

- May 3, 2022 Sean Mendonca (APA) asks the Secretariat for “some more information about ART”
- May 16, 2022 in response the Secretariat provides links to the website, following up with offer of help
- May 30, 2022, Sean says he will “check out the link”
- May 30, 2022 ART Secretariat repeats offer of help
- July 22, 2022 Sean asks questions about process (e.g., is the VVB report public)
- July 25, 2022 Secretariat responds stating it will be public on the ART Registry, and suggests APA sign up for the mailing list (APA did not)
- September 28, 2022 Secretariat offers to Joshua Lichtenstein from the Rainforest Foundation (an APA partner) materials and support for training for the Foundation and to its IPLC partners organizations (which includes APA)
- October 12, 2022 Joshua Lichtenstein discusses reaching out about the training offer following travels
- October 12, 2022 Secretariat responds favorably to the opportunity to connect upon his return but no further communications were received.

The APA has not accepted the offers. As the APA representative has stated that they have difficulty tracking and understanding the process, the Reviewer recommends that APA take advantage of these opportunities.

2. A specific complaint about the 30 days comment period and the publishing of the comment period is irrelevant given that APA was provided 9 months to respond during the 2016-2020 verification and the March 8 letter will be considered for the 2021 verification

In its Comments/Complaint, the APA agrees that the ART Secretariat published the comment period but states it was not published by the GoG “as far as we are aware.” Complaint at 1.⁴ Although it is unclear what comment period is referred to, notably the March 8, 2023 letter is past the 30 day comment period for the 2021 verification, even though the APA did receive notice of that comment period as part of the MultiStakeholder Steering Committee. The Government of Guyana notified the MultiStakeholder Steering Committee of the Public Comment period for the 2021 credits via email on January 19, 2023, and APA’s Laura George is included. Notifications also were published by the GoG in the media.

If the reference is to the 2016-2020 comment period, the GoG representative has stated that the MultiStakeholder Steering Committee notification system was not in place at the time. The ART Secretariat did, however, announce for comments, [ART Announcement](#), October 26, 2021.

⁴ Notably, the VVB reports are all publicly available. See TREES Validation and Verification Standard, Version 2.0, at 3.7 (“Public Availability of Documents”).

The APA's sets of comments, all late, will or have been considered, nonetheless. With regard to the 30 day limitation for the earlier issuance, the ART Secretariat effectively waived this deadline for the APA comments received in May and July. Thus, the *comment period was actually 9 months*. The 30-day comment period began October 26, 2021, with the uploading of the (publicly available) GoG's TREES Registration Document to the ART Registry. The Secretariat received no comments within the 30-day comment period, so ultimately the period was extended to the end of July 2022, effectively extending the comment period to 9 months, within 90 days of the end of the VVB on-site visit. Thus, the publishing issue and the 30 day limitations are not relevant here as the APA was aware of the publishing and did, in fact, comment.

The March 8, 2023 comments, also late, will be considered in the current verification as noted throughout.

3. The complaint about the ART publishing process does not reflect the process used

The Comments/Complaint also states that comments should be reviewed prior to the "approval" of documents submitted by the Government. Comments/Complaint at 2. The ART Secretariat acknowledged that the word "approved" may have caused confusion to many stakeholders and will be clarifying language used in the future to ensure the process is more clear. When ART "approves" for posting in the Registry, this means that the documents are complete and available for public comment. It does not mean that ART agrees with or has verified any information included in the documents. As mentioned, the Secretariat has indicated it is examining the language used to ensure the process is clearer in the future.

4. A specific comment about the grievance mechanism does not reflect an understanding of the role of TREES

The Comments/Complaint states that it is "unclear to us" whether the grievance mechanism meets "international standards for best practices on grievance mechanisms." Comments/Complaint at 2. The grievance mechanism of ART was designed to address complaints regarding the design and use of a Carbon Standard. As such, the ART process is extremely similar to those used by other GHG Programs (e.g., World Bank's Forest Carbon Partnership Facility, and ACR). Grievance mechanisms designed for other purposes, such as those for International Courts for human rights violations, will be different as a result of their different intended functions.

5. Specific issues raised related to information access were considered and addressed

The Comments/Complaint set forth a number of claimed shortcomings regarding access to information: requesting that the LCDS be translated, asking for better information on ART TREES and trainings which the government agreed to do but did not, stating that consultations did not provide information on risks, only on benefits, and that consultations did not explain why 15% was chosen as the figure for community led projects. Comment/Complaint at 6, 18. The VVB, Aster Global, reviewed similar concerns when evaluating conformance with the safeguards relating to consultation processes and participation. Aster Global concluded that support documents and interviews with representatives of government agencies, community forest associations, and Amerindian villages substantiated the outreach efforts described in the TREES documents regarding the participation of Indigenous Peoples and/or local communities, particularly through their designated or elected IPLC representatives, and

that the efforts were in conformance with the TREES requirements. VVB Validation Report at Findings 18, 19, and 20 at Pages 63-68, VVB Verification Report at Findings 18, 19, and 20 at Pages 71 – 76.

6. Specific issues regarding shortcomings of the public consultation process ignores the record of what was considered

The Comments/Complaint set forth several issues with the public consultation process: comments during consultations were not recorded; consultation meetings were too short, and only allowed time for presentations; and the mechanism for benefit sharing was not explained. Comments/Complaint at 3.3.3 of the VVB Validation Report explains how the comments from earlier letters regarding concerns on consultation were incorporated, as well as findings number 39 - 43 which address the consultation processes. The VVB Verification Report addresses the review of the comments and the consultation processes in Section 3.6.8 and Findings 39-43 at pages 102-113. According to the VVB, the field visits also confirmed that there was public awareness – knowledge of the comment period (especially for LCDS) and ability to access it.

7. Specific comments that GoG did not address public corruption are inaccurate

Here, the APA appears to have missed the information provided. The GoG did explain how corruption would be prevented. This was addressed in the TREES Registration Document at 28-31 (discussing anti-corruption measures, relevant legislation) and the TREES Monitoring Report at 34-38. Aster Global issued findings related to this theme (Findings 21, 22 and 23 of the Validation report and Findings 21, 22, and 23 of the Verification Report) and required the GoG to provide more details regarding how the law was applied and how corruption would be monitored. Aster found the information and supporting evidence from document review and interviews to be sufficient to demonstrate that the requirements of TREES were met. VVB Validation Report at Findings 21, 22, 23 and VVB Verification Report at Findings 21, 22, 23.

8. Specific comments about ownership of credits – titled and untitled – were addressed

Regarding the ownership of credits, the Comments/Complaint appears to be that the audit process under ART did not ensure that the rights of both **titled and untitled** IP to ownership of the credits from their land were respected and that the government claimed rights to ERRs that had not been granted. Per the Secretariat, TREES does not require carbon rights to be explicitly defined in legislation.

Per the VVB, consultations with the National Toshias Council, the highest Indigenous governance body comprised of elected leaders from every titled village and untitled Indigenous community, regarding the sale of credits from forests on Indigenous Peoples' lands took place in 2022 after the crediting period ended. This occurred to 1) allow meetings in-person following COVID and 2) allow discussions to occur when it was known credits would likely be issued and purchased, generating revenues. The GoG designed the consultation to take into account some of the concerns from the public comments received, and Aster Global verified there was a legal framework in place in accordance with the TREES Standard. VVB Validation Report at Findings 24, 25, 26, 55, 57 and 59; VVB Verification Report at Findings 24, 25, 26, 55, and 57.

The ART Secretariat has noted that since the 2016-2020 validation and verification was completed, some stakeholders have questioned the authority of the NTC to make decisions on behalf of the Indigenous

Peoples in Guyana. This concern has not been raised previously and will be considered during the 2021 verification.

9. Specific comments about control over titled lands are out of scope of ART TREES

The Comments/Complaint states that villages do not have control over their titled lands and references issues with mining concessions. ART only addresses forestry programs – not mining or other activities which are outside the scope.

10. Specific comments about land titling dispute mechanisms do not understand the TREES process; and were considered

The Comments/Complaint states that ongoing land title disputes are not being resolved. Comments/Complaint at 6. For the TREES Standard, there is no requirement that all disputes must be settled prior to verification being completed. The requirement is that the process exists and is effective.

Aster Global evaluated this concern as an independent theme but also in conjunction with the right to access to information, land tenure rights, meaningful participation of Indigenous Peoples and local communities, and respecting, protecting and fulfilling the rights of Indigenous Peoples where it would be expected that disputes might arise. In all cases, after site visit interviews and review of appropriate documentation and supporting evidence over multiple rounds of findings and clarification requests, Aster Global concluded that the processes followed by Guyana were in line with the requirements of TREES. VVB Validation Report Findings 27, 28 and 29; VVB Verification Report Findings 27, 28, and 29. The VVB Validation Report and the VVB Verification Report provided as an Observation: *“The VVB noted that because endorsement of the National Toshias Council for the LCDS 2030 is a key consideration used in substantiating the Participant’s rights to manage and administer ERs to be issued by ART that are derived from titled and untitled Amerindian land, any changes to this endorsement by the National Toshias Council would require reassessment to determine how the changes could affect the Participant’s rights. Although no concerns are currently identified by the VVB, the status of National Toshias Council continued endorsement warrants ongoing consideration due to its importance so it is being made an observation. provide more information on the dispute resolution mechanisms specifically if desired.”* VVB Validation Report at 20 and Finding 59; VVB Verification Report at 23 and Finding 59.

11. Other specific comments are outside of the scope of ART TREES, are factually incorrect, or will be addressed (per the Secretariat) in the current 2021 verification

- ❖ *The “TREES Registration Document and the TREES Monitoring Report for 2021 are substantially the same as the documents submitted prior to the first round of crediting.”* Comments/Complaint at 2. This is incorrect. The documents Guyana submitted prior to the first round of crediting (posted for public comment in October 2021 for 2016-2020) are very different from the final documents currently available on the Registry. These were revised multiple times in response to auditor findings. All APA comments for the 2016-2020 period (May, September and October 2022) would have been based on the original documents. The final documents were made publicly available on December 1, 2022 when ART announced issuance of credits to Guyana.

APA is correct that the new documents for the 2021 verification are very similar to the final documents for the 2016-2020 verification. ART has crediting periods that are 5 years long. Every five

years, the government must redo the documents and redefine what the "baseline" is for both carbon accounting and safeguards. Since the baseline for each crediting period is based on the previous 5-year period, the 2016-2020 Monitoring Report will be very similar to the 2021-2025 Registration Document. This is acceptable and expected.

- ❖ *The comments previously submitted by the Amerindian Peoples Association were not taken into account by the verification team, who deemed them to have been submitted too far outside the comment period. This is incorrect, see discussion, above.*
- ❖ From the complaints about the Fact Sheet Comments/Complaint at 2-4⁵:
 - *The National Tshaos Council is not a representative body for all Indigenous Peoples in Guyana, but only for those living in titled lands. It is therefore incorrect to claim that consultations with the National Tshaos Council are sufficient to meet the requirement of effective participation and FPIC of all Indigenous Peoples in Guyana. This concern is not raised in any prior APA letters. The first verification did not find any concerns regarding the NTC agreeing to the benefit sharing, but this new concern will be included in the current verification.*
 - *“The ART “Fact Sheet” incorrectly claims that “The National Tshaos’ Council is the governance structure defined by the Amerindian Act.” The Amerindian Act does not imbue the National Tshaos Council with any governance authority nor any other authority to make decisions on behalf of Indigenous Peoples.” This is incorrect. The Amerindian Act does include the NTC as part of the Indigenous governance of Guyana. Part III: Governance of the Amerindian Act has Section 20 which is the Function and Powers of the Tshao and Part IV: The National Tshaos Council. The Secretariat has noted that the concern regarding whether the NTC has authority will be reviewed as part of the 2021 verification.*
 - *“The state cannot mandate how Indigenous Peoples should organize themselves nor what our representative institutions should be, and in Guyana, Indigenous Peoples have not chosen to have a National Tshaos Council govern them and make decisions affecting their lands on their behalf. The NTC’s resolution endorsing the LCDS and ART-TREES crediting plan cannot therefore be taken to be FPIC from all villages in Guyana.” The legitimacy of the Amerindian Act is not for ART to decide. It was established in 2006 providing sufficient opportunities to challenge it if desired.*

The concern regarding the NTC Council being a legitimate representative body will be forwarded and addressed as part of the new verification as the concern was not previously relayed; previous letters from APA either stated that the NTC had insufficient information on which to decide or didn't mention the NTC at all.

- ❖ From the Analysis of Guyana’s TREES Monitoring Report (October 2021), Comments/Complaint at 7-18
 - *The Government of Guyana can not demonstrate compliance with the TREES Standard regarding 1. IP women FPIC 2. IP planning and implementing of REDD projects 3. that IP have received culturally appropriate benefits including funding from climate finance project and that they manage that funding. The Secretariat understands the complaint to be that ART approved*

⁵ Note that the “fact sheet” does not constitute a part of the issuance process so therefore is outside the scope of the complaint procedure; but is addressed here for clarity.

the issuance of credits when GoG did not conduct consultations in line with the requirements/recommendations of the UN Special Rapporteur on the rights of Indigenous Peoples (UNSRIP) and the UN Committee on the Elimination of Racial Discrimination Against Women (UNCERDAW). The documents cited are not specific to Guyana, Guyana does not claim to conduct consultations in line with these documents, and conformance with the documents are not a requirement of TREES. The Secretariat has indicated that it will review these documents to evaluate whether including them as future requirements or recommendations is appropriate.

- *There is in fact no safeguard information system in place which has been consulted with nor agreed to with IP.* Under TREES, the capacity to collect safeguard information and report it back to UNFCCC is considered a demonstration of the existence of a safeguard information system. This system does not need to be consulted or approved by stakeholders in REDD+ per TREES requirements.
- *The National REDD+ Strategy was never approved, nor were the safeguard policy documents. This strategy entailed years of on and off consultation with IP.* TREES does not require a REDD+ strategy. Most countries develop one and use it as a base for the issuance but it is not a requisite.
- *Guyana has ratified 6 human rights treaties but implementation is lacking according to HHRR treaty bodies (CERD) including: Villages cannot title their customary lands. Ministerial approval for Village Admin decisions vs mining in Wachipan.* As noted previously, the requirements of TREES apply only to the REDD+ program and the specific areas and activities within the REDD+ activities. For example, TREES does not address mining issues or other sectors outside of the forestry program.
- *Legal framework for land titling is not anchored in international conventions. UN CERD, CDESCR, CEDAW and IACHR have recommended revising the Amerindian Act for securing customary rights. "We consider that this structural indicator cannot be considered to be met while the revision of the Amerindian Act along with international HHRR standards have not been implemented."* ART does not specify a required legal framework for land titling. As mentioned earlier, ART is a carbon program so its scope is limited to forestry related issues and the requirements of TREES. Mining issues are outside the scope of the requirements of TREES for example. For this reason, comparison to other types of programs or processes is not appropriate.
- *The requirement to protect traditional knowledge is not fulfilled by the GoG as described in previous comments; the requirement to protect, respect and fulfill the rights of IPLCs is not fulfilled by the GoG; and the requirement to respect, protect, and fulfill the right of all relevant stakeholders to participate fully and effectively in the design and implementation of REDD+ actions is not fulfilled by the GoG.* The complaint letter referenced remarks from earlier in the letter for these three safeguard themes and did not provide new information as part of the complaint, so it is not possible to review them separately. The VVB investigated all three themes as part of the 2016-2020 validation and verification, issuing several findings to fully evaluate the information prior to determining conformance with the requirements was met. In the Validation report, findings 33-41 from pages 89-109 cover these topics and in the Verification report, findings 33-41 on pages 97-115 review these issues. In addition, these issues will be investigated again as part of the 2021 validation and verification.

Conclusion and process improvements

The processes in the applicable Standards were followed with respect to the issuance of carbon credits to the Government of Guyana for the 2016-2020 time period. The opportunity to comment was publicly posted by the ART Secretariat, and two sets of comments provided by APA were considered. The 30 day comment period was, for APA, extended to nine months. APA was present during the April 2022 field visit and was given additional opportunity to comment, receive information, and receive training.

Some of the Comments/Complaints were inaccurate or out of scope. Those of relevance were addressed in detail above. Many will now also be considered as part of the 2021 verification.

Going forward, the APA has now subscribed to the ART listserv to receive notification of the availability of new and relevant participant documentation as it becomes publicly available to ensure that the APA has ample opportunity to submit comments to ART regarding these submissions. The APA is encouraged to take advantage of training opportunities offered by the ART Secretariat to help address the concern stated by the APA representative that they have difficulty tracking and understanding the process.

The ART Board met to review the entire issuance process in February 2023 to identify areas that could be improved. The APA concerns as well as concerns raised by other stakeholders were carefully considered and have resulted in several process improvements currently underway by the ART Secretariat. Changes relevant to the APA concerns and complaints include:

- Revised reporting templates to ensure information is more easily accessible to all stakeholders in the TREES Documents
- Updated website to provide improved access to engagement opportunities such as the public comment periods and the complaint process
- A more detailed complaint and appeal process to ensure the timing and steps are clarified
- Revising the language regarding posting so that posted documents do not appear “approved.”

The GOG’s MultiStakeholder mechanism to provide information is now in place.

Respectfully submitted.

May 11, 2023

APPENDIX - SUMMARY OF DATA REVIEWED

The following information was reviewed

Interview of APA representative

Interview of GoG representatives

Interview of VVB representatives

Interview of ART Secretariat representatives

Standards

1. [TREES-2.0-August-2021-Clean](#)
2. [TREES-Val-and-Ver-Standard-v2-Dec-2021](#)

Complaint Stakeholder Contact information

March 2023 Complaints Document List

1. Complaint Letter and Stakeholder Response

1. Letter from APA _ Comment on latest approved ART documents for Guyana and complaint
2. Letter from Government Statement to ART Secretariat re APA Grievance April 3 2023
3. RE_ Opening Meeting Laura George - Governance and Rights Coordinator - Amerindian Peoples Association And Charlotte Young (resch (1)
4. RE_ Opening Meeting Laura George - Governance and Rights Coordinator - Amerindian Peoples Association And Charlotte Young (resch
5. Submission on APA's Complaint RE Guyana's ART Trees Submission
6. Formal Communication by NTC to ART Secretariat RE Complaints Procedure

2. Previous APA Communications

Info Sharing and Offers of Training to APA and supporters

1. July 25th ART answers questions from APA
2. May 15th APA first info share and support offer with response
3. May 30th Offer to APA to answer questions or provide info
4. October Rainforest Fdn Followup offer
5. Sept 28 Rainforest Fdn US Initial trg offer

July 22nd email and attachments

1. July 22 email from Sean Mendonca
2. July 7.2022 _ Isseneru village invites gov't to meet and discuss repair of rights violations - Stabroek News
3. July3.2022 _ IACHR denies gov't request for hearing on Isseneru rights violation
4. June 14. 2022 _ Gov't will meet deadline set by IACHR
5. May 1 _ IACHR recommendations - Stabroek News

6. May 10 _ Gov't will respond to IACHR's ruling before June 20 deadline - PM Phillips
7. Stabroek News Amerindian Affairs Ministry accused of attempting to hijack Toshaos' Conference - Stabroek News
8. Stabroek News Independence of outgoing NTC

May 12th email and attachments

1. ART Response to May APA letter
2. May 12 2022 APA Letter – final
3. May 12 Attachment LCDS letter to OCC_signed
4. May 12 Attachment Response to APA
5. May 12 email from Graham Atkinson

October 28 email and letter attachment

1. ART Response to Jean La Rose 1 December 2022
2. ART Response to October 28th letter cover email for Dec 1 letter
3. October 28 2022 Letter from APA _ 10.28. 2022
4. Paul Atkinson Oct 28 email

Sept 12 email with Sept 9th letter

1. Frances Seymour Letter to Laura George_28 September 2022
2. Frances Seymour response to APA Sept Letter cover email
3. Paul Atkinson Sept 12 email
4. Sept 9 2022 Follow up Letter to International Donors & Partners .9.9.2022

3. Final Guyana ART Reports

1. TREES-Registration-Document-Guyana Registration Report 2016-2020 Revised Sept 2022
2. TREES-Monitoring-Report-Crediting Period 2016-2020 - Sept 2022
3. GoG Responses to Comments Sept 27th

4. Final Aster Global Audit Reports

1. [22005.00 ARTTREES Guyana Validation Report 2016-2020 Final v1](#)
2. [22005.00 ARTTREES Guyana Verification Report 2016-2020 Final v2](#)

5. Other Documents

1. [Amerindian Act](#)
2. 2023 Govt Email to APA announcing public comments period for TREES Docs
3. [Guyanas-Low-Carbon-Development-Strategy-2030](#)
4. [ART Announcement of Public Comment Period October 2021](#)
5. [ART Announcement of Public Comment Period January 2023](#)
6. [ART Board Meeting Minutes November 9, 2022](#)

