

# ENVIRONMENTAL AND SOCIAL POLICY FRAMEWORK

## GUIDELINES FOR THE ENVIRONMENTAL AND SOCIAL PERFORMANCE STANDARDS



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# **ENVIRONMENTAL AND SOCIAL POLICY FRAMEWORK**

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**SEPTEMBER 2021**



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# CONTENTS

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<b>Introduction</b> .....	1
<b>Guidelines for Environmental and Social Performance Standard 1:</b> Assessment and Management of Environmental and Social Risks and Impacts .....	4
<b>Guidelines for Environmental and Social Performance Standard 2:</b> Labor and Working Conditions .....	56
<b>Guidelines for Environmental and Social Performance Standard 3:</b> Resource Efficiency and Pollution Prevention .....	100
<b>Guidelines for Environmental and Social Performance Standard 4:</b> Community Health, Safety, and Security .....	124
<b>Guidelines for Environmental and Social Performance Standard 5:</b> Land Acquisition and Involuntary Resettlement .....	156
<b>Guidelines for Environmental and Social Performance Standard 6:</b> Biodiversity Conservation and Sustainable Management of Living Natural Resources .....	192
<b>Guidelines for Environmental and Social Performance Standard 7:</b> Indigenous Peoples .....	236
<b>Guidelines for Environmental and Social Performance Standard 8:</b> Cultural Heritage .....	270
<b>Guidelines for Environmental and Social Performance Standard 9:</b> Gender Equality .....	290
<b>Guidelines for Environmental and Social Performance Standard 10:</b> Stakeholder Engagement and Information Disclosure .....	316



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# INTRODUCTION

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The following set of Guidelines correspond to the ten (10) Environmental and Social Performance Standards (ESPS) that, together with a policy statement, make up the IDB's *Environmental and Social Policy Framework (ESPF)*. The ESPSs are:



Assessment and Management of Environment and Social Risks and Impacts



Community Health, Safety, and Security



Land Acquisition and Involuntary Resettlement



Indigenous People



Biodiversity Conservation and Sustainable Management of Living Natural Resources



Stakeholder Engagement and Information Disclosure



Labor and Working Conditions



Resource Efficiency and Pollution Prevention



Cultural Heritage



Gender Equality

The Guidelines provide guidance to Borrowers on the requirements of the ESPSs, with the overall purpose of improving project performance and environmental and social outcomes. The Guidelines can be read as a single document or as separate sections. The relevance of each ESPS and its Guideline depends on the nature, scale, and complexity of an operation and is proportionate to its level of environmental and social risks and impacts. It is important to note that ESPS 1 and 10 are likely to be relevant to all projects.

To facilitate reading:

1. All text belonging to the ESPF is formatted with a light blue background. The ESPF's text, including its footnotes, has kept its original paragraph and footnote numbering.
2. All Guideline paragraphs begin with the acronym "GL."
3. All footnotes are ESPF footnotes. They begin with footnote 42 because the first 41 footnotes are part of the Policy Statement, not included in the Guidelines.

The Guidelines and other reference material will be publicly available on a dedicated website (<https://www.iadb.org/en/mpas/guidelines>). The IDB will periodically update the material on the website to reflect best practices and evolving needs.

## DISCLAIMER

Guidelines are not policy, nor are they mandatory. The information presented in the Guidelines is for informational purposes only. Guidelines do not substitute the need to exercise sound judgment in making project decisions that are consistent with the ESPs. In case of any inconsistency or conflict between the Guidelines and the ESPs, the provisions of the ESPs will prevail. In case of any inconsistency or conflict between the Guidelines and the Policy Statement in the ESPF, the provisions of the Policy Statement will prevail. Guidelines are approved by IDB Management and not by the IDB's Board.





GUIDELINES FOR ENVIRONMENTAL  
AND SOCIAL PERFORMANCE

**STANDARD 1:**  
**ASSESSMENT AND  
MANAGEMENT OF  
ENVIRONMENTAL  
AND SOCIAL RISKS  
AND IMPACTS**



1

## INTRODUCTION

- 1. Environmental and Social Performance Standard (ESPS) 1 underscores the importance of managing environmental and social performance throughout the life of a project. An effective Environmental and Social Management System (ESMS) is a dynamic and continuous process initiated and supported by the Borrower, and involves engagement between the Borrower, its workers, project affected people and, where appropriate, other stakeholders.<sup>42</sup> Drawing on the elements of the established management process of “plan, do, check, and act,” the ESMS entails a methodological approach to managing environmental and social risks<sup>43</sup> and impacts<sup>44</sup> in a systematic and structured way on an on-going basis. A good ESMS appropriate to the nature and scale of the project promotes sound and sustainable environmental and social performance, and can lead to improved financial, social, and environmental outcomes.**
- 2. At times, the assessment and management of certain environmental and social risks and impacts may be the responsibility of third parties over which the Borrower has no control or has limited influence.<sup>45</sup> Examples of where this may happen include: (i) when third parties have already made early planning decisions which affect the project site selection and/or design; and/or (ii) when third parties carry out specific actions directly related to the project, such as providing land for a project which may have previously involved the resettlement of communities or individuals and/or leading to loss of biodiversity. Effective implementation of the Borrower’s ESMS should identify the different entities involved and the roles they play, the corresponding risks they present to the project, and opportunities to collaborate with these third parties to help achieve environmental and social outcomes that are consistent with the ESPs. In addition, this ESPs supports the use of an effective grievance mechanism that can facilitate early indication of, and prompt remedies for those who believe that a Borrower’s actions have harmed them.**

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<sup>42</sup> Other stakeholders, also referred to as “other relevant stakeholders,” are those not directly affected by the project but that have an interest in it. These could include national and local authorities, neighboring projects, and/or nongovernmental organizations.

<sup>43</sup> Environmental and social risk is the combination of the expected severity of (i) a potential adverse environmental or social impact a project may cause or contribute to, or (ii) issues that may negatively affect the delivery of environmental and social mitigation measures and outcomes, and the probability of either or both of these occurring.

<sup>44</sup> Environmental and social impacts are any change, potential or actual, to (i) the physical, natural, or cultural environment, and (ii) impacts on surrounding community and workers, resulting from the business activity to be supported

<sup>45</sup> Contractors retained by, or acting on behalf of, the Borrower(s), are considered to be under direct control of the Borrower and not considered third parties for the purposes of this ESPs.

- 3. Projects should be implemented with due respect for human rights, which means avoiding infringing on the human rights of others and to address adverse human rights impacts that the project may cause or to which it may contribute. Each ESPS has elements related to human rights dimensions that a project may face in the course of its operations. Due diligence with respect to these dimensions will enable the Borrower to address many relevant human rights issues in its project.**

**GL1.** ESPS 1 on *Assessment and Management of Environmental and Social Risks and Impacts* and ESPS 10 on *Stakeholder Engagement and Information Disclosure* are the key process standards that describe how the Borrower should manage a project's environmental and social (E&S) performance throughout the life of the project, beginning with scoping and design, followed by construction, commissioning, operation, decommissioning, closure and, where applicable, post-closure (see GL12 for the definition of project life cycle). ESPSs 2 to 9 address thematic issues. All the ESPSs are interrelated and complement one another and should not be considered in isolation of each other. A cornerstone component of ESPS 1 is the requirement for the Borrower to establish an Environmental and Social Management System (ESMS) that is fit-for-purpose for the Borrower and the project. An ESMS provides an efficient and logical framework for managing a project's E&S risks and impacts through specified management processes and with clearly defined responsibilities and accountabilities. See GL13 to GL17 for further guidance.

**GL2.** At times, the Borrower's ability to achieve E&S outcomes consistent with the ESPSs may depend on other institutions, agencies or third parties, such as a government agency acting as a regulator or contractual party with which the Borrower has a substantial involvement, or an operator of an Associated Facility (see GL37 for the definition of Associated Facility and GL38 for additional information) or a supplier that is part of the project's supply chain. It is the Borrower's responsibility to ensure that the project is carried out in a manner consistent with the requirements of the ESPSs whether the Borrower itself is directly involved in carrying out the project or implementation is carried out by other government agencies, project implementation units, financial intermediaries (FIs), contractors, subcontractors or consultants working on a project or for an FI. A sound ESMS should recognize and address the roles and responsibilities of all such parties, identify risks related to their involvement through appropriate E&S due diligence, taking into consideration the local context, the Borrower's influence and control over the other parties, and measures to mitigate those risks. Ultimately, the Borrower, through its ESMS, should identify and address potential limitations in achieving desired project-related outcomes. The effectiveness of the engagement with third parties will depend on the nature of the Borrower's relationship and level of control or influence over third parties. For the purpose of ESPS 1, 'control' means the ability to make decisions and direct the behavior of third parties to function or act in a desired or appropriate way whereas 'influence' is the capacity to affect the behavior of third parties by shaping their views or actions.

**GL3.** Effective project management includes appropriate monitoring and control mechanisms so that necessary actions take place in a timely manner, and to influence and reinforce behaviors conducive to effective implementation. The extent of control and influence that the Borrower can exert is highly contextual. For instance, the Borrower may have limited statutory or regulatory control over a government agency with authority over land needed for a project for mitigation purposes (e.g., to build housing for project-related resettlement). In such cases the Borrower may need to engage with such agencies to meet the requirements of the ESPSs by pursuing an arrangement that is satisfactory to both parties. On the other hand, where the Borrower has a contractual arrangement with an entity, it may exert influence through contractual, financial and operational means to achieve the desired E&S performance and outcomes.

**GL4.** The Borrower should make reasonable efforts to exert control and influence over third parties as necessary. 'Reasonable efforts' means that the Borrower makes logical, sensible and fair efforts that a reasonable and prudent person would employ to achieve the intended objectives as expeditiously as possible in a similar environment or project implementation context. Such efforts should be documented by the Borrower.

**GL5.** ESPS 1 recognizes the Borrower's responsibility to respect human rights. Respecting human rights means carrying out human rights due diligence to avoid and address human rights risks and adverse impacts from business activities, and to remedy any harm, as set forth in the UN Guiding Principles on Business and Human Rights. To understand the human rights that are generally relevant in the activities of the Borrower, it should refer to the key human rights concepts found in the International Bill of Rights, consisting of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, as well as the International Labor Organization's Declaration on Fundamental Principles and Rights at Work. In addition, United Nations instruments have elaborated on the rights of indigenous peoples (see ESPS 7 - *Indigenous Peoples and its Guidelines*); women; national or ethnic, religious and linguistic minorities; children; persons with disabilities; and migrant workers and their families. The Borrower should also guard against reprisals against project-affected people and other stakeholders, including environmental and human rights defenders and labor union representatives, and protect their freedoms of assembly, association, and expression, as part of the state duty to respect, protect, and fulfill human rights. By carrying out an E&S due diligence against the ESPSs, the Borrower will address many project-related human rights risks. Where the due diligence suggests significant human rights risks exist, the Borrower will undertake more specific human rights due diligence (see GL 23 for more guidance).

## OBJECTIVES

- To identify and evaluate environmental and social risks and impacts of the project.
- To adopt a mitigation hierarchy and a precautionary approach to anticipate and avoid, or where avoidance is not possible, minimize,<sup>46</sup> and, where residual impacts remain, compensate/offset for risks and impacts to workers, project-affected people, and the environment.
- To promote improved environmental and social performance of Borrowers through the effective use of management systems.
- To ensure that grievances from project affected people and external communications from other stakeholders are responded to and managed appropriately.
- To promote and provide means for adequate engagement with project-affected people and other stakeholders throughout the project cycle on issues that could potentially affect them and to ensure that relevant environmental and social information is disclosed and disseminated.

**GL6.** The assessment and management of E&S risks and impacts should be part of the larger overall set of processes that a Borrower uses to manage projects and are essential for successful and sustainable project implementation performance. An ESMS is a dynamic management tool that enables continuous improvement of E&S performance that can enhance overall project outcomes.

**GL7.** The term ‘mitigation hierarchy’ refers to a universally accepted methodological approach in impact assessment that comprises anticipating, avoiding and reducing risks and adverse impacts, identifying remedial and mitigation measures to address impacts where they cannot be avoided, and offsetting or providing compensation or some other form of redress for any significant residual impacts. An effective ESMS should lead to measures, decisions, and outcomes that are consistent with Good International Industry Practice (GIIP) as defined in GL8. Additional guidance on ESMS and mitigation hierarchy can be found in GL21 to GL 25.

**GL8.** GIIP is defined as the exercise of professional skill, diligence, prudence, and foresight that would reasonably be expected from skilled and experienced professionals engaged in the same type of undertaking under the same or similar circumstances regionally or globally. The outcome of such exercise should be that the project employs the most appropriate measures and technologies in the project-specific circumstances and context.

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<sup>46</sup> Acceptable options to minimize will vary and include abate, rectify, repair, and/or restore impacts, as appropriate. The risk and impact mitigation hierarchy is further discussed and specified in the context of ESPs 2 through 10, where relevant.

**GL9.** The Borrower will adopt a precautionary approach in the assessment of environmental and social risks and impacts. Where screening results for E&S risks indicate that project activities could result in adverse impacts, key information gaps should be addressed prior to making decisions on whether or how to proceed with those activities, and a conservative approach should be taken until more information is available for a more complete understanding of the issue. Adopting a precautionary approach does not mean demanding full and conclusive information or absolute certainty before decisions are made. In some cases, data collection and/or analysis can proceed in parallel with project development activities, but they should be completed prior to making decisions with significant and potentially irreversible implications for project impacts. Advice from technical experts and stakeholder consultations should be considered to help determine when there is sufficient information for decision making, and when the anticipated benefits of a development activity are likely to outweigh an acceptable level of known or suspected risks and adverse impacts. Examples of precautionary approaches include:

- Designing project drainage features with higher specifications to cater for greater flood events in the future due to changing rainfall patterns resulting from climate change.
- Timing construction activities at the least sensitive time for at-risk or endangered species, such as when they may have migrated elsewhere.
- Adopting mitigation measures for endangered species reported in the past or suspected to be present based on habitat requirements, even though there may not have been recent confirmed sightings in the project area.
- Where archaeological heritage may exist but has not yet been discovered, an assessment of the baseline conditions will be required to determine potential impacts and mitigation measures that may include avoidance or reduction of impact by project design changes and less invasive construction measures.
- Carefully considering the lifetime emissions associated with technology selection, in particular greenhouse gases.
- Implementing mechanisms of effective community participation, access to information and engagement early in the assessment process and assist in the analysis of alternatives during the design of construction activities to avoid adverse impacts.
- Implementing accessible formats as an inclusive approach for people with disabilities.
- Considering preventive measures for gender-based violence that can prevent any negative adverse impact or sexual abuse at the community level.
- Designing culturally appropriate measures that can ensure community participation in areas where indigenous peoples, African descendants, and other traditional peoples are present.
- Avoiding potential impacts that can generate physical and economic displacement by adopting stakeholder engagement schemes.

**GL10.** Project-affected people means people who are potentially affected directly, indirectly, or cumulatively (positively or adversely) by project components or activities. See ESPS 10 for further guidance on project-affected people.

## SCOPE OF APPLICATION

4. This ESPS applies to all investment financing projects. For the purposes of this ESPS, the term “project” refers to a defined set of components, including those where some specific activities, aspects, and facilities likely to generate risks and impacts, have yet to be fully defined<sup>47</sup> and for which the environmental and social due diligence requirements will be implemented in the future, after project approval. Project components may, as appropriate, include aspects from the early developmental stages through the entire life cycle (design, construction, commissioning, operation, decommissioning, closure or, where applicable, post-closure) of a project. The requirements of this ESPS apply to all projects unless otherwise noted in the specific limitations described in each of the paragraphs below.

**GL11.** ‘Investment financing projects’ refers to a defined set of components or activities to be financed. The term “project” as used in the ESPSs does not necessarily imply a project with specific physical boundaries. The ESPSs recognize that some projects have been fully identified (e.g., a specific hydropower plant on a specific river) and defined by the time of their approval while others, such as groups of subprojects under an umbrella project (e.g., a group of schools or health facilities to be built across a wide geographic area) may not be fully defined by the time of approval. In both circumstances the Borrower must clearly define the activities and components of the investment project to be financed. This will form the basis for the application of the ESPSs in the E&S risks and impacts assessment process. The description of project activities and components may evolve during project preparation and this evolution may affect the nature and scope of the E&S risks and impacts identification process. The dynamic nature of project development must be recognized and integrated into the E&S risks and impacts identification process. Changes in project activities and components can also occur during project implementation and such changes may also affect the nature and scope of E&S risks and impacts.

**GL12.** The project life cycle refers to the stages in the development and implementation of a project from planning, through design and construction, commissioning, implementation/ operation or production through to decommissioning, site closure, site clearance and site rehabilitation.

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<sup>47</sup> For example, projects that consist of a set of subprojects, where some are fully defined at the time of approval while others remain to be defined subject to subproject selection and eligibility criteria.

## REQUIREMENTS

### Environmental and Social Assessment and Management System

5. The Borrower, in coordination with other government agencies and third parties, as appropriate,<sup>48</sup> will conduct a process of environmental and social assessment and establish and maintain an ESMS appropriate to the nature and scale of the project and commensurate with the level of its environmental and social risks and impacts. The ESMS will incorporate the following elements: (i) project-specific environmental and social framework; (ii) identification of risks and impacts; (iii) management programs; (iv) organizational capacity and competency; (v) emergency preparedness and response; (vi) stakeholder engagement and (vii) monitoring and review.
6. The Borrower will consider risks and impacts related to human rights, gender, and natural hazards and climate change throughout the assessment process. Where appropriate, the Borrower will complement its environmental and social assessment with further studies focusing on those specific risks and impacts.

**GL13.** The ESMS required by ESPS 1 comprises the seven elements mentioned in paragraph 5 of ESPS 1 deemed to be necessary to effectively “plan, do, check, act” regarding the E&S requirements of ESPSs 2 to 10. ESPS 1 is analogous in many ways to established international frameworks for quality and environmental management systems, such as ISO 9001 and ISO 14001. The ESMS should be tailored to fit the needs of the Borrower’s organizational structure tasked with project implementation and be commensurate with the E&S risks and impacts associated with the project. See Figure 1.

**GL14.** Development of the ESMS starts with the elaboration of a project-specific E&S framework (see GL18-GL20) that defines values, principles, objectives, and goals that will guide project preparation and implementation and E&S performance management. This is followed by a planning and assessment component that supports the identification of key issues and the development of corresponding management programs. An organizational structure is established to manage the ESMS and implement the necessary management programs, with an additional focus on the unexpected, through emergency preparedness and response measures, and close attention to stakeholder engagement. Finally, the Borrower must also monitor and review its own performance and the appropriateness and effectiveness of mitigation measures and react promptly and decisively when changed project circumstances require changes in the ESMS to ensure performance meets objectives. This process is often called a ‘*change management*’ or ‘*adaptive management*’ process.

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<sup>48</sup> That is, those parties legally obligated and responsible for assessing and managing specific risks and impacts.

**Figure 1. The ESMS**



**GL15.** The ESMS must incorporate a robust and extensive stakeholder engagement process in accordance with the requirements of ESPS 10. Stakeholders are defined as persons, groups and communities external to the core activities of a project who may be affected by the project or have interest in it. The purpose of stakeholder engagement is to establish and maintain a constructive relationship with stakeholders, including project-affected people, over the life of the project. An effective engagement process allows the views, interests and concerns of different stakeholders, particularly of local communities affected by the project, to be heard, understood, and taken into account in decisions throughout the life of the project.

**GL16.** The sophistication and complexity of the ESMS and the resources devoted to it should be commensurate with the level of risks and impacts and be appropriate for the nature and scale of the project. The ESMS should allow the Borrower to develop a sufficient level of understanding of the E&S risks and impacts, including relevant contextual risks, to ensure that risks and impacts are managed in accordance with the requirements of the ESPSs.

**GL17.** An ESMS that meets the requirements of ESPS 1 should be positioned by the Borrower at the proper project management level within the Borrower’s organizational structure for project implementation. In the case of projects that have different components, or where the project involves financing subprojects through FIs, or through institutions or agencies that play the role of intermediary, this will require positioning the ESMS at a sufficiently high level within the organizational structure to enable the Borrower to establish the necessary depth and breadth of project oversight to manage the environmental and social risks and impacts of the project in an effective manner. Furthermore, certain aspects of the ESMS might require delegation, which will necessitate appropriate management oversight by the Borrower. In the case of projects that consist of multiple works or multiple subprojects, the ESMS may be an E&S management framework that acts as an ESMS for multiple subprojects.

**GL18.** The effort needed to establish an ESMS depends on the Borrower’s existing policies and practices, as well as the national laws and regulations that govern the Borrower’s mandate (i.e., its area of responsibility, such as transport or education) and the management of E&S themes and issues. Where a Borrower has developed and implemented a formal environmental, labor, health and safety, and/or social management system consistent with or certified by an internationally recognized standard, the alignment of the system, or elements within the system, with applicable ESPSs may be sufficient to meet some of the requirements of ESPS 1. While some certified management systems may meet most of the requirements of ESPS 1, the specific objectives and requirements of the ESPSs may need to be incorporated into the Borrower’s existing management system. ESPS 1 does not require management systems certified under international standards.

## Project-Specific Environmental and Social Framework

7. The Borrower will establish an overarching Environmental and Social Framework in defining the environmental and social objectives and principles that guide the project to achieve sound environmental and social performance.<sup>49</sup> The framework includes the environmental and social assessment and management process and specifies that the project will comply with the applicable laws and regulations of the jurisdictions in which it is being undertaken, including applicable country obligations under international law. The framework should be consistent with the principles of the ESPSs. Under some circumstances, Borrowers may also subscribe to other internationally recognized standards, certification schemes, or codes of practice, and

<sup>49</sup> This requirement is a stand-alone, project-specific framework and is not intended to affect (or require alteration of) existing policies the Borrower may have defined for other projects or environmental and social policies that might have been established by different tiers of government (national/regional/local).

these should also be included in the framework. The framework will indicate who, within the Borrower's organization, will be responsible for its execution (with reference to an appropriate responsible government agency or third party, as necessary). The Borrower will communicate the framework to all relevant levels of its organization.

**GL19.** The project-specific E&S framework required under ESPS 1 consists of a clear statement by the Borrower that defines values, principles, objectives and goals that will guide project preparation and implementation and E&S performance management. The project-specific E&S framework also describes the overall structure, processes, and functioning of a project's E&S management requirements, providing a roadmap and linkages amongst the different project components, processes and procedures. The project-specific E&S framework should reflect the Borrower's strategy and commitment regarding management of E&S risks and impacts in line with the requirements of the ESPSs. The framework supports the achievement of objectives and measures needed to meet ESPS requirements during project implementation. Borrowers will need to consider a variety of national strategies and plans, policies, laws and regulations, procedures and programs to effectively capture governmental priorities, processes and relevant requirements in the E&S framework.

**GL20.** The project-specific E&S framework should provide a concise summary of, or cross reference to, the applicable E&S host country (or countries, as appropriate) laws and regulations as well as other commitments the Borrower has made under relevant international law or industry or sector codes of practice and standards that the Borrower has adopted or intends to adopt. In some cases, national standards or requirements may differ from ESPS requirements or guidelines found in the World Bank Group's Environmental, Health and Safety Guidelines (EHSGs) (see GL31 and ESPSs 2, 3 and 4). In such cases, the Borrower will adopt the more stringent standard or requirement. Furthermore, when aspects of government legislation and/or regulations may



be in direct contradiction to ESPS requirements and thereby potentially constrain a Borrower's ability to implement ESPS requirements, the Borrower should seek ways to meet the requirements and to achieve the objectives of the ESPSs without contravening applicable laws. If this is not feasible under specific project circumstances, the Borrower will provide a detailed justification for any proposed alternatives including evidence that the alternative standard does not result in unacceptable risks or impacts. Additional guidance on the scope and content of a project-specific E&S framework can be found at <https://www.iadb.org/en/mpas/guidelines>.

## Identification of Risks and Impacts

8. The Borrower will establish and maintain a process for identifying the environmental and social risks and impacts of the project (see paragraph 19 of this ESPS for competency requirements). The type, scale, and location of the project guide the scope and level of effort devoted to the risks and impacts identification process. The scope of the risks and impacts identification process will be centered on the application of the mitigation hierarchy and consistent with good international industry practice, and will determine the appropriate and relevant methods and assessment tools. The process may comprise a full-scale environmental and social impact assessment, a limited or focused environmental and social assessment, or straightforward application of environmental siting, pollution standards, design criteria, or construction standards.<sup>50</sup> When the project involves existing facilities, environmental and/or social audits or risk/hazard assessments can be appropriate and sufficient to identify risks and impacts. If existing facilities or activities do not meet the requirements of the ESPF, the Borrower will adopt and implement measures to meet them. If some project activities to be financed have yet to be fully defined, the environmental and social due diligence process applicable to these project activities will be implemented at a point in the future when the activities are sufficiently defined to allow for the necessary assessment to take place. The risks and impacts identification process will be based on recent environmental and social baseline data at an appropriate level of detail.

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<sup>50</sup> For greenfield developments or large expansions with specific components, aspects, and facilities that are likely to generate potential significant environmental or social impacts, the Borrower will conduct a comprehensive Environmental and Social Impact Assessment, including an examination of alternatives, including the no-project alternative.

**GL21.** The E&S assessment process is integrated into the analysis and planning phases during the design and development of the project to ensure that E&S risks and potentially adverse impacts are subjected to the mitigation hierarchy. For the ESPs, 'E&S' includes all the applicable themes and topics in the ESPs, as well as any other E&S risks and potential impacts of the project. The E&S assessment process also results in the production of studies and reports that support the project review and approval process as well as stakeholder engagement and information disclosure requirements.

**GL22.** The Borrower will identify and use appropriate assessment and evaluation tools and instruments, such as analysis of alternatives (including the no-project alternative), screening and scoping, environmental and social analyses, investigations, audits, surveys, specialized studies and consultations with technical experts, to identify and assess the E&S risks and potential impacts of the project. These tools and instruments will reflect the nature, scale and associated risks and potential impacts of the project and will include, as appropriate, a combination or elements of different tools and instruments, including, for example, but not limited to: an appropriately scoped out E&S Impact Assessment (ESIA) that is consistent with ESPS requirements; a socio-cultural analysis; a health impact assessment; a gender analysis; a Human Rights Impact Assessment (HRIA); a climate risk assessment; a critical habitat assessment; a disaster and climate risk assessment; an environmental audit; a hazard or risk assessment; a contextual risk assessment; a labor assessment; a social and conflict analysis. Depending on the nature and scope of the project, instruments may be integrated into a single ESIA process and report or may be stand-alone. The outcome of the application of these tools and instruments can lead to a single overarching umbrella E&S management plan (ESMP) or several individual management plans that capture all the action plans to be implemented to achieve the objectives of the ESPs. Specific features or unique risks and potential impacts of a project may require the Borrower to develop specialized management plans such as a Cultural Heritage Management Plan and Indigenous Peoples Plan. Where the project is likely to have sectoral or regional impacts, a sectoral or regional ESIA may be required. In some instances, a stand-alone cumulative impact assessment (CIA) may be required (see GL39 to GL45). Borrowers should conduct the ESIA in consultation with, and by soliciting information from, project-affected people and other stakeholders to capture their views and knowledge on project risks and potential impacts (see GL92-GL105 and ESPS 10). More detailed information on the different types of E&S assessment tools and instruments can be found at <https://www.iadb.org/en/mpas/guidelines>.

**GL23.** By carrying out an E&S due diligence against the ESPs, the Borrower will address any project-related human rights risks. For example, ESPS 1 requires the identification of environmental and social risks and impacts, many of which are further elaborated in ESPs 2 through 9. These E&S risks and impacts may also have human rights risks and impacts dimensions. ESPS 1 also addresses the development and implementation of an effective project grievance mechanism, which is itself a rights-based tool that provides remedy for adverse human rights impacts. ESPS 10 supports the human rights principles of transparency and participation. Where a risk of wide-spread or systemic adverse impacts on human rights exist, or a risk of any adverse human rights impact is significant, the Borrower will supplement its due

diligence under the ESPs by using appropriate human rights due diligence, Such human rights due diligence may, depending on risk and operating context, be integrated in in the general E&S assessment or other instruments, such as contextual risk assessments, or may be realized through a stand-alone human rights impact assessment (HRIA).

**GL24.** The Borrower will consider contextual risks and how they may evolve over time. Those considerations will be included in the E&S assessment process and management programs, underscoring project scenarios or situations that may have the potential to exacerbate social tensions, impede project implementation, and hinder environmental and social performance. Contextual knowledge should be obtained from a wide range of stakeholders. Project scenarios or situations where contextual risk is particularly relevant include: (i) areas where armed or social conflict or the risk of conflict exists; (ii) areas where gross human rights abuses or systematic human rights violations exist; (iii) areas experiencing significant social flux linked to migration, including influx of labor; (iv) areas where the rule of law and governance are weak or non-existent and in areas where respect for human rights is limited or absent; (v) area recently affected by a natural disaster; (vi) areas significantly affected by epidemic or pandemic issues; and (vii) areas with severely curtailed civic space. Where significant contextual risk exists, country risk analyses, the E&S assessment, or the HRIA if selected as an assessment tool, will need to factor in relevant concerns such as infringements of human rights, threats to meaningful consultation, discrimination and non-inclusion of minorities, sexual and gender-based violence and the threat of reprisal to project-affected people and other stakeholders engaging in stakeholder participation. Consideration of contextual risk can inform the E&S impact assessment and help improve the design of mitigation measures, including measures to prevent reprisals. Additional information on contextual risk assessment can be found at <https://www.iadb.org/en/mpas/guidelines>.

**GL25.** The mitigation hierarchy represents a systematic and structured approach to considering a project's E&S risks and impacts and consists of the following steps: (a) anticipating and avoiding E&S risks and adverse impacts; (b) minimizing E&S risks and adverse impacts that cannot be avoided; (c) remedying or mitigating the residual adverse E&S impacts to an acceptable level; and (d) compensating or offsetting for those residual E&S risks and impacts that cannot be remedied or mitigated to an acceptable level. In applying the mitigation hierarchy, Borrower are encouraged to consider past knowledge, experience, and lessons-learned from previous assessments on similar projects. The Borrower should start developing the mitigation hierarchy early in the project life cycle, including through the integration of E&S specialists in the project feasibility and design teams. The mitigation hierarchy is further discussed in the other ESPs as relevant to the specific context of each ESP.

**GL26.** Application of the mitigation hierarchy in the E&S assessment process consists of the following steps:

**Step 1: Anticipation and Avoidance.** Avoidance is the preferred form of mitigation. As a first step, the E&S risks and impacts assessment includes an alternatives analysis, which should identify and evaluate a reasonable range of feasible project alternatives to meet the project's purpose and need (e.g., location, technology, or alignment options, among

others) and their environmental and social implications, including a no-project alternative. During the project scoping process, stakeholders and project-affected people should participate in the identification of feasible project alternatives through public consultation meetings and other feasible opportunities to provide comments. When assessing the feasibility of alternatives, both costs and benefits should be considered. The objective is to compare the E&S risks and potential impacts of feasible alternatives, rank them, and justify the selection and any compromises that are necessary, in a participatory and transparent way with stakeholders. The evaluation of alternatives should include, whenever possible, analysis of alternatives in project design (including alternative locations and the 'no-project alternative'), enabling the Borrower to choose alternatives that anticipate and avoid environmental and social risks and adverse impacts. As the decision-making and project conceptualization process progresses, a cascading series of alternative options emerges and shapes the project towards its final design. As such, the mitigation hierarchy and the analyses of alternatives are two interconnected processes in shaping a project, managing E&S risks and potential impacts and enhancing potential benefits.

**Step 2: Minimization.** Where avoidance is not possible, the E&S assessment will identify specific actions to minimize or reduce E&S risks and adverse impacts throughout the life of the project, including at design and development stage. For example, this could include reducing the physical footprint of a project; reducing climate impacts by choosing alternatives with lower greenhouse gas emissions; or selecting infrastructure, equipment, and technology options that support efficient use of resources (including energy, water, and raw materials) and reduce the generation of waste throughout the life of the project.

**Step 3: Mitigation.** Following the avoidance and minimization steps, the E&S assessment process should identify mitigation measures that allows the project to meet the requirements of the ESPs and relevant laws and regulations. Mitigation measures are those actions that reduce the severity and extent of the risks and impacts. Appropriate mitigation measures should be considered at every stage of the project life cycle. In case of existing facilities, these actions must include measures to address the E&S risks and adverse impacts necessary to meet the requirements of the ESPs and relevant laws and regulations. All these measures, including all other thematic E&S management plans required under the ESPs (e.g., Resettlement Action Plan, Indigenous Peoples Plan, Biodiversity Action Plan), are components of the project ESMS and can be organized under an umbrella ESMP.

**Step 4: Offset or Compensation.** Where avoidance, minimization and mitigation are not sufficient to reduce E&S risks and potential impacts to an acceptable level, measures that offset or compensate must be considered. E&S offsets can be a cost-

effective way to address inevitable, but nonetheless acceptable residual risks and impacts, through compensation.

- Environmental or biodiversity offsets. An example of environmental offset is the establishment or enhancement of habitat to achieve no net loss for a natural habitat that has been affected by project activities. There is a recognized hierarchy among approaches to biodiversity offsets which is restoration, creation, enhancement, and preservation. Enhancement and preservation are particularly relevant to biodiversity aspects regarding threatened species or ecosystems. Offsetting is not recognized as a means to mitigate impacts in areas of critical habitat. See ESPS 6 on *Biodiversity Conservation and Sustainable Management of Living Natural Resources* for more information on biodiversity offsets.
- Social compensation or offsets. Any compensation to project-affected people required under ESPS 5 on *Land Acquisition and Involuntary Resettlement* falls under this step. Additionally, examples of offsets from a social dimension may include creating alternative recreational assets to replace those lost due to project activities, the planting of forage trees and plants to offset losses of foraging fields due to construction activities or loss of access, and the restoration of living conditions and livelihoods for the duration of the impacts. Offsets are not an appropriate mitigation measure for adverse human rights impacts.

**GL27.** Projects may include facilities already in existence, such as a project to rehabilitate a pollution control facility, the rehabilitation of a hydropower dam or improvements to existing transport infrastructure or an existing facility needed for a project but subject to any rehabilitation or enhancement. The Borrower should undertake an E&S audit of these facilities to (i) characterize the E&S risks, impacts and liabilities associated with them and (ii) determine the extent to which their E&S performance can be aligned with the requirements of the ESPSs. The E&S risks, impacts and liabilities may include contamination of water bodies, soil and groundwater; health issues among people exposed to substances and/or emissions from existing facilities; and the re-emergence of legacy grievances about compensation, workforce exclusion, displacement, or disturbance, as well as new or emerging conflicts regarding access to or use of natural resources. The E&S audit should verify that stakeholder engagement processes are in place or otherwise recommend corrective actions. Some of these issues and liabilities may have significant financial implications for the Borrower as well as E&S implications associated with any rehabilitation or remediation measures. The E&S audit should identify all relevant risks and impacts and propose rehabilitation or remediation measures that are consistent with the requirements of the ESPSs while considering the extent to which implementing specific measures will be technically and financially feasible. Any measures identified by the Borrower should be incorporated into the relevant E&S management plan as appropriate or may require a dedicated action plan.

**GL28.** The baseline information-gathering phase is an important step to enable the determination of the project's risks and potential impacts. The E&S risks and impacts identification process should be based on recent, up-to-date and verifiable primary and secondary information, including a detailed description of the project in its geographic, ecological, physical, climatic, social, health, political, ethnocultural vulnerability and temporal context, all of which constitutes the environmental and social baseline. Baseline information should describe the current situation at project site level and surrounding areas. For example, a count of houses in the project area in recent weeks or days qualifies as current information. A count of households in the project area completed a year ago may not reflect the current situation on the ground (see GL28). Relevant baseline information includes all Associated Facilities (see GL37 and GL38) that are required for the successful operation of the project (e.g., dedicated pipelines, access roads, captive power plants, water supply, housing, and raw material and product storage facilities). Where the project involves specifically identified physical elements, aspects and facilities that are likely to generate impacts, including those operated by third parties, the collection and analysis of E&S baseline information and data, at an appropriate level of detail for the project, are essential to define the project's area of influence (see GL37). Baseline information should include relevant physical, biological, chemical, ecological, socioeconomic, ethnocultural, and health and labor data and conditions, including any changes anticipated to occur in the foreseeable future along with current and proposed development activities within the general project area, which may be directly or indirectly connected to the project. It is good practice to compare and gather baseline information from multiple sources and through different means of collection to increase the reliability of the information. Baseline data can also be gathered in consultation with project-affected people, who can give primary information on the existing environmental and social conditions. Baseline information should include actual and/or projected variability in climatic and environmental conditions due to the effects of climate change and any relevant baseline related to emissions of greenhouse gases (see ESPS 3 on *Resource Efficiency and Pollution Prevention* for further details).

**GL29.** Whether older data can be considered as acceptable for assessment purposes depends on the nature of the data and the project context. At first glance, geological data that is a decade old may be suitable for a preliminary assessment of the construction of a new hydropower dam, but with more sophisticated geophysical survey techniques now available, structural weaknesses may now be detected beyond what was possible in older geological studies. Climate change renders much of the historical hydro-meteorological data of limited use as patterns of rainfall have changed in most regions of the world. Information relating to biodiversity, especially for species and habitats under threat, will need to be current to be consistent with the principles of a precautionary approach and GIIP. Guidance on baseline data in the context of biodiversity and living natural resources is provided in ESPS 6 and its Guideline.

**GL30.** Depending on the project context, accurate and up-to-date baseline information on socio-economic, political and ethnocultural issues is essential, as rapidly changing situations, such as in-migration of people in anticipation of a project, or lack of data on disadvantaged or vulnerable individuals and groups among project-affected people, can affect the efficacy of social risk mitigation measures and project sustainability. Limitations on data, such as the extent and quality of available data, assumptions and key data gaps, and uncertainties associated with

predictions, should be clearly identified and presented in assessment studies. Reference to secondary information on the project's area of influence is acceptable, but it may still be necessary to gather primary information from field surveys to establish baselines consistent with GIIP in accordance with the project's risks and potential impacts. Relevant data may be available from various governmental agencies, nongovernmental organizations (NGOs) and academic sources as well as from direct interaction with stakeholders and project-affected people through interviews, focus group discussions, meetings, surveys, among others.

9. The process will consider all relevant direct, indirect, and cumulative environmental and social risks and impacts of the project, including the issues identified in ESPSs 2 through 10, and those who are likely to be affected by such risks and impacts. The risks and impacts identification process will consider, among others: (i) risks whose negative impacts fall disproportionately on individuals and groups who, because of their particular circumstances, are in a vulnerable position; (ii) any prejudice or discrimination toward individuals or groups in providing access to development resources and project benefits, particularly in the case of those who may be disadvantaged; (iii) those defined by the EHSs; (iv) those related to the health,<sup>51</sup> safety and well-being of workers and project-affected communities, including risks associated to pandemics, epidemics and any transmission of communicable diseases that may be caused or, exacerbated by, project activities; (v) GHG emissions, risks and impacts associated with natural hazards and climate change, to the project or exacerbated by it, along with adaptation opportunities, and other potential transboundary effects, such as air pollution and use or pollution of international waterways; (vi) those related to community safety, including the safety of the project's infrastructure and threats to human security through the risk of escalation of personal or communal conflict and violence that could be caused or exacerbated by the project;<sup>52</sup> (vii) adverse economic and social impacts relating to the involuntary taking of land or restrictions on land use; (viii) risks or impacts associated with land and natural resource tenure and use,<sup>53</sup> including (as relevant) potential project impacts

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<sup>51</sup> It may be appropriate for the Borrower to include in its environmental and social risks and impacts identification process a Health Impact Assessment.

<sup>52</sup> It may be appropriate for the Borrower to include in its environmental and social risk and impact identification process a specific human rights due diligence in line with the UN Guiding Principles on Business and Human Rights. A requirement for human rights due diligence is most likely to be appropriate where the nature of the project or its operating contexts pose significant risk to human rights, such as in investments in security provision, in contexts where internally displaced persons exist, and in contexts of post-or on-going conflict, among others.

<sup>53</sup> Due to the complexity of tenure issues in many contexts, and the importance of secure tenure for livelihoods, careful assessment and design are needed to help ensure that projects do not inadvertently compromise existing legitimate rights (including collective rights, subsidiary rights and women's rights) or have other unintended consequences, particularly where the project supports land titling and related issues. In such circumstances, the Borrower will at a minimum demonstrate that applicable laws and procedures, along with project design features (i) provide clear and adequate rules for the recognition of relevant land tenure rights; (ii) establish fair criteria and functioning, transparent and participatory processes for resolving competing tenure claims; and (iii) include genuine efforts to inform affected people about their rights and provide access to impartial advice

on local land use patterns and tenurial arrangements, land access and availability, food security and land values, and any corresponding risks related to conflict or contestation over land and natural resources; (ix) any material threat to the protection, conservation, maintenance and restoration of natural habitats and biodiversity; (x) those related to ecosystem services and the use of natural resources, including for basin-wide and/or trans-boundary risks and impacts; (xi) adverse impacts on communities of Indigenous Peoples; (xii) risks to cultural heritage; (xiii) gender-related risks, including gender-based exclusion, gender-based violence (sexual exploitation, human trafficking and the spread of sexually transmitted diseases); and potential discrimination risks based on gender and sexual orientation, among others.

**GL31.** A direct impact is an impact that is caused by the project and occurs contemporaneously in the location of the project. An indirect impact is an impact that is caused by the project and is generally, but not always, later in time or farther removed than a direct impact but is still reasonably foreseeable and may include effects related to changes in the pattern of land use, population density, and related effects on air and water and other natural systems, including ecosystems. A cumulative impact is the incremental impact of the project when added to impacts from other relevant past, present and reasonably foreseeable developments as well as unplanned but reasonably predictable activities enabled by the project that may occur later or at a different location. Any of these impacts can be transboundary in nature (see GL57 below).

**GL32.** The World Bank Group's ESHGs include general and specific guidelines that have become a global benchmark for project- and facility-level environmental, health and safety performance. See ESPS 3 for further information on the ESHGs and their application. There is also an extensive series of good practice and technical notes from other institutions that address specific issues in more detail. Useful references are listed in the Annotated Bibliography, here: <https://www.iadb.org/en/mpas/guidelines>.

**GL33.** The E&S risks and impacts identification process can generally be used to identify and assess human rights risks and impacts in a satisfactory manner. Where a risk of wide-spread or systemic adverse impacts on human rights risks exists, or a risk of any adverse human rights impact is significant due to, for example, the risk of reprisals, inherent country or sectoral risks or the nature or scale of the project, the Borrower will undertake specific human rights due diligence to address these concerns. Considering severity of risks and operating context, it may be necessary for the Borrower to carry out a stand-alone HRIA for a specific aspect of the project or, under certain circumstances, the entire project. A stand-alone HRIA provides the opportunity to (i) systematically assess risks against a comprehensive international human rights framework; (ii) assess risks to rights holders and their entitlements and identify duty bearers and their responsibilities that allows for a comprehensive understanding of vulnerability; and (ii) identify holistic mitigation measures to be

implemented by stakeholders beyond the Borrower, such as the national institutions of the host country, including the legislature, judiciary, political parties and the police. An HRIA also enables the Borrower to review any measures and agreements made with other national or local agencies, contractors, primary suppliers, and stakeholders to ensure these do not interfere with human rights.

**GL34.** During the life of a project, the Borrower will likely engage with multiple third parties, such as contractors and suppliers, and should therefore consider the UN Guiding Principles on Business and Human Rights that establish a “Protect, Respect and Remedy” framework that rests on three pillars: (i) the state duty to protect against human rights abuses by third parties, including business; (ii) the corporate responsibility to respect human rights; and (iii) greater access by victims to effective remedy, both judicial and non-judicial.

**10.** Where the project involves specific activities, aspects, and facilities that are likely to generate impacts, environmental and social risks and impacts will be identified in the context of the project’s area of influence. This area of influence encompasses, as appropriate:

- The area likely to be affected by: (i) the project<sup>54</sup> and the Borrower’s activities and facilities that are directly owned, operated or managed (including by contractors) and that are a component of the project; (ii) impacts from unplanned but predictable developments caused by the project that may occur later or at a different location; or (iii) indirect project impacts on biodiversity or on ecosystem services upon which project affected people’s livelihoods depend.
- Associated facilities,<sup>55</sup> which are new or additional works and/or infrastructure, irrespective of the source of financing, that are deemed essential for a project to function.

<sup>54</sup> Examples include the project’s sites, the immediate air shed and watershed, or transport corridors. Examples include power transmission corridors, pipelines, canals, tunnels, relocation and access roads, borrow and disposal areas, construction camps, and contaminated land (e.g., soil, groundwater, surface water, and sediments).

<sup>55</sup> Associated facilities may include new/additional access roads, railways, power lines, and pipelines required to be built for the project; new/additional construction camps or permanent housing for project workers; new/additional power plants required for the project; new/additional project effluent treatment facilities, new/additional warehouses and marine terminals built to handle project goods.

- Cumulative impacts<sup>56</sup> that result from the incremental impact of the project when added to impacts from other relevant past, present, and reasonably foreseeable developments as well as unplanned but predictable activities enabled by the project that may occur later or at a different location. Cumulative impacts can result from individually minor but collectively significant activities taking place over a period of time.

**GL35.** The E&S risks and impacts identification process for projects where the scope and components are defined only in general terms should focus on the steps associated with identifying the inherent risks related to the specific sector and geographies in which the Borrower intends to develop and implement the project. Key concepts, methods and tools for risks and impacts identification are discussed below.

**GL36.** Area of Influence. Where the project involves specifically identified physical elements, aspects and facilities that are likely to generate impacts, the E&S assessment process should identify the extent and complexity of E&S risks and potential adverse impacts in the context of the project's entire area of influence, which is the total area likely to be affected by project activities, assets and facilities, including Associated Facilities (see GL37 and GL38). The area of influence is not an arbitrary determination but rather one that is based on the identification of impacts, direct and indirect, environmental and social. Indirect impacts should not be overlooked as these might be the most significant impacts in certain circumstances. The size of a project's area of influence, as well as the E&S risks and impacts within the area, can vary considerably depending on the nature and scope of the project. As such, the area of influence may be transboundary in nature. Some of these risks and impacts, including those described in the ESPs, may be attributable to third parties within the area of influence. Cumulative impacts from other existing or planned projects in the area of influence may also need to be identified during the E&S assessment process (see GL40 to GL46). The identification of E&S risks and impacts must also consider the role and capacity of third parties (such as local and regional governments, contractors and suppliers) on which the project depends, recognizing that the Borrower should address these third-party risks and impacts in a manner that is commensurate with the Borrower's control and influence over third party actions.

**GL37.** Associated Facilities. For the ESPs, Associated Facilities are new facilities (e.g., access road to a project site) or additional works on existing facilities (e.g., expansion of an existing water treatment plant to meet project demand), irrespective of the ownership of the facilities or source of financing, that are deemed essential for a project to function. Existing works and/or infrastructure

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<sup>56</sup> Cumulative impacts are limited to those impacts generally recognized as important on the basis of scientific concerns and/or concerns from project-affected people. Examples of cumulative impacts include incremental contribution of gaseous emissions to an air shed, reduction of water flows in a watershed due to multiple withdrawals, increases in sediment loads to a watershed, interference with migratory routes or wildlife movement, and more traffic congestion and accidents due to increases in vehicular traffic on community roadways.

that are in place at the time of the project's E&S risks and impact identification process are not considered new or additional work and/or infrastructure. For example, if a project is in an area where there is an existing road or active quarry and these components may be essential for the project, they should not be considered to be Associated Facilities since (i) they already exist and (ii) are not dependent upon the project for their existence. However, an existing but inactive quarry that is to be re-commissioned solely to provide materials to the project would be considered an Associated Facility. The phrase 'deemed essential for the project to function' does not infer exclusivity. As such, a quarry could be considered essential for the provision of building material to the project but also provide product to other projects or enterprises. The reliance of the quarry upon the project as a source of revenue will affect the extent to which the Borrower can exercise control or influence over how the quarry manages environmental and social risks and impacts. The definition of 'Associated Facilities' differs among international financial institutions.

**GL38.** Examples of Associated Facilities include new or additional access roads, railway lines, power lines, and pipelines; new or additional construction camps or permanent housing for project workers; new or additional power plants; new or additional project effluent treatment facilities; new/additional warehouses and marine terminals built to handle project goods. Factors to consider in determining whether a component is an Associated Facility, rather than part of the project, are: (i) who is financing, (ii) whether it is essential for the project to function, and (iii) whether they existed previously or is new. This in turn defines what E&S requirements should be placed upon them. If the facilities are financed through the project loan or by the Borrower as part of its contribution to project financing, then they should be considered part of the project and will need to meet the requirements of the ESPs. If, on the other hand, the new/additional works or infrastructure are essential for the project but are financed by a different development partner, a different government department/agency or the private sector, they are still recognized as Associated Facilities and must therefore be included in the scope of the E&S risks and impacts identification process and the requirements of the ESPs are applicable to the extent that the Borrower has control or influence over the other sources of financing.

**GL39.** Cumulative Impacts. Projects often concentrate in areas where natural resources are found (e.g., watersheds with hydropower potential, land corridors with good wind resources, deep water coastal areas, mining resources, forests), potentially leading to multiple projects in the same geographical area. E&S risks and impacts from existing projects, combined with the potential additional impacts from proposed and/or anticipated future projects as well as predictable trends (e.g., climate change), may result in cumulative impacts that must be considered in the Borrower's E&S risks and impacts identification process.

**GL40.** Examples of cumulative impacts include effects on ambient conditions caused by additional emissions of pollutants in an airshed, increase in pollutant concentrations in a water body, in soil or sediments or through bioaccumulation, reduction of water flow in a watershed due to multiple withdrawals, increases in sediment loads to a watershed or increased erosion, interference with migratory routes or wildlife movement, increased pressure on the carrying capacity or the survival of indicator species in a given ecosystem, wildlife population reduction due to increased hunting, road kills and forestry operation, depletion

of a forest as a result of multiple logging concessions. Cumulative impacts can also be of a social nature, such as a project's contribution to an increase in active migration and accelerate the abandonment of traditional practices and cultural heritage (such as use of indigenous language) or worsen traffic congestion and accidents along community roadways due to increases in transport activity.

**GL41.** Even though cumulative impacts may not necessarily be different in quality from impacts analyzed in an ESIA that is focused on the specific area and timeframe related to the project's direct footprint and implementation timetable, a Cumulative Impact Assessment (CIA) may be required to effectively capture the necessary scale and temporal distribution of impacts. At a practical level, a CIA must determine how large an area around the project should be considered; what is an appropriate period to cover; and how to practically assess the complex interactions among different projects and trends occurring at different times. The likelihood of future projects or developments taking place should be considered carefully so that the CIA focuses on what can reasonably be predicted at the time of the assessment rather than what is theoretically or remotely possible. Because a CIA transcends a single project development, the resulting potential management or mitigation measures typically require participation from a larger and more diverse number of stakeholders and government authorities, both local and national. The active participation of one or more government authority is typically required to: assess the incremental contribution of each project to the cumulative impacts, monitor and enforce the implementation of the mitigation measures corresponding to each project; identify the additional mitigation measures required; and coordinate and ensure and document their implementation. In all other ways a CIA is fundamentally similar to an ESIA and, therefore, often relies on established ESIA practices, including scoping, analysis of effects, evaluation of significance, identification of mitigation measures and follow-up.

**GL42.** In certain instances, it may not be practical or appropriate for a CIA to be performed solely by the Borrower's organization responsible for project implementation when (i) impacts from multiple existing and future projects (whether public or third party private) or developments over a large area (e.g., watershed, airshed, forest) may cross jurisdictional boundaries, (ii) there are effects that may have occurred or will occur over a longer period of time, (iii) impacts on specific ecosystem components or characteristics will increase the significance of impacts and/or its irreversibility when considered in the context of a series of existing or future third party projects or developments. A regional or sectoral assessment may be more appropriate than a CIA in situations where impacts from the Borrower's own project or operations are expected to be a relatively small contribution to the total cumulative impacts that are likely to occur from activities by third parties in the region. The Borrower's organization responsible for project implementation may be one of several government entities and other stakeholders participating in such an assessment without taking ownership for its undertaking.

**GL43.** The scope of the CIA should be commensurate with the incremental contribution, source, extent, and severity of the potential cumulative impacts and be limited to only those impacts generally recognized as important based on scientific concerns and/or concerns from project-affected people and/or other stakeholders. The geographic and temporal boundaries of the

assessment should depend on the screening and identification of potential cumulative impacts that correspond to the criteria indicated above. The assessment should determine if the project's incremental emissions are responsible for contribute to adversely affecting an ecosystem component or specific characteristic beyond an acceptable predetermined threshold (i.e., carrying capacity) by the relevant government authority and GIIP, in consultation with relevant stakeholders. The Borrower should ensure that its assessment determines the degree to which its project might contribute to the cumulative effects.

**GL44.** The assessment of baseline conditions under the Borrower's risks and impacts identification process should identify relevant baseline conditions that could be exacerbated by the project and lead to cumulative impacts. In terms of anticipated future projects and developments, priority should be given to assessing cumulative impacts stemming from the Borrower's project, such as further planned developments associated with the project and other future developments of the same type in the project's area of influence that are realistically defined at the time of the assessment, which may include any combination of developments which are either proposed, licensed or for which permits exist.

**GL45.** The Borrower should use reasonable efforts, in accordance with the requirements of ESPS 10, to engage with other relevant government authorities, private developers, project-affected people, and other relevant stakeholders, in the assessment, design, and implementation of coordinated mitigation measures to manage the potential cumulative impacts resulting from multiple projects in the same area of influence.

- 11.** In the event of risks and impacts in the project's area of influence resulting from a third party's actions, the Borrower will address those risks and impacts in a manner commensurate with the Borrower's control and influence over the third parties and with due regard to conflict of interest.

**GL46.** The Borrower's accountability derived from the ESMS and its management plans cascades vertically and horizontally throughout the project management structure. The Borrower should collaborate with third parties and act to the extent of their influence or control over them. Third parties include contractors, suppliers and other parties not directly related to the project but nonetheless active in the project's area of influence. Among these third parties are operators of Associated Facilities that might have a particularly close relationship with the project. Because of this relationship, the Borrower should normally have some leverage on the operators of such facilities. Where such leverage allows, undertakings can be secured from these operators to operate their facilities in accordance with the requirements of the ESPSs. In addition, the Borrower should identify its own actions, if any, that could support or supplement the actions of the operators of Associated Facilities.

**GL47.** The Borrower may have limited or no leverage on third parties and there may be compelling reasons why a Borrower cannot, or does not wish to, exercise control or influence over third parties. Where the Borrower has limited or no control or influence over third parties, the E&S assessment process should identify these parties and their roles, including with regards to Associated Facilities, and the risks that third parties pose to the project and to stakeholders with regards to project area of influence.

**GL48.** The Borrower must recognize that the way in which contractors perform their roles and responsibilities has a significant effect on how E&S risks and impacts manifest themselves. As such, it is important that the Borrower's ESMS and management plans reflect the need for contractor awareness to E&S risks and impacts as well as the need to specify performance parameters, including a code of conduct. Where large contractors procure services through sub-contractors, the responsibilities and obligations of the main contractor must also be met by sub-contractors. Additional guidance on the management of contractors can be found at <https://www.iadb.org/en/mpas/guidelines>.

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- 12.** Where the Borrower can reasonably exercise control, the risks and impacts identification process will also consider those risks and impacts associated with primary suppliers, as defined in ESPS 2 (paragraphs 36–38) and ESPS 6 (paragraph 29).
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**GL49.** Primary suppliers are those suppliers who, on an ongoing basis, provide, directly to the project, goods or materials essential for the core functions of the project. Core functions of a project constitute those operations, production activities and/or services essential for a specific project activity without which the project cannot function. The requirements in paragraph 36 of ESPS 2 on *Labor and Working Conditions* regarding primary supply workers apply to ongoing contractual relationships between the project and the supplier, through which the Borrower has the potential to influence the supplier's operational practices. The E&S assessment should consider the nature and potential sources of goods and materials that are required for critical ongoing project activities, including construction activities. This may include, for example, timber for railroad ties, or gravel, sand and asphalt for road construction. Primary suppliers in relation to biodiversity risks and impacts are discussed in ESPS 6.

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- 13.** Where the project involves specifically identified activities, aspects and facilities that are likely to generate environmental and social impacts, the identification of risks and impacts will take into account the findings and conclusions of related and applicable plans, studies, or assessments prepared by relevant government authorities or other

parties that are directly related to the project and its area of influence.<sup>57</sup> These include master economic development plans, country or regional plans, feasibility studies, disaster and climate change risks studies, alternatives analyses, and cumulative, regional, sectoral, or strategic environmental assessments where relevant. The risks and impacts identification will take account of the outcome of the engagement process with project-affected people and other relevant stakeholders, as appropriate.

**GL50.** The Borrower's E&S assessment process should take into consideration sectoral, regional, global, and strategic assessments prepared by relevant government authorities or other parties that are relevant to the project and its area of influence.

**GL51.** Regional, Sectoral, or Strategic Assessments. ESPS 1 requires that, where the project involves specifically identified physical elements, aspects and facilities that are likely to generate impacts on a wider regional scale, the Borrower's risks and impacts identification process take into account the findings and conclusions of relevant sectoral, regional, and strategic plans, studies, or assessments prepared by relevant government authorities or third parties that are directly related to the project's area of influence, including studies and assessments from NGOs, academia, aid organizations, UN agency, among others. These include master economic development plans, regional plans, feasibility studies, alternatives analyses, and CIAs where relevant.

**GL52.** A regional assessment may be required when a project or a series of project-related developments are expected to have a significant regional impact or influence regional development (e.g., an urban area, a watershed, or a coastal zone), and may also be appropriate where the project's area of influence spans two or more countries, or where project-related impacts are likely to occur beyond the host country (see GL59 on transboundary impacts). A sectoral assessment may be required when several projects are proposed in the same or related sector (e.g., power, transport, or agriculture) in the same region or country, either by the Borrower alone or by the Borrower and other project developers. A strategic assessment examines risks and impacts associated with a particular strategy, policy, plan, or program, and may be required when the Borrower plays a significant role in the development of the strategy, policy, plan, or program. Regional, sectoral, or strategic assessments may also be necessary to evaluate and compare the impact of alternative development options, assess legal and institutional aspects relevant to the project's E&S risks and impacts, and recommend broad measures for future E&S management. The timing, sequencing, participation and leadership for these assessments, including the role of the Borrower, will be determined on a case-by-case basis in accordance with the specific circumstances surrounding the nature of assessment that is required.

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<sup>57</sup> The Borrower can take these into account by focusing on the project's incremental contribution to selected impacts generally recognized as important on the basis of scientific concern or concerns from project-affected people and other relevant stakeholders within the area addressed by these larger-scope regional studies or cumulative assessments.

**GL53.** Global Impacts. While individual project impacts on climate, the oceans and seas, biodiversity and other environmental receptors may not be significant, when taken together with impacts created by other human activities, they can become significant at regional, national and global levels. The Borrower's risks and impacts identification process should consider impacts that contribute to global impacts. Specific requirements and guidance on biodiversity and ecosystem services can be found in ESPS 6 and its Guideline, while climate change considerations can be found below as well as in ESPS 3 and its Guideline.

**GL54.** Natural Hazards and Climate Change. Natural hazards and changing weather patterns due to climate change, including greater climate variability and extreme weather events, may affect projects in a variety of ways, including physical risks to project assets arising from damage associated with significant events, and as such are potential considerations in the environmental and social risks and impacts identification process. Climate change also affects the frequency and intensity of hurricanes, cyclones, storms and floods; impacts the availability and quality of natural resources and ecosystem services; and has the potential to affect primary suppliers (e.g., increasing costs of raw materials) as well as the operations or working practices of the project. Other potential effects associated with change in climatic conditions are related to possible changing patterns in demand for goods and services supplied by the project. Specific requirements and guidance on natural hazards and climate change can be found in ESPS 4 on *Community Health, Safety and Security* and its Guideline.

**GL55.** A project's vulnerability to natural hazards and climate change and its potential to increase the vulnerability of ecosystems and communities to natural hazards and climate change should dictate the extent of natural hazards and climate change considerations in the Borrower's E&S risks and impacts identification process. The identification process should (i) identify potential direct and indirect natural hazard and climate-related adverse effects that may affect the project during its entire life, (ii) identify direct and indirect natural hazards and climate-related adverse effects and impacts on people and the environment that may be exacerbated by the project, and (iii) define monitoring and adaptation measures, as appropriate. The Borrower should use the most current geologic, hydrologic and climatologic data in the design of project infrastructure, and for other relevant studies, such as, for example, pollutant fate and transport models, and water resources impact studies. See ESPSs 3 and 4 and their respective Guideline for further information.

**GL56.** More careful identification of risks associated with climate change should be conducted for projects located in recognized climate sensitive and/or vulnerable areas, in particular risks that are further exacerbated by climate change, including extreme weather events such as floods and droughts, extended periods of extreme heat, variability in precipitation, windstorms, cold spells and freeze-thaw cycles, coastal erosion, and coastal flooding due to sea-level rise. The severity of the risks should drive the scope of the assessment.

**GL57.** Transboundary Impacts. Transboundary impacts are impacts that extend to other countries, beyond the host country of the project, but are not global in nature. Examples include, on the environmental side, air pollution extending to multiple countries, use or pollution of international waterways, transboundary epidemic disease transmission, and, on the social side, impacts on

cross-border indigenous peoples. The Borrower should determine whether the risks and impacts require the application of ESPS requirements in the countries affected by transboundary impacts (e.g., such as the need for meaningful consultations). If the E&S risks and impacts identification process determines that: (i) the project entails activities that may cause adverse transboundary E&S impacts; (ii) the affected countries and the host country have entered into any agreements or arrangements or have established any institutional framework regarding the potential impacts on people or resources; or (iii) there are unresolved differences between the affected countries and host country regarding the potentially affected resource, and the likelihood of a resolution is not imminent, then the Borrower should determine the need for, and the feasibility of, meeting obligations to affected neighboring countries. In some cases, the Borrower may need to notify neighboring countries in accordance with regional or international agreements, treaties or conventions. In some circumstances, the Borrower may need to consider the possibility of transboundary impacts in the development of environmental and/or social monitoring programs.

**14.** Where the project involves specifically identified activities, aspects and facilities that are likely to generate impacts, and as part of the process of identifying risks and impacts, the Borrower will identify individuals, groups and communities that may be directly and differentially or disproportionately affected by the project because of their disadvantaged or vulnerable status.<sup>58</sup> The Borrower will consider diverse cross-sectional groups historically disadvantaged in Latin America and the Caribbean, such as women, people of diverse sexual orientations and gender identities, people with disabilities, African descendants, and Indigenous and other traditional peoples. Where individuals, groups or communities are identified as disadvantaged or vulnerable, the Borrower will propose and implement differentiated measures so that adverse impacts do not fall disproportionately on them and they are not disadvantaged in sharing development benefits and opportunities resulting from the project.

**GL58. *Disadvantaged or Vulnerable Groups.*** There may be individuals, groups or peoples within the project's area of influence who are particularly vulnerable or disadvantaged and who could experience adverse impacts from the project more severely than others. Such impacts may occur in large-scale projects with a large area of influence and multiple affected communities as well as in smaller-scale projects with site-specific issues and impacts. Where it is anticipated that the project will impact one or more affected communities, the risks and impacts identification process must use established tools and methodologies to identify and characterize vulnerable individuals

<sup>58</sup> This disadvantaged or vulnerable status may stem from disability, state of health, indigenous status, gender identity, sexual orientation, religion, race, color, ethnicity, age, language, political or other opinion, national or social origin, property, birth, economic disadvantage, or social condition. Other vulnerable individuals and/or groups may include people or groups in vulnerable situations including the poor, the landless, the elderly, single-headed households, refugees, internally displaced people, natural resource-dependent communities, or other displaced persons who may not be protected through national legislation and /or international law.

or groups within the affected communities including collecting data on a disaggregated basis. Using this information, the Borrower should assess potential impacts, including differentiated impacts, on these individuals and groups and propose specific, and if necessary separate, measures in consultation with them to ensure that potential impacts and risks are appropriately avoided, minimized, mitigated or compensated. When considering how to disaggregate data for vulnerable groups, it is important to consider intersectionality (i.e., overlapping of social categories). For example, a person with disabilities may also be indigenous and elderly.

**GL59.** Vulnerable or disadvantaged individuals and groups should be able to benefit from project opportunities equally with the rest of the project-affected people. This may require that the Borrower establish differentiated benefit-sharing processes and levels such as: (i) ensuring that compensation for a house taken during resettlement is provided equally to project-affected people household heads or in accordance with recognized family structures; (ii) providing training for individuals or groups who might lack the necessary skills to find a job with the project; and (iii) ensuring access to medical treatments for conditions and illnesses resulting from the projects. Project monitoring should track these individuals and groups on a disaggregated basis. Specific considerations and measures for Indigenous Peoples are described in ESPS 7 on *Indigenous Peoples* and its Guideline and in ESPS 9 on *Gender Equality* and its Guideline for people of different gender identities and sexual orientation.

**GL60.** Disability. There are country laws, regulations, and other guidance pertaining specifically to people with disabilities who may be highly vulnerable to disproportionate impacts from the project. Where no adequate legal framework exists, the Borrower must identify and implement appropriate alternatives to avoid, minimize, mitigate or compensate for potential adverse impacts and risks on people with disabilities. The alternatives should be focused on creating access to the resources and services for the community (e.g., accessibility to education, medical assistance, training, employment, and consumer goods; and physical accessibility to transportation, schools, hospitals/clinics, work facilities, hotels, restaurants, stores, and other commercial areas). Borrowers should also consider incorporating the principles of universal design (i.e., defined as the design of products, environments, programs and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design) into design, construction, and operation, including emergency and evacuation plans, whether new construction, expansion, or modernization of facilities, to maximize use by all potential users, including people with disabilities. See ESPS 4 and its Guideline for additional details.

**GL61.** Gender Identity and Sexual Orientation. Projects may have variable impacts on people because of their gender identity or sexual orientation, due to their differentiated socioeconomic roles and their varying degrees of control over and access to assets, productive resources, and employment opportunities. There may be norms, societal practices, or legal barriers that impede the full participation of persons of one gender (usually women, but potentially men) as well as people of diverse sexual orientations and gender identities, in consultation, decision-making, or sharing of benefits. These barriers and societal norms and practices may lead to gender discrimination or inequality. The Borrower should assess gender-based risks and impacts through the E&S risks and impacts identification process and propose measures so

that people of diverse gender identities and sexual orientations are not disadvantaged relative to others in the context of the project. This may include providing opportunities to enhance full participation and influence in decision-making and developing measures that allow people of all gender and sexual orientation equal access to compensation and benefits such as land titles and employment. See ESPS 9 and its Guideline.

**GL62.** African Descendants. African descendants are present throughout Latin America and the Caribbean and are known and self-identify by different names, such as Afro-descendants from their countries of origin (Afro-Colombian, Afro-Peruvian, etc.), negros, preto, pardos, palenqueros, quilombolas and creoles, among others. While their socio-economic and cultural characteristics may be varied, African descendants often represent a large section of the vulnerable and disadvantaged. Although they can be found in remote rural areas, they are also be concentrated in poor urban areas and can be excluded from mainstream society, depending on the national and/or local context. African descendants are recognized under international law and afforded specific anti-discrimination and collective rights protections (i.e., rights afforded to groups in addition to the rights of individuals) under the Durban Declaration and Programme of Action (2001) and the UN General Assembly Resolution 68/237 and other international human rights instruments such as the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD, 1969). The Inter-American Convention Against Racism, Racial Discrimination and Related Forms of Intolerance (A-68) (2013) and the Inter-American Convention Against All Forms of Discrimination and Intolerance (A-69) (2013) have been ratified by several countries in the region and provide specific protections for African descendants in Latin America and the Caribbean. These collective rights include (i) the right to property and to the use, conservation and protection of lands traditionally occupied by them; (ii) the rights to their cultural identity and heritage; and (iii) the right to prior consultation with respect to decisions that may affect their rights in accordance with international standards. The extent to which such rights are adopted in Borrower countries varies. In some countries these rights have been incorporated into national constitutions and/or laws.

## Management Programs

- 15.** Consistent with the Borrower's policy and the objectives and principles described therein, the Borrower will establish management programs that, in sum, will describe mitigation and performance improvement measures and actions that address the identified environmental and social risks and impacts of the project.

16. Depending on the nature and scale of the project, these programs may consist of some documented combination of operational procedures, practices, plans, and related supporting documents, including legal agreements, that are managed in a systematic way.<sup>59</sup> The programs will apply broadly across the Borrower's organizational structure for project implementation, including contractors and primary suppliers over which the organization has control or influence, or to specific sites, facilities, or activities. The mitigation hierarchy to address identified risks and impacts will favor the avoidance of impacts over minimization, and, where residual impacts remain, compensation/offset, wherever technically<sup>60</sup> and financially feasible.<sup>61</sup>
17. Where the identified risks and impacts cannot be avoided, the Borrower will identify mitigation and performance measures and establish corresponding actions to ensure the project will operate in compliance with applicable laws and regulations and meet the requirements of ESPS 1 through 10. The level of detail and complexity of this collective management program and the priority of the identified measures and actions will be commensurate with the project's risks and impacts and will take account of the outcome of the engagement process with project-affected people and other relevant stakeholders as appropriate.
18. The management programs will establish environmental and social action plans,<sup>62</sup> which will define desired outcomes and actions to address the issues raised in the risks and impacts identification process, as measurable events to the extent possible, with elements such as performance indicators, targets, or acceptance criteria that can be tracked over defined time periods, and with estimates of the resources and responsibilities for implementation. As appropriate, the management program will recognize and incorporate the role of relevant actions and events controlled by third parties to address identified risks and impacts. Recognizing the dynamic nature of the project, the management program will be responsive to changes in circumstances, unforeseen events, and the results of monitoring and review.

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<sup>59</sup> Existing legal agreements between the Borrower and third parties that address mitigation actions with regard to specific impacts constitute part of a program.

<sup>60</sup> Technical feasibility is based on whether the proposed measures and actions can be implemented with commercially available skills, equipment, and materials, taking into consideration prevailing local factors such as climate, geography, demography, infrastructure, security, governance, capacity, and operational reliability.

<sup>61</sup> Financial feasibility is based on considerations, including relative magnitude of the incremental cost of adopting such measures and actions compared to the project's investment, operating, and maintenance costs, and on whether this incremental cost could make the project nonviable to the Borrower.

<sup>62</sup> Action plans may include an overall Environmental and Social Action Plan necessary for carrying out a suite of mitigation measures or thematic action plans, such as Resettlement Action Plans, Disaster Risk Action Plans, or Biodiversity Action Plans. Action plans may be plans designed to fill in the gaps of existing management programs to ensure consistency with the Environmental and Social Performance Standards, or they may be standalone plans that specify the project's mitigation strategy. The "Action Plan" terminology is understood by some communities of practice to mean management plans, or development plans. In this case, examples are numerous and include various types of environmental and social management plans.

**GL63.** The Borrower should address E&S risks and impacts identified by the E&S assessment process, including the outcome of stakeholder engagement, through the development of measures and actions to avoid, minimize, mitigate, and/or compensate/offset them. The adoption and implementation of a mitigation hierarchy should be documented through the E&S assessment process and, where trade-offs between avoidance and mitigation/compensation are considered, should be justified and documented. The Borrower's approach should include costs and benefits considerations and a determination of to whom they accrue. Where E&S risks and impacts are within the Borrower's ability to control or influence, the Borrower should capture the mitigation or corrective measures in a set of management programs that can be incorporated into an ESMP and implemented and supervised through the ESMS.

**GL64.** The level of detail and complexity of the management programs should be commensurate with the project's nature, scope and E&S risks and potential impacts. Projects with significant E&S risks and adverse impacts where a full-scale ESIA is undertaken will typically require comprehensive management programs that address all the E&S risks and impacts identified by the assessment process and include action plans, procedures, practices, and legal agreements, as necessary, so that all mitigation measures are managed in a systematic way. Projects with low/moderate E&S risks and potential adverse impacts will require less elaborate management programs. In the case of existing facilities, the management programs should include corrective measures and actions to address aspects that do not meet ESPS requirements and other areas of improvement as may have been identified in the E&S audit as described above (see GL27). Similarly, management programs should reflect the findings of, and include specific recommended actions resulting from, specialized assessments and studies. Additional guidance on management programs can be found at <https://www.iadb.org/en/mpas/guidelines>.

**GL65.** Management programs should apply broadly across the Borrower's organizational structure for project implementation, including contractors, consultants and primary suppliers over which the Borrower has control or influence, and to specific project sites, facilities or activities. Management programs will include provisions and agreements relevant to Associated Facilities and primary suppliers as appropriate. Where there is E&S risk associated with suppliers, impacts should be assessed and Borrowers should collaborate with third parties, as appropriate, to take necessary actions to the extent of their control or influence over such parties. All such actions should be incorporated into the Borrower's management programs.

**GL66.** The Borrower's management programs should also include internal performance monitoring measures to enhance implementation performance and measures relevant outputs and outcomes to the extent possible. These include measures such as performance indicators, targets, or acceptance criteria that can be tracked over defined time periods, to ensure continuous improvement of performance in these areas. Such measures may be supplemented through third party performance reviews that are integrated into the monitoring aspect of the ESMS.

**GL67.** The Borrower should determine, document and allocate adequate financial resources and designate responsible personnel within the Borrower's organization to implement the management programs.

**GL68. *Thematic Action Plans.*** Considering the results of the E&S risks and impacts identification process, including the outcome of stakeholder engagement, the management programs should include thematic action plans where appropriate. Thematic action plans are plans designed to fill the gaps of existing management programs to meet the requirements of applicable ESPSs and may include various types of environmental, health and safety, and social management plans, such as Biodiversity Action Plans, Water Resources Management Plans, Site Restoration Plans, Occupational/Community Health and Safety Plans, Community Development Plans, Resettlement Action Plans or Indigenous People Plans.

**GL69. *The E&S Action Plan (ESAP).*** Where required, the Borrower shall develop and implement an ESAP that describes the actions agreed with the lender that are required to meet the requirements of the ESPSs. The ESAP is often part of the legal agreement with the IDB. The ESAP should not repeat all the measures of the management programs or thematic action plans, but it should focus on the most critical actions needed to meet the requirements of the ESPSs. This tool can also help the Borrower to prioritize issues and allocate resources based on agreed measures and actions as the planning and development of the project progresses. The Borrower should not carry out any project activities that create significant risks or may cause material adverse impacts until the relevant plans, measures, or actions have been completed in accordance with the ESAP. The Borrower should establish mechanisms as part of its management programs to track and report on progress with the ESAP. Additional guidance on the content and structure of an ESAP can be found at <https://www.iadb.org/en/mpas/guidelines>.

**GL70.** Effective management programs should have an adaptive management component. Review of the management programs is a fundamental element of an effective ESMS and should be undertaken on a regular basis, but no less than on an annual basis, and whenever a significant incidents or events have occurred that has significantly affected implementation performance. The Borrower should develop and implement procedures to adjust policies and practices and adapt actions and mitigation measures as appropriate based on the E&S monitoring data. This iterative process promotes dynamic decision making that takes into consideration uncertainties, recognizes the importance of variability of the social and natural systems, and supports adjustments to policies and practices as outcomes from management actions, mitigation measures and other events are better understood.

**GL71.** Results from independent E&S due diligence of projects conducted by multiple financiers may require the Borrower to carry out additional and different measures and actions to meet the requirements of multiple E&S standards in addition to the ESPSs. In those circumstances, all requirements and additional measures and actions should be incorporated into the Borrower's management programs.

## Organizational Capacity and Competency

- 19.** The Borrower, in collaboration with appropriate and relevant third parties, will establish, maintain, and strengthen as necessary an organizational structure that defines roles, responsibilities, and authority to implement the ESMS. Specific personnel with clear lines of responsibility and authority should be designated by the Borrower. Key environmental and social responsibilities should be well defined and communicated to the relevant personnel and to the rest of the Borrower's organization responsible for project implementation. Sufficient management sponsorship and human and financial resources will be provided on an on-going basis to achieve effective and continuous environmental and social performance.
- 20.** Personnel within the Borrower's organization with direct responsibility for the project's environmental and social performance will have the knowledge, skills, and experience necessary to perform their work, including current knowledge of the relevant regulatory requirements and the applicable requirements of ESPs 1 through 10. Personnel will also possess the knowledge, skills, and experience to implement the specific measures and actions required under the ESMS and the methods required to perform the actions in a competent and efficient manner.
- 21.** The process of identification and monitoring of risks and impacts will consist of an adequate, accurate, and objective evaluation and presentation, prepared by competent professionals. For projects posing potentially significant adverse impacts or where technically complex issues are involved, Borrowers may be required to involve external experts to assist in the risks and impacts identification and monitoring processes throughout the project's lifecycle.

**GL72.** Successful implementation of management programs requires the commitment of the Borrower's management and personnel responsible for project implementation. Accordingly, the Borrower should designate specific in-house personnel (as well as external consultants, where necessary), including personnel in management functions with clear lines of responsibility and authority for the management of E&S issues. Personnel in management functions are a link between the Borrower's senior decision makers and personnel working in departments with direct responsibility for the implementation of E&S management programs. Personnel in management functions should be part of the decision-making process in relation to E&S issues.

**GL73.** Other departments and functions such as human resources, legal, procurement, and other specialist functions are important contributors to the ESMS and its successful implementation. Whereas it is expected that the management of E&S issues will be led by E&S professionals, how the Borrower integrates other departmental contributions into the project can greatly affect implementation performance. The role of individuals within the above departments with regards to

the management of E&S risks and impacts will be commensurate with the scope and nature of E&S risks and impacts, the mitigation actions and the management programs. For example, managing training needs (human resources), contracts and contractor performance (procurement and legal), are examples of functions where non-E&S professionals play a role in ESMS implementation. Leveraging the focused contributions from many people throughout the Borrower's organization responsible for project implementation, under the guidance of management and E&S professionals, is essential to manage an organization's E&S risks. The Borrower must carefully consider how it will integrate requirements associated with the management of E&S risks and impacts throughout all project elements and components to achieve the desired level of performance. If functions are outsourced to contractors or third parties, the Borrower's agreement with these parties should include actions and measures necessary for the parties to perform the functions detailed in the agreement in a manner consistent with the ESMS and management programs. In large or complex projects, multiple personnel and operational units may be designated to support implementation of the ESMS. In smaller projects with limited E&S risks, one individual may be sufficient to undertake these functions. Key E&S responsibilities should be well defined and communicated to relevant personnel as well as to the rest of the Borrower's organization as appropriate. Sufficient human and financial resources should be allocated to those designated as responsible for the implementation of the ESMS and management programs.

**GL74.** Borrowers should consider the following questions to assess the adequacy of the project's overall organizational capacity and structure to manage and implement the ESMS and the management programs:

- How does the Borrower's organization responsible for project implementation identify and allocate the human, technical, and financial resources, including external experts, necessary to manage E&S performance?
- How has E&S management been integrated into the overall project management process?
- What is the process for balancing and resolving conflicts between E&S and other project objectives and priorities?
- What are the responsibilities and accountability of officials who manage, perform, and verify work affecting E&S issues including those related to human rights, gender, and natural hazards and climate change? Are these well-defined and documented?
- How have the Borrower's senior officials responsible for project implementation established, reinforced and communicated organizational commitments?
- Is there a process for periodic review of the ESMS in the event of changed project circumstances?

**GL75.** Borrowers can use in-house specialists, competent professionals and experts external to the organization to carry out the E&S risks and impacts identification process, provided that the applicable requirements of the ESPs are met. The competent professional(s) conducting the E&S assessment process must be able to do so adequately, accurately and objectively, as well as have the requisite competence and experience. For projects with issues that may pose significant E&S risks and adverse impacts, Borrowers should (and, under certain circumstances, may be required to) retain qualified external experts to assist in the conduct of all or part of the

E&S assessment. To be considered qualified, these external experts must have substantive and extensive experience in similar projects or in dealing with similar project circumstances. They should be involved early in the project's development phase and, as necessary, in the various stages of design, construction, and commissioning of the project. The services of qualified external experts may be required for specific issues under ESPs 2 to 10.

**GL76.** The Borrower should identify the knowledge and skills necessary for implementation of the ESMS and management programs, including specific requirements of thematic action plans and the ESAP. Prior background, time in the job, training, skills development, ongoing education, and experience can all play a role in determining whether a person has sufficient knowledge and skills to carry out their part of the ESMS and management programs. The Borrower should consider all the above contributions to the background of their E&S professionals and other personnel with implementation responsibilities to determine whether they can be deemed competent to do what is required of them. If necessary, the Borrower should recommend new recruitment for the project to ensure it has in place competent specialists/professionals.

**GL77.** Training can support the development of the personnel's skills and knowledge. To be successful, training programs must be carefully designed and delivered. The Borrower should consider following key elements in the development and delivery of its training programs:

- Identification of training needs for the Borrower's and project personnel responsible for project implementation and E&S performance, contractor and primary supplier personnel and any other entity that will play a role in project implementation and monitoring activities. Training needs should be guided first and foremost by the nature and scope of the E&S risks and impacts that will be managed under the ESMS and management plans and must also consider the context for project implementation. Training should address codes of conduct for project workers and consider past events (e.g., accidents, emergency situations, internal or external grievances), and shortcomings in performance as identified by audits and benchmarking with other government agencies or organizations or direct suggestions or requests from employees themselves.
- Identification of training needs is followed by the development of a training plan to address defined needs. Among other sections, the plan should include information on the training objectives, a proposed syllabus, the number of expected sessions and their duration, and the frequency with which sessions will be held.
- Verification of current/ongoing training programs to ensure consistency with organizational policy, ESPs requirements, and other applicable requirements such as regulatory considerations.
- Training of target personnel. This can be formal, informal (e.g., on-the-job), one-time, periodic, etc.
- Documentation of training received, to show to regulators or government agencies, financial institutions, etc., and to provide a record for the trainees as part of job or career development.

- Evaluation of training received to determine its effectiveness. Ascertaining whether the individual is now competent to carry out the task at hand confirms the success or failure of the training. If it is determined that the training program(s) is not effective, then the organization should review all aspects of the training (i.e., curriculum, delivery, competence of the trainer, etc.) as applicable to determine what should be changed, if anything, to obtain a successful outcome. The evaluation of personnel competence should be done on a regular basis, and specific measures, such as refresher training, included in the training program as necessary to maintain the necessary level of knowledge needed to perform assigned tasks.

**GL78.** The Borrower should ensure that personnel and third parties with direct responsibility for activities relevant to E&S performance are competent and have the knowledge and skills necessary to perform their work, including having current knowledge of the host country's regulatory requirements and the applicable requirements of ESPs 1 through 10.

**GL79.** When the project is likely to impact vulnerable or disadvantaged individuals or groups, the Borrower's personnel and contractors that will interact with such individuals or groups should be knowledgeable in the specific issues and cultural considerations related to such individuals or groups. Borrowers should consider hiring experts from disadvantaged and vulnerable backgrounds as they may be best suited to understand the realities of those groups. Specific training may also be required.

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## Emergency Preparedness and Response

- 22.** Where the project involves specific activities, aspects and facilities that are likely to generate impacts, the ESMS will establish and maintain an emergency preparedness and response system so that the Borrower, in collaboration with appropriate and relevant third parties and relevant government agencies and authorities, will be prepared to respond to accidental and emergency situations associated with the project in a manner appropriate to prevent and mitigate any harm to people and/or the environment. This preparation will include the identification of areas where accidents and emergency situations may occur, communities and individuals that may be impacted, response procedures, provision of equipment and resources, designation of responsibilities, communication, including that with potentially project-affected people and other stakeholders, and periodic training to ensure effective response. The emergency preparedness and response activities will be periodically reviewed and revised as necessary to reflect changing conditions. The emergency preparedness and response measures will include disasters triggered by natural hazards and disease outbreak situations.

**23.** Where applicable, the Borrower will also assist and collaborate with the potentially project-affected people and other stakeholders (see ESPS 4) and the local government agencies in their preparations to respond effectively to emergency situations, especially when their participation and collaboration are necessary to ensure effective response. These emergency situations include those associated with the influx of temporary or permanent project labor. If local government agencies have little or no capacity to respond effectively, the Borrower will play an active role in preparing for and responding to emergencies associated with the project. The Borrower will document its emergency preparedness and response activities, resources, and responsibilities, and will provide appropriate information to people that are potentially affected, other stakeholders, and relevant government agencies.

**GL80.** The Borrower should address emergency preparedness and response in an integrated way. Where the project involves specifically identified activities, aspects and facilities that are likely to generate impacts, the Borrower, and contractors, as appropriate, should address contingencies associated with project activities and facilities and accidental circumstances through the development and use of emergency preparedness and response plans or other similar tools appropriate to the specific project aspects, construction activities or industry sector, as part of its ESMS. Where the consequences of emergency events are likely to extend beyond the project boundary or originate outside of the project boundary (e.g., hazardous material spill during transportation on public roadways), the Borrower is required to design emergency preparedness and response plans based on the risks to community health and safety identified during the E&S risks and impacts identification process. Project-affected people should be actively involved in the development of emergency response protocols. Additional guidance on emergency preparedness and response is provided in the World Bank Group's EHSGs, in both the General EHS Guidelines as well as in Industry Sector EHS Guidelines, and in ESPS 4 and its Guideline.

**GL81.** Effective emergency preparedness and response plans help Borrowers and their contractors prepare for the best outcomes while considering worst-case scenarios. Borrowers should define and clearly assign responsibilities for the assessment of the degree of risk to life, property and environment associated with project activities and facilities, with procedures on who and with whom to communicate regarding different types of emergencies. The level of planning and communication should be commensurate with the risks and potential impacts. These plans should define specific procedures based on the emergency level classification (i.e., emergency tiers). Procedures for shutting down project activities, equipment and production processes and for evacuations, including a designated safe meeting place (i.e., muster point), should be part of the emergency preparedness and response plans. Additionally, effective emergency plans should include specific training and practice (i.e., simulations and drills) schedules and equipment

requirements for employees who are responsible for rescue operations, medical duties, threat and incident responses (e.g., hazardous material spill response), firefighting and other responses specific to the project activities, sites and facilities. Emergency plans should therefore address the following aspects of emergency preparedness and response:

- Identification of emergency scenarios
- Specific emergency response procedures
- Trained emergency response teams
- Emergency contacts and communication systems/protocols including communication with project-affected people where necessary
- Procedures for interaction with government authorities such as emergency, health, and environmental authorities, including appointment of focal points where appropriate
- Permanently stationed emergency equipment and facilities (e.g., first aid stations, firefighting equipment, spill response equipment, personal protection equipment for the emergency response teams)
- Protocols for the use of emergency equipment and facilities
- Clear identification of evacuation routes and muster points
- Emergency drills and their periodicity based on assigned emergency levels or emergency tiers
- Decontamination procedures and means to proceed with urgent remedial measures to contain, limit and reduce pollution within the physical boundaries of the project site to the extent possible
- Protocols for managing epidemics and pandemics.

## Monitoring and Review

**24.** The Borrower will establish procedures to monitor and measure the effectiveness of the management program(s), as well as compliance with any related legal and/or contractual obligations and regulatory requirements. Where other government agencies or third parties have responsibility for managing specific risks and impacts and associated mitigation measures, the Borrower will establish and monitor such mitigation measures. Where appropriate, Borrowers will consider involving representatives from project-affected people and other stakeholders to participate in monitoring activities.<sup>63</sup> The Borrower's monitoring program should be overseen by the appropriate level in the project's organizational structure. For projects with significant impacts, the Borrower will retain external experts to verify its monitoring information. The extent of monitoring should be commensurate with the project's environmental and social risks and impacts and with compliance requirements.

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<sup>63</sup> For example, participatory water monitoring.

- 25.** In addition to recording information to track performance and establishing relevant operational controls, the Borrower should use dynamic mechanisms, such as internal inspections and audits, where relevant, to verify compliance and progress toward the desired outcomes. Monitoring will normally include recording information to track performance and comparing this against the previously established benchmarks or requirements in the management program. Monitoring should be adjusted according to performance experience and actions requested by relevant regulatory authorities. The Borrower will document monitoring results and identify and reflect the necessary corrective and preventive actions in the amended management program and plans. The Borrower, in collaboration with appropriate and relevant third parties, will implement these corrective and preventive actions and follow up on these actions in upcoming monitoring cycles to ensure their effectiveness.
- 26.** The Borrower will prepare periodic performance reviews of the effectiveness of the ESMS, based on systematic data collection and analysis. The scope and frequency of such reporting will depend upon the nature and scope of the activities identified and undertaken in accordance with the Borrower's ESMS and other applicable project requirements. Based on results within these performance reviews, senior management will take the necessary and appropriate steps to ensure that the intent of the Borrower's policy is met, that procedures, practices, and plans are being implemented, and that they are seen to be effective.

**GL82.** Monitoring is the Borrower's primary means for tracking and evaluating progress towards the implementation of the ESMS and management programs, including all action items specified in thematic action plans and the ESAP. Borrowers should establish a system for measuring and monitoring consisting of (i) the key E&S risks and impacts on project workers, project-affected people and communities, and the natural environment; (ii) compliance with laws and regulations; and (iii) progress in implementation of the ESMS and management programs. Depending on the nature of the project, it may be appropriate for the Borrower to establish, track and measure specific key performance indicators and other monitoring metrics over time to gauge the effectiveness of mitigation measures and management programs. This will help monitor compliance with the ESPs and national requirements as well as identify areas where implementation performance must be strengthened.

**GL83.** The type, extent and frequency of monitoring should be commensurate with the project's E&S risks and impacts. The nature of monitoring will vary in accordance with the stages in the project life cycle, from the early stages of design and construction to operation and eventual closure and decommissioning. For example, some factors, like noise and percussive impacts

from the use of explosives in construction, may be limited to a narrow time horizon whereas the water quality of watercourses passing through the project area may need to be monitored for the entire life of the project, with adjustments to the methodology and frequency over time. The most common approaches to monitoring are:

- Monitoring by a party involved in the project, such as the Borrower's own personnel, construction contractors or supervising engineer
- Third-party monitoring, by an agent/party that has specific expertise and experience and is independent of the project, such as a specialized consulting firm, NGO, academia, aid organizations, UN agency, etc. This may also be appropriate in cases where Borrower expertise in a specific area is limited, or the monitoring requirement is highly technical and specific expertise is required.
- Participatory monitoring (see GL84)
- A combination of two or more of the above.

**GL84.** Participatory monitoring is monitoring carried out in whole or in part by members of the community, either with or without participation of the Borrower and/or a third party. Participatory monitoring can take different forms, from data collection, analysis and publishing and disseminating of the results to communities and other stakeholders, to observation of all or part of a monitoring process undertaken by others. The design of the participatory monitoring process should be tailored to the specific requirements of the project, the capacity of the individuals or community participating in the process, and the relative need for independent monitoring or verification of results. Participatory monitoring can be designed through an inclusive consultation process with the community and is an opportunity for capacity building within the community, one that can lead to long-term job creation and the development of transferrable technical, organizational and managerial skills. It also provides an opportunity for transparency and building trust and it may lead to more effective process changes as project-affected people often have deeper knowledge with regards to E&S risks and impacts. It is essential that those involved in participatory monitoring are free from intimidation, manipulation, coercion, retaliation or reprisals against them or their families and communities (see ESPS 10 and its Guideline). Those involved in participatory monitoring should also be free of broader risks of conflict that generate reprisal concerns beyond the monitoring activity. Members of the community may or may not be paid for their contribution to project monitoring, depending on their willingness to engage in monitoring, and/or the need to remain independent of the Borrower. Taking part in such monitoring does not preclude people from raising grievances or concerns through the project-related grievance mechanism or access administrative or judicial remedies.

**GL85.** As part of the monitoring program(s) established under the ESMS, the Borrower should define key social monitoring indicators and quantitative and qualitative measures of success, including stakeholder engagement practices, to improve performance on the social issues identified or highlight areas where more effort is required. The nature and scope of social monitoring should reflect the risks and impacts of the project. It should help develop an understanding of the project's social performance in terms of, inter alia: (i) equality and inclusion in distribution of compensation and project benefits, employment opportunities, local content (including those related to gender and sexual orientation, minorities and their intersectionality); (ii) the quality of external relations and stakeholder engagement, including the nature and implications of stakeholder feedback through informal and formal channels; (iii) the functioning of worker and project-level community grievance mechanisms (see ESPS 2 and ESPS 10); (iv) impacts on cultural heritage; (v) impacts on indigenous peoples and disadvantaged and vulnerable people; (vi) socio-economics of affected people and communities, such as employment, income levels, disposable income, access to utilities, housing standards, costs and availability of food, accommodation, land and property prices, land use changes; (vii) adverse impacts related to in-migration and worker influx and; (viii) impacts on human rights including those related to discrimination, harassment, violence, sexual and gender-based violence and excessive use of force.

**GL86.** Factors to be considered in establishing an environmental monitoring program typically include, but are not limited to, engineering estimates, modelling results, baseline data, noise, ambient water quality and quantity (both surface and groundwater), air quality, soil quality, and workplace contaminants. For certain projects in natural or critical habitats, biodiversity monitoring can be an important element of the project's monitoring program (see ESPS 3 and ESPS 6 and their respective Guideline). The focus and extent of the monitoring should be commensurate with the risk of pollutant releases as related to the sensitivity of the surrounding areas, considering project-affected people's perception of risks to their health and environment resulting from the project. Appropriate processes should be in place to ensure the reliability of data, such as calibration of instruments, testing of equipment, and software and hardware sampling. Specific environmental monitoring measures consist of the parameters to be measured, sampling and analytical methods to be used, sampling locations, frequency of measurements, detection limits (where appropriate), and the definition of thresholds that signal the need for corrective actions. Where external laboratories or other analytical services are required to analyze samples, these should be certified at least under nationally recognized schemes to ensure measurements and data provided are accurate, defensible, and reliable.

**GL87.** Monitoring results should be documented, and the necessary corrective and preventive actions identified and documented as well. Borrowers should also ensure that these corrective and preventive actions have been implemented and that there is a systematic follow-up to ensure their effectiveness, both internally and through engagement with project-affected people. Certain monitoring activities (e.g., water sampling for laboratory analysis) are often carried out by specialized professionals or external experts. In certain cases, due diligence conducted by co-financiers may result in additional monitoring and verification requirements that can be integrated into a single monitoring program. Findings of these external monitoring activities

should be included in corrective or preventive actions, as appropriate. Participatory monitoring should be considered where appropriate, particularly for projects with potentially significant adverse E&S risks and impacts. In these cases, the Borrower should have the capacity of those participating in the monitoring evaluated and arrange for training and guidance as appropriate.

**GL88.** The outcome of monitoring may indicate that the mitigation measures in the management programs need to be adjusted. As part of on-going review and update of its ESMS, the Borrower should adjust and update the management programs as needed, but no less than annually, so that they adequately address changes in E&S risks and impacts arising from any change in project activities and from any other uncertainty, recognizing the variability of social and natural systems. For example, during construction of a hydropower dam, GIIP may require daily monitoring of water quality to assess impacts on downstream users. Once construction is completed, less frequent monitoring may be appropriate.

**GL89.** Even where a government agency (other than the Borrower) or other third party has the day-to-day responsibility for E&S risks and impacts management and the implementation of E&S mitigation measures, the Borrower is expected to monitor the implementation of such measures. Comprehensive monitoring should identify and assess completeness, effectiveness and potential gaps of mitigation measures and management plans implemented by other parties.

**GL90.** The results of E&S monitoring should be documented and evaluated. Periodic reporting of monitoring results and general progress should be established within the Borrower's organization responsible for project implementation, in accordance with the ESMS. Reports should be shared with project-affected people and other stakeholders in accordance with the project's stakeholder engagement practices. Reports should provide the information and data needed to determine compliance with applicable ESPS requirements and relevant host country legal requirements and progress on implementing the management programs. The format and content of these reports should reflect the scope and nature of the project and associated E&S risks and impacts and should include a summary of findings and recommendations. The formats of these reports are generally agreed with lenders and with regulatory authorities. This information should also be made available broadly within the Borrower's organization responsible for project implementation, and to others as appropriate.

**GL91.** Key questions to ask when considering the type, extent, scope, frequency, and management of a monitoring program include:

- How should E&S performance be regularly monitored?
- Have specific quantitative and/or qualitative performance indicators been established that relate to the Borrower's compliance requirements and to the ESMS and management programs? If so, what are they?
- What control processes are in place to regularly calibrate and sample environmental measuring and monitoring equipment and systems?
- What are the key measures and indicators that best support adaptive management practices?

- What social monitoring methods are in place to track social impacts and assess effectiveness of mitigation measures and development outcomes?
- How has participatory monitoring been promoted and facilitated within the context of the project?
- What is the process to periodically evaluate compliance with laws and regulations, and what E&S information is reported to the Borrower's senior management, other financiers, and Project-Affected People?
- What is the process should situations of non-compliance be identified through monitoring measures?
- How is this information managed?
- Is information made available to those who need it when they need it?
- Who needs to be engaged to support the proper functioning of the ESMS both within the organization and outside it?

## Stakeholder Engagement

- 27.** Stakeholder engagement is the basis for building strong, constructive, and responsive relationships that are essential for the successful management of a project's environmental and social impacts.<sup>64</sup> Stakeholder engagement is an ongoing process that may involve, in varying degrees, the following elements: stakeholder analysis and planning, disclosure and dissemination of information, consultation and participation, grievance mechanisms, and ongoing reporting to project-affected people and other stakeholders. The nature, frequency, and level of effort of stakeholder engagement may vary considerably and will be commensurate with the project's risks and adverse impacts, and the project's phase of development. The requirements related to stakeholder engagement and information disclosure are further described in ESPS 10.

## Stakeholder Analysis and Engagement Planning

- 28.** Borrowers should identify the range of stakeholders that may be interested in their actions and consider how external communications might facilitate a dialogue with all stakeholders (paragraph 34 below). Where projects involve specific activities, aspects and/or facilities that are likely to generate adverse environmental and social impacts to project-affected people, the Borrower will identify the project-affected people and other relevant stakeholders and will meet the relevant requirements described below.

<sup>64</sup> Requirements regarding engagement of workers and related grievance redress procedures are found in ESPS 2. In situations where project workers have conjoint interests with project-affected people or other stakeholders, they will be included in the stakeholder engagement process, including consultations, monitoring, and mitigation, as appropriate.

- 29.** The Borrower will develop and implement a Stakeholder Engagement Plan that is scaled to the project risks and impacts and development stage and is tailored to the characteristics and interests of the project-affected people and other relevant stakeholders. Where applicable, the Stakeholder Engagement Plan will include differentiated measures to allow the effective participation of those identified as disadvantaged or vulnerable. When the stakeholder engagement process depends substantially on community representatives,<sup>65</sup> the Borrower will make every reasonable effort to verify that such persons do in fact represent the views of project-affected people and that they can be relied upon to faithfully communicate the results of consultations to their constituents.
- 30.** In cases where the exact location of specific project activities is not yet known but is reasonably expected to have significant impacts on local communities, the Borrower will prepare a Stakeholder Engagement Framework as part of its management program, outlining general principles and a strategy to identify project-affected people and other relevant stakeholders and plan for an engagement process compatible with this ESPs. The process will be implemented once the physical location of project activities is known and sufficiently defined to allow the necessary assessment to take place.

**GL92.** Stakeholder engagement is a vital and essential component of the ESMS. The purpose of stakeholder engagement is to establish and maintain a constructive relationship with a variety of external stakeholders over the life of the project. For the purposes of the ESPs, stakeholders are defined as persons, groups and communities external to the core activities of a project who may be affected by the project or have interest in it. This may include individuals, businesses, communities, local government authorities, local NGOs and institutions, and other interested or affected parties. Stakeholder identification consists of the identification of the various individuals, groups and communities who may have an interest in the project or who may affect or be affected by the project.

**GL93.** Stakeholder engagement offers structured pathways to:

- Inform people about the project in general and about the specific E&S risks and impacts and how it might affect people.
- Learn from stakeholders about the project area of influence.
- Learn from stakeholders about potential alternatives.
- Listen and talk to people about their concerns, answer their questions and deal with any grievances they may have.

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<sup>65</sup> For example, community and religious leaders, local government representatives, civil society representatives, politicians, schoolteachers, and/or others representing one or more affected stakeholder groups.

- Have a structured dialog with project-affected people and interested parties through consultations, email, webinars, and other forms of communication.
- Integrate relevant stakeholder comments and concerns into project design, preparation and implementation in order to improve the project, minimize its adverse impacts, and increase its potential benefits.

**GL94.** Stakeholder engagement is a fundamental element of the E&S risks and impacts identification process and the development of mitigation measures and management plans. Borrower requirements for stakeholder engagement are provided in ESPS 10 and its accompanying Guidelines.

## Disclosure of Information

- 31.** Disclosure of relevant project information helps project affected people and other stakeholders understand the risks, impacts, potential opportunities and development benefits of the project. The Borrower will provide project-affected people and other stakeholders with access to relevant information<sup>66</sup> on: (i) the purpose, nature, and scale of the project; (ii) the duration of proposed project activities; (iii) any risks to and potential impacts on such communities and relevant mitigation measures; (iv) the envisaged stakeholder engagement process; (v) the grievance mechanism; and (vi) potential opportunities and development benefits of the project.

**GL95.** Disclosure of information and transparency are essential pre-requisites for meaningful engagement with stakeholders and for accountability and regulatory oversight to function effectively. Disclosure is therefore an essential component of the ESMS and is dealt with comprehensively in ESPS 10 and its Guideline.

<sup>66</sup> Depending on the scale of the project and significance of the risks and impacts, relevant document(s) could range from full Environmental and Social Assessments and Action Plans (i.e., Stakeholder Engagement Plan, Resettlement Action Plans, Biodiversity Action Plans, Hazardous Materials Management Plans, Emergency Preparedness and Response Plans, Community Health and Safety Plans, Ecosystem Restoration Plans, socio-cultural analysis and Indigenous Peoples Development Plans, etc.) to easy-to-understand summaries of key issues and commitments. These documents could also include the Borrower's environmental and social policy and any supplemental measures and actions defined as a result of independent due diligence conducted by financiers.

## Meaningful Consultation

- 32.** When project-affected people and other stakeholders are subject to identified risks and adverse impacts from a project, the Borrower will undertake a process of consultation in a manner that provides opportunities to the project-affected people and other relevant stakeholders, without fear of reprisal, to express their views on project risks, impacts, and mitigation measures, as well on access to potential opportunities and development benefits, and allows the Borrower to consider and respond to them.
- 33.** The Borrower will carry out meaningful consultation on an ongoing basis as issues, impacts, and potential opportunities and development benefits evolve. The extent and degree of engagement required by the consultation process should be commensurate with the project's risks and adverse impacts and with the concerns raised by project-affected people and other relevant stakeholders. Meaningful and effective consultation is a two-way process that (i) begins early in the project planning process to gather initial views on the project proposal and inform project design; (ii) encourages stakeholder feedback, particularly as a way of informing project design and engagement by stakeholders in the identification and mitigation of environmental and social risks and impacts; (iii) is ongoing, as risks and impacts arise; (iv) is based on the prior disclosure and dissemination of relevant, transparent, objective, meaningful, and easily accessible information which is in a culturally appropriate local language(s) and format and is understandable to stakeholders; (v) considers and responds to feedback; (vi) supports active and inclusive<sup>67</sup> engagement with project-affected people and other stakeholders; (vii) is free of external manipulation, interference, coercion, discrimination, retaliation, and intimidation; and (viii) the Borrower documents and discloses. The Borrower will tailor its consultation process to the language preferences of the project-affected people, their decision-making process, and the needs of disadvantaged or vulnerable groups. If Borrowers have already engaged in such a process, they will provide adequate documented evidence of such engagement.
- 34.** For projects with potentially significant adverse impacts on project-affected people, the Borrower will conduct an Informed Consultation and Participation (ICP) process that will build upon the steps outlined above in Meaningful Consultation and will result in the project-affected people's informed participation. ICP involves a more in-depth exchange of views and information and an organized and iterative consultation, leading to the Borrower's incorporating into their decision-making process the views of the project-affected people on matters that affect them directly or indirectly, such as the proposed mitigation measures, the sharing of development benefits and opportunities, and implementation issues. The consultation process should (i) capture the views of people of all genders, if necessary, through separate

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<sup>67</sup> Such as men, women, the elderly, youth, displaced persons, and vulnerable and disadvantaged persons or groups.

forums or engagements and (ii) reflect different concerns and priorities of people of all genders about impacts, mitigation mechanisms, and benefits, where appropriate. The Borrower will document the process, in particular the measures taken to avoid or minimize risks to and adverse impacts on project-affected people and will inform those affected about how their concerns have been considered.

**GL96.** To be considered meaningful and consistent with GIIP, all aspects of stakeholder engagement must be free of:

- Manipulation, such as invoking fear, obligation or guilt to influence people's behavior such as bribery, threats to family livelihood, accusing people of being unpatriotic and selfish.
- Interference, such as actions to disrupt or alter processes and outcomes, such as skewing attendance at public meetings by various means.
- Intimidation, such as causing people to feel threatened and afraid such that they remain silent or do not voice their views and opinions.
- Coercion, such as persuading people to do (or not do) something by use of force or threat such as compelling people to give positive feedback on a project.
- Discrimination, such as unjust or prejudicial treatment of people based on characteristics such as race and religion. This might involve preventing certain people from participating in stakeholder engagement.
- Retaliation, such as taking negative action against people for their actions or comments, such as disallowing benefits, withdrawing entitlements, harassment and physical violence.
- Punishment, such as imposing a penalty as retribution for an action or inaction or non-compliant behavior, including fines, legal action and imprisonment.

**GL97.** Meaningful consultation is an essential component of the ESMS and is dealt with comprehensively in ESPs 9 and 10 and their respective Guideline.

**GL98.** Assessment of the contextual risk can provide the Borrower with insights into how to adjust stakeholder engagement to fit the context. The Borrower should consult a wide spectrum of sources to assess contextual risk, including publicly available information from agencies and institutions involved in human rights advocacy and monitoring, such as reports of UN agencies and the case-law of the Inter-American Court of Human Rights, third party reports on the host government, NGO reports, international press, and academic research.

## Indigenous Peoples

- 35.** For projects with adverse impacts to Indigenous Peoples, the Borrower is required to engage them in a process of culturally appropriate ICP and in certain circumstances the Borrower is required to obtain their FPIC. The requirements related to Indigenous Peoples and the definition of the special circumstances requiring FPIC are described in ESPS 7.

**GL99.** A Socio-Cultural Analysis (SCA) should be carried out if screening indicates the presence of a community of indigenous peoples in the project's area of influence. The SCA should inform measures for a culturally appropriate engagement process. Under certain circumstances the free, prior and informed consent (FPIC) of indigenous peoples will be required as part of the engagement process. See ESPS 7 and ESPS 10 and their respective Guideline.

## African Descendants

- 36.** For projects with adverse impacts to African descendants, the Borrower is required to: (i) engage project-affected African descendant people and communities in a process of culturally appropriate ICP and (ii) propose and implement culturally appropriate measures to avoid or minimize risks to and adverse impacts throughout the project's life cycle. The Borrower will also ensure that the collective rights of African descendants, as recognized by national laws or applicable international law, are fully respected.

**GL100.** Under certain project circumstances, depending on the level of foreseen impacts, the Borrower should consider differentiated measures to provide information and facilitate and promote the engagement of African descendants so that the engagement is meaningful and culturally appropriate in accordance with the requirements of ESPS 10. African descendants may be reluctant to self-identify as such, due to experience or fear of discrimination, and may be hesitant to participate in stakeholder engagement due to concerns over recrimination. As such, stakeholder engagement should provide opportunities for anonymous feedback. The Borrower may need to employ specialists with expertise and experience with African descendants to help identify individuals, groups, and local communities that may be affected by the project and to assist in establishing culturally appropriate stakeholder engagement approaches that provide an atmosphere of safety needed for meaningful consultations to take place. National requirements in some countries afford them the right for FPIC under certain project circumstances.

## Government Collaboration and Coordination for Stakeholder Engagement

- 37.** Where stakeholder engagement is the responsibility of a government agency that is not involved in project implementation, the Borrower will collaborate with the responsible government agency to achieve outcomes that meet the objectives of this ESPS. In addition, where necessary, the Borrower will play an active role during the stakeholder engagement planning, implementation, and monitoring process to support the achievements of the objectives of this ESPS. If the process conducted by a government agency not involved in project implementation does not meet the relevant requirements of this ESPS, the Borrower will conduct a complementary process and, where appropriate, identify supplemental actions.

**GL101.** Stakeholder engagement should be undertaken by people who have the competency and experience to carry out the activities required to ensure meaningful consultation takes place with project-affected people and interested parties. Borrowers should therefore discuss with responsible agencies how their expectations and requirements under the ESPSs, ESMS and GIIP can be met by the government agency and if, and how, the Borrower might assist in the process. For further information see ESPS 10 and its accompanying Guidelines.

## External Communications and Grievance Mechanisms

### *External Communications*

- 38.** Borrowers will implement and maintain a procedure for external communications that includes methods to (i) receive and register external communications from the public; (ii) screen and assess the issues raised and determine how to address them; (iii) provide, track, and document responses, if any; and (iv) adjust the management program, as appropriate. In addition, Borrowers are encouraged to make publicly available periodic reports on their environmental and social sustainability.

**GL102.** External communication is an essential component of engagement with stakeholders, especially project-affected people. The nature of project-related external communications approaches can have a fundamental impact on the views, feelings and perceptions of project-affected people and other stakeholders and interested parties about a project. It is important therefore for the Borrower to understand stakeholder characteristics and the nature of its audiences, and to develop a communications strategy that fosters consistent approaches to external communication that are socially and culturally sensitive and appropriate and that touches on aspects that are important to them. The strategy should be executed by qualified personnel

and be based upon a variety of information formats and pathways. An external communications strategy is not the same as a stakeholder engagement strategy. External communications activities can include newsletters, publications in the media, radio broadcasts and direct engagement of the Borrower's community liaison officers with communities. Information, questions and concerns from stakeholders must be received in good faith and addressed promptly. All external communications activities need to be documented and reviewed with a view to assessing their effectiveness. For further information see ESPS 10 and its Guidelines.

### *Grievance Mechanism*

**39.** The Borrower will establish a grievance mechanism to receive and facilitate resolution of concerns and grievances about the Borrower's environmental and social performance. The grievance mechanism should be scaled to the risks and adverse impacts of the project and have project-affected people as its primary user. It should seek to resolve concerns promptly, using an understandable and transparent consultative process that is culturally appropriate, readily accessible, in accessible formats, and at no cost and without retribution to the party that originated the issue or concern. The mechanism should not impede access to judicial or administrative remedies. The mechanism should consider the use of accessible formats for the different physical, sensory, and/or cognitive needs. The Borrower will inform project-affected people about the project's grievance mechanism and the IDB's Independent Consultation and Investigation Mechanism<sup>68</sup> in the course of the stakeholder engagement process.

**GL103.** The Borrower should establish a grievance mechanism in an accessible format as early as possible in the life of project to receive and facilitate expeditious resolution of stakeholders' concerns and grievances about environmental and social performance. The scope of the grievance mechanism should be proportional to the risks and adverse impacts of the project and should generally be managed or overseen through the project's ESMS.

**GL104.** The grievance mechanism will address concerns and grievances promptly and effectively, in a transparent manner that is accessible, culturally appropriate, free from manipulation, interference, coercion, intimidation and retribution, and be readily accessible to project-affected people and other relevant stakeholders, at no cost to them. The Borrower will inform stakeholders about the grievance mechanism during its engagement activities, and report regularly to the public on its implementation, protecting the privacy of affected individuals. For further information see ESPS 10 and its accompanying Guidelines.

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<sup>68</sup> Access to the IDB's Independent Consultation and Investigation Mechanism is not contingent upon having exhausted the recourse offered by the project's grievance mechanism.

## On-going Reporting to Project-Affected People and Other Relevant Stakeholders

**40.** The Borrower will provide periodic reports to project-affected people and other relevant stakeholders that describe progress with project implementation, action plans on issues that involve on-going risk to or impacts on project-affected people and on issues that the consultation process or grievance mechanism have identified as a concern to those communities. If the management program results in material changes in or additions to the mitigation measures or actions described in the action plans on issues of concern to the project-affected people and other relevant stakeholders, the updated relevant mitigation measures or actions will be communicated to them. The frequency of these reports will be proportionate to the concerns of project-affected people and other relevant stakeholders but not less than annually.

**GL105.** The Borrower should provide periodic reports to project-affected people and other relevant stakeholders on implementation of the project and management programs. The periodicity and nature of the reports may vary throughout the life of the project. In the early stages, such as when construction is ongoing, monthly or even weekly updates may be necessary. Reports may focus on different issues in different ways. For example, it may be appropriate for the results of water quality monitoring to be shared monthly while construction activities taking place near villages may require more frequent sharing of information so that stakeholders can give feedback on how mitigation measures are working. The Borrower should also report on amendments and updates to the management programs that are material to project-affected people and other stakeholders.

GUIDELINES FOR ENVIRONMENTAL  
AND SOCIAL PERFORMANCE

**STANDARD 2:**  
**LABOR AND WORKING  
CONDITIONS**



2

## INTRODUCTION

1. Environmental and Social Performance Standard (ESPS) 2 recognizes that pursuit of economic growth through employment creation and income generation should be accompanied by protection of the fundamental rights of workers.<sup>69</sup> The workforce is a valuable asset, and a sound worker-employer relationship is a key ingredient in the sustainability of any endeavor. Failure to establish and foster a sound worker-employer relationship can undermine worker commitment and retention and can jeopardize a project. Conversely, through a constructive worker-employer relationship, and by treating workers fairly and providing them with safe and healthy working conditions, Borrowers may create tangible benefits, such as enhancement of the efficiency and productivity of their projects.
2. The requirements set out in this ESPS have been in part guided by a number of international conventions and instruments, including those of the International Labour Organisation (ILO) and the United Nations (UN).<sup>70</sup>

## OBJECTIVES

- To respect and protect the fundamental principles and rights of workers.<sup>71</sup>
- To promote the fair treatment, non-discrimination, and equal opportunity of workers.
- To establish, maintain, and improve the worker-employer relationship.
- To ensure compliance with national employment and labor laws.
- To protect workers, including workers in vulnerable situations such as women, people of diverse sexual orientations and gender identities, persons with disabilities, children (of working age, in accordance with this ESPS) and migrant workers, workers engaged by third parties, and primary supply workers.
- To promote safe and healthy working conditions, and the health of workers.
- To prevent the use of child labor and forced labor (as defined by the ILO).

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<sup>69</sup> As guided by the ILO Conventions listed in the footnote below.

<sup>70</sup> ILO Convention 29 on Forced Labor and Protocol of 2014. ILO Convention 87 on Freedom of Association and Protection of the Right to Organize. ILO Convention 98 on the Right to Organize and Collective Bargaining. ILO Convention 100 on Equal Remuneration. ILO Convention 111 on Discrimination (Employment and Occupation). ILO Convention 105 on the Abolition of Forced Labor. ILO Convention 138 on Minimum Age (of Employment). ILO Convention 155 on Occupational Health and Safety. ILO Convention 161 on Occupational Health Services. ILO Convention 182 on the Worst Forms of Child Labor. ILO Convention 190 on Violence and Harassment. UN Convention on the Rights of the Child, Article 32.1. UN Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.

<sup>71</sup> ILO Declaration on Fundamental Principles and Rights at Work.

- To support the principles of freedom of association and collective bargaining of project workers.
- To ensure that accessible and effective means to raise and address workplace concerns are available to workers.

**GL1.** Environmental and Social Performance Standard 2 (ESPS 2) applies to the Borrower’s workforce engaged in the project and emphasizes the significance of a good relationship between employers and workers in determining the overall success of the Borrower and the project. ESPS 2 is in part informed by several ILO and UN Conventions. Most countries in the Latin America and Caribbean region have ratified all or some of these conventions. The ILO Core Labor Standards—related to child labor and forced labor, freedom of association and the right to collective bargaining and non-discrimination—apply in all countries of the region. Many of the principles and requirements set out in these international conventions and standards have been incorporated into national law of countries. The application of ESPS 2 supports Borrowers in the implementation of national law and in meeting their obligations under international law. In many instances, compliance with national law will result in alignment with many aspects of ESPS 2. Where national law establishes standards that are less stringent than those required by ESPS 2, or are silent, borrowers will meet the requirements of ESPS 2. Where certain aspects of national law are in contradiction with the requirements set out in ESPS 2, the Borrower will seek to fulfill the objectives of ESPS 2. The requirements of ESPS 2 do not preclude the implementation of national law that provides for a higher level of requirements than set out in the standard.

## Scope of Application

3. The applicability of this ESPS is established during the environmental and social risks and impacts identification process. The implementation of the actions necessary to meet the requirements of this ESPS is managed through the Borrower’s Environmental and Social Management System (ESMS), the elements of which are outlined in ESPS 1. Implementation of this ESPS must also consider requirements related to gender equality<sup>72</sup> and stakeholder engagement in accordance with ESPS 9 and 10.

<sup>72</sup> By including measures such as trainings on gender non-discrimination and sensitivity for project staff and collecting gender-disaggregated employment data to ensure non-discriminatory hiring practices.

**GL2.** The application of ESPS 2 promotes a systematic approach to improving the management of risks and impacts related to labor and working conditions in projects and is established during the environmental and social risk and impact identification and assessment process. The Borrower is responsible for managing risks and impacts throughout the project and should ensure that appropriate requirements are cascaded down the contracting chain and, where appropriate and in accordance with the requirements of this standard, the supply chain. As part of the environmental and social assessment process defined by ESPS 1 and as early as possible during project scoping and screening, there should be an assessment of the likely labor issues associated with the project. Where labor is expected to present significant risk or impact, for example when significant labor influx is expected or child or forced labor are prevalent in the sector or area of project implementation, a stand-alone labor assessment may be required. Specific actions related to the management or labor risks of workers engaged directly by the Borrower and through third parties should be developed in accordance with the scope and significance of labor risks and impacts identified in the labor assessment. Such actions should be captured in Labor Management Procedures (LMP), as defined in paragraph 9 of ESPS 2. The LMP set out both the scope and application of ESPS 2 and define actions and responsibilities of the different employing parties in relation to the project—Borrower, contractors, primary suppliers, etc. The LMP should be managed through the Borrower’s ESMS and integrated in the Borrower’s Environmental and Social Management Plan (ESMP). Requirements included in the LMP should also be integrated in the project’s legal requirements, bidding documents and contractor and supplier contracts. For further guidance on the scope of a Labor Assessment and of Labor Management Procedures go to <https://www.iadb.org/en/mpas/guidelines>.

**GL3.** The application of ESPS 2 will also involve the identification of risks and impacts related to employment or working conditions which disproportionately affect disadvantaged or vulnerable individuals or groups. Depending on the project circumstances these may be women, people of diverse sexual orientations and gender identities, people with disabilities, indigenous peoples or African descendants, among others. Identifying and addressing these risks has the potential to improve business outcomes, help attract talent, increase productivity, and strengthen community relationships. These concepts are incorporated throughout this guideline and should be read in conjunction with ESPS 1, 7 and 9 and their respective Guideline.

**GL4.** To inform the assessment of labor risks and impacts, the Borrower should engage with workers and with workers’ organizations at international, national or sector level, trade unions, employers’ organizations, chambers of commerce, labor inspectorates and other relevant government agencies. The Borrower may also benefit from consulting relevant international expert organizations, such as the ILO. In assessing the labor risks and impacts related to the project, the Borrower should consider a number of factors including: (i) the likely structure and nature of contracting and subcontracting for the project; (ii) the national laws and regulations related to labor standards and the extent to which these implement international standards and meet the requirements of ESPS 2; (iii) existing bargaining relationships and collective agreements, (iv) reports of labor rights issues in the geography or sector of the project and the capacity and the record of labor and employment practices of project partners. ESPS 10 provides additional guidance on stakeholder engagement and information disclosure.

4. The scope of application of this ESPS depends on the type of employment relationship between the Borrower and the project worker. It applies to project workers directly engaged by the Borrower (direct workers), project workers engaged through third parties to perform work related to core functions of the project<sup>73</sup> for a substantial duration (contracted workers), as well as project workers engaged by the Borrower's primary suppliers (primary supply workers).<sup>74</sup> This includes full-time, part-time, temporary, seasonal, and migrant workers. Migrant workers are workers who have migrated from one country to another or from one part of the country to another for purposes of employment. The Borrower and third parties shall refrain from entering into disguised employment relationships, such as (i) contractual arrangements that hide the true legal status of the employment relationship and/or (ii) contractual arrangements that have the effect of depriving workers of the protection they are due.

**GL5.** Contractual arrangements, particularly those involving multiple parties, should be clear as to which party is responsible for implementing the requirements of ESPS 2 for each type of project worker. This is particularly important where different parties are involved in implementing the project. For example, the construction of a large infrastructure project may include a main contractor, several subcontractors, representatives of the Borrower, and various other parties as well as suppliers.

**GL6.** The Borrower should identify the types of workers likely to be employed under the project and describe them, together with who their likely employer will be, the way that the employer relates to the Borrower and the way in which ESPS 2 requirements apply to each type of project worker. This information should be clearly set out in the LMP.

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<sup>73</sup> Core project functions constitute those of construction, production and/or service processes essential for a specific activity without which the activity could not continue.

<sup>74</sup> Primary suppliers are those suppliers who, on an ongoing basis, provide goods or materials essential for the core functions of the project.

**GL7.** Determining the existence of an employment relationship is guided primarily by facts relating to the performance of work and the remuneration of the worker, notwithstanding how the relationship is characterized in any contractual arrangement agreed between the parties. National law will normally define the tests for determining employee status, which may also include some of the factors set out in ILO Recommendation No. 198, paragraph 13. An employment relationship is likely to exist when one or more of the following considerations are met:

Performance of the work, which may include work that:

- is carried out according to the instructions and under the control of the Borrower, contractor, intermediary or other third party engaged by the Borrower;
- involves the integration of the worker in the organization of the Borrower or the entity involved in implementing the project, such as the project implementation unit or contractors;
- is performed solely or mainly for the benefit of the Borrower or another person, such as a contractor engaged by the Borrower;
- must be carried out personally by the worker;
- is carried out within specific working hours or at a workplace specified or agreed by the Borrower or another party requesting the work;
- is of a particular duration and has a certain continuity;
- requires the worker's availability; or
- involves the provision of tools, materials and machinery by the party requesting the work;
- does not have financial risk for the worker.

Remuneration and other benefits, which may include:

- periodic payment of remuneration to the worker;
- the fact that such remuneration constitutes the worker's sole or principal source of income;
- provision of payment in kind, such as food, lodging or transport;
- recognition of entitlements such as weekly rest and annual holidays;
- payment by the party requesting the work for travel undertaken by the worker in order to carry out the work.

**GL8.** In some cases, it may be difficult to determine whether or not an employment relationship exists. This includes situations where (i) the respective rights and obligations of the parties concerned are not clear, or are not captured in written documentation, or where (ii) there has been an attempt to disguise the employment relationship, or where (iii) gaps exist in the legal framework, in its interpretation or application, which may also include new forms of work arrangements which are yet to be adequately covered by national labor laws. This is particularly the case where workers are engaged through third parties or digital platforms.

**GL9.** Disguised employment may occur where the employment relationship is deliberately structured to eliminate legal protection otherwise afforded to workers. Migrant workers may be particularly vulnerable to this practice. Provision of labor through a broker, agent, or intermediary should not be used to disguise the true legal status of the employment relationship or deny legal protection due to the worker, if the nature of employment fits the tests set out above. When applicable, the LMP should justify why any group of workers engaged to work on the project are not classified as project workers.

### Direct Workers

5. Direct workers are people employed or engaged directly by the Borrower to work specifically in relation to the project. With respect to direct workers, the Borrower will apply the requirements of paragraphs 9–27 of this ESPS.

### Contracted Workers

6. With respect to contracted workers, the Borrower will apply the requirements of paragraphs 33–35 of this ESPS.

### Primary Supply Workers

7. With respect to primary supply workers, the Borrower will apply the requirements of paragraphs 36–38 of this ESPS.

**GL10.** For the purposes of ESPS 2, a **direct worker** is a worker with whom the Borrower has a directly contracted employment relationship and specific control over their work, working conditions, and treatment of the other project workers. The direct worker is employed or engaged by the Borrower, paid directly by the Borrower, and subject to the Borrowers day-to-day instruction and control. Examples of direct workers may include persons employed or engaged by the Borrower’s project implementation unit to carry out design and supervision, monitoring and evaluation, or community engagement in relation to the project. Public sector projects may likely only employ few direct workers.

**GL11.** A **contracted worker** is a worker employed or engaged by a third party, such as contractors, consultants, or intermediaries, including private employment agencies, engaged by the Borrower, to perform work or provide services related to the core functions of the project, where that third party exercises continued control over the work, working conditions, and treatment of the worker in relation to the project. As set out in footnote 73 of ESPS 2, core project functions, specific to each project, constitute those of construction, production and/or service processes essential for a specific project activity without which the project could not continue and may include cleaning, catering or provision of accommodation services. In such

circumstances, the employment relationship is between the third party and the contracted worker, even if the contracted worker is working on an ongoing basis on project activities. Even though contracted workers may be engaged through a third party and the Borrower may have limited legal responsibilities for these workers, paragraphs 33-35 of ESPS 2 set out specific requirements for the Borrower to ensure that the third party complies with the requirements of ESPS 2 and national law.

**GL12.** A third party may act as an intermediary or source and recruit workers on behalf of the Borrower, or the Borrower's organization responsible for project implementation such as the project implementation unit. In these circumstances, such workers are direct workers for the purpose of ESPS 2. Provision of labor through a broker, agent, or intermediary should not be used to disguise the legal status of the employment relationship nor to deny workers protection due to them. The Borrower will make it clear whether any employer responsibilities are assumed by the broker, agent, or intermediary.

**GL13.** A **primary supply worker** is a worker employed or engaged by a primary supplier, providing goods and materials to the project, where the primary supplier exercises control over that worker for the work, working conditions, and treatment of the worker (see footnote 47 of ESPS 2). There is no direct contractual or labor relationship between the Borrower and the primary supply worker and costs and benefits are paid by the supplier. Paragraphs 36-38 of ESPS 2 set out clearly define requirements for the Borrower. The identification of core functions is specific to each project and may include services. Second, third, and further levels of the supply chain (sometimes referred to as Tier 2 and Tier 3 suppliers) are not covered by the specific supply chain provisions in ESPS 2.

8. Where government civil servants are working in connection with the project, whether full-time or part-time, they will remain subject to the terms and conditions of their existing public sector employment agreement or arrangement, unless there has been an effective legal transfer of their employment or engagement to the project. ESPS 2 will not apply to such government civil servants, except for the provisions of paragraphs 23-24 (Protecting the Work Force) and paragraphs 25-32 (Occupational Health and Safety).

**GL14.** ESPS 2 is not meant to interfere in the relationship between the Borrower when it is a government agency and its government civil servants, who are normally employed under specific terms and conditions that may reflect mandatory legal requirements. The civil servant status is generally different from that of other public employees, such as in the health or education sectors or in state-owned enterprises who may not be subject to the civil service labor laws but rather to the general labor code. While government civil servants may work on the project, for example in the project implementation unit or project management office, their status as government civil servants is not affected.

**GL15.** In the case of an effective legal transfer of employment to, or engagement of a government civil servant or other public employee to work on the project, or of a government civil servant or other public employee who takes a formal unpaid leave of absence from their position to work on the project, ESPS 2 will likely apply to that government civil servant or other public employee. If the government civil servant or public employee is no longer subject to the legal requirements relating to their status, and is instead employed directly by the project, the government civil servant or public employee will be subject to the provisions of ESPS 2 relating to direct workers. Such a transfer should be conducted in accordance with all legal requirements.

**GL16.** A public employee who is not subject to civil service labor laws should be treated either as a direct, contracted, or primary supply worker, should they fall within the scope of one of these definitions. Public employees who have no employment relationship with the project may still be directly involved in the delivery of project outputs in their civil service capacity. For example, teachers expanding outreach to rural areas as part of an education sector project, or health care providers upgrading community centers. The potential risks and impacts derived from the project in relation to such persons should be assessed in accordance with ESPS 1, including fundamental rights at work, any occupational and health and safety considerations as well as risks of sexual and gender-based violence (SGBV) which encompasses threats of violence, coercion and harassment, if the circumstances and risk profile of the project warrant such an approach.

## REQUIREMENTS

### Working Conditions and Management of Worker Relationship

#### *Labor Management Policies and Procedures*

- 9.** The Borrower will adopt and implement labor management policies and procedures appropriate to the nature and size of the project and its workforce. These policies and procedures will set out its approach to managing workers consistent with the requirements of this ESPS and national law.

**GL17.** The Borrower will put in place comprehensive approaches to support good labor practices in accordance with the nature, size and complexity of the project and the type, size, employment structure and location of the workforce, including the adoption and implementation of labor policies and procedures for all types of employment relationships. The purpose of the LMP is to facilitate project workforce and labor planning and help identify potential risks and responses to the labor issues associated with the project. The LMP should identify types of project

workers likely to be involved at which stage of the project as well as which party is likely to directly employ them and should include adequate human and financial resources for effective implementation and continuous improvement. Additional guidance can be found at <https://www.iadb.org/en/mpas/guidelines>.

**GL18.** The Borrower should also assess and monitor whether there are risks of labor rights issues emerging because of legislative gaps or lack of effective enforcement of national law, such as gaps related to labor practices or gender equality. In making this assessment, the Borrower should consult with workers, trade unions, experts, government labor inspectors or ministry officials. The Borrower may also want to consult with the ILO and other relevant stakeholders.

**GL19.** In many countries, particularly those that have ratified and implemented conventions and other international instruments relating to labor and working conditions, national law will reflect many of the key requirements of ESPS 2. Where this is the case, the LMP should be primarily based on requirements to comply with the relevant national law provisions. Where there is a significant change in either legislative or enforcement landscape, the Borrower should review and revise the LMP to address resulting coverage or enforcement gaps and communicate this to all third parties employing workers on the project.

**GL20.** The LMP is a written document managed through the Borrower's ESMS and may be prepared as a stand-alone document or included as a part of ESMP documentation. The LMP should be reviewed and updated as needed during the preparation and implementation of the project. The LMP may include diagrams showing the project's management structure, collective agreements, code of conducts and dedicated policies and procedures on particular topics, such as Occupational Health and Safety (OHS) or discrimination.

**GL21.** Where relevant in the context of the project, the LMP should contain measures to address risks that may arise from interaction between project workers and local communities. For example, a large influx of a predominantly male workforce may lead to a heightened risk of SGBV, sexually transmitted diseases or human trafficking, which disproportionately affects women and girls and people of diverse sexual orientations and gender identities. Actions to address these risks may include engaging with the workforce to develop measures to prevent, identify or remedy identified risks and impacts, including through mandatory training, communication to workers on compliance with national law, and the adoption of a formal code of conduct related to employee behaviors which should include a commitment to zero tolerance of SGBV together with disciplinary measures for breach of conduct.

**GL22.** The Borrower will take appropriate steps to ensure that any third party and all project workers know and understand the requirements, entitlements and roles and responsibilities set out in the LMP. Communications can be made through third parties and should be clear, regular and focus on providing workers with adequate and up to date information and the opportunity to comment, as part of the continuous improvement of policies and procedures.

10. The Borrower will provide workers with documented information that is clear and understandable regarding their rights under national labor and employment law and any applicable collective agreements, including their rights related to hours of work, wages, overtime, compensation, pension, and other benefits upon beginning the working relationship and when any material changes occur.

**GL23.** All project workers should have a written contract in a language they understand which describes the employment relationship with the Borrower or a third party. The Borrower and all third parties employing contracted workers should keep a written record at the time of hire of each worker. Documentation should be provided at the beginning of the employment relationship and when any material changes to the terms or conditions of employment occur. Documentation should be clear, easily understandable, accurate, provided in a language understood by the worker and in accordance with relevant national law. In addition to documentation, oral communication and explanation of working conditions and terms of employment in a culturally appropriate manner are important where project workers do not read or have difficulties understanding the documentation. Depending on the organization it may be appropriate to share information with workers via email or other electronic form. Workers should also have access to policies and procedures related to the employment relationship and should be able to readily access information on OHS, non-discrimination and harassment and procedures to file grievances. Documentation may include but is not limited to:

- The name and legal domicile of the employer;
- The worker's name and a copy of their state issued identification card or document;
- Emergency contact;
- The worker's job title and brief description of the position;
- The date of the beginning of the employment;
- Where the employment is not permanent, the anticipated duration of the contract;
- The place of work, or where the work is mobile, the main location;
- Wages and remuneration including the form and frequency of pay
- Provision of equipment, housing and accommodations and payment required, if any;
- Provisions regarding food and payment required, if any;
- Hours of work, rest breaks, leave entitlements, and other related matters;
- Illness, care giving, parental leave and other entitlements;
- Rules relating to overtime and overtime compensation;
- The levels and rules relating to the calculation of salary, wages, and other benefits, including any rules related to timing of payment and deductions;
- Health care, social protection, pension and other welfare arrangements applicable to the worker;
- The length of notice that the worker can expect to give and receive on termination of employment, severance pay and other benefits to which the workers would be entitled;
- Code of Conduct and other relevant policies to be followed;

- The disciplinary procedures that are applicable to the worker, including details of representation available to the worker and any appeals mechanism;
- Information on any policies or procedures related to non-discrimination, harassment and SGBV
- Details of grievance procedures, including the person to whom grievances should be addressed;
- Occupational health and safety management and emergency response plans containing information of risks that the worker will be exposed to and defining rights and responsibilities of the worker.
- Any collective bargaining arrangements that apply to the worker
- Information regarding fundamental Rights of workers including freedom of association and the right to organize.

**GL24.** Project workers should be informed when a collective agreement applies to them. Accurate and complete documentation regarding such communication and explanation should be retained, for example, through records of meetings held or notices placed on a workers' bulletin board or shared virtual platforms.

**GL25.** The LMP should include provisions and measures on workers' right to privacy and the protection of workers' personal data. Data should only be collected and used for reasons directly relevant to employment. All medical data should remain confidential, except where use of this data for specific emergency purposes is permitted by national law. Health assessments, tests and direct or indirect inquiries related to pregnancy or HIV/AIDS status should not be carried out in relation to job applicants or workers. This type of data should not be collected unless there are genuine health and safety concerns closely linked to the requirements of the job and related to precautions that could be taken during employment (for the safety of workers). Workers should be informed and provided with a justification when surveillance methods are used, including the use of CCTV, filming of workers, tracking of workers location or any other monitoring or physical searching of workers. Any such method should consider privacy and data protection and should be conducted if strictly necessary for defined purposes and in ways that are not intimidating or harassing for the workers. For further information go to <https://www.iadb.org/en/mpas/guidelines>.

**GL26.** Countries have different legal requirements for employment record retention. The LMP will refer to these requirements and inform direct workers about the type of information that will be kept about them and how and why this information will be used, and how it will be kept safe and not subject to improper disclosure.

## Working Conditions and Terms of Employment

11. Where the Borrower is a party to a collective bargaining agreement with a workers' organization, such agreement will be respected. Where such agreements do not exist, or do not address working conditions and terms of employment,<sup>75</sup> the Borrower will provide reasonable working conditions and terms of employment.<sup>76</sup>

**GL27.** Terms of employment can include wages and benefits, wage deductions, hours of work, breaks, rest days, overtime arrangements, and overtime compensation, medical insurance, pension, and leave for illness, care giving, vacation, holiday or parental leave—which refers to leave to provide care to a child living in the worker's household such as maternity, paternity or adoption leave. Where national law does not mandate periods of rest, or annual holidays, illness, care-giving or parental leave for specific types of employment, the Borrower and third-party employers should consider providing such periods of rest and leave, taking into account the type and duration of the employment, and the nature of the project. Where provided, these conditions should be set out in the LMP.

**GL28.** Wages paid to workers should, at a minimum, comply with minimum thresholds under national law and collective agreements. If there is no collective agreement and national law is silent on minimum wages, then the Borrower will consider the prevailing rate offered by equivalent employers in the sector in the relevant region or country. Wages should not undercut established wage levels in the local labor market nor prevailing sector wages and should be adequate to satisfy basic needs for workers and their families. Wages should be paid regularly, on time, in legal tender and without any unlawful deductions. Project workers will be informed of the conditions under which any deductions will be made, and these should be reflected in their contracts. The Borrower or third party will keep adequate and accurate records of working time and payroll and provide workers with written or digital records of payment.

**GL29.** Where required by national law or set out in the LMP, workers will receive written notice of termination of employment in a timely manner along with details of any applicable severance payments. All wages that have been earned, social security benefits, pension contributions, and any other entitlements will be paid on or before termination of the working relationship, either

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<sup>75</sup> Working conditions and terms of employment examples are wages and benefits; wage deductions; hours of work; overtime arrangements and overtime compensation; breaks; rest days; and leave for illness, maternity, vacation, or holiday.

<sup>76</sup> Reasonable working conditions and terms of employment could be assessed by reference to (i) conditions established for work of the same character in the trade or industry concerned in the area/region where the work is carried out; (ii) collective agreement or other recognized negotiation between other organizations of employers and workers' representatives in the trade or industry concerned; and/or (iii) an arbitration award. Overtime work will be voluntary and will be performed and compensated in accordance with national laws and/or existing collective bargaining agreements.

directly to the worker or where appropriate, for the benefit of the worker. Where payments are made for the benefit of workers, workers will be provided with evidence of such payments. Entitlement to such payments will depend on the nature of the employment relationship, including whether the project workers are employed on a fixed term contract, or are full time, part time, temporary, or seasonal. Where national law mandates the transfer of certain payments to specific third parties for the benefit of the worker, for example a pension fund administration or health funds, the worker is provided with written evidence of such payment.

**GL30.** Where collective bargaining agreements are in place, the Borrower should verify that these meet the requirements of national law and ESPS 2 and provide conditions and terms of employment in line with these agreements. The terms and conditions of employment as well as benefits of direct workers not covered by collective agreement should be substantially equivalent to those of direct workers covered by collective bargaining in similar positions.

**12.** The Borrower will identify migrant workers and ensure that they are engaged on substantially equivalent terms and conditions to non-migrant workers carrying out similar work.

**GL31.** The working conditions and terms of employment of migrant workers (domestic or foreign) should be the same or substantially equivalent to those of non-migrant project workers performing the same work. This applies to migrant project workers employed or engaged directly by the Borrower or through a third party. Migrant workers should also be covered by processes and procedures aimed at protecting the workforce, as set out below. This should be clearly laid out in the LMP.

**GL32.** There are a range of additional potential risks that may arise where there are significant numbers of migrant workers engaged. These include issues such as payment of recruitment fees, racial or ethnic discrimination, language, cultural and other differences between workers, or workers and the communities in which the project is located, different expectations in terms of working practices and communication problems around work and safety practices.

**GL33.** In some cases, migrant workers may take their families or members of their families to the place of employment. The Borrower's due diligence should identify and manage potential risks and impacts associated with such circumstances and include relevant provisions in the LMP or ESMP in addition to requirements associated with ESPS 4 - *Community Health, Safety and Security*. Risks and impacts may include an increased incidence of child labor and sexual exploitation, children exposed to hazardous conditions, SGBV, deterioration of security conditions, poor living conditions or lack of access to services such as healthcare and education.

**13.** Where accommodation services<sup>77</sup> are provided to workers covered by the scope of this ESPS, the Borrower will put in place and implement policies on the quality and management of the accommodation and provision of basic services.<sup>78</sup> The accommodation services will be provided in a manner consistent with the principles of non-discrimination and equal opportunity. Workers' accommodation arrangements should not restrict workers' freedom of movement or of association.

**GL34.** Where a project site is in a remote area making it difficult or not safe for workers to travel to work from their homes or local accommodations on a daily basis, or local accommodations are not affordable or safe, the Borrower or third party may provide accommodations, transportation, and basic services including water, sanitation, and medical care. Accommodations and services may take various forms, ranging from long-established permanent dormitories to temporary camps. Accommodations should meet GIIP standards for human health and safety, including adequate kitchens, toilets, sinks and showers, appropriate cleaning and maintenance, light, electricity and ventilation and other key elements of adequate housing, including those pertaining to privacy and security.

**GL35.** Where the Borrower or a third party provides accommodations and associated services to workers, these should be provided in a non-discriminatory manner and comply with national law and Good International Industry Practice (GIIP) for quality, security and safety. Accommodations and other services should be culturally appropriate and sensitive to gender and privacy requirements. This may include the need to assess whether there is a heightened risk of SGBV or sexually transmitted diseases. These risks can disproportionately impact women and people of diverse sexual orientations and gender identities. As a response the Borrower should provide separate sleeping areas and sanitary and washing facilities according to gender with lockable doors and windows, separate beds for each worker, adequate and well-maintained lighting, and measures to ensure privacy and avoid overcrowding. It is good practice to provide workers safe transportation to and from work, where appropriate. Where possible and appropriate, nursing facilities should be provided and when medical or security staff is assigned to project accommodations, female staff should be assigned to female workers. See also paragraphs 25-32 of ESPS 2.

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<sup>77</sup> Those services might be provided either directly by the Borrower or by third parties.

<sup>78</sup> Basic services requirements refer to minimum space, supply of water, adequate sewage and garbage disposal system, appropriate protection against heat, cold, damp, noise, fire, and disease-carrying animals, adequate sanitary and washing facilities, ventilation, cooking and storage facilities, and natural and artificial lighting, and in some cases basic medical services.

**GL36.** Project workers should not be forced to use any of these services, unless there are clear and demonstrable safety or security reasons, and if the Borrower or third-party charges for services, prices should be transparent, fair and at market rate or lower. Any charges should be specified in workers' contracts and should still leave workers with sufficient income and never lead to a worker becoming indebted to an employer.

**GL37.** The LMP should include a set of requirements and standards and a plan for the establishment and maintenance of accommodations and services, including an assessment of risks and prevention measures regarding heightened risks for women and people of diverse sexual orientations and gender identities. This should also include an emergency response plan in relation to accommodations, including considerations for epidemics and pandemics. The Borrower or third party will monitor for possible sources and outbreaks of infectious disease in these facilities and implement the necessary prevention, protection, and control measures to avoid infection and transmission among project workers and the community, ensuring these measures are not carried out in a discriminatory way. All requirements and standards should be clearly communicated to all contractors and accommodations providers. Residents should be aware of their rights and obligations within project accommodations, and the consequences for not adhering to them. Conditions with respect to accommodation services should be monitored by the Borrower.

**GL38.** Cases of epidemics or pandemics may demand legal, necessary, temporary, non-discriminatory and proportional restrictions of freedom of movement to prevent the spread of disease and maintain public health. In such cases the Borrower or third party will implement such restrictions in compliance with local and national regulations and guidelines and with the objectives to: (i) guarantee the health and safety of the workforce and community including the free and adequate provision of personal protection equipment (PPE); and (ii) limit any disproportional restrictions of freedoms and rights of workers. Such restrictions should be part of an overall pandemic emergency response and management plan.

**GL39.** Residents in project accommodations should have access to means of communication with project accommodation management and access to a formal process for lodging grievances regarding accommodation services, with special provisions for grievances related to SGBV (see paragraph 22 of ESPS 2).

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## Workers' Organizations

**14.** In countries where national law recognizes workers' rights to form and to join workers' organizations of their choosing without interference and to bargain collectively, the Borrower will comply with national law. Where national law substantially restricts workers' organizations, the Borrower will not restrict workers from developing alternative mechanisms to express their grievances and protect their rights regarding working conditions and terms of employment. The Borrower should not seek to influence or control these mechanisms.

**15.** The Borrower will inform workers that they have the right to elect workers' representatives, form or join workers' organizations of their choosing, and engage in collective bargaining, in accordance with national law. In either case described in paragraph 14 above, and where national law is silent, the Borrower will not discourage workers from electing worker representatives, forming or joining workers' organizations of their choosing, or bargaining collectively and will not discriminate or retaliate against workers who participate, or seek to participate, in such organizations and collective bargaining. The Borrower will engage with such workers' representatives and workers' organizations and provide them with information needed for meaningful negotiation in a timely manner. Workers' organizations are expected to fairly represent the workers in the workforce.

**GL40.** One of the key principles of international labor rights and the core labor standards of the ILO is the principle of freedom of association. Workers have the right to form or join unions or other workers' organizations of their own choosing without interference from employers or other parties. National laws often reflect provisions under ILO conventions and other international agreements that recognize and protect these rights.

**GL41.** A workers' organization is any organization of workers for the purpose of furthering and defending their interests, particularly regarding working conditions and terms of employment. Workers' organizations can be called by different terms in different countries, for example, trade unions, labor unions, or workers associations. In order to be considered independent in accordance with ILO principles and standards, they should be formed and organized by workers and should operate without control or interference of employers or governments.

**GL42.** Collective bargaining consists of discussions and negotiations between employers and representatives of workers' organizations for the purpose of determining working conditions and terms of employment by joint agreement, including for example accommodation and transport. It also includes the implementation and administration of any agreements that may result from collective bargaining and the resolution of other issues and grievances that arise in the employment relationship with respect to workers represented by the workers' organization. Collective bargaining can take place in different ways. Many countries have multilevel bargaining systems, which may include company, sectoral, and national levels. The governance of collective bargaining rights and obligations is normally set out in national law.

**GL43.** The Borrower or third-party employer should inform workers that they have the right to elect workers' representatives, form or join workers' organizations of their choosing, and engage in collective bargaining in accordance with national law, at the beginning of the working relationship, as laid out in paragraph 10 of ESPS 2. This includes cases where collective bargaining agreements between employers and unions may contain a provision requiring all employees to either join the union or pay union dues.

**GL44.** The Borrower or third-party employer will not interfere with workers' rights to form or join a workers' organization, for example, by favoring one workers' organization over another or unreasonably or unlawfully restricting access to workers by representatives of such organizations. Workers should be free to meet and to discuss workplace issues on the premises during scheduled breaks, and before and after work. Furthermore, workers should be allowed to choose representatives to speak with management, inspect working conditions in an appropriate manner and in a way that does not disrupt productivity, and carry out other organizing activities. The Borrower or third party should not seek to influence or control nor interfere with the operation of worker organizations or alternative mechanisms within the project. The Borrower or third-party employer should engage with workers' organizations and alternative mechanisms and provide them with any information needed for meaningful negotiations. Information to enable meaningful negotiations might include, among others, information on the economic and financial situation of the enterprise, employment trends, or expected substantial changes in operations, taking into account legitimate requirements of business confidentiality.

**GL45.** The Borrower or third party should not discourage workers from forming or joining a workers' organization or discriminate or retaliate against workers who attempt to form or join workers' organizations or alternative mechanisms. Examples of discrimination or retaliation include an employer's refusal to hire project workers for reasons unrelated to qualifications or job performance and with the intent to prevent freedom of association, including by refusing to hire those that have been members or leaders of workers' organizations at other workplaces, dismissing, demoting, or reassigning such project workers, or outsourcing or modifying the delivery of work, in response to worker organizational activities.

**GL46** In countries where workers' freedom of association and/or collective bargaining is clearly prohibited or restricted under national law, the Borrower or third-party employer should take steps to seek to engage with workers to address issues relating to their working conditions and terms of employment. Alternative mechanisms may include recognizing worker committees, free from the Borrower's or third-party employer's influence or control and allowing workers to choose their own representatives for dialogue and negotiation on terms and conditions of employment in a manner that does not contravene national law. In contexts where workers organization may be inherently discouraged, the Borrower may consider establishing non-interference commitments such as neutrality agreements with labor organizers and train managers in labor engagement strategies and workplace management. Neutrality agreements define a fair and democratic process for workers to decide on forming or joining a workers' organization, establish reasonable access for representatives, establish procedures to resolve interference and retaliation or violation of the agreement, and establish procedures for promptly proceeding to collective bargaining if an organization is formed. Workers should be informed of their right to form and join alternative mechanisms at the beginning of the working relationship, as laid out in paragraph 14 of ESPS 2.

## Non-Discrimination and Equal Opportunity

- 16.** The Borrower will not make employment decisions on the basis of personal characteristics<sup>79</sup> unrelated to inherent job requirements. The Borrower will base the employment relationship on the principle of equal opportunity and fair treatment and will not discriminate with respect to any aspects of the employment relationship, such as recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, job assignment, promotion, termination of employment or retirement, and disciplinary practices. The Borrower will take measures to prevent and address violence, harassment, intimidation, and/or exploitation, especially in regard to women, people of diverse sexual orientations and gender identities, persons with disabilities, children (of working age in accordance with this ESPS), and migrant workers.<sup>80</sup> The principles of non-discrimination apply to migrant workers.
- 17.** In countries where national law provides for non-discrimination in employment, the Borrower will comply with national law. When national laws are silent on non-discrimination in employment, the Borrower will meet this ESPS and ESPS 9. In circumstances where national law is inconsistent with this ESPS and ESPS 9, the Borrower is encouraged to carry out its project consistent with the intent of paragraph 16 above without contravening applicable local and national laws.
- 18.** Special measures of protection or assistance to remedy past discrimination or selection for a particular job based on the inherent requirements of the job will not be deemed as discrimination, provided they are consistent with national law.
- 19.** The Borrower will provide special measures<sup>81</sup> of protection and assistance to address the vulnerabilities of project workers, such as women, people of diverse sexual orientations and gender identities, persons with disabilities, children (of working age, in accordance with this ESPS), and migrant workers. Such measures may be necessary only for specific periods of time, depending on the circumstances of the project worker and the nature of the vulnerability.

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<sup>79</sup> Such as gender, sex, race, color, nationality, national extraction, political opinion, affiliation or non-affiliation to a union, ethnic, social or indigenous origin, religion or belief, marital or family status, disability, age, sexual orientation or gender identity, or state of health.

<sup>80</sup> ILO Violence and Harassment Convention No. 190 and recommendation No. 206, 2019, provide the international baseline for addressing these practices in the world of work.

<sup>81</sup> They may include adaptation or accommodation measures such as work environment adjustments to provide access to the place of work and flexible schedules to address specific vulnerabilities. Distinction or preferences that may result from the application of special measures of protection and assistance taken to meet the particular requirements of workers in a vulnerable position are not considered discriminatory.

**GL47.** Providing for equal access to opportunities (such as promotion and in recruitment) and equal treatment may also bring benefits to Borrowers and third parties, by allowing for better decision making, more innovation and productivity, and generating opportunities that multiply in the community. The Borrower should assess the extent to which national law supports implementation of the principles of non-discrimination and equal opportunity in the project when developing the project's LMP and seek to identify measures, including clear policies and procedures, that support equal opportunities for disadvantaged or vulnerable individuals or groups. Depending on the project circumstances these may be women, people of diverse sexual orientations and gender identities, people with disabilities, indigenous peoples or African descendants, among others. The ESPS 2 Guideline should be read in conjunction with the Guidelines for ESPSs 4, 7, 9 and 10.

**GL48.** Discrimination in employment occurs when persons are treated differently, through distinctions, exclusions or preferences, based on characteristics that are not inherently linked to the job requirements, denying or limiting their ability to access equal opportunities or treatment. Discrimination may be based on gender, sex, race, color, nationality, political opinion, engagement in legitimate trade union activities, ethnic, social or indigenous origin, religion or belief, marital or family status, disability, age, sexual orientation or gender identity, or state of health. Characteristics inherent to the job requirement are those that genuinely relate to a worker's ability to perform the job. However, an employer cannot preemptively dismiss a category of job applicants based on prejudiced or biased understanding, whether conscious or not, that they will not meet these requirements.

**GL49.** Discrimination may be direct or indirect and can be intentional or not. For example, not hiring or dismissing a worker on the grounds of disability, pregnancy, parental leave, or marital status or paying different wages to workers performing the same or similar work are forms of discrimination. Requiring unnecessary classification such as cultural affiliation, or marital status, be included in worker identification cards may also be an example of discrimination. SGBV, including sexual harassment, is a form of discrimination.

**GL50.** Discrimination may occur throughout the employment relationship and relate to recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, job assignment, promotion, termination of employment or retirement, and disciplinary practices. Discrimination can also occur through the provision of services such as accommodations and transport.

**GL51.** All workers should have access to working conditions and terms of employment without discrimination based on personal characteristics (see paragraph 16 in ESPS 1). Pay should not be based on discriminatory criteria and men, women, and people of diverse sexual orientations and gender identities and disadvantaged or vulnerable individuals or groups should receive the same pay for performing the same or similar work.



**GL52.** The Borrower may provide special measures of protection and assistance to address specific vulnerabilities of project workers such as pregnant and nursing individuals, workers with caregiving responsibilities, and persons with disabilities, to allow for access and retention of equal work opportunities. Such measures may be necessary only for specific periods of time, depending on the circumstances of the project worker and the nature of the vulnerability. A common measure is to temporarily reassign a pregnant worker to other functions to avoid exposure to hazards during pregnancy and breastfeeding. Where appropriate, the Borrower should adapt spaces for workers with disabilities to be able to access and egress from the workplace and other services such as accommodation, sanitary and washing facilities, and to access information through appropriate communication channels, such as large print, Braille or digital format. Other measures include providing nursing and childcare facilities at the workplace or offering work flexibility arrangements for all workers with caregiving responsibilities, which may be particularly desired in contexts such as pandemics or epidemics, where domestic, child and elder care-giving responsibilities may be increased. Specific project measures should be included in the LMP where such vulnerabilities exist. These considerations and treatment of workers should not disadvantage them, amount to discrimination nor hinder their professional opportunities.

**GL53.** The Borrower may also implement special measures of protection, assistance or selection to remedy past discrimination of workers from a disadvantaged or underrepresented group in the workforce or in particular occupations, such as women, indigenous people, African descendants, and persons with disabilities. Where allowed by national law, these measures could include training, targeted recruitment, quotas, or financial assistance.

**GL54.** The Borrower or third party should not tolerate violence, harassment, intimidation, and/or exploitation in the project or other services such as project accommodations or transportation and should adopt policies and procedures to identify where and when the project may present heightened risks for violence, harassment, intimidation, and/or exploitation, and measures to remedy and prevent them from occurring. Certain groups such as women, people of diverse sexual orientations and gender identities, persons with disabilities, indigenous peoples, African descendants, children and migrant workers may be more vulnerable to these risks. Where appropriate, the Borrower should seek the input of populations at heightened risk for harassment in the development and implementation of remedial and protective policies and procedures.

**GL55.** SGBV at the workplace is a human rights violation and a form of discrimination, a threat to equal opportunities and a health and safety risk. Violence, harassment, intimidation, and exploitation may be physical, psychological, economic or sexual, and may occur between project workers, between supervisors and workers, in primary suppliers and between workers and the community. The most common forms of SGBV at the workplace are sexual abuse, harassment and exploitation, which disproportionately affects women, young men and people of diverse sexual orientation and gender identities. Children are especially vulnerable to sexual abuse and exploitation. The risk of SGBV may be heightened with an increase in labor influx, when migrant workers bring their families to a project, when accommodations and other services are provided, and in certain work contexts such as night-time or isolated work. Measures to address the risk of SGBV may include mandatory training for all workers, having clear codes of conduct establishing a commitment to zero tolerance of SGBV and defining proportionate disciplinary measures for breach of conduct; communicating them clearly to all workers and explaining the consequences for deviating from the codes including where national law criminalizes certain actions; and awareness raising; continuous monitoring; and providing for appropriate grievance mechanisms (see paragraph 22 of ESPS 2). The Borrower should ensure that third parties have policies and procedures in place to address these risks. For more information see ESPS 9 and its accompanying Guideline as well as GL21 of this Guideline, on direct involvement of vulnerable populations in development of policies and procedures.

**GL56.** Access to grievance mechanisms should also be granted on an equal basis, which may include providing for accessible procedures, considerations on language and methods for initiating and following a complaint. Training may be required for responsible party or personnel implementing the grievance mechanism. Where there are risks of SGBV which might discourage workers coming forward, workforce grievance mechanisms should be reviewed and, if necessary, enhanced to ensure the safety of workers raising complaints related to SGBV. Workers should also be able to bring a complaint free from the risk of retaliation (see paragraph 22 of ESPS 2).

## Retrenchment

- 20.** Prior to implementing any collective dismissals,<sup>82</sup> the Borrower will carry out an analysis of alternatives to retrenchment.<sup>83</sup> If the analysis does not identify viable alternatives to retrenchment, a retrenchment plan will be developed and implemented to reduce the adverse impacts of retrenchment on workers. The retrenchment plan will be based on the principle of non-discrimination and will reflect the Borrower's consultation with workers, their organizations, and, where appropriate, with other government agencies, and will comply with collective bargaining agreements if they exist. The Borrower will comply with all legal and contractual requirements related to notification of public authorities, and provision of information to and consultation with workers and their organizations.
- 21.** The Borrower should ensure that all workers receive notice of dismissal and severance payments mandated by law and collective agreements in a timely manner. All outstanding back pay and social security benefits and pension contributions and benefits will be paid (i) on or before termination of the working relationship to the workers; (ii) where appropriate, for the benefit of the workers; or (iii) payment will be made in accordance with a timeline agreed through a collective agreement. Where payments are made for the benefit of workers, workers will be provided with evidence of such payments.

**GL57.** Retrenchment means the elimination of several work positions or the dismissal or layoff of several workers by an employer, generally a consequence of adverse economic circumstances or as a result of a reorganization or restructuring. Retrenchment does not cover isolated cases of termination of employment for cause or voluntary departure. Demobilization of a project workforce at the end of a planned construction phase or other fixed length project will not normally amount to retrenchment according to ESPS 2, but should nevertheless be planned from the outset, through communication, management of expectations and supporting workers to find alternative employment. Under the terms of ESPS2, the principles only apply to direct workers.

**GL58.** Where there is a potential retrenchment, the Borrower will carry out an analysis looking at alternatives to job loss, setting out the potential number of positions saved due to application of each alternative, and a cost analysis to determine viability of alternatives. Such an analysis will also assess and evaluate impacts and risks to the community. The Borrower should consult workers and their representatives, where present, about the alternatives to dismissal, which may include

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<sup>82</sup> Collective dismissals cover all multiple dismissals that are a result of an economic, technical, or organizational reason or other reasons unrelated to performance or other personal reasons.

<sup>83</sup> Examples of alternatives may include negotiated working-time reduction programs, employee capacity building programs, long-term maintenance works during low production periods, etc.

reduction in hours, productivity improvements, temporary layoff, job sharing, and agreed salary reduction in exceptional circumstances. Such measures should be introduced after a period of consultation, and in agreement of the workers affected. The duration of these measures should normally be subject to a clear and agreed time limit.

**GL59.** In many countries, national law requires advance notice to affected workers, their representatives and/or specific public entities of planned collective economic or organizational dismissals, where more than a specified number of employees will be dismissed. National law will often also require the provision of information and consultation with workers and their representatives, including trade unions where present.

**GL60.** National law and collective agreements may also mandate severance payments to affected workers, and additional payments or transfers to social security, pension or health funds. In such cases the Borrower or third party may make these additional payments for the benefit of the worker to the appropriate institution. The Borrower or third party will provide the worker with evidence of such payments.

**GL61.** When significant retrenchment cannot be avoided, a plan should be developed to address the adverse impacts on workers and their community. The plan should address issues such as retrenchment methods and procedures, worker selection criteria, appeals and grievances, calculation of severance payments, assistance in retraining efforts, and job placement, among others.

**GL62.** Selection criteria for those to be dismissed should be objective, fair, transparent and not based on personal characteristics unrelated to inherent job requirements. If a procedure and criteria applied during retrenchment disproportionately impacts one group more than another, its use should be reviewed and reconsidered.

**GL63.** The Borrower will consult with workers and their organizations in developing the retrenchment plan. Consultations are essential for the development of plans that reflect workers' concerns as well as their ideas about ways to avoid or minimize layoffs, criteria for selection and compensation payments. The Borrower will establish a process to deal with claims that workers have been unfairly selected or not received compensation due to them. This process may be part of the workforce grievance mechanism (see paragraph 22 of ESPS 2) or a specific process for the retrenchment exercise.

**GL64.** Because large-scale (and in some instances even small scale) retrenchment can have significant negative impacts on communities, they should be consulted on potential retrenchment plans in accordance with the requirements of ESPS 10. In cases where public assistance may be available to help address impacts on communities, the Borrower should engage with other public entities. Consultation with other public entities may also be required by law.

## Grievance Mechanism

**22.** The Borrower will provide a grievance mechanism for workers (and their organizations, where they exist) to raise workplace concerns and provisions for special protection for reports of sexual and gender-based violence. The Borrower will inform the workers of the grievance mechanism at the time of recruitment and make it easily accessible to them in a language they understand. The mechanism will involve an appropriate level of management and address concerns promptly, using an understandable and transparent process that provides timely feedback to those concerned, without retribution. The mechanism will also allow for anonymous or confidential complaints to be raised and addressed. The mechanism will not impede access to other judicial or administrative remedies that might be available under the law or through existing arbitration procedures, or substitute for grievance mechanisms provided through collective agreements.

**GL65.** Because workplace concerns are usually different from issues raised by project-affected parties and other stakeholders, they require a separate mechanism or procedure to address them. The nature of workforce grievance mechanisms, and to whom they apply, should be defined in the LMP and include features specifically designed to address workplace concerns. The Borrower is responsible for providing the grievance mechanism to direct workers, while, depending on the project's management structure, the party responsible for the employment of contracted workers may provide the grievance mechanism to those workers. If the contractor or a third party is not able to provide such a mechanism, the Borrower should work with the third party to help it provide the appropriate mechanism and, where feasible and necessary, will extend its grievance mechanism for direct workers to contracted workers.

**GL66.** The grievance mechanism will be proportionate to the nature and scale and the potential risks and impacts of the project. It will be designed to address concerns promptly, using an understandable and transparent process that provides timely feedback to those concerned in a language they understand, and it should be designed and operated in a format that is culturally appropriate. The complainant may request a meeting to discuss the grievance and has the right to be accompanied by a worker representative, colleague or other trusted person at that meeting if they so choose. Workers should be informed about the progress of any complaint under the grievance mechanism and the steps being taken to address their concerns. The time frames specified to address these concerns should be as expeditious as possible. Workers should be able to raise grievances anonymously and without fear of retribution or any other form of disadvantage stemming from their lodging a grievance. The grievance mechanism does not impede access to or interfere with judicial or administrative remedies that may be available under national law or any other accountability mechanism available to the complainant.

**GL67.** The grievance mechanism must be able to receive, record, investigate, and manage incidents of SGBV. The Borrower or third party should consider whether special procedures or standalone grievance mechanisms should be established to manage these types of complaints. Confidentiality, discretion, non-retribution, timeliness, consistency, capacity to provide a survivor-centered remedy, and access to further or other recourse will also be of particular importance. The Borrower or third party should also provide training for staff and management to raise awareness and on how to address these grievances, and for workers on how to lodge them. For more information see ESPS 9.

**GL68.** The grievance mechanism may utilize or supplement existing grievance mechanisms, such as those provided through a collective bargaining agreement, provided that they are properly designed and implemented, address concerns promptly, and are readily and safely accessible to all direct and contracted workers. Existing grievance mechanisms may be reassessed, improved or supplemented as needed with additional channels for raising grievances in project-specific situations.

**GL69.** The grievance mechanism does not replace the requirements to provide workplace processes to report work situations that a project worker believes are not safe or healthy (see paragraph 28 of ESPS 2). Project workers should be able to raise concerns regarding unsafe or unhealthy working conditions through the grievance mechanism or otherwise.

## Protecting the Work Force

### *Child Labor*

**23.** The Borrower will not employ children below the minimum age of employment or engagement, which will be the age of 15 unless national law specifies a higher age. The labor management procedures will specify this minimum age. Children over the minimum age will not be employed or engaged in any manner that is economically exploitative or likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development. Children under the age of 18 will not be employed in hazardous work.<sup>84</sup> The Borrower will identify the presence of all people under the age of 18. All work of people under the age of 18 will be subject to an appropriate risk assessment and regular monitoring of health, working conditions, and hours of work. If child labor cases are identified, the Borrower will take appropriate steps to remedy them.

<sup>84</sup> Examples of hazardous activities include work (i) with exposure to physical, psychological, or sexual abuse; (ii) underground, underwater, working at heights, or in confined spaces; (iii) with dangerous machinery, equipment, or tools, or involving handling of heavy loads; (iv) in unhealthy environments exposing the worker to hazardous substances, agents, processes, temperatures, noise, or vibration damaging to health; or (v) under difficult conditions such as long hours, night work, or confinement by the employer.

**GL70.** ESPS 2 requires the Borrower to take proactive and continuous measures to prevent the use of child labor in direct and contracted work on the project and in its primary supply chain.

**GL71.** As part of the project environmental and social assessment process, the Borrower should seek to identify child labor-related risk by considering any inherent risk and prevalence of child labor within the country, region, sector or the industry in which the project is developed. This applies to direct, contracted and primary supplier workers (see also paragraphs 36-38 of ESPS 2).

**GL72.** The LMP should include necessary requirements to address the risk of child labor in the project, specify the minimum age for employment or engagement in the project—which should not be lower than 15 or the age specified in national law, whichever is higher—and should include measures to identify potential child labor and to prevent employing or engaging children under this age, that will be applied, implemented and monitored by the Borrower and third parties. In addition, there are specific risk assessment requirements related to the project’s primary supply chain (see paragraphs 36-38 of ESPS 2).

**GL73.** Documentation and verification of age are important steps in preventing employment or engagement of child labor and are usually a mandatory requirement for all workers. The Borrower or third party must keep records of age of workers between the age of 15-18. The record should be obtained prior to employment or engagement of a project worker, maintained and retained, and may include but is not limited to the following: (i) written confirmation from the applicant of their age; (ii) where there is any reasonable doubt as to the age of the applicant, requesting and reviewing available documents to verify age (such as a birth certificate, personal identification card, medical or school record, or other document or community verification demonstrating age); (iii) details on enrolment in school or vocational training programs.

**GL74.** Children over the minimum age and under the age of 18 will not be employed or engaged in connection with the project on hazardous work or activities. Hazardous activities may be defined in national law, but generally include work (i) with exposure to physical, psychological, or sexual abuse; (ii) underground, underwater, working at heights, or in confined spaces; (iii) with dangerous machinery, equipment, or tools, or involving handling of heavy loads; (iv) in unhealthy environments exposing the young person to hazardous substances, agents, processes, temperatures, noise, or vibration damaging to health; or (v) under difficult conditions such as long hours or night work. The reference to the child’s health includes considerations of the child’s physical and emotional safety.

**GL75.** The Borrower or third party will conduct an appropriate assessment prior to the start of work to ensure that any activities to be conducted by young persons do not fall within the above stated criteria. The LMP will include the requirements for such specific risk assessments. The LMP may also describe specific jobs or tasks that have been characterized as being hazardous, and as such should not be carried out by young people under 18.

**GL76.** If one or more children over the minimum age of employment and under the age of 18 are employed or engaged, the Borrower and third parties should conduct regular monitoring of health, safety and working conditions including risks associated with exposure to machinery, substances and conditions likely to be harmful to them, hours of work and the other requirements under ESPS 2 and all relevant provisions of national law. The LMP should include monitoring and reporting requirements of third parties and primary suppliers.

**GL77.** If a child under the minimum age of employment is discovered working on the project, measures will be taken to terminate the employment or engagement of the child in a responsible manner, considering the best interest of the child. Immediately removing children from their work may aggravate their situation of vulnerability. At a minimum, immediate measures should include removing children from tasks that are dangerous, harmful, or inappropriate given their age and that hinder their education. A child removed from a child labor situation should receive remediation assistance and presented with alternatives to child labor, for example ensuring access to education or vocational training. Any case of child labor should be investigated, and measures taken to terminate employment should be documented and implemented responsibly within a specified timeframe. Third parties will report cases of child labor to the Borrower immediately. Where appropriate and safe for the child, cases should be reported to local authorities. The LMP should include procedures to identify child labor, reporting requirements as well as possible measures to safely address child labor in a timely manner.

**GL78.** If a child between the minimum age of employment and under the age of 18 is discovered to be working on the project in a manner that is deemed economically exploitative, interfering with the child's compulsory education, or harmful to the child's health or physical, mental, spiritual, moral or social development, the same procedures as above apply. The reference to the child's health includes considerations of the child's safety.

**GL79.** If a child between the minimum age of employment and under the age of 18 is discovered to be working on the project in a manner that is likely to be hazardous, the Borrower or third party will immediately consider whether the hazard can be removed. If this is not possible, steps should be taken to remove or transfer the child to an alternative position for which a risk assessment has been undertaken, considering their best interest. Where no such alternatives are possible, the Borrower or third party should no longer employ or engage the child but provide remedy such as reducing economic hardship to them and/or their family. Third parties, including primary suppliers will report such cases of hazardous conditions to the Borrower immediately. The LMP will include these requirements.

## Forced Labor

**24.** The Borrower will not employ forced labor, which consists of any work or service not voluntarily performed that is exacted from an individual under threat of force or penalty. This covers any kind of involuntary or compulsory labor, such as indentured labor, bonded labor, or similar labor-contracting arrangements. The Borrower will not employ trafficked persons.<sup>85</sup> If forced labor cases are identified, the Borrower will take appropriate steps to remedy them.

**GL80.** Forced labor consists of any work or service not voluntarily performed that is exacted or coerced from a person under threat of force or penalty. Work is on a voluntary basis when it is done with the free and informed consent of a worker and cannot exist if consent is given under duress, threat, menace or other circumstance of restriction or deceit. Such consent must exist throughout the employment relationship and the worker must have the possibility to revoke consent.

**GL81.** Conditions that may result in forced labor as defined in ESPS 2 are not limited to slavery and slavery-like practices. They include bonded labor (i.e., work in satisfaction of a debt of an amount that would be difficult or impossible to pay off in a reasonable amount of time), excessive limitations on freedom of movement, excessive notice periods, retaining workers' identity card, passport or other government-issued documents, imposition of recruitment or employment fees payable by the worker at the commencement of employment, loss or delay of wages that impede the workers' right to end employment within their legal rights, substantial or inappropriate fines, physical punishment, use or threat of use of security or other personnel to force or extract work from project workers, or other restrictions that compel a project worker to work on a non-voluntary basis. Migrant workers who lack legal status in a country are particularly vulnerable to these types of conditions.

**GL82.** There should be no forced labor and human trafficking in relation to any employment on the project. This reflects requirements under international human rights law and requires the Borrower to take proactive and continuous measures to identify and take steps to prevent the use of forced labor in the project, including in relation to the project's primary supply chain.

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<sup>85</sup> Trafficking in persons is defined as the recruitment, transportation, transfer, harboring, or receipt of persons, by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power, or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Women and children are particularly vulnerable to trafficking practices.

**GL83.** As part of the project’s environmental and social assessment, the Borrower will identify any risk of forced labor and human trafficking, considering inherent risk within the country, region, sector or the industry related to the project. In addition, there are specific risk assessment requirements related to the project’s primary supply chain (see paragraphs 36-38 of ESPS 2).

**GL84.** The LMP should include any specific requirements that have been identified as necessary to address the risk of forced labor and human trafficking in the project, procedures to identify and remedy cases of forced labor and human trafficking as well as monitoring and reporting requirements of the Borrower and third parties.

**GL85.** There are circumstances where prison labor and labor from correctional facilities will be considered forced labor. If prisoners are hired or put at the disposal of the Borrower or any third party, then work will only be acceptable if the prisoners have freely given their consent to work and they enjoy working conditions approximating those prevailing in the labor market, including but not limited to remuneration, hours of work, and rest periods. If prison labor is used in the Borrower’s primary supply chain, the Borrower should provide a detailed review demonstrating that the proposed prison labor meets the above requirements (see also 36-38 of ESPS 2).

**GL86.** If incidents of forced labor are discovered in the project workforce, immediate measures will be taken to safely remove the worker from the condition of forced labor, address the specific incident and the practice that led to the worker’s situation and any other conditions that present a risk of forced labor. Any case of forced labor discovered in the project’s workforce and measures taken to terminate it shall be documented. Such measures may include retroactive pay, remedial compensation, physical and medical treatment as needed, shelter, training and transportation to the workers’ preferred destination or home. Third parties, including primary suppliers, will report defined indicators of forced labor to the Borrower immediately. Any cases of forced labor discovered should be referred to relevant government authorities and support services, as appropriate, to be addressed in accordance with national law. The LMP will include respective procedures and possible measures to safely and swiftly address incidents of forced labor.

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## Occupational Health and Safety

**25.** The Borrower will provide a safe and healthy work environment, taking into account inherent risks related to the project and specific classes of hazards, including physical, chemical, biological, and radiological hazards, and specific threats to women, people of diverse sexual orientations and gender identities, persons with disabilities, children (of working age, in accordance with this ESPS), and migrant workers. The Borrower will take steps to prevent accidents, injury, and disease arising from, associated with, or occurring in the course of work by minimizing, as far as reasonably practicable, the causes of hazards. In the case of pandemics or epidemics, the Borrower must develop and implement occupational health and

safety measures and protocols to protect project workers from the risk of exposure, in accordance with national guidelines and best international practices,<sup>86</sup> such as those recommended by the World Health Organization (WHO). The Borrower must prevent discrimination and exclusion relating to health conditions.

**GL87.** Most countries have laws and regulations covering OHS and workplace conditions and have ratified relevant international agreements on the subject. Measures relating to OHS will be applied to the project in accordance with national law and the requirements set out in ESPS 2. Additional guidance on the management of OHS issues according to Good International Industry Practice may be obtained from the World Bank Group’s Environment, Health and Safety Guidelines (EHS Guidelines) and other recognized references and standards, both general and sector specific.

**GL88.** OHS system refers to the range of policies, procedures and actions aimed at protecting workers from injury, illness or impacts of harmful agents associated with exposure to hazards encountered in the workplace and while working or traveling to and from work or task locations. Providing safe and healthy working conditions for all project workers requires identifying potential hazards, assessing the OHS risks inherent in project activities, and establishing measures for their elimination, prevention, protection, and control. It is the Borrower’s responsibility to develop, implement and monitor an OHS system and cascade requirements down the contracting chain, including, where appropriate, primary suppliers. The Borrower will determine and provide the necessary resources for the establishment, implementation, maintenance and continuous improvement of the OHS system.

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<sup>86</sup> Such as: (i) ensuring that workers understand which job activities may put them at risk for exposure to sources of infection; (ii) provide options for working remotely, if feasible, or for using flexible leave policy when they are sick; (iii) implementing social distancing strategies; good hygiene and appropriate disinfection procedures; (iv) providing PPE and training workers on how to wear, use, clean, and store it properly; (v) informing of available medical services (e.g., vaccination, medication); and (vi) communicating updated epidemic/pandemic-related information and where to direct their questions.

**GL89.** A deterioration of the health and wellbeing of workers can occur due to exposure to physical, chemical, biological, radiological, hygienic, ergonomic and/or psychosocial hazards. Hazards and risks may arise from a variety of circumstances including but not limited to:

- i. material agents including chemical, physical, radiological, biological agents and substances, flora and fauna, equipment, tools, machinery, facilities, materials, objects, among others;
- ii. environmental or working conditions, such as night work, oxygen-deficient environments, excessive temperatures or noise, inadequate ventilation, excessive or insufficient lighting, presence of toxic gases, faulty electrical systems, confined spaces with inadequate protection method, inadequate protection for working at height and other high-risk work, poor housekeeping, vibrations, factors derived from natural hazards such as floods, winds, among others,
- iii. the processes or the organization of work, such as working hours of excessive duration, load excessive work, lack of training of workers, poor or inadequate communication systems, methods and procedures deficient or inadequate work environments, deficient controls and supervision, especially for high-risk work including the use of tools, machinery and equipment, and
- iv. personal characteristics and workers' skill profile.

**GL90.** Some OHS risks may affect certain groups of workers more than others. This may be partly because different workers tend to be overrepresented in certain types of jobs, but also because of physiological differences, socioeconomic vulnerabilities, and other aspects. For example, pregnant women and their unborn child, may be at higher risk if they come in contact with hazardous materials, or exposed to certain diseases, such as the Zika virus. Local workers may have a higher resilience to high altitude. To address these circumstances, the Borrower or third party should take measures to ensure the health and safety of disadvantaged or vulnerable individuals or groups.

**GL91.** The Borrower should identify, assess, manage and monitor OHS hazards and risks throughout the life of the project. As part of the LMP, the Borrower should develop written OHS measures and procedures that will be communicated to all workers and contractors. These measures and procedures should be incorporated, as appropriate and necessary, in the project design and implementation, and may include but are not limited to:

- Processes and measures for performing hazardous activities;
- identifying occupational hazards, assessing associated risks and implementing preventive and corrective measures for continuous OHS management;
- preparation and response to emergency situations;
- complying with national law and other OHS requirements assumed by the Borrower
- investigating and reporting accidents, incidents, occupational and common diseases related to or caused by the project;

- Reporting of fatal work accidents and work-related diseases to authorities, including labor inspectorates as prescribed by national law;
- monitoring, measuring, analyzing and evaluating the effectiveness of the OHS management system, including assessing performance of contractors;
- managing the procurement and contracting processes of third parties to ensure compliance with the Borrower's OHS system and requirements of ESPS 2;
- engaging in consultation on OHS with workers including their representatives where they exist;
- raising awareness and training on communicating pertinent topics of OHS internally and externally;
- managing documentation and information related to OHS;
- attending to the grievances of workers related to OHS.

**GL92.** OHS procedures should be established with the participation of workers and their representatives where they exist. Workers should have the time, information and resources necessary for their consultation, participation and adequate understanding at no cost to them. OHS committees formed by workers and/or their representatives can facilitate adoption of good OHS practices. The Borrower or third party should consider experience of workers, familiarity with OHS matters as well as representation of disadvantaged or vulnerable individuals or groups, such as women, people of diverse sexual orientations and gender identities, people with disabilities, indigenous peoples or African descendants when establishing OHS committees.

**GL93.** Emergency preparedness and contingency plans are an essential aspect of OHS management. As part of the risk identification and analysis process, the Borrower should assess risks or emergencies or foreseeable high impact events or scenarios, including those related to pandemics and epidemics, and will develop a prevention and response plan in accordance with paragraph 26 of ESPS 2 and ESPS 4. Any measures and procedures should comply with provisions of local and national public health institutions, national regulations and recommendations of relevant international organizations, such as the WHO and ILO. Any restrictions on workers' rights and freedoms must be legal, necessary, temporary, non-discriminatory and proportional.

**26.** In a manner consistent with good international industry practice,<sup>87</sup> as reflected in various internationally recognized sources including the World Bank Group Environmental, Health and Safety Guidelines, the Borrower will address areas that include the (i) identification of potential hazards to workers, particularly those that may be life-threatening; (ii) provision of preventive and protective measures, including

<sup>87</sup> Defined as the exercise of professional skill, diligence, prudence, and foresight that would reasonably be expected from skilled and experienced professionals engaged in the same type of undertaking under the same or similar circumstances, globally or regionally.

elimination, substitution, or modification of hazardous conditions or substances; (iii) training of workers and maintenance of training records; (iv) documentation and reporting of occupational accidents, injuries, diseases, and incidents; (v) emergency prevention, preparedness, and response arrangements;<sup>88</sup> and (vi) remedies for adverse impacts such as occupational injuries, death, disability, and disease. For additional information related to emergency preparedness and response, refer to ESPS 1.

**GL94.** Assessing OHS risks is a continuous process throughout the project cycle. The Borrower and third parties should review and update the potential hazards to workers and measures and, where appropriate, coordinate prevention, protection, and control activities when (i) new products, services, equipment, machinery, substances or chemical preparations are introduced, (ii) project site, work location and their surroundings or working conditions are modified, (iii) operational processes change, (iv) damage to the health and wellbeing of workers occurs, whether due to accidents, occupational diseases or common diseases related to or caused by work, and (v) monitoring of the work process, health outcomes and worker inputs identify previously unanticipated negative health consequences, for example unforeseen mental health impacts.

**GL95.** Potential hazards must be identified considering physical, mental, chemical, biological, radiological, hygienic, ergonomic and psychosocial risks associated with material agents, environmental and work conditions, processes or organization of the work and personal characteristics. The identification, evaluation, prevention, protection and control of hazards and risks with the potential to generate serious or fatal consequences for workers, as well as for visitors and the community will be prioritized.

**GL96.** The Borrower or third party should establish, implement and monitor measures to avoid or eliminate sources of hazards to workers' health and safety. Where it is not feasible to avoid or eliminate the hazard, appropriate protective measures to minimize the hazard should be established. Such measure may consist of: (i) controlling the hazard at its source through the use of protective solutions such as exhaust ventilation systems, insulation, machine guarding, acoustic or thermal insulation, (ii) administrative measures such as avoiding large concentration of workers in areas with hazardous noise levels (iii) hazard labeling in languages understandable to project workers, and (iv) providing suitable PPE and training in its correct use and care at no cost to the project worker. Any measure should be planned, timebound, have clearly assigned responsibility, appropriate human, material and financial resources for its execution, be accompanied by appropriate mechanisms for continuous monitoring and improvement.

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<sup>88</sup> These arrangements will be coordinated with the Emergency Preparedness and Response measures established under ESPS 4. Such remedies should consider, as applicable, the wage level and age of the project worker, the degree of adverse impact, and the number and age of dependents concerned.

**GL97.** The Borrower or third party will refrain from using any materials or substances prohibited by national law, international conventions or by lenders to the project, in new construction, including construction for natural disaster relief. When hazardous materials, such as asbestos and asbestos-containing material, are identified in a work environment, whether during renovation work or demolition and removal of infrastructure or any built facility or structure, OHS risks will be assessed and mitigated, including through measures integrated into the OHS procedures that should also specify safe disposal techniques that comply with national law or GIIP. For example, polychlorinated biphenyl compounds (PCB) may be found during the replacement of electrical transformers. Radioactive materials may be present in hospital equipment, loose asbestos fibers or asbestos-containing material may be found in the insulation of old pipes slated for replacement, lead-based paints or coatings may be disturbed and become airborne during the work on existing buildings.

**GL98.** Both direct and contracted workers should receive OHS training that is commensurate with the risks they are exposed to, at the start of their employment or engagement, and thereafter on a periodic basis and when significant changes are made in work processes or tasks. Where project workers carry out potentially hazardous activities, more specific training may be required. Workers should also be briefed on their right to stop work without retaliation in situations of imminent danger (as set out in paragraph 28 of ESPS 2). The Borrower or third party should keep training and individual training records of project workers. OHS briefings should be conducted for all visitors and other third parties accessing the project site.

**GL99.** The Borrower and third party will document and report occupational fatalities, injuries, and illnesses related to or caused by work and should establish, implement and monitor procedures to investigate, manage, document and report OHS accidents, incidents and non-compliances. Incident, accident and health data should be reviewed and used to assess the effectiveness of protective measures in accordance with requirements set out in paragraphs 10-11 of ESPS 2. Serious incidents, including fatalities, should be reported to lenders.

**GL100.** OHS procedures will include emergency preparedness and response plans commensurate to the project hazards and risks, and supported with adequate human, financial, material and equipment resources. The Borrower or third party should have competent OHS personnel with clearly defined roles and knowledge of potential dangers and emergency situations that could arise from project activities. Potential sources of emergencies will be continuously monitored. Emergency equipment and material will be reviewed and tested and drills will be held periodically. Emergency preparedness and response plan must be coordinated with local authorities, including communication and engagement with the community regarding information and training on emergency response.

**GL101.** In the case of impacts on workers' health and well-being, such as injuries, death, disability, and occupational diseases, the Borrower and third party will comply with national regulations for compensation, collaborate in any investigative process and with workers' organizations where present, provide timely and adequate information and undertake appropriate root cause analysis for remedial action such as financial or other support to workers and their families. The LMP should include relevant procedures with reference to national laws and GIIP.

**27.** All parties who employ or engage project workers will develop and implement procedures to establish and maintain a safe working environment, including that workplaces, machinery, equipment, and processes under their control are safe and without risk to health, including by use of appropriate measures relating to chemical, physical, and biological substances and agents. Such parties will actively collaborate and consult with project workers in promoting understanding of, and methods for, the implementation of occupational safety and health requirements, as well as in providing information to project workers. Such parties will also provide training on occupational safety and health and PPE without expense to the project workers.

**GL102.** The Borrower will ensure that a safe and healthy work environment is extended to workers engaged or employed in the project by contractors and other third parties. OHS requirements in accordance with national law and the requirements of ESPS 2 will be included in contracts with contractors and other third parties. The Borrower will monitor contractor performance on the implementation of OHS requirements and require corrective actions as appropriate. The Borrower ensures that all direct and contracted workers have adequate access to first aid and medical care in cases of work-related accidents or injuries. These requirements are extended to the project's primary suppliers.

**GL103.** The Borrower's ESMS should address oversight of OHS requirements for all types of project workers to assess its effectiveness and identify any corrective measures to continuously improve OHS conditions and management. This should include, for example, regular monitoring and review of OHS matters, ambient working environments and other defined OHS indicators, such as work accident rates and incidents of non-compliance with OHS requirements of national law, among others.

**GL104.** Various methods can be used to engage and consult project workers and to promote knowledge and understanding of OHS requirements. These include, for example, engaging with trade unions and designated worker representatives, inviting workers to appoint safety representatives or forming OHS committees to support collaboration in ensuring OHS and effective communication of information.

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**28.** Workplace processes will be put in place for project workers to report work situations that they believe are not safe or healthy and to remove themselves from a work situation which they have reasonable justification to believe presents an imminent and serious danger to their life or health. Project workers who remove themselves from such situations will not be required to return to work until necessary remedial action to correct the situation has been taken. Project workers will not be retaliated against or otherwise subject to reprisal or negative action for such reporting or removal.

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**GL105.** OHS training should help workers identify work situations where there might be an imminent and serious danger to their life or health. Workers should be instructed that should they face a situation that, in their opinion, represents an imminent danger to their life and health, they should refrain from or depart from the situation, warn affected workers of the danger and ensure that other workers do not put themselves in the same situation, and report the hazard immediately. The same requirements and processes should apply where a worker identifies a situation that represents an imminent danger to the life and health of others.

**GL106.** The information and training on OHS provided to workers under paragraphs 22 and 25-27 of ESPS 2 should include details of the workplace procedures that are available to report hazardous work situations referred to in paragraph 28 of ESPS 2 and should be communicated to all project workers. Where appropriate such processes may be integrated in the workforce grievance redress mechanism, and there must be a reporting structure that allows for immediate response, such as reporting to designated personnel or direct supervisors.

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**29.** Workers shall be provided with safe and healthy facilities appropriate to the circumstances of their work, including access to canteens, hygiene facilities, and appropriate areas for rest. Where accommodation services are provided to project workers, policies shall be put in place and implemented on the management and quality of accommodation to protect and promote the health, safety, and well-being of the project workers and to provide access to or provision of services that accommodate their physical, social and cultural needs.

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**GL107.** Accommodations provided for project workers should not be situated in proximity to locations used for storing, handling, processing hazardous raw materials or waste or vulnerable to natural disasters and should be subject to the same levels of risk and safety management as the worksite. The accommodations should be managed in accordance with paragraph 13 of ESPS 2.



**30.** Where more than one party is employing or engaging project workers and they are working together in one location, the parties who employ or engage the workers will collaborate in applying the occupational health and safety requirements, without prejudice to the responsibility of each party for the health and safety of its own workers.

**GL108.** Overall responsibility for the worksite, and the obligation to continuously supervise and coordinate the work being performed, should be clearly assigned to a manager on site. It is important for roles and responsibilities to be clearly understood and communicated to all third parties and their workers, and for procedures to be put in place to facilitate communication between workers, supervisors and management of the Borrower or third party.

**GL109.** Collaboration may be achieved in different ways, with the aim of protecting the health and safety of all workers on site. The Borrower and third parties will establish, implement and maintain procedures that allow coordinating activities, communicating OHS hazards and risks and controlling and mitigating them jointly where feasible. Arrangements aimed at achieving such collaboration should be documented and integrated in the OHS management plans and/or LMP.

- 31.** A system for regular review of occupational safety and health performance and the work environment will be put in place and will include identification of safety and health hazards and risks, implementation of effective methods for responding to identified hazards and risks, setting priorities for taking action, and evaluation of results.

**GL110.** The OHS System will include procedures to monitor and enforce OHS requirements, standards and GIIP. The Borrower will maintain records of systematic reviews of OHS management and requires all third parties and primary suppliers to maintain them. The Borrower and any third party will report on their assessments, evaluations, results and actions, including preventive and corrective measures, taken as part of their project reporting requirements. Monitoring should include:

- i. identifying unsafe working conditions at the project site,
- ii. Monitoring the OHS training of project workers
- iii. Analyzing documentary records of workforce grievances and engagements with worker organizations regarding OHS
- iv. Analyzing records of investigations of incidents, accidents, occupational illnesses and common illnesses related to or caused by work, including their root-cause,
- v. Reviewing compliance of third parties with legal requirements
- vi. Analyzing trends in OHS indicators and establish the necessary actions to improve them.

**GL111.** In case of fatalities or serious injuries, the Borrower will inform all the relevant parties, including public authorities, in accordance with national requirements as soon as becoming aware of the incident. The Borrower and third parties will include records of other incidents or long-term impacts such as occupational illnesses related to or caused by the project in the reporting requirements laid out in the OHS management plan and/or LMP. These requirements should be extended to the project's primary suppliers.

**GL112.** The Borrower and the third party will investigate incidents, accidents, occupational and common illnesses related to or caused by the project and identify non-conformities with the OHS requirements to determine the root cause of the incident and preventive, remedial, corrective, and control actions to avoid reoccurrence and improve OHS management. Investigations should be carried out with the appropriate participation of workers and their representatives where they exist. The results of the investigations should be communicated to project workers, including any OHS committee, and workers' representatives where they exist. Where appropriate, responsibility to implement the action plans established in response to the findings of investigations will be incorporated into agreements with third parties. The Borrower and third party should report incidents as part of their monitoring requirements as laid out in this ESPS and ESPS 1.

**32.** Where there are specific risks that could result in adverse effects on the health, safety, and well-being of workers with sensitivities such as age, gender, disability, or short- or long-term health conditions, the Borrower will carry out a more detailed risk assessment and make adjustments to prevent discrimination, injury and ill health.

**GL113.** The risk assessment process will include the identification of the specific hazards and risks that may affect workers in a position of vulnerability and will establish measures to mitigate and monitor differentiated OHS risks and impacts, prevent discrimination, harassment, victimization, intimidation and retaliation. While respecting the right to privacy and confidentiality of medical information, where workers have a known disability or health condition, such as asthma or epilepsy, their work process and exposure to risk should be assessed to determine whether there are specific tasks or exposures that may need to be considered and adjusted to the workplace or work practices.

### Workers Engaged by Third Parties

**33.** With respect to contracted workers, the Borrower will take reasonable efforts to ascertain that the third parties who engage these workers are reputable and legitimate entities and have an appropriate ESMS that will allow them to operate in a manner consistent with the requirements of this ESPS, except for paragraphs 20-21 and 36-38.

**GL114.** As part of the process of contracting third parties, such as contractors, the Borrower should obtain and assess information regarding the commitment, capacity, and track record of the third party to manage risk and impacts related to labor and working conditions in a manner consistent with ESPS 2. Depending on the nature of the project and its risks and impacts, information provided by the third party or otherwise obtained may include but is not limited to:

- Information in public records, for example, corporate registers and public documents relating to violations of applicable labor laws, including reports from labor inspectorates and other enforcement bodies;
- Business licenses, registrations, permits, and approvals;
- Documents relating to a labor management system and its procedures, such as the identification and management of OHS, child and forced labor risks, workforce grievance redress or engagement with workers' organizations;
- Identification of labor management, safety, and health personnel, their qualifications and certifications;
- Workers certifications/permits/training to perform required work;
- Records of safety and health violations and responses;

- Accident and fatality records and notifications to authorities;
- Records of legally required worker benefits and proof of workers enrollment in the related programs, for example health insurance and pension schedules;
- Worker payroll records, including hours worked and pay received;
- Identification of safety committee members and records of meetings;
- Documentation of initiatives in relation to inclusion and non-discrimination at the workplace
- Policies or codes of conduct regarding SGBV including sexual exploitation and abuse
- Any contracts that have been suspended or terminated on SGBV or OHS reasons in the last five years.
- Documentation of training and information provided for workers
- Copies of previous contracts with contractors and suppliers, showing inclusion of provisions and terms reflecting ESPS 2.

**34.** The Borrower will establish policies and procedures for managing and monitoring the performance of such third-party employers in relation to the requirements of this ESPS. In addition, the Borrower will incorporate these requirements in contractual agreements with such third-party employers, together with appropriate noncompliance remedies. In the case of subcontracting, the Borrower will require such third parties to include equivalent requirements and noncompliance remedies in their contractual agreements with subcontractors.

**GL115.** The LMP should set out the ways in which the Borrower will manage and monitor the performance of third parties in relation to contracted workers, focusing on compliance by third parties with their contractual agreements (obligations, representations, and warranties) and the requirements of national law, including OHS, in relation to the employment of people by those contractors. There should be specific reference to the standards required under ESPS 2 in the relevant contractual provisions between the Borrower and the contractor. When the contractor itself is subcontracting work, it should pass on these requirements to its sub-contractors.

**GL116.** The Borrower's management of contractors and third parties in accordance with ESPS 2 should include monitoring and reporting requirements of the third party hired by the Borrower and representing the Borrower. Measures may include periodic site visits, inspections, audits or spot checks of project locations or worksites by the Borrower or other third parties, and inspection of labor management records and reports, as appropriate. The third party or contractor should produce and retain records and reports which may include, but are not limited to, the information listed in the guidance on paragraph 33 of ESPS 2.

**GL117.** Unpaid labor without an employment relationship increases the risk of labor violations, including forced labor, and should be avoided. In cases where the Borrower benefits from work of volunteers, for example where representatives of indigenous peoples communities lead stakeholder engagement activities or where community members monitor and report

on community health and safety, the Borrower should document the agreement to undertake such activities on a voluntary basis by the community, recording the terms on which such labor will be provided, the way in which such agreement was reached, and how volunteers are represented. While individual agreements with volunteers may not need to be in writing, it is good practice to meet with the community to discuss and agree the terms of their engagement with the project and document and disseminate agreements accordingly.

**GL118.** The Borrower will assess relevant project-related risks and impacts associated with the scope of work of volunteers and develop measures for labor and working conditions that meet the requirements of ESPS 2. These will be documented in the LMP. For example, where community representatives may contribute their labor to conduct regular health monitoring, the Borrower or third party will take reasonable steps to ensure a safe working environment, verify the age of volunteers and the terms on which labor is mobilized.

**35.** The Borrower will ensure that contracted workers, covered in paragraphs 33-34 of this ESPS, have access to a grievance mechanism. In cases where the third party is not able to provide a grievance mechanism, the Borrower will extend its own grievance mechanism to serve workers engaged by the third party.

**GL119.** If the workforce grievance mechanism is provided by a third party, the third party should report regularly to the Borrower or its representative on concerns raised by the contracted workers, and the way in which the grievances were resolved.

**GL120.** If a third party is not able to provide a grievance mechanism in accordance with the requirements of paragraph 22 of ESPS 2, the Borrower's grievance procedures for direct workers, or where appropriate the project's stakeholder grievance mechanism, should be made available to all contracted workers. The Borrower should bring any concerns received through such mechanism to the attention of the third party for resolution.

## Primary Supply Workers

**36.** Where there is a risk of child labor or forced labor<sup>89</sup> related to the primary supply workers, the Borrower will identify those risks consistent with paragraphs 23 and 24 above. If child labor or forced labor cases are identified, the Borrower will take appropriate steps to remedy them. The Borrower will monitor its primary suppliers on an ongoing basis to identify any significant changes. If new risks or incidents of child and/or forced labor are identified, the Borrower will take appropriate steps to remedy them.

**GL121.** As specified in footnote 74 of ESPS 2, Primary suppliers are those suppliers who, on an ongoing basis, provide goods or materials essential for the core functions of the project. The environmental and social assessment process identifies both the core functions and any such goods and materials related to them.

**GL122.** The Borrower should carry out an assessment where potential child labor, forced labor, and serious safety risks are prevalent or known to exist in a specific sector, industry, or region in connection with the supply of such goods and materials. The assessment should:

- Identify, to the extent possible, the types of goods, materials and services to be obtained from primary suppliers, locally, domestically or internationally;
- Assess the risk of child labor, forced labor, human trafficking and serious safety risks, including serious risks of SGBV, prevalent or known to exist in a product, sector, industry, or region in connection with the supply of those specific goods, materials and services;
- Assess the degree to which the identified primary suppliers present risks related to child and forced labor;
- Specify requirements to identify and remedy, monitor and report on child labor, forced labor and serious work safety issues in contracts and purchasing order with primary suppliers.

**GL123.** Where it is not possible to identify specific primary suppliers during project preparation, the assessment should review general industry labor issues and risks relating to the supply of the specific goods, materials and services. The assessment, procedures and measures will be periodically reviewed to ascertain their effectiveness and account for any new risks that may arise in relation to primary suppliers of the project during project implementation.

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<sup>89</sup> The potential risk of child labor and forced labor will be determined during the risks and impacts identification process as required in ESPS 1.

**GL124.** Where instances of child or forced labor are identified, the Borrower should work with primary suppliers and relevant agencies to remedy the situation for the individuals concerned. The Borrower should refer to GL 72-81 with respect to child labor and GL82-89 with respect to forced labor. The nature of remedial actions will depend on the nature of the incidents, the Borrower's leverage over the situation and the ability of other parties, including the state, to better provide support and remedy. The Borrower may consider involvement in collaborative activities or support collective solutions to particularly endemic context driven instances of child and forced labor. This may include working with government agencies and other purchasers to identify the root causes of the child or forced labor and provide for careful remediation of the situation, which can include schooling for children or removing and protecting those who are in conditions of forced labor.

**37.** Additionally, where there is a high risk of significant health and safety issues related to primary supply workers, the Borrower will introduce procedures and mitigation measures to ensure that primary suppliers are taking steps to prevent or to correct life-threatening situations.

**GL125.** Significant health and safety risks may include but are not limited to fall and crushing hazards, exposure to hazardous substances or electrical hazards, risk of SGBV or threats to life and safety by third parties. Where significant health and safety issues are identified, the Borrower should work with suppliers and other appropriate agencies to define corrective actions to remedy the situation. The nature of the actions to remedy identified situations will depend on the nature of the incidents, the control and influence of the Borrower over the situation.

**38.** The ability of the Borrower to fully address these risks will depend upon the Borrower's level of management control or influence over the project's primary suppliers. Where remedy is not possible, the Borrower will shift the project's primary suppliers over time to suppliers that can demonstrate that they are complying with this ESPS.

**GL126.** The Borrower's ability to influence its primary suppliers depends on the terms and conditions of contracts with the primary supplier. The Borrower should therefore review all contracts and include clauses which allow for it to request risk assessments and corrective actions in line with the requirements of this standard on primary suppliers and forced and child labor and life-threatening safety issues. Where corrective actions are not feasible or effective, the Borrower or third party should shift the project's primary suppliers, within a reasonable time frame, to suppliers that can meet the requirements of ESPS 2.

GUIDELINES FOR ENVIRONMENTAL  
AND SOCIAL PERFORMANCE

**STANDARD 3:**  
**RESOURCE EFFICIENCY  
AND POLLUTION  
PREVENTION**



3

## INTRODUCTION

1. Environmental and Social Performance Standard (ESPS) 3 recognizes that increased economic activity and urbanization often generate increased levels of pollution to air, water, and land and consume finite resources in a manner that may threaten people and the environment at the local, regional, and global levels.<sup>90</sup> There is also a global consensus that the current and projected atmospheric concentration of greenhouse gases (GHG) threatens the public health and welfare of current and future generations. At the same time, more efficient and effective resource use, pollution prevention,<sup>91</sup> and GHG emission avoidance and mitigation technologies and practices have become more accessible and achievable in virtually all parts of the world. These are often implemented through continuous improvement methodologies similar to those used to enhance quality.
2. This ESPS outlines a project-level approach to resource management and pollution prevention and control, and avoidance and minimization of GHG emissions. It builds on the mitigation hierarchy, and the “polluter pays” principle. It recognizes the disproportionate impact of pollution on women, children, the elderly, and the poor and vulnerable. This ESPS also recognizes the emerging concept and practice of circular economy<sup>92</sup> and/or resource recovery, where usable and valuable products can be created or derived from what has been previously viewed as waste. The project-related risks and impacts associated with resource use and the generation of waste and emissions need to be assessed in the context of project location and local environmental conditions. Appropriate mitigation measures, technologies, and practices should be adopted for efficient and effective resource use, pollution prevention and control, and avoidance and minimization of GHG emissions, in line with internationally disseminated technologies and practices.

## OBJECTIVES

- To avoid or minimize adverse impacts on human health and the environment by avoiding or minimizing pollution from project activities.
- To promote more sustainable use of resources, including energy and water.

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<sup>90</sup> For the purposes of this ESPS, the term “pollution” refers to both hazardous and non-hazardous chemical pollutants in the solid, liquid, or gaseous phases and includes other components such as pests, pathogens, thermal discharge to water, GHG emissions, nuisance odors, noise, vibration, radiation, electromagnetic energy, and the creation of potential visual impacts, including light.

<sup>91</sup> For the purpose of this ESPS, the term “pollution prevention” does not mean absolute elimination of emissions, but the avoidance at source whenever possible, and, if not possible, then subsequent minimization of pollution to the extent that the Performance Standard objectives are satisfied.

<sup>92</sup> A circular economy is based on the principles of designing out waste and pollution, keeping products and materials in use, and regenerating natural systems.

- To avoid or minimize project-related emissions of GHG.
- To avoid or minimize generation of waste.
- To minimize and manage the risks and impacts associated with pesticide use.

**GL1.** To achieve the objectives of Environmental and Social Performance Standard (ESPS) 3, Borrowers should take into account the risks and impacts of their activities on ambient conditions and public health (such as ambient air quality, noise level, soil, surface water and groundwater quality, condition of the biodiversity and living natural resources, impacts on community etc.) and seek to avoid or minimize these risks and impacts within the context of the project's natural and human ecosystems and the significance of pollutants emitted. For projects with limited potential pollution and impacts on resources that can be considered low/moderate risk, ESPS 3 objectives may be achieved through compliance with emissions and effluent standards (see paragraphs 4 and 5 of ESPS 3) and the application of cost-effective pollution prevention and control approaches consistent with good international industry practice (GIIP). Projects with a potential to generate significant impacts on existing ambient levels (i.e., airshed, watershed, soil, etc.), may require the implementation of project-specific control measures as well as monitoring of impacts on the surrounding environment (i.e., including beyond the project's area of influence as defined in Section 10 of ESPS 1 - *Assessment and Management of Environmental and Social Risks and Impacts* and relevant sections of Guideline 1). Further information on how to address ambient conditions is provided in paragraph 11 of ESPS 3 and this Guideline.

**GL2.** The potential environmental impacts associated with the direct and indirect emissions of greenhouse gases (GHGs) should be assessed in the context of the project's Area of Influence and within the project activities that falls under the borrower's responsibilities. Borrowers are encouraged to consider their potential contribution to climate change when developing and implementing their projects, to identify opportunities and methodologies for GHG reduction from the project design phase through to the implementation phase, and to minimize GHG emissions from core activities to the extent that this is cost-effective and technically feasible.

## SCOPE OF APPLICATION

3. The applicability of this ESPS is established during the environmental and social risks and impacts identification process. The implementation of the actions necessary to meet the requirements of this ESPS is managed through the Borrower's Environmental and Social Management System, the elements of which are outlined in ESPS 1.

**GL3.** The identification and management of environmental and social risks and impacts is part of the Borrower's project development and management function and is a dynamic and continuous process in accordance with the requirements of ESPS 1. The Borrower must develop and implement a sound Environmental and Social Management System (ESMS)<sup>1</sup>, for the effective management of the project's environmental and social performance throughout the project life cycle. The Borrower should include performance monitoring and revise their ESMS as necessary throughout the project life cycle.

## REQUIREMENTS

4. During the project life cycle, the Borrower will consider ambient conditions and apply technically and financially feasible resource efficiency and pollution prevention principles and techniques that are best suited to avoid, or where avoidance is not possible, minimize adverse impacts on human health and the environment.<sup>93</sup> The principles and techniques applied during the project life cycle will be tailored to the hazards and risks associated with the nature of the project and consistent with GIIP,<sup>94</sup> as reflected in various internationally recognized sources, including the World Bank Group Environmental, Health and Safety Guidelines (EHSB).
5. The Borrower will refer to the EHSB or other internationally recognized sources, as appropriate, when evaluating and selecting resource efficiency and pollution prevention and control techniques for the project. The EHSB contains the performance levels and measures that are normally acceptable and applicable to projects. When applicable regulations differ from the levels and measures presented in the EHSB, Borrowers will be required to achieve whichever is more stringent. If less stringent levels or measures than those provided in the EHSB are appropriate in view of specific project circumstances, the Borrower will provide full and detailed justification for any proposed alternatives through the environmental and social risks and impacts identification and assessment process. This justification must demonstrate that the choice for any alternate performance levels is consistent with the objectives of this ESPS.

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<sup>93</sup> Technical feasibility is based on whether the proposed measures and actions can be implemented with commercially available skills, equipment, and materials, taking into consideration prevailing local factors such as climate, geography, infrastructure, security, governance, capacity, and operational reliability. Financial feasibility is based on financial considerations, including relative magnitude of the incremental cost of adopting such measures and actions compared to the project's investment, operating, and maintenance costs.

<sup>94</sup> GIIP is defined as the exercise of professional skill, diligence, prudence, and foresight that would reasonably be expected from skilled and experienced professionals engaged in the same type of undertaking under the same or similar circumstances globally or regionally. The outcome of such an exercise should be that the project employs the most appropriate technologies in the project-specific circumstances.

**GL4.** When developing new projects or expanding existing facilities or operations, including any associated facilities, Borrowers should assess and incorporate environmental and social aspects of the project, including measures for the sustainable and responsible use of living and non-living resources and raw materials (e.g., any unprocessed material or primary commodity required to produce other products, such as crude oil, gas, mineral in its natural form, sand, gravel, raw biomass, water, product of agriculture, forestry, etc.), during the design, construction, operation, and/or decommissioning phases. For projects involving expansion of existing facilities, the Borrower should take into consider a gradual phase out of obsolete facilities in a safe manner, based on an assessment of potential environmental, health, safety and social impacts of any future decommissioning. Where warranted by the nature and scope of the project and its potential emissions to the environment, the assessment should include the identification and analysis of project design options and site selection alternatives. Considerations should include background ambient conditions that may occur due to natural and/or anthropogenic causes not related to the project but that might have a physical impact on the project, climate-related risks<sup>2</sup> (see also ESPS 4 - *Community Health, Safety, and Security*, and associated Guideline), both at project level and climate national policy, the presence of local communities and environmentally sensitive receptors, the expected project demand for water and other natural resources, and the availability of waste disposal facilities, among others.

**GL5.** Environmental and social impacts can occur at any phase of a project and depend on several factors including the nature and scope of the project and site location. Project design should consider the entire life cycle of a project, from site selection and construction, through commissioning, operation, decommissioning and environmental rehabilitation, as appropriate. Potential future expansions should also be accounted for in the initial design where these may reasonably be anticipated. The Borrower should, in accordance with the requirements of ESPS1, establish performance management and monitoring actions at the outset of the project and consider revisions throughout the project life cycle in response to unanticipated impacts or implementation challenges.

**GL6.** If a project involves or consists of existing facilities, the Borrower must assess how to meet the requirements of ESPS 3 and seek to improve existing performance through a program of time-bound actions included in the Environmental and Social Action Plan (ESAP).

**GL7.** If a project involves or consists of existing operations, the Borrower should identify actions to improve risks and environmental management practices to a level consistent with the objectives of ESPS 3. This may include relevant studies such as industrial risk assessment and/or hazard identification (HAZID) and hazard and operability (HAZOP) studies, considering facility operation scenarios at full load under routine circumstances, including possible intermittent exceedances during startups, shutdowns, and warm-up periods.

**GL8.** The Borrower should refer to the World Bank Group Environmental, Health and Safety Guidelines (EHSG or EHS Guidelines) together with other internationally recognized sources (e.g., other guidelines such as the European Union (EU) Industrial Emission Directive on Best Available Techniques Reference Documents” (BREFs) and other sector-specific guidance

documents on environmental protection and energy efficiency) when evaluating and selecting resource efficiency and pollution prevention and control techniques for the project. For new operations and facilities, the Borrower shall refer to the EHS Guidelines and other guidelines whose performance levels and measures are cost-effective and achievable by commercially available technology or consider the application of alternate performance levels and measures. Borrowers that propose application of performance levels or measures based on local laws and requirements that are less stringent than those in the EHS Guidelines must provide justification of the proposed technical alternatives, including results of specific studies demonstrating that environmental, social and public health risks associated with the project have been assessed and relevant mitigation measures identified.

**GL9.** When projects have significant environmental emissions or are located in already degraded environments, the Borrower must strive to improve the project's performance beyond the performance levels and measures articulated in applicable law and in the EHS Guidelines with due consideration of the existing assimilative capacity of the environment. The Borrower should outline target performance levels as early as possible in the project's life cycle, preferably at project design whenever feasible.

## Resource Efficiency

- 6.** The Borrower will implement technically and financially feasible and cost-effective<sup>95</sup> measures for improving efficiency in its consumption of energy, water, and other resources and material inputs, with a focus on core areas of project activities. Such measures will integrate the principles of cleaner production into project development with the objective of conserving raw materials, energy, and water. Where best practice benchmarking data are available, the Borrower will make a comparison to establish the relative level of efficiency.

**GL10.** The terms “Cleaner Production and “Resource Efficiency” refer to the concept of integrating pollution reduction into project/program design and to promote more sustainable and efficient use of resources, including adopting alternative technical solutions to avoid and minimize adverse impacts on human health and the environment. This involves the application of technically and financially feasible environmental strategies and circular approaches and practices to increase conservation of raw materials, water and energy, and living and non-living resources in line with GIIP.

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<sup>95</sup> Cost-effectiveness is determined according to the capital and on operational cost, financial benefits, and environmental and social externalities of the measure, considered over the life of the operation.

**GL11.** The Borrower should identify cost-effective and technically feasible solutions consistent with GIIP to ensure the efficient use of resources, including energy, water, raw materials, and other finite resources, considering project features and the country-specific environmental and social context. In accordance with ESPS 1, resource efficiency measures shall be analyzed as part of the project's environmental and social risks and impacts identification process.

**GL12.** For existing facilities, it may be appropriate for Borrowers to commission experts to undertake Cleaner Production/Resource Efficiency studies such as screening, assessment, analysis, etc. and integrate the results into the project/program design.

**GL13.** If a project makes a significant use of raw materials such as sand, gravel, timber, and any other natural construction materials, the Borrower shall identify and implement measures to source such materials in a sustainable way and to minimize the quantity used in the project. Measures to eliminate, substitute, or reduce raw material use in various phases of project development may be found in the World Bank Group's General EHSs.

**GL14.** In many industrial and commercial sectors, where the unit of output can be readily measured and defined, widely accepted benchmarks that describe performance in quantitative terms are available. For example, process energy use per ton of product is often an accepted benchmark. Similarly, building benchmarks could refer to energy or water use per unit of built area with adjustments for climatic variations. When these benchmarks are available and applied in accordance with or to supplement GIIP, they can be used to evaluate project performance of the resource efficiency or pollution intensity requirements of ESPS 3. If such benchmarks are not available, reference to GIIP may be appropriate to benchmark alternative approaches.

**GL15.** Projects using brand new machinery or equipment should reflect GIIP in resource efficiency. In energy intensive sectors and when new process machinery is sourced from international vendors, the expectation is that designs will meet best practice where this is established. When a Borrower invests in an existing manufacturing operation, or uses second-hand equipment, it may not always be possible to meet best practice standards due to physical or cost restraints. Consideration should be given to the technical and financial feasibility and effectiveness of proposed measures. Environmental and social implications of the selected alternative should be also investigated.

**GL16.** The Borrower should consider the different levels of resource efficiency of alternative capital equipment offers in the equipment selection process by taking into account resource efficiency, life cycle costing of the different options, and the cost-effectiveness of alternative offers. When comparison is made between a low capital cost offer for less efficient equipment and a higher cost offer for more efficient equipment, the Borrower should demonstrate the rationale used in the offer selection process (i.e., while retrofitting or upgrading an existing technology could be a cheaper option, it could be more expensive in the long run due to higher operating costs).

## Greenhouse Gases

7. In addition to the resource efficiency measures described above, the Borrower will consider alternatives and implement technically and financially feasible and cost-effective options to avoid or minimize project-related GHG emissions during the design and operation of the project. These options may include, but are not limited to, alternative project locations, adoption of renewable or low carbon energy sources, sustainable agricultural, forestry, and livestock management practices, the reduction of fugitive emissions, and the reduction of gas flaring.
8. For projects that are expected to, or currently produce more than 25,000 tonnes of carbon dioxide (CO<sub>2e</sub>)-equivalent annually<sup>96</sup>, the Borrower will quantify gross emissions from the project<sup>97</sup>, including direct and indirect emissions associated with the project. Indirect emissions include those associated with the off-site production of energy<sup>98</sup> and GHG-intensive materials<sup>99</sup> used by the project, and emissions generated by project's direct users, when significant. The Borrower will quantify GHG emissions annually, in accordance with internationally recognized methodologies and good practice.<sup>100</sup>

**GL17.** Borrowers should seek to avoid and minimize emissions of GHG from early in the project life cycle, beginning at the project design phase through the consideration of technically and financially feasible and cost-effective options. There are many examples of cost-effective GHG-reducing measures. Options may include, but are not limited to, use of low-carbon fuels, sustainable agricultural practices (e.g., optimization of nitrogen fertilizer in agriculture), use of cement additives, GHG leakage avoidance or minimization measures, use of low global warming potential (GWP) chemicals, reduction of gas venting, sanitary landfill gas collection and combustion, and energy efficiency and renewable energy measures. Examples of energy efficiency measures include more energy efficient electricity generation, cogeneration of heat and power, tri-generation of heat, power and cooling, heat recovery, process changes, enhanced process control, leak elimination, insulation, and the use of more energy efficient demand-side equipment (e.g., electric motors, compressors, A/C units, fans, pumps, heaters, and lighting fixtures). Examples of renewable energy sources include solar power or heat generation,

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<sup>96</sup> The quantification of emissions should consider all significant sources of GHG emissions, including non-energy related sources such as methane and nitrous oxide, among others.

<sup>97</sup> Project-induced changes in soil carbon content or above ground biomass, and project-induced decay of organic matter may contribute to direct emissions sources and shall be included in this emissions quantification where such emissions are expected to be significant.

<sup>98</sup> Refers to the off-site generation by others of electricity, heat and steam used in the project.

<sup>99</sup> These include cement and steel.

<sup>100</sup> International Financial Institution Framework for a Harmonized Approach to Greenhouse Gas Accounting, the Intergovernmental Panel on Climate Change, various international organizations, and relevant host country agencies.

hydro<sup>3</sup>, wind, certain types of geothermal, and sustainable biomass. Certain forms of agriculture and forestry can sequester large quantities of carbon dioxide from the atmosphere. Carbon Capture and Storage (CCS) and Carbon Capture Utilization and Storage (CCUS) are examples of emissions reduction technologies with the potential to remove large quantities of carbon dioxide from large, concentrated point sources.

**GL18.** Most common greenhouse gases and their respective Global Warming Potential (GWP)<sup>4</sup> over a 100-year time frame based on the Fifth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC) include:

- i. Carbon dioxide (CO<sub>2</sub>) (GWP = 1)
- ii. Methane (CH<sub>4</sub>) (GWP = 28)
- iii. Nitrous oxide (N<sub>2</sub>O) (GWP = 265)
- iv. Hydrofluorocarbons (HFCs) (GWPs from 124 to 12,400)
- v. Perfluorocarbons (PFCs) (GWPs from 6630 to 11,100)
- vi. Sulphur hexafluoride (SF<sub>6</sub>) (GWP = 23,500)

**GL19.** CO<sub>2</sub> is the most significant GHG, accounting for a large proportion of anthropogenic emissions. The next most significant GHG is CH<sub>4</sub>, contributing 14 percent of anthropogenic emissions, followed by N<sub>2</sub>O contributing 8 percent of anthropogenic emissions. CO<sub>2</sub> emissions are dominated by fossil fuel combustion, but CO<sub>2</sub> emissions also arise from deforestation and decay of biomass, soil conversion and from numerous industrial processes involving calcination of limestone (e.g., cement manufacturing) and oxidation of carbon (e.g., steelmaking). CH<sub>4</sub> is emitted during oil, gas, and coal extraction, refining and processing, from livestock, rice cultivation and some waste management practices. Most N<sub>2</sub>O emissions result from soil cultivation, though the compound is also emitted during combustion and by certain industrial processes.

**GL20.** HFCs are commonly used as refrigerants and solvents and contribute to global warming when released from contained systems such as compressors. PFCs are used in electronics manufacturing and are formed as a byproduct in the production of primary aluminum. SF<sub>6</sub> is used as a dielectric medium in the electrical industry as well as an inert gas in the magnesium industry and in other specialized industrial applications.

**GL21.** Examples of sectors that have potentially significant emissions of GHGs above the 25,000 tons CO<sub>2</sub>-equivalent (CO<sub>2</sub>e) per year threshold include energy, transport, heavy industry, building materials, agriculture, forest products and waste management. Reduction and control options that can be considered by Borrowers in these and other sectors include: (i) enhancement of energy efficiency, (ii) protection and enhancement of sinks and reservoirs of GHGs, (iii) promotion of sustainable forms of agriculture and forestry, (iv) promotion, development and increased use of renewable forms of energy, (v) CCS and CCUS technologies, (vi) limitation and/or reduction of methane emissions through recovery and use in waste management, as well as in the production, transport and distribution of energy (coal, oil, and gas), and (vii) the use of low carbon fuels.

**GL22.** Quantification of GHG emissions is an important step in managing and ultimately reducing GHG emissions in a cost-effective manner in accordance with the requirements of ESPS 3. The gathering of data needed to facilitate a Borrower's GHG emissions calculation is likely to provide greater transparency to the consumption and cost of utilities and allow for the comparison between different sites' performance. Quantification of GHG emissions will also facilitate a Borrower's participation in GHG reporting programs and other GHG-related initiatives and prepare them for transition to a lower carbon economy. Annual GHG emissions should be estimated over the life of the project, including the construction phase. For smaller projects with emissions of less than 25,000 tons CO<sub>2</sub>e per year, GHG estimations are not required but are recommended.

**GL23.** When considering GHG emissions and their significance, Borrowers should use appropriate tools and methodologies for quantifying GHG emissions and comparing GHG quantities across alternative scenarios, for instance within an alternative analysis to be undertaken within the scope of ESPS1. Borrowers should quantify direct, indirect, and reasonably foreseeable GHG emissions related to the project's activities. Direct emissions of GHGs from the Borrower's operations and arising from within the physical boundary of the project (including Associated Facilities as defined under ESPS 1) are referred to as Scope 1 emissions, while those associated with off-site production of energy used by the project are referred to as Scope 2 emissions. There are occasions where emissions arise from within a Borrower's site, but not from the Borrower's operations: in principle such emissions should not be included in this GHG quantification<sup>5</sup>. Accounting for Scope 3 emissions should only be included when deemed relevant and treated in accordance with the IFI's harmonized GHG accounting methodology, IDB's Greenhouse Gas Assessment Emissions Methodology, and other sources. Examples include emissions from aircraft using the Borrower's airport, or emissions from vehicles using a toll road. Similarly, emissions arising from future combustion of fossil fuel by an end user would not be attributed to producers and handlers of the fuels (e.g., a hydrocarbons extraction, fuel transport or refining project). Calculation methodologies for a range of different projects are provided in the IDB Greenhouse Gas Assessment Emissions Methodology and other sources.

**GL24.** Indirect emissions associated with the production by others of electrical energy used by the project can be estimated by using a national average of GHG emissions performance for electricity generation (e.g., national average of CO<sub>2</sub>e emissions per unit of electricity generated for the country). More project specific GHG emissions performance for electricity generation should be used if available (e.g., utility average of CO<sub>2</sub>e emissions per unit of electricity generated for the utility from which the project purchases electricity). Similarly, project-specific data should be used to account for GHG emissions associated with purchases of heating or cooling energy produced by third parties. Calculation methodologies for a range of different projects are provided in the IDB Greenhouse Gas Assessment Emissions Methodology and other sources.

**GL25.** Borrowers are encouraged to disclose their GHG emissions annually through public reports, or through other voluntary disclosure mechanisms currently being used internationally such as the Task Force on Climate-Related Financial Disclosures (TCFD), Sustainability Accounting Standards Board and the Carbon Disclosure Project.

## Water Consumption

9. When the project is a potentially significant consumer of water, in addition to applying the resource efficiency requirements of this ESPS, the Borrower shall adopt measures that avoid or reduce water usage so that the project's water consumption does not have significant adverse impacts on people and biodiversity. These measures include, but are not limited to, the use of additional technically feasible water conservation measures, the use of alternative water supplies, the reuse of water, water consumption offsets to reduce total demand for water resources to within the available supply, and evaluation of alternative project locations, as appropriate.

**GL26.** Borrowers' projects should not cause or contribute to unsustainable water stress of local resources and impact on third parties' water use (including local communities and biodiversity). Impact to available water resources and uses should be assessed as part of the E&S risks and impacts identification process in accordance with the requirements of ESPS 1.

**GL27.** The environmental and social assessment should consider the potential cumulative impacts of the project's water use on surface and groundwater, and impacts on water quality and quantity, including current and planned uses of water in the same hydrological watershed (including watersheds and groundwater). Appropriate mitigation measures should address short- and long-term cumulative impacts on communities, other users, ecosystem services, and the environment.

**GL28.** ESPS 3 requires the sustainable use of water resources. Cases of water abstraction at a rate exceeding natural recharge should be avoided. Borrowers that, in view of specific project circumstances propose to abstract water at a rate in excess of natural recharge should provide a full and detailed justification and demonstrate that such abstraction does not cause adverse effects to biodiversity, ecosystems, and/or other users of the water, that exist or can reasonably be expected to move into the area of influence of the project.

**GL29.** Depending on the significance of the projects' potential impacts on communities, other users, ecosystems, or the environment, the Borrower may include an assessment of the volume of water used per unit of production in the projects' environmental and social risks and impacts identification process. With respect to water productivity, approaches such as system-wide water balance may be useful to assess the extent to which water productivity increases affect other water users. For example, increasing water productivity, while maintaining existing water withdrawal, will increase the efficiency of water use, but, at the same time, may affect downstream water users who depend on return flow to rivers or groundwater aquifers.

**GL30.** Certain projects (e.g., projects with a large water footprint, with sensitive receptors or fragile ecosystems and projects where water is critical to ecosystem services) will require a detailed water balance (through desktop study and/or field surveys, monitoring and observation, etc.) that integrates climate-related variability and incorporates estimates relating to: (a) all inputs, such as precipitation, external inflow of rivers and groundwater, interbasin transfer, and returned water from users to a hydrological unit, such as a catchment/watershed or river basin; (b) all outputs from the hydrological unit, such as water abstraction from surface/groundwater resources, outflow of rivers and groundwater to the sea or neighboring territories, interbasin transfer or by evapotranspiration; and (c) changes in water storage in the hydrologic unit over a defined period of time, for example, during a month or a year. In preparing a detailed water balance, estimates of future water availability should be included, which can vary based on scenarios of anticipated changes in water demands or other factors, such as climate change. A good water balance supports management of water allocation among water users. It also supports river basin management planning as it provides information on water availability and demand and can indicate potential for water conservation. Methods to support the preparation of water balances include water accounting through remote sensing, in-situ sensors and flow meters with appropriate analysis to the extent technically and financially feasible, and in a manner proportionate to the project scope to estimate water flows, fluxes, stocks, consumption, and services, and to communicate water-resources-related information to communities, users, and decision makers in accordance with the requirements of ESPS 1 and ESPS 10 – *Stakeholder Engagement and Information Disclosure*.

**GL31.** Various options exist to improve water use efficiency to avoid or minimize adverse impacts of water consumption. Water use in agriculture, the largest consumer of water, can be made more efficient through irrigation-system improvements, irrigation scheduling, improving water-conveyance efficiency and leakage losses, managing soils to reduce runoff, and reusing water on-farm. Agricultural water consumption efficiency can be further improved through technologies and policies that incentivize maintaining net consumptive use (evapotranspiration) within specified limits, considering the implications for the overall watershed. Another example in urban areas, water use efficiency can be increased through building codes that encourage installation of low flow toilets and showers, consumer awareness campaigns to promote water efficient appliances, use of closed loop water systems, local wastewater treatment and reuse, and repair of water-distribution systems to reduce leakage.

**GL32.** In circumstances where a project is a significant net consumer of water or contributes to depletion of water resources to the extent that third parties' ability to access water is adversely affected, the Borrower shall use design and process technology solutions and measures to reduce the project's water consumption to a level at which these adverse impacts are adequately mitigated. Risks and impacts on the availability of water resources and uses should be assessed through the project risk and impact identification process, as defined in ESPS 1, and such assessment should be informed by a community engagement process consistent with the requirements of ESPS 10. Actions that the Borrower should consider meeting this objective include, but are not limited to, additional resource efficiency measures within the project site in addition to those necessary to satisfy paragraph 6 of ESPS 3, water sustainability and reuse options, alternative provision of water, and water consumption offsets outside the

project boundary. In this context, water consumption offsets are measures to reduce others' consumption of water from the same resource as that used by the project by an amount such that adverse project effects are mitigated. In circumstances where none of these measures are deemed to be sufficient to achieve sustainable use of water resources, re-siting of the project should be considered.

## Pollution Prevention

- 10.** The Borrower will avoid the release of pollutants or, when avoidance is not feasible, minimize and/or control the intensity and mass flow of their release. This applies to the release of pollutants to air, water, and land due to routine, non-routine, and accidental circumstances with the potential for local, regional, and transboundary impacts.<sup>101</sup> Where historical pollution such as land or ground water contamination exists, the Borrower will seek to determine whether it is responsible for mitigation measures. If it is determined that the Borrower is legally responsible, then these liabilities will be resolved in accordance with national law, or where this is silent, with GIIP.<sup>102</sup>
- 11.** To address potential adverse project impacts on existing ambient conditions<sup>103</sup>, the Borrower will consider relevant factors, including, for example, (i) existing ambient conditions, (ii) the finite assimilative capacity<sup>104</sup> of the environment, (iii) existing and future land use, (iv) the project's proximity to areas of importance to biodiversity, and (v) the potential for cumulative impacts with uncertain and/or irreversible consequences. In addition to applying resource efficiency and pollution control measures as required in this performance standard, when the project has the potential to constitute a significant source of emissions in an already degraded area, the Borrower will consider additional strategies and adopt measures that avoid or reduce negative effects. These strategies include, but are not limited to, evaluation of project location alternatives and emissions offsets.

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<sup>101</sup> Transboundary pollutants include those covered under the Convention on Long-Range Transboundary Air Pollution.

<sup>102</sup> This may require coordination with national and local government agencies, communities, and the contributors to the contamination, and that any assessment follow a risk-based approach consistent with GIIP, as reflected in the EHSR.

<sup>103</sup> Such as air, surface and groundwater, and soils.

<sup>104</sup> The capacity of the environment for absorbing an incremental load of pollutants while remaining below a threshold of unacceptable risk to human health and the environment.

**GL33.** Borrowers should seek to avoid and minimize pollution from early in the project life cycle, beginning at the project design phase, through technically and financially feasible and cost-effective options. When the release of pollutants is unavoidable, the Borrower should identify technically and financially feasible technologies and processes to reduce and mitigate their release into the environment. When details on the level of the resulting contamination are not available, or for projects whose release of pollutants and impacts are uncertain and/or potentially irreversible, the environmental and social assessment should include an analysis of the source, nature, and magnitude of the emission or discharge and its pathway and interaction with the ecosystem, including the sensitivity of receptors. Based on this analysis, appropriate technologies and processes must be selected.

**GL34.** The monitoring frequency should be commensurate to the nature, scale and variability of potential impacts and may range from continuous monitoring to daily, monthly, annual, or other frequency in accordance with the nature of project emissions, their potential for accumulation in the environment and impacts. An assessment of risks and impacts may be necessary when changes to the project are under consideration that might involve changes to the nature or scale of emissions. Such changes are often considered through a Management of Change Procedure, which may also result in adjustments to monitoring frequency. Guidance on recommended monitoring approaches and frequencies appropriate to the nature of specific operations is available from various internationally recognized sources including the EHS Guidelines. Monitoring emissions can benefit Borrowers by: (i) demonstrating compliance with environmental permits or other legal obligations, (ii) promptly identifying any process or equipment upsets, (iii) providing information to evaluate project performance and determine if corrective actions are necessary, (iv) helping to identify opportunities for further improvement, and (v) providing data to evaluate the impact on the ambient levels.

**GL35.** Monitoring is particularly important for large projects with emissions that might lead to potentially irreversible impacts and therefore require more frequent evaluation of emission levels and their effect on the ambient environment. Monitoring processes, necessary equipment and facilities and indicators, should form part of the project's ESMS. The ESMS may also include elements of continuous improvement, through regular optimization of operational processes, maintenance, and upgrades, to encourage performance levels that go beyond compliance with emissions and effluent standards or guidelines. Improvements may include efficiency gains in production, manufacturing and construction processes that result in better operational, environmental, or financial performance through, for example, reductions in energy and/or water consumption or lower solid/liquid waste production per unit of output.

**GL36.** Project-related emissions will be monitored, tabulated, and reported in accordance with requirements of national law, conditions in project permits, and requirements associated with the ESPs and the Environmental and Social Action Plan (ESAP) and all management plans developed by the Borrower for the project. Pollutant release and transfer registers that collect and disseminate data on environmental releases and transfers of pollutants from industrial facilities have been found effective in promoting pollution reduction in some sectors, particularly where all or most facilities operating within a geographic region participate and where the

information is public and made accessible to local communities. Where such registries are not required by law, and in addition to meeting the requirements of ESPS 1 related to disclosure of significant potential environmental impacts, Borrowers are encouraged to participate in voluntary initiatives to establish formal pollutant release and transfer registers at the national or regional levels.

**GL37.** Where the project involves historical pollution (e.g., defined as pollution from past activities affecting land and water resources for which no party has assumed or been assigned responsibility to address and carry out the required remediation), the Borrower will establish a process to identify the responsible party. If one or more third parties are responsible for the historical pollution, the Borrower will consider seeking resources from such parties so that the pollution is appropriately remediated and does not pose a significant risk to the health and safety of workers and communities. Where a contamination is identified, the Borrower should seek to determine who has the legal liability to manage this contamination. If no responsible party can be identified due to historic legacy and/or multiple sources of pollution and inability to make an attribution, the Borrower will need to identify if they can be indemnified against any future clean up claims, or otherwise assess the risk and financial implications of future liabilities and budget accordingly. The Borrower may bear this responsibility due to its own past actions or inactions or may have taken on this liability when acquiring the site. In other cases, contamination may have been identified and legal provisions made to isolate the Borrower from such liability when acquiring the site. If the historical pollution poses a significant risk to human health or the environment, a health and safety risk assessment consistent with GIIP shall be undertaken. The health and safety risk assessment should be proportionate to the potential risks and impacts of the historical pollution and may be conducted as part of the environmental and social impact assessment (ESIA). Appropriate mitigation measures to address health and safety risks to project workers and residential areas/communities should be identified and implemented in accordance with national laws and GIIP (see also ESPS 4 and its accompanying Guideline for additional information on community health, safety and security aspects). Contamination management options will be site-specific, should be developed in consultation with other stakeholders (as specified in ESPS 10 and its accompanying Guideline), and may include contamination containment, isolation/buffer zones as well as mitigation.

## Assimilative Capacity of the Environment

**GL38.** The Borrower should assess the assimilative current and future capacity of the environment that includes the nature of the receiving environment, such as the existence of water bodies, soils, airsheds, and forests, as well as temporal and seasonal factors. In addition, climate change adaptation and resilience actions should be considered, including through the provisions and requirements of ESPS 4 and its Guideline.

**GL39.** The assimilative capacity of receiving water bodies may depend on numerous factors such as the total volume of water, flow and flushing rates, temperature of received discharge, and the loading of pollutants from other effluent sources in the area or region. The assimilative capacity of soil may depend on the characteristics of both the received discharge and the soil, as well as the type of microbial, chemical, and physical reactions that take place in the soil layer, and climatic conditions. The assimilative capacity of an airshed is affected by emission levels, ambient air quality characteristics, and prevailing meteorological conditions. Appropriate modeling or similar tools should be used to determine critical emission loads on the different environmental receptors. Information on the assimilative capacity of the environment, including benchmarks and thresholds for various pollutants and substances may be found in the Annotated Bibliography, here: <https://www.iadb.org/en/mpas/guidelines>.

**GL40.** When developing a new project (including major expansion of an existing operation) that is expected to produce potentially significant emissions of pollutants (see the WB General and Industry Sector EHS Guidelines for relevant thresholds), the environmental and social assessment should evaluate whether the existing background ambient levels comply with the relevant ambient quality guidelines and/or standards. Ambient quality standards are ambient quality levels established and published through national or local legislative and regulatory processes. Ambient quality guidelines refer to ambient quality levels primarily developed through clinical, toxicological, and epidemiological evidence (such as those published by the World Health Organization). Receiving water, air, and soil quality standards may also be established on a site-by-site basis and will depend on receiving water, air, and soil quality objectives.

**GL41.** If the results of the assessment confirm that ambient levels exceed the relevant ambient quality guidelines or standards (i.e., ambient conditions are already deteriorated), Borrowers are expected to demonstrate that they have explored and, if necessary, adopted a higher level of performance than would otherwise be required under less deteriorated ambient conditions as well as further mitigation measures (e.g., offsetting emissions, modifying site selection) in order to minimize further deterioration of the environment or preferably to achieve improvement. If ambient levels comply with relevant ambient quality guidelines and/or standards, projects with potentially significant emissions of pollutants should be designed to reduce the potential for significant deterioration and to allow for continued compliance with guidelines or standards. The General EHS Guidelines gives further guidance on this matter, including cases where ambient quality guidelines are exceeded in the pre-project case.

**GL42.** For projects that may discharge effluents into receiving water bodies lacking assimilative capacity, water sustainability and reuse options, zero discharge systems and offsets outside the project boundary shall be considered where technically and financially feasible.

**GL43.** Where a project is expected to potentially generate significant emissions of pollutants involves the modernization or retrofit of an existing facility, the current ambient conditions should be evaluated to determine if they comply with the country's ambient quality guidelines or standards. If the levels exceed ambient quality guidelines and/or standards, and if the existing facility is a major source of emissions affecting such exceedances, the feasibility of options to reduce emissions and of measures that improve current ambient conditions should be considered in the project's environmental and social assessment.

**GL44.** Borrowers with projects located in or near vulnerable communities or ecologically sensitive areas or whose area of influence includes ecologically sensitive areas such as national parks or providers of ecosystem services (see ESPS 6 - Biodiversity Conservation and Sustainable Management of Living Natural Resources and ESPS 4 - Community Health, Safety, and Security and their associated Guidelines) should implement measures to avoid or minimize incremental impacts of the projects.

## Wastes

**12.** The Borrower will avoid the generation of hazardous and non-hazardous waste materials. Where waste generation cannot be avoided, the Borrower will reduce the generation of waste and recover and reuse waste in a manner that is safe for human health and the environment. Where waste cannot be recovered or reused, the Borrower will treat, destroy, or dispose of it in an environmentally sound manner that includes the appropriate control of emissions and residues resulting from the handling and processing of the waste material. If the generated waste is considered hazardous<sup>105</sup>, the Borrower will adopt GIIP alternatives for its environmentally sound disposal while adhering to the limitations applicable to its transboundary movement<sup>106</sup>. When hazardous waste disposal is conducted by third parties, the Borrower will use contractors that are reputable and legitimate enterprises licensed by relevant government regulatory agencies and obtain chain of custody documentation to the final destination. The Borrower should ascertain whether licensed disposal sites are being operated to acceptable standards and where they are, the Borrower will use these sites. Where this is not the case, the Borrower should reduce waste sent to such sites and consider alternative disposal options, including the possibility of developing their own recovery or disposal facilities at the project site.

<sup>105</sup> As defined by international conventions or national legislation.

<sup>106</sup> Transboundary movement of hazardous materials should be consistent with national, regional, and international law, including the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal and the London Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter.

**GL45.** Because of the risks to human health and the environment and the ever-increasing costs and liabilities associated with the management and/or disposal of waste material, ESPS 3 requires Borrowers to investigate options for waste avoidance, waste reduction, waste recovery and/or waste disposal during the design, construction, operational, closure and decommissioning stages of the project so that waste is managed responsibly. The level of effort to address this requirement depends on the risks associated with the waste materials generated by the project. Borrowers will have to assess the location of the final disposal of their waste and whether such locations are being operated to acceptable standards even if the disposal is conducted by a third party, and especially if the waste is considered hazardous to human health and the environment. If no suitable disposal method is available through commercial or other means, Borrowers shall discontinue, or if not possible, minimize waste sent off-site and consider developing their own recovery or disposal facilities or work with local municipalities or through licensed local private sector waste management operators to identify viable alternatives or approaches. Additional guidance is provided in the World Bank Group General and Industry Sector EHS Guidelines together with other internationally recognized sources.

**GL46.** In cases where the waste treatment, storage, or disposal alternative selected has the potential to generate polluting emissions or residues, the Borrower should apply adequate control techniques to avoid, minimize or reduce them according to the requirements of paragraphs 12 and 13 of ESPS 3. Environmentally sound and safe management of wastes and the obligations to manage such wastes shall be included in relevant contractual arrangements of the project, particularly the technical design and construction contracts. Waste containers designated for off-site shipment of hazardous wastes shall be secured and labeled, properly loaded on approved transport vehicles, and accompanied by chain of custody documentation. Further information on the environmentally sound handling and disposal of wastes can be found in numerous publications addressing the implementation of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and the Stockholm Convention on Persistent Organic Pollutants.

**GL47.** The requirement to obtain and maintain on file chain-of-custody documentation will allow the Borrower to demonstrate that all wastes sent from the project site were transported by a licensed carrier to a licensed final disposal facility in a manner meeting the objectives of ESPS 3.

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## Hazardous Materials Management

- 13.** Hazardous materials are sometimes used as raw material or produced as product by the project. The Borrower will avoid or, when avoidance is not possible, minimize and control the release of hazardous materials.<sup>107</sup> In this context, the production, transportation, handling, storage, and use of hazardous materials for project

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<sup>107</sup> These materials may include chemical fertilizer, soil amendments, and chemicals other than pesticides.

activities must be assessed. The Borrower will consider less hazardous substitutes where hazardous materials are intended to be used in manufacturing processes, construction activities, or other project-related activities or operations. The Borrower will avoid the manufacture, trade, and use of chemicals and hazardous materials subject to international bans or phase-outs due to their high toxicity to living organisms, environmental persistence, potential for bioaccumulation, or potential for depletion of the ozone layer.<sup>108</sup>

**GL48.** Hazardous materials present a risk to human health, community, and the environment due to their physical, chemical, or biological characteristics (see also ESPS 4 and its accompanying Guideline). The best way to prevent the release of hazardous materials is to avoid using them in the first place. Therefore, Borrowers should explore opportunities throughout the project life cycle to substitute hazardous materials with non-hazardous materials. This is especially relevant where the risks arising from the materials cannot easily be prevented or mitigated under normal use and/or disposal at the end of the life cycle of the hazardous materials. The effectiveness, compatibility, and cost of the substitute, and existing measures to adequately control its use and disposal will be considered when determining its suitability for use. Substitutions have been found and implemented in many cases, for example, in the use of asbestos in building materials, polychlorinated biphenyls (PCBs) in electrical equipment, persistent organic pollutants in pesticide formulations, and ozone-depleting substances in refrigeration and cooling systems. See the Annotated Bibliography (<https://www.iadb.org/en/mpas/guidelines>) for links to additional guidance materials. Hazards presented by a chemical are summarized in a Safety Data Sheet (SDS), which should be readily available from the supplier or other public sources and accessible in a local language or the language used by workers. The Borrower will provide training to project personnel and workers handling hazardous materials and ensure suitable hazardous waste storage facilities are available, along with relevant control measures, including secondary containment, temperature, humidity, and ventilation controls. A registry of hazardous materials used by the project should be maintained and regularly verified against potential and actual legislative changes on the phase-out or prohibition of use of certain chemicals and hazardous substances and materials, as well as requirements for the safe decommissioning of project facilities.

**GL49.** The Borrower should conduct a hazard analysis of its operations and disclose information related to hazardous materials management to stakeholders (including project workers and affected communities, in accordance with ESPSs 1, 2, and 4 and their respective Guidelines) when a project has the potential to release toxic, hazardous, medical and radiological<sup>6</sup> waste, modified living organisms, flammable or explosive material, or where project operations could

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<sup>108</sup> Consistent with the objectives of the Stockholm Convention on Persistent Organic Pollutants and the Montreal Protocol on Substances that Deplete the Ozone Layer. Similar considerations will apply to certain WHO classes of pesticides.

result in injury to plant personnel or the public as identified in the environmental and social risks and impacts identification process. Hazard analysis is often conducted in conjunction with Hazard Identification (HAZID), Hazard and Operability studies (HAZOP), Process Safety Management (PSM), and Quantitative Risk Analysis (QRA). Hazard analysis allows Borrowers to systematically identify systems and procedures that could result in accidental pollutant release and quantify these risks to the extent possible, and also helps to prioritize the allocation of resources for emergency response equipment and training programs. The Borrower will segregate hazardous materials for storage, transportation and disposal or treatment. For projects that foresee the use of significant amounts of hazardous materials and / or where there is a risk of an uncontrolled spill of hazardous materials, a spill control, prevention, and countermeasure response plan will be prepared as part of the environmental and social assessment and implemented by the Borrower.

**GL50.** Borrowers should review the list of chemicals included in Annexes A and B of the Stockholm Convention to ensure that no chemical formulations manufactured, sold, or used in the Project include these chemicals unless it meets the highly exceptional circumstances noted in those same annexes (for example, the use of DDT for malaria control). Persistent Organic Pollutants are chemicals that have five characteristics of environmental and public health concern: they are toxic, long-lived, and mobile, and they accumulate in fatty tissue and magnify in the food chain. Their high mobility makes them a global issue, while their other properties mean that they are hazardous to animal and human health even at low levels of exposure. Where projects have pre-existing involvement with such chemicals, including the presence of existing stockpiles of obsolete chemicals, the Borrower's ESAP should include a phase-out plan in accordance with the requirements of ESPS 3.

**GL51.** The Borrower should also minimize the unintentional generation and release of chemicals listed in Annex C of the Stockholm Convention. Guidance on how to identify, quantify and reduce emissions of Annex C chemicals from potentially significant sources is included in publications supporting the implementation of the Stockholm Convention.

**GL52.** The Borrower should also review the list of chemicals included in Annex III of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and seek to avoid their manufacture, trade, and use. The use of chemicals in this list has been banned or severely restricted in several national jurisdictions in order to protect human health and the environment. The list includes some pesticide formulations considered severely hazardous due to their serious health or environmental effects.

**GL53.** The Borrower should also review the Montreal Protocol on Substances that Deplete the Ozone Layer. Borrowers should avoid manufacture and consumption of Annex A and Annex B compounds—namely, chlorofluorocarbons (CFCs), halogens, carbon tetrachloride and 1,1,1-trichloroethane. Continued use of CFC refrigerant already present within refrigeration and cooling equipment and systems is permitted, although in these circumstances it is good

practice to minimize refrigerant leakage. While the Montreal Protocol does not require complete phase out of hydrochlorofluorocarbon (HCFC) refrigerants until January 1, 2040, in Article 5 countries, in many countries zero ozone-depletion-potential alternatives are already in use and are preferred to HCFCs.

**GL54.** The Borrower should adopt measures for the sound and safe management of mercury. The Minamata Convention on Mercury addresses the avoidance of primary mercury production and measures regarding its intentional use in products and processes, unintentional release from industrial activity and trade. The Borrower will implement environmentally sound management of mercury, including proper handling, storage, and final disposal throughout the life of the project, including the clean-up of mercury-contaminated sites.

**GL55.** The Borrower should also review requirements for the appropriate management of living modified organisms and genetically modified organisms. The Cartagena Protocol on Biosafety to the Convention on Biological Diversity promotes biosafety by establishing rules and procedures for the safe handling, transport, packaging, identification and use of living modified organisms, also referred to as genetically modified organisms. There is a specific focus on transboundary movements of living modified organisms from one country to another. These rules are designed to protect ecosystems from the release of living modified organisms that may have adverse effects on biological diversity, taking also into account risks to human health.

**GL56.** The Borrower will adopt plans and measures that are in line with recognized international standards and guidelines, ESPS 3 and GIIP. If this is not possible the Borrower will determine if the proposed practices are appropriate in view of specific project circumstances. In this case, the Borrower will provide full and detailed justification for any proposed alternatives through the environmental and social risks and impacts identification process. This justification must demonstrate that the choice for any alternative option is consistent with the objectives of ESPS 3 and complies with national legislation and applicable international conventions requirements.<sup>7,8</sup>

## Pesticide Use and Management

**14.** The Borrower will, where appropriate, formulate and implement an integrated pest management (IPM) and/or integrated vector management (IVM) approach in targeting economically significant pest infestations and disease vectors of public health significance. The Borrower's IPM and IVM program will integrate coordinated use of pest and environmental information along with available pest control methods, including cultural practices, biological, genetic, and, as a last resort, chemical means to prevent economically significant pest damage and/or disease transmission to humans and animals.

**GL57.** Pesticides are intended to kill or inhibit organisms that cause disease and threaten public health, as well as control insects, fungus, weeds, and pests that damage crops. While pesticides provide important benefits when used properly, they are also chemical substances that can be dangerous to produce, transport, use and dispose and should therefore be managed carefully whenever their use proves to be necessary. In accordance with the mitigation hierarchy set out in ESPS 1, the Borrower should avoid the use of pesticides to the extent possible and, where avoidance is not viable, minimize and further reduce their use over time. Minimization means pesticides are used only to the extent necessary to achieve the project objectives under an integrated pest management (IPM)<sup>9</sup> and/or integrated vector management (IVM)<sup>10</sup> approach. Reduction over time means the Borrower seeks to make pest management more sustainable over the life of the project by reducing the use of chemical pesticides. The need for chemical pesticide use will be assessed through the environmental and social risks and impacts identification process. The process will describe the proposed use and intended users, as well as the nature and degree of associated risks. Pesticide users should always read, understand and adhere to the manuals and instruction of an approved pesticide before use, to ensure appropriate handling and application to minimize risk to human health. As part of the process, the Borrower should also take into consideration the risks and impacts the health and resources of nearby communities as described in ESPS 4.

**GL58.** Borrowers involved in agricultural activities that require the use of chemical pesticides by third parties, including in the supply chain, should promote the use of IPM approaches through all feasible means and should monitor their implementation against desired outcomes, targets and performance indicators to be set within the framework of the management programs and the action plans (or management plans) therein.

**GL59.** For any project involving significant pest management (e.g., locust control, mosquito or other disease vector control, rodent control, and the like) or activities that may lead to significant pest and pesticide management issues<sup>11</sup>, the Borrower should prepare a Pest and Pesticides Management Plan (PPMP). The PPMP should be integrated into the broader framework of the management plans prepared in accordance with ESPS 1 requirements and, as such, should include performance targets for its implementation monitoring and follow up throughout the life of the project.

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- 15.** When pest management activities include the use of chemical pesticides, the Borrower will select chemical pesticides that are low in human toxicity, that are known to be effective against the target species, and that have minimal effects on non-target species and the environment. When the Borrower selects chemical pesticides, the selection will be based upon requirements that the pesticides be packaged in safe containers, be clearly labeled for safe and proper use, and that the pesticides have been manufactured by an entity currently licensed by relevant regulatory agencies.

16. The Borrower will design its pesticide application regime to (i) avoid damage to natural enemies of the target pest, and where avoidance is not possible, minimize, and (ii) avoid the risks associated with the development of resistance in pests and vectors, and where avoidance is not possible, minimize. In addition, pesticides will be handled, stored, applied, and disposed of in accordance with the Food and Agriculture Organization's International Code of Conduct on Pesticide Management or other GIIP.
17. The Borrower will not purchase, store, use, manufacture, or trade in products that fall in WHO Recommended Classification of Pesticides by Hazard Class Ia (extremely hazardous); or Ib (highly hazardous). The Borrower will not purchase, store, use, manufacture, or trade in Class II (moderately hazardous) pesticides, unless the project has appropriate controls on manufacture, procurement, or distribution and/or use of these chemicals. These chemicals should not be accessible to personnel without proper training, equipment, and facilities to handle, store, apply, and dispose of these products properly. The Borrower will also ensure the safe use of pesticides taking into consideration their classification under the Globally Harmonized System of Classification and Labeling of Chemicals (GHS).

**GL60.** The Borrower is expected to exercise a high degree of diligence in the selection of pesticides so that the selected pesticides meet the project's technical specifications. Under certain circumstances the use of pesticides may be needed, for example in managing a vector that is responsible for a disease outbreak. In these instances, careful selection and application of pesticides is warranted to limit impacts on nontarget species, the environment, and human health.

**GL61.** When selecting pesticides, the Borrower should consider the proposed use and intended users. When using pesticides, the Borrower should take the necessary precautions to protect human health and the environment in accordance with the principles and requirements of ESPS 2 - *Labor and Working Conditions*, ESPS 4, ESPS 6, and ESPS 9 - Gender Equality. Training and awareness raising should be considered for all personnel involved in pesticide management (handling, applying, packing, transporting, storing and disposal) to prevent harm to human health and the environment (e.g., surface and groundwater pollution, air pollution by wind drift beyond the targeted application area, and other adverse effects). Similarly, when the use of pesticides poses a risk to other personnel and to local communities, advance communication, training and awareness raising should be considered as part of the broader stakeholder engagement and information disclosure process required under ESPS 10.

**GL62.** The list of pesticides proposed for purchase under the project must be checked against the criteria of toxicity, carcinogenicity, mutagenicity, and reproductive toxicity outlined in the Globally Harmonized System of Classification and Labelling of Chemicals and as set forth by relevant international agencies. The relevant international conventions must be considered in the environmental and social risks and impact assessment process as they relate to the project. The requirements of the conventions, protocols, and agreements are addressed, as relevant, in any proposed mitigation measures.

**GL63.** The packaging requirements for pesticides under ESPS 3 are intended to protect the health and safety of persons involved in the transportation, storage, and handling of the pesticides and of communities in the vicinity of projects involving these activities, and to reduce the need for transfer between containers or repackaging into improvised containers. The labeling requirements should clearly identify the contents of the package and include instructions for intended use as well as safety information. Packaging and labeling of pesticides should be done in a form and language that is appropriate for each specific market and should follow the guidelines for the proper packaging and labeling of pesticides that have been developed by the Food and Agriculture Organization. Labelling and packaging requirements should be part of the training and awareness raising to be considered for personnel handling and applying pesticides, as described under GL52.

**GL64.** Purchasing pesticides manufactured under license will increase the likelihood that the pesticides meet minimum quality and purity conditions consistent with the use and safety documentation provided. The Borrower should refer to and follow the recommendations and minimum standards described in the guidelines published by the Food and Agriculture Organization and national regulations, if any applicable.

**GL65.** The storage, handling, application, and disposal of pesticides according to good international industry practice should include a program to discontinue the use of pesticides listed in Annex A of the Stockholm Convention, and to temporarily store and final dispose them in an environmentally sound manner, especially when these pesticides are considered obsolete. If a PPMP is prepared, the program should be described therein and agreed with the bank.

**GL66.** The Borrower should seek to promote the responsible management and use of pesticides within the context of IPM by interacting with the agricultural extension services or similar organizations that may be available locally.

GUIDELINES FOR ENVIRONMENTAL  
AND SOCIAL PERFORMANCE

**STANDARD 4:**  
**COMMUNITY HEALTH,  
SAFETY, AND SECURITY**



4

## INTRODUCTION

- 1. Environmental and Social Performance Standard (ESPS) 4 recognizes that project activities, equipment, and infrastructure can increase community exposure to risks and impacts, including those caused by natural hazards and climate change. In addition, communities that are already subjected to adverse impacts from natural hazards and climate change may also experience an acceleration and/or intensification of adverse impacts due to project activities. Natural hazards and climate change impacts may affect the project itself, which may cause further adverse impacts on the health and safety of project-affected people. This ESPS addresses the Borrower's responsibility to avoid or minimize the risks and impacts to community health, safety, and security that may arise from project-related activities, with particular attention to vulnerable groups. It also addresses the Borrower's responsibility to avoid or minimize the risks and impacts to the project itself that may result from natural hazards and climate change.**
- 2. In conflict and post-conflict areas, the risks and impacts described in this ESPS may be greater. The risk that a project could exacerbate an already sensitive local situation, leading to an increase in the risk of personal or communal conflict, or stress scarce local resources, should be considered carefully, as it may lead to further conflict and increased threats to human security.**

**GL1.** The Borrower will identify, evaluate and address community health, safety, and security risks and potential impacts that may arise from project activities, equipment, infrastructure and associated facilities, as well as risks and potential impacts from natural hazards and climate change on the project itself and on project-affected people and communities, with particular attention to risks and potential impacts on those that may be disadvantaged or vulnerable (see definitions of disadvantaged and vulnerable in paragraph 14 of *ESPS1 - Assessment and Management of Environmental and Social Risks and Impacts*). The breadth, depth, and type of analysis and assessment will be proportional to the nature and scale of the project's risks and potential impacts on the health, safety, and security of project-affected people and communities. In this process, the risk perceptions of project-affected people and communities as well as local customs and established protocols already in place to address the perceived risk should be taken into account, and where appropriate, reflected in management measures.

**GL2.** The design and implementation of management measures for community health, safety and security risk must meet the requirements of national law and host country obligations under international law. The design and implementation measures will be consistent with the requirements of the ESPSs.

**GL3.** The Borrower is also responsible for policies, procedures and measures for the safeguarding of its personnel and property, all of which must be carried out in a manner that avoids and minimizes risks to project-affected communities and does not jeopardize the community's safety and security. Security arrangements should be consistent with internationally accepted codes of conduct, Good International Industry Practice (GIIP), national laws and the requirements of ESPS 4 - *Community Health, Safety and Security*. The Borrower should take special consideration to implement measures to minimize risks to community health, safety, and security in areas of conflict and post-conflict, where the presence of security providers and organizations may exacerbate tensions among communities in relation to the project.

## OBJECTIVES

- To anticipate and avoid adverse impacts on the health and safety of the project-affected people during the project life cycle from both routine and non-routine circumstances.
- To ensure that the safeguarding of personnel and property is carried out in accordance with relevant human rights principles and in a manner that avoids or minimizes risks to the project-affected people.
- To anticipate and avoid adverse impacts on the project itself from natural hazards and climate change during the project life cycle.

## SCOPE OF APPLICATION

3. The applicability of this ESPS is established during the environmental and social risks and impacts identification process. The implementation of the actions necessary to meet the requirements of this ESPS is managed through the Borrower's Environmental and Social Management System, the elements of which are outlined in ESPS 1.
4. This ESPS addresses potential risks and impacts to the project-affected people from project activities. It also addresses potential risks and impacts to the project itself that may result from natural hazards and climate change. Occupational health and safety requirements for workers are included in ESPS 2; environmental standards to avoid or minimize impacts on human health and the environment due to pollution are included in ESPS 3; requirements to address sexual and gender-based violence risks in instances of communal conflict and influxes of outside workers are included in ESPS 9; and stakeholder consultation and information disclosure requirements are included in ESPS 10.

**GL4.** The environmental and social risks and impacts identification process outlined in ESPS 1 is part of the processes that the Borrower uses to develop, implement and manage the project. The Borrower will develop and implement an effective and sound Environmental and Social Management System (ESMS) in accordance with the requirements of ESPS 1 covering the project life cycle. The project life cycle may include, as appropriate, aspects from the early developmental stages through planning, identification, design, construction, commissioning, operation, decommissioning, closure or, where applicable, post-closure.

## REQUIREMENTS

### Community Health and Safety

- 5.** The Borrower will evaluate the risks and impacts to the health and safety of project affected people during the project lifecycle and will establish preventive and control measures consistent with good international industry practice (GIIP)<sup>109</sup>, such as in the World Bank Group Environmental, Health and Safety Guidelines (EHSG) or other internationally recognized sources. The Borrower will identify risks and impacts and propose mitigation measures commensurate with their nature and magnitude. These measures will favor the avoidance of risks and impacts over minimization. Risk to community health and safety may also result from project activities that lead to an increased risk of personal or communal conflict or stress on scarce local resources. The Borrower should seek to identify these risks through its stakeholder analysis efforts and stakeholder engagement plan and development and implement risk-appropriate mitigation measures.
- 6.** Where there are specific risks that could result in adverse effects on the health, safety, and well-being of people with sensitivities such as age, gender, disability, or short- or long-term health conditions, the Borrower will carry out a more detailed risk assessment and make adjustments to prevent injury and ill health.

**GL5.** Community health and safety considerations must be addressed through the environmental and social risks and impacts identification process in accordance with the requirements of ESPS 1. The community health and safety impacts addressed by ESPS 4, and this Guideline also include perceived impacts by the community. When complex health and/or safety issues are involved, the Borrower should consider engaging one or more external experts to conduct a Health Impact Assessment or other specialized assessment. Reference documents on Health

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<sup>109</sup> Defined as the exercise of professional skill, diligence, prudence, and foresight that would reasonably be expected from skilled and experienced professionals engaged in the same type of undertaking under the same or similar circumstances globally or regionally.

Impact Assessments have been published by the World Health Organization and the European Public Health Association, among others. Other sources of guidance on the management of health and safety aspects include applicable sections of the World Bank Group General Environmental, Health and Safety (EHS) Guidelines. Where mitigation measures require action by third parties, such as local governments, the Borrower should coordinate with them in order to find a solution that helps meet the requirements of ESPS 4.

**GL6.** Preventive and control measures implemented by the Borrower should be consistent with GIIP and the World Bank Group EHS Guidelines or other internationally recognized reference. In accordance with the mitigation hierarchy, the Borrower should seek to eliminate or avoid the risks and potential impacts to community health, safety and security. Where a risk cannot be avoided, it should be mitigated to the extent practicable with reference to GIIP to minimize residual impacts. Borrowers that wish to adopt mitigation measures that are less stringent than those identified in the EHS Guidelines must provide justification and be able to demonstrate that the alternate level of control or mitigation over the risk has been assessed, is appropriate to the nature, scale and scope of the risk, and does not pose undue risks to project-affected people and communities.

**GL7.** Risks to community health as well as risk of conflict may arise when a project affects the availability of resources on which communities depend. For example, the influx of labor to meet project needs may result in increased risk to community health and safety. An influx of labor that is not managed properly may increase pressure on a community's resources, potentially resulting in changes in availability or quality land, housing, fresh water, energy, labor, food and consumer goods and other resources on which the community depends. The Borrower's risks and impacts identification process must determine the effects of a project's use of local resources on communities and propose appropriate mitigation measures. A stakeholder analysis and stakeholder engagement plan, developed in accordance with the requirements of ESPS 10, will help the Borrower ascertain how communities obtain and use different resources and how they perceive the threats from influx of labor in their communities.

**GL8.** The Borrower's project should not create a deficit of resources that the community cannot manage. For example, a project activity with effects that are potentially exacerbated by climate change may result in impacts on the quality and/or quantity of groundwater or surface water and, subsequently, the availability of safe drinking water. The management of project risks related to resources and ecosystem services more generally should be undertaken in accordance with paragraphs 23-28 of ESPS 6 – *Biodiversity Conservation and Management of Living Natural Resources*. Similarly, aspects related to resource management can be addressed through implementation of resource efficiency measures described in paragraph 6 of ESPS 3 – *Pollution Prevention and Resource Efficiency*. The Borrower should manage those resources that will be required over the life of the project in order to avoid or prevent significant impacts on the health and livelihoods of communities, and to reduce the risk of exacerbating existing conflict

or creating a new one. In the event that unavoidable impacts will occur on local community resources, the Borrower must provide appropriate and fair compensation that should be determined in accordance with the requirements of the ESPSs, in particular the requirements related to economic displacement, gender equality, and stakeholder engagement.

**GL9.** Risks to community health and safety can also arise when a project and its workforce affect the goods and services on which the community depends. For example, increased consumption of goods and services during the operational life of the project may strain local water sources, health systems, sanitation and waste management infrastructure and result in increased health risks. In these cases, the Borrower will assess the capacity of the local community and its existing infrastructure and facilities to manage the various waste streams in accordance with the requirements of ESPS 3. The Borrower will develop mitigation measures and develop a management plan to address the gaps in community capacity and infrastructure that are necessary to meet the needs of the project.

**GL10.** The Borrower should consider project activities that could interact with and potentially affect members of the general public who may be working at, living around or visiting in the area of the project, and should develop, implement and maintain appropriate preventive and control measures to minimize risk and prevent exposure, injury and ill health to the public in the area of the project site. The health and safety objectives of ESPS 4 with respect to project workers are further supported by the requirements of paragraphs 25-30 of ESPS 2 - *Labor and Working Conditions*.

**GL11.** There can be differentiated impacts when individuals and/or groups within a community may be particularly vulnerable to project-related health and safety risks because of their disability, state of health, gender identity, sexual orientation, pregnancy status, religion, race, ethnicity, age, language, political or other opinion, national or social origin, property ownership status, and economic disadvantage, among other factors. Identifying individuals and groups considered to be vulnerable is an important part of the project planning process that enables inclusive measures to be incorporated into the project to avoid harm to vulnerable groups, enhance any benefits that accrue to them, and improve project implementation performance.

**GL12.** The influx of labor into communities has been associated with violence, sexual violence, increased availability of alcohol and drugs and crime, human trafficking and sexually transmitted diseases, among others, leading to a reduced sense of security. The gender-related objectives of ESPS 4 are further supported by paragraphs 14 - 15 and 18 of ESPS 9 - *Gender Equality*, which establish Borrower requirements for identifying gender-based risks and potential impacts and developing measures to avoid, prevent or mitigate such risks and impacts. The decline in community safety associated with labor influx can put pressure on local law enforcement and existing health infrastructure and services, including emergency response capacity. The Borrower's environmental and social risks and impacts identification process (or the Borrower's Health Impact Assessment where such an assessment is warranted), must consider the location of communities in relation to the project site, worker camp(s) and accommodations, local socioeconomic conditions, local and regional employment conditions and opportunities for

men and women, local disease profiles, cultural norms towards out-of-town labor, the capacity of the local health care system, and the existence and severity of social issues related to alcoholism, drug use, prostitution, crime, and violence. The Borrower should establish for itself and coordinate with all third parties, policies and codes of conduct for project workers and contractors supported by a training program that is proportionate to the nature of the project and local circumstances. The Borrower must implement measures to address all project risks related to gender-based violence, sexual exploitation and abuse of children, and communicable diseases which may arise from the interaction of project workers with local communities.

## Infrastructure and Equipment Design and Safety

7. The Borrower will design, construct, operate, monitor, and decommission the structural elements or components of the project in accordance with GIIP, taking into consideration safety risks to third parties and the project-affected people, including traffic and road safety, and transferred risks<sup>110</sup>. When new buildings and structures are accessed by members of the public, the Borrower will consider incremental risks of the public's potential exposure to operational accidents and/or natural hazards, and will be consistent with the principles of universal access. Structural elements will be designed and constructed by competent professionals and certified or approved by competent authorities or professionals. When structural elements or components are situated in high-risk locations and their failure or malfunction may threaten the safety of communities, the Borrower will engage one or more external experts with relevant and recognized experience in similar projects, separate from those responsible for the design and construction, to conduct a review as early as possible in project development and throughout the stages of project design, construction, operation, and decommissioning. The Borrower will use regular performance monitoring and recurring risk assessments for high-risk projects to inform ongoing risk mitigation. For projects that operate moving equipment on public roads and other forms of infrastructure, the Borrower will seek to avoid the occurrence of incidents and injuries to members of the public associated with the operation of such equipment.

**GL13.** The structural elements or components of a project are the physical parts of the project that include existing or new buildings, earthworks, bridges, retaining walls, drainage ditches, roadways, penstocks, water and irrigation channels, pylons, air cooling units, power stations, electrical utility lighting, transmission and distribution poles (and their potential need for relocation), underground utilities, spillways, and dams, among others. The health and safety risks of structural elements vary greatly from project to project and depend both on the type

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<sup>110</sup> A risk transfer occurs in situations where the risk reduction measure in one community can increase the risk in another.

and complexity of the infrastructure and equipment involved, and on how close the community is to the project and/or the likelihood that local people will interact with the project site. High-risk projects include any structural element or components of the project where a failure or malfunction may threaten the viability of the project and/or the safety of communities. Risk may originate from the purpose and design of the structure (e.g., water impoundment) and/or the baseline environmental context and conditions of the project site (e.g., earthquake-prone area or unstable geology). The Borrower should consult the section on the safety of dams below (GL63 - GL78) for additional guidance on managing risks related to new and existing dams. The Borrower should take into account project features and the country's environmental and social context in developing measures that are consistent with GIIP and that will result in the effective management of community health and safety risks, while avoiding the transfer of such risks to another community. Structural elements of the project should be considered in the Borrower's environmental and social risks and impacts identification process in accordance with the requirements of ESPS 1.

**GL14.** Design, construction, operation, maintenance and monitoring of project infrastructure and equipment should take into account project-specific engineering safety considerations, such as geotechnical, structural, electrical, mechanical, hydraulic and fire protection specifications, among others, and incorporate local, national and international applicable standards and codes, as appropriate for each sector. Engineering and other technical reviews during the project cycle, including cases when there are changes in the project design, may be completed through third parties. For example, life and fire safety audits of buildings (existing and new) that are accessible to workers and the public should be conducted by safety professionals registered with national or international professional organizations and authorized to perform such certification by local regulatory agencies or other agencies with oversight on these matters. In the absence of country-specific codes and standards, examples of GIIP for fire and life safety are provided by the National Fire Prevention Association (NFPA). GIIP for civil engineering, including structural and geotechnical aspects, are provided by the American Society of Civil Engineers. Other relevant international standards and codes (e.g., building codes, mechanical codes, energy conservation codes, plumbing codes, etc.) are provided by the International Code Council the American Society for Testing Materials, among others. Buildings accessible to the public should be designed, constructed, and operated in full compliance with local building codes, local fire department regulations, local legal and insurance requirements, and in accordance with an internationally accepted life and fire safety (L&FS) standard.

**GL15.** The nature, scale and scope of the project and its associated risk profile and operating environment may require certification and approval of structural elements that is beyond local regulatory capacity and/or authority. In situations where the governmental regulatory capacity to provide competent certification is limited, the Borrower should retain the services of external professionals who are competent to certify or approve structural elements. These professionals should be independent from the Borrower's management structure for project implementation. Regular performance monitoring of the structural elements of the project, in accordance with applicable standards and codes and/or the recommendations of external competent professionals, should form part of the Borrower's ESMS and management programs.

**GL16.** The Borrower must identify and assess the risks and potential impacts to the project caused by natural hazards such as earthquakes, droughts, landslides, hurricanes, and floods, among others, including those caused or exacerbated by climate change as per GL44 – GL50. The Borrower will incorporate these risks into infrastructure and equipment design and safety, including in the selection of the site, and retain the services of competent professionals to undertake assessment, design and other required project design and implementation functions. Equally important is the consideration of how, and to what extent, the Borrower’s project may influence or exacerbate natural hazards or climate-related risks or create new impacts that would not be possible without the existence of the project (e.g., waste stabilization/retention ponds affected by flooding may release hazardous content within the flood to nearby communities) to surrounding communities and the environment. Based on this assessment, appropriate disaster and climate change resilience and adaptation measures need to be integrated into the project design, construction, and operation, and into the stakeholder engagement plan. The nature, scale and scope of the project and associated risks and potential impacts may require the Borrower to develop a Disaster and Climate Change Risk Assessment (DRA) and an accompanying Disaster and Climate Change Risk Management Plan (DRMP) which will document the measures and management plan to deal with disaster risk (see GL44 – GL50). Particular consideration should be given to natural hazards that could lead to failure of structural elements resulting in significant and potentially catastrophic impact on a community, which may be disproportionate among vulnerable groups. For example, for dams, former quarries, ash ponds, or waste disposal sites located in high-risk locations, failure or malfunction may pose a threat to safety, or exacerbate the risks to communities downstream.

**GL17.** The Borrower should apply the principles of Universal Design in the design and construction of new buildings and structures, such as schools and other public facilities. The concept of “Universal Design” is defined in Article 2 of the United Nations (UN) Convention on the Rights of Persons with Disabilities (CRPD) as follows: *“the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. “Universal Design” shall not exclude assistive devices for particular groups of persons with disabilities where this is needed”*. Whenever possible, the Borrower should: i) seek input from stakeholders, such as potential users of the buildings and structures, and organizations representing people with disabilities in accordance with stakeholder engagement requirements of ESPS 10; ii) incorporate into procurement documents considerations relating to Universal Design; and iii) consider local accessibility standards and codes on accessibility and nondiscrimination. Examples of measures to support Universal Design in buildings and infrastructure in general include sidewalks with drop curbs, clear and visible signs, tactile strips, audible announcements, appropriate placement and height of equipment, easily identified emergency exits, raised toilet seats and handrails in bathrooms, and wide doors, among others.

**GL18.** The concept of “Reasonable Accommodation” can be utilized in situations where universal design alone is insufficient to remove barriers to accessibility. As defined in the UN convention, “Reasonable Accommodation” means *“necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.”*

**GL19.** The Borrower’s environmental and social risks and impacts identification process will consider, for all phases of the project, all aspects related to the movement of trucks, vessels or other heavy machinery onto community roads and waterways, and which has the potential for impacts on community safety and conflict. The presence of heavy machinery and high volume of traffic, and the resulting demands on transit routes that were not designed to accommodate such volumes of traffic, can result in traffic congestion, contribute to the deterioration of infrastructure, increase vehicle and pedestrian interaction resulting in increased accidents, restrict movement of emergency vehicles, lead to increased noise and dust, and road closures. As part of its stakeholder engagement plan, the Borrower should collaborate with the local community and keep the community informed of project activities and movements of heavy machinery. The type and frequency of communication should be commensurate with the nature and level of disturbance that is expected by project-related activities. For example, communication through local advertisements or signage can alert the community that more time may be needed to commute to work and school; that sidewalks may be closed or unsafe for pedestrian access and/or construction vehicles are entering and leaving a site. If work must be conducted at night, street lighting and vehicle speed control should be provided to mitigate the risk of injury and damage.

**GL20.** The Borrower’s environmental and social risks and impacts identification process must also consider all aspects related to the movement of equipment on public roads or other public transport routes including those associated with contractor and subcontractor activities. Under certain circumstances (e.g., such as for the transport of over-sized equipment) a traffic assessment will be required as the basis for a traffic management control plan, including collaboration with local law enforcement officials responsible for traffic and pedestrian management and safety as well as with other public safety officials responsible for providing fire and emergency medical response. When assessing community risks related to moving equipment and project traffic, the Borrower should consider accident hotspots, elevated risk areas such as schools, markets, community gathering places, intersections of roads with railroads, crossing points for animals, areas with high pedestrian traffic, bicycle, motorcycle, and other traffic, daytime and nighttime circulation patterns, and weather conditions, in order to design effective preventative and management measures.

## Hazardous Materials Management and Safety

8. The Borrower will avoid or minimize the potential for community exposure to hazardous materials and substances that may be released by the project. Where there is potential for the public (including workers and their families) to be exposed to hazards, particularly those that may be life threatening, the Borrower will exercise special care to avoid or minimize their exposure by modifying, substituting, or eliminating the condition or material causing the potential hazards. Where hazardous materials are part of existing project infrastructure or components, the Borrower will exercise special care when conducting decommissioning activities to avoid exposure to the community. The Borrower will exercise good industry practice to control the safety of deliveries of hazardous materials, and of transportation and disposal of hazardous wastes, and will implement measures to avoid or control community exposure to pesticides, in accordance with the requirements of ESPS 3.

**GL21.** Hazardous materials and substances may include: explosives; compressed gases, including toxic or flammable gases; flammable liquids; flammable solids; oxidizing substances; toxic materials; radioactive material; corrosive substances; chemical fertilizers; soil amendments; chemicals, oils, and other hydrocarbons; paints; pesticides; herbicides; fungicides; asbestos; hospital and pharmaceutical waste; used batteries; radioactive medical waste; some types of fluorescent light bulbs and ballasts; and polychlorinated biphenyls (PCBs) in electrical equipment, among others. In all cases, the Borrower should make reasonable efforts to avoid the use of hazardous materials and substance, as some hazardous materials may pose a significant risk to the community during their use and at the end of their useful life. When avoidance is not possible, the Borrower must provide for the safe management of hazardous materials and substances, including materials and substances that become hazardous after their use (e.g., inert material that is used to capture spilled chemicals). The safe management of hazardous materials should extend into the decommissioning phase of the project when remaining wastes, including demolition wastes, must be safely managed in accordance with the requirements of ESPS 3. Additional guidance is provided in the World Bank Group EHS Guidelines and relevant sections of Industry Sector EHS Guidelines.

**GL22.** The Borrower's environmental and social risks and impacts identification process should determine whether community members are likely to be exposed to project-related emissions or releases of hazardous materials and substances, taking into account customary activities of the community. The Borrower should also evaluate the risks and potential impacts posed by the management of hazardous materials that may extend beyond the project's property boundary and into areas inhabited or used by the community. The Borrower shall aim to eliminate or minimize exposure to hazardous materials and substances that may be discharged by the project into the environment (e.g., air, water, land) as a result of accidental releases, and to areas otherwise accessible to the community. The requirements related to pollution prevention and management are provided in ESPS 3. In instances where the use of hazardous

materials and substances is unavoidable, the Borrower will develop a project-specific Hazardous Materials Management Plan (HMMP). Where the project is expected to produce hazardous substances and materials that meet the definition of hazardous waste, the Borrower will prepare a Hazardous Waste Management Plan (HWMP). The HMMP and HWMP should be prepared in accordance with the requirements of ESPS 3 and should be communicated to project-affected communities and stakeholders in accordance with the requirements of ESPS10.

**GL23.** For projects involving the renovation or repair of existing buildings, vessels, and structures, the Borrower must assess the likelihood of any hazardous materials being present, such as asbestos, lead-based paint, radioactive materials, or contaminated soils. This may require specialized site assessments by competent professionals. If such hazardous materials and substances are identified, the Borrower shall determine whether project activities may alter or disturb the current state of these materials and release them into the environment, and if so, take appropriate measures to prevent or mitigate the release of these materials into the environment and the community, as well as the proper disposal of the waste generated.

**GL24.** ESPS 4 requirements are relevant and applicable to operational and process safety risks related to the storage, handling, transport and use of large quantities of hazardous substances and materials, such as explosives, flammable liquids, solids and gases, toxic substances, strong acids and bases, among others. There are often industry-specific requirements and good practices that have been adopted globally (e.g., the Risk Management Program/Process Safety Management rules published by the US Environmental Protection Agency and the US Occupational Safety and Health Administration). The Borrower should also consider associated regulatory guidance, such as that published by the National Fire Protection Association (NFPA), in the event that the project will store, use, handle or generate large quantities of hazardous materials and substances. The EHS Guidelines and Industry Sector EHS Guidelines are also useful references for the identification, evaluation and control of process safety risks.

**GL25.** Where a project has the potential to release toxic, hazardous, flammable or explosive substances beyond the project site or property that may directly or indirectly affect communities or their resources, the Borrower should conduct a process hazard analysis of its operations and disclose relevant information to stakeholders and communities in accordance with ESPS 10. A process hazard analysis (PHA) is a systematic review of (i) how a process, operation or activity might go wrong; (ii) what might be the effects and impacts of such malfunctions and incidents, and; (iii) what safeguards must be implemented to prevent uncontrolled releases of hazardous materials and substances. Borrowers should identify those processes, operations and activities that pose the greatest risks for priority assessment under a PHA. “Process” means any activity involving a highly hazardous chemical including using, storing, manufacturing, handling, or moving such chemicals at the site, or any combination of these activities. Hazard analysis can take many forms, including but not limited to Hazard Identification (HAZID), Hazard and Operability Study (HAZOP), Failure Mode Effects Analysis (FMEA) and Quantitative Risk Analysis (QRA). A formal hazard analysis, whether quantitative or semi-quantitative, will allow the Borrower to identify those activities or equipment that could result in accidental release

of a hazardous substance or material and to quantify these risks, to prioritize the allocation of resources for risk mitigation, emergency response and training. A useful summary of process safety risk assessment methodology is provided by the U.S. Department of Labor Occupational Safety and Health Administration in publication OSHA 3132 Process Safety Management.

## Ecosystem Services

9. The project's direct, indirect and cumulative impacts on priority ecosystem services may result in adverse health and safety risks and impacts to the project-affected people. With respect to this ESPS, ecosystem services are limited to provisioning and regulating services as defined in paragraph 2 of ESPS 6. For example, land use changes or the loss of natural buffer areas such as wetlands, mangroves, and upland forests that mitigate the effects of natural hazards such as flooding, landslides, and fire may result in increased vulnerability and community safety-related risks and impacts. The diminution or degradation of natural resources, such as adverse impacts on the quality, quantity, and availability of freshwater<sup>111</sup>, may result in health-related risks and impacts. Where appropriate and feasible, the Borrower will identify those risks and potential impacts on priority ecosystem services that may be exacerbated by natural hazards and climate change. Adverse impacts should be avoided, and if these impacts are unavoidable, the Borrower will implement mitigation measures in accordance with paragraphs 24 and 25 of ESPS 6. With respect to the use of and loss of access to provisioning services, Borrowers will implement mitigation measures in accordance with paragraphs 25–29 of ESPS 5.

**GL26.** The Borrower's environmental and social risks and impacts identification process will consider priority ecosystem services in accordance with requirements of ESPS 1 and ESPS 6. The risks and impacts identification process should integrate natural hazards and climate-related risks into the assessment of potential impacts on community health and safety and the mitigation measures required in the design and operation of the project.

**GL27.** Ecosystem services are most likely to be affected by projects that significantly change the physical environment, such as loss of natural vegetation cover or soil resources caused by the construction of, for example, industrial parks, roads, airports, pipelines and new agricultural developments and projects that impact the watershed such as dams, large-scale irrigated and rain-fed agriculture and forestry, among others.

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<sup>111</sup> Freshwater is an example of provisioning ecosystem services.

**GL28.** The Borrower should seek to avoid adverse impacts on ecosystem services. If impacts are unavoidable, the Borrower will implement mitigation measures to minimize the degradation in the quality and quantity of priority ecosystem services in accordance with the requirements of ESPS 3 and ESPS 6. Where project activities affect the provisioning of priority ecosystem services with subsequent impacts on livelihoods, such as, for example, a reduction in the availability of surface water or groundwater for human consumption or use, the Borrower will develop and implement a livelihood restoration plan in accordance with the requirements of ESPS 5 – *Land Acquisition and Involuntary Resettlement*. When Indigenous Peoples rely on those ecosystem services the Borrower should follow, in addition, ESPS 7 requirements regarding E&A assessment and engagement process.

**GL29.** The Borrower will evaluate natural hazards risk and climate change risk during the design phase of the project (see GL16). As part of this assessment, the Borrower will evaluate the project’s potential for direct, indirect and cumulative impacts on those regulating services protecting against natural hazards (e.g., tree cover and vegetation on slopes, wetlands and other natural flood protection systems) as they relate to the project and the surrounding community. Based on this assessment, appropriate disaster and climate change resilience and adaptation measures can be integrated into project design, construction, and operation.

**GL30.** The Borrower should consider how and to what extent nature-based solutions can be prioritized and incorporated into the project as risk mitigation measures and how ecosystems, and the natural capital that supports ecosystems and the services they provide, can be enhanced over the life of the project. Nature-based solutions refers to the sustainable management and use of nature for tackling environmental challenges. See IDB’s report “Mainstreaming of Natural Capital and Biodiversity into Planning and Decision-Making: Cases from Latin America and the Caribbean” and “Increasing Infrastructure Resilience with Nature-based Solutions (NbS)” The International Union for Conservation of Nature (IUCN) has published a number of resources relating to the adoption of nature-based solutions to protect, sustainably manage, and restore natural and modified ecosystems and specific tools for measuring, modelling, and valuing ecosystem services.”

## Community Exposure to Disease

**10.** The Borrower will avoid or minimize the potential for community exposure to water-related (i.e., waterborne, water-based, and vector-borne diseases) and communicable diseases that could result from, or exacerbated by, project activities, taking into consideration differentiated exposure to and higher sensitivity of vulnerable groups. Where specific diseases are endemic in communities in the project area of influence, the Borrower is encouraged to explore opportunities during the project life cycle to improve environmental conditions that could help minimize their incidence. In the case of non-endemic disease outbreaks, the Borrower must take precautionary measures to avoid community exposure.

11. The Borrower will avoid or minimize transmission of communicable diseases that may be associated with the influx of temporary or permanent project labor.

**GL31.** Waterborne diseases are caused by pathogenic microorganisms that are transmitted via the use and/or consumption of water contaminated with human, animal or chemical waste. These diseases spread when contaminated water is ingested via bathing, swimming, washing, drinking or eating foods washed in contaminated water. Waterborne diseases are common in areas lacking safe drinking water supply, proper hygiene practices, and water and sewage treatment facilities. Common waterborne diseases include cholera, dysentery, typhoid, and other gastrointestinal diseases. Water-based diseases are caused by organisms that spend part of their life cycle in an aquatic environment and another part in an animal or human host as a parasite. Common water-based diseases include schistosomiasis, guinea worm, leishmaniasis and amebiasis, among others. Vector-borne diseases are caused by parasites, viruses and bacteria that are transmitted to humans by vectors. A vector is a living organism (e.g., mosquito, aquatic snail, flea) that can transmit infectious pathogens between humans and/or animals to humans. These diseases are often regional in nature (e.g., prevalent in tropical and sub-tropical areas) and include malaria, dengue, chikungunya, zika and yellow fever. Communicable diseases are illnesses caused by viruses or bacteria that humans can spread to one another directly or indirectly. The most common forms of spread between humans include fecal-oral transfer, food, sexual intercourse, blood to blood, insect bites, and via contact with contaminated fomites, droplets or skin contact. Common communicable diseases include hepatitis, HIV/AIDs, measles, influenza, and coronaviruses. The incidence of disease may increase in a community depending on the nature, scale, scope, and management of the Borrower's project. For example, projects that include components such as dams, deep construction pits and irrigation schemes might lead to the creation of permanent or temporary waterbodies that could increase the spread of water-borne and water-based diseases in a community. Similarly, projects located in areas that lack proper infrastructure to house and support an influx of temporary or permanent project labor (i.e., insufficient water and sewage treatment facilities) could increase the risk of spread of communicable and water-borne disease.

**GL32.** The Borrower's environmental and social risks and impacts identification process will include an evaluation of the potential for community exposure to water-related (i.e., waterborne, water-based, and vector-borne diseases) and communicable diseases that could result from, or be exacerbated by, project activities. Where the risks are deemed significant, the Borrower should undertake a stand-alone health impact assessment. A good example of health impact assessment methodology has been published by the European Public Health Association and the International Association for Impact Assessment. The WHO has developed a conceptual framework and a suggested approach to health impact assessment. The Borrower will identify and implement measures to avoid, minimize, or mitigate impacts throughout the life of the project. Disease-related risks may vary both between and within communities. Factors such as age, gender, economic status, physical disability, and intellectual, sensorial, and psychosocial disability contribute to higher exposure risks for certain groups within a community. For

example, a project might create suitable conditions for malaria in communities where malaria is already endemic. In such circumstances, the Borrower should adopt measures during the construction and operational phases to eliminate stagnant pools of water suitable for mosquito breeding, maintain project work sites in good sanitary condition, and improve environmental conditions in the community. The Borrower should collaborate with local health authorities and local community representatives in accordance with the requirements of ESPS 10.

**GL33.** The Borrower’s environmental and social risks and impacts identification process should identify and assess project-related health risks caused by, or exacerbated by, climate change. Health risks from vector-borne and water-borne diseases have the potential to increase because of climate change (e.g., from increased flooding events and heavy rains). More intense rain and extreme weather events may increase areas of standing water that are breeding sites for mosquitos and may contaminate sources of drinking water.

**GL34.** The Borrower should consider local disease profiles and the location of communities in relation to the project site and worker camps. The Borrower should provide its workforce with health services for occupational and communicable illnesses. The Borrower should also develop a good baseline profile of the local healthcare capacity in the event that the project workforce requires healthcare services from local providers. The Borrower should ensure that project workers are vaccinated, at a minimum, in accordance with public health requirements, in order to prevent the proliferation of communicable diseases among workers and local communities.

## Emergency Preparedness and Response

**12.** In addition to the emergency preparedness and response requirements described in ESPS 1, the Borrower will also assist and collaborate with the project-affected people, local government agencies, and other relevant parties, in their preparations to respond effectively to emergency situations, especially when their participation and collaboration are necessary to respond to such emergency situations. If local government agencies have little or no capacity to respond effectively, the Borrower will play an active role in preparing for and responding to emergencies associated with the project. These emergency situations include those associated with disease outbreaks and those associated with large-scale infrastructure. The Borrower will document its emergency preparedness and response activities, resources, and responsibilities, and will disclose appropriate information to the project-affected people, relevant government agencies, or other relevant parties.

**GL35.** An emergency is an unanticipated event that demands immediate action to prevent or reduce harm to people, property, or the environment. Examples of human-made and human influenced emergencies include active assailants, civil disturbances, labor actions, bomb threats, power failures, fires, explosions, chemical releases, building collapses and disease outbreaks.

Emergencies can also occur due to natural-hazard related disasters such as extreme weather, wildfires, floods, earthquakes, and other such hazards, including the impact from climate change. Regardless of the efforts made to reduce the risk due to natural hazards, climate (as per GL44 - GL50) and other natural and human-made risks, it is important for the Borrower to recognize and acknowledge that emergency events can happen at any time and during any phase of a project.

**GL36.** The Borrower should establish an Emergency Preparedness and Response Plan (EPRP) that is appropriate for each phase of the life of the project. The Borrower's EPRP should address the four phases of emergency management and include measures to prevent emergencies, mitigate the consequences of emergencies, respond to emergencies, and recover from emergencies. The Borrower should establish a team with responsibility for the development, implementation and regular review of the EPRP. There are a number of different emergency preparedness related instruments that should be considered by the Borrower, as is appropriate to the nature and scope of the project and probability and severity of emergencies. Emergency preparedness instruments include business continuity plans, critical control plans, evacuation plans, spill response plans, emergency response plans, and disaster relief plans, with associated simulacra and training.

**GL37.** Throughout the life of the project, the Borrower will identify emergency events, including those originating from the disaster and climate change risk assessment (see GL44-48), that have the potential to impact the project and/or community health, safety and security. The Borrower should consider worst-case emergency events as well as less severe events that have a higher probability of occurring. Useful resources on business continuity management are available from the Disaster Recovery Institute International (DRII).

**GL38.** The Borrower's EPRP should identify all credible human-made and disaster and climate-related emergency events and scenarios that could reasonably be expected to impact the project, the environment, its workers and the general public. The Borrower should consider similar emergency risk assessments conducted by local, regional, or national government organizations to inform their own risk assessment. Detailed technical guidance to assess disaster and climate-related events can be found in the Disaster and Climate Change Risk Assessment Methodology . Prevention of an emergency and reducing the potential impact of an emergency is by far preferred over efforts to respond and recover from an emergency. The Borrower should therefore evaluate the need for additional measures and controls to reduce the probability of an emergency event occurring and to reduce the impact of the natural or human-made emergency on project, the environment, its workers and/or the general public.

**GL39.** The Borrower's EPRP should evaluate the availability and ability of local emergency response services, including law enforcement, fire department, rescue services, and emergency medical services. Each service should be evaluated to determine their response capabilities. The workforce, procedures, skill level, experience, certifications, and equipment resources should also be evaluated. Any agreement related to the provision of local emergency response services

should be documented, including a description of the nature of services to be provided to the Borrower. While locally available emergency response services can be part of the Borrower's EPRP, the responsibility for emergency preparation, mitigation, response, and recovery remains with the Borrower.

**GL40.** In situations where emergency response resources and controls are limited, inadequate, or unavailable, the Borrower should provide, either directly or through third parties, the emergency response resources needed, including manpower, equipment, supplies, institutional arrangements with other government agencies, as needed and training and procedures required to protect the people, project, property, community and the environment from the impacts of identified emergency scenarios that are within the control or influence of the Borrower.

**GL41.** The EPRP should also include all necessary measures and procedures related to notification of emergency responders, communication channels for notification of communities, a periodic and updated training program that demonstrates proof of competency of responders, public evacuation procedures and practice drills, a designated coordinator for response and recovery, as well as measures for the restoration and cleanup of any environmental impact from an emergency caused by the Borrower. Useful references for notification, communication and alerts may be found in National Fire Protection Association (NFPA) 1600 Standard, 2019 Edition; "Standard on Disaster/Emergency Management and Business Continuity Programs" Annex K; "Emergency Communications: Public Alerts and Warnings in Disaster Response", and Disaster Recovery Institute International (DRII) Professional Practice Ten, 2017: "Coordinating with External Agencies."

**GL42.** The Borrower should consult with key stakeholders, communities, relevant government agencies at national or local level, emergency response services, and engage with affected communities throughout the preparation and implementation of the EPRP. Engagement with communities should be in accordance with the requirements of ESPS 10. The EPRP usually consists in a separate document but may be integrated into another plan, such as contingency plans or a business continuity plans. The EPRP should also outline the roles and responsibilities of the communities have agreed to assume in responding to emergency situations.

**GL43.** The Borrower should test, review and update its EPRP on a regular basis in accordance with changes in the project's risk profile or other circumstances that affect the probability and/or severity of events, but no less than annually. The review and update process will allow the Borrower to verify the continued relevance of the nature, scale and scope of potential emergency scenarios and confirm or update, as appropriate, the EPRP.

## Resilience to Natural Hazards and Climate Change

- 13.** The Borrower will identify and assess the potential risks caused by natural hazards, such as earthquakes, droughts, landslides, or floods, including those caused or exacerbated by climate change, as these relate to the project. This may require the Borrower to undertake an assessment of the risk of the project to natural hazards and climate change. Based on this assessment, the Borrower will identify appropriate disaster and climate change resilience and adaptation measures to be integrated to the project design, construction, and operation. The project will include the necessary measures to reduce disaster and climate change risk to acceptable levels. The Borrower will also avoid and/or minimize risks caused by natural hazards or land use changes to which the project activities may contribute.
- 14.** Projects that finance recovery and reconstruction after a disaster require special precautions to avoid rebuilding or increasing vulnerability. Particular attention must be paid to lessons learned from recent hazard events. The Borrower will not assume that pre-disaster conditions persist in whole or in part in the affected area. Disaster risk assessment of the reconstruction project should be carried out considering the specifics of the area, the sector and the infrastructure concerned, and the current environmental, social, and economic situation and any changes in the affected area as a result of the disaster.

**GL44.** Identification, assessment, and management of natural hazard and climate change risk, including extensive (low-severity, high-frequency) and intensive (high-severity, mid to low-frequency) risk and rapid- and slow-onset effects, applies to all stages of the project life cycle. The “Disaster and Climate Change Risk Assessment Methodology for IDB Projects - A Technical Reference Document for IDB Project Teams,” referred to as the Methodology in this guidance, should be used for sections GL45-50. Other useful references to support the assessment are listed in the Annotated Bibliography, here: <https://www.iadb.org/en/mpas/guidelines>. The term risk, when used in the context of disaster and climate change risk, is comprised of three parts: (i) the likelihood of occurrence of a load (e.g., flood, earthquake, etc.), (ii) the likelihood of an adverse structural response (e.g., structural damage or failure, etc.), and (iii) the magnitude of the consequences resulting from that adverse event (e.g., life loss, economic damages, environmental damages, etc.). The term resilience, when used in this Guideline and in the context of disaster and climate change risk, refers to the capability of an asset, system, or community exposed to natural hazards to resist, adapt to, and recover from the effects of a hazard, preserving its essential functions, through risk management (as per the terminology from the United Nations Office for Disaster Risk Reduction).

**GL45.** The Borrower's environmental and social risks and impacts identification process will assess the risks and potential impacts caused by natural hazards, including the effects of climate change on the project, as well as project-related risk to communities and the environment. Natural hazard and climate change risk to the project is dependent on the project's geographic location, the nature and characteristics of the natural hazards in that location and on the vulnerability of the project itself. The exacerbation of risks refers to a situation where the project has the potential to aggravate or further intensify the potential impacts of natural hazard and climate change risks on human life, property, or the environment of nearby communities, and is dependent on the communities' geographic location and level of exposure, the characteristics of the natural hazards and the scale and vulnerabilities of the communities themselves. Projects must not increase the threat of loss of human life, or the risk of significant human injuries, severe economic disruption, or significant property damage related to natural hazards and climate change. The Borrower will identify appropriate disaster and climate change resilience and adaptation measures to be integrated to the project design, construction, and operation.

**GL46.** On the basis of the environmental and social risks and impacts identification process, operations will be assigned a disaster and climate change risk classification (i.e., High-risk, Moderate-risk or Low-risk) in accordance with the Methodology. The nature, extent, evaluation and final classification should be determined by a professional with subject matter knowledge. The three disaster and climate change risk classifications are as defined below.

- a. High-Risk: Is assigned to those projects that have high-risk due to a combination of project exposure to high intensities of natural hazards or climate change and/or high project criticality and vulnerability to those hazards, or similarly high potential for exacerbating risk. Natural hazards including the effects of climate change may occur several times during the construction period and/or the operational life of the project and/or the likely severity of social, economic, and/or environmental consequences is major or extreme. These consequences are of sufficient magnitude to affect project viability and may affect an area broader than the project site. As such, a more detailed investigation of the disaster and climate change risk, in the form of a project-specific qualitative and/or quantitative Disaster and Climate Change Risk Assessment (DRA) and Disaster and Climate Change Risk Management Plan (DRMP) is required to be completed.
- b. Moderate Risk: Is assigned to those projects that have a medium risk due to a combination of project exposure to medium intensities of natural hazards or climate change and/or moderate project criticality and vulnerability to those hazards, or similarly moderate potential for exacerbating risk. Natural hazards including the effects of climate change may occur at least one time during the execution (construction) period and/or operational life of the project and/or the likely severity of the impacts is average. These impacts are typically confined to the project site and can be mitigated at reasonable cost. A project assigned a moderate-risk rating must evaluate if a project-specific qualitative and/or quantitative DRA and DRMP would be needed to demonstrate Borrower readiness and commitment to manage natural hazard and climate change risk.

- c. Low Risk: Is assigned to those projects that have a low risk due to a combination of project exposure to low intensities of natural hazards or climate change and/or low project criticality and vulnerability to those hazards, and a low potential for exacerbating risk. Natural hazards, including the effects of climate change, are not likely to occur during the project execution (construction) and/or the operational life of the project, and/or is associated with a low severity of impact. The corresponding impacts that occur do not lead to a disruption of the normal functioning of the project and can be corrected as part of the project maintenance and operation work. The occurrence of these hazards does not significantly impact project performance. A DRA is not required in these circumstances.

**GL47.** For projects assigned a high-risk or moderate-risk rating, the Borrower will first prepare a simplified qualitative DRA, consisting of a diagnosis compiling and identifying existing information and measures as well as existing gaps. For high-risk projects, a complete qualitative DRA must also be conducted. If the resulting qualitative DRA is able to adequately evaluate the risks and propose measures, then a DRMP must also be prepared. If the resulting qualitative DRA identifies the need for risk quantification, then a quantitative DRA and DRMP must also be prepared. For moderate-risk projects where the simplified qualitative DRA found no existing gaps, a DRMP must be prepared that proposes the necessary measures to manage the identified risks. For moderate-risk projects where the simplified qualitative DRA found existing gaps, a complete qualitative DRA must be conducted. If the resulting qualitative DRA is able to adequately evaluate the risks and propose measures, then a DRMP must also be prepared. If the resulting qualitative DRA identifies the need for risk quantification, then a quantitative DRA and DRMP must also be prepared.

**GL48.** The objective of a DRA is to evaluate in more detail the potential impacts of natural hazards, including climate change. The DRA may be a stand-alone report, or it may be incorporated into the Borrower's consolidated reporting on its environmental and social risks and impacts identification process. The results of the risk assessment will support and inform the selection of the appropriate risk management and mitigation measures to be included in the DRMP. The Methodology should be followed for the preparation of any DRA and DRMP; additional guidance related to safety of dams is available in GL63 - GL78. The climate change analysis included in the DRA must provide the necessary information to allow for an assessment of the appropriateness of the design and operation of the project, including applicable infrastructure, structural elements and equipment, as planned over the life of the assets. Additional resources are listed in the Annotated Bibliography (here: <https://www.iadb.org/en/mpas/guidelines>). The DRA should include, at a minimum, the following elements:

- a. Identification and evaluation of all natural hazards, including the effects of climate change when applicable, that can potentially affect the project and exacerbate risk in the project area using appropriate qualitative or quantitative methods to characterize the frequency, intensity, and spatial extent of natural hazard and/or climate related events;

- b. Identification and characterization of the baseline and post-project intervention exposure related to assets and population;
- c. Identification and evaluation of the physical and social vulnerability of the project and surrounding communities and environment; and
- d. Evaluation of risk for baseline and post-project intervention conditions, as well as for any proposed alternatives or measures, using appropriate qualitative or quantitative methods, including an assessment of whether the project creates additional risk or not.

**GL49.** Necessary disaster and climate change resilience and adaptation measures are documented in a DRMP. The Borrower should include the necessary measures in the project planning, design, construction and operation phases to reduce natural hazard and climate change related risk to a level consistent with relevant laws, regulations and standards, and aligned with international good practice. There are different types of structural and non-structural measures to address risk reduction, risk transfer, residual risk management, risk preparedness and emergency response. These measures may be grouped into: (i) strengthening, (ii) protection and control, (iii) planning, (iv) natural systems protection, (v) education and awareness, and (vi) preparedness and response. It is recommended to mitigate risk from a natural hazard by combining different options to ensure effective risk management. It is also important to consider risk tolerability standards, when available, which are usually sector-specific, and to assess whether the proposed mitigation measures meet them. The Methodology, which provides further technical guidance on how to develop a DRMP and provides examples of measures and risk tolerability standards, should be followed for this for all project sectors. See GL35-GL43 for further explanation related to emergency preparedness and response. These measures must be implemented and monitored by the Borrower as part of the consolidated reporting on its environmental and social risk and impact management process.

**GL50.** These guidelines also apply to rehabilitation and reconstruction projects following the impacts of natural hazard events and physical damage (e.g., structural collapse and explosions). Projects that finance recovery and reconstruction after a disaster must incorporate lessons learned from the investigation of the disaster. Methods to conduct post-event damage and loss assessments include the ECLAC's Damage and Loss Assessment Methodology (DALA) and the Post Disaster Needs Assessment (PDNA). If it is identified that such assessment is needed, the Borrower should seek specialized technical support for this. In order to avoid the rebuilding of or an increase in vulnerability during rehabilitation and reconstruction, the Borrower may consider allocating project resources to prevention, mitigation and risk transfer.

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## Security Personnel

- 15. When the Borrower retains direct or contracted workers to provide security to safeguard its personnel and property, it will assess risks posed by its security arrangements to those within and outside the project site. In making such arrangements, the Borrower will be guided by the principles of proportionality and

good international practice<sup>112</sup> in relation to hiring, rules of conduct, training, equipping, and monitoring of such workers, and by applicable law. The Borrower will make reasonable inquiries to ensure that those providing security are not implicated in past abuses; will train them adequately in the use of force (and where applicable, firearms), and appropriate conduct toward workers and the project-affected people; and will require them to act within the applicable law. The Borrower will not sanction any use of force except when used for preventive and defensive purposes in proportion to the nature and extent of the threat. The Borrower will provide a grievance mechanism for project-affected people to express concerns about the security arrangements and acts of security personnel, in accordance with ESPS 10.

16. The Borrower will assess and document risks arising from the project's use of personnel deployed to provide security services. The Borrower will seek to ensure that security personnel will act in a manner consistent with paragraph 11 above and encourage the relevant public authorities to disclose the security arrangements for the Borrower's facilities to the public, subject to overriding security concerns.
17. The Borrower will consider and, where appropriate, investigate all allegations of unlawful or abusive acts of security personnel, take action (or urge appropriate parties to take action) to prevent recurrence, and report unlawful and abusive acts to the appropriate public authorities.

**GL51.** The Borrower will assess the risks and impacts associated with its proposed use of security personnel, as direct workers or contracted workers (see ESPS 2), through its environmental and social risks and impacts identification process or through a dedicated assessment of the use of security personnel. This assessment should consider the changing needs for security arrangements throughout the life of the project. Good international practice related to the use of security personnel includes practice consistent with the United Nation's (UN) Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Based on the project's specific needs for security services, the Borrower should give priority to selecting security service providers, whether public security service providers or Private Security Companies (PSCs), who are signatories to the International Code of Conduct for Private Security Service Providers (ICoC) adopted by the International Code of Conduct Association. In the event no signatory firms are available, the Borrower will require the security service providers to adhere to the standards outlined in the ICoC, the principles of the Voluntary Principles, and the requirements of ESPS 4 and be guided by its Guidelines.

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<sup>112</sup> Including practice consistent with the United Nation's (UN) Code of Conduct for Law Enforcement Officials, and UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

**GL52.** The Borrower will ensure that all security services workers, whether direct workers or contracted workers, are selected only after undergoing a rigorous background check to verify that security service workers:

- i. Have the requisite qualifications as defined by the applicable contract, applicable national law and industry standards, and the principles contained in the ICoC
- ii. Are at least 18 years of age
- iii. Meet the appropriate physical and mental fitness standards necessary to perform their contracted duties
- iv. Have not been convicted of a crime that would call into question their moral character and ability to perform their duties according to the standards outlined in this Guideline.
- v. Have not been dismissed previously from any PSC for a violation of any of the standards outlined in the ICoC and/or ESPS 4 Guidelines.
- vi. If required to carry a weapon, have not engaged in any prior conduct which would question their ability to carry a weapon and to follow required use of force policies and procedures.

**GL53.** All security services workers must also, as a condition of employment, agree to cooperate in any internal investigation conducted by their employer and/or by competent local authorities, including law enforcement, and agree to report any violation of any rules of conduct or use of force policies they observe, or become aware of, to their individual supervisors immediately, or to higher authorities if the violations involve their supervisors. Security service providers should strive to provide gender-appropriate treatment of community members, through the promotion of gender balance among service personnel.

**GL54.** The Borrower should seek to ensure that any security services worker employed by a PSC or any other organization selected to provide security services for a project will, as a priority, avoid the use of physical force when fulfilling their responsibilities in accordance with the Voluntary Principles on Security and Human Rights. When physical force is required, security personnel must use only that level of force necessary to overcome resistance, with a focus on using the lowest level of force necessary to gain compliance and that is in proportion to the threat and appropriate for the situation. The use of deadly force must only be used when there is an imminent threat of death or serious injury to security personnel or others, or to prevent the immediate threat of a particularly serious crime involving a grave threat to life. Written policies and procedures, consistent with all applicable laws and mandating these standards for security services workers, must be established and promulgated to all security personnel.

**GL55.** The Borrower will ensure that all PSCs and all other security services organizations that are under contract with the Borrower have established written rules of conduct for their personnel requiring them to follow all applicable laws, as well as international rules of conduct that prohibit crimes against humanity, genocide, torture, forced or compulsory labor, hostage taking, sexual or gender-based violence, human trafficking, trafficking in illicit drugs or weapons,

or child labor. Rules of conduct must also prohibit sexual exploitation, abuse and harassment, as well as any form of discrimination. All security services workers, direct and contracted, must agree in writing to adhere to rules of conduct prior to providing security services to the Borrower and agree to treat all persons humanely and with respect for their dignity and privacy.

**GL56.** The Borrower will establish an administrative and operational process to monitor the operations and activities of its security operations, direct and contracted, and their interactions with the community, on an ongoing basis, including holding regular meetings to discuss security operations with security services providers. PSCs and all other security services providers must also establish formal administrative and operational policies, procedures and protocols that allow them to engage in proactive monitoring of the activities of its security personnel and to take all necessary actions to address issues, including investigating and disciplining personnel for any misconduct. The Borrower's grievance mechanism will be made available to channel concerns about security arrangements in accordance with the requirements of ESPS 10.

**GL57.** The Borrower will confirm that security services providers deliver appropriate training to their security personnel on an ongoing basis to help ensure they develop the knowledge, skills and abilities necessary to perform their required duties, as well as to comply with the Rules of Conduct outlined in the ICoC and the requirements of ESPS 4 and the Guideline.

**GL58.** The Borrower will also ensure that the security services providers and organizations with whom they have contracted for security services are providing security personnel with the appropriate security-related equipment and associated facilities necessary to perform their duties, with a focus on ensuring the uniforms and safety equipment are modern, functional, appropriate for the nature of the security risks, standardized among all security personnel, and updated on a regular basis. The Borrower will also ensure that a formal protocol is established whereby security workers may report faulty or out-of-date equipment to the security services organization, after which the organization will investigate the reports and address concerns, update the equipment if necessary, and then report to the Borrower on measures and actions taken. The Borrower will also provide adequate protective gear that will protect security personnel from any hazardous materials on a project site, as well as from any exposure to communicable diseases as they come in contact with other workers that are on the project site.

**GL59.** Subject to any overriding security concerns, the Borrower should facilitate engagement of its security services providers and organizations with local representatives, local public officials and authorities to advise them of security procedures and operations at project locations. This enables leadership and supervisors of security personnel to establish a direct, positive working relationship with local law enforcement and other public safety officials in the event they need to collaborate to address a security concern of the Borrower. It also helps to prevent confusion and any unnecessary confrontations between security personnel and public officials if and when local authorities need to access a project location. It is also recommended that regular training exercises involving security personnel and local law enforcement and/or fire safety personnel occur for large and complex projects with extensive physical facilities, as well as for sites where any hazardous materials are used and stored.

**GL60.** For large projects with extensive security needs, the Borrower should consider establishing a formal written memorandum of understanding with its security personnel providers and local officials in advance so all will know the exact protocols that will be followed by all parties if and when a need arises.

**GL61.** The Borrower will require its security services providers and organizations to report any significant violations of the Rules of Conduct, as well as any violations of applicable laws, to the Borrower and to the appropriate local law enforcement officials. This will require security services providers and organizations to have the ability to receive reports of misconduct or unlawful acts on the part of its personnel, and, where appropriate, investigate acts of misconduct, take disciplinary action when necessary, and report incidents and follow-up actions to the Borrower. It will also require security services providers and organizations, in coordination with the Borrower, to promptly report any unlawful activity to the appropriate public authorities, working cooperatively with them during any subsequent investigation that may occur.

**GL62.** There may be cases where the government decides to deploy public security forces to protect a borrower's operations, whether on a routine or as needed basis. In countries where it is illegal for companies to employ private security forces, the borrower may have no choice but to engage public security forces to protect its assets and employees. Governments have the primary responsibility for maintaining law and order and the decision-making authority with respect to deployments. Nonetheless, borrowers whose assets are being protected by public security forces have an interest in encouraging those forces to behave consistently with the requirements and principles set out above for private security personnel in order to promote and maintain good relations with the community, bearing in mind that public security forces may be unwilling to accept restrictions on their ability to use offensive force where they consider necessary. Borrowers are expected to communicate their principles of conduct to public security forces, and express their desire that security be provided in a manner consistent with those standards by personnel with adequate and effective training. The borrower should request the government to disclose information about the arrangements to the borrower and the community, subject to overriding safety and security needs. If borrowers are required or requested to compensate the public security forces or provide equipment to them, and if the option of declining the request is not available or desirable, borrowers may choose to provide in kind compensation, such as food, uniform, or vehicles, rather than cash or lethal weapons. Borrowers should also try to implement restrictions, controls, and monitoring as necessary and possible under the circumstances to prevent misappropriation or use of the equipment in a manner that is not consistent with the principles and requirements set out above.

## Safety of Dams

**GL63.** The dam safety requirements set out in this section apply to new and existing dams, including Dams Under Construction (DUC) and dams under rehabilitation. Dams provide material impoundment or flood control management solutions. Dams include a water storage dam for a hydropower, water supply, irrigation, flood control, or multipurpose project; a tailing or a slimes dam; or an ash impoundment dam, among other things. The dam safety requirements set out in this section apply to: (a) “large dams” per the definition of the International Committee on Large Dams (ICOLD): dams with a height of 15 meters or greater from the lowest foundation to crest or dams between 5 meters and 15 meters impounding more than 3 million cubic meters; and (b) “small dams” that (i) could cause safety risks, such as an unusually large flood-handling requirement, location in a zone of high seismicity, foundations that are complex and difficult to prepare, retention of toxic materials, or potential for significant downstream impacts, or (ii) are expected to become large dams during their operating life.

**GL64.** Dam failure (including the potential failure of coffer dams during construction) can lead not only to impacts on the operability of the project and loss of revenue, but also to extensive downstream flooding with potentially catastrophic consequences, including loss of life and destruction of property depending on the characteristics of land use downstream of the dam. Many factors can cause partial or total dam failure, including but not limited to: aging dam infrastructure, overtopping during normal or peak flow events because of inadequate spillway design; debris blockage of spillways; settlement of the dam crest; foundation settlement and slope instability; seepage around hydraulic structures such as pipes and spillways; corrosion of reinforcing steel; erosion of embankments; structural failure of the materials used in dam construction; inadequate management or maintenance; and seismic events or sudden upstream releases of water.

**GL65.** The following principles will always apply to the safety of dams:

1. Life safety is paramount. The Borrower shall identify and reduce the risk to life and property as low as reasonably practicable.
2. The basis for risk analysis should always be a thorough examination and description of potential failure scenarios. Specific technical guidance and examples of risk assessments for dams can be found in the IDB’s Disaster and Climate Change Risk Assessment Methodology.
3. The basis for design, operations and maintenance must consider the potential impact of a changing climate.
4. Each dam is unique in terms of purpose, geologic and demographic setting, design, structure, operations, and consequences.
5. Cumulative and synergic impacts and appropriate operational procedures should be considered when multiple impoundments occur within the same watershed.
6. The objective of the Borrower is to reduce dam safety risk as effectively and as efficiently as possible.

7. The Borrower will have a transparent process for establishing priorities and the urgency of completing dam safety actions. This process should be disclosed in the Dam Safety Report (see GL70 below).
8. The Borrower will use competent specialists to review and prioritize proposed dam safety actions when establishing urgency for action at a dam. Independent review is critical to the credibility of this process.
9. The resources committed to dam safety and the urgency of completing dam safety actions should be commensurate with risk.

### *New dams*

**GL66.** The Borrower will engage experienced and competent professionals, acceptable to the Bank, for the design and supervision of the construction of new dams and require the owner of the dam to develop and implement a Dam Safety Report covering the design, bid tendering, construction, operation, maintenance, and decommissioning of the dam and associated works.

**GL67.** In developing the design criteria for new dams, the Borrower shall consider the climate that the dam is likely to experience over its operational life. The Borrower will conduct a climate change risk assessment in a manner described in paragraphs GL44 – 48 to establish the range of climate projections for the area of the project associated with the dam. For water retention structures, changing hydrology and changing probable maximum flows under climate change scenarios should be evaluated in order to inform the Dam Safety Report. The management of the maximum and minimum operating levels of the storage basin or reservoir can be used to prevent dam failure events. Also, sediment projections and sediment management practices should be taken into account, as sedimentation can also impact the Dam Safety Risk. In addition to potential impact on the structural safety of the dam as a result of a changing climate, the climate change risk assessment should also consider the potential impacts on the operability of the dam and overall performance of the project (for example, for a hydroelectric project the impact of changing climate on energy generation potential; for reference, see the IDB publication “Vulnerabilidad al Cambio Climático de los Sistemas de Producción Hidroeléctrica en Centroamérica y sus Opciones de Adaptación.” The projections, along with an assessment of uncertainty, must be documented in a design basis report.

**GL68.** The identification of appropriate new dam safety risk management options are essential elements to ensure community health, safety and security. They represent the understanding of existing conditions and predicted future behavior stated as objectively as possible. The risks associated with a dam are design and situation specific, and will vary depending on structural components, socioeconomic factors, and the environment within which the dam is being constructed and will operate. Risk assessment (for example, Failure Mode Effects and Criticality Analysis) should be completed to identify conceivable failures, as well as their probabilities and consequences (quantitative risk assessment), in accordance with internationally accepted practices. The U.S. Federal Emergency Management Association (FEMA), the U.S Army Corps of Engineers (USACE), the U.S. Bureau of Reclamation (USBR), the Australian National Committee on Large Dams (ANCOLD), the Spanish national Committee on Large Dams (SPANCOLD), the

Canadian Dam Association (CDA), the Argentinian Dam Committee (CAP) and the Brazilian Dam Committee (CBDB) provide relevant risk assessment methodologies and dam safety guidelines for dams. The term risk, when used in the context of disaster and climate change risk and dam safety, is comprised of three parts: (1) the likelihood of occurrence of a load (e.g., flood, earthquake, etc.), (2) the likelihood of an adverse structural response (e.g., dam failure, damaging spillway discharge, etc.), and (3) the magnitude of the consequences resulting from that adverse event (e.g., life loss, economic damages, environmental damages, etc.). Where structures are located in areas that are at risk of high seismic loadings, the independent review should include a check on the maximum design earthquake assumptions and the stability of the structure. The number, professional breadth, technical expertise, and experience of the dam safety expert(s) engaged by the Borrower for the review of dam safety will be appropriate to the size, complexity, and hazard potential of the dam under consideration. For high-hazard dams, in particular, the dam safety expert(s) will possess recognized international expertise in their technical fields. Relevant expertise for a dam includes geology, hydrology, hydraulics, civil engineering, hydromechanical expertise, hydroelectrical expertise, and materials expertise. It may also include public health expertise, depending on the potential impacts on affected communities. Application of the requirements set out in this section will reflect these considerations and be proportionate to the size, complexity, and potential risk of the dam.

**GL69.** New dams, whether large or small, shall be subject to dam safety risk management review by an independent engineer(s) or dam specialists competent in the investigation, design, and construction of the dam and the start of operations. Where a dam does not fall under the definition of a large or small dam (for example, farm ponds, local silt retention dams, and low embankment tanks), safety measures designed by qualified engineers in accordance with GIIP will be adopted and implemented. The Borrower will confirm, through the environmental and social assessment conducted in accordance with ESPS1, that there will be no or negligible risk of significant adverse impacts due to potential failure of the dam structure to local communities and assets, including assets to be financed as part of the proposed project. The dam safety guidelines included above, in GL68, have become important references for dam safety internationally. The Guidelines consist of principles that are applicable to all dams, and an outline of processes and criteria for management of dam safety in accordance with the principles.

**GL70.** Recognizing that there will always be a certain level of residual risk with regards to the construction and operation of a dam, decisions made by the Borrower with respect to the project should be risk-informed, on the advice of competent professionals. Residual risk related to a specific dam safety issue that is identified over the life of the project is always to be disclosed in a timely manner. Residual risk is the risk that remains after reasonable and practicable actions to address the risk have been taken.

## *Existing dams and dams under construction*

**GL71.** Where a project relies or may rely on the performance of an existing dam or a dam under construction (DUC) in the Borrower's territory, the Borrower will arrange for one or more independent dam specialists to: (a) inspect and evaluate the safety status of the existing dam or dam under construction, its appurtenances, and its performance history; (b) review and evaluate the owner's instrumentation, operation, and maintenance procedures; (c) commission a written report of findings and recommendations for any remedial work or safety related measures necessary to upgrade the existing dam or DUC to an acceptable standard of safety; and (d) ensure the implementation of those recommendations. When the owner of the existing dam or dam under construction is an entity other than the Borrower, the Borrower will enter into agreements or arrangements providing for the measures set out in this section to be undertaken by the owner. Such projects include, for example, power stations or water supply systems that draw directly from a reservoir controlled by an existing dam or a DUC; diversion dams or hydraulic structures downstream from an existing dam or a DUC, where failure of the upstream dam could cause extensive damage to or failure of the project facilities; and irrigation or water supply projects that will depend on the storage and operation of an existing dam or a DUC for their supply of water and could not function if the dam failed. They also include projects that require increases in the capacity of an existing dam, or changes in the characteristics of the impounded materials, where failure of the existing dam could cause extensive damage to or failure of project facilities.

**GL72.** The Borrower may use a previously prepared dam safety assessment or recommendations for improvements needed in an existing dam or DUC, if: (a) an effective dam safety program is already in operation; and (b) full-level inspections and dam safety assessments of the existing dam or DUC have already been conducted and documented and are satisfactory to the Bank. For projects that include additional dam safety measures or require remedial work, the Borrower will require that: (a) the dam is designed and its construction is supervised by competent professionals; and (b) the reports and plans required for a new dam (specified in GL66 and GL73 - Dam Safety Report) are prepared and implemented. For high-hazard cases involving significant and complex remedial work, the Borrower will also employ a panel of independent experts on the same basis as for a new dam.

## *Dam Safety Report*

**GL73.** For new (and existing dams as appropriate), as part of a comprehensive Dam Safety Report, the Borrower shall prepare and implement detailed plans for each of the following: i) Construction Supervision and Quality Assurance; ii) Instrumentation; iii) Operations & Maintenance; iv) and Emergency Preparedness and Response.

- i. Construction Supervision and Quality Assurance—This plan covers the supervision and construction quality assurance requirements as the dam grows in height with any accompanying changes in construction materials or the characteristics of the impounded material over the period of construction.
- ii. Instrumentation—This is a detailed plan for the installation of instruments to monitor and record dam behavior and the related hydrometeorological, structural, and seismic factors. This plan will set out details on how observed meteorological conditions and updates to climate change projections correspond to the design criteria specified for the original construction of the dam or the operating conditions experienced in the past for existing dams or DUC.
- iii. Operations & Maintenance—This plan will set out details of the organizational structure, staffing, technical expertise, and training required; equipment and facilities needed to operate and maintain the dam; O&M procedures; and arrangements for funding O&M, including long-term maintenance and safety inspections. The O&M plan will reflect changes in the dam’s structure or in the nature of the impounded material that may be expected over the operating life of the dam. The plan will be subject to regular (at least annual) review and revision by appropriate subject matter experts. It is expected that this plan will be finalized prior to commissioning of the dam and the start of operations. As part of the Operations & Maintenance Plan, the Borrower shall also conduct periodic safety inspections of the dam prior to commissioning and throughout its operational life, and implement measures required to address safety deficiencies identified during those safety inspections. This plan may be incorporated, in part or whole, in the Disaster and Climate Change Risk Management Plan (DRMP) described in GL49.
- iv. Emergency Preparedness and Response—Emergency preparedness and response planning should be conducted in accordance with GL35 – GL43. With regards to dams, the plan will specify the roles of responsible parties when dam failure is considered imminent, or when expected operational flow release threatens downstream life, property, or economic operations that depend on river flow levels. It will include the following: clear statements on the responsibility for decision making relating to dam operations and for the related emergency communications; maps outlining inundation levels for various emergency conditions; flood warning system characteristics; and procedures for evacuating threatened areas and mobilizing emergency forces and equipment. The plan

for emergency communication will include the mechanism through which potentially affected downstream communities will be informed. Consistent with established dam safety practice, Emergency Preparedness and Response Planning is often incorporated directly into the Dam Operations and Maintenance Plan.

**GL74.** With respect to certification and approval of structural elements of the project, where governmental approving authority capacity is limited or inadequate, the roles and responsibilities of alternative approving authorities, such as third-party professionals, should be agreed to and formulated before project implementation.

**GL75.** Where the dam is readily accessible by the public, the Borrower shall also implement controls to address the risks of accidents or incidents in which a member of the public encounters a hazard created by the presence or operation of the dam. Such controls are often documented and communicated by way of a Reservoir Safety Plan. The Canadian Dam Association has also published Guidelines for Public Safety Around Dams (2011) to address the risks of accidents or incidents in which a member of the public encounters a hazard created by the presence or operation of a dam. Safety measures may include but are not limited to; identification of high watermarks to indicate past or probable reservoir levels and streamflows, posting of safety instructions at highly visible and key locations, posting of restricted access signs and providing audible safety warnings upstream of below outlets as appropriate (see Association of State Dam Safety Officials, *Public Safety At Dams* (2021)).

**GL76.** Local emergency management and public safety authorities are key stakeholders in dam safety risk management. Effective communication of dam risks with emergency management and public safety authorities responsible for responses and evacuation actions is essential.

**GL77.** Effective risk communication should provide timely and best available information to facilitate the development of response plans and risk mitigation strategies. Local emergency management authorities shall be notified whenever a potential indicator of a dam failure listed in GL64 is identified to permit joint planning efforts to manage any potential dam failure. Useful reference is provided in National Fire Protection Association (NFPA) 1600 Standard, 2019 Edition, “Standard on Disaster/Emergency Management and Business Continuity Programs” Annex K “Emergency Communications: Public Alerts and Warnings in Disaster Response.”

**GL78.** As part of its Emergency Preparedness and Response Plan, or Disaster and Climate Change Risk Management Plan, as the case may be, the Borrower shall prepare a communications protocol that identifies the what, who, how and when notifications are provided to local emergency management and public safety authorities, and the public in the area of influence, in the event of a potential emergency. Consistent with GL35 – GL43, and in a manner prescribed by ESPS 10, the plan should be provided proactively for organizations and the public that will be, could be, or consider themselves impacted by a dam failure or by dam safety actions that will restrict or modify the operations at the dam.

GUIDELINES FOR ENVIRONMENTAL  
AND SOCIAL PERFORMANCE

**STANDARD 5:**  
**LAND ACQUISITION  
AND INVOLUNTARY  
RESETTLEMENT**



5

## INTRODUCTION

- 1. Environmental and Social Performance Standard (ESPS) 5 addresses impacts of project-related land acquisition,<sup>113</sup> including restrictions on land use and access to assets and natural resources, which may cause physical displacement (relocation, loss of land or shelter), and/or economic displacement (loss of land, assets, or restrictions on land use, assets, and natural resources leading to loss of income sources or other means of livelihood<sup>114</sup>). The term “involuntary resettlement” refers to both impacts and the processes to mitigate and compensate these impacts. Resettlement is considered involuntary when the project-affected people do not have the right to refuse land acquisition or restrictions on land use that result in physical or economic displacement. This occurs in cases of (i) lawful expropriation or temporary or permanent restrictions on land use and (ii) negotiated settlements in which the buyer can resort to expropriation or impose legal restrictions on land use if negotiations with the seller fail.**
- 2. Unless properly managed, involuntary resettlement may result in long-term hardship and impoverishment for the project-affected people, as well as environmental damage and adverse socio-economic impacts in areas to which they have been displaced. For these reasons, involuntary resettlement should be avoided. However, where involuntary resettlement is unavoidable, it should be minimized, and appropriate measures to mitigate adverse impacts on displaced persons and host communities<sup>115</sup> should be carefully planned and implemented. The government plays a central role in the land acquisition and resettlement process, including the determination of compensation. Close collaboration and coordination among government agencies and the project-affected people can result in more cost-effective, efficient, and timely implementation of those activities, as well as the introduction of innovative approaches to improving the livelihoods of those affected by resettlement.**
- 3. To help avoid expropriation and eliminate the need to enforce relocation, Borrowers are encouraged to use negotiated settlements that meet the requirements of this ESPS, even if they have the legal means to acquire land without the seller’s consent.**

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<sup>113</sup> Land acquisition includes both outright purchases of property and acquisition of access rights, such as easements or rights of way.

<sup>114</sup> The term “livelihood” refers to the full range of means that individuals, families, and communities utilize to make a living, such as wage-based income, agriculture, fishing, foraging, other natural resource-based livelihoods, petty trade, and bartering.

<sup>115</sup> A host community is any community receiving displaced persons. The Borrower will consider adverse impacts on host communities such as the transmission of communicable diseases due to resettlement activities and/or affected by the new resource uses of displaced persons.

**GL1.** Decades of resettlement research have shown that involuntary resettlement associated with public and private sector projects frequently results in the impoverishment of affected households and communities. The main socio-economic risks associated with involuntary resettlement are as follows:

- Landlessness;
- Joblessness;
- Homelessness;
- Marginalization;
- Food insecurity;
- Reduced educational achievement among children;
- Diminished mental and physical health;
- Increased morbidity and mortality;
- Loss of access to communally held property and services;
- Social disarticulation.

**GL2.** Through appropriate resettlement planning and implementation, the Borrower can avoid or minimize these risks in a systematic manner and, wherever possible, enhance the development impact of a project by enabling affected households and communities to participate in resettlement planning through informed consultation and participation (ICP), and to share in various project benefits and thereby improve their living standards. Without proper planning, management and community engagement and participation, involuntary resettlement may have negative consequences on the project's implementation performance and diminish a project's potential for developmental impact.

**GL3.** The loss of access to common property resources and natural resources is an important consideration when evaluating a project's impacts on affected communities' and households' livelihoods, as noted in GL1 above. The types of assets or access to assets that might be lost may include, but are not limited to, pasture, fruit trees, medicinal plants, fiber, firewood, and other non-timber forest resources, croplands, fallow lands, woodlots, and fish stocks. While these resources are, by definition, not owned by individual households, access to them is often a key component of affected households' livelihoods, without which they will likely face the risk of project-related food insecurity and impoverishment.

**GL4.** Some countries have national legislation guiding the resettlement process and government agencies follow these national legal requirements. The Borrower is required to ensure that resettlement meets national laws as well as the provisions of ESPS 5. This may require supplementing the government agency's efforts in various ways, as outlined in future paragraphs. To ensure that necessary supplemental efforts are identified and arranged as early as possible in the design of resettlement activities, the Borrower should assess early during project preparation the extent to which coordination among government agencies will be required and confirm that the outcome of resettlement activities will meet the requirements of ESPS 5.

## OBJECTIVES

- To avoid, and when avoidance is not possible, minimize displacement by exploring alternative project designs.
- To avoid forced eviction.
- To anticipate and avoid, or where avoidance is not possible, minimize adverse social and economic impacts from land acquisition or restrictions on land use by (i) providing compensation for loss of assets at replacement cost<sup>116</sup> and transitional hardships; (ii) minimizing disruption to their social networks and other intangible assets; and (iii) ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected.
- To improve or restore the livelihoods and standards of living of displaced persons. To improve living conditions among physically displaced persons through the provision of adequate housing with security of tenure,<sup>117</sup> and safety<sup>118</sup> at resettlement sites.

**GL5.** The Borrower is encouraged to avoid the acquisition of land and restrictions on land use and/or access to assets and natural resources that results in the physical or economic displacement of people. This requires a meaningful analysis of possible alternatives that incorporate the social and project costs associated with displacement (see GL21). Where such displacement is unavoidable, adverse impacts on individuals and communities should be minimized through adjustments in routing or siting of project facilities (e.g., pipelines, access roads, plants, depots, etc.).

**GL6.** There may be circumstances that require special attention if project-related land acquisition and restrictions on land use and/or access to assets and natural resources occurs in an area with widespread land disputes or in a post-conflict country/region/area from which people were expelled (or chose to leave), and where the ownership of land is not clear at the point of acquisition. The Borrower should be aware that land acquisition and restrictions on land use and/or access to assets and natural resources in these circumstances will add considerable

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<sup>116</sup> Replacement cost is defined as the market value of the assets plus transaction costs (e.g., taxes and legal fees). In applying this method of valuation, depreciation of structures and assets should not be taken into account. Market value is defined as the value required to allow project-affected people to replace lost assets with assets of similar value. The valuation method for determining replacement cost should be documented and included in applicable Resettlement and/or Livelihood Restoration plans (see paragraphs 18 and 25).

<sup>117</sup> Security of tenure means that project-affected people who are resettled are resettled to a site that they can legally occupy and where they are protected from the risk of eviction.

<sup>118</sup> Due consideration must be given to risks related to disease outbreaks, disasters triggered by natural hazards, and climate change in resettlement sites. Under no circumstances will displaced persons be relocated to areas with active disease outbreaks or to disaster-prone areas.

complexity to the usual challenges in land acquisition and involuntary resettlement and may potentially exacerbate the existing land conflict. In these cases, the Borrower should assess these risks and consider whether the project should not be carried out or if an alternative design is required.

**GL7.** Compensation for land and other assets should be calculated at replacement cost, that is market value plus the transaction costs related to restoring the assets. In practice, those who suffer negative social and economic impacts as a result of the acquisition of land for a project and/or restrictions on land use and access to assets and natural resources may include those having legally recognized rights or claims to the land; those with customary claims to land; and those with no legally recognized claims, as well as seasonal natural resource users such as herders, fishers, hunters and gatherers, and their families, who may have interdependent economic relations with communities located within the project area. The potential variety of claimants can render the calculation of full replacement cost in the above-mentioned situations difficult and complex. In the event that affected communities of Indigenous Peoples are to be relocated from their communally held traditional land or customary lands under their use, the Borrower will follow the requirements as described in ESPS 7, in addition to the requirements under ESPS 5.

**GL8.** For this reason, as part of its assessment of legal, economic, social and reputational risks surrounding land acquisition or restriction of use, the Borrower should identify and consult with individuals and communities that will be displaced by land acquisition and/or restrictions on land use and access to assets and natural resources as well as host communities who will receive those who are resettled, to obtain adequate information about land titles, claims, and use. All categories of affected households and communities should be consulted, whether individually or through representative sampling if the numbers are large, and particular attention should be paid to disadvantaged and vulnerable groups. This includes people who are in a disadvantaged or vulnerable status by virtue of disability, state of health, gender identity, sexual orientation, religion, race, color, ethnicity, age, language, political or other opinion, national or social origin, property, birth, and economic disadvantage. Consultation should capture the views and concerns of people of all genders, including men and women, in accordance with the requirements of ESPS 9 - *Gender Equality* and ESPS 10 - *Stakeholder Engagement and Disclosure of Information*. In addition, the Borrower should ensure all households and communities are informed early in the planning process about their options and rights regarding displacement and compensation, and that the information continue to be disseminated throughout the life of the project. Affected households and communities should also have the opportunity for informed participation in key phases of resettlement planning so that the mitigation of adverse project impacts is appropriate, and the potential benefits of resettlement are sustainable. More detailed information on consultation and engagement with affected households and communities is provided in ESPS 1 - *Assessment and Management of Environmental and Social Risks and Impacts* and ESPS 10 and their respective Guideline.

**GL9.** Many countries have legally defined rates of compensation for crops and/or land, though these may not be recent, or reflect the market or replacement cost. The Borrower should assess the established compensation rates for their fairness and adjust as necessary to meet the replacement cost criterion. The assessment of rates for crops may be undertaken via the commissioning of an experienced agronomist or similarly qualified professional with a working knowledge of the country's compensation and agricultural pricing systems.

**GL10.** Compensation alone does not guarantee the restoration or improvement of the livelihoods and social welfare of displaced households and communities. Restoration and improvement of livelihoods often may include many interconnected assets such as access to land (productive, fallow, and pasture), marine and aquatic resources (fish stocks), access to social networks, access to natural resources such as timber and non-timber forest products, medicinal plants, hunting and gathering grounds, grazing and cropping areas, fresh water, as well as access to employment, and capital. Major challenges associated with rural resettlement include restoring livelihoods based on land or natural resource use and the need to avoid compromising the social or cultural continuity of affected communities, including the host communities to which the displaced population may be resettled. Resettlement in urban or peri-urban areas typically affects housing, employment, markets and enterprises. A major challenge associated with urban resettlement is the restoration of wage-based or enterprise-based livelihoods that are often tied to location (such as proximity to jobs, customers and markets).

**GL11.** The following are recommendations for the design of measures to improve and/or restore livelihoods that are land-based, wage-based and enterprise-based:

- Land-based livelihoods: Depending on the type of economic displacement and/or the site to which affected people are relocated, they may benefit from: (i) assistance in acquiring or accessing replacement land, including access to grazing land, fallow land, forest, fuel and water resources; (ii) physical preparation of farm land (e.g., clearing, leveling, access routes and soil stabilization); (iii) fencing for pasture or cropland; (iv) agricultural inputs (e.g., seeds, seedlings, fertilizer, irrigation); (v) veterinary care; (vi) small-scale credit, including cattle banks and cash loans; and (vii) access to markets (e.g., through transportation means and improved access to information about market opportunities).
- Wage-based livelihoods: Formal and informal wage earners in the affected households and communities may benefit from skills training and job placement, provisions made in contracts with project sub-contractors for temporary or longer-term employment of local workers, and small-scale credit to finance start-up enterprises. Wage earners whose income is interrupted during physical and/or economic displacement should receive a resettlement allowance that covers these and other hidden costs. Affected people of all genders should be given equal opportunities to benefit from such provisions. The location of resettlement housing, in the case of physically displaced persons, can be a significant contributing factor toward

socio-economic stability. Careful consideration should be given to the ability of formal and informal wage earners to continue to access their place(s) of work during and after resettlement. If this ability is impaired, then mitigation measures need to be implemented to ensure continuity and avoid a net loss in welfare for affected households and communities.

- Enterprise-based livelihoods: Formal and informal established and start-up entrepreneurs and artisans may benefit from credit or training (e.g., business planning, marketing, inventory and quality control) to expand their business and generate local employment. The Borrower can promote local enterprise by procuring goods and services for their projects from local suppliers.

**GL12.** ESPS 5 requires provision of adequate housing and security of tenure to displaced persons at resettlement sites. Adequate housing or shelter can be measured by quality, safety, size, number of rooms, affordability, habitability, cultural appropriateness, accessibility, security of tenure and locational characteristics. Adequate housing should allow access to employment options, markets, and other means of livelihood such as agricultural fields or forests, and also basic infrastructure and services, such as water, electricity, sanitation, healthcare, and education depending on the local context and whether these services can be supported and sustained. Adequate sites should not be subject to flooding, fire or other hazards. Whenever possible, Borrowers should endeavor to improve aspects of adequate housing mentioned in this paragraph and GL13 regarding security of tenure in order to offer better living conditions at the resettlement site, particularly to those without recognizable legal rights or claim to the land they occupy, such as informal settlers (see paragraph 17 (iii) of ESPS 5) and/or those who are vulnerable as described in ESPS 1. Creation of improvement options and setting priorities for such improvements at resettlement sites should be done with the participation of those being displaced as well as host communities and relevant national and local institutions as appropriate.

**GL13.** Security of tenure is an important component of adequate housing. The most expansive meaning of security of tenure is that residents are the legally recognized owners of their land and structures and are free to trade or collateralize their possession. At the narrowest, security of tenure protects residents from forced eviction. Forced eviction means removal of people and their belongings from land and structures against their will and without any legal or other protection. Improving security of tenure can have a positive impact on displaced persons' standard of living. As described in paragraph 17 of ESPS 5, displaced persons may have formal legal rights to the land; they may have recognized but not formal legal rights to land (e.g., through traditional customary claim to the land or communal possession of community land); or they may have no recognizable legal right to the land they occupy (e.g., informal or opportunistic settlers). In addition, displaced persons may be seasonal or permanent tenants, paying and non-paying or seasonal migrants. Provision of security of tenure for each category of occupant may differ as outlined in the UN Basic Principles and Guidelines on Development-Based Evictions and Displacement (refer to UN Special Rapporteur on the Right to Housing, 2007, for more detailed information).

**GL14.** Displaced persons covered under paragraph 17 (iii) of ESPS 5 (*persons who have no recognizable legal right or claim to the land or assets they occupy or use*) are more vulnerable to evictions and displacement, particularly if they receive cash compensation but not a place to relocate. Given their situation of vulnerability, additional protections should be considered for persons covered under paragraph 17 (iii) of ESPS 5 including, for example, replacement housing for tenants under similar or improved tenure arrangements.

## SCOPE OF APPLICATION

4. The applicability of this ESPS is established during the environmental and social risks and impacts identification process. The implementation of the actions necessary to meet the requirements of this Environmental and Social Performance Standard is managed through the Borrower's Environmental and Social Management System, the elements of which are outlined in ESPS 1. Implementation of this ESPS must also consider requirements related to Indigenous Peoples, gender equality and stakeholder engagement in accordance with ESPSs 7, 9, and 10.
5. This ESPS applies to physical, and/or economic displacement resulting from the following types of land-related transactions and non-land-related economic displacement:
  - Land rights or land use rights acquired through expropriation or other compulsory procedures in accordance with national law
  - Land rights or land use rights acquired through negotiated settlements with property owners or those with legal rights to the land if failure to reach settlement would have resulted in expropriation or other compulsory procedures<sup>119</sup>
  - Project situations where involuntary restrictions on land use and access to natural resources cause a community or groups within a community or persons to lose access to resource use where they have traditional or recognizable usage rights<sup>120</sup>
  - Certain project situations requiring evictions of people occupying land without formal, traditional, or recognizable usage rights<sup>121</sup>

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<sup>119</sup> This also applies to customary or traditional rights recognized or recognizable under the laws of the country. The negotiations might be carried out by a government agency other than the one responsible for project implementation.

<sup>120</sup> In such situations, project-affected people frequently do not have formal ownership. This may include freshwater and marine environments. This ESPS may also apply when the Borrower establishes or acquires project-related biodiversity areas or legally designated buffer zones, including when biodiversity offsets are required under ESPS 6.

<sup>121</sup> While some people do not have rights over the land they occupy, this ESPS requires that non-land assets be retained, replaced, or compensated for; relocation take place with security of tenure; and lost livelihoods be restored.

- Restriction on access to land or use of other resources, including communal property and natural resources such as marine and aquatic resources, timber and non-timber forest products, freshwater, medicinal plants, hunting and gathering grounds, and grazing and cropping areas<sup>122</sup>
  - Economic displacement resulting from permanent or temporary loss of access to formal and informal economic activities (e.g., small shops owners and informal vendors, among others).
6. This ESPS does not apply to resettlement resulting from voluntary land transactions (i.e., market transactions in which the seller is not required, coerced, intimidated, or bribed to sell and the buyer cannot resort to expropriation or other compulsory procedures sanctioned by the legal system of the host country if negotiations fail).
  7. Where project impacts on land, assets, or access to assets become significantly adverse at any stage of the project, the Borrower should consider applying requirements of this ESPS, even where no land acquisition or land use restriction is involved.

**GL15.** ESPS 5 applies to physical and economic displacement resulting from land-related transactions and non-land related economic displacement outlined in paragraph 5, including transactions where the Borrower (or another responsible government agency) acquires land, or land use rights to gain access to the land and/or to impose limits on land use, such as easements or rights of way, for the purpose of the Borrower’s project through legal proceedings. This process of land acquisition is commonly known as expropriation, compulsory acquisition, or eminent domain. ESPS 5 provides protections from a variety of risks (including the use of depressed assessment value that results in compensation that is below the market price, and potentially protracted process to obtain compensation) that can occur. “Willing buyer/willing seller” agreements, also known as voluntary purchases, are not subject to ESPS 5 requirements. For land acquisition to be considered a voluntary purchase or “willing buyer/willing seller” arrangement, the owners of the land must be able to refuse to sell, without the threat of compulsory acquisition. The Borrower’s due diligence should verify whether a purchase is voluntary. The due diligence should seek to confirm that: (a) functioning land markets exist; (b) the transaction has taken place with the owner’s informed consent and without intimidation, coercion or bribery; (c) the owner was aware that it was possible to refuse to sell and would not be subject to compulsory acquisition; and (d) the owner was paid a fair price based on prevailing market values.

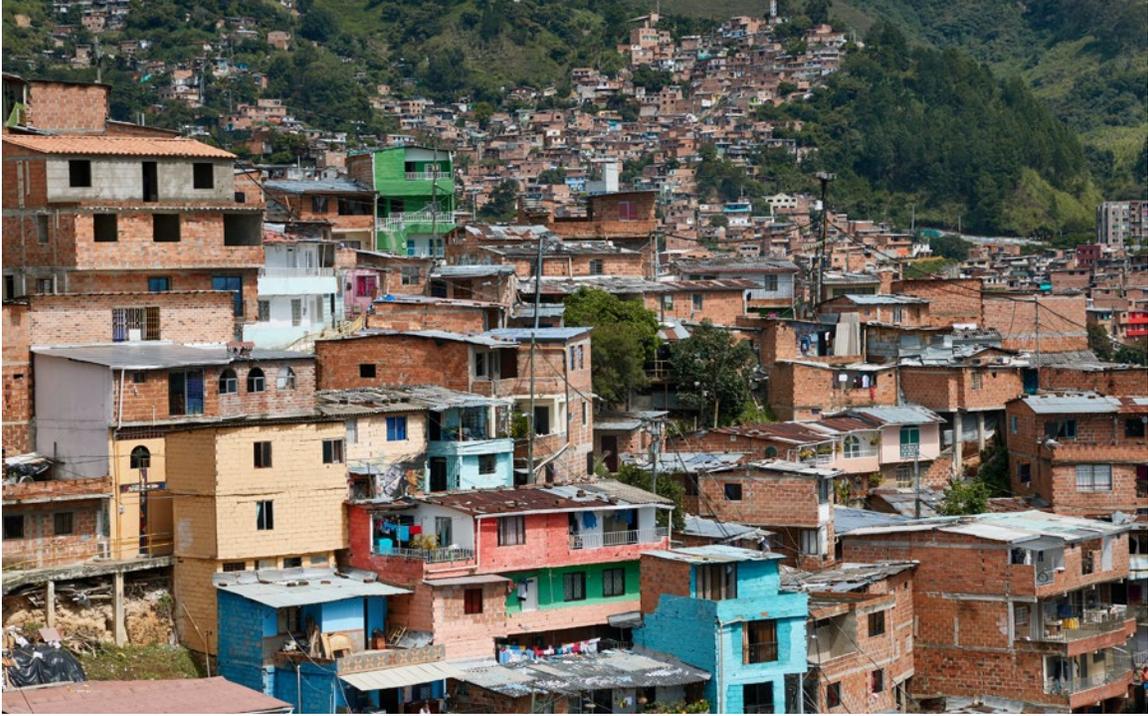
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<sup>122</sup> Natural resource assets referred to in this ESPS are equivalent to ecosystem provisioning services, as described in ESPS 6.

**GL16.** In some cases, especially when an individual or community are strongly in favor of a project or anticipate a direct benefit (e.g., school or health clinic), an individual or community may voluntarily donate land, or voluntarily provide access to land. These cases are commonly referred to as “voluntary land donations”. Good international practice has shown that for voluntary land donations to be successful, the following conditions must be met when ceding a property: (a) landowners must be appropriately informed; and (b) can exercise free will, that is, a landowner can refuse to donate. Appropriately informed means that the owner has all available information regarding the proposed activity and its impacts, its land requirements, and its alternative activity sites, as well as his or her rights to compensation. The owner has also been provided with sufficient time to consider disposition of the property and has knowingly rejected the right to renege on his or her decision. Free will means that the owner can reject the proposal to give up the land, because, for example, there are viable alternatives available to the project (such as rerouting a water main if an owner refuses access to his or her property), or where no viable alternatives are available, the donation is to the benefit of the owner (such as a community-based investment project that benefits the owner of land to be donated). Voluntary land donations are generally documented. This calls for (a) written notification indicating the location and amount of land that is sought and its intended use; and (b) a formal statement of donation signed by each owner or user involved, establishing informed consent and confirming that there is no disputed ownership and that there are no claims by renters, users, squatters, or encroachers. Any taxes or fees owed for processing or registration of the land transfer, if applicable, should be paid in full by the Borrower, who should maintain all records of donations.

**GL17.** As stated in paragraph 23 of ESPS 5, the Borrower is not required to compensate or assist opportunistic settlers who encroach on the project area after the cutoff date for eligibility. The Borrower should nevertheless accommodate individuals or groups who are not present during the census period but who have a legitimate claim to membership of the community affected by the project. Such groups might include absent family members engaged in migrant wage labor and migrant Indigenous Peoples who use local resources on a seasonal basis. If there is a significant time lag between the completion of the census and implementation of the resettlement or livelihood restoration plan, the Borrower should make provision for population movements as well as natural population increase; a repeat census may be required to allow for these natural changes. Similarly, the Borrower should account for people who may not occupy a site required by a project at the time of enumeration such as refugees or other persons internally displaced who may be unable or unwilling to return to a location to exercise their land claims.

**GL18.** Project situations where involuntary restrictions on land use and access to natural resources cause a community or groups within a community to lose access to resources where they have traditional or recognizable usage rights may include, for example, loss of access to common property resources such as forest, grazing land, fishing grounds, or sacred sites. In such situations, the impacts of project-related restriction of access to resources are typically direct, adverse and indistinguishable from the impacts of land acquisition. As noted above in GL1, loss of access to common property resources has been identified as one of the primary impoverishment risks associated with involuntary resettlement and requires careful mitigation.



**GL19.** In the event of impacts by project activities other than land acquisition and/or restrictions on land use and access to assets and natural resources (e.g., future project-related pollution or the project’s abstraction of water that affects water resources on which communities depend), the Borrower’s social and environmental risks and impacts identification process under ESPS 1 should address how these risks and impacts will be avoided, minimized, mitigated and/or compensated for by the Borrower. Even if the Borrower’s assessment determines at the outset that no significant project-related impacts are likely to occur, project conditions could subsequently change and adversely affect local communities. If and when such conditions occur in the future, they should be assessed by the Borrower under ESPS 1. If direct project impacts become significantly adverse at any stage of the project, so that the affected communities are left with no alternative except to resettle or become economically displaced, the Borrower should apply the requirements of ESPS 5, even where no initial project-related land acquisition and/or restrictions on land use and access to assets and natural resources was involved. In these cases, an option for the Borrower may be to acquire the relevant land that is subject to significant adverse impact and apply the requirements of ESPS 5,

**GL20.** Economic displacement associated with freshwater and marine fisheries, are covered under ESPS 5 and should be mitigated and compensated for according to the principles of ESPS 5. Examples include buffer zones that might result in restrictions on access to fishing areas around ports, docks or shipping lanes; creation of safety zones around mines, quarries or blasting zones; or green spaces around industrial plants. While land rights or the equivalent freshwater/marine rights may not be acquired, restrictions on the use of land or freshwater/marine resources may cause physical and/or economic displacement which is indistinguishable from that associated with land acquisition transactions and must be dealt with according to the requirements of ESPS 5.

## REQUIREMENTS

### General

#### *Project Design*

8. The Borrower will consider feasible alternative project designs to avoid or minimize physical and/or economic displacement, while balancing environmental, social, and financial costs and benefits, paying particular attention to impacts on the poor and vulnerable.

#### *Compensation and Benefits for Displaced Persons*

9. When displacement cannot be avoided, the Borrower will offer project-affected people compensation for loss of assets at full replacement cost and other assistance<sup>123</sup> to help them improve or restore their standards of living or livelihoods, as provided in this ESPS. Compensation standards will be transparent and applied consistently to all project-affected people. Where livelihoods of displaced persons are land-based,<sup>124</sup> or where land is collectively owned, the Borrower will, where feasible,<sup>125</sup> offer land-based compensation to the displaced. The Borrower will take possession of acquired land and related assets only after compensation has been made available<sup>126</sup> and, where applicable, resettlement sites and moving allowances have been provided to the displaced persons in addition to compensation.<sup>127</sup> The Borrower will also provide opportunities to displaced communities and people to derive appropriate development benefits from the project and will provide support to restore social networks and other intangible assets.

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<sup>123</sup> As described in paragraphs 19, and 26–29.

<sup>124</sup> The term “land-based” includes livelihood activities such as subsistence cropping and grazing of livestock as well as the harvesting of natural resources.

<sup>125</sup> Refer to paragraph 26 of this ESPS for further requirements.

<sup>126</sup> In certain cases, it may not be feasible to pay compensation to project-affected people before taking possession of the land, such as, for example, when the ownership of the land is in dispute. Such circumstances shall be identified and agreed on a case-by-case basis, and compensation funds shall be made available, for example, through deposit into an escrow account before displacement takes place.

<sup>127</sup> In some circumstances, the Borrower may have limited influence over the timing of compensation payments as it might be handled by a different government agency operating under specific legal provisions and procedural requirements. Such cases should be handled in accordance with paragraphs 27–29 of this ESPS. Staggered compensation payments may be made where one-off cash payments would demonstrably undermine social and/or resettlement objectives, or where there are ongoing impacts to livelihood activities.

**GL21.** Mitigation and compensation for physical and economic displacement can be costly. The potential cost of mitigation for economic and physical displacement should be scoped out early in the project design phase and be integrated into consideration of project design and development. Early assessment of this cost is important to assess the viability of alternative project designs, technologies, routes, or sites. The cost of resettlement should be included in the overall project budget as a specific line item.

**GL22.** The rate of compensation for lost assets should be calculated at full replacement cost (i.e., the market value of the assets plus transaction costs). The process used for determining compensation values should be transparent and easily comprehensible to project-affected people. Rates should be adjusted for inflation annually, at a minimum. For losses that cannot easily be valued or compensated for in monetary terms, in-kind compensation may be appropriate. However, such compensation should be made in goods or resources that are of equivalent or greater value, are culturally appropriate and which can be sustainably maintained by the community. Replacement costs for land and assets are defined as follows:

- Agricultural or pasture lands: land of equal productive use or potential, located in the vicinity of the affected land or the new housing site, plus the cost of land preparation to levels similar to or better than those of the affected land, and transaction costs such as registration and transfer taxes or customary fees. In situations where blocks of replacement land are identified by the Borrower in areas not immediately adjacent to affected land, the Borrower should establish the difference between present and potential land use to ensure that replacement land is of equivalent potential. Typically, this requires an independent assessment of land capacity and/or carrying capacity (e.g., soils surveys, agronomic capability mapping). Compensation for affected land with land of less productive potential may prevent the restoration of livelihoods and require a higher cost of inputs than prior to displacement. Land-based compensation strategies are the preferred form of compensation for agriculturally based households.
- Fallow land: market value of land with productive value equal to land in the vicinity of the affected land. Where value cannot be determined or land for land compensation is not feasible, for example due to lack of suitable land, in-kind communal compensation is recommended.
- Land in urban areas: the market value of land of equivalent area and use, with similar or improved infrastructure and services preferably located in the vicinity of the affected land, plus transaction costs such as registration and transfer taxes.
- Houses and other structures (including public structures such as schools, clinics and religious buildings): the cost of purchasing or building a replacement structure, with an area and quality similar to or better than those of the affected structure, or of repairing a partially affected structure, including labor, contractors' fees and transaction costs such as registration, transfer taxes, and moving costs.
- Loss of access to natural resources: The market value of the natural resources which may include wild medicinal plants, firewood, and other non-timber forest products, meat or fish. However, cash compensation is seldom an effective way of compensating for lost access to natural resources and every effort should be made to provide or facilitate access to similar resources elsewhere, thereby avoiding or minimizing the need for cash compensation.

**GL23.** Compensation for lost land and assets should be paid prior to the Borrower taking possession of this land or assets and where possible people should have been resettled at their new sites and moving allowances paid to them. Certain activities may lead to temporary disruption of economic activities and damage or destruction of property which may require additional compensation to the one paid initially, when the damage was first calculated. Additional compensation may need to be granted to ensure that the living standards of the affected population have been properly reestablished.

**GL24.** It may be difficult in certain cases to complete the compensation payment to particular project-affected people, for example where repeated efforts to contact absentee land and/or asset owners have failed, where project-affected people have rejected compensation that has been offered to them in accordance with the approved plan, or where competing claims to the ownership of lands or assets are subject to lengthy legal proceedings. On an exceptional basis, and where the Borrower can demonstrate that all reasonable efforts to resolve such matters have been taken, the Borrower may deposit the agreed compensation funds into an interest-bearing escrow or other deposit account and proceed with the relevant project activities. Compensation placed in escrow will be made available to eligible persons in a timely manner as issues are resolved.

**GL25.** As a matter of general principle under ESPS 5, preference should be given to land-based resettlement strategies for physically or economically displaced persons whose livelihoods are land-based. When affected households or communities are to be physically displaced, these strategies may include resettlement on public land or on private land purchased for resettlement. When replacement land is offered, the combined characteristics of the land, such as productive potential, advantages of location, and security of tenure, as well as the legal nature of the land title or use rights should at least be equivalent to those of the old site. If land is not the preferred option of the displaced persons, or sufficient land is not available, non-land-based options such as employment opportunities or assistance to establish businesses should be explored in addition to cash compensation for land and other affected assets. Transitioning displaced people from land-based livelihoods to non-land-based livelihoods is extremely challenging. In cases of economic displacement, the preference for land-based strategies means that the compensation, targeted assistance, and transitional support to be offered to economically displaced persons should be consistent with their land-based livelihood. For additional guidance, see paragraphs GL56–65 below. Persons identified as vulnerable should be assisted to fully understand their options for resettlement and compensation and encouraged to choose the option(s) with the lowest risk.

**GL26.** Cash compensation may be offered to those people who do not wish to continue their land-based livelihoods or who prefer to purchase land on their own. When payment of cash compensation is considered, the abilities of the affected population to utilize cash to restore standards of living should be carefully assessed. Because short-term consumption of cash compensation can result in hardship for subsistence-based economies or poorer households, payment of in-kind compensation (e.g., livestock or other moveable/transferable property) or vouchers earmarked for specific types of goods and services may be more appropriate. In some situations, financial literacy training should be considered when cash compensation is offered.

## Community Engagement

- 10.** The Borrower will engage with project-affected people, including host communities, through the process of stakeholder engagement described in ESPS 10. Decision-making processes related to resettlement and livelihood restoration should include options and alternatives, where applicable. Disclosure of relevant information and participation of project-affected people will continue during the planning, implementation, monitoring, and evaluation of compensation payments, livelihood restoration activities, and resettlement to achieve outcomes consistent with the objectives of this ESPS.<sup>128</sup> Additional provisions apply to consultations with Indigenous Peoples, in accordance with ESPS 7.

**GL27.** Effective resettlement planning requires regular consultation and engagement with a wide range of project stakeholders. For the purpose of ESPS 5, the key stakeholder groups are the economically and/or physically displaced persons and the host community. Other important stakeholders may include civil society organization representatives and officials of government agencies involved in resettlement activities. Early communication helps to manage public expectations concerning the impact of a project and its expected benefits. This early engagement is very important to enable affected households, communities and other stakeholders to fully understand the implications of such impacts on their lives and to actively participate in the associated planning processes or decide upon trusted representatives to participate for them. While the establishment of committees (e.g., those formed by affected community representatives, borrower representatives, and other interested stakeholders) can support the resettlement plan and communication efforts, steps should be taken to ensure that all potentially displaced persons are informed and invited to participate in decision making related to resettlement.

**GL28.** As described in ESPS 10, the Borrower must engage with stakeholders early in the design of the project and throughout its life. Engagement will commence as early as possible in the project development process and in a timeframe that enables meaningful consultations with stakeholders on project design and development. In practice, this may involve an iterative consultation process, leading the Borrower to incorporate the views of the affected households and communities on matters that affect them directly into the design of the project, such as the identification of project alternatives to minimize the need for resettlement, proposed resettlement planning milestones and mitigation measures (e.g., alternative resettlement site selection, eligibility criteria, design and layout of replacement housing and social amenities, timing of relocation and identification of vulnerable persons), the sharing of development

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<sup>128</sup> The consultation process should ensure that women's perspectives are obtained and their interests factored into all aspects of resettlement planning and implementation. Addressing livelihood impacts may require intra-household analysis in cases where women's and men's livelihoods are affected differently. Women's and men's preferences in terms of compensation mechanisms, such as compensation in kind rather than in cash, should be explored.

benefits and opportunities, livelihood restoration plans and resettlement implementation issues. The Borrower will document the stakeholder engagement process in a Resettlement Action Plan or Livelihood Restoration Plan. The Resettlement Action and/or Livelihood Restoration Plan will provide a clear indication regarding how affected households and communities (including host communities) will be involved in an ongoing consultation process as part of resettlement planning, implementation and monitoring. As described below, the stakeholder engagement process needs to be adapted to ensure that the concerns of people of all genders and gender identities are adequately captured and factored into all key stages of resettlement planning and implementation in accordance with the requirements of ESPS 10.

**GL29.** Disclosure of displacement eligibility and entitlements including compensation and livelihood restoration packages should take place sufficiently early in the project's resettlement planning process to allow potentially displaced people sufficient time to consider their options. Engagement of third-party experts who can provide additional information on the conditions and benefits of the Resettlement Action Plan for the benefit of the affected people may reduce the imbalance of power and knowledge between the Borrower and the community. Third-party specialists may, among other professionals, include academics, representatives of civil society organizations, and mediators. Special provisions apply to engagement with Indigenous Peoples (see ESPS 7 – *Indigenous Peoples*), as well as individuals belonging to vulnerable groups. See the Guideline for ESPS 10 for additional guidance on stakeholder engagement.

**GL30.** Disadvantaged or vulnerable groups include people who, by virtue of disability, state of health, indigenous status, gender identity, sexual orientation, religion, race, color, ethnicity, age, language, political or other opinion, national or social origin, property, birth, economic disadvantage, or social condition may be more adversely affected by displacement than others and who may be limited in their ability to claim or take advantage of resettlement assistance and related development benefits. Disadvantaged and vulnerable groups in the context of displacement also include people living below the poverty line, the landless, the elderly, single-headed households (especially female headed), refugees, internally displaced persons, natural resource dependent communities or other displaced persons who may not be protected through national legislation and/or international law. These groups should be identified either through the environmental and social risks and impacts assessment process conducted in accordance with ESPS 1 or through the social baseline studies component of resettlement planning. Special measures may include focus groups with vulnerable and at-risk groups; ensuring that resettlement committees include members of vulnerable, at-risk and disadvantaged groups; and ensuring that the Borrower's staff (or third parties appointed by the Borrower) responsible for resettlement planning and implementation has representatives and/or knowledge of potentially vulnerable groups (e.g., women, the elderly, persons with disabilities). In some cases, special efforts, such as provision of transportation and visits to individual households, must be made to ensure that vulnerable members have access to consultation events or discussion fora. Persons identified as vulnerable should be assisted to fully understand their options for resettlement and compensation and encouraged to choose the option with the lowest risk.

## Grievance Mechanism

- 11.** The Borrower will establish a grievance mechanism consistent with ESPS 10 as early as possible in the project development phase. This will allow the Borrower to receive and address specific concerns about compensation and relocation raised by displaced persons or members of host communities in a timely fashion, including a recourse mechanism designed to resolve disputes in an impartial manner.

**GL31.** Regardless of scale, involuntary resettlement may give rise to grievances among affected households and communities over issues ranging from rates of compensation and eligibility criteria to the location of resettlement sites and the quality of services at those sites. Timely redress of grievances through an effective and transparent grievance mechanism is vital to the satisfactory implementation of resettlement and to completion of the project on schedule. Project-related requirements related to the grievance mechanism that must be established by the Borrower can be found in paragraph 39 of ESPS 10.

**GL32.** The Borrower should make every effort to resolve grievances at the community level without impeding access to any judicial or administrative remedies that may be available. The Borrower should ensure that designated staff are trained and available to receive grievances and coordinate efforts to redress those grievances through the appropriate channels, taking into consideration any customary and traditional methods of dispute resolution within the affected communities. Affected households and communities should be informed, as part of the consultation effort, of the process for registering grievances, should have access to this grievance mechanism, and know the possibilities of legal recourse available. As with the Resettlement Action Plan (see paragraph 19 of ESPS 5), the scope of the grievance mechanism will vary with the scope and complexity of the project and its associated displacement. The grievance mechanism should be readily accessible to all and provide for fair, transparent and timely redress of grievances and special accommodations for women and vulnerable and marginalized groups to voice their concerns or make complaints.

## Resettlement and Livelihood Restoration Planning and Implementation

- 12.** Where involuntary resettlement is unavoidable, either as a result of a negotiated settlement or expropriation, a census will be carried out to collect appropriate socioeconomic baseline data to identify people who will be displaced by the project, determine who will be eligible for compensation and assistance,<sup>129</sup> and discourage ineligible people, such as opportunistic settlers, from claiming benefits. In the absence of clear government procedures, the Borrower will establish a cutoff date for eligibility. Information regarding the cutoff date will be well documented and disseminated throughout the project area.
- 13.** In cases where project-affected people reject compensation offers that meet the requirements of this ESPS and, as a result, expropriation or other legal procedures are initiated, the Borrower will consult with other government departments and agencies in an effort to explore additional opportunities that might provide the necessary incentives to obtain an acceptable negotiated settlement.
- 14.** The Borrower will establish procedures to monitor and evaluate the implementation of a Resettlement Action Plan or Livelihood Restoration Plan (see paragraphs 19 and 25 in this ESPS) and take corrective action, as necessary. The extent of monitoring activities will be commensurate with the project's risks and impacts. For projects with significant involuntary resettlement risks, the Borrower will retain competent resettlement professionals to provide advice on compliance with this ESPS and to verify the Borrower's monitoring information. Project-affected people will be consulted during the monitoring process.
- 15.** Implementation of a Resettlement Action Plan or Livelihood Restoration Plan will be considered completed when the adverse impacts of resettlement have been addressed in a manner that is consistent with the relevant plan as well as the objectives of this ESPS. The Borrower shall ensure that the completion of the Resettlement Action Plan or Livelihood Restoration Plan is verified through the submission and approval of a completion audit. The completion audit should be undertaken once all mitigation measures have been substantially completed and once displaced persons are deemed to have been provided adequate opportunity and assistance to sustainably restore their livelihoods. The completion audit will include, at a minimum, a review of the totality of mitigation measures implemented by the Borrower, a comparison of implementation outcomes against agreed objectives, and a conclusion

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<sup>129</sup> Documentation of ownership or occupancy and compensation arrangements should be issued in the names of both spouses or heads of household, and other resettlement assistance, such as skills training, access to credit, and job opportunities, should be equally available to women and adapted to their needs. Where national law and tenure systems do not recognize the rights of women to hold or contract in property, measures should be considered to provide women as much protection as possible with the objective of achieving equality with men.

as to whether the monitoring process can be ended.<sup>130</sup> Depending on the scale and/or complexity of physical and economic displacement associated with a project, it may be necessary for the Borrower to commission an external, rather than internal, completion audit of the Resettlement Action Plan or Livelihood Restoration Plan to assess whether the provisions have been met. Competent resettlement professionals will undertake the completion audit upon the conclusion of the monitoring period.

16. Where the exact nature or magnitude of the land acquisition or restrictions on land use related to a project with potential to cause physical and/or economic displacement is unknown due to the stage of project development, the Borrower will develop a Resettlement and/or Livelihood Restoration Framework outlining general principles compatible with this ESPS. Once the individual project components are defined and the necessary information becomes available, such a framework will be expanded into a specific Resettlement Action Plan or Livelihood Restoration Plan and procedures in accordance with paragraphs 19 and 25 below.

**GL33.** Effective resettlement planning entails conducting a detailed socio-economic census of displaced persons and an inventory of affected land and assets at the household, enterprise, and community level. The date of completion of the census and assets inventory normally represents a cutoff date. Individuals taking up residence in the project area after the cutoff date are not eligible for compensation or resettlement assistance provided that notification of the cutoff date has been well communicated, documented, and disseminated. Similarly, the loss of fixed assets (e.g., built structures, crops, fruit trees, and woodlots) established after the cutoff date should not be compensated. A common complication encountered with respect to cutoff dates involves “historic” cutoff dates, which were established at the time a project was ready for development but, due to a variety of delays, have become forgotten or outdated. In such scenarios, natural population growth from eligible households leads to “new” households not listed in the initial surveys, which should be considered eligible for resettlement benefits and assistance. Another complication is the extent to which the government process of establishing the cutoff date can be adequately documented and disseminated to affected households and communities within the project area. If this is considered not to have been achieved or if the associated census of affected persons is outdated or otherwise inadequate, then additional study is required to re-assess eligibility for benefits under ESPS 5. Seasonal resource users, such as nomadic herders, may not be present in the project area during the time of the census and special consideration should be given to the claims of these users.

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<sup>130</sup> The completion audit of the Resettlement Action Plan and/or Livelihood Restoration Plan will involve a more in-depth assessment than regular resettlement monitoring activities, including at a minimum a review of all mitigation measures with respect to the physical and/or economic displacement implemented by the Borrower, a comparison of implementation outcomes against agreed objectives, a conclusion as to whether the monitoring process can be ended and, where necessary, a Corrective Action Plan listing outstanding actions necessary to meet the objectives.

**GL34.** The census helps to determine eligibility of project-affected people to compensation for displacement and project benefits. The census includes pertinent demographic (e.g., age, gender, family size, births, and deaths) and relevant social and economic information (e.g., ethnicity, health, education, occupation, income sources, livelihood patterns, productive capacity, etc.). It includes undertaking an inventory and valuation of assets and establishing, documenting, and making known the rights of those affected. This may include different types of secondary rights of access and use that are significant for people's livelihoods, but that are largely undocumented, such as seasonal rights or rights held by migrant populations. The inventory should be undertaken in close consultation with affected communities and households. The inventory can be undertaken directly by the Borrower or through the services of a third-party independent specialist with expertise in land and natural resource tenure.

**GL35.** Establishment of restrictions on activities such as construction, agricultural activities, and home improvements after the establishment of cutoff dates can represent a moderate to severe hardship for affected households and communities. Often there are delays between the cutoff date (and the subsequent establishment of restrictions) and the development of the project, including compensation for losses and resettlement of affected households and communities. The time between the establishment of the cutoff date and compensation of displaced individuals and communities should be limited. Losses generated by this restriction of land use should be compensated for by the Borrower. The Borrower should also consider ways to minimize impacts from cutoff restrictions such as planning development activities so that affected farmers can harvest crops prior to displacement. In any case, a clear and firm timetable should be adhered to, or the Borrower should be prepared to pay compensation for the delay. For example, when communities do not plant crops in anticipation of a move, which is then delayed, the community may need assistance in meeting their food needs because they did not have a harvest that year.

**GL36.** The Borrower is responsible for carrying out a resettlement completion audit. The social risks to be considered in the Resettlement Completion Audit may be related to the scale of a resettlement, to the vulnerability of affected households (e.g., Indigenous Peoples or others with a strong attachment to particular lands and/or natural resources) or to other social and/or political factors to be determined by competent social science professionals on a project-by-project basis. As stated in paragraph 15 of ESPS 5, the Resettlement Completion Audit will be undertaken by qualified resettlement professionals once the agreed monitoring period is concluded. The key objective of a completion audit is to determine whether the Borrower's efforts to restore the living standards of the affected population have been properly executed and whether the outcomes meet objectives. The audit should verify that all physical inputs committed to in the Resettlement Action Plan and/or Livelihood Restoration Plan have been delivered and all services provided. In addition, the completion audit should evaluate whether the actions described in the Resettlement Action Plan and/or Livelihood Restoration Plan have met the objectives of ESPS 5. In particular, the socio-economic standards and livelihoods of the affected population should ideally be measured against the baseline conditions of

the population prior to resettlement and improved or at least restored to pre-project levels. The completion audit should report clearly on the number and percentage of people initially involved in resettlement who are no longer present or in contact with the project at the time of completion.

**GL37.** The Resettlement Completion Audit should be undertaken once all the key commitments in the Resettlement Action Plan, including any livelihood restoration activities as well as other developmental commitments, have been implemented. The timing of the audit will enable the Borrower to complete time bound corrective actions, if any, as recommended by the auditors. In the majority of cases, the completion of corrective actions identified by the completion audit should bring the Borrower's responsibility for resettlement, compensation, livelihood restoration, and development benefits to a close. A detailed description of how this restoration will be achieved should be included in the Resettlement Action Plan and/or Livelihood Restoration Plan.

**GL38.** In cases of land acquisition based on negotiated settlement that does not result in the physical displacement of people, the Borrower should provide the affected people with information on current property values and methods of value appraisal. The Borrower should document the procedures for determining and awarding compensation in a Livelihood Restoration Framework that: (i) identifies all affected people; (ii) provides an inventory of affected assets; (iii) describes the methods applied for valuing land and other affected assets at full replacement cost; (iv) indicates the rates of compensation to be paid; (v) outlines a schedule of land take and compensation payments and the methods to receive payments; and (vi) describes the process whereby affected people can appeal property valuations they deem to be inadequate. The Borrower should summarize this information for public disclosure to ensure that affected people understand the land acquisition procedures and know what to expect at the various stages of the transaction (e.g., when an offer will be made to them, how long they will have to respond, grievance mechanism, legal procedures to be followed if negotiations fail). The Borrower should provide the affected households and communities the opportunity to participate in the negotiations based on the established procedures.

**GL39.** Land-based compensation should be offered to affected people in cases where their livelihoods are land-based, and the proposed land take is significant enough to render a land holding economically unviable. If it is not possible to offer replacement land (in cases of displaced persons under paragraph 17(i) or 17(ii) of ESPS 5), the Borrower will provide opportunities that enable sellers of land to restore their livelihoods and standards of living to levels equivalent to, or better than, those maintained at the time of sale. Persons identified as vulnerable (such as those under paragraph 17(iii) below), should be assisted to fully understand their options for compensation, and encouraged to choose the option with the lowest risk. A detailed description of how this restoration will be achieved should be included in the Resettlement Action Plan and/or Livelihood Restoration Plan.

## Displacement

17. Displaced persons may be classified as persons (i) who have formal legal rights to the land or assets they occupy or use; (ii) who do not have formal legal rights to land or assets, but have a claim to land that is recognized or recognizable under national law;<sup>131</sup> (iii) who have no recognizable legal right or claim to the land or assets they occupy or use; or (iv) who may experience economic displacement resulting from permanent or temporary loss of access to formal and informal economic activities. The census will establish the status of the displaced persons.
18. Project-related land acquisition and/ or restrictions on land use may result in the physical displacement of people as well as their economic displacement. Consequently, requirements of this ESPS with respect to physical displacement and economic displacement may apply simultaneously.<sup>132</sup>

**GL40.** Paragraph 17 defines four classifications of displaced persons. While people in all four classifications are entitled to assistance of some sort under ESPS 5, the nature of that assistance will vary in accordance with the nature of the displacement.

Classification (i): Displaced persons who have formal legal rights to the land or assets they occupy or use, are those who have formal documentation under national law to prove their rights or are specifically recognized in national law as not requiring documentation. In the simplest case, a land lot or area is registered in the name of individuals or communities. In other cases, persons may have a lease on the land and therefore have legal rights.

Classification (ii): Displaced persons who do not have formal legal rights to land or assets but have a claim to land or assets that is recognized or recognizable under national law can fall into several groups. They may have been using the land for generations without formal documentation under customary or traditional tenure arrangements that are accepted by the community and recognized by national law. In other cases, they may have never been provided formal title or their documents may be incomplete or lost. They may have a claim for adverse possession if they have occupied land for a certain period as defined by national law, without the formal owner contesting the occupation. In such cases, national law often has legal procedures by which such claims can become recognized.

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<sup>131</sup> Such claims could be derived from adverse possession or from customary or traditional tenure arrangements.

<sup>132</sup> Where a project results in both physical and economic displacement, the requirements of paragraphs 25 and 26 of this ESPS (Economic Displacement) should be incorporated into the Resettlement Action Plan or Framework (i.e., there is no need to have a separate Resettlement Action Plan and Livelihood Restoration Plan).

Classification (iii): Displaced persons who have no recognizable legal right or claim to the land or assets they use or occupy are eligible for assistance under ESPS 5. These can be seasonal resource users, such as fishers or hunters (although if the rights of such users are recognized by national law, they may fall into category (a) or (b)). They can also be persons occupying land in violation of applicable laws. Displaced persons in these groups are not eligible for compensation for land but are eligible for resettlement and livelihood assistance and compensation for assets.

Classification (iv): Displaced persons who experience economic displacement resulting from permanent or temporary loss of access to formal and informal economic activities are eligible for compensation and assistance under ESPS 5. Economic displacement results from an action that interrupts or eliminates people's access to jobs or productive assets, whether or not the affected persons must move to another location. In other words, there can be economic displacement with or without physical displacement. While project-related land acquisition or restrictions on land use do not necessarily entail the relocation of people occupying or using the land, they may have an impact on the income, living standards, and livelihood of people who depend on resources located in, on or around that land. For example, a farming family may lose a portion of its land to a project without having to vacate its homestead, and a person selling goods in an urban area may be impacted due to road closures in the vicinity of his or her business. The loss of even a portion of land or access to land may reduce the overall productivity of a person or business.

**GL41.** Where physical displacement is unavoidable, resettlement should be planned and executed in a manner that provides displaced persons with opportunities to participate in the planning and implementation of resettlement activities to improve or at least restore their standards of living. The baseline situation—to be established prior to resettlement—may include a socio-economic survey, census and enumeration of household assets. Resettlement planning and implementation should focus on, at a minimum, restoration of people's livelihoods; more specifically, "restoration" should aim to comprehensively address the following (as applicable): providing adequate agricultural land and sufficient assistance to bring this land into production where livelihoods are land-based; ensuring that there is no net loss in employment among affected households as a result of resettlement (i.e., finding or creating employment opportunities where necessary); improving affected persons' housing and access to social services such as education and healthcare; careful consideration of social networks and how these can be re-created at resettlement sites, especially regarding vulnerable people; consideration of and project support to the local institutional structures necessary to implement and support resettlement; design of mitigation measures to address food security, especially in the early phases of resettlement implementation (including provision of direct supplements where necessary); and provision of adequate access to alternative communal property and natural resources.

**GL42.** At a minimum, under the above circumstances of unavoidable resettlement, the Borrower should take the following steps: (i) engage effectively to inform affected people of their options and entitlements concerning relocation and involve them in a process that considers alternatives to the project that minimize displacement; (ii) provide technically and economically feasible options for resettlement through a process of stakeholder engagement with affected people and assessment of resettlement alternatives; (iii) provide displaced people with prompt and effective compensation at full replacement value for any loss of assets due to project activities; (iv) provide relocation assistance (see below); and (v) provide temporary housing (if necessary), permanent housing sites, and resources (in cash or in kind) for construction of permanent housing inclusive of all fees, taxes, customary tributes, and utility hook-up charges.

**GL43.** Women are frequently the first to suffer adverse impacts when resettlement is badly planned or executed as they have more limited access to resources, opportunities, and public services than men; and as a result, rely more heavily on informal support networks within their existing communities. The resettlement process should specifically consider women's situations, adapting the engagement process as necessary to provide women a role in decision making in accordance with the requirements of ESPS 9 and ESPS 10. Special effort should be made to identify women's: (i) means of income generation and livelihoods, including non-formal activities such as gathering natural resources, trading and bartering services and wares; (ii) social and economic networks including extended family ties; and (iii) ownership of affected assets including land and crops in order to appropriately compensate the owners.

## Physical Displacement

- 19.** In the case of physical displacement, the Borrower will develop a Resettlement Action Plan that covers, at a minimum, the applicable requirements of this ESPS regardless of the number of people affected. This will include compensation at full replacement cost for land and other assets lost. The Plan will be designed to mitigate the negative impacts of displacement; identify development opportunities; develop a resettlement budget and schedule; and establish the entitlements of all categories of affected persons (including host communities). Particular attention will be paid to the needs of the poor and the vulnerable, including those of persons with disabilities. The Borrower will document all transactions to acquire land rights, as well as compensation measures and relocation activities.
- 20.** If people living in the project area are required to move to another location, the Borrower will (i) offer displaced persons choices among feasible resettlement options, including adequate replacement housing or cash compensation where appropriate; and (ii) provide relocation assistance suited to the needs of each group of displaced persons. New resettlement sites built for displaced persons must offer improved living conditions. The displaced persons' preferences with respect to

relocating in preexisting communities and groups will be taken into consideration. Existing social and cultural institutions of the displaced persons and any host communities will be respected, and community assets (e.g., schools, community halls, places of worship) adequately replaced.

21. In the case of physically displaced persons under paragraph 17 (i) or (ii) above, the Borrower will offer the choice of replacement property of equal or higher value, security of tenure, equivalent or better characteristics, and advantages of location or cash compensation where appropriate. Compensation in kind should be considered in lieu of cash. Cash compensation levels should be sufficient to replace the lost land and other assets at full replacement cost in local markets.<sup>133</sup>

**GL44.** ESPS 5 requires that compensation be made for all land acquired from persons and communities having legally recognized claims to that land. This condition applies to those who, prior to the cutoff date, have formal legal rights to land, such as owners and renters. It also applies to claimants, as per paragraph 17(ii), who, prior to the cutoff date, do not have formal legal rights to land but who have a claim to such land or assets.

**GL45.** A Resettlement Action Plan should be prepared for any project that results in physical displacement (i.e., projects that involve the relocation of people from their homes). Borrowers undertaking projects that entail land acquisition and/or restrictions on land use and access to assets and natural resources but require no physical displacement of people will prepare a Livelihood Restoration Plan, as outlined in paragraph 25 of ESPS 5. The scope and level of detail of the Resettlement Action Plan will vary with the magnitude of displacement and the complexity of the measures required to mitigate adverse impacts. In all cases, the Resettlement Action Plan will describe the way the objectives of ESPS 5 will be achieved. At a minimum, the Resettlement Action Plan should: (i) identify all people to be displaced; (ii) demonstrate that displacement is unavoidable; (iii) describe efforts to minimize resettlement; (iv) describe the legal and regulatory framework, including any gaps between the legal and regulatory framework and ESPS 5, and how those gaps will be addressed; (v) describe the stakeholder engagement process with affected people regarding acceptable resettlement alternatives, and the level of their participation in the decision-making process; (vi) describe the entitlements for all categories of displaced people and assess risks to vulnerable groups of the various entitlements; (vii) enumerate the rates of compensation for lost assets, describe how they were derived and demonstrate that these rates are adequate, i.e., at least equal to the replacement cost of lost assets; (viii) provide details on replacement housing; (ix) outline plans for livelihood restoration

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<sup>133</sup> Payment of cash compensation for lost assets may be appropriate where (i) livelihoods are not land-based; (ii) livelihoods are land-based but the land taken for the project is a small fraction of the affected asset and the residual land is economically viable; or (iii) active markets for land, housing, and labor exist, displaced persons use such markets, and there is sufficient supply of land and housing.

if applicable; (x) describe relocation assistance to be provided; (xi) outline the institutional responsibility for the implementation of the Resettlement Action Plan and procedures for grievance redress; (xii) provide details of the arrangements for monitoring and evaluation and affected communities' involvement in this phase; and (xiii) provide a timetable and budget for the implementation of the Resettlement Action Plan.

**GL46.** Relocation assistance should be provided to people who are physically displaced by a project. Assistance may include help in moving, transportation, food, shelter, and social services that are provided to affected people during relocation to their new site. Additional measures, such as the provision of emergency health care, should be designed for disadvantaged and vulnerable groups during physical relocation, particularly pregnant women, children, the elderly, people with illnesses, and persons with disabilities. Assistance may also include cash allowances that compensate affected people for the inconvenience associated with resettlement and defray the expenses of relocating to a new location, such as lost workdays.

**GL47.** In the case of physically displaced persons who do not have formal or customary rights to their land, as per paragraph 17(iii) of ESPS 5, the Borrower can improve their security of tenure through formalization of their tenure status on replacement land. This could include supporting community-based organizations (CBOs) in formally registering land for titling, paying for transaction costs associated with titling, and providing knowledge and legal resources to support the titling process.

**GL48.** The Resettlement Action Plan should include measures to ensure that documentation of ownership or occupancy, such as title deeds and lease agreements, and compensation (including the bank accounts established for payment of compensation), are issued in the names of both spouses, or of single women heads of households, as relevant to each situation. Where national law and local customary tenure systems do not give women equal opportunities or rights regarding property, provision should be made to ensure that women's access to security of tenure is equivalent to that of men and does not further disadvantage women.

**GL49.** Under ESPS 5, Borrowers are responsible for ensuring that the circumstances of people of all genders, including women, are not worsened by the project in relation to the pre-project situation.

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**22.** In the case of physically displaced persons under paragraph 17 (iii) above, the Borrower will offer them a choice of options for adequate housing with security of tenure so that they can resettle legally without having to face the risk of forced eviction. Where these displaced persons own and occupy structures, the Borrower will compensate them for the loss of assets other than land, such as dwellings and other improvements to

the land, at full replacement cost, provided that these persons have been occupying the project area prior to the cut-off date for eligibility. Based on consultation with such displaced persons, the Borrower will provide relocation assistance sufficient for them to restore their standard of living at an adequate alternative site.<sup>134</sup>

- 23.** The Borrower is not required to compensate or assist those who encroach on the project area after the cut-off date for eligibility, provided the cut-off date has been clearly established and made public.
- 24.** Forced evictions<sup>135</sup> will not be carried out.

**GL50.** Physically displaced persons with no recognizable legal right or claim to the land they occupy (in accordance with paragraph 17(iii) of ESPS 5), are entitled to adequate housing with security of tenure. These persons are frequently from the most vulnerable groups in society. For a description of adequate housing and security of tenure, see GL13–GL14. Options for providing security of tenure will depend on national law and tenure systems, and may include the following:

- a title deed to land owned by the Borrower
- a title deed to land donated by the local government
- communal titles
- a long-term occupancy arrangement.

**GL51.** Resettlement sites should be selected for locational advantage in terms of availability of basic services and employment opportunities that enable the displaced persons to improve or at least restore their livelihoods and standards of living. Options should be generated in consultation with the displaced persons so that their priorities and preferences can be reflected in the options from which they can select. Vulnerable groups and people at risk of impoverishment should be encouraged to choose the option with the lowest risk.

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<sup>134</sup> Relocation of informal settlers in urban areas may involve trade-offs. For example, the relocated families may gain security of tenure, but they may lose advantages of location. Changes in location that may affect livelihood opportunities should be addressed in accordance with the principles of this ESPS (see paragraph 25).

<sup>135</sup> The permanent or temporary removal against the will of individuals, families, and/or communities from the homes and/or land which they occupy without the provision of, and access to, appropriate forms of legal and other protection, including all applicable procedures and principles in this ESPS.

**GL52.** Persons with no recognizable legal right or claim are not entitled to compensation for the value of the land they occupy, but they should be compensated for the structures that they own and occupy, and for any other improvements to land at full replacement cost. In addition, they should be provided resettlement assistance sufficient to restore their standards of living at a suitable alternative site. Options for resettlement assistance should be generated through consultation with the displaced persons and reflect their priorities and preferences. These provisions apply to persons who are occupying the project area prior to the cutoff date.

**GL53.** The construction or upgrading of infrastructure projects in urban settings often requires the relocation of residential and commercial structures illegally located in areas that are legally required to be free of occupants, such as rights-of-way of railway lines, roads and transmission lines, sidewalks, parks, and hazardous areas. Families and businesses in these areas should be offered opportunities to move to sites that can be occupied legally and safely. Compensation in kind that facilitates the transition to the new site (e.g., down payment for land, provision of building materials, construction of basic infrastructure at the new site, etc.) is more likely to lead to permanent housing and business establishment solutions than compensation in cash. Cash payments to illegal occupants are often used for consumption and may also result in informal resettlement in other unsafe or public areas. The absence of opportunities to move to alternative resettlement sites may also prompt displaced persons and businesses to resettle in informal settlements elsewhere, perpetuating their informal status and potential illegal settlements in new areas. In designing resettlement plans for both legal occupants as well as informal settlers on private or public lands, Borrowers should take care not to create economic incentives for the displaced persons and businesses to occupy public or hazardous areas or to invade and occupy privately or publicly owned land.

**GL54.** In the event that affected communities of Indigenous Peoples are to be relocated from their communally held traditional land or customary lands under their use, the Borrower will follow the requirements as described in ESPS 7, in addition to the requirements under ESPS 5 that pertain to Resettlement Action Plans and/or Livelihood Restoration Plans and their implementation.

**GL55.** Social disarticulation is a significant risk to consider in many resettlement scenarios. Identifying and respecting the existing social and cultural institutions and bonds of the displaced and those of host communities is often a key component of successful resettlement planning and implementation, especially in rural contexts. The social bonds affected by resettlement may be kinship, neighborly ties, or village-specific ties (i.e., people who know and trust each other and wanting to remain together); leadership arrangements (so that people know who to turn to in resettlement areas); religious or ethnic ties and so forth.

**GL56.** The term “forced eviction” is defined by the Office of the United Nations High Commissioner for Human Rights as the “permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.” According to

the United Nations (UN), this prohibition does not apply to evictions carried out in accordance with the law and in conformity with the provisions of the international human rights treaties. ESPS 5 contains many of the substantive and procedural safeguards necessary for involuntary resettlement to be carried out without resort to forced evictions.

## Economic Displacement

- 25.** In the case of projects involving economic displacement only, including persons referred under paragraph 17(iv) above, the Borrower will develop a Livelihood Restoration Plan to compensate project-affected people and offer other assistance that meet the objectives of this ESPS. The Livelihood Restoration Plan will establish the entitlements of project-affected people and will ensure that these are provided in a transparent, consistent, and equitable manner. The mitigation of economic displacement will be considered complete when project-affected people have received compensation and other assistance according to the requirements of the Livelihood Restoration Plan and this ESPS and are deemed to have been provided with adequate opportunity to reestablish their livelihoods.
- 26.** If land acquisition or restrictions on land use result in economic displacement defined as loss of assets and/or means of livelihood, regardless of whether or not the affected people are physically displaced, the Borrower will meet the requirements in paragraphs 27–29 below, as applicable.
- 27.** Economically displaced persons who face loss of assets or access to assets will be compensated for such loss at full replacement cost.

  - In cases where land acquisition or restrictions on land use affect commercial structures, affected business owners will be compensated for the cost of reestablishing commercial activities elsewhere, for lost net income during the period of transition, and for the costs of the transfer and reinstallation of the plant, machinery, or other equipment.
  - In cases affecting persons with legal rights or claims to land which are recognized or recognizable under national law [see paragraph 17 (i) and (ii) of this ESPS], replacement property (e.g., agricultural or commercial sites) of equal or greater value will be provided, or, where appropriate, cash compensation at full replacement cost.
  - Economically displaced persons who are without legally recognizable claims to land [see paragraph 17 (iii) of this ESPS] will be compensated for lost assets other than land (such as crops, irrigation infrastructure and other improvements made to the land), at full replacement cost. The Borrower is not required to compensate or assist opportunistic settlers who encroach on the project area after the cut-off date for eligibility.

**28.** In addition to compensation for lost assets, if any, as required under paragraph 27 above, economically displaced persons whose livelihoods or income levels are adversely affected will also be provided opportunities to improve, or at least restore, their means of income-earning capacity, production levels, and standards of living:

- For people whose livelihoods are land-based, replacement land that has a combination of productive potential, locational advantages, low exposure and/or vulnerability to natural hazards and climate change, and other factors at least equivalent to that being lost should be offered as a matter of priority.
- For people whose livelihoods are natural resource-based and where project-related restrictions on access envisaged in paragraph 5 of this ESPS apply, measures will be implemented to either allow continued access to affected resources or provide access to alternative resources with equivalent livelihood-earning potential, accessibility, and safety. Where appropriate, benefits and compensation associated with natural resource use may be collective in nature rather than directly oriented toward individuals or households.
- If circumstances prevent the Borrower from providing land or similar resources as described above, alternative income earning opportunities may be provided, such as credit facilities, training, cash, or employment opportunities. Cash compensation alone, however, is frequently insufficient to restore livelihoods.

**29.** Transitional support should be provided as necessary to all economically displaced persons, based on a reasonable estimate of the time required to restore their income-earning capacity, production levels, and standards of living.

**GL57.** A Livelihood Restoration Plan should identify the full range of impacts to livelihoods due to project land acquisition and/or restrictions on land use and access to assets and natural resources, identify affected persons and provide a detailed plan for compensation and livelihood restoration. The Livelihood Restoration Plan should, at a minimum, provide the following information: (i) a description of the project; (ii) summary of project impacts; (iii) summary of the social baseline; (iv) applicable legal and regulatory framework, including any gaps between the legal and regulatory framework and ESPS 5, and how those gaps will be addressed; (v) results of stakeholder engagement; (vi) eligibility criteria; (vii) entitlement matrix; (viii) timeframe for implementation; (ix) organizational capacity; (x) monitoring, evaluation, and reporting; and (xi) budget and resources.

**GL58.** Economic displacement results from an action that interrupts or eliminates people's access to jobs or productive assets, whether or not the affected persons must move to another location. In other words, there can be economic displacement with or without physical displacement. While project-related land acquisition or restrictions on land use do not necessarily entail the relocation of people occupying or using the land, they may have an impact on the income, living standards, and livelihood of people who depend on resources located in, on or around that

land. For example, a farming family may lose a portion of its land to a project without having to vacate its homestead. Nevertheless, the loss of even a portion of its land may reduce the overall productivity of that farm. This threat is magnified among some agrarian populations where farm fields are typically small and often widely scattered or are not owned by the people who cultivate them (e.g., sharecroppers).

**GL59.** Compensation for economic displacement resulting from land acquisition and/or restrictions on land use and access to assets and natural resources should be made promptly and wherever possible prior to impact, in order to minimize adverse impacts on the income stream of those who are displaced. Where compensation payments cannot be made promptly, the Borrower will explore resettlement assistance options such as an allowance to help the displaced persons transition through the period it takes to restore any loss of income.

**GL60.** In cases where land acquisition affects commercial structures, the affected business owner is entitled to compensation for the cost of reestablishing commercial activities elsewhere, for lost net income during the period of transition, and for the costs of the transfer and reinstallation of the plant, machinery, or other equipment. Assistance should also be made available to the employees of the business to compensate for their temporary loss of employment.

**GL61.** In addition, land acquisition and/or restrictions on land use may constrain a community's access to commonly held or used natural resource assets such as rangeland, pasture, fallow land, and non-timber forest resources (e.g., medicinal plants, construction and handicraft materials), woodlots for timber and fuelwood, or riverine fishing grounds. The Borrower will provide either land-based compensation in the form of suitable replacement land, or access to other areas of natural resources that will offset the loss of such resources to a community. Such assistance could take the form of initiatives that enhance the productivity of the remaining resources to which the community has access (e.g., improved resource management practices or inputs to boost the productivity of the resource base), in-kind or cash compensation for loss of access, access to alternative sources of the lost resource, or a combination of the above.

**GL62.** Natural resource assets referred to in footnote 122 of ESPS 5 are related to the ecosystem services concept incorporated into ESPS 6. Ecosystem services are the benefits people, including businesses, derive from ecosystems, as defined in paragraphs 2 and 3 of ESPS 6, the most important of which in most circumstances are "provisioning services" (i.e., the products people obtain from ecosystems). Examples of provisioning services include marine and aquatic resources, timber and non-timber forest products, freshwater, medicinal plants, hunting and gathering grounds, and grazing and cropping areas. Loss of access to these services is an important consideration in the development of a Livelihood Restoration Plan, in particular when assessing the suitability of replacement land and/or access to natural resources for people that are resettled/displaced.

**GL63.** The Borrower should strive to allow local communities and Indigenous Peoples to exercise pre-existing access or usage rights to Borrower-controlled land. The exercise of such rights, however, is subject to reasonable measures by the Borrower to maintain a safe and healthy working environment for workers under ESPS 2 – *Labor and Working Conditions* and safeguards for community health, safety and security under ESPS 4.

**GL64.** For example, people who migrate seasonally may have rights—whether legal or customary—to pass through Borrower-controlled land periodically or seasonally, for subsistence and traditional activities. Their rights may be linked to certain natural resources such as a water spring, herds of migratory animals or plants that grow naturally and can be harvested only at a particular time of the year. In its due diligence, the Borrower should establish whether nomadic peoples have such rights, and, if possible, with the safeguards mentioned above, the Borrower should allow them to exercise these rights on land it controls

**GL65.** Also, if the Borrower purchases or leases land containing essential resources necessary for the livelihood or survival of the local community (e.g., water, timber, or plants used for natural medicine) the Borrower should, subject to the safeguards mentioned above, take measures to safeguard local community access to the resources on the land or provide alternative access to such resources, or ecosystem services.



**GL66.** In cases where project-related land acquisition and/or restrictions on land use and access to assets and natural resources results in loss of livelihoods or income of those without any legal title or legally recognized or recognizable claim to land, they are normally entitled to a range of assistance, including compensation for lost assets and any structures on land, as well as targeted assistance and transitional support. The nature and extent of such assistance will in part depend on whether the livelihood of those affected is land-based, wage-based, or enterprise-based (see guidance under paragraph GL12 above). Land-based compensation in these circumstances does not necessarily mean title to land but may include continued access to land under similar tenure arrangements to enable the affected people to maintain their land-based livelihoods. The Borrower must tailor compensation and entitlement options to the needs of the displaced. In cases where acquisition of income-producing land does not result in the loss of livelihoods or loss of income, the Borrower will pay fair compensation for the acquired land and lost assets on such land, as appropriate, at their replacement cost.

**GL67.** Special attention should be paid to economically displaced people who are disadvantaged, vulnerable and/or marginalized, as these groups are typically less resilient to change and may be made more vulnerable by project impacts. These groups may include households headed by people of diverse genders and sexual orientation, children, people with disabilities, the extremely poor, the elderly and groups that suffer social and economic discrimination, including Indigenous Peoples and minorities. Members of vulnerable groups may require special or supplementary resettlement assistance because they are less able to cope with the displacement than the general population. Elderly farmers, for example, may not be able to clear replacement fields; increased distance from agricultural fields to homes may mean that disabled farmers cannot walk the extra distance. Indigenous communities may be more attached to their customary lands, natural resources and/or unique physical features of an affected area than other social groups. Compensation and restoration packages for vulnerable people should include additional forms of support and should favor the lowest risk mitigation options wherever possible (e.g., in-kind compensation over cash-compensation). It is good practice that the identification of vulnerable households and individuals is undertaken or at least verified by community leaders, community-based organizations (e.g., church groups) and/or civil society organizations (CSOs), whose grasp of local socio-economic realities may be more reliable or provide important local context to complement the results of standard-form surveys undertaken by external consultants.

**GL68.** If affected communities of Indigenous Peoples are physically or economically displaced as a result of project-related land acquisition, the Borrower will follow the requirements under ESPS 7, in addition to the requirements under ESPS 5 that pertain to implementation of Resettlement Action Plans and/or Livelihood Restoration Plans. In certain cases, this may include obtaining the Free, Prior and Informed Consent (FPIC) of the Indigenous Peoples prior to displacement taking place in accordance with the requirements of paragraphs 13 through 22 of ESPS 7.

## Coordination Among Government Agencies

- 30.** Where land acquisition and resettlement are the responsibility of a government agency other than the one charged with project implementation; the Borrower will collaborate with the responsible agency to achieve outcomes in accordance with this ESPS.
- 31.** In the case of acquisition of land rights or access to land through compulsory means or negotiated settlements involving physical or economic displacement, the Borrower will identify and describe<sup>136</sup> resettlement measures implemented, or to be implemented, by the responsible government agency specifically for the purpose of the project. If these measures do not meet the relevant requirements of this ESPS, the Borrower will prepare a Supplemental Resettlement Plan that, together with the documents prepared by the responsible government agency, will address the relevant requirements of this ESPS (the General Requirements and requirements for Physical Displacement and Economic Displacement above). The Borrower will need to include in its Supplemental Resettlement Plan, at a minimum, (i) identification of affected people and impacts; (ii) a description of regulated activities, including the entitlements of displaced persons provided under applicable national laws and regulations and applicable international law; (iii) the supplemental measures to achieve the requirements of this ESPS as described in paragraphs 19–29 of this ESPS in a way that is permitted by the responsible agency and implementation time schedule; (iv) a grievance mechanism, in accordance with ESPS 10; and (v) the financial and implementation responsibilities of the Borrower in the execution of its Supplemental Resettlement Plan.
- 32.** In the case of projects involving economic displacement only, the Borrower will identify and describe the measures that the responsible government agency has used, or plans to use, to compensate project-affected people. If these measures do not meet the relevant requirements of this Environmental and Social Performance Standard, the Borrower will collaborate with the responsible government agency to achieve the objectives of this ESPS. This may include additional compensation for lost assets, and additional efforts to restore lost livelihoods where applicable.

**GL69.** If land acquisition and/or restrictions on land use and access to assets and natural resources and resettlement are the responsibility of a government agency other than the one charged with project implementation; the Borrower will collaborate with the responsible agency to achieve outcomes in accordance with ESPS 5. In such cases, the Borrower should take an

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<sup>136</sup> Government documents, where available, may be used to identify such measures.

active role during the preparation, implementation and monitoring of the process and should coordinate with the relevant government authorities on those aspects of the process that can be facilitated more efficiently by the Borrower or other agents such as consultants or CSOs. Some countries have national legislation guiding the resettlement process though this may not meet all the requirements of ESPS 5. Borrowers are required to ensure resettlement undertaken on their behalf meets the objectives of ESPS 5. The Borrower will assess early during project preparation the extent to which it will be able to collaborate with the responsible government agency and agree on the key outcomes that need to be achieved, as well as the appropriate allocation of roles and responsibilities to ensure compliance of the provisions of ESPS 5. Where the Borrower ascertains that the outcome of the agency-led resettlement is unlikely to meet the requirements of ESPS 5, and the Borrower is unable or not permitted to fill the gaps required to meet those requirements, consideration should be given to not proceeding with the project.

**GL70.** Under certain circumstances, a government agency or other authority may provide the Borrower with an unoccupied project site, unencumbered of any current claims, whose prior residents or land users were displaced. If resettlement from the site has occurred in anticipation of the project, but not immediately preceding project implementation, the Borrower should determine whether those resettled were compensated in a manner consistent with the requirements of ESPS 5 and, if not, whether any corrective action is feasible to address the situation. Under such circumstances, the following factors should be considered: (i) the length of the intervening period between land acquisition and project implementation; (ii) the process, laws and actions by which the resettlement was carried out; (iii) the number of people affected and the significance of the impact of land acquisition; (iv) the relationship between the party that initiated the land acquisition and the Borrower; and (v) the current status and location of the people affected. If corrective action is feasible and would improve the standard of living of the displaced people, the Borrower should undertake corrective measures prior to the implementation of the project.

**GL71.** When resettlement is not managed by the Borrower, the Borrower should collaborate with the appropriate agencies to establish methods for determining and providing adequate compensation to the affected people in the Resettlement Action Plan or Resettlement Framework. Where national law or policy does not provide for compensation at full replacement cost, or where other gaps exist between national law or policy and the requirements with respect to displaced people detailed in ESPS 5, the Borrower should apply alternative measures to achieve outcomes consistent with the objectives of ESPS 5. Such measures could range from making or arranging for the payment of supplementary allowances in cash or in kind, to arranging for the provision of dedicated support services. These gaps and measures should be addressed in a supplemental Resettlement Action Plan.

**GL72.** The Borrower should collaborate with the responsible government agency in the distribution of compensation payments. Those eligible for compensation should be given advance notice of the date, time and place of payments via public announcement. Receipts should be signed by all those receiving compensation payments and retained for auditing purposes. In cases where illiteracy is an issue, culturally acceptable alternative communication

and signature processes (e.g., fingerprinting) should be identified. The payment of compensation and resettlement assistance should be monitored and verified by representatives of the Borrower as well as representatives of project-affected people, which can often include CBOs. It may be appropriate for the Borrower and government authorities to engage the services of a registered auditing firm to monitor compensation payments.

**GL73.** The Borrower and the responsible agency should agree to an appropriate allocation of responsibilities with respect to completion audits and corrective actions. Where the responsible government agency will enable the Borrower to participate in the ongoing monitoring of affected people, the Borrower should design and carry out a program of monitoring with particular attention to those who are poor, disadvantaged and vulnerable in order to track their standards of living and effectiveness of resettlement compensation, assistance, and livelihood restoration. Where the Borrower is prevented from adequately monitoring the implementation of the Resettlement Action Plan and there exists a risk that the Plan will not be monitored in accordance with ESPS 5 requirements, the Borrower may choose not to proceed with the project.

GUIDELINES FOR ENVIRONMENTAL  
AND SOCIAL PERFORMANCE

**STANDARD 6:**  
**BIODIVERSITY  
CONSERVATION  
AND SUSTAINABLE  
MANAGEMENT OF  
LIVING NATURAL  
RESOURCES**



6

## INTRODUCTION

- 1. Environmental and Social Performance Standard (ESPS) 6 recognizes that protecting and conserving biodiversity, maintaining ecosystem services, and sustainably managing living natural resources are fundamental to sustainable development. The requirements set out in this ESPS have been guided by the Convention on Biological Diversity, which defines biodiversity as “the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are a part; this includes diversity within species, between species, and of ecosystems.”**
- 2. Ecosystem services are the benefits that people, including businesses, derive from ecosystems. Ecosystem services are organized into four types: (i) provisioning services, which are the products people obtain from ecosystems; (ii) regulating services, which are the benefits people obtain from the regulation of ecosystem processes; (iii) cultural services, which are the nonmaterial benefits people obtain from ecosystems; and (iv) supporting services, which are the natural processes that maintain the other services.<sup>137</sup>**
- 3. Ecosystem services valued by humans are often underpinned by biodiversity. Impacts on biodiversity can therefore often adversely affect the delivery of ecosystem services. This Environmental and Social Performance Standard addresses how Borrowers can sustainably manage and mitigate impacts on biodiversity and ecosystem services throughout the project’s lifecycle.**

**GL1.** The Convention on Biological Diversity (CBD) entered into force in December 1993. The main objectives of the CBD are:

- the conservation of biological diversity;
- the sustainable use of the components of biological diversity; and
- the fair and equitable sharing of the benefits arising out of the utilization of genetic resources.

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<sup>137</sup> Examples are as follows: (i) provisioning services may include food, freshwater, timber, fibers, and medicinal plants; (ii) regulating services may include surface water purification, carbon storage and sequestration, climate regulation, and protection from natural hazards; (iii) cultural services may include natural areas that are sacred sites and areas of importance for recreation and aesthetic enjoyment; and (iv) supporting services may include soil formation, nutrient cycling, and primary production.

**GL2.** Signatories of the CBD are required to develop national strategies, plans or programs for the conservation and sustainable use of biological diversity or adapt for this purpose existing strategies, plans or programs which should reflect the measures set out in CDB relevant to the country. Most countries meet this requirement through the preparation of national biodiversity strategies and action plans (NBSAPs). Signatories are also required, as far as possible and as appropriate, to integrate the conservation and sustainable use of biological diversity into relevant sectoral or cross-sectoral plans, programs, and policies.

**GL3.** The definition of “biodiversity” used in Environmental and Social Performance Standard (ESPS) 6 follows that of the CBD and uses several terms that are further defined below in the context of this Guideline:

- Ecosystems – defined by the CBD as “a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit.” The spatial scale of an ecosystem is typically larger than a habitat and smaller than a broader unit such as an ecoregion. Ecosystems therefore provide a meaningful context for the assessment of project impacts on biodiversity and ecosystem services.-
- Species – a species is a distinct type of living organism (e.g., microbe, plant, animal, etc.) that can be identified and named by taxonomists. A species includes a certain level of variability within it which reflects the genetic variations between individuals and populations of a species. Species have names, descriptions, and ranges (i.e., geographic distributions) that can be mapped. The IUCN Red List of Threatened Species includes only species that have been assessed against the Red List criteria but covers nearly all species of mammals, birds, and amphibians. The [Global Biodiversity Information Facility \(GBIF\)](#) includes taxonomic information and occurrence data on nearly all described species of organisms, as well as a [species matching tool](#) that can be used to validate lists of species names from biodiversity baselines.
- Diversity – the range of variation within and among entities (e.g., species, habitats, and ecosystems). However, it is important to understand that for the purposes of this ESPS, the level of diversity of a site, habitat, ecosystem, or region is not in itself a criterion for the applicability of the ESPS. For example, a given 100-hectares of Mesoamerican humid tropical rainforest will have much higher number of species (e.g., species richness) than 100 hectares of Atacama desert but this does not mean that one is more important or has higher “value” than the other.

**GL4.** Ecosystem services are benefits provided by nature to people and may be generated by either natural or modified habitats and are often sensitive to impacts from human activities. They are of value to both urban and rural populations but are often critically important to people living in rural areas, especially traditional rural communities and indigenous communities who depend to a significant degree on hunting, fishing, agriculture, harvesting of wild plant resources, natural water supplies, and protection from natural disasters provided by intact vegetative cover and barriers. Ecosystem services can be important for many types of public sector investments such as water, health, rural development, and tourism, etc., all of which are underpinned by biodiversity.

## OBJECTIVES

- To protect and conserve terrestrial, freshwater, coastal, and marine biodiversity.
- To maintain the ecosystem functions to ensure the benefits from ecosystem services.
- To promote the sustainable management of living natural resources through the adoption of practices that integrate conservation needs and development priorities.

## SCOPE OF APPLICATION

4. The applicability of this ESPS is established during the environmental and social risks and impacts identification process. The implementation of the actions necessary to meet the requirements of this ESPS is managed through the Borrower's Environmental and Social Management System (ESMS), the elements of which are outlined in ESPS 1. Requirements related to stakeholder engagement and information disclosure are provided in ESPS 10.

**GL5.** ESPS 6 applies to projects that present potential direct, indirect, and/or cumulative impacts to biodiversity and/or priority ecosystem services (see GL6), that involve the management of living natural resources, or that depend on living natural resources as part of the supply chain.

**GL6.** The potential for adverse impacts to biodiversity and ecosystem services should be considered for any project. When there are no potential impacts, this should be documented by the Borrower in the environmental and social risks and impacts identification process. The application of this standard is not limited to greenfield projects (i.e., new developments or works in unbuilt areas). For example, the land use change in agricultural landscapes can lead to impacts on native flora and fauna that utilize modified habitats and new construction in existing urbanized areas can affect aquatic biodiversity downstream if contaminated runoff is not mitigated properly.

**GL7.** The Borrower's environmental and social management system (ESMS) (see paragraph 5 of ESPS 1) must include a management program with specific measures and corresponding actions that are designed to achieve the objectives of ESPS 6 (see paragraphs 15-18 of ESPS 1) when applicable. In accordance with paragraph 18 of ESPS 1, projects requiring management of potential adverse impacts on biodiversity and ecosystems services should retain personnel with the necessary knowledge, skills, and experience to implement the specific measures and actions in a competent and efficient manner.

**GL8.** The Borrower's environmental and social risks and impacts assessment should include all phases of the project life cycle and include associated facilities, temporary worker camps and influx during construction, and longer-term foreseeable development, as well as cumulative impacts with other developments and trends in the project area of influence that can reasonably be documented and assessed at the time of the assessment process.

**GL9.** Consideration of biodiversity, ecosystems services, and sustainable management of living natural resources will help identify opportunities for avoiding and minimizing risks and impacts on natural and critical habitats, including addressing the threats of climate change and pollution, and potentially building better resiliency against the effects of climate change and pollution (see ESPS 3 and ESPS 4). Climate change exacerbates risks to biodiversity and natural and managed habitats; at the same time, natural and managed ecosystems and their biodiversity play a key role in the fluxes of greenhouse gases, as well as in supporting climate adaptation. To manage effective mitigation strategies and comprehensively assess potential impacts of projects, Borrowers need to recognize and account for the connections between climate change and biodiversity. Biodiversity should be considered during the planning and pre-investment stages of a project, prior to the final design process. One of the primary goals of risk and impact assessment is to inform the design and location of projects. Once siting and significant design decisions have been made, the opportunities to meaningfully apply measures to avoid and minimize risks and impacts to biodiversity and ecosystem services are often severely limited.

**GL10.** The Borrower should document its consideration of biodiversity and ecosystem services during the project development phase. This consideration should include current and ancestral users and beneficiaries of ecosystem services, particularly indigenous peoples, tribal peoples and the sub-populations whose livelihoods are most linked to living natural resources, most commonly women. The Borrower should, as such, implement this standard in tandem with ESPS 7, ESPS 8 and ESPS 9. The environmental and social risks and impacts identification process should include scoping of potential issues relating to biodiversity and ecosystem services. Scoping may take the form of an initial desktop analysis and literature review, including a review of regional studies and assessments, and the use of global or regional screening tools. Early field reconnaissance and consultation with specialists can also be useful. Scoping for ecosystem services may also take place through consultation with communities as part of stakeholder engagement requirements of ESPS 10. The Borrower should seek to understand, as early as possible, whether a project has the potential to result in any risks and impacts to native species and their habitats. Projects with footprints exclusively in urbanized areas might still have potential for such impacts. For example, a project with impacts on urban parks or green spaces could be considered to have impacts on ecosystem services or even impacts on native species of flora and fauna that may utilize these modified habitats. Another example is any type of project that alters hydrology or quality of waters discharged to aquatic habitats. Consideration of biodiversity, ecosystems services, and sustainable management of living natural resources may enhance the sustainability outcomes of national, regional, and sectoral planning processes.

5. Based on the risks and impacts identification process, the requirements of this ESPS are applied to projects (i) located in modified, natural, and critical habitats; (ii) that potentially impact on or are dependent on ecosystem services over which the Borrower has direct management control or significant influence; or (iii) that include the production of living natural resources (e.g., agriculture, animal husbandry, fisheries, and forestry).

**GL11.** “Habitat” is defined in paragraph 9 of ESPS 6. For the purposes of ESPS 6, the term “habitat” applies to any area of land, water that supports assemblages or communities of native and/or naturalized plants or animals, regardless of the degree of modification by human activities. Habitats should also include the airspace aboveground that may be utilized by birds, bats, and insects as well as the water column and the seafloor, lakebeds, and riverbeds. Habitats also may include caves or springs below ground and airways above ground. This standard also applies to projects located in or affecting oceans and coastal areas.

**GL12.** “Modified habitat” is defined in paragraph 11 of ESPS 6 and addressed in GL43 – GL45. Agricultural and urbanized areas may be considered modified habitats subject to requirements of ESPS 6 when they support native species of concern such as threatened, migratory, or endemic species.

**GL13,** “Natural habitat” is defined in paragraph 13 of ESPS 6 and addressed in GL46 – GL59. A natural habitat can include essentially any area or space that supports native plants and animals but excludes croplands, plantations, artificial pastures, urbanized environments, and wholly artificial waterbodies or waterways.

**GL14.** “Critical habitat” is defined in paragraph 16 of ESPS 6 and is addressed in GL60 – GL85. A critical habitat can include areas of both modified and natural habitats that have high biodiversity values such as significant importance for near-threatened or threatened species, migratory species, or endemic species, as well as areas of highly threatened ecosystems or area providing key evolutionary processes.

**GL15.** “Direct management control or significant influence” includes management or influence by the Borrower, contractors, subcontractors, suppliers, or other third parties performing services required by the execution, site preparation, construction, operation, maintenance, or dismantling of a project or its components. In the context of ecosystem services, the Borrower is understood to have direct management control or significant influence over an ecosystem service whenever a project has the potential to have direct or indirect adverse impacts on the ecosystem service, regardless of the ownership or legal rights over the land, waters or features providing the ecosystem service. For example, the fact that a local community exercises management control

over or has legal rights to an ecosystem service does not mean that the Borrower is not subject to the requirements of the ESPS. It is important to recognize the requirements of this ESPS apply regardless of whether the beneficiaries have any formal legal rights to the ecosystem services or property rights over the areas providing these.

**GL16.** Operations that include activities supporting, leading to, or influencing the “management of living natural resources” are subject to the requirements of ESPS 6. Such management includes the production, extraction, or other use of domesticated or wild plant or animal resources. This includes farming, cultivating, propagating, ranching, hunting, fishing, collecting, harvesting of any type of terrestrial, freshwater, coastal, or marine plants or animals. Operations that indirectly promote or induce such activities are also subject to the requirements of this ESPS, for example projects intended to improve market conditions for agricultural producers that would result in changes in the production system or an increase in the area of land under production. This ESPS also applies to projects where the management of living natural resources is influenced by the project’s supply chain where such production may result in the conversion of natural or critical habitats in response to demand generated by the project.

## REQUIREMENTS

### General

- 6.** The risks and impacts identification process as set out in ESPS 1 should consider direct, indirect, and cumulative project-related impacts on biodiversity and ecosystem services and identify any significant residual impacts. This process will consider relevant threats to biodiversity and ecosystem services, especially focusing on habitat loss, degradation and fragmentation, invasive alien species, overexploitation, hydrological changes, nutrient loading, and pollution. It will also take into account the differing values attached to biodiversity and ecosystem services by project-affected people and, where appropriate, other stakeholders. Where paragraphs 13–19 are applicable, the Borrower should consider project-related impacts across the potentially affected landscape or seascape.
- 7.** As a matter of priority, the Borrower should seek to avoid impacts on biodiversity and ecosystem services. When avoidance of impacts is not possible, measures to minimize impacts and restore biodiversity and ecosystem services should be implemented. Given the complexity in predicting project impacts on biodiversity and ecosystem services over the long term, the Borrower should adopt a practice of adaptive management in which the implementation of mitigation and management measures are responsive to changing conditions and the results of monitoring throughout the project’s lifecycle.

8. Where paragraphs 13–15 are applicable, the Borrower will retain competent professionals to assist in conducting the risks and impacts identification process. Where paragraphs 16–19 are applicable, the Borrower should retain external experts with appropriate regional experience to assist in the development of a mitigation hierarchy that complies with this ESPS and to verify the implementation of those measures.

**GL17.** The Borrower’s assessment of environmental and social risks and impacts should address biodiversity and ecosystem services in accordance with the general requirements of ESPS 1 and provide necessary information to determine the requirements of ESPS 6 relevant to the project in order to identify measures to achieve the objectives of ESPS 6. This assessment must include stakeholder consultations in accordance with ESPS 1 and ESPS 10 to take into account the values held by project-affected people and other stakeholders regarding biodiversity and ecosystem services and the risks and impacts identified.

**GL18.** ESPS 6 does not limit the scope of the Borrower’s assessment of risks and impacts to those specifically addressed in the standard, but rather the assessment must broadly address all probable environmental and social risks and impacts, including risks and impacts to land (e.g., soils, topography, geologic resources), air (e.g., pollutants, dust, atmospheric conditions), and water (e.g., groundwater, surface waters, hydrology, drainage patterns, water quality, ecological flows) resources that biological systems depend upon and which are elements of ecosystem services (see ESPS 3).

**GL19.** The Borrower’s assessment of environmental and social risks and impacts serves multiple purposes:

- Provides the Borrower with the information needed to obtain a project’s environmental authorization to proceed from national or subnational regulatory agencies;
- Provides the Borrower with an understanding of sensitive biodiversity features and ecosystem services that require consideration during project design and execution;
- Allows for the development of a comprehensive and effective environmental and/or biodiversity management plan;
- Provides the Borrower with a baseline of the existing status of biodiversity features prior to start of project activities which allows for meaningful monitoring of impacts;
- Informs the Borrower of the differing values stakeholders attach to biodiversity and ecosystem services, and protects it against unfounded claims of impacts from project-affected people, other stakeholders and other third parties;
- Provides the Borrower with the information and plans necessary for lenders to assess the project’s compliance with applicable lender biodiversity and ecosystem requirements;
- Provides the Borrower with information to disclose and consult during the stakeholder engagement process.

**GL20.** The Borrower’s environmental and social risks and impacts identification process should include a sequence of tasks, generally along the following lines, but adapted to the specific circumstances of the project, its risk profile and location:

- i. Delimitation of area of influence and study area
- ii. Development of the biodiversity baseline
- iii. Identification of risks and impacts
- iv. Assessment of risks and impacts
- v. Identification of avoidance, minimization, and mitigation measures
- vi. Development of biodiversity management plan

**GL21.** Given that the changing dynamics of the environment and human systems often lead to considerable complexity in predicting project impacts on biodiversity and ecosystem services over the long term, paragraph 7 of ESPS 6 requires the Borrower to adopt a practice of adaptive management, which means that the monitoring of biodiversity values and the effectiveness of mitigation and management measures should inform the management of risks and impacts to biodiversity and ecosystem services throughout the lifetime of the project, including site preparation, construction, operation, and closure as applicable. Adaptive management implies that Borrowers take a proactive and flexible approach that includes periodic review and updating of management plans.

**GL22.** In accordance with good practice, the environmental and social risks and impacts identification process should identify and assess all reasonably foreseeable impacts to biodiversity and ecosystem services, including residual impacts remaining after the application of measures to avoid, minimize, and restore, in accordance with the mitigation hierarchy and which may require further compensatory measures to achieve acceptable outcomes.

**GL23.** Fragmentation of habitats and biological corridors (not just migratory corridors but any land, airspace, or water body that connects populations of species or units of habitat) is a major potential impact in many types of projects and often result from indirect impacts during the operation of roads or improperly closed temporary accesses opened during construction of facilities such as transmission lines. Impacts such as overexploitation, hydrological changes, changes in nutrient loads, and increased pollution (which may include emissions, effluents, soil contaminants, noise, vibrations, dust, etc.) can have adverse impacts on biodiversity while not resulting in conversion of natural habitats. Thus, paragraph 6 of ESPS 6 requires that the Borrower’s assessment of risks and impacts be broadly inclusive of all types of potential risks and impacts to biodiversity and ecosystem services and should not be limited to conversion and degradation of natural habitats.

**GL24.** When the project is anticipated to affect natural habitats, critical habitats, legally protected areas, or internationally recognized areas of high biodiversity value, the environmental and social risks and impacts identification process should consider the direct, indirect, and cumulative impacts across the relevant landscape or seascape. This means that the Borrower must not limit consideration of impacts to those of the project footprint or those attributable only to the project; rather, the broader context of the project in relation to other threats to project-affected biodiversity features should be considered.

**GL25.** One of the first and most important steps of the risks and impacts identification process is to properly identify the project's area of influence regarding biodiversity and ecosystem services. The Borrower should refer to Paragraph 10 of ESPS 1 for the definition of the area of influence.

**GL26.** The area of influence includes both the areas of direct and indirect impacts. The extent of the area of influence depends upon the nature of the activities of the project. For projects affecting rivers or streams, both upstream and downstream areas of influence should be considered as appropriate. For example, the construction of a new road through areas with extensive natural habitats may have a large area of influence compared to the construction of suburban wastewater treatment plant. The area of influence may also include areas operated or managed by contractors associated with the project. This could include, for example, workers camps and work/industrial facilities located offsite but which are serving the project. Land cleared by contractors for these areas are to be included in the impact assessment and mitigation plans. The potential impacts of workers on biodiversity, such as hunting, fishing, capture, or harassing of animals, or the collection of plants must be considered. These risks are typically managed by training workers on the biodiversity requirements of the project and the implementation of a mandatory code of conduct for all project employees and contractors that includes prohibitions of activities relating to flora, fauna, and habitats.

**GL27.** Some projects such as land titling programs, forest investment programs, rural development programs, or highway corridor improvements may have very diffuse and extensive areas of influence. Such projects may require assessments and monitoring approaches that take advantage of geographic information systems (GIS) and other modern techniques such as remote sensing technologies.

**GL28.** While a project's area of impact is sometimes thought of solely as the project's footprint, there are often indirect impacts on organisms and habitats, such as edge effects on forests exposed to light and wind along the border of cleared areas or areas subject to upstream and downstream impacts of hydropower and other projects affecting water uses and flows.

**GL29.** After determining the appropriate area of influence, the Borrower's environmental and social risks and impacts identification process should include a biodiversity baseline assessment of the project's area of influence that specifically addresses each of the six categories of critical habitat biodiversity values enumerated in paragraph 16 of ESPS 6. For this purpose, the baseline assessment should apply the criteria described in GL66 – GL85 below.

**GL30.** Baselines should not just be “snapshots” of the current situation but rather should describe past and anticipated future trends in biodiversity and ecosystem services under a “no project alternative”. For additional guidance on biodiversity baselines, Borrowers are encouraged to consult the IDB’s *Guidance for Assessing and Managing Biodiversity Impacts and Risks in Inter-American Development Bank Supported Operations and Good Practices for the Collection of Biodiversity Baseline Data* which can be found at <https://www.iadb.org/en/mpas/guidelines>.

**GL31.** Paragraphs 7 and 8 of ESPS 6 require Borrowers to develop and implement mitigation and management measures in accordance with the mitigation hierarchy which includes the following sequential types of measures:

- Avoidance – actions taken to modify the spatial or temporal design of a project to protect biodiversity features from impacts; for example, steps taken to locate projects outside of and away from sensitive areas or receptors, and/or to schedule activities at times when they will not affect sensitive receptors;
- Minimization – measures adopted to reduce the duration, intensity, or extent of impacts that cannot be completely avoided; for example, the reduction of the size of the project footprint, the duration and/or frequency of activities that may lead to adverse impacts, and/or the quantities, volumes, concentrations or levels of hazardous materials, contaminants, or residues used and/or generated by the project;
- Restoration – measures taken to replace or reverse degradation of ecosystems impacted by the project, including measures to remediate, restore, reinstate, reclaim, revegetate, or otherwise ameliorate project impacts that cannot be avoided or further minimized; and
- Compensation – a set of actions that lead to measurable conservation outcomes, designed to compensate for residual biodiversity impacts that arise from the activities of an existing or new project and that remain after appropriate avoidance, minimization, and restoration measures have been implemented. Biodiversity offsets are a subset of compensation measures.

**GL32.** Avoidance of impacts is sometimes the only means to prevent irreplaceable loss of biodiversity and associated ecosystem services. Paragraph 7 of ESPS 6 emphasizes the importance of seeking to avoid critical habitats entirely as the first means of demonstrating compliance with the mitigation hierarchy. This is required for any proposed project in critical habitat regardless of the size of its footprint. The borrower should provide evidence of avoidance in a thorough analysis of project alternatives. Where there are no feasible alternatives for siting a project or activity outside of critical habitat, the Borrower will still be required to demonstrate no measurable adverse impact as required by paragraph 18 of ESPS 6. This may be achievable by siting facilities or activities in areas of little or no importance for the biodiversity value for which the critical habitat was identified, existing modified habitats or brownfield sites.

**GL33.** For additional guidance on impact assessment and the application of the mitigation hierarchy in the context of biodiversity and ecosystem services, Borrowers are encouraged to consult the *Guidance for Assessing and Managing Biodiversity Impacts and Risks in Inter-American Development Bank Supported Operations*, *Good Practices for Biodiversity Inclusive Impact Assessment and Management Planning* and *A Cross-sector Guide for Implementing the Mitigation Hierarchy* prepared by the Cross-Sector Biodiversity Initiative, all of which can be found at <https://www.iadb.org/en/mpas/guidelines>.

## Protection and Conservation of Biodiversity

- 9.** Habitat is defined as a terrestrial, freshwater, coastal, or marine geographical unit or airway that supports assemblages of living organisms and their interactions with the non-living environment. For the purposes of implementation of this ESPS, habitats are divided into modified, natural, and critical. Critical habitats are a subset of modified or natural habitats.

**GL34.** For the purposes of ESPS 6, habitats can be considered discrete and delineable areas or three-dimensional spaces that include an assemblage of living organisms, and the substrates, water, and airspaces these occupy and depend upon. For practical purposes, terrestrial habitats can be thought of as units of a certain land cover or vegetation type that can be mapped out at the scale of a project site or area of influence, including both natural and modified areas. Coastal



and marine habitats may be very extensive and include the interfaces of air, land, and submarine substrates as well as the water column. Particular attention should be paid to mangroves, seagrass beds, coral reefs, spawning, breeding, and nursery areas, including beach habitats. Critical habitats may include areas of both modified and natural habitats and are generally larger spatial units that often extend beyond the project site and even beyond the project's area of influence.

**GL35.** There is an important conceptual difference between modified and natural habitat and critical habitat as applied in ESPS 6. A critical habitat is an *area* determined to contain high biodiversity values, such as habitats of significant importance to threatened, endemic or migratory species, highly threatened ecosystems, or key evolutionary processes. In contrast, modified and natural habitats are specific terrestrial, freshwater, coastal, or marine areas generally identified and mapped at site-specific scales (i.e., they are equivalent to the concept of ecotopes, the smallest ecologically distinct units of the landscape). A critical habitat, as applied in the context of ESPS 6, is a broader and more generalized area, analogous to a “range map” polygon, which is a delineated area that includes areas actually or potentially occupied by a species but also many areas that are in fact not suitable habitats. An area of critical habitat will typically include a number of different types of modified and natural habitats and these habitats will likely not all be of equal importance for the biodiversity value for which the critical habitat is identified. This difference between critical habitats and natural or modified habitats is important for understanding the requirements and applicability of ESPS 6, as explained in GL60 below.

**10.** For the protection and conservation of biodiversity, the mitigation hierarchy includes biodiversity offsets, which may be considered only after appropriate avoidance, minimization, and restoration measures have been applied.<sup>138</sup> A biodiversity offset should be designed and implemented to achieve measurable conservation outcomes<sup>139</sup> that can reasonably be expected to result in no net loss<sup>140</sup> and preferably a net gain of biodiversity<sup>141</sup>. Biodiversity offsets are not an acceptable mitigation measure in instances of critical habitat. The design of a biodiversity offset must adhere to the

<sup>138</sup> Biodiversity offsets are measurable conservation outcomes resulting from actions designed to compensate for significant residual adverse biodiversity impacts arising from project development and persisting after appropriate avoidance, minimization and restoration measures have been taken.

<sup>139</sup> Measurable conservation outcomes for biodiversity must be demonstrated in situ (on-the-ground) and on an appropriate geographic scale (e.g., local, landscape-level, national, regional).

<sup>140</sup> No net loss is the point at which project-related impacts on biodiversity are balanced by measures taken to avoid and minimize the project's impacts, to undertake on-site restoration and finally to offset significant residual impacts, if any, on an appropriate geographic scale (e.g., local, landscape-level, national, regional).

<sup>141</sup> Net gains are additional conservation outcomes that can be achieved for the biodiversity values for which the critical habitat was designated. In areas of critical habitat, the Borrower should achieve net gains through the implementation of programs that could be implemented in situ (on the-ground) to enhance habitat, and protect and conserve biodiversity. Biodiversity offsets are not an acceptable measure to achieve net gains in instances of critical habitat.

“like-for-like or better” principle<sup>142</sup> and must be carried out in alignment with best available information and current practices. When a Borrower is considering the development of an offset as part of the mitigation strategy, external experts with knowledge in offset design and implementation must be involved.

**GL36.** Biodiversity offsetting is an approach to counter the impacts of projects by the implementation of actions that are designed to result in gains for biodiversity values such that over a reasonable period of time (e.g., to be achieved within the lifetime of the project and with demonstrable progress during the period of the Bank’s supervision of the project) the project can demonstrate no net loss or preferably net gains for those biodiversity values. There are two general types of biodiversity offsetting actions: those that involve restoration or enhancement of biodiversity values and those that reduce future losses (i.e., averted loss). Due to the inherent uncertainty and complexity of this approach, biodiversity offsets are only acceptable when all other avenues to avoid and minimize impacts have been exhausted; furthermore, they are not acceptable as measures to mitigate impacts to biodiversity values for which critical habitats are designated. Likewise, proposals to remedy impacts in areas of critical habitat also present inherent uncertainty and complexity and will only be acceptable after the Borrower has demonstrated proper application of measures to avoid and minimize impacts and only for those impacts that do not result in measurable adverse impacts to the biodiversity values for which the critical habitat has been designated or the ecological processes supporting those values. For example, restoration of vegetative cover within an existing road right of way passing through critical habitat could be considered acceptable if the existing road right of way were demonstrated not to be of importance to any critical habitat-qualifying biodiversity values.

**GL37.** There is a growing volume of guidance related to the implementation of biodiversity offsets and Borrowers should consider recent developments in designing a biodiversity offset. Good international practice for biodiversity offsetting include the following which are available at:

- IUCN Policy on Biodiversity Offsets
- BBOP Principles on Biodiversity Offsets
- World Bank’s Biodiversity Offsets: A User Guide

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<sup>142</sup> The principle of “like-for-like or better” indicates that biodiversity offsets must be designed to conserve the same biodiversity values that are being impacted by the project (an “in-kind” offset). In certain situations, however, areas of biodiversity to be impacted by the project may be neither a national nor a local priority, and there may be other areas of biodiversity with like values that are a higher priority for conservation and sustainable use and under imminent threat or need of protection or effective management. In these situations, it may be appropriate to consider an “out-of-kind” offset that involves “trading up” (i.e., where the offset targets biodiversity of higher priority than that affected by the project) that will, for critical habitats, meet the requirements of paragraph 17 of this ESPS.

**GL38.** Borrowers are strongly encouraged to develop biodiversity offsetting strategies in consultation and collaboration with their respective national ministries responsible for biodiversity matters and to develop outcome-based biodiversity targets that help achieve goals of the country's National Biodiversity Strategy and Action Plan and other national or sub-national biodiversity targets.

**GL39.** The global experience with implementation of biodiversity offsets has shown that there are many technical, social, financial, and political risks and uncertainties that can affect the achievement of net gains in biodiversity or even no net loss.

**GL40.** Due to the inherent uncertainties and risks of failure, biodiversity offsetting will often require significantly more than a 1:1 ratio in order to guarantee success and achieve no net loss goals. This means that biodiversity offset or set aside areas required to achieve no net loss may need to be much larger than the areas impacted by the project. For example, some countries have legislated specific minimum biodiversity offsetting ratios for different types of ecosystems in consideration of factors such as their degrees of vulnerability and irreplaceability, the probability of success, the type of conservation goal desired, and the time required to achieve results.

**GL41.** The setting of biodiversity targets and the identification, delineation, and future management of areas for biodiversity offsets requires extensive stakeholder engagement and must meet requirements of all relevant ESPS, in particular ESPSs 1, 4, 5, 7, 9, and 10.

**GL42.** In all cases, biodiversity offsetting proposals will be designed with the support of qualified and experienced experts or staff.

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## Modified Habitat

- 11.** Modified habitats are areas that may contain a large proportion of plant and/or animal species of non-native origin, and/or where human activity has substantially modified an area's primary ecological functions and species composition.<sup>143</sup> Modified habitats may include areas managed for agriculture, forest plantations, reclaimed<sup>144</sup> coastal zones, and reclaimed wetlands.
- 12.** This Environmental and Social Performance Standard applies to those areas of modified habitat that include significant biodiversity value, as determined by the risks and impacts identification process required in ESPS 1. The Borrower should minimize impacts on such biodiversity and implement mitigation measures as appropriate.

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<sup>143</sup> This excludes habitat that has been converted in anticipation of the project.

<sup>144</sup> Reclamation as used in this context is the process of creating new land from sea or other aquatic areas for productive use.

**GL43.** Areas converted, modified, or managed by indigenous peoples should be considered natural habitats when these areas remain dominated by species native to the Americas or the Caribbean. For example, the archaeological raised field landscapes in seasonally flooded savannas, areas of forest developed upon abandoned Amazonian *terra preta* sites, abandoned agricultural terraces, and high Andean *bofedal* wetlands managed as grazing lands, are considered natural habitats. Such cultural landscapes may qualify as both natural habitats and cultural heritage sites under ESPS 8 – *Cultural Heritage*. Also, habitats dominated by naturalized plant species introduced post-1492 may be considered natural habitats where these habitats support native species of fauna or populations of native plant species. Examples of such habitats will be found in the Mediterranean scrub and grasslands of Chile or the Pampas grasslands. While considered exotic species by some, eucalyptus and pines have become important elements in some landscapes and while they result in significant modifications of local habitats, and may be considered invasive in some contexts, they can support native species in some cases (e.g., hummingbirds and eucalyptus) and they very often provide ecosystem services to local communities. Species of non-native origin may be locally or regionally naturalized species that have become part of the local species assemblage over time or they may be more recent introductions or arrivals with potential to compete with and displace native species. Habitats dominated by naturalized species may still be of significant biodiversity value and may qualify as critical habitats.

**GL44.** In the context of paragraph 11 of ESPS 6, “habitat that has been converted in anticipation of the project” refers to the situation where any person or agency has intentionally engaged in activities that result in the conversion of habitats in the knowledge of the plans for the proposed project. For example, land cleared by a local government for a landfill site during project preparation prior to onsite biodiversity surveys should be treated by the Borrower as natural habitat. Another example is where squatters occupy and clear land where it is rumored that the government will build a facility, in the hopes of receiving compensation for resettlement. The biodiversity values lost by such conversions will be considered impacts of the project and will be accounted for in the determination of no net loss requirements for natural habitats and in the assessment of measurable adverse impacts to biodiversity values for which critical habitats are designated. In cases where such activities have resulted in measurable adverse impacts to critical habitat, the project may be ineligible for IDB financing.

**GL45.** Modified habitats cannot be assumed to have no biodiversity value or not be of importance in terms of ecosystem services. The baseline assessment of the project’s area of influence should quantify the extent of modified habitats and describe their biodiversity values and ecosystem services such that an appropriate determination can be made as to whether any mitigation measures are required. Examples of modified habitats that often provide or support significant biodiversity values include wetland rice fields, coffee and cacao shaded plantations, artificial pastures, and artificial water bodies.

## Natural Habitat

13. Natural habitats are areas composed of viable assemblages of plant and/or animal species of largely native origin, and/or where human activity has not essentially modified an area's primary ecological functions and species composition.
14. The Borrower will not significantly convert or degrade<sup>145</sup> natural habitats, unless all of the following are demonstrated:
  - No other viable alternatives within the region exist for development of the project on modified habitat.
  - Consultation has established the views of stakeholders, including the project-affected people, with respect to the extent of conversion and degradation<sup>146</sup> and
  - Any conversion or degradation is mitigated according to the mitigation hierarchy.
15. In areas of natural habitat, mitigation measures will be designed to achieve no net loss – and where feasible a net gain – of biodiversity. Appropriate actions include:
  - Avoiding impacts on biodiversity through the identification and protection of set-asides;<sup>147</sup>
  - Implementing measures to minimize habitat fragmentation, such as biological corridors;
  - Restoring habitats during operations and/or after operations; and
  - Implementing biodiversity offsets.

**GL46.** For the purposes of ESPS 6, natural habitats include essentially any area that is not urbanized, cultivated, or cleared and converted by recent human activities. Natural habitats include areas without visible vegetation (such as coastal desert and barren high Andean habitats), coastal habitats, open marine environments, and airspaces utilized by birds, bats, and insects, not just naturally vegetated land areas or freshwater bodies.

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<sup>145</sup> Significant conversion or degradation is (i) the elimination or severe diminution of the integrity of a habitat caused by a major and/or long-term change in land or water use; or (ii) a modification that substantially minimizes the habitat's ability to maintain viable populations of its native species.

<sup>146</sup> Conducted as part of the stakeholder engagement and consultation process, as described in ESPS 1.

<sup>147</sup> Set-asides are land areas within the project site, or areas over which the client has management control, that are excluded from development and are targeted for the implementation of conservation enhancement measures. Set-asides will likely contain significant biodiversity values and/or provide ecosystem services of significance at the local, national and/or regional level. Set-asides should be defined using internationally recognized approaches or methodologies (e.g., High Conservation Value, systematic conservation planning).

**GL47.** The determination of whether an area qualifies as natural habitat should be based on up-to-date site-specific data, which may include site surveys by qualified professionals or remote sensing imagery. The data should be reviewed by a qualified specialist familiar with the native species and ecosystems of the area of interest and able to interpret remote sensing imagery to determine, for example, whether forested areas are natural or plantations or whether areas of herbaceous vegetation are natural habitats, cultivated fields, or pastures.

**GL48.** As discussed in GL43 above, evidence of ongoing or past land and natural resource use by humans does not mean a habitat is modified. For example, many rangelands (i.e., naturally occurring grasslands, savannas, steppes, and other lands used for grazing or browsing of livestock) qualify as natural habitats even if dominated by exotic grasses and domesticated livestock. Lands that are grazed and/or burned but maintain communities of native species are typically natural habitats. “Secondary” vegetation is generally considered to be natural habitat, unless it is managed in a way that has eliminated the native species typical of the ecosystem. For example, a secondary forest resulting from recovery of slash and burn agriculture may be considered a natural habitat, while a pasture on formerly forested land may be considered modified. However, an overgrazed rangeland in a grassland ecosystem is still considered a natural habitat.

**GL49.** Habitats converted or degraded in anticipation of the project, either by the Borrower or third parties, must be included in the assessment of natural habitats and included in the no net loss calculations (see GL44 above). If there is clear evidence that the conversion or degradation was done intentionally to avoid the requirements of this ESPS, the habitat will be considered natural or critical as applicable according to its previous condition, which in many cases can be assessed from nearby unmodified sites.

**GL50.** For the purposes of evaluating “significant conversion” under ESPS 6, “a habitat” refers to the global extent of the habitat type, not the extent within the project’s area of influence. While a project may eliminate the natural habitats within its footprint, such a conversion is unlikely to be significant when measured against the total area of the specific habitat types. For example, while the construction of a rural school may require clearing of forested land, resulting in 100% elimination of forest cover within the school property boundaries, this impact would not be considered a significant conversion unless the forest was of a unique type geographically restricted to a very small area. However, the analysis of significant conversion and degradation must consider the total of the areas affected by the project. While impacts may not be significant at the scale of a single parcel of land or facility site, the impact of the project must include consideration of all parcels or sites. For example, a land titling program may not result in significant conversion on a parcel-by-parcel basis, the cumulative impact of thousands of small parcels may be significant on geographically-restricted habitat types.

**GL51.** Regarding the assessment of significant conversion, the analysis of the integrity of a habitat should take into consideration landscape ecological criteria such as connectivity and minimum viable patch size. The absolute number of hectares (i.e., area) of a habitat is not as relevant an indicator of its integrity as are the degree of connectivity and patch sizes (i.e., the areas of remaining

contiguous habitat blocks or units). While there may be many hectares of a habitat, the habitat's future is likely grim if these hectares are largely dispersed in isolated fragments. Impacts resulting in holes in extensive habitats tend to have fewer and less severe impacts than those that break the connectivity between habitats. The scale of analysis depends on many factors, including:

- Global extent of the habitat
- National, subnational, or local extent and importance of the habitat
- Extent of the probable impacts of the project

**GL52.** Given that the ecological significance of conversion depends upon the extent of the habitats in question and the spatial distribution of the converted areas, it is not possible to establish standard numerical thresholds for significant conversion. For example, the conversion of 10,000 hectares of land distributed in multiple sites across a vast but relatively uniform landscape may not result in significant conversion while the loss of 50 hectares of a geographically restricted habitat with several species known only for that habitat may be highly significant.

**GL53.** Degradation is an impact that is often more difficult to quantify than conversion given that a degraded habitat may still contain its primary structural attributes (i.e., a degraded forest may still be a forest, while a converted forest is generally no longer a forest). Degradation of grasslands and steppe habitats is globally widespread due to poor fire and grazing management. Degraded aquatic and wetland habitats are also widespread due to sedimentation, nutrient loading, altered hydrologic regimes, and other impacts of urban and agricultural land and water uses. For the purposes of ESPS 6, a project may be considered likely to degrade a natural habitat when it leads to conditions that will no longer support key native species and ecological processes present in the pre-project baseline conditions.

**GL54.** Impacts to natural habitats not qualifying as significant conversion or degradation as described in footnote 9 of ESPS 6 still require mitigation in accordance with the mitigation hierarchy, including the achievement of no net loss in all cases, and net gains where feasible. The intent of ESPS 6 is to avoid and minimize conversion or degradation of natural habitats through the application of the mitigation hierarchy; so, most projects are not expected to require the application of the requirements of paragraph 14 of ESPS 6 given that significant conversion or degradation is not likely if the mitigation hierarchy is properly applied. The requirements of paragraph 15 of ESPS 6 apply to all types of natural habitats, including but not limited to deserts, grasslands, scrublands, freshwater, and marine habitats, not just forested habitats.

**GL55.** As noted above, no net loss and net gains are in reference to the pre-project baseline condition to be established by the Borrower's assessment of environmental and social risks and impacts, not in reference to some notion of pristine or natural condition.

**GL56.** The Borrower's mitigation plan must clearly indicate how no net loss will be achieved in any project affecting natural habitat. No net loss as defined by this ESPS is in reference to "project-related impacts on biodiversity", not just impacts on habitats. While habitat is important, it is not the only expression of biodiversity. Thus, the metrics of no net loss may be other than areas of habitats restored or protected, depending on the nature of the impacts and the affected biodiversity values. As defined above, not net loss may be achieved in many cases without biodiversity offsetting and Borrowers should demonstrate that they have considered all other mitigation measures before proposing biodiversity offsetting.

**GL57.** Experience has shown that biodiversity offsetting is a complex undertaking and that its success is subject to many ecological, technical, political, and social uncertainties and conditions. While avoidance of natural habitats and minimization of the project footprint are actions that are completed as soon as proper strategies are implemented, biodiversity offsetting requires a long-term commitment of resources and activities. While avoidance and minimization measures may result in increased costs early in the project, these are generally significantly less than the costs of restoration, compensation, or biodiversity offsetting measures.

**GL58.** The Borrower should present documented evidence of stakeholder consultation on proposals involving significant conversion or degradation of natural habitats, along with a summary of stakeholder concerns and needs and evidence of how these were taken into consideration and reflected in the project design and the environmental and social assessment and management plans. When the proposed significant conversion or degradation will affect lands, water, or other resources traditionally used by indigenous peoples, the Borrower will apply the requirements of ESPS 7 - *Indigenous Peoples*.

**GL59.** ESPS 6 encourages Borrowers to seek net gains for natural habitats whenever possible. Net gains mean that the project is enhancing biodiversity values through some combination of improved production or management activities, community outreach and education, restoration, biodiversity offsetting, or other actions that will reduce threats to biodiversity or revert past losses.

## Critical Habitat

- 16.** Critical habitats are areas with high biodiversity value, including (i) habitat of significant importance of critically endangered, endangered, vulnerable or near threatened<sup>148</sup> species; (ii) habitat of significant importance to endemic and/or restricted-range species; (iii) habitat supporting globally significant concentrations of migratory species and/or congregatory species; (iv) highly threatened and/or unique ecosystems; (v) areas associated with key evolutionary processes; and/or (vi) legally protected areas or internationally recognized areas of high biodiversity value.<sup>149</sup>

**GL60.** Paragraph 16 of the ESPS 6 states that critical habitats are *areas* with high biodiversity values. The term “area” refers to a delineated two-dimensional mapping unit, similar to the concept of a Key Biodiversity Area (KBA) or a legally defined protected area in this sense, as these are broadly-inclusive cartographic entities and management areas, not specific patches of habitats. While the definitions of modified and natural habitats refer to “areas”, for the purposes of ESPS 6, these areas are generally smaller units of land or water that can be mapped at the scale of a project site plan. A critical habitat is identified and delineated at scales that are ecologically relevant to the biodiversity values and processes for which they are designated, typically, but not always, at landscape, seascape, or ecosystem scales rather than site-specific scales. Also, many species and ecological processes are not restricted to some narrowly defined habitat type. Thus, most critical habitats will comprise several different habitat types and units, generally including areas of both modified and natural habitats.

**GL61.** Critical habitats include areas already identified and mapped by international conventions and agreements including, but not limited to, the Bonn Convention, Ramsar Convention, World Heritage Convention and Convention on Biological Diversity, or other international bodies such as UNESCO (Biosphere Reserves, UNESCO Global Geo-parks, etc.) or Food and Agricultural Organization (vulnerable marine ecosystems), International Maritime Organization (particularly sensitive areas), IUCN Designated Areas (Categories IA – VI), Ramsar sites, Important Bird Areas, Alliance for Zero Extinction sites, and other KBAs included in the World Database of

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<sup>148</sup> As listed on the International Union for the Conservation of Nature (IUCN) Red List of Threatened Species. The determination of critical habitat based on other listings is as follows: (i) If the species is listed nationally / regionally as critically endangered or endangered, in countries that have adhered to IUCN guidance, the critical habitat determination will be made on a project by project basis in consultation with competent professionals; and (ii) in instances where nationally or regionally listed species' categorizations do not correspond well to those of the IUCN (e.g., some countries more generally list species as “protected” or “restricted”), an assessment will be conducted to determine the rationale and purpose of the listing. In this case, the critical habitat determination will be based on such an assessment.

<sup>149</sup> Which may include reserves that meet the criteria of the IUCN Protected Area Management Categories I through VI; World Heritage Sites designated for natural or mixed criteria; areas protected under the Ramsar Convention on Wetlands; core areas of World Biosphere Reserves; areas in the UN List of National Parks and Protected Areas; sites listed in the World Database of Key Biodiversity Areas; or other sites meeting the criteria of the IUCN 2016 Global Standard for the Identification of Key Biodiversity Areas.

KBAs. However, most potential critical habitats have not been identified and mapped. The use of online screening tools is not a substitute for a more thorough assessment of the presence of critical habitats in a projects area of influence. Online GIS-based approaches to identify biodiversity values for which critical habitats may be determined do not provide complete information on all categories of these values. For example, very few highly threatened or unique ecosystems are mapped and many Ramsar sites are not mapped in comprehensive geographic database. Borrowers should seek the support of qualified biologists to perform project-specific assessments to identify and delineate critical habitats.

**GL62.** Critical habitats are highly variable in their spatial scale and the appropriate scale must be determined by the biological, ecological, and biogeographic characteristics of the biodiversity features in question. At one extreme, species or ecosystems restricted to a single, small area such as unique rock outcrop, mountain top, cave, or spring harboring a species found nowhere else, would be critical habitat of a very small area. At the other extreme, extensive marine habitats critical for the survival of a wide-ranging endangered whale species could be designated as a critical habitat.



**GL63.** The identification and delimitation of critical habitat is independent of the assessment of impacts of a project, with the exceptions discussed below for Near Threatened and Vulnerable species. That is, a critical habitat is not critical because it is threatened by potential impacts of a project but rather because it is of great importance for some biodiversity features of concern and in many cases is already under threat by historic events and processes. The delimitation of the critical habitat must be based on the distribution of the biodiversity features in question, not based on the footprint or area of influence of the project.

**GL64.** It is important to recognize that for the purposes of ESPS 6, critical habitats are not limited to legally protected areas, sites listed in the World Database of KBAs, or areas within the mapped ranges of IUCN Red List threatened species. In addition to delineated and non-delineated terrestrial areas, free-flowing rivers, defined as bodies of water whose flow and connectivity remain largely unaffected by human activities, and at-risk marine or coastal ecosystems, including mangrove forests, wetlands, and reef systems may also qualify as critical habitats.

**GL65.** KBAs are defined by the *IUCN 2016 Global Standard for the Identification of Key Biodiversity Areas* as sites contributing significantly to the global persistence of biodiversity, where “site” is defined as a geographical area on land and/or in water with defined ecological, physical, administrative or management boundaries that is actually or potentially manageable as a single unit (e.g., a protected area or other managed conservation unit). For this reason, large-scale biogeographic regions such as ecoregions, Endemic Bird Areas, and Biodiversity Hotspots, and land-/seascapes containing multiple management units, are not considered to be sites. In the context of KBAs, “site” and “area” are used interchangeably. KBAs will generally qualify as critical habitats, even if they are large areas such as sites qualifying as wholly intact ecological communities with supporting large-scale ecological processes or sites qualifying as threatened ecosystems types.

## Criteria and thresholds for Critical Habitats

**GL66.** The determination of whether an area qualifies as critical habitat is to be made by an assessment against the criteria and thresholds described below. Borrowers may refer to the IUCN’s Guidelines for using A global standard for the identification of Key Biodiversity Areas for additional guidance.

## Habitat of significant importance to Critically Endangered, Endangered, Vulnerable or Near Threatened species

**GL67.** For the purposes of ESPS 6, “significant importance” for Endangered (EN) or Critically Endangered (CR) species is understood to be an area meeting *any* of the following criteria:

Areas that regularly hold one or more of the following:

- $\geq 0.5\%$  of the global population size AND  $\geq 5$  reproductive units of a CR or EN species;
- $\geq 0.1\%$  of the global population size AND  $\geq 5$  reproductive units of a species assessed as CR or EN due only to population size reduction in the past or present; or
- Effectively the entire global population size of a CR or EN species.

Proportion of the global population size can be observed or inferred through any of the following:

- number of mature individuals,
- area of occupancy (AOO), as defined by the IUCN,
- extent of suitable habitat,
- range,
- number of localities, or
- distinct genetic diversity.

**GL68.** The most readily available information for most species will be the area of range from IUCN maps. However, only polygons coded as “extant” or “probably extant” in the “Presence” column of the attributes table should be used to estimate range. For very poorly known species, the only available information is often the number of localities where it has been collected or observed.

**GL69.** For species listed as Vulnerable (VU), an area will qualify as critical habitat if it supports a globally important concentration of a VU species and the conversion or degradation of the habitat is likely to change its conservation status from VU to EN or higher. For purposes of ESPS 6, any of the following outcomes should be assumed to elevate a VU species to EN:

- Extent of Occurrence (EOO) is reduced to less than 5,000 km<sup>2</sup>;
- AOO is reduced to less than 500 km<sup>2</sup>;
- Population is reduced by 50% or more;
- Population is reduced to less than 2,500 mature individuals; or
- Probability of extinction in the wild be 20% or greater in the longer of 20 years or five generations.

**GL70.** For the purposes of ESPS 6, range may be used in lieu of EOO to assess effects on VU species. Critical habitat for a VU species is unlikely to be identified except for projects with potentially widespread impacts on land use when considered at the scale of the global range of the species.

**GL71.** For species listed as Near Threatened (NT), an area will qualify as critical habitat if its conversion or degradation will lead to a change in the species' conservation status to VU or higher. Conversely, the area will qualify as critical habitat if its conservation is required to prevent the species from qualifying for a threatened category. Near Threatened species do not yet qualify as CR, EN, or VU but are too close to qualify for or are likely to qualify for a threatened category in the near future if ongoing conservation actions cease. For purposes of ESPS 6, any of the following outcomes should be assumed to elevate a NT species to VU:

- EOO is reduced to less than 20,000 km<sup>2</sup>;
- AOO is reduced to less than 2,000 km<sup>2</sup>;
- Population is reduced by 30% or more over the longer of 10 years or three generations;
- Population is reduced to less than 10,000 mature individuals; or
- Probability of extinction in the wild be 10% or greater in 100 years.

**GL72.** For the purposes of ESPS 6, range may be used in lieu of EOO to assess effects on NT species. Critical habitat for a NT species is unlikely to be identified except for project with potentially widespread impacts on land use when considered at the scale of the global range of the species.

### Habitat of significant importance to endemic and/or restricted-range species

**GL73.** ESPS 6 recognizes endemic or restricted-range species as those species meeting the 2016 IUCN KBA standard definition of restricted range species:

- Species having a global range size less than or equal to the 25<sup>th</sup> percentile of range-size distribution in a taxonomic group within which all species have been mapped globally, up to a maximum of 50,000 km<sup>2</sup>.
- If all species in a taxonomic group have not been mapped globally, or if the 25<sup>th</sup> percentile of range-size distribution for a taxonomic group falls below 10,000 km<sup>2</sup>, restricted range should be defined as having a global range size less than or equal to 10,000 km<sup>2</sup>.
- For coastal, riverine and other species with linear distributions that do not exceed 200 km width at any point, restricted range is defined as having a global range less than or equal to 500 km linear geographic span (i.e. the distance between occupied locations furthest apart).
- Species known only from their type locality should not automatically be assumed to have a restricted range, since this may be indicative of under-sampling.

**GL74.** The following taxonomic groups which have been more comprehensively assessed by the IUCN Red List and their applicable 25<sup>th</sup> percentile range sizes are provided as determined by the KBA Partnership (as of August 2021):

- Mammals (Mammalia) = 18,413 km<sup>2</sup>
- Birds (Aves) = 50,000 km<sup>2</sup>
- Reptiles (Reptilia) = 10,000 km<sup>2</sup>
- Amphibians (Amphibia) = 10,000 km<sup>2</sup>
- Ray-finned fish (Actinopterygii) = 19,657 km<sup>2</sup>
- Sharks and rays (Chondrichthyes) = 50,000 km<sup>2</sup>
- Lobe-finned fishes (Sarcopterygii) = 50,000 km<sup>2</sup>
- Lampreys (Cephalaspidomorphi) = 20,783 km<sup>2</sup>
- Hagfishes (Myxini) = 10,000 km<sup>2</sup>
- Ceratophyllales (an order of aquatic plants) = 50,000 km<sup>2</sup>

**GL75.** However, if a Borrower wishes to adopt a more protective approach to identifying critical habitats for endemic or restricted range species based on national or regional data, they may do so.

**GL76.** For all other taxonomic groups, such as reptiles, molluscs, crustaceans, insects, etc., 10,000 km<sup>2</sup> should be used until specific values have been provided by the KBA Partnership or the IUCN.

**GL77.** For the purposes of ESPS 6, a habitat of significant importance to endemic and/or restricted-range species means:

- An area or site that regularly holds  $\geq 10\%$  of the global population size and  $\geq 10$  reproductive units of a restricted range species where the proportion of the global population size can be observed or inferred through any of the following:
  - number of mature individuals,
  - area of occupancy (AOO),
  - extent of suitable habitat,
  - range,
  - number of localities, or
  - distinct genetic diversity.

## Habitat supporting globally significant concentrations of migratory species and/or congregatory species

**GL78.** ESPS 6 recognizes habitats supporting globally significant concentrations of migratory species and/or congregatory species as critical habitat. Migratory species include species of whales, birds, turtles, fish, crustaceans (e.g., freshwater shrimp), butterflies, and other organisms of which a significant proportion of its members cyclically and predictably move from one geographic area to another, including within the same ecosystem. Congregatory species are “species whose individuals gather in large groups on a cyclical or otherwise regular and/or predictable basis”. Examples include the following:

- Species that form colonies;
- Species that form colonies for breeding purposes and/or where large numbers of individuals of a species gather at the same time for non-breeding purposes (e.g., foraging and roosting);
- Species that utilize a bottleneck site where significant numbers of individuals of a species occur in a concentrated period of time (e.g., for migration);
- Species with large but clumped distributions where a large number of individuals may be concentrated in a single or a few sites while the rest of the species is largely dispersed; or
- Source populations where certain sites hold populations of species that make an inordinate contribution to recruitment of the species elsewhere, which is especially important for marine species.

**GL79.** For the purposes of this ESPS, habitats supporting globally significant concentrations of migratory species and/or congregatory species include any of the following:

- Areas known to sustain, on a cyclical or otherwise regular basis,  $\geq 1$  percent of the global population of a migratory or congregatory species at any point of the species' lifecycle;
- Areas that predictably support  $\geq 10$  percent of the global population of a species during periods of environmental stress; or
- Areas that predictably support a number of mature individuals that ranks the site among the largest 10 aggregations known for the species; or
- Areas that predictably produce propagules, larvae, or juveniles that maintain  $\geq 10\%$  of the global population size of a species.

**GL80.** Such areas in Latin America include lakes, lagoons, and wetlands where migratory birds congregate during the breeding season or wintering areas. Many such areas are already identified as Ramsar sites. Areas that will often qualify include:

- Ramsar sites qualifying under Ramsar criterion 4 for supporting plant and/or animal species at a critical stage in their life cycles, or provides refuge during adverse conditions;
- Ramsar sites qualifying under Ramsar criterion 6 for regularly supporting 1% of the individuals in a population of one species or subspecies of waterbird;

- Ramsar sites qualifying under Ramsar criterion 8 as an important source of food for fishes, spawning ground, nursery and/or migration path on which fish stocks, either within the wetland or elsewhere, depend.
- Migratory bird migration corridors, feeding areas, or breeding areas
- Sea turtle nesting beaches
- Areas or corridors of importance to migratory fish

**GL81.** Any wetland meeting any of the above criteria will be considered critical habitat, regardless of its Ramsar status.

## Highly threatened and/or unique ecosystems

**GL82.** ESPS 6 recognizes highly threatened and/or unique ecosystems as critical habitats. For the purpose of ESPS 6, critical habitats designated for highly threatened and/or unique ecosystems include any of the following:

- An area holding  $\geq 5\%$  of the global extent of a globally CR or EN ecosystem type;
- An area holding  $\geq 10\%$  of the global extent of a globally VU ecosystem type;
- An area holding  $\geq 20\%$  of the global extent of an ecosystem type, regardless of whether the ecosystem type is globally threatened;
- One of  $\leq 2$  areas per ecoregion characterized by wholly intact ecological communities, comprising the composition and abundance of native species and their interactions;
- An area qualifying under Ramsar Criterion 1 as a representative, rare, or unique example of a natural or near-natural wetland type found within the appropriate biogeographic region.

**GL83.** The global threat category should be based on the application of the categories and criteria of the IUCN Red List of Ecosystems.

## Areas associated with key evolutionary processes

**GL84.** For the purposes of ESPS 6, key evolutionary processes include but are not limited to:

- Natural isolation of evolutionary lineages (e.g., species) such as mountaintops, deep valleys, and islands;
- Gene flow between populations;
- Adaptation and altitudinal or latitudinal shifting of ranges in response to climate change and other environmental change.

**GL85.** Under these criteria, sites or areas that will often qualify as critical habitats include:

- Ramsar sites qualifying under Ramsar criterion 3 for supporting populations of plant and/or animal species important for maintaining the biological diversity of a particular biogeographic region.
- Key gene flow pathways for terrestrial and aquatic organisms, both plants and animals, including biological corridors and “stepping-stone” habitat archipelagos
- Isolated mountain ranges, plateaus, tepuis, volcanoes, deep valleys, or islands with endemic species
- Isolated springs, lakes or other waterbodies with endemic species or which serve as biologically important sites for fauna
- Areas of current or future importance for allowing species to adapt to climate change

### Legally protected areas or internationally recognized areas of high biodiversity value

**GL86.** ESPS 6 recognizes as critical habitat all of the following: legally protected areas or internationally recognized areas of high biodiversity value areas that meet the criteria of the IUCN Protected Area Management Categories I through VI; World Heritage Sites designated for natural or mixed criteria, areas protected under the RAMSAR Convention on Wetlands; core areas of World Biosphere Reserves; areas in the UN List of National Parks and Protected Areas; sites listed in the World Database of Key Biodiversity Areas; or other sites meeting the criteria of the IUCN 2016 Global Standard for the Identification of Key Biodiversity Areas.

**17.** In areas of critical habitat, the Borrower will not implement any project activities unless the following requirements are met:

- No other viable alternatives within the region exist for development of the project on modified or natural habitats that are not critical.
- The project does not lead to measurable adverse impacts on those biodiversity values for which the critical habitat was designated or on the ecological processes supporting those biodiversity values.<sup>150</sup>

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<sup>150</sup> Biodiversity values and their supporting ecological processes will be determined on an ecologically relevant scale.

- The project does not lead to a net reduction in the global and/or national/ regional population<sup>151</sup> of any Critically Endangered or Endangered species over a reasonable period of time;<sup>152</sup>
- A robust, appropriately designed, and long-term biodiversity monitoring and evaluation program is integrated into the Borrower’s management program;
- The project has complied with all due process required under national or international law for obtaining project approval in, or adjacent to, areas of critical habitat.

**GL87.** Paragraph 17 of ESPS 6 requires Borrowers to demonstrate that efforts to avoid impacts to critical habitats by locating projects or facilities in areas outside of critical habitats have been exhausted. At a finer scale, however, Borrowers should also seek to site activities in specific habitats or sites within mapped areas of critical habitat that are of lower or no value for the biodiversity values for the critical habitat was designated. This is generally possible because critical habitat delineations typically include areas of existing converted or degraded habitats as well as natural habitats not suitable for the species for which the critical habitat was identified.

**GL88.** As required by paragraph 8 of ESPS 6, whenever a Borrower has identified the presence of critical habitat within a project’s area of influence, external experts with appropriate regional experience should be retained to assist in the application of the mitigation hierarchy to determine whether the proposed project activities meet the requirements of paragraph 17 of ESPS 6. Biodiversity offsets are not acceptable as measures to mitigate impacts to biodiversity values for which critical habitats are designated.

**GL89.** Measurable adverse impacts are impacts on biodiversity values – organisms, populations, species, ecological and evolutionary processes, or the physical environment – for which a critical habitat is designated or on the ecological processes supporting those biodiversity values – not on critical habitat itself. When critical natural habitat is present within a project’s area of influence, the Borrower must demonstrate that the project will not lead to measurable adverse impacts to the biodiversity values for which the critical habitat was identified or designated and on the ecological processes supporting those biodiversity values. This means that Borrowers may need to retain external experts to undertake a quantitative analysis of the residual impacts likely to

<sup>151</sup> Net reduction is a singular or cumulative loss of individuals that impacts on the species’ ability to persist at the global and/or regional/national scales for many generations or over a long period of time. The scale (i.e., global and/or regional/national) of the potential net reduction is determined based on the species’ listing on either the (global) IUCN Red List and/or on regional/national lists. For species listed on both the (global) IUCN Red List and the national/regional lists, the net reduction will be based on the national/regional population.

<sup>152</sup> The timeframe in which Borrowers must demonstrate “no net reduction” of Critically Endangered and Endangered species will be determined on a case-by-case basis in consultation with external experts.

remain after the application of the avoidance, minimization, and restoration steps of mitigation hierarchy. Consistent with paragraph 10 of ESPS 6, the Borrower must demonstrate that the project will not result in measurable adverse impacts with the application of the proposed mitigation approach, without the need for biodiversity offsets.

**GL90.** For the purposes of ESPS 6, a measurable adverse impact in the context of Vulnerable or Near Threatened species is considered to be an impact that is likely to lead to an up-listing of its IUCN Red List category (i.e., from NT to VU, EN, or CR or from VU to EN or CR).

**GL91.** The requirement relating to measurable adverse impacts does not mean no impacts, no activities, or no development in areas of critical habitat. For example, improving existing facilities within a national park or construction of a public health clinic in a town located within a KBA would not be considered to have any measurable adverse impacts. This requirement does, however, mean that there should be no significant residual adverse biodiversity impacts at an ecologically relevant scale arising from project development and persisting after appropriate avoidance, minimization and restoration measures have been taken. Some loss of habitat that has no measurable adverse impact on the viability of the valued biodiversity features it supports may be acceptable. Furthermore, areas of modified natural habitats that do not support significant biodiversity values within areas mapped as critical habitat may be highly suitable for productive or other economic or cultural uses.

**GL92.** Impacts to migratory or congregatory species for which critical habitat is designated may be considered transboundary impacts when critical areas for different portions of the species life cycle are in different countries. For example, breeding populations may be in one country while overwintering sites may be in another. Affection of habitats or individuals in one country will affect the number of individuals returning to another country. Thus, interested parties, if not project-affected peoples, could be in locations distant from the locations where the activities causing the impacts occur. This may require international consultation and disclosure processes.

**GL93.** When critical habitats for IUCN Red List Endangered or Critically Endangered species are identified within a project's area of influence, the Borrower must provide an assessment (such as a population viability analysis) prepared by a qualified species specialist that demonstrates that the project will not lead to (including by indirect contribution) the long-term reduction of the global or regional population, as relevant, of the species in question. Again, this analysis must not include any mitigation by biodiversity offsetting. The timeframe of the analysis must not extend beyond the expected lifetime of the project to be financed unless the Borrower presents an acceptable mechanism to assure the sustainability of any conditions or programs required to ensure recovery of the population in question. Populations must be in situ, not in captivity or nurseries, but short-term ex situ measures (e.g., temporary relocation and release) may be considered on a case-by-case basis.

**GL94.** While ESPS 6 only mentions biodiversity monitoring and evaluation in the context of projects with activities in critical habitats, in accordance with paragraph 22 of ESPS 1 Borrowers are required to establish procedures to monitor and measure the effectiveness of the environmental and social management programs, as well as compliance with any related legal and/or contractual obligations and regulatory requirements. Borrowers with projects with potential adverse impacts on biodiversity and ecosystem services are thus required to monitor and evaluate relevant indicators.

**GL95.** Borrowers with projects in critical habitats are required to implement a robust biodiversity monitoring and evaluation program (BMEP). While the BMEP should focus on those biodiversity values for which critical habitat are identified, it should also include indicators as applicable to impacts on other affected natural habitats.

**GL96.** Borrowers are strongly encouraged to monitor and evaluate the implementation of the mitigation hierarchy for biodiversity, with specific indicators relating to demonstrating the application and effectiveness of measures from each step of the hierarchy: avoidance, minimization, restoration, and when applicable, compensation.

**GL97.** When proposing activities either in or adjacent to an area recognized as critical habitat, Borrowers should consult early on with relevant national and subnational environmental, protected areas, forestry, and biodiversity agencies, as well as international bodies, as relevant, to obtain any approvals required. For example, when a UNESCO World Heritage Site is identified in a project's area of influence, the national UNESCO commission should be consulted and the Borrower should prepare an assessment of impacts to the site's outstanding unique values. Areas identified as critical for IUCN Red List species or for restricted range endemics may require borrowers to determine any legal requirements for activities affecting nationally or subnationally protected species. For projects in Ramsar sites, Borrowers should consult the National Ramsar Committee.

**18.** In such cases where a Borrower is able to meet the requirements defined in paragraph 17 above, the project's mitigation strategy will be described in a Biodiversity Action Plan and will be designed to achieve net gains of those biodiversity values for which the critical habitat was designated.

**GL98.** The Biodiversity Action Plan ("BAP") should include a summary of the project description, analysis of alternatives, biodiversity baseline, critical habitat assessment, biodiversity impact assessment and the rationale for selection of the proposed mitigation. Furthermore, it must clearly demonstrate the calculation of net gains. Most importantly, the BAP must provide implementable time-bound actions with appropriate budget allocations for the lifetime of the BAP.

**GL99.** In areas of critical habitat, the Borrower may not propose biodiversity offsets as a means to meet the requirements of Paragraphs 17 and 18 of ESPS 6 but rather must achieve net gains by first avoiding measurable adverse impacts and then designing and implementing additional actions that may include the reduction of existing threats, enhancement of habitat quality, or other actions that lead to more effective protection and conservation of the biodiversity values for the critical habitats was designated.

**GL100.** Examples of actions to achieve net gains include:

- Community education and extension programs to improve management of agriculture and livestock production systems that reduce adverse impacts of these ongoing activities through improved agrochemical use, or better grazing practices;
- Community education programs to reduce hunting, collection, fishing, or poaching of species of concern;
- Investment in improvement stormwater management and sewage treatment systems that improve critical aquatic habitats;
- Construction of fauna crossing structures to reduce roadkill and increase connectivity in landscapes impacted by road or rail corridors;
- Actions to support additional biodiversity conservation and protection activities, including legislation and institutional strengthening, that ensure the long-term protection and/or enhancement of habitats essential to the biodiversity values for which critical habitat has been designated.

**GL101.** Borrowers are strongly encouraged to incorporate “mitigations by design”, not add-ons to predetermined project designs. To comply with paragraph 17 of ESPS 6, Borrowers are encouraged to design approaches that achieve no measurable adverse impacts to biodiversity values for which critical habitats are designated or to the ecological processes supporting to such values by applying avoidance and minimization measures only. Restoration is not recommended, and biodiversity offsetting is not acceptable for achieving no measurable adverse impact due to the inherent risks and uncertainties in these measures.

**GL102.** It should not be assumed that absolute net gains for biodiversity values relative to the pre-project baseline will be possible for all projects, especially for species and ecosystems threatened by impacts and processes unrelated to the project. The potential for net gains in such cases may be most realistically assessed against a dynamic future baseline scenario, not against a static “status quo” baseline where it assumes that biodiversity values are stable over time. This approach compares the biodiversity outcomes with and without the project but does not assume that the no project scenario has neutral or positive trending indicators for biodiversity values. Net gains can be achieved by actions that reduce existing threats or improve the trajectory of the values in question, even though the future trend is still negative. Any net gains analyses should be performed by qualified specialists and based on credible scientific data and scenarios.

**GL103.** A BAP must be incorporated in the Borrower’s project-specific Environmental and Social Management System and management programs. While approval of a BAP by national or subnational authorities might not be required, the BAP is often a legally binding document through reference in the Loan Agreement between the Borrower and lenders.

**GL104.** In compliance with paragraph 6 of ESPS 1, the BAP should specify the applicable laws and regulations relating to biodiversity, including applicable international laws, such as the Convention on Biological Diversity, the Ramsar Convention, and the Convention on Migratory Species. The BAP should also make relevant linkages to the country’s National Biodiversity Strategy and Action Plan and other applicable national or subnational plans or policies. Furthermore, the Borrower should develop the BAP in coordination and information sharing with appropriate agencies.

## Legally Protected and Internationally Recognized Areas

**19.** In circumstances where a proposed project is located within a legally protected area<sup>153</sup> or an internationally recognized area,<sup>154</sup> the Borrower will meet the requirements of paragraphs 13 through 18 of this ESPS, as applicable. In addition, the Borrower will:

- Demonstrate that the proposed development in such areas is legally permitted;
- Act in a manner consistent with any government recognized management plans for such areas;
- Consult protected area sponsors and managers, Affected Communities, Indigenous Peoples and other stakeholders on the proposed project, as appropriate; and
- Implement additional programs, as appropriate, to promote and enhance the conservation aims and effective management of the area.<sup>155</sup>

**GL105.** While ESPS 6 recognizes legally protected areas as those areas meeting the IUCN definition, including areas proposed as such, the absence of clear legal boundaries or effective management does not disqualify an area as legally protected for the purposes of ESPS 6.

<sup>153</sup> This ESPS recognizes legally protected areas that meet the IUCN definition: “A clearly defined geographical space, recognized, dedicated and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values.” For the purposes of this ESPS, this includes areas proposed by governments for such designation.

<sup>154</sup> Exclusively defined as UNESCO Natural World Heritage Sites, UNESCO Man and the Biosphere Reserves, Key Biodiversity Areas, and wetlands designated under the Convention on Wetlands of International Importance (the Ramsar Convention).

<sup>155</sup> Implementing additional programs may not be necessary for projects that do not create a new footprint.

**GL106.** Borrowers should utilize their government's official maps, databases, and geographic information systems to identify the presence and boundaries of legally protected areas. In addition, Borrowers are encouraged to use publicly available international online databases to identify internationally recognized areas of high biodiversity value.

**GL107.** Under paragraph 19 of ESPS 6, Borrowers should include areas managed by private owners, communities, and NGOs as nature or conservation areas, such as private natural heritage reserves, communal reserves, indigenous peoples-managed reserves, or reserves managed by international or national conservation organizations.

**GL108.** In alignment with ESPS7, the Borrower should recognize, respect and protect indigenous and community-managed territories and their biological values. Territories include reserves, traditionally or customarily held indigenous resources or lands, sacred sites and/or land with ancestral significance to local and indigenous communities. The Borrower is also encouraged to recognize other effective area-based conservation measures that are designed to achieve the effective in-situ conservation of biodiversity, ecosystems and ecosystem services outside of legally protected areas.

**GL109.** The risks and impacts identification process for legally protected and internationally recognized areas should consider:

- Changes in funding availability
- Changes in staffing and human resources (managers, technicians, rangers, wardens, etc.)
- Changes in zoning and legal status
- Changes in land tenure and land use, both legal and illegal
- Changes in visitor and tourist volumes
- Impacts to landscapes and aesthetic values
- Impacts to biodiversity targets of the area, as well as biodiversity values not recognized in existing decrees, management plans, or fact sheets
- Impacts to adjacent areas and buffer zones, whether legally recognized or not
- Impacts to connectivity with existing corridors and nodes
- Impacts on stakeholders and project affected people

**GL110.** The Borrower is required to consult with stakeholders of legally protected and internationally recognized areas for any project with direct or indirect impacts in such areas. Such consultation should be consistent with requirements of ESPS 10.

**GL111.** For legally protected areas, these stakeholders should include:

- The national or subnational protected area authorities
- The protected area director, technicians, and rangers
- NGOs involved in the management of the area

- Beneficiaries of ecosystem services provided by the protected area, including visitors, tour guides, and onsite and offsite providers of goods and services (restaurants, hotels, shops, gas stations, etc.)
- Local communities within or adjacent to the protected area
- Communities of indigenous peoples and traditional African descendant communities and their organizations.

**GL112.** For internationally recognized areas, whether they are protected or not, these stakeholders should include:

- The organization responsible for its designation or identification, for example:
  - BirdLife International and its national affiliate for IBAs
  - The national Ramsar committee for Ramsar sites
  - The Alliance for Zero Extinction for AZE Areas
  - The KBA Partnership and Regional KBA Coordinator
  - The UNESCO World Heritage Committee and the State Party
- Any national or subnational organization or committee involved with the management of the area
- Local communities within or adjacent to the internationally recognized area
- Communities of indigenous peoples and traditional African descendant communities and their organizations

**GL113.** Whenever there is a potential for any adverse impact to a legally protected area or internationally recognized area, the Borrower is required to design, fund, and implement programs to promote and enhance conservation aims and effective area management. Such programs commonly include:

- Updating of management plans and zoning maps
- Studies of specific topics relevant to the area to fill information gaps
- Training and capacity building for managers, park rangers, and volunteers
- Educational campaigns for visitors and local communities
- Funding for additional monitoring and surveillance during the lifetime of the project's impacts.

## Invasive Alien Species

- 20.** Intentional or accidental introduction of alien, or non-native, species of flora and fauna into areas where they are not normally found can be a significant threat to biodiversity, since some alien species can become invasive, spreading rapidly and out-competing native species. The Borrower will avoid creating conditions that would facilitate the transmission of zoonotic diseases to workers, communities, and populated areas.
- 21.** The Borrower will not intentionally introduce any new alien species (not currently established in the country or region of the project) unless this is carried out in accordance with the existing regulatory framework for such introduction. Notwithstanding the above, the Borrower will not deliberately introduce any alien species with a high risk of invasive behavior regardless of whether such introductions are permitted under the existing regulatory framework. All introductions of alien species will be subject to a risk assessment (as part of the Borrower's environmental and social risks and impacts identification process) to determine the potential for invasive behavior. The Borrower will implement measures to avoid the potential for accidental or unintended introductions including the transportation of substrates and vectors (such as soil, ballast, and plant materials) that may harbor alien species.
- 22.** Where alien species are already established in the country or region of the proposed project, the Borrower will exercise diligence in not spreading them into areas in which they have not already been established. As practicable, the Borrower should take measures to eradicate such species from the natural habitats over which they have management control.

**GL114.** For the purposes of ESPS 6, "invasive alien species" are, in accordance with the CBD Secretariat, understood to be "plants, animals, pathogens and other organisms that are non-native to an ecosystem, and which may cause economic or environmental harm or adversely affect human health." Furthermore, the CBD Secretariat notes that these species impact adversely upon biodiversity, including decline or elimination of native species - through competition, predation, or transmission of pathogens - and the disruption of local ecosystems and ecosystem functions.

**GL115.** Borrowers should consult relevant online databases and national experts when considering the use of specific plant or animal species in a project. Not all exotic or alien species have the biological potential to be invasive and many non-native species have become naturalized in Latin America and the Caribbean. In consultation with national or subnational authorities, Borrowers should evaluate the risks of introducing the species into parts of the country where they are not present or increasing their abundance in areas where already present. In any case, the use of native species should always be considered as the best practice, especially for revegetation works.

**GL116.** The Borrower's project-specific ESMS and management programs (see ESPS 1) should include measures to ensure that invasive alien species are not inadvertently introduced, for example by trucks and machinery that have not been washed prior to being transported to project sites or by ballast water discharges of marine vessels.

**GL117.** In projects where Borrowers exercise management control over lands or waters where alien species are already established, Borrowers should seek to design and implement measures to control and eradicate such species.

**GL118.** The risks and impacts assessment should consider the potential for zoonotic diseases in the area of influence and the potential for direct and indirect project activities to result in increased potential for human exposure to such diseases or spread of their vectors. Projects that lead to changes in land use that reduce the extent of natural habitats and that bring people into closer proximity with wildlife can increase the risk of transmission.

## Management of Ecosystem Services

**23.** Where a project is likely to adversely impact ecosystem services, as determined by the risks and impacts identification process, the Borrower will conduct a systematic review to identify priority ecosystem services. Priority ecosystem services are twofold: (i) those services on which project operations are most likely to have an impact and, therefore, which result in adverse impacts to project-affected people; and/or (ii) those services on which the project is directly dependent for its operations (e.g., water). When project-affected people are likely to be impacted, they should participate in the determination of priority ecosystem services in accordance with the stakeholder engagement process as defined in Environmental and Social Performance Standards 1 and 10.<sup>156</sup>

**24.** With respect to impacts on priority ecosystem services of relevance to the project-affected people and where the Borrower has direct management control or significant influence over such ecosystem services, adverse impacts should be avoided. If these impacts are unavoidable, the Borrower will minimize them and implement mitigation measures that aim to maintain the value and functionality of priority services. With respect to impacts on priority ecosystem services on which the project depends, Borrowers should minimize impacts on ecosystem services and implement measures that increase resource efficiency of their operations, as described in ESPS 3. Additional provisions for ecosystem services are included in ESPS 4, 5, 7, and 8.

<sup>156</sup> The Borrower must ensure the voices of women, people of diverse sexual orientations and gender identities, African descendants, and Indigenous and other traditional peoples are included in this process.



**GL119.** The ESPF defines ecosystem services as:

“...the benefits that people, including businesses, communities, and society at large, derive from ecosystems. Ecosystem services are organized into four types: (i) provisioning services, which are the products people obtain from ecosystems; (ii) regulating services, which are the benefits people obtain from the regulation of ecosystem processes; (iii) cultural services, which are the nonmaterial benefits people obtain from ecosystems; and (iv) supporting services, which are the natural processes that maintain the other services.”

**GL120.** Examples of ecosystem services are as follows:

**Provisioning services** may include food, freshwater, timber, fibers, and medicinal plants. Both modified and natural habitats support plants and animals (especially fish) that provide essential resources to humanity. Many traditional rural communities and indigenous peoples communities directly manage and depend upon native species that require healthy habitats.

**Regulating services** may include surface water purification, carbon storage and sequestration, climate regulation, and protection from natural hazards. Wetlands in general and mangroves in particular are excellent examples of biodiversity features that provide important regulating services that benefit coastal communities who depend upon them for protection from floods, waves, and tidal surges. Gallery forests along rivers and streams purify water and prevent

erosion. All types of vegetation provide carbon storage and sequestration in aboveground and belowground biomass, as well as in organic matter incorporated in the soil.

**Cultural services** may include natural areas that are sacred sites and areas of importance for recreation and aesthetic enjoyment. Biodiversity features, including modified and natural habitats, as well as geologic and topographic features that are valued for the scenic, aesthetic, and touristic value create cultural services that benefit communities who receive income from the tourism industry (for example, hotel, restaurant and shop owners, tourist guides, drivers, cooks, producers and vendors of handicrafts, protected area administrations, etc.) and these beneficiaries can be located quite distant from the areas visited by the tourists.

**Supporting services** may include soil formation, nutrient cycling, primary production. These are services that maintain other types of ecosystem services. Most of the world's food is produced on soils that are the result of thousands of years of soil formation processes. The natural flooding regimes in river basins result in the deposition of sediments and nutrients that support soil formation and the productivity of both natural and human-modified ecosystems. Primary production is the production of carbohydrates in plants, algae, and cyanobacteria through the process of photosynthesis in terrestrial, freshwater, and marine ecosystems.

**GL121.** For the purposes of ESPS 6, ecosystem services must have identifiable human beneficiaries. Beneficiaries are not limited to project-affected peoples in the sense of those directly affected within the project's area of influence. For example, when a project has the potential to affect a national park, people from urban areas distant from the project's area of influence may be affected by impacts to valued biodiversity and landscape features. Similarly, impacts to a UNESCO World Heritage site would, by definition, affect cultural services that benefit and are valued by people internationally.

**GL122.** The Borrower's environmental and social risks and impacts identification process should include consideration of ecosystem services, including the outcomes of consultation with stakeholders to identify priority ecosystem services. ESPS 6 defines priority ecosystem services as:

- i. those services on which project operations are most likely to have an impact and, therefore, which result in adverse impacts to project-affected people; and/or
- ii. those services on which the project is directly dependent for its operations (e.g., water).

**GL123.** Many types of projects will have potential impacts on ecosystem services, in particular, those that affect water resources or land use and that may result in significant conversion or degradation of natural habitats. However, other types of projects that affect the aesthetic values of landscapes, such as transmission lines or sanitary landfills can affect cultural services.

**GL124.** Examples of types of projects that depend upon ecosystem services include:

- Hydropower projects
- Irrigation projects
- Potable water supply projects
- Agriculture, livestock, fisheries, and forestry projects
- Carbon (REDD+) projects
- Tourism projects
- Bioeconomy projects
- Nature-based solutions for infrastructure resilience and climate change adaptation

**GL125.** In addition to the Borrower's responsibilities regarding priority ecosystem services, the Borrower's environmental and social risks and impacts identifications process should consider all potentially affected ecosystem services. All ecosystems should be protected from harm to the extent practicable but greater allocation of resources should be made to those that qualify as priority ecosystem services.

**GL126.** Modified habitats may be very important for ecosystem services to local communities, including drainage and irrigation canals and artificial lagoons that provide fish and other resources. Highly modified or degraded vegetation may still be important as sources of fuel, other plant resources, and as hunting grounds.

**GL127.** Additional requirements regarding ecosystem services are found in paragraph 8 of ESPS 4 - *Community Health, Safety and Security*; paragraphs 5 and 25-29 of ESPS 5 - *Land Acquisition and Involuntary Resettlement*; paragraphs 13-17 and 20 of ESPS 7; and paragraph 11 of ESPS 8.

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## Sustainable Management of Living Natural Resources

**25.** Borrowers who are engaged in the primary production or harvesting of living natural resources, including natural and plantation forestry, agriculture, animal husbandry, aquaculture, and fisheries, will be subject to the requirements of paragraphs 25 through 29, in addition to the rest of this Environmental and Social Performance Standard. Where feasible, the Borrower will locate land-based agribusiness and forestry projects on unforested land or land already converted. Borrowers who are engaged in such activities will manage living natural resources in a sustainable manner, through the application of industry-specific good management practices and available technologies. Where such primary production practices are codified in globally, regionally, or nationally recognized standards, the Borrower will implement sustainable management practices to one or more relevant and credible standards as demonstrated by independent verification or certification.

- 26.** Credible globally, regionally, or nationally recognized standards for sustainable management of living natural resources are those which (i) are objective and achievable; (ii) are founded on a multi stakeholder consultative process; (iii) encourage step-wise and continual improvements; and (iv) provide for independent verification or certification through appropriate accredited bodies for such standards.<sup>157</sup>
- 27.** Where relevant and credible standard(s) exist, but the Borrower has not yet obtained independent verification or certification to such standard(s), the Borrower will conduct a pre-assessment of its conformity to the applicable standard(s) and take actions to achieve such verification or certification over an appropriate period of time.
- 28.** In the absence of a relevant and credible global, regional, or national standard for the particular living natural resource in the country concerned, the Borrower will:
  - Commit to applying good international industry operating principles, management practices, and technologies; and
  - Actively engage and support the development of a national standard, where relevant, including studies that contribute to the definition and demonstration of sustainable practices.

**GL128.** Paragraphs 25 to 29 of ESPS 6 apply to projects involving the production or management of living natural resources, which include agriculture, biofuels, plantations, forestry, non-timber forest resources, livestock, freshwater and marine fisheries and aquaculture, or any other form of utilization or production of plant- or animal-based resources, whether carried out by the Borrower or indirectly through the beneficiaries or primary suppliers of the project. These requirements also apply to rural development programs where beneficiaries are engaged in such activities.

**GL129.** Paragraph 25 of ESPS 6 requires Borrowers to locate land-based agribusiness and forestry projects on unforested land or land already converted, where feasible. To comply with this paragraph, when the proposed project would result in deforestation or other land conversion for agribusiness or forestry activities, the Borrower should provide a detailed analysis of alternatives that demonstrates that there are no feasible alternatives. Aquaculture and fisheries projects should similarly be sited to avoid and minimize impacts to natural habitats, especially mangroves, seagrass beds, and coral reefs.

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<sup>157</sup> A credible certification system is one which is independent, cost-effective, based on objective and measurable standards, and developed through consultation with relevant stakeholders, such as local people and communities, Indigenous Peoples, and civil society organizations representing consumer, producer, and conservation interests. Such a system has fair, transparent, and independent decision-making procedures that avoid conflicts of interest.

**GL130.** Sustainability standards and certifications are intended to ensure that agricultural, livestock-based, forestry, fishery, and other living natural resource-based products are managed in ways that protect people and the environment. A useful standard should be based on credible, realistic, science-based principles and criteria, should be informed by consultation with relevant stakeholders, should allow producers to gradually implement the standard and improve performance, and should be subject to independent verification. They are relevant to the public sector in that they provide guidelines that promote environmentally and socially sustainable development and also enhance the export value of products, particularly in consideration of increasing international requirements for imports of sustainable sourced or produced products.

**GL131.** Projects involving livestock and other uses of animals should apply relevant animal welfare standards, whether national legal requirements or international voluntary standards.

**GL132.** Projects designed to benefit small-scale producers, traditional communities, and indigenous peoples should include actions to enhance the sustainability of their management of living natural resources, applying voluntary sustainability standards as applicable.

**GL133.** When Borrowers are obtaining loans to finance commercial or large-scale agriculture, irrigation, and other rural development projects that directly or indirectly support activities based on the use of living natural resources, the project should include actions to ensure that beneficiaries apply relevant sustainability standards, including close attention to traditional livelihoods (see ESPS 7).

**GL134.** When Borrowers are obtaining loans to finance marketing and/or transportation projects intended to stimulate production or exports of commodities based on living natural resources, the project should include actions to ensure that producers apply applicable sustainability standards, including close attention to displacement risks (see ESPS 5 and ESPS 7).

**GL135.** Projects designed to increase the competitiveness, productivity, production, or market access of agricultural, livestock, plantation, or similar products or commodities may have significant indirect impacts on habitats and ecosystem services. Similarly, the economic justification of transportation projects may be based on volumes of commodities to be transported from source areas to points of industrialization, commercialization, consumption, or exportation; such projects similarly may lead to indirect impacts if they lead to changes in land use or management practices upstream. In such cases, the project's environmental and social risks and impacts identification process should include these potential impacts and the project design should consider the inclusion of a component including measures to enhance adoption of relevant sustainability standards by local producers.

## Primary Suppliers

**29.** Where a Borrower is purchasing primary production (especially but not exclusively food and fiber commodities) that is known to be produced in regions where there is a risk of significant conversion of natural and/or critical habitats, systems and verification practice will be adopted as part of the Borrower's ESMS to evaluate its primary suppliers.<sup>158</sup> The systems and verification practices will (i) identify where the supply is coming from and the habitat type of this area; (ii) provide for an ongoing review of the Borrower's primary suppliers; (iii) limit procurement to those suppliers that can demonstrate that they are not contributing to significant conversion of natural and/or critical habitats (this may be demonstrated by delivery of certified product, or progress towards verification or certification under a credible scheme in certain commodities and/or locations); and (iv) where possible, require actions to shift the Borrower's primary suppliers over time to suppliers that can demonstrate that they are not significantly adversely impacting these areas. The ability of the Borrower to fully address these risks will depend upon the Borrower's level of management control or influence over its primary suppliers.

**GL136.** While a Borrower might not be involved in the production or management of agricultural products, timber, biofuels, or other products resulting from biological processes, including primary production from plants, a Borrower's project might depend upon a supply of such products. For example, a fuel substitution program requiring the cultivation of crops for the production of biofuels might be subject to the requirement of paragraph 29 of ESPS 6. Borrowers need to ensure that producers are not engaging in practices that adversely affect critical habitats or significantly convert any type of natural habitats.

**GL137.** "Living natural resources, goods, and materials" include, for example, fish, fish meal, poultry, eggs, meat, milk, leather, fur, bone, animal and plant-based fats and oils, scents, grains, nuts, fruits, vegetables, wood and wood-based products, pulp, fibers, plant-based dyes, biofuels, and other inputs or commodities sourced from living organisms, whether wild or domesticated. In the context of this ESPS, the impacts on natural and/or critical habitats associated with the production of these resources, goods, and materials purchased by the Borrower are generally considered indirect impacts of the project and the Borrower must adopt systems and verification practices to manage such impacts.

**GL138.** Publicly funded processing plants, mills, silos, refrigeration facilities, other storage and handling projects, etc. will need to consider the applicability of ESPS 6 to the extent that these facilities may incentivize the conversion of natural habitats by producers.

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<sup>158</sup> Primary suppliers are those suppliers who, on an ongoing basis, provide the majority of living natural resources, goods, and materials essential for the core functions of the project.

GUIDELINES FOR ENVIRONMENTAL  
AND SOCIAL PERFORMANCE

# STANDARD 7: INDIGENOUS PEOPLES



7

## INTRODUCTION

- 1. Environmental and Social Performance Standard (ESPS) 7 recognizes that Indigenous Peoples,<sup>159</sup> as distinct social and cultural peoples, are often among the most marginalized and vulnerable segments of the population. In many cases, their economic, social, and legal status limits their capacity to defend their rights to, and interests in, lands and natural and cultural resources, and may restrict their ability to participate in and benefit from development that is in accordance with their worldview. Indigenous Peoples are particularly vulnerable if their lands and resources are transformed, encroached upon, or significantly degraded. Their languages, cultures, religions, spiritual beliefs, and institutions may also come under threat. Consequently, Indigenous Peoples may be more vulnerable to the adverse impacts associated with project development than non-indigenous peoples. This vulnerability may include loss of identity, culture, and natural resource-based livelihoods, as well as exposure to impoverishment and disease.**
- 2. Projects can also create opportunities for Indigenous Peoples to participate in and benefit from project-related activities that may help them achieve their aspirations for economic and social development with identity. Furthermore, Indigenous Peoples may play a role in sustainable development by often promoting, owning, and managing activities and enterprises as partners in development. The government often plays a central role in the management of Indigenous Peoples' issues. It is therefore important to have collaboration and coordination among responsible and relevant authorities in managing the risks and impacts associated with the project.<sup>160</sup>**
- 3. The requirements set out in this ESPS have been guided in part by international conventions and instruments, including those of the International Labour Organization (ILO) and the United Nations (UN).<sup>161</sup>**

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<sup>159</sup> For the purpose of this ESPS, traditional peoples, as recognized by national law, are treated as Indigenous Peoples.

<sup>160</sup> Borrowers should comply with this ESPS and relevant national law, including standards/principles set out in treaties that are part of national law and applicable by virtue of their ratification.

<sup>161</sup> These instruments are: ILO Convention 169, the United Nations Declaration on the Rights of Indigenous Peoples, and the OAS Declaration on the Rights of Indigenous Peoples and the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (the Escazú Agreement).

## OBJECTIVES

- To ensure that the development process fosters full respect for the human rights, collective rights, dignity, aspirations, culture, and natural resource-based livelihoods of Indigenous Peoples.
- To anticipate and avoid adverse impacts of projects on communities of Indigenous Peoples, or when avoidance is not possible, to minimize and/or compensate for such impacts.
- To promote sustainable development benefits and opportunities for Indigenous Peoples in a culturally appropriate manner.
- To establish and maintain an ongoing relationship based on Informed Consultation and Participation (ICP) in a culturally appropriate manner with the Indigenous Peoples affected by a project throughout the project's life cycle.
- To ensure the FPIC of the Project-Affected Communities of Indigenous Peoples when the circumstances described in this ESPS are present.
- To respect and preserve the culture, knowledge, traditional knowledge, and practices of Indigenous Peoples.

**GL1.** The Bank recognizes that key United Nations (UN) Human Rights Conventions form the core of international instruments that provide the rights framework for members of the world's Indigenous Peoples. In the region, the American Convention on Human Rights of the OAS is a core document. Jurisprudence of the Inter-American Court of Human Rights is of equal importance. Furthermore, some countries in Latin America and the Caribbean have passed legislation (at national and/or subnational level) or ratified other international or regional conventions for the protection of Indigenous Peoples, such as the International Labour Organization (ILO) Convention 169 and the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (known as the Escazú Agreement). Various declarations and resolutions address rights of Indigenous Peoples, including the UN Declaration on the Rights of Indigenous Peoples and the American Declaration on the Rights of Indigenous Peoples. These instruments address the responsibilities of states to uphold these rights. It is in recognition of these obligations that projects are expected to foster full respect for the human rights, collective rights, dignity, aspirations, cultures, and customary livelihoods of Indigenous Peoples.

**GL2.** In cases where there is country-level legal recognition of communities as Indigenous Peoples (considering that many terms can be used for this recognition, as indicated in GL6), or in cases where other communities or groups are provided the same level of rights and protection as Indigenous Peoples, no assessment is required regarding the four characteristics in paragraph 5 for the application of the ESPS 7 to those groups or communities. Legal recognition is not a requirement for the application of ESPS 7, but if there is such recognition it should be respected.

**GL3.** Many Indigenous Peoples' cultures and identities are inextricably linked to the lands and territories (including bodies of water and coastal areas) on which they live and the natural resources on which they depend. In many cases, their cultures, identities, beliefs, traditional knowledge, and oral histories are connected to, and maintained through the use of, and relationships with, these lands, territories, and natural resources. These lands, territories, and resources may be sacred or have a spiritual significance. Use of sacred sites and other places of cultural significance may have important functions for the conservation and sustainable use of the natural resources upon which Indigenous Peoples rely for their livelihoods and well-being. Thus, project impacts on lands, forests, water, wildlife, and other natural resources may affect their institutions, livelihoods, economic development, and their ability to maintain and develop their identities and cultures. ESPS 7 sets out specific requirements when projects affect these relationships.

**GL4.** The objectives of ESPS 7 underscore the need to avoid project risks and adverse impacts on Indigenous Peoples living in the project's area of influence (per paragraph 10 of ESPS 1), or where avoidance is not feasible, to minimize and/or compensate for these impacts in a manner commensurate with the scale of project risks and impacts, the vulnerability of Project-Affected Communities of Indigenous Peoples, and through mechanisms that are tailored to their specific characteristics, expressed needs and in accordance with their worldview. It is important to highlight that referring to the avoidance of negative impacts as first step of the mitigation hierarchy does not intend to generate exclusion of these communities from project benefits and development opportunities. ESPS 7 seeks to promote sustainable development benefits and opportunities for Indigenous Peoples in a culturally appropriate manner, not to disincentivize projects from being implemented in Indigenous Peoples' communities. This objective could entail specific measures to ensure access to project benefits, and at the same time identify development opportunities for the Project-Affected Communities of Indigenous Peoples that include project collaboration with or contributions to existing national or local programs and civil society initiative).

**GL5.** The Borrower and Project-Affected Communities of Indigenous Peoples should establish an ongoing relationship in a culturally appropriate manner throughout the life of the project. To this end, ESPS 7 requires the Borrower to engage early during project design in a process of informed consultation and participation (ICP) in a culturally appropriate manner. In the special circumstances described in paragraphs 16–21 of ESPS 7, the Borrower's engagement process will ensure the Free, Prior and Informed Consent (FPIC) of the Project-Affected Communities of Indigenous Peoples. FPIC has the meaning described in paragraph 15 of ESPS 7. This meaning is further elaborated in paragraphs GL28–GL29. Taking into account the Indigenous Peoples' understanding of the changes brought about by a project helps to identify project risks and both positive and negative impacts. Similarly, the effectiveness of risk and impact avoidance, mitigation and compensation measures are enhanced if the views of Indigenous Peoples on matters that affect them are taken into consideration and form part of project decision-making processes.

## SCOPE OF APPLICATION

4. The applicability of this ESPS is established during the environmental and social risks and impacts identification process. The implementation of the actions necessary to meet the requirements of this ESPS is managed through the Borrower's Environmental and Social Management System, the elements of which are outlined in ESPS 1.
5. There is no universally accepted definition of "Indigenous Peoples". Indigenous Peoples may be referred to in different countries by such terms as "original peoples" (pueblos originarios), "autochthonous peoples" (pueblos autóctonos), residents of indigenous counties (comarcas) or reserves (resguardos), or any other formally recognized indigenous peoples in Latin America and the Caribbean. In the ESPF, the term "Indigenous Peoples" is used in a generic sense to refer to distinct social and cultural peoples possessing some of the following characteristics in varying degrees:
  - Self-identification as members of a distinct indigenous cultural group and recognition of this identity by others
  - Collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories
  - Customary cultural, economic, social, or political laws and institutions that are separate from those of the mainstream society or culture
  - A distinct language or dialect, often different from the official language or languages of the country or region in which they reside
6. This ESPS applies to Indigenous Peoples who maintain a collective attachment, that is, whose identity is linked to distinct habitats or ancestral territories and the natural resources therein. It may also apply to communities or groups that have lost collective attachment to distinct habitats or ancestral territories in the project area, because of forced severance, conflict, government resettlement programs, dispossession of their lands, disasters triggered by natural hazards, or incorporation of such territories into an urban area.
7. For the purpose of this ESPS, the Borrower may be required to seek inputs from qualified professionals to support their analysis and dialogue with Indigenous Peoples.

**GL6.** There is no universally accepted definition of "Indigenous Peoples". Within the Latin American and Caribbean region, various terms such as original peoples, autochthonous peoples, residents of indigenous counties or reserves, and other formally recognized terms may be used to refer to Indigenous Peoples. The applicability of ESPS 7 is determined by meeting some or all of the four characteristics found in paragraph 5 of ESPS 7. Each characteristic is evaluated independently, and no characteristic is more important more than the others. In addition, ESPS

7 applies to groups or communities, rather than individuals. A determination that a group or community is indigenous for the purpose of ESPS 7 does not affect the political or legal status of such a group or community within specific countries or states. Instead, such determination leads the Borrower to meet the requirements of ESPS 7 in terms of avoidance of risks and impacts, promotion of benefits and development opportunities, and the process of engagement and management of potentially high-risk circumstances.

**GL7.** Borrowers will need to determine whether a group or community meets some or all the characteristics mentioned in paragraph 5 of ESPS 7. The Borrower may choose to retain competent experts to assist in this work. In making this determination as early as possible in project design, the Borrower may undertake several activities, including researching the applicable national laws and regulations (including laws reflecting country obligations under international law), archival research, ethnographic research (including documentation of culture, customs, institutions, customary laws, language and dialects, etc.), and participatory appraisal approaches with the Project-Affected Communities of Indigenous Peoples. As part of the IDB due diligence the Bank will determine the applicability of ESPS 7 to a group or community (para. 3.13 (iii) of Policy Statement).

**GL8.** ESPS 7 applies to groups or communities of Indigenous Peoples who maintain a collective attachment to distinct habitats or ancestral territories and the natural resources therein. This may include:

- Communities of Indigenous Peoples who are resident upon the lands affected by the project as well as those who are nomadic or who seasonally migrate over the territory, and whose attachment to ancestral territories may be periodic or seasonal in nature;
- Communities of Indigenous Peoples who do not live on the lands affected by the project, but who retain ties to those lands through traditional ownership and/or customary usage, including seasonal or cyclical use. This may include Indigenous Peoples resident in urban areas who retain ties to lands affected by a project;
- Communities of Indigenous Peoples who have lost collective attachment to lands and territories in the project area of influence, as a result of forced severance, conflict, involuntary resettlement programs by governments, dispossession from their lands, natural hazards and disasters or incorporation into an urban area but who retain ties to lands affected by a project;
- Groups of Indigenous Peoples who reside in mixed settlements, such that they form one part of a larger community; or
- Communities of Indigenous Peoples with collective attachment to ancestral lands located in urban areas.

**GL9.** ESPS 7 is applicable to groups and/or communities of Indigenous Peoples who, by virtue of their economic, social, and legal status and/or their institutions, custom, culture and/or language may be characterized as distinct from mainstream society and who may be disadvantaged in the development process as a result of their identity. ESPS 7 is also applicable where Indigenous

Peoples constitute the majority of the population and/or the state or local government. Projects affecting Indigenous Peoples who are resident within the project-affected area and who are part of a larger regional population of Indigenous Peoples, or who are substantially integrated with mainstream society, are still required to meet the requirements of ESPS 7. However, in these cases the mitigation measures (as described in subsequent sections) should be tailored to the specific circumstances of the Project-Affected Communities of Indigenous Peoples.

**GL10.** Indigenous Peoples are socially organized through kinship relations, common ancestry or history, shared rituals, reciprocity, and redistribution nets that form their social fabric, governance, and decision-making structure, among other aspects. This may not correspond necessarily with the concept of group or community of mainstream, non-indigenous society. These are some of the criteria that need to be considered to identify Project-Affected Communities of Indigenous Peoples as part of the assessment indicated in GL12.

**GL11.** ESPS 7 addresses situations of vulnerability specific to Indigenous Peoples. Other groups in vulnerable situations affected economically, socially, environmentally, or in any other manner, by project impacts are addressed through the environmental and social risks and impacts identification process and by the management and mitigation of environmental and social impacts in accordance with the requirements of ESPS 1 and its Guideline.

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## REQUIREMENTS

### General

#### *Indigenous Rights*

- 8.** The Borrower will respect and take into account the rights of Indigenous Peoples and individuals as contained in applicable legal obligations and commitments, which include pertinent national legislation, applicable international law, or in indigenous legal systems. Indigenous legal systems are those that are recognized under national laws. In the absence of such laws, indigenous systems will be recognized if they are not inconsistent with applicable national legislation and international laws.

## *Avoidance of Adverse Impacts*

9. The Borrower will identify, through an environmental and social risks and impacts assessment process developed in a culturally appropriate manner, all communities of Indigenous Peoples<sup>162</sup> within the project area of influence who may be affected by the project, as well as the nature and degree of the expected direct, indirect, and cumulative economic, social, cultural (including cultural heritage<sup>163</sup>), and environmental impacts on them.
10. Adverse impacts on Project-Affected Communities of Indigenous Peoples should be avoided wherever possible. Where alternatives have been explored and adverse impacts are unavoidable, the Borrower will minimize, restore, and/or compensate for these impacts in a culturally appropriate manner commensurate with the nature and scale of such impacts and the vulnerability of the Project-Affected Communities of Indigenous Peoples. The Borrower's proposed actions will be developed with the ICP of the Project-Affected Communities of Indigenous Peoples and contained in a time-bound plan, such as an Indigenous Peoples Plan.<sup>164</sup>

**GL12.** The proper application of the requirements of ESPS 7 may require professional advice to ensure acknowledgment of and respect for Indigenous Peoples rights, in accordance with applicable legal obligations and commitments. The rights to land and territory and the access to natural resources therein under their customary law, the right to self-determination and self-governance, and the right to maintain their language and distinctive culture are critical for Indigenous Peoples physical and cultural survival and well-being. Other key rights of Indigenous Peoples relate to participation, prior consultation, communal property, and cultural uses of land.

**GL13.** The screening phase of the environmental and social risks and impacts identification process should identify the existence of communities of Indigenous Peoples in the project's area of influence (as defined in paragraphs 7 and 8 of ESPS 1) that may be potentially affected by the project. The screening should also consider Indigenous Peoples who migrate (seasonally or otherwise) outside of their traditional territories into the project area of influence and the activities they carry out in that area. A Sociocultural Analysis (SCA) should be carried out to identify risks and potential adverse impacts on Indigenous Peoples. Among other elements, the

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<sup>162</sup> They may include indigenous communities who seasonally migrate outside of their territories for economic and social purposes, including hunting and gathering and participating in spiritual ceremonies.

<sup>163</sup> Additional requirements on protection of cultural heritage are set out in Environmental and Social Performance Standard 8 while additional requirements for stakeholder consultations and information disclosure are set out in Environmental and Social Performance Standard 10.

<sup>164</sup> The determination of the appropriate plan may require the input of competent professionals. A community development plan may be appropriate in circumstances where Indigenous Peoples are part of a larger group of project-affected people.

SCA should include baseline data on affected Indigenous Peoples, covering key environmental (including climate change scenarios, when appropriate), socioeconomic, and cultural aspects that may be impacted by the project. The analysis should also identify positive impacts and potential benefits of the project to Indigenous Peoples and consider ways to enhance them.

**GL14.** The risks and impacts identification process should be done with the ICP of the Project-Affected Communities of Indigenous Peoples and be proportional to the nature and scale of the project's risks and potential impacts on Indigenous Peoples and the level of their vulnerability. The analysis of vulnerability of Indigenous Peoples will include consideration of: (i) their economic, social, and legal status; (ii) their institutions (governance and customary law), customs, culture, and language; (iii) their dependence on natural resources and cultural uses of the land; (iv) their past and ongoing relationship to dominant groups and the mainstream economy; and (v) their geographical location and relative population size. When used in the context described above, vulnerability refers to group- and/or community-level vulnerability defined by the nature of the relationship between the Project-Affected Communities of Indigenous Peoples and mainstream society rather than household or individual level indicators of vulnerability. Nonetheless, the vulnerability of a specific subset of population (e.g., women, girls, the elderly, youth, persons with disability, people of diverse sexual orientations and gender identities) within the Project-Affected Community of Indigenous Peoples, when appropriate, should be also part of the assessment. The concept of intersectionality, when individuals fall into several social categories that interrelate and affect each other, should also be included, as the situation of vulnerability could emerge from different identities (such as gender, sexual orientation, disability status, age, race). A competent expert should be engaged to carry out a vulnerability analysis in a culturally appropriate manner as part of the project's risks and impacts identification process. Such analysis should use participatory approaches and reflect the views of the Project-Affected Communities of Indigenous Peoples on expected project risks, impacts, and benefits.

**GL15.** Projects can adversely impact Indigenous Peoples' identity, livelihoods, food security, and social and cultural survival. Good international practice indicates that Borrowers should always attempt to avoid significant impacts such as those mentioned above and instead should explore viable alternative project design in consultation with the Project-Affected Communities of Indigenous Peoples, and with the advice of competent experts, when needed.

**GL16.** If adverse impacts are unavoidable, the Borrower will minimize and/or compensate for these impacts in a manner commensurate with the nature and scale of the impacts and the vulnerability of the Project-Affected Communities of Indigenous Peoples. Whenever an Indigenous Peoples community is identified within the project area of influence, a SCA should be carried out to determine risks and potential negative and positive impacts on the Project-Affected Community of Indigenous Peoples. If risks and impacts are identified, the Borrower should prepare an Indigenous Peoples Plan (IPP), with the ICP of the Project-Affected Communities of Indigenous Peoples, outlining the actions to minimize and/or compensate for adverse impacts in a culturally appropriate manner. The SCA and IPP can be two parts of the same document. The SCA/IPP should detail actions to minimize and/or compensate for adverse

social and economic impacts in a culturally appropriate manner and identify opportunities and actions to enhance positive impacts of the project on the Indigenous Peoples. Where appropriate, the plan may also include measures to promote conservation and sustainable management of the natural resources on which the Indigenous Peoples depend, in a manner consistent with ESPS 6 or measures by the project to manage land usage by the Project-Affected Communities of Indigenous Peoples. The plan should include a clear statement of roles and responsibilities, funding and resource inputs, a time-bound schedule of activities, a description of the grievance mechanism, and a budget. Depending on local circumstances, a free-standing IPP may be prepared, or it may be a component of a broader Community Development Plan (CDP) where Project-Affected Communities of Indigenous Peoples exist in the same area with other similarly Project-Affected Communities or where the Indigenous Peoples are integrated within a larger affected population. It should also be considered that in some cases, depending on the nature and scale of risks and impacts, a separate IPP or community development plan may not be required and that the project ESMP, with some adjustments in a culturally appropriate manner and with the ICP of the Project-Affected Communities of Indigenous Peoples, may be sufficient to avoid, mitigate and/or compensate the adverse impacts on Project-Affected Communities of Indigenous Peoples. Thus, the SCA/IPP/CDP may be developed as components of the ESIA/ESMP. For additional guidance on the scope and content of a SCA/IPP, see <https://www.iadb.org/en/mpas/guidelines>.

**GL17.** Development projects bring both risks and opportunities to Indigenous Peoples and their culture. Tangible culture (e.g., physical sites, buildings, artifacts, crops, and plants) may be threatened by construction activities while intangible culture (e.g., ancestral and customary practices, knowledge, beliefs, and values) may be challenged by new economic and social forces. Of particular concern for the potential adverse impacts are practices that promote integration or assimilation, disregarding Indigenous Peoples languages and cultural values. Development can also help protect indigenous tangible and intangible culture by preserving physical cultural heritage, respecting, and protecting traditional practices, and validating local identity. The terms ‘intangible culture’ and ‘living culture’ are both used to refer to the vast range of beliefs, practices, traditions, and knowledge that a group of people possesses. This broad concept encompasses music, dance, language, crafts, belief-systems, agricultural practices, traditional medicine, ritual and religious practices, spiritual wisdom, ceremonies, and other forms of intellectual or practically applied knowledge. For the purpose of this GL, both tangible and intangible aspects of cultural heritage will be considered.

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## Transborder Indigenous Peoples

- 11.** In regional projects involving two or more countries or in border areas where indigenous peoples are present, the Borrower will adopt measures to address adverse impacts of the project that might affect transborder peoples. Among others, measures will include consultation and good faith negotiation processes, legal security and

territorial control programs, and other culturally appropriate programs related to rights and priorities in health, freedom of movement, dual nationality (within the context of the applicable legal obligations and commitments), and cultural, social, and economic integration between the affected peoples.

## Indigenous Peoples in Isolation and Initial Contact

12. Projects will respect the rights of Indigenous Peoples in isolation and initial contact to remain in isolation and to live freely according to their culture. Projects with the potential of directly, indirectly, and/or cumulatively impacting these communities of Indigenous Peoples, their lands and territories, or their way of life, must include appropriate measures to (i) safeguard their collective and individual physical, territorial, and cultural integrity; (ii) recognize, respect and protect their lands and territories, environment, health and culture; and (iii) ensure there is no contact with them as a direct or indirect consequence of the project. The aspects of the project that would result in such undesired contact will not be processed further. To this end, the Borrower will collaborate with responsible governments agencies to regulate the territories of the uncontacted peoples and establish buffer zones, limit access to such territories, and develop the necessary monitoring and emergency response measures, making avoidance of contact a priority, and mitigating any other risks and impacts on Indigenous Peoples in isolation and initial contact.

**GL18.** If the SCA indicates that Indigenous Peoples live in two or more countries or in their border areas and may be affected by project activities, the Borrower should develop culturally appropriate measures, carry out the ICP, and undertake an FPIC process when applicable. This may include Indigenous Peoples who live in areas in dispute or in the process of consolidation of the territory of nation-states, or in two or more countries due to migration or population growth. An example could be a regional transport project with an area of influence that includes indigenous lands and territories in different countries. In such a situation, benefits should be harmonized to the extent possible among countries that are likely to have different laws, regulatory frameworks, and institutional arrangements. The collaboration of neighboring countries to adopt measures that benefit transborder Indigenous Peoples, without affecting national interests or concerns, should be pursued by the Borrower whenever feasible, including facilitating access to basic services in neighboring countries.

**GL19.** Contact by outsiders with Indigenous Peoples living in isolation or in initial contact may lead to conflict and pose significant health risks to such communities of Indigenous Peoples as most may not have the immunity to infectious diseases common among non-indigenous populations. When the screening phase of the environmental and social risks and impacts identification process confirms the existence of Indigenous Peoples in isolation or in initial contact in the project area, the components of the project that may result in contact will be

redesigned or cancelled. The stakeholder analysis that is developed as part of the environmental and social risk and impacts identification process is key to avoid such contact. Indigenous Peoples organizations, local government authorities, and civil society organizations with experience in the area should be consulted as they may be able to provide information and tools (e.g., guidelines and protocols) to contribute to that purpose. It is important to include in the Indigenous Peoples Plan appropriate land security and protection measures and protocols to avoid contact and to mitigate potential adverse impacts should contact occur accidentally.

## Participation and Consent

**13.** The Borrower will undertake an engagement process with the Project-Affected Communities of Indigenous Peoples as required in ESPS 1 and ESPS 10. This engagement process includes stakeholder analysis and engagement planning, disclosure of information, consultation, and participation<sup>165</sup> in a culturally appropriate manner. In addition, this process will:

- Involve Indigenous Peoples' representative bodies and organizations (e.g., councils of elders or village councils), as well as members of the Project-Affected Communities of Indigenous Peoples.
- Provide sufficient time for Indigenous Peoples' decision-making processes.<sup>166</sup>
- Include indigenous consultation protocols<sup>167</sup> when they exist.

**14.** Project-Affected Communities of Indigenous Peoples may be particularly vulnerable to the loss of, alienation from or exploitation of their land, territories, and access to natural and cultural resources<sup>168</sup>. In recognition of this vulnerability, in addition to the General Requirements of this ESPS, the Borrower will obtain the FPIC of the Project-Affected Communities of Indigenous Peoples in the circumstances described in paragraphs 16–21 of this ESPS. FPIC applies to project design, implementation, and expected outcomes related to impacts affecting the communities of Indigenous Peoples. When any of these circumstances apply, the Borrower will engage external experts to assist in the identification of the project risks and impacts.

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<sup>165</sup> Ensuring the participation of Indigenous women and people of diverse sexual orientations and gender identities by providing specific spaces to obtain consent.

<sup>166</sup> Internal decision-making processes are generally but not always collective in nature. There may be internal dissent, and decisions may be challenged by some in the community. The consultation process should be sensitive to such dynamics and allow sufficient time for internal decision-making processes to reach conclusions.

<sup>167</sup> Indigenous consultation protocols are specific instruments and initiatives established by each Indigenous Peoples to ensure the respect for their rights within the framework of consultation processes.

<sup>168</sup> Natural resources and natural areas with cultural value mentioned in this ESPS are equivalent to ecosystem provisioning and cultural services as described in ESPS 6.

**15.** For the purposes of this ESPS, consent refers to the collective support of affected Indigenous Peoples communities for the project activities that affect them, reached through a culturally appropriate process, respectful of Indigenous Peoples customary decision making, through representatives chosen by themselves or any other form of decision-making process of their own governance structure. FPIC builds on and expands the process of ICP described in ESPS 1 and will be established through good faith negotiation between the Borrower and the Project-Affected Communities of Indigenous Peoples. The Borrower will document (i) the mutually accepted good-faith negotiation process between the Borrower and Project-Affected Communities of Indigenous Peoples and (ii) the outcome of this process, including all agreements reached between the parties as well as dissenting views.

## General Principles of Engagement

**GL20.** The Borrower should engage with the Project-Affected Communities of Indigenous Peoples within the project's area of influence through a process of information disclosure and ICP in a culturally appropriate manner. The general characteristics and requirements of the engagement process should be culturally appropriate and are described in ESPS 1 and ESPS 10 and their respective Guideline, while additional aspects relevant to Indigenous Peoples are further described below.

**GL21.** The process of ICP entails consultation that occurs freely and voluntarily, without any manipulation, interference, or coercion, and without fear of reprisal. In addition, the Project-Affected Communities of Indigenous Peoples should have access to relevant and understandable project information in their own language in a culturally appropriate manner prior to any decision making that will affect them, adversely or positively, including information on potential risks and adverse environmental and social impacts affecting them at each stage of project implementation (i.e., design, construction, operation, maintenance, and decommissioning). To achieve this objective, the ICP process should include consultations prior to and during project planning as well as during implementation.

**GL22.** The engagement process will take account of existing socio-cultural, institutional and governance structures, leadership, cultural roles, and decision-making processes as well as social identities, when appropriate, such as gender, gender identity and sexual orientation, and age, and be cognizant of the following considerations:

- The existence of patriarchal and matriarchal traditions and socio-cultural norms and values that may limit women's and men's participation in leadership roles and decision-making processes;
- Indigenous Peoples in the region vary in their acceptance level of people with disabilities and of diverse sexual orientations and gender identities. Regarding the latter, while some communities have traditionally accepted and respected the existence of a third gender, other communities discriminate against them. Therefore, any assessment and ICP process should consider these aspects of the Project-Affected Communities of Indigenous Peoples to identify the situation of vulnerability of people of diverse sexual orientation and gender identities and avoid putting them in danger in an engagement process.
- The need to protect and ensure the legal rights of indigenous women (e.g., rights to compensation measures such as land and housing ownership, access to land and the respect of informal land tenure system such as use rights).
- Groups in marginal or vulnerable situations that have a potentially limited realization of their economic and social rights as a consequence of poverty and limited access to economic resources, social services, or decision-making processes.
- If there is conflict or different views between the customary law or cultural practices (e.g., patrilineal society) and the promotion of women's rights and participation in the engagement process, additional resources to promote internal discussion to reach an agreement would be necessary. Customary law and their own decision-making processes should be respected.

**GL23.** Borrowers should adopt ICP approaches that build upon existing customary institutions and decision-making processes utilized by the Project-Affected Communities of Indigenous Peoples. Using indigenous consultation protocols fosters that the ICP process is carried out in a culturally appropriate manner, respecting Indigenous Peoples governance, language and their rights. However, Borrowers should assess the capacity of the existing institutions and decision-making processes to deal with the wide array of new issues introduced by the project. In many situations, projects introduce issues that existing institutions and decision-making processes are poorly equipped to address. Inadequate capacity and experience may result in decisions and outcomes that have detrimental consequences for Project-Affected Communities. Specifically, inadequate, and culturally inappropriate processes, decisions, and outcomes, may lead to challenges to existing institutions, decision-making processes, and recognized leadership, and to disputes over agreements between Project-Affected Communities of Indigenous Peoples and the project. Building awareness and capacity to address issues that can reasonably be predicted to occur can strengthen both Project-Affected Communities of Indigenous Peoples and project agreements with them. Such capacity building can be done in a number of ways, including, but not limited to, involving competent local organizations such as civil society organizations (CSOs) or government extension agencies, or Indigenous Peoples governance structures or organizations

at the national, regional or local level; contracting with academic or research organizations undertaking research involving communities; linking up with existing support programs for local communities run by government or other agencies; and providing resources and technical support for local municipal authorities in facilitating community engagement and strengthening.

**GL24.** Borrowers should keep in mind that the Project-Affected Communities of Indigenous Peoples are not necessarily homogeneous and there can be divergent views and opinions within them. For example, experience demonstrates that: (i) the views of the traditional elders or leaders may differ from those who have received formal education; (ii) the views of the elderly may differ from those of the youth; and (iii) the views of men may differ from women. Nonetheless, in many cases, community elders or leaders, who are not necessarily the elected officials of these communities, play a key role. Furthermore, some segments of the community such as women, youth, people of diverse sexual orientation and gender identities and the elderly, may be more vulnerable to project impacts than others. The consultation should take into account the interests of these segments in the community while being cognizant of traditional cultural approaches that may exclude segments of the community from the decision-making process. The ICP processes should consider ESPS 9 – *Gender Equality* and its Guideline to promote an effective participation of indigenous women, while being respectful of customary law, cultural values, and their own decision-making processes.

**GL25.** The ICP processes with and within Project-Affected Communities of Indigenous Peoples will frequently span an extended period of time. Providing adequate information in a culturally appropriate manner to the members of the indigenous community about a project’s risks and potential adverse impacts and proposed risks and impacts minimization and compensation measures may involve an iterative process with various segments of the project-affected community. Thus (i) consultation should start as early as possible in the risks and impacts identification process; (ii) culturally appropriate stakeholder engagement processes should aim to ensure that the entire population of Project-Affected Communities of Indigenous Peoples is aware of and understands the risks and impacts associated with project development; (iii) disclosure of project documents, per paragraph 3.24 of the Policy Statement; (iv) project information should be made available in an understandable format, using indigenous languages where appropriate; (v) the communities should have sufficient time for consensus building and developing responses to project issues that impact upon their lives and livelihoods; and (vi) Borrowers should allocate sufficient time and resources for the ICP process and to fully consider and address Indigenous Peoples’ concerns and suggestions about the project during project design and implementation.

**GL26.** Assessment of the capacity of the Project-Affected Communities of Indigenous Peoples to engage in a process of a culturally appropriate ICP should inform the engagement process. The Borrower may consider effective communication and capacity building to enhance the effectiveness of the ICP process with Indigenous Peoples and their informed participation in key aspects of the project. For example, the Borrower:

- Should seek the active participation of Project-Affected Communities of Indigenous Peoples throughout the key stages of the risks and impacts identification process (including the SCA/IPP) on matters that pertain to them. The results of this active participation should also inform the design process and be ongoing throughout the project lifecycle.
- May provide members of the Project-Affected Communities of Indigenous Peoples with an opportunity to assess the potential risks and impacts associated with project development by facilitating cross-visits to comparable projects.
- The consultation process should be accessible to all Project-Affected Communities of Indigenous Peoples that wish to participate, and the Borrower should undertake all necessary actions to ensure participation (per ESPS 10), including the provision of transportation to consultation events, when necessary.
- May enable Indigenous Peoples' access to legal advice about their rights and entitlements to compensation, due process, and benefits under national and subnational laws and the requirements of ESPS 7.
- Should ensure that all groups' views within the Project-Affected Community of Indigenous Peoples are adequately represented in decision making. Particular attention should be given to the active participation of different genders, sexual orientations, and intergenerational groups to ensure that their concerns and priorities are given proper consideration.
- Should facilitate a culturally appropriate decision-making process for communities where no established decision-making process or leadership exists.
- May promote capacity building and involvement in areas such as participatory planning, monitoring and evaluation, and community development.



**GL27.** Project-Affected Communities of Indigenous Peoples should be enabled to raise and receive Borrower responses to grievances and complaints. The Borrower may utilize the general grievance mechanism for the project in accordance with the requirements of ESPS 1 and ESPS 10 or a grievance mechanism specifically dedicated to the Project-Affected Communities of Indigenous Peoples that meets the requirements of those ESPSs. The grievance mechanism should be designed in consultation with the Project-Affected Communities of Indigenous Peoples. The grievance mechanism should be culturally appropriate and should not interfere with any existing processes or institutions within the Project-Affected Communities of Indigenous Peoples to settle differences among them. Whenever possible, it should be based on these existing processes and institutions. The grievance mechanism should provide for fair, transparent, and timely redress of grievances at no cost, and if necessary, provide special provisions for women, people with disabilities, people of diverse sexual orientations and gender identities, the youth, the elderly, and for racial and ethnic minorities. As part of the engagement process, all members of Project-Affected Communities of Indigenous Peoples should be informed of the existence of a grievance mechanism.

**GL28.** For successful outcomes to be achieved for the mutual benefit of all parties, it is important that the parties have a shared view of the process for achieving ICP and, where applicable, FPIC. These processes should ensure the meaningful participation of Indigenous Peoples in decision-making, leading to agreement. The Borrower and Project-Affected Communities of Indigenous Peoples should agree on appropriate engagement and consultation processes as early as possible, appropriate to the nature and scale of the project and commensurate with the level of impacts, risks, and vulnerability of the communities. This should ideally be done through a framework document or plan that identifies representatives of Project-Affected Communities of Indigenous Peoples, the agreed consultation process and protocols, including consideration of existing indigenous consultation protocols, the reciprocal responsibilities of parties to the engagement process and agreed avenues of recourse in the event of impasses occurring. Where appropriate, it should also define what would constitute consent from Project-Affected Communities of Indigenous Peoples. The Borrower should document support for the agreed good faith negotiation (GFN) process from the affected population.

**GL29.** Borrowers have a responsibility to work with Project-Affected Communities of Indigenous Peoples to ensure a meaningful engagement process, including achieving FPIC where applicable. Project-Affected Communities of Indigenous Peoples are similarly requested to engage with the Borrower to establish an acceptable engagement process and to participate in this process. It is recognized that differences of opinion may arise, which in some cases may lead to setbacks or delays in reaching agreement. At the outset, the parties should agree, if possible, on reasonable tests or avenues of recourse to be applied in such situations. This might include seeking mediation or advice from mutually acceptable third parties.

## Definition of Free, Prior and Informed Consent

**GL30.** FPIC comprises a process and an outcome. The process builds upon the requirements for ICP in a culturally appropriate manner and additionally requires GFN between the Borrower and Project-Affected Communities of Indigenous Peoples. GFN involves on the part of all parties: (i) willingness to engage in a process and availability to meet at reasonable and appropriate times and frequency; (ii) provision of understandable information necessary for informed negotiation, with sufficient time in advance to develop an informed opinion; (iii) exploration of key issues of importance; (iv) use of mutually acceptable procedures for negotiation; (v) willingness to change initial position and modify offers where possible; and (vi) provision of sufficient time for decision making, including internal deliberation according to their customary law and rules; and (vii) use of an indigenous consultation protocol, if one exists. The outcome of this process, including all agreements and dissenting views of the parties, should be based on the customary law of the Project-Affected Communities of Indigenous Peoples and documented in an agreement in a format that is agreeable to all parties.

**GL31.** The Borrower may have obligations or commitments under applicable national law, including those laws implementing country obligations under international law, to ensure that Indigenous Peoples provide their free, prior, and informed consent for matters pertaining to the overall development of indigenous territories. The Borrower should review government processes in relation to the requirements of ESPS 7 and address identified gaps.

## Requirements for Free, Prior and Informed Consent

**GL32.** The Borrower is required to facilitate a process of FPIC with the Project-Affected Communities of Indigenous Peoples with regard to project design, implementation and expected outcomes if these are associated with any of the potentially adverse impacts identified below:

- Impacts on lands, territories (including bodies of water and coastal areas), and natural resources subject to traditional ownership or under customary use;
- Relocation of Indigenous Peoples from lands, territories, and natural resources subject to traditional ownership or under customary use;
- Significant impacts on cultural heritage that is essential to the identity and/or cultural, ceremonial, or spiritual aspects of Indigenous Peoples lives, including natural areas with cultural and/or spiritual value such as sacred groves, bodies of water and waterways, trees, and rocks. Natural areas with cultural value are equivalent to priority ecosystem services as defined in Performance Standard 6 in that they may be central to the identity and/or cultural, ceremonial, or spiritual aspects of Indigenous Peoples' lives; or
- Use of cultural heritage (tangible and intangible), including knowledge, innovations, or practices of Indigenous Peoples for commercial purposes.

## Application of Free, Prior and Informed Consent

**GL33.** FPIC applies to those aspects of project design, activities, and outcomes associated with the specific potential adverse impacts and risks, which directly affect communities of Indigenous Peoples. In some cases, the scope of FPIC will be limited and targeted to specific portions of land or aspects of a project. This determination of the scope should be part of the SCA and the meaningful engagement process, that should be agreed as indicated in GL26. Examples of such targeted FPIC include: (i) linear projects that pass through multiple human habitats may only require FPIC for the component that traverses Indigenous Peoples' lands and territories; (ii) projects with multiple facilities and/or comprising multiple sub-projects, some of which are located on Indigenous Peoples' lands and territories, may only require FPIC for the facilities and/or sub-projects located on Indigenous Peoples' lands and territories; (iii) for projects involving an expansion of existing facilities, FPIC should focus on the new project activities.

**GL34.** In certain cases, it may not be possible to define all aspects of the project and its locations, identify Project-Affected Communities (including Indigenous Peoples) and review project environmental and social risks and impacts identification process and related mitigation plans before decisions are taken about project design aspects. In the absence of these elements, achieving FPIC prior to Bank approval of a project may not be feasible and/or considered meaningful because the determination should be closely related to the defined risks and impacts of a known project on directly Project-Affected Communities. The appropriate sequencing in achieving FPIC is generally to first agree on key principles through an overall stakeholder engagement framework associated with the risks and impacts identification process and with the design and location selection process, and then to consult on specific aspects once designs are further advanced and locations are determined. In such circumstances the Borrower should (i) develop forward-looking stakeholder engagement strategies in a culturally appropriate manner that should be well-documented in every step and that ensure relevant stakeholders are aware of potential development pathways; (ii) ensure that stakeholders have adequate awareness, understanding and timely access to information concerning their resource rights (e.g., lands, forests, tenure systems, government established compensation frameworks, etc.) in their preferred language; and (iii) commit to implementing a process of FPIC for any subsequent project development with the potential to adversely impact Indigenous Peoples, once such risks and potential impacts become known. Documents generated in the process of achieving FPIC are subject to IADB disclosure requirements.

**GL35.** Circumstances may arise where a project is required to achieve both ICP for communities impacted by the project and FPIC for Indigenous Peoples impacted by the project, such as linear projects that traverse both non-Indigenous and Indigenous Peoples' lands; and projects implemented in areas where both non-Indigenous and Indigenous Peoples reside in proximate but separate communities or in mixed communities. Since the achievement of ICP and FPIC as separate processes with different groups within a community or between proximate communities may be difficult and in some cases be a cause of confusion or division within the community, a single engagement process resulting in one agreement can be carried out. In such cases the process and agreement should reference the higher standard (i.e., GFN and agreement

demonstrating FPIC). Whether the agreement entails different benefits for the differently affected groups will depend on the project context, the Project-Affected Communities and the nature and scale of project impacts. However, having two separate processes may be also recommended under some circumstances. The determination of the best course of action should be based on the results of the SCA and of the environmental and social risks and impacts identification process regarding the non-indigenous communities.

**GL36.** FPIC should be viewed as a process that both allows and facilitates Project-Affected Communities of Indigenous Peoples to build and agree upon a collective position with regard to the proposed development. Nonetheless, individuals and groups within the Project-Affected Communities of Indigenous Peoples may have differing views on various issues pertaining to the proposed project. Collective “community consent” should derive from the group of Project-Affected Communities of Indigenous Peoples as a whole, representing their view vis-à-vis the proposed project. Thus, an FPIC agreement captures Project-Affected Communities’ broad agreement on the legitimacy of the culturally appropriate engagement process based on customary law and the decisions made. To establish legitimacy, it is key that consent is reached by representatives chosen by Indigenous Peoples, according to their own governance and decision-making process, and that this decision is well-documented. Representatives may form part of their existing governance structures or may be selected through a culturally appropriate process for the sole purpose of engaging with project officials. It is also important to note that a community’s refusal to participate in ICP and/or GFN does not mean that consent has been granted.

**GL37.** FPIC entails consent for specific project activities, impacts, and mitigation measures as anticipated at the time when consent is given. While the agreement should be valid for the duration of the project, it is possible that the given consent could also be withdrawn. It is good practice to continuously monitor IPPs or similar action plans and be flexible in adapting them as needed if circumstances change, while maintaining the overall principles, commitments, and mutual accountabilities outlined in the agreement, and if necessary Indigenous Peoples’ consent should be sought and obtained for the changed circumstances.

## Process of Achieving Free, Prior and Informed Consent

**GL38.** Achieving FPIC requires that the Borrower address both process (i.e., GFN) and outcome (i.e., evidence of agreement). The Borrower should document (i) the agreed engagement and GFN process between the Borrower and Project-Affected Communities of Indigenous Peoples; and (ii) evidence of the outcome of this process, including all agreements. Impacts and risks on groups in vulnerable situations within the Project-Affected Communities of Indigenous Peoples should be adequately addressed during negotiation and in relevant documentation.

**GL39.** Designing a process to achieve the FPIC of Project-Affected Communities of Indigenous Peoples should, among other things, take account of the following:

- i. While the project environmental and social risks and impacts identification process typically defines the project area of influence, based on the risks and direct, indirect, and cumulative impacts, and identifies the population of Project-Affected Communities of Indigenous Peoples, in certain circumstances the decision-making bodies and the formal and informal leaders of the Project-Affected Communities of Indigenous Peoples may be located outside this area;
- ii. As with many communities, communities of Indigenous Peoples may be affected by issues related to governance, leadership, and representativeness. An appropriate assessment of these issues early in project design will inform the engagement and GFN process. Where administrative and traditional systems recognize different leaders, and/or where leadership is known to be highly politicized and/or only marginally representative of the affected population and/or where there are multiple groups representing different interests, FPIC should rely on identification, recognition and engagement of greater numbers or representativeness of stakeholder sub-groups;
- iii. The occurrence of conflict and other grievances —whether past or present—within the Project-Affected Communities of Indigenous Peoples or between the Project-Affected Communities of Indigenous Peoples and other stakeholders (e.g., non-Indigenous Peoples, companies, and/or the state) should be assessed in terms of the nature of the conflict, the different interest groups and the Project-Affected Communities' approaches to conflict management and resolution mechanisms;
- iv. The role, responsibilities, and participation of external stakeholders with vested interests in the outcome; and
- v. The possibility of unacceptable practices (e.g., bribery, corruption, harassment, violence, and coercion) by any of the interested stakeholders both within and outside the Project-Affected Communities of Indigenous Peoples.

**GL40.** The process of achieving the FPIC of Project-Affected Communities of Indigenous Peoples may require investment in building relevant institutions, decision-making processes, and the capacity of Project-Affected Communities of Indigenous Peoples. The investment in these results early in the project design could help establish a long-term partnership with the Project-Affected Communities of Indigenous Peoples. Borrowers should approach the achievement of FPIC from a development perspective that prioritizes the sustainability of development activities implemented with the Project-Affected Communities of Indigenous Peoples and, thus, dedicate sufficient resources (human and financial) and time to do so.

**GL41.** FPIC will be established through a process of GFN between the Borrower and Project-Affected Communities of Indigenous Peoples. Where the GFN process is successful, an agreement (in a format and content previously agreed) should document the specific commitments and the roles and responsibilities of both parties in meeting them. This may include: (i) agreed engagement and consultation process or use of an existing indigenous consultation protocol (including a grievance

mechanism); (ii) positive or negative environmental, social and cultural impacts (direct, indirect and cumulative) and risk and impact management (including land and resource management); (iii) compensation and disbursement framework or arrangements; (iv) employment and contracting opportunities; (v) governance and institutional arrangements; (vi) other commitments such as those pertaining to continued access to lands, contribution to development, etc.; and (vii) agreed implementation/delivery mechanisms to meet each party's commitments. The agreement between parties should include requirements to develop time-bound implementation plans such as an IPP or CDP. Examples of agreements include a memorandum of understanding, a letter of intent, and a joint statement of principles (also see GL42).

**GL42.** Agreements should have demonstrable support from the constituency defined through the E&S risks and impacts identification process (specifically the Stakeholder Engagement Plan) and with whom the process of engagement and GFN has occurred. However, to the extent that internal dissent exists despite the process of engagement and GFN, this dissent as well as why it is not an impediment for obtaining FPIC, should be properly documented. Documentation of the agreement should include evidence of support from the Project-Affected Communities of Indigenous Peoples. Where either the appropriate engagement process or agreement cannot be achieved, consideration should be given to third-party advice and mediation as described in GL29.

**GL43.** As noted in GL37, FPIC is usually provided at a single point in time; however, projects may elect to develop an agreement that involves commitments being delivered through periodic development plans covering defined project planning periods. The evolution of such agreements is project- and context-specific. Nonetheless it may be anticipated that such agreements will typically evolve from a focus on project risk and impact mitigation and development measures towards Indigenous Peoples'-managed development models supported by defined project contributions and/or benefit-sharing mechanisms.

**GL44.** Different types of documents, plans and agreements will typically be produced during the various phases of a project cycle. The environmental and social risks and impacts identification process as described in ESPS 1 should be seen as an ongoing, iterative process combining analytical and diagnostic work; stakeholder analysis and engagement; and the development and implementation of specific management and action plans with appropriate monitoring mechanisms. The overall guiding principle should be that while these documents may be prepared at any time during the project cycle, implementation action plans such as IPPs should be in place and mitigation measures taken prior to any direct, indirect and cumulative adverse impacts on Project-Affected Communities of Indigenous Peoples occurring. Key documents normally produced are:

- A framework document containing, among other things, the principles and requirements of engagement and GFN process, project design and implementation process as it relates to the Project-Affected Communities of Indigenous Peoples, and principles for obtaining FPIC where required (see below).
- A SCA

- An IPP, CDP or equivalent plan.
- An FPIC agreement reflecting the mutual consent to the process and proposed actions, by the Borrower and the Project-Affected Communities of Indigenous Peoples. This agreement may refer to and endorse a proposed IPP or similar action plan, but it may also establish that an IPP or similar action plan be developed or finalized subsequent to FPIC having been obtained.

## **CIRCUMSTANCES REQUIRING FREE, PRIOR AND INFORMED CONSENT**

### **Impacts on Lands and Natural Resources Subject to Traditional Ownership or Under Customary Use.**

- 16.** Indigenous Peoples are often closely tied to their lands and related natural resources.<sup>169</sup> Frequently, these lands are traditionally owned or under customary use.<sup>170</sup> While Indigenous Peoples may not possess legal title to these lands as defined by national law, their use of these lands, including seasonal or cyclical use, for their livelihoods, or cultural, ceremonial, and spiritual purposes that define their identity and community, can often be substantiated and documented.
- 17.** Where projects involve activities that contribute to or are contingent on establishing legally recognized rights to lands and territories that Indigenous Peoples have traditionally owned or customarily used or occupied, the Borrower will prepare a plan for the legal recognition of such ownership, occupation, or usage, with due respect to the customs, traditions, and land tenure systems of Indigenous Peoples. The objective of such plans will be the full legal recognition of existing customary land tenure systems of Indigenous Peoples. The Borrower will not pursue projects that entail individual titling in indigenous territories.

<sup>169</sup> Examples include marine and aquatic resources, timber, and non-timber forest products, medicinal plants, hunting and gathering grounds, and grazing and cropping areas. Natural resource assets, as referred to in this ESPS, are equivalent to provisioning ecosystem services as described in ESPS 6.

<sup>170</sup> The acquisition and/or leasing of lands with legal title is addressed in ESPS 5 - Land Acquisition and Involuntary Resettlement.

**18.** If the Borrower proposes to locate a project on, or develop natural resources on, lands traditionally owned by, or under the customary use of, Indigenous Peoples, and adverse impacts<sup>171</sup> can be expected, the Borrower will take the following steps:

- Document efforts to avoid and otherwise minimize the area of land proposed for the project.
- Document efforts to avoid and otherwise minimize impacts on natural resources and natural areas of importance<sup>172</sup> to Indigenous Peoples.
- Identify and review all property interests and traditional resource uses prior to purchasing or leasing land.
- Assess and document the Project-Affected Communities of Indigenous Peoples' resource use without prejudicing any Indigenous Peoples' land claim.<sup>173</sup> The assessment of land and natural resource use should be gender inclusive and specifically consider women's role in the management and use of these resources.
- Ensure that Project-Affected Communities of Indigenous Peoples are informed of their land rights under national law, including any national law recognizing customary use rights.
- Offer Project-Affected Communities of Indigenous Peoples compensation and due process in the case of development of their land, territories, and natural resources, together with culturally appropriate sustainable development opportunities, including:
  - Providing land-based compensation or compensation-in-kind in lieu of cash compensation where feasible.<sup>174</sup>
  - Ensuring continued access to natural resources, identifying the equivalent replacement resources, or, as a last option, providing compensation and identifying alternative livelihoods if project development results in the loss of access to and the loss of natural resources independent of project land acquisition.

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<sup>171</sup> Such adverse impacts may include impacts from loss of access to assets or resources or restrictions on land use resulting from project activities.

<sup>172</sup> "Natural resources and natural areas of importance" as referred to in this ESPS are equivalent to priority ecosystem services as defined in ESPS 6. They refer to those services over which the Borrower has direct management control or significant influence, and those services most likely to be sources of risk in terms of impacts on Project-Affected Communities of Indigenous Peoples.

<sup>173</sup> This ESPS requires substantiation and documentation of the use of such land. Borrowers should also be aware that the land may already be under alternative use, as designated by the government.

<sup>174</sup> Land compensation should be equivalent in quality, size, and legal status. If circumstances prevent the Borrower from offering suitable replacement land, the Borrower must provide verification that such is the case. Under such circumstances, the Borrower will provide non land-based income-earning opportunities over and above cash compensation to the Project-Affected Communities of Indigenous Peoples.

- Ensuring fair and equitable sharing of benefits associated with project usage of the resources where the Borrower intends to utilize natural resources that are central to the identity, culture, and livelihood of Project-Affected Communities of Indigenous Peoples and their use exacerbates livelihood risk.
- Providing Project-Affected Communities of Indigenous Peoples with access, usage, and transit on land it is developing subject to overriding health, safety, and security considerations.

**GL45.** If issues related to land and territory use are identified in the screening phase, the Borrower may engage competent experts to carry out the outlined assessment indicated in that paragraph with active participation of the Project-Affected Communities of Indigenous Peoples. The assessment should describe the Indigenous Peoples' traditional land, territory, and resource tenure system (both individual and collective or a combination of both) within the project's area of influence. The assessment should also identify and record all customary use of land and resources, including cultural, ceremonial, or spiritual use, and any ad hoc, seasonal or cyclical use of land and natural resources (for example, for hunting, fishing, grazing, or extraction of forest and woodland products), and any potential adverse impacts on such use. The assessment of land and natural resource use should consider climate change scenarios and be gender inclusive to specifically consider women's role in the management and use of these resources. Customary use of land and resources refers to patterns of long-standing community land and resource use in accordance with Indigenous Peoples' customary laws, values, customs, and traditions, including seasonal or cyclical use, rather than formal legal title to land and resources issued by the state. Cultural, ceremonial, and spiritual uses are an integral part of Indigenous Peoples' relationships to their lands and resources, are embedded within their unique knowledge and belief systems, and are key to their cultural integrity. Such uses may be intermittent, may take place in areas distant from settlements, and may not be site-specific. Any potential adverse impacts on such use must be documented and addressed within the context of these systems. Any information from the Borrower's assessment that identifies the existence of critical habitats and cultural resources consistent with ESPS 6 and 8 within the project area of influence will be relevant in the analysis and should be taken into account. Indigenous Peoples' claims to land and resources not legally owned or recognized under national law should also be documented as part of the assessment process. The Borrower should ensure that lack of documentation of land claims, or absence of land claims should not prejudice existing or future legal proceedings of Indigenous Peoples to establish legal title.

**GL46.** Projects that enhance the land tenure security of Indigenous Peoples can have significant positive impacts on their well-being. Land titling within a culturally appropriate process and an appropriate legal framework helps to protect Indigenous Peoples' land and resources from external encroachment and expropriation, constitutes a means for economic growth or self-subsistence, and legitimizes traditional and cultural ways of handling such territories under customary institutions and rules. Indigenous Peoples' organizations generally advocate collective titling of land because experience has shown that it leads to a higher likelihood of

cultural survival and avoids the risk of having individual titled lands ending in the hands of non-indigenous people by voluntary or forced means. The conversion of customary usage rights to individual ownership rights may also disturb the collective nature of Indigenous Peoples' communal ownership. It should also be considered that the process of legal recognition of Indigenous Peoples' ownership, occupation, or usage of land and natural resources is complex and may carry a number of risks. It may, for instance, lead to conflicts over land and resources among various local communities, or between local communities and outside interests. It may replace customary institutional arrangements with new rules or systems not attuned to the context of Indigenous Peoples' land and natural resource use practice.

**GL47.** The Borrower will not pursue projects that entail individual titling in indigenous territories. Nonetheless, it must be recognized that individual land titling may be permitted within some Indigenous Peoples territories and this should be included, along with their customary use, laws, and governance decision-making processes, as part of the E&S assessment of the project (particularly the SCA).

**GL48.** In line with the requirements outlined in paragraphs 25 and 26 of ESPS 7, the Borrower should work with the relevant national, regional and/or local governmental agency to facilitate the legal recognition of lands claimed or used by Project-Affected Communities of Indigenous Peoples in connection with land titling programs of the government. The Borrower can base this work on the customary land tenure information gathered during the assessment process and help the Project-Affected Communities of Indigenous Peoples to pursue land titles if the Indigenous Peoples so request and participate in such programs.

**GL49.** The priority objective of the assessment process is to identify measures to avoid adverse impacts on these lands and resources, and Indigenous Peoples usage of them. Where avoidance is not feasible, mitigation, and/or compensation measures should be developed to ensure the availability of, and access to, the land and natural resources necessary for the livelihoods and cultural survival of the Project-Affected Communities of Indigenous Peoples. Land-based compensation should be preferred, provided that suitable land is available, and that the overall compensation is equivalent in the quality, size, and legal status of the replacement land. In some cases, land under Indigenous Peoples' claim may already be designated by a government agency for alternate uses, which may include nature reserves, mining concession areas, or as individual parcels by users who have obtained title to the land. The Borrower should seek to involve such government agencies in any consultation and negotiation with the Project-Affected Communities of Indigenous Peoples.

## Relocation of Indigenous Peoples from Lands and Natural Resources Subject to Traditional Ownership or Under Customary Use

- 19.** The Borrower will consider feasible alternative project designs to avoid the relocation of Indigenous Peoples from communally held<sup>175</sup> lands and natural resources subject to traditional ownership or under customary use. If such relocation is unavoidable, the Borrower will not proceed with the project unless (i) the resettlement component will result in direct benefits to the affected community relative to their prior situation; (ii) customary rights will be fully recognized and fairly compensated; (iii) compensation options will include land-based resettlement; and (iv) FPIC has been obtained as described above. Any relocation of Indigenous Peoples will meet the requirements of ESPS 5. Where feasible, the relocated Indigenous Peoples should be able to return to their traditional or customary lands, should the cause of their relocation cease to exist.

**GL50.** Because physical relocation of Indigenous Peoples is particularly complex and may have significant and irreversible adverse impacts on their cultural survival, the Borrower is expected to make every effort to explore feasible alternative project designs to avoid any physical relocation of Project-Affected Communities of Indigenous Peoples from their communally held traditional lands or customary lands under use. The potential relocation may result from the project's acquisition of land, or through restrictions or alterations on land use or resources such as when communally held traditional lands or customary lands under use by Indigenous Peoples are designated by the relevant government agency for another use in conjunction with the proposed project, such as establishment of protected areas for resource conservation purposes. Any physical relocation should only be considered after the Borrower has established that there is no feasible alternative to relocation and the Borrower has secured the FPIC of the Project-Affected Communities of Indigenous Peoples. In addition, the Borrower will not proceed with the project unless the resettlement component will result in direct benefits to Project-Affected Communities of Indigenous Peoples compared to previous situation; customary rights will be fully recognized and compensated; and compensation options will include land-based resettlement.

**GL51.** In case the Borrower has carried out the resettlement of Indigenous Peoples, the Borrower should demonstrate that it meets all relevant ESPS 7 requirements, including the FPIC process. Borrowers should address gaps in process and outcomes where these are identified, per the information in GL 68-70.

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<sup>175</sup> Typically, Indigenous Peoples claim rights and access to and use of land and resources through traditional or customary systems, many of which entail communal property rights. These traditional claims to land and resources may not be recognized under national laws. Where members of the Project-Affected Communities of Indigenous Peoples individually hold legal title, or where the relevant national law recognizes customary rights for individuals, the requirements of ESPS 5 will apply, rather than the requirements under paragraph 17 of this ESPS.

**GL52.** Upon conclusion of the FPIC process providing for the relocation of Project-Affected Communities of Indigenous Peoples, the Borrower will prepare a Resettlement Action Plan/Livelihood Restoration Plan consistent with the conclusion of the negotiation and in accordance with paragraphs 19–24 and 25–29 of ESPS 5. The Borrower should be guided by paragraph 9 of ESPS 5 with regards to the level of compensation for land. Such a plan should include a provision to allow the Project-Affected Communities of Indigenous Peoples, where possible and feasible, to return to their lands when the reasons for their relocation cease to exist.

**GL53.** Requirements under paragraph 19 of ESPS 7 are intended for situations where traditionally owned lands or customary usage of resources are held and used by Indigenous Peoples communally. In these cases, para. 19 establishes requirements (i)-(iv) in addition to those of ESPS 5. When ownership or usage rights are individually recognized (for example, when individual members of the Project-Affected Communities of Indigenous Peoples hold legal title, or when individuals hold customary rights recognized by relevant national law) the requirements of ESPS 5 will also apply, and these communally based requirements will apply to the extent that the community considers the lands to be community/ancestral lands. That is, the Borrower should be aware that the decision of relevant individuals to cede title and to relocate may still be subject to a community-based decision-making process, as these lands may not be considered private property but ancestral lands.

## Cultural Heritage

- 20.** Where a project may significantly impact cultural heritage<sup>176</sup> that is essential to the identity and/or cultural, ceremonial, or spiritual aspects of Indigenous Peoples lives, priority will be given to the avoidance of such impacts. Where significant project impacts on cultural heritage are unavoidable, the Borrower will obtain the FPIC of the Project-Affected Communities of Indigenous Peoples.
- 21.** Where a project proposes to use the cultural heritage including knowledge, innovations, or practices of Indigenous Peoples for commercial purposes, the Borrower will inform the Project-Affected Communities of Indigenous Peoples of (i) their rights under national law, (ii) the scope and nature of the proposed project, and (iii) the potential consequences of such development, and will obtain their FPIC. The Borrower will also ensure fair and equitable sharing of benefits from the commercialization of such knowledge, innovation, or practice, consistent with the customs and traditions of the Indigenous Peoples.

<sup>176</sup> Includes natural areas with cultural and/or spiritual value such as sacred groves, sacred bodies of water and waterways, sacred trees, and sacred rocks. Natural areas with cultural value are equivalent to priority ecosystem cultural services as defined in ESPS 6.

**GL54.** Knowledge, innovations, and practices of Indigenous Peoples are often referred to as traditional knowledge and include traditional cultural expressions. Such knowledge is referred to as intangible cultural heritage. Indigenous languages are key expressions of culture and play an important role in the preservation and transmission of culture. Further, knowledge, beliefs and practices of Indigenous Peoples often remain in use for sacred or ritual purposes and can be held secret by the community or designated members.

**GL55.** Commercial development of intangible cultural heritage is the subject of current international discussions, with international standards emerging slowly. Examples of commercial development include commercialization of traditional medicinal knowledge or other traditional or sacred techniques for processing plants, fibers, or metals, and the sale of traditional cultural expressions, such as art and music. In addition to obtaining FPIC and following the requirements of this ESPS and ESPS 8, Borrowers are to comply with applicable national laws and international conventions and agreements, if any, regarding their use of knowledge, innovation, or practices of Indigenous Peoples for commercial purposes. In addition to any other agreements reached, the Borrower will enable the relevant communities to continue to use the genetic materials for customary or ceremonial purposes, and food security.

**GL56.** Where a project proposes to exploit and develop intangible cultural heritage including knowledge, innovations, or practices of Indigenous Peoples, the Borrower should (i) investigate whether the indigenous cultural heritage is held individually or collectively prior to entering into any agreements with local indigenous holder(s) of the cultural heritage; (ii) obtain the informed consent of the indigenous cultural heritage holder(s) for its use; (iii) pursue intellectual property protection for knowledge holders; and (iv) share the benefits accruing from such use as appropriate with the Project-Affected Communities of Indigenous Peoples. The Borrower should use expert and unbiased information in seeking the FPIC of indigenous holders of cultural heritage, even if ownership of the item is in dispute. The Borrower should document the FPIC of the Project-Affected Communities of Indigenous Peoples for the proposed commercial development, in addition to any requirements pursuant to national law and emerging international practice. Where benefit sharing is envisioned, benefits should be determined on mutually agreed terms as part of the process of securing FPIC. Benefits may include, for example, development benefits in the form of employment, vocational training, and benefits pursuant to community development and similar programs as well as revenues from the making, marketing, and licensing of some forms of traditional cultural expression. Borrowers should be mindful of specific consent requirements under the relevant international conventions or national law, and may have to address identified gaps, if any.

**GL57.** Borrowers should be aware that use of indigenous names, photographs, and other items depicting them and the environment in which they live can be a sensitive issue for Indigenous Peoples. The Borrower should assess local norms and preferences and consult with the Project-Affected Communities of Indigenous Peoples before using such items even for such purposes as naming project sites or pieces of equipment.

**GL58.** Borrowers should refer to similar requirements and guidance available in ESPS 8 and its Guideline with respect to the cultural heritage of communities other than those of Indigenous Peoples.

## MITIGATION AND DEVELOPMENT BENEFITS

- 22.** The Borrower and the Project-Affected Communities of Indigenous Peoples will identify mitigation measures in alignment with the mitigation hierarchy described in ESPS 1 as well as opportunities for culturally appropriate and sustainable development benefits. The Borrower will ensure the timely and equitable delivery of agreed compensation measures to the Project-Affected Communities of Indigenous Peoples.
- 23.** The determination, delivery, and distribution of compensation and other benefit-sharing measures to the Project-Affected Communities of Indigenous Peoples will take account of the laws, institutions, and customs of these communities as well as their level of interaction with mainstream society. Eligibility for compensation can be either individually or collectively based, or a combination of both.<sup>177</sup> Where compensation occurs on a collective basis, mechanisms that promote the effective delivery and distribution of compensation to all eligible members of the group will be defined and implemented.
- 24.** Various factors including, but not limited to, the nature of the project, the project context, and the vulnerability of the Project-Affected Communities of Indigenous Peoples will determine how these communities should benefit from the project. Identified opportunities should aim to address the goals and preferences of the Indigenous Peoples, including improving their standard of living and livelihoods in a culturally appropriate manner, and to foster the long-term sustainability of the natural resources on which they depend.

**GL59.** Project-Affected Communities of Indigenous Peoples may comprise multiple groups and different social units (e.g., individuals, family/household, clans, tribes, etc.) within these groups. The project may impact upon the social units in different ways. For example, land take may affect all members' access to and use of land and resources while specifically impacting the land claims of only one clan, as well as any current use of resources. The SCA should form the basis of identifying affected groups and understanding the nature of specific risks and impacts (direct, indirect, and cumulative).

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<sup>177</sup> Where control of resources, assets, and decision making are predominantly collective in nature, efforts will be made to ensure that, where possible, benefits and compensation are collective and take account of intergenerational differences and needs.

**GL60.** Compensation may be collective, individual-based or a combination of both. The decision should be made according to Project-Affected Communities of Indigenous Peoples' customary law. For example, with regard to land and natural resources, eligible Indigenous Peoples may include community members with hereditary rights of resource ownership and management, members with use rights, and members currently utilizing the resource. The Borrower should therefore assess gender, other identities and intergenerational aspects, the inheritance practice of the Project-Affected Communities of Indigenous Peoples, including those that could have implications for the situation of vulnerability of a specific group (e.g., such as women in a patrilineal society). If there is conflict or different views between the customary law or cultural practices and the promotion of women's rights, additional resources to promote internal discussion to reach an agreement would be necessary. In any case, Indigenous Peoples' customary law and their own decision-making processes should be respected. Determination of eligibility and the appropriate structure and mechanisms for the delivery and management of compensation should take account of the results of the SCA; applicable local and national laws and international conventions; the laws, institutions, and customs of the Project-Affected Communities of Indigenous Peoples; the direct and indirect changes which the project will bring upon the Project-Affected Communities of Indigenous Peoples including changing relations with mainstream society; and international good practice.

## Mitigation and Compensation

**GL61.** The Borrower, together with the Project-Affected Communities of Indigenous Peoples, will design appropriate mitigation and compensation mechanisms that should include resilient measures, where appropriate, to address project-related adverse impacts. In certain circumstances the delivery of agreed mitigation and compensation may benefit from development of the capacity of the Project-Affected Communities of Indigenous Peoples so as to ensure the protection, sustainable management, and continued delivery of these benefits.

**GL62.** Where replacement land and resources are provided to the Project-Affected Communities of Indigenous Peoples, legally valid and secure forms of land tenure should be provided. Allocation of land titles should occur on an individual or a collective basis, based on results of the SCA; the laws, institutions, and customs of the Project-Affected Communities of Indigenous Peoples; and the direct, indirect and cumulative impacts that the project will bring upon the Project-Affected Communities of Indigenous Peoples, including changing relations with mainstream society.

**GL63.** Agreed mitigation and compensation mechanisms (and associated development interventions) should be documented in an agreement and delivered as an integrated program either through an IPP or a CDP. The latter may be more appropriate where Indigenous Peoples live alongside other affected groups who are not indigenous but share similar vulnerabilities and related livelihoods.

## Broader Development Opportunities

**GL64.** Depending on the project and context, the Borrower may catalyze and/or directly support the delivery of development programming to support the development of the Project-Affected Communities of Indigenous Peoples. The Borrower should identify existing development program(s) for Indigenous Peoples and coordinate with the relevant authorities and agencies to assess their suitability for the project context. While addressing project-related risks and adverse impacts is a requirement under ESPS 7, providing broader development opportunities is highly recommended, when appropriate and possible where opportunities exist. In large-scale projects, the Borrower may be able to offer a more comprehensive set of development benefits, as part of local or regional development plans, or effort to stimulate local enterprises and economy in a culturally appropriate manner. The Borrower may also look for opportunities to support existing programs tailored to deliver development benefits to Indigenous Peoples, such as intercultural and bilingual educational programs, intercultural maternal and child health and food security programs, income generation activities, including specific arrangements for indigenous entrepreneurship and micro-credit schemes, ethno-engineering for infrastructure projects, among others. In engaging with the Project-Affected Communities of Indigenous Peoples, it is recommended that the distinction between rights and entitlements related to mitigation of project-related adverse impacts on the one hand, and broader development opportunities on the other hand, be made clear, in order to avoid confusion and unreasonable expectations over what the Borrower is required to do and what may be provided additionally in terms of benefits. These development opportunities ought to articulate with the idea of well-being of each Project-Affected Community of Indigenous Peoples.

**GL65.** Such development programming may include: (i) supporting the development priorities of Indigenous Peoples through programs (such as community-driven development programs and locally managed social funds) developed by Indigenous Peoples in cooperation with other relevant stakeholders ; (ii) addressing the gender, other identities, and intergenerational issues that exist among many Indigenous Peoples, including the special needs of indigenous women, youth, and children; (iii) preparing participatory profiles of Indigenous Peoples to document their culture, demographic structure, gender identities and intergenerational relations and social organization, governance and institutions, social organization, land tenure and production systems, religious beliefs, and resource and land use patterns; (iv) strengthening the capacity of Indigenous Peoples' governance structure, communities and organizations to prepare, implement, monitor, and evaluate culturally appropriate interventions and well-being programs and interact with mainstream economy; (v) protecting indigenous knowledge, including by strengthening intellectual property rights; and (vi) facilitating partnerships among other government institutions, Indigenous Peoples organizations, CSOs, and the private sector to promote Indigenous Peoples' development programs.

**GL66.** The nature and scale of appropriate development opportunities will vary. It is important to identify, plan and implement culturally appropriate development programs in close consultation with Project-Affected Communities of Indigenous Peoples and with a highly participatory process that could lead to co-creation of the program’s interventions. Broader development interventions may be documented in community or regional development plans, as appropriate.

## **GOVERNMENT COORDINATION OF INDIGENOUS PEOPLES ISSUES**

- 25.** The Borrower will collaborate with all responsible government agencies to achieve outcomes that are consistent with the objectives of this ESPS.
- 26.** The Borrower will consider all documents and plans prepared by responsible government agencies in the process of identifying and implementing the relevant requirements of this ESPS. The Borrower may need to include (i) the plan, implementation, and documentation of the process of ICP and engagement and FPIC where relevant; (ii) a description of the government-provided entitlements of affected Indigenous Peoples; (iii) the measures proposed to bridge any gaps between such entitlements, and the requirements of this ESPS; and (iv) the financial and implementation responsibilities of the government agency and/or the Borrower.

**GL67.** The country’s legislation and regulations may define responsibilities for the management of Indigenous Peoples’ issues and, specifically, the management of adverse impacts on Project-Affected Communities of Indigenous Peoples. Some countries may have a designated Ministry of Indigenous Affairs, a government agency in charge of issues related to Indigenous Peoples, or have these functions and responsibilities assigned to several institutions. In addition, some countries may have established an Indigenous Peoples’ governance body that coordinates with the government (e.g., “*Consejo Nacional de Desarrollo Integral de los Pueblos Indígenas*” in Panama that represents the 12 indigenous governance structures). It is important to ensure the required ICP or FPIC is embedded in such coordination mechanisms already in place. Aspects of government legislation and regulations (at the national or local level) may be inconsistent with the requirements of ESPS 7 and thereby limit a Borrower’s scope to implement the required processes and achieve the intended outcomes of ESPS 7. In such circumstances Borrowers should seek ways to comply with the requirements and to achieve the objectives of ESPS 7, without contravening applicable laws. Borrowers should play an active role during the preparation, implementation and monitoring of the processes and should coordinate with the responsible government agencies those aspects of the processes that can be facilitated more efficiently by other agents, such as consultants or CSOs.



**GL68.** Under certain circumstances, a government agency or other authority may provide the project unoccupied land that is unencumbered by any current claims. If land clearance or preparation has occurred in anticipation of the project but not immediately preceding project implementation, the Borrower should make a determination as to whether the process of securing the land and any requisite resettlement has occurred in a manner consistent with the requirements the ESPs and if any corrective action is feasible to address gaps with ESPs requirements. Under such circumstances, the following factors should be considered: (i) the length of the intervening period between land acquisition and project implementation; (ii) the process, laws and actions by which the land acquisition and resettlement was carried out; (iii) the number of people affected and the significance of the impact of land acquisition; (iv) the relationship between the party that initiated the land acquisition and the Borrower; and (v) the current status and location of the people affected.

**GL69.** Where compensation procedures are not addressed under national or subnational laws or policy and/or do not meet the requirements of the ESPs, the Borrower should establish methods for determining and delivering adequate compensation to Project-Affected Communities of Indigenous Peoples, considering the requirements of ESPS 7 and ESPS 5 (where applicable). The Borrower should ensure that it has sufficient funds to provide the agreed level of compensations.

**GL70.** Where the responsible government agency enables the Borrower to participate or lead in the ongoing monitoring of project-affected people, the Borrower should design and carry out a program of monitoring with particular attention to those who are in a vulnerable situation and track their standard of living and effectiveness of compensation, resettlement assistance, and livelihood restoration. The Borrower and the responsible government agency should agree to an appropriate allocation of responsibilities with respect to completion audits and corrective actions.

GUIDELINES FOR ENVIRONMENTAL  
AND SOCIAL PERFORMANCE

# STANDARD 8: CULTURAL HERITAGE



8

## INTRODUCTION

1. Environmental and Social Performance Standard (ESPS) 8 recognizes the importance of cultural heritage for current and future generations. Consistent with the Convention Concerning the Protection of the World Cultural and Natural Heritage, this ESPS aims to ensure that Borrowers protect cultural heritage in the course of their project activities. In addition, the requirements of this ESPS with respect to a project's use of cultural heritage are based in part on standards set by the Convention on Biological Diversity.

## OBJECTIVES

- To protect cultural heritage from the adverse impacts of project activities and support its preservation.
- To promote the equitable sharing of benefits from the use of cultural heritage.

**GL1.** The objectives of Environmental and Social Performance Standard 8 aim to preserve and protect cultural heritage by avoiding, reducing, and restoring, whenever possible, and in some cases compensating for the adverse impacts that the Borrower's projects might cause to cultural heritage. Cultural heritage includes a range of resources, tangible and intangible, that may be of varying scale and complexities. The importance of cultural heritage is generally defined by the significance ascribed to it by those who value it and not solely by its size or its complexity. Cultural heritage can be impacted by projects in a variety of ways, either directly or indirectly. In addition, many cultural heritage resources are unique and cannot be replaced when lost or damaged. Projects may also have positive indirect impacts on cultural heritage such as promoting awareness of and appreciation for cultural heritage. Projects may also offer an opportunity to enhance and/or bolster cultural identity in local communities, generate and preserve knowledge to be passed on to younger generations, and/or revitalize ancient or traditional practices that can bring social cohesion, unity, and national prestige or pride.

**GL2.** When a project proposes to use a community's cultural heritage, ESPS 8 requirements seek to ensure that any development benefits accruing from its commercial use flow equitably to project-affected people. The reference to paragraph 1 of the Convention on Biological Diversity relates to the *Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefit Arising from their Utilization* which seeks to promote equitable sharing of the benefits of genetic material arising out of their use.

## SCOPE OF APPLICATION

2. The applicability of this ESPS is established during the environmental and social risks and impacts identification process. Implementation of the actions necessary to meet the requirements of this ESPS is managed through the Borrower's Environmental and Social Management System (ESMS), the elements of which are outlined in ESPS 1. During the project life cycle, the Borrower will consider project risks and impacts to cultural heritage and will apply the provisions of this ESPS.
3. For the purposes of this ESPS, cultural heritage refers to (i) tangible forms of cultural heritage, such as tangible moveable or immovable objects, property, sites, structures, or groups of structures, having archaeological, paleontological, historical, cultural, artistic, and religious value; (ii) unique natural features or tangible objects that embody cultural values, such as sacred groves, rocks, lakes, and waterfalls; and (iii) certain instances of intangible forms of culture that are proposed to be used for commercial purposes, such as cultural knowledge, innovations, and practices of communities embodying traditional lifestyles.
4. Requirements with respect to tangible forms of cultural heritage are contained in paragraphs 6–16. For requirements with respect to specific instances of intangible forms of cultural heritage described in paragraph 3 (iii), see paragraph 16.
5. The requirements of this ESPS apply to cultural heritage regardless of whether or not it has been legally protected or previously disturbed. ESPS 7 sets out additional requirements for cultural heritage in the context of Indigenous Peoples.

**GL3.** Cultural heritage refers to resources that have archaeological, paleontological, historical, cultural, artistic, spiritual or religious value. Cultural heritage can be tangible or intangible, and tangible cultural heritage can be movable or immovable. Movable cultural heritage consists of objects with intrinsic value, such as archaeological and historic artifacts, works of art, and religious objects, among others. Immovable cultural heritage consists of places with the requisite value, including landscapes, sites, structures, and features.

**GL4.** Tangible cultural heritage is considered a unique and often non-renewable resource that possesses cultural, scientific, historical, spiritual, or religious value and includes moveable and immovable objects, sites, structures, groups of structures, natural features, or landscapes that have archaeological, paleontological, historical, architectural, spiritual, religious, aesthetic, or other cultural value. Tangible heritage resources, when registered and protected under national heritage laws, are often referred to as physical historical/ancient sites and monuments, but this term may apply to any type of tangible cultural heritage including those undiscovered that are located above or below ground or water, and places that are part of a popular tradition or local folklore (e.g., a roadside shrine, graveyard or cemetery).

**GL5.** The value of tangible cultural heritage often derives from its uniqueness and/or non-renewability. For example, a historic painting may be of high value because it is one of a kind, whereas a historic coin may be of less value because many were produced and perhaps still exist. The four principal types of immovable cultural heritage are archaeological sites, historic structures, living heritage, and cultural landscapes or historic districts. Archaeological sites, which can be terrestrial or underwater, are the material remains of past human activities. Terrestrial archaeological sites include, but are not limited to, the remains of human settlements, concentrations of artifacts such as pottery sherds and stone tools, and human burials. Terrestrial archaeological sites can be on the surface, buried beneath the surface, or both. Underwater archaeological sites include, among other things, shipwrecks and terrestrial archaeological sites along the coast that have been inundated by sea level rise. Historic structures are old but still fully or partially standing buildings, houses, churches, bridges, or other man-made structures. Living heritage consists of sites, structures and natural landscape features of cultural and/or religious value that are part of a living cultural tradition (i.e., they are still in use by local communities); archaeological sites and historic structures often qualify as living heritage. Examples of living heritage common in Latin America and the Caribbean include family or community cemeteries, churches, shrines, and sacred sites. Immovable heritage often is found in some combination of features and sites, where the combination of these features and sites is greater than the sum of its parts. These cultural landscapes or historic districts often contain some combination of the other three principal types of tangible heritage and elements of intangible heritage.

**GL6.** Cultural heritage can exist within a Project's area of influence irrespective of whether there are relevant national laws that apply to potential resources. In addition, a potential resource should be considered as cultural heritage if it has been so identified by projected-affected people (living heritage), even if it has not been identified by national authorities or members of society. This is especially true for cultural heritage so identified by Indigenous People or a community or ethnic/racial group that has identified cultural heritage outside of the national normative framework.

**GL7.** The 2003 UNESCO *Convention for the Safeguarding of the Intangible Cultural Heritage* defines intangible cultural heritage as the means, the practices, representations, expressions, knowledge, skills – as well as the instruments, objects, artefacts and cultural spaces associated with them – that communities, groups and, in some cases, individuals recognize as part of their cultural heritage. Intangible Cultural Heritage may also be protected by international agreements and/or national laws. Many tangible cultural heritage resources have intangible cultural heritage associations that can be of unique significance to a range of stakeholders.

**GL8.** Cultural heritage often plays a key role in the lives and activities of local communities, including communities that migrate. Integration of cultural heritage preservation and protection into a project's risk and impact assessment process and environmental and social management system (ESMS) is essential and should be considered at the earliest stage of project preparation. Examples of significant damage to tangible cultural heritage from project activities include removal or damage of all or a portion of a site from ground-disturbing activities (e.g., dynamite

blasting) that results in a loss of cultural and/or scientific value; reparable or irreparable structural damage to a built structure; temporary or permanent change in a site's setting that impacts the site's perceived value to stakeholders; and temporary or permanent loss of access to a site by traditional users or researchers. Some project activities may also impact cultural heritage in less direct ways, such as increased erosion to a coastal site, or building a road into a previously inaccessible area. Impacts on the natural environment and/or social systems that may affect the sustainability of cultural heritage often require special attention. Impacts on biodiversity or ecosystem services may affect cultural resources such as sacred sites (e.g., *huacas*) or cultural landscapes. Impacts on social systems might include impacts on religious or community activities, or ecosystem services, where they overlap with tangible or intangible cultural heritage. The Borrower should assess these possible impacts and address them through appropriate mitigation and management measures.

**GL9.** The screening and scoping phases of the environmental and social risks and impacts identification process should evaluate the extent and complexity of cultural heritage risks and potential impacts in the project's area of influence (see paragraph 9 of ESPS 1). This generally requires research and stakeholder engagement into the presence/absence and nature of cultural heritage known to exist in the region, as well as an assessment of the project activities that have the potential to impact this cultural heritage. If the screening and scoping indicates risks and potential adverse impacts on cultural heritage resources, further analysis will be necessary to ascertain the nature and scale of these risks and potential impacts and determine appropriate mitigation measures. The breadth, depth, and type of analysis should be proportionate to the nature and scale of the identified risks and impacts.

**GL10.** As per paragraph 8 of ESPS 1, the *"risks and impacts identification process will be based on recent environmental and social baseline data at an appropriate level of detail."* When deemed necessary, the integration of a cultural heritage assessment into the project's environmental and social risk and impact identification process should include an adequate pre-project cultural heritage baseline study and information gathering process, which can be field- or desk-based, depending on the nature of the project risks and impacts and likely presence of known or unknown cultural heritage.

**GL11.** Comprehensive baseline data generally requires a cultural heritage survey of the project area and the project's area of influence. The nature of the survey should comply with national and local cultural heritage laws and regulations. If no such laws and regulations exist, it should be based on the relevant characteristics within the project's area of influence, including geomorphology, as determined by a cultural heritage professional. For example, archaeological sites can often be identified by a simple pedestrian survey or through satellite imagery in deflated or minimally vegetated areas (e.g., windswept plains, steep slopes) but may require subsurface test excavations to determine the presence and spatial distribution of archaeological materials in areas with significant recent geological deposits (e.g., floodplains) or significant vegetative cover. Urban areas may require a survey for historic structures, whereas greenfield projects with no recognizable standing structures likely do not. Living heritage should be identified through engagement with stakeholders and communities (see ESPS 10).

Competent cultural heritage professionals should be retained to carry out cultural heritage baseline surveys. These professionals should be licensed and permitted to conduct the surveys in those countries and regions that have a licensing and/or a permitting process. For those that do not, the cultural heritage professionals should have education and professional experience in anthropology, archaeology, architecture, history, or another closely related field, and should have demonstrated experience with the local cultural context.

**GL12.** The assessment should address risks and potential adverse impacts to cultural heritage. When possible, opportunities for the enhancement of cultural heritage should be highlighted in the assessment process. For projects where impacts and risks on cultural heritage are deemed a significant issue, a focused Cultural Heritage Impact Assessment (CHIA) may be necessary even if a full-scale Environmental and Social Impact Assessment (ESIA) is not required. In other cases, the consideration of cultural heritage impacts should be fully integrated into the ESIA or part of a sociocultural analysis (SCA), particularly if the project site is located on or close to Indigenous People’s land or the area has had a previous history of cultural significance, as evidenced by engagement of potentially affected communities or past findings. It should include an adequate cultural heritage baseline study and information gathering process. The CHIA should document risks, potential impacts, mitigation and management measures and residual impacts. The mitigation and management measures should be incorporated into the project’s ESMS in accordance with requirements of ESPS 1.

**GL13.** Depending on the project location—for example a disturbed location with a unique or sensitive ethno-history and/or a location with a history of previous discoveries of cultural material—it may be possible to forego a pre-construction baseline study and to plan to undertake physical site tests (e.g., pit tests or similar), conduct an archaeological monitoring or a watching brief, and/or develop a chance find procedure to properly identify and protect cultural finds made during a project’s construction and/or operation phases. A chance find is the discovery of cultural remains of archaeological, historical or paleontological nature during project construction. Isolated artifacts or sparse cultural material may be of limited archaeological interest or value, but it could indicate the presence of a significant site or building. More information related to a chance find procedure is found in GL25.

**GL14.** Data collection and other assessment studies should be undertaken to avoid, minimize, and mitigate potential impacts to cultural heritage resources. Sites containing cultural heritage should not be excavated or otherwise disturbed unnecessarily. Where possible and determined by the cultural heritage authority or the expert engaged in its assessment, ancient heritage structures or monuments should be left undisturbed. However, there may be cases where its adequate protection and preservation may require archeological research and exploration, particularly in sites at risk of significant deterioration. If excavation during the construction of a development project cannot be avoided, competent cultural heritage professionals, as defined under GL10, should carry out field work or other activities, such as rescue and recovery excavations, in compliance with national and local cultural heritage laws and regulations, and in accordance with internationally recognized good practices.

**GL15.** ESPS 8 applies to tangible cultural heritage that is known or undiscovered. Cultural heritage in rural communities, in urban contexts, and the cultural heritage associated with marginalized and vulnerable communities often will not have been identified and recorded by relevant national authorities. Determining whether there is cultural heritage within a project's area of influence will often require field-based surveys combined with engagement with local communities to understand the types and locations of cultural heritage resources that may be impacted. ESPS 10 - *Stakeholder Engagement and Information Disclosure* defines the general requirements for stakeholder engagement and information disclosure. Stakeholder outreach and engagement related to the identification of cultural heritage should include national and local heritage authorities, practitioners and academic researchers, local communities, Indigenous Peoples who maintain a relationship with the area of influence regardless of their continued physical presence there, and/or marginalized and vulnerable communities, and international cultural heritage stewards, such as the UNESCO World Heritage Centre, when appropriate.

**GL16.** When in doubt about whether a resource is cultural heritage, the Borrower should seek the knowledge and advice of local and/or international experts, government authorities, and members of local communities early in project planning. The knowledge of local communities is crucial for identifying living heritage and/or other types of intangible cultural heritage, which may not be physically evident or known to those less familiar with the local area.

**GL17.** Determining whether knowledge, innovations, or practices considered for commercial value are the intangible cultural heritage of a community requires tracing that knowledge back to the communities of origin. Good international practice now expects people developing products with origins in the natural environment to know where the intellectual property originates (see GL49). Borrowers should review UNESCO's Lists of Intangible Cultural Heritage and relevant national legislation related to intangible cultural heritage during early project planning.

**GL18.** ESPS 8 applies to tangible cultural heritage that has been disturbed or is undisturbed. The Borrower may need to undertake measures for the protection of already-disturbed cultural heritage that are different from measures for the protection of undamaged or marginally damaged cultural heritage. Many types of tangible cultural heritage cannot be put back once they have been disturbed, but they may still be valued and have importance to members of local communities in their current location. More guidance on the management of impacts on tangible cultural heritage is provided in GL33-GL41.

**GL19.** Where the cultural heritage of Indigenous Peoples is being impacted or used for development and commercial purposes, ESPS 7 - *Indigenous Peoples* and its associated Guideline applies. Cultural heritage associated with other traditional communities of African Descendants and other vulnerable groups should also be considered in accordance with the requirements of ESPS 1, as well as ESPS 4 - *Community Health, Safety and Security* and ESPS 5 - *Land Acquisition and Involuntary Resettlement*.

## REQUIREMENTS

### Protection of Cultural Heritage in Project Design and Execution

6. In addition to complying with applicable laws on the protection of cultural heritage, including the national law implementing the host country's obligations under the Convention Concerning the Protection of the World Cultural and Natural Heritage, the Borrower will identify and protect cultural heritage by ensuring that internationally recognized practices for the protection, field-based study, and documentation of cultural heritage are implemented.
7. Where the risk and impact identification process determines that there is a chance of impacts to cultural heritage, the Borrower will retain competent professionals to assist in the identification and protection of cultural heritage. The removal of nonreplicable cultural heritage is subject to the additional requirements of paragraph 10 below. In the case of critical cultural heritage, the requirements of paragraphs 13–15 will apply.

**GL20.** While Borrowers may be in compliance with applicable national law, they should assess the cultural heritage risks associated with a project that might not comply with a host country's obligations under an international convention that the host country has signed but not yet ratified. For example, a country may have made a commitment to meet the terms of a convention, but those obligations may not have yet been implemented within specific national heritage laws.

**GL21.** The Borrower should apply internationally recognized practices to site surveys, excavation, preservation, protection, and publication, in addition to complying with national law. An internationally recognized practice is defined as the exercise of professional skill, knowledge, diligence, prudence, and foresight that would reasonably be expected from experienced professionals engaged in the same type of undertaking under the same or similar circumstances regionally or globally. When the Borrower is in doubt on what constitutes internationally recognized practice, international peer reviewers can provide guidance.

**GL22.** It should be recognized, however, that the value placed on different types of cultural heritage varies by country and region. For example, some communities place a higher value on archaeological sites and material culture, whereas others place a higher value on living heritage or historic urban architecture. In addition, the methodology considered appropriate for cultural heritage investigations and salvage or rescue excavation also varies by region. For example, some countries place a higher value on broad-scale excavation to evaluate and recover data to mitigate impacts to archaeological sites, whereas other countries place a higher value on intensive excavation, data recovery, and laboratory analyses as part of site sampling (i.e., excavating a smaller portion of a site). While some of these differences may be encapsulated in legal requirements, others may be norms that are not explicitly expressed in laws and regulations. When applying standards that exceed legal requirements and local standards,

Borrowers should be careful not to impose values that are foreign to the community in which the project is located without a review of local values and norms. International cultural heritage specialists retained by the Borrower should therefore be familiar with national and local cultural heritage values and practices as well as laws and regulations.

**GL23.** Paragraph 21 of ESPS 1 states that *“The process of identification and monitoring of risks and impacts will consist of an adequate, accurate, and objective evaluation and presentation, prepared by competent professionals. For projects posing potentially significant adverse impacts or where technically complex issues are involved, Borrowers may be required to involve external experts to assist in the risks and impacts identification and monitoring processes throughout the project’s lifecycle.”* This requirement is particularly important for issues related to cultural heritage because they often require a very specialized level of knowledge of the project area and the subject matter. Relevant expertise in the social and natural sciences, including ethno-historians, palaeontologists, cultural anthropologists or geologists, and project-affected Indigenous Peoples may be required to complete complex cultural heritage studies and assessments.

**GL24.** The findings of a cultural heritage assessment may be presented as part of the ESIA or other appropriate environmental and social assessment instrument as described in ESPS 1, or as part of a SCA, or as a standalone CHIA. Further guidance on the content of the cultural heritage components of an ESIA or the content of a standalone CHIA can be found at <https://www.iadb.org/en/mpas/guidelines>. The findings may also require development and implementation of a Cultural Heritage Management Plan (CHMP). The main components of a CHMP often include a Cultural Heritage Monitoring Program, a Chance Find Procedure (see GL25), a Cultural Heritage Training Program, and a Site Protection Program. Guidance on the content of a CHMP can be found at <https://www.iadb.org/en/mpas/guidelines>.

## Chance Find Procedures

- 8.** The Borrower is responsible for siting and designing a project to avoid significant adverse impacts to cultural heritage. The environmental and social risks and impacts identification process should determine whether the proposed location of a project is in areas where cultural heritage is expected to be found during construction or operations. In such cases, as part of the Borrower’s ESMS, the Borrower will develop provisions for managing chance finds<sup>178</sup> through a chance find procedure<sup>179</sup> which will be applied in the event that cultural heritage is subsequently discovered. The Borrower will not disturb any chance find further until an assessment by competent professionals is made and actions consistent with the requirements of this ESPS are identified.

<sup>178</sup> Tangible cultural heritage encountered unexpectedly during project construction or operation.

<sup>179</sup> A chance find procedure is a project-specific procedure that outlines the actions to be taken if previously unknown cultural heritage is encountered.

**GL25.** A chance finds procedure outlines what will happen if previously unknown cultural material or resources, particularly of archaeological, historical or paleontological interest, are encountered during project construction, operation, or decommissioning. The chance find procedure is an important component of a project specific CHMP. In certain cases, a chance find procedure will be the only required outcome of the cultural heritage component of an impact assessment or CHIA. A chance find procedure is not intended to be a substitute for an archaeological survey. In some instances, it is one component of several measures that are defined within a set of project commitments and/or in a CHMP. The procedure can also apply if previously known cultural heritage is impacted during project construction, operation, or decommissioning, in instances where the impacts were not anticipated during the development of a CHMP. For example, archaeological resources associated with an archaeological site may be encountered during ground-disturbing activities conducted just outside of the area defined to be that site during baseline archaeological surveys.

**GL26.** The procedure should include record keeping and expert verification procedures, chain of custody instructions for movable finds, and clear criteria for potential temporary work stoppages that could be required for rapid management of issues related to the discovery. It is important that this procedure outlines the roles and responsibilities and the response times required from both project staff and any relevant project executing agency and/or heritage authority, as well as any agreed consultation procedures. This procedure should be incorporated in the management programs and implemented through the Borrower's ESMS. As with cultural heritage identified during the environmental and social assessment process, consideration should be given, when feasible, to alternative siting or design of the project, to avoid significant adverse impacts to cultural heritage. A suggested outline for a chance finds procedure can be found at <https://www.iadb.org/en/mpas/guidelines>.

## Consultation

- 9.** Where a project may affect cultural heritage, the Borrower will consult with the project-affected people who use, or have used within living memory, the cultural heritage for long-standing cultural purposes. The Borrower will consult with the project-affected people to identify cultural heritage of importance, and to incorporate into the Borrower's decision-making process the views of the project-affected people on such cultural heritage. Consultation will also involve the relevant national or local regulatory agencies that are entrusted with the protection of cultural heritage.

**GL27.** Since cultural heritage is not always documented or protected by law, in some national circumstances consultation is an important means of identifying it, documenting its presence and significance, assessing potential impacts, and exploring mitigation options. Requirements on the community engagement of project-affected people can be found in paragraphs 25 through 33 of ESPS1.

**GL28.** Among others, the following stakeholders may be relevant for consultation on cultural heritage issues:

- National and local governmental agencies in charge of protecting and managing cultural heritage, such as ministries of culture, archaeology, and history;
- Local, national and international academics interested in cultural heritage (e.g., anthropologists, archaeologists, architects, historians) and their institutions (e.g., national and local museums, cultural institutes, universities) and professional groups;
- National and local archives;
- Historical and traditional users and owners of cultural heritage;
- Traditional communities embodying traditional lifestyles;
- Indigenous Peoples, both in the direct area of influence and in surrounding areas;
- Civil society organizations (CSOs) concerned with cultural heritage or historical preservation, areas of environmental or scientific interest, project-affected people (including where appropriate instances for women to be consulted separately), and religious groups for whom the cultural heritage is traditionally sacred;
- International and regional organizations concerned with cultural heritage (e.g., UNESCO), including universities, academic centres, and associations;
- Private sector stakeholders, such as users of the cultural heritage (e.g., travel agencies, hotels and resorts).

**GL29.** These stakeholders should be identified as part of the stakeholder identification and analysis process, as set forth in ESPS 10, whereby the Borrower will identify and document the stakeholders and their respective concerns about project risks and potential impacts, mitigation measures, and benefits, and determine the most appropriate form of engagement.

**GL30.** The findings of the cultural heritage assessment should be publicly disclosed, in relevant local languages and in an accessible and culturally appropriate manner, in accordance with the requirements of ESPS 10, whether developed as a component of the ESIA as described in ESPS 1, or as an SCA as described in ESPS 7, or as a standalone CHIA, if one has been prepared. Exceptions to such disclosure, however, should be considered when the Borrower, in consultation with persons with relevant expertise and/or with the users or owners of the cultural heritage, as appropriate, determine that disclosure would compromise or jeopardize the safety or integrity of the cultural heritage involved and/or would endanger the source of information about the cultural heritage. In such cases, sensitive information (e.g., GPS coordinates of sites, maps, names of informants) may be omitted from the disclosure. Examples of circumstances where disclosure might compromise or jeopardize cultural heritage include when disclosed information might lead to new or increased looting of archaeological sites, or instances where the cultural or spiritual knowledge of indigenous or traditional communities should be protected against exploitation.



**GL31.** The Borrower should make special efforts to consult with Indigenous Peoples, including obtaining free, prior and informed consent, where required (see ESPS 7), and/or historical or traditional users or owners of tangible cultural heritage, especially inhabitants of the area impacted by a project within the host country, since the interests of these users or owners may be different than the desires expressed by experts, government officials and private sector entities. The Borrower should also be aware that some sacred sites or sites related to intangible cultural heritage may be used by communities not resident in the area and who may only visit periodically. The Borrower should provide early notification and engage with such groups regarding possible public use of, relocation of, or other adverse impacts on cultural heritage. The consultation process should actively seek to identify the concerns of these users or owners of tangible and/or intangible cultural heritage, and Borrowers should take these concerns into account in the way their project manages cultural heritage. Consultation and efforts to achieve an agreement should follow the requirements of ESPS 7 and ESPS 10.

## Community Access

- 10.** Where the Borrower's project site contains cultural heritage or prevents access to previously accessible cultural heritage sites being used by, or that have been used by, the project-affected people within living memory for long-standing cultural purposes, the Borrower will, based on consultations under paragraph 9, allow continued access to the cultural site or will provide an alternative access route, subject to overriding health, safety, and security considerations.

**GL32.** When a construction and/or operating site contains cultural heritage or prevents access to cultural heritage, the Borrower should offer continued access to project-affected people, subject to any overriding health, safety, and security concerns. When health, safety, or security is a consideration, alternatives to open access should be identified through active community consultations as early as possible in project planning. Alternatives may include alternative access routes, specifying dates and times when access will be provided, providing health and safety equipment and training for specified users of the site, or other measures that balance access with health, safety, and security measures. The agreements with project-affected people on access should be documented.

## Removal of Replicable Cultural Heritage

- 11.** Where the Borrower has encountered tangible cultural heritage that is replicable<sup>180</sup> and not critical, the Borrower will apply mitigation measures that favor avoidance. Where avoidance is not feasible, the Borrower will apply a mitigation hierarchy as follows:
- Minimize adverse impacts and implement restoration measures, in situ, that ensure maintenance of the value and functionality of the cultural heritage, including maintaining or restoring any ecosystem processes<sup>181</sup> needed to support it.
  - Where restoration in situ is not possible, restore the functionality of the cultural heritage, in a different location, including the ecosystem processes needed to support it.
  - The permanent removal of historical and archaeological artifacts and structures is carried out according to the principle of paragraphs 6 and 7 above.
  - Only where minimization of adverse impact and restoration to ensure maintenance of the value and functionality of the cultural heritage are demonstrably not feasible, and where the project-affected people are using the tangible cultural heritage for longstanding cultural purposes, compensate for loss of that tangible cultural heritage.

**GL33.** Replicable cultural heritage is generally of common classes and types, such that the loss of an example will not amount to a material loss to a nation's patrimony, to affected people, or to the scientific community. Examples might include common forms of prehistoric or historic activity areas, scatters of prehistoric artifacts without associated cultural features,

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<sup>180</sup> Replicable cultural heritage is defined as tangible forms of cultural heritage that can themselves be moved to another location or that can be replaced by a similar structure or natural features to which the cultural values can be transferred by appropriate measures. Archaeological or historical sites may be considered replicable where the particular eras and cultural values they represent are well represented by other sites and/ or structures.

<sup>181</sup> Consistent with requirements in ESPS 6 related to ecosystem services and conservation of biodiversity.

sites of historic industrial activity not known or of interest to the local community, common historic architectural buildings or structures in a rural context, or historic buildings or structures outside of a protected area in an urban context. Examples of cultural resources that might not be replicable include prehistoric or historic villages/settlements containing burials or features of interest to a local community group, sacred sites with archaeological features or standing buildings or structures exhibiting exemplary design or craftsmanship or located within a locally protected urban context (e.g., historic district).

**GL34.** When replicable cultural heritage is identified and it is determined that it could be adversely impacted by the project, the Borrower will apply the mitigation hierarchy. The preferred outcome is avoidance of adverse impacts. If avoidance is not feasible, the Borrower should develop measures to mitigate the adverse impacts. Potential mitigation measures include rescue or data recovery for archaeological sites or portions of them that require removal by ground-disturbing activities, intensive documentation of historic structures that require removal by demolition or significant alteration, and minimization, restoration, or relocation of living heritage that requires removal by ground-disturbing activities, demolition, or significant alteration, depending on the nature of the resource. The mitigation measure chosen must comply with national and local cultural heritage laws and regulations. If specific mitigation measures are not legally prescribed, the measures should be developed in consultation with relevant stakeholders and in accordance with good international practice.

**GL35.** Relevant stakeholders for archaeological sites include academic archaeologists, archaeological societies, Indigenous Peoples with relationships to the site regardless of their continued presence there and local communities, among others. Relevant stakeholders for historic structures include local preservation organizations, academic historians and architects, historic societies, and local communities. Relevant stakeholders for living heritage are generally project-affected people. If mitigation of adverse impacts is not feasible or sufficient to satisfy relevant stakeholders, the Borrowers should develop compensation measures in consultation with those stakeholders. It should be noted that no mitigation or compensation measures may be required for replicable cultural heritage, if such measures are not legally required and the replicable cultural heritage does not have significant value to relevant stakeholders, including affected communities.

**GL36.** If minimization of impacts and/or restoration in situ (in place) of cultural heritage resources is not possible, the Borrower can consider restoration at a different site. In considering minimization and restoration, the Borrower may engage international, national, and local expertise.

**GL37.** Considerations around relocation of physical cultural heritage must also involve relevant cultural heritage authorities. Considerations must also include Indigenous Peoples if the heritage site has been identified by them as associated with their cultural activities, even if the cultural heritage has not been categorized as critical. In identifying local expertise, the recommendations of project-affected people with respect to recognized cultural heritage

practitioners, such as community leaders, elders, priests, mediums, and traditional healers, should be given key consideration. In some instances, specific subsets of the community, such as women, should be consulted separately, if their perspectives have not been represented by community leaders, elders, or other sources of local expertise.

**GL38.** When mitigation is not feasible, the Borrower must provide a justification for that determination based on documented consultation and an independent competent expert's review of the circumstances, and only then can compensation be considered as a way to address the impact on tangible cultural heritage. Compensation should be given to relevant stakeholders, specifically project-affected people for living heritage after applying the mitigation hierarchy in paragraph 11.

## Removal of Non-Replicable Cultural Heritage

**12.** Most cultural heritage is best protected by preservation in its place, since removal is likely to result in irreparable damage or destruction of the cultural heritage. The Borrower will not remove any nonreplicable cultural heritage,<sup>182</sup> unless all the following conditions are met:

- There are no technically or financially feasible alternatives to removal.
- The overall benefits of the project conclusively outweigh the anticipated cultural heritage loss from removal.
- Any removal of cultural heritage is conducted using the best available technique.

**GL39.** Non-replicable cultural heritage should be protected by preservation in place (i.e., avoidance of disturbances), since its removal may result in irreparable loss of value to stakeholders. Examples of nonreplicable cultural heritage include an archaeological site, sacred site or historic structure unique for the time period that it represents, or components of a complex of individual archaeological sites or historic structures that reflect a unified theme, such as a cultural landscape, or an urban historic district, or exceptional design or craftsmanship. Borrowers should utilize the same mitigation hierarchy as described in GL33. The most significant difference is that adverse impacts must be mitigated for non-replicable cultural heritage.

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<sup>182</sup> Nonreplicable cultural heritage may relate to the social, economic, cultural, environmental, and climatic conditions of past peoples, their evolving ecologies, adaptive strategies, and early forms of environmental management, where the (i) cultural heritage is unique or relatively unique for the period it represents, or (ii) cultural heritage is unique or relatively unique in linking several periods in the same site.

**GL40.** Removal of non-replicable heritage can be considered if the conditions of paragraph 12 of ESPS 8 are met, and the removal is recommended by a qualified technical expert. Where avoidance is not feasible, no alternatives to removal exist, and the project benefits outweigh the loss of cultural heritage, the Borrower must remove the cultural heritage in compliance with national and local cultural heritage laws and regulations. Examples of moving heritage include the physical relocation of a building or structure, from its original location to a site where it may be properly conserved and managed. In the absence of legal requirements, cultural heritage should be removed according to the best available technique. Best available technique is required because the removal of the non-replicable cultural heritage effectively means the resource's loss of integrity and/or value. The best available technique proposed by the Borrower, or its expert will benefit from a peer review by external national and international experts to ensure that no better, feasible techniques are available. In addition, removal of living heritage should be conducted in consultation with the communities that own/use the cultural heritage, if applicable, as provided in paragraph 9 of ESPS 8. In the case that the resource is owned/used by Indigenous Peoples, Free, Prior and Informed Consent will be required in accordance with ESPS 7.

**GL41.** Loss of non-replicable tangible cultural heritage is a loss of a public good, not just for the present generation, but for future generations as well. Thus, consideration of project benefits, for the purpose of ESPS 8, should focus on the public benefits of the project, particularly for those who may have immediate ties to the heritage. The analysis should also look at whether those benefits are sustainable beyond the life of the project. Any lost benefits that would otherwise arise from commercial or other use of the site based on its existing cultural heritage should also be considered. Additional consideration should be given to whether a complex of individual archeological sites, or historic structures (e.g., historic districts) or heritage sites that are part of a cultural landscape, is sustainable and the degree to which its value would be diminished if individual components are removed.

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## Critical Cultural Heritage

- 13.** Critical cultural heritage consists of one or both of the following types of cultural heritage: (i) the internationally recognized heritage of communities who use, or have used within living memory the cultural heritage for long-standing cultural purposes; or (ii) legally protected cultural heritage areas,<sup>183</sup> including those proposed by the government for such designation.

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<sup>183</sup> Examples include world heritage sites and nationally protected areas.

14. The Borrower should not remove, significantly alter, or damage critical cultural heritage. In exceptional circumstances when impacts on critical cultural heritage are unavoidable, the Borrower will use a process of ICP of the project-affected people as described in ESPS 1 and which uses a good faith negotiation process that results in a documented outcome. The Borrower will retain external experts to assist in the assessment and protection of critical cultural heritage.
15. Legally protected cultural heritage areas are important for the protection and conservation of cultural heritage, and additional measures are needed for any projects that would be permitted under the applicable national law in these areas. In circumstances where a proposed project is located within a legally protected area or a legally defined buffer zone, the Borrower, in addition to the requirements for critical cultural heritage cited in paragraph 14 above, will meet the following requirements:
  - Comply with defined national or local cultural heritage regulations or the protected area management plans.
  - Consult the protected area sponsors and managers, local communities, and other stakeholders on the proposed project.
  - Implement additional programs, as appropriate, to promote and enhance the conservation aims of the protected area.

**GL42.** The Borrower should not remove, alter, or damage critical cultural heritage. If it appears that a project may impact critical cultural heritage, the Borrower may proceed with such activities only after a negotiation with and a documented process of informed participation with the relevant stakeholders, including project-affected people. Examples of relevant stakeholders include the United Nations Educational, Scientific and Cultural Organization (UNESCO) for sites on their World Heritage List, the national and/or agency responsible for protecting and managing the site in question and/or cultural heritage in general, academic institutions and communities, relevant tourist groups and businesses, and local communities, especially for living heritage. Good faith negotiation generally involves for each party: (i) willingness to engage in a process and availability to meet at reasonable times and frequency in ways acceptable to all parties; (ii) provision of all information necessary for informed negotiation; (iii) exploration of key issues of importance; (iv) willingness to change initial position and modify offers where possible; and (v) the parties agree to deal with each other honestly and fairly.

**GL43.** The Borrower must document (i) the mutually accepted process with the relevant stakeholders, especially project-affected people, and (ii) evidence of agreement between the parties as the outcome of the negotiations. This requires agreement by the appropriate decision-making body of the project-affected people. The appropriate decision-making body will be identified through a socio-cultural analysis performed by an external expert and the decision-making body will be seen by the majority as both their legitimate representative and as able to enter into a valid agreement. Agreement does not necessarily require unanimity and

may be achieved even when individuals or sub-groups explicitly disagree. However, the benefits coming from an agreement must be shared by all the project-affected people, irrespective of whether they supported the project or not. The Borrower may consider utilizing methods for negotiating compensation and resolving disputes that are aligned with those included in ESPS 5.

**GL44.** Cultural heritage is considered critical when it is part of a nationally and legally protected cultural heritage area. In addition, when internationally recognized cultural heritage is critical to a people who continue to use it for long-standing cultural purposes (i.e., living heritage), such heritage may be considered critical, even if it is not legally protected. To be considered critical, the cultural heritage must be internationally recognized prior to project consideration or be located within a nationally protected area. When such cultural heritage is used for long-standing cultural purposes, and where the loss or damage of such heritage could endanger the livelihoods, or cultural, ceremonial, or spiritual purposes that define the identity and community of the project-affected people, the requirements under paragraph 14 of ESPS 8 apply. ESPS 8 is intended to allow such users to participate in decisions about the future of that heritage and to negotiate equitable outcomes that may not only outweigh any loss but provide important benefits.

**GL45.** For the purposes of ESPS 8, nationally and legally protected areas include World Heritage Sites as well as cultural heritage sites located within a nationally defined park, preserve, or reserve that is protected in part for its cultural or historical significance. A nationally defined park, preserve, or reserve should have, at a minimum, explicitly defined boundaries and may include a buffer area. Any cultural heritage resources located within a nominated nationally defined park, preserve, or reserve will be defined as critical.

**GL46.** Projects in legally protected areas (such as World Heritage Sites and nationally protected areas) may range from tourism projects that support the objectives of cultural heritage protection, to mining projects that will need to be carried out with considerable sensitivity. Such projects are expected to provide additional assurances beyond meeting applicable national laws. All regulations, assessment processes and management plans applicable to the protected area should be respected in project design and execution. The ESIA and/or SCA, including the CHIA when one is prepared, should identify and address these requirements. The requirements should also be addressed in a CHMP, when prepared, and should be cross referenced to any existing management plans. A process of information disclosure and informed consultation and participation with relevant stakeholders should be carried out, including the protected area's managers/administrators and sponsors. Furthermore, the project should contribute to the conservation of tangible cultural heritage, including the underlying biological systems and processes that may support that conservation. When the project has no intrinsic contribution, additional programs should be undertaken to promote and enhance the conservation aims of the protected area. These may range from support for the protection and conservation of the entire area to specific projects to restore or enhance specific, important features. The UNESCO World Heritage List provides additional information on the specific cultural and natural heritage attributes of World Heritage Sites, including statements of Outstanding Universal Value (OUV). These OUV statements define key features and themes that should be incorporated in assessments of impacts on World Heritage Sites.

**GL47.** A unique feature of World Heritage Sites is the protections afforded by the 1972 World Heritage Convention. A defining component of the Convention is the concept of OUV and its relationship to the public good. The Borrower should consult, as appropriate, with the World Heritage Centre, as well as local site managers of World Heritage Sites and address any guidance and/or standards for incorporating the protections afforded to World Heritage Sites into an impact assessment that includes a World Heritage property. Guidance related to impact assessments for World Heritage properties is available from the International Council on Monuments and Sites (ICOMOS) and the International Union for Conservation of Nature (IUCN). The Borrower should incorporate good international practice principles in planning related to impacts on World Heritage Sites and consider the management of OUV as a defining set of metrics for assessing impacts.

**GL48.** Critical heritage related to Indigenous Peoples receives unique protections, as defined in ESPS 7 and its accompanying Guideline.

## Project's Use of Cultural Heritage

**16.** Where a project proposes to use the cultural heritage, including knowledge, innovations, or practices of local communities, for commercial purposes,<sup>184</sup> the Borrower will inform these communities of (i) their rights under national law, (ii) the scope and nature of the proposed commercial development, and (iii) the potential consequences of such development. The Borrower will not proceed with such commercialization unless it (i) enters into a process of ICP as described in ESPSs 1 and 10, and which uses a good faith negotiation process that results in a documented outcome and (ii) provides for fair and equitable sharing of benefits from commercialization of such knowledge, innovation, or practice, consistent with their customs and traditions.

**GL49.** For the purposes of ESPS 8, intangible cultural heritage refers to cultural resources, knowledge, innovations, and/or practices of local communities embodying traditional lifestyles and other cultural knowledge. Examples include myths, religious and belief systems, ritual performance, language, and traditional techniques. Intangible cultural heritage can be a source of commercial opportunities for project-affected people, local communities and the project. Guidance on how these commercial opportunities can be considered is available from several sources. The Bonn Guidelines and the Akwé: Kon Guidelines issued under the Convention on Biological Diversity, and guidance from UNESCO on *Intangible Cultural Heritage and Sustainable*

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<sup>184</sup> Examples include, but are not limited to, commercialization of traditional medicinal knowledge or other sacred or traditional technique for processing plants, fibers, or metals.

*Development* are useful references in this area. In accordance with the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization, projects using a local community's traditional knowledge of genetic resources will need to have their prior and informed consent to do so.

**GL50.** Examples of use include commercialization of traditional medicinal knowledge or other sacred or traditional techniques for processing plants, fibres, or metals. ESPS 8 also applies to locally sourced industrial design. Such commercialization may also occur in a Borrower's project related to agricultural development, tourism, or agritourism. For example, an agritourism project that includes the planned utilization of indigenous agricultural practices or ritual activities associated with field products would be subject to consideration as intangible cultural heritage. With respect to expressions of folklore, such as sale of art or music, the requirements of paragraph 16 of ESPS 8 do not apply. Such expressions also should be treated in accordance with national law.

**GL51.** Where such resources are proposed for commercial development, the Borrower will investigate whether ownership of local knowledge is individual or collective prior to entering into any agreements with purported local intellectual property holders. Such resources are often collectively held, and decisions about their access or use may require the participation of the broader community, including women and other subgroups. As part of the process, the Borrower should determine the ownership of the resource and who has the rights and responsibilities to enter into an agreement on behalf of the owner(s). When it has been determined that the ownership is collective and good faith negotiations depend substantially on community representatives, the Borrower will make every reasonable effort to verify that such persons do, in fact, represent the views of local intellectual property holders and that they can be relied upon to accurately communicate the results of negotiations to their constituents. The Borrower should use an external expert and unbiased information to carry out good faith negotiations with local traditional knowledge holders, even if the ownership of the knowledge is in dispute. The Borrower should document the process and the outcome of a good faith negotiation with the project-affected people (including the community where the cultural heritage is held collectively) on the proposed commercial development in accordance with ESPS 10, in addition to any requirements pursuant to national law. Some national laws require the consent of project-affected people in this regard.

**GL52.** When a project proposes to exploit, develop, and commercialize intangible cultural heritage, ESPS 8 requires that the Borrower share the benefits accruing from such use with the project-affected people. These analyses should be integrated with socio-economic analyses completed in accordance with ESPS1 and ESPS5. Benefits may include development benefits in the form of employment, vocational training, and benefits pursuant to community development and similar programs.

GUIDELINES FOR ENVIRONMENTAL  
AND SOCIAL PERFORMANCE

# STANDARD 9: GENDER EQUALITY



# 9

## INTRODUCTION

- 1. This ESPS recognizes that gender equality has intrinsic value. Gender equality is not only a matter of justice and human rights, but also a driver of sustainable development. There is overwhelming evidence that integrating gender equality in development projects contributes to their successful design, implementation, effectiveness, and environmental and social sustainability.**
- 2. This ESPS recognizes, regardless of the cultural or ethnic context, the right to equality among genders as established in applicable international agreements.<sup>185</sup> The pursuit of equality requires actions aimed at equity, which implies providing and distributing benefits and/or resources in a way that narrows existing gaps, recognizing that the existence of these gaps can harm people of all genders.**
- 3. Conversely, gender inequality limits the ability of project-affected people to participate in and benefit from project-derived opportunities, as well as to resist, cope with, and recover from the adverse impacts that projects may generate.**
- 4. This ESPS aims at identifying potential gender-based risks and impacts and introducing effective measures to avoid, prevent, or mitigate such risks and impacts, thereby eliminating the possibility of reinforcement of pre-existing inequalities or creating new ones. For purposes of this ESPS, affirmative action<sup>186</sup> specifically aimed at closing existing gender gaps, meeting specific gender-based needs, or ensuring the participation of people of all genders in consultations will not constitute discrimination or exclusion.**
- 5. This ESPS pays close attention to how gender inequalities interact with other inequalities such as socioeconomic, ethnic, racial, disability, and other factors, and how this intersectionality may exacerbate barriers to accessing project benefits, limit the ability to deal with negative project impacts, and create other vulnerabilities.**

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<sup>185</sup> Such as the Universal Declaration of Human Rights (1948), the Convention on the Elimination of All Forms of Discrimination against Women (1979), the UN Declaration on Elimination of Violence against Women (1993), the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (1994), the Programme of Action of the International Conference on Population and Development (1994), the Platform for Action of the Fourth World Conference on Women (1995), UN General Assembly Resolution on Measures for the Prevention of Crime and the Criminal Justice Measures in order to Eliminate Violence against Women (1998), Adopted Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (1999), the Sustainable Development Goals (2015), and Yogyakarta Principles on the Application of International Human Rights Law in Relations to Sexual Orientation and Gender Identity (2006 updated 2017), the ILO Convention on the Elimination of Violence and Harassment No. 190 (2019).

<sup>186</sup> Temporary actions aimed at equalizing historical disadvantages.

6. This ESPS recognizes that diverse sexual orientations and gender identities may have the effect of excluding people making them more vulnerable to negative project impacts, which often bars them from taking advantage of the opportunities available to other members of the community.
7. This ESPS also recognizes that sexual and gender-based violence (SGBV) is a prevalent global problem. Manifestations of SGBV are likely to exist in every environment. Gender-related impacts, including every form of SGBV, including sexual exploitation and abuse, disproportionately affect women and people of diverse sexual orientations and gender identities. Projects involving a large influx of workers into a community can exacerbate the existing risks of SGBV or create new risks, ranging from sexual harassment to sexual abuse and exploitation of women and children.
8. Similarly, this ESPS recognizes that, worldwide and in LAC, most of the unpaid care work falls on women. Unpaid care work is one of the main barriers preventing women from getting into, remaining, and progressing in the labor force. This presents a major barrier to gender equality and women's economic empowerment, including to women's meaningful participation in opportunities available to other members of the community.

## OBJECTIVES

- To anticipate and prevent adverse risks and impacts based on gender, sexual orientation, and gender identity, and when avoidance is not possible, to mitigate and compensate for such impacts.
- To establish actions to prevent or mitigate risks and impacts due to gender throughout the project cycle.
- To achieve inclusion in project-derived benefits of people of all genders, sexual orientations, and gender identities.
- To prevent SGBV, including sexual harassment, exploitation and abuse, and when incidents of SGBV occur, to respond promptly.
- To promote safe and equitable participation in consultation and stakeholder engagement processes regardless of gender, sexual orientation, and/or gender identity.
- To meet the requirements of applicable national legislation and international commitments relating to gender equality, including actions to mitigate and prevent gender-related impacts.

**GL1.** Environmental and Social Performance Standard (ESPS) 9 recognizes gender equality as a fundamental human right, as established in numerous international agreements and conventions, and the national legal frameworks of most countries in the Latin America and Caribbean (LAC) region. ESPS 9 also recognizes gender equality as a foundation of development: more egalitarian

societies are more prosperous; projects that integrate gender equality into its objectives are more successful and sustainable. Despite significant progress, achieving gender equality remains a work in progress. Gender inequality is still widespread in LAC and predominantly hurts women and people of diverse sexual orientations and gender identities.

**GL2.** In most societies, women and men are given different roles within the public and private spheres and have differential access to assets, resources, livelihoods, relationships, and opportunities, and decision-making. In the LAC region these differences are reflected in women participating less than men in public decision-making spaces and the labor market; having lower wages and fewer instances of ownership of land and housing; dedicating more time to unpaid care work; and in being disproportionately impacted by widespread gender-based violence.

**GL3.** Similarly, discrimination and exclusion of people of diverse sexual orientations and gender identities manifests in every society. For the purpose of ESPS 9, the term “people of diverse sexual orientations and gender identities” refers to individuals whose sex, gender, sexual orientation, and/or gender identity differs from those of the majority. In many cases these individuals identify as lesbian, gay, bisexual, and transgender, but it is important to note that other terms such as “sexual and gender minorities” and “LGBTQI+ individuals” are frequently used in some regions and countries.



**GL4.** Gender, sexual orientation, and gender identity and expression can shape how people experience the impacts, both positive and negative, of projects. Although all genders can suffer a project's adverse impacts, prevailing gender inequality and underlying norms and expectations tend to place women, girls and sexual and gender minorities at a disadvantage to avoid, cope with, and recover from the adverse impacts that projects may generate. Consequently, projects that ignore existing gender inequalities may end up exacerbating them or even creating new ones, including those that underpin Sexual and Gender-Based Violence (SGBV).

**GL5.** ESPS 9 aims at avoiding a project's risks and impacts falling disproportionately on women and people of diverse sexual orientations and gender identities and expression (i.e., gender-based risks). Where avoidance is not feasible, risks and impacts should be minimized and/or compensated for in a manner commensurate with their scale and severity, and through mechanisms tailored to the specific characteristics and expressed interests of project-affected people.

**GL6.** ESPS 9 emphasizes the need to consider how gender inequalities overlap with other sources of disadvantage linked to ethnic and racial identities, socioeconomic status, age, disabilities, etc., and how these intersections may exacerbate peoples' vulnerabilities. For example, women and sexual and gender minorities who are also Indigenous Peoples, African descendants or migrants may suffer a double burden due to intersecting identities which are associated with forms of exclusion by society, and as such are more likely to be harder hit by a project's adverse impacts.

## SCOPE OF APPLICATION

9. The applicability of this ESPS is established during the environmental and social risk and impact identification process. The implementation of the actions necessary to meet the requirements of this ESPS is managed through the Borrower's ESMS, the elements of which are outlined in ESPS 1. Implementation of this ESPS must also consider relevant requirements of ESPSs 2, 3, 4, 5, 7, and 10.

**GL7.** The application of ESPS 9 is established during the Borrower's environmental and social risks and impacts identification process, as set out in ESPS 1 - *Assessment and Management of Environmental and Social Risks and Impacts*. In addition to ESPS 9, identification and management of gender-based risks and impacts is also required in other ESPSs, specifically ESPS 2 - *Labor and Working Conditions*, ESPS 4 - *Community Health, Safety and Security*, ESPS 5 - *Land Acquisition and Involuntary Resettlement*, ESPS 6 - *Biodiversity Conservation and Sustainable Management of Living Natural Resources*, ESPS 7 - *Indigenous Peoples*, and ESPS 10 - *Stakeholder Engagement and Information Disclosure*. Consequently, the Borrower should read ESPS 9 and its Guideline in conjunction with these ESPSs and their corresponding Guidelines.

**GL8.** ESPS 9 focuses on a project’s gender-based risks and negative impacts. However, consistent with the Bank’s Operational Policy on Gender Equality in Development (OP-761), the Borrower is encouraged to seek opportunities to mainstream gender issues and incorporate specific actions to enhance gender equality within the scope of the project.

**10.** When national laws are silent on gender equality, the Borrower will meet this ESPS. In circumstances where national law is inconsistent with this ESPS, the Borrower is encouraged to carry out its project consistent with the intent of this ESPS and applicable international agreements, to the fullest extent of applicable local and national laws.

**GL9.** In most countries in the LAC region, many of the ESPS 9 principles and requirements will be reflected in countries’ laws, including ratified international agreements. In countries where the law is silent on gender equality or non-discrimination as relates to sexual orientation or gender identity, the Borrower is expected to meet the requirements of ESPS 9. In countries where certain aspects of national law are in contradiction with these standards, the Borrower will seek to find ways to adhere to the intent of non-discrimination and gender equality among all project-affected people and the objectives of ESPS 9.

## REQUIREMENTS

### Identification and Assessment of Sexual and Gender-Based Risks and Impacts

**11.** The Borrower will screen the project for potential gender-based risks and impacts that may disproportionately affect women, girls, and sexual and gender minorities. If potential gender-based risks and impacts are identified, the Borrower will conduct a gender analysis (GA) as part of environmental and social due diligence. The GA will assess how gender relations in the project’s area of influence may lead to disproportionate impacts by gender. Disproportionate impacts may be caused directly by project activities, and/or by excluding people from project benefits due to their gender, and what resources they can access to recover from the negative impacts and benefit from the positive ones. The GA must also assess the measures that are best suited to manage gender-based risks and impacts, per the mitigation hierarchy.

**GL10.** Consistent with the requirements of ESPS 1, the environmental and social risks and impacts assessment process presents an opportunity for the Borrower to identify, assess, and manage gender-based risks and impacts associated with the proposed project.

**G11.** The Borrower will screen the project to identify as early as possible risks and potential impacts that may disproportionately affect women, girls, and sexual and gender minorities. Each project and context are specific, and so are the risks and impacts involved. However, as a starting point in the identification process, the Borrower may consider the gender-based risks that are more likely to occur in investment projects:

- Physical and/or economic displacement. See G28-GL39 for gender-based risk factors, potential impacts, and mitigation and compensation measures in situations of involuntary resettlement.
- Increase in project related SGBV, particularly sexual abuse, exploitation, and harassment, which can arise from the interaction between project workers and local communities. See GL40-GL49 for SGBV risk factors and prevention and mitigation measures.
- Increase in sexually transmitted diseases, adolescent pregnancies, and human trafficking, which may be a potential issue in projects involving large influxes of outside workers into local communities.
- Uneven increase in unpaid work, which may occur in projects relying on unpaid community work that is mostly performed by women, such as cooking, logging, and community organizing.
- Health and safety hazards linked to gender roles in the community. For example, projects causing water pollution and water borne diseases in communities where women and children are responsible for collecting water; or projects involving circulation of heavy machinery near schools, health centers, markets, or places frequented by children, the elderly, and people with reduced mobility.
- Unequal access to project-derived economic opportunities and benefits, including paid work, training, credit, and business opportunities, which may happen in projects whose requirements for participation may directly or indirectly result in exclusion. For example, an agricultural project that requires beneficiaries applying for a loan to provide land titles as collateral in a region with large gender gaps in land ownership and that distributes seeds through cooperatives that restrict women’s participation in their boards.
- Unequal participation in stakeholder engagement, which may happen in projects that, among other factors, involve decision-making spaces (e.g., indigenous councils, water management committees, forestry cooperative boards) with significant gender gaps in terms of participation, take place in communities that hold traditional views regarding women’s participation in public spaces, or stigmatize sexual and gender minorities See GL56-GL63 for further information on barriers for equitable participation and mitigation measures.

**GL12.** If the screening indicates any gender-based risk, the Borrower should carry out a Gender Analysis (GA) to determine the likelihood and severity of those pre-identified risks, and define the appropriate measures to prevent, reduce, mitigate and/or compensate for them. The GA should be carried out within the frame of the project’s environmental and social risks and impacts assessment process. The breadth and depth of the GA should be proportional to the nature and scale of the risks and impacts. In most cases, the GA can be integrated into the general Environmental and Social Impact Assessment (EIAS) and Environmental and Social Management

Plan (ESMP) of the project. In other cases, and depending on the type of impacts identified, it may be integrated into relevant management plans (e.g., Resettlement Action Plan and/or Livelihood Restoration Plan, Social Cultural Analysis/Indigenous Peoples Plan, Stakeholder Engagement Plan). Finally, projects with significant gender-based risks might require a stand-alone GA.

**GL13.** The GA should follow a participatory approach. Early consultations with all project-affected people and other key stakeholders are critical for identifying gender-based risks and associated mitigation measures and for setting the stage for inclusive engagement as the project moves forward. Care should be taken to tackle gender barriers that might hinder women's as well as sexual and gender minorities' participation in public consultations. Paragraphs GL56 to GL63 provide guidance on how to promote equitable participation in the stakeholder engagement process.

**12.** The GA identifies and analyzes, among other aspects: existing gender inequalities in relation to access and control of resources such as land, natural resources, housing, and assets; gender gaps in employment and employment opportunity, income-generating activities, access to credit, subsistence activities, and uneven distribution of unpaid work; gender norms regarding participation in the public sphere and access to decision-making spaces; and interests and priorities of people of all genders.

**13.** The GA examines the risk of disproportionate impacts of the project on women, girls, and sexual and gender minorities as a result of their different livelihoods, ownership status, community activities, household loads, and others. Areas of risk include, but are not limited to, the following:

- Introducing unequal requirements for access to project-derived economic opportunities and benefits, including paid work, training, credit, or business opportunities. Projects will apply the principles of non-discrimination, equal treatment, and equal pay for work of equal value.
- Disregarding women's right to inherit and own land, homes, and other assets or natural resources. The Borrower will recognize women's ownership rights regardless of marital status and will adopt measures to facilitate their access to the documents they need to exercise this right.
- Introducing or encouraging existing social norms that perpetuate the uneven distribution of unpaid work, which is disproportionately shouldered by women and girls.
- Introducing conditions that restrict participation in project activities based on gender, gender identity, or sexual orientation or that limit participation based on pregnancy, parental leave, or marital status.
- Increasing the risk of SGBV, including sexual harassment, abuse, exploitation, human trafficking, and exposure to sexually transmitted diseases. Where such risks are identified, the Borrower will support measures such as communication and awareness campaigns, development of community prevention plans, contractors' codes of conduct, survivor support, and reporting systems.

- Restricting access to resources needed to secure the livelihoods and well-being of individuals and households.
- Dismissing safety concerns in resettlement, placing individuals in areas that are perceived to be unsafe based on gender, gender identity, or sexual orientation.

**14.** The GA considers how gender inequalities interact with other inequalities that are based on socioeconomic, ethnic, racial, disability and other factors, which might exacerbate barriers to opportunities and increase the vulnerability of people who face multiple forms of exclusion.

### Avoidance, Mitigation and/or Remediation of Impacts and Risks

**15.** Where the GA has identified negative gender-based risks and impacts that have the potential to disproportionately affect people due to their gender, the Borrower will incorporate measures in the project design to (i) avoid, minimize, mitigate, and/or compensate the identified negative impacts with mechanisms that promote gender equity and (ii) ensure that people of different genders, including women and sexual and gender minorities, that may be impacted by the project receive social and economic benefits equal to those received by other members of the community, thereby avoiding the reinforcement of gender inequalities.

**GL14.** The GA should be an integral component of the project’s environmental and social risks and impacts assessment process and its results should be incorporated into its Environmental and Social Management System (ESMS). The GA should include the following elements: (i) Situation Analysis; (ii) Stakeholder Analysis; (iii) Project’s gender-based risks and potential impacts; (iv) Mitigation Measures; (v) Monitoring and Evaluation mechanisms; and (vi) Institutional Capacity.

**GL15.** The Situation Analysis should present relevant baseline data profiling the circumstances of women, men, and whenever possible, sexual and gender minorities, in the project-affected communities. The data should focus on those aspects that are pertinent to the scope of the project and may be impacted by its activities. Baseline information should be disaggregated by gender and, as much as possible, by other factors of identity of the individuals and groups at risk of marginalization relevant to the community, including but not limited to, ethnicity, race, disability, age, and migration status. While every context and project are unique, the Situation Analysis will often include:

- Legal framework: national and subnational laws and regulations related to the project’s gender-based risks (e.g., ownership and tenancy rights, property rights for civil unions, non-discrimination at work, occupational health and safety, sexual and gender-based violence, rights of sexual and gender minorities).

- Project-affected communities: availability of basic services (e.g., education, health care, water, sanitation, transport services, services supporting survivors of SGBV); security, violence, and social conflicts; prevalence of SGBV; composition in local leadership structures; gender norms regarding participation in the public sphere; perceptions and attitudes towards certain groups in the community (e.g., migrants, ethnic minorities, sexual and gender minorities).
- Project-affected households, as relevant: ownership of land, housing, and other assets; formal and informal sources of income and livelihoods; household head(s); number of children and dependents; levels of education; languages spoken.

**GL16.** The Stakeholder Analysis should include a gender-disaggregated mapping of project-affected people and other key stakeholders, and measures to promote equitable participation in the stakeholder engagement process, bearing in mind potential safety and security concerns (see GL57-65).

**GL17.** The GA should examine the ways in which women, men, and people of diverse sexual orientations and gender identities might be differently impacted by the project. It is important to consider how gender inequalities may overlap with other sources of disadvantage linked to ethnic and racial identities, socioeconomic status, age, disabilities, and other factors that may create added vulnerabilities to project’s negative impacts.. The Guideline for ESPS 9 provides details on gender-based risks related to labor and working conditions (GL21-GL27); involuntary resettlement (GL28-GL39); sexual and gender-based violence (GL40-GL59); child sexual abuse and exploitation (GL50-GL55) and stakeholder engagement process (GL56-GL63). The Annotated Bibliography includes resources on key gender issues in the sectors of infrastructure, transport, water and sanitation, energy, and urban development, among others.

**GL18.** Based on the outcome of the gender-based risks and impacts assessment and the stakeholder consultation process, the Borrower should define appropriate measures to avoid, minimize, mitigate, and/or compensate for each of the identified risks and impacts. The measures should have clear roles and responsibilities for implementation, a time-bound schedule of activities, and a budget.

**GL19.** The mitigation measures defined in the GA should be accompanied by gender-sensitive monitoring and evaluation indicators which allow to monitor implementation performance of the agreed measures and their effectiveness.. This requires, at a minimum, that all key indicators should be disaggregated by gender. Depending on the characteristics of the project and the situation analysis,, indicators should also be disaggregated by age, race, ethnic identity, sexual orientation, migratory status, disability status, household composition, and other factors relevant to those at risk or impacted by the project. Ensure a locally-informed framing of what data is collected, how it is collected, and how it is used.

**GL20.** The GA should analyze the Borrower’s capacity to manage project’s gender-based risks and impacts, including availability of trained human resources; institutional mandate, policies and procedures on non-discrimination, gender equality, and SGBV; existence of a gender-sensitive grievance mechanism and its status and ability to respond; and mechanism to assess and enforce contractor’s compliance with Borrower’s policies and procedures.

**16.** When considering the requirements related to non-discrimination in labor and working conditions, in accordance with ESPS 2, the Borrower will ensure that there is no discrimination based on gender, gender identity, sexual orientation, pregnancy, parental leave, or marital status. The Borrower will also ensure equal treatment and equal pay for work of equal value for its workers.

**GL21.** Gender discrimination in employment occurs when persons are treated differently, through distinctions, exclusions, or preferences, based on characteristics that are not inherently linked to the job requirements but to their gender, gender identity, sexual orientation, pregnancy, parental leave, or marital status. Discrimination may be direct or indirect and can be intentional or not. It may occur throughout the employment relationship and relate to recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, job assignment, promotion, termination of employment, retirement, and disciplinary practices. For example, if during the recruitment process female applicants are asked directly or indirectly about their pregnancy status or are required to take a pregnancy test, this may amount to discrimination. Dismissing a worker on the grounds of pregnancy, parental leave, marital status, sexual orientation, or gender identity is discrimination. Not providing women with necessary personal protective equipment suited to their size and shape might put them at increased risk of hazards and may also be considered discrimination. Sexual and gender-based violence in the workplace, including sexual harassment, is a form of discrimination.

**GL22.** Project measures to address discrimination in labor and working conditions will include clear policies and procedures, codes of conduct, training and awareness raising, monitoring, and providing for appropriate workers grievance mechanisms. These measures should be included in the Labor Management Procedures in accordance with ESPS 2.

**GL23.** The Borrower will ensure that there is no discrimination based on gender, gender identity, gender expression, sexual orientation, pregnancy, parental leave, or marital status with respect to any aspect of the employment relationship. men, women, and people of diverse sexual orientations and gender identities should receive the same pay for performing the same or similar work. Pay includes overtime pay, bonuses, allowances, and in-kind benefits.

**GL24.** To allow for access and retention of equal work opportunities the Borrower may provide special measures of protection and assistance to address specific vulnerabilities considerations of project workers such as pregnant women, women who are breastfeeding, and workers with caregiving responsibilities. Such measures may be necessary only for specific periods of time, depending on the circumstances of the project worker and the nature of the vulnerability. It is common to temporarily reassign a pregnant worker to other functions to avoid exposure to hazards, returning the worker to the same position or one with equal pay and benefits once the hazard exposure is no longer a factor. Other measures that employers may wish to consider to help project workers to balance work and caring responsibilities include providing lactation rooms and childcare facilities at the workplace and offering work flexibility arrangements, extending this possibility to women and men alike.

**GL25.** In consideration of past discrimination and with a view to achieving effective equality of opportunity, the Borrower may wish to implement additional measures to increase employment of women and sexual and gender minorities in particular jobs within the project. These measures might include training for specific positions or skills, targeted recruitment, quotas, and paid internships. Such affirmative actions will not be deemed discrimination, provided they are consistent with national law.

**GL26.** Workplace facilities, such as restrooms, locker rooms, nursing rooms, and others should be sufficient, accessible, suitable, and safe. When accommodation is provided by the project, it should be culturally appropriate and sensitive to gender and privacy requirements, including separate sleeping areas and sanitation facilities with lockable doors and windows and safe and hygienic disposal solutions, separate beds for each worker, adequate and well-maintained lighting, and measures to ensure privacy and avoid overcrowding. Transportation provided to community-based workers or to lodging facilities should be safe and secure. When medical or security staff is assigned to project accommodations, female staff should be available to female workers as much as possible. Additional requirements related to workplace facilities are provided in ESPS 2 – *Labor and Working Conditions*.

**GL27.** Occupational health and safety analyses should consider labor risks that may disproportionately affect women and sexual and gender minorities and may require differentiated protective measures. Personnel protective equipment, for example, must be made to accommodate the physical differences among its users, including the ones caused by pregnancy. Pregnant women, and their unborn child, may be at higher risk if they come in contact with hazardous materials, or are exposed to certain diseases such as the Zika virus, so it is common to recommend that a pregnant worker be temporary reassigned to another function to avoid exposure to hazards. Emergency preparedness and contingency plans also need to be designed to include workers whose mobility is reduced by pregnancy, as well as for other workers who have mobility difficulties or other physical limitations.

## Managing Disproportionate Impacts in Situations of Involuntary Physical Resettlement or Economic Displacement

17. Various types of land transactions, including land acquisition and restrictions on land use, can cause physical resettlement and economic displacement. The Borrower must consider the requirements related to ESPS 5 Land Acquisition and Involuntary Resettlement for all cases with the potential for involuntary physical resettlement or economic displacement. Depending on the significance of impacts, these may include the following: (i) intra-household analysis to identify differences based on gender sources of livelihoods, including informal ones; (ii) an analysis of women's rights over land and land use, including co-ownership and usage rights over communal lands and other assets; and (iii) an analysis of the impact of the resettlement on women's ability to work. Additional considerations:
- Compensation entitlement and delivery will take into account: (i) women's productive and household activities, (ii) fair modalities of cash compensation payment, (iii) shares in resettlement property ownership, (iv) resettlement preferences, and (v) any other gender-related issue.
  - Documentation of ownership or occupancy and compensation arrangements should be issued in the names of both spouses or heads of household.
  - The consultation process shall ensure that all perspectives are obtained and that the interests of individuals by gender, gender identity, or sexual orientation are factored into all aspects of resettlement planning and implementation. The Borrower will explore and document all gender-disaggregated preferences with respect to compensation mechanisms, replacement land or alternative access to assets and natural resources rather than cash, and perceptions of safety for people of all genders, gender identities, and sexual orientations.
  - The Borrower will make available to individuals equally regardless of gender, and adapted to their respective needs, assistance to livelihood improvement or restoration, such as improvement of existing agriculture activities, skills training, access to credit, entrepreneurship, and job opportunities.

**GL28.** The economic and social dislocation caused by involuntary resettlement might exacerbate existing gender disparities and inequalities at community and household level. ESPS 9 requirements include consideration of gender risks and impacts associated with the resettlement planning and implementation in accordance with ESPS 5. Consequently, the following paragraphs should be read in conjunction with ESPS 5 and its accompanying Guideline.

## Stakeholder engagement

**GL29.** People of different genders, even from the same community or household, may have different views on how resettlement impacts should be assessed, what are the best alternatives to avoid or minimize displacement, and how assets and livelihoods should be valued and compensated for. To obtain a full understanding of these potentially different perspectives, the Borrower should engage with all affected people and not only rely on community leaders or household heads, who very often are men. In doing so, the Borrower should be aware of how gender relations play at community and household level and may influence participation and access to decision-making. For guidance on how to promote equitable participation in stakeholder engagement processes, refer to paragraphs GL56-GL63 below.

**GL30.** Resettlement committees, when put in place, should have a gender-balanced representation, including from disadvantaged groups such as informal settlers, migrants, indigenous peoples, African descendants, persons with disabilities, and single-parent households, as relevant.

## Resettlement and/or Livelihood Restoration Planning

**GL31.** Effective resettlement planning entails conducting a socio-economic survey of the economically and/or physically displaced persons, in accordance with the requirements of ESPS 5. This information is crucial for identifying all the project-affected people; establishing the nature and extent of risks, impacts, and vulnerabilities; and determining who will be eligible for compensation and assistance. It also serves as a reference point against which the results of rehabilitation and income restoration efforts can be measured. To ensure that all project-affected people's loss of assets and income are properly identified and accounted for, the survey should be gender-disaggregated and, if relevant, carried out at intra-household level. Depending on the type and severity of impacts, the survey might include gender-disaggregated data on ownership of affected assets; income sources, including non-formal activities such as gathering of natural resources, subsistence agriculture, and trading; ownership and use rights of communal land; education and literacy levels; languages spoken; participation in communal and social organizations; reliance on social and economic networks including extended family ties; and use of public services such as transport, schools, and health centers.

**GL32.** The planning and implementation of the resettlement process should be based on an understanding of the national and subnational legal framework and local cultural norms regarding civil unions, common law marriages, and same-sex unions; marital property systems; and inheritance. When communal properties are affected, gender-based differences in terms of ownership, tenure and use rights should also be considered (for example, some indigenous communities' customary practices might exclude women from being registered as community members and, thus, from receiving compensation).

**GL33.** It is important that all project-affected people are informed early in the planning process about the project's impacts, their entitlements and available compensation options, and that their interests are factored into all aspects of resettlement planning and implementation. People or groups in situation of vulnerability such as the elderly, persons who cannot read, persons with sensory or intellectual disabilities, and ethnic minorities who speak different languages may require additional assistance to understand the proposed compensation options.

## Compensation

**GL34.** People who lose land, housing, and other assets, through land acquisition or restrictions on land use and access to assets and natural resources, should be compensated in accordance with the requirements of ESPS 5. When establishing the entitlements of project-affected people, it is important to identify and address gender-based circumstances that may hinder some people's access to the compensation for which they are entitled. For example, rural women who cannot prove ownership of the land they farm because it is titled only under their husband's name; and same-sex couples in countries or regions that do not recognize their union. The Borrower should ensure that compensation (including documentation of ownership or occupancy and monetary compensation) is issued in the names of both spouses or household heads. Where national law does not recognize same-sex partnerships, provisions should be made to ensure equivalent security of tenure to both members of the couple. The Borrower should assist displaced persons with the process of titling and registering the new home and land, including, if necessary, helping them to get a national ID and other documentation that may be required. In the case of monetary compensation, the Borrower should provide help to open bank accounts in joint names.

**GL35.** If people living in the project area are required to move to another location, the Borrower should offer: (i) choices among feasible resettlement options, including adequate replacement housing with security of tenure; and (ii) relocation assistance suited to the needs of each group of displaced persons. Different genders might have different views and preferences on issues such as the compensation mechanism (e.g., cash vs. in-kind), relocation site, and features of the new home. Women may tend to prioritize criteria such as the maintenance of the family and social networks; proximity to health clinics, schools, and daycare centers; access to public transportation; and low levels of criminality, insecurity, and social conflicts in the area. Also, since many of the income-generating activities carried out by low-income women take place within their home (e.g., small shops, personal services such as hairdressing, home gardening), they might prefer a design and layout that allows for productive and domestic needs.

**GL36.** Relocation assistance should take into consideration the needs of all household members. It may include transportation, food, shelter, cash allowance, help with the move, and assistance to enrol children in a new school and restore support networks. Additional measures, such as the provision of emergency health care during physical relocation, should be designed for persons in situation of vulnerability, particularly pregnant women, children, the elderly, and persons with disabilities.

**GL37.** In many rural communities, women and children are responsible for collecting water, firewood, medicinal plants, and other natural resources that are necessary for family maintenance. When these resources become scarce because of land acquisition or restrictions on access, they may need to dedicate more time for collection, sometimes having to forego other productive activities or educational opportunities. Assessing the value and hidden costs of these losses is difficult. Compensation options should, as far as possible, maintain access to the same or equivalent resources or to new ones with greater value to the family. They may also include assistance to minimize hardship for women and children (e.g., providing structures to reduce water and firewood consumption, such as efficient cooking stoves and pumps).

**GL38.** Economic displacement is especially hard on people with informal sources of income, such as street vendors, waste pickers, and small shopkeepers, which are occupations where women tend to be overrepresented. Economically displaced persons whose livelihoods are adversely affected should be provided with opportunities to improve, or at least restore their livelihoods. All restoration measures, including compensation for lost wages during the resettlement period and employment, training and/or credit opportunities, should be equally available to people of all genders and adapted to their needs, circumstances, and interests. This requires taking into consideration the socioeconomic disadvantages that women often face and that, if not addressed, might limit their capacity to access to and take advantage of the opportunities offered, such as time and mobility restrictions due to care responsibilities; knowledge and working experience concentrated in a small number of productive activities; limited access to training, financing, and technology; cultural expectations about male and female employment, etc. Additional measures might also be necessary to prevent discrimination against sexual and gender minorities in the provision of restoration measures.

**GL39.** Because resettlement can be stressful on individuals, households, and communities, it may lead to an increase in violence against women and children. Moreover, compensation measures that help increase women's economic empowerment can be perceived as a threat to traditional gender roles and men's status within the family, which in turn may trigger violence. The Borrower should be aware of gendered power dynamics at home and in the community and define actions to detect and minimize the risk of increased gender-based violence.

## Assessing and Managing Project-related Sexual and Gender-based Violence

**18.** The Borrower will assess and prevent risks of project-related SGBV and respond promptly and appropriately to incidents of SGBV<sup>187</sup> including, as appropriate:

- Identify and assess any project risks that exacerbate SGBV in the community, including trafficking, sexual harassment, exploitation, and abuse.
- If the assessment indicates a risk of SGBV, define and implement measures to prevent and address it (e.g., contractor’s sexual harassment policies and workers’ codes of conduct, sensitization of project workers and local community, among others).
- Respond to any indication of or verified SGBV incident, ensuring that survivors have access to multiple forms of support and services.
- Ensure the availability of effective grievance mechanisms that minimize the reporting burden on victims, provide services in a gender-sensitive manner, and minimize reprisal risk. These mechanisms should have specific procedures for SGBV, including confidential reporting with safe and ethical documentation.

**GL40.** SGBV is any harmful act that is perpetrated against a person’s will because of their sex, gender, sexual orientation, or gender identity. It includes acts that inflict physical, sexual, mental, and economic harm, threats of such acts, coercion, and manipulation, whether occurring in public or in private. SGBV is rooted in unequal gender-based power relations, which means that it disproportionately affects women and girls, and people of diverse sexual orientations and gender identities. It is estimated that one in three women worldwide will experience sexual or physical violence in their lifetime. Although being recognized as a human rights violation, SGBV is widespread and occurs in all countries in the world.

**GL41.** Despite its prevalence, SGBV is often a hidden issue. If not intentionally addressed, it may be easily overlooked. ESPS 9 requires the Borrower to explicitly identify and assess risks of project related SGBV; define and implement measures to prevent and address these risks; and should any SGBV incident be reported, respond promptly and appropriately. For the purpose of ESPS 9, “project-related SGBV” refers to any act of sexual exploitation, abuse and harassment perpetrated by a project worker against a member of the project-affected community or another project worker.

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<sup>187</sup> SOGI: Sexual minorities, and especially transgender women, might be subjected to specific forms of SGBV and hate crimes and as a result may require additional protections. [I think the reference to SOGI here is a mistake]

**GL42.** Projects bring people and social changes to the communities where they operate, and, in doing so, may exacerbate the risks of SGBV that already exist in those communities. They may also create new SGBV risks, particularly sexual abuse, exploitation, and harassment by project workers against vulnerable community members. Project workers may also be exposed to sexual harassment and abuse in the workplace, especially women and sexual and gender minorities working in traditionally male-dominated working environments, isolated work contexts, or occupations or shifts where they are a small minority. Groups confronting multiple disadvantages, such as migrants, refugees, racial and ethnic minorities, persons with disabilities, and sex workers face higher risks of SGBV.

**GL43.** The Borrower should identify and assess SGBV risks that the project might pose to local communities and project workers. SGBV risks are present in every project. However, the level of risk will vary depending on the local context, the characteristics of the project itself, the Borrower's capacity to respond, among other factors. Factors that might indicate a heightened risk of project related SGBV include:

- The project involves large influxes of male workers into communities with low absorption capacity and scarce social services; employs security personnel; carries out large scale infrastructure construction over long periods of time; takes place in remote, isolated, or geographically dispersed areas, or in the proximity of schools.
- Project-affected communities have preexisting high levels of gender-based violence, insecurity, and criminality; poverty and lack of economic opportunities (which increases the likelihood of sexual exploitation); and social tolerance and normalization of violence against women and sexual and gender minorities.
- Legislation on SGBV is weak (e.g., it does not consider certain types of violence such as sexual harassment).
- The Borrower does not have a policy to prevent and respond to SGBV or lack mechanisms to assess and enforce contractor's compliance with this policy.

**GL44.** The identification of SGBV risks should be part of the project's environmental and social risks and impacts assessment process, and its results integrated into the ESIA, stand-alone GA, or other relevant social assessment instrument. Since project-related risks might change over time, they must be continuously assessed through the life of the project, especially when project circumstances change. In projects where the risk of SGBV is high, this assessment should be conducted by experts in the subject matter to ensure it is carried out in a sensitive, safe, and ethical way.

**GL45.** The process of identifying SGBV risks and defining prevention and mitigation measures should be carried out with the participation of key stakeholders such as local women's organizations, organizations advocating for the rights of sexual and gender minorities, health care providers, law enforcement, and others, as relevant in the local context. Due to the sensitivity of the subject, care should be taken to ensure that the process is considerate of social norms and does not create tensions within the community while ensuring that particularly vulnerable groups can engage safely and with privacy and confidentiality.



**GL46.** Based on identified project related SGBV risks, the Borrower should establish prevention and mitigation measures that are proportionate to the scale and complexity of the risks identified. Possible measures include:

- Developing, implementing, enforcing, and monitoring a project’s policy or Code of Conduct establishing a zero-tolerance for SGBV against community members and project workers. A code of conduct should define behaviors that are not tolerated and establish sanctions and disciplinary procedures for violations. Sanctions should be proportional to the violations and must be consistent with local labor legislation and applicable industrial agreements. Examples of potential sanctions include informal or formal warning, awareness training, temporary suspension of employment, changes in job assignments, termination of employment, and/or referral to the police or other authorities as warranted. All project workers should sign the Code of Conduct.
- Educating all project workers on SGBV and project-related SGBV risks, local customs, appropriate interaction with communities, the project’s Code of Conduct, how to report violations of the Code, and how they will be handled. This training can be standalone and/or incorporated into other mandatory training, such as wider occupational health and safety meetings and general induction courses.
- In projects employing security personnel, carrying out dedicated training and encouraging the recruitment of female security staff.

- Mapping and engaging with support services available for SGBV survivors, including health services, psychosocial support, legal advice, law enforcement, and shelters. Borrowers are encouraged to strengthen those services whenever possible.
- Informing local communities about project-related SGBV risks, prevention and mitigation measures put in place, how to report complaints of SGBV through the project’s grievance mechanism and what the process entails in terms of processes and possible outcomes, and available support services for SGBV survivors.
- Building relationships with women’s and sexual and gender minorities’ organizations.
- Including SGBV considerations in the physical design of the worksite: sufficient and accessible facilities such as restrooms, locker rooms and accommodation, as necessary, that guarantee privacy and security to women and gender minorities; sufficient lighting in and around grounds and access routes; safe transportation between the worksite and lodging facilities.

**GL47.** The Borrower must respond promptly and empathetically to any allegation of SGBV. After receiving a complaint, the Borrower should immediately refer the survivor to appropriate SGBV support services, always with his/her consent. These referrals should not be contingent on the outcome of any investigative process. The priority must be to protect the safety and wellbeing of the survivor and any action should always be taken with due regard for the survivor’s safety and needs and with their explicit consent, allowing survivors to make decisions about how to solve issues and providing information together with available support. In contexts where there is mandatory reporting of sexual violence to law enforcement, the Borrower should have an explicit policy on how to manage the potential conflict between this legal requirement and the safety and confidentiality of the survivor. This policy and the legal requirements and its implications should be explained to the survivors before they disclose, so they have as much control as possible over what they share, and the consequences of their disclosures.

**GL48.** Every project-related SGBV allegation should be registered in the project’s grievance mechanism. Borrowers can consider different models to receive, record, and manage cases of SGBV: adapt the project’s general grievance mechanism to allow for the proper uptake of SGBV allegations; link the general grievance mechanism with an existing intermediary, such as a SGBV service provider, to handle such allegations; build an independent SGBV grievance mechanism by outsourcing the role to a third party; among others. In all cases, the Borrower should define clear procedures for how SGBV complaints will be received, registered, acknowledged, investigated, and handled, by whom and within what timeframe, and the range of possible disciplinary actions. To respond to the needs of different groups of project workers and community members, the mechanism may need to provide multiple channels to initiate a complaint, including anonymous options (e.g., independent helpline, project’s website, mobile phone app, suggestion boxes, SGBV service provider, local women’s organization, etc. depending on the local context and the identified risks). The channels must allow for anonymity, and be free of charge and accessible. Due to the sensitive nature of SGBV and the risk of stigma, reprisals, and rejection associated with

this type of incident, special attention must be paid to protect the confidentiality and safety of survivors along the entire process and to ensure a fair assessment and due process for all those implicated. The identities of complainants, survivors, witnesses, and alleged perpetrators must be safeguarded to minimize the risk of reprisals and to protect a person's right to privacy.

**GL49.** SGBV allegations should be evaluated by a gender-balanced committee. Any person involved in the grievance mechanism should be specifically trained to manage SGBV complaints confidentially, empathetically, respectfully, and without judgment. It is important that the grievance mechanism be continually and widely publicized.

**19.** The Borrower will also assess the risk of child sexual exploitation and abuse (CSEA). If the assessment indicates a risk of CSEA, the Borrower will define and implement differentiated measures to prevent and address it.

**GL50.** Children are more vulnerable than other groups to certain types of SGBV, especially sexual exploitation and abuse. There is a high co-occurrence of SGBV against adults and sexual exploitation and abuse of children, and risk factors are shared among them. However, treating children who have experienced violence necessitates specific measures that differ from the response to SGBV against adults.

**GL51.** For the purpose of ESPS 9, and consistent with the UN Convention on the Rights of the Child, a child is anyone below the age of 18 unless under the law applicable to the child, majority is attained earlier. Child sexual abuse is any form of sexual activity between an adult and a child who, according to the relevant provisions of the national law, has not reached the legal age for sexual activities (this does not apply to consensual sexual activities between minors). Child sexual abuse becomes sexual exploitation when a second party benefits monetarily, through sexual activity involving a child. Mistaken belief regarding the age of the child and/or consent from the child is not a defense in sexual exploitation and abuse of children.

**GL52.** Identification of child sexual exploitation and abuse (CSEA) risks should be integrated into the project's environmental and social assessment. CSEA is a very sensitive issue unlikely to be raised in general stakeholder engagements. The Borrower might therefore wish to engage with stakeholders specialized in children's rights such as local child protection authorities, child rights organizations, and women's rights organizations.

**GL53.** The Borrower must have a zero-tolerance policy on violence, exploitation, and abuse of children, including but not limited to CSEA. The policy should prohibit project workers from engaging with children in a manner that might constitute CSEA and define a range of employment sanctions for violation of the policy. Project workers and local communities should be educated on the policy and how to report misconduct.

**GL54.** The Borrower should have in place a grievance mechanism to receive and handle allegations of CSEA submitted by or on behalf of a child. Children's safety, identity, dignity, and privacy must be protected throughout the reporting procedure to guarantee that they do not experience retaliation from the alleged perpetrator or others. The best interests of the child must be the primary consideration. The persons involved in receiving and investigating CSEA allegations should have child-protection expertise and be trained to communicate with children and young people in a sensitive way and in a language that they can understand.

**GL55.** When a case of CSEA occurs, the Borrower should arrange immediate assistance for the child and referral to the appropriate local child protection authority or, if no government authority is available, refer to a local child rights organization. The Borrower should be aware of and comply with the legal requirements that the country might have about mandatory reporting to the police of allegations of CSEA.

## Equitable Participation of People of All Genders in Consultations

- 20.** In addition to considering the requirements related to stakeholder engagement and information disclosure in accordance with ESPS 10, the Borrower will ensure the effective engagement and participation of people of all genders in the following ways:
- Ensure that the consultation process reflects the concerns of people of all genders, gender identities, and sexual orientations. Different genders may have different views and interests even within the same stakeholder group. Differences may arise regarding how risks should be assessed, how different things are valued, or how harm can be avoided or remedied.
  - Ensure there is no discrimination based on gender that may hinder one group's ability to influence decision making in the consultation process.
  - Identify and address obstacles faced by women and people of diverse sexual orientations and gender identities to participate in consultations (e.g., lower education, time and mobility restrictions, lower access to information, language barriers, less decision-making power and participation experience, safety problems, etc.). Women and people of diverse sexual orientations and gender identities may be less able to speak in public settings, or mobility constraints, such as caring for children or the elderly in the case of women, may prevent them from attending consultation events held in locations that are some distance away from their homes.
  - Facilitate measures to ensure meaningful participation of women and people of diverse sexual orientations and gender identities in consultations, including appropriate times of meetings, transportation, and childcare support, and convene separate meetings when necessary.

**GL56.** In addition to possibly having different perspectives and priorities on key issues regarding a project, women, men, and sexual and gender minorities may also have different opportunities and venues to make their voices heard. A project that fails to engage the full diversity of people risk capturing only a partial view of the community’s circumstances, which can lead to risks and impacts not being identified and thus, not addressed. The stakeholder engagement process should consider appropriate forms to engage all project-affected people so that their different concerns and priorities are properly factored into the project’s environmental and social assessment and management. The general characteristics of the stakeholder engagement process are described in ESPS 1 and ESPS 10 and their respective Guideline. The following paragraphs provide supplemental guidance on promoting equitable participation of all genders in the stakeholder engagement process.

**GL57.** Stakeholder identification should include project-affected women and men, paying special attention to those who may be disproportionately impacted or disadvantaged because of their race, ethnicity, socioeconomic status, age, disabilities, literacy, and other factors of vulnerability. It should also encompass people of diverse sexual orientations and gender identities, bearing in mind security and safety concerns in certain contexts. The identification process should consider other key stakeholders, such as local women’s associations, organizations defending the rights of sexual and gender minorities, indigenous and African descendant women’s organizations, and national and subnational gender entities, as relevant for the project and the context.

**GL58.** In planning the stakeholder engagement, the Borrower should be aware of cultural and gender norms that may undermine equal gender participation. For instance, when the engagement relies mostly on community representatives (e.g., local government officials, community leaders, councils of elders, civil society representatives, water management committees, forestry cooperatives boards), this may lead to prioritizing the voices of established leadership, who are often men.

**GL59.** Women’s participation may be hindered by gender-specific obstacles such as time and mobility constraints due to caring for children or the elderly; safety issues; language barriers; and less experience and self-confidence to speak in public. Measures that might help to increase women’s attendance include choosing meeting times and days that are convenient for both men and women; convening the meetings in places that are accessible, safe, and culturally appropriate for women to attend; facilitating transportation as necessary; and providing childcare. In some cultural contexts, women and sexual and gender minorities may feel intimidated or discouraged from speaking up in public meetings, so the Borrower should consider having separated focus groups and individual interviews. It is important that the stakeholder engagement team is gender-balanced, especially in contexts where women might be reluctant to talk to unknown men.

**GL60.** Including people of diverse sexual orientations and gender identities in public consultation events can have the additional benefit of raising their profile as people whose concerns and ideas should be considered. However, in contexts particularly hostile to these people, consultations may need to take place in private to ensure the safety, security, and confidentiality of participants and

to allow for open exchange. It may be advisable to carry out these consultations in collaboration with civil society organizations that have an established, trusted relationship with the LGBTQI+ community. When documenting consultation outcomes, it is important to ensure the anonymity of the participants if that is their wish or is necessary to protect their privacy or safety.

**GL61.** In indigenous communities, the consultation should take into consideration existing social structures, leadership, and decision-making processes. The Borrower should, however, consider and respond in a culturally appropriate manner to the persistence, in some indigenous communities, of traditions and social norms that may limit women's participation in leadership roles and decision-making. In some indigenous communities, women may be reluctant to speak in public when male leaders are present, have lower educational levels, or speak only indigenous languages. Special measures might then be necessary, such as women-only meetings or door-to-door interviews. Refer to ESPS 7 and its accompanying Guideline for further detail on engagement process with indigenous peoples.

**GL62.** Project information should be disclosed in relevant local languages, in a manner and format that is culturally appropriate and accessible for non-literate and semi-literate audiences, and through channels that are suitable to the diverse groups of stakeholders. Formats such as location sketches, physical models, drawings, videos, leaflets, and posters may be useful to communicate relevant information to certain audiences. Modes of communication that can be more accessible for women and disadvantaged groups include radio; social media; posters placed in schools, health posts, community centers, and markets; sound trucks; word of mouth; and door-to-door. Reaching out to networks with predominantly female memberships, such as school-parents associations, women's associations, women's cooperatives, and social clubs, may be an effective way to increase women's participation.

**GL63.** The Borrower must put in place a grievance mechanism to receive and facilitate the resolution of concerns and grievances of project-affected parties, project workers and other stakeholders. Persons in situation of vulnerability may be more reluctant or feel unsafe to lodge grievances in a public manner. To encourage its use by all stakeholders, the grievance mechanism should consider languages and literacy issues; provide different and accessible ways to present a concern or complaint (e.g., in person, by telephone, complaint boxes, online, etc.); advertise them broadly through appropriate media; and ensure that all grievances are treated confidentially, impartially, objectively, and timely. The persons in charge of the mechanism should be trained to handle grievances in a gender-sensitive and compassionate manner, especially when dealing with issues related to gender-based violence and discrimination due to gender, sexual orientation, and/or gender identity.

## KEY CONCEPTS

**Discrimination against women:** The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), adopted by the United Nations in 1979, states that “Discrimination against women shall mean distinction, exclusion, or restriction made on the basis of sex which has the purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field”.

**Discrimination based on sexual orientation and gender identity** means creating a distinction, exclusion, or restriction which has the purpose or effect of impairing or excluding a person based on their real or perceived sexual orientation or gender identity, from being on an equal basis with others.

**Gender:** social construct that classifies a person as a man, woman, or some other identity. Gender refers to social attributes that are learned or acquired during socialization as a member of a given community. Because these attributes are learned behaviors, they can and do change over time and vary across cultures.

**Gender Equality** means that people of all genders enjoy the same conditions and opportunities to exercise their rights and reach their social, economic, political, and cultural potential.

**Gender Identity:** a person’s internal sense of being male or female or something other or in between. A person’s gender identity may or may not correspond with their sex. Gender identity is subjective and self-defined.

**Gender minority:** Individuals whose gender identity (man, women, other) or expression (masculine, feminine, other) is different from their sex (male, female) assigned at birth.

**Intersectionality** is the interconnected nature of social categorizations such as race, socioeconomic status, and gender as they apply to a given individual or group, regarded as creating overlapping and interdependent systems of discrimination or disadvantage.

**LGBTQI+:** Lesbian, Gay, Bisexual, Transgender/transsexual, Intersex and other individuals who identify with another sexual orientation or gender identity, such as queer, questioning, asexual, and/or others. The “+” aims to allow for the inclusion of other self-identified groups.

**Project worker** refers to: (i) people employed or engaged directly by the Borrower (including the project proponent and the project implementing agencies) to work specifically in relation to the project (direct workers); (ii) people employed or engaged through third parties to perform work related to core functions of the project for a substantial duration (contracted workers); and (iii) workers engaged by the Borrower’s primary suppliers (primary supply workers).

**Sex** refers to a person's biological status and is typically categorized as male, female, or intersex.

**Sexual and gender-based violence (SGBV)** refers to any actual or threatened harmful act that is perpetrated against a person's will and is based on gender norms and unequal power relationships. It encompasses threats or acts of violence, coercion, and harassment, and other deprivations of liberty including denial of resources or access to them. It can be physical, emotional, psychological, or sexual in nature. SGBV can affect persons at any age across the lifespan, and disproportionately affects women, girls, and people of diverse sexual orientations and gender identities.

**Sexual Abuse:** actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

**Sexual Exploitation:** actual or attempted abuse of a position of vulnerability, power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another.

**Sexual Harassment** encompasses a range of behaviors and practices of a sexual nature, such as unwanted sexual comments or advances, request for sexual favors, verbal or physical conduct or gesture of a sexual nature, or any other behavior of a sexual nature that might be reasonably expected or perceived to cause offence or humiliation to another when such conduct interferes with work; is made a condition of employment; or creates an intimidating, hostile, or offensive work environment. Sexual harassment may be perpetrated by different individuals, including colleagues, supervisors, subordinates and third parties. Harassers or victims may be of any gender.

**Sexual Minorities:** Individuals who identify as gay, lesbian, or bisexual, or who are attracted to or have sexual contact with people of the same gender.

**Sexual Orientation:** each person's enduring capacity for profound romantic, emotional and/or physical feelings for, or attraction to, person(s) of a particular sex or gender. It encompasses hetero-, homo- and bi-sexuality and a wide range of other expressions of sexual orientation.

GUIDELINES FOR ENVIRONMENTAL  
AND SOCIAL PERFORMANCE

**STANDARD 10:**  
**STAKEHOLDER**  
**ENGAGEMENT AND**  
**INFORMATION**  
**DISCLOSURE**



10

## INTRODUCTION

- 1.** This ESPS recognizes the importance of open and transparent engagement between the Borrower and stakeholders, especially project-affected people, as a key element that can improve the environmental and social sustainability of projects, enhance project acceptance, and contribute significantly to the project's successful development and implementation. This ESPS is consistent with the objective of implementing the rights of access to environmental information, public participation in the environmental decision-making process, and access to justice in environmental matters.<sup>188</sup>
- 2.** Stakeholder engagement is an inclusive process conducted throughout the project's life cycle. When properly designed and implemented, it supports the development of strong, constructive, and responsive relationships that are important for the successful management of a project's environmental and social risks and impacts. Stakeholder engagement is most effective when initiated early in the project development process. It is an integral part of early project decisions about the assessment, management, and monitoring of environmental and social risks and impacts.
- 3.** This ESPS must be read in conjunction with ESPS 1 and ESPS 9. Specific requirements regarding engagement with workers are found in ESPS 2. Special provisions on emergency preparedness and response are covered in ESPS 4. In the case of projects involving involuntary resettlement, Indigenous Peoples, or cultural heritage, the Borrower will also apply the specific disclosure and consultation requirements set out in ESPSs 5, 7, and 8, respectively.

## OBJECTIVES

- To establish a systematic approach to stakeholder engagement that will help the Borrower identify stakeholders, especially project-affected people, and build and maintain a constructive relationship with them.
- To assess the level of stakeholder interest in and support for the project and to enable stakeholders' views to be considered in project design and environmental and social performance.
- To promote and provide the means for effective and inclusive engagement with project-affected people throughout the project's life cycle on issues that could potentially affect or benefit them from the project.

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<sup>188</sup> Consistent with the principles in the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement).

- To ensure that appropriate information on environmental and social risks and impacts of the project is disclosed to stakeholders in a timely, understandable, accessible, and appropriate manner and format.
- To provide stakeholders with accessible and inclusive means to raise questions, proposals, concerns, and grievances and allow Borrowers to respond and manage them appropriately.

**GL1.** Stakeholder Engagement is a continuing and iterative process by which the Borrower or project facilitates a two-way interaction with the project's stakeholders. It may comprise consultation, dialogue, grievance management or any other form of two-way information exchange, discussion or collaboration. Communications, which is the transmission of information from one party to another, including dissemination or disclosure of project information, is one aspect of stakeholder engagement. Consultation is a specific event or series of events that forms part of an ongoing stakeholder engagement process. Effective stakeholder engagement requires disclosure of information to facilitate understanding prior to meaningful consultation.

**GL2.** The purpose of stakeholder engagement is to establish and maintain strong, constructive and responsive relationships between the Borrower or project and stakeholders, especially project-affected people (PAPs), over the life of the project. As such, stakeholder engagement should be initiated as early as possible in the project life cycle, during project identification and proactively managed until the project is closed. It is an essential aspect of good project management and an integral element of an effective and adaptive project Environmental and Social Management System (ESMS) (see ESPS 1). It may comprise a basic channel for dialogue with stakeholders or a comprehensive engagement process involving meaningful consultation (see paras. 21-23).

**GL3.** Stakeholder engagement allows the Borrower to learn from the experience, knowledge and concerns of stakeholders, to manage their expectations and to build trust. It also helps the Borrower to identify and manage project risk and potentially improve its operations. Stakeholder engagement provides a vehicle for stakeholders to contribute to the project's environmental and social assessment, risk and impact identification process, project design including the design of environmental and social mitigation measures, and ongoing project management. The latter includes the implementation, monitoring and evaluation of mitigation measures and other aspects of environmental and social performance. It also provides a channel for stakeholders to submit questions, requests and grievances, and for Borrowers to manage those grievances. Borrowers should build on the channels of communication and understanding gained through stakeholder engagement throughout the project life cycle.

**GL4.** A systematic approach to stakeholder engagement begins with the identification of all stakeholders and the development of a stakeholder engagement plan (SEP) that lays out a set of consistent and iterative engagement activities that are proportionate to the issues and risks associated with the project.

**GL5.** Inclusive engagement involves all stakeholders, including disadvantaged, marginalized or vulnerable individuals or groups, and empowers them to participate in the engagement process. Inclusiveness ensures that the engagement process is open to all stakeholders with no discrimination or fear of reprisals, at no cost, socially and culturally appropriate, and in one or more language and forms that everyone can understand. It may require different approaches to be tailored for different stakeholders. The expected outcome is that any individual or organization that criticizes, speaks up against, or seeks/supports redress for grievances against the project or project components at any stage of the project, will have their views and concerns listened to and responded to by the Borrower, and will not face harm, retaliation, or repercussions by the Borrower or other project proponents, directly or indirectly.

**GL6.** ESPS 10 is consistent with the human rights principle of participation, and also the Escazú Agreement, which was signed on March 4, 2018, in Costa Rica and has four pillars: access to information; access to participation in environmental decision-making; access to justice in environmental matters; and protection for environmental defenders. It is the only legally binding agreement stemming from Rio+20 and was negotiated by the states with significant participation from civil society. The Escazú Agreement came into effect April 22<sup>nd</sup>, 2021 (<https://www.cepal.org/es/acuerdodeescazu>).

## SCOPE OF APPLICATION

4. This ESPS applies to all investment financing projects. The implementation of the actions necessary to meet the requirements of this ESPS is managed through the Borrower's Environmental and Social Management System, the elements of which are outlined in ESPS 1.
5. For the purpose of this ESPS, "stakeholder" refers to individuals or groups who:
  - Are affected or likely to be affected by the project ("project-affected people") and
  - May have an interest in the project ("other stakeholders").

**GL7.** For the purpose of the ESPS, a project is any IDB-financed investment loan, investment grant, or investment guarantee.

**GL8.** PAPs are individuals or groups, including communities, organizations or businesses, that may be local to a project, downstream or across a border from it (transboundary), and who are directly, indirectly, cumulatively (see ESPS 1) or likely to be affected by the project, either positively or negatively. The project may affect their physical surroundings, health and well-being, safety or security, way of life, cultural practices, or way of earning a living. It may also provide direct or indirect benefits. PAPs are normally, but not always, located geographically close to the project and its associated facilities, or adjacent to it.

**GL9.** Other stakeholders are people, organizations, businesses or communities that are not directly or indirectly affected by the project but have an interest in it, or potentially an influence over it.

**GL10.** The techniques and practices described in this guideline apply to the requirements of ESPS10 and to any formal points of engagement such as consultation, grievance mechanism or disclosure requirements, set out in other ESPS.

## REQUIREMENTS

- 6.** The Borrower will engage with stakeholders throughout the project life cycle. It will commence such engagement as early as possible in the project development process and in a timeframe that enables meaningful consultations with stakeholders on project design and development. The nature, scope, and frequency of stakeholder engagement will be proportionate to the nature and scale of the project, its development and implementation timeline, and its potential risks and impacts.
- 7.** The Borrower will engage in meaningful consultations with stakeholders. It will provide stakeholders with timely, relevant, understandable, and accessible information, and will consult with them in a culturally appropriate manner, free of manipulation, interference, coercion, discrimination, and intimidation.
- 8.** Stakeholder engagement will involve the following steps: (i) stakeholder identification and analysis, (ii) planning how the engagement with stakeholders will take place, (iii) disclosure of information, (iv) consultation with stakeholders, (v) addressing and responding to grievances, and (vi) reporting to stakeholders.
- 9.** The Borrower will maintain and disclose as part of the environmental and social assessment, a documented record of stakeholder engagement, including a description of the stakeholders consulted, a summary of the feedback received, and a brief explanation of how the feedback was taken into account or the reasons why it was not.

**GL11.** The project life cycle generally comprises three stages: project preparation, project implementation and closure. Project preparation normally comprises three additional stages: project identification; project design including technical, economic, environmental, social and related assessments as well as site selection; and negotiations with permitting authorities and lenders. Project implementation may comprise two stages, construction and operations, for projects involving construction. Project closure generally refers to the project phase at the

end of its useful life when the facilities are decommissioned, and the site is rehabilitated and repurposed. Stakeholder engagement starts as early as possible in the project life cycle, during project identification, and, for some projects, continues until the project is closed (e.g., projects that consist of ongoing operations, not just a construction phase).

**GL12.** Stakeholder engagement is an ongoing and iterative process, the level of which is determined by a range of issues including the nature (e.g., infrastructure, transport, energy, water and sanitation, housing, education, health, etc.), scale (e.g., size or level of disruption) and complexity (e.g., single site, linear, or with associated facilities) of the project; the environmental and social risks and potential impacts associated with the project; and the level of concern expressed by stakeholders, in particular PAPs. For all projects, engagement should be frequent enough for the Borrower to build a relationship with stakeholders based on trust. It should also be frequent enough to allow the Borrower to be able to respond to and build on stakeholder feedback received during each engagement activity. Maintaining a consistent engagement team will support the development of genuine relationships. In exceptional circumstances, such as in a pandemic or epidemic, the nature of the engagement might need to be adjusted in accordance with proper public health provisions that are in effect. In such circumstances, the Borrower should make a concerted effort to achieve a similar level of engagement that would have prevailed under normal circumstances.

**GL13.** During project preparation, stakeholder engagement should, at a minimum, include:

- Consultation with stakeholders to inform the Borrower's process of stakeholder identification and analysis;
- Disclosure of relevant project information, including project design and any associated activities, project-related environmental and social risks and impacts, proposed mitigation measures and action plans (or management plans), as well as explanations of intended project benefits. This will include the draft SEP (see paras. 13-18), and the draft grievance mechanism (see paras. 27-28). The project should disclose information that will support stakeholder understanding of the project and the project related issues that interest or affect them, so that they can engage effectively with the Borrower and make informed comments and decisions during consultation;
- Consultation on the above. This normally takes place during the environmental and social assessment process;
- Responses to any grievances or concerns raised;
- Reporting back to stakeholders, especially PAPs, on how stakeholder feedback was incorporated into project and mitigation design and activities, and into the environmental and social action plans, to improve the quality, sustainability and acceptability of the project.

**GL14.** During project implementation, the Borrower's stakeholder engagement activities should include:

- Regular efforts to keep stakeholders informed about what is going on in project implementation, to maintain relationships, especially if the project involves construction, in line with the level of project activity;
- Consultations with stakeholders on any changes to project design or environmental and social risks and impacts, ongoing implementation of environmental and social mitigation measures, and any new issues arising in relation to or during project implementation;
- Timely and consistent responses in relation to grievances; and
- Review of the SEP, including the adequacy of stakeholder identification in light of any issues that have come up during project implementation.
- Proactive solicitation of stakeholder feedback, prioritizing two-way dialog in addition to one-way information sharing.

**GL15.** In cases where the IDB's involvement starts after the Borrower has identified the project, IDB will work with the Borrower to review their plan for stakeholder engagement and, if necessary, to develop and implement a supplemental SEP to ensure adequate stakeholder engagement going forward.

**GL16.** The Borrower is responsible for documenting the stakeholder engagement process and may wish to maintain that information in a database. Borrowers must take steps to maintain confidentiality when requested and where necessary to protect personal data. Documentation should, at a minimum, include the following information:

- The date and location of each engagement activity (e.g., public meeting, survey, leaflet distribution), including a copy of any notification/invitation to stakeholders, or record of invitations delivered orally;
- The purpose of the engagement activity (e.g., to inform stakeholders of an intended project, to consult them about changing traffic patterns, to provide information about how to access the grievance mechanism);
- The form of engagement (e.g., face-to-face public meetings or workshops, focus groups, written consultations, online consultations, dissemination of information prior to a formal consultation process, door to door survey);
- The number of participants and, where stakeholders have been grouped into categories in the SEP, the categories of participants (e.g., community leaders, local businesses, the elderly, Indigenous Peoples, health workers, NGOs. Names of participants should not be disclosed without their explicit authorization;
- A list of materials disclosed or distributed to participants, including any instructions that the materials should be reviewed prior to a consultation event;
- Copies of any pictures or videos taken;
- A summary of the main points covered, any ideas, issues or concerns raised by stakeholders, and any agreements or commitments made;

- A summary of how stakeholders' ideas, issues or concerns were responded to and taken into account in project or mitigation design, or in the management of activities; and
- Any issues or activities that require follow-up and how they will be addressed.

## Engagement During Project Preparation

### *Stakeholder Identification and Analysis*

- 10.** The Borrower will identify and document the stakeholders, including both project-affected people and other stakeholders.

**GL17.** Identifying stakeholders is an iterative process that normally begins early in the environmental and social risk and impact identification process and is updated throughout the project life cycle. Stakeholder identification can be facilitated by mapping the geographic area that the project may affect to help identify both the project's area of influence as well as its stakeholders. Initially, there are two groups of stakeholders that the Borrower will need to identify:

1. PAPs: the Borrower will develop a list of individuals/groups, including communities, organizations or businesses, that are likely to be either directly, indirectly or potentially affected by the project, positively or negatively. Focus should be on individuals or groups that are potentially directly and adversely affected by the project.
2. Other stakeholders: the Borrower will develop a list of individuals or groups that are either interested in or who have influence on the project or the PAPs. These may include local, regional and national authorities, political organizations, businesses, groups whose facilities may be used or impacted by the projects (e.g., clinics, hospitals), media, NGOs (local, national and potentially international), academics, neighboring projects, and any other individuals or groups who may be interested in the project as a result of social or historical issues (e.g., land claims, an ancient grave yard or cultural site), the project location and associated sensitivities (e.g., proximity to a protected area or cultural monument), or the project sector (e.g., health infrastructure).

**GL18.** The Borrower will also develop a list of formal and/or traditional stakeholder representatives, and other key stakeholders, including elders, elected officials, community leaders, leaders of formal or informal community institutions within the affected communities (such as teachers or doctors), where such representatives or key stakeholders are knowledgeable about the local, regional or sector contexts.

**GL19.** Once a preliminary list of stakeholders and stakeholder representatives has been developed, the Borrower may consult with representatives and other key stakeholders to identify additional groups or individuals who may have been overlooked. This can be done face to face through individual or group meetings, or virtually using an appropriate platform that is accessible to stakeholders. The Borrower should review the list of stakeholders in light of changes to the project scope that affect the area of interest. Anyone considering themselves a stakeholder may engage in the process.

**11.** The Borrower will identify and document those project-affected people who, because of their circumstances, may be disadvantaged or vulnerable.<sup>189</sup> Based on this identification, the Borrower will further identify individuals or groups who may have different concerns and priorities about project impacts, mitigation mechanisms, and benefits and who may require different or separate forms of engagement. Sufficient detail will be included in the stakeholder identification and analysis to determine the level of communication that is appropriate for the project.

**GL20.** PAPs should be analyzed by sub-groups or categories since their willingness to engage, how they engage, their potential concerns and priorities for development, or their perception of project risks and experience of impacts may vary. This may affect how engagement should be structured. For example, in some societies, cultural norms require that men and women are approached separately, while in others, women may join men for engagement but are less likely to speak out when men are present. The perceptions of how a project will impact a community may differ by gender, age, ethnic identity, disability, religion, socio-economic or legal status within the community. As a result, the Borrower should identify groups that may need to be consulted separately, or for whom special accommodations should be made, such as religious or ethnic groups, community leaders or elders, groups with different socio-cultural practices or different native languages or dialects, or any group that is marginalized by the majority, vulnerable or disadvantaged (see ESPS 1, GL50), at the time of identification. Borrowers must ensure that the interests of disadvantaged or vulnerable groups are adequately represented throughout the stakeholder engagement process.

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<sup>189</sup> Disadvantaged or vulnerable refers to those people who may be more likely to be adversely affected by the project impacts and/or less able to take advantage of a project's benefits. Such an individual/group is also more likely to be excluded from or unable to participate fully in the mainstream consultation process and may require specific measures or assistance to do so. The designation takes account considerations relating to age, including the elderly and minors, including in circumstances where they may be separated from their family, community, or other individuals upon whom they depend.

**GL21.** Disadvantaged or vulnerable groups may be groups based on gender, gender identity or sexual orientation (see ESPS 1, GL52), age, race, disability, religion, color, ethnicity, state of health, language, political or other opinion, national or social origin, property, birth, economic status, social condition, or other factors which make them potentially more likely to be adversely impacted by, or less able to take advantage of, a project. This may include women, children, youth, the elderly or infirm. It may also include the landless, poor, single or female headed households, unemployed, resettled, communities who are dependent on natural resources or traditional ways of life, refugees or internally displaced people, or other displaced people who may not be protected through national legislation and/or international law. In some countries in LAC, some groups are considered historically disadvantaged, such as people of diverse sexual orientations and gender identities (see ESPS 9), people with disabilities, African descendants, Indigenous Peoples (see ESPS 7) and other traditional peoples. Where these populations are present and adversely impacted, rights-based approaches to engagement, carried out by specialists trained to engage with vulnerable people without doing inadvertent harm, may be needed. See GL24 and GL25 for more details on third party specialists.

**GL22.** In some cases, such as vulnerability owing to sexual orientation, special or differentiated measures may be needed to ensure that effective and inclusive engagement is achieved without exposing the individual/group to potential public identification, backlash or even physical endangerment. In some cases, effective and inclusive engagement may require taking the engagement to the individual/group, instead of expecting them to attend a meeting. Adaptations for engagement may involve having a gender balanced engagement team, using a local facilitator/interpreter instead of an outsider or vice versa, delivering materials in different formats to different groups, changing the time of day when engagement occurs, the location at which it occurs, or a variety of other options in accordance with the project context, the issues to be addressed, and the nature of the disadvantaged or vulnerable group to be engaged.

**GL23.** When projects are likely to or do impact disadvantaged or vulnerable individuals or groups, Borrowers or third parties who engage with them should be experienced and competent in their understanding of the specific issues related to such individuals or groups. Specific training may be warranted.

**12.** Depending on the potential significance of environmental and social risks and impacts, the Borrower may be required to retain third-party specialists to assist in the stakeholder identification and analysis to support a comprehensive analysis and design of an inclusive engagement process.

**GL24.** The Borrower may find it helpful to retain third-party specialists or experts to support many aspects of stakeholder engagement, especially stakeholder identification and analysis, and the development of a SEP including meaningful consultation. Third-party specialists are especially helpful in a socio-political environment where there is little trust, or a high risk of meetings being used for surveillance or result in retaliation. (For an explanation of significance, see ESPS 1).

**GL25.** Any third-party specialists hired to support the engagement process should have the relevant technical expertise, competence and perceived credibility and independence in the eyes of the community. Ideally, they will have sufficient experience in facilitating projects with similar environmental and social risks and impacts and/or relevant independent local knowledge. They should be able to provide professional, objective and impartial advice, and to avoid conflicts with other assignments or their own business or personal interests. They should be without local vested interests or reason to influence the outcome of the process. Borrowers should not outsource stakeholder engagement to third parties; instead, they should own the engagement process and be accountable to stakeholders at all times.

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## Stakeholder Engagement Plan

- 13.** The Borrower will develop and implement a stakeholder engagement plan (SEP)<sup>190</sup> proportionate to the nature and scale of the project and its potential risks and impacts, commensurate with the project-level circumstances for stakeholder engagement.<sup>191</sup> Where a SEP is prepared, a draft will be disclosed as early as possible in the project development process. The Borrower will seek the views of stakeholders, including the identification of stakeholders and proposals for future engagement. If significant changes are made to the SEP, the Borrower will disclose the updated SEP in a timely manner.
- 14.** The SEP will describe the timing and methods of engagement with stakeholders throughout the project life cycle, distinguishing between affected stakeholders and other stakeholders. The SEP will also describe the range and timing of information to be communicated, as well as the type of information to be sought from affected stakeholders and other stakeholders.

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<sup>190</sup> Depending on the nature and scale of project risks and impacts, the elements of a SEP may be included in an action plan, and preparation of a stand-alone SEP may not be necessary.

<sup>191</sup> Wherever possible, stakeholder engagement will utilize engagement structures within the national system, such as community meetings, supplemented as needed with project-specific arrangements.

**15.** The SEP will take into account the main characteristics and interests of stakeholders and the different levels of engagement and consultation that will be appropriate for different stakeholders. The SEP will set out how communication with stakeholders will be handled throughout project preparation and implementation.

**GL26.** A SEP provides a framework for proactively and systematically engaging and communicating with stakeholders in a meaningful way. The Borrower is required to produce a SEP whenever there are PAPs. It should incorporate any stakeholder engagement required under other ESPs. As part of the engagement process, the SEP may include a communications strategy that sets out how the project will communicate with stakeholders about the project, to keep them informed of developments.

**GL27.** The SEP is an integral part of the Borrower's ESMS and should be treated as a living document. As such, the Borrower is required to keep it updated regularly and, as the project progresses, to adapt it to the different and evolving needs of the project and its stakeholders. Generally, a SEP is updated prior to the start of project implementation (for projects involving construction, prior to the start of construction and again prior to the start of operations) in line with the requirements for ongoing engagement. At a minimum, it should be reviewed annually. The process of preparing a SEP is inclusive and any feedback or comments received from stakeholders should be reviewed and incorporated into a revised SEP as appropriate, and according to any plan agreed with the stakeholders. For more detailed guidance and specific examples of successful stakeholder engagement, refer to the IDB's document "Meaningful Stakeholder Consultation."

**GL28.** The Borrower should disclose a draft SEP prior to the first round of consultation, often as part of an environmental and social impact assessment (ESIA) process. Revised SEPs should also be disclosed, either in conjunction with other materials prior to consultation, or as standalone documents, where necessary. It is important to ensure that personal data is protected at all times.

**16.** The SEP will describe the measures that will be used to remove obstacles to participation and how the views of differently affected groups will be captured. Where applicable, the SEP will include differentiated measures to allow the effective participation of those identified as disadvantaged or vulnerable. Dedicated approaches and additional resources may be needed for communication with such differently affected groups so that they can obtain the information they need regarding the issues that will potentially affect them and share their views and concerns.

- 17.** When stakeholder engagement with local individuals and communities depends substantially on community representatives,<sup>192</sup> the Borrower will make reasonable efforts to verify that such people represent the views of those individuals and communities and that they are facilitating the communication process in an appropriate manner.<sup>193</sup>

**GL29.** Where community representatives are taking the lead on consultation, it is important to develop a clear understanding of their degree of authority and legitimacy, and level of representation of the local population especially in relation to the PAPs and disadvantaged groups. Where they do not appear to represent all groups equally, other forms of engagement are encouraged. Borrowers might find it useful to analyze and map community structures (e.g., formal and informal institutions, decision-making processes, formal and informal authority figures), to use diverse methods to identify community representatives (e.g., community surveys, participatory processes or consultation with external bodies), and to follow local systems and processes that foster the accountability of those identified.

- 18.** In certain circumstances,<sup>194</sup> depending on the information available about the project, the SEP will take the format of a framework approach, outlining general principles and a collaborative strategy to identify stakeholders and plan for an engagement process in accordance with this ESPS that will be implemented once the location is known.

**GL30.** A SEP framework approach is appropriate where the design or location of the project is not known during project preparation, or when a project has multiple subprojects that will only be designed during project implementation. In such cases, the framework sets out the principles for stakeholder engagement in a manner that is consistent with ESPS10 and indicates how people are to be notified as key information, such as project or subproject locations, potential impacts, project timelines and the nature of stakeholders becomes available. It is an important tool in managing stakeholder expectations as the project develops.

**GL31.** The SEP framework is updated as more information becomes available and disclosed to stakeholders whenever significant changes are made. When one or more projects are defined, the framework can be replaced with one or several SEPs, according to the nature of the projects.

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<sup>192</sup> For example, village heads, clan heads, community and religious leaders, local government representatives, civil society representatives, politicians, or teachers.

<sup>193</sup> For example, by conveying, in an accurate and timely manner, information provided by the Borrower to the communities and the comments and the concerns of these communities to the Borrower.

<sup>194</sup> For example, where the exact location of the project is not known.

## Information Disclosure

- 19.** The Borrower will disclose project information to allow stakeholders to understand the project's risks, impacts, and potential opportunities and development benefits from the project. The Borrower will provide stakeholders with access to the following information, as early as possible in the project development process, and in a timeframe that enables meaningful consultations with stakeholders on project design:
- a.** A description of the area of influence and physical and technical characteristics of the proposed project or activity
  - b.** The duration of the proposed project activities
  - c.** Potential risks and impacts on local communities and the environment, and proposals for mitigation, highlighting the potential risks and impacts that may disproportionately affect vulnerable and disadvantaged groups and describing the differentiated measures taken to avoid and minimize them
  - d.** Potential opportunities and development benefits from the project for local communities
  - e.** A summary of (a), (b), (c), and (d) of the present paragraph in comprehensible, non-technical language
  - f.** The proposed stakeholder engagement process, highlighting ways in which stakeholders can participate
  - g.** The time and venue of any proposed public consultation meetings and the process by which meetings will be notified, summarized, and reported
  - h.** The process and means by which grievances can be raised and will be addressed<sup>195</sup>
- 20.** The information will be disclosed in relevant local languages and in an accessible and culturally appropriate manner, taking into account the needs of groups that may be differentially or disproportionately affected by the project or groups with specific information needs (such as disability, literacy, gender, mobility, differences in language, or accessibility).

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<sup>195</sup> This includes the project's grievance mechanism and the IDB's independent consultation and investigation mechanism.

**GL32.** Accurate, accessible, and comprehensible information is a prerequisite for effective stakeholder engagement, giving stakeholders the opportunity to express informed opinions and ideas. Information should be delivered sufficiently in advance of consultation events to provide stakeholders with enough time to consider the information and form their views beforehand.

**GL33.** Information relating to project risks, potential impacts and benefits may be provided as presentation printouts, non-technical summaries, project leaflets, as pamphlets, posters or other formats that are technologically accessible and culturally appropriate to the various stakeholder groups. Different formats may be required for different groups when considering issues such as levels of education, literacy and cultural norms. Some may want to see a full set of technical documents while others may require an oral explanation. Where possible, materials should include maps of the project area and non-technical drawings. In cases where literacy levels are low, formats such as location sketches, physical models, and film presentations may be useful to communicate relevant information.

**GL34.** Materials should be made available through locally appropriate mechanisms such as public notice boards, in local government offices, local media, local project information office and other accessible locations including, sometimes, by delivering them door to door. They should be provided in the stakeholder's native language. Materials should be made public on the Borrower's and the project website, and on other virtual platforms, especially when physical delivery is not possible (e.g., during a pandemic). Following disclosure, the Borrower should help the public to understand the project and associated technical documents through a consultation process that includes non-technical explanations and presentations, and/or by providing access to local experts. The timing and method of disclosure may vary according to the requirements of national law.

**GL35.** Materials should be made accessible for stakeholders with sensory disabilities (e.g., by providing them in braille or engaging a sign language interpreter at a consultation meeting, as appropriate).

**GL36.** The Borrower should continue to provide information to stakeholders on an ongoing basis, at a minimum whenever there is a change to the project that may impact stakeholders, and at least annually. Some projects may find it useful to provide PAPs with a weekly/monthly/quarterly newsletter, or regular meetings to discuss progress. It is important to always remain responsive to requests for information from PAPs and other stakeholders. Borrowers may consider setting up appropriate systems to make project information available on request, potentially through the grievance mechanism. Costs for providing information to stakeholders should be included in the project budget.

**GL37.** Borrowers should balance the need for transparency with the need to protect confidential information. Where project documents, such as a resettlement action plan, contain personal information such as names, addresses, telephone numbers or any other personally identifiable information, it should be treated as confidential, except where disclosure is required by law, or

redacted so that no data or information can be associated with a particular individual. Sensitive information about project affected communities, such as income and health information collected as part of a socio-economic baseline, should not be disclosed in a way that can be attributed to specific individuals or households.

## Meaningful Consultation

- 21.** The Borrower will undertake a process of meaningful consultation in a manner that provides opportunities to project-affected people and other relevant stakeholders, without fear of reprisal, to express their views on project risks, impacts, and mitigation measures, and on access to potential opportunities and development benefits, and allows the Borrower to consider and respond to them. It will carry out meaningful consultation on an ongoing basis as issues, impacts, and potential opportunities and development benefits evolve. The extent and degree of engagement required by the consultation process should be commensurate with the project's risks and adverse impacts and with the concerns raised by project-affected people and other relevant stakeholders.
  
- 22.** Meaningful consultation is a two-way process, that:
  - Begins early in the project planning process to gather initial views on the project proposal and inform project design;
  - Encourages stakeholder feedback, particularly as a way of informing project design and engagement by stakeholders in the identification and mitigation of environmental and social risks and impacts;
  - Is ongoing, as risks and impacts arise;
  - Is based on the prior disclosure and dissemination of relevant, transparent, objective, meaningful, and easily accessible information in a timeframe that enables consultations with stakeholders in a culturally appropriate format, in relevant local language(s), and is understandable to stakeholders;
  - Considers and responds to feedback;
  - Supports active and inclusive engagement with project-affected people and other stakeholders;
  - Is free of external manipulation, interference, coercion, discrimination, retaliation, and intimidation; and
  - The Borrower documents and discloses.



**GL38.** Meaningful consultation is a cornerstone of informed decision making and a key aspect of a project’s stakeholder engagement program. It requires an understanding of the project context and any risks for the project that originate from that context (contextual risk), such as ongoing conflict or societal tensions, poor community experience with previous projects, or extreme poverty.

**GL39.** Meaningful consultation is an organized and iterative process that starts during project identification. It is designed to give PAPs an in-depth understanding of the project to enable them to provide more informed input into project design and decision making. Meaningful consultations should also inform PAPs about how their contributions will be considered in project decision making. It is scaled to match the level of risks and impacts faced by PAPs. It involves an in-depth exchange of views and information between the project and PAPs, leading in many instances to the inclusion of the views of PAPs into the design of mitigation measures and the sharing of benefits and opportunities arising from the project where these occur. It allows the project to benefit from new ideas, local knowledge and understanding. It is recommended that the meaningful consultation process be designed and agreed with PAPs alongside the design of the assessment process. It should capture the views of all PAPs, including the differences in views, priorities and concerns of individuals or groups who may require different or separate forms of engagement. Security and accessibility should be considered when designing a meaningful consultation program, especially in fragile and conflict-affected situations. It should be appropriately documented.

**GL40.** Meaningful consultation that is culturally appropriate is responsive to the specific cultural norms of any individual or group. It takes into account a range of issues such as: gender (e.g., whether women, men, and/or persons with diverse sexual orientations or gender identities can be consulted effectively in the same space, and/or whether special provisions are required for any specific groups to avoid reprisals - see ESPS 9, para 20 for equitable participation of people of all genders in consultations); age (e.g., age at which individuals are legally recognized as adults, specific expectations for treatment of elders); time available for and timing of engagement (e.g., days of the week, expectations for engagement sessions lasting several hours, constraints resulting from PAP livelihoods/working hours); traditional decision making processes; location of engagement activities; requirements for specific cultural practices (e.g., shaking hands or not, starting meetings punctually or not, how to set up the meeting space); literacy levels; the appropriateness of different types of audio and visual aids and formats; and make up, including gender balance, of engagement team.

**GL41.** Meaningful consultation must be free of manipulation, interference, coercion, discrimination, and intimidation on the part of the project/project staff, lenders or the government. The Borrower should also take steps to be as aware as possible of any attempts, including from within the community or from external groups, to discriminate against or intimidate community members in relation to the project or to exclude them from the consultation process. All stakeholders should be invited to engage irrespective of their status within the community. All stakeholders should be allowed to choose whether to engage of their own free will and with confidence that their active participation is free of reprisals or retribution from any quarter. All stakeholders must be allowed to express their views freely and equally, and provision should be made for separate meetings with individuals or groups who would not feel safe or be willing or able to freely participate in a diverse group setting even when those views are critical of the project or process, to enable full debate of all points of view. There should be no inducements to attend, speak or sign documents except in cases where direct expenses for attendance need to be covered to ensure no cost to stakeholders, and/or in cases where financial transactions form part of a settlement negotiated between the Borrower and the community. Attendance lists are discouraged in areas of high socio-political tension. The Borrower is expected to address allegations of retaliation, abuse, or discrimination seriously and take appropriate remedial measures in a timely manner.

**GL42.** To achieve meaningful consultation, relevant, understandable and accessible information must be made available to PAPs, with translations as necessary, far enough in advance of consultation events to allow them to read and absorb the information, according to the principles of the Escazú agreement.

**23.** For projects with potentially significant adverse impacts on project-affected people, the Borrower will conduct an ICP process in accordance with ESPS 1. For projects with adverse impacts to Indigenous Peoples, the Borrower is required to engage them in an ICP process and in certain circumstances to obtain their FPIC, in accordance with ESPS 1 and 7.

**GL43.** Requirements for a process of Informed Consultation and Participation (ICP) are the same as those for meaningful consultation.

**GL44.** Free Prior and Informed Consent (FPIC) must be obtained where Indigenous Peoples are adversely impacted by a project, in accordance with the requirements set out in ESPS 7. Several countries in the Americas have moved towards a more expansive application of the principles of FPIC. This has included the expansion of FPIC protections to African descendants in several countries. Some communities of African descendants in Latin America self-identify as traditional or indigenous communities or are legally recognized with distinct rights from those of the general population and as such may be subject to FPIC. This is the case in several countries in the region including Bolivia, Honduras, Colombia, and some African descendent communities in Brazil such as Quilombola communities.

**GL45.** Under certain circumstances (e.g., a previous attempt to develop the project, possibly under different ownership), an authority other than the Borrower may have already conducted a consultation process directly linked to the project. In this case, the Borrower should determine whether the process conducted, and its outcomes, are consistent with the requirements of ESPS 10 and, if not, whether any corrective actions are required. Such corrective actions could range from conducting additional engagement activities to facilitating access to and ensuring cultural appropriateness of relevant environmental and social information.

## Engagement During Project Implementation and External Reporting

- 24.** The Borrower will continue to engage with and provide information to project-affected people and other stakeholders throughout the project life cycle, in a manner appropriate to the nature of their interests and the project's potential environmental and social risks and impacts.<sup>196</sup>
- 25.** The Borrower will continue to conduct stakeholder engagement in accordance with the SEP and will build upon the channels of communication and engagement already established with stakeholders. In particular, the Borrower will seek feedback from stakeholders on the project's environmental and social performance and implementation of the mitigation measures.

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<sup>196</sup> Additional information may need to be disclosed at key stages in the project cycle, such as prior to start-up of operations, and on any specific issues that the disclosure and consultation process or grievance mechanism has identified as of concern to stakeholders.

**26.** If there are significant changes to the project that result in additional risks and impacts, particularly where these will further impact project-affected people, the Borrower will provide information on such risks and impacts and consult with project-affected people as to how they will be mitigated. The Borrower will develop and disclose an updated action plan, setting out any additional mitigation measures and their timeline for implementation.

**GL46.** During project implementation, Borrowers should provide regular updates to stakeholders on changes in scope, schedule, risks or impacts, including changes to the project area of influence, and maintain open dialogue and relationships with stakeholders to maintain trust and understanding, and to seek feedback. On projects where there is little change, updates should be provided at least annually. Ongoing stakeholder feedback is useful to monitor environmental and social risks and impacts and to assess the effectiveness of the measures designed to mitigate them. Consultations during project implementation also help Borrowers to identify and address new or recurring stakeholder concerns and manage expectations, and to assess whether action plan requirements have been fulfilled. Ongoing relationships are also essential in the management of unplanned events.

**GL47.** Community based monitoring of the management of project risks and impacts presents an additional opportunity for engagement that builds upon relationships with stakeholders established during project preparation. It presents a regular opportunity for stakeholders to provide evidence-based feedback to the project.

## Grievance Mechanism

**27.** The Borrower will respond to questions, concerns, and grievances of affected stakeholders related to the project's environmental and social performance in a timely manner. For this purpose, the Borrower will propose and implement a grievance mechanism to receive and facilitate resolution of concerns and grievances. The grievance mechanism to be provided under this ESPS may be utilized as the grievance mechanism required under other ESPSs (see ESPSs 5 and 7). However, the grievance mechanism for project workers required under ESPS 2 will be provided separately.

**GL48.** An operational or project-level grievance mechanism provides a means to address and resolve questions and concerns arising between individuals/groups or communities and the project as early and as quickly as possible. It is a formalized procedure or process that receives and facilitates the resolution of complaints arising from a project, as well as information requests, questions, comments, concerns and suggestions for improvement. Stakeholders may submit complaints or concerns regarding harm caused by a project or regarding harm that a

project may cause in the future. A grievance mechanism can help provide redress to individuals and communities adversely affected by the project and can result in enhanced project benefits. It is an essential element of effective stakeholder engagement, and a useful risk identification and management tool.

**GL49.** Grievance Mechanisms for project workers (see ESPS 2) should be separate from a mechanism for stakeholders. The grievance mechanism for stakeholders must meet the requirements of ESPS 4 (concerning the potential for grievances arising in relation to security arrangements and the behavior of security personnel), ESPS 5 (concerning the potential for grievances arising in relation to land acquisition or resettlement), ESPS 7 (concerning grievances from Indigenous Peoples), and ESPS 9 (concerning the need for grievance mechanisms to be designed in a way that is appropriate for groups or individuals who have faced sexual or gender-based violence (SGBV)). Under certain circumstances, owing to the size or complexity of resettlement, or specific institutional arrangements, it may be necessary to have a separate grievance mechanism for stakeholders affected by land acquisition and resettlement.

**28.** The grievance mechanism will be proportionate to the potential risks and impacts of the project and will be accessible and inclusive. Where feasible and suitable for the project, the grievance mechanism will utilize existing formal or informal grievance mechanisms, supplemented as needed with project-specific arrangements.

- The grievance mechanism is expected to address concerns promptly and effectively, in a transparent manner that is culturally appropriate and readily accessible to all project-affected parties,<sup>197</sup> at no cost and without retribution. The mechanism, process, or procedure will not prevent access to judicial or administrative remedies or to the IDB's Independent Consultation and Investigation Mechanism. The Borrower will inform the project-affected parties about the grievance process, including access to the IDB's Independent Consultation and Investigation Mechanism, in the course of its community engagement activities and will make publicly available a record documenting the responses to all grievances received.
- Grievances will be handled in a culturally appropriate manner and be discreet, objective, sensitive, and responsive to the needs and concerns of the project-affected parties. The mechanism will also allow for confidential or anonymous complaints to be raised and addressed.
- The Borrower will address allegations of retaliation, abuse, or discrimination and take appropriate remedial measures.

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<sup>197</sup> The mechanism should consider the use of accessible formats for the different physical, sensory, and/or cognitive needs.

**GL50.** A grievance mechanism is established as early as possible in project development. For a large and complex project where there will be PAPs, a project with existing legacy issues, in an area of social conflict, or where there is known opposition to the project, it will be important to have a grievance mechanism in place from the beginning of the environmental and social risk and impact identification process.

**GL51.** The design and scale of the grievance mechanism is project specific. The design will be influenced by cultural attitudes toward submitting grievances (e.g., written or oral, named or anonymous), the number of languages spoken by stakeholders, the level of literacy, available technology and local gender considerations. It should consider the context, nature and scale of the project, as well as the types of issues it will need to address (e.g., resettlement, security issues). The scale will depend on the number of PAPs, project beneficiaries, the size of the impacted population and the severity of the potential impacts. It may change in scale between project design, construction and operations as the level of project impacts changes.

**GL52.** The grievance mechanism should be easy to understand and submitting grievances should be intuitive. It must be equally accessible to the disadvantaged or vulnerable, including Indigenous Peoples, people with disabilities, women, people of diverse sexual orientations and gender identities. Pursuant to ESPS 9, a project grievance mechanism should have specific procedures for reporting SGBV, which are confidential and safe, minimize the reporting burden on survivors, and provide services in a gender-sensitive manner that minimize reprisal risk. A grievance mechanism should allow for both anonymous submission and confidential handling of issues. It should be widely advertised through locally appropriate channels.

**GL53.** Actions taken on the grievances should be predictable, informed and balanced. Grievance mechanisms should include published procedures for responding to and resolving grievances within a set time-period. When grievances require more time for research, investigation, consultation, or potentially funding of the resolution, the complainant should be duly informed. Borrowers should maintain regular communication with complainants, both to provide regular updates and additional information upon request, including through secure channels if necessary. Some grievances may require coordination among multiple departments/agencies. Copies of supporting materials needed to achieve resolution, and any feedback received, should be maintained on file for the duration of the project. Grievance mechanisms must have an appropriately sized and experienced team and resources available for investigating grievances and be an integral part of the project's ESMS. Submitted grievances should be considered in the review and update of organizational and operational policies to prevent similar circumstances from occurring again the future. The effectiveness of grievance mechanisms should be reviewed on a regular basis as part of the ongoing function of the ESMS.

**GL54.** Grievance mechanisms should allow for the anonymous submission of grievances unless this is not allowed by law; they should also be confidential. Ensuring confidentiality requires taking steps to prevent personally identifiable information from being accessed by or made available to third parties, by, for example, removing names, addresses, telephone numbers and other personal information from published documentation. Borrowers must also ensure the

security of personal data and private communication channels. Some complainants may wish the nature of the complaint itself to remain confidential. Resolutions of anonymous grievances should be made public where possible to support transparency. In some cases, the Borrower may consider engaging third parties to facilitate grievance resolution.

**GL55.** If there are allegations of retaliation, abuse, or discrimination, the Borrower should consider conducting a full investigation to identify the issue and perpetrators and take appropriate remedial action. This may include disciplinary action, providing appropriate support and services to the injured party, or, in the case where it is the grievance mechanism itself that is at fault, adjusting it to ensure that the discriminatory action cannot be repeated. If complaints allege criminal behavior, law enforcement should be alerted (except in the case of SGBV complaints—see GL \_\_\_ of EPSP 9). Borrowers, their staff, contractors and suppliers are encouraged to adopt a zero-tolerance policy towards retaliation, abuse and discrimination, and to maintain a code of conduct that sets out the expectations for behavior and treatment of their staff. Borrowers are encouraged to extend this code of conduct to cover the treatment of stakeholders.

**GL56.** Existing formal or informal grievance mechanisms identified as part of the environmental and social assessment may be used if they are suitable. In some instances, it may be more cost effective and sustainable to build on existing formal or informal processes than to design and implement a new process that may prove confusing or where the lack of a track record may not inspire confidence. Depending on the identity of the Borrower, national law or regulations might require the establishment of an ombudsman service (such as when the Borrower is a public utility in some countries), or one may already exist for challenging administrative decisions. However, such services are not likely to meet the requirements of ESPS 10. In that case, a project specific grievance mechanism will need to be established. In some instances, mechanisms operated by contractors, suppliers or consultants may operate alongside the project grievance mechanism. In this case, the Borrower is responsible for exercising oversight over all such project-level grievance mechanisms associated with the project. When there are multiple mechanisms, streamlining them as much as possible will help the Borrower and stakeholders alike. Borrowers should not impede access to alternative judicial and administrative mechanisms for dispute resolution available to stakeholders.

**GL57.** In addition to the project-level grievance redress mechanism, project-affected people and communities can access the IDB's grievance mechanism. The Independent Consultation and Investigation Mechanism (MICI), which has been set up independently of IDB operations and management and which reports directly to the IDB's Executive Board, will consider grievances from individuals and communities affected by projects financed by the IDB Group. MICI manages two mechanisms through which it assesses claims made by claimants: (i) The Consultation Phase, which is a voluntary and flexible space for dispute resolution, under the impartial mediation of the MICI. Through this mechanism, the claimant(s), the Borrower and/or the executing agency and the IDB have an opportunity to resolve their differences and reach an agreement that resolves the complaint; (ii) The Compliance Verification Phase, which consists of an investigation of facts by MICI to determine whether the IDB met its obligations with regards to the requirements of its Environmental and Social Policy Framework (ESPF). All

MICI processes, including the procedural requirements to file a claim, are regulated by the [MICI Policy](#), available on its website at <https://www.iadb.org/mici/>. Claimants can also contact MICI by email at [mechanism@iadb.org](mailto:mechanism@iadb.org) to obtain additional information. The Borrower must include in its stakeholder engagement efforts, particularly where project-affected people are concerned, information regarding the existence and role of MICI, its functions and the means of contact it.

## Organizational Capacity and Commitment

- 29.** The Borrower will define clear roles, responsibilities, and authority and will designate specific human and financial resources to be responsible for the implementation and monitoring of stakeholder engagement activities to achieve the objectives of this ESPS.

**GL58.** Effective stakeholder engagement requires commitment of management and staff, and sufficient dedicated resources (human, technical and financial). These resources should be clearly designated in the project preparation budget, and subsequently as part of the project ESMS and associated budget.

**GL59.** The number of Borrower's staff on the engagement team, and the allocated budget, should be proportionate to the nature and scope of the project and the types and intensity of risks and impacts. The staff should be qualified, with substantive experience, have written job descriptions and clear lines of authority and responsibility. They may be supplemented by third-party experts where necessary. Staff are responsible for the day-to-day design, management and monitoring of engagement activities. The Borrower is responsible for translating the results of engagement activities into changes in project and mitigation design and action plans and ensuring the management of ongoing issues arising from project implementation.

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## ENDNOTES

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- <sup>1</sup> The minimum requirements for a sound Environmental and Social Assessment and Management System are provided in Section 5 of ESPS 1 Assessment and Management of Environmental and Social Risks and Impacts and associated sections of Guideline 1.
- <sup>2</sup> For the purposes of this ESPS, “climate-related risks” are those risks related to the transition to a lower-carbon economy (such as extensive policy, legal, technology, and market changes to address mitigation and adaptation requirements related to climate change) and risks related to the physical impacts of climate change on the project (such as such direct damage to assets due to changes in water availability, sourcing, and quality, significant temperature changes affecting organizations’ assets, infrastructures, operations, supply chain, transport needs, and employee safety).
- <sup>3</sup> Hydropower reservoirs can emit Greenhouse gases (GHG) such as carbon and methane as a result of aerobic and anaerobic decomposition of biomass in the water. The exact amounts of GHG that form in and are emitted from hydropower reservoirs depend on site-specific and regional factors.
- <sup>4</sup> Global Warming Potential (GWP) is used to adjust for the energy the emissions will absorb. Specifically, the GWP is a measure of how much energy the emissions of 1 ton of a gas will absorb over a given time-period, relative to the emissions of 1 ton of carbon dioxide (CO<sub>2</sub>). Typically, the time-period used for the reporting of GHG emissions, and for the selection of the appropriate GWP, is 100 years (GWP100). By and large GHG accounting practitioners use GWP tables compiled by the Intergovernmental Panel on Climate Change (IPCC) and published in IPCC’s assessment reports. GWP values have changed over time, to reflect the increasing scientific understanding of the different greenhouse gases and of their effect on the climate system.
- <sup>5</sup> These are defined as Scope 3 emissions and refer to activities from assets not owned or controlled by the Borrower, but that indirectly impacts in its value chain and are also referred to as value chain emissions.
- <sup>6</sup> This does not apply to the purchase of medical equipment, quality control (measurement) equipment, or any equipment where it can be demonstrated that the radioactive source is trivial and/or adequately shielded.
- <sup>7</sup> The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.
- <sup>8</sup> MARPOL 73/78 (The International Convention for Prevention of Marine Pollution for Ships).
- <sup>9</sup> IPM can be defined as a mix of farmer-driven, ecologically based pest control practices that seeks to reduce reliance on synthetic chemical pesticides. It may involve a range of measures, means, and tools such as: (a) managing pests (keeping them below economically damaging levels) rather than seeking to eradicate them; (b) integrating multiple methods (relying, to the extent possible, on nonchemical measures) to keep pest populations low; and (c) selecting and applying pesticides, when they have to be used in a way that minimizes adverse effects on beneficial organisms, humans, and the environment.
- <sup>10</sup> IVM is a rational decision-making process for the optimal use of resources for vector control. The approach seeks to improve the efficacy, cost-effectiveness, ecological soundness, and sustainability of disease-vector control. Vector control is a key component of vector-borne disease management. IVM approaches integrate both chemical and nonchemical interventions to manage disease vectors in a cost-effective and environmentally sound manner. IVM approaches limit reliance on chemical pesticides and reduce the selection pressure for insecticide resistance.
- <sup>11</sup> Such as: (a) new land-use development or changed cultivation practices in an area; (b) significant expansion into new areas; (c) diversification into new crops in agriculture; (d) intensification of existing low-technology systems; (e) proposed procurement of relatively hazardous pest control products or methods; or (f) specific environmental or health concerns (e.g., proximity of protected areas or important aquatic resources; worker safety).



