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**ENVIRONMENTAL AND SOCIAL POLICY FRAMEWORK**

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## ABBREVIATIONS AND ACRONYMS

CSO	Civil society organization
DMP	Disaster Risk Management Plan
DRA	Disaster Risk Assessment
EHSGs	Environment, Health, and Safety Guidelines
ESAP	Environmental and Social Action Plan
ESIA	Environmental and Social Impact Assessment
ESMP	Environmental and Social Management Plan
ESMR	Environment and Social Management Report
ESMS	Environmental and Social Management System
ESPF	Environmental and Social Policy Framework
ESPS	Environmental and Social Performance Standard
ESRP	Environmental and Social Review Procedure
ESRR	Environmental and Social Risk Rating
ESRS	Environmental and Social Review Summary Report
FIs	Financial intermediaries
FPIC	Free, prior, and informed consent
GHG	Greenhouse gas
GIIP	Good international industry practice
ICIM	Independent Consultation and Investigation Mechanism
IDB	Inter-American Development Bank
IPP	Indigenous Peoples Plans
LAC	Latin America and the Caribbean
LBR	Loans based on results
SESA	Strategic Environmental and Social Assessments
UIS	Update to the Institutional Strategy

## **POLICY STATEMENT**

## I. IDB'S COMMITMENT TO ENVIRONMENTAL AND SOCIAL SUSTAINABILITY

- 1.1 The Inter-American Development Bank (IDB) is convinced that Latin American and Caribbean (LAC) countries can transform their development pathways into more sustainable ones while improving the lives of their citizens. The IDB is committed to helping LAC countries develop more inclusive and prosperous societies, based on the intrinsic relationship between economic development and environmental and social sustainability. For the IDB, sustainable economic development encompasses equal access to services and opportunities for all, including for the poor and most vulnerable,<sup>1</sup> and is achievable only without compromising the health of the environment.
- 1.2 The Update to the IDB Institutional Strategy recognizes these linkages between the three dimensions of sustainable development: the economic, social and environmental.<sup>2,3</sup> It renews the IDB Group's commitment to accelerate progress on gender equality, diversity, and inclusion; address the challenges of climate change and promote environmental and social sustainability. It also emphasizes the need to strengthen LAC's institutional capacity and the rule of law to enhance the IDB's ability to mainstream these critical issues in meeting the region's development. The IDB is committed to working with LAC countries in strengthening their own environmental and social governance systems and promote sustainable procurement practices. The IDB considers the potential environmental and social challenges and opportunities in all areas of its work, including country strategies, sector strategies, and its operational program.
- 1.3 To ultimately contribute to transform LAC societies into more inclusive and prosperous ones in a sustainable way, the IDB works to improve *all* lives in the region with the following commitments and priorities in IDB-financed projects:
- **Respecting human rights.** The IDB is committed to respecting internationally recognized human rights standards.<sup>4</sup> To that end, in accordance with Environmental and Social Performance Standard (ESPS) 1 of this Policy Framework, the IDB requires its Borrowers to respect human rights, avoid infringement on the human rights of others, and address risks to and impacts on human rights in the projects it supports.<sup>5</sup>
  - **Fostering gender equality.** The IDB views equality as an intrinsic value, meaning that individuals and collectives enjoy the same conditions and opportunities to exercise their rights and achieve their social, economic, political, and cultural potential. Equality includes promoting access to equal opportunities and full

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<sup>1</sup> 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. 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 persons, natural resource dependent communities or other displaced persons who may not be protected through national legislation and /or international law.

<sup>2</sup> Update to the IDB Institutional Strategy: Development Solutions that Reignite Growth and Improve Lives. AB-3190-2

<sup>3</sup> In accordance with Agenda 2030.

<sup>4</sup> As provided for in the International Bill of Human Rights, the core human rights treaties, the ILO Declaration on Fundamental Principles and Rights at Work, and other universal and regional instruments relating to human rights.

<sup>5</sup> For the purpose of the ESPF, "Borrower" refers to all government agencies responsible for aspects pertaining to an IDB-financed project (investment loans, investment grants, and investment guarantees), regardless of the funding source, including preparation, implementation, monitoring, and supervision activities.

participation in society for people who face barriers due to their identity. The IDB is committed to promoting gender equality and gender empowerment,<sup>6</sup> recognizing that gender equality contributes to poverty reduction and results in higher levels of human capital. The Bank 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 and create other vulnerabilities. The IDB requires its Borrowers to: (i) address gender-related risks in IDB-financed projects, including gender-based exclusion and sexual and gender-based violence, which includes sexual exploitation, human trafficking, and the spread of sexually transmitted diseases; (ii) ensure the inclusion of people of all genders in the consultation processes; and (iii) comply with applicable international agreements<sup>7</sup> and national legislation relating to gender empowerment and equality throughout all phases of the project cycle, in accordance with ESPs 1 and 9.

- **Promoting non-discrimination and inclusion of vulnerable groups.** Inequality in LAC is also determined by characteristics such as disability,<sup>8</sup> 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. The IDB is committed to equal access to opportunities for diverse peoples and groups that may be more adversely affected by project impacts than others, and may be limited in their ability to claim, gain, or profit from project benefits. The IDB seeks to include the voices of people that may be excluded from the development process. The IDB requires its Borrowers to identify diverse peoples or groups potentially affected by IDB-financed projects and develop and implement differentiated mitigation measures to address the circumstances of such individuals or groups, in accordance with ESPs 1, 2, 4, 5, 7, and 9.
- **Respecting the rights of Indigenous, African descendant, and other traditional peoples.** The IDB is committed to respecting Indigenous Peoples,<sup>9</sup> African descendant and other traditional peoples' collective rights,<sup>10</sup> customary law, and customary land tenure rights, in accordance with their own worldview and governance structures.<sup>11</sup> The IDB is committed to respecting their right to development with identity, such as the right of indigenous, African descendant, and traditional peoples to identify collectively and use their cultural heritage, social capital, natural assets, and traditional territories as resources for promoting economic and social development. The IDB requires its Borrowers to foster respect for indigenous, African descendant, and traditional peoples' rights, in accordance with ESPs 1, 4, 5, 7, and 8, and to comply with national law, including treaty

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<sup>6</sup> Gender empowerment means expanding the rights, resources, and capacity of people of all genders to make decisions and act independently in social, economic, and political spheres. The term includes the empowerment of women, and the consideration of aspects of human rights and development of people of all genders, through the elimination of social, economic, and political barriers for people of marginalized genders.

<sup>7</sup> Such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

<sup>8</sup> As defined in the United Nations Convention on the Rights of Persons with Disabilities (CRPD)

<sup>9</sup> As covered under international instruments such as ILO Convention 169, the United Nations Declaration on the Rights of Indigenous Peoples, and the OAS Declaration on the Rights of Indigenous Peoples.

<sup>10</sup> Including urban Indigenous Peoples.

<sup>11</sup> Including their right to choose their own development pathway.

obligations that are part of national law and applicable by virtue of their ratification.”<sup>12</sup>

- **Enhancing stakeholder engagement.** The IDB is committed to an open, transparent, and inclusive engagement process with all stakeholders,<sup>13</sup> including project-affected people, to improve the environmental and social sustainability of the projects it supports. The IDB is committed to respecting the rights of access to information, participation, and justice regarding environmental issues.<sup>14</sup> The IDB requires its Borrowers to identify stakeholders potentially affected by and/or interested in IDB-financed projects, to engage with them in meaningful consultations free of fear of reprisals using accessible formats for different physical, sensory, and/or cognitive needs, and to develop and implement an accessible grievance mechanism for them to provide feedback, concerns, and inquiries in accordance with ESPs 1 and 10.
- **Building disaster and climate change resilience and minimizing greenhouse gas (GHG) emissions.** The IDB is committed to helping LAC countries deliver on their disaster risk reduction and climate change-related goals.<sup>15</sup> The IDB recognizes that long-term carbon neutrality is necessary to confront climate change and steer economic development toward a more sustainable, resilient, inclusive, and competitive future. Therefore, the IDB is committed to supporting the design and implementation of decarbonization pathways in LAC countries, with a focus on co-constructing strategies with all national stakeholders, maximizing synergies with socioeconomic development, and minimizing or compensating transition costs. The IDB also recognizes that LAC countries are already highly vulnerable to the effects of climate change and the impact from natural hazards, in terms of the physical damage as well as environmental, social, and economic losses that are usually concentrated among the most vulnerable populations. Consequently, the IDB will continue to avoid or minimize GHG emissions and manage natural hazards and climate change-related risks in the projects it supports. The IDB will not finance projects that, according to its analysis, would increase the threat of loss of human life, significant human injuries, severe economic disruption, or significant property damage related to natural hazards and climate change. Projects that finance recovery and reconstruction after a disaster require special precautions to avoid rebuilding or increasing vulnerability. The IDB requires its Borrowers to assess and manage natural hazards and climate change risks as these relate to IDB-financed projects, in accordance with ESPs 1, 3, 4, 5, and 7.
- **Protecting the LAC region’s biodiversity, natural resources, and ecosystems.** The IDB is committed to the protection, conservation, management, and sustainable use of biodiversity, natural resources, and ecosystem services. The IDB requires its Borrowers to ensure that projects include measures to safeguard and, where feasible, enhance natural habitats, as well as the region’s biodiversity and ecosystems. The IDB requires its Borrowers not to implement any

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<sup>12</sup> Such as the ILO Convention 169, the United Nations Declaration on the Rights of Indigenous Peoples, and the OAS Declaration on the Rights of Indigenous Peoples.

<sup>13</sup> In accordance with the IDB Group Civil Society Engagement Strategy (GN-2232-7).

<sup>14</sup> Consistent with the principles in the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters, or the Escazú Agreement.

<sup>15</sup> In accordance with their commitments in the Paris Agreement under the United Nations Framework Convention on Climate Change (UNFCCC), as applicable, and the Sendai Framework for Disaster Risk Reduction 2015-2030.

project in critical habitats unless no viable alternative exists, and the project can be done with no measurable adverse impact on biodiversity values or supporting ecological processes. Biodiversity offsets are not an acceptable mitigation measure in instances of critical habitat, in accordance with ESPS 6.

- 1.4 The IDB believes that sound management of environmental and social risks and impacts associated with IDB-financed projects is an essential part of its contribution to helping develop a more inclusive and prosperous region. The IDB is committed to the objective of “do no harm” to people and the environment for the projects it supports by promoting the establishment of clear provisions for effectively managing project-related environmental and social risks and impacts, and whenever feasible, facilitating the enhancement of social and environmental sustainability beyond the mitigation of adverse risks and impacts. The IDB is also committed to maximizing sustainable development benefits, in accordance with the “do good beyond do not harm” principle. The IDB requires its Borrowers to not only report on ways in which harms will be avoided, but also consider and report on ways in which project design will enhance both the social and the environmental good. Where the environmental and social assessment of the project has identified such potential opportunities in sustainable development, the Bank will consider with the Borrower the feasibility of including these opportunities in the project, or mainstreaming them in IDB country strategies to strengthen the country’s environmental and social governance systems. Where appropriate, such opportunities may be utilized to promote further sustainability in development. The IDB will also engage with countries to identify strategic initiatives and goals to address national development priorities, where appropriate, as part of its dialogue with countries.
- 1.5 The IDB’s Environmental and Social Policy Framework (ESPF) sets out a systematic approach to environmental and social risk management that protects people and the environment and is harmonized with international best practices. The IDB will only support projects that meet the ESPF’s standards in a manner and timeframe that is acceptable to the IDB. To this end, the IDB provides technical assistance as needed to support the Borrower’s efforts to fulfill the ESPF’s requirements.
- 1.6 The IDB may refrain from financing a project on environmental and social grounds and, where certain risks are identified, will not finance projects or project components that would contravene ESPF standards, national laws, or country obligations under relevant international treaties, conventions, and agreements. This ESPF does not represent an express or implied waiver of the IDB’s privileges and immunities under the Agreement Establishing the IDB, international conventions, or any applicable law, nor does it provide any contractual or other rights to any party.

## II. OBJECTIVES AND SCOPE

- 2.1 **Objectives.** The ESPF aims to contribute to the IDB’s overarching objective of achieving sustainable development in Latin America and the Caribbean. The ESPF seeks to enhance the sustainability of the IDB-financed investment projects through the application of robust environmental and social risk management standards.
- 2.2 The ESPF has the following specific objectives:
  - Define the roles and responsibilities of both the IDB and the Borrower pertaining to environmental and social risk and impact management of IDB-financed projects.

- Establish clear environmental and social standards for Borrowers to design, implement, and manage IDB-financed projects.
- Require Borrowers to apply a mitigation hierarchy to anticipate and avoid adverse impacts on workers, communities, and the environment or, where avoidance is not possible, to minimize such impacts. Where residual impacts remain, Borrowers must compensate/offset<sup>16</sup> risks and impacts, as appropriate.
- Require and provide means for Borrowers to engage with stakeholders (project-affected people and other interested parties) throughout the project cycle.
- Establish an operational approach that facilitates engagement and technical and financial partnerships with other institutions, whether public or private.

2.3 **Scope.** The ESPF applies to investment loans,<sup>17</sup> investment grants, and investment guarantees, including co-financed operations and associated facilities.<sup>18</sup> Only policy-based loans (PBLs) that are determined by the Bank to require an environmental analysis in accordance with the provisions of paragraph 4.7 below will be subject to the ESPF to the extent and limited to said provisions. All other PBLs will be outside the scope of the ESPF. Technical cooperation (TC) operations will only be subject to the ESPF with respect to the specific provisions set forth in paragraph 4.8 below. All other TCs will be outside the scope of the ESPF.

2.4 For the purposes of processing, approving, and supervising new operations, the ESPF supersedes, with the exception of their mainstreaming aspects,<sup>19</sup> the following IDB environmental and social operational policies: the Environment and Safeguards Compliance Policy (OP-703), the Disaster Risk Management Policy (OP-704), the Involuntary Resettlement Policy (OP-710), the Policy on Gender Equality in Development (OP-761), and the Indigenous Peoples Policy (OP-765).

### III. ROLES AND RESPONSIBILITIES

3.1 The IDB is committed to supporting Borrowers in the development and implementation of IDB-financed projects that are environmentally and socially sustainable, and to enhancing the capacity of Borrowers' environmental and social frameworks to assess and manage the environmental and social risks and impacts of projects. To this end, the ESPF defines specific ESPs that are designed to avoid, minimize, reduce, or mitigate the adverse environmental and social risks and impacts of IDB-financed projects. The ESPs describe the requirements that the Borrower must meet in the development and implementation of

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<sup>16</sup> In cases of project-related impacts on biodiversity, offsets are not an acceptable measure to achieve net gains in instances of critical habitat.

<sup>17</sup> Excluding operations under the Contingent Credit Facility for Natural Disaster and Public Health Emergencies (CCF) and the Immediate Response Facility for Emergencies Caused by Natural and Unexpected Disasters.

<sup>18</sup> Associated facilities refer to new or additional works and/or infrastructure, irrespective of the source of financing, essential for a Bank-financed project to function, such as the following: new/additional access roads, railways, power lines, 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; and new/additional warehouses and marine terminals built to handle project goods.

<sup>19</sup> The IDB environmental and social policies OP-703, OP-765, OP-704 and OP-761 will remain in effect for all matters related to the Bank's mainstreaming work regarding such policies.

IDB-financed projects. The Bank will provide assistance to Borrowers to facilitate their application of the ESPSs.

3.2 The ESPSs are as follows:

**ESPS 1:** Assessment and Management of Environmental and Social Risks and Impacts

**ESPS 2:** Labor and Working Conditions

**ESPS 3:** Resource Efficiency and Pollution Prevention

**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

**ESPS 8:** Cultural Heritage

**ESPS 9:** Gender Equality

**ESPS 10:** Stakeholder Engagement and Information Disclosure

3.3 The Borrowers will also use the World Bank Group's Environment Health and Safety Guidelines (EHSG), given that these are recognized good international industry practice (GIIP) for the implementation of ESPSs 2, 3, and 4. If less stringent levels or measures than those provided in the EHSG are necessary in view of the Borrower's limited technical or financial constraints or other specific project circumstances, the IDB will require the Borrower to provide full and detailed justification for any proposed alternatives through the appropriate instruments (for example, an Environmental and Social Assessment). This justification must demonstrate, to the IDB's satisfaction, that the choice of any alternative performance level is consistent with the objectives of the ESPF and the applicable EHSG and is unlikely to result in any significant environmental or social harm.

### **Borrowers**

3.4 **General Borrower roles and responsibilities.** The IDB requires its Borrowers to comply with the provisions in the ESPSs, refer to the EHSG, and implement any additional actions and conditions agreed in the project's legal agreement(s) and associated document(s), regardless of whether the project is carried out directly by the Borrower or through third parties. General requirements for Borrowers are outlined below.

3.5 **Assessment and management of environmental and social risks and impacts:** Borrowers must conduct an Environmental and Social Assessment of operations in accordance with ESPS 1 and prepare and implement projects so that they meet the ESPS requirements in a manner and timeframe acceptable to the IDB. If the project includes existing facilities or activities that do not meet the requirements of the ESPSs at the time of approval, the IDB requires the Borrower to adopt and implement measures so that the material aspects of such facilities or activities meet the requirements of the ESPSs in a

manner and timeframe acceptable to the IDB. Those environmental and social risk and impact management measures, as agreed by the Borrower and the Bank, will form part of the operation's legal agreement(s) and complementary documentation, as applicable, and are therefore an obligation of the Borrower. Based on the project's level of risk and impact, the IDB requires the Borrower to utilize one or more risk and impact assessment and management instruments, which may include, among others, an Environmental and Social Impact Assessment (ESIA), a Strategic Environmental and Social Assessment (SESA), a Regional Environmental and Social Impact Assessment, a Disaster Risk Assessment, an Environmental and Social Management Plan, a Resettlement Plan (RP), a Disaster Risk Management Plan, and Indigenous Peoples Plans.

- 3.6 **Borrower's organizational capacity:** The IDB requires its Borrowers to have an appropriate project-level Environmental and Social Management System (ESMS) that is commensurate with the level of risk and impacts associated with the operation, per the requirements of ESPS 1.
- 3.7 **Stakeholder engagement and information disclosure.** The IDB requires its Borrowers to develop and implement a Stakeholder Engagement Plan (SEP)<sup>20</sup> proportionate to the nature and scale of the project and its potential risks and impacts in accordance with ESPS 10. As required, Borrowers will engage in meaningful consultations with stakeholders<sup>21</sup> using accessible formats 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.
- 3.8 **Monitoring and supervision.** The IDB requires its Borrowers to establish processes and procedures within their ESMS to monitor and supervise the progress on implementing and achieving the objectives of their environmental and social risk and impact management measures. Borrowers must also comply with all related legal and contractual obligations and regulatory requirements. The extent of monitoring should be proportionate to the project's environmental and social risks and impacts and with the ESPF's compliance requirements. In accordance with project-specific circumstances and in consideration of the nature of the environmental and social risks, the IDB may require the Borrower to engage stakeholders and third parties, such as independent experts, local communities, or civil society organizations, to complement or verify project monitoring information. Where other agencies or third parties are responsible for managing specific risks and impacts and implementing mitigation measures, the IDB will require the Borrower to collaborate with third parties to establish and monitor mitigation measures.
- 3.9 **Reporting.** The IDB requires its Borrowers to report to the Bank on their compliance with applicable standards with an agreed frequency, including their progress on achieving environmental and social objectives and aspects related to the implementation of relevant legal and contractual obligations and regulatory requirements. Borrowers must also facilitate the IDB's supervision and evaluation throughout the execution of an operation. Considering the generally dynamic nature of an operation's implementation, the IDB requires its Borrowers to notify the Bank when there are changes, events, or

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<sup>20</sup> Depending on the nature and scale of the risks and impacts of the project, the elements of an SEP may be included in an action plan, and the preparation of a stand-alone SEP may not be necessary.

<sup>21</sup> The form of consultation should be tailored to the nature of the project, its contextual risks, and present circumstances, safeguarding the health and safety of its participants.

circumstances that would alter their compliance status or may otherwise change the risk profile of the operation.

- 3.10 **Grievance mechanism.** The IDB requires that Borrowers implement a grievance mechanism to receive and assist with the resolution of any concerns and grievances of stakeholders (project-affected people and interested parties) that may arise in connection with the project's environmental and social performance. The grievance mechanism will be proportionate to the level of risk and impacts of the project.
- 3.11 **Associated facilities.** The IDB requires the application of the ESPs to associated facilities to the extent that the Borrower has control or influence over such facilities.
- 3.12 Specific and differentiated requirements for some types of operations (financial intermediaries, multiple works, operations under construction, loans based on results, policy-based loans, and technical cooperation and pre-investment operations) are included in Section IV (Provisions for Specific Instruments).

### **Inter-American Development Bank**

- 3.13 The IDB will: (i) screen and classify operations according to environmental and social impact and assign an environmental and social risk classification; (ii) review the information provided by the Borrower relating to the environmental and social risks and impacts of the project<sup>22</sup> and request additional and relevant information where there are gaps that prevent the Bank from completing its due diligence; (iii) undertake its own due diligence of proposed projects and of project changes throughout the project lifecycle, proportionate to the nature and potential significance of the environmental and social risks and impacts related to the project; (iv) as and where required, support the Borrower in carrying out early and continuing engagement and meaningful consultation with stakeholders, specifically affected communities, and in developing project-based grievance mechanisms; (v) assist the Borrower in identifying appropriate methods and tools to assess and manage potential environmental and social risks and impacts at the project level; (vi) agree with the Borrower on the conditions under which the Bank is prepared to provide support to a project, as set out in the Environmental and Social Action Plan (ESAP); (vii) monitor the environmental and social performance of a project in accordance with the requirements established in the Loan Agreement, the ESAP and the ESPs; and (viii) disclose environmental and social documentation produced by the Borrower and the Bank.
- 3.14 The IDB is committed to supporting its Borrowers to develop and implement operations that are environmentally and socially sustainable. It will do so by providing guidance and assistance throughout the project cycle and by enhancing their capacity to assess and manage environmental and social risks and impacts at the project level through ongoing technical support and borrower training, including online courses and programs to help strengthen their ability to adequately identify and manage risks. The IDB will provide support for capacity building that is proportionate to the specific needs of the Borrower to meet project-specific requirements.<sup>23</sup>
- 3.15 When necessary, the Bank may offer technical assistance to support the implementation of the environmental and social requirements at the project level to strengthen Borrower capacity. The IDB may also offer technical assistance to implement a SESA, a Regional

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<sup>22</sup> For example, pre-feasibility studies, scoping studies, national environmental and social assessments, licenses, and permits.

<sup>23</sup> With particular attention to small and vulnerable countries.

Environmental and Social Impact Assessment, cumulative impact assessments, or other upstream instruments. The Bank also recognizes the importance of strengthening national systems for effective development and building client capacity to manage environmental and social risks in the medium to long term. Therefore, the Bank is committed to helping Borrowers strengthen these systems through operations that improve their environmental and social governance

### ***Screening and Environmental and Social Classification***

- 3.16 **Impact classification:** The IDB will classify operations (including projects involving financial intermediaries, or FIs) into one of four impact classifications: A, B, C, or FI. In determining the appropriate impact classification, the IDB will consider several project-specific aspects, such as type, location, sensitivity, and scale of the project; the nature and magnitude of the potential environmental and social risks and impacts, including those related to natural hazards and climate change; and the commitment, capacity, and track record of the Borrower to manage the environmental and social impacts in a manner consistent with the ESPs. This impact classification also guides some aspects of the IDB's information disclosure requirements. The IDB will review the impact classification assigned to the project and reclassify as needed, based on developments in the scope and potential impacts of the project found during the preparation stage. The IDB will disclose the operation's classification and the basis for that classification at the same time as it discloses relevant project documents. The following impact classifications apply:
- **Category A:** Operations that can potentially cause significant negative environmental or social impacts or have profound implications affecting natural resources.
  - **Category B:** Operations that have the potential to cause mostly local and short-term negative environmental or social impacts and for which effective mitigation measures are known and readily available.
  - **Category C:** Operations that can cause minimal or no negative environmental or social impacts.
  - **FI operations:** Operations for which the financing structure involves the provision of funds through FIs or through delivery mechanisms involving intermediation whereby the FI undertakes the task of subproject appraisal and monitoring.
- 3.17 **Risk classification.** In addition to the impact classification, the IDB will assign a risk classification, using an Environmental and Social Risk Rating (ESRR) that is based on a four-level risk rating: low, moderate, substantial, or high. This risk classification will be reassessed throughout the project cycle and adjusted in accordance with the developments and circumstances of implementation and findings of the IDB's monitoring and supervision. Key factors considered in the ESRR are cause (direct environmental and social impacts), contribution (indirect environmental and social impacts), and additional areas of risk that may be relevant to the delivery of environmental and social mitigation measures and outcomes. These could include legal and institutional considerations; the nature of the mitigation measures and technology being proposed; governance structures and legislation; and contextual factors relating to stability, conflict, or security, among others.
- 3.18 **Due diligence.** The IDB requires Borrowers to conduct environmental and social assessments of operations proposed for IDB support in accordance with ESP 1. In turn,

the IDB will carry out its own environment and social due diligence of operations in accordance with the standards of the ESPF. The extent of the IDB's due diligence is determined by the nature and scope of the proposed operation and will be proportional to risks and impacts that might be associated with it and the prevailing country context for its implementation. The IDB will also consider the commitment, capacity, and track record of the Borrower and other entities involved in developing and implementing the operation, as well as specific actions to be put in place or taken by the Borrower to address such risks and impacts.

- 3.19 The IDB's due diligence on environmental and social risk and impact management is integrated into its overall operation's due diligence, including the review of material risks that may affect the environmental and social sustainability of the operation, such as contextual and third party risks. The IDB's due diligence will be carried out in accordance with the IDB's Environmental and Social Review Procedures (ESRP). The IDB will consider adopting additional measures in its due diligence process, as needed, to achieve the necessary level of information required to support the requirements of its decision-making processes. Through its due diligence, the IDB will confirm that (i) the Borrower has identified key potential social and environmental project risks and impacts, including those related to natural hazards and climate change; (ii) effective measures to be undertaken by the Borrower to avoid, minimize, mitigate, or compensate for the adverse impacts are feasible; (iii) the Borrower understands the requirements of the ESPs and has the necessary commitment, capacity, and track record to manage environmental and social risks and impacts adequately; (iv) the role of third parties is appropriately defined; and (v) consultations with project-affected people and other stakeholders are conducted in accordance with the relevant IDB standards. Particularly, in circumstances requiring free, prior, and informed consent (FPIC) of Indigenous Peoples under ESPs 7, the IDB will ascertain the outcomes of the meaningful consultations and will not proceed further with any activity for which FPIC from the affected Indigenous Peoples could not be verified.
- 3.20 Where gaps with the requirements of the ESPF are identified through due diligence, the IDB will agree with the Borrower on an ESAP, which sets out the actions required for the project to meet the ESPs over a specific timeframe. The ESAP, if applicable, will form part of the legal agreement. The results of the IDB's due diligence process will be summarized in an Environmental and Social Review Summary Report (ESRS) that will include the ESAP, where required. An ESRS is mandatory for all Category A, B, and FI projects. The ESRS is disclosed to the public in accordance with IDB's Access to Information Policy.
- 3.21 **Monitoring and supervision:** The IDB will monitor the environmental and social performance of projects on an ongoing basis to assess the level of compliance with the standards set forth in the ESPF, and with any other actions agreed at the time of project approval or during previous supervision activities. Those actions include the ones established in the ESAP and in changes resulting from modifications in the design of a project or project circumstances. The extent and mode of IDB project monitoring and supervision with respect to environmental and social performance will vary proportionately to the potential environmental and social risks and impacts of each project. The IDB will review and agree with the Borrower on the necessary preventive and corrective measures and additional actions required to support the achievement of Borrower compliance with the standards of the ESPF. If the Borrower fails to comply with its environmental and social commitments, the IDB will, to the extent feasible, work with the Borrower in achieving compliance. IDB's support may include the provision of additional technical assistance, increased monitoring by the Bank, and/or monitoring by stakeholders and third parties,

such as independent experts, local communities, or civil society organizations, to complement or verify project monitoring information.

- 3.22 If the Borrower fails to reestablish compliance, the IDB will exercise remedies, as applicable in accordance with the Bank's policies, procedures, and regulations. In this regard, the project's loan documentation provides for the remedies the Bank would exercise in cases where a Borrower does not comply with the financial and nonfinancial obligations set forth in the corresponding loan documentation.<sup>24</sup> In addition, the Bank has a continual dialogue with its Borrowers that allows it to address any concerns it may have in connection with the implementation of an IDB-financed project.
- 3.23 A project's closure will not be reached until the measures and actions set out in the legal agreement (including the ESAP) have been implemented. To the extent that the Bank evaluation at the time of project's closure determines that such measures and actions have not been fully implemented, the IDB will determine whether further measures and actions, including continuing Bank monitoring and implementation support, are required and feasible.
- 3.24 **Information disclosure:** Project-related documents provided by the Borrower and product of IDB's due diligence will be disclosed according to the IDB's Access to Information Policy. The Bank will disclose documentation relating to the environmental and social risks and impacts of all projects classified as Category A or B, prior to the analysis mission during the preparation of the project in accordance with the IDB's Access to Information Policy. This documentation will reflect the assessment and proposed management of the key environmental and social risks and impacts of the project, such as the ESIA, SESA, and RP, and will be provided in draft or final form. For all operations within the scope of the ESPF, irrespective of their classification, final or updated documentation, including any new or additional social and environmental assessment report or management plan developed after project approval, will also be disclosed when available.

#### IV. PROVISIONS FOR SPECIFIC INSTRUMENTS

- 4.1 **Operations involving financial intermediaries.** The nature of intermediated financing means that the FIs will assume delegated responsibility for environmental and social risk and impact assessment, risk and impact management, and monitoring, as well as overall portfolio management. The delegation may take various forms depending upon different factors, such as the type of financing provided. The effectiveness of the FIs' environmental and social risk and impact management will be evaluated and monitored regularly throughout the project cycle.
- 4.2 For FI projects, the IDB will conduct due diligence on the FI and its portfolio to assess (i) existing environmental and social policies and procedures and the FI's commitment, capacity, and track record to implement them; (ii) environmental and social issues associated with the current and likely future portfolio that could expose the IDB to environmental, social, and associated risks; and (iii) measures necessary to strengthen the FI's existing environmental and social risk and impact management system. The IDB's requirements and the scope of their application for FI clients depend on the nature of the investment and the level of environmental and social risk associated with the FI's activities.

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<sup>24</sup> In accordance with the project's loan documentation, the Bank may exercise the following remedies: (i) suspend disbursements and (ii) declare the entire loan, or a portion of it, immediately due and payable with interest, fees, and other charges accrued up to the date of payment, and may cancel the undisbursed portion of the loan.

To appropriately identify and measure these risks, the IDB will review a sample of the FI's activities as well as its implementation capacity and ESMS. In particular, the following requirements apply:

- a. FIs must develop and operate an ESMS that is commensurate with the level of environmental and social risks in its portfolio and prospective activities. The ESMS should incorporate relevant principles of ESPS 1.
  - b. FIs must apply relevant aspects of ESPS 2 to their workers.
  - c. The portfolio financed with resources from the IDB must comply with the IDB Exclusion list.
  - d. FIs with portfolios, and/or prospective subprojects that present moderate to high environmental or social risks will require high or substantial risk subprojects<sup>25</sup> that they support to apply relevant standards of the ESPF, for those FIs to be eligible for financing with resources from the IDB. Where a specific subproject includes activities with high environmental and social risks,<sup>26</sup> the FI will refer that subproject to the IDB for review before including it in the financed portfolio.
- 4.3 As part of the monitoring and supervision activities, the IDB will periodically review the process and the results of the environmental and social due diligence conducted by the FI and the overall effectiveness of the FI's environmental and social management system. IDB supervision may include visits at the FI level, as well as to recipients of FI loans, particularly in the case of high or substantial-risk subprojects. The frequency and focus of supervision visits will be commensurate with the identified risks. For supervision purposes, the IDB will require access to all relevant documents and sites for any project in the FI's financed portfolio.
- 4.4 **Multiple works operations.** Operations involving a group of similar works are an increasingly important component of IDB lending. These works typically share the following characteristics: (i) they are physically similar but independent of each other, (ii) feasibility does not depend on the execution of any particular number of the works projects, and (iii) individual size does not warrant direct IDB lending. The IDB requires that a representative sample of specific works (amounting to approximately 30 percent of the total cost of the project) be fully designed before the Board considers the operations for approval. The IDB undertakes environmental and social due diligence based on the selected representative sample. Given the nature of such projects, the IDB will continue to fulfill its due diligence responsibilities through the monitoring of the Borrower's implementation of the relevant components of its environmental and social management framework and any other required framework, as appropriate.
- 4.5 **Operations under construction.** The IDB will finance projects already under construction only if the Borrower can demonstrate that the project meets all relevant ESPS requirements. Any ESPS requirements that are not met before Board consideration for approval must be included in the ESAP submitted to the IDB prior to Board consideration.

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<sup>25</sup> Subprojects that would be considered category A or B projects, and/or with high or substantial risk if they were directly financed by the IDB.

<sup>26</sup> These include, at a minimum, subprojects that would be considered category A and/or high risk if they were directly financed by the IDB.

The ESAP shall define the actions and associated schedule for their implementation and allocate sufficient funding for its implementation.

- 4.6 **Loans based on results (LBR).** An LBR contributes to delivering results of an existing or new government program. It is an investment loan that finances the costs of activities (e.g., goods, works, and services) associated with the achievement of these results and disburses once they have been achieved and adequately verified. Activities classified as Category A due to their potential adverse environmental or social impacts, or that are classified as high environmental and social risk, are not eligible for financing under an LBR. During preparation of an LBR, the Bank will assess the adequacy of the Borrower's ESMS to implement the activities expected to be financed by the LBR in a manner that meets the requirements of the ESPs. Where necessary, adjustments to the Borrower's ESMS will be agreed with the Bank and incorporated in an ESAP. The definition of the indicators that are linked to disbursements and the corresponding targets of the LBR will also consider environmental and social performance and intermediate or final outcomes, as appropriate.
- 4.7 **Policy-based loans (PBLs).** During the design phase of a PBL operation, the Bank will screen whether specific proposed policy reforms and/or institutional changes supported by the operation will have significant and direct negative effects on the country's environment and natural resources. For PBLs, this encompasses related social, cultural, and economic aspects to the extent that these aspects are derived from geophysical and/or biotic changes associated with the policy reforms supported by a particular operation. If the Bank determines that a PBL will have such effects, the project document should summarize the due diligence results. This summary should include the environmental analysis and findings on such effects and appropriate mitigation measures, as well as the Borrower's systems' capacity for reducing and mitigating such effects and for enhancing positive impacts associated with the specific policy reforms and/or institutional changes being supported by the operation. If there are significant gaps or shortcomings in the Borrower's systems, the project document should also describe how these issues would be addressed before or during program implementation, as appropriate. In accordance with its policies and the applicable agreements, the IDB will monitor and supervise the implementation of any agreed actions. The Bank will disclose documentation produced by the Borrower relating to the environmental analysis in accordance with the IDB's Access to Information Policy. PBLs that do not have significant and direct negative effects on the country's environment and natural resources, as determined by the Bank during its screening, will fall outside the scope of the ESPF.
- 4.8 **Technical cooperation (TC) and pre-investment operations:** When a TC or a pre-investment operation that finances prefeasibility or feasibility studies of specific investment projects includes environmental and social studies, the terms of reference and outputs of these studies should be consistent with the applicable ESPF requirements.

## V. USE OF BORROWER'S FRAMEWORK

- 5.1 The IDB may consider the use of the Borrower's Environmental and Social Framework<sup>27</sup> relevant to the project, provided this is likely to address the risks and impacts of the project

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<sup>27</sup> The Borrower's Environmental and Social Framework will include those aspects of the country's policy, legal, and institutional framework, including its national, subnational, or sectoral implementing institutions and applicable laws, regulations, rules and procedures, and implementation commitment, capacity, and track record that are relevant to the environmental and social risks and impacts of the project.

and will enable the project to achieve objectives and outcomes equivalent to those achieved with the application of the ESPF (functional equivalence).

- 5.2 The IDB will review the Borrower's Environmental and Social Framework to assess whether it is functionally equivalent to the ESPF. It will work with the Borrower to identify and agree on measures and actions to address any gaps that are found to strengthen said framework. ESPS requirements will apply in all areas where the framework is not deemed functionally equivalent.
- 5.3 All agreed measures and actions, together with the timeframes for completion of such measures and actions, will form part of the ESAP and will be included in the financing agreement, as applicable.

## **VI. ARRANGEMENTS FOR PROJECT CO-FINANCING**

- 6.1 In cases where the IDB is financing an operation with other multilateral or bilateral financial institutions, it will collaborate with the Borrower and other lenders to assess the feasibility of adopting a common environmental and social risk and impact assessment and management process, as well as unified documentation (a "common approach").
- 6.2 A common approach would be acceptable to the IDB when it is consistent with the principles of no dilution, proportionality, transparency, and outcome orientation and when it enables the project to achieve objectives and outcomes equivalent to those achieved with the application of the ESPF (functionally equivalent). The IDB would require the Borrower to apply the common approach and would coordinate with the co-financing parties to disclose one set of project-related material for stakeholder engagement. The common approach would also apply to associated facilities.
- 6.3 On a case-by-case basis, the IDB may agree to the application of environmental and social technical standards of other financial institutions that are co-financing the operation, or an associated facility, provided that the IDB is satisfied that they are functionally equivalent with the ESPSs and include monitoring and supervision measures that are consistent with those of the IDB.

## **VII. GRIEVANCE MECHANISM AND ACCOUNTABILITY**

- 7.1 The IDB requires its Borrowers to implement an effective grievance mechanism<sup>28</sup> to receive and assist with the resolution of any concerns and grievances of stakeholders that may arise in connection with the project's environmental and social performance. The IDB believes that prompt consideration and resolution of grievances locally can provide the fastest relief for complaints, clarify expectations, and build confidence among stakeholders.
- 7.2 The IDB does not tolerate retaliation, such as threats, intimidation, harassment, or violence, against those who voice their opinion or opposition to an IDB-financed project or to the Borrower. The IDB takes seriously any credible allegations of reprisals. When complaints of this nature are raised to the IDB, the IDB works to address them with the involved parties, within the scope of its mandate. In such instances, the IDB raises its concerns directly to the Borrower or relevant party and takes follow up action, as and

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<sup>28</sup> In addition to the grievance mechanism for stakeholders, the IDB also requires Borrowers to implement one for workers (and their organizations, when applicable) to raise workplace concerns. Grievance mechanisms should consider the use of accessible formats for the different physical, sensory, and/or cognitive needs.

where appropriate, taking into account the safety and security of the complainants as a matter of priority.

- 7.3 Stakeholders may submit complaints regarding a Bank-financed project to (1) the project grievance mechanism; (2) appropriate local grievance mechanisms; or (3) directly to the IDB, which will respond within a reasonable timeframe. In addition, the IDB's Independent Consultation and Investigation Mechanism (ICIM)<sup>29</sup> provides a mechanism and process to address allegations of harm by projects as a result of noncompliance by the IDB with one or more of its operational policies, including the ESPF.

### **VIII. PROJECT-RELATED DOCUMENTATION AND AGREEMENTS**

- 8.1 The IDB's project-related documentation and agreements will include provisions to address its environmental and social standards, as set forth in the ESPF, and project-specific requirements resulting from its due diligence as documented in the ESAP. These provisions and requirements ensure compliance with all applicable ESPFs. Legal documents will also include, as applicable and in accordance with Bank policies, procedures and regulations, rights and/or remedies that the IDB would exercise if the Borrower fails to implement the environmental and/or social provisions consistent with the requirements of the project-financing agreement(s).

### **IX. POLICY REVIEW**

- 9.1 This policy will be reviewed and updated as deemed necessary during its implementation with the objective of incorporating best practices, international trends, and lessons learned.

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<sup>29</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.

## ANNEX I – IDB Environmental and Social Exclusion List

The IDB will not knowingly finance, directly, or indirectly through FIs, projects involved in the production, trade, or use of the products, substances, or activities listed below. Additional exclusions may apply in the context of a specific operation.

### 1. Prohibited Activities

- a) Activities that are illegal under host country laws, regulations or ratified international conventions and agreements, or subject to international phase out or bans, such as:
  - i. Polychlorinated biphenyl compounds (PCBs).
  - ii. Pharmaceuticals, pesticides/herbicides, and other hazardous substances subject to international phase-outs or bans.<sup>30</sup>
  - iii. Persistent Organic Pollutants (POPs).<sup>31</sup>
  - iv. Ozone-depleting substances subject to international phase-out.<sup>32</sup>
  - v. Wildlife or wildlife products regulated under Convention on International Trade in Endangered Species of Wild Fauna and Flora.<sup>33</sup>
  - vi. Transboundary trade in waste or waste products,<sup>34</sup> except for non-hazardous waste destined for recycling.
  - vii. Lead paint or coatings in the construction of structures and roads.<sup>35</sup>
  
- b) Activities that are illegal under host country laws, regulations, or ratified international conventions and agreements relating to the protection of biodiversity resources or cultural heritage.

### 2. Other Activities

- a) Activities that, although consistent with a country's legal and/or regulatory framework, may generate particularly significant adverse impacts on people and/or the environment, such as:
  - i. Weapons, ammunitions, and other military goods/technology.
  - ii. Tobacco.<sup>36</sup>

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<sup>30</sup> Reference documents are: Council Regulation (EEC) No 2455/92 of 23 July 1992 Concerning the Export and Import of Certain Dangerous Chemicals, as amended from time to time; United Nations Consolidated List of Products whose Consumption and/or Sale have been Banned, Withdrawn, Severely Restricted or not Approved by Governments; Convention on the Prior Informed Consent Procedures for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention); Stockholm Convention on Persistent Organic Pollutants; World Health Organization Recommended Classification of Pesticides by Hazard, World Health Organization Pharmaceuticals: Restrictions in Use and Availability.

<sup>31</sup> Stockholm Convention on Persistent Organic Pollutants as amended in 2009.

<sup>32</sup> Ozone-depleting substances (ODSs) are chemical compounds which react with and deplete stratospheric ozone, resulting in the widely publicized 'ozone holes.' The Montreal Protocol lists ODSs and their target reduction and phase-out dates. The chemical compounds regulated by the Montreal Protocol include aerosols, refrigerants, foam-blowing agents, solvents, and fire protection agents. ([www.unep.org/ozone/montreal.shtml](http://www.unep.org/ozone/montreal.shtml)).

<sup>33</sup> [www.cites.org](http://www.cites.org)

<sup>34</sup> As defined by the Basel Convention ([www.basel.int](http://www.basel.int))

<sup>35</sup> Paints or coatings with a total lead concentration great than 90 ppm or the concentration limit set by the host country, whichever is lower.

<sup>36</sup> This does not apply to projects whose primary objective is not related to the production, trade, or use of tobacco.

- iii. Gambling, casinos, and equivalent enterprises.<sup>37</sup>
  - iv. Radioactive materials.<sup>38</sup>
  - v. Unbonded asbestos fibers or asbestos-containing products.
  - vi. Drift net fishing in the marine environment using nets in excess of 2.5 km. in length.
- b) Activities that are inconsistent with the IDB's commitments to address the challenges of climate change and promote environmental and social sustainability, such as:
- i. Thermal coal mining or coal-fired power generation and associated facilities.<sup>39</sup>
  - ii. Upstream oil exploration and development projects.<sup>40</sup>
  - iii. Upstream gas exploration and development projects.<sup>41</sup> Under exceptional circumstances and on a case-by-case basis, consideration will be given to financing upstream gas infrastructure where there is a clear benefit in terms of energy access for the poor and where GHG emissions are minimized, projects are consistent with national goals on climate change, and risks of stranded assets are properly analyzed.

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<sup>37</sup> This does not apply to projects whose primary objective is not related to the construction and operation of gambling, casinos, and equivalent enterprises,

<sup>38</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>39</sup> This applies only to associated facilities which primary objective is related to the production, trade, or use of coal for power generation or to the transmission of energy generated by a coal-fired power plant (e.g., a dedicated transmission line).

<sup>40</sup> Upstream oil and gas exploration and development refer to all the steps involved from the preliminary exploration through the extraction of the resource.

<sup>41</sup> Idem.

## ANNEX II: Environmental and Social Policy Framework Glossary

**Accessibility** refers to the identification and elimination of obstacles and barriers to provide access to the physical environment, to transportation, to information and communications and to other facilities and services.

**African Descendants** are one of the largest yet least visible population groups in the LAC region, comprising at least 20 percent of the region's total population. African descendants in LAC are culturally and linguistically diverse. For the purpose of the ESPF, the focus is on contexts where African descendants may be in a disadvantaged or vulnerable status due to their racial or ethnic status or origin.

**Assimilative capacity** refers to the capacity of the environment to absorb an incremental load of pollutants while remaining below a threshold of unacceptable risk to human health and the environment.

**Associated facilities** are new or additional works and/or infrastructure, irrespective of the source of financing, essential for a Bank-financed project to function, such as: new/additional access roads, railways, power lines, 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; and new/additional warehouses and marine terminals built to handle project goods.

**Biodiversity** is 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.

**Borrower**, for the purpose of the ESPF, means all government agencies responsible for aspects pertaining to an IDB-financed project (i.e., investment loans, investment grants, and investment guarantees), regardless of the funding source, including preparation, implementation, monitoring, and supervision activities.

**Chance find (procedure)** is tangible cultural heritage (e. g., archaeological material) encountered unexpectedly during project construction or operation. A chance find procedure is a project-specific procedure that will be followed if previously unknown cultural heritage is encountered during project activities. The chance find procedure sets out how chance finds associated with the project will be managed. The procedure includes a requirement to notify relevant authorities of found objects or sites by cultural heritage experts, fence off the area of finds or sites to avoid further disturbance, conduct an assessment of found objects or sites by cultural heritage experts, identify and implement actions consistent with the requirements of ESPS 8 and national law, and train project personnel and project workers on procedures.

**Climate change** is a change attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is, in addition to natural climate variability, observed over comparable time periods.

**Collective attachment** refers to Indigenous Peoples whose identities are linked to distinct habitats or ancestral territories and the natural resources therein.

**Core functions** of a project are construction, production, and/or service processes essential for a specific project activity without which the project could not continue.

**Critical habitat** is defined as areas with high biodiversity importance or value, including: (i) habitat of significant importance to critically endangered, endangered, vulnerable or near-threatened species, listed as such in the International Union for the Conservation of Nature (IUCN) Red List of Threatened 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, which may include reserves that meet the criteria of the IUCN Protected Area Management Categories I through VI; World Heritage Sites; areas protected under the Ramsar Convention on Wetlands; core areas of World Biosphere Reserves; or 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.

**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.

**Cumulative impacts** of the project are 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. 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 airshed; 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; or more traffic congestion and accidents due to increases in vehicular traffic on community roadways.

**Direct impact** is an impact which is caused by direct interaction of a project activity with an environmental, social, or economic component.

**Disadvantaged or vulnerable** refers to people or groups who may be more likely to be adversely affected by the project impacts and/or more limited than others in their ability to take advantage of a project's benefits. Such people and groups are more likely to be excluded from/unable to participate fully in the consultation process and as such may require specific measures and/or assistance to do so. This disadvantaged or vulnerable status may stem 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. 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 persons, natural resource dependent communities or other displaced persons who may not be protected through national legislation and/or international law.

**Disaster** refers to a serious disruption of the functioning of a society, community, or project, causing widespread or serious human, material, economic, or environmental losses which exceed the coping ability of the affected society, community, or project using its own resources.

**Disaster risk management** is the systematic process that integrates risk identification, reduction, and transfer as well as disaster preparedness to reduce the impacts of future disasters. It incorporates emergency response, rehabilitation, and reconstruction to lessen the impacts of current disasters while avoiding rebuilding vulnerability.

**Disguised employment** occurs when the employer treats an individual as other than an employee in a manner that hides their true legal status as an employee, in which situations can arise where contractual arrangements have the effect of depriving workers of the protection they are due.

**Ecosystem services** are 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. 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.

**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.

**Environmental, Health, and Safety Guidelines** are technical reference documents with general and industry-specific statements of good international industry practice. EHSGs contain the performance levels and measures that are generally considered to be achievable in new facilities by existing technology at reasonable cost.

**Financial feasibility** is based on commercial considerations, including the relative magnitude of the incremental cost of adopting 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.

**Forced eviction** is 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 and other protection, including all applicable procedures and principles in ESPS 5.

**Gender** is a social construct that classifies a person as a man, woman, or some other identity.

**Gender Identity** is 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 empowerment** means expanding the rights, resources, and capacity of people of all genders to make decisions and act independently in social, economic, and political spheres. The term includes the empowerment of women, while considering aspects of human rights and development of people of all genders, through the elimination of social, economic, and political barriers for people of marginalized genders.

**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. The ESPF recognizes that the pursuit of equality requires actions aimed at equity, which implies providing and distributing benefits and/or resources in a way that narrows the existing gender gaps, recognizing that the existence of these gaps can harm people of all genders. Gender inequality limits the ability of affected individuals 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.

**Good international industry practice** is 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.

**Greenhouse gases** are defined by the United Nations Framework Convention on Climate Change (UNFCCC) as the atmospheric gases responsible for causing global warming and climate change. The major GHGs are carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>) and nitrous oxide (N<sub>2</sub>O). Less prevalent—but very powerful—GHGs are hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulphur hexafluoride (SF<sub>6</sub>).

**Habitat** is a terrestrial, freshwater, or marine geographical unit or airway that supports assemblages of living organisms and their interactions with the nonliving environment. Habitats vary in their sensitivity to impacts and in the value that society attributes to them.

**Historical pollution** is 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.

**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 the LAC region. 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: (i) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others; (ii) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories; (iii) customary cultural, economic, social, or political laws and institutions that are distinct from those of mainstream society or culture; or (iv) a distinct language or dialect, often different from the official language or languages of the country or region in which they reside.

**Indirect impact** is an impact which is not directly caused by the project activity, but to which the project activity contributes, and is often further removed in distance or as a result of a complex impact pathway. Other factors and third parties outside of the project's direct control are also contributing factors.

**Integrated pest management** is a mix of farmer-driven, ecologically based pest control practices that seeks to reduce reliance on synthetic chemical pesticides. It involves (i) managing pests (keeping them below economically damaging levels) rather than seeking to eradicate them; (ii) integrating multiple methods (relying, to the extent possible, on nonchemical measures) to keep pest populations low; and (iii) selecting and applying pesticides, when they must be used, in a way that minimizes adverse effects on beneficial organisms, humans, and the environment.

**Integrated vector management** 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.

**Intersectionality** refers to how different identity categories interact with each other in society, such that one category (e.g., race, ethnicity, disability) cannot be understood in isolation from others (e.g., gender identity). While some identities may be a source of exclusion, others may bring privilege. Considering intersectionality is important because certain individuals stand on the path of multiple forms of exclusion.

**Involuntary resettlement** is project-related land acquisition or restrictions on land use that may cause physical displacement (relocation, loss of residential land, or loss of shelter), economic displacement (loss of land, assets or access to assets, including those that lead to loss of income sources or other means of livelihood), or both. Resettlement is considered involuntary when project-affected people do not have or are not able to exercise the right to refuse land acquisition or restrictions on land use that result in physical or economic displacement.

**Land acquisition** refers to all methods of obtaining land for project purposes, which may include outright purchase, expropriation of property, and acquisition of access rights, such as easements or rights of way. Land acquisition may also include: (i) acquisition of unoccupied or unutilized land whether or not the landholder relies upon such land for income or livelihood purposes; (ii) repossession of public land that is used or occupied by individuals or households; and (iii) project impacts that result in land being submerged or otherwise rendered unusable or inaccessible. "Land" includes anything growing on or permanently affixed to land, such as crops, buildings and other improvements, and appurtenant bodies of water.

**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.

**Meaningful consultation** is a two-way process that establishes the needs, values, and concerns of the public, provides a genuine opportunity to influence decision making, and uses multiple and customized methods of engagement that promote and sustain fair and open dialogue. Meaningful consultation is defined in greater detail in ESPS 10, paragraph 22.

**Mitigation hierarchy** is a tool commonly applied in environmental impact assessments which helps to manage risks. It includes measures taken to avoid impacts from the outset of development activities and, where this is not possible, to implement measures that would minimize, then reinstate and, as a last resort, offset any potential residual adverse impacts.

**Modified habitats** are areas that may contain a large proportion of plant and/or animal species of nonnative origin, and/or where human activity has substantially modified an area's primary ecological functions and species composition. Modified habitats may include, for example, areas managed for agriculture, forest plantations, reclaimed coastal zones, and reclaimed wetlands.

**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.

**Natural hazard** refers to natural processes or phenomena affecting the biosphere that may constitute a damaging event. Such hazards include earthquakes, windstorms, hurricanes, landslides, tidal waves, volcanic eruptions, floods, forest fires, and drought or a combination thereof, as well as those associated with climate change.

**Pollution** refers to both hazardous and nonhazardous chemical pollutants in the solid, liquid, or gaseous phases, and includes other components such as thermal discharge to water, emissions of shorthand long-lived climate pollutants, nuisance odors, noise, vibration, radiation, electromagnetic energy, and the creation of potential visual impacts, including light.

**Principle of “do good beyond do no harm”** is an approach that facilitates the enhancement of social and environmental sustainability beyond the mitigation of adverse impacts generated by IDB operations.

**Principle of no dilution** is an approach that would enable the achievement of equivalent objectives and outcomes to those of the ESPF.

**Principle of outcome orientation** is an approach with strong emphasis on outcomes and effective implementation for results, including for operations without clearly designed investments at the time of approval.

**Principle of “polluter pays”** is the approach in which those who produce pollution should bear the costs of managing it to prevent damage to human health or the environment.

**Principle of proportionality** is the principle whereby the IDB's responsibilities and technical requirements for Borrowers would be proportional to the level of project risk. Projects with greater risk would require more effort and resources than those with lower risk.

**Principle of transparency** encompasses a collaborative and transparent process in which adequate and timely information is provided to all interested stakeholders and with opportunities and mechanisms for them to provide feedback, concerns, and inquiries.

**Primary suppliers** are those suppliers who, on an ongoing basis, provide directly to the project goods or materials essential for its core functions.

**Project**, for the purpose of the ESPF, refers to any IDB-financed investment loan, investment grant, or investment guarantee, regardless of the funding source, with the exception of operations under the Contingent Credit Facility for Natural Disasters.

**Project worker** refers to the following: (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). 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.

**Replacement cost** is 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 considered. 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.

**Reprisal** includes intimidation, threats, harassment, punishment, judicial proceedings, or any other retaliatory acts against those who voice their opinion or opposition to an IDB-financed project, to a third party related to the project, or to the Borrower. Other terms commonly used to refer to reprisal are sanction, reprimand, and retaliation.

**Restrictions on land use** are limitations or prohibitions on the use of agricultural, residential, commercial, or other land that are directly introduced and put into effect as part of the project. These may include restrictions on access to legally designated parks and protected areas, restrictions on access to other common property resources, and restrictions on land use within utility easements or safety zones.

**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.

**Sex** refers to a person's biological status and is typically categorized as male, female, or intersex. There are a number of indicators of biological sex, including sex chromosomes, gonads, internal reproductive organs, and external genitalia.

**Sexual and gender-based violence (SGBV)** refers to any act that is perpetrated against a person's will and is based on gender norms and unequal power relationships. It encompasses threats of violence, coercion, and harassment. It can be physical, emotional, psychological, or sexual in nature, and can take the form of a denial of resources or access to them. It inflicts harm on people of all genders.

**Stakeholder** refers to individuals, or groups, including local, downstream, and transboundary communities, who (i) are affected or likely to be affected by the project ("project-affected people") and (ii) may have an interest in the project ("other stakeholders").

**Technical feasibility** is determined 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.

**Third parties** may include contractors, subcontractors, brokers, agents, or intermediaries, as well as, but not limited to, other government agencies and public authorities (that are not the project executing agency or the Borrower), independent experts, local communities, or civil society organizations.

**Traditional peoples** are groups or communities that have ownership and land use patterns that recognize customary law, customary land tenure rights in accordance with their worldview, and governance structures. These structures are culturally distinct, traditionally owned, and often communally held. Examples of communities of traditional peoples in Latin America include *quilombolas*, *palenques*, *caboclos*, and *riberinhos*. For the purpose of the ESPF, traditional peoples are treated as Indigenous Peoples.

**Transboundary impacts** extend beyond the border of the country in which the project is located but are not necessarily global in nature. Examples include operations affecting another country's use of waterways, watersheds, coastal marine resources, migratory species, biological corridors, regional air sheds and aquifers.

**Universal access** means unimpeded access for people of all ages and abilities in different situations and under various circumstances.

**Upstream oil and gas exploration and development** refer to all the steps involved from the preliminary exploration through the extraction of the resource.

**Vulnerable people/groups** are people or groups of people who may be more adversely affected by project impacts than others by virtue of characteristics such as 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 persons, natural resource dependent communities or other displaced persons who may not be protected through national legislation and/or international law.

**Vulnerability** is a condition determined by physical, social, economic, and environmental factors or processes, which increases the susceptibility of a community to the impact of hazards.

## **ENVIRONMENTAL AND SOCIAL PERFORMANCE STANDARDS**

## Environmental and Social Performance Standard 1

### Assessment and Management of Environmental and Social Risks and Impacts

#### 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 ongoing 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 a 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.
3. Projects should be implemented with due respect for human rights, which means avoiding infringing on the human rights of others and addressing 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 projects.

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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.

## 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.

## 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.

## 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

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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 ESPSs 2 through 10, where relevant.

<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.

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

Borrower will complement its environmental and social assessment with further studies focusing on those specific risks and impacts.

### **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 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.

### **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.
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 project impacts fall disproportionately on individuals and groups who, because of their particular circumstances, are in a vulnerable position; (ii) any prejudice or discrimination against individuals or groups in providing access to development resources and project benefits, particularly in the case of

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<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).

<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.

those who may be disadvantaged or vulnerable; (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 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 transboundary 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.

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.

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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 investments in security provision, in contexts where internally displaced persons exist, and in contexts of post- or ongoing 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.

<sup>54</sup> Examples include the project's sites, the immediate airshed and watershed, and 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).

- 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.
  - 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.
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.
  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).
  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 risk 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.
  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

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<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.

<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 airshed, 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.

<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.

<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 persons, natural resource-dependent communities, or other displaced persons who may not be protected through national legislation and /or international law.

and gender identities, persons 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.

## **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.

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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 stand-alone 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.

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.

### **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 ongoing 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 ESPSS 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.

### **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 an 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 ESPSS 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 an 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.

## **Monitoring and Review**

24. The Borrower will establish procedures to monitor and measure the effectiveness of the management program, 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.
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 will 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.

## **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, to 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

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

<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.

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.
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.

### *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.

### *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

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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.

<sup>66</sup> Depending on the scale of the project and the 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.

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 as 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 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.

#### *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.

#### *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

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

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.

#### *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.

### **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.

#### *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 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.

### **Ongoing 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 ongoing risk to or impacts on project-affected people and on issues that the consultation process or grievance mechanism has 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

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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.

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.

## Environmental and Social Performance Standard 2

### Labor and Working Conditions

#### 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<sup>69</sup> rights of workers. 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.

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

<sup>70</sup> These conventions are:

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 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).
- 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.

## 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 ESPSs 9 and 10.
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.

### *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.

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<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.

<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.

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).

## **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.
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.

#### *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>
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.
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.

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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.

<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.

### *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.

### *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.

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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.

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.

#### *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.

#### *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.

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<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.

<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.

## 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.

### *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.

## 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.

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<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.

<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.

<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 personal protective equipment (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.

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 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.
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.
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.
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.
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.
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.

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<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.

<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.

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.

### **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.

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.

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.

### **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.

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.

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.

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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.

## Environmental and Social Performance Standard 3

### Resource Efficiency and Pollution Prevention

#### 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.
- To avoid or minimize project-related emissions of GHG.

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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 generation of waste.
- To minimize and manage the risks and impacts associated with pesticide use.

## **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.

## **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 good international industry practice (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.

## **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.

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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.

<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.

## *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 tons of carbon dioxide (CO<sub>2</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>

## *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.

## **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>

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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, and heating and cooling energy 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.

<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 EHSG.

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.

### *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.

### *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 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

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<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.

<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.

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

depletion of the ozone layer.<sup>108</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.
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).

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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.

## **Environmental and Social Performance Standard 4**

### **Community Health, Safety, and Security**

#### **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.

#### **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.

## **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.

### *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.

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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.

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

### *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.

### *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.

### *Community Exposure to Disease*

10. The Borrower will avoid or minimize the potential for community exposure to waterborne, water-based, water-related, 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.

### *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

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

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.

### **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.

### **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

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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.

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.

## Environmental and Social Performance Standard 5

### Land Acquisition and Involuntary Resettlement

#### 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 of these 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.

#### OBJECTIVES

- To avoid, and when avoidance is not possible, minimize displacement by exploring alternative project designs.

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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.

- 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.

## 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>

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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.

<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.

- Certain project situations requiring evictions of people occupying land without formal, traditional, or recognizable usage rights<sup>121</sup>
  - 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.

## 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

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<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.

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

<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.

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.

### *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.

### *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.

### *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

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<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.

<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.

<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.

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 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.

## **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

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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.

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

of this ESPS with respect to physical displacement and economic displacement may apply simultaneously.<sup>132</sup>

### *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>
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>

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<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).

<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.

<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).

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.

### *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

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<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.

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.

### ***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.

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



## Environmental and Social Performance Standard 6

### Biodiversity Conservation and Sustainable Management of Living Natural Resources

#### 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. Biodiversity often underpins ecosystem services valued by humans. Impacts on biodiversity can therefore often adversely affect the delivery of ecosystem services. This ESPS addresses how Borrowers can sustainably manage and mitigate impacts on biodiversity and ecosystem services throughout the project’s lifecycle.

#### 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.
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

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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.

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).

## **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 below are applicable, the Borrower should consider project-related impacts across the potentially affected landscape or seascape.
7. As a matter of priority, the Borrower will 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 shall be implemented. Given the complexity in predicting project impacts on biodiversity and ecosystem services over the long term, the Borrower shall 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 below are applicable, the Borrower will retain competent professionals to assist in conducting the risks and impacts identification process. Where paragraphs 16–19 of this ESPS 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.

### **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.
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

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<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).

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 “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.

### *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 ESPS 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.

### *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

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<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.

<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.

<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.

<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.

- 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.

### *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>
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>147</sup> Set-asides are land areas within the project site, or areas over which the Borrower 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).

<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.

<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.

18. In 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.

#### *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, the project-affected people, Indigenous Peoples, and other stakeholders on the proposed project, as appropriate.

Implement additional programs, as appropriate, to promote and enhance the conservation aims and effective management of the area.<sup>155</sup>

#### *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.

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<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.

<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.

21. The Borrower will not intentionally introduce any new alien species (not currently established in the country or ecologically relevant spatial scale 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.

### **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 ESPSs 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 ESPSs 4, 5, 7, and 8.

### **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 26–29 below, in addition to the requirements in the rest of this ESPS. 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

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<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.

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.

### **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 practices 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.

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<sup>157</sup> A credible certification system is one which is independent, cost-effective, based on objective and measurable ESPs, 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.

<sup>158</sup> Primary suppliers are those who, on an ongoing basis, provide the majority of living natural resources, goods, and materials essential for the core functions of the project.

## Environmental and Social Performance Standard 7

### Indigenous Peoples

#### 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 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 Organisation (ILO) and the United Nations (UN).<sup>161</sup>

#### 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.

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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).

- 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.

## 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.

## 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>

#### *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

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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.

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.

### *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.
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

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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.

Communities of Indigenous Peoples and (ii) the outcome of this process, including all agreements reached between the parties as well as dissenting views.

## **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.
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.

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<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.

<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.

- 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.
  - 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.

*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.

*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

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<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.

<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.

<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.

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.

## **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.

## **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.

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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.

## **Environmental and Social Performance Standard 8**

### **Cultural Heritage**

#### **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.

#### **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.

## 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.

#### *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 ESMS are identified.

#### *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.

#### *Community Access*

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.

#### *Removal of Replicable Cultural Heritage*

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<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.

10. 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 archeological artifacts and structures is carried out according to the principles of paragraphs 6 and 7 above.
- Only where minimization of adverse impacts 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.

#### *Removal of Non-Replicable Cultural Heritage*

11. 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.

#### *Critical Cultural Heritage*

12. 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.

13. 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

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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. Archeological 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.

<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.

<sup>183</sup> Examples include world heritage sites and nationally protected areas.

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.

14. 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.

#### **Project's Use of Cultural Heritage**

15. 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 ESPs 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.

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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.

## Environmental and Social Performance Standard 9

### Gender Equality

#### 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.
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

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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.

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 from 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.

## **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.
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.

## 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.
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.
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.

### **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.

### **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.

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.

### **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.

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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.

- 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.

## **Environmental and Social Performance Standard 10**

### **Stakeholder Engagement and Information Disclosure**

#### **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.

## **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").

## **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.

### **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.

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.
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.

#### *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.
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.
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.

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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.

<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.

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>
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.

### *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>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.

<sup>195</sup> This includes the project's grievance mechanism and the IDB's independent consultation and investigation mechanism.

### *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.
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.

### **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.
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.

### **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.
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>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.

<sup>197</sup> The mechanism should consider the use of accessible formats for the different physical, sensory, and/or cognitive needs

## **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.